

WASTE UPDATE

1.0 INTRODUCTION

- 1.1 Argyll and Bute Council currently has a 3 model waste disposal arrangement in place. This consists of Island landfill sites which the Council operate, a third party off taker for the refuse collected in Helensburgh and Lomond and a PPP contract for the remainder of the Council area which runs until September 2026.
- 1.2 At the November 2023 meeting of the Environment, Development and Infrastructure Committee, Members considered a report covering a number of work streams regarding recycling and waste disposal. This report provides an update regarding the Council's request to Scottish Government for a derogation for the Council's PPP contract and also informs Members that the existing third party off taker for the Helensburgh and Lomond area will cease to trade from 31 March 2024, meaning that new arrangements have to be put in place.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that Members of the Environment, Development and Infrastructure Committee:-
- i. Consider and note the update regarding meetings held with Scottish Government on the Waste PPP contract; and further note the update relating to the derogation and the drop date set with Scottish Government of the 5 April;
 - ii. Note that the third party off taker for Helensburgh and Lomond has given notice that they will cease trading on 31 March 2024;
 - iii. Note that a further update report will be made available to the Environment, Development and Infrastructure Committee in June.

3.0 DETAIL

3.1 Waste PPP

- 3.1.1 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.

- 3.1.2 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.
- 3.1.3 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.
- 3.1.4 Argyll and Bute Council is the only Local Authority in Scotland 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.
- 3.1.5 A derogation, if granted, 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.
- 3.1.6 The Council Leader and officers have held various meetings with the Minister for Green Skills, Circular Economy and Biodiversity, Scottish Government officials following the formal request to Scottish Government for a derogation in December 2022. A further meeting took place between the First Minister, Council Leader and Chief Executive during Scottish Governments Travelling Cabinet visit to Inveraray in the Autumn of last year, officers have had a number of meeting with SEPA who regulate waste legislation in Scotland and numerous letters and emails have been exchanged. At the time of writing there is no derogation available to the Council.
- 3.1.7 Officers have informed Scottish Government officials that the drop dead date for a decision regarding the derogation is 5 April 2024. This date has been specified to enable necessary briefings to be carried out and a report to be prepared for Members consideration at the June 2024 Environment, Development and Infrastructure Committee. The Committee will be formally asked to approve an approach at its June meeting, if a derogation has not been granted, whereby the contract with Renewi is varied. This contract variation will involve Renewi converting the existing Mechanical Biological Treatment (MBT) plants to waste transfer stations in Oban, Lochgilphead and Dunoon. General waste will then be taken to third party off takers for Energy from Waste (EfW) feed stock rather than being processed with residual being landfilled. This approach will also future proof the Council's waste service in line with the BMW ban.
- 3.1.8 At a meeting between the Executive Director and Head of Service with officials from Scottish Government on 9 February 2024, Scottish Government officials

stated that subject to due diligence it would be more likely that some form of associated grant payment could be forthcoming rather than a derogation. At the time of writing this has not been confirmed by Scottish Government.

3.1.9 From the options appraisal carried out in 2022, the additional costs to the Council for the varying the contract with Renewi is c£1.5M. The options appraisal is being refreshed as part of a due diligence exercise. However, it is not expected that the additional costs of £1.5M will be far off the mark. In the representations to Scottish Government it has been made very clear that should the derogation not be forthcoming then the Council will seek the additional costs incurred through the contract.

3.2 Barr Environmental Limited (BEL)

3.2.1 BEL issued a notice to the Council on the 10 January 2024 informing the Council of their intent to withdraw from contracts on 31 March 2024. The contracts included the disposal of Persistent Organic Pollutants (POPs) and Wood from Helensburgh and Lomond, and residual waste from Helensburgh and Lomond, and Tiree.

3.2.2 Officers continue to engage with other providers and will have a replacement provider contracted by 1 April 2024.

4.0 CONCLUSION

4.1 In concluding this report, an update on various meetings held with Scottish Government officials relating to the Council's request for a time limited derogation for the Waste PPP area from 1 January 2026 - September 2026 for the BMW landfill ban which is due to be implemented from 1 January 2026. The Committee agreed, in December 2022, to pursue two options and officers continue to take these forward in tandem. Officers will pursue the derogation until the drop dead date of 5 April 2024, if a derogation is not granted or suitable communication from Scottish Government advising that a derogation is agreed, officers will engage with Renewi to ensure the conversion of the MBT plants to waste transfer stations takes place.

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. However, there remains 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 regarding 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 raised with Transport Scotland.
- 5.6 Climate Change – Transitioning from Landfill to Energy from Waste (EfW) would result in a reduction in the annual quantity of Greenhouse Gas Generated in Argyll and Bute. Additional road miles incurred taking waste to EfW markets will partly offset the carbon reductions achieved through not landfilling.
- 5.7 Risk – There are financial risks associated with no derogation. The costs are approx. £1.5m, a refresh of all Waste PPP costs will be undertaken.
- 5.8 Customer Service – None.
- 5.9 Rights of the Child – None arising from this report.

Executive Director with responsibility for Roads and Infrastructure: Kirsty Flanagan

Policy Lead for Climate Change and Environment Services, Councillor Ross Moreland

February 2024

For further information contact:

Jim Smith, Head of Road and Infrastructure Services
jim.smith@argyll-bute.gov.uk

John Blake, Fleet, Waste and Transport Manager
john.blake@argyll-bute.gov.uk