

Report to the Cabinet

Report reference: C-118-2008/09

Date of meeting: 20 April 2008



**Epping Forest
District Council**

Portfolio: Environment.

Subject: Collection of waste from schools, religious establishments, charitable institutions and businesses.

Responsible Officer: John Gilbert (01992 564462).
David Marsh (01992 564889).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) That in accordance with Government guidance the Council makes available, on request and at a charge, the collection of household waste from schools, religious establishments and charitable institutions;
- (2) That in accordance with the Household Waste Recycling Act 2003, where the Council collects household waste as set out in recommendation (1) at least two recyclable materials are also collected;
- (3) That subject to recommendations (1) and (2) a further report be submitted on the charges to be levied for the collection of household waste from schools, religious establishments (commercial activities only) and charitable institutions;
- (4) That the Council discharges its responsibility for the collection of commercial waste upon request through its current service provider, Sita UK or where necessary other local service providers; and
- (5) That subject to recommendation (4) further report be submitted on the charges to be levied for the collection of commercial waste.

Executive Summary:

The Council has a statutory duty to collect certain types of waste, these being household waste of all types (including from certain non residential premises) and commercial waste if requested. Over recent years this duty has been subject to various interpretations by local authorities, who have provided different levels of service dependant upon their particular interpretation. This confusion has been further compounded by the differing approaches of the waste disposal authorities (in our case Essex CC) in respect of the waste they would accept at the point of disposal free of charge.

In late 2007 Defra issued guidance to collection and disposal authorities in respect of these matters, and officers in the collection and disposal authorities have been considering the effects of this guidance. The County has now made its decisions upon what waste can be disposed of free of charge, and this has enabled this Council, as a collection authority to bring forward policy proposals for the collection and charging for (where relevant), household

waste.

The Audit Commission, when it published its inspection report in August 2008 was critical of the Council's approach to the collection of commercial waste. Whilst the Council did not wholly accept this criticism, it is important that the Council clarifies its position and declares its policy on this matter.

This is a key decision.

Reasons for Proposed Decision:

To ensure that the Council complies with the law relating to the collection of household and commercial waste and the associated Defra guidance. The policy proposals relating to the application of charges to certain types of household waste are put forward to ensure that the Council is able to maintain control over the total waste stream.

The proposals for commercial waste do not alter the Council's existing arrangements but do ensure compliance with the guidance.

Other Options for Action:

The only alternative options available are:

- (i) to not comply with the law and associated guidance;
- (ii) to bring forward different arrangements than recommended for the collection of household waste from non domestic properties; and/or
- (iii) to not implement a charging regime for non domestic household waste.

Report:

Background

1. The definitions of waste are to be found in the Controlled Waste Regulations 1992. There are 4 main categories:

- (i) household waste;
- (ii) household waste for which a charge for collection may be levied;
- (iii) industrial waste; and
- (iv) commercial waste.

2. In general terms a waste collection authority (WCA) and waste disposal authority (WDA) are under a statutory duty to collect and dispose of household waste free of charge. The definition of household waste includes more than just waste from domestic properties, to embrace:

- places of religious worship;
- charities;
- camp sites;
- prisons;
- public halls; and
- schools, universities, nursing homes etc.

However, for some of the above, whilst there is a duty to collect, the collection authority may if it chooses levy a charge for that collection. A WCA can levy a charge for:

- garden waste;
- clinical waste;
- waste from schools, universities, nursing homes etc;
- waste exceeding 25 kilograms in weight or which will not fit into a prescribed container;
- waste from premises occupied by charities (other than religious premises); and
- waste from halls used for public meetings.

3. WCAs are under a slightly different obligation with respect to commercial waste. The duty here is that a WCA, if requested, must either collect or make arrangements for the collection of, commercial waste, and it may levy a charge. This Council has not offered a direct commercial collection service for many years (since 1992), preferring instead for local businesses to make their own arrangements. However, the Defra guidance has made it clear that if requested, and if the business is happy with the fee to be levied, the WCA is obligated to arrange for its collection. A WCA cannot, for example, simply refer a business to a trade directory for it to sort out its arrangements.

4. Whilst these general requirements have been known to WCAs, the WDA's have not necessarily accepted that position. Indeed, Essex CC as our WDA was not prepared to accept that waste from premises such as schools and religious premises was household waste and therefore would not allow free disposal. Since the WCAs are constrained by the WDA's as to what can be disposed of at disposal sites, we have not been able to put into place collections that meet with the Defra guidance.

5. That position has now changed, due to pressure from Defra and from organisations who considered that they were entitled to have their waste designated as household waste and therefore free disposal. ECC as the WDA has now accepted that position and we as the WCA must now put into place appropriate policies for the collection of and charging for, the other categories of household waste (*Recommendation (1)*).

6. The Household Waste Recycling Act 2003 requires WCAs to collect at least 2 recyclable materials from all domestic premises by 31 December 2010. The Defra guidance makes it clear that this requirement applies to all household waste, including therefore that collected from the types of establishment set out paragraph 2 above. The only exemptions are where such a collection is too expensive, too impracticable or where alternative other arrangements exist (e.g. nearby bring schemes). Therefore, any additional premises which receive a collection of household waste will also have to have arrangements in place for the collection of at least 2 recyclable materials (*Recommendation (2)*).

Places of Religious Worship

7. All places of religious worship should be exempt from local non-domestic rating. However, no such exempt list exists either at the Council or the Valuation Office. Therefore, it is proposed that, subject to confirmation that a religious premises is exempt from local non-domestic rating, religious premises will be included within the Council's normal household waste collection arrangements, including the collection of recyclable materials.

8. The position with halls and offices associated with religious premises is slightly more complex. Provided that the waste generated is associated with the act of worship, then the waste is household waste. However, any waste generated from the hiring out of a hall for commercial activity would be commercial waste, where a charge for collection and disposal can be levied. Such cases would have to be considered on their merits, but care will be

needed since the WDA will levy a charge upon us should it take the view that the waste collected is indeed commercial waste.

Schools & other Educational Establishments

9. Waste from schools and similar premises is deemed to be household waste which the Council is obligated to collect but for which it may levy a charge. It is strongly suggested that where a school requests the Council to collect its waste, that a charge is imposed, since the costs of such collections will be significant. Furthermore, the collection of this waste would add significantly to the Council's overall waste stream at a time when it is under government pressure to reduce it. Therefore the imposition of a charge may well encourage schools who seek a collection to reduce the waste it produces. The costs of collection will need to be determined in conjunction with Sita, but will cover collection costs as well as the administration of billing etc. A school that considered that the Council's costs were unreasonable could choose to use a private collection company, in which case that waste would not be considered as part of the Council's waste stream.

10. As with religious premises, schools who wished to avail themselves of the Council's collection service would also be provided with a recycling collection service. It is proposed that this component of the service would be free of charge thereby encouraging schools to reduce their residual waste and recycle as much material as possible. This would also assist the Council in maintaining its current high level of recycling performance.

11. Even where schools opt to use private waste collection facilities, the Council should provide a separate recycling service in accordance with the Household Waste Recycling Act 2003. This service could also be free of charge but since the Council would not benefit from the charge associated with residual waste, this may, subject to the receipt of recycling credit income, lead to increases in service costs overall. At this stage, Cabinet's view is sought on the approach they wish to take, so that a further report can be prepared on the costs of the options.

Charity Shops etc

12. Waste from charity shops and premises occupied by charities fall under the same regime as for schools i.e. their waste is household waste for which the WCA may make a charge. As with schools it is strongly suggested that a charge is levied for its collection in order to ensure that the organisations concerned take steps to reduce the amount of residual waste put out for collection.

13. As with schools, the Council will also be obliged to make provision to collect at least 2 recyclable materials, which could be provided free of charge or at a cost.

Commercial Waste

14. In order to meet Defra guidance, the Council must make available, on request, a commercial waste collection service. It is suggested that it should do so through its contractor Sita, or where they are unable to make that service available, through other commercial waste service providers. The full costs of that service, including the administrative and management costs of the Council and the costs of ECC disposal will be included in the recharged costs. If a local business considers the costs of the Council's arrangements unreasonable they are fully entitled to make arrangements themselves for the collection of their waste (*Recommendation (4)*).

15. It is worthy of note that any commercial waste collected either directly or indirectly by the Council is included as part of the Council's overall municipal waste stream and therefore

has the potential to affect overall recycling performance.

Resource Implications:

The collection of waste from religious establishments is not, in the main, rechargeable, and therefore its collection may add to the costs of the existing service. However, the contract with Sita does make provision for additional premises to be included on an annual basis without additional contractual costs, but the true position will not be known until discussions with Sita have taken place. It is however considered that additional costs should be minimal.

The collection of waste from other premises where a charge can be levied will be undertaken so that no additional costs arise to the Council. Income will arise from a combination of collection costs and recycling credits from ECC due to additional collections of recyclable materials. A charging regime for commercial waste will also have to be developed. It is suggested that a further report be brought to cabinet once negotiations with Sita have been completed (*Recommendations (3) & (5)*).

There are no other resource implications with waste management officers overseeing the management of the collections and invoicing etc being managed by the Directorate's existing Performance & Operations Group financial officers.

Legal and Governance Implications:

Relevant legislation includes:

- Environmental protection Act 1990;
- The Controlled Waste Regulations 1992;
- Local Government & Finance Act 1988;
- Household Waste & Recycling Act 2003; and
- Defra guidance (October 2007).

Safer, Cleaner and Greener Implications:

The collection of and recycling of household waste is a key component of the Council's "Safer, Cleaner, Greener" strategy. Although the collection of additional waste streams is unhelpful in constraining waste growth overall, it does also provide opportunities for the Council to influence behaviour in schools and similar premises in respect of waste management and environmental matters.

Consultation Undertaken:

Sita UK.
Other commercial waste service providers.

Background Papers:

None other than set out in legal & Governance Implications above.

Impact Assessments:

It is important that the Council is seen to comply with Defra guidance on the collection of household waste. There is a risk that some types of establishment may challenge the Council if it does not put into place and make available collection services for all the Defra defined categories of household waste.

The Council must also deal with its legal obligations for the collection of commercial waste, especially since the Audit Commission in its inspection report of August 2008 identified this.

The introduction of any new charging regime must always be considered in terms of its effects upon disadvantaged groups. In these instances, no private individual will be liable for a charge for waste collection and therefore there should be no equality issues arising. A charge levied on charitable enterprises may generate criticism but the disposal of waste in a proper manner should be seen in the context of their overall business operation.