



To: Executive Councillor for Environmental and Waste Services: Councillor Jean Swanson
Report by: Jas Lally, Head of Refuse and Environment
Relevant scrutiny committee: Environment 15/1/2013 Scrutiny Committee
Wards affected: All Wards

CHANGES TO COMMERCIAL/CHARGABLE WASTE IN RELATION TO THE CONTROLLED WASTE (ENGLAND AND WALES) REGULATIONS 2012.

Not a Key Decision

1. Executive summary

1.1 The Controlled Waste (England and Wales) Regulations 2012 were enacted on the 6th April 2012 and amended by The Controlled Waste (England and Wales) (Amendment) Regulations 2012 which came into force on the 9th October 2012. (Identified as CWR 2012 through the document) This identifies what and who should be charged for the collection of waste and its disposal. In particular the new regulations have changed the charging strategy and definitions surrounding waste previously described as 'household waste for which a collection charge can be made'

1.2 Whilst Government were seeking to clarify the previous regulations (Controlled Waste Regulations 1992) there remains some ambiguity in the new Regulations, in particular around local discretion on charging enabling decisions to be made by local authorities that are best suited to local circumstances. Officers have worked with the County Council to determine a process for implementation of this legislation and establish principles where charging discretion will be considered.

1.3 The principles are:-

- i. Council tax will be taken into account when setting charges to avoid double charging for collection and disposal (paragraph 3.2 in the policy).
- ii. Services commissioned by the Council(s) will be taken into account to avoid increased charges to those that are disadvantaged or vulnerable (paragraph 1.3 (3) in the policy).

- iii. Facilities that directly support the community, particularly the vulnerable, which are run for non-commercial benefit will be considered prior to setting charges (paragraph 1.3 (4) in the policy).

2. Recommendations

The Executive Councillor is recommended:

2.1 Approve the implementation of the charging principles and strategy for Cambridge City Councils Commercial Waste Service as set out by the County Council's waste charging policy to be implemented in April 2013.

3. Background

3.1 Cambridge City Council has operated a Commercial Waste Service since the early 1990's providing charged for waste collection services to local business and the education sector.

3.2 The service has grown into a thriving business and maintains a significant market share of the waste collection business within the city.

3.3 The service currently offers collections in commingled recycling, segregated cardboard, commercial waste and waste classified under the Controlled Waste Regulations 1992 as 'household waste for which a collection charge can be made'.

3.4 This report predominantly affects customers which fall into the latter category.

3.5 The CWR 2012 prescribes how certain types of household, commercial and industrial waste must be treated. This includes defining when a collection charge for household waste may be made. It also defines when household waste must be classified as commercial waste for the purposes of charging for disposal of the waste collected subject to the exemptions provided by the CWR 2012.

3.6 The Regulations apply the following exemptions:-

- i. The exemption will be for those premises which are (a) currently – i.e. immediately before the Regulations came into force received free disposal and (b) eligible for Small Business Rate Relief as defined in section 43(1) of the Local Government Finance Act 1998, calculated in accordance with section 43 (4A)(a).

- ii. Publically funded schools and Further Educational colleges who currently benefit from free disposal immediately prior to Regulations coming into force will continue to be exempt from waste disposal charges.
- iii. Institutions in the further education sector, as defined in section 91 of the Further Education and Higher Education Act, who currently benefit from free disposal immediately prior to Regulations coming into force will continue to be exempt from waste disposal charges.

3.7 The CWR 2012 are not therefore totally prescriptive and leave the decision on whether to charge or not to each local authority for some property types.

3.8 District Councils as Waste Collection Authorities (WCAs) have a duty to arrange for the collection of commercial waste when requested to do so under the Environmental Protection Act 1990 (EPA) Part II, Section 45. The authority can make a reasonable charge for the collection and disposal of commercial and industrial waste collected under EPA 1990, Part II, S.45 (4)

3.9 The County Council has a duty to make arrangements for the disposal of waste collected by the WCAs under the EPA 1990, Part II, S.51 (1) and the County Council is entitled to reimbursement for the disposal charges from the Districts for their collection of commercial and industrial waste EPA 1990, Part II, S.52 (9) These disposal charges are passed on by Cambridge City Council to our customers.

3.10 The Regulations principally make two changes. Some premises defined as household waste will now also incur disposal costs, these include:-

- Universities
- Schools and Further Education establishments
- Hospitals
- Residential and Care homes
- Community interest companies
- Charities collecting goods for reuse

3.11 The Regulations also change the categorisation (or clarify the categorisation) of some waste types from household waste to commercial waste of some premises, these include:-

- Premises occupied by charities
- Camping/Caravan sites

- Self-catering accommodation
- Clubs, societies or associations
- Medical Practitioners

3.12 It is anticipated that this change could have an impact on up to 60% of our customer base. The full details will be known once customers have been categorised.

3.13 Customers who have previously benefited from no disposal charge will be assessed against the exemptions and if they do not fall within an exemption will be charged disposal costs.

3.14 Disposal costs consist of a gate fee for processing the waste and landfill tax. Landfill tax for 2013/14 will be £72 per tonne.

3.15 Based on the results of the national consultation, which included representation from all stakeholders, a local consultation with RECAP Operations Panel of which we are members (and the local priorities of Cambridgeshire authorities) the following principles were agreed and form the basis of the County Council Policy: -

- i. The Councils support the polluter pays principle.
- ii. Council tax payers' money should not be used to offset / subsidise public/private sector commercial waste collection and disposal costs.
- iii. Care needs to be taken when imposing charging which impacts on services that are commissioned by Cambridgeshire County Council (County Council) and results in higher cost for those services.
- iv. Care should be taken where facilities directly support local communities or are owned or controlled by that community within the County.
- v. Consideration should be given to the impact decisions would have on the County Council and the District Councils in the area.

3.16 Organisations will be identified to the best of officer's ability, initially by writing to customers to gain information about their status. This is to ensure that the appropriate charging policy may be applied.

3.17 Where there is ambiguity in the CWR 2012 and in the County Council policy, the classification will be discussed at the RECAP Operations Panel who will reach a decision on how to class that premise type so that a joint approach can be adopted across Cambridgeshire on the charging policy.

3.18 Payment of council tax may be used as criteria to distinguish those organisations that may be classed as a non-chargeable under the CWR

2012. For example where in residential homes some residents are paying council tax and some are not.

3.19 A District Council may choose not to apply a charge for collection because of the principles set out in section 1.3 of the County Council policy and section 3.15 above. The District will inform the County Council of such decisions and a disposal charge will not be applied. It is proposed that these decisions will be taken back to the RECAP Operations Panel so that a joint approach can be adopted across Cambridgeshire.

3.20 Disposal charging will be implemented from 1 April 2013.

3.21 A summary of the charging policy for affected premises is outlined in the table below.

Description	Classification	Charging Policy	Policy Ref	Exceptions applied
Domestic caravan	Household waste	No collection or disposal charges to be applied.		
Places of worship	Household waste	No collection or disposal charges to be applied.		
Moored vessel for living accommodation	Household waste	No collection or disposal charges to be applied.		If used as business then to be treated as commercial waste.
Residential hostel ¹ provides accommodation only to persons with no other permanent address.	Household waste	Only a collection charge can be applied.		
Garden Waste from domestic property	Household waste	Only a collection charge can be applied.		Chargeable if chargeable in the Regulations Schedule 1 paragraph 4 row 11 to 17.
Clinical Waste from domestic property	Household waste	Only a collection charge can be applied.		
Gypsies and travelers caravan site	Household waste	No collection or disposal charge if domestic waste.		May apply reasonable terms to the collection of waste from caravan sites, by issuing a notice under section 46 of the Environmental Protection Act 1990.
Asbestos from domestic property	Household waste	No charge if from small-scale DIY.		
Hall used for public meetings	Household waste	Only a collection charge can be applied.	Para 4.4	For lettings of more than 50% for commercial use will be classed as commercial waste and a disposal charge can be applied
Military Single Living Accommodation	Household waste	No collection or disposal charges to be applied if premise is a domestic accommodation and		

¹ Provision of accommodation only to persons with no other permanent address or who are unable to live at their permanent address.

Description	Classification	Charging Policy	Policy Ref	Exceptions applied
		is self contained living accommodation.		
University and colleges	Household waste	Chargeable for collection and disposal.	Para 4.2	Exempt if the establishment receives financial support from the Council or the Higher Education Authority or is an institution conducted by a higher education corporation and received a local authority collection with free disposal before 6 April 2012.
Schools and further education establishment	Household waste	Chargeable for collection and disposal. Disposal will not be charged to those that are public funded and receiving local authority collection with free disposal before 6 April 2012.		A disposal charge will not be applied if the qualify for an exemption. Non-publicly funded schools and those on commercial collection are chargeable.
Hospital	Household waste	Chargeable for collection and disposal.	Para 4.3	Exemption applies to those premises occupied by council tax payers or accommodation is provided for persons with no other permanent address and the waste is collected separately from other waste collected on site, for example, multi-occupancy residential buildings.
Residential home, care home and care home with nursing and nursing homes	Household waste	These premises will be charged for waste collection and disposal when more than 50% of their residents are non-council tax payers.	Para 4.1	Exempt if receiving a District Council Collection with free disposal prior to 6 April 2012 providing there is no break in contract.
Prison or penal institution	Household waste	Chargeable for collection and disposal.		
Waste from premises occupied by— (a) a community interest company (a company registered with the registrar of companies), or (b) a charity or other not for profit body, which collects goods for re-use or waste to prepare for re-use from domestic property	Household waste	Only a charge for collection can be applied, unless waste originates from non-domestic premise then collection and disposal charges can be applied.	Para 5.1 (c)	Non-domestic waste may be exempt if agreed by RECAP in following the principles of the policy.
Charity Shops	Household waste	Only a charge for collection can be applied, unless waste originates from non-domestic premise then collection and disposal charges can be applied.	Para 5.1 (b)	Non-domestic waste may be exempt if agreed by RECAP in following the principles of the policy.

Description	Classification	Charging Policy	Policy Ref	Exceptions applied
Premises occupied by a charity used for charitable purposes	Commercial waste	Chargeable collection for and disposal.	Para 5.1 (a)	A disposal charge will not be applied if the qualify for an exemption. May be exempt if agreed by RECAP in following the principles of the policy.
Camp and caravan site	Commercial waste	Chargeable collection for and disposal.		A disposal charge will not be applied if qualify for an exemption. Waste from domestic premises is to be treated as household waste with no collection or disposal charges.
Royal Palace	Commercial waste	Chargeable collection for and disposal.		
Club, society or association	Commercial waste	Chargeable collection for and disposal.		A disposal charge will not be applied if the qualify for an exemption. May be exempt if agreed by RECAP in following the principles of the policy.
Self Catering accommodation	Commercial waste	Chargeable collection for and disposal.		A disposal charge will not be applied if they qualify for an exemption.
Medical Practitioners	Commercial waste	Chargeable collection for and disposal.		A disposal charge will not be applied if they qualify for an exemption.
Waste arising from works of construction or demolition, including waste arising from preparatory work by occupier of a domestic property.	Industrial Waste	Only a collection charge can be applied.		

4. Implications

(a) Financial Implications

There is the potential for significant financial uncertainty in the 2013/14 budget.

Additional waste disposal charges are anticipated in the region of £340,000.

Charges will be increased to offset these costs however the impact in terms of loss of business is uncertain.

Close monitoring of variances will be required and reported back through the corporate processes.

(b) **Staffing Implications** (if not covered in Consultations Section)

There are currently no staffing implications, should the business suffer significant loses as a result of our new charging mechanisms the service resources will be reviewed.

(c) **Equal Opportunities Implications**

An Impact assessment was undertaken by DEFRA when considering the review of the legislation.

Cambridgeshire County Council has also undertaken a Community Impact Assessment. (See background papers)

(d) **Environmental Implications**

Carbon Emissions	Is Impact +, - or Nil?	Is Impact High, Medium or Low?	Comments
1. Reduce the City Council's energy consumption	Nil		
2. Reduce energy consumption by others in Cambridge	Nil		
3. Increase the proportion of the City Council's energy consumption from solar, wind, biomass or other renewable sources	Nil		
4. Increase the proportion of energy consumption by others in Cambridge from solar, wind, biomass or other renewable sources	Nil		
5. Reduce the level of motor vehicle traffic by City Council staff commuting or operations	+	Low	Potential for a reduction in vehicle movements due to loss of business
6. Reduce the level of motor vehicle traffic by others in Cambridge	Nil		
7. Increase the proportion of the City Council's vehicles powered by biofuel, electricity, LPG or other low-carbon fuels	Nil		
8. Increase the proportion of other vehicles in Cambridge powered by biofuel, electricity, LPG or other low-carbon fuels	Nil		
9. Reduce the amount or increase the level	Nil		

Carbon Emissions	Is Impact +, - or Nil?	Is Impact High, Medium or Low?	Comments
of recycling of the City Council's own waste			
10. Reduce the amount of waste or increase the level of recycling by others in Cambridge	+	Low	Potential for an increase in recycling by customers to offset price rises.

(e) Procurement

There are no procurement implications.

(f) Consultation and communication

Individual customers who are affected by these changes will be written to and asked to provide information on their status in order for us to assess the requirements under the charging policy. Customers will be offered face to face or over the phone advice on recycling options to help reduce the impact of charging increases.

(g) Community Safety

There are no community safety implications.

5. Background papers

These background papers were used in the preparation of this report:

Controlled Waste (England and Wales) Regulations 2012 as amended by the Controlled Waste (England and Wales) (Amendment) Regulations 2012
<http://www.legislation.gov.uk/uksi/2012/811/contents/made>

Impact Assessment on the Review of Schedule 2 of the Controlled Waste Regulations 1992.
<http://archive.defra.gov.uk/environment/waste/localauth/documents/controlled-waste-regulations-ia.pdf>

Cambridgeshire County Council Community Impact Assessment

6. Appendices

Cambridgeshire County Council – Local policy on the implementation of the Controlled Waste (England and Wales) Regulations 2012 as amended by the Controlled Waste (England and Wales) (Amendment) Regulations 2012

7. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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