

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 03/02/2015

Title:

EUROPEAN WASTE FRAMEWORK DIRECTIVE

[Portfolio Holder: Cllr Donal O'Neill]

[Wards Affected: All]

Summary and purpose:

This report summarises the implications of Article 10 of the European Waste Framework Directive (EWFD), highlights the potential risk to the way in which waste and recycling services are currently provided in Waverley (via co-mingled collections), and sets out the actions that have been put in place to safeguard the Council's current approach into the future.

The report concludes that the Council's current waste collection arrangements conform with the requirements of the European Waste Framework Directive, and asks the Executive to endorse this position.

How this report relates to the Council's Corporate Priorities:

This report relates to the following Corporate Priorities:

- **Value for Money**- Providing customer-focused services at the best value for money.
- **Understanding Residents' Needs**- Focusing on providing the services our residents want.
- **Environment**- Increasing Waverley's recycling rate to 60% by 2015

Financial Implications:

Any move back to a source-segregated collection system in Waverley would require significant investment, both in terms of the initial outlay for new recycling containers and in terms of the on-going additional costs of operating a more labour-intensive system, requiring additional vehicles and more manpower.

Legal Implications:

All local authorities must comply with the European Waste Framework Directive and the Waste (England and Wales) Regulations 2011 and TEEP (see below) requirements.

With effect from 1 January 2015, Regulation 13 of the Waste (England and Wales) Regulations 2011 requires the Council as a waste collection authority to separately collect waste paper, metal, plastic or glass, but only where such separate collection is necessary to ensure that waste undergoes recovery operations in accordance with Article 4 (the waste hierarchy) and Article 13 (protection of human health and the environment) of the Waste Framework Directive and to facilitate or improve recovery

(quality and quantity) and it is technically, environmentally, and economically practicable (TEEP).

This requirement applies to commercial as well as household waste.

The Council currently collects its dry recyclates co-mingled rather than separately. Accordingly, in order to ensure it is complying with the new duty in regulation 13, the Council needs to actively consider whether separate collection would improve the quantity of material that could be recycled or reused, and the quality of recyclates.

Where separate collection is considered necessary in accordance with Regulation 13(4), the assessment of “practicability” then has to be undertaken robustly.

The outcome of the Council’s assessment should be properly documented (including the evidence base for its decision) so that, if necessary, its decision can be justified to the Environment Agency and any subsequent legal challenge can be successfully resisted.

Introduction

1. Article 10 of the EWFD was introduced in order to encourage high quality recycling in Europe. This has been transposed into UK law via The Waste Regulations 2011 (and 2012 amendment).
2. In summary, The Waste Regulations 2011 (as amended) require any organisation that collects waste to:
 - a) Comply with the waste hierarchy (i.e. reduce, reuse, recycle), and to;
 - b) Collect paper, metal, plastic and glass by separate collection (i.e. separate containers for different materials), by January 2015, unless:
 - i. It is not necessary to achieve a similar level of quality and,
 - ii. It is not technically, environmentally and economically practicable (TEEP) to do so
3. Failure to comply with the legislation could result in legal challenge.
4. The legislation uses ‘source segregated’ (kerbside sort) collections as the benchmark for high quality recycling. Source segregation should therefore be viewed by authorities as the default collection system. If Local Authorities wish to move to, or retain, a commingled collection system, they will need to demonstrate that a source segregated system is not:
 - a) Necessary to facilitate or improve recovery, and
 - b) TEEP (Technically, Environmentally and Economically Practicable)

The decision-making process around TEEP is more important than the decision. Therefore it is important that each decision has a clear audit trail. It is also important to note that TEEP is not a one-off process and should be reviewed regularly in light of changing markets, improving technology etc.

The 'necessity test'

5. To demonstrate that a source segregated system is not 'necessary to facilitate or improve recovery', the quality of commingled collected material must be 'similar to that achieved with separate collection' and ensure high quality is achieved 'just as well' as from source segregated collections.

TEEP

6. In order to prove that a source segregated option is not TEEP an authority must prove that:
 - a. Technically - there's no proven way to do it, i.e. there are significant practical barriers.
 - b. Economically – a source segregated collection would incur excessive and disproportionate costs.
 - c. Environmentally - demonstrate that the negative environmental effects outweigh the ecological benefits.

How likely is a Challenge?

7. It is considered unlikely that any challenges will be forthcoming on day one of the amended regulations coming into force; it is more likely that challenges will come where contract changes / renewals are being made (which, in Waverley's case is likely to be in 2018/19).
8. For the proposed Joint Collection Contract for Surrey on the other hand, the OJEU notice is due to be issued in early spring 2015, and it is considered likely therefore that this will provide a valuable early test locally, both of whether a challenge comes and the outcome of that challenge.

Compliance Assessment

9. The progress of this legislation has been followed closely by Officers, in liaison with partners across the county. With 10 of the 11 Waste Collection Authorities in Surrey providing a 'commingled' recycling collection (and the eleventh seriously considering it) it is widely recognised that any move back to a source segregated approach would have significant operational, environmental and financial implications- as well of course as having a profound affect on customer satisfaction and engagement.
10. In order to build the case and to determine whether indeed TEEP applies, detailed modelling work has now been carried out on a borough-by-borough basis with the aim of ensuring that each District & Borough has its own position statement.
11. As the legislation is new, there is currently no established and tested methodology for this type of study, so it has been extremely important to take a thorough and robust approach; and it is reassuring to note that, given the positive progress made on this across the county, interest has been shown by a number of other councils and specialist consultants in the work carried out in Surrey.

12. The report at Annexe 1 presents the results of this compliance modelling for Waverley Borough Council.

Conclusion

13. In headline terms, the conclusions of the assessment are that, in Waverley:
 - a) Separate collections are not necessary for paper, metal or plastic, because they produce less closed-loop recycling. However they are necessary for glass, assuming that all glass from the MRF goes to open-loop recycling.
 - b) Separate collections are technically practicable as they are successfully operated in many authorities throughout England which have a wide-range of geographies.
 - c) Separate collections are not environmentally practicable when compared to either the current system or an optimised comingled system.
 - d) As separate collections appear to have no environmental benefits over the other two systems, and are significantly more expensive, it could be strongly argued that separate collections are not economically practicable in this case.

Recommendation

It is recommended that the Executive:

1. endorses the conclusions of the Compliance Modelling exercise for Waverley and agrees, in light of this, to continue with the current waste collection system until at least 2019 when the service will be retendered;
2. acknowledges the need to keep the current assessment under review and to carry out a new assessment if and when any significant service changes take place; and
3. asks Officers to continue to closely monitor best practice approaches to recycling and waste disposal across the country in order to identify any potential improvements to the current approach in Waverley.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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