

CITY SERVICES - ENFORCEMENT DIVISION

Operational Policy Subject: Household wheeled bins on pavements & highways

Approved By: Director of City Services

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Objective

To ensure that domestic wheeled bins are stored in their correct locations in order to improve the overall street scene environment. Enforcement action will be reasonable and will only be taken against repeat offenders after proper warnings have been offered. Prosecutions can be avoided through the use of fixed penalty notices being offered to the offenders.

Purpose

To seek an improvement in the visual street and public open space environment. Leeds provides wheeled bins for the collection and recycling of household waste. The householder has a duty to handle their waste as the collection authority expects. This is to keep costs down, improve efficiencies and to maximise the amount of waste recycled. After collection, it is important that the wheeled bin is returned to within the boundaries of the premises and not left on the highway. Bins left on streets can look unsightly, can be vandalised or blow over, causing damage to vehicles etc, or can be stolen for uses elsewhere, such as to carry stolen goods away from the scene of a crime. They also obstruct pavements, creating danger to pedestrians.

Scope

This policy will apply to domestic wheeled bins used for household waste collections within Leeds.

The use of enforcement action will be a last resort against people who persistently leave domestic bins in the street. Action will comprise of 2 warnings prior to a fixed penalty notice being issued.

This policy does not cover Commercial bins on the highway. It does not cover blocks of flats using shared communal refuse arrangements in fixed locations.

Link to Council Plan

Providing a safe, clean and green neighbourhood is one of the 7 key strategic outcomes desired by the council. A second is to provide harmonious communities where people are happy to live.

Bins which are thoughtlessly or deliberately left in the street encourages a feeling of lack of care for the community, potentially undermining community cohesion and the efforts of public agencies. They can exacerbate the fear of crime; actually facilitate crime; undermine local investment in regeneration; and adversely affect aspirations and jobs.

Application of the Environmental Enforcement Policy

“Paragraph 5.2 - Fixed penalty notices” allows for the use of fixed penalty notices where the legislation allows.

5.2.1 Fixed penalties will be applied through sections 47ZA of the Environmental Protection Act 1990 (as provided in the Clean Neighbourhoods & Environment Act 2005).

“Paragraph 5.3 - Prosecution” and “par 5.3.1 - community benefit” apply to the problem of bins on streets, although there must be wilful or deliberate breaches of the law. Legal action will therefore only be taken after warnings have been issued.

Paragraph 5.3.4/5.3.5 - Failure to comply with lawful requirements and history of non-compliance apply to this problem.

Legislation

The main pieces of legislation that will be used are:

- The Environmental Protection Act 1990 (EPA)
- Clean Neighbourhoods and Environment Act 2005 (CNEA)

Further details are contained in Appendix 1

Policy

This policy applies to householders who persistently leave their bins on the streets.

The enforcement division will respond to intelligence based reports relating to wheeled bins being persistently left out on the street. These reports will be accepted from the public, neighbourhood wardens, ALMOs and other social landlords. The receipt of such a complaint would indicate that an area is suffering from one or more properties persistently breaching the legal requirement to return their bin.

Where reported by a member of the public, that person will be informed of process which will be undertaken. In order to keep process costs down, further updates will not be provided unless there is an extraordinary need to do so.

It is the general expectation that a wheeled bin shall be returned to its premises by the end of the same day of collection. Bins should be presented for collection by 7am, so will be allowed to be presented the evening before collection.

An officer will visit the site of complaint the day after normal collection dates. If bins are found left on the pavement, the officer will

- check that it has been emptied and is therefore not a missed bin awaiting special collection,
- identify the household to which it belongs
- stick a green Section 46 notice on the bin
- identify the occupier of the property
- serve section 46 notification on the occupier legally stating that they must return their bins to the appropriate place after collection.

The Section 46 notice will be served “impertuity”, but it will remain valid for 12 months from the date of service. The 12 months period will be restarted each time a further warning or fixed penalty notice is served. The Notice will fall when the recipient vacates the property, so will not be transferred to new occupiers.

There is a 21 day period within which the person can appeal to the Magistrates Court against the terms of the section 46 Notice. If an appeal is lodged, no further action will be taken until the appeal has been determined.

If a bin is again incorrectly left on the street, an amber warning notice will be attached to the bin and confirmed in writing to the recipient. This warns that this is the last warning and further instances will result in legal action being taken. Amber stickers and correspondence can be used during the appeal period.

After the appeal period has expired and no appeal was lodged, if a bin is again incorrectly left on the street following the amber warning, a section 46 prosecution process will begin.

Failure to comply with a section 46 Notice will result in prosecution, although the householder will always be offered the opportunity to discharge the liability to prosecution for that activity by payment of a £75 fixed penalty notice, payable within 14 days, but reduced to £60 if paid within 7 days.

Failure to pay the fixed penalty notice will result in the offender being prosecuted. The maximum fine for the offence is £1000.

If further failures are identified after the FPN has been paid, the process will be repeated from the point of, and by, issuing another amber warning. If the FPN is not paid, there will be some delay before the courts are able to hear the case, typically several months. If further breaches are noted during this period, these will be recorded to be taken into account when the original summons is heard.

If it becomes apparent that the failure to return the bin is due to physical abilities, or inability to comprehend the need to present/return bins, the matter will be referred to city services customer services officers.

Action to be taken against houses in multiple occupation

Section 46 Notices are served upon the occupier of the property. In tenures where a house is contracted to several residents, all tenants will be served with a Notice. Details of tenants can be obtained directly or by serving the landlord or tenants with a section 16 or 71 Notice requesting the full names and details of all of the tenants.

Bedsits/apartments in one house which share a bin will have a notice served upon each unit.

Media exposure:

All cases prosecuted in the courts will be referred to the media for maximum publicity in order to help reinforce the policy in the public arena. Cases are reported on the Leeds City Council website, successful prosecutions page, which is updated monthly.

Appendix 1 - Legislation

Environmental Protection Act 1990

Sec 46.(1) ... the authority may, by notice .., require the occupier to place ... waste for collection in receptacles of a kind and number specified.

- (4) ... the authority may, ... make provision with respect to—
- (a) the size, construction and maintenance of the receptacles;
 - (b) the placing of the receptacles for the purpose of facilitating the emptying of them, ...
 - (c) the placing of the receptacles for that purpose on highways ...
 - (d) the substances or articles which may or may not be put into the receptacles...
 - (e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.

Transcripts of legislation can be found at: www.opsi.gov.uk