

Public Report  
Improving Places Select Commission

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**Committee Name and Date of Committee Meeting**

Improving Places Select Commission – 01 February 2022

**Report Title**

The Environment Act 2021 - Impact on Waste Services

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

The Environment Act 2021 (the Act) received Royal Assent on the 9<sup>th</sup> November 2021 after a lengthy, two-year process.

The Act will set new legally binding environmental targets that will be monitored and enforced by a new body: the Office for Environmental Protection (OEP).

The Act requires the secretary of state for the Department of the Environment, Food and Rural Affairs (DEFRA) to set long-term legally binding targets on air quality, biodiversity, water, resource efficiency, and waste reduction. These targets must be of at least 15 years in duration, and be proposed by late 2022

The Act sets out specific legislation that is likely to have a significant impact on how waste and recycling are dealt with, and how Councils deliver Waste Services, in the future.

This report draws out the key issues stemming from the Act that will impact on the Council's Waste Services in the coming years.

**Recommendations**

1. That the Improving Places Select Commission note the significant changes that are proposed in the Environment Act 2021 and the implications for Waste Services.

2. That the Improving Places Select Commission comment on the content of this report.

### **List of Appendices Included**

Appendix 1 – Equality Screening Assessment

### **Background Papers**

- [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
- [Resources and waste strategy for England - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [Rotherham MBC Waste Strategy \(bdronline.co.uk\)](https://www.bdronline.co.uk)
- [municipal-waste-strategy \(bdronline.co.uk\)](https://www.bdronline.co.uk)

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

N/A

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## The **Environment Act 2021** - Impact on Waste Services

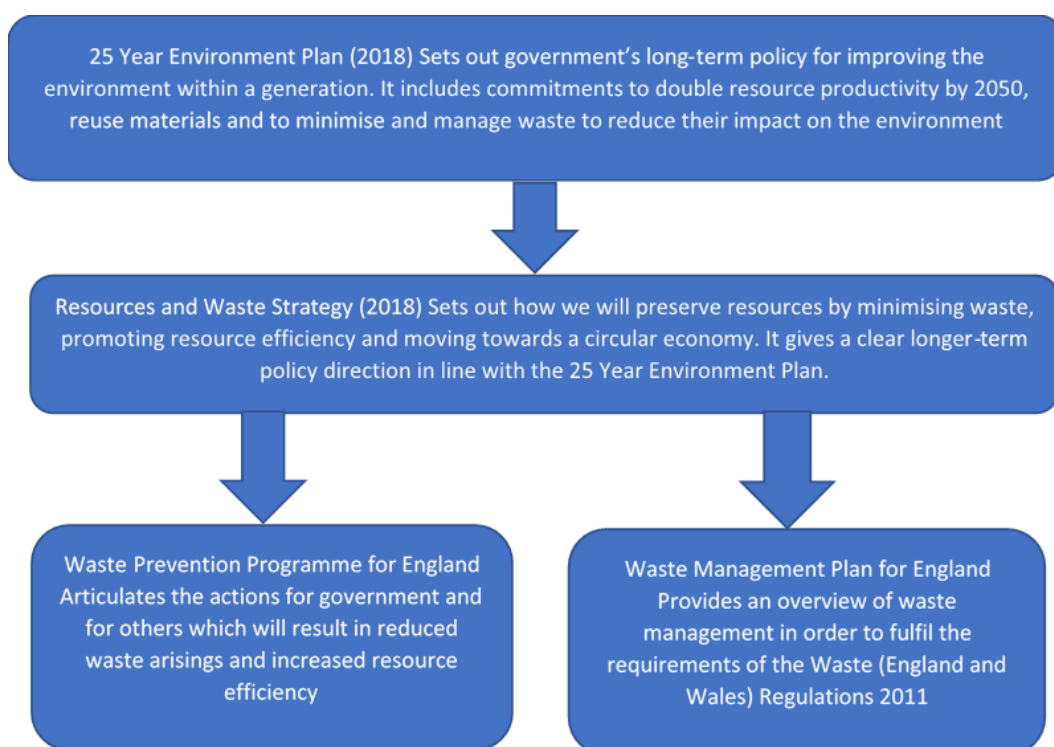
### **1. Background**

- 1.1 The Environment Act 2021 (the Act) received Royal Assent on the 9<sup>th</sup> November 2021. The Act creates a duty for the Secretary of State and Ministers to be guided by five internationally recognised environmental principles when making policy. These principles are:
  1. Integration - policymakers should look for opportunities to embed environmental protection in other fields of policy that have impacts on the environment.
  2. Prevention - government policy should aim to prevent, reduce or mitigate harm.
  3. Rectification at source – if damage to the environment cannot be prevented, it should be tackled at its origin.
  4. The Polluter Pays - those who cause pollution, or damage to the environment, should be responsible for its mitigation or compensation.
  5. Precaution - where there are threats of serious or irreversible environmental damage, a lack of scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.
- 1.2 The Act requires the Secretary of State to set long-term legally binding targets on air quality, biodiversity, water, resource efficiency, and waste reduction. These targets must be of at least 15 years in duration and be proposed by late 2022.
- 1.3 These targets will be monitored and enforced by a new body, the Office for Environmental Protection (OEP). The OEP was set up in an interim, non-statutory form in July 2021, providing independent oversight of the Government's environmental progress and accelerating the foundation of the full body. The OEP has not however yet been fully established and is not yet performing its statutory functions.
- 1.4 In particular, the Act sets out specific legislation that is likely to have a significant impact on how waste and recycling are dealt with, and how Councils deliver Waste Services in the future. These are detailed below. Much of the detail underpinning these proposals, for example the way in which schemes will be funded, are still to be fully finalised, with the results of consultation with Government expected to be published in February/ March 2022.

## 2. Key Issues

### The Waste Planning Framework

- 2.1 Prior to Brexit many of the legislative environmental protections in the UK came from EU law. EU law required that certain plans were in place and updated on a regular basis and although the UK has left the EU these plans are still relevant and have been updated and augmented to support the delivery of the environmental targets in the Act. The Act updated the Environment Act 1995 to ensure any gaps in environmental legislation because of leaving the EU are filled. The schematic below illustrates the plans relating to waste management that are in place:



- 2.2 A South Yorkshire Waste strategy covering the period from 2017 – 2021 is currently in place across the four South Yorkshire Local Authorities. This strategy has the circular economy at its heart and was drafted in anticipation of a revised Waste and Resource Strategy for England.
- 2.3 The passing of the Act into legislature will require a number of the above plans to be reviewed and updated. In particular the South Yorkshire Partnership recognise the need to review their achievements and progress to help inform any future strategy. Once the detailed consultation results are received a new Strategy will therefore be developed.
- 2.4 The Act sets out specific legislation that is likely to have a significant impact on how waste and recycling are dealt with, and how Councils deliver Waste Services in the future. This includes proposals for:
- Measures to reduce and prevent waste from homes and businesses.
  - Improving the consistency of household and business waste and

recycling collections including the introduction of separate food waste collections.

- Extended Producer responsibility to ensure the costs of disposal are borne by the producers of waste, e.g., packaging.
- Deposit return schemes to incentivise the recycling of certain types of packaging wastes, e.g., plastic bottles, drinks containers.

## **Waste Prevention**

- 2.5 Alongside the Environment Act, *the Waste Prevention Programme for England: Towards a Resource Efficient Economy* sets out priorities for action to manage resources and waste in accordance with the waste hierarchy - which means preventing waste through reuse, repair, and remanufacturing of products. This was consulted on by DEFRA between March and June 2021, and the feedback of this consultation is currently being analysed.

This draft programme focused upon:

- Products and design: Including eco-design and consumer information requirements, and Extended Producer Responsibility schemes.
  - Systems: Including producer responsibility and related collection and take back services, encouraging reuse, repair, leasing businesses and supporting facilities, and encouraging greater transparency by local authorities and businesses.
  - Information and data: including developing materials databases, product passports and encouraging voluntary corporate reporting.
- 2.6 The Council has a key role to promote the prevention and reduction of waste and the repair and reuse of items, through education of the public and work with the private and voluntary sectors to create opportunities for reuse to take place.

## **Consistency in Household and Business Collections**

- 2.7 The Act sets out the requirement for consistent recycling collections for all households and businesses in England. The following waste streams must be separately collected for recycling or composting, with a target date of October 2023:
- Glass
  - Metal (potentially including foil and foil trays)
  - Plastic (potentially including food/drink cartons and plastic film and flexible packaging by 2026/27)
  - Paper and card
  - Food waste (weekly as a minimum)
  - Garden waste
- 2.8 Two or more recyclable waste streams may be collected together where:
- it is not technically or economically practicable to collect recyclable household waste in those recyclable waste streams separately, or
  - collecting recyclable household waste in those recyclable waste

streams separately has no significant environmental benefit

- 2.9 At the present time, the changes made to recycling services in Rotherham in 2018/19 mean that the Council's domestic waste collection services are broadly compliant with this aspect of the Act, other than the provision of separate weekly food waste collections and the collection of plastic film and flexible packaging.

### **Separate weekly collection of food waste**

- 2.10 The introduction of separate food waste collections presents significant challenges to the Council. Additional staff and vehicle resources would be required to deliver the service, alongside budget for the disposal of the food waste collected.
- 2.11 Food waste requires treatment via technologies that are animal by-product legislation compliant. It cannot be sent to existing treatment facilities that solely process non-animal organic material such as garden waste. At present there is a national shortage of facilities that offer processing for separate food waste and disposal costs are very high even where capacity exists in the market. Significant investment in infrastructure will therefore be required in order to deliver food waste collections nationally.
- 2.12 Although the Act mandates separate food waste collection, Rotherham, Barnsley, and Doncaster are unique in the way residual waste is treated. Although collected in residual waste bins (pink lidded), residents' general waste is treated at the waste facility at Manvers using Mechanical Biological Treatment (Anaerobic Digestion). Modelling has shown that there may be very little carbon benefit from separate collection of food waste when compared to the current treatment facility performance. Any decision to implement separate food waste collections would therefore need to ensure that the environmental benefits of separate collections outweighed the significant costs incurred.
- 2.13 Given the technology in Rotherham, Barnsley and Doncaster, the Council are therefore currently discussing with DEFRA whether there may be potential to defer implementation of a separate food waste collection for long term contracts which use Mechanical Biological Treatment, where the Council assesses it is environmentally and economically the right thing to do.

### **Food and drink cartons, plastic film, and flexible packaging by 2026/27**

- 2.14 As with food waste, the recycling market for food/drink cartons and films and flexible packaging is limited at the current time. Technology such as chemical recycling that may be suitable for this type of material is still being developed. Separate collection of any material without a sustainable treatment outlet available could result in the material having to be sent to landfill.

- 2.15 Manufacturers are also looking at alternative methods of packaging their goods that may result in a move away from this material, which would be a more positive step, reducing the use of such plastics.

### **Extended Producer responsibility (EPR)**

- 2.16 The Act introduces Extended Producer Responsibility (EPR) regulations that require packaging manufacturers to pay the full costs of managing and recycling their packaging waste, with higher fees being levied if packaging is harder to reuse or recycle. These levies are proposed to fund the collection and disposal of material by Local Authorities.

- 2.17 Government consulted on:

- Scheme design – what materials should be in scope, what level of recycling targets should be set for the various materials.
- Scheme governance – various models for Scheme Administration have been proposed, however this has yet to be finalised.
- Implementation timelines – during the consultation it was proposed to be implemented from 2023. There has been a delay in analysing the consultation responses so there is potential for the timeline to slip.
- How the scheme will be enforced – it is currently proposed that the Environment Agency will enforce the requirements.

- 2.18 Whilst the principles of the scheme are broadly welcomed there are a number of risks for the Council stemming from this proposal:

1. It is understood that the budget settlements that Councils receive for waste services will be linked to payments from packaging producers in the future. The level of payment to the Council to dispose of materials will be based on an assessment of the efficiency and effectiveness of the collection service and payments can be reduced if the services are not considered effective and efficient. If this efficiency assessment is not robust or does not take into account local differences in services that would affect efficiency, there is a risk that the payments would not fully cover the costs of collecting and disposing of these hard to recycle materials.
2. It is currently unclear how the scheme will be administered and by whom. A nationally administered scheme carries significant risks, as described above.
3. Producers are likely to introduce changes in packaging to avoid the levies. Whilst this would be positive, if services come to rely on levy payments, there is a risk that this would impact on income generated, and therefore create a financial risk to the Council.

## **Deposit Return Scheme**

- 2.19 The Act describes proposals for a Deposit and Return Scheme for drinks containers, supported by Local Authorities in terms of collection and, potentially, administration. The aim of this is to:
- Reduce littering of items in scope
  - Increase recycling
  - Improve the quality of recycling for the items in scope, supported by clear labelling.
- 2.20 Government consulted on:
- The types of materials to be included in such a scheme, e.g. the inclusion of disposable cups
  - How the scheme will be governed – a Deposit Management Organisation (DMO) is yet to be appointed.
  - The potential locations for return points, e.g. supermarkets, other buildings. Who/ how these will be managed is still to be confirmed.
  - Financial uncertainty– including how councils would be re-imbursed for items they collect and for, potentially, administering the scheme.
- 2.21 Again, whilst the principles of such a scheme are broadly welcomed, given the potential to reduce litter in public spaces, there are a number of risks for the Council, not least the current uncertainty around what materials will be included, or who will administer the scheme.
- 2.22 There is also a risk that there may be a detrimental impact on the kerbside service should residents decide to recoup their deposits from a system that is not managed by the Council, leading to poorer quality and lower value recycling materials being left for kerbside collections, and increasing disposal costs for Councils. The mechanism for administering and funding for Council's in terms of the management and impact of the scheme is therefore key.

## **3. Options considered and recommended proposal**

- 3.1 There are no options to be considered in this report.

## **4. Consultation on proposal**

- 4.1 From April 2021 to July 2021 the Council took part in Government consultations in support of the Environment Bill, on the following:
1. Consistency in collections
  2. Deposit return scheme
  3. Environmental Principles
  4. Extended producer responsibility
  5. Waste Prevention
- 4.2 The consultation was open for all private and public sectors, all Local Authorities in the region have taken part, as well as other relevant industries



in South Yorkshire.

The Government's response to the consultation process is expected in February / March 2022. The Council expect that this response will also include more detailed and specific information about the above proposals, to enable the Council to plan effectively for the future.

## **5. Timetable and Accountability for Implementing this Decision**

### **5.1 Key dates in the timetable for changes are as follows:**

- Consultations on key principles April-July 2021
- Environmental Act 2021 received Royal Assent 9<sup>th</sup> November 2021.
- Response to the consultation due to be published between February-March 2022
- Elements of the Act that relate to the Waste service will need to be implemented on a range of timescales between 2023-2027.

### **5.2 Full public consultation will be required to take place to support the decision to make any significant changes to waste services.**

## **6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)**

### **6.1 There are considerable future financial implications for the Council stemming from the Environment Act 2021 (the Act) but not at this point. The Act set's out that future legislation will determine arrangements however not until a period of consultation has elapsed. The financial implications will be assessed further once full details of the outcome of the consultation is known.**

## **7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)**

### **7.1 The Environment Act 2021 places a number of legal requirements on the Council in terms of the future delivery of Waste Services. The impact of the legislation needs to be fully worked through and thorough consideration needs to be given to legal requirements to ensure that the Council is complaint with the relevant provisions to reduce the risk of any legal challenge/action.**

## **8. Human Resources Advice and Implications**

### **8.1 The report notes the impact and requirement for additional staffing resources, should any decision be taken to introduce separate food waste collections.**

## **9. Implications for Children and Young People and Vulnerable Adults**

### **9.1 There are no implications for Children and Young People or Vulnerable Adults stemming from this report.**

## **10. Equalities and Human Rights Advice and Implications**

- 10.1 There are no Equalities and Human Rights implications stemming from this report. An Equality Screening Assessment has been undertaken and can be found at Appendix 1.

## **11. Implications for CO<sub>2</sub> Emissions and Climate Change**

- 11.1 Whilst this report itself has no implications for CO<sub>2</sub> emissions and Climate Change, the disposal and treatment of waste has a significant impact on CO<sub>2</sub> emissions. The effective disposal of waste has the potential to deliver significant benefits in terms of reductions in CO<sub>2</sub>.
- 11.2 Any future proposals will be subject to a full assessment in terms of the impact on CO<sub>2</sub> and Climate Change.

## **12. Implications for Partners**

- 12.1 There are no implications for partners stemming from this report.

## **13. Risks and Mitigation**

- 13.1 There are no specific risks stemming from this report. The risks associated with the Environment Act 2021 are described in the main body of the report above.

### **Accountable Officer(s)**

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This report is published on the Council's [website](#).