

WASTE PPP UPDATE

1.0 INTRODUCTION

- 1.1 In December 2022, the Council's Environment, Development and Infrastructure Committee agreed to pursue a derogation from the Scottish Government, from the implementation date of the Biodegradable Municipal Waste Ban of 1 January 2026 to the end of the Council's Waste PPP contract in September 2026.
- 1.2 This report provides an update on a meeting held with the Minister for Green Skills, Circular Economy and Biodiversity on 26 July 2023 and a subsequent meeting between Council officers and Scottish Government Officials.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that Members of the Environment, Development and Infrastructure Committee consider and note the content of this report.

3.0 DETAIL

- 3.1 The Council has in place a 25 year Waste PPP contract which ends in September 2026. The Waste PPP contract covers Oban and Lorn, Mid Argyll and Kintyre, Bute and Cowal together with the inner islands.
- 3.2 The Scottish Government are due to introduce a Biodegradable Municipal Waste (BMW) landfill ban from the end of December 2025. The last 9 months of the PPP 25 year contract will not be compliant with the new regulation.
- 3.3 Argyll and Bute Council is the only Local Authority with a PPP contract, this leaves the authority in a unique situation whereby it is hampered by a 25 year contract which was supported by the Scottish Executive in 2001. To remove itself from the contract has significant financial implications for the authority.
- 3.4 A derogation would enable the PPP contract to continue with the Mechanical Biological Treatment (MBT) process until the contract comes to an end in September 2026, this being some 9 months after the BMW ban comes in to place. Note – the islands and Helensburgh and Lomond areas are intended to be BMW compliant from 1 January 2026. Should a derogation not be permitted,

the Council are seeking funding for additional costs (circa £1.5M) which would be incurred by the Council in respect of varying the PPP contract from Scottish Government.

- 3.5 The Council Leader and Council officers met with the Minister for Green Skills, Circular Economy and Biodiversity on 26 July 2023 and the following points were discussed:
- Scottish Government (SG) are not in a position to fund the cost associated with not achieving a derogation (circa £1.5M);
 - The initial legal advice received from SG's legal team sets out that a change in law would be required to permit a derogation;
 - The Minister confirmed that she is keen to achieve a pragmatic solution to cover the 9 month gap between the introduction of the BMW ban and the end of the Council's PPP contract;
 - The Minister has instructed SG officials to further explore opportunities to create a workaround to permit a derogation to be achieved without a change in law;
 - The Minister will endeavor to respond in August with her decision to allow an update to the EDI Committee on 31 August.

- 3.6 A subsequent meeting between Council officers and SG officials took place on 10 August where it was confirmed that further work continues with the legal department for the SG, and the legal team within SEPA. The discussions are based upon the complexities around the derogation request and the requirement for the law to be changed if support was to be given and whether this is possible.

4.0 CONCLUSION

- 4.1 This report provides an update on a meeting held with the Minister for Green Skills, Circular Economy and Biodiversity on 26 July 2023 and a subsequent meeting between Council officers and Scottish Government Officials in relation to the Council's request for a time limited derogation from the Scottish Government for the Waste PPP area from 1 January 2026 - September 2026 for the municipal solid waste landfill ban which is due to be implemented from 1 January 2026.

5.0 IMPLICATIONS

- 5.1 Policy – The Council's waste strategy will evolve in line with the changes in legislation relating to the BMW ban of waste to landfill. A derogation will be sought, failing a successful response the current Renewi contract will be varied to comply with legislative changes.
- 5.2 Financial – Compliance with the 2025 Landfill ban will require financial resource from the Council. As the Scottish Government are initiating the change, Officers will pursue financial support from the Scottish Government for this change to

provide a long-term financially sustainable solution.

Through lobbying it is our intention to seek to recover any additional costs which have resulted from the changes to legislation, through Scottish Government. There is, however, a risk that funding is not forthcoming.

- 5.3 Legal – The existing PPP contract was not designed or written to accommodate the changes that the 2025 legislation will require. The contract allows variations to be made although the process is quite cumbersome. There will be legal implications, which will need to be resolved, relating to a contract variation relating to the derogation and/or changes in Renewi's contract.
- 5.4 HR – HR issues will be addressed prior to and during the process of contract handback. Having sufficient resource will factor into the project demands of waste management. TUPE will be relevant at the handback and during the process of progressing to handback should the Council operate the sites themselves.
- 5.5 Fairer Scotland Duty:
 - 5.5.1 Equalities – None.
 - 5.5.2 Socio-economic Duty – None.
 - 5.5.3 Islands – There may be potential ferry capacity issues for bulking and transporting waste material from islands, this has been flagged to Transport Scotland.
- 5.6 Climate Change – Transitioning from Landfill to Energy from Waste would result in a reduction in the annual quantity of Greenhouse Gas Generated in Argyll and Bute. However, the additional road miles incurred taking waste to EFW markets will offset the carbon reductions achieved through not landfilling.
- 5.7 Risk – there are financial risks associated with no derogation as outline in the report.
- 5.8 Customer Service – None.

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