

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Policy and Resources
Date:	20 January 2017
Title:	The Single Use Carrier Bags Charges (England) Order 2015 - Ability to act as 'Administrator'
Reference:	8008
Report From:	Karen Murray – Director of Culture, Communities and Business Services

Contact name: Julie Chambers – Trading Standards Manager

Tel: 01962 833683

Email: julie.chambers@hants.gov.uk

1. Executive Summary

1.1. The purpose of this paper is to clarify the arrangements for Hampshire County Council in respect of its role as an 'administrator' for the purposes of the Single Use Carrier Bags Charges (England) Order 2015, herein after referred to as 'the Order'.

1.2. This paper seeks to

- Briefly set out the requirements of the County Council as an 'administrator' under the legislation
- Explain the rationale for the decisions which are sought.

2. Contextual information

2.1. The Order, which came fully into effect on 5 October 2015, aims to reduce the number of single use plastic carrier bags, and the litter associated with them, by encouraging the reuse of bags.

2.2. In 2014 over 7.6 billion single use plastic bags were provided to consumers within the UK by the major supermarkets. Such bags take longer to degrade than others and can be harmful to wildlife.

2.3. The legislation places both obligations on the County Council as a potential 'seller' of single use plastic bags and, as the enforcing agency or 'administrator'.

2.4. The focus of the legislation is therefore, one of environmental damage limitation. It is made under both the Climate Change Act 2008 and the Regulatory Enforcement and Sanctions Act 2008

- 2.5. The legislation contains a 'sunset clause' and will cease to have effect on 5 October 2022.

3. Finance

- 3.1. There would be minimal additional cost involved in the delivery of the role of 'administrator' as this would be absorbed within the existing cash limit, and working practices, of the Trading Standards Service.
- 3.2. There would be an additional cost to the authority for recovery of any monetary penalty that was not paid. Non payment of any monetary penalty issued is a civil debt.

4. Performance

- 4.1. As an 'administrator' for the purpose of the Order, the County Council must undertake the following:
- Publish guidance on the enforcement action it may take in respect of any breach by a seller of the duties imposed upon them by the legislation. The content of such guidance and the manner in which it is to be published are prescribed in the Order.
 - Publish a report, as specified intervals, on the enforcement action it has taken. The content of said report, and the manner in which is to be published, are prescribed in the Order.
- 4.2. The obligations placed upon the County Council as 'administrator' will be performed by officers within the Trading Standards Service.
- 4.3. The Trading Standards Service already performs many enforcement duties placed upon the County Council, as prescribed in statute and other pieces of subordinate legislation.
- 4.4. The Trading Standards Service already publishes an enforcement policy and guidance to business, in respect of the legislation it enforces on the County Council website.

5. Consultation and Equalities

- 5.1. No consultation has been undertaken in respect of this report. Consultation in respect of guidance which is subsequently provided however must be undertaken with both the Secretary of State for the Environment, Food and Rural Affairs as well as the British Retail Consortium.
- 5.2. No equality impacts have been identified.

6. Other Key Issues

- 6.1. None.

7. Future direction

- 7.1. The Single Use Carrier Bag Charges (England) Order 2015 contains a 'sunset clause' and, will cease to have effect on 5 October 2022.

8. Recommendation(s)

- 8.1. That the County Council role of 'administrator' for the purposes of the Single Use Carrier Bags Charges (England) Order 2015 be delegated to the Director of Culture, Communities and Business Services and, any officer she so authorises within the Trading Standards Service.
- 8.2. That the County Council obligation to publish guidance on the enforcement of the Order, be delegated to the Director of Culture, Communities and Business Services and, any officer she so authorises within the Trading Standards Service.
- 8.3. That the County Council obligation to report its enforcement actions, in the manner stated within the Single Use Carrier Bags Charges (England) Order 2015, are delegated to the Director of Culture, Communities and Business Services and, any officer she so authorises within the Trading Standards Service.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Maximising well-being:	no
Enhancing our quality of place:	yes

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Direct links to specific legislation or Government Directives		
<u>Title</u> The Single Use Carrier Bags Charges (England) Order 2015		<u>Date</u> March 2015

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

- The recommendations contained within this report will have no impact in respect of the protected characteristics.
- The recommendations seek to clarify the arrangements by which the County Council will discharge its enforcement duties under the legislation.

2. Impact on Crime and Disorder:

2.1. The County Council, as administrator may issue a fixed monetary penalty in respect of a breach of the legislation by a seller.

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption?

The proposed recommendations clarify how the County Council will fulfil its role as an 'administrator' of climate change legislation aimed at reducing the harm to the environment

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

The legislation contains a 'sunset clause' and will no longer have effect on 5 October 2022. The legislation will therefore apply for a period of 5 years, during which it is anticipated that consumers' habits will have changed to that of bag reuse. Such a change in behaviour will have long term beneficial impact on the environment.