

19/20 19/25  
+ Appendices.



## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Havering Council responses to the four Defra consultations relating to the Resource and Waste Strategy for England 2018.
<b>Cabinet Member:</b>	Cllr Osman Dervish
<b>SLT Lead:</b>	Caroline Bruce, Director of Neighbourhoods
<b>Report Author and contact details:</b>	Jacki Ager – Waste and External Contracts Manager <a href="mailto:Jacki.ager@havering.gov.uk">Jacki.ager@havering.gov.uk</a> 01708 433363
<b>Policy context:</b>	The responses to this national consultation relate directly to collection of waste and recycling within the Council, with secondary impacts on street cleansing, street scene and air quality.
<b>Financial summary:</b>	Unknown at this stage. Whilst the New Burdens Doctrine may apply in some instances, this is not yet confirmed by Government.
<b>Relevant OSC:</b>	Environment Overview and Scrutiny
<b>Is this decision exempt from being called-in?</b>	No

### The subject matter of this report deals with the following Council Objectives

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

It is recommended that the attached responses are submitted to the following respective Defra consultations:

#### **Plastic Packaging Tax**

<https://consult.defra.gov.uk/environmental-quality/plastic-packaging-tax/>

#### **Reforming the UK packaging producer responsibility system**

<https://consult.defra.gov.uk/environmental-quality/consultation-on-reforming-the-uk-packaging-produce/>

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

<https://consult.defra.gov.uk/environmental-quality/consultation-on-consistency-in-household-and-busin/>

#### **Introducing a Deposit Return Scheme (DRS) in England, Wales and Northern Ireland**

<https://consult.defra.gov.uk/environment/introducing-a-deposit-return-scheme/>

A summary of Havering's responses (Appendix 1A-D) is provided as follows:

*Havering has liaised with ELWA and industry bodies such as CIWM and LEDnet in order gauge industry opinions and put together its own responses on each of the consultations listed below. These responses are broadly in line with ELWA's draft responses, and at times allude to the limitations of the existing PFI contract. Havering is generally in agreement with some of the items proposed by Defra, particularly around consistency in waste collections. However, there are particular issues that, if legislated, would affect current operations. Given that the GLA are also stipulating similar consistency, all London boroughs are potentially in a position where they would be required to comply. Our responses, however, are caveated accordingly – particularly around the need for appropriate funding and lead-in periods, and recognising contract lengths and fleet life spans.*

*Due to the uncertainty of the outcome of the consultation, there will be a need to build flexibility into Havering's upcoming contract documents (regardless of the outcome of the Public Realm review, as Havering's existing waste contract comes to an end in 2021), potentially with a price for each proposed eventuality, particularly where collection consistencies are concerned.*

#### **Reforming the UK Packaging Producer Responsibility System**

**This consultation proposes reforms to the UK's packaging producer responsibility system that would make producers responsible – from 2023 – for the costs of dealing with material they place on the market when it becomes waste.**

### Non-key Executive Decision

Having agreed with placing more responsibility on producers / brand owners to ensure recycling of the materials they produce. The potential for higher costs for non-recyclable items should increase packaging recycling and drive producers to adopt more sustainable packaging types.

EPR should fund full net cost recovery (FNCR) of collections, treatment and disposal, including residual waste. Having stated that this should include communications to consumers, as well as street cleansing costs and packaging occurring within the residual waste stream.

Having does not feel that the assumptions around FNCR are correct, as the consultation has simplified local authority groupings too much, and we have suggested that this requires more detail and consideration around housing stock, collection / disposal contract types, etc.

Having has made it clear that it feels not enough consideration has been made towards encouraging reuse and waste reduction. Although driving more sustainable / recyclable packaging is important, the emphasis should be on driving waste up the waste hierarchy and therefore encouraging reduction and reuse wherever possible.

Any EPR system should include robust and auditable data capture that is publicly available in order to inspire confidence. The extra burdens placed on businesses will also likely increase some product costs to consumers, therefore transparency towards consumers will be essential.

Labelling of packaging needs to be clear in order to allow consumers to make more informed choices around sustainable purchasing.

### **Introducing a Deposit Return Scheme (DRS) in England, Wales and Northern Ireland**

**This consultation proposes the introduction of a DRS for drinks containers from 2023.**

There needs to be some recognition of, and compensation for the associated costs associated with DRS such as requirements for extra litter bins, fly-tipping of non-target DRS materials, and street scene implications (more street furniture, potentially). It is unlikely that all target DRS materials will be captured for recycling, therefore it is appropriate that DRS only seeks to compliment any EPR scheme, not replace it. Local Authorities should still receive FNCR for the materials they collect at kerbside and through street cleansing operations.

Materials that may potentially not be in-scope for DRS (e.g. food pouches) should be covered under EPR to avoid producers switching to less sustainable alternatives deemed cheaper to deal with.

Unredeemed deposits should be used to fund the collection of target-materials that end up in the residual waste stream.

The proposed material and financial flows need revisiting as they do not adequately

## Non-key Executive Decision

reflect the role that local authorities will play (e.g. street cleansing / residual waste collections where target materials are still likely to be found).

Return points should be located in / close to any outlets that sell target materials, for example leisure centres and educational establishments, as well as supermarkets. However, the responsibilities regarding the management of return points need to be clearly defined to avoid additional burdens being placed on local authorities.

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

**This consultation proposes changes that would, by 2023, bring about greater consistency in waste collection across England, with the aim of reaching higher recycling targets, reaching 65% by 2035.**

Havering is in general agreement with the proposal that a core set of standard materials be collected from all households. However, the introduction and running of this would need to feature full net cost recovery. Havering disagrees with any statutory guidance being issued if funding is solely going to be provided through EPR as any legislative measures would need to be appropriately funded through the New Burdens Doctrine. This should cover operations, as well as communications and enforcement, potentially with complimentary legislation where necessary, particularly around business waste.

More thought needs to be put into particular items such as plastic food trays, where stable markets do not currently exist. The market may be stimulated through new EPR rules, however this may take some time and there may be a disconnect between introducing these items at the kerbside and there existing sufficient markets to handle them.

Havering agrees in principal to the introduction of weekly food waste collections. Havering does not currently operate a food waste collection, and it is likely that the addition of this service would provide Havering with comparable recycling rates to high performing London Boroughs such as Bexley. However given the current ELWA PFI contract, we suggest that more analysis be undertaken to investigate the relative benefits of MBT vs a separate food waste collection, particularly in the intervening years up to 2027.

Havering disagrees with the proposal to provide a free garden waste collection for all households. Havering currently collects 4,700 tonnes of garden waste at the kerbside, and another 7,000 tonnes at Gerpins Lane. Overall, this contributes around 11% to Havering's recycling figure. As this proposal does not incentivise home composting, it would likely incur higher ELWA levy charges through additional collections at the kerbside, pushing waste away from the RRC and into the kerbside collection stream. This would in turn place more vehicles on the road, and overall is unlikely to drastically increase recycling rates given the already high capture rate of this material currently shared between the kerbside and Gerpins Lane. Charging allows the service to be funded just by the households that wish to use it, rather than some households effectively being subsidised by those without gardens or householders that choose to home compost or deliver their waste to Gerpins Lane.

### Non-key Executive Decision

Having suggests that performance information be available to householders in a more user-friendly manner than is currently provided through WasteDataFlow.

Having supports the proposal for carbon-based metrics as an appropriate alternative to purely weight-based measurements. However, these need to recognise the variety of alternative treatments, such as MBT, and we suggest the GLA's new Emissions Performance Standard be considered as a potential carbon calculator.

Having agrees that there should be a minimum standard of recycling for all businesses, with the appropriate support provided particularly to small businesses. Collection methods should reflect upon individual circumstances of the business, particularly around space available for material separation. Any enforcement required (e.g. under any revised Duty of Care legislation) would need to be appropriately funded under New Burdens.

### **Consultation on a Plastic Packaging Tax**

**This consultation proposes to apply a tax on all plastic packaging in the UK and unfilled plastic packaging imported into the UK with less than 30% recycled content.**

Although this particular consultation has less of a bearing on Local Authority operations, it supports the concept of a more closed loop approach to material flows and circular economy approaches.

Whilst Having is in support of a plastic packaging tax, this should not offset any obligations under Extended Producer Responsibility.

Having has suggested that an impact assessment should be devised in order to investigate any potential price increases that would impact on consumers and food poverty.

### **AUTHORITY UNDER WHICH DECISION IS MADE**

The following elements of the Council's Constitution apply:

Council's Constitution of 21 March 2019 Part 3 - Responsibility for Functions

Part 2 Executive Functions - 2.5(b) Delegation to individual cabinet member by the Leader:

Where there are implications for policies of the Council, to agree members of staff's responses to consultation papers from:

- (i) the Government (including White and Green Papers)
- (ii) the London Council, the Greater London Authority, the Local Government Association and all other bodies

where those papers affect the services allocated.

Non-key Executive Decision

**STATEMENT OF THE REASONS FOR THE DECISION**

To ensure a response is submitted in line with current service standards, reflecting Havering's position within the East London Waste Authority area and therefore the unique challenges it faces. To also ensure that Havering recognises the changing face of waste in the UK and that future service provision takes into account potential upcoming legislative changes.

**OTHER OPTIONS CONSIDERED AND REJECTED**

Not providing a response would be inappropriate given that waste is a high profile frontline service within the Borough. In order to consider appropriate responses, Havering has liaised with the East London Waste Authority, LEDNet and other industry bodies, and Havering's existing service provision has been considered accordingly.

**PRE-DECISION CONSULTATION**

N/A

**NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Jacki Ager

Designation: Waste and External Contracts Manager

Signature:

Date:

**Part B - Assessment of implications and risks**

**LEGAL IMPLICATIONS AND RISKS**

None at present, however the final outcome of the consultation may result in legislative changes around waste service provision by Local Authorities which have responsibilities for the collection and disposal of waste under the Environmental Protection Act 1990 and related legislation including on the collection of recyclables.

**FINANCIAL IMPLICATIONS AND RISKS**

There are no costs associated with the consultation, however the final outcome of the consultation may result in additional burdens to the Council. The consultation suggests that a

Non-key Executive Decision

net cost recovery through Extended Producer Responsibility would be applied in some instances, however it is not clear how other items within the consultation would be funded, and it is unclear if The Doctrine of New Burdens will apply. The Council has referred to this issue as part of its response to the consultations.

**HUMAN RESOURCES IMPLICATIONS AND RISKS  
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

None noted.

**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

**BACKGROUND PAPERS**

Non-key Executive Decision

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

*Delete as applicable*

Proposal ~~NOT~~ agreed because

**Details of decision maker**

Signed



Name: CLR OSMAN DERVISH

Cabinet Portfolio held: ENVIRONMENT

CMT Member title:

Head of Service title

Other manager title:

Date: 25/04/2019

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on 1/5/2019

Signed

