

Appendix 4 – Letter of Indemnity [DRAFT]

Recipient name
Recipient company
Recipient address

Contact:

T:
E:

Our ref:

Date

Dear []

RE: REFUSE AND RECYCLING COLLECTIONS FROM [ROAD NAME]
Section 46 Environmental Protection Act 1990

Under S.46 of the Environmental Protection Act the Council is entitled to specify where refuse containers must be located in order to facilitate their collection. The Council's normal practice is to carry out refuse and recycling collections from the property boundary for households located on adopted roads, this is described as where a front path or drive meets the public road or pavement and the Highways Authority is responsible for the maintenance of these roads.

In the case of unadopted or private roads such as [ROAD NAME] (the “Unadopted Road”), the Council's normal practice is to specify a location adjacent to the public highway where householders are required to place their refuse and recycling containers for collection, landowners/residents of unadopted or private roads are responsible for the maintenance of those roads and therefore the Council will not normally enter these.

The Council has undertaken an annual Site-Specific Risk Assessment of the Unadopted Road which has evaluated Unadopted Road conditions under the following criteria:

- I. Road width
- II. Safe turning area for refuse vehicles
- III. Soft verges
- IV. Ditches at the side of roadway
- V. Overhanging trees, shrubs or cables,
- VI. Potholes / condition of the road surface / state of repair of the road surface
- VII. Number of properties on the unadopted road / track
- VIII. Road condition at the time of assessment visit
- IX. Any restrictions on the lane (weight limit, height limit etc)
- X. Suitable area for collection point
- XI. Road surface type (loose gravel/stone, tarmac, concrete, unmade track
- XII. Other health and safety risks (adverse camber, poor visibility at bends, risk of flooding, unprotected steep embankments)

The risk assessment has been undertaken at the Unadopted Road. It is concluded that waste and recycling collections can continue at the Unadopted Road but requires the attached indemnity agreement to be signed to continue to do so by each landowner responsible for paying for the maintenance for the Unadopted Road - or an agent authorised to act on their behalf.

If you do not sign and return the indemnity agreement overleaf, the Council can specify (as per S.46 Environmental Protection Act 1990 (as amended)) an alternative collection point from the adopted highway for the properties of the Unadopted Road and responsibility for bringing the containers to that point will rest with the residents situated on the Unadopted Road.

If you wish to continue the Council and its agents' collection of waste from the Unadopted Road please sign and return the indemnity agreement overleaf and return this as soon as possible. Please retain a copy for your records and do not hesitate to contact me if you require any further information.

Please note, only the landowner can sign the indemnity agreement. If you are a tenant, please ensure that the owner receives this letter.

Yours faithfully,

[NAME]

INDEMNITY AGREEMENT

CONSENT FROM:

I confirm that I am the [Landowner / Leaseholder / Managing Agent] of [ROAD NAME] (The "Unadopted Road") and I am the person responsible for the maintenance of the Unadopted Road.

The [Landowner / Leaseholder
Managing Agent]

Address

INDEMNITY AND WAIVER

✓

I acknowledge that it is my responsibility to ensure that the Unadopted Road shall be maintained to the following standards and if the following standards are not maintained, or are in dispute, the Council can specify an alternative collection point from the adopted highway for the properties of the Unadopted Road. Responsibility for bringing the containers to that point will rest with the residents situated on the Unadopted Road:

- a) **Road surface:** Roads must be of sound construction with a suitable hard surface, free of large/deep potholes and obstructions which could cause damage or injury to vehicles or persons. The vehicle should be able to travel safely at 15mph (25 kph) along the road.
- b) **Road width:** The minimum road width is no less than 3.5 metres with no obstruction from trees, shrubs etc. which could cause damage to the Council or contractor(s) refuse collection vehicles.
- c) **Road length:** If there are several properties located down a road, then there should be passing places, suitable for a refuse collection vehicle (hard surface, not a verge).
- d) **Height clearance:** The minimum clearance should be no less than 5.5 metres with no obstruction from overhanging branches, cables etc. which could cause damage to the Council or contractor(s) refuse collection vehicles.
- e) **Turning area:** Where a through road does not exist, a suitable turning area must be available to allow the vehicle to turn. The turning area should have a hard surface which is of a sufficient size to allow an 11.5-metre-long vehicle to turn with no more than three manoeuvres and have sufficient space either side of the vehicles to safely turn in the dark. Collection vehicles will not reverse onto a public highway to turn around.
- f) I shall immediately notify the Councils [Street Scene] department of any safety concerns related to the Unadopted Road which may affect the safe and efficient waste collection by the Council or its contractor(s) and acknowledge that the Council may notify me if they become aware of any safety concerns relating to the Unadopted Road which may result in them specifying an alternative collection point from the adopted highway until said safety concerns are rectified.
- g) I hereby agree to indemnify Flintshire County Council against all costs, claims, damages or expenses incurred by Flintshire County Council arising from Flintshire County Council or its contractor(s) operating within the Unadopted Road to collect residents' waste and recycling. This indemnity shall not cover Flintshire County Council to the extent that a claim under it results from Flintshire County Council or its contractor(s) negligence.

DECLARATION AND SIGNATURE

I acknowledge and represent that, having read and understood this indemnity agreement, and being fully competent to sign it, I sign this indemnity agreement voluntarily as my own free act and deed, for full, adequate, and complete consideration, with the intention that it will be construed in accordance with English law, and fully intending it to be of legally binding effect upon me.

Signed:		Date	
Name (BLOCK CAPITALS)			
Address (BLOCK CAPITALS)			
Witness Signed:		Date	
Witness Name (BLOCK CAPITALS)			
Witness Address (BLOCK CAPITALS)			