

EAST AYRSHIRE COUNCIL

COMMUNITY SERVICES COMMITTEE- 2ND FEBRUARY 2005

CONSULTATION PAPER ON THE LANDFILL ALLOWANCE SCHEME REGULATIONS

Report by Executive Director of Neighbourhood Services

1. PURPOSE

- 1.1 To advise the Committee of an invitation that the Council respond to a Consultation Paper and the terms of a response submitted following consultation with the Chair.

2. BACKGROUND

- 2.1 Previous reports approved by Community Services Committee have recorded the implications of the EU Directive on Landfill which requires 25% of Scotland's biodegradable municipal waste (BMD) to be diverted from landfill by 2010; 50% by 2013; 65% by 2020. Other reports have recorded the household waste recycling targets set by the Scottish Executive and the potential for additional finance resulting from the Strategic Waste Fund (SWF).
- 2.2 In December 2003, the Scottish Executive circulated a Consultation Paper which provided for a Landfill Allowance Scheme in Scotland. The intention was that allowances would be allocated to individual local authorities as targets for waste recycling/diversion and introduced the concept of financial penalties for those Councils failing to meet the targets set. The response from virtually every local authority in Scotland (and the Convention of Scottish Local Authorities (CoSLA)) was that such an approach was far too prescriptive and was unnecessary.
- 2.3 Towards the end of October 2004, the Scottish Executive issued a further Consultation Paper seeking views on regulations which would effectively introduce a Landfill Allowance Scheme. Responses were to be submitted to the Executive by 24th December 2004.
- 2.4 The concept of the latest Scheme is that those Councils who manage to exceed their allocated diversion targets in specified years would be able to "trade" such excess with other authorities whose diversion tonnages were less than those targeted. The major concern about the Scheme, however, is that any Council failing to meet the allocated diversion tonnages could be the subject of financial penalties imposed by the Minister and the scale

of such penalties indicated in the Consultation Government is a matter of concern (e.g. a Council exceeding its allowance by 5,000 tonnes might face a fine of £1,000,000). The “trading” concept is also only available in certain years; e.g. each Council would be required to meet its specified target in 2010, 2013 and 2020. In these years, every Council would have to meet (or better) the allocated diversion target.

- 2.5 The workload and timescale in compiling the Council’s response was such that a response was prepared by officers and after approval by the Chair of Community Services, was lodged with the Scottish Executive prior to the deadline.

3. DISCUSSION

- 3.1 In the most recent Consultation Paper, the Scottish Executive advised that it is incumbent on Scotland to meet its share of the UK obligations in terms of reducing the amount of biodegradable municipal waste sent to landfill. Landfill is considered the least sustainable waste disposal option available for BMD (which is also a major source of the greenhouse gas methane).
- 3.2 East Ayrshire Council has since its inception, clearly demonstrated the link between increasing waste recycling/landfill diversion and additional funding. The impact of the introduction of the Three Bin System (following an award from the Strategic Waste Fund) has shown dramatic increases in household waste recycling with corresponding reductions in the tonnages of waste set to landfill. The Council’s position on the Consultation Paper is that it could not see any situation where it would deliberately flaunt either EU or UK legislation or indeed Scottish Executive policy. The Consultation Papers proposal that Councils be “fined” for not meeting diversion targets is considered to be unacceptable.
- 3.3 The response submitted also suggests that the concept of “trading” allowances between Councils should be phased in (ideally delayed) to allow the gradual introduction of the various waste recycling/diversion projects currently under way in the country. While opposed to the concept of penalties for failing to meet targets, the response also suggests that if penalties are to be introduced then these need to be very low in the early years of the Scheme.
- 3.4 The response also raises previous concerns (already noted by Community Services Committee) about the new definition for municipal waste where certain types of commercial waste (if collected by the Council) count towards BMD while the same waste if collected by a contractor does not.

- 3.5 The response also records concerns that the “trading” arrangements for allowances can be suspended by the Minister without any apparent right of appeal. It also records concern that the new allowance Scheme is to be monitored by the Scottish Environmental Protection Agency (SEPA) without any apparent input from Councils (who effectively have to make the Scheme work). A good example of this concern is demonstrated by the fact that for the purposes of these regulations, the organic content of BMW is to be considered as 63%, whereas the figure used for the development of the Ayrshire, Dumfries and Galloway area waste plan was 60%.
- 3.6 The response also highlights the fact that changing demographic circumstances might mean the allocations for some Councils being adjusted. The EU Directive on Landfill refers to a baseline year of 1995 during which (due to the impending reorganisation of Scottish Local Government) no waste disposal returns were collated. The approach taken in the Consultation Paper is that a National tonnage of waste has been declared for Scotland with each Council being allocated individual tonnages for diversion.
- 3.7 Perhaps the most worrying issue arising from the document is the fact that there will be Ministerial powers to levy substantial fines on any Council failing to meet its diversion targets. The response argues that as improvements in waste recycling/diversion can only be achieved as a result of additional funding from the Strategic Waste Fund, a hypothetical situation could mean a Council having had their application to the Strategic Waste Fund rejected, then fined by the Minister for failing to achieve recycling/diversion targets.
- 3.8 The response concludes with the observation that the introduction of the new Scheme will place an additional burden on Council Officers who already have a significant workload in generating the various statistical returns associated with Statutory Performance Indicators, and waste returns to SEPA/Scottish Executive.

4. FINANCIAL IMPLICATIONS

- 4.1 The financial implications arising from the introduction of these new regulations could be significant for the Council if it was to fail to meet waste recycling/landfill diversion targets set out in the new regulations.

5. LEGAL IMPLICATIONS

- 5.1 Legal action may be pursued against authorities who fail to achieve their allocated diversion targets.

6. POLICY IMPLICATIONS

- 6.1 Subject to the concerns raised in response to the Consultation Paper, the proposals are in accord with the Community Plan: Improving the Environment: Aim 3 – increasing the amount of waste that is recycled and reused.

7. CONCLUSIONS

- 7.1 The Scottish Executive issued a Consultation Paper on the Landfill Allowance Scheme Regulations last October. The timescale involved meant the Council's response being compiled by officers following consultation with the Chair of Community Services.
- 7.2 The response sets out a number of concerns which are shared with a majority of other local authorities in Scotland

8. RECOMMENDATIONS

- 8.1 The Committee is invited to note that the Council has recorded its concerns at the contents of the Consultation Paper on the Landfill Allowance Scheme Regulations.

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JFC/GW

11TH JANUARY 2005

LIST OF BACKGROUND PAPERS

1. Reducing Landfill; a Landfill Allowance Scheme (December 2003).
2. Article 5 (2) of the EC Landfill Directive (99/31/EC).
3. The Waste Emissions Trading Act 2003.

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