

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

20 May 2015

To: MEMBERS OF THE HOUSING AND ENVIRONMENT SERVICES
ADVISORY BOARD
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Housing and Environment Services Advisory Board to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Monday, 1st June, 2015 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

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The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

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Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr M O Davis (Chairman)
Cllr Ms J A Atkinson (Vice-Chairman)

Cllr M A C Balfour
Cllr V M C Branson
Cllr D J Cure
Cllr R W Dalton
Cllr Mrs S M Hall
Cllr S M Hammond
Cllr D Keeley

Cllr D Markham
Cllr Mrs A S Oakley
Cllr L J O'Toole
Cllr S C Perry
Cllr M R Rhodes
Cllr T B Shaw
Cllr Ms S V Spence

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Apologies for absence

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Declarations of interest

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Presentations by Service Heads

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TONBRIDGE & MALLING BOROUGH COUNCIL

HOUSING AND ENVIRONMENT SERVICES ADVISORY BOARD

01 June 2015

Report of the Director of Planning, Housing & Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 REDRESS SCHEME FOR LETTINGS AGENCY WORK AND PROPERTY MANAGEMENT WORK

Summary

Since 1 October 2014 any person engaged in lettings agency or property management work must be a member of a Government approved redress scheme. This report draws Members' attention to the changes and seeks delegated authority to enforce the legislative provisions relating to this area of work.

1.1 Background

1.1.1 The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, made under the Enterprise and Regulatory Reform Act 2013, introduced new enforcement responsibilities for Local Authorities.

1.1.2 Since 1 October 2014, all lettings agents and property managers in England have been under a legal obligation to become a member of a Government approved redress scheme.

1.1.3 The three approved redress schemes are:

- Ombudsman Services Property (www.ombudsman-services.org)
- Property Redress Scheme (www.theprs.co.uk)
- The Property Ombudsman (www.tpos.co.uk)

1.1.4 The intention is to make it easier for tenants and landlords to complain about bad service, prevent disputes escalating and ultimately to seek to improve standards of those managing and operating accommodation in the private rented sector and to drive up property standards.

1.1.5 To ensure that the requirement for lettings agents and property managers to belong to a redress scheme is effective, enforcement arrangements have been

set out in the Order. As a District Council, Tonbridge & Malling Borough Council is the “enforcement authority” under the Order.

- 1.1.6 An enforcement authority can impose a fine (“a monetary penalty”) of up to £5,000 if it is satisfied, on the balance of probabilities, that a person is engaged in letting agency or property management work and has failed to join one of the three approved schemes (and is not exempt from the requirement to be a member of such a scheme).
- 1.1.7 The level of the penalty is to be determined by the enforcement authority. However, there are strict procedures set out in the Order that must be followed before a penalty can be imposed. These include serving a Notice of Intent on the relevant person who then has 28 days in which to make representations or objections. Following careful consideration of any representations or objections received, the enforcement authority must decide whether or not to impose a monetary penalty, with or without modifications. This must be in the form of a Final Notice, against which appeals can be made to the First-Tier Tribunal.
- 1.1.8 The enforcement authority may recover the monetary penalty on the order of the court, as if payable under a court order. Any monetary penalties received by an enforcement authority may be kept by the authority and used for any of its functions.
- 1.1.9 The enforcement guidance issued by DCLG states that: *“The expectation is that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcement authority is satisfied that there are extenuating circumstances”*.

1.2 Options

- 1.2.1 The available options are limited as the Council is under a mandatory duty to enforce the scheme. Therefore, delegated authority needs to be given to the appropriate Officer of the Council in order that we are in a position to respond to this duty.
- 1.2.2 However, the level of the monetary penalty is at the Council’s discretion. The options are:
- to agree the monetary penalty be set at the maximum of £5,000 in accordance with Government guidance (unless there are extenuating circumstances); or
 - to agree that the monetary penalty be set at some other amount.
- 1.2.3 As the DCLG guidance indicates an expectation of a £5,000 fine, it seems appropriate to choose this option. Any extenuating circumstances at the time will then be taken into account and the fine lowered if appropriate.

1.3 Legal Implications

- 1.3.1 Tonbridge & Malling Borough Council, as of 1 October 2014, is an “enforcement authority” for the purposes of The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014.
- 1.3.2 The Council is obliged to enforce the Order and discharge the enforcement functions referred to in this report.

1.4 Financial and Value for Money Considerations

- 1.4.1 Enforcement of the Order is not likely to be onerous and will be carried out within existing resources of the Council’s Private Sector Housing Team.
- 1.4.2 It is not anticipated there will many (if any) fines issues, as the monetary penalty is likely to be a significant deterrent to those engaged in the relevant work. As such, the Council should not expect to receive any regular income from the issuing of monetary penalties under the Order.

1.5 Risk Assessment

- 1.5.1 None

1.6 Equality Impact Assessment

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Recommendations

CABINET is RECOMMENDED to:

- 1.7.1 **AGREE** to delegate the implementation and enforcement arrangements for The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014 to the Director of Planning, Housing & Environmental Health.
- 1.7.2 **AGREE** the penalty for non-compliance with the Order be £5,000, unless extenuating circumstances apply.
- 1.7.3 **AGREE** to authorise the Director of Planning, Housing & Environmental Health to determine what are extenuating circumstances and to determine what alternative penalty is appropriate in each case.

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers: Nil

contact: Linda Hibbs
Satnam Kaur

Steve Humphrey
Director of Planning, Housing and Environmental Health

TONBRIDGE & MALLING BOROUGH COUNCIL

HOUSING AND ENVIRONMENT SERVICES ADVISORY BOARD

01 June 2015

Report of the Director of Planning, Housing & Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 ENVIRONMENTAL HEALTH PERFORMANCE 2014-2015

Summary

This report describes the operational activities of the Council in relation to its statutory function of environmental health and safety for the year 2014/15.

1.1 Background

1.1.1 The Environmental Health function is primarily concerned with protecting the public from the harmful exposures they may encounter in the wider environment, food, workplaces and with improving health. Environmental Health Officers act as advisers, educators and regulators, and carry out site visits and give assistance to individual householders and businesses and to managers and workers. In certain circumstances, they take enforcement action to ensure compliance with legislation designed to protect the health of the public.

1.1.2 Two Teams work in this area:

- Food and Safety Team (FST) – responsible for the food premises inspection and food sampling programmes, health and safety in our local workplaces providing advice and guidance to employers and responding to requests for service relating to these areas; and
- Environmental Protection Team (EPT) – responsible for requests for service relating to alleged nuisances, responding to planning and licensing applications, contaminated land enquiries, proactive landfill gas and water quality monitoring and meeting the statutory requirements of the environmental permitting, local air quality management and private water supply regimes

1.2 Food and Safety Team

1.2.1 A significant part of the work of the team is the food premises inspection programme, which includes full or partial inspections of high and medium risk food businesses and questionnaires to low-risk business. A total of 481 full or partial

inspections and 155 information gathering interventions were carried out which includes questionnaires sent to low risk premises. In addition 150 re-visits to food premises were undertaken to ensure legal contraventions had been remedied. All but seven programmed interventions to high-risk food premises, that were due in 2014/15, were completed. The reasons that the businesses could not be inspected were outside the team's control and included seasonal closure. Specific details of food safety interventions are shown in **[Annex 1]**.

- 1.2.2 The Council's results show that at the end of 2014, 92 per cent of our food businesses are broadly compliant and have achieved a rating of 3 or better in the National Food Hygiene Ratings Scheme. Full details are presented in **[Annex 2]**.
- 1.2.3 Thirty five visits were made as a result of accidents at work or complaints about workplaces, mostly relating to workplace transport and slips and trips.
- 1.2.4 Food sampling is important to help ensure the safety of food. The Food and Safety team participated in national sampling surveys which examined the safety of foods from takeaway premises with a hygiene rating of zero and three and the hygiene of wooden serving food platters. In addition, samples were taken as a result of food poisoning allegations or complaints of poor hygiene and routine surveillance of manufacturers. In 2014/15, officers took 228 samples and sent them for microbiological examination. Thirteen borderline and 50 unsatisfactory results were investigated and advice given to businesses to resolve problems. Re-samples were taken where required. Further details can be found in **[Annex 3]**.
- 1.2.5 During 2014/15, a total of 265 reports of food poisoning were made and investigated when food businesses were implicated. This is an increase of 30 reported cases on last year. Campylobacter cases continue to be the largest number of reported cases of food poisoning in the borough, with 227 cases. The incidence of salmonella was just 10 in comparison. The team provides advice to people suffering from food poisoning or food related disease and, where necessary, further investigations and sampling are undertaken with businesses that may be implicated.

Promotional activities are an important aspect of the work of the team to help businesses comply with legislation. In January and February this year we held two free training sessions for Turkish and English businesses with a food hygiene rating of between zero and three. The purpose of the training was to help them improve their standards of hygiene by highlighting the importance of adequate hand washing, cleaning and disinfection and correct separation of raw and ready to eat foods to prevent cross contamination. Improvements will be reassessed at the next re-visit or full inspection and the aim is to see an improvement in standards and the hygiene rating.

- 1.2.6 Members may be aware of new food allergen regulations that were introduced at the end of last year, requiring businesses to provide information on 14 food

allergens to their consumers. As well as an email campaign to businesses and a press release, we held two drop-in sessions for businesses to help them find out more about the new requirements. A total of 19 businesses attended. Officers also gave advice at a bed and breakfast business group meeting and a child-minders meeting.

- 1.2.7 Officers continue to deliver food safety and hygiene training as part of the West Kent Local Authority Training Partnership, operated in conjunction with other West Kent local authorities. This year, officers delivered two courses at Tonbridge and Malling as part of the partnership arrangement.
- 1.2.8 The Food and Safety team received 114 service requests in 2014/15. These included complaints about food, food premises and the hygiene of food handlers, as well as workplace health and safety complaints. All these complaints were fully investigated and relevant action taken. All but three service requests were responded to within the five day target.
- 1.2.9 **Formal Enforcement Action** - In order to protect public health, it is sometimes necessary to take formal action against businesses. In 2014/15, 29 food hygiene improvement notices were served to secure compliance for offences such as lack of food hygiene training and inadequate food safety management systems.
- 1.2.10 One business was formally closed for 24 hours due to lack of hot water; a decision that was later upheld by the Magistrates Court. Five health and safety improvement notices were also served on other businesses.

1.3 Environmental Protection Team

- 1.3.1 During the twelve months from 1 April 2014 to 31 March 2015, 1,216 requests for service were received to which the team responded to 98 per cent within five working days. Of that total, 739 concerned the odour from Drytec. Other issues that generated significant requests for service included noise, barking dogs, bonfires, various types of accumulations and fly tipping. Specific details of the types of requests received are shown in **[Annex 4]**.
- 1.3.2 On receipt of a complaint, letters are sent to the complainant (with diary sheets enclosed) and to the person alleged to be causing the nuisance, advising them that a complaint had been received and requesting them that if the allegation is correct to resolve the situation. In the many cases, no further communication is received by officers from either party, indicating that the initial letter to the person alleged to be source of the problem resolves the issue with no further involvement from officers.
- 1.3.3 On some occasions is necessary for the team to instigate formal action to protect public health. This is usually because the enforcement options, as set out in the Enforcement Policy, have been exhausted. A summary of Notices served in this year is provided in **[Annex 5]**.

- 1.3.4 The EPT are formally consulted by their colleagues in the Planning department on applications received and on which the EPT may wish to recommend the inclusion of conditions or “informatives” if planning permission is granted. These recommendations are intended to pre-empt and address areas of environmental concern prior to development starting and ensure that appropriate mitigation measures and/or remediation measures are addressed and implemented within the proposal to protect the quality of life for the future occupants of the development and neighbouring properties. During the year the team responded to 532 planning applications.
- 1.3.5 Under the provisions of the Licensing Act 2003, Environmental Health is a statutory consultee in respect of applications for Premises Licences and Temporary Events Notices (TENS). The team are also consulted on applications for Events on Open Spaces, where an event is to be held on Council owned land. During the year the team responded to 16 Premises Licence applications, 295 TENS applications and 45 applications for events on open spaces.
- 1.3.6 Certain specified processes are required to obtain a ‘permit to operate’, under the provisions of the Environmental Permitting Regulations, which control emissions to land, air and water. Responsibility for enforcement of the regime is divided between the Environment Agency and Local Authorities. There are 53 permitted processes within the Borough covering processes which include roadstone coating, dry cleaners, paint spraying and concrete batching. A total of 47 visits (including 39 inspections) were made to premises in the year. The standard of compliance with the permits and any conditions attached remains high.
- 1.3.7 The Council has an important role in protecting the public from hazards associated with contaminated land. There are three principal aspects to this role:
- identification and prioritisation of known areas of contaminated land within the Borough;
 - ensuring that, through the planning process, areas of potentially contaminated land are identified, investigated and remedied during the development process; and
 - responding to specific enquiries from potential property purchasers who have had concerns raised about potential contaminated land on their prospective property.
- 1.3.8 In 2014/15, contaminated land comments and recommendations were made on 225 planning applications. We provided 50 reports in relation to specific contaminated land enquiries, the majority from prospective property purchasers.
- 1.3.9 There are a number of private water supplies in the Borough and to safeguard the health of people consuming water from these supplies the team is required to risk assess and sample these supplies. Most occur in residential properties; although there are commercial premises that maintain a private water supply. Formal action

is instigated should supplies not meet the required health standards; the most common reason for this tends to be as a result of maintenance regimes not being followed. This led to a number of notices being served, which are outlined in **[Annex 5]**.

1.3.10 The Local Air Quality Management (LAQM) regime requires the Council to periodically review and assess the air quality within its area. To fulfil these duties officers in the EPT monitor the air quality across the Borough using diffusion tubes and a continuous analyser located in Tonbridge High Street. The results of this monitoring are reported annually to the Department for the Environment, Food and Rural Affairs (DEFRA). They identify areas of poor air quality and may result in the declaration of Air Quality Management Areas.

1.4 Proposed Service Improvements

1.4.1 The Food and Safety Team intend to make the following service improvements in 2015/16:

- Delivering an educational campaign for catering businesses with gas appliances, offering advice and support on the prevention of carbon monoxide poisoning; and
- Further training sessions for businesses to help them improve their food hygiene rating.

1.4.2 The Environmental Protection Team proposes the following service improvements in 2015/16:

- Review and implement changes to our approach to air quality management in line with the outcomes of the DEFRA review;
- Update the statutory nuisance investigation procedures; and
- Review the contaminated land strategy.

1.4.3 Both teams will be reviewing their approach to regulation through the Better Business for All agenda.

1.5 Legal Implications

1.5.1 The Council has a statutory duty to undertake the full range of functions described in this report, with the exception of promotional and business support activity.

1.6 Financial and Value for Money Considerations

1.6.1 All service improvements will be undertaken within existing budgets.

1.7 Risk Assessment

- 1.7.1 Failure to properly manage and deliver the food safety functions could result in censure by the Food Standards Agency and breach of Section 18 of the Health and Safety at Work etc. Act 1974.
- 1.7.2 The failure of the EPT to meet its statutory obligations could result in formal complaints and potential criticism from DEFRA. It could also lead to a potential legal challenge.

1.8 Equality Impact Assessment

- 1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Recommendations

- 1.9.1 It is **RECOMMENDED** that the Cabinet **NOTE** the performance information relating to activities associated with the food and safety function in 2014/15 and **ENDORSE** the service improvements for 2015/16 as detailed in paragraph 1.4.1 and 1.4.2 of the report.

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

Nil

contact: Jacqui Rands
Melanie Henbest
Jane Heeley

Steve Humphrey
Director of Planning, Housing and
Environmental Health

Councillor Jill Anderson
Cabinet Member for Housing and
Environment

FOOD HYGIENE INTERVENTIONS

Premises risk rating and frequency	No. interventions carried out 2012/13	No. interventions carried out 2013/14	No. interventions carried out 2014/15
A – 6 months	5	6	1
B – 12 months	41	46	42
C – 18 months	266	232	173
D – 2 years	77	89	166
E – 3 years *	157	185	99
Total	546	558	481

*** Includes low risk premises questionnaires**

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SUMMARY OF NATIONAL FOOD HYGIENE SCHEME RATINGS

Rating	Number of businesses	%
Five (Very Good)	491	57
Four (Good)	233	27
Three (Generally Satisfactory)	90	11
Two (Improvement Required)	31	4
One (Major Improvement Required)	11	1
Zero (Urgent Improvement Required)	1	Negligible
Total	857	100

Data correct as of 13 May 2015.

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FOOD SAMPLING PROGRAMME

DATE	SAMPLING PROGRAMME	RESULTS
July 2014-March 2015	UK Co-ordinated Food Liaison Group Study-Hygiene & Food Safety in Takeaways with a Food Hygiene Rating Score of 3 or less	48 samples taken 2 borderline (acceptable) 14 unsatisfactory
March-May 2015	UK Co-ordinated Food Liaison Group Study-Unpasteurised milk direct for consumption sampled at the point of sale	2 samples taken both satisfactory
April 2014-October 2014	UK Co-ordinated Food Liaison Group Study-Swabs from ready to use platters used to serve food	32 samples taken 15 unsatisfactory
April 2014-March 2015	TMBC Food complaints and food poisoning allegations	63 samples taken 1 borderline (acceptable) 7 unsatisfactory
April 2014 - March 2015	TMBC Routine sampling programme including manufacturers and producers	83 samples taken 10 borderline (acceptable) 14 unsatisfactory
<p>Total number of samples: 228</p> <p>Of which 165 were classified as satisfactory</p> <p>13 were classified as borderline (acceptable)</p> <p>50 were classified as unsatisfactory</p>		

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REQUESTS FOR SERVICE 2014/15

ANNEX 4

Service Request Category	Number of complaints 2013/14	Number of complaints 2014/15	Comments
Accumulations	62	50	Complaints regarding accumulations NOT associated with food premises and animals
Drainage	8	12	Blocked, leaking or overflowing private drains, private sewers and septic tanks
Noise	186	220	Sources include amplified music from domestic and licensed premises
Dogs	115	112	Barking dogs
Pollution	85	79	e.g. bonfires, odour, smoke, grit and dust and light
*Tonbridge Odour complaints	460	739	
TOTAL	916	1216	

*Refers to individual complaints received, rather than specific cases

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FORMAL ACTION 2014/15 - SERVICE OF STATUTORY NOTICES

Notice	Number served 2013/14	Number served 2014/15	Example
Environmental Protection Act 1990 section 80	6	10 (including 5 in respect of odours from Drytec in respect of 5 locations)	Statutory nuisance e.g. noise, accumulations
Prevention of Damage by Pests Act 1949 section 4	0	0	Control of rats and mice
Public Health Act 1936 section 83 (As amended)	1	0	Filthy and Verminous Premises
Local Government (Miscellaneous Provisions) Act 1976 section 16	1	2	Requisition for Information
Local Government (Miscellaneous Provisions) Act 1982 section 29	1	0	Securing premises against unauthorised access
Control of Pollution Act 1974 sec 60	2 (in relation to 1 premises)	1	Control of Noise on construction sites
Control of Pollution Act 1974 section 61	2 (in relation to 2 premises)	1	Prior consent for construction works.
The Private Water Supply Regulations 2009 section 18	6 (in relation to 1 commercial premise and 1 domestic premises)	6 (in relation to 8 domestic premises)	Notification of failure to comply with the required standards for PWS and actions required to remedy the failures.
TOTAL	20	20	

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TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND ENVIRONMENT SERVICES ADVISORY BOARD

1 June 2015

Report of the Director of Street Scene and Leisure

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 WASTE AND STREET SCENE SERVICES – CONTRACT PERFORMANCE 2014/15

Summary

This report considers performance over the range of Waste and Street Scene Service functions and contracts during 2014/15.

1.1 Background

1.1.1 This report considers performance across the high profile functions managed by the Waste & Street Scene Services, namely refuse collection, recycling, amenity and street cleansing, public convenience cleaning, abandoned vehicles, pest control and the dog warden service. The 2014/15 information is provided together with a comparison with the previous three years' performance.

1.2 Refuse & Recycling Collection Services

1.2.1 This is the largest element of the contracted services, with a total annual cost of over £2.2 million in 2014/15. The present contract commenced in 2005 and was awarded to Veolia Environmental Services for a 14 year period. The main features of the contract are:

a wheeled bin, boundary of property collection service for household waste based on an alternating weekly collection service:

- Black bin – residual waste
- Green lidded bin – green waste, food waste and cardboard;

a borough-wide green box recycling service for paper and cans;

a separate weekly household clinical waste collection for those householders who need this service;

an assisted “pull-out” collection service for residents who find it difficult to move wheeled bins;

a Saturday household bulky waste service at a number of locations around the borough; and

and a network of recycling ‘bring’ for glass & cans sites throughout the borough.

- 1.2.2 Additionally we have a number of smaller contracts & service arrangements for the collection of other materials at our bring sites: Countrystyle Recycling (plastics); Green Recycling (paper) and LM Barry (textiles).

1.3 Street Cleansing Service

- 1.3.1 This is a major service with an annual contract cost of around £1.2 million in 2014/15. The service is also provided by Veolia and is run as a joint contract with the refuse and recycling services. The main features include:

provision of regular cleaning of streets, footpaths and highways;

provision of a ‘hit squad’ to allow rapid response to reactive work;

servicing of litter and dog waste bins;

cleansing, at a rechargeable cost, of Circle Housing Russet land;

provision of cleaning services for Council-owned land such as car parks and some leisure land;

removal of fly tipped waste from public highway land;

and a graffiti removal service.

- 1.3.2 Detailed below is Key Performance Indicator (KPI) data relating to the refuse & recycling and street cleansing services:

Table 1

KPI	2011/12	2012/13	2013/14	2014/15
Kgs of residual household waste per household	544	563	584	583
Percentage of household waste sent to reuse, recycling and composting	44	43	42	42
Paper tonnage (box & bank)	3,767	3,551	3,255	3,024
Total waste arisings (tonnes)	48,641	49,506	51,336	51,073
Average number of missed bins per week not rectified within contract timescales	2.6	3.0	2.8	2.8
Total number of fly-tips	418	395	468	494
Percentage of high priority fly-tips cleared within 24 hours	100	100	100	100
The Borough's Cleanliness Score	7.1	6.8	7.0	7.1

1.4 Comments on Contract Performance

- 1.4.1 In keeping with the national position we have noted a decrease in tonnages of recycling materials collected. Despite this, a performance of 42 per cent of waste being either recycled or composted has been achieved. The drop in total weight of materials collected for recycling is considered to be as a consequence of the economic issues facing the country. Paper tonnages in particular continue to decrease due to the reduction in free newspapers and "junk mail", as well as increased switching from newspapers to electronic media.
- 1.4.2 The Allington "Energy from Waste" plant transforms our black bin residual waste into electricity. We continue to work to improve the quality of material from our green-lidded bin service delivered to the Blaise Farm in-Vessel composting unit, especially with regard to reducing the amount of plastic bag contamination.
- 1.4.3 The contract for the collection of plastics from bring sites was re-let last year and a new contractor, Countrystyle, took over in May 2014. As a result of this tender process, we were able to increase the types of plastic containers collected, from plastic bottles only to bottles, tubs, pots & trays. Countrystyle worked closely with the outgoing contractor, Viridor, to ensure a seamless transition, including provision of brand new banks, without any disruption to the service.
- 1.4.4 Due to the sudden closure of Aylesford Newsprint in February this year, alternative arrangements had to be found as a matter of urgency for the recycling of paper both from our green box service and the bring site banks. Green Recycling were sub-contracted by Aylesford Newsprint to carry out the bank

collections, and fortunately they were able to continue providing the service whilst negotiating with the administrators to purchase the banks themselves. We now have a service agreement in place with Green Recycling, and residents have not been affected by the change. Paper from the box scheme is still being collected by Veolia, and is delivered to their Chatham facility for onward reprocessing.

- 1.4.5 With the above facilities, locally available for us to use, we were able to reprocess over 80% of the collected recycling or compostable materials within Kent. Although this may change slightly following closure of Aylesford Newsprint, the overwhelming majority of our waste will continue to be processed within the UK. We are also able to ensure that around 90 per cent of our total waste arisings are used as a resource as they are either recycled, composted or used for energy recovery, with just 10% being sent to landfill. This makes our collection service one of the most environmentally sustainable schemes in the country.
- 1.4.6 The number of fly tip reports has remained static compared with last year. However, the number of enforcement actions against fly-tipping and littering offenders continues to increase. We continue to work closely with Police, Licensing and other local authority colleagues to share intelligence on waste offences and to carry out proactive initiatives such as waste carriers' checks.
- 1.4.7 The Borough's Cleanliness Score provides a measure of the average cleanliness of highways in the borough. As an indication, a score of 6.7 is a good result, where roads are of a satisfactory standard and are predominantly free of litter. Random inspections are carried out monthly throughout the year and scores take account of both litter and detritus (a build up of dirt/materials in channels).

1.5 Public Toilets Cleaning Service

- 1.5.1 Although a relatively small contract in financial terms at a cost of £61K in 2014/15, it remains a high-profile service. The cleaning contract is currently carried out by SHS Cleaning Ltd, who took over from Sevenoaks DC in July 2013. We received just two formal complaints about the cleanliness of our public toilets during 2014/5. These resulted in SHS taking appropriate action and the quality of service provided by SHS and standards of cleanliness remain high at 95%, this is despite the changes made to the cleansing specification under the new contract. Repeated anti-social behaviour at three of the 14 toilets, despite the support of Police colleagues, has led to us working with the local Parish Council and communities to shut them overnight.

1.5.2 Detailed below is key performance information relating to this service:

Table 2

KPI	2011/12	2012/13	2013/14	2014/15
Percentage of cleansing inspections with satisfactory standard or above	100	100	94	95

1.6 Pest Control

1.6.1 The Waste & Street Scene Team has responsibility for the management of the Council's Pest Control contract, currently provided by Monitor Pest Control. The contract currently provides for free of charge treatments of rats, mice, bedbugs & cockroaches to households in receipt of Council Tax benefit. This changed at the start of Monitor's contract in November 2013 when the Council ceased to provide treatments of wasps & fleas. This has meant a significant reduction in jobs being carried out under the Council's contract, as residents can now go direct to Monitor, or any other pest control company of their choice.

1.6.2 We have received no formal complaints about the service being provided, and in fact residents have reported that the service being provided by Monitor to a high standard.

Table 3

KPI	2011/12	2012/13	2013/14	2014/15
Number of jobs	1,166	549	509	167
Percentage of job requests responded to within 2 days	100	100	100	100

1.7 Dog Warden Service

1.7.1 The Dog Warden service is responsible for dealing with lost and stray dogs, promoting responsible dog ownership, dealing with micro-chipping, investigating and enforcing dog fouling offences and noisy and nuisance dog complaints. The service is currently provided by Ward Security Ltd who took over from Animal Wardens on 1 March 2014. Key performance information is detailed below.

Table 4

Stray Dogs Dealt With	2011/12	2012/13	2013/14	2014/15
Returned to owner direct	22	34	13	14
Claimed by owners	95	63	75	167
Donated	100	73	78	72
Put to sleep	12	14	21	8
Other	1	5	3	4
Total of Stray Dogs dealt with	230	189	190	265
Other Service Requests				
Dangerous dogs	46	72	81	90
Noisy dogs	102	98	115	112
Dog fouling		37	85	68
KPIs				
Percentage of stray dog complaints responded to on day reported	100	100	100	100
Percentage of other complaints responded to within 5 days of report	100	100	100	100

- 1.7.2 There has been an increase of almost 40% in the number of stray dogs being dealt with compared with last year. Analysis shows that although the number of strays being picked up by the Dog Warden during normal office hours remains relatively static, the number being picked up Out Of Hours (OOH) is considerably more than when the service was provided by Animal Wardens. As the OOH service is now provided on behalf of Ward Security by Viking Oak Kennels on Seven Mile Lane, this may indicate that an improved service from a more local facility is benefitting residents finding strays at night or over the weekend.
- 1.7.3 Of additional note is the increase in the proportion of dogs being reunited with their owners. Over the past few years the Dog Warden has run a number of initiatives to help increase awareness of responsible dog ownership, including free or reduced price micro-chipping sessions. This enables the kennels to trace and contact the owner to arrange collection. This also assists in reducing the cost to the Council, which would otherwise have to cover the cost of kennelling unclaimed dogs before they can be rehomed.

1.8 Abandoned Vehicles

- 1.8.1 The Waste & Street Scene Team has responsibility for the investigation & removal of abandoned vehicles, where appropriate. However, the contract for removal is let and managed by Kent County Council.

Details of the number of abandoned vehicle reports and those that required removal are provided below:

Table 5

	2011/12	2012/13	2013/14	2014/15
Number of reports of potentially abandoned vehicles requiring investigation	113	88	90	159
Number of vehicles removed	2	6	3	17

1.8.2 There has been a significant (77%) increase in the number reports received about alleged abandoned vehicles. Analysis shows that many of the reports received where no action was required were of untaxed vehicles and of vehicles belonging to local residents. It is likely that the DVLA's decision not to issue paper tax discs for display as of October last year is a contributing factor to this increase in reports. However, their provision of an online service for checking a vehicle's tax status, and our ability to carry out DVLA checks on registered keepers has assisted the team in closing down a large number of these reports without having to send officers on repeat inspections.

1.9 Legal Implications

1.9.1 The contracted services outlined above assist the Council in delivering its statutory obligations. In order to comply with our legal duties relating to safety at work we undertake risk based audits and inspections of our contractor's work systems and practices.

1.10 Financial and Value for Money Considerations

1.10.1 Annual performance reports provide Members with an opportunity to review ongoing efficiency and effectiveness of high profile contracts which are client managed by the Waste & Street Scene Team.

1.11 Risk Assessment

1.11.1 The failure to provide effective and efficient front line and high profile services could result in criticism from residents and impinges directly on their view of the Council and their satisfaction with services delivered.

1.12 Equality Impact Assessment

1.12.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.13 Recommendations

CABINET IS RECOMMENDED TO NOTE the performance of the Waste & Street Scene contractors as detailed in this report.

The Director of Street Scene & Leisure confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

Nil

contacts:

Dennis Gardner

David Campbell-Lenaghan

Robert Styles

Director of Street Scene & Leisure

TONBRIDGE & MALLING BOROUGH COUNCIL

HOUSING AND ENVIRONMENT SERVICES ADVISORY BOARD

01 June 2015

Report of the Director of Street Scene & Leisure

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 WASTE FRAMEWORK DIRECTIVE (WFD) – COLLECTION OF RECYCLING MATERIALS

Summary

This report provides details of the work carried out to demonstrate the Council's compliance with the new regulations on collection methods for recycling materials that came into force in January 2015.

1.1 Background

1.1.1 At the meeting of the Local Environmental Management Advisory Board in September 2014 I outlined the new WFD legislation and our proposal to carry out a full evaluation (a "Route Map" assessment) of our recycling collection methods in order to demonstrate our compliance.

1.1.2 The revised WFD requires the United Kingdom to take measures to promote high quality recycling. This includes a specific requirement to set up separate collections of paper, plastic, metal and glass as a minimum by January 2015. These materials must be collected separately, unless:

- It is not necessary to do so in order to provide high quality recyclates – the "necessity test", or
- It is not Technically, Environmentally, Economically Practicable (TEEP) to provide for separate collection – the "practicability test".

1.1.3 While the legislation prioritises the above key materials, it also requires Waste Collection Authorities to look at their entire waste systems and how waste is managed in accordance with the waste hierarchy of treatment. This regulation came into force in 2011 and places an ongoing requirement to apply the waste hierarchy:

- Prevention;
- Preparation for re-use;
- Recycling, and

- Other recovery including energy recovery.

1.1.4 Although it had been hoped that the Government would provide detailed advice on how Local Authorities may meet these requirements and demonstrate compliance, this guidance has not been forthcoming. However, in the absence of any guidance a working group comprising members of Local Authority Waste Network (LAWN) has developed the Waste Regulations Route Map (the “Route Map”).

1.2 The “Route Map” Assessment

1.2.1 This is an advice document that takes local authorities through a step by step guide on how to demonstrate compliance with the new regulations. This is a fairly lengthy process and for information a copy of the guidance can be found at:

<http://www.wrap.org.uk/sites/files/wrap/Route%20Map%20Revised%20Dec%202014.pdf>

1.2.2 As endorsed at the Advisory Board in September 2014 officers have worked closely with the Kent Resource Partnership (KRP) which provided funding for districts to engage consultants to carry out this assessment.

1.2.3 Waste Consulting Limited (WCL) were engaged by a number of Kent districts and have now completed this assessment for our Council. Members will be pleased to note that the report states that “the Council currently demonstrates a high level of compliance with the waste regulations.” A copy of the Executive summary is attached at **Annex 1**, and a full copy of the report can be made available to Members on request.

1.2.4 Using the “Route Map” methodology and working with WCL not only provides a consistent approach to the process used by other authorities, but also provides us with external verification.

1.2.5 The Environment Agency, as the enforcement body for the new legislation, has recently written to all local authorities asking that they confirm compliance and we have responded with details.

1.3 The Way Forward

1.3.1 It is worth noting that while we are currently able to demonstrate our compliance with the new legislation, this is a dynamic process with any changes to our recycling collection system requiring further or updated assessments.

1.3.2 When engaging consultants we took the opportunity to go beyond the initial requirements of the regulations and WCL has also provided commentary on our wider recycling collection services with a number of recommendations for the future. The recommendations include

- a compositional analysis of residual and organises waste streams
- working with the KRP to improve capture rates of high quality materials

- working with the KRP and KCC on collection and processing options for cardboard
- regular assessment of material sent to high quality recycling.

This is something Officers are already mindful of as we consider our options in advance of contract renewal in early 2019. The KRP are also looking at key trends and potential areas for joint working across Kent districts arising from these assessments.

- 1.3.3 Officers are currently evaluating and reviewing this information and any proposals or actions arising from this further work will be shared with Members in due course.

1.4 Legal Implications

- 1.4.1 There is a legal requirement to comply with the new regulations. Waste Collection Authorities need to be able to demonstrate that their recycling collection systems meet these regulations.

1.5 Financial and Value for Money Considerations

- 1.5.1 Funding to engage consultants and carry out the “Route Map” assessment report has been provided by the Kent Resource Partnership. Officers are currently looking at the wider report in more detail. Any recommendations or potential actions for the future development will be fully evaluated and costed and will be subject of further reports to Members.
- 1.5.2 There are no additional costs associated with the process at this stage.

1.6 Risk Assessment

- 1.6.1 There are potentially two significant risks to Councils across the country: firstly, the Environment Agency has an enforcement role, which could involve prosecutions; secondly, Judicial Reviews may be possible against Councils in terms of how the law has been implemented.
- 1.6.2 Having gone through the recommended assessment process for our recycling collection services, we believe we are able to demonstrate compliance with the new regulations and details have been provided to the Environment Agency. While it has been assessed that our current collection methods do comply with the legislation, we will need to be mindful of future service changes and potential implications.

1.7 Equality Impact Assessment

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.8 Recommendations

IT IS RECOMMENDED TO CABINET that:

- i) Members endorse this report which demonstrates the borough council's compliance with the new EU Waste Framework Directive regulations.
- ii) Liaison takes place with both the Kent Resource Partnership and Kent County Council to consider the recommendations brought forward in the assessment undertaken by WCL.

The Director of Street Scene & Leisure confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Dennis Gardner

Nil

Robert Styles

Director of Street Scene & Leisure



Tonbridge & Malling Borough Council

**An assessment of whether current
collection arrangements meet the
England & Wales Waste Regulations
2011 (amended 2012)**

Final Report

January 2014

Version control page

Document description

Document name An assessment of whether current collection arrangements meet the England & Wales Waste Regulations 2011 (amended 2012) –Interim Report

Authors Paul Bridger/David Greenfield

Approved Chris Stannard

Version control

Version	Date	Author	Description
1.0	14/10/14	Paul Bridger/David Greenfield	Draft Interim Report
1.1	25/11/14	Paul Bridger/David Greenfield	Draft Interim Report
1.2	29/01/15	Paul Bridger/David Greenfield	Final Report

Executive Summary

This report provides an assessment of the compliance of Tonbridge & Malling Borough Council’s collection service against the requirements of the England & Wales Waste Regulations 2011 (amended 2012) in accordance with the revised Waste Framework Directive (rWFD).

The regulations require actions to be taken to ensure waste undergoes recovery operations that comply with the ‘Waste Hierarchy’ and that all collectors should separately collect paper and card, glass, metals and plastics, unless it is not “necessary” or if it is technically, environmentally and economically impractical (TEEP Assessment) in order to promote ‘high quality’ recycling.

Background

This report focuses on the Council’s current ability to promote high quality recycling and therefore determine whether it is necessary to actually undertake a TEEP Assessment.

The promotion of high quality recycling requires Councils to:

- a) Ensure their collection methodology provides an effective means of capturing the target recycle materials; and
- b) Ensure the paper (including card), glass, metals and plastics collected is utilised for high quality recycling (where high quality recycling is interpreted as recycling material into a product of similar quality to that of its original use – what is known as ‘closed loop’ recycling improve the quantity of material recycled as well as its end use quality). As a general guideline, local authorities should be aiming for 75% or more of their recycle to be used for “high quality” closed loop recycling.

The Environment Agency, as the regulatory body for the enforcement of the regulations, have provided waste collectors, including local authorities with examples of how they will be assessing compliance with the regulations. The table below provides a summary of the indicators and levels of intervention potentially required:

Level of Compliance	Indicator	Level of Intervention
High	<ul style="list-style-type: none"> • Collections which are providing an on-site or doorstep separate collection, or kerbside sorting, of each paper, glass, plastic and cans. • Collectors who have rigorously applied the Necessity and TEEP tests and collection arrangements are based on well-evidenced, documented and justified decision-making 	Low

<p>Medium</p> <p>(Possibly failing the Necessity or TEEP test)</p>	<ul style="list-style-type: none"> Collectors who send co-mingled collections to a MRF which is producing poor quality recyclates A collector advertising a new contract that is prescriptive about type of collection/sorting service unless it is clear it wants a multi-stream / separate collection A collection which has moved away from separate collection to co-mingling, or renewed to co-mingling since 2012 If one or more of the four materials is only collected through a CA site or bring banks 	<p>Medium</p>
<p>Low / non compliant</p>	<ul style="list-style-type: none"> Evidence that good quality recyclate collections deliberately sent for disposal or incineration or remixed with other waste. No or little attempt to apply the regulations. No response to requests for information Evidence from site inspections or audits where collections have led to poor management causing environmental harm, or illegal activity such as mis-description or illegal export 	<p>High</p>

This report utilises the methodology outlined in the Waste Network Chairs, LWARB & WRAP ‘routemap’¹ and provides:

- an assessment of the quantity of materials sent for recycling; and
- an assessment of the end use quality of T&M recycling.

Results

Tonbridge & Malling currently provide:

- kerbside collection of paper and metals separately from other wastes
- bring bank facilities for glass and plastics
- kerbside collection of card co-mingled with food & garden waste

We have identified that 93% of all recyclate collected went to high quality recycling, and of the four rWFD materials (paper/card, metals, glass and plastics) 82% went to high quality destinations. The combined organic waste stream (garden waste, food waste & card) is all processed to generate a BSI PAS 100 certified compost, itself a high quality product. Only the cardboard stream, which is currently mixed with the garden & food waste, would not be classified as “high quality” as it is composted, rather than being used to make more cardboard. As this is not a “closed loop” process, the card element cannot be deemed to be “high quality” recycling.

¹ A detailed description of the Routemap commissioned by WNC, LWARB & WRAP and developed by *Eunomia* can be found at <http://www.wrap.org.uk/content/requirements-waste-regulations>.

However, it is our view that having assessed the quality and quantity of recyclate managed by TMBC, the Council currently demonstrates a high level of compliance with the Waste Regulations.

Recommendations

In order for Tonbridge & Malling to demonstrate even higher levels of compliance with the objectives of the rWFD, the report also identifies a number of recommendations to further reduce the risk of future intervention from the Environment Agency.

These are detailed by routemap stage below:

- Stage 1: In assessing the 'quantity' of recycling, the report has had to rely upon compositional analysis undertaken by the Kent Resource Partnership (KRP) in 2008/9, but using recyclate tonnage figures from 2013/14. The use of the 2008/09 compositional analysis data was consistent throughout Kent. In order to more accurately monitor future performance against the routemap, another compositional analysis of both the residual and organics waste streams is recommended. This will allow a more accurate assessment of current capture rates and enable a more informed targeting of high quality materials.
- Stage 2: Work with the KRP to Implement measures to improve capture rates of the high quality materials – paper, metals, glass & plastics, and investigate potential for future promotional funding.
- Stage 3: Work with the KRP and Kent County Council (KCC) to investigate future collection/processing options that enable cardboard to meet the high quality output criteria. This to include identifying possible improvements to existing IVC/MRF arrangements that would deliver high quality outputs and to ensure end market quality controls are included within future MRF specifications to ensure high quality recycling opportunities are maximised. However, it is recognised that by mixing card with other materials, such as paper, there may be a significant negative impact on both quality of material reprocessed and income received by TMBC, which is currently high due to the current separation of materials, especially paper. It is also recognised that current contractual, legal and financial arrangements are not likely to make any significant changes possible until the contract is retendered to commence in 2019.
- Stage 4: The proportions of material sent to high quality recycling should be assessed regularly to ensure over 75% of materials are sent to high quality recycling.

Conclusion

Based on the necessity test undertaken by WCL we consider that TMBC can demonstrate a high level of compliance with the Waste Regulations 2011 (amended 2012).

By addressing the recommendations above, and by putting an action plan in place to reflect their implementation, the Council will be able to maintain a high level of compliance and have even stronger evidence that it is not necessary for them to undertake separate collections of paper, card, metals, glass & plastics in order to demonstrate high quality recycling in the short term.

However, when there is an opportunity to review the existing collection and processing arrangements in the future (current contract ends 2019), the Council should investigate the TEEP viability of differing collection methodologies that enable the card element to achieve a high quality output.

Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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Agenda Item 10

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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