

COUNCIL – 26 FEBRUARY 2019

QUESTIONS FROM COUNCILLORS

QUESTION FROM COUNCILLOR J LEGRYS TO COUNCILLOR A V SMITH

Retrieval of waste bins from residential properties on collection day.

"I am regularly contacting the council's Members Services team to get action to deal with the non-retrieval of waste bins following collection.

Many of the streets in my Ward have narrow footways which are not convenient for wheelchair and buggy users when cluttered up with waste bins. The problem on non-retrieval of waste bins appears to be getting worse.

Problem 'hotspots' in my ward are Bridge Road, Berrisford Street, Melbourne Street & Mantle Lane/Memorial Square.

Over the years I have been promised action, but none seems to materialise. The council has responsibility to ensure that householders retrieve their bins following collection.

I'm asking the portfolio holder when this council will commence enforcement action in relation to keeping our footways clear of non-retrieved waste bins".

RESPONSE FROM COUNCILLOR A V SMITH

"The legislation governing how domestic waste is collected is contained in Section 46 of the Environmental Protection Act 1990. The Council can by notice served on them require occupiers to place the waste for collection in receptacles of a kind and number specified. The notice would include how the receptacles are presented and then removed. A breach of the notice was a criminal offence.

In 2015 the Government introduced the Deregulation Act and under section 58 they de-criminalised section 46 and made it a civil penalty. They also introduced an additional element before an offence is committed together with a set procedure before a civil penalty can be issued.

In respect of bins left out on streets, this alone is not sufficient to instigate enforcement action and now has to be that failure to comply:

1. Has caused, or is likely to cause a nuisance, or
2. Has been, or is likely to be, detrimental to any amenities of the locality.

Once evidence of the above is established the enforcement process follows an incremental approach as per the legislation:

1. Formal notice served on occupier showing what is required.
2. If not resolved, a second notice is served outlining the breach and giving a timescale to comply minimum of 7 days.
3. If not resolved, a third notice is issued which is a notice of intent to serve a Fixed Penalty. (The occupier has 28 days when they can make representations to the Council as to why a fixed penalty should not be issued.

4. If no such representation is made and breach continues a fixed penalty notice may be issued. The occupier can then appeal to a tribunal against the issue of the fixed penalty.

In the last 12 months in excess of 200 notices under section 46 have been served on occupiers of properties across the District.

In the last two weeks 52 notices have been issued to properties mainly in the areas of Berrisford Street, Melbourne Street, Margaret Street and Mantle Lane/Memorial Square.

Following consultation with our legal department we are introducing additional legislation as part of our approach to this issue. These are Community Protection Notices as contained in the Anti-social Behaviour, Crime and Policing Act 2014.

This again requires evidence of a nuisance and is a tiered approach.

This will be considered on a case by case basis.

To date due to the incremental approach we have not reached stage 4 when a fixed penalty would be issued as in the case of bins left out the breach is removed. We will be monitoring properties that may be repeat offenders”.