

SWP Advice, Support and Enforcement Policy and seeking delegation of ancillary powers from the district councils.

SWP are refreshing the policy on Advice, Support and Enforcement. The existing Enforcement Policy was adopted by the SWB in December 2015, but a technical issue regarding the legal delegations has meant that SWP do not currently have the ability to issue Fixed Penalty Notices. It is important to note that the approach to enforcement will not significantly change, and SWP will continue to work with residents and businesses to support, advise and problem solve. The aim is to give SWP the ability to take enforcement action as a last resort for the very small minority who persistently refuse to engage or cooperate.

To enable SWP to progress this, they are seeking fresh delegations of powers under the Environmental Protection Act, 1990 from each of the district partners. This will provide Somerset County Council (as administering authority), acting through SWP, with the authority to issue Fixed Penalty Notices and instigate prosecutions. SWP has provided a list of the delegations required in order that the decisions can be made by each authority as part of the Business Plan approval process. These delegations will only cover those powers relating to domestic and commercial waste offences, relating to kerbside collections and recycling centres and Duty of Care.

SWP are not seeking any powers in relation to fly-tipping or street scene services which remain the responsibility of District Councils.

The ancillary powers that SWP are seeking delegation for are all under the **Environmental Protection Act 1990 (EPA 1990):**

Section 34 – Duty of Care

- Section 34ZA Fixed penalty notices (FPNs) for householder offences
- Section 34A FPNs for failure to furnish documents by a person who handles or controls waste

Section 46 – Receptacles for household waste

- Section 46A Written warnings and penalties for failure to comply with requirements relating to household waste receptacles -
- Section 46B Amount of penalty under section 46A and recovery
- Section 46C Notice of intent regarding penalties under section 46A
- Section 46D Appeals against penalties under section 46A

Section 47 Receptacles for Commercial and Industrial waste

- Section 47ZA FPNs for offences under sections 46 and 47
- Section 47ZB Amount of fixed penalty under section 47ZA

Any action taken using the delegated powers will be in accordance with the updated Support, Advice and Enforcement Policy. This policy will be brought to SMG and the SWB for approval in Spring 2021 once SWP have the necessary delegated powers.

Through the normal reporting processes SWP will then keep SMG and the Board updated on the use of these powers and hence the effectiveness of the Policy.