

# Guide to Improving Waste Management in the Domestic Rented Sector



# Foreword



Michael Caroe Andersen

London is a city of transience and movement, with large amounts of private rented property: 32% of households in London's private rented sector have moved in the last year and 70% have lived in their current home for less than two years.<sup>1</sup> This presents very particular challenges to local authorities in communicating and delivering waste and recycling services.

During 2015-2016 Resource London held one-to-one meetings with every one of the London's Boroughs as part of its programme of engagement to explore opportunities to improve London's recycling rate. Poor waste management practices in the domestic rented sector were commonly identified as having a negative impact on recycling performance and were often considered to cause significant street scene issues such as small-scale dumping. This in turn has significant cost and resourcing implications for local authorities at a time of sustained financial pressures on budgets.

In response Resource London, together with the London Environment Directors Network (LEDNET), established a research project to identify opportunities for improving waste management practices within the capital's domestic rental sector. Eunomia Research and Consulting Ltd was commissioned to set up a project board with representatives from the sector, including social and private landlords, managing agents and tenants as well as London boroughs and the core cities. The project board has focused on finding practical solutions that can be put in place in the short to medium term.

Interventions explored included local authority enforcement, licencing schemes, the role of tenancy agreements and better communication between councils, landlords and their tenants. The outputs presented here show however that there is no 'silver bullet' and what is needed is a range of locally relevant interventions delivered collaboratively by a number of stakeholders.

The project has also identified barriers to improvement that will require longer term work or, in some cases, representations to Government.

The issues the project board has identified and many of the interventions suggested within this guide are not limited to London (nor, in some cases, to the rented sector). We hope that local authorities and other stakeholders in the sector nationally will find these conclusions of interest and we welcome contact from any organisations with relevant experience or insight that would like to get involved in further work to tackle these typically urban issues.

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<sup>1</sup> GLA Housing Report 2014.

**Antony Buchan**  
Head of Programme – Local Authority Support

**Sue Harris**  
Executive Director, the Royal Borough of Kensington and Chelsea

Director, London Borough of Hammersmith & Fulham

London Environment Directors' Network  
**LEDNET**

# Project Board Statement



Improving waste management in the domestic rented sector in London and beyond requires:

- **A holistic approach** - councils need to work together, with tenant, landlord and agent representative groups to share insights and information to understand the issues and develop and trial solutions.
- **More collaboration** - locally between council departments and other bodies working with tenants, landlords and agents to identify issues and share information.
- **Clear and consistent messaging** - provided at the right time and in the right format to help tenants and landlords understand their own and each other's responsibilities in dealing with the recycling and waste they produce in the right way.
- **Action to address issues** - where tenants, landlords and their agents are not meeting their responsibilities, stakeholders need to work collaboratively and constructively to encourage them to do so, recognising that in some circumstances this may require proportionate enforcement action to be taken.
- **A clear, comprehensive and consistently applied and enforced legislative framework** - Where legislation restricts or constrains councils from taking positive and fair action on these issues we will make the case for change to Government.

EDUCATE AND ENCOURAGE

ENACT AND ENFORCE

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# Introduction

London boroughs have identified waste management issues in the domestic rented sector as a significant street scene issue, and barrier to improved recycling rates. This guide sets out a series of interventions to address these issues.

## Who is this Guide for?

This guide has been designed to examine the opportunities available to borough councils, working with tenants, landlords, House in Multiple Occupation (HMO) managers and their managing agents (along with appropriate representative bodies) to improve waste management practices within the domestic rented sector in London. It is aimed principally at officers within London borough councils but will be of interest to councils elsewhere in England and also in part to organisations representing domestic rented sector tenants, their landlords and their agents.

Information in this guide document is supplemented with more detailed supporting and case study information in the separate Appendix document.

*Unless explicitly specified otherwise, the use of the term 'landlord' in this guide is intended to include HMO Managers (as per the definition within the Management of Houses in Multiple Occupation (England) Regulations 2006 ('HMO regulations')).*

This guide has been designed to cover the three potential points of contact in Figure 1.

Figure 1: Point of Contact



## Waste Management Issues

Anecdotal evidence from consultation between Resource London and London borough waste officers has suggested that there are a number of waste management issues commonly associated with areas containing a high proportion of rented sector domestic properties - Figure 2.

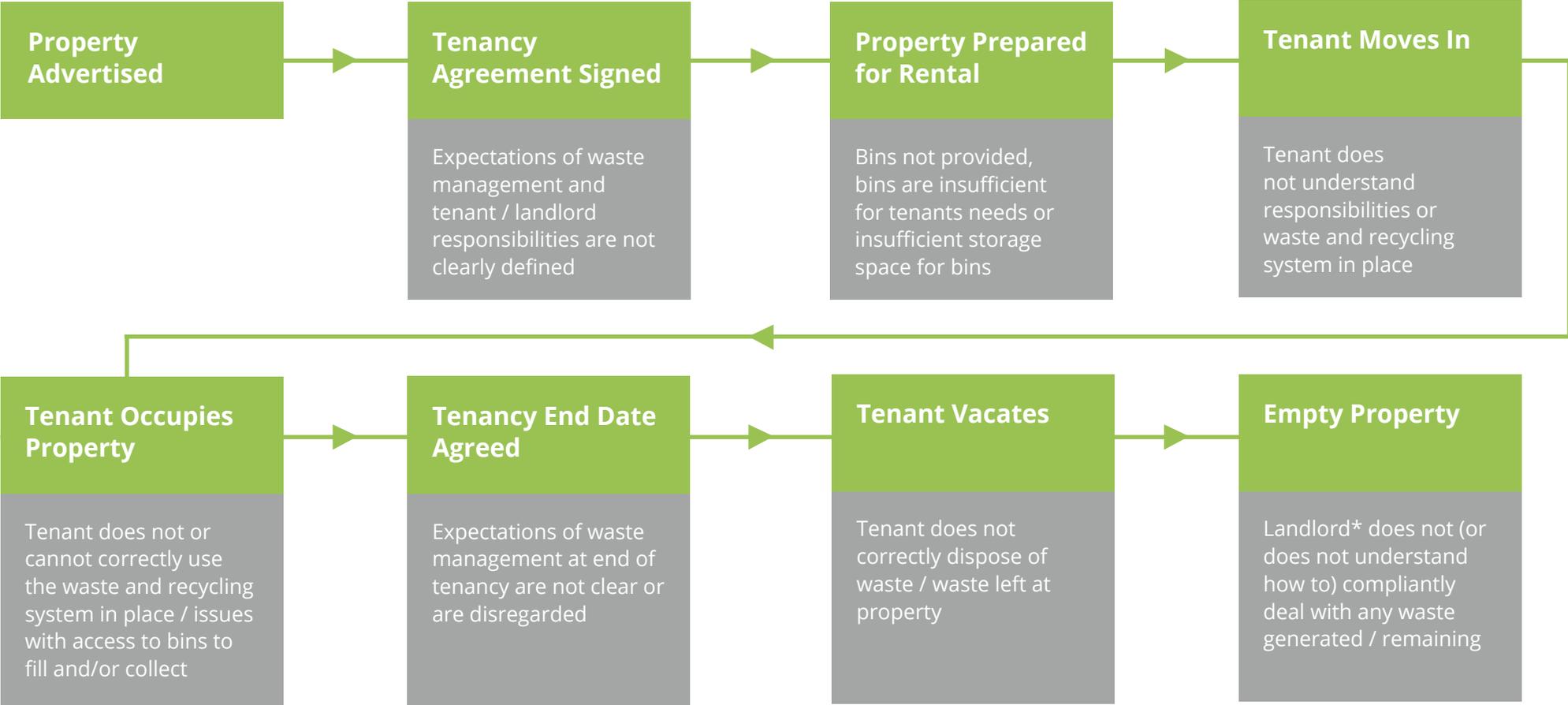
Figure 2: Rented sector waste management issues



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Research with stakeholders representing councils, tenants, private and social landlords and managing agents for this guidance has highlighted a number of key 'points of failure' within the generic rental process where problems can originate - Figure 3.

**Figure 3: Points of failure**



These points of failure are exacerbated by a number of (often interrelated) contributory factors - Figure 4.

Some factors are within the control of councils (e.g. lack of information on service provision), others are within the control of landlords or agents (e.g. space issues, access to bin stores/areas).

The remainder are within the control of tenants themselves (e.g. attitudinal barriers, blocked communal areas), although these will be influenced to some degree by councils communications and enforcement and landlord or agent actions.

There is therefore no single 'silver bullet' intervention that can be deployed to resolve all the waste management problems identified in this document. For this reason the guide takes a multi-pronged approach, recommending a number of interventions that waste authorities can deploy in collaboration with the other main actors in the system to:

## EDUCATE AND ENCOURAGE

and

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greater compliance with the various actors' responsibilities.

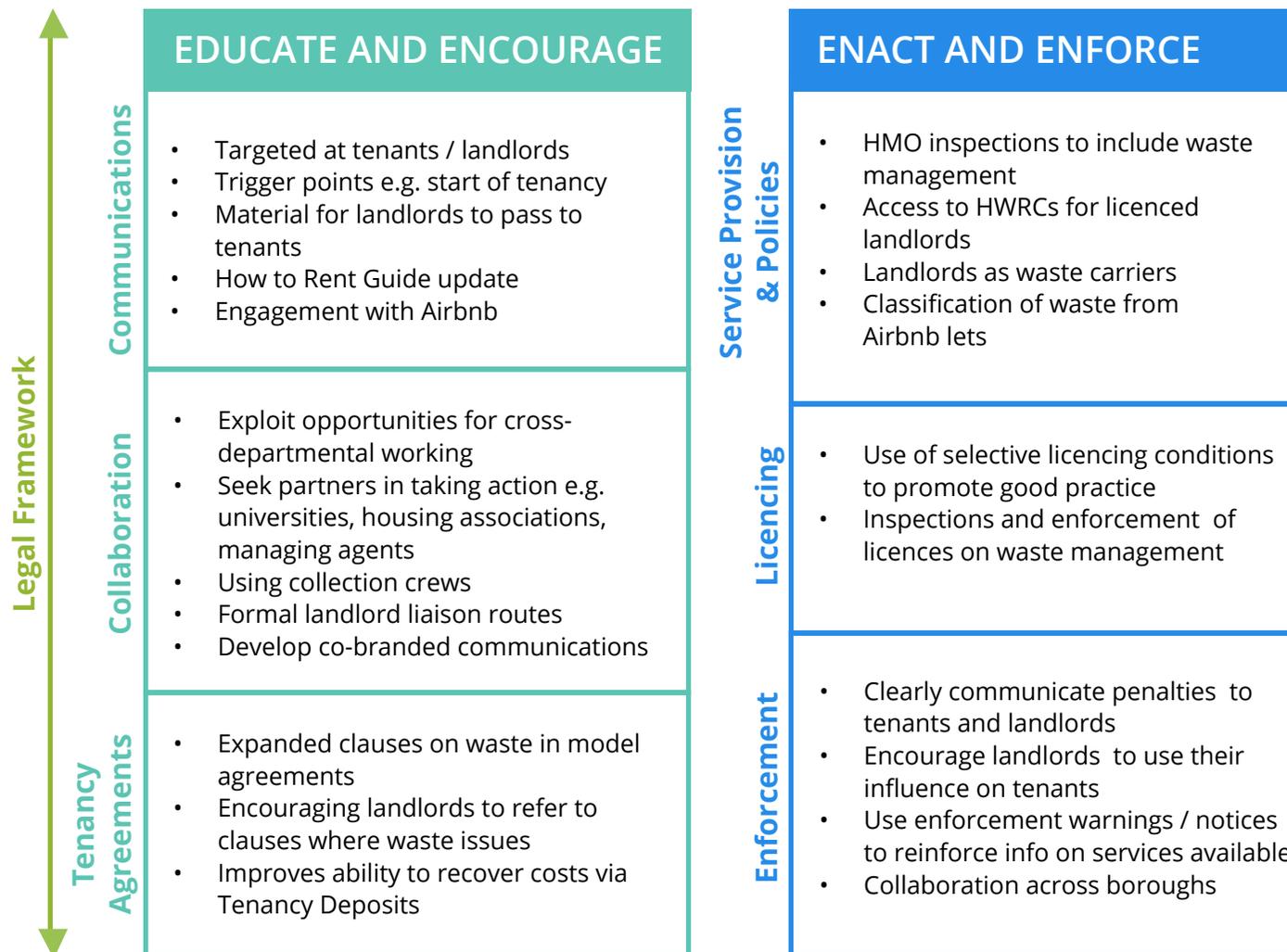
Figure 4: Contributory factors



## Guide Themes and Recommendations

The proposed interventions are grouped under the two thematic areas identified above: 'educate and encourage and enact and enforce' - Figure 5 - with the whole system underpinned by the legislative framework in place - see Appendix for details of the relevant legislation / regulations.

Figure 5: Guide themes and recommendations



# Communications

## EDUCATE AND ENCOURAGE

Councils should educate tenants, landlords and their agents on their waste management responsibilities and how they can comply with them in order to encourage compliance, and as a basis for taking enforcement action.

### Communicating with Tenants

Getting information on waste management responsibilities and collection services to tenants can be difficult where there is a high turnover or where multiple households live at a common postal address. To address this:

- Service information for new tenants should be provided early on in a new tenancy i.e. within the first month (but not necessarily on day one when a new tenant is more likely to lose the information due to the disruption of moving).
- A request for tenants to leave information regarding collection services for a new tenant when they move should be added to printed material.
- Where HMO or selective licencing schemes are in place it can be made a condition of the licence for landlords to ensure that such information is provided to tenants in a suitable format and at the appropriate time – see [Licencing Section](#) for more information.
- For non-licenced properties a change in council tax registration for a property can be used as a trigger to send information. For example, information on collection services and responsibilities and details of penalties for non-compliance can be included within council tax account mailings to new council tax payers. For tenants closing a council tax account, information on excess waste services (e.g. HWRC, bulky waste collections) and duty of care responsibilities when employing waste contractors can be included with final statements or sent separately.
- Collection crews can be used as an alternative source of intelligence regarding new tenancies. Where suitable in-cab IT technology exists collection crews can either flag an address for a 'welcome' letter/leaflet to be sent, or can carry a small supply of standard letters/leaflets or bin tags to leave at the property.

*See Appendix for example communications in use by some councils.*

## Communicating with Students

Councils with areas containing concentrations of student rentals should provide targeted communications material for these tenants at the start and/or end of the academic year. Consideration should also be given to:

- Providing additional waste collection services to students at the end of term to mitigate against the increase in side waste, waste left in front gardens or small-scale fly-tipping.
- Establish partnerships with universities and colleges to set up student-led re-use and recycling schemes linked to the end of term
- Providing information on collection services to the main student accommodation landlords within the authority area for inclusion in their own website or 'welcome packs'
- Engaging with university community-liaison offices as a communications channel.

*See Appendix for examples of the above schemes.*

## DCLG 'How to Rent' Guide

Any new tenants are legally obliged to be provided with a copy of the '[How to Rent guide](#)' published by DCLG. Representation has been made to the DCLG suggesting additional wording on recycling and waste for inclusion when the guide is next updated. – See *Appendix for details.*

## Communicating with Landlords and Agents

Communications material should be targeted at landlords focussing on:

- Providing adequate space and containers for recycling and residual waste;
- Confirming responsibilities for its storage, separation and placing for collection to their tenants; and
- Emphasising the legal duties on landlords and the potential sanctions available to the council should these duties not be met.

In addition Councils should consider:

- Making letters or printed guidance material targeted at tenants, landlords or agents available to download from the council website. This material can include separate material addressed to tenants, for example by including in their own 'welcome pack', alongside (or even as a schedule to) the tenancy agreement, or by placing in the property (e.g. on a notice board) with a clear request that the landlord or agent make this available to existing and any new tenants. A similar approach is taken in some selective licencing schemes – see [Licencing Section](#) for examples.
- Where the council holds name and address details of landlords or the main managing agents operating in an area, or can access this information via other council departments (for example via a council accreditation or licencing scheme), then letters or leaflets containing the information above can be sent direct for their attention.
- Council housing departments may be able to help council waste service officers in identifying key landlords or agents operating within specific areas. In the absence of information from other departments in the council, online searches can identify the largest managing agents within an area with whom the council can communicate directly.

## Key Messages

Communications material targeted at tenants or landlords and their agents should include:

For Tenants	For Landlords / Agents
<ul style="list-style-type: none"> <li>• Clear description of, and instructions on complying with, the collection services offered</li> <li>• Details of how to find out collection days for a specific property</li> <li>• Details of bulky waste collection services offered</li> <li>• Details of how to contact the relevant council department where there are issues e.g. requests for additional/larger/ replacement bins or sacks</li> <li>• A reminder not to fly-tip or leave excess waste around bins or in yards, gardens etc and the potential penalties for doing so</li> <li>• Signpost to further information such as the council’s website or <a href="http://recycleforlondon.com">recycleforlondon.com</a></li> </ul>	<ul style="list-style-type: none"> <li>• An outline of landlord responsibilities including:               <ol style="list-style-type: none"> <li>1. To provide information for tenants on collection services</li> <li>2. To provide suitable space for recycling and residual waste bins</li> <li>3. To provide recycling and residual waste bins to tenants in accordance with council policy and recommendation that these be included in the inventory associated with the tenancy agreement</li> <li>4. Duty of care obligations e.g. with regards to the transfer of waste</li> </ol> </li> <li>• Confirmation on classification of different types of waste as household or commercial</li> <li>• Details of how to contact the relevant council department where there are issues or more information is required</li> </ul>

- Alternatively boroughs may be able to liaise with national bodies such as the National Landlords Association (NLA) or ARLA Propertymark (representing agents) to get information passed through to landlords and agents via newsletters or local forums.
- Another means of communication open to councils is via landlord and/or agents forums which some local authorities have established. These are covered in more detail in the Collaboration Section. Councils can consider setting up a simple registration scheme as part of a forum or separately where landlord forums are not in place, for landlords to sign-up to receive information on changes to collection service arrangements / rules relevant to their properties.

*See Appendix for examples of some of the above.*

# Collaboration

Waste services should collaborate with other council departments and external bodies which interact directly with tenants, landlords and their agents to get information on waste management responsibilities and services to the right place and identify those for whom enforcement action is appropriate.

## Multi-departmental Working

Potential exists in many councils for increased collaboration between departments and external partners - Figure 6.

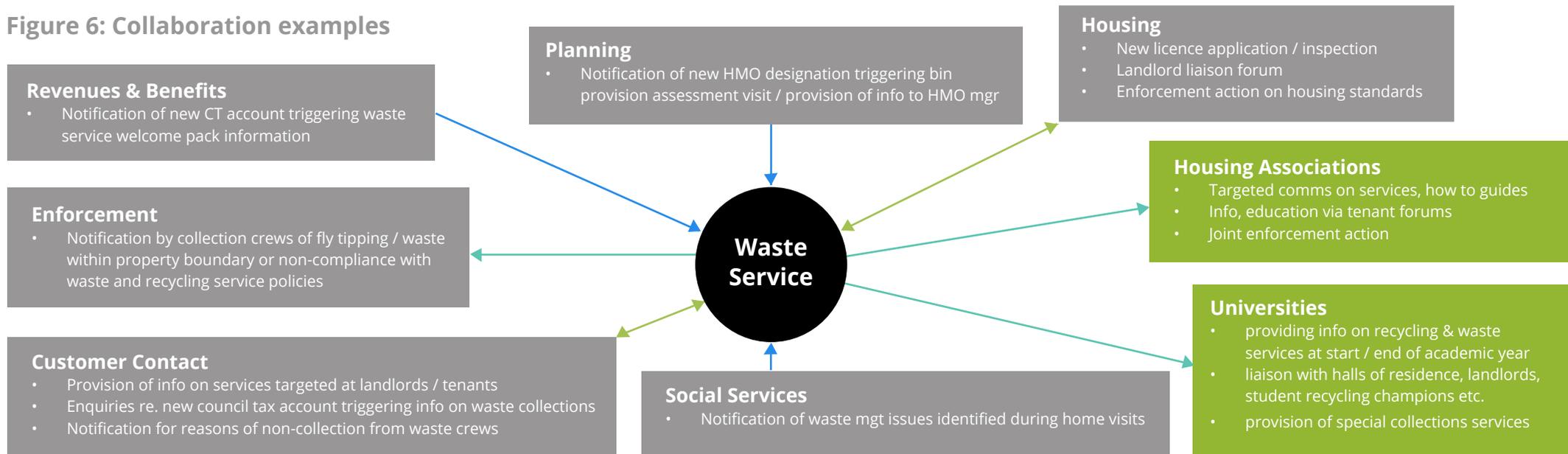
Further detail on these examples can be found in the Appendix.

Information Communications Technology (ICT) can support this e.g. in-cab ICT in waste collection vehicles for reporting on waste in gardens, fly tipping, excess side-waste, broken bins or evidence of insufficient containment. This information can then be used to trigger proactive visits by council and/or enforcement/housing officers.

## Working with Landlord groups or Managing Agents

Landlord forums or voluntary landlord accreditation schemes, where these exist, can provide a direct communication channel for the waste service to highlight landlord and agents' responsibilities, confirm collection service rules and consult with landlord members on issues such as waste in gardens or contamination of recycling bins – See Appendix for examples.

Figure 6: Collaboration examples



### Recommendations

Waste services should look for opportunities to collaborate with other council departments or external partners to address waste management issues in the rented sector, by for example:

- Making connections and developing partnerships with other council departments to share information and develop joint approaches to targeting tenants, landlords and their agents.
- Making connections and developing partnerships with external organisations such as universities, housing associations, or lettings agents with strong presence / market share in area, to share information on key waste management responsibilities, collection services and service rules.
- Using landlord forums, where these exist,
- as a route to communicate service information and landlord and tenant responsibilities.
- Where one or more lettings agents have a significant market share in a particular area, the council should seek to work with them on communications and specific targeted services (such as one-off bulky waste collections).



# Tenancy Agreements

Tenancy agreements can play a role in clarifying tenant and landlord responsibilities in relation to waste management. The clauses set out here should be promoted for inclusion in model tenancy agreements.

## Model Clauses

There are a number of 'model' Assured Shorthold Tenancy (AST) templates currently available for use by landlords and their agents. Some, but not all, contain clauses related to responsibilities for waste and recycling – See Appendix for examples.

Inclusion of waste management responsibilities within agreements has the potential to be a useful lever in encouraging tenants to act responsibly both during and at the end of tenancies. In considering opportunities to expand and strengthen tenancy agreements from a waste management perspective, the following clauses are suggested for inclusion:

## Model AST Agreement Clauses

Landlord's Obligations:

- The landlord shall provide tenants, from the start of the tenancy, with written information setting out their responsibilities with regards to the proper storage and separation of recycling and residual waste (including bulky waste) and its placement for collection in accordance with the policies set out by the local authority.
- The landlord shall ensure that, where applicable, tenants have means of access to any communal containers for the purpose of separating and storing recycling and residual waste and its placement for collection in accordance with the policies set out from time to time by the local authority.

### Tenant's Obligations:

- The tenant must keep the property including all yards, gardens, outbuildings and any other external areas within the curtilage of the property free from waste and fly tipping deposits.
- The tenant must not deposit any waste or possessions in shared or public areas.
- The tenant must store, separate and place for collection all recycling and residual waste (including bulky waste) in accordance with the written information provided to the tenant at the start of the tenancy and in accordance with the policies set out from time to time by the local authority.
- Where any waste, due to its size and/or type, is unsuitable for collection by the local authority, the tenant must make arrangements for the safe and legal removal and disposal of this waste in line with his Duty of Care under section 34 of the Environmental Protection Act 1990.
- The tenant must remove all possessions (including any furniture, mattresses etc) belonging to the tenant or any member of the tenant's household or visitors, and all waste from the property (including any exterior areas within the curtilage of the property) at the end of the tenancy. If any such possessions are left at the property after the tenancy has ended, the tenant shall be liable for meeting all reasonable removal and storage charges. The Landlord will remove and store the possessions for three months (other than any perishable items which will be disposed of immediately) and will take reasonable steps to notify the tenant. If the items are not collected within three months, the Landlord may dispose of the items and the tenant will be liable for the reasonable costs of disposal. The costs of removal, storage and disposal may be deducted from any proceeds of the disposal.

*Note: These clauses are provided as examples only – care should be taken to ensure that, where used, the final form of these clauses is compatible with the form of tenancy agreement with which they are to be incorporated (and associated definitions and obligations imposed on tenants contained therein).*

These clauses will be recommended to DCLG and landlord/agent representative bodies for inclusion within model AST agreements.

*See Appendix for further information related to the invocation of clauses in ASTs and the use of inventories.*

## Recommendations

- Councils should promote the model AST clauses set out above for inclusion within council tenancy clauses (where relevant);
- Councils should include recommendations on including these clauses within AST agreements in any guidance material targeted at landlords as well as the guidance set out above on invoking clauses and the use of inventories.

# Waste Collection Service Provision and Policies

Councils need to consider collections policy for HMOs and HWRC and Bulky Waste collection service provision as a way of addressing some waste management issues in the rented sector. Providing clarity on the classification of waste and charging for collections in certain circumstances affecting renters can also have a positive impact.

## Introduction

Rented sector properties are, in the main, not treated differently from owner-occupied properties when it comes to the provision of collections services and related service rules. Specific policies and services can be considered however for: **HMOs**, **HWRCs** and **bulky waste**. There is also the question of how **classification of waste** produced from short-term lets and **charging for the collection** of waste in certain circumstances can affect rented sector tenants and landlords.

## Recommendations

### HMOs

- Proactive advice should be provided for HMO Managers on legal obligations related to waste management, standard collection service provision (including details of container provision), specification requirements for any containers provided by HMO Managers etc. This can be via a HMO planning permission application or new HMO inspections (either by planning or housing officers or via a separate visit by waste service officers).

- The waste service should work with the housing department to ensure that any inspections of new HMOs includes consideration of waste management provision including, where relevant to the collection policy in force, an assessment of the container requirements such that adequate containers and separation and storage facilities can be provided to tenants.
- Consideration should be given to the provision of re-usable bags for the separation and transport of recycling from individual dwelling units within HMOs to the communal collection containers provided.

### HWRCs

- HWRC services should be promoted to tenants and landlords as an outlet for the deposit of waste and recycling generated from the process of moving in and out of rented properties.
- The circumstances under which landlords are able to access HWRCs and the policies in force regarding the acceptance of waste generated from 'DIY' works should be communicated as part of any waste service information material targeted at landlords.



- Where selective licensing schemes are in place, consideration should be given to allow access to HWRCs for the deposit of household waste by non-resident landlords on production of their licence (as a positive incentive for licencing).
- Any information on the disposal of waste by landlords should include a clear statement regarding their duty of care obligations. This should include the requirement, in certain circumstances where they are transporting waste themselves, to be registered as a waste carrier.

### Bulky Waste

- Consideration should be given to advertising additional services targeted at rented sector service users e.g. working with managing agents with a large portfolio in areas with persistent bulky waste issues to advertise and offer one-off free collections, targeted advertising of furniture re-use schemes to landlords and agents for providing to their tenants.

### Classification of waste and charging for collections

- Councils should ensure that tenants, their landlords and agents are provided with clear unambiguous information regarding the classification of waste produced in the different circumstances relevant to rented properties and what this classification means in terms of responsibilities and charges for collection.
- Where a council incurs additional cost in collecting waste set out in contravention of a notice issued pursuant to s.46 (1A) of the Environmental Protection Act 1990 - requiring waste to be placed for collection in specified receptacles – the Authority can issue a charge to the occupier under the Controlled Waste (England and Wales) Regulations 2010. The charge should be used to recover additional collection costs only and not as a means of enforcement.
- Councils should consider providing information on the classification of waste generated from short-term lets such as those advertised via Airbnb and similar platforms and the implication of this for whether a charge for collection can be applied.

*See Appendix for further information and examples on the above.*

# Licencing

Where licencing schemes are in place, obligations on landlords related to waste management should be included within the licence conditions.

## Model Licencing Conditions

The Housing Act 2004 ('2004 Act') makes provision for selective licencing to be used as a discretionary tool for local housing authorities to improve the management of privately rented properties which accommodate single households. HMOs can be subject to additional licencing schemes. – See *Appendix for further details.*

Councils considering introducing new additional or selective licencing schemes or renewing existing schemes should incorporate the 'model' conditions set out below:

## Model Licencing Conditions

1. The licence holder must provide written information to all tenants, at the start of the tenancy to ensure that tenants are advised and reminded of their responsibilities for the proper storage and disposal of household waste.

This information must be provided in a clear and easy to understand format which tenants can refer to throughout the period of the tenancy.

This information should include the following details:

- How household recycling and residual waste should be separated, stored and placed out for collection in the correct containers [as per the guidance issued by the council].<sup>1</sup>
- How to dispose of bulky household waste [as per the guidance issued by the council].<sup>1</sup>
- If applicable, the licence holder must inform tenants of the arrangements for accessing communal waste and recycling containers that are placed in secure areas and ensure that tenants are able to access these.

2. The licence holder must ensure that all tenants have access to waste and recycling containers sufficient for the number of occupants, and that these containers provide adequate means of separation of waste and recycling by type [as per the guidance issued by the council].<sup>1</sup>
3. Any such waste and recycling containers provided must be included within the inventory associated with the tenancy agreement (where such agreement exists).
4. Clear signage regarding the separation of waste and recycling by type must be provided and maintained on or near waste and recycling containers.
5. The licence holder must ensure that all yards, gardens, outbuildings and any other external areas within the curtilage of the property are kept free from waste and fly tipping deposits at all times. Whether clearing such waste himself, or employing a third party to do so, the licence holder must fulfil his duty of care in respect of the lawful transfer and deposit of such waste.<sup>2</sup>
6. The licence holder must carry out regular checks throughout the duration of the tenancy to ensure that all tenants are complying with their responsibilities with regards to the storage and recycling of waste (including bulky

waste) within the property and any exterior areas within the curtilage and its placement for collection in accordance with the policies set out by the council.<sup>2</sup>

7. The Licence holder must ensure that where necessary for the emptying of waste and recycling containers from secure areas the council has the required access key / code or that arrangements are made to make these containers accessible for collection on the days and times specified by the council.

*Notes:*

- <sup>1</sup> *The council should add references to its own specific policies regarding provision of numbers and types of containers according to property type and/or occupancy levels and provide links to guidance material on service arrangements and policies for landlords to provide to their tenants to enable them to comply with these conditions.*
- <sup>2</sup> *These conditions should be met with due regard to the conditions of common law and the tenancy agreement in place related to the tenants right to quiet enjoyment of the property.*

It is noted that under proposals being consulted on the Government is looking at extending the coverage of mandatory licencing schemes for HMOs and introducing a condition that the licence holder provides:

*'adequate receptacles for the storage and disposal of normal household waste emanated from the property. The facilities must be suitable for the number of persons or households permitted to occupy under the licence and will need to be stored in a suitable accessible place within the curtilage of the property. The licence holder will also have to comply with all directions given by the local waste authority in relation to the storage and disposal of waste.'*

To have an impact (over and above simply drawing landlord's attention to the part they can play in preventing or addressing waste management issues) requires those responsible for carrying out the monitoring role, funded presumably by the licence fee income, to address waste management issues with licence holders on a similar basis as housing standard issues and other anti-social behaviour.

# Enforcement

There are a number of interventions set out here that councils can consider when tenants and landlords fail to comply with their waste management obligations. More joint working between councils including sharing approaches, policies, documentation etc. can make developing new approaches less time consuming costly and avoid sending mixed messages to tenants and landlords.

## Introduction

Councils have different approaches to enforcing against breaches of obligations and duties. Generally speaking, enforcement action is usually considered as a measure of 'last resort'. However, early stage enforcement action is also an opportunity to continue with the communications, engagement and education activity outlined in preceding sections.

As Keep Britain Tidy has noted in its [Fly Tipping Action Plan](#), the inconsistency in enforcement approach between councils risks sending mixed messages to tenants, landlords and their agents. More joint working, starting with the formal sharing of approaches, policies, documentation etc., between boroughs could play a strong role in encouraging more consistency in approaches and a streamlining of the research and development of new mechanisms and materials.

## Recommendations

Councils should:

- Provide clear information to residents, landlords and their agents on the penalties that will be levied by the local authority for failure to comply with legal obligations and waste collection policies and service rules and obligate landlords or agents to pass this information on to their tenants (e.g. through licencing or accreditation scheme conditions).

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- Work to identify landlords and/or agents of properties for which waste management issues are a persistent problem and write to them to encourage them to use their influence (including via tenancy agreement conditions) to address tenant behaviour.
- Where there is separation between waste and enforcement departments, enact two-way training and effective joint working to ensure the effective implementation of joined up enforcement action and communication of key messages to residents, landlords and their agents.
- Consider the use of Community Protection Warnings/Notices for enforcing against appropriate offences / issues.
- Where issuing notices and warnings, include clear information or signposting on collection services to encourage recipients to engage with the services provided.
- Collaborate with enforcement colleagues in neighbouring / other boroughs through formal forums or informal networks to share approaches, processes, written policies and notices etc. with the aim of increasing consistency of approach across London.

*See Appendix for further detail supporting these recommendations.*

# Acknowledgements



This guide was developed by Eunomia Research & Consulting Ltd and overseen by a project board chaired by Sue Harris - Executive Director, The Royal Borough of Kensington and Chelsea and Director London Borough of Hammersmith & Fulham. The project board comprised representatives of the following organisations:



London Environment Directors' Network



Content was also informed by consultation with representatives from the following organisations:

- LARAC
- London Councils
- Keep Britain Tidy
- London boroughs of Barnet, Camden, Enfield, Hackney, Haringey, Islington, Waltham Forest
- Greater London Authority
- Department for Communities and Local Government.