

NORTH LONDON WASTE AUTHORITY

REPORT TITLE: CONSULTATIONS AND POLICY UPDATE

REPORT OF: MANAGING DIRECTOR

FOR SUBMISSION TO: AUTHORITY MEETING

DATE: 9 FEBRUARY 2023


SUMMARY OF REPORT:

This report provides an update on Government consultations and policies that impact on Authority operations or activities. Specifically, the report covers the planned Electricity Generator Levy and Government proposals for consistency in waste collections (including plans for separate food waste collections), as well as an outline of new plans on Packaging Reforms and the ban of single use plastics in takeaway settings.

RECOMMENDATIONS:

The Authority is recommended to:

- A. Note the proposed Government Electricity Generator Levy;
- B. Note the update on the Deposit Return Scheme;
- C. Note the update on the Government Consistency of Collection consultation, including new information on proposals for Separate Food Waste Collections;
- D. Note proposals for further Packaging Reforms and the ban of single use plastics in takeaway settings; and
- E. Delegate authority to the Managing Director, in consultation with the Chair and Vice Chairs, to respond to ongoing Government consultations and policies and liaise with Government officials on proposals which will impact Authority operations or activities.

SIGNED:  **Managing Director**

DATE: 30 January 2023

1. INTRODUCTION

- 1.1. This paper provides an update for Members on Government consultations and policies that are relevant to the Authority and have the potential to affect the Authority's operations, performance and/or costs.
- 1.2. There have been a number of Government announcements and indications of progress on waste reforms in early 2023. This is welcome progress as consultations took place in early 2021. The proposals and limitations – and the consequences for waste management – are outlined in the paper below. The Government plans are likely to involve further engagement with interested parties. No specific indication of future consultation arrangements have been given. The report asks that the Authority agrees to delegate to the Managing Director in consultation with the Chair and Vice Chairs the authority to respond to any further consultations on the issues discussed in this report.
- 1.3. In developing the final Authority responses to consultations and policies, officers have and will continue to participate in discussions with individual local authorities, local authority representative groups, private sector processors, the network of waste disposal authorities and the Chair and Vice Chairs.
- 1.4. The responses which have already been submitted are available on the Authority's corporate [website](#).

2. ELECTRICITY GENERATOR LEVY

- 2.1. In the November 2022 autumn budget, the Chancellor of the Exchequer announced an intention to apply an Electricity Generator Levy (EGL) with effect from 1 January 2023. On 20 December 2022 Government published draft legislation setting out how the EGL would work.
- 2.2. The EGL will apply to companies generating over 50,000 Megawatt Hours per year. LondonEnergy Ltd generates over 200,000 and so would be covered by the levy as would all energy from waste operators treating a total of over around 150,000 tonnes of waste. The levy applies to income above £75 per Megawatt Hour. The first £10 million of leviable income is exempt; thereafter a levy rate of 45% is applied and in addition income is subject to corporation tax at 19% (rising to 25% from April 2023) meaning the effective rate of the levy is 70%. The levy applies from 1 January 2023 to 31 March 2028 and is collected quarterly.
- 2.3. The broad principle of the EGL is widely supported - namely that excessive profits made through the sale of energy by commercial generators should be appropriately taxed to help fund Government to support initiatives to reduce the impact for residents of rising energy bills. However, in the case of LondonEnergy Ltd it means that money which would otherwise come to public authorities will, instead be paid

through the levy. LondonEnergy Ltd assess that the likely liability in calendar year 2023 will be over £20 million. While a windfall rebate to the Authority's 2023/24 levy is proposed in papers to this meeting, without the levy further rebates would be possible.

- 2.4. The Authority has made representations to Government as has the Local Government Association. While the Authority will lose windfall additional income which could be applied for the benefit of residents, officers are aware of some local authorities elsewhere in the UK which have long term disposal contracts with private sector contractors who face liabilities under change of law provisions in their contracts.
- 2.5. Disposal of residual waste via energy from waste facilities is the best environmental solution for waste which cannot be recycled and provides a vital solution for problematic waste streams like Persistent Organic Pollutants (POPs) for which there is no other outlet. It has a significantly lower impact than landfill, and electricity can be generated as a by-product of waste disposal which helps the UK's energy security and reduces reliance on other fuels. Local Government has proposed that facilities whose waste is predominantly made up of Local Authority Collected Waste (LACW) be excluded from the levy. However, Government is not adopting this exclusion. Officers will continue to present the case for protecting income which would support public sector bodies, though prudent planning the Authority's financial forecasts for 2023/24 and beyond assume application of the levy to LondonEnergy Ltd income.

3. DEPOSIT RETURN SCHEME

Background

- 3.1. Two consultations have been held on developing a Deposit Return Scheme (DRS). The first, in 2019, explored the design and scope that a DRS model could take. On 24 March 2021, the UK Government launched a second consultation on delivery of a DRS for single use drinks containers. The consultation ran for 10 weeks and closed on 4 June 2021.
- 3.2. NLWA officers compiled a detailed response to the second consultation which can be found on the Authority's corporate [website](#).

Government Response to Consultation

- 3.3. On 20 January 2023, the Government published its response to the DRS consultation.
- 3.4. The Government response has confirmed that Polyethylene terephthalate (PET) bottles; steel and aluminium drinks containers ranging from 50ml to 3l will be in scope of the scheme. Although NLWA argued for the inclusion of glass bottles, High

Density Polyethylene (HDPE) bottles and cartons in an 'all in' approach, these items have been excluded in England and Northern Ireland. Glass will be included in the scheme which will apply in Wales.

- 3.5. The Government has confirmed that items which are covered by the DRS will be mandated to use both an identification marker to identify the product as part of a DRS and a barcode or QR code to enable the container to be recognised at the return point. NLWA are in favour of clear labelling to support residents to use the scheme and recover their deposit.
- 3.6. The Deposit Management Organisation (DMO - an organisation to be appointed to run the DRS) will be appointed through an application process set out in the regulations. It was originally proposed that the appointment would be made following regular competitive tendering. The DMO will be made up of representatives from individual companies and trade and industry bodies. NLWA called for local authorities to be represented on the DMO, and argued that if they were not, there should be a requirement for the DMO to liaise with local authorities and have a formalised dispute resolution process. Officers are waiting for details on this point.
- 3.7. The DMO will be required to meet a 90% recovery of in scope material by year 3, this is consistent with the Authority position.
- 3.8. In setting producer registration fees the DMO must consult with producers, and give consideration to the size of the producer, based in part on the number of drinks containers that producer places on the market. The DMO will have responsibility for setting the deposit level (fixed or variable) within limit set by regulation.
- 3.9. Retailers selling in scope containers will be obligated to host a return point, with exemption applications made to the DMO. The DMO will be obligated to consider the strategic placement of return points, to ensure an accessible and comprehensive network of return points. The DMO is also obligated to ensure a takeback service is offered in respect of online purchases, particularly by large online grocery retailers, from day 1.
- 3.10. The DRS is expected to recover around 90% of in scope materials by year 3, with 10% remaining in Local Authority Collected Waste (LACW). The Authority - with the majority of local authority respondents - called for payments to be made to local authorities to manage this waste through Extended Producer Responsibility (EPR) payments. The government have ignored the majority view and have confirmed that local authorities and where relevant, waste operators, can participate in the DRS by separating out containers that remain in Local Authority Collected Waste Streams and redeeming the deposit on them. This solution is potentially very challenging. A high proportion of in scope materials which are presented in the

residual waste stream from households or from street collections are likely to be unrecoverable. Where DRS material is in the household recycling, changes to existing Materials Recovery Facilities will be required to recover in scope materials with legible barcodes.

- 3.11. The approximate tonnage of in scope DRS material treated by the Authority via the Dry Mixed Recycling stream is 8,200t per year. This scheme will principally reduce recycling volumes managed by the Authority, this should produce an overall better environmental outcome if residents adjust well to the concept of the DRS. The tonnage of glass managed by the Authority through the Dry Mixed Recycling stream is approximately 23,600t per annum this is a missed opportunity to use the DRS infrastructure for this material also.
- 3.12. The consultation looked at the potential for digital applications to support residents to recover their deposit after placing items in their at home recycling bin. Welsh Government is currently funding further research on, and evaluation of, this topic. England, Wales and Northern Ireland will, through the DMO appointment process, look to understand more from applicants about how a digital system could be implemented or tested further as part of the eventual roll out of the scheme.

Next Steps

- 3.13. The next phase of DRS implementation will be to finalise the regulations and appoint the DMO. Government is aiming for the regulations to be in place by the end of 2023, with the DMO appointed by summer 2024.
- 3.14. The government have indicated that through regulation they will state a commencement date of 1 October 2025. However, they will work with industry to continually assess the feasibility of this date through the implementation phase and the DMO application process. Officers will consider the implications for the Authority's duties and the potential opportunities to assist with infrastructure which will be required to run the DRS.

Obligating DRS packaging in an intervening period

- 3.15. There will be a gap between the launch of Extended Producer Responsibility (EPR) for packaging and the launch of DRS for drinks containers. Government have set out the use of Packaging Waste Recycling Notes and Packaging Waste Export Recycling Notes to satisfy the obligation created by DRS in the intervening period before the DRS is operational. Producers of DRS packaging will not be required to pay the disposal cost fees under EPR for their packaging which ends up in household waste or in street bins.
- 3.16. Glass bottles, which are not in scope in England will be covered by the disposal cost obligations under EPR, when this scheme goes live.

4. CONSISTENT COLLECTIONS

- 4.1. This consultation on Consistency in Household and Business Collections (CC consultation) opened on 7 May 2021 and closed on 4 Jul 2021. The CC consultation was part of the Department for Environment, Food and Rural Affairs (Defra) overarching Resources & Waste Strategy, which also includes the proposed launch of a Deposit Return Scheme (DRS) and an Extended Producer Responsibility (EPR) Scheme.
- 4.2. The CC consultation included proposals that local authorities should be mandated to provide free garden waste collections and weekly separate food waste collections to all properties.
- 4.3. Over the last 20 years, the UK recycling rate has increased substantially. However, it has become clear that performance is stagnating. The Government has said that its proposals are intended to improve performance by reducing confusion for residents and increasing recycling tonnages.
- 4.4. The Authority's consultation response supported the intent of the proposals. However, as regards garden waste, where charging had been introduced, it had not led to a loss of green waste tonnages. While separate food waste collections are a positive development, there are some circumstances especially in dense urban areas with communal waste facilities where it can be especially challenging to obtain good volumes of separated, uncontaminated food waste.

5. SEPARATE FOOD WASTE COLLECTIONS

- 5.1. The consistency of collections consultation included a proposal for all Waste Collection Authorities (WCAs) in England to arrange for separate food waste collections (SFWC) at least once a week from every residential property for recycling or composting. In addition to collection challenges mentioned above, some disposal authorities have highlighted to Government that they have long term disposal contracts which could not incorporate the separate disposal of food waste. Defra therefore wrote to waste disposal authorities in December 2022 to understand how wide the constraints on disposal services were. In north London, there will be handling capacity to support the volume of waste associated with implementation of separated food waste collections to all households from the end of 2023 without adversely impacting the residual disposal contract or other operations at a waste disposal authority level. This is as a result of our owning LondonEnergy Ltd and providing the new resource recovery facility which includes capacity to deal with future evolution of the waste stream.
- 5.2. Wholly owning LondonEnergy Ltd, provides flexibility to manage our waste disposal contract, including the food waste element without penalty. With the Resource Recovery Facility coming into service at the EcoPark in 2023 we will also have the

necessary infrastructure to accommodate treatment and disposal of additional food waste.

- 5.3. In addition to correspondence, Defra officials also contacted the Authority team. This led to a meeting on 12 January including Authority officers, Directors of Environment and other lead officers from our boroughs, along with Defra representatives. It seems likely that the Government will aim for a date of March 2025 to implement mandatory separate food waste collections, with new burdens funding available to collection authorities from 2023/24. This will need to be confirmed by a formal Government policy statement but is the emerging approach. The arrangements for supporting collection authorities – especially where there are high levels of communal waste collection – remain to be confirmed. Where there are disposal challenges, an implementation delay may be allowed, but that would not apply in north London for reasons outlined in para 4.1 above.
- 5.4. We will provide further updates as Government plans are further developed, including on consequences for collection authorities.

6. PACKAGING REFORMS & THE BAN OF SINGLE USE PLASTICS IN TAKEAWAY SETTINGS

- 6.1. On 14 January 2023, Defra published plans to ban some single use plastics.
- 6.2. The ban includes the supply of single-use plastic plates, trays, bowls, cutlery, balloon sticks, and certain types of polystyrene cups and food containers.
- 6.3. The ban on the supply of single-use plastic plates, trays, and bowls will not apply to plates, trays, and bowls that are used as packaging, in shelf-ready pre-packaged food items as defined in The Packaging (Essential Requirements) Regulations 2015 regulation 3(b) (This includes items such as bowls and platters in a frozen meals).
- 6.4. There are exemptions from the ban to avoid duplication or confusion with government proposals for an extended producer responsibility scheme (EPR) for packaging.
- 6.5. For clarity, plastic plates, bowls, and trays that are used as packaging can also be used in eat-in and takeaway settings. However, Defra are strongly encouraging businesses to explore how they can reduce the use of these single-use items and move to reusable alternatives instead.
- 6.6. The ban on the supply of plastic bowls and trays that are not packaging will be a ban on supply to the end user. This will allow businesses to purchase empty plates, bowls, and trays to use only as packaging for food; however, individuals will not be able to purchase these items.
- 6.7. The legislation will be enforceable from October 2023.

- 6.8. While the ban on single use items is welcome, the legislation does not go far enough and would in practice have a very limited impact. Defra's original consultation also covered wet wipes, single-use cups, tobacco filters and plastic sachets, but these do not feature in the new ban. Many single-use plastics items will therefore remain in the system, and continue to have a negative impact on the environment.
- 6.9. The Authority is also concerned that delays in the introduction of EPR legislation, which is already well behind schedule, will enable businesses to continue to use single use plastics without sanction. Furthermore, the thresholds at which businesses qualify for EPR scheme are high and a large number of outlets will therefore be exempt. The thresholds are; turnover in excess of £1m per year or having produced or used over 25 tonnes of EPR qualified material.

7. EQUALITIES IMPLICATIONS

- 7.1. The impact of implementing the government consultations listed above is unknown at this stage. However, if any equalities implications for residents are identified at the next stage of consultations, these will be set out in future reports to members.

8. COMMENTS OF THE LEGAL ADVISER

- 8.1. The Legal Adviser has been consulted in the preparation of this report.

9. COMMENTS OF THE FINANCIAL ADVISER

- 9.1. The Financial Adviser has been consulted in the preparation of this report and comments have been incorporated.

List of documents used:

Draft Electricity Generator Levy

Government Response - Introducing a Deposit Return Scheme for drinks containers in England, Wales and Northern Ireland

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