

NEW PROPOSED WASTE COLLECTION, TRANSPORTATION & DISPOSAL REGULATIONS MODEL TO REDUCE INCIDENTS OF FLY TIPPING

Cabinet - 10 December 2020

Report of: Deputy Chief Executive and Chief Officer - Finance & Trading

Status: For Consideration

Also considered by: Cleaner & Greener Advisory Committee - 9 December 2020

Key Decision: No

Executive Summary: This report updates the Clean & Greener Advisory Committee on a proposed new regulatory model created by Cllr Carroll, Deputy Portfolio Holder for Cleaner & Greener and colleagues. The 'Sevenoaks Model' proposes to lobby for new legislative changes to reduce incidents of fly-tipping, make it easier for residents to see who is licensed to carry waste and make it easier for law enforcement to detect unlicensed carriers.

This report examines a new innovative concept and model following a peer review and looks at how the model would assist existing controls, regulation and legislation.

This report supports the Key Aim of: a green and healthy environment

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Recommendation to Cleaner & Greener Advisory Committee: That following support for the proposal and a County-wide peer review, Members consider the report and endorse the recommendations to Cabinet below.

Recommendation to Cabinet: That

- a) the principles set out as the 'Sevenoaks Model' in paragraphs 12 to 21 of the report be supported;
- b) the Head of Direct Services be authorised to lobby Government for legislative changes in line with the principles proposed in the 'Sevenoaks Model'.

Reason for recommendation: This new innovative idea and working model needs to be supported by the Council, and then promoted to central Government via officers engaging with the Department for Environment, Food & Rural Affairs (DEFRA) and the districts Members of Parliament.

Introduction and Background

- 1 Cllr Carroll, Deputy Portfolio Holder, Cleaner & Greener has been working with colleagues on a new working model for the regulation of waste collection, transportation and disposal to tackle the increasing National problem of incidents of fly-tipping.
- 2 Laura Trott MP for Sevenoaks & Swanley and Tom Tugendhat MP for Tonbridge & Malling have indicated their support of this new idea and working model.
- 3 This report examines and sets out the new innovative concept and model and looks at existing controls, regulation and legislation.
- 4 At present the registration of waste carriers, brokers and dealers is regulated by the Environment Agency (EA).
- 5 There are two tiers of carriers:

Lower Tier - only carry waste they produced in the course of carrying out their business unless it is construction or demolition waste, only carry (carrier), arrange (broker) or deal (dealer) in:
 - Animal by-products
 - Waste from mines and quarries
 - Waste from agricultural premises
 - Are a charity or voluntary organisation
A lower tier carrier may also include a waste collection, disposal or regulation authority.
- 6 Upper Tier - If none of the lower tier criteria apply, a person or organisation will be in the upper tier. Key examples are if a business:
 - Transports other people's waste, like a skip company
 - Carries construction and demolition waste
 - Arranges for waste from other businesses' to be transported, recovered or disposed of (broker)
 - Buys or sells waste, or uses an agent to do so (dealer)
- 7 The EA also provides a service for the public to check the registration of a business or vehicle to check to see if they are registered and what they are registered to carry.
- 8 All carriers of waste must be registered with the Environment Agency, have a waste carrier licence which can be verified, provide a waste transfer note for removal of any waste on request (for example: following building or garden work), provide details of the site license where the waste is to be

disposed and be able to provide proof of where it was taken in the form of an official weight ticket, which will identify the disposal site.

- 9 This process places a legal Duty of Care on residents, these regulations affect anyone who produces waste. Duty of care requirements are applicable to all parties, but the legal responsibility remains with the waste producer (householder) until the final disposal has taken place.
- 10 Many residents do not understand their duty of care responsibilities or understand that they need to check a business's registration and or get a copy of a waste transfer note for their waste. Many believe this is all the responsibility of the business they have engaged to clear their waste.
- 11 In December 2018 the Government introduced household waste duty of care fixed penalty notices. The fixed penalty notice (FPN) for breaches of the household waste duty of care provides an alternative to prosecution. It allows an individual to discharge liability for the duty of care offence by payment of a financial penalty.

New National 'Sevenoaks Model'

- 12 The Sevenoaks Model main purpose is to:
 - Reduce incidents of fly-tipping
 - Make it easier for residents to see who is licensed to carry waste
 - Make it easier for law enforcement to detect unlicensed carriers
- 13 The basic principles of the new Sevenoaks Model is for Local Authorities to take a much greater role in regulating waste by licencing individuals and vehicles who are involved in the collection, transportation and disposal of waste, along with providing a certificate of all waste carried, its origin and destination.
- 14 Vehicles - In a similar way as Hackney Carriage and Private Hire vehicles it is clearly important that residents using a business to remove their waste should be confident that the driver and vehicle are registered and safe to do so. The vehicle being used to collect, transport and dispose of their waste should be 'plated'. As exemplified below:



- 15 Individuals - In a similar way that the Security Industry Authority (SIA) operates it would be for the person undertaking licensable waste activity, to be responsible for obtaining a licence to work legally within the waste collection, transportation and disposal industry. They will be breaking the law if they work without a licence and their employer will be breaking the law if they use unlicensed staff.
- 16 A simple online registration and issuing process would ensure that anyone in a vehicle that is collecting, transporting or disposing of waste must have with them their licence. As exemplified below:



- 17 Certification - Similar to the current requirements the carrier of the waste would be required to have with them a Waste License Carriers Certificate (WLCC) at all times to show a manifest of all waste being carried, where the waste originated and where the waste was being transported to for disposal or storage.
- 18 This approach could also be incorporated into the current systems and processes operation by the Environment Agency instead of moving this function to local authorities.
- 19 As another alternative Operator's License ('O') type scheme could be issued to ensure that waste carriers have to register any vehicles they use to carry waste. This would allow the public to easily check whether a vehicle is registered. If the necessary powers were available it would allow

enforcement teams to clamp or remove any unregistered vehicles that are parked up with waste on it.

- 20 A change to the Environmental Protection Act 1990 would ensure that failure to use a registered Waste Licensed Vehicle (WLV) that has a valid Waste Control Plate (WCP) on the vehicle and for the driver of that vehicle not to have on them a valid Waste Licensed Driver's (WLD) valid identification would all be offences under the act.
- 21 The necessary authority to enforce / discharge relevant powers, etc. being delegated to local authorities and police colleagues in the appropriate team(s) would also assist with ensuring regulations are followed.

Law Enforcement

- 22 It has been proven in other regulated industries, such as Hackney Carriage Taxi's and the Security Industry that clearly marked vehicles and licensed individuals create an openness and accountability for customers and regulators. The public are still the main source of information, community intelligence and reporting when it comes to a vehicle or person not adhering to any such regulation.
- 23 This new and innovative Sevenoaks Model builds on that premise for the collection, transportation and disposal of waste. The model will also help the public easily identify and report of necessary those vehicle and persons transporting waste that are not registered.
- 24 The police could benefit from this new model by ensuring that all new Waste Control Plate's (WCP), like vehicle registration plates can be read by Auto Number Plate Recognition (ANPR) systems, which would increase accountability and detection. WCP could also be registered with the Driving Vehicle Licensing Agency (DVLA).
- 25 This would work on ANPR if the vehicles registration mark is linked to the Waste Registration Plate via DVLA as ANPR systems are only designed to read number plates.
- 26 The new model would also assist the police and local authorities in roadside inspections as any vehicle with waste on board without a personal or vehicle licence would be committing an offence. This would also ensure the vehicle is seized and the driver prosecuted quickly for the waste offences.
- 27 Community reporting should be at the heart of any model to tackle fly tipping.

The Model Peer Review

- 28 It was agreed that the model would be shared with all authorities in Kent, via the Kent Resource Partnership. The model was shared with all Kent authorities on 1 September 2020. Five authorities responded to the consultation. The model has been updated to incorporate all recommendations from the Peer review.
- 29 Kent County Council were generally supportive of the model as a positive example of a way to gain greater control by local authorities of enforcement of fly tipping.
- 30 Ashford Borough Council were very supportive of the model saying it was a brilliant idea and were hopeful it gained the traction needed to progress.
- 31 Gravesham Borough Council were pleased to support a new approach to tackling fly tipping. They support the visibility and traceability measures proposed, but questioned whether licensing should be localised.
- 32 Gravesham Borough Council suggested the following alternative considerations to the model: The Environment Agency could remain the licensing authority and process applications, maintain the public register, etc. and could provide the desired Waste Control Plates and licences to facilitate greater visibility and scope for ensuring compliance and assisting law enforcement with traceability.
- 33 You could Issue an Operator's License ('O') type scheme to ensure that waste carriers have to register any vehicles they use to carry waste. This would allow the public to easily check whether a vehicle is registered. If the necessary powers were available it would allow enforcement teams to clamp or remove any unregistered vehicles that are parked up with waste on it.
- 34 An easier and clearer checking system on a .gov.uk website where a member of the public can easily identify a waste carrier and vehicles registered, akin to the 'Eat Out to Help Out' website. In the same way, a member of the public could input their postcode to find a registered waste carrier registered / operating in their locality.
- 35 The necessary authority to enforce / discharge relevant powers, etc. being delegated to local authorities and police colleagues in the appropriate team(s).
- 36 Dover District Council thought the model was a sensible approach in relation to the identification of licenced waste carriers.

- 37 Kent Police were supportive of any initiative that help reduce offences of fly-tipping and pointed out the following for consideration on the model.
- 38 It should be noted that a high proportion of current fly tipping offences are committed by registered carriers.
- 39 The Environment Agency already holds the responsibility to licence waste carriers. Practitioners' find this current system to be one that can be relied upon and used effectively.
- 40 Supportive of Individuals being registered is an interesting concept and one to be explored.
- 41 Community reporting should be at the heart of any model to tackle fly tipping.
- 42 It may not be possible for the Automatic Number Plate Recognition software to identify and record additional information such as the suggested plate.

Key Implications

Financial

There would be no financial implications for local authorities for the introduction of the new Sevenoaks Model as registration fees and charges would cover all costs, similar to taxi licensing.

Legal Implications and Risk Assessment Statement.

Sevenoaks District Council has statutory duties requiring the authority to provide similar public services. The Sevenoaks Model would require the Government to make legislative changes via secondary legislation and statutory Instruments.

Equality Assessment

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.

Conclusions

The regulation and control of the collection, transportation and disposal of waste needs to be tightened to ensure compliance with regulations, to be easy for the public to identify and use licensed carriers and for law enforcement to identify any person or vehicle carry waste that is not registered.

The new and innovative ‘Sevenoaks Model’ could provide an effective, efficient and simple process and system to achieve that goal, which will reduce the opportunities and incidents of fly-tipping and enable the public and law enforcement to easily recognise those who are not licensed.

The model has been further developed and changed following a County-wide agency peer review. If supported by the Council, officer’s will communicate this new model to officials at the Department for Environment, food and Rural Affairs and via the District’s Members of Parliament.

Appendices

Appendix A - Fly-tipping Model

Background Papers

None

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Appendix A - National 'Sevenoaks Model' - New Waste Collection, Transportation and Disposal Regulations to reduce Fly-tipping

