

Agenda item:

Decision maker : Environment and Community Safety Decision

Date of meeting: 28th January 2015

Subject: Waste Regulations - Assessment of Compliance

Report by: Head of Transport and Environment

Wards affected: All

Key decision: No

Full Council decision: No

1 Purpose of report

- 1.1 The EU Waste Framework Directive, transposed in the UK as The Waste (England and Wales) Regulations 2011, states requirements for waste collections of paper, metal, plastic and glass to be by way of separate collection from 1st January 2015.
- 1.2 The legislative requirement of separate collection should be implemented where it is necessary to improve quality and quantity of recycling, and where it is technically, environmentally and economically practicable (TEEP).
- 1.3 A 'route map' guide to demonstrating compliance with the regulations has been produced and is recommended by the Environment Agency (EA) for local authorities to follow.
- 1.4 The purpose of this report is to advise on the completion of PCC's route map assessment and its outcome.

2 Recommendations

- 2.1 **That the Cabinet Member for Environment and Community Safety notes the legislative requirements of the Waste Regulations (see 3)**
- 2.2 **That the Cabinet Member for Environment and Community Safety approves the assessment document as sufficient evidence of compliance with the Waste Regulations (see 3.1.1)**
- 2.3 **That the Cabinet Member for Environment and Community Safety agrees the outcome of the assessment that the council does not need to provide separate collections for paper, metal, plastic and glass from January 2015 (see 3.1.12)**

3 Background

- 3.1 Regulation 13 of The Waste Regulations (England and Wales) 2011 (as amended 2012) transposes article 11 of the EU Waste Framework Directive (WFD) as follows:

13.—(1) This regulation applies from 1st January 2015.

*(2) Subject to paragraph (4), **an establishment or undertaking which collects waste paper, metal, plastic or glass must do so by way of separate collection.***

(3) Subject to paragraph (4), every waste collection authority must, when making arrangements for the collection of waste paper, metal, plastic or glass, ensure that those arrangements are by way of separate collection.

- 3.2 Portsmouth City Council's current domestic recycling collections from the kerbside contain paper, metal cans and plastic bottles in a co-mingled one bin system. Glass is not collected in this way, but recycled through local bring bank sites. The legislation above (3.1) states these items should be collected by way of 'separate collection' as opposed to 'co-mingled'. For clarification; paper, metal cans and plastic bottles are not collected separately in Portsmouth; glass is collected separately, however, not from the kerbside.

- 3.3 Separate collection is defined in the WFD (article 3) as:

“a collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment.”

- 3.4 Regulation 13 of The Waste Regulations (England and Wales) 2011 (as amended 2012) continues:

*(4) The duties in this regulation **apply where separate collection—***

(a) is necessary to ensure that waste undergoes recovery operations in accordance with Articles 4 and 13 of the Waste Framework Directive and to facilitate or improve recovery; and

(b) is technically, environmentally and economically practicable

- 3.5 The legislation details above (3.4) describe that separate collection should be applied where necessary and where practicable whilst applying the WFD waste hierarchy (appendix i)
- 3.6 The Waste Regulations Route Map was designed to help reduce the need for local authorities to seek advice for interpretation of the regulations, as well as to bring clarity and consistency for all to ensure compliance. The EA stance regards following the route map as good practice and will give authorities a high assurance of acting reasonably (in line with the legislation).

3.7 Project Integra (PI) obtained endorsement of the route map through legal advice, and provided partners with some of the required data. Local analysis and decision making is carried out by PCC.

3.8 Portsmouth City Council has applied the route map to its assessment of compliance, taking the 'necessity' test and the 'practicability' test (also known as TEEP).

3.1 The Assessment

3.1.1 The full assessment (attached in appendix ii) has been carried out by PCC in order to demonstrate compliance and document sufficient evidence of this.

3.1.2 **The waste hierarchy** has been applied, analysing Portsmouth's current position for a number of main material types. Some potential options for moving up the hierarchy have been identified as followed:

- Food waste - anaerobic digestion (kerbside food collection)
- Glass - kerbside glass collection could double the current yield
- Other plastics ie. Pots, tubs and trays - Project Integra (PI) capture and treatment review in place considering the introduction of these plastics to the co-mingled recycling bin
- WEEE (waste electronics) - kerbside collection

3.1.3 **The necessity test** examines the quantity and quality of recyclable materials collected through the co-mingled system in Portsmouth and compares this to predictions for a separate collection scheme (kerbside sort).

3.1.4 The quantity comparison uses WRAP's Indicative Costs and Performance report (2008) to estimate that separate collection in Portsmouth would lead to a lower yield of paper, cans and plastic than is currently achieved through a co-mingled service. This is most likely due to the extra difficulty for residents in needing to store and use multiple containers (also addressed in the practicality test) for a separate collection system.

3.1.5 Central Government guidance acknowledges that glass is the culprit for the highest reduction in recyclate quality. The Judicial Review judge also appears to support co-mingled collections that exclude glass (such as in the case of Portsmouth):

"...whilst glass is a well-recognised potential contaminant, metal and plastic can be separated at a stage later than kerbside without any significant contamination or other... disadvantage."

3.1.6 Portsmouth has a low recycling contamination rate of 7.4% (inputs), with only 0.07% of PI Materials Recovery Facility (MRF) outputs rejected by re-processors for not meeting the required specification (5.5 tonnes per annum in Portsmouth).

In comparison Southampton's input contamination rate is almost double Portsmouth's at 14.2%.

- 3.1.7 After completion of the necessity test, the results consider separate collection as unnecessary. However, on route map advice, the practicability test was carried out for completeness.
- 3.1.8 **The practicability test** demonstrates whether the separate collection of the recycling materials is TEEP.
- 3.1.9 Technically practicable EU Commission guidance: *"Technically practicable means that the separate collection may be implemented through a system which has been technically developed and proven to function in practice."* A comparison of practicalities between co-mingled and separate collection prove that it is not practical in a dense urban city such as Portsmouth to introduce a system that would require numerous containers.
- 3.1.10 *"Environmentally practicable should be understood such that the added value of ecological benefits justify possible negative environmental effects of the separate collection."* The negative and positive effects on the environment has been analysed for the different collection systems. The main conclusion is that a separate system would require more vehicles than co-mingled, resulting in extra fuel usage even if bio-diesel is still used. Portsmouth has a legal responsibility under the Climate Change Act (2008) to reduce emissions.
- 3.1.11 *"Economically practicable refers to a separate collection which does not cause excessive costs in comparison with the treatment of a non-separated waste stream, considering the added value of recovery and recycling and the principle of proportionality."* According to WRAP's Indicative Costs and Performance (ICAP) report the estimated costs per household per year show that co-mingled is the less expensive option in Portsmouth (a difference of £1.76). The set-up of a change in collection system would require a large amount of capital investment. Without available funding to cover the capital costs at this time, the amount is not economically practicable within present tight local authority budgets.
- 3.1.12 **Conclusion**

Guided by the route map, Portsmouth City Council has carried out the necessity and practicability tests in order to demonstrate compliance with the Waste Regulations 2012. The tests have indicated that separate collection is not necessary at this time, however the regulations will need to be considered again when any changes occur in the future, for example the introduction of mixed plastics (currently being considered by PI in a resource review; outcome in February 2015).

4. Monitoring

- 4.1 Step 5 of the route map assessment will create a process for regular review.
- 4.2 The route map will need to be taken into consideration every time a change in service is considered.

5. Reasons for Recommendations

- 5.1 The requirements of the Waste Regulations affect future and current service decisions.
- 5.2 By following the recommended route map assessment, PCC's compliance is documented sufficiently in order to defend any legal challenges.
- 5.3 The route map outcome has demonstrated that according to the legislation, co-mingled recycling collections can still continue in Portsmouth from January 2015.

6 Equality impact assessment (EIA)

- 6.1 An equality impact assessment is not required as the recommendations do not have a negative impact on any of the protected characteristics as described in the Equality Act 2010.

7 Head of Legal comments

- 7.1 The legal basis for the requirement to assess the way that waste collection and recycling are carried out in Portsmouth are set out in the body of the report. The [draft] Assessment appended to the report analyses the current waste collection and the possible alternatives in accordance with the relevant legislation and case law appropriately.

8 Head of Finance comments

- 8.1 An assessment has been carried out as prescribed by the Waste Regulations. The outcome of the assessment has been to conclude that Portsmouth City Council does not need to provide separate collections for paper, metal, plastic and glass.
- 8.2 Therefore, there are no financial implications arising as a result of the approval of the recommendations of this report.

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Signed by:
Simon Moon
Head of Transport and Environment Service

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by Cabinet Member for Environment and Community Safety on the 28th January 2015.

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Signed by:
Councillor Rob New
Cabinet Member for Environment and Community Safety.

Appendix i.

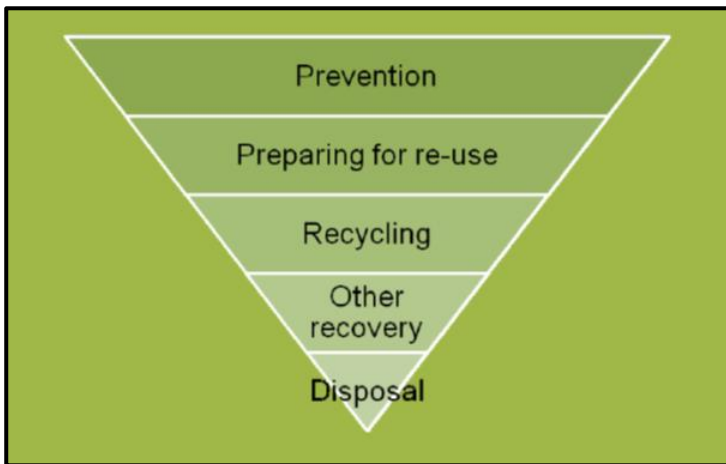


Figure 1: Waste hierarchy (from Defra)