

TITLE: ENVIRONMENT ACT 2021 IMPLEMENTATION

Committee: Operational Services Committee

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Room 101B. The Grange, Ely

1.0 ISSUE

- 1.1. To provide an update on the implications arising from the implementation of the Environment Act 2021 (the Act) for the Council and the other Waste Collection Authorities in Cambridgeshire.
- 1.2. To provide an update on the position of Cambridgeshire County Council (Waste Disposal Authority) on implementation of the Act.

2.0 RECOMMENDATION(S)

- 2.1. Members are requested to note the report.

3.0 BACKGROUND/OPTIONS

- 3.1. The Environment Act 2021 (the Act) sets out the legal framework for waste reforms and the new requirements for local authority waste collection services.
- 3.2. As part of the implementation of the Act DEFRA have undertaken a series of consultations based on the following key themes:
 - 3.2.1. **Deposit Return Scheme:** Proposal to put a deposit on all beverage containers to encourage people to return the items for recycling. This will cover items such as drinks cans and plastic bottles. It does not include glass.
 - 3.2.2. **Extended Producer Responsibility (EPR) for Packaging:** Proposals for packaging producers to pay for the collection, management, processing and disposal of household and 'household like' packaging to cover the net costs to LA's. Packaging is classed as any material that is used to cover or protect goods that are sold to consumers. This scheme is likely to have an impact on recycling credits currently paid by Waste Disposal Authorities (WDAs) to Waste Collection Authorities (WCAs), however the impacts are not fully known at this stage.
 - 3.2.3. **Consistent collections:** to set out the basis of any future household and business waste service to ensure consistent approach to types of materials and frequencies

of collection. DEFRA recognised that achieving full consistency across all collection services may be cost prohibitive and therefore the focus has been on weekly separate collections of food waste and introducing a consistent set of materials for recycling.

- 3.3. LA's have been expecting the final guidance from DEFRA to implement the Act. However DEFRA have not published any formal outcomes of the Consultation, and instead have been meeting with LA's on an informal basis to advise about implementation.
- 3.4. Although we have not received the final details of the Act we anticipate that weekly food waste collections would need to be implemented by 2025/26. The ERP scheme and regulatory body will be introduced in 2024 and the requirements for dry recycling are anticipated in 2027.
- 3.5. LA's have been advised that DEFRA intend to lay the legislation before Parliament by 28th March 2023, despite not having published the final outcome of the consultation with LA's, or guidance regarding the funding formula for capital and revenue net burdens for WCA's (at the time of preparing this report). The legislation specifies that WCA's must enact the law by the key dates set out in 3.4.
- 3.6. DEFRA have recognised that there may be constraints for some LA's to implement the Act in full due to issues such as existing waste processing contracts and vehicle procurement cycles. In December 2022 DEFRA approached the WDA (Cambridgeshire County Council) to understand the impacts of the legislation on the disposal authority, specifically financial impacts arising from longer term waste disposal contracts.
- 3.7. Cambridgeshire County Council (CCC) have a PFI contract for the disposal of waste: IVC (Food and Garden waste) MBT (residual waste processing) and Landfill (residual waste disposal). The PFI contract runs until 2036 with an option to extend until 2041.
- 3.8. CCC were asked to complete a questionnaire setting out the financial impacts to the WDA should the WCA's implement the legislation as required, namely introduce weekly food waste collections by 2025/26.
- 3.9. DEFRA have proposed that where a WDA can demonstrate a financial impact then the WDA can request for transition arrangements for WCA's to comply with the legislation. This effectively means that a WCA will be named in law **as not** being required to implement the Act until a set date.
- 3.10. DEFRA is currently seeking legal advice on whether the transition arrangement legislation could be amended to allow a WCA's to implement a food waste collection earlier than the specified date named in the transition arrangements, however they have not provided any clarity on this.
- 3.11. Where WCA's are named in legislation for the transition arrangement, DEFRA has indicated that existing capital funding may be available at a later date however we are still waiting for confirmation of this position.

4.0 ARGUMENTS/CONCLUSION(S)

- 4.1. The RECAP partners have been meeting regularly to explore options to ensure that the WCA's can implement the Act. The Partnership has been working collectively to seek support from DEFRA to overcome the financial barriers to implementing weekly food waste collections.
- 4.2. A letter was sent to the Ministers Rt Hon Thérèse Coffey MP and Rebecca Pow MP on Tuesday 14 February 2023, signed by all Council Leaders. This was followed by a letter to all Cambridgeshire MPs on Tuesday 21 February 2023 asking for their support in lobbying the Ministers on this important issue. At the time of writing this report we have not had a response.
- 4.3. All the WCA's in Cambridgeshire are keen to implement weekly food waste collections by 2025/26. This would entitle the WCA's to net burdens funding. Although the final funding formula has not yet been published by DEFRA, we have been advised that a capital funding allocation will be made in 2024/25 to WCA's. The revenue funding allocation is still being agreed with the Treasury, but would commence at the time the services are implemented.
- 4.4. However CCC have submitted evidence to DEFRA demonstrating that there is a financial impact to them if WCA's are required to implement the Act to the legislative time line, and estimate this to be circa £2m per year until 2036 (the end of the PFI Contract).
- 4.5. There are significant complexities arising from a change to the waste inputs into the MBT, that could lead to additional costs to the WDA. At this time the cost impacts to CCC are being estimated, without the benefit of having modelled the overall waste disposal strategy, including EPR and commercial waste, and the assumptions are ahead of any negotiation with Thalia who operate the PFI Contract. CCC is exploring how this modelling work could be funded through the RECAP partnership with support of partners, as it would be a significant undertaking and will take several months.
- 4.6. CCC Officers are taking a confidential paper forward to Committee on 22nd March, that outlines the financial and contractual issues for the WDA should they be required to make arrangements for the recycling of weekly food waste. The WDA sees the wider benefits of increasing food waste recycling, and are keen to work with the WCA's, however they need to explore the financial impacts further.
- 4.7. ECDC and the other WCA's in Cambridgeshire have submitted evidence to DEFRA stating that they wish to comply with the legislation in 2025/26 and **do not** wish to be named in any transitional arrangements for the following reasons:
 - 4.7.1. **Secure capital funding:** DEFRA cannot provide assurances that any funding will be available to WCA's beyond the original 2025/26 implementation requirement. This is because a previous Government cannot commit a future government to spending commitments. DEFRA have indicated that capital funding might be available, however have not given the WCA's any reassurance or direction on how we could access this funding if the 'transition period' is enacted in law. This will mean the Council could potentially lose access of capital funding up to £1.7m (according the ECDC's financial model).

- 4.7.2. **Loss of revenue opportunity:** The Council has modelled the costs of different collection methodologies to comply with the Act. It is estimated that ECDC would see a lost revenue opportunity of up to £14m in revenue (not accounting for inflation) being paid to the Council between 2026 and 2036. The RECAP partnership as a whole could stand to lose access to over £80m of funding for Cambridgeshire residents. These figures are estimated based on the net cost increase for introducing weekly food waste collections to the WCA. DEFRA have yet to publish the funding formula that will be used to recompense WCA's for complying with the Act. DEFRA cannot provide assurances that funding will be available to WCA's beyond the original 2025/26 implementation requirement. This is because a previous Government cannot commit a future Government to spending commitments.
- 4.7.3. **Longer term financial Impact:** In 2036, when the transition arrangements cease, ECDC will be required to comply with the law and implement weekly food waste collections. DEFRA have stated that they cannot provide assurance that funding will be available to the WCA. Therefore, in the event that funding is not available the entire cost burden to implement weekly food waste collections will sit with the WCA's.
- 4.7.4. **Reduce carbon emissions:** The Council declared a Climate Change Emergency in September 2019 and adopted its annual Environment plan, which sets out our commitment to reduce carbon emissions associated with our waste and recycling collection services. This commits the council to reducing overall waste arising and diverting recycling, food and garden waste from landfill (via MBT).¹
- 4.7.5. **Increase food waste recycling and recycling rate:** ECDC has adopted the national target of 60% recycling by 2030. This can only be achieved if ECDC targets more waste being captured from residual black bag waste and diverted for recycling, and reducing the overall amount of waste produced. A waste composition analysis was undertaken in 2021 that identified 33% of black bag waste was made up of food waste.
- 4.7.6. **Implementation delay:** DEFRA have not been able to provide any assurance that WCA's could introduce the services earlier than 2036 if they are named in the transition arrangement. At the time of writing it does not appear that we could circumvent the transition arrangement if we were to be named in the transition legislation. This means that we would be locked into a lower recycling rate until 2036 and our residents can not benefit from services afforded to most other LA's in the Country.
- 4.8. Ultimately it is DEFRA who will decide whether or not the WCA's should be named in the transition arrangements. The RECAP partnership has met regularly to address this impasse and has made representations to DEFRA, urging them to support both the WDA and the WCA's financially to comply with legislation.
- 4.9. The RECAP Partnership are now waiting to hear from DEFRA with confirmation of the next steps and if the Council will be included in the transition arrangements

¹ The RECAP partnership is looking to update carbon modelling to take a whole 'lifecycle' view of carbon emissions associated with waste management at a Cambridgeshire level. This will enable future decisions to be made about waste collection and disposal methods that properly consider carbon emissions reduction.

that prevent the Council from implementing weekly food waste collections until 2036.

5.0 FINANCIAL IMPLICATIONS / EQUALITY IMPACT STATEMENT / CARBON IMPACT ASSESSMENT

- 5.1. There are no financial implications arising from this report.
- 5.2. Equality Impact Assessment not required.
- 5.3. Carbon Impact Assessment not required.

6.0 APPENDICES

Letter to Rt Hon Thérèse Coffey MP
Letter to Rt Hon Lucy Frazer MP