

Impact of Government policy and new legislation on managing municipal waste in Devon including at the Household Waste Recycling Centres

Report of the Director of Climate Change, Environment and Transport

Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

1) Recommendation

That the Cabinet be asked to:

- (a) Approve the requirement to make changes to operations at Household Waste Recycling Centres (HWRCs) in response to forthcoming changes in waste management legislation and Environment Agency requirements.
- (b) Give delegated powers to the Director of Climate Change, Environment and Transport and Director of Finance and Public Value in consultation with the Cabinet Member for Public Health, Communities and Equality to make any operational changes required at the HWRCs to comply with the changes in legislation and Environment Agency requirements and to mitigate costs including the development of a QR system and restriction of certain wastes at nominated sites.
- (c) Note the Collection & Packaging Reforms and the potential impact this may have on municipal waste management services in Devon in the future.

2) Background / Introduction

This report sets out the government changes in waste legislation and Environment Agency requirements that will impact on how waste will need to be managed at Devon's network of Household Waste Recycling Centres to achieve compliance whilst mitigating costs. It also outlines the Collection and Packaging Reforms in England.

3) Proposals

Household Waste Recycling Centres – small amounts of free DIY waste

Government want all householders to be able to deposit a small amount of DIY waste free of charge at Household Waste Recycling Centres and have introduced legislation ([The Controlled Waste \(England and Wales\)\(Amendment\)\(England\) Regulations 2023](#)) to effect this change from 31st December 2023. The County Council introduced charging for some DIY waste in 2011 ([bj250111cra Strategy for Recycling Centres \(devon.gov.uk\)](#)) with further materials added in 2105. Consequently, Devon will now need to allow small amounts of DIY waste to be accepted free of charge which will increase the cost of providing the HWRC service.

Devon County Council, as the Waste Disposal Authority, currently provides a network of 19 Household Waste Recycling Centres (HWRCs) for Devon residents to dispose of/recycle mainly bulky household and garden waste. This service is free to residents with their Household Waste. However, the existing legal definition of Household Waste does not include materials from the repair or improvement of houses i.e. Construction and Demolition (DIY) home improvement types of waste. The Council has no *current* obligation to accept such DIY waste or to accept it free of charge, and charges for such waste have been levied since 2011. Full details of the current scheme can be found here: [Chargeable waste Devon - Waste and Recycling](#). The legislation will change this such that a small amount of DIY waste will need to be accepted at the HWRCs free of charge (see Appendix 1 for criteria).

Government rationale behind the changes are that they see the HWRCs as playing an important role in helping householders manage their waste from small DIY type projects responsibly, although there is no evidence that links charging for DIY waste with fly tipping. Consequently, they have reclassified DIY waste to be treated as Household waste if it meets certain criteria.

This legislation means that DIY waste meeting the criteria will have to be accepted free of charge from 31st December 2023. Government have stated that this will not be subject to New Burdens and as such the County Council will need to cover the additional costs. However, DIY waste that does not meet the criteria will still be subject to charges as already set out. Proposals to help mitigate these additional costs are being developed and are likely to include some DIY material restrictions at some sites as well as developing a QR code system to manage the free DIY waste allowances. Administration of a QR code system would require the employment of an additional team member but their costs would be met through the chargeable waste revenue.

HWRCs - Management of waste upholstered domestic seating

The Persistent Organic Pollutant (POPS) Regulations 2007 place strict controls on managing waste containing POPS such that all material must be sent for incineration to ensure that the chemicals are destroyed. This includes waste upholstered domestic seating which includes sofas and soft furnishings. All residual waste from Devon's network of HWRCs is sent to the Devonport Combined Heat & Power Energy from Waste Facility. Currently POPS waste is mixed with other residual waste on all HWRC sites. However, the Environment Agency are currently insisting that waste containing POPs must be segregated from other waste at the HWRCs by December 2024 at the latest. Some sites are physically too small to accommodate an additional container and hence it is anticipated that only a limited number of sites will be able to accept waste upholstered domestic seating in the future. There will be additional costs of managing this waste separately and these are still being determined.

Other potential changes

There are likely to be other changes required at the HWRCs with regards to accepting tyres and potentially some types of wood in the future. Details are currently unclear, but it may require some restrictions on how these materials are managed.

Delegated powers are sought for the Director of Climate Change, Environment and Transport and Director of Finance and Public Value in consultation with the Cabinet Member for Public Health, Communities and Equality to make any operational changes required at the HWRCs to comply with the changes in legislation and Environment Agency requirements and to mitigate costs including the development of a QR system and restriction of certain wastes at nominated sites.

Collection & Packaging Reforms

Government are moving ahead with delivering their Collection & Packaging Reforms which form a key part of their Resource & Waste Management Strategy 2018 ([Resources and waste strategy for England - GOV.UK \(www.gov.uk\)](#))

They are implementing a set of waste reforms that will deliver a consistent waste collection service across England. 'Simpler Recycling' was published recently and sets out the requirements to collect glass, paper, cardboard, metals, cartons and some plastics from the kerbside along with offering a separate weekly food waste collection to all households by March 2026. Plastic films will need to be collected by March 2027. In addition, District Councils will also have to offer the same recycling service as the households to the non domestic properties that they collect household waste from by March 2025. All of the District Councils either offer the Devon aligned collection service or are working towards it. This is weekly dry recycling and food waste collections, charged for garden waste collections and either fortnightly or 3 weekly residual waste collection. Government have indicated that they wish all households to have at least a fortnightly residual waste collection service and this has formed part of a recent consultation.

Implementation of Extended Producer Responsibility for Packaging (pEPR) is proceeding such that from October 2025 the producers will need to meet the full net costs of managing the packaging of their products. Work is ongoing to determine what those payments will be and how they will be made to Local Authorities. Producers will pay a modulated fee depending on how recyclable their packaging is and all packaging will be labelled as to whether it can be recycled or not which will make it easier for the public to know what they can recycle.

Government plans are being progressed to introduce a Deposit Return Scheme (DRS) from 2025 or beyond for all drinks containers that are either steel or aluminium cans and PET plastic bottles up to 3 litres in size. Details of how this will be implemented and the potential impact on waste collection services are still being developed but it is likely to require householders to pay a small deposit which can then be redeemed through taking their drinks containers back to reverse vending machines. It is currently unclear how District Councils will be able to cover the costs of managing drink containers that remain within the kerbside collections.

4) Options / Alternatives

Waste management is heavily regulated and as a Waste Disposal Authority the County Council has to comply with changes in waste legislation and Environment Agency requirements. Consequently, there is no option but to comply and try to mitigate as much as possible the potential operational or financial impacts.

5) Consultations / Representations / Technical Data

There is insufficient time to undertake any public engagement on the changes that will be required at the HWRCs as a result of the legislative changes to DIY waste. Discussions with the contractors of the HWRCs are ongoing and these will need to be finalised prior to any changes being introduced on site.

Potential other changes at the HWRCs will be communicated prior to any implementation but there are concerns around the amount of advance notice and the consequent management of public enquiries. Digital communications will be used where possible.

6) Strategic Plan

Implementing the Collection & Packaging Reforms support the response to the climate emergency by promoting sustainable waste management as well as helping to develop the green economy.

Managing POPS waste by incineration aligns with improving health & well being including any negative health impacts. However, the requirement to segregate the waste at the HWRCs, transport separately and then mix the waste back together into the same Energy Recovery Facility adversely impacts the carbon footprint. The need for some residents having to travel further to dispose of their waste responsibly, could have a negative carbon impact as well.

7) Financial Considerations

Charging for DIY type waste was implemented as a way of continuing to offer valuable services to residents by asking them to cover the disposal costs of their own home improvements. Over £1m savings were delivered as a result of the charging scheme in the first year of its implementation. Having to accept small quantities of DIY type waste free of charge will lead to an increase in costs but it is not possible to identify what that cost will be until the scheme is implemented and data gathered on how it is being used. Some control measures will be implemented to help mitigate those costs. Government have stated that there will be no new burdens funding available.

Segregating waste upholstered domestic seating at the HWRCs will lead to an increase in costs and these are still being evaluated. Government are aware of the additional burden that this will place on Waste Disposal Authorities. Discussions are continuing with the Environment Agency and it is anticipated that this cost burden will not be implemented until 2024/25.

Implementing the Collection & Packaging Reforms should bring additional funding to both the District Councils as Waste Collection Authorities and the County Council as Waste Disposal Authority. In particular the cost of managing packaging should be met by the producers from 2025 including the packaging in residual waste but Local Authorities may not be given any indicative figures until November 2024. Waste Collection Authorities will receive New Burdens funding to support weekly food waste collections from April 2026, but

clarity has yet to be provided as to how this will be calculated and whether it will be ring fenced for waste services.

8) Legal Considerations

The lawful implications/consequences of the proposals / recommendations have been considered and taken into account in the preparation of this report.

Changes to charging for DIY type waste is in response to the amendments of the Controlled Waste (England and Wales) Regulations 2012 which were laid before Parliament on 22nd November 2023. Measures & mitigations proposed to implement these new requirements must be compliant with the amended Regulations. The Environmental Protection Act 1990 (s51 (2)) allows the County Council as the Waste Disposal Authority to "... restrict the availability of specified places [HWRCs] to specified descriptions of waste." and as such the County Council can restrict waste at certain sites.

The County Council is managing waste upholstered domestic seating in compliance with the Environment Agency requirements. These types of wastes will need to be segregated at the HWRCs by December 2024 at the latest unless the Environment Agency agree otherwise, and discussions continue with the Environment Agency over their interpretation of the Regulations in an attempt to arrive at a mutually acceptable way forward. Legal support has been obtained in this regard and further support may be required depending on the outcome of any such discussions.

9) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)

Proposals that impact on managing waste at the HWRCs will mean that some materials will no longer be accepted at all HWRCs and the public may have to travel further with their waste, and there is potential for fly tipping to increase.

The Collection & Packaging Reforms generally should improve how waste is managed nationally and help householders recycle more.

10) Equality Considerations

Where relevant, in coming to a decision the Equality Act 2010 Public Sector Equality Duty requires decision makers to give due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding

in relation to the protected characteristics (age, disability, gender reassignment, marriage and civil partnership (for employment), pregnancy and maternity, race/ethnicity, religion or belief, sex and sexual orientation).

A decision maker may also consider other relevant factors such as caring responsibilities, rural isolation or socio-economic disadvantage.

In progressing this particular scheme / proposal, an Impact Assessment has been prepared which has been circulated separately to Cabinet Members and also is available on the Council's website at <https://www.devon.gov.uk/impact/waste-management-legislative-changes/>.

Members will need to consider the Impact Assessment for the purposes of this item / meeting.

The proposals outlined in this report are in response to Government & Environment Agency requirements and will apply to all residents of the Devon County Council administrative area.

11) Risk Management Considerations

This policy/proposal has been assessed and all necessary safeguards or action have been taken / included to safeguard the Council's position.

Risks are present in the following areas: -

- Financial impact/uncertainty of the legislative changes & EA requirements and the effectiveness of the proposals to help mitigate these costs
- Potential for challenge to the County Council's interpretation of the changes to legislation/ EA requirements and the measures put in place to mitigate costs
- Public dissatisfaction with the proposals (which may result in significant numbers of complaints/challenges arising)
- More abuse/aggression/violence towards HWRC staff having to implement any policy and County Council staff in managing complaints.

12) Summary / Conclusions / Reasons for Recommendations

The proposals outlined in this report are required as a result in changes in legislation or Environment Agency requirements. Mitigation factors are proposed in order to balance public service satisfaction whilst trying to control costs. Delegated powers are sought such that operational changes can be made on HWRC sites to comply with the changes in legislation and EA requirements.

Meg Booth

Director of Climate Change, Environment and Transport

Electoral Divisions: All

Cabinet Member for Public Health, Communities and Equality: Councillor Roger Croad

Local Government Act 1972: List of background papers

Nil

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Appendix 1 to CET/23/100 – Criteria for free DIY waste to be accepted as household waste

Government have amended the Controlled Waste Regulations 2012 to make clear where DIY waste currently classified as construction & demolition waste should be treated as household waste & no charge levied. The requirements are: -

“(i) the waste is produced at a domestic property by occupiers of that domestic property carrying out their own construction or demolition works, including preparatory works;

(ii) the waste is not from construction or demolition works, including preparatory works, for which payment has been or is to be made;

(iii) the amount of waste delivered to any waste disposal site in a single visit is either—

(a) less than 100 litres and capable of being fitted into two 50 litre bags, or

(b) a single article of waste no larger than 2000mm x 750mm x 700mm in size; and

(iv) the waste delivered to waste deposit sites does not exceed four single visits per household in any four week period”.

These changes will be brought into force from 31st December 2023.

The full wording of The Controlled Waste (England and Wales) (Amendment) (England) Regulations 2023 is provided here:- [The Controlled Waste \(England and Wales\) \(Amendment\) \(England\) Regulations 2023 \(legislation.gov.uk\)](#)