

Divisions Affected – All

Deputy Leader and Cabinet Member for Climate Change Delivery & Environment

14 December 2023

Change to the charging scheme for DIY waste deposited at the Household Waste Recycling Centres in Oxfordshire

Report by Corporate Director Environment & Place

Recommendation

1. The Cabinet Member is RECOMMENDED to
 - a) Approve changes to the charging scheme for DIY waste which is deposited at the Household Waste Recycling Centres in Oxfordshire, with effect from 31st December 2023 and as a direct result of a change in law by Government.
 - b) Approve that Officers be tasked with negotiating immediate variations to the Household Waste Recycling Centre contracts with Geoffrey Thompson (trading as W&S Recycling) and FCC to account for the operational and commercial impacts of this change in law.
 - c) Approve that Officers be tasked with developing longer-term solutions to minimise the increase in costs and potential reduction to recycling rates resulting from this change in law. Should the longer-term solutions involve other Key Decisions, these will be proposed to CMD in separate reports.

Executive Summary

2. The provision of the Household Waste Recycling Centres Services (“HWRCs”) is a statutory function, providing locations across Oxfordshire for residents to dispose of their bulky and other household generated wastes. At present, the County Council provides seven such facilities, and these facilities handle around 40-50k tonnes per annum or 15% of the total household waste handled in the County.
3. DIY waste is presently defined as ‘industrial waste’ under the provisions of the Controlled Waste Regulations 2012. Residents can opt to engage with registered waste management companies to handle this waste, or alternatively they can deposit this waste at the HWRCs for a small fee. For

the last 21 years, DIY waste has been accepted at the HWRCs with residents being charged a small amount in accordance with the agreed Fees and Charges Schedule.

4. The Government has, with effect from the 31st December 2023, amended the Controlled Waste Regulations 2012 to provide that *de minimis* amounts of DIY waste will be reclassified as 'household waste'. This means that local authorities will be required to accept these *de minimis* quantities without charging residents. The Government has provided a basic definition of the quantities which will be classified as household waste. As larger amounts of DIY waste will remain as 'industrial waste', charges can still be levied above the *de minimis* quantity.
5. To comply with this change in law, the County Council will be required to change its policy over charging for DIY waste, with effect from 31st December 2023. To implement this change, there is a requirement for the HWRC contractors, Geoffrey Thompson (trading as W&S Recycling) and FCC, to amend their operational procedures. This will require variations to the contracts with these suppliers to take into account revised operational procedures and to handle the commercial impacts of this change.
6. There are some negative impacts to the County Council from this change in law, including a reduction in revenue, having to now pay for processing / disposal of DIY materials now classified as household and the potential for an increase in the quantity of DIY waste which will require processing / disposal. These impacts will be ongoing from the implementation date of 31st December 2023; Officers will be exploring longer-term solutions which will help the County Council to comply with the change in law whilst also minimising the negative impacts where practical to do so.

Exempt Information

7. Commercially sensitive information regarding the HWRC contracts and the Council's options for modification of the contracts to adapt to the change in law are considered to be exempt from disclosure.
8. The public should therefore be excluded during consideration of Annex 1 because its discussion in public would be likely to lead to the disclosure to members of the public present of information in the following category prescribed by Part I of Schedule 12A to the Local Government Act 1972 (as amended):

"3 Information relating to the financial or business affairs of any particular person (including the authority holding that information; and since it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, in that disclosure would distort the proper process of free negotiations between the Authority with another party for the purposes described and would prejudice the position of the Authority in those negotiations and other negotiations of a similar nature in future, to the

detriment of the Council's ability properly to discharge its fiduciary and other duties as a public authority."

Background

Introduction

9. DIY waste is material produced through home improvements and includes (*inter alia*) materials such as rubble and plasterboard. At present, DIY waste is categorised as 'industrial waste' under the Controlled Waste Regulations 2012 waste' which means that local authorities are not obliged under statute to handle this type of waste.
10. However, a number of local authorities, including Oxfordshire County Council, offer an option to residents where they can deposit their DIY waste at HWRCs for a small fee. This provides a value-for-money option particularly for residents seeking to deal with only small amounts of DIY waste. Charges for DIY waste were introduced in Oxfordshire in 2002, and the current charging scheme has been in place since 2017. The charges help offset the annual running costs of our HWRCs.
11. OCC has a network of seven HWRCs distributed throughout the County, offering locations for residents to deposit household waste. The HWRCs are operated on behalf of OCC by two contractors – Geoffrey Thompson (trading as W&S Recycling) ("W&S") and FCC. W&S is responsible for managing six of the seven HWRCs, and FCC is responsible for operating one HWRC. Both contractors are responsible for collecting the fees for DIY waste. However, it should be noted that W&S retain the income and meet all the costs of DIY wastes for the six sites they operate. For the site operated by FCC, the income is shared between FCC and the Council on a 10% / 90% basis and the Council meets the costs of transport and treatment of these materials.
12. The procedures for identifying and charging for DIY waste help to reduce the overall running costs of the HWRC service.
13. DIY waste could typically include:
 - Asbestos (no fees applied);
 - Hardcore and rubble;
 - Plasterboard;
 - Soil;
 - Bulky items such as doors, bathroom items such as toilets and baths, kitchen units, kitchen worktops;
 - Wood waste, such as decking and fence panels;
 - Roofing materials, such as loft insulation, roofing felt, and guttering; and
 - Other miscellaneous items such as artificial grass, building cladding, and sheet glass.

The change in law for DIY waste

14. In April 2022, the Government consulted on plans to change the law, so that residents could deposit DIY waste at HWRCs without charge. In June 2023 an announcement made by Defra¹ stated *“the Government will abolish the fees which some local authorities charge for disposing of DIY waste at household waste recycling centres (HWRCs)”*. The intention of this change appears to be a desire to reduce fly-tipping, although a study by the Waste and Resource Action Programme² indicate that there is no evidence of a causal link between local authorities charging for DIY waste and increased levels of fly-tipping.
15. On 22nd November 2023, the Government published the Controlled Waste Regulations (Amendment) 2023³. The changes provide that local authorities will be required to accept small amounts of DIY waste at HWRCs for free, with larger amounts remaining as ‘industrial waste’ and therefore can remain as a chargeable service. The legislation *de minimis* quantity is defined as follows:

“the amount of waste delivered to any waste disposal site in a single visit is either—

(a) less than 100 litres and capable of being fitted into two 50 litre bags, or

(b) a single article of waste no larger than 2000mm x 750mm x 700mm in size; and

(iv) the waste delivered to waste deposit sites does not exceed four single visits per household in any four week period”.

The changes need to be implemented from 31st December 2023.

16. It should be noted that despite the wording within Defra’s announcement, the proposal is not to abolish all charges for DIY waste, but in fact to set a minimum level which local authorities must accept for free. Local authorities will still be able to charge for larger volumes of DIY waste being deposited, or for frequent disposal of DIY waste.

Changes required at the HWRCs

17. From 31st December 2023, the *de minimis* levels of DIY waste (as set out in paragraph 15 above) must be accepted without charge so that the County Council can comply with the change in law. The County Council will need to

¹ Government press release, “Council DIY waste charges abolished”, 18th June 2023: <https://www.gov.uk/government/news/council-diy-waste-charges-abolished>

² “The relationship between fly-tipping rates and HWRC charging”, WRAP, June 2023: <https://wrap.org.uk/sites/default/files/2021-09/fly-tipping-rates-and-HWRC-charging.pdf>

³ Statutory Instrument 2023 No.1243, Environmental Protection, England, [The Controlled Waste \(England and Wales\) \(Amendment\) \(England\) Regulations 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukdsi/2023/01243)

instruct its contractors to adjust their site procedures to implement this change from 31st December 2023.

Consequences of the change

18. The change in law creates consequences for the County Council, and these result in operational, commercial, and contractual challenges which will need to be resolved. It will be important to resolve these factors ahead of 31st December 2023.
19. There will be a significant reduction in income obtained from DIY waste charges at the HWRCs, combined with increased costs associated with processing / disposal and haulage of DIY material that was previously free to the Council under our contract. Further, it is also possible that there will be an increase in the amount of DIY waste which is deposited at the HWRCs. These two factors will have commercial and financial impacts which are detailed in Annex 1.
20. There will be a requirement to agree revised contractual terms with the HWRC contractors to implement the required operational changes and to handle any amendments that may be required to the commercial terms. Discussions with the HWRC contractors on how the change will be implemented are underway.

Conclusions

21. The change in law required by Government requires local authorities to change their policies around charging for DIY waste from 31st December 2023. It is recommended that the County Council changes its policy accordingly, from the aforementioned date.
22. There will be a requirement to negotiate variations to the HWRC contracts with W&S and FCC to account for the operational and commercial impacts of this change in law. It is recommended that Officers are tasked with entering into discussions with the contractors to implement the required policy changes and to negotiate the commercial implications of such changes.
23. In order to mitigate the cost increases, it is recommended that Officers are tasked with developing longer-term solutions to minimise and control the impacts of this legislation and ensure value for money is maintained.

Corporate Policies and Priorities

22. The HWRC service contributes to corporate policies and priorities as follows:
 - (a) Put action to address the climate emergency at the heart of our work – our network of 7 HWRC's take around 15% of the total waste arisings handled by Oxfordshire Councils and we have a recycling rate >70% across all sites which compares well nationally and is assisting with transition towards a circular economy and reduce carbon emissions.

- (b) Prioritise the health and wellbeing of residents – the provision of safe, legal and environmentally sustainable ways of disposing of multiple waste streams and materials no longer wanted. The HWRC service was considered an essential service during the Covid pandemic.
 - (c) Working with local businesses and partners for environmental, economic and social benefit – our HWRCs are used by our district partners to deposit certain waste streams and our network is also used by a number of charities as a way to dispose of donated materials to them. In addition, our Redbridge facility offers a trade waste service for local SME's and we contract with several local businesses to help manage waste accepted at HWRCs. However, any redesign of the site is likely to see the trade service reduced or significantly curtailed, in favour of better designed and future proofed site for residents.
23. The Council, through its Local Transport and Connectivity Plan (LTCP), has an aim to reduce car journeys. The Waste Management Team attempt to support this policy by signposting alternative routes for disposing of resident's waste through the likes of the Waste Wizard tool and other initiatives and signposting the comprehensive kerbside services provided by our waste collection partners. However, the nature of much of the waste that residents bring to our HWRC's and their locations in many incidences being some way from communities means the service is less aligned with LTCP policy, and options to mitigate this are considered very limited and/or unaffordable or impractical.

Financial Implications

24. It is expected that there will be a significant additional budget pressure as a result of this change in law, due to the increased costs associated with previously chargeable DIY wastes becoming free to residents. At present, £400k is included in the Medium Term Financial Strategy for 2025/26 for the increased costs associated with the change in law. No budget allowance has been made for 2023/24, with an estimated budget pressure of £100k.
25. No additional funding is being made available by Government for this change in law. Therefore, the County Council must absorb the financial implications of the change within existing budgets.

Reviewed by: Filipp Skiffins - Assistant Finance Business Partner

Legal Implications

26. The Council must comply with the change of law by the implementation date, which is 31st December 2023.
27. There will be a requirement to vary the HWRC contracts with W&S and FCC to take into consideration the amended policy.

Reviewed by: Bede Murtagh – Contracts Solicitor

Staff Implications

28. No implications for staffing would arise from this change in law and the adaptation to the Council's policy.

Equality & Inclusion Implications

29. The HWRC service contract is long established, and this change to DIY waste charging is not anticipated adversely change any equality and inclusion implications.
30. Residents may feel that they wish to visit site more often with smaller loads in order to take advantage of free *de minimis* level of DIY waste disposal. This will mean those in rural communities, who live further from HWRCs, will be travelling more frequently.
31. It is considered that there would be a small positive impact for areas of deprivation, as the introduction of a free *de minimis* level for DIY waste disposal will be of benefit to those in low incomes. Current guidelines would have charged a maximum of £10 for disposal of the waste that will now be free. DIY waste is not produced on a regular basis by householders so this charge would have been levied on a very irregular basis.

Sustainability Implications

32. The HWRC service contributes to corporate policies and priorities. The service has a positive impact on climate action as it supports the waste hierarchy, ensuring the recycling and reuse of household waste. At present around 70% of all the municipal wastes received through the HWRC network is reused or recycled with a further 18% recovered. This performance actively contributes to and enhances the County's recycling and environmental performance, and the County Council's contribution and commitment to Oxfordshire's Resources and Waste Strategy.
33. This change to DIY waste charging may result in an increase to the amount of waste which is deposited at the HWRCs. The majority of this waste is likely to comprise inert materials (e.g. rubble) and wood. The sustainability impact of these materials is generally quite low due to their nature. The change in law is unlikely to have any impact on the volume of waste material being produced (i.e. residents would produce this waste irrespective of the change in law), but the change means that a small proportion of this material may be diverted away from private waste management companies and into the household waste stream.
34. Residents may feel that they wish to visit site more often with smaller loads in order to take advantage of free *de minimis* level of DIY waste disposal. This will mean those in rural communities, who live further from HWRCs, will be travelling more frequently.

35. A Climate Impact Assessment forms part of this report. As most residents arrive at HWRCs by car (as materials are often too big or numerous to be carried/transported by bike) conveniently located HWRCs close to centres of population help to reduce the car mileage travelled by residents to visit HWRCs. We also promote journeys to be combined with other activities where possible.

Risk Management

36. There is a risk that the volumes of DIY waste being received at the HWRCs will increase, and this will result in an increase in disposal / processing costs. This will cause additional cost through the HWRC contracts which will create an additional budget pressure on the service from 31st December 2023.
37. It is proposed that Officers consider longer-term solutions which will enable the County Council to comply with the change in law whilst also minimising the additional costs.
38. A series of risks, operational issues or unknowns are currently prevalent and may/will impact the negotiations and the tendering process and evaluation in due course, though through the contract extension some of these will be better understood or alleviated.

Consultations

39. No specific consultations have been undertaken for this Key Decision, as the requirement is driven by a change in law.

Bill Cotton
Corporate Director for Environment and Place

Annex Annex 1 – Exempt Information

Contact Officer: Steve Burdis
Joint Acting Group Manager (Waste Management)
07741 607829 steve.burdis@oxfordshire.gov.uk