



Department for
Communities and
Local Government

Preventing 'backdoor' charging at household waste recycling centres

Government's response to consultation



© Crown copyright, 2015

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

March 2015

ISBN: 978-1-4098-4506-5

Contents

Scope	4
Overview	5
Responses and Government view	6

Preventing ‘backdoor’ charging at household waste recycling centres

Scope

1. The Government is aware that some local authorities have introduced, or plan to introduce, a charge to anybody accessing certain household waste recycling centres (also known as civic amenity sites, tips, and dumps) to dispose of household waste and/or recycling. In its 2011 Waste Review, the Government made a formal commitment to ensuring that households have access to household waste recycling sites where they can deposit their waste and recycling free at the point of use¹. Long-standing legislation passed by Parliament requires that municipal services are provided free of charge to householders for the disposal of household waste.
2. On 22 January 2015, the Government issued a discussion paper inviting views by 18 February on the use of two statutory instruments – one involving section 94(1) of the Local Government Act 2003 and the other involving section 5(3) of the Localism Act 2011 – to prevent such charging by local authorities. Section 5(7) of the Localism Act 2011 requires that before making an order under section 5(3) of that Act the Secretary of State must consult such local authorities, such representatives of local government and such other persons as he considers appropriate.
3. Specifically, the discussion paper asked for views on:

Issue 1: The Secretary of State’s proposed approach to upholding the principle that residents should continue to have free access to household waste recycling centres in their local authority area where they can deposit their household rubbish and recycling for free; and

Issue 2: How household waste recycling centres at risk of closure can stay open without local authorities resorting to charging their residents to dispose of household waste and recycling.

4. It also asked for views on whether there are any likely impacts on those who may have protected characteristics under the Public Sector Equality Duty.
5. The responses have been read and categorised in relation to the issues and have been given full consideration as part of the decision to introduce the two Orders to Parliament. We are grateful to everyone who took the time to respond.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69401/pb13540-waste-policy-review110614.pdf

Overview

6. The Government consulted over a four week period (22 January to 18 February 2015) on 'Preventing 'backdoor' charging at household waste recycling centres'. The discussion paper is available here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397527/Preventing_backdoor_charging_at_household_waste_recycling_centres.pdf
7. As explained above, section 5(7) of the Localism Act 2011 requires that before making an order under section 5(3) of that Act the Secretary of State must consult such local authorities, such representatives of local government and such other persons as he considers appropriate. The discussion paper was directed towards:
 - All English local authorities and English waste disposal authorities;
 - The Local Government Association; and
 - The waste industry.Comments from members of the public, businesses and the voluntary and community sector likely to be affected by the proposal were also welcomed and considered.
8. The Government made significant attempts to ensure that those who could be affected by the proposals had sight of the discussion paper, including through national media channels, with an exclusive feature in *The Sun* newspaper on 22 January. It's Press Notice generated coverage in waste management journals and websites, including the Chartered Institute of Waste Management on-line journal, Letsrecycle.com, and Materials Recycling World; and the Department for Communities and Local Government wrote to Local Authority Chief Executives, the Environmental Services Association and to the Local Government Association.
9. The Government received 61 representations. Of these, two did not address the issues of the discussion paper. Of the 59 representations:
 - 39 were from local authorities and local authority partnerships (17 County Councils, 11 District Councils, six unitary authorities and London and metropolitan boroughs, two waste disposal authorities, two local authority waste partnerships, one Parish and Town Council);
 - 12 were from individuals;
 - 3 were from businesses;
 - 4 were from representative bodies; and
 - 1 from a Voluntary/Community organisation.

Responses and Government view

Overall reaction

10. Half of respondents welcomed the proposal to prevent local authorities charging for use of 'discretionary' household waste recycling centres while, of the half that did not, many presented helpful ideas as to how centres at risk of closure can stay open without local authorities resorting to charging their residents to dispose of household waste and recycling at them.
11. Whilst acknowledging that a four week consultation could mean that the Government received a limited response given the time available, the Government does not consider this occurred on this occasion. The Government made significant attempts to ensure that those who could be affected by the proposals had sight of the discussion paper. The Government is of the view that the consultation was run properly. It believes all those bodies that needed to see it, saw it, and had a reasonable length of time in which to respond.

Issue 1

12. The Government is not persuaded by the arguments of those respondents opposing the Government's proposed approach.
13. Some respondents maintained the proposed approach is 'anti-localist'. The Government disagrees – it clearly has a role to play in working with councils in England to improve and safeguard frontline services for residents, in return for the central funding that councils receive from national taxation. Parliament had previously legislated on this matter, to ensure a minimum service standard.
14. A number of respondents noted local authorities are experiencing cuts in funding that present challenges to providing household waste recycling centres. In considering how they are provided in this difficult environment, it was suggested the concept of their provision being paid-for should remain. However, councils have continued to balance their books while public satisfaction with services has been maintained over this Parliament, showing the scope for efficiencies. Rather than trying to introduce 'backdoor' charges, the Government believes councils should be seeking to deliver sensible savings from more joint working, improved procurement, cutting fraud and better property asset management.
15. Respondents with a connection to the electrical and electronic sector supported the Government's view that: "Widespread charging of those seeking to deposit electrical and electronic goods at such centres would also appear to be a breach of the 2013 Waste Electrical and Electronic Equipment (WEEE) Regulations and could require the UK to establish an entirely independent collection infrastructure for household waste of this type at considerable cost to producers and/or the taxpayer." They noted that household waste recycling centres represent the backbone of the WEEE collection network in the UK and local authorities and their site operators provide an excellent

service. Charging could be a breach of the WEEE Regulations 2013 (as amended) and possibly jeopardise the collection network.

16. Some respondents suggested local authorities will in the future need to decide between charging for use of a household waste recycling centre or closing the site. The Government asked respondents to this discussion paper how household waste recycling centres at risk of closure can stay open without local authorities resorting to charging their residents to dispose of household waste and recycling at them. It believes the richness of ideas that came back present a range of alternatives for councils to consider other than charging local residents for deposit of household waste, and does not agree the scenario of 'charge or close' is an inevitable one. This point is discussed further in Issue 2 below.
17. Some respondents claimed the proposed approach is an unnecessary change to legislation, arguing it is clear that all waste disposal authority areas will continue to provide suitable free-to-use household waste recycling centre provision within their areas for use by local residents without the need for the Government's proposed approach. However, the Government is aware of local authorities introducing charges, which is why the Government has proposed this change to legislation.
18. Eight respondents rejected the Government's claim that fly-tipping will increase where charges are introduced, but this was not the majority of respondents' view as 16 (comprised of individuals, unitary and district councils, and a representative body) made comments specifically to agree with the Government's claim. A 2014 study by the University of Kent also suggests that continuing to provide, and possibly increasing the availability of household waste recycling centres, could help reduce fly-tipping².
19. The Government remains of the view that such charges will not only inconvenience local residents and make recycling harder for them, but will actively harm the environment, by encouraging fly-tipping and backyard burning. We understand that in the Republic of Ireland, which has a series of charges on household waste collection, the domestic burning of household rubbish is the biggest single source of the emission of toxic dioxins into the air³. Such pollution crosses local authority boundaries, creating a wider externality and harm to the public good.
20. The Government generally encourages local authorities to innovate and confidently use the general power of competence to act for their communities and in their own financial interest to generate efficiencies and savings. However, having regard to: the Government's clearly expressed policy of free to use centres for residents; residents deserving a comprehensive waste and recycling service in return for the council tax each household pays; and a concern these charges will not be beneficial to residents or the community, the Government considers that it is, in this instance, appropriate to limit local authorities' power to charge and the general power of competence.

² http://www.kent.ac.uk/sac/research/projects/fsj_illegal.html

³ <http://www.askaboutireland.ie/enfo/irelands-environment/air-quality/backyard-burning-and-diox/>

21. The Secretary of State for Communities and Local Government, having given due consideration to the responses received to the consultation and for the reasons outlined above, is therefore introducing this secondary legislation.

Suggestions that the legislation goes further

22. The Government recognises that many local authorities charge at household waste recycling centres for the deposit of 'non household' waste such as car tyres and/or for users not resident within the local authority area. The discussion paper made clear that it did not intend to prevent local authorities from charging in either such way and this remains its view. It is specifically 'free access for local residents to household waste recycling centres to deposit household waste and recycling' that has the long established precedent which this government wishes to maintain.
23. In terms of a period of transition for those local authorities currently charging a fee for residents' deposit of household waste at household waste recycling centres until April 2020, the Secretary of State is satisfied this is a reasonable time period for relevant authorities to make alternative arrangements for such sites.

Issue 2

24. 24 respondents offered ideas, often a number of ideas, on how household waste recycling centres at risk of closure can stay open without local authorities resorting to charging their residents to dispose of household waste and recycling. They included:
- The example of a successful pilot scheme with a third sector organisation operating a household waste recycling centre
 - Costs could be kept down through changes to site opening times and associated reduced staff and operational costs
 - Centres could develop reuse facilities on site, with the possibility of i) on-site training/apprenticeships in furniture restoration; ii) sales of restored/refurbished items; and iii) opportunities for residents to take away items they desired that would otherwise be expensive for the household waste recycling centre to dispose
 - Developing more attractive cost tariffs for local businesses using centres
 - More transparency in the Packaging Recovery Notes system and ensuring that a greater proportion of this revenue is routed directly to local authorities
 - Improvements in management and monitoring (for example to prevent fraudulent trade waste disposal) would bring savings to reduce the risk of closure
 - 'Producer responsibility' should offer more on-going support for household waste recycling centres (both in terms of Waste Electrical and Electronic Equipment collection and packaging waste)
 - Proposing Central Government intervention in the form of business rates reduction or lower Environment Agency permit charges.
25. The Government is again grateful to the organisations and individuals who took the time to consider this matter and offer suggestions. The Government believes the options detailed below present a range of alternatives for councils other than charging local residents for deposit of household waste, and does therefore not agree the scenario of 'charge or close' is an inevitable one. The Government will also consider the suggestions where appropriate.

Public Sector Equality Duty

26. There were no responses to the Government's specific request for views on whether there are any likely impacts of the proposals on those who may have protected characteristics under the Public Sector Equality Duty. The Government is of the view that there are no likely significant impacts of the proposals on those who may have protected characteristics under the Public Sector Equality Duty.

Local authorities' requirements for household waste recycling centres

27. A number of respondents asked for legislation or guidance on how many household waste recycling centres should be provided. The duty on waste disposal authorities to provide free to use household waste recycling centre facilities specifies they must be "reasonably accessible to persons resident in the area" and the Government believes it is right that this should be a local decision. Local authorities should reach their own conclusions in terms of minimum acceptable levels of household waste recycling centre provision, for example through 'x minutes' drive time for the great majority of residents' or 'sites per head of population'. Local authorities may also want to consider as part of their decision the local household waste and recycling collection service, and bulky waste collection service, offered to residents by the local authority.