

APPENDIX 2 – Legal Requirements and Planning Guidance

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This appendix outlines the main legal requirements regarding waste management that Warrington Borough Council either already has met or will need to meet as new legislation and requirements are introduced. It then considers the legislation regarding planning for any new recycling and waste management facilities which will be required in order to enable Warrington Borough Council to meet its future targets.

EUROPEAN WASTE POLICY AND LEGISLATION

The European Union has become the major source of environmental legislation and guidance in relation to the management of waste. A number of European Directives which aim to increase levels of recycling and recovery, and thus reduce the amount of waste which is land filled have been introduced:

- Framework Directive on Waste (75/442/EEC)
- Landfill Directive (1999/31/EC)
- Directive on Packaging and Packaging Waste (94/62/EEC)
- Waste Electrical and Electronic Equipment Directive (2002/96/EC)
- End of Life Vehicles Directive (2000/53/EC)
- Ozone Depleting Substances (Regulation 2037/2000)
- Directive on Batteries (2006/66/EC)
- Waste Incineration Directive (2000/76/EC)

Framework Directive on Waste (75/442/EEC)

This Directive established the fundamental principles for waste management in Europe, which must be reflected in National, Regional and Local Strategies. The key principles are:

- 1. The Waste Hierarchy** – this provides a framework of how sustainability in waste management can be increased progressively. The aim is to move up the waste hierarchy by significantly reducing reliance on landfill to increased recycling, reuse, composting and recovery and ultimately waste reduction. However, the waste hierarchy should be used as a guide rather than being applied rigidly, and a certain amount of flexibility is needed to arrive at the most balanced environmental, social and economic solution, which will inevitably result in a mixed solution.
- 2. Regional Self-Sufficiency and The Proximity Principle** - This requires that waste should generally be managed as close as possible to where it is produced in order to limit the environmental impact of transportation and create a more responsible approach to waste generation. Thus each region is expected to provide sufficient facilities and services to manage the amount of waste it is expected to produce. However, as not all regions have specialist recovery, recycling or treatment facilities, it is recognised that the best solution for some waste may be to transport it to another region where it can be dealt with more effectively.

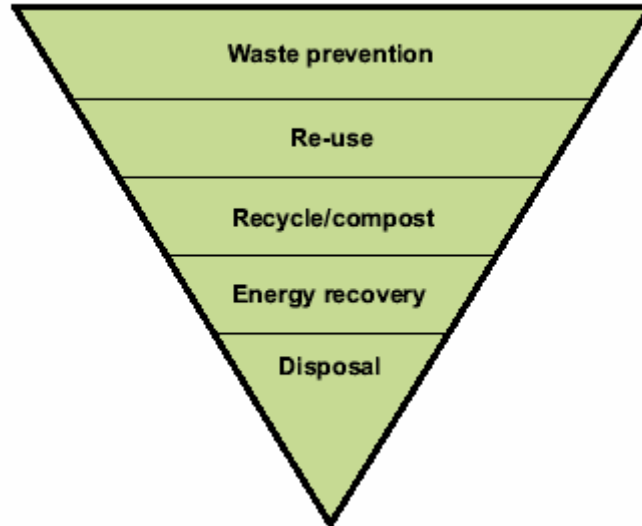


Figure 1: The Waste Hierarchy

The requirements of the Framework Directive on Waste were implemented in the UK through the Environmental Protection Act 1990. This legislation defines the different categories of waste and how waste should be managed and controlled. It also defines the duties of Waste Collection and Waste Disposal Authorities, and sets out the Duty of Care applicable to all those handling and disposing of waste including householders.

The European Commission is developing a Directive on Waste which will succeed the Waste Framework Directive. This new Waste Directive is currently being discussed in the European Parliament, and is expected to:

- Introduce targets to halt the growth in waste generation in Europe at 2008 levels from 2012, with Member States required to draw up national waste prevention programmes.
- Set targets for re-use and recycling, including re-using or recycling 50% of municipal waste by 2020.
- Define when recycled materials or products are no longer deemed to be waste also gained support. This would see materials or products that have been fully recycled (perhaps according to a standard) no longer falling under waste legislation.
- Develop efficiency criteria which would enable incinerators to qualify as recovery plants if they meet these criteria.

The European Commission is also developing a Thematic Strategy on waste prevention and recycling. This will lead to a further reduction in the amount of waste which is land filled through further recycling and composting, and through an increase in the amount of energy which is recovered from residual waste.

The Commission plans to review the amounts of waste going to landfill in the EU in 2010, and if the move away from landfill is not progressing quickly enough, further landfill bans will be considered.

Warrington Borough Council's current waste collection and management procedures meet the requirements of the Framework Directive on Waste and the Environmental Protection Act 1990.

Landfill Directive (1999/31/EC)

The main aim of the Landfill Directive is to prevent, or minimise the negative effects on both the environment and human health caused by land filling of wastes. It has and will continue to have a significant impact on landfill practices in the UK as it bans certain materials from being land filled, requires waste to be pre-treated before it is land filled, and requires improvements to landfill management. The introduction of the Directive has resulted in a significant reduction in the number of landfill sites in the UK accepting hazardous wastes. The ban on land filling of certain wastes, such as tyres, from 2006 has meant that new arrangements for their collection and management have been introduced.

Land filled biodegradable waste is a major source of methane, which is a greenhouse gas over 20 times more potent than carbon dioxide in terms of global warming. The Landfill Directive will require the amount of biodegradable municipal solid waste sent to landfill in the UK to be reduced:

- to 75% of 1995 levels by 2010,
- to 50% of 1995 levels by 2013, and
- to 35% of 1995 levels by 2020.

The Government has implemented the requirements for land filling of biodegradable waste through the Waste and Emissions Trading Act 2003. This sets Waste Disposal Authorities (such as Warrington) annual allowances limiting how much biodegradable municipal waste (BMW) can be land filled in any particular year with effect from April 2005. The Government will fine Authorities that do not achieve their annual targets, but will allow Authorities to buy allowances from other Waste Disposal Authorities if they expect to landfill more than their allocations and sell their surplus if they expect to landfill less than their allowance.

Warrington Borough Council's waste strategy outlines how we intend to meet or exceed these targets, and thus avoid the need to either pay fines or purchase allowances.

Directive on Packaging and Packaging Waste (94/62/EEC)

The aim of the Directive is to reduce the amount of packaging waste sent for final disposal by introducing recovery and recycling targets for packaging waste. The UK has implemented this Directive through the Producer Responsibility (Packaging Waste) Regulations 1997. The European Commission regularly increases the amounts of packaging that Directive on Biowaste need to be recycled. The current

target is to recover 60% of all packaging waste by December 31 2008, and meet recycling targets for specific materials, which include a 60% recycling target for both glass and paper/board

The packaging collected in Warrington for recycling will contribute towards meeting the UK's target.

Waste Electrical and Electronic Equipment Directive (2002/96/EC)

The aims of this Directive are to require hazardous components to be removed from waste electrical and electronic equipment (WEEE), and to reduce the amount sent to landfill by introducing recovery and recycling targets. Some types of WEEE items, such as washing machines, are already being recycled, but additional systems for recycling items such as televisions and computers will need to be provided. The UK has implemented this Directive through the Waste Electrical and Electronic Equipment Regulations 2006, and this will require manufacturers to meet the treatment and recycling costs for WEEE items from July 2007.

The European Commission plans to review the existing targets set out by the WEEE Directive in 2008.

Warrington Borough Council provides facilities for collecting these items at the household waste recycling centres. Collected items are sent to suitable recycling facilities.

End of Life Vehicles Directive (2000/53/EC)

The aims of this Directive are to require hazardous materials (such as brake fluid) to be removed from end-of-life vehicles (ELVs) and to set recovery and recycling targets. Although ELVs are already being recycled, the Directive will require all ELVs to be treated in authorised treatment facilities (ATFs) and manufacturers will be required to meet the treatment and recycling costs from 2007.

The Department of Trade and Industry introduced the first set of UK ELV regulations in November 2003. These introduced design standards for vehicle manufacturers and environmental standards for the dismantling, recycling and disposal of ELVs by authorised treatment facilities (ATFs). The second set of UK ELV regulations came into force in February 2005, and addresses how manufacturers will set up networks of ATFs to process vehicles at no cost to last owners from 2007.

The current reuse and recycling targets are 80% by 2006 and 85% by 2015. The Commission plans to review the existing targets during 2007.

Warrington Borough Council collects abandoned vehicles and sends them to a suitable facility for recycling.

Ozone Depleting Substances (Regulation 2037/2000)

European Council Regulation No. 2037/2000 on substances that deplete the ozone layer came into effect at the end of 2001. The aim of this Regulation is to require the removal of all ozone depleting substances (ODS) (including CFCs and HCFCs) from

refrigeration equipment before such appliances are recycled. Ozone depleting substances are present in both the refrigerant liquid and the insulating foam in fridges and freezers, but until this Regulation was introduced, the only requirement was to remove the refrigerant liquid before the appliance was recycled.

Warrington Borough Council provides facilities for collection of refrigerators and freezers at the community recycling centres. These are sent to a suitable facility which separates out the ozone depleting substances; the remaining materials are then sent for recycling.

Directive on Batteries (2006/66/EC)

A new Directive on batteries was published in September 2006, and Member States, which includes the UK, will have to implement it by September 2008.

The original batteries Directive (91/157/EEC) only covered consumer batteries containing mercury, lead and cadmium above a certain threshold level. The new directive will require collection schemes (financed by battery manufacturers) to be set up, and these will need to collect 25% of household batteries by September 2012 and 45% by September 2016. The UK is currently recovering less than 1% of household batteries.

Facilities for collecting lead/acid (car) batteries are provided at the household waste recycling centres. Warrington Borough Council will assess options for collecting small household batteries.

Waste Incineration Directive (2000/76/EC)

This Directive ensures that energy from waste (EfW) incinerators continue to be tightly regulated in terms of their emissions, and sets minimum technical requirements for waste incineration and co-incineration. The Directive applies to all incinerators from the beginning of 2006, and has been implemented in the UK through the present Pollution Prevention and Control (PPC) regime.

Warrington Borough Council will ensure that any combustion facility that treats waste produced in Warrington meets or exceeds all of the emission requirements set by this Directive.

UK WASTE POLICY

Although most waste legislation in the UK has been introduced to meet the requirements set by European Directives, the UK Government has also introduced additional legislation, some of which is specifically aimed at encouraging recycling:

- The Financial Act 1996 and Landfill Tax Regulations 1996
- Waste Minimisation Act 1998
- Animal By-Products Order and Regulations 2003
- Household Waste Recycling Act 2004
- Local Government Act 1999 – Best Value Regime

The Financial Act 1996 and Landfill Tax Regulations 1996

Landfill Tax is a tax payable for each tonne of waste sent to landfill and was introduced by the Government in 1996 as a way of encouraging more sustainable means of waste management through recognising the hidden financial effects of the environmental impact of landfill. The landfill tax, which is currently £32/tonne, will be increased by £8 per year until at least 2010/11, which would result in a level of £48 per tonne in the 2010/11 financial year.

This increase in landfill tax will cause a significant increase in waste disposal costs and will provide a further incentive to move to more sustainable means of waste treatment in the near future.

Warrington Borough Council's waste strategy outlines how we intend to further reduce the amount of waste which is land filled, and thus reduce landfill tax costs.

Waste Minimisation Act 1998

The Waste Minimisation Act enables local authorities to implement schemes to minimise the amount of household waste that is generated. However, the Act does not place an obligation on authorities to carry out such initiatives, nor does it allow councils to impose any requirements on businesses or households in their area.

Warrington Borough Council already has a waste minimisation programme (for example, provision of home composting units to households). The new national waste strategy outlines a number of new waste minimisation initiatives, and Warrington Borough Council will work with other stakeholders to implement these measures.

Animal By-Products Order and Regulations 2003

As a result of the foot and mouth crisis in the UK, the Government introduced legislation which states that any material that has possibly been contaminated by meat products has to be composted in a suitable composting facility. The regulations also place restrictions on the subsequent use of the compost material (that has been produced by material which has or may have contained meat products) on land where animals (including wild birds) may have access.

If Warrington Borough was to increase its recycling rate by collecting food waste, Warrington Borough Council would ensure that all of this waste was processed in a facility which met or exceeded all of the requirements of this legislation.

Household Waste Recycling Act 2004

The aim of the Act is to increase recycling of household waste by requiring that English waste collection authorities (WCAs) should collect at least two types of recyclable material separately from the remainder of waste. The deadline for implementation is 2010.

Warrington Borough Council will meet this requirement and will expand services during 2008 and beyond.

Clean Neighbourhoods and Environment Act 2005

The Clean Neighbourhoods and Environment Act deals with many of the problems affecting the quality of our local environment which forms part of a continuum with anti-social behaviour, vandalism, disorder and levels of crime.

The Act provides local authorities, parish and community councils and the Environment Agency with more effective powers and tools to tackle poor environmental quality and anti-social behaviour. In particular the Act includes sections on nuisance and abandoned vehicles, litter, graffiti, waste, noise and dogs. The section on waste covers flytipping, and enables local authorities to issue fixed penalty notices if waste is left out on the street.

Warrington Borough Council will enforce this legislation.

Local Government Act 1999 – Best Value Regime

All Authorities are required under the Local Government Act 1999 to provide “Best Value” services and to secure continuous improvement by regularly reviewing the economics, efficiency and effectiveness of their functions. Authorities had ‘Best Value Performance Indicators’ (BVPI) for all of their services on which they are required to report annually. The BVPIs include a broad range of waste related measurements for example, the percentage of total household waste recycled.

Under the new waste performance framework, three national indicators for waste have now replaced eight Best Value Performance Indicators, such as household waste sent for recycling (BV82a) and sent to land-fill (BV82d). The new indicators cover residual waste per household (NI 191), percentage of household waste sent for reuse, recycling and composting (NI 192) and percentage of municipal waste landfilled (NI 193).

Warrington Borough Council’s aim is to ensure that each of its national indicators for waste management is better than the average for all authorities in England.

NATIONAL WASTE STRATEGY 2007

The Government first published a national waste strategy in 2000. The Prime Minister’s Strategy Unit reviewed the progress towards the targets set within Waste Strategy 2000 in 2002. The report suggested that “Waste Strategy 2000” may not be sufficient to move waste onto a more sustainable footing and the Government established the Waste Implementation Programme to address the recommendations made by the Strategy Unit.

An updated waste strategy was published in May 2007. This sets the Government’s vision for sustainable waste management, and the key objectives are to:

- decouple waste growth (in all sectors) from economic growth and put more emphasis on waste prevention and re-use
- meet and exceed the Landfill Directive diversion targets for biodegradable municipal waste in 2010, 2013 and 2020
- increase diversion from landfill of non-municipal waste and secure better integration of treatment for municipal and non-municipal waste
- secure the investment in infrastructure needed to divert waste from landfill and for the management of hazardous waste
- Maximise the environmental benefit from that investment through increased recycling of resources and recovery of energy from residual waste using a mix of technologies.

The main points of the waste strategy are:

- A strong emphasis on waste prevention with householders reducing their waste (for example, through home composting and reducing food waste) and business helping consumers, for example, with less packaging. There will also be a new national target to help measure this.
- More effective incentives for individuals and businesses to recycle waste, leading to at least 40 per cent of household waste recycled or composted by 2010, rising to 45% by 2015 and 50 per cent by 2020. This is a significant increase on the targets (30% by 2010 and 33% by 2015) in the previous waste strategy (which was published in 2000).
- Plastics and aluminium - proposals (subject to further analysis) for higher packaging recycling requirements beyond the 2008 European targets to increase recycling (because of savings in carbon dioxide emissions)
- Increasing the amount of energy produced by a variety of energy from waste schemes, using waste that can't be reused or recycled. It is expected that from 2020 a quarter of municipal waste - waste collected by local authorities, mainly from households - will produce energy, compared to 10 per cent today.

Other measures include:

- Removing the ban on local authorities introducing household financial incentives for waste prevention and recycling, through early legislative change so local authorities would have the option to introduce revenue-neutral schemes (potentially reducing annual residual waste land filled by up to 15% – equivalent to 1.5 million tonnes or 130 kg per household)
- Government will work with the Direct Marketing Association to develop a service so that people will be able to opt-out of receiving unaddressed as well as addressed direct mail. The Government is also considering moving towards an approach where people would only get direct mail if they opted in by placing their name on the direct mail register.
- Government will work with retailers to reduce the use of free single use bags. This could involve retailers only selling long-life bags, or retailers charging for disposable bags and using the proceeds to sell long-life bags at a discount.

- Recycling extended from the home and office to public areas by providing recycling facilities in shopping malls, train stations and cinema multiplexes, so that recycling becomes a natural part of everyday life.
- Subject to further analysis and consultation, banning biodegradable and recyclable waste from being put into landfill sites.

Warrington Borough Council's waste strategy outlines how it intends to meet or exceed these requirements in the longer term.

WASTE PLANNING AND POLICY GUIDANCE

Warrington Borough Council has a statutory duty to prepare a development plan which sets out the Council's policies and proposals for land use, transport and the environment and to determine planning applications for development in accordance with the development plan. Thus planning policy and waste management are inextricably linked to the development of future infrastructure for waste management in the UK. Planning decisions made now and in the near future will influence whether or not the UK will be able to meet the landfill diversion targets set by the Landfill Directive.

Planning Policy Statements (PPS) set out the Government's national policies on different aspects of land use planning in England. The following planning policy documents will have an impact on planning for any future waste management facilities in Warrington.

Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10)

This was published in July 2005. It identifies a pivotal role for the planning system, underpinned by the following principles:

- Delivering sustainable development by driving waste up the waste hierarchy;
- Using waste as a resource;
- Disposal to be considered the last option but one which must be adequately catered for;
- Communities to take more responsibility for their own waste;
- Sufficient and timely provision of waste management facilities;
- Helping to implement the national waste strategy;
- Secure the recovery and disposal of waste without endangering human health or harming the environment;
- Reflecting the interests and concerns of communities;
- Protecting green belt but recognising that certain waste facilities have particular locational needs;
- Design and layout of new development should support sustainable waste management.

It also requires the Regional Spatial Strategy to identify tonnages of waste requiring management for the commercial and industrial and municipal waste sectors. These

tonnages are to be apportioned to individual waste planning areas or sub regions where there is a commitment to work jointly.

Regional Spatial Strategy

The Northwest Regional Assembly, which is the regional planning body, submitted the draft Northwest Plan, which forms the new draft Regional Spatial Strategy (RSS) for the Region, to Government in January 2006. Public consultation took place on the draft Plan between March and June 2006 and an Examination In Public was held to test the Plan between October 2006 and January 2007. A report from the Examination in Public Panel has been submitted to the Secretary of State and this report will be used to inform the preparation of proposed changes to the Draft Plan, which will be subject to public consultation in due course. The Secretary of State will then consider any representations made during the consultation period and publish the approved RSS. This is expected to occur in late 2007.

The RSS sets out a long-term strategy for the spatial development of the region for the period up to 2021 and beyond. When adopted, this strategy will have statutory status and all local development documents will have to be in general conformity with it.

RSS waste policy extends beyond mere management of waste arisings, taking a more comprehensive approach to dealing with waste from the encouragement of minimisation, to the re-use of materials, for example by encouraging sustainable building techniques and providing the conditions for the development of the wide range of facilities required to recover value from materials currently land filled.

The RSS acknowledges that there is an urgent need for a significant number of new facilities in the region. It also recognises that during the RSS plan period, new techniques and processes for the management and treatment of waste will emerge. Therefore it is not appropriate for it to be prescriptive on the number and type of facilities needed to manage waste arisings in the region. However, it does require local authorities to allocate sites for new waste management facilities and to include policies that identify specific criteria for the location of new waste management facilities.

It is difficult to gauge the likely patterns of future hazardous waste arisings. Hazardous waste includes several types of and characteristics of waste, many of which require specialist treatment. It is not therefore appropriate for waste planning authorities to identify specific sites for their management and treatment in the same way as sites are identified for more generic waste management facilities.

Local Development Framework

Under the 2004 Planning and Compulsory Purchase Act, the Council is required to prepare a Local Development Framework (LDF), which will replace most elements of the existing Unitary Development Plan. The Local Plan informs interested parties of waste management issues and sets out policies and proposals for waste management activities. An important element of the Local Plan is to identify policies for managing waste within the area which draw the right balance between the

protection of the environment and the provision and maintenance of sufficient capacity to deal with the waste produced.