

Committee: Cabinet

Date of meeting: 30 January 2020

Title of Report: Response to the Referral from Carlisle Local Committee - Relating to the removal of waste from skips and the wearing of seatbelts by pupils travelling on County Council provided home to school transport.

Report by: Angela Jones, Executive Director Economy & Infrastructure

Cabinet Members: Cllr Celia Tibble, Cabinet Member for Environment and Cllr Keith Little, Cabinet Member for Highways and Transport

What is the Report About? (Executive Summary)

- 1) This is the response to a referral from Carlisle Local Committee to Cabinet relating to two matters. The referral states:
 - Cabinet is asked to raise the issue of unlawful removal of items from household skips through the Local Government Association and to lobby for changes in legislation
 - Cabinet is asked through the procurement team, to raise the issue of mandatory wearing of seatbelts (where fitted) with all relevant providers as a requirement of the contract

Recommendation of the Executive Director

- 2) Removal of items from household skips: The minutes of the Carlisle Local Committee show that the discussion in relation to the first item referred "*lobby for a change in legislation making it lawful to remove items from skips in the interests of fewer items going to landfill*" contained two specific elements. Element 1) being in relation to the removal of items from skips at Household Waste Recycling Centre's (HWRC's) and, element 2) relating to the removal of items from skips procured by private householders and placed on the highway.
 - In relation to element 1 it is recommended that Cabinet refer to the progress being made through the Communities and Place Scrutiny Board "Waste and Third Sector Task and Finish" work, which is appended to this report.
 - In relation to element 2, it is recommended that Cabinet endorse the existing publically available advice, which recommends that members of the public wishing to retrieve items from skips on the highway seek permission of the householder or skip company.

- 3) **Mandatory Wearing of Seatbelts on Home to School Transport:** It is recommended that Cabinet note that the wearing of seatbelts on home to school transport is a requirement set out in the current procurement terms and conditions for home to school transport. Cabinet are asked to note the measures already taken by the procurement team to ensure that contract conditions are complied with by transport providers commissioned by the County Council to provide home to school transport.

Background to the Proposals

- 4) Carlisle Local Committee received a presentation on 12th November 2019 from the Acting Executive Director – Economy and Infrastructure regarding Third Sector Reuse. Members were informed that this followed a Task and Finish Group whose key element had been to effectively collaborate with partners to ensure a countywide approach to the waste hierarchy that maximised the benefits of resources to Cumbrian households before they entered the waste stream.
- 5) Members raised their concerns regarding the prosecution of individuals for the removal of goods from skips both on the highway and at Household Waste Recycling Centres (HWRCs). It was suggested that Cabinet be recommended to raise the prosecution issues with regards to a change in the legislation with the Local Government Association.
- 6) At the same meeting Carlisle Local Committee considered a report regarding the current road safety management arrangements that the Cumbria Road Safety Partnership (CRASH) had in place.
- 7) Members highlighted that home to school transport was subsidised by the Authority and suggested that the wearing of seatbelts could be made mandatory in future procurement contracts. A referral has been made to Cabinet recommending that this should be included in any future procurement process for home to school transport.
- 8) **Removal of items from skips at HWRC's:** The opportunities to enable members of the public to retrieve for re-use items discarded at HWRC's has been reviewed by the Communities and Place Scrutiny Board and has been the subject of a task and finish group and associated action plan. The barriers which currently prevent members of the public retrieving items at County Council HWRC's are primarily related to contractual matters. Contractual obligations exist within the 30-year PPP contract that Cumbria County Council holds with Renewi Ltd, which includes the operation of the HWRC's, that to date have prevented the implementation of opportunities for the public to retrieve discarded items from the HWRC's for re-use. It is noted that under no circumstances should members of the public remove items from the skips at HWRC's on safety grounds and that any future opportunities for the public to retrieve items from HWRC's would require careful management to ensure public safety.

Officers continue to work with our contractor to seek options to overcome these contractual barriers. In addition further work has been and continues to be ongoing to reduce the volume of useable items entering the waste streams via the HWRC's. This work has been set out in detail as part of the Communities and Place "Waste and Third Sector Task and Finish Six Monthly Update Report" from 5th September 2019 which is provided at appendix 1 to this report.

- 9) The issues surrounding the retrieval, by members of the public, of discarded items placed in skips privately procured by householders is complex. The legal status in relation to ownership of items placed by householders into skips that they have privately procured is the subject of some debate amongst organisations that seek to advise the public in relation to this matter. In addition there are issues to consider in relation to the health and wellbeing of the public in relation to the contents of any skip. As a consequence it is recommended that Cabinet endorse the publically available advice that members of the public wishing to retrieve discarded items from skips on the highway should seek permission from the relevant householder or from the company supplying the skip.
- 10) In relation to the wearing of seatbelts on home to school transport, the County Council has several clauses regarding seatbelts in its school transport contracts, (see examples below), and these have been standard in our Terms & Conditions for several years:

23.2.3 the Contractor commits a material breach of this obligations which has or may have a material and adverse effect on Passengers. For the purposes of Clause 23.2.3 a breach will be material if:

(d) the Contractor fails to provide working seatbelts to Passengers where required under this Contract and/or under the law;

(e) in the reasonable opinion of the Authority any action or inaction by the Contractor and/or Personnel puts the health and safety of any Passenger at risk;

C3. USE OF VEHICLES

C3.2 Each contracted seat shall be front facing and fitted with individual seatbelts. The Personnel shall ensure that the seatbelts are used correctly at all times during performance of the Services.

C5.5 all Vehicles are single deck vehicles unless otherwise agreed in writing by the Authority. (Modern double deck vehicles, provided they are fitted with appropriate seatbelts),

- 11) The requirement that pupils being transported use the seatbelts provided is set out in the Councils policy for home to school transport which is made available to all families and pupils via the County Councils website. The Council sends a travel safety leaflet which identifies the use of seatbelts to all parents and students who receive a Council issued travel pass. Parents are permitted onto vehicles to check their child is safely secured and some primary schools carry out similar checks. Schools are prompted to remind pupils of the importance of wearing seat belts.

Operators are encouraged to report issues with passengers to both the school and to the Councils procurement and contracts management team. Often these issues can best be dealt with by the school as they are in the best position to positively influence pupil behaviour. Where a report is received by the procurement and contracts management team the issues are reviewed with the school to seek a solution. However if the behaviour continues the Council will escalate this through the stages outlined in our 'Behaviour leaflet'. In addition the Council undertakes unannounced inspections, predominantly as a reaction to identified route issues such as children's behaviour/vandalism and/or poor or non-compliant service delivery by an Operator.

Options Considered and Risks Identified

Option (a)

- 12) Recommended: Cabinet notes the progress being made through the Communities and Place Scrutiny Board "Waste and Third Sector Task and Finish" work in relation to the re-use of items placed in skips at the Council's HWRC's.
- 13) Recommended: that Cabinet endorse the existing public messaging which advises members of the public who wish to remove items from skips on the highway to seek permission of the householder or the skip company.
- 14) Recommended: Cabinet notes that the wearing of seatbelts is mandatory under the Home to School Transport contract conditions and endorses the current arrangements which are deemed proportionate.

Option (b)

- 15) Not Recommended: Cabinet choose not to proceed with the work already underway to seek a solution enabling members of the public to safely retrieve re-usable items from the County Council's HWRC's.
 - Risk: This does not achieve the outcome of the Local Committee or of the Communities and Place Scrutiny Advisory Board.
- 16) Not Recommended: Cabinet choose not to endorse the existing messaging to members of the public wishing to retrieve items from skips on the Highway that they seek permission from the householder or skip company.
 - Risk: The council's position may be at odds with other advice publically available.
- 17) Not Recommended: Cabinet offers alternative requirements and or monitoring processes to those set out at option a.
 - Risk: Additional monitoring will require additional resource.

Reasons for the recommendation/Key benefits

- 18) Recommendation (Option a) The retrieval of re-useable items from skips – Officers have no reason to recommend alternative measures. There is a social and environmental benefit to encourage the re-use of discarded items where this can be safely and economically achieved.
- 19) Recommendation (Option a) The Councils existing arrangements are clear and proportionate.

Financial – What Resources will be needed and how will it be funded?

- 20) There are no direct resource or financial implications as a result of the recommendations contained within this report. There may as a result of the Waste and Third Sector Task and Finish work be recommendations that will have financial implications, these and the associated funding will need to be considered at the time recommendations are made.

Legal Aspects – What needs to be considered?

- 21) Paragraphs 8 and 9 of this report cover the main legal aspects regarding the recommendations at paragraph 2 of this paper.
- 22) In respect of seatbelt use on school transport, as set out above the Council has requirements set out in its transport contracts and the law heavily regulates seatbelt use. Under the law passengers aged 14 and over are personally responsible for their own seatbelt use. In the event of an accident, who is liable will depend on the individual circumstances of the accident. Whilst the Council cannot remove all risk it should seek to take reasonable action to mitigate such risk. The Council as part of its commissioning role endeavours to mitigate the risk through its contractual provisions, compliance monitoring and communication with schools parents and passengers.

Health and Safety Aspects – What needs to be considered?

- 23) The County Council has a duty under the Health and Safety at Work Act 1974 and associated legislation and regulations to ensure that, as far as reasonably practicable, adequate health and safety management arrangements are in place to protect employees, members, customers, pupils and visitors to County Council related services (including schools within County Council governance arrangements).
- 24) Should it be agreed that items should be removed from skips, then any activity should follow a robust risk assessment with safe systems of work agreed and safety controls and procedures put in place to limit any risks from the hazards in the skips.
- 25) In respect of the wearing of seatbelts mandatory in the procurement process for home to school transport, this is already a requirement of the current procurement terms and conditions for home to school transport which is in place to aim to minimise safety risks to passengers.

Council Plan Priority – How do the Proposals Contribute to the Delivery of the Council’s Stated Outcomes? (Outcomes - People in Cumbria are Healthy and Safe, Places in Cumbria are well connected and thriving, the Economy in Cumbria is growing and benefits everyone)

- 26) People in Cumbria are Healthy and Safe
- 27) The wearing of seatbelts by passengers travelling on home to school transport is an important aspect of transport safety.
- 28) Advising members of the public to seek permission prior to retrieving items from skips may provide a better opportunity for those undertaking this action to understand whether there are items in the skip which could pose a risk to their health or safety.

What is the Impact of the Decision on Health Inequalities and Equality and Diversity Issues?

- 29) None identified.

Appendices and Background Documents

Appendix 1 – Waste and Third Sector Task and Finish Recommendations Report

Key Facts

Electoral Division(s): All

Executive Decision	Key Decision Included in Forward Plan	Exempt from call-in	Exemption agreed by scrutiny chair	Considered by scrutiny, if so detail below	Environmental or sustainability assessment undertaken?	Equality impact assessment undertaken?
No	No	No	N/A		N/A	N/A

Approved by the relevant Cabinet Member/s on 20 January 2020

Previous relevant Council or Executive decisions

Not applicable

Consideration by Overview & Scrutiny

Scrutiny Advisory Board – Communities and Place 5 September 2019

Background Papers

None

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