

**From:** richard weller  
**Sent:** 11 January 2016 11:27  
**To:** Silvia Gonzalez Newport City Council  
**Subject:** Illegal Dumping of Waste – Morris Street

**Illegal Dumping of Waste – Morris Street**  
**HMO property at 184-186 Corporation Road – entrance in Morris Street**

Dear Ms Gonzalez-Lopez

Thank you for your letter of 7<sup>th</sup> December.

I have discussed the situation with Peter Silverman of [Clean Highways](#). Please refer to [Fly -tipping – Newport S. Wales](#).

He makes the following points:

1. Under Environmental Protection Act (EPA) S89(1) the council has a duty to ensure, so far as is practicable, that the land at the end of Morris Street is kept clear of litter and refuse. He points out that the word(s) used are “practicable” and not “reasonably practicable”. Cost should not therefore be a major consideration.
2. EPA S45 requires councils to collect household waste.
3. EPA S46 gives councils the power to require the occupiers of a property to place waste for collection in specified receptacles. They can be provided free or a council can require the occupier to provide them.
4. With regard to fly-tipping, in addition to prosecuting under EPA S33, councils can, for small scale offences such as depositing single plastic bags of rubbish, issue a fixed penalty notice under EPA S88.
5. Under the Anti-social Behaviour, Crime and Policing Act 2014 councils can issue Community Protection Notices to deter ongoing problems or nuisances which negatively affect a community’s quality of life. They can be issued to anyone who can be reasonably expected to control or affect the behaviour. This would include landlords of HMO properties where the tenants were depositing waste illegally.

Please refer to page 38 of the relevant [Statutory guidance](#) and to this page on Oxford City’s web site [Flats and HMO Recycling and Refuse Information for Residential Domestic Agents](#). It says:

*If any bins presented for collection do not comply with our policy, the Council will serve a Community Protection Notice under the Anti-social Behaviour, Crime and Policing Act 2014. This will require the landowner to clear the site at regular intervals as described*

*within the notice. Non-compliance with the notice could lead to legal action being commenced.*

I believe therefore that a sensible approach in this case would be for you to:

1. Start collecting all of the accumulated uncontained material from the location – not just the pink bags – on a daily basis for 4 weeks.
2. Install, free of charge, the appropriate number of large metal/ plastic containers for use by the residents of the HMO.
3. Write to the owner of the HMO informing him of the above actions and saying that you are holding him responsible for ensuring that:
  - (a) His tenants place all of their refuse in the designated containers in specified plastic bags.
  - (b) That he does not himself deposit waste there from other locations or **give permission for others** to do so.

He should be further informed that if he does not comply with these instructions within the next 4 weeks the council will serve a Community Protection Notice under the Anti-social Behaviour, Crime and Policing Act 2014 on him and that non-compliance **would be a criminal offence** which would be pursued through the courts.

4. At the same time deploy enforcement officers to discretely monitor the area and apprehend anyone caught fly-tipping. For depositing one or two bags they should be issued a with Fixed Penalty Notices. For more serious offences they should be prosecuted under EPA S33.

Will the council now proceed on this basis?

Regards,

Richard Weller.