

**Forest Heath District Council
St Edmundsbury Borough Council**

**WEST SUFFOLK WASTE
AND STREET SCENE
SERVICES JOINT
COMMITTEE**

28 OCTOBER 2011

REPORT NO

C187

**Report of the Strategic Director (Services) (FHDC)
and the Corporate Director (Economy & Environment)
(SEBC)**

CONTROLLED WASTE (ENGLAND AND WALES) REGULATIONS 2011

Synopsis:

Report JWC11/039 to this Joint Committee on 14 January 2011 asked Members to note our response to the Government's consultation on the Controlled Waste Regulations 1992. Following this consultation Defra and the Welsh Assembly are now proposing to replace this regulation with the Controlled Waste (England and Wales) Regulations 2011.

This report seeks to remind Members of the background behind this change and update them on the timing of its implementation and potential impact to our trade waste operations.

Background

1. Under the Environmental Protection Act 1990 (EPA), Forest Heath District Council (FHDC) and St Edmundsbury Borough Council (SEBC) are Waste Collection Authorities (WCA) and are required to make arrangements for the collection of household waste arising in their area.
2. The Controlled Waste Regulations 1992, made under the EPA, defines the categories of household waste for which the collection duty applies and also details household waste for which a collection charge can be made (known as Schedule 2 waste), such as heavy or bulky items, garden waste, asbestos or dead domestic pets. Also included is waste from the following types of premises:-
 - (a) hospitals and nursing homes;
 - (b) residential hostels;
 - (c) residential homes;
 - (d) schools, universities and other educational facilities;
 - (e) caravan sites and campsites;
 - (f) self catering holiday accommodation;

- (g) prisons and penal institutions;
 - (h) public halls;
 - (i) royal palaces; and
 - (j) premises occupied by charities and used for charitable purposes.
3. The premises outlined above are under no obligation to use local authority waste services. However, private companies will charge for both the collection and the disposal of the waste.
 4. The current arrangement allows both councils to offer these premises lower rates for their waste collection given that the County Council are responsible for paying the disposal costs. This provides WCAs like FHDC and SEBC a competitive advantage over commercial waste operators and has historically allowed us to retain a high proportion of the waste collection business from the Schedule 2 organisations as part of our wider trade waste operations.
 5. The previous report JWC11/039 to this Joint Committee on 14 January 2011 outlined the key issues with the current regulations, including:-
 - (a) confusing structure and outdated terminology;
 - (b) failure to implement the 'Polluter Pays Principle';
 - (c) market distortion;
 - (d) constraining choice of Schedule 2 customers; and
 - (e) public funds subsidising private businesses.
 6. The previous report included, as Appendix 1, our joint response to the Defra consultation which closed on 14 January 2011. This response addressed the key issues outlined above.

New Controlled Waste (England and Wales) Regulations 2011

7. Defra and the Welsh Assembly are proposing to replace the Controlled Waste Regulations 1992 with the Controlled Waste (England and Wales) Regulations 2011. This new legislation was due to come into force in October 2011 but we understand that there is not room for it in the legislative timetable and this date is moving back. There is currently pressure on Parliament to get this finalised as soon as possible, but there is still some doubt about when this will finally come into force.
8. Beyond the proposed changes to Schedule 2 of these new regulations, other parts of the legislation will make key changes that will apply to businesses. These include:-
 - (a) waste producers or those handling waste must comply with the waste hierarchy (prevention, prepare for re-use, recycling, recovery, disposal);
 - (b) from 1 Jan 2015, any business collecting waste containing waste paper, glass, metal or plastic must 'take all such measures to ensure separate collection of that waste' although the UK have interpreted this to mean that these materials can be collected together (co-mingled);

- (c) from 1 Jan 2014, any business that carries their own waste will need to be registered as a waste carrier;
 - (d) some changes to waste paperwork like transfer notes; and
 - (e) some technical changes to the Hazardous Waste Regulations.
9. Our respective trade waste collection services provide an important source of income to both councils. For example, SEBC provides a trade waste service to approximately 1,400 customers of which just over 200 (14%) are Schedule 2 organisations. The proposed changes will mean that FHDC and SEBC will need to start charging these organisations the cost of both collection and disposal as Suffolk County Council will start to charge us the disposal costs as is the case with other commercial organisations. This will remove the cost advantage that both councils have enjoyed over the commercial waste operators that we compete with for these Schedule 2 customers.
 10. Despite the current doubts surrounding the legislative timetable it is important that both FHDC and SEBC prepare in order to, as far as possible, mitigate this situation for the two councils and our Schedule 2 customers. The first step is to inform these organisations about the likely introduction of this legislation and its potential impact to their budgets. It is important to do this very soon as many of these organisations may be starting their budget setting cycle for next year.
 11. The next step is to develop a tactical plan that will ensure that FHDC and SEBC retain as many of these organisations as trade waste customers as possible. This will include helping them to mitigate cost increases by increasing the amount of waste that they recycle and could also include a transitional costing structure to assist by moving them more gradually to the full cost of collection and disposal. It is arguably more effective to spend effort retaining existing customers than trying to find new ones and our resources will be mobilised accordingly in order to minimise any resultant decline in trade waste revenue.
 12. These changes to the Controlled Waste Regulations Schedule 2 will guarantee savings to the Waste Disposal Authority (Suffolk County Council) as they will no longer be obliged to pay the landfill costs for waste from these organisations. We are working with our partners in the Suffolk Waste Partnership to identify what level of saving the County Council can expect make.

Finance/Budget/Resource Implications

13. The future budget implications are difficult to predict and will be based upon the number of Schedule 2 organisations we lose or manage to retain. The key points to reiterate are:-
 - (a) FHDC and SEBC will not be financially disadvantaged directly by a change to the power to charge for the disposal of the Schedule 2 waste. The costs of disposal will be passed on to the waste producer; and

- (b) FHDC and SEBC collect waste from certain institutions such as schools, where at present the school is charged for the collection of their waste but is not charged for the disposal of their waste; the disposal cost is met by SCC. As a result, the council is likely to be successful in any bid to carry out this work, unlike private companies who will charge for collection and disposal. As a result of the intended change to the regulations, when FHDC and SEBC compete for this work, there is a risk that we will be unsuccessful. This will reduce income to the council.

Environmental Impact and Sustainability

- 14. Defra is committed to fostering sustainable, low carbon and resource efficient patterns of consumption and production. This includes working towards a Zero Waste Economy, where products and services are designed, produced, used and disposed of in ways that minimise carbon emissions, waste and the use of non-renewable resources.
- 15. An important element of this objective is the sustainable management of waste: treating waste as a resource and like all resources, having been extracted from the environment it should, wherever possible, be retained within the production cycle. In this way the impact on the environment of future production can be minimised.
- 16. The proposed changes to these regulations supports key policies to reduce the environmental impact of waste services:-
 - (a) the Waste Hierarchy and the promotion of sustainable waste management; and
 - (b) the Polluter Pays Principle, in which those who produce the waste must pay the full cost of managing the waste.

Policy Compliance/Power

- 17. Subject to the Regulations coming into force, there is an impact on the councils' policies in terms of charging for waste collection services.
- 18. The Regulations support the vision and actions of the Joint Municipal Waste Management Strategy for Suffolk.

Performance Management Implications

- 19. Despite the review of the National Indicators, it is expected that waste collected and disposed of will continue to be reported nationally using Wastedataflow.

20. The majority of the previous waste related national indicators focused specifically on the management of household waste. It is assumed that we will not be required to include data from household waste institutions that do not use council waste collection services sources, when calculating waste recovery performance. Moreover, collecting less household waste, especially from institutions that rely on disposal rather than recycling, will have a positive effect on waste recycling performance.

Legal Implications

21. The changes to the Regulations will be accommodated by FHDC and SEBC in the waste collection services provided.

Human Rights Act and Diversity Implications

22. There are no human rights and diversity implications from the change to the Regulations.

Crosscutting Implications

23. There are no crosscutting implications associated with this consultation.

Risk Assessment

24. Schedule 2 institutions can opt into and out of local authority services whenever they choose which makes it difficult for local authorities to produce realistic budget forecasts, or plan future infrastructure needs.
25. A key risk is the loss of income associated with Schedule 2 customers seeking services from private waste collection companies.

Council Priorities

26. The effective management of waste supports the following council priorities:

Forest Heath District Council:

- Community safety; and
- Street scene and environment.

St Edmundsbury Borough Council:

- Raise standards and corporate efficiency;
- Improve the safety and well being of the community; and
- Secure a sustainable and attractive environment.

Recommendation:

It is recommended that the implications and potential impact of the introduction of the new Controlled Waste (England and Wales) Regulations 2011 be noted.

Documents Attached

None

Background Papers

None

Nigel McCurdy / Sandra Pell
Strategic Director (Services) / Corporate Director (Economy and Environment)
28 October 2011

CONTACT OFFICERS

Mark Walsh

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