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29th October 2012

**OVERVIEW & SCRUTINY
(ENVIRONMENT WELL BEING)**

13th November 2012

CABINET

22nd November 2012

**Controlled Waste Regulations 2012
(Report by the Head of Operations)**

1. PURPOSE

- 1.1 To inform members of the changes introduced in the Controlled Waste Regulations 2012 and seek approval for recovering the full cost of the imposed disposal charge from those organisations affected.

2. BACKGROUND

- 2.1 The Controlled Waste Regulations 1992 as amended set out previously how household waste from different types of premises would be treated. As a result a number of premises, in Schedule 2 of those regulations, were exempt from a charge for disposal but a charge could be made for the collection of the waste.

- 2.2 The Controlled Waste Regulations 2012 have revised the exempt premises and as a result a number of premises, i.e. Universities, can now be charged for disposal. This is very much in keeping with philosophy of the "polluter pays" principle. The new charging regime will take effect from April 2013.

- 2.3 This Council collect waste from a number of the previously exempt premises and consequently we will now be charged by the County Council for the disposal of that waste. To ease the burden on the premises previously exempt the County Council have approved a local policy (Annex A) to provide clarification as to who will be required to pay and who will receive transitional relief. As a lot of the premises are County Council run services they have in the policy had regard to those services and sought not to increase service costs unnecessarily in specific areas.

- 2.4 The new regulations do provide some leeway for disposal authorities to prescribe whether a charge should be made or not. Appendix 1 of the Local Policy lists those premises/ organisations where a charge will be made and Section 4 sets out a list of those premises where the local policy will apply and this is in respect of :-

1. Residential, nursing and Care homes
2. Universities and colleges (Higher Educational Establishments)
3. Hospitals

4. Premises used wholly or mainly for public meetings (51% of the lettings are in relation to public meetings)
- 2.5 This Council collect very little trade waste but do collect from a considerable number of premises which will be subject, in future, for the disposal cost. However, the Local Policy does allow for free disposal of waste from residential, nursing and care homes where the collection authority collected prior to April 2012. Any new customers will be charged the disposal cost. In respect of the other premises above the local policy does clarify where the charge will be made i.e halls of residence will continue to be exempt.

3. PROPOSAL

- 3.1 It is proposed that the Council recover the full cost of the disposal charged by the County Council from any customers subject to the new charge. In doing this it means that there is no longer any advantage for most of the premises, apart from those subject to the local policy, remaining with this Council. Consequently, we are already seeing private collection companies aggressively targeting this previously exempt group of premises.

4. RISKS

- 4.1 In recovering the full cost it is highly likely that we will lose customers to the private sector. If this proves to be the case then we will need to factor it into the round optimisation because we collect this waste as part of the household residual waste collections.

5. FINANCIAL IMPLICATIONS

- 5.1 If all the customers continue to receive the service from the council then there would be no financial implications for the Council as we would be recovering the disposal charge from the customer.
- 5.2 If customers choose to migrate to a private contractor then we will lose income which we currently get from charging for the collection from these premises. Unfortunately the trade waste database is not sufficiently developed in this Council to provide a breakdown of the customers to ascertain how much income is generated from these premises. We will be manually interrogating the system and I hope to be able to provide further detail at the Scrutiny meeting.


6. CONCLUSION

- 6.1 The discretion under these regulations lies with the County Council and in setting their local policy they have clearly spelt out where the additional disposal charges will be levied. Therefore as the collection authority the only decision necessary is whether we recover all or part of the increased charge.

7. RECOMMENDATION

- 7.1 It is recommended that approval be given for the recovery of the full cost of disposal from those premises previously exempt from the charge, except where they continue to be exempt under the County Council's local policy.

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Cambridgeshire and Peterborough Waste Partnership 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

1. Overview and principles

- 1.1 The Controlled Waste (England and Wales) Regulations 2012¹ came into force on 6 April 2012. These Regulations were slightly amended by the Controlled Waste (England and Wales) (Amendment) Regulations 2012 which come into force on 9th October 2012. These two Regulations are collectively referred to in this policy document as the CWR 2012. Whilst Government were seeking to clarify the previous regulations (CWR 1992) there remains some ambiguity in the new Regulations, in particular around local discretion on charging so that decisions can be made by local authorities that are best suited to local circumstances. The purpose of this document is to set out the local policy to be adopted by the RECAP Partners in the Cambridgeshire area.
- 1.2 The CWR 2012 will be applied unless an organisation is affected by a specific policy listed in Section 4 of this document. The organisations where the CWR 2012 will be applied are listed in Appendix 1.
- 1.3 Based on the results of the national consultation², which included representation from all stakeholders, a local consultation with RECAP Operations Panel and the local priorities of Cambridgeshire authorities the following principles were agreed: -
- 1) The Councils support the polluter pays principle.
 - 2) Council tax payers' money should not be used to offset / subsidise public/private sector commercial waste collection and disposal costs.
 - 3) 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.
 - 4) Care should be taken where facilities directly support local communities or are owned or controlled by that community within the County.
 - 5) Consideration should be given to the impact decisions would have on the County Council and the District Councils in the area.

¹ <http://www.legislation.gov.uk/ukxi/2012/811/contents/made>

² <http://archive.defra.gov.uk/corporate/consult/controlled-waste-regs/120315-controlled-waste-regs-summary-responses.pdf>

- 1.4 The national and local consultation, the five principles above and the Government Response to the Consultation³ were used to reach the decisions contained in section 3 and 4 of this policy.

2. Legislative context

- 2.1 The CWR 2012⁴ 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 2012.⁵
- 2.2 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.
- 2.3 The District Councils as Waste Collection Authorities (WCAs) have a duty to arrange for the collection of commercial waste when requested to do so⁶. The authority can make a reasonable charge for the collection and disposal of commercial and industrial waste collected.⁷
- 2.4 The County Council has a duty to make arrangements for the disposal of waste collected by the WCAs⁸ and the County Council is entitled to reimbursement for the disposal charges from the Districts for their collection of commercial and industrial waste⁹.

3. Overarching Policy:

- 3.1 Organisations will be identified to the best of the Local Authorities ability so that the appropriate charging policy may be applied. Where there is ambiguity in the CWR 2012 and in this policy, the Operations Panel 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.
- 3.2 Payment of council tax is used as criteria to distinguish those organisations that may be classed as a non-chargeable under the CWR 2012.
- 3.3 A District Council may choose not to apply a charge for collection because of the principles set out in section 1.3 of this policy. The District will inform the County Council of such decisions and a disposal charge will not be applied. These decisions will be taken back to Operations Panel so that a joint approach can be adopted across Cambridgeshire.
- 3.4 Cambridgeshire County Council may decide not to apply a disposal charge to those wastes classified as commercial waste because of the principles set out in section 1.3 of this policy. These decisions will be taken back to Operations Panel so that a joint approach can be adopted across Cambridgeshire.
- 3.4 Disposal charging will be implemented from 1 April 2013.
- 3.5 This policy will be reviewed as required or at least every 5 years.

³ <http://www.defra.gov.uk/publications/2012/03/15/pb13727-controlled-waste-regulations/>

⁴ <http://www.legislation.gov.uk/ukxi/2012/811/contents/made>

⁵ CWR 2012 Schedule 1 subparagraph 4(8) and CWR (Amended) 2012 section 4A

⁶ Environmental Protection Act, Part II Section 45

⁷ EPA, Part II Section 45 (4)

⁸ EPA, Part II Section 51 (1)

⁹ EPA Part II Section 52 (9)

4 Policy on waste types from specific premises

As previously mentioned, there remain some property types where the District Councils and the County Council can use their discretion whether or not to make a charge. In deciding whether a charge should or should not apply, the relevant principles in paragraph 1.3 above are shown in italics for each case.

4.1 Residential, nursing and care homes

Aligned to principles 1 to 5

Waste from a residential, care and nursing home is classified as household waste.

- a) These premises will be charged for waste collection and disposal when more than 50% of their residents are non-council tax payers.
- b) Premises receiving a District Council Collection with free disposal prior to 6 April 2012 will continue to do so providing there is no break in contract. Returning customers to District Services would be charged disposal as in paragraph 4.1 (a).

4.2 University and Colleges (Higher Educational Establishments)

Aligned to principles 1, 2 and 5

Waste from a University and Colleges (Higher Educational Establishments) is classified as household waste.

- a) These premises will be charged for waste collection and disposal, unless otherwise exempt, for all waste from its business that is carried out on site, for example lecture /seminar rooms, staff offices, libraries. This will include Halls of Residence that are part of the establishments that carries out business on behalf of the University/College and is subject to University/College Rules and Regulations.
- b) Clarification on this definition was sought from Defra and was used to decide the above.

4.3 Hospitals

Aligned to principles 1, 2 and 5

Waste from a hospital is classified as household waste.

- a) These premises will be charged for waste collection and disposal, unless otherwise exempt, for all waste from its business that is carried out on site, including waste from business, health care facilities and some accommodation.
- b) These premises will not be charged for disposal for accommodation that is 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.

4.4 Premises used wholly or mainly for public meetings

Aligned to principles 1, 3, 4

Waste from a premises used wholly or mainly for public meetings is classified as household waste for which a collection charge may be made. For

purposes of assessing wholly or mainly, this will apply if 51% or more of the lettings are for public meetings. For clarity, premises not used for public meetings can be classed as commercial waste.

5. Clarification of premise types

5.1 Waste from premises used for charitable purposes is dealt with in three places within the Regulations and can be either commercial or household waste. The following provides clarification:

- a) Waste from premises occupied by a charity, for example headquarters and offices, is to be regarded as commercial waste (Schedule 1 paragraph 2 row 13 of the Regulations).
- b) For charity shops selling donated goods originating from a domestic property, waste will be regarded as household waste for which a collection charge can be made. Where waste originates from a non-domestic property a collection and disposal charge can apply (Schedule 1 paragraph 4 row 11).
- c) Waste from a community interest company or charity or other non for profit company which collects goods for re-use or waste to prepare for re-use from domestic property is household waste for which a collection charge can be made. Where waste originates from a non-domestic property a collection and disposal charge can apply (paragraph 4 row 12).

Appendix 1

Below lists organisations where there is no local policy and the CWR 2012 will be applied. This list is not exhaustive and the CWR 2012 will be consulted when making any decision.

The CWR 2012 provides the following exemptions: -

- (i) The exemption will be for those premises which are (i) currently – i.e. immediately before the Regulations came into force – receiving free disposal **and** (ii) receiving 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) Publicly 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.

Household waste

- Places of worship – *no collection or disposal charge applied (Schedule 1 para 2, row 5)*
- Residential hostel – *A collection charge can be applied. No disposal charge can be applied. (Schedule 1 para 2, row 10)*
- Publically funded schools and Further Education Colleges or other education establishments (publically funded as defined in Schedule 1 subparagraph 4 (8)) benefitting from a District Council collection with free disposal prior to 6 April 2012. *A collection charge can be applied. (Schedule 1 para 2, row 15)*
- Non-publicly funded schools, nursery and preschools – *A collection charge can be applied. A disposal charge may be applied, unless they qualify for an exemption as per (i) and (ii) above. (Schedule 1 para 2, row 15)*
- Penal institution – *A collection charge can be applied. A disposal charge may be applied, unless they qualify for an exemption. (Schedule 1 para 2, row 17)*

Commercial waste (all must be charged, collection and disposal, unless they qualify for an exemption as per (i) above)

- Self catering accommodation, campsites and caravan sites used as holiday accommodation
- Premises occupied by a clubs, societies or any association of persons in which activities are conducted for the benefit of members.
- Premises occupied by a court, government department, local authority, persons appointed to discharge public functions and body incorporated by Royal Charter.
- Hotel
- Trade or commercial business

- General Practitioners

Industrial waste (*all must be charged collection and disposal*)

- Workshop Laboratory waste
- Science research association
- Premises used for the breeding, boarding or stabling of animals