

TO: EXECUTIVE  
18 NOVEMBER 2014

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**WASTE REGULATIONS 2011 (AMENDED 2012)**  
**Director: Environment, Culture and Communities**

**1 INTRODUCTION**

- 1.1 Environmental law requires that this Council in its role as a Waste Collection Authority (WCA) and Waste Disposal Authority (WDA) ensures that it takes appropriate measures to promote high quality recycling. To this end the requirement is to set up separate collections of waste where “technically, environmentally and economically practicable” and appropriate to meet the necessary quality standards of the relevant recycling sectors.
- 1.2 Councils are required to review their practices and satisfy themselves that they comply with the law. A Process has been introduced that if followed results in an auditable trial that will be reviewed by the Environment Agency. This report asks for consideration and acceptance of the findings of that review.

**2 RECOMMENDATION**

- 2.1 That the Executive review the assessment as set out in Annex 1 and conclude that “the current arrangements for the collection of kerbside recyclables satisfy the requirements applicable to the continued collection of co-mingled materials”.**

**3 REASONS FOR RECOMMENDATION**

- 3.1 The recommendation follows a comprehensive assessment of the existing arrangements using the suggested ‘Route Map’ (extract in Annex 1), produced specifically to enable the proper assessment of existing practice.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None. The review is part of a legal requirement. The evidence supports the conclusions.

**5 SUPPORTING INFORMATION**

- 5.1 After judicial review it has been confirmed that the expectation today is that nationally, paper, glass, metals and plastics will normally be collected separately. However, it is acknowledged that in principle co-mingled collections of waste (such as we have in our blue bins) can be acceptable where it is sent to a Material Recycling Facility (MRF) for separation providing the right quality of output can be achieved.
- 5.2 The quality of our MRF product in Smallmead has yet to be formally reviewed. There are now new obligations in respect of the MRF that include the need for having formal audits. The findings of the MRF audits will be used by the Environment Agency (EA) to inform their approach to the assessment of our review of the collection arrangements. Whilst not yet audited the re3 MRF is believed to be able to meet the relevant requirements. The audit is not likely to take place until the middle

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of next year at the earliest. Should the audit prove the assumption materially wrong, then this review will need to be repeated.

- 5.3 Having completed our review of the collection arrangements based on current knowledge and practice, in order to comply with the requirements we now have to have the assessment formally signed off by 1 January 2015. The limited timeframe that we had available is such that our initial assessment is based on current knowledge and will have to continue to be developed over time.
- 5.4 The key issue for Bracknell Forest in undertaking this review is whether or not in our capacity as a WCA it is permissible to continue to collect co-mingled paper, metal, and plastic. Glass is already collected separately from our local recycling centres (bottle banks). The justification for having a co-mingled collection is to be based on our own unique circumstances. Councils are expected to be able to evidence that a rational and proportionate approach has been taken to determine what action they may now need to take, should their review conclude the need for change.
- 5.5 There are two key tests; (1) Necessity and (2) Technically, Environmentally and Economically Practicable – TEEP. The Necessity test seeks to ensure that waste is “recovered” from the waste stream – recovery includes recycling and energy recovery. What is Technically, Environmentally and Economically Practical relies on matters of fact and a number of assumptions as there are so many variables.
- 5.6 The review process is not a one off. WCAs are legally obliged to keep in mind their future intentions relative to the obligations in the Regulations. Changes to collection methods, or changes in the disposal arrangements, necessitate further reviews.
- 5.7 This Council, along with Wokingham and Reading, has a joint approach to disposal via the re3 arrangements in relation to disposal options. What we collect for recycling is very much driven by the PFI contractual arrangements which run until November 2031. We also have a collection with SITA until 31 August 2019. Contractual arrangements are a key consideration in any review process.
- 5.8 Whilst we have to give consideration to the four materials as listed in para 5.4, we also have to take account of our other waste. Many products are collected not from the kerbside but from our local recycling sites and/or the Household Waste Recycling Centre (HWRC).
- 5.9 A Route Map has been published to aid local authorities assess their compliance. The Map has been developed by a Working Group comprising members of the Local Authority Waste Networks, coordinated through the London Waste and Recycling Board, The Waste Network Chairs and WRAP. The Route Map is a decision support tool providing a clear step by step process to follow in a review of custom and practice to help us decide whether or not we are compliant or whether we need to make changes.
- 5.10 A review has been undertaken of our total waste collection arrangements applying this ‘tool’ although it must be stressed that the Route Map has no formal status in law. The outcome of this review if agreed will form the background to any future changes to the arrangements or should any new opportunities arise. As with any new legislation there is considerable scope for interpretation and thereby challenge in respect of both the process and the findings. Equally the review process provides an opportunity for creating a very complex and resource ‘heavy’ process. The approach taken by officers has sought to ensure balance between practicality and the reality of the situation.

- 5.11 Attached as Annex 2 to this paper are a series of tables containing the various details taken into account in the evaluation of this Council's state of compliance with the new Regulations. The steps are a summary of the factors identified/determined as per the Route Map guidance. Table 10 contains the conclusion of the review undertaken in accordance with the guidance. This Annex if agreed will form the definitive decision making process associated with the legal obligations
- 5.12 Looking forward Members will be aware that our waste either goes for recycling (20%), is taken to Lakeside and used as fuel to create energy (40%) is composted (17%) or land filled (23%) (2013/14 figures). The objective these new Regulations is to promote high quality recycling and whilst the use of EFW facilities such as Lakeside is acceptable, in the assessment and for the purposes of this review, it is considered little better than landfill. Pushing more to Lakeside should not be a favoured option looking forward should the opportunity arise.
- 5.13 The Route Map process includes for Peer Review, sign off from senior officers and Members. The review summarised in Annex 2 has only been reviewed by the re3 partners. Before being presented to the Executive it would benefit the process if the details could be further considered by a Portfolio Review Group, for example. Once signed off, the Council is thereafter required to ensure that the evaluation be reconsidered if factors changes such as:
- Availability of recycling techniques for existing recycled and other non recycled materials
  - Cost of vehicles
  - Cost of staff
  - Recyclate values, energy recovery and landfill cost changes.

Such factors will be particularly relevant to Bracknell Forest when the refuse collection contract and the re3 contracts (including Lakeside sub-contract) are due for renewal.

- 5.14 Once agreed, whilst a full and formal review of the assessment is not required until the arrangements change, this assessment will be reviewed and updated by the joint Client/Contractor Waste Collection Board at its Annual General Meeting. This meeting is attended by the Executive Member for the Environment.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 6.1 The relevant legal issues are discussed elsewhere in this report.

### Borough Treasurer

- 6.2 Nothing to add to the report.

### Equalities Impact Assessment

- 6.3 There are no Equality Impact Issues.

Strategic Risk Management Issues

- 6.4 Covered in the report – this is a legal requirement, the outcome of which is open to challenge by the Environment Agency.

**7 CONSULTATION**

Principal Groups Consulted

- 7.1 Not applicable. The works proposed reflect actual conditions.

Method of Consultation

- 7.2 Not applicable.

Representations Received

- 7.3 Not applicable.

Background Papers

Waste Regulations Route Map

Waste Regulations Route Map: Appendices

Resource pack containing links to relevant legislation and useful documents.

<http://www.wrap.org.uk/content/requirements-waste-regulations>

Contacts for further information

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