

**CONSULTATION ON THE DEVELOPMENT OF A WASTE  
TIPPING AWAY POLICY**

**AGENDA NO: 9**

<b>Cabinet Date</b>	10 <sup>th</sup> October 2018
<b>Environment and Planning</b>	Cllr Nigel Moor
<b>Key Decision</b>	Yes
<b>Background Documents</b>	n/a
<b>Location/Contact for inspection of Background Documents</b>	n/a
<b>Main Consultees</b>	District, Borough and City Councils within Gloucestershire.
<b>Planned Dates</b>	Commence consultation late October 2018 Conclude consultation mid-December 2018 Adoption early 2019.
<b>Divisional Councillor</b>	All
<b>Officer</b>	Wayne Lewis – Head of Gloucestershire Joint Waste Team, <a href="mailto:wayne.lewis@gloucestershire.gov.uk">wayne.lewis@gloucestershire.gov.uk</a>
<b>Purpose of Report</b>	To seek authority to consult on the terms of the proposed payment model to be used in the development of a Waste Tipping Away Policy by the Council.
<b>Recommendations</b>	That Cabinet:  1. Authorises the Head of the Joint Waste Management to conduct a consultation exercise with the District, Borough and City Councils within Gloucestershire as to the:  (a) adoption of the NAWDO model as the financial mechanism for the calculation of Tipping Away payments under s52(10) Environmental Protection Act 1990 (EPA);  (b) operational issues and any other relevant considerations which should be taken into account in the development of a Tipping Away Policy.

	2. Requires the Head of the Joint Waste Management to report back to Cabinet with the results of and recommendations arising from the consultation authorised under Recommendation 1.
<b>Reasons for recommendations</b>	To facilitate the development of a Waste Tipping Away Policy.
<b>Resource Implications</b>	The consultation exercise can be accommodated from within existing budget and resources.

# CONSULTATION ON THE DEVELOPMENT OF A WASTE TIPPING AWAY POLICY

## 1. Background

- 1.1 The transportation of waste collected by Waste Collection Authorities (WCAs) to a point of disposal is a key component of the waste services operated by the Council as a Waste Disposal Authority (WDA). Under the EPA a WDA can direct a WCA to deliver waste collected by the WCA to a point of disposal outside of its administrative area. In so doing, the WDA becomes liable to make a reasonable financial payment to the WCA in respect of costs it reasonably incurs in complying with that direction, where the disposal point is unreasonably far from the administrative area of the WCA; sometimes known as a "Tipping Away" payment.
- 1.2 A WCA may take responsibility for, and make its own arrangements for disposal of collected waste, such as is the case for disposal of materials for recycling. Further, liability to make a Tipping Away payment does not apply to trade (commercial and industrial) waste collected by a WCA. In the case of trade waste, the EPA makes a further provision that a Tipping Away payment *may* be made at the discretion of the Council, but this is not a statutory requirement.
- 1.3 In some areas of Gloucestershire, WCAs deliver waste to either a final point of disposal within their areas of operation or to a local transfer station where it is bulked and hauled to a final destination elsewhere. Where transfer stations exist, these are the responsibility of the Council in terms of both operation and funding.
- 1.4 Where no local disposal point or transfer station exists within a district, WCAs are required to deliver waste directly to a location outside their area of operation for treatment or disposal. Currently, this only occurs with waste from the Stroud District area, where the tipping location is the landfill site in Gloucester. In recognition of the costs incurred by Stroud District Council in transporting waste outside of its area, the Council makes a payment to Stroud in order to assist in covering these costs. The amount of that payment has been agreed directly with Stroud District Council under the EPA.
- 1.5 The existing arrangements with Stroud District Council are long standing, and are based upon the agreed operating costs associated with this additional haulage. However, the Council has no policy in place with which

to formally calculate and apply Tipping Away payments where it is liable to make them under the EPA. The EPA does allow the Council to agree such payments with a WCA but in the absence of agreement or where there is a dispute, the matter would be referred to arbitration. In many 2-tier Local Authority areas, policies have been adopted which define both the circumstances and how the amount of such payments are to be determined. These policies clarify the level of payment, using a formula which calculates a reasonable compensation to the WCA based upon the additional travel time and associated operating costs. These policies only apply when a WCA is directed by the WDA to tip waste outside its operating area.

- 1.6 The adoption of such a policy within Gloucestershire would provide transparency and an improved level of operational certainty to all parties in the case where changes are made to waste delivery points and where a waste transfer facility is not locally available.

## **2. Defining a 'Tipping Away' Policy**

- 2.1 Any Tipping Away Policy must reflect the requirements of the EPA in providing a mechanism that can be used to calculate a reasonable contribution towards expenditure reasonably incurred by the WCA in delivering waste to a place which is unreasonably far from the WCAs area. The EPA does not define what is reasonable or unreasonable in terms of both the level of contribution and the distances involved. In response to this, the National Association of Waste Disposal Officers (NAWDO) has developed a formula which aims to provide consistency in the calculation and application of Tipping Away payments. This formula is well established and is used by some Local Authorities across England either in its entirety or with amendments. Whilst this formula is not statutory, its application would provide all parties with a clear basis for making and receiving payments.
- 2.2 It should be noted that other formulae or payment models could be designed and adopted at the discretion of the Council; but would also need to be agreed with the District Council's to avoid any disputes being referred to arbitration under the EPA. However, the NAWDO model represents a generally accepted approach to the payment of Tipping Away contributions and the remainder of this report outlines a policy approach predicated on the use of the NAWDO model.

2.3 The NAWDO model sets out a formula that includes the following variables in order to calculate a total annual Tipping Away payment:

- The number of journeys made in a year.
- The distance (D) travelled from the WCAs boundary to the disposal point (doubled to account for a return journey).
- The mileage (d) outside the district boundary beyond which it is considered unreasonable to travel (the model deducts this from the total distance travelled). This therefore becomes disregarded mileage within the calculation. When deciding upon this disregarded mileage consideration should be given to local circumstances such as the type of road and route used.
- The average speed of vehicles.
- The average hourly rate of vehicle operating costs (including, if agreed, idle labour).

2.4 These variables are applied within the following formula:

$$\text{Payment} = \text{No. of journeys} \times \frac{2(D-d)}{\text{Ave. speed}} \times \text{Average hourly operating costs}$$

by vehicles

2.5 Most variables within this formula use actual data. The number of journeys made, the average speed and the hourly operating costs can all be determined from real operational data. Where different vehicle types are used, the formula can be applied separately to each type and the results added together to produce an annual budget figure. Thereby any errors or disagreement arising from the use of an overall average approach are eliminated.

2.6 Distance D (the distance from the district boundary to the disposal location) can be determined using maps, mapping software or by driving the route itself. For consistency, D should be determined prior to the use of the formula in each case. By dividing D by the average speed the total journey time will be derived. Multiplying this by the hourly operating cost will produce the level of payment for that journey. Time spent on depositing loads is excluded from this calculation, as this is not related to the location of the disposal location.

2.7 Also of importance is the need to determine the distance (d) beyond which it is deemed unreasonable to travel. This is an important factor as it will have a significant bearing on the level of Tipping Away payment made. The NAWDO model provides some guidance in stating that the total return

time to drive the disregarded mileage should be between 0 and 30 minutes. At average speeds of 25, 30, 40 and 50mph this equates to a maximum of 6.25 miles, 7.5 miles, 10 miles and 12.5 miles respectively each way. Several authorities use a standard disregarded distance of 5 miles, and this may be one consideration for the Council to adopt. This disregarded mileage can be deducted from the payment calculation. Local conditions will influence how this variable is arrived at. Faster motorway conditions may result in a higher disregarded mileage compared with a journey undertaken on busy suburban routes. The application of a disregarded mileage should also take account of other local circumstances. In the case where a district is large and significant distances are travelled within the district before the boundary is reached it may be deemed unreasonable to apply a disregarded mileage to what might already be a lengthy journey.

- 2.8 A Tipping Away Policy based on this model should be applied on a case by case basis and should take into account local circumstances. Where a WCA is directed to deliver waste to a location outside its operating area, the model should be adapted according to local circumstance, defining a disregarded mileage as appropriate and adjusting average vehicle speeds depending upon the route used. Once the model has been established for each case, the payment should continue unless and until the disposal location is changed. The payment should be adjusted for annual inflation in line with an agreed index.
- 2.9 Adoption of a Tipping Away Policy should be subject to consultation with stakeholders, requiring between six and twelve weeks consultation prior to formal adoption. Once adopted, the application of the Policy in each circumstance should be subject to further discussion with the relevant WCA in order to determine the level of each key variable, such as speed, disregarded mileage and reasonable operating cost.

### **3. Options**

#### **3.1 Do nothing.**

- 3.1.1 The Council could choose to maintain the current position with no formally adopted Policy as there is no statutory requirement to have such a Policy in place as long as the requirements of the EPA are met in other ways. Tipping Away payments can be made under the EPA by agreement but in the absence of agreement or in the case of a dispute, the issue would be referred to arbitration under the Act. This approach would not provide any

clarity to either party when making operational or budget decisions associated with waste service developments and could lead to differences in approach, as each arbitration is determined.

3.2 Utilise the NAWDO model as the basis of developing a Waste Tipping Away Policy.

3.2.1 This approach would provide a framework within which to plan future service developments. It is a well used model which takes into account the provisions of the EPA, and with adaptability to incorporate specific local circumstances.

3.3 Develop and adopt an alternative payment methodology as the basis of developing a Waste Tipping Away Policy.

3.3.1 This approach could be taken, as a specific policy model is not prescribed in law. An alternative payment methodology to that produced by NAWDO may be desirable if the Council wishes to consider making payments based upon anything other than reasonable operating costs. It is not clear at this time how such a payment methodology should differ in practice from the NAWDO model, and further work would be required in order to determine a suitable alternative on which to consult with the Districts.

#### **4. Officer Advice**

4.1 That Cabinet agrees to conduct a consultation exercise with the District, Borough and City Councils within Gloucestershire as to the adoption of the NAWDO model as the financial mechanism for the calculation of Tipping Away payment under s52(10) of the EPA.

4.2 As part of the consultation exercise, to consult with the District Borough and City Councils within Gloucestershire on the application of disregarded mileage and the approach to applying the policy in each individual circumstance where a direction for delivery of waste outside a WCA area is made.

#### **5. Equalities considerations**

There are no equalities considerations associated with the recommendations.

#### **6. Consultation feedback**

Discussions regarding waste transfer have formed part of the Joint Waste Committee agenda over recent years. A further structured consultation is needed before any Tipping Away Policy can be formulated. The results of this consultation will be reported back to Cabinet.

## **7. Performance Management/Follow-up**

The results of the consultation will be presented to Cabinet in early 2019, with appropriate recommendations taking into account the outcome of that consultation.

<b>Report Title</b>	Consultation on the development of a Waste Tipping Away Policy
<b>Statutory Authority</b>	Environmental Protection Act 1990; s48, s51 and s52
<b>Relevant County Council policy</b>	Joint Municipal Waste Management Strategy 2007-2020 Waste Core Strategy
<b>Resource Implications</b>	The conduct of the consultation exercise can be accommodated from within existing budget and resources.
<b>Sustainability checklist:</b>	
Partnerships	Gloucestershire Joint Waste Committee
Decision Making and Involvement	District, Borough and City Councils within Gloucestershire
Economy and Employment	N/A
Caring for people	N/A
Social Value	N/A
Built Environment	N/A
Natural Environment' including Ecology (Biodiversity)	N/A
Education and Information	N/A
<b>Tackling Climate Change</b>	Carbon Emissions Implications? Neutral Vulnerable to climate change? No

<b>Due Regard Statement</b>	<p>Has a Due Regard Statement been completed? No</p> <p>The provisions do not apply to this matter</p>
<b>Human rights Implications</b>	N/A
<b>Consultation Arrangements</b>	<p>A minimum 6 week consultation with District, Borough and City Councils within Gloucestershire to be undertaken if the recommendations contained in this report are taken forward. This will commence late October and run through to mid-December.</p> <p>The consultation will consider the application of the NAWDO model as the financial mechanism for calculating Tipping Away payments in order to ensure, as a minimum, that statutory duties are complied with. In addition, the equitability of the policy, it's flexibility to adapt to specific variations in circumstance, and an agreement on arrangements for reviewing the policy and its application will be considered.</p>