

OXFORDSHIRE WASTE PARTNERSHIP JOINT COMMITTEE

30 November 2007

Definition of Household Waste (Charities and Schools Waste)

1 Purpose of Report

- 1.1 To develop a response to the recent correspondence from Defra on the interpretation of legislation relating to the collection and disposal of household waste from charities, schools and a number of other institutions.

2 Background

- 2.1 In recent months Defra has received a high volume of enquiries seeking further clarification on household and commercial waste. In addition a variety of sources, including the Audit Commission (AC) and the Greater London Authority, have brought to Defra's attention a number of waste classification and data reporting issues. An ongoing AC investigation of practice has revealed that even within a single county area there is a wide variation in interpretation and understanding of the legislation.
- 2.2 The Association of Charity Shops has accused a number of local authorities of illegally charging for waste disposal. In response to this, Defra wrote to all waste authorities in October 2007 reminding them of the existing legislation. Defra says that their letter does not provide new guidance or replace existing guidance and also that local authorities may wish to seek their own legal advice.
- 2.3 The National Association of Waste Disposal Officers (NAWDO) and the Local Government Association (LGA) have already made representations and are concerned that Defra are unaware of the significance of what is outlined in their letter.
- 2.4 Under the Environmental Protection Act (EPA) 1990, waste from homes, schools, universities, nursing homes and hospitals is classified as *household waste*. Under section 45 of the EPA the Waste Collection Authority has a duty to collect household waste in its area.

Paragraph (15) of the Controlled Waste Regulations (CWR) 1992 classifies '*waste from premises occupied by a charity and wholly or mainly used for charitable purposes as household waste*'. Schedule 2, Regulation 4 of the CWRs lists those types of household waste for which an authority can currently make a charge for collection but not for disposal.

2.5 Educational establishments and hospitals

Household waste includes: "*waste from residential hostels, a residential home or from premises forming part of a university, school or other educational establishment or forming part of a hospital or nursing home*". Some authorities have interpreted this to mean that only waste from the residential parts of educational establishments and hospitals should count as household waste and the rest of the waste from these sources should be treated as commercial waste.

Defra's view is that all waste arising from premises forming part of a school, university, other educational establishment, hospital or nursing home, that is owned and operated by that organisation is household waste (except any clinical, construction or demolition waste arising from the premises) and therefore only a charge for collection can be made.

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Where an educational establishment or hospital allows a business or businesses to operate from its buildings e.g. a book shop in a university or snack bar in a hospital, waste arising from these sources would be commercial waste.

2.6 Charities and charity shops

Household waste includes: *“waste from premises occupied by charities and used wholly or mainly for charitable purposes”*. While most waste authorities do classify waste from charities as household waste, some have chosen to classify waste from charity shops as commercial waste. In Defra’s view this is an incorrect interpretation of the regulations.

Section 64(10) of the Local Government Finance Act 1988 confers "charitable purpose" status on premises which sell wholly or mainly donated goods, and where the proceeds themselves go to a charitable purpose. Therefore waste from charity shops should be treated the same as waste from charities, namely as household waste. Therefore waste authorities can make a charge only for the collection of household waste from charity shops.

- 2.7 In addition to schools and charities waste, the Defra letter also makes mention of the collection and disposal of waste from Ministry of Defence accommodation, caravan parks and prisons, which are further examples of where the EPA and CWR have been interpreted differently across the country. Defra also sets out its position on a local authority’s role in making provision for the collection of commercial waste, as required by the EPA.

3 Financial, Risk and Staff Implications

- 3.1 In relation to the Landfill Allowance Trading Scheme (LATS) waste from schools, universities, charities, hospitals etc would not have been counted in the tonnage figures provided for 1995 (upon which the European allocation of allowances to individual countries was made) or for 2001 (upon which the national allocations to each WDA were made). Therefore, meeting our targets will become much more difficult and this will have very significant financial consequences as more permits will have to be bought on the open market.

There will also be a significant increase in the cost of waste disposal for the county from the cost of disposing of waste collected from schools, charities, hospitals, universities, army barracks etc. There is also a significant risk that charities, schools and others may try to recover their past costs of waste disposal.

4 Areas Affected

- 4.1 All Partner Authorities are affected by the matters within this report.

5 Effect on Strategic Policies

- 5.1 Policy 14: The Oxfordshire Waste Partnership will develop methods of working together to improve the level of service through effective and efficient use of resources within Oxfordshire.

6 Options or Alternatives

- 6.1 The OWP may choose not to follow the interpretation of the legislation as recommended by Defra which could lead to an investigation by the Audit Commission and a potential

