



HOUSING AND ENVIRONMENT SCRUTINY COMMITTEE

- 29TH APRIL 2025

**SUBJECT: IMPROVING RECYCLING BEHAVIOUR THROUGH FURTHER
USE OF THE ENVIRONMENTAL PROTECTION ACT 1990**

REPORT BY: DIRECTOR OF WASTE AND INFRASTRUCTURE SERVICES



1. PURPOSE OF REPORT

- 1.1 For Scrutiny to consider a proposal to refine and enhance our current approach to public engagement and enforcement through further use of the Environmental Protection Act 1990 Section 46 prior to the matter being considered by Cabinet.

2. SUMMARY

- 2.1 In October 2023, as part of the development of the Waste and Recycling Strategy, Cabinet agreed an approach to tackle contamination of recycling containers through use of the Environmental Protection Act 1990. This was implemented in February 2024. This education and enforcement initiative centred on engagement with residents who needed additional support with compliant recycling disposal. To date this campaign work has allowed us to target our engagement with the public more effectively. Whilst this new work programme as highlighted in 5.2 has resulted in several thousand engagements with residents, only a very small number of cases have required enforcement action.
- 2.2 In September 2024, Cabinet approved, a waste and recycling strategy which sets out the strategic direction and longer-term plan to ensure that the Council meets and exceeds statutory recycling performance targets in future years. Public behaviour and participation in recycling services is key to the deliverability of the strategy.
- 2.3 Residents in Caerphilly are producing comparatively more residual waste per household, 410kg compared to the National Average of 360kg (based on data for 2023/24).

- 2.4 A focussed engagement and communication campaign has been launched, which seeks to explain the reasons why we are encouraging residents to recycle and explains what materials need to go into which receptacle. Whilst our engagement and communication focus will continue over the long term, we also need to focus upon some specific areas of concern which includes the high levels of recyclables placed within residual waste bins.
- 2.5 A compositional analysis of kerbside residual waste undertaken by WRAP in January 2023 indicated that 59% of the contents of residual waste bins is recyclable. As well as the positive impact on our statutory recycling performance there are significant financial disposal savings to be realised if we can divert food waste and recyclable materials from the residual waste stream.
- 2.6 It is proposed that approval is given to extend the application of Section 46 of Environmental Protection Act 1990 to tackle recyclables and food being placed in the residual waste stream. The process will have a strong emphasis on education and engagement consisting of a series of letters and visits which will be used in a targeted manner. This would be further reinforced with robust sanctions against persistent offenders i.e. the serving of a legal notice and then if deemed necessary the issue of a fixed penalty notice.

3. RECOMMENDATIONS

It is recommended that:

- 3.1 Scrutiny consider the implementation of an enhanced education and engagement process that incorporates the option to serve legal notices and in certain circumstances, where deemed necessary, the issue of fixed penalty notices to persistent offenders relating to placing recyclable materials within the residual waste bins
- 3.2 Scrutiny consider that the Fixed Penalty Notice (FPN) is set at £70 reducing to £35 if paid within 14 days.
- 3.3 That a specific communication campaign is undertaken in advance of implementing the enhanced process.
- 3.4 Scrutiny provide views on the appointment of 6 additional recycling advisory wardens to be funded from projected savings in disposal costs from diverting, in particular food waste from the residual waste stream.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 In order for the Authority to reach the ever more stringent waste recycling targets set by Welsh Government, the Authority needs to go the extra mile to improve performance. Whilst previous education and engagement initiatives have helped to improve general awareness of the importance of waste

minimisation and recycling and in turn appropriate participation, there are unfortunately residents that continue to produce high levels of waste, not fully utilising all of the available kerbside waste streams thereby compromising the laudable endeavours of the majority of residents who “waste less and recycle more”.

- 4.2 There are significant financial disposal savings to be realised if we can divert food waste from the residual waste stream. Based on the compositional analysis there is circa 10,000 tonnes of food waste being placed in residual waste containers. If all of this is diverted to anaerobic digestion via the food waste collection scheme the financial savings would be circa £760,000. However, full diversion without any reduction in collection frequency is considered to be unrealistic. A 50% diversion is considered to be more achievable and would still achieve a financial saving of circa £380,000. There would not be a direct financial saving associated with the diversion of recycling from the residual waste stream as the current gate fee/haulage of recycling is 15p/tonne greater than residual. However, diverting 50% of the recycling and food waste in the residual stream could have an impact on our performance of up to 7.5%.
- 4.3 A robust engagement and enforcement process similar to that previously agreed for recycling contamination process would be in line with many other local authorities in Wales. This will reinforce the importance for residents to recycle and manage their household waste more sustainably.

5. THE REPORT

- 5.1 In October 2023, as part of the development of the Waste and Recycling Strategy, Cabinet agreed an approach to tackle contamination of recycling containers through use of the Environmental Protection Act 1990. This was implemented in February 2024. This education and enforcement initiative centred on engagement with residents who needed additional support with proper bin usage. To date this campaign work has allowed us to target our engagement with the public more effectively.
- 5.1.1 Since the introduction of the new initiative in February 2024, the recycling advisory team have engaged with several thousand residents to raise awareness of the importance of recycling properly with only a small number resulting in enforcement action. Whilst 92 section 46 notices have been served, the majority of residents complied with the requirements resulting in only 19 fixed penalty notices being issued. (Table 1)

Table 1 – Recycling Contamination and Enforcement

<u>MONTH</u>	<u>CONTAMINATIONS</u>	<u>ENGAGEMENTS</u>	<u>S46s</u>	<u>FPNs</u>
<u>Feb-24</u>	<u>2559</u>	<u>261</u>	<u>3</u>	<u>0</u>
<u>Mar-24</u>	<u>3323</u>	<u>397</u>	<u>10</u>	<u>0</u>
<u>Apr-24</u>	<u>3491</u>	<u>421</u>	<u>29</u>	<u>5</u>
<u>May-24</u>	<u>2852</u>	<u>358</u>	<u>29</u>	<u>6</u>
<u>Jun-24</u>	<u>2077</u>	<u>219</u>	<u>6</u>	<u>3</u>
<u>Jul-24</u>	<u>1815</u>	<u>137</u>	<u>2</u>	<u>3</u>
<u>Aug-24</u>	<u>2196</u>	<u>202</u>	<u>3</u>	<u>0</u>
<u>Sep-24</u>	<u>1820</u>	<u>156</u>	<u>8</u>	<u>1</u>
<u>Oct-24</u>	<u>1052</u>	<u>62</u>	<u>3</u>	<u>1</u>
<u>Nov-24</u>	<u>2125</u>	<u>180</u>	<u>1</u>	<u>0</u>
<u>Dec-24</u>	<u>1436</u>	<u>136</u>	<u>0</u>	<u>0</u>

- 5.1.2 Residents in Caerphilly are producing comparatively more residual waste per household, 410kg compared to the National Average of 360kg (based on data for 2023/2024). A compositional breakdown (Table 2) of kerbside residual waste (WRAP Study January 2023) has indicated that circa 59% of the contents could have been recycled via the range of the Authority's collection and disposal services.

Table 2 – Compositional Breakdown of Kerbside Residual Waste

Waste Type	Percentage	Where it can be placed
Food waste	31%	Caddy collection
Recycling	14%	Brown wheeled bin or box collection
Garden waste	2%	Bag collection
Other recyclables (wood, metal, electrical appliances, batteries, textiles etc)	12%	Household Recycling Centres

- 5.1.3 It is proposed that approval is given to extend the application of Section 46 of Environmental Protection Act 1990 to tackle recyclables and food being placed in the residual waste stream. The process would have a strong emphasis on education and engagement with enforcement action being the last resort. The approach is based on approaches taken across Wales, notably The Keeping up with the Jones' process adopted by Blaenau Gwent Council.

- 5.1.4 The proposed process would work as follows:

- Residents would be sent an information leaflet outlining what should be placed in each of their waste containers.
- First Occurrence of non-compliance - A visit and letter is issued to the resident with information on recycling that has been found in their residual bin/bags.
- Second Occurrence – 2nd letter and Section 46 Notice Issued which states that the resident has a legal duty to separate their waste.
- Third Occurrence - A Fixed Penalty Notice (FPN) for non-compliance after the 21-day compliance deadline.

5.1.5 The notice procedure is set out in section 46 of the Environmental Protection Act (EPA) 1990 which allows a waste collection Authority to serve notice on the occupier of a premises to specify how, when and where waste should be presented for collection. A 21-day period to comply with the section 46 is provided but if the occupier fails to comply with the notice, then a Fixed Penalty Notice (FPN) can be served. However, it should be pointed out the issue of the FPN would only be employed after all stages of dialogue have been exhausted. The aim is to advise, encourage and educate before any enforcement with the ultimate aim of transforming a householder's waste and recycling practices.

5.1.6 As with most fixed penalty notice processes, the Authority has the powers to set its own FPN level including reduced tariffs for an early payment. The maximum FPN that can be set is £100 with the option for a reduction for early payment. The FPN for recycling contamination is set at £70 and reduced to £35 if paid within 14 days. It will be for Cabinet to confirm the level of FPN and there was debate at the Member Working Group on the level of FPN and concerns that it should be set at a level that is conscious of the current cost of living crisis. It is therefore proposed to align the level of FPN with that of the previously agreed level in the recycling contamination process.

Therefore, limited training in the process would be required, allowing for a seamless integration into the new process. However, the recycling advisors are currently undertaking a whole range of engagement activity to support the waste strategy including interaction with schools, community groups and residents. They also manage the recycling contamination and enforcement process.

5.1.7 Members should be aware that there is a significant resource requirement to effectively manage the proposed process for tackling recycling in residual waste. Currently circa 50% of households do not participate in the food waste service and whilst some may use other mechanisms such as home composting, it is anticipated that the majority place their food waste in the residual waste containers.

If the new process is to be undertaken by the existing team, they will need to reduce activity in other areas and the impact on performance and any associated financial savings will be diluted.

Therefore, in order to deliver all aspects of the programme effectively, additional resource would be required. It is proposed that an additional 6 advisors are appointed for an initial fixed 2 year period As highlighted in 9.1 this could be funded from the projected financial savings in disposal costs.

5.2. CONCLUSION

- 5.2.1 Public behaviour and participation in recycling services is key to the deliverability of the Council's waste and recycling strategy. Currently 59% of the contents of the residual waste containers is recyclable and kerbside residual waste arisings in Caerphilly are higher than the National average.
- 5.2.2 The use of the section 46 enforcement powers is an important element of our overall education and engagement approach that underpins our overall behavioural change ambitions over the long term. Specifically, the use of Section 46 notices is an important element to our overall focus upon ensuring residents place their waste and recycling materials in the appropriate containers.

6. ASSUMPTIONS

- 6.1 It is assumed that the positive responses and experiences from elsewhere in Wales will be mirrored across the county borough.
- 6.2 It is assumed that applying this legislation will contribute positively financially in terms of financial savings and have a positive improvement on our statutory recycling performance.
- 6.3 A 50% diversion rate has been assumed based on the Wrap compositional analysis study.

7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

- 7.1 An integrated impact assessment has been developed and can be found on the link below.

[Link to IIA](#)

8. FINANCIAL IMPLICATIONS

- 8.1 The Authority is presently at risk of receiving infraction fines if it fails to attain the statutory recycling targets. These are set at a rate of £200 per tonne and could equate to an infraction fine of circa £1.4m for failure to achieve the existing statutory target of 70%. Reducing overall waste arisings and maximising recycling ensures that the waste collected is treated and disposed through the most efficient and economical process for that fraction. Based on the Wrap compositional analysis, diverting 50% of food waste from our refuse

disposal site to our food waste recycling facility would save circa £380,000 per annum. The diverting of the recycling will have minimal financial impact but will provide positive performance improvements.

- 8.2 The costs of recruiting an additional 6 recycling advisors for a 2 year fixed term period would cost circa £230,000 per annum which could be funded from the disposal savings highlighted in 9.1.

9. PERSONNEL IMPLICATIONS

- 9.1 In December 2023, the Authority recruited a team of 6 Recycling Advisors who now have proven experience in enforcing the recycling contamination process. However, the recycling advisors are currently undertaking a whole range of engagement activity to support the waste strategy including interaction with schools, community groups and residents. They also manage the recycling contamination and enforcement process. Whilst the new process could be managed by existing staffing numbers it would have a significant impact on their current workload and would not result in the financial savings and performance increases highlighted in this report.
- 9.2 In order to deliver all aspects of the programme effectively, additional resource is recommended. It is proposed that an additional 6 advisors are appointed for an initial fixed 2 year period which as highlighted in 9.1, could be funded from the projected financial savings in disposal costs.

10. CONSULTATIONS

- 10.1 On 17th January 2024, Cabinet endorsed a 12 week consultation period to allow residents other stakeholders the opportunity to help shape the waste and recycling strategy. The consultation period ran from Monday 5 February 2024 until Tuesday 30 April 2024 and the results were reported to Cabinet on 18th September 2024. 82% of respondents agreed that the Council should focus on helping residents manage waste sustainably with 81% agreeing that the Council should focus on reducing residual waste arisings.
- 10.2 Officers have been in discussion with Council's across Wales regarding their approaches to education and enforcement, most recently with Blaenau Gwent who's Keeping up with the Jones' campaign follows a similar format to that proposed in the report.
- 10.3 In July 2023, Cabinet agreed to establish a cross-party member working group, to include trade union representatives, which was instrumental in the development of the Waste and Recycling strategy. A further meeting of the Working Group was held on March 4th 2025 to discuss the proposals contained in this report.

Members were asked:

- (i) Do Members agree that achieving the statutory recycling target is important?
- (ii) Do Members agree that capturing recyclables from the residual waste stream is important?
- (iii) Do Members agree that targeting this issue through education, engagement and enforcement is required?
- (iv) Do Members agree the proposed approach for enforcement?

It was moved and seconded that the Waste Strategy Working Group agree to support and endorse questions (i) to (iv) with a positive answer.

By a show of hands this was unanimously agreed.

10.4 All consultation comments received have been incorporated into the report.

11. STATUTORY POWER

11.1 Environmental Protection Act 1990
Clean Neighbourhoods and Environment Act 2005
Environment (Wales) Act 2016

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