

**10<sup>th</sup> October 2013**

**Business Waste and Household Waste Recycling Centres**

**Ward(s)** All

**Portfolios:** Cllr M Arif

**Executive Summary:**

The Council provides two Household Waste Recycling Centres (HWRC) for residents to dispose of their household waste. These sites are currently managed under contract by KierMG (formerly May Gurney). The Site Licence is operated by the Contractor not the Council. Under the Site Licence trade waste is not permitted at either HWRC.

In the past the Council has accepted trade waste at the Waste Transfer Station (WTS) but this ceased in 2005/6 due to the implementation of the Landfill Allowance Trading Scheme (LATS), increasing traffic flows on site, Duty of Care and Health and Safety requirements.

Clean and Green Services have completed the procurement process for a new contract and Cabinet approved on 25<sup>th</sup> September 2013 the award of the contract for the operation and management of HWRC, WTS and Haulage to Sita UK Limited.

The successful bid includes a service to traders on a conditional basis. Traders would have to comply with all the required paperwork and cover all of the Council's and the HWRC Contractor's costs.

**Reason for scrutiny:**

At its last meeting the Panel asked the question:

*Would it be more cost effective to let businesses, for example builders, use household waste and recycling centres rather than have to clear up business related fly-tipping?*

*Can the report contain details of fly-tipping incidents, costs of clean ups and number of successful prosecutions please?*

**Recommendations:**

That, subject to any comments Members may wish to make, the report be noted.

**Background papers:**

None.

**Resource and legal considerations:**

Anyone who produces, imports, keeps, stores, transports, treats or disposes of waste must take all reasonable steps to ensure that waste is managed properly. This duty of care is provided under section 34 of the Environmental Protection Act 1990 (EPA). It also applies to anyone who acts as a broker and has control of waste. A breach of the duty of care could lead to a penalty of up to £5,000 if convicted in the Magistrates Court or an unlimited fine if convicted in the Crown Court.

Business premises tend to comply with their duty of care by having a trade waste contract or receiving a waste transfer note from the company disposing of their waste. These documents provide a reasonable level of evidence to Regulators that the business has an adequate system in place for waste disposal. Should the Council allow businesses to use a facility as suggested above this may reduce the need for businesses to have a formal trade waste contract. It would however be essential that any business disposing of waste at the facility has the necessary paperwork/receipt from Clean and Green or Keir MG to prove the disposal was made. This paper work along with close liaison with the operators of the site would enable the Council's own enforcement staff or the Environment Agency to more effectively investigate infringements of waste regulations.

**Citizen impact:**

Fly tipping can be a blight to local amenity and a health hazard.

**Environmental impact:**

None as a result of this report

**Performance management:**

None as a result of this report.

**Equality Implications:**


None as a result of this report.

**Consultation:**

Regulatory Services have contributed to this report.

**Contact Officers:**

Heather Growcott – Strategy Manager

 01922 654209

growcotth@walsall.gov.uk

## **1. Report**

Unlike domestic rates, business rates do not include an element to cover the cost of waste collection or disposal, hence traders have to pay for a separate service appropriate to the nature and quantity of the waste they produce. Traders do not have to use the Council's trade waste service; they are able to use any legitimate waste collection and disposal company. Traders must comply with Duty of Care requirements when disposing of their waste irrespective of which company they use.

The Council provides two HWRCs for residents to dispose of their household waste. The sites are located at;

1. Fryers Rd, Leamore
2. Merchants Way, Aldridge

These sites are currently managed under contract by KierMG (formerly May Gurney). The current contract expires on 30 March 2014. The Site Licence is operated by the Contractor not the Council and under the Site Licence trade waste is not permitted at either HWRC.

The HWRC contractor is required to prevent the deposit of trade waste at the HWRC to comply with the terms of the site licence. The Council also has a duty of care to make sure that the contractor is compliant. No records are kept of the number of traders refused so there is no data to establish the demand for the use of the site. However if the data was available, it would not be relevant if the Council levied a charge to tip. Traders attempt to tip waste at the HWRC or fly-tip to avoid disposal costs.

In the past the Council has accepted trade waste (for a charge) at the Waste Transfer Station (WTS) located at Fryers Rd, but this ceased in 2005/6 due to the implementation of the Landfill Allowance Trading Scheme (LATS), increasing traffic flows on site, Duty of Care and Health and Safety requirements. While LATS has expired, the traffic flows on site remain high and safe systems of working are in place.

Clean and Green Services have completed the procurement process for a new contract and Cabinet approved on 25<sup>th</sup> September 2013 the award of the contract for the operation and management of HWRC, WTS and Haulage to Sita UK Limited. The successful bid includes a service to traders on a conditional basis. Traders would have to comply with all the required paperwork and cover all of the Council's and HWRC Contractor's costs.

### **Fly tipping data**

The Council records fly tipping data on an IT system known as FlyCapture. The data presented below is an extract from FlyCapture and comes with some caveats;

- None of the incidents are inspected prior to the crews attending
- The crews do not verify or report the accuracy of the incident
- We rely on the public to report waste types and sizes
- We rely on contact centre staff to record the information accurately
- The cost data is based on pre determined rates set by the Environment Agency and put into a cost model in FlyCapture, they are estimates and not the Council's actual disposal costs.

## Commercial Waste Fly tipping 2012/13

### Total number of incidents by waste type

white goods:	3
tyres:	60
asbestos:	25
construction/ demolition/ excavation:	150
black bags - commercial:	26
chemical drums, oil or fuel:	21
other commercial waste:	82
	<b>367</b>

### Total number of incidents by size and estimated clearance & disposal cost:

single item:	46	£29.00	£1,334.00
car boot load or less:	88	£29.00	£2,552.00
small van load:	150	£56.00	£8,400.00
transit van load:	73	£115.00	£8,395.00
tipper lorry load:	7	£350.00	£2,450.00
significant/multiple loads:	3	£1,000.00	£3,000.00
	<b>367</b>		<b>£26,131.00</b>

## Enforcement

Environmental Health Officers monitor food businesses during hygiene inspections to ensure companies have waste contracts in place and take appropriate legal action where this is not the case. Further checks may be undertaken in response to complaints or as part of fly tipping investigations.

In 2012/13, 693 visits of this nature were undertaken.

At present a team of 6 Enforcement Officers respond to complaints of fly tipping, misuse of bins and illegal or inadequate storage and transport of both commercial and domestic waste as one aspect of their general duties.

As waste offences can occur on any land irrespective of ownership the Environmental Health service investigate fly tips and waste accumulations on private as well as public land.

Enforcement is highly reliant on the vigilance of residents and partner agencies in terms of witnessing offences being committed and the witness being prepared to attend court if necessary to give evidence. There has been some success recently with the use of cameras installed at hot spot fly tipping locations allowing lines of enquiry to be followed that otherwise would have lead nowhere.

#### Enforcement actions 2012/13:

- 737 complaints of waste in domestic back gardens and misuse of domestic bins.
- 464 reports of fly tipping (may be some duplication with reports to Street Pride).
- 120 complaints in relation to accumulations of commercial waste or misuse of commercial bins.
- 3 enforcement notices requiring provision of a commercial waste contract.
- 8 enforcement notices requiring businesses to clear their land of waste

#### Enforcement actions 1.4.12 to 11.9.13:

- 2 prosecutions involving waste from domestic premises fly tipped by 'tatters'
- 1 prosecution involving waste from a commercial premises fly tipped by a 'tatter'
- 1 prosecution involving domestic waste fly tipped by a relative of the householder.
- 1 duty of care prosecution where the landlord of a licensed premises pleaded guilty to failing in his duty of care to dispose of controlled waste in a lawful manner (i.e. to prevent fly tipping) and also of failing to produce the Council with evidence that he held a waste contract.
- 1 prosecution awaiting a hearing in the Magistrates Court at the end of September where waste from a number of domestic premises has been allegedly been fly tipped by a 'tatter'