

Waste and Recycling Committee

Date: 15 March 2023
Subject: Waste Strategy Update
Report of: Paul Morgan, Head of Commercial Services – GMCA Waste and Resources Team

Purpose Of Report

To update the Committee on recent developments on the implementation of the English Resources and Waste Strategy in relation to the deposit return scheme, extended producer responsibility for packaging and the consistency of collection of recycling (including food waste).

Recommendations:

Members of the Committee are recommended to:

1. Note and comment on the report.

Contact Officers

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Equalities Impact, Carbon and Sustainability Assessment:

There are no equalities impacts arising from the matters set out in this report. A fundamental principle of the English Resources and Waste Strategy the sustainable management of waste in order to reduce carbon emissions from landfill disposal and this is reflected in the GMCA's waste management contracts.

Risk Management

The English Resources and Waste Strategy and its implementation has been captured in the GMCA's Strategic Risk Register with the necessary mitigations actions identified.

Legal Considerations

Legal considerations are captured within the report but at the time of writing any consequences of undertaking actions contrary to the English Resources and Waste Strategy have not been published.

Financial Consequences – Revenue

Financial Revenue considerations are captured within the report but at the time of writing any consequences of undertaking actions contrary to the English Resources and Waste Strategy have not been published.

Financial Consequences – Capital

Financial Capital considerations are captured within the report but at the time of writing any consequences of undertaking actions contrary to the English Resources and Waste Strategy have not been published.

Number of attachments to the report:

None

Comments/recommendations from Overview & Scrutiny Committee

N/A

Background Papers

- Resources and Waste Strategy for England Consultations, Waste and Recycling Committee 13th July 2021
- Deposit Return Scheme briefing note circulated to Committee members on 23rd January 2023

- Contract Update – Part B Waste and Recycling Committee 18th January 2023

Tracking/ Process

Does this report relate to a major strategic decision, as set out in the GMCA Constitution

No

Exemption from call in

Are there any aspects in this report which means it should be considered to be exempt from call in by the relevant Scrutiny Committee on the grounds of urgency?

No.

GM Transport Committee

N/A

Overview and Scrutiny Committee

N/A

1. Introduction/Background

Over and between recent Waste and Recycling Committee meetings Members have received updates on the progress on the Governmental implementation of the English Resources and Waste Strategy (RaWS).

Defra has been consulting on the RaWS over the last 4 years with a series of prolonged delays in publishing consultation responses. The four main elements to the RaWS are:

1. The introduction of a Deposit Return Scheme (DRS) for beverage containers;
2. Extended Producer Responsibility (EPR) for Packaging;
3. Consistency framework for household waste collections; and
4. The collection of food waste on a separate, weekly basis.

In January 2023 the Committee received an update on the EPR but since then there has been little to report on. This report provides updates (which in some cases have been considerable) on elements 1, 3 and 4.

GMCA has been engaged in a series of workshops with Defra since November 2022 and the following updates are based on those discussions and direct discussions with Defra on a one to one basis. The approach taken by Defra is to look at each area separately and to release consultation responses as they become available. This means that we still do not have a complete picture on the impacts or how each element of the RaWS interacts on others.

It has to be remembered that this is against a backdrop of the need to consider the future of the Suez WRMS and HWRCMS contracts, the initial term of which will expire in 2026. The decision on whether to extend (as allowed in the contracts) or return to market needs to be made by the end of 2023.

2. Key RaWS Updates

2.1 The Deposit Return Scheme

Towards the end of January 2023 we circulated to Committee Members a briefing note on the Government's response to the consultation on a DRS and this set out the likely design of the scheme. The highlights of this are:

- Polyethylene terephthalate (PET) bottles and steel and aluminium cans in the size range of 50ml – 3l will be included in the scheme (glass containers will not be included in England);

- Container labels will include a mark to identify the product as part of a DRS and an identification marker (QR or bar code) that can be read by a scheme return point;
- Deposit Management Organisation(s) (DMOs) will be appointed through an application process set out in the regulations and will be responsible for managing the overall operation of the DRS, setting deposit levels and meeting the collection targets. The DMO(s) will be an independent, not for profit and private organisation(s);
- Retailers selling in scope containers will be obligated to host a return point and will receive a handling fee to compensate them for costs incurred in hosting a return point. Some retailers (e.g. micro-retailers) may apply for an exemption from having to host a return point;
- Government will pursue an additional permitted development right for reverse vending machines to remove planning delays;
- Local authorities and where relevant, waste operators, can separate out any containers in its waste and redeem the deposit on them, providing they meet the quality required for return; and
- Regulations to be in force by the end of 2023 and the DMO appointed by summer 2024. A commencement date for DRS of 1st October 2025 will be set.

The implications for the GMCA include:

- The diversion of PET bottles and metal drinks containers away from kerbside collections and MRF processing. This will reduce income levels for Suez and may result in a Change in Law claim;
- The diversion of materials away from kerbside collection and reduction of WCA reported recycling rates;
- Communications on what type of container can go to DRS will confuse some members of the public; and
- The GMCA's ability to claim deposits will be limited as it will depend on the condition of containers and whether labels have survived being collected in a compacting refuse collection vehicle then MRF processed. If the QR/barcode is unreadable then the deposit will not be paid.

2.2 Consistency of Collection

At the time of writing the Government's response on this was awaited. It was rumoured that a response would be published before Christmas but anticipated timescales have slipped. If the response is published before the Committee Meeting an update will be provided.

To recap, the proposals on the consistency in household and business recycling in England contained a number of proposals including:

- Prescribing a core set of recyclable materials collected by every local authority;
- The introduction of kerbside collections of plastic films and soft plastics;
- Residual waste collections to be no less frequent than fortnightly;
- Residents to have access to free garden waste collections;
- Recyclable materials should be collected separately unless not technically, environmentally or economically practicable (applying a stipulated 'TEEP' 'test' methodology); and
- The separate weekly collection of food waste to all households (discussed separately in the next section).

Little information has been provided on the TEEP aspect of this consultation and this is particularly important in the consideration of food waste collections. It is understood that the 'rules' on TEEP are 'several months' away (as of early February 2023) and this is deeply frustrating.

If we are successfully able to argue that wholesale changes to recycling are not practicable we will still need to add pots, tubs and trays (PTTs) and plastics films/soft plastics to our collections. PTTs will require a modification of our materials recovery facility (MRF) for additional infrared processing equipment with an estimated capital cost of c. £15 to £20m. Plastics films/soft plastics will need to be collected separately at the kerbside to prevent them causing mechanical issues at the MRF – this will result in the need for additional vehicles.

If kerbside sort services are required (where householders are provided with boxes and bags to present materials pre-sorted) then the fleet of existing recycling collection vehicles will need to be replaced by compartmentalised resource recovery vehicles increasing fleet sizes by a further 84 vehicles. Our MRF would become redundant, there would need to be changes to depots and the transfer loading stations to accept waste in different fractions and utilise different plant and equipment to unload, sort and bale materials.

When the Government's response is finally published a briefing note will be circulated.

2.3 Separate Weekly Food Waste Collections to All Households

It is this aspect of the implementation of the RaWS that has seen the greatest acceleration in Government effort.

As reported at the January 2023 Committee Meeting the GMCA, with the involvement of the districts, submitted its food waste questionnaire to Defra. The purpose of the questionnaire was to gather information from waste disposal authorities on the impact of introducing weekly separate food waste collections on residual waste treatment contracts so that Defra could detail which waste collection authorities could be provided with a 'transitional arrangement' and named in the Regulations thus delaying implementation. We responded providing the required information and expanding on the wider impacts (such as on existing biowaste treatment contracts, GMCA and district infrastructure etc.).

In various webinars Defra indicated it would contact waste disposal authorities to discuss questionnaire responses. After several attempts to arrange a call one was convened on the 8th of February 2023 with representatives from Defra, each of the nine districts and the GMCA. We sought to clarify a number of points including timescales, funding and TEEP.

A list of questions was subsequently sent to Defra seeking further clarification, at the time of writing responses to all questions have not been received.

The conclusion of the call was that GMCA/districts have four options:

1. Implement separate food waste collections at the earliest opportunity in compliance with the legislation i.e. March 2025;
2. Do not apply for transitional arrangements and seek to continue with existing collection arrangements subject to TEEP assessment;
3. Apply for transitional arrangements to a date as late as possible to give time to fully determine costs and options; or
4. Do nothing and challenge the requirements through political channels.

The risks associated with each option are as follows:

Option 1

- The capital funding available through New Burdens appears inadequate to cover the additional collection costs and no funding is available for any additional disposal costs therefore waste collection and disposal costs will increase;
- Significant breakage costs to exit IVC treatment contracts early; and
- Currently no visibility on how New Burdens funding will be allocated, it is likely to be on a modelled formula rather than actual costs so strong likelihood of not achieving full cost recovery for collection infrastructure capital investment.

Option 2

- Indications are that the publication of TEEP guidance might not be for “several months” or even into 2024 so it is far from clear what the assessment criteria will be and whether the current service can meet them;
- Defra stated in correspondence following our meeting that under a TEEP assessment food waste would still need to be collected weekly and the service provided to all properties. It seems New Burdens funding would still cover food waste collections under a TEEP exemption including the roll out of services to apartments and other properties not currently served; and
- It is currently unclear if additional New Burdens funding will be available if there is a future decision to implement separate food waste collections.

Option 3

- Enables current services to continue (without expansion to apartments etc.) during transitional period as the legislation would not apply to those named in the regulations.
- If separate food waste collection is implemented prior to the expiry of the transitional arrangement then any ongoing funding support cannot be accessed prior to the transitional date; and
- A TEEP assessment may be relied upon past the transitional arrangement end date.

Option 4

- The enforcement action plan has yet to be published so there is no visibility on the sanctions for non-compliance.

After initial clarification from Defra we have submitted further queries and await a response to those. To some extent option 2 is acceptable but without sight of the TEEP guidance this is a significant risk that could result in us having to adopt option 1 with literally months to implement (although undeliverable practically). Work is underway to determine the best option between options 2 and 3.

This includes assessing whether the transitional arrangement is beneficial for GMCA and the districts. At the time of writing the GMCA was compiling the following evidence to support a transitional arrangement:

- Confirmation of net costs associated with the introduction of food waste collections and the impact of this on residual waste contract e.g. for change of law provisions;

- Copies of waste contracts, indicating any particular clauses that would likely lead to additional and unavoidable net costs;
- Documents that show cost assessments (such as technical reports/spreadsheets)
- Confirmation and evidence that GMCA has explored a contract variation with our contractors; and
- Confirmation that the associated WCAs are aware of any suggested transitional arrangement put forward.

3. Issues and implications for Greater Manchester

3.1 Funding

Clearly there are changes ahead for the collection and the subsequent management of household waste. Depending on the route we are required to take there is likely to be a need for:

- Additional and/or new waste collection vehicles with their associated running and staffing costs;
- Purchase of new collection receptacles;
- Accommodation for those vehicles and their staff at depots that might not currently be able to fit them in;
- Changes to transfer loading stations such as the construction of new bays;
- The re-configuration or redundancy of existing facilities;
- The procurement of new treatment contracts or the construction of new facilities to accept (for example) food waste; and
- Communications.

On 1st February 2023 Defra released a statement that said:

It is our intention that, subject to Ministerial and Cabinet Collective Agreement, Waste Collection Authorities (WCAs) will receive New Burdens funding to assist with food waste collections. We expect New Burdens funding to cover:

- *Capital funding to cover the procurement of vehicles, containers to implement or expand services to households not currently receiving weekly separate food waste collections (£295m across all local authorities);*
- *Transitional funding to support the transition to the new service eg communications costs (no figures released yet); and*

- *Ongoing funding to cover the ongoing costs incurred by WCAs to run services, subject to future spending reviews.*

New burdens funding will be based on a yet-to-be determined funding formula. At this stage, we cannot provide further information on exactly what the funding will cover or when it will be issued but we will update local authorities as soon as possible. Please note that this is all subject to cross-Whitehall and ministerial approval and is therefore subject to change.

New Burdens funding will not be provided to cover new net costs of waste disposal resulting from contractual penalties caused by the introduction of separate food waste collections. For example, funding will not be provided to cover penalties for breaking guaranteed minimum tonnages or waste composition under existing long-term EfW or MBT contracts or for contract variation costs to accommodate food waste collections.

At this time there are no details on how the capital funds will be distributed amongst waste collection authorities but in our February meeting with Defra it became clear there are some areas where we expect new expenditure will not be covered (e.g. enlarging existing or securing new depot accommodation for expanded fleets).

The packaging EPR also promises to provide funding for the efficient and effective collection and management of packaging in recycling, residual waste and litter bins. Defra state any net additional costs will be covered by EPR payments. At present we have no sight on the scope of what will be in EPR payments, method by which costs will be allocated and whether these will be sufficient to cover district and GMCA costs. Defra are continuing to develop a modelled approach to cost application rather than using actual costs which will inevitably result in winners and losers and potential for additional costs not to be covered in full. This point has been raised repeatedly with Defra.

When some clarity emerges on funding we will provide updates.

4. Actions and Next Steps

GMCA Waste and Resources are progressing a number of workstreams on the impacts of the RaWS during 2023. Activities include:

- Continued engagement with Defra on food waste, EPR, New Burdens, consistency and TEEP;

- Engagement with Leaders at earliest opportunity once consistency and TEEP guidance has been issued, reviewed and assessed;
- Engagement with external advisors on various contract extension options and service provision post 2026;
- Commission technical advisors to develop the design and cost estimate for redesign of the MRF to enable PTTs to be accepted, taking account of DRS impact; and
- Assess potential quantum of claim from impact of DRS on composition of dry recyclate processed at the MRF.