

TITLE	Officer Response to Call-In ref: Ceasing the supply of single use plastic food caddy liners in the Borough from 2023
FOR CONSIDERATION BY	O&S Management Committee on 24 October 2022
WARD	None Specific
DIRECTOR	Steve Moore, Place and Growth

Reference No: Executive Decision 2022/09/29 - Item 36.

Subject: Ceasing the supply of single use plastic food caddy liners in the Borough from 2023

Reason for Call-In

Five non-Executive Members allege that the decision has contravened the following sections of the Constitution:

- Section 1.4.2 b) due consultation and the taking of professional advice from Officers;
- Section 1.4.2 d) a presumption in favour of openness;
- Rule 5.4.8 Member Notification of the Forward Programme

Detail of the alleged contravention of the Constitution and associated response

1a) Is not proportional to the desired outcome in that the saving attributed to the targeted increase in food waste recycling of £350k would not be achieved by the removal of free caddy liners, as confirmed by Cllr Clive Jones, the Lib Dem Leader of the Council in the Reading Chronicle on the 22nd September 2022, when he said that whilst the volume of recycling could dip slightly it will come back because people want to recycle. This is not aligned to the desired outcome of increased food recycling.

Response: The removal of free caddy liners for residents of Wokingham Borough is not expected to have an impact on the saving associated with a targeted increase in food recycling as the decision does not affect residents' ability to continue recycling their food waste. We are unaware of any other councils that routinely supply caddy liners to households and data shows that their participation rates remain unaffected. In order to support residents to continue to correctly recycle their food waste, in turn ensuring the savings are achieved, officers are in the process of developing a targeted communications campaign. This will highlight to residents that there is no need to line the food caddy when disposing of their food waste, but if residents wish

to continue using a liner, they can use materials such as salad bags, cereal packets or newspaper.

The communications campaign will also highlight to residents that whilst Wokingham Borough Council's recycling record has improved significantly in recent years, from 40.5% in 2018/2019 to over 54% in 2021/22, the recycling performance of many other Councils in the UK is above 60% and it is possible for Wokingham Borough Council to achieve the same or better.

It is estimated that the incorrect disposal of food waste into the blue bag rather than the food waste caddy accounts for 20% (by weight) of the blue bag make up. As the cost of disposing of blue bag general waste is significantly higher than the cost of food waste and dry recycling, the incorrect disposal of food waste means that the Council is unnecessarily spending money which could be saved if the food waste was correctly disposed of in the food caddy. With the reduction of annual blue bag provision from 80 bags to 54 bags, agreed at the September 2022 Executive, the Council's focus will be to move as much recyclable material from general waste to the green recycling bags and food waste caddy.

The results of the October 2021 waste consultation, which sought to understand residents views on the current waste collection and disposal approach in Wokingham, clearly demonstrates that the majority of residents are focussed on the environmental benefits of better waste management and are willing to recycle more and minimise their overall waste.

- 86% of respondents are willing to recycle more.
- 54% of respondents felt that the environmental benefits are most important.

Therefore, through a reduction in blue bag provision and a targeted communications campaign to support residents to dispose of their food waste correctly, the savings target is still expected to be achieved.

1b) Due consultation has not occurred, the decision sheet on 29th September confirms that no alternatives were considered and no public consultation has taken place in breach of 1.4.2 b). In addition, before the decision was tabled at executive the Leader of the council stated in the Reading Chronicle of the 22nd September "It will be debated at the council meeting on Thursday but this is just to ratify it and the decision has been taken". This is a clear case of predetermination where the Leader confirms that a decision has been taken not only before consultation but also before the meeting at which the decision was due. This is a breach of 1.4.2 d)

A consultation did not occur as this decision does not lead to a fundamental change to the service and stopping the supply of kitchen caddy liners will not impact on the way the kitchen caddy is used. The weekly collection of food waste will continue as normal and residents will still be able to dispose of their food waste separately to their general waste and dry recycling. There is no need for residents to line the food waste caddys in order to correctly dispose of their food waste, however if residents would like to line their caddy they can use items such as salad bags, cereal packets or newspaper.

2) The decision has also breached rule 5.4.8 which says that a copy of the forward programme will be provided to all members each month AND published on the Council's website. The item in question was a key decision in that it affects all residents of the borough and a significant risk to revenue and was not on a forward programme provided to members as required by the constitution.

Under section 6.3.29 (Call-In), the Constitution sets out the six reasons for non-Executive members calling-in a decision. These are the principles of decision making as set out in chapter 4.1 of the Constitution. Section 6.3.29 does not explicitly refer to the Executive Forward Plan.

With regards to section 5.4.8 (Executive Forward Plan), the key notification requirement is to meet the requirements of the 28 day "notice" as set out in the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012. For the Executive meeting of 29 September 2022, this requirement was met as notification was provided on 25 August 2022 and was transparently available to residents and members on the Council website from that date.

The substantive intention of section 5.4.8 is, by publishing the Forward Plan, residents of the Borough will be able to find out the expected timing of key decision, who will take them, and also the consultation mechanisms available to them.

The signatories to the call-in highlight that the constitution also refers to a copy of the Forward Plan being provided to all Members. This is not a legal requirement. However, it has been the local practice that when the Forward Plan is published, an automated notification email goes to Members. It has been asserted that not all Members received notification in this case, contrary to the constitution. As soon as officers were alerted to this concern, steps were immediately taken with the software provider to address the issue. Officers are satisfied that the automated notification system works correctly and that this was an isolated incident which will not reoccur.

It is the Monitoring Officer's view that whilst there may have been an inadvertent, technical breach of clause 5.4.8 of the constitution, the substantive legal provision of the clause was met.

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