

NORTH LINCOLNSHIRE COUNCIL

**HIGHWAYS AND NEIGHBOURHOODS
CABINET MEMBER**

**COMPLIANCE WITH THE WASTE (ENGLAND & WALES) (AMENDMENT)
REGULATIONS 2012**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To recommend that the council maintains its current service provision for recycling collections from households and businesses.

2. BACKGROUND INFORMATION

- 2.1 The Waste (England & Wales) (Amendment) Regulations (the "Regulations") came into force on 1 October 2012. The original regulations were drafted in March 2011. They were the subject of a judicial review. The outcome of this review required the amendment.
- 2.2 The Regulations enacted the revised Waste Framework Directive 2008 (the "Directive") into English law. A particular focus for local government and the waste management industry was how HM Government would implement the requirement for the separate collection of certain recyclable materials. The judicial review was brought by The Campaign for Real Recycling. They were dissatisfied with HM Government's interpretation of the Directive in the 2011 draft regulations. The interpretation allowed for commingled collections as a form of separation.
- 2.3 The outcome of the judicial review was that separate collections of the four recyclable materials were not mandatory. It would be a decision for each waste collection authority as to whether it was necessary under Regulation 13(4) (a) and technically, environmentally and economically practicable (the TEEP test) under Regulation 13(4) (b). The requirement for any separate collection becomes effective from 1 January 2015. The default position for a waste collection authority, before the necessity and TEEP tests are considered, is that the collection of waste paper, metal, plastic or glass should be by way of separate collection.
- 2.4 There is no guidance from HM Government to assist the council when making this assessment. After the Regulations were passed into law the Resource Minister issued a letter in October 2013. This stated that council's "should consult their own lawyers as necessary" to establish whether the authority would be legally compliant regarding separate

collections. In January 2014 DCLG published guidance on weekly collections. Regarding the judicial review, it said “the government won a High Court case, confirming that councils can continue to provide ‘comingled collections’”. Neither of these documents have a legal precedence greater than the Regulations.

- 2.5 The council is therefore required to review its collections for the four mandatory recyclables in light of the necessity and TEEP tests and come to an opinion regarding its level of compliance under the Regulations.
- 2.6 In April 2014 WRAP produced the Waste Regulations Route Map. This was a sequenced approach to help councils gather structured evidence to support their decisions for the necessity and TEEP tests. This report has followed the guidance published in the Route Map.
- 2.7 Over the years the council has conducted analyses of the residual waste it collects to help inform future waste management strategy. These show a level of recyclable materials present in the waste currently sent to landfill. We have implemented new recycling collections and other diversion schemes to try to extract these materials for recycling.
- 2.8 The new Environmental Permitting (England & Wales) (Amendment) Regulations will come into effect on 1 January 2015. These are commonly known as “the MRF regulations”. They apply to Materials Recycling Facilities (MRFs). They will require MRFs to report on their inputs and outputs. This will enable comparisons and assessments of quality. Councils will then have their recycling performance compared relative to the MRFs they are sending their recyclables to.
- 2.9 Table 1 of Appendix A shows how the council currently collects the four mandatory recyclable materials identified for separate collection under the Directive. Table 2 shows the potential fractions of these materials in the residual waste collected by the council and currently sent to landfill. Increasing the quality and quantity of recycling is a key requirement of the Directive. The council is currently procuring a treatment and diversion solution for its residual waste.

3. OPTIONS FOR CONSIDERATION

- 3.1 **Option 1:-** to increase the range of separate collections for the four mandatory materials to increase the quantity and quality of recycling.
- 3.2 **Option 2:-** to maintain the current level of separate collections and continue to increase the quantity and quality of recycling through education and enforcement.

4. ANALYSIS OF OPTIONS

Option 1:- increase the range of separate collections

- 4.1 The council has not had a treatment process to divert its residual waste from landfill. The residual waste does not go through any pre-treatment before disposal in landfill. Consequently there is no opportunity to extract recyclable materials. The council is currently procuring a solution for the treatment of this waste to increase recycling and diversion from landfill. Not all of the material identified in Table 2 is recoverable as high quality recycling. In the residual waste bin and HRC skips it is subject to degradation due to moisture and abrasion from other wastes.
- 4.2 Councilwide separate collections have developed since the first paper scheme in 1997. They are listed in Table 3 of Appendix A. All of the four mandatory recyclables are collected separately in varying degrees. The question is whether the kerbside commingled collections from households and businesses should stop and be replaced by separate collections.
- 4.3 The council also undertakes commingled collections from businesses. The materials include plastic, cardboard, cans and tins collected in the same vehicle as the household commingled stream. The council advises prospective business customers on the options for their waste and promotes recycling. Many businesses choose to have separate collections of paper or glass. Waste containers are provided free to householders. Businesses have to pay for them through their annual service charge. As a result many businesses only want the least number of bins to minimise the cost and do not separate out any of the four recyclables.
- 4.4 Since the new recycling contract commenced in November 2012 the contamination levels in the commingled collection from households has caused operational problems and increased costs for the council. Whilst a separate box collection would improve the quality to the same level as the paper, glass and can collections, the provision of an additional container to over 74,000 households and servicing these would introduce a significant extra cost. This would also result in surplus capacity in the burgundy bin.
- 4.5 With regards to the TEEP test this option is assessed as:
- a) **Technical** – other councils operate separate collections of plastic materials so it is technically practicable. The council already provides separate paper and glass collections to some businesses. It could require that any business producing significant quantities of any of the four mandatory recyclables must separate them out for collection. The outcome of the current residual waste treatment procurement could result in a technical

solution which can extract significant quantities of quality recycling. This contract will not commence until April 2016.

- b) **Environmental** – a new separate plastics collection would require additional vehicle passes or the acquisition of new split bodied vehicles to allow for the collection of multiple materials in one pass. Additional vehicle passes will increase the council's carbon footprint. It is not therefore environmentally practicable. The outcome of the current residual waste treatment procurement could result in a technical solution which can extract significant quantities of quality recycling without increasing the number of vehicle passes. This would not be available until April 2016.
- c) **Economic** – the purchase and delivery of new containers for plastic recyclables; the provision of new split bodied vehicles and crews; the additional maintenance costs for the vehicles and fuel costs for the extra mileage; all these support the view that this option is not economically practicable. If the council were to require that businesses separate out any or all of the four mandatory recyclables, our current charging system favours recycling over general waste so businesses should not see an increase in costs. There may be site storage issues for the extra containers.
- d) **Practicability** – this option is considered not to be practicable due to the significant financial burden and increase in the carbon footprint.

Option 2:- maintain the range of separate collections

4.6 Since 2007, the council has provided a wide range of opportunities for residents to separate out the four mandatory recyclables (as shown in Table 3 of Appendix A):

- a) Kerbside separate collections of paper, cans and glass from households.
- b) Kerbside commingled collections of plastics mixed with cardboard from households.
- c) Provision of 24 community recycling banks and 8 household recycling centres (HRC) where recyclable items can be separately deposited.
- d) Recycling collections from businesses.

4.7 The quality issues with the commingled plastics and cardboard dry recycling stream have already been mentioned. Before the materials price crash on world markets in 2012 the income from the high value plastics covered the cost of dealing with the zero or low value materials for the reprocessors. The price crash saw the value of mixed plastics fall by two thirds over the year between April 2012 and 2013. This affected the operational costs for reprocessors and resulted in higher prices and quality thresholds for councils.

4.8 The council has recently implemented a wider range of plastics it will allow for recycling. This followed negotiations with the reprocessors to agree a specification and price structure based on the quality of the new range of materials. To overturn this recent policy decision now and replace the commingled collection would be very costly. The new information leaflets recently distributed would be redundant as they refer to the materials being commingled in the burgundy bin. It would also mean that the results of the changes could not be evaluated to see whether the quality and quantity of the materials have improved.

4.9 With regards to the TEEP test this option is assessed as:

- a) **Technical** – the commingled collection in the burgundy bin can be processed in MRFs to produce a stream of plastic material for recycling. Test loads processed by different MRFs indicate a range between 20%-40% of the total volume of each load is recyclable plastic. The wider range of plastic materials now permitted will increase this. The new MRF regulations will provide reporting by MRFs on the quality of their output of recyclables. We will be able to compare our own performance and that of our MRF to other councils and MRFs.
- b) **Environmental** – the council's carbon footprint will remain unaffected by maintaining the current provision. The wider range of plastic materials now permitted will increase the volume we collect. The new quality monitoring and enforcement regime is designed to reduce contamination and increase quality.
- c) **Economic** – the cost of the current level of provision is contained within approved budgets. Recent approvals for more education and stronger enforcement to improve quality levels should result in lower processing fees once improvement can be seen.
- d) **Practicability** – this option is considered to be the most practicable as it avoids significant additional financial cost and any increase in the council's carbon footprint. It also allows for the effect of recent improvements to the commingled plastic and cardboard collection to be properly evaluated to establish their effectiveness.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 **Financial** – the financial costs for Option 1 have not been calculated in detail but would be in the region of £1m/year. If it was the chosen option then a decision would have to be made about the type and size of container to be used for the separate plastics collection. This could either be a box or a wheeled bin costing over six times more. There will be the additional costs of distributing them and keeping a supply of spares. As Option 2 maintains the current service provision its costs are already accounted for in the council's budget process. If we require businesses to have extra containers to separate out recyclables the cost of the containers is covered within their annual service charge as they are

rented but there will be some impact on our collection operations. These will have to be assessed if changes are made for commercial premises.

- 5.2 **Risk** – there are reputational risks for Option 1 if residents object to another container for the separation of plastics and leaving unused capacity in the burgundy bin. The risks of changing the collections so soon after implementing the wider range of plastics in the burgundy bin could also cause harm to the council's reputation. The council provides separate recycling collections to businesses. If the council declines to provide a collection service where the business refuses to separate out any of the four mandatory recyclables this could cause a reputational risk. The risk for Option 2 is that the Environment Agency does not agree that this is the most practicable solution in light of the evidence presented in this report and that we are not compliant with the Regulations. This is considered as a low risk as households are already provided with separate collections for three of the mandatory recyclables and business can choose the same.
- 5.3 **Staffing** – Option 1 would either require additional vehicles and crews or overtime to allow for more vehicle passes by the existing resources. Operating the vehicles for longer would also have an impact on their planned maintenance and breakdowns. For Option 2 we would need additional staff to provide separate collections to businesses if we decided to require that they separate for collection some or all of the mandatory recyclables.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

- 6.1 We have completed an IIA. This identifies the substantial cost of providing additional containers and extra collection vehicles as a major risk. Any change to include an extra collection will increase our carbon footprint.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

- 7.1 The council has engaged with the National Association of Waste Disposal Officers (NAWDO) and the Yorkshire and Humber Waste Prevention Partnership (YHWPP) to understand the emerging national and regional positions.
- 7.2 Legal advice was sought on the various issues set out in this paper.
- 7.3 The outcome of these consultations has informed the content of this paper.
- 7.4 There are no known conflicts of interest to highlight.

8. RECOMMENDATIONS

- 8.1 That the Cabinet Member approves Option 2 to retain the current service provision for separately collecting the four mandatory materials.
- 8.2 That the necessity and TEEP tests are revisited in light of any future guidance or case law, before any local policy changes, and no later than twelve months prior to the expiry of the current recycling contract in March 2020.

DIRECTOR OF PLACES

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB
Author: John Coates
Date: 6 November 2014

Background Papers used in the preparation of this report
Waste Regulations Route Map published by WRAP April 2014

APPENDIX A

Table 1 – Collection of the four recyclable materials

Source	Recyclable Material (tonnes) 2013-14				
	Paper	Glass	Metal	Plastic	Card
Kerbside	3851	3488	1128*	481	767
Bring banks	104	20	63*	1026	
HRC sites			902 **		1935

* Cans

** Scrap metal

Table 2 – Levels of the four recyclable materials in household residual waste

Material	Composition Study		
	2008	2010	2013
Paper*	14.42%	13.96%	7.68%
Glass	5.19%	2.71%	2.54%
Metal**	4.21%	3.54%	2.36%
Plastic***	7.55%	7.82%	7.15%

* Includes card for 2008 and 2010 figures

** Ferrous and Non-Ferrous figures combined

*** Dense plastic figure

Table 3 – Timeline of separate recycling collections from households

Year	Collection scheme
1997	Kerbside Paper– blue bag
2004	Kerbside Paper– 38ltr blue box
2006	Kerbside Glass/Cans– 38ltr green box
2007	Kerbside Plastic/Cardboard – 140ltr burgundy wheeled bin