

Finance and Audit Scrutiny Panel

Council Chamber, Town Hall
28 January 2013 at 6.00pm

The Finance and Audit Scrutiny Panel deals with the review of service areas and associated budgets, and monitors the financial performance of the Council. The panel scrutinises the Council's audit arrangements and risk management arrangements, including the annual audit letter and audit plans, and reviews Portfolio Holder 'Service' decisions referred to the Panel under the Call in procedure.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off or switched to silent before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

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Terms of Reference

Finance and Audit Scrutiny Panel

To review all existing service plans and associated budget provisions against options for alternative levels of service provision and the corporate policies of the Council, and make recommendations to the Cabinet

To have an overview of the Council's internal and external audit arrangements and risk management arrangements, in particular with regard to the annual audit plan, the audit work programme and progress reports, and to make recommendations to the Cabinet

To monitor the financial performance of the Council, and to make recommendations to the Cabinet in relation to financial outturns, revenue and capital expenditure monitors

To scrutinise the Audit Commission's annual audit letter

To scrutinise executive 'service' decisions made by Portfolio Holders and officers taking key decisions which have been made but not implemented referred to the Panel through the call-in procedure

**COLCHESTER BOROUGH COUNCIL
FINANCE AND AUDIT SCRUTINY PANEL
28 January 2013 at 6:00pm**

Members

Chairman : Councillor Dennis Willetts.
Deputy Chairman : Councillor Marcus Harrington.
Councillors Cyril Liddy, Jon Manning, Gerard Oxford,
Ray Gamble, Glenn Granger, Scott Greenhill, Julia Havis
and Theresa Higgins.

Substitute Members : All members of the Council who are not Cabinet members or members of this Panel.

Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief and items 6 to 9 are standard items for which there may be no business to consider.

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

5. Minutes

The minutes of the meeting held on 22 January 2013 will be confirmed at the February meeting.

6. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

7. Items requested by members of the Panel and other Members

(a) To evaluate requests by members of the Panel for an item relevant to the Panel's functions to be considered.

(b) To evaluate requests by other members of the Council for an item relevant to the Panel's functions to be considered.

Members of the panel may use agenda item 'a' (all other members will use agenda item 'b') as the appropriate route for referring a 'local government matter' in the context of the Councillor Call for Action to the panel. Please refer to the panel's terms of reference for further procedural arrangements.

8. Decisions taken under special urgency provisions

To consider any Portfolio Holder decisions taken under the special urgency provisions.

9. Referred items under the Call in Procedure

1 - 15

The Panel is asked to consider the decision STW-008-12 Authorisation of use of enforcement powers under Section 46 of the Environm Protection Act 1990 in relation to the presentation of household recycling and waste.

10. Exclusion of the public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).



Finance and Audit Scrutiny Panel

Item

9

28 January 2013

Report of	The Head of Corporate Management	Author	Robert Judd Tel. 282274
Title	Call-in of Executive Decisions – STW-008-12 Authorisation of use of enforcement powers under Section 46 of the Environmental Protection Act 1990 in relation to the presentation of household recycling and waste		
Wards affected	None		

This reports sets out the protocol for the review of the decision STW-008-12.

1. Action required

- 1.1 The Panel is asked to consider the decision STW-008-12 Authorisation of use of enforcement powers under Section 46 of the Environm Protection Act 1990 in relation to the presentation of household recycling and waste.

2. Reason for action(s).

- 2.1 The Constitution states the Finance and Audit Scrutiny Panel will consider decisions taken by a Cabinet Member with delegated authority for taking a service decision, that are subject to a call-in review.

3. Purpose of the review

- 3.1 The decision has been called-in because Councillors have evidence which suggests that the Decision Taker, in this case, Councillor Martin Hunt, Portfolio Holder for Street and Waste Services, did not take the decision in accordance with the Principles of decision making set out in Article 13.02.

4. Protocol

The decision has been called-in by Councillor Lissimore, supported by four other councillors. The report, together with the call-in and signatories to the call-in are attached.

Have Your Say – Members of the Public

- 4.1 Members of the public may address the Panel on the matter of the call-in for a period not exceeding three minutes.

The speaker may respond to one question asked by a Member of the Panel

With absolute discretion, the Chairman may disallow or terminate any public participation which is considered scurrilous, vexatious, improper, irrelevant or otherwise objectionable.

Have Your Say – Councillors

- 4.2 Councillors may address the Panel on the matter of the call-in. There is not a limit on the time each Councillor can address the Panel, but Councillors are asked not to deviate from the reasons why the decision was called-in, and in the case of more than one speaker, not to repeat statements already made.

Presenting the Case

- 4.3 **The Chairman of the Panel shall remind speakers that the debate is confined to the reasons stated on the call-in form.**
- 4.4 Councillor Quince will attend the meeting and present the case, expanding on the reasons for the call-in, but not deviating from the reasons given on the call-in form.
- 4.5 Councillor Hunt, Portfolio Holder for Street and Waste Services will respond to the points made by Councillor Quince.
- 4.6 The Chairman shall afford Councillors Quince and Hunt the opportunity to confer with the Panel before inviting them to make closing remarks prior to the Panel formally voting on the matter.

Resolution

- 4.7 The Panel may:
- confirm the decision, which may then be implemented immediately, or
 - refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
 - refer the matter to full Council in the event that the panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.
- 4.8 If the decision is referred back to the Portfolio Holder to reconsider the decision and he/she agrees with the views of the Panel then the decision may be implemented immediately.
- 4.9 If the Portfolio Holder does not agree with the views expressed then the matter will be referred to the Cabinet who will determine the matter.
- 4.10 The decision will not be called-in where the decision taker has previously referred a decision to a Scrutiny Panel for pre-decision scrutiny and the relevant Panel has already made recommendations to the decision taker and those recommendations have been accepted by the decision taker either in whole or without significant addition or modification.

5. Standard and Strategic Plan References

- 5.1 The Council's governance arrangements forms parts of the Council's commitment to customer excellence which underpins the Council's Strategic Plan vision.
- 5.2 There is no publicity, equality and diversity, human rights, community safety, health and safety, risk management or financial implications in this matter.
- 5.3 Scrutiny is a key function to ensure decisions have been subject to full appraisal and that they are in line with the aims of the strategic plan. The role of scrutiny is also an important part of the Council's risk management process, helping to check that risks are identified and challenged.

COLCHESTER BOROUGH COUNCIL

REQUEST FOR CALL IN OF DECISIONS TAKEN BY THE CABINET OR UNDER DELEGATED POWERS

Explanatory Note

This form may be used to request a call in of any decision (except urgent decisions) taken by the Cabinet or by a Cabinet Member acting under delegated powers or a Key Decision taken by an Officer under delegated powers.

This form must be signed by at least five Councillors (or by one Councillor and supported by four other Councillors via e-mail) and must be delivered to the Proper Officer within five working days of publication of the decision.

We, the undersigned, request that the following decision be scrutinised by the Strategic Overview and Scrutiny Panel or Finance and Audit Scrutiny Panel as appropriate for the reasons set out below:-

The decision contained in the Record of Decisions Taken Under Delegated Powers, Reference No. **STW-008-12. Authorisation of use of powers under Section 46 of the Environmental Protection Act 1990 in relation to the presentation of household recycling and waste.**

Reason(s) for call in:

1. consideration of all options available;

In Para 4.7 the Portfolio Holder introduces the option of an "Incentive Scheme for household that make every effort to minimize their residual waste". Yet having identified that option, the Portfolio Holder fails in the Report to explain, elaborate or develop the alternative option, or to contrast its efficacy with his preferred coercive policy of Fixed Penalty Notices.

2. having regard to due consultation;

Para 7.1 of the report informs that all 60 councilors were informed of the Portfolio Holders plans, but only 4 provided "feedback expressing their support". By inference 56 Councillors did not express their support. The Portfolio Holder should carry out proper consultations with Borough Councillors, Parish & Town Councils, and residents and community Groups to seek their opinion before proceeding with this decision. The consultation clearly falls short of the "Listening & Responding" objective of the Council's Strategic Plan 2012-15

3. clarity of aims and desired outcomes;

The primary reason for the decision given in Para 2.1 is to "Persuade householders not to place recyclable materials in the residual waste sack". Yet elsewhere in para 4.11 and 4.12 the Portfolio Holder is proposing to take excessive powers to fine those who do recycle, but place recyclates in the wrong recycling bag or container. These ambiguities are not conducive to good decision-making and the aims and desired outcomes should be clarified before the decision proceeds.

4. the action proposed must be proportionate to the desired outcome;

The Portfolio Holder proposes the introduction of draconian powers to fine those who do not recycle, yet the report fails to give reliable data, trends or predictions about the number of households that are failing to recycle wholly or in part, or are expected not to recycle in the future. The Portfolio Holder has not produced reasoned arguments for the imposition of Section 46 Powers in regard to the unquantified scale of the problem. The proposals should not proceed until it is supported by a proper business case that can be scrutinized, gives details of the scale, trends, and profit that will be generated.

5. presumption for openness;

There appears to be a hidden agenda. Although the Report talks much of education and persuasion, it is clear from the level of the Fixed penalty Notices suggested in Para 4.11 that the Portfolio Holder is seeking Section 46 Powers as a money making scheme to bolster a financially embarrassed Administration. The Portfolio Holder should be open about how much profit will be raised through Fixed Penalty Notices and the purpose to which this profit will be applied.

6. only relevant matters taken into account;

In Para 4.2 and elsewhere, the Portfolio Holder introduces interesting, but irrelevant material about the location of recycling facilities which has no bearing whatsoever on the adoption of Section 46 Powers in regard to people who fail to recycle at their kerbside. The Portfolio Holder should explain the extent to which the decision has been influenced by these irrelevant factors.

7. due weight to all material considerations;

While much of the scheme might be reasonable with the current recycling scheme (3 to 4 recycling containers plus black bag for residuals, few if any households achieve the level of perfection needed to avoid a Fixed Penalty Notice if the

Portfolio Holder were in the future to follow the example of Newcastle-under-Lyme Council who impose 9 separate recycling containers on households. The decision would not proceed until the Portfolio holder gives an assurance to the householders of Colchester that recycling will not become any more complex than it is at the moment.

8. proper procedures will be followed.

No proper business case to support the decision. No indication of impact on Medium Term Financial Strategy.

End of reasons

Signatures	Names in Capital Letters	
1. 	CUR. SUE LISSIMORE	<input checked="" type="checkbox"/>
2. 	CUR. WILL QUINCE	<input type="checkbox"/>
3. 	MARCUS HARRINGTON	<input type="checkbox"/>
4. S. J. Lewis	SONIA LEWIS.	<input type="checkbox"/>
5. P. Hazell	CUR. PAULINE HAZELL	<input type="checkbox"/>

NB Please tick representative to attend and present case at the Panel meeting.

For Office Use:
Date and time of Receipt: _____ Action: _____

COLCHESTER BOROUGH COUNCIL

RECORD OF DECISIONS TAKEN UNDER DELEGATED POWERS

Explanatory Note

The Council has established Delegation Schemes by which certain decisions may be made by the relevant cabinet member or specific officers.

Such decisions are subject to review under the Call-in Procedure.

From the date the notice of the decision made is published there are five working days during which any five Councillors may sign a request for the decision to be reviewed (called in) and deliver it to the Proper Officer.

If, at the end of the period, no request has been made, the decision may be implemented. If a valid request has been made, the matter will be referred to the Finance and Audit Scrutiny Panel if the Decision is defined as a Service related one, or the Strategic Overview and Scrutiny Panel if the Decision is defined as a Strategic/Corporate one.

Part A – To be completed by the appropriate Cabinet Member/Officer

Title of Report

Authorisation of use of enforcement powers under Section 46 of the Environmental Protection Act 1990 in relation to the presentation of household recycling and waste

Delegated Power

To develop and promote policies in relation to waste reduction, re-use and recycling.

Decision Taken

To authorise the use of powers available to the Council under section 46 of the Environmental Protection Act 1990 (as amended) in circumstances where households repeatedly fail to recycle and/or incorrectly present their waste for collection.

To approve the education process as outlined in Appendices A-C. This process would see Section 46 Notices being issued to individual properties where households fail to recycle their waste, rather than a notice being issued to all properties across the Borough. The enforcement process will only be used as a last resort following extensive education of residents as set out in the Appendices.

Key Decision

Yes

Forward Plan

Yes

Reasons for the Decision

It is recognised that to make the next substantial improvements in recycling and composting performance it is necessary to provide officers with a range of materials and interventions to persuade householders not to place recyclable materials in the residual waste sack.

This will mean undertaking a comprehensive and extensive education campaign mainly directed at households that are placing out large amounts of black sacks every week. To ensure that officers have all the means available to them it will be necessary to utilise Section 46 of the Environmental Protection Act 1990 to persuade those who refuse to recycle despite all the education provided by the Council.

The use of this legislation will always be the last resort for the Council and the focus of officers' efforts will be to educate residents on the benefits and ease of recycling their waste.

Alternative Options

The alternative option is to not endorse the use of these powers. The Council would lose the opportunity to change the behaviour of those households that persistently fail to recycle and who do not respond to engagement or education.

Conflict of Interest

None

Type of Decision

Strategic and Service

Dispensation

None

Approved by Portfolio Holder for Street and Waste Services

Signature Councillor Martin Hunt

Date 2/1/2013

(**NB** For Key Decisions the report must be made available to the public for five clear days prior to the period for call-in commencing.)

Part B – To be completed by the Proper Officer (Democratic Services)**Portfolio Holder Decision Reference Number**

STW-008-12.

Implementation Date

This decision can be implemented if no request for the decision to be reviewed (call-in) has been made **after 5pm on 11 January 2013.**

Call-in Procedure

The Decision Notice for this decision was published on the internet and placed in the Members' Room and the Customer Service Centre on 4 January 2013.

A request for reference to the Finance and Audit Scrutiny Panel (if the decision is a service one) or the Strategic Overview and Scrutiny Panel (if the decision is a strategic / corporate one) must be made by **5pm on 11 January 2013**

Signature of Proper Officer Diane Harrison



Street and Waste Portfolio Holder

Item

Report of	Head of Street Services	Author	Matthew Young ☎ 282902
Title	Authorisation of use of powers under Section 46 of the Environmental Protection Act 1990 in relation to the presentation of household recycling and waste		
Wards affected	All		

This report seeks the Portfolio Holder's authorisation to use the powers under Section 46 of the Environmental Protection Act 1990 in relation to the presentation of household recycling and waste.

1. Decision(s) Required

- 1.1 To authorise the use of powers available to the Council under section 46 of the Environmental Protection Act 1990 (as amended) in circumstances where households repeatedly fail to recycle and/or incorrectly present their waste for collection.
- 1.2 To approve the education process as outlined in Appendices A-C. This process would see Section 46 Notices being issued to individual properties where households fail to recycle their waste, rather than a notice being issued to all properties across the Borough. The enforcement part of the process will only be used as a last resort following extensive education of residents as set out in the Appendices.

2. Reasons for Decision(s)

- 2.1 It is recognised that to make the next substantial improvements in recycling and composting performance it is necessary to provide officers with a range of materials and interventions to persuade householders not to place recyclable materials in the residual waste sack.
- 2.2 This will mean undertaking a comprehensive and extensive education campaign mainly directed at households that are placing out large amounts of black sacks every week. To ensure that officers have all the means available to them it will be necessary to utilise Section 46 of the Environmental Protection Act 1990 to persuade those who refuse to recycle despite all the education provided by the Council.
- 2.3 The use of this legislation will always be the last resort for the Council and the focus of officers' efforts will be to educate residents on the benefits and ease of recycling their waste.

3. Alternative Options

- 3.1 The alternative option is to not endorse the use of these powers. The Council would lose the opportunity to change the behaviour of those households that persistently fail to recycle and who do not respond to engagement or education.

4. Supporting Information

- 4.1 Colchester Borough Council communicates with every household annually, providing information on what, when and how materials should be presented at the kerbside for collection, in the form of the recycling calendar.
- 4.2 In addition to the kerbside recycling scheme, residents can also recycle other items such as batteries and Tetrapak at recycling bring banks located across the Borough. These banks can be found in convenient locations such as supermarkets and Vineyard Street car park.
- 4.3 Information relating to recycling bring banks, the kerbside collection scheme, home composting and other ways to reduce, reuse and recycle waste is available on the Council's website, via the Customer Service Centre and often promoted in Council publications such as the E-Courier. An increased use of social media, such as Facebook and Twitter has enabled the Council to regularly engage and educate a large number of residents simultaneously.
- 4.4 Furthermore, with the forthcoming addition of food waste collections for all properties in the Borough, and the introduction of plastic collections from flats, there is every opportunity for residents to recycle the majority of their waste.
- 4.5 Having built strong relationships with libraries, Parish Councils and Local Housing Offices, residents across the Borough can now access recycling information and containers in their local area as required and at their convenience.
- 4.6 The introduction of Zone Teams in 2011 has given the Council a greater presence within communities and the resources to identify and educate those households that do not recycle any of their waste. Zone staff proactively engage and educate residents at the doorstep, at community events and during Days of Action, making recycling information and containers more accessible than ever before.
- 4.7 The Council will also be looking to develop an incentive scheme for households that make every effort to minimise their residual waste and use all the Council's recycling schemes.
- 4.8 However where education is shown not to be working or if the householder refuses to co-operate the Council needs to be able to back its policy with mechanisms that carry a sanction that will persuade the resident to comply.
- 4.9 Section 46 of the Environmental Protection Act 1990 allows local authorities to specify how recycling and waste should be presented for collection and prosecute a person who fails, without reasonable excuse, to comply with the Council's waste collection system.
- 4.10 Acting in contravention of a Section 46 Notice is currently a criminal offence and would be prosecuted in a Magistrates Court. However, it is the Government's intention to remove the criminal sanctions currently available and replace them with civil sanctions as Parliamentary time allows. However, the Government has provided clarification to Local Authorities with regards to the use of Section 46 powers and the sanctions which

can be levied against those who incorrectly present their recycling and waste for collection.

- 4.11 As an alternative to prosecution, Councils may serve a Fixed Penalty Notice (FPN). The default level for a FPN for such offences is £60 however local authorities can set the fine between £60 and £80. The early payment discount has now been set at £40. Examples of instances where councils can issue fines include recycling being contaminated, placed out in the wrong container or in the wrong location.
- 4.12 It is estimated that a third of residents on the kerbside collection scheme throughout the Borough still chose not to use all the recycling service/ containers which Colchester provides free of charge to encourage residents to participate. The priority with these residents will always be to educate them on the ease and benefit of recycling for Colchester whether it is financially or operationally.

5. Proposals

- 5.1 Following extensive education campaigns to serve a Section 46 Notice to households that do not recycle their waste, in order to increase the amount of waste that is recycled and reduce the amount of waste sent to landfill, where engagement and education campaigns have been unsuccessful.
- 5.2 The Recycling and Waste collection teams and Zone Wardens will fulfil important roles in identifying properties that do not participate in the recycling collection service. These households will receive comprehensive educational advice from their Zone teams.
- 5.3 Only in situations where it is shown that education is not persuading the householder to recycle will a resident be issued with a Section 46 notice followed by the issuing of a FPN or having their case escalated to a Magistrates Court. The full process is outlined below in Appendices A-C and it will be made clear to households when they have reached the stage that, regrettably, enforcement will have to be considered.

6. Strategic Plan References

- 6.1 The response has been written to reflect the Council's objective in the Strategic Plan; 'Reduce, Reuse, Recycle' and contribute to the long standing corporate aim of 'Being Cleaner and Greener'.

7. Consultation

- 7.1 A draft education and enforcement process, detailing the Council's plans to issue Section 46 notices to all households alongside copies of the recycling calendars, was circulated to all Councillors in January 2012. Four Councillors provided feedback expressing their support for the policy whilst requesting further details of the communications plan.
- 7.2 Many Councillors have since contacted the Zone Teams to report properties that do not recycle their waste. The powers awarded to the Council under Section 46 of the Environmental Protection Act 1990 would be effective in tackling such issues.

- 7.3 A revised education and enforcement process, which would see Section 46 notices issued to individual properties, was taken to the Recycling and Waste Task and Finish Group on 28 June 2012 where it again received broad support from Councillors. The revised process can be seen in Appendices A-C.
- 7.4 To coincide with the end of the year long Food Waste Trial, all 7,100 participating households were invited to give feedback about their experiences of the collection service. When asked to describe what aspects of the trial worked well and what could be improved, 16 respondents suggested that all households should be made to participate in the scheme, emphasising the importance of education and/or enforcement where appropriate. It is important to recognise that although only 16 households referred to a greater need for education and/or enforcement, residents were not prompted to consider this particular issue.

8. Publicity Considerations

- 8.1 The publication of this paper follows the Government's announcement of interim changes to the powers available to Local Authorities in relation to the presentation of household recycling and waste. The application of powers is likely to generate local public and media interest.
- 8.2 The Council's Recycling Calendar issued to all households in March with the Council Tax bill also strongly encourages residents to participate in all recycling schemes and includes education on how each material should be presented for collection.

9. Financial Implications

- 9.1 There would be a financial cost associated with the generation of FPNs and referring cases to a Magistrates Court. However, the Council would expect to recover these costs from individual households through the payment of FPNs and fines issued by a Magistrates Court.
- 9.2 The Council would expect to see an increased level of participation in the recycling scheme and therefore an increase in the amount of recyclable materials collected. This could generate additional income for the Council through the sale of recyclable materials, however this is dependant upon market conditions.
- 9.3 If increased levels of participation resulted in a 1% increase in the amount of recyclable materials collected, the Council could generate an additional £9,972 in the form of Recycling Credit payments in 2013/14. The Council also sells recyclable materials, such as paper and cardboard, glass, cans, textiles and plastics. The price achieved for these materials is market-driven and also depends on the quality of the material, but an increased participation would inevitably lead to higher income being achieved from such sales.
- 9.4 From 1 April 2013, Essex County Council will save £72 for every tonne of waste that is diverted from landfill. Throughout the year long food waste trial, residents diverted 452 tonnes of food waste from landfill which generated over £27,000 of landfill tax savings. If the food waste collection service had been delivered to all properties within the Borough, Essex County Council could have expected to make savings in the region of £270,000.

- 9.5 With participation averaging between 70% and 80%, additional landfill tax savings could have been generated if Zone Wardens had a set of procedures which allowed them to educate and, as a last resort, enforce against those households who persistently placed their food waste in black sacks for collection.

10. Equality, Diversity and Human Rights implications

- 10.1 The equality, diversity and human rights implication are covered in the Section 46 EQIA which has been published on the Council's website. To view this please go to www.colchester.gov.uk and follow the pathway Home > Council and Democracy > Policies, strategies and performance > Equality and Diversity > Equality Impact Assessments or this link: [Section 46 EQIA](#)

11. Community Safety Implications

- 11.1 None

12. Health and Safety Implications

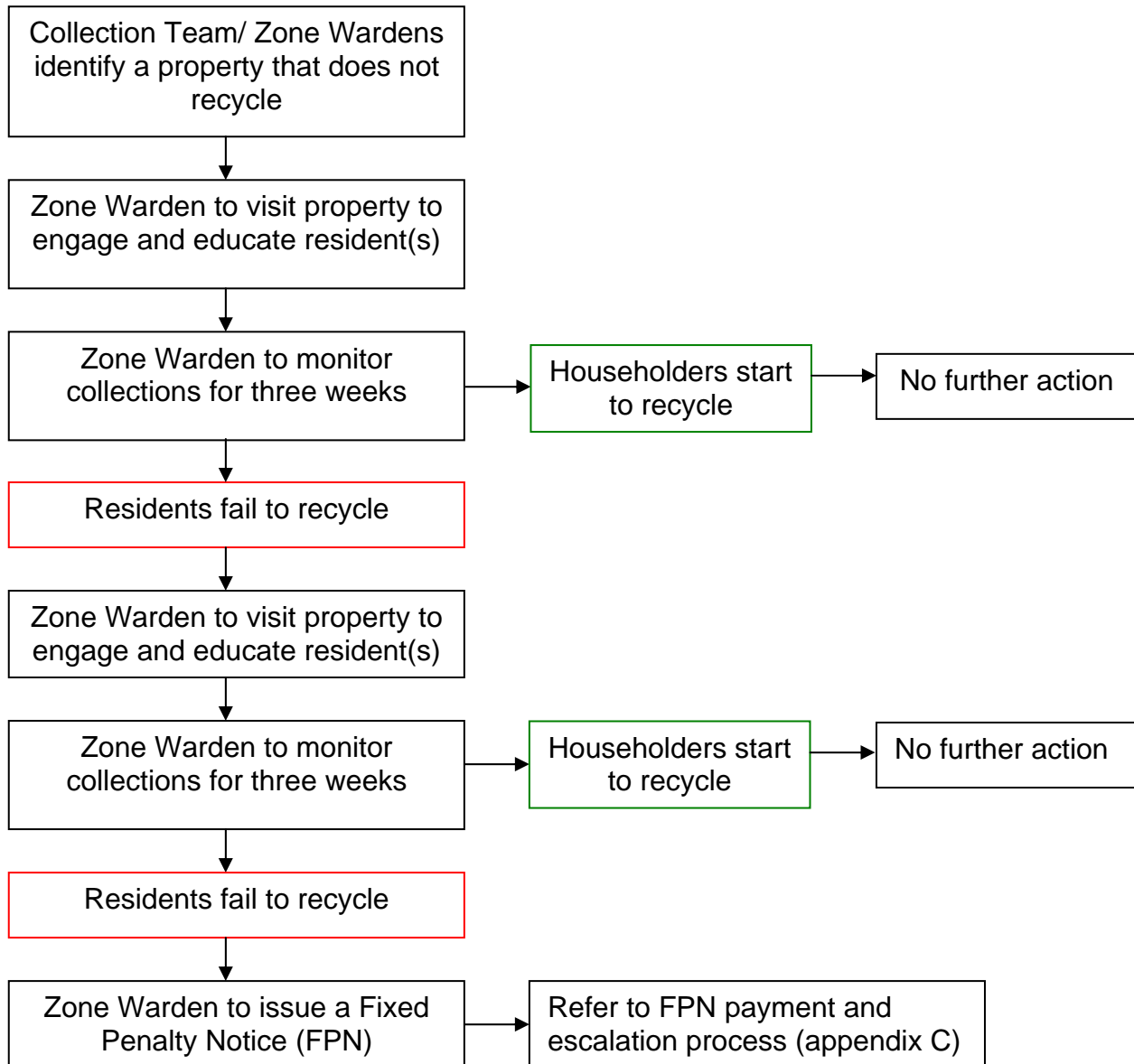
- 12.1 None

13. Risk Management Implications

- 13.1 The risks in not adopting this power is that the Council's recycling and composting rate does not increase in line with its ambitious targets.
- 13.2 There is also the risk that a minority of residents will ignore the education campaign if officers are not provided with a sanction to revert to as a last resort.
- 13.3 Officers will also ensure that any enforcement complies with the Government's Enforcement Concordat that the Council has signed. This requires the Council to demonstrate that our approach to enforcement is properly targeted, proportionate, consistent and transparent.

Appendix A

Engagement, education and escalation process for utilising powers afforded to Local Authorities under Section 46 of the Environmental Protection Act 1990



Appendix B

A detailed look at the engagement, education and escalation process when utilising powers afforded to Local Authorities under Section 46 of the Environmental Protection Act 1990

Step one - monitor

Collection Team and Zone Wardens identify a property that does not recycle

Step two – engage and educate

Zone Warden to contact the household and:

- Identify perceived or actual barriers which may have prevented the householder from recycling
- Provide information to help resident(s) recycle their waste and overcome barriers, leaving information for the resident to refer to later e.g. copy of the recycling calendar and guide
- Deliver recycling containers
- Offer additional advice to help residents reduce, reuse and recycle their waste
- Explain why it is important that residents recycle, the potential consequences of not recycling i.e. having a FPN issued and that collections will be monitored for a further three weeks.

Following the visit, the Zone Warden will update the Meantime system/ customer record, recording details of visit and the steps taken to educate and encourage the resident to participate in the recycling scheme.

Step three- monitor

Zone Wardens to monitor collections for three weeks and update customer record/ case notes. If the householder starts to recycle no further action is necessary. If householder fails to participate in the recycling scheme, Wardens will move on to Step four.

Step four – engage and educate

Zone Warden to revisit the property to:

- Engage with resident(s) to understand reasons for non-participation
- Provide bespoke education relevant to the circumstances of the householder, with a view to addressing the reasons given for non-participation.
- Ensure the householder has access to the information and equipment required for recycling their waste and correctly presenting it for collection on blue and green recycling weeks.
- Explain that collections will be monitored for a further three weeks, during which time the resident can contact the Warden directly if they have any queries, after which point a Fixed Penalty Notice will be issued if the residents do not participate in the recycling scheme.

Following the visit, the Zone Warden will update the Meantime system/ customer record, recording details of visit and the steps taken to educate and encourage the resident to participate in the recycling scheme.

Step five – monitor (with the option to engage and educate at request of householder)

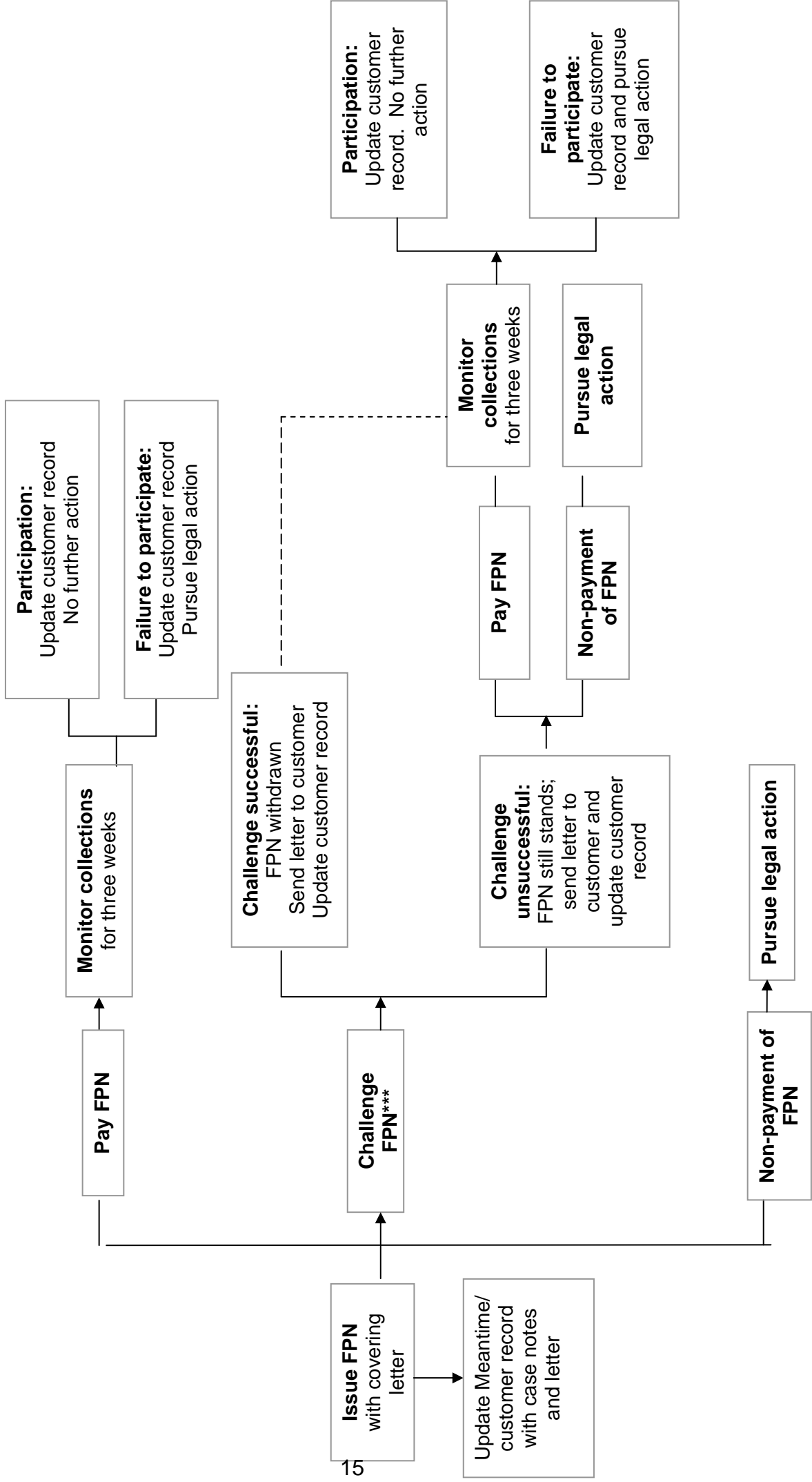
Zone Wardens to monitor collections for three weeks and update customer record/ case notes. If the householder starts to recycle no further action is necessary. If householder fails to participate in the recycling scheme, Wardens will move on to step six.

Step 6 – escalation

Zone Wardens to issue Fixed Penalty Notice to owner/occupier of the property inline with the process detailed in Appendix C.

Appendix C

Fixed Penalty Notice (FPN) payment and escalation process



***Put FPN on hold to ensure customer can still pay at discounted rate within remaining days if challenge is rejected.

