

## **Prosecutions for Waste Offences**

Where any person is found to have not secured their waste, the Council can serve a legal Notice in accordance with Section 46 of the Environmental Protection Act 1990.

Over the past 5 years there has been 192 section 46 notices served on households in Wirral who persistently present their domestic waste incorrectly for collection, this is broken down below per Constituency:

Birkenhead	157
Wallasey	31
Wirral South	4
Wirral West	0

To date there have been no fixed penalty notices issued or, prosecutions instigated.

The reason there have been no Fixed Penalty Notices is that although evidence may have been found contained within the waste it is extremely difficult to prove that the item belongs to the named addressee and that that person is responsible for the dumping of the bag. It could for example be another member of that person's household or a landlord or indeed someone removing refuse from a neighbour's bin in order to deposit refuse of his own inside it. DEFRA guidance in this matter states;

*"that before a fixed penalty notice is issued for an offence in contravention of a notice, there must be appropriate and sufficient evidence, to a criminal standard of proof, to support the prosecution of the original offence in the magistrates' court, should a fixed penalty notice go unpaid. In DEFRA's view this is 'non-negotiable.'"*

The current 'Household Waste Collection and Recycling Enforcement Policy' was never designed to issue fixed penalty notices it was more designed as an education tool with fixed penalty notices being a last resort. It is hoped to address this with a revised section 46 policy going before Cabinet in June of this year and if approved will enable us to serve notices upfront.

Currently there are only 3 full time Environmental Enforcement Officers to cover the whole borough with a diverse range of other regulatory functions to deliver, in addition to the domestic waste problems we are encountering. There is currently consideration being given to the use of additional funding for a targeted and proactive approach to the issue. This should provide additional resources to identify, educate and where appropriate, penalise offenders who are not engaging with the existing waste collection services.

In consultation with legal and in order to deal more proactively with alleyway dumping in the future, it has been agreed as a way forward where the Council finds circumstantial evidence contained within for example, a black bin bag of waste, (i.e. name and address), the Council will invite that person for interview under caution prior to a litter Fixed Penalty Notice (FPN) being issued and consider prosecution for the offence if the FPN remains unpaid, other local authorities have previously taken this stance in order to tackle these issues.