
Report to Clackmannanshire Council

Date of Meeting: 16 December 2021

Subject: Strategic Waste Management Update

Report by: Strategic Director (Place)

1.0 Purpose

- 1.1. This report updates Members on national changes in waste collection and disposal which are being brought about in order to end the practice of sending biodegradable municipal waste to landfill and to contribute to climate change targets, ensuring that Scotland's waste is managed in a sustainable way. The paper also outlines plans for a review of waste services to comply with national policy initiatives.
- 1.2. The Council's Waste Service operates in a complex environment in terms of market changes, compliance requirements, budget and procurement. This Report provides :
- An interim update on the Scottish Materials Brokerage Service for Residual Waste Treatment contract.
 - An update on the legislative changes to the Biodegradable Municipal Waste Ban commencement date and the Council's legal duties.
 - An update on the Local Authority joint working group for a collaborative procurement exercise, supported by the Scottish Government and Zero Waste Scotland.
 - Details of the review and appraisal being undertaken by Zero Waste Scotland on household waste activities.

2.0 Recommendations

- 2.1. It is recommended that Council:
- 2.1.1 endorses the commitment to ending the practice of sending biodegradable municipal waste to landfill.
- 2.1.2 endorses the regional collaborative approach to procuring a medium term residual waste treatment solution, in order to secure a best value and reliable waste treatment solution that enables the Council to meet its statutory duties

under the Waste Management (Scotland) Regulations 2012, and in particular the ban on Biodegradable Municipal Waste which comes into effect in 2025.

- 2.1.3 notes the timetable for the proposed procurement process and especially that the Council is not legally committed to the outcome of this process at this time.
- 2.1.4 notes the review of household waste activities being carried out in partnership with Zero Waste Scotland.
- 2.1.5 notes the submission of three bids to the Scottish Government's £70m recycling infrastructure fund.

3.0 Considerations

Current Residual Waste Disposal

- 3.1 On 12 September 2019 the Place Committee consented that the Council become a signatory to the Scottish Procurement Agency Agreement, in order to access the 'Scottish Materials Brokerage Service for Residual Waste Treatment/Disposal'. This joint Local Authority contract ensured a medium term, legally compliant disposal solution for the Council's approximately 13,000 tonnes of residual and bulky waste to the Avondale Environment Limited (Polmont) site, which including available extension periods will run until 31 October 2024.
- 3.2 Ongoing joint quarterly contract management meetings are in place with all parties to the Materials Brokerage Contract and Clackmannanshire continues to work with Avondale Environmental Limited for the disposal to the Polmont landfill facility of all of the Authorities residual waste (household, commercial and bulky).
- 3.3 Whilst it was originally envisaged that Avondale Environmental Limited would develop an Energy Recovery Facility at this site, this has not happened due to a number of reasons. Consequently, Clackmannanshire's Municipal Waste is currently being landfilled.

National Strategy

- 3.4 As part of the longer term aim to make Scotland a zero waste society with a circular economy, the Scottish Government has several ambitious targets for reducing waste and increasing recycling. By 2025 the aim is to:
 - reduce total waste arising in Scotland by 15% against 2011 levels
 - reduce food waste by 33% against 2013 levels
 - recycle 70% of remaining waste
 - send no more than 5% of remaining waste to landfill.

- 3.5 A number of strategic actions are being implemented by the Scottish Government in order to manage these targets including:-
- introduction of a Deposit Return Scheme (DRS) for drinks containers
 - taking action to reduce and recycle food waste
 - improving resource efficiency through actions such as discouraging use of single-use materials. This includes a review of Extended Producer Responsibility (EPR) as a financial incentive to producers and distributors to reduce their environmental impacts (i.e. failure to do so will incur additional financial penalties)
 - funding Zero Waste Scotland to deliver waste-reducing initiatives
 - a review of the Charter/Code of Practice for Household Recycling in Scotland.

Landfill Ban

- 3.6 The Council's Waste Management service operates in a highly regulated environment. This regulatory regime covers the type of collection services that must be provided to households and businesses, the operation of our facilities, and how material can be processed. The most significant regulatory issue that the Council currently faces is the ban on landfilling Biodegradable Municipal Waste as introduced through the Waste Management (Scotland) Regulations 2012. There is to be full compliance by 31 December 2025.
- 3.7 Biodegradable Municipal Waste is typically defined as household waste, such as black bag waste and other mixed municipal wastes collected from households and commercial businesses. The waste sector has petitioned the Scottish Government for clarity on where bulky household waste fits within this definition.

Collaborative Procurement

- 3.8 On the 12 September 2019, the Place Committee consented for the Council to explore potential Local Authority collaborative procurement opportunities, for a medium term (10 plus 5 year) residual waste solution. The benefits of which would be to potentially produce an amalgamated economies of scale residual waste tonnage and to regionally secure access to a best value Energy Recovery Facility.
- 3.9 Waste Services continues to work closely with its primary partner Stirling Council, to ensure a fully joined up approach, due to the sharing of a Waste Transfer Station facility. Timely decision making and governance procedures are required to ensure both Council's meet their legislative commitments ahead of the 31 December 2025 landfill ban.
- 3.10 Scottish Ministers have clearly communicated that Local Authorities are expected to make continued and demonstrable progress (at pace) in becoming compliant ahead of schedule to meet this legislative requirement. The Scottish Government has stated that it is "unacceptable to see action deferred to create another pressure point as we approach 2025". Landfill Tax

also continues to rise incrementally annually in Scotland, to further incentivise a prompt shift away from landfilling residual waste.

- 3.11 Collaborative procurement meetings for the Central area have been ongoing since December 2019. Meeting attendees include the Head of the Scottish Government’s Zero Waste Unit, Zero Waste Scotland, Scotland Excel, and interested Local Authorities within the Central Belt. Four local authorities (Clackmannanshire, Falkirk, Perth & Kinross and Stirling) currently retain interest in this procurement project.
- 3.12 The Scottish Government has committed financial support for the joint procurement exercise which will incorporate the setting up of an expert team of technical, procurement and legal specialists to oversee the production of the joint tender. Collaborative intentions will be managed under a Memorandum of Understanding or Inter-Authority Agreement.
- 3.13 On 19 March 2021, Stirling Council (on behalf of the Group) published a Public Information Notice (PIN) on Public Contract Scotland for ‘Soft market testing in relation to municipal waste treatment capacity in advance of the 2025 Landfill Ban’. Market providers were invited to present potential solutions at virtual meetings held between the 6 and 15 April 2021. Response to the PIN was very positive, resulting in eleven of the leading UK service providers presenting to the Group.
- 3.14 Feedback from this exercise will tailor the procurement project to ensure a pragmatic solution is achievable. Considerations will focus on achieving best value through economies of scale; provide good community benefits and maximise realistic environmental outcomes.

Procurement Timescales

- 3.15 It is important for Members to note that the timetable for the procurement process is challenging. Sufficient notice must be provided to the market by means of a complete tender in 2022, to ensure facilities are built and through commissioning stage in order to be certain of offtake in time for the landfill ban. To this end, officers continue to work on this collaborative procurement process.

The procurement timetable is set out below.

Timescale	Key Task	Clackmannanshire Council Essential Actions
August 2021	September 21 – Scottish Government Award Consultant to provide technical advice and to undertake procurement	Commitment from Council to be Collaborative Partner for Waste Treatment Procurement
September 2021	Develop Procurement Spec and Brief for Central RWT Group	Council Officers assist in development of brief

April 2022	Invitation to Tender Issued	Council Officers to have internal Procurement Documentation ready for issue (Form 1 & Contract Strategy)
August 2022	Review Bids	Council Officers partake in review Panel & determine Best Value Bidder
October 2022	Award Contract to Waste Treatment Handler	Council Officers issue Clacks contract award in line with procurement process

- 3.16 At this stage, the Council is not legally committed to the outcome of this process. The Council will have to make a formal decision to engage in any joint tender process by the time that the Invitation to Tender is issued, currently scheduled for May 2022.
- 3.17 Officers intend to bring forward a paper to a future meeting of Council which will set out a proposed procurement strategy and seek Council approval for same.
- 3.18 Any decision to engage in the process is likely to be confirmed in a formal agreement with partners, either via a Memorandum of Understanding or Inter-Authority Agreement

Treatment Options

- 3.19 Biostabilisation of waste prior to landfill has been considered as a possible future treatment, as it would theoretically have lower carbon emissions than energy from waste or landfill. This is where municipal waste if treated by various mechanical and biological processes with the aim of reducing the amount of waste going to landfill, and making that waste inert. However, in practice, biostabilisation plants across the UK cannot meet the standard to allow treated municipal waste to be landfilled post 2025. Research into the use of biostabilisation to treat municipal waste may continue, but its use is a long term aim not a short term feasible possibility. The biostabilisation stage is only assumed to reduce the biogenic carbon in waste entering landfill from 15% to 5% according to Zero Waste Scotland research.
- 3.20 The view of the Residual Waste Treatment Group is that the only proven, viable and available technology for treating non-recyclable municipal waste is via an energy from waste process. It is widely accepted across the industry that this model is currently the most appropriate conduit to achieve best value and to provide a reliable waste treatment solution.
- 3.21 It should be noted that Energy from Waste plants are heavily regulated by SEPA under the Pollution Prevention and Control (Scotland) (PPC) Regulations 2012, which includes controls required under the European Waste Incineration Directive (WID) and must be permitted. Plants must take account of the SEPA Best Available Techniques and their Thermal Treatment of Waste Guidelines 2014 when describing the proposed activity and its environmental effects. Particularly with regard to satisfying the requirements

of Regulation 9F of the Waste (Scotland) Regulations 2011, which demands that the recovery of energy takes place with a high level of energy efficiency.

- 3.22 Members may be aware that recently the Scottish Government signalled a review of the role of incineration in the waste hierarchy. This has raised an element of uncertainty about the Scottish Government's future policy position. The Cabinet Secretary for Net Zero, Energy and Transport has since written to Clackmannanshire Council, setting out the Government's position and confirming support for the Local Authority collaborative procurement approach. This letter is attached at Appendix 1.

Risk Implications

- 3.23 Failure to adopt the collaborative procurement approach described in this report would lead to significant financial, legal compliance and reputational risk.
- 3.24 Failure to have suitable arrangements in place for the procurement of the residual waste treatment would place the Council in breach of the Waste Management (Scotland) Regulations 2012. The only likely alternative to an ERF solution would be to transport waste to a landfill facility outwith Scotland (in most likelihood England, where there is no landfill ban due to come into force). In practice this would involve unsustainable and damaging operations such as haulage of residual waste to sites at locations far from Clackmannanshire.
- 3.25 The Council's residual waste disposal costs for 2020/21 were £1,468,506. Failure to achieve economies of scale in future contracts would therefore have significant impact on ongoing revenue costs for the contract duration (typically ten years).
- 3.26 Clackmannanshire and Stirling Councils must remain in-line on decision making given aspects of shared infrastructure and existing contractual arrangements. Failure to do so is likely to increase costs for both Councils, as new waste handling infrastructure would need to be built at a significant cost.
- 3.27 There are no guarantees that all Local Authorities within the collaboration exercise will reach agreement on the benefits of collaboration, or secure the necessary internal approvals. Should any Local Authority not join, the benefits of collaboration will be reduced.
- 3.28 Waste Services has commenced work on submitting an application to SEPA for Thermal Treatment Derogation (TTD). The granting on this application will demonstrate (to the market) that the Council has sufficient kerbside recycling collection systems and policies in place, to prevent recyclable materials entering the residual waste stream. Failure to achieve Derogation will result in a requirement to pay significantly high pre-treatment gate fees to remove recyclates.
- 3.29 Waste Services anticipates that it will meet all requirements of the Thermal Treatment Derogation application, however, SEPA is currently struggling with significant pressures, which are delaying timely decision making and responses. Representations have been made to SEPA in relation to the

forthcoming application and our commitment to the Scottish Government to move at pace and enable us to out to the market with specification clarity.

Continual Improvement – Recycling

- 3.30 The Service will continue to focus on maximising opportunities for recycling and appraising options to further reduce residual treatment, such as consideration of metal extraction. This strategy will be assisted by forthcoming national policies; the Deposit Return Scheme (currently scheduled for implementation in June 2022); and Extended Producer Responsibility. These policies will have a significant impact on Council operations for waste collection and disposal.
- 3.31 Clackmannanshire Council continues to achieve a reasonably high recycling rate with 55.4% in 2019. This is indicative of good practice and compliance in relation to recycling capture and treatment. However, leadership at all levels is required to bolster local efforts to tackle climate change and to enable the Service to achieve the national recycling target of 70% within the next three years. Further measures to encourage behaviour change are likely to feature in the developing practice guidance, such as the Household Recycling Charter.
- 3.32 Agreement for the Council to sign up to the Household Recycling Charter was reached at Enterprise and Environment Committee on 19 May 2016. The Council officially signed up to the Charter on April 2017. The Code of Practice: Household Recycling in Scotland sets out a number of requirements that signatories of the Household Recycling Charter for Scotland are required to follow. A review and options appraisal of Waste Services is being commissioned to further align our activities with the Charter.

Review/Options Appraisal

- 3.33 Zero Waste Scotland has committed funding for an external assessment of the Service's waste activities during summer 2021. The appointed consultant will examine Clackmannanshire's waste procedures and data; modelling this against the predicted effects of the Deposit Return Scheme and Extended Producer Responsibility. The aim of the appraisal is to develop options to maximise the volume and quality of recyclates being recovered.
- 3.34 The Service has recently extended contracts for the treatment of all our household food waste through anaerobic digestion (AD) and for the composting of all garden waste. Increasing the volume of waste being sent to these sustainable treatment facilities is a key objective.

Recycling Infrastructure Fund

- 3.35 In March 2021, the Scottish Government launched a five year £70m fund to improve recycling infrastructure across Scotland. The aim of the initiative is to assist local authorities to take forward projects that tackle key challenges and increase recycling performance.

- 3.36 The Service is in the process of submitting three Expressions of Interest (EOI) to the fund under the themes of:
- Physical Infrastructure (e.g. HWRC Improvements, Buildings)
 - Digital Infrastructure (e.g. In Cab Software, Contamination Data Systems)
 - Fleet & Equipment (e.g. Electric RCVs, Trucks and New Equipment)

These bids will be developed to facilitate funding requirements for the outcome(s) of the appraisal in 3.32 above.

- 3.37 The development of re-use facilities at Forthbank HWRC to aid partnership working with social enterprises is included within the bids.

4.0 Sustainability Implications

- 4.1 Waste Services are seeking to implement measures focusing on reducing, re-using and recycling waste as far as reasonably practicable. This reflects directly on the four strategic priorities in the Council's Sustainability and Climate Change Strategy.
- 4.2 Adoption of the approach set out in this paper will enable Clackmannanshire Council to end the practice of sending biodegradable municipal waste to landfill and to contribute to climate change targets, ensuring that Scotland's waste is managed in a sustainable way.

5.0 Resource Implications

- 5.1 Financial – The revenue cost of residual waste treatment sits within the existing Waste Services disposal budget. Market forces during the tender process will determine gate fees at ERF's going forward, however the soft market testing has indicated a high level of commercial interest.
- 5.2 Subject to Council agreeing the recommendations of this report, the Scottish Government, via Zero Waste Scotland and Scotland Excel, will pay for the technical support required to support the procurement process, and will manage that process together with the participating Councils. Recycling infrastructure improvements would be funded by the Scottish Government and the recycling options appraisal is being carried out by a consultant funded and procured by Zero Waste Scotland.
- 5.3 Staff – Agreeing the recommendations of this report would minimise pressure on existing staff resources. The Service is supported in preparing funding bids by the internal Funding Officer and Zero Waste Scotland.

6.0 Exempt Reports

- 6.1 Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box)

Yes ✓

- (2) **Council Policies** (Please detail)

8.0 Equalities Impact

- 8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations? Yes ✓

9.0 Legality

- 9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes ✓

10.0 Appendices

Appendix 1 – Letter from Cabinet Secretary

11.0 Background Papers

- 11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered) Yes ✓

Landfill Scotland Regulations 2003

<http://www.legislation.gov.uk/ssi/2003/235/contents/made>

Waste (Scotland) Regulations 2012

<http://www.legislation.gov.uk/ssi/2012/148/contents/made>

New Climate Change Plan <https://www.gov.scot/publications/scottish-governments-climate-change-plan-third-report-proposals-policies-2018-9781788516488/>

SEPA Guidance: Biodegradable Municipal Waste Ban

https://www.sepa.org.uk/media/352595/sepa_bmw_landfill_ban_guidance_note.pdf

Zero Waste Scotland: Scottish Materials Brokerage Service

<https://www.zerowastescotland.org.uk/brokerage>

Public Contract Scotland – Scottish Materials Brokerage Service contract award notice

https://www.publiccontractscotland.gov.uk/Contracts/Contracts_View.aspx?id=514180

Scottish Government Recycling Policy

<https://www.gov.scot/policies/managing-waste/>

WRAP Gate Fees Report 2017

http://www.wrap.org.uk/sites/files/wrap/Gate%20Fees%20report%202017_FINAL_clean.pdf

SEPA – Frequently asked questions about Energy from Waste facilities

https://www.sepa.org.uk/media/28979/energy-from-waste_faqs.pdf

Department for Environment, Food & Rural Affairs – Energy from Waste (Guide to the debate)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/284612/pb14130-energy-waste-201402.pdf


European Commission – The role of waste-to-energy in the circular economy

<http://ec.europa.eu/environment/waste/waste-to-energy.pdf>

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Our Reference: 202100224313
 Your Reference: CH210716

18 August 2021

Dear Councillor Holden,

Thank you for your letter of 17 July, on the Scottish Government's commitment to review the role of incineration in the waste hierarchy. Please accept my apologies for the delay in responding to you.

I am aware of the hard work that has been going on across numerous local authorities to prepare for the forthcoming ban on landfilling biodegradable municipal waste (BMW) and I welcome the Clackmannanshire SNP Administration Group's commitment to ending the practice of sending BMW to landfill. As a key step towards net zero, Scottish Ministers remain fully committed to ending the practice of sending BMW to landfill by 2025, in line with recommendations made by the Climate Change Committee. While we make our transition to a fully circular economy we still need capacity to treat residual waste, which cannot be reused or recycled.

In making the difficult decision to delay the landfill ban from 2021 to 31 December 2025, Scottish Ministers concluded that there should be a positive, centrally coordinated intervention to help remaining local authorities procure solutions for the ban, supported by Scottish Government, where appropriate. I welcome Clackmannanshire Council's ongoing work with counterparts in Falkirk, Stirling, and Perth and Kinross Councils to progress the Central Scotland residual waste treatment collaboration and the significant progress made to date.

Scottish Government remains fully committed to continuing to support local authorities' ongoing collaborative procurement approaches. As you are aware, we have agreed to fund the provision of some technical, procurement, and legal support for the Central Scotland collaboration, and other collaborations of Councils who are also making welcome progress towards procuring solutions for the Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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ban.

As you note, we have committed to review the role that incineration plays in the waste hierarchy, which ranks waste management options according to the best environmental outcome, taking into consideration the lifecycle of materials. I have committed to updating Parliament on plans for the review in September, including a timeline for this work. Of course, it would not be appropriate for me to pre-empt decisions on the scope or outcome of the review into incineration at this stage. However, I would reassure you that Scottish Government remains firmly committed to delivering the ban on BMW to landfill by 2025 and recognises that local authorities will need to continue to procure alternative solutions, based on their assessment of available options. However, I have noted your concerns about potential uncertainty created by the forthcoming review and will ask my officials to provide you with further information on its scope and timeline, once this is agreed.

In the meantime, in terms of other relevant policy, it is important to note that our recent update to the Climate Change Plan commits to developing a route map to maximise the waste sector's contribution to Scotland's net zero journey, to work with waste operators and developers to further improve the efficiency of Energy from Waste (EfW) plants, drawing on best evidence, and consider how waste infrastructure can be 'future-proofed' for Carbon Capture and Storage technology in line with recent Committee on Climate Change recommendations.

You may also be interested in a Zero Waste Scotland report that was published in July. This updated report highlights that the carbon impacts of incinerating municipal waste in Scotland are 27% lower than landfilling the same waste. The report also highlights the importance of increasing recycling to reduce fossil carbon (e.g., plastics) in the residual waste stream. The report can be found here: [The climate change impact of burning municipal waste in Scotland | Zero Waste Scotland](#)

I hope the above response is helpful and reassures you that the collaborative approach being undertaken by Clackmannanshire Council to procure solutions to deliver the forthcoming landfill ban is supported by the Scottish Government.

Yours sincerely

MICHAEL MATHESON

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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