

## **NORTH LONDON WASTE AUTHORITY**

**REPORT TITLE:** CONSULTATIONS AND POLICY UPDATE

**REPORT OF:** MANAGING DIRECTOR

**FOR SUBMISSION TO:** AUTHORITY MEETING

**DATE:** 5 OCTOBER 2023

### **SUMMARY OF REPORT:**

This report provides an update on Government consultations and policies that have a potential to impact Authority operations or activities. Specifically, the report provides an update on changes from the Department for Environment, Food and Rural Affairs (Defra) to the timescales for waste reforms, and updates on the inclusion of Energy from Waste (EfW) in the United Kingdom Emissions Trading Scheme (UK ETS).

The report references the National Audit Office's investigation and Public Accounts Committee's Inquiry into Defra's waste reform management. It also provides an update on the Authority's recent response to a Defra consultation on the ban on biodegradable waste to landfill.

### **RECOMMENDATIONS:**

The Authority is recommended to:

- A. Note the proposed changes to the timescales for Extended Producer Responsibility (EPR), Deposit Return Scheme (DRS) and consistency in business and household waste recycling;
- B. Note the proposals to include Energy from Waste (EfW) in the Emissions Trading Scheme (ETS) from 2028;
- C. Note the National Audit Office's investigation and Public Accounts Committee's inquiry into DEFRA's waste reform management;
- D. Note the Authority's recent response to the Government's consultation on the ban on biodegradable waste to landfill; and
- E. Delegate authority to the Managing Director, in consultation with the Chair and Vice Chairs, to respond to ongoing Government consultations and liaise with

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Government officials on proposals which will impact Authority operations or activities.

**SIGNED:** ..... **Managing Director**

**DATE:** 25 September 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. The consequences for waste management are outlined in the paper below. The Government plans are likely to involve further engagement with interested parties. The report asks that the Authority agrees to delegate to the Managing Director in consultation with the Chair and Vice Chairs, to respond to any further consultations on the issues discussed in this report.
- 1.3. This paper addresses the issues in sequence according to potential dates of implementation. The Prime Minister made a recent announcement on waste collection reform which is referenced in section 2.16. 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 Member Recycling Working Group.
- 1.4. The responses which have already been submitted are available on the Authority's corporate website ([nlwa.gov.uk/ourauthority/consultation-responses](https://nlwa.gov.uk/ourauthority/consultation-responses)).

## **2. DELAYS TO COLLECTIONS AND PACKAGING REFORMS**

### **Extended Producer Responsibility (EPR)**

- 2.1. The UK EPR covering packaging was first suggested in the Government's Resources and Waste Strategy (2018). A consultation opened in March 2021 and closed in June 2021. The scheme is intended to make producers pay a greater amount towards the disposal of their packaging. This provides funding to local authorities and increases the incentive for producers to use less packaging to reduce their EPR liabilities. Since the Resources and Waste Strategy, the development of any scheme has been subject to a number of delays.
- 2.2. On 25 July 2023, Defra announced that a decision had been made to defer the scheme by one year. This means that payment by producers and the provision of funding to local authorities will start no earlier than October 2025, compared with a previous target date of October 2024.
- 2.3. EPR does represent a complex regulatory change, but NLWA and other authorities have made clear our willingness to work urgently with Government to put in place appropriate arrangements. However, it has been suggested that the delays are due to fears that the reform would add to consumers' costs by increasing the price of

products. Retailers and producers have been consistent in expressing concern about transferring costs to them.

- 2.4. The proposed delivery date for EPR will follow the next general election, as one must be called before the end of 2024. At present there is no clear timetable to put in place all arrangements for the new EPR system by October 2025, and therefore it is not possible to understand what decisions are expected when. The later this reform occurs, the later there will be an enhanced environmental incentive for producers to reduce packaging, and the longer local authorities will continue to bear the cost of disposing and recycling packaging.
- 2.5. EPR will be managed by the Scheme Administrator (SA), which will calculate local authority payments. Authorities will be grouped together to determine basic payment amounts per tonne of packaging, but it is currently unknown what criteria will be used to determine the groups. Local Authorities will also be judged on providing 'efficient' and 'effective' waste management services, and their payments may be reduced if they are considered to fall short of this criteria. NLWA remain concerned that these yet to be confirmed definitions could lead to some authorities being penalised for circumstances which are beyond their reasonable control (housing stock, population density, cost of depot space, travel time etc).
- 2.6. Elements of the revised timeline for the development of the scheme also remain unclear and engagement opportunities seem limited. A series of "sprints", steering groups and sounding boards are now scheduled to take place which will contribute to the scheme's design. However, local authority representation in these meetings is limited, leading to concerns that local authorities' input in the scheme going forward will be restricted.
- 2.7. The Authority has made representations to Government and is regularly in dialogue with the Local Government Association and the National Association of Waste Disposal Officers, who are represented in the consultation forum. An NLWA internal working group has been established to review the impact of the EPR scheme on the Authority and the constituent boroughs, including reviewing the Government's high-level estimates of potential EPR payments. This group will report to Directors of Environment and Finance in the respective Boroughs on a regular basis.

### **EPR Regulations Consultation**

- 2.8. The Government is currently holding a consultation on the draft producer responsibility obligations regulations concerning EPR. This is a specific detailed element of EPR, and Defra are seeking views on:
  - 2.8.1. The clarity of responsibilities of relevant parties

- 2.8.2. The feasibility of the operational processes required to meet the obligations set out in the regulations
  - 2.8.3. The completeness of the regulations as the basis for the implementation of EPR
  - 2.8.4. Any unintended consequences of the regulations as a whole
- 2.9. NLWA officers are currently in the process of reviewing the consultation and plan to submit a response in due course.

#### **Deposit Return Scheme (DRS)**

- 2.10. The delay to the EPR may impact the timelines of other waste reforms that manage collections and packaging.
- 2.11. A DRS for the UK was also suggested in the Government's Resources and Waste Strategy (2018). Two consultations have been held on developing the DRS. The first, in 2019, explored the design and scope that a DRS model could take, and in March 2021, the Government launched a second consultation on delivery of a DRS for single use drinks containers.
- 2.12. At the current time, the Government has assured stakeholders that the start date for the scheme will be as planned, in October 2025. However, they have also said they will work with industry to continually assess the feasibility of this date. Recent media reports have suggested that the scheme is likely to be delayed until 2026, bearing in mind the probability that DRS will follow the introduction of EPR
- 2.13. The scheme is likely to impact local authorities in several ways. The Government has suggested that authorities will be able to separate out and redeem the deposits of containers that end up in waste streams, although the practicality of this is currently unknown. Authorities may also see a reduction of items in recycling streams, resulting in lower recycling rates and loss of material revenue.
- 2.14. Authority officers have conducted a review of contractual impacts of DRS on the Authority's existing Dry Mixed Recycling (DMR) contract with Biffa. Officers have also produced estimates of potential reduction in tonnages and corresponding saving. The net impacts are expected to adversely affect the Authority within a range of £500k and £2.3M depending on recyclate value. This loss arises from the fact that the limited DRS proposed (including aluminium, steel and PeT plastic, but excluding glass) takes the material which has the highest value per tonne of our recycling. Officers will continue to consider the implications for the Authority and its constituent boroughs and will update members in due course.

## **Consistency of Collections (CC)**

- 2.15. The consultation on Consistency in Household and Business Collections opened on 7 May 2021 and closed on 4 Jul 2021. The CC consultation was also part of Defra's over-arching Resources and Waste Strategy. Along with the delay to EPR, it was also announced in July that consistent local authority recycling collections will be introduced after the implementation of EPR for packaging, at an unspecified date.
- 2.16. On 20 September, the Prime Minister announced he would abandon plans for households to have seven recycling bins, and it was reported widely that this was in reference to part of Defra's consistent recycling reforms. The same evening, Defra announced that a 'simpler recycling' system proposal would be outlined shortly. We await clarity about what this will entail, but it is thought that much of the consistency plans could still be brought forward under the new proposals.
- 2.17. No response to the original consultation has been released, which means details surrounding the policy are particularly unclear. Arrangements for new burdens funding are currently unknown, as is whether authorities will be able to use TEEP (technically, environmentally and economically practical) assessments as a derogation for prescribed collections models that are unsuitable locally.
- 2.18. NLWA is continuing to work collaboratively with its constituent boroughs to plan using the limited information that is available at the moment. We have ensured that the collections modelling options for the Joint Waste Strategy include collection models include in the CC consultation information, to inform the strategy of potential impacts of the various models that could be imposed.

## **Inclusion of Energy from Waste in the Emissions Trading Scheme**

- 2.19. The Department for Energy Security and Net Zero (DESNZ) is taking forward proposals to include Energy from Waste (EfW) into the UK Emissions Trading Scheme (ETS) from 2028.
- 2.20. The UK ETS was initiated in January 2021, replacing the EU scheme. In 2022, the Government launched a call for evidence on expanding the UK ETS to the waste sector. In July 2023, the Government published its response to the consultation, confirming that energy from waste and incineration plants will be included from 2028.
- 2.21. This will result in material additional costs for operators of incinerators and EfW facilities and will raise the costs of waste disposal for local authorities. Government is considering the extent to which free carbon allowances might be made available and what criteria would apply to any free allowances. In the absence of that, the potential cost to NLWA would depend on carbon permit prices. Officers estimate that this would add some £23m per year to NLWA's costs (at current prices).

- 2.22. The new policy is also expected to have significant interaction with other forthcoming waste reforms. Officers are working to understand the full impacts of this policy and will advise further.

#### **National Audit Office (NAO) and Public Accounts Committee**

- 2.23. In June 2023, the National Audit Office published a report on the management of Government's Resources and Waste Reforms for England. The report concluded that Defra lacked an effective long-term plan to reduce waste which will contribute to reversing or reducing climate change.
- 2.24. The NAO report highlights that several years on from publishing the Resources and Waste Strategy, effective delivery plans that set out how Government will achieve its long-term ambitions do not exist, making it increasingly difficult for businesses and local authorities to prepare for investment and regulatory changes that will be required to achieve long-term plans. The NAO called on Defra to reduce uncertainty for stakeholders by having clearer plans in place for the delivery of key reforms.

#### **Public Accounts Committee (PAC)**

- 2.25. In July 2023, the Public Accounts Committee announced that following on from NAO's investigation, they would be holding an inquiry into problems with progress on the Government's Resources and Waste Reforms. The PAC further highlighted that the Government had commitments and requirements that predated this strategy, including through waste and recycling regulations transposed from the EU into UK law, and under the 1990 Environmental Protection Act.
- 2.26. The PAC held a hearing on 11 September with senior Defra officials on whether the Government has effective plans to achieve its resource and waste ambitions, and whether DEFRA is on track to successfully implement its main programme on collections and packaging reforms. This is reported on the UK Parliament's website ([committees.parliament.uk/oralevidence/13605/pdf](https://committees.parliament.uk/oralevidence/13605/pdf)).

### **3. BAN ON BIODEGRADABLE WASTE TO LANDFILL**

- 3.1. In May 2023, Defra opened a consultation on the near elimination of biodegradable waste to landfill. This called for evidence on how organisations could collectively stop sending biodegradable waste to landfill from 2028 onwards, taking into account views on how best to achieve this aim.
- 3.2. In the consultation, biodegradable waste is defined as 'any waste that is capable of undergoing anaerobic or aerobic decomposition, such as paper and cardboard, food, garden waste, natural fibre textiles and wood'. This would therefore include all local authority residual waste.

- 3.3. The environmental impact of biodegradable waste entering landfill is significant, as in the absence of oxygen below the surface, anaerobic degradation of biodegradable waste produces landfill gases, predominantly methane and carbon dioxide. Landfill gases from closed and operational landfills is thought to emit a significant percentage of the total emissions from the waste sector.
- 3.4. The Authority coordinated a response to the consultation, highlighting that although the environmental motivations of the proposal were understood, and although NLWA sends only a tiny proportion of waste to landfill (0.6% in 2022/23), it is important to understand the sector-wide resilience consequences. This would include needing to ensure that there is sufficient energy from waste capacity nationally and locally to be able to manage waste, including during maintenance periods when capacity is reduced. The full NLWA consultation response can be found on the Authority's website ([nlwa.gov.uk/ourauthority/consultation-responses/submission-defras-near-elimination-biodegradable-waste-landfill](https://nlwa.gov.uk/ourauthority/consultation-responses/submission-defras-near-elimination-biodegradable-waste-landfill)). Defra is currently analysing consultation responses. Officers will provide an update once the Government has provided feedback.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1. 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.

#### **5. COMMENTS OF THE LEGAL ADVISER**

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

#### **6. COMMENTS OF THE FINANCIAL ADVISER**

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

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