

Committee Name and Date of Committee Meeting

Improving Places Select Commission – 06 June 2023

Report Title

Update on the Environment Act 2021 and the impacts on the Waste Service

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)

Sam Barstow, Assistant Director Community Safety and Streetscene

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Lisbeth Baxter, BDR Manager

Ward(s) Affected

Borough-Wide

Report Summary

The Environment Act 2021 (the Act) strengthens the vision of the Environment Act 1995 and sets new legally binding environmental targets. These targets will be monitored and enforced by a newly appointed independent body, the Office for Environmental Protection (OEP). Several policies, plans and strategies are in place to ensure these targets are met.

Implementations of the requirements of the Act can result in increased costs to the Council due to increase reporting requirements, increased collection costs, increased disposal costs and increased resource requirements. There are also income streams that can be accessed for complying with the requirements but to ensure the maximum payment the service will need to be efficient and effective.

To ensure that material is managed in compliance with the law the consultations indicated there will be more emphasis on competent persons and good quality data. This will require ongoing staff training and better data capture systems

Efficient and effective management of waste will contribute to the Council's Carbon Neutral by 2030 target.

Recommendations

1. That Improving Places Select Commission note the significant changes that are proposed in the Environment Act 2021 and the implications for Waste Services.
2. That Improving Places Select Commission note the ongoing uncertainties of the changes in relation to Consistency of Household and Business Recycling
3. That Improving Places Select Commission comment on the content of this report.

List of Appendices Included

None

Background Papers

[Environment Act 2021 \(legislation.gov.uk\)](https://legislation.gov.uk)

[25 Year Environment Plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk)[Resources and waste strategy for England - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

[Environmental Improvement Plan 2023: Executive summary - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

[Rotherham MBC Waste Strategy \(bdronline.co.uk\)](https://bdronline.co.uk)

[municipal-waste-strategy \(bdronline.co.uk\)](https://bdronline.co.uk)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Name of Committee – Click here to enter a date.

Name of Committee – Click here to enter a date.

Council Approval Required

No

Exempt from the Press and Public

No

Update on the Environment Act 2021 and the impacts on the Waste Service

1. Background

1.1 The Environment Act 2021

The Environment Act 2021 (the Act) strengthens the vision of the Environment Act 1995 and 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 Environmental Targets

To deliver the outcomes the Department of the Environment, Food and Rural Affairs (DEFRA) set long-term legally binding targets on air quality, biodiversity, water, resource efficiency, and waste reduction on the 16 December 2022. The targets are summarised below and link to key aspects of work already underway locally such as actions to achieve net zero by 2030 as well as the work currently underway by Scrutiny to explore ways to protect and improve biodiversity:

- Halt the decline in species populations by 2030, and then increase populations by at least 10% to exceed current levels by 2042
- Restore precious water bodies to their natural state by cracking down on harmful pollution from sewers and abandoned mines and improving water usage in households
- Deliver our net zero ambitions and boost nature recovery by increasing tree and woodland cover to 16.5% of total land area in England by 2050
- Halve the waste per person that is sent to residual treatment by 2042
- Cut exposure to the most harmful air pollutant to human health – PM2.5

- Restore 70% of designated features in our Marine Protected Areas to a favourable condition by 2042, with the rest in a recovering condition.

1.3 These targets will help the UK transition to a more circular economy, incentivising people to recycle more, encouraging businesses to create sustainable packaging, making household recycling easier and stopping the export of polluting plastic waste to developing countries.

2. Key Issues

2.

2.1 Office for Environmental Protection

2.1

Targets are monitored and enforced by a new body; the Office for Environmental Protection (OEP). The OEP provides independent oversight of the Government's environmental progress, it is Chaired by Dame Glenys Stacey and the reports and advice they have given can be found on their website at www.theoep.org.uk.

2.2

The OEP have reviewed Government progress to improve the natural environment in England and have found it to be unsatisfactory and have made several suggestions on preparation of future Environmental Improvement Plans (EIP). These include a requirement to provide context and explanation on how the numerous plans interlink and who is responsible for what. The EIP 2018 was reviewed in January 2023 an executive summary can be found at [Environmental Improvement Plan 2023: Executive summary - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/114114/Environmental_Improvement_Plan_2023_Executive_summary.pdf).

2.3

2.3 EIP Resources and Waste Objectives

The main objectives in terms of resources and waste is to:-

- work with business to implement packaging extended producer responsibility from 2024 so that polluters pay to recycle packaging
- introduce a deposit return scheme for plastic and metal drinks containers from October 2025 to drive higher recycling rates
- implement consistent recycling between different councils, to boost recycling rates
- ban the supply of single-use plastics like plastic plates and cutlery from October 2023 and will also explore options further, including with stakeholders, for the potential for technological innovation in the production of coffee cups, and behavioural science in how they are used

Extended Producer Responsibility

2.4

Government has published their response to the Extended Producer Responsibility (EPR) consultation¹ which aims to ensure the costs of packaging disposal are borne by the producers of waste. Defra are to appoint a scheme administrator for EPR at the end of 2023. The scheme is expected to be in force from April 2024.

2.5

Put simply, the packaging producers will inform the Scheme Administrator of the amount of packaging they put on the market and depending on the size of the business they will be charged by the Scheme Administrator for the waste generated from that packaging. Councils will then be paid by the Scheme Administrator for collecting that material. If the packaging is recyclable then the costs to the producer are reduced.

2.6

There is a large amount of data that will be required to ensure that the Council realises the maximum amount of income from the Scheme Administrator. Finance and waste officers are currently working with Defra as part of a small cohort of Councils to identify issues and barriers to data collection. This work will also assist in setting the amount that will be paid by the Scheme Administrator. There will be no EPR payments for packaging that is littered in England.

2.7

Councils that are not **effective and efficient** in their collection methods may be subject to a 20% deduction in their payments. An **efficient** service is defined in the forthcoming Regulations and is one where costs are as low as reasonably possible, taking into account

- the nature of the service provided
- any other factors specific to the local authority or its area which are likely to affect costs

An **effective** service is not defined in the forthcoming Regulations however the scheme administrator is likely to define it in relation to the quantity and quality of waste collected and sent for recycling.

2.8

Income from recycling sales will be deducted from EPR payments. Councils can challenge payments if they can justify special circumstances.

2.9

Due to the complexities of EPR for business packaging waste, Packaging Waste Recycling Notes (PRN) and Packaging Waste Export Recovery Notes are to be retained for packaging collected from businesses for an interim period.²

2.10

The British Retail Consortium have indicated that the introduction of EPR and DRS is likely to cost every household an additional £50 each per year, which will have an adverse impact on the cost-of-living.

¹ [Extended producer responsibility for packaging: who is affected and what to do - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/extended-producer-responsibility-for-packaging-who-is-affected-and-what-to-do)

² [Consultation on Reforms to the Packaging Waste Recycling Note \(PRN\) and Packaging Waste Export Recycling Note \(PERN\) System and Operator Approval - Defra - Citizen Space](https://www.gov.uk/government/consultations/consultation-on-reforms-to-the-packaging-waste-recycling-note-prn-and-packaging-waste-export-recovery-note-pern-system-and-operator-approval)

Deposit Return Scheme

2.11

Deposit Return Schemes (DRS)³ are to be in place across all four United Kingdom nations, however they have some differences in materials to be targeted and Scotland are to implement their DRS prior to the other nations. The aim of the DRS is to incentivise the recycling of certain types of packaging wastes, e.g. plastic bottles, drinks containers and it is anticipated to be introduced in 2025. In England the deposit will be applied to any drink container made of plastic or cans but not glass. It is likely that the introduction of a deposit return scheme could impact on the kerbside collected dry recycling material as people chose to return their items for cash.

2.12 A consultation took place on how the DRS should be implemented from the 24 March 2021 until the 4 June 2021. The response to the consultation has yet to be published this will inevitably impact on the implementation date which was expected to be late 2024.

Scotland is currently ahead of England, Wales and Northern Ireland having settled on a national 'return-to-retail' scheme for single-use containers made of PET, steel, aluminium or glass, with a deposit of 20p per container. Full details on the implementation is expected in August 2023.

2.13 At present it is unclear how Councils will be able to claim for DRS material collected in their recycling streams and what the quality of the material will need to be to ensure payment.

Consistency in Household and Business Waste Collections

2.14

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. The aim is to improve the consistency of household and business waste and recycling collections this also includes the introduction of separate weekly food waste collections in England.

2.15 Dry recycling materials that were proposed to be collected separately at the kerbside are:-

- glass bottles and containers – including drinks bottles, condiment bottles, jars
- paper and card – including newspaper, cardboard packaging, writing paper
- metal packaging – steel and aluminium tins and cans
- plastic bottles – including clear drinks containers, high-density polyethylene (HDPE; e.g. milk containers), detergent, shampoo and cleaning products
- plastic pots, tubs, trays

Additional materials proposed were :-

2.16

- foil, foil trays and metal aerosols cans, including packaging items
- food and drink cartons

³ [Introducing a Deposit Return Scheme in England, Wales and Northern Ireland - Defra - Citizen Space](#)

- plastic film and flexible packaging (to be added in 2027 due to a lack of processing capacity)

2.17 Co-collection of materials is anticipated to be allowed if it is not technically or economically practicable to collect them separately or if there is no significant environmental benefit. A written assessment justifying the co-collection of materials will need to be submitted to the Environment Agency to continue to co-collect materials.

2.18 Locally, paper and card are collected in the green bin with the following materials in the black bin

- Plastic Bottles
- Plastic Pots, Tubs and Trays
- **Glass Bottles and Jars**
- Tins, Cans and Foil
- Metal Aerosols (empty)
- Tetra packs

2.19 The consultation concluded on 4 July 2021 and proposed collection of the materials from October 2023 however, given there has been no response published as yet that date is expected to alter. There is a risk that the glass will be required to be collected separately under new EA guidance when the results of the consultation are published.

2.20 Food waste is required to be collected separately on a weekly basis in the proposals. The Council along with our partner councils of Barnsley MBC and Doncaster CC submitted a request for transitional relief from providing a separate food waste service until the end of the current disposal contract in 2040. The rationale for this was that the novel Barnsley, Doncaster and Rotherham waste treatment facility already treats fine material, created in the process from food waste, through anaerobic digestion. This is now subject to Ministerial consideration for approval prior to confirmation.

2.21 Government has proposed that 'new burdens' funding will be available to fund any changes necessary, there is a lack of information on how these will be calculated. Where a council is granted transitional arrangements, new burdens should still be available at the end of the transitional period, although there is no guarantee as the funding formula may have been completely changed, depending on how long the transitional arrangement is in place.

3. Options considered and recommended proposal

3.1 There are no options to be considered in relation to 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

The consultations were 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 has published its response to EPR and DRS but there has been no further information on Consistency in Household and Business Waste Collections

5. Timetable and Accountability for Implementing this Decision

- 5.1 Key dates in the timetable for changes are as follows:
- 5.2 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.
- 5.3 Given the Environment Act 2021 is now in place, 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 be developed.
- 5.4 Following that, full public consultation will be required to take place to support any significant decisions around 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 no financial implications arising directly from this report.

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 requirements on the Council in terms of the future delivery of waste services. The impact of these measures are however still unclear, until the detailed consultation results and underpinning legislation is clarified, e.g. administration and funding of schemes. There are therefore no legal implications stemming from this report.

8. Human Resources Advice and Implications

- 8.1 There are no Human Resources Implications from this report.

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.

11. Implications for CO₂ Emissions and Climate Change

11.1 Whilst this report itself has no implications for CO₂ emissions and Climate Change, the disposal and treatment of waste has a significant impact on CO₂ emissions. The effective disposal of waste has the potential to deliver significant benefits in terms of reductions in CO₂.

Any future proposals will be subject to a full assessment in terms of the impact on CO₂ 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)

Sam Barstow, Assistant Director, Community Safety and Streetscene
Barry Connolly, Head of Environmental Services

Approvals obtained on behalf of:-

	Named Officer	Date
Chief Executive		Click here to enter a date.
Strategic Director of Finance & Customer Services (S.151 Officer)	Named officer	Click here to enter a date.
Assistant Director of Legal Services (Monitoring Officer)	Named officer	Click here to enter a date.
Assistant Director of Human Resources (if appropriate)		Click here to enter a date.
Head of Human Resources (if appropriate)		Click here to enter a date.

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