

# Formal enforcement procedure for household waste receptacle complaints – October 2020

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## Overview

Households must present their waste in accordance with the following requirements:

- Make sure all rubbish is placed inside the bin with the lid fully closed. Bags of waste left on top or by the side of bins will not be collected.
- Put your bin/boxes/bags at the kerbside by 7am on your collection day. Receptacles can be presented from 18:00 the day before the scheduled collection day.
- Properties without a bin may present a maximum of 4 black sacks per household per fortnight.
- Wheeled bin/recycling box(es)/food caddy must be returned to property within 24 hours of collection.
- Correctly sort and separate recyclable waste into designated receptacle in line with guidance

Enforcement is only applicable where non-compliance causes a nuisance or is or is likely to be detrimental to the amenity of the localities and there has been continued or repeated noncompliance.

## Enforcement process

The following procedure is guidelines for non-compliance and should only to be used for blatant abuse of the service. Officers should use discretion in applying these procedures as the overall aims of CBC are where such an offence as detailed below occurs, the intention is to resolve the issue by information, advice and education. Only in cases of persistence or severe non-compliance should enforcement action be taken.

Prior to our actions taking place, UBICO, in conjunction with the CBC Clean Green team will be monitoring breaches and issuing informal warnings through the means of written communication (e.g. a bin/box sticker or bin tag and letter) as set out in the environmental services policy. This will be recorded by Ubico, eventually through the use of in-cab technology. The Clean Green team may also offer a waste advice/waste audits to educate residents about how they can fully utilise their waste receptacles. Where continued non-compliance happens, it will be referred to CBC for enforcement action. In brief, the process for continued non-compliance is as followed:

1. Breach occurs
2. Written warning issued
3. Further breach within 12 months
4. Notice of intent issued
5. Further breach within 12 months
6. Final notice including FPN issued.
7. FPN not paid
8. Civil debt recovery commences.

**All action taken should be logged on the IVA and documents stored on EDRMS**

**Step 1 – complaint received - BST**

On receipt of a complaint, a case will be raised under EPAs46 – Household waste receptacles detailing what the issue is and which requirement (as above) has been breached. The complainant's details will be logged on the customer tab with phone and email address (where possible) and kept confidential.

**Step 2 – Written warning letter – BST**

BST will send the **s46 Written Warning template** indicating the alleged breach on the letter. The written warning must:

- identify the section 46 requirement with which the person has failed to comply,
- explain the nature of the failure to comply,
- explain how the failure to comply has had, or is or was likely to have, the effects of:
  - is likely to cause a nuisance
  - has a negative effect or is likely to have a detrimental effect on local amenities
- if the failure to comply is continuing, specify the period within which the requirement must be complied with and explain the consequences of the requirement not being complied with within that period, and
- whether or not the failure to comply is continuing, explain the consequences of the person subsequently failing to comply with the same or a similar section 46 requirement.

If the complainant is:

- A resident on the street - send the **customer acknowledgement letter** to ask resident to monitor.
- A councillor / staff – allocate the case to the relevant ward enforcement officer for monitoring.

The letter will request the target to make changes immediately. Therefore, if any further complaints are received following the warning letter being sent (expected in around a week following the next collection cycle), log the details and allocate the case to a case officer.

**Step 3 – Notice of intent - case officer**

Following further noncompliance, you will need to issue the **S46 Notice of Intent template**. This document needs to be addressed to the householder so you will need to conduct a data request through council tax.

Once you have householder details, send the **S46 Notice of Intent** letter to the target address. The notice must contain information regarding:

- the grounds for proposing to require payment of a fixed penalty,
- the amount of the penalty that the person would be required to pay, and
- the right to make representations to the issuing officer

Upon receipt of the letter, the target has 28 days to make representation to the case officer to explain why they feel a FPN is not appropriate in relation to the case. The officer should use discretion when considering the reason and if they feel it is justifiable. It may be appropriate to engage with CBC Clean Green team to establish if the waste collection service may be able to resolve the issue. This could be through additional waste bins or an audit of how they can use existing receptacles more effectively.

Where the representation is accepted, the target should be advised and the case closed. If no representation is made following the 28 day notice period and the issue is still occurring, then step 4 should be initiated. Where representation is rejected, the target should be advised of such and informed of step 4.

#### **Step 4 – Final notice (fixed penalty notice) – case officer**

You can issue a final notice 28 days after the notice of intent. This is to be done through the notices module. You must consider any responses from the householder before you do this. The notice must name the householder and tell them:

- why they have been given a fixed penalty
- how much they must pay, noting the maximum full penalty you can apply is £80 and how they can pay it
- the deadline for the payment
- what happens if they pay the penalty early, for example if there's a discount
- what happens if they do not pay
- how they can appeal

#### **Appeals**

A person on whom a 'final notice' is served under section 46C may appeal to the First-Tier Tribunal against the decision to require payment of a fixed penalty. On appeal the tribunal may withdraw or confirm the requirement to pay the fixed penalty. The requirement to pay the fixed penalty is suspended pending the determination or withdrawal of the appeal. Where the requirement to pay the fixed penalty is confirmed on appeal, payment must be made within 28 days.

#### **Non-payment**

The recipient of the FPN under this process is under a requirement to pay the FPN. Therefore if the FPN is not paid then the amount of the FPN can be pursued as a civil debt and interest and costs added. This means the money can be recovered by the use of civil debt enforcement which includes attachment of earnings, bailiffs, charge against property etc.