

Forward Plan reference number: Not applicable

Report title: COVID-19 Outbreak – Temporary Closure of Recycling Centres for Household Waste	
Report to: Councillor Simon Walsh – Cabinet Member for Environment and Climate Change Action	
Report author: Samantha Kennedy – Director, Environment and Climate Action	
Date: 23 March 2020	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The COVID-19 outbreak is a major public health emergency. The Prime Minister's address to the nation on the 23 March instructed people to stay at home and adopt social distancing to reduce social contact and slow the spread of COVID-19.
- 1.2 This report asks the Cabinet Member to consider a temporary closure of the Recycling Centre for Household Waste (RCHW) sites in order to assist with the implementation of the Government advice to tackle the spread of COVID-19 and to protect staff. The centres have been currently closed on an interim basis following a decision by the Executive Director for Place and Public Health

2. Recommendations

- 2.1 That all Recycling Centres for Household Waste (RCHW) provided by Essex County Council be closed for a period of three months with immediate effect.
- 2.2 That the Executive Director, Place and Public Health be authorised to extend the closure for a period of one month on a maximum of three occasions if he considers it is necessary to do so for the purpose of the protection of public health and to reduce the risk of COVID-19 spread.
- 2.3 That the Executive Director, Place and Public Health be authorised to reopen the RCHW as soon as it is considered that closure is no longer necessary for the protection of public health.
- 2.4 That the Executive Director, Place and Public Health be authorised to negotiate with the contractor any changes to the contract necessary to minimise the cost of closure to ECC.

3. Summary of issue

- 3.1 The United Kingdom is having to respond to the COVID-19 outbreak and the Government has advised residents to practice social distancing. On the 23 March the Prime Minister's address to the nation reiterated the importance of social distancing and instructed the public to stay at home to slow the spread of COVID-19. There are a limited number of specific exceptions to the 'stay at home' instruction; to care for vulnerable people, for the purpose of exercise, to shop for basic necessities and to travel to work if it is impossible to work from home.
- 3.2 The Coronavirus Bill currently being debated by the House of Lords is expected to become law within the coming week. The Coronavirus Bill includes extensive powers to enforce social distancing and to ban events and gatherings of more than two people. Most organisations have closed workplaces and places where people congregate. Schools closed with effect from 20 March 2020.
- 3.3 Under section 2B of the National Health Service Act 2006 the Council is under a legal duty to take such steps as it considers appropriate for improving the health of the people in its area.
- 3.4 Against this context the Council has to consider the RCHW Service. This is a service where people come to dispose of their bulky waste. The high footfall experienced at the sites recently together with the operational and infrastructural constraints at the sites means users are coming into close proximity with each other more frequently. This has meant it is not proving possible to manage social distancing at the sites. Continued service availability is also encouraging residents to leave their homes to use the service. We also have to consider the impact on the health and safety of site operatives who are employed by a third-party contractor.

Impact of closure

- 3.5 Recycling Centres for Household Waste (RCHW) are places for residents to dispose of their household waste. Despite people being advised to avoid unnecessary travel and social contact, and to adopt social distancing the footfall through Essex RCHW network has increased. This is likely to be as a result of people spending more time at home and the improving weather leading to people carrying out work around the home that generates waste. We need to help Essex residents to comply with the guidance and maintain isolation, maintaining the RCHW service is having the opposite effect.
- 3.6 The RCHW service is a valued service and the Council is under a statutory duty to provide it. Closing this service will mean that communities are temporarily deprived of a facility to dispose of their bulky household waste. Residents will be requested to retain their bulky waste for disposal once the facilities reopen.

- 3.7 The RCHW site operatives will be redeployed by the contractor elsewhere within the wider contracted services to maintain operational robustness of waste services, and other critical services as necessary.
- 3.8 At the current time kerbside collection services, where social distancing is not an issue, will continue to operate and will provide a route for residents to dispose of their normal waste. This will ensure waste, which has the potential to pose public health risks, can continue to be appropriately managed. However, districts may need to change existing arrangements at short notice.
- 3.9 Accordingly the Cabinet Member for Environment and Climate Change is asked to consider closing Essex RCHW facilities. It would be recommended that the closure should be for the shortest possible period, initially for a period of three months, and be kept under constant review.
- 3.10 It should be stressed that this is a temporary measure as a short-term response to the COVID-19 outbreak. All sites will reopen as quickly as possible once it is deemed that closure is no longer necessary for the protection of public health.

4. Options

- 4.1 **Do Nothing:** In light of the observed increase in footfall at the facilities this approach would be a decision against all the published Government Guidance to date around mitigating the spreading of COVID-19. If we do this then, as the number of cases of continue to increase, there is an increasing risk that the virus will be spread which may adversely affect site operatives and further spread the virus amongst the general population. If site operatives become sick this will also undermine the Council's contingency planning to maintain critical infrastructure to manage waste elsewhere in the system
- 4.2 **(Recommended) Temporarily close RCHW Network:** This supports the publish Government Guidance as a mitigation action to help control the spread of the virus, and improves the overall robustness of the waste management system

5. Issues for consideration

5.1 Financial implications

- 5.1.1 The RCHW service is contracted out to Veolia UK on a fixed price service contract.
- 5.1.2 ECC would be expected to continue to pay the fixed element of the service for the closure duration.
- 5.1.3 These costs are 100% budgeted, resulting in no impact to the MTRS.

- 5.1.4 In line with the recommendations of this paper, the assumption that residents maintain bulky waste for disposal upon the RCHW reopening delivers a cash flow variance for ECC only. No savings or increased costs are anticipated, assuming the sites are re-opening in the 2020/21 financial year.
- 5.1.5 Should the closure exceed 31st March 2021, ECC would be liable for disposal cost increases. This is not expected and has not been modelled for the context of this paper.
- 5.1.6 There is a public sector risk that the contractor may claim under the Government Emergency funding for staff associated with this decision, and to recover additional revenue direct from the Government. The procurement team are monitoring this and working with the contractors to enhance transparency and help alleviate this risk.

5.2 Legal implications

- 5.2.1 As set out above the Council has a duty to take appropriate steps to improve the health of Essex residents.
- 5.2.2 The Council also has a statutory duty under the Environmental Protection Act 1990 to provide places for residents to dispose of their household waste. This duty includes a duty for each place to be open at all reasonable times (including at least one period on Saturday or Sunday). Whilst at first sight we could appear to be in breach of this duty, it is arguable that the time during this emergency is not a reasonable time for household waste sites to remain open. If challenged we cannot guarantee that a court would agree. It should be noted that other Councils have closed recycling centres as a result of the outbreak. It is recommended that we monitor what happens outside the sites following the closure as there is a likelihood of a risk of fly tipping outside the centres or elsewhere. It also needs to be remembered that during the closure residents will have nowhere to dispose of bulky items.
- 5.2.3 There is a contract in place for the running of the centres. The Council will need to either reach agreement with the operator during this period or continue to pay the operator and make good any losses for which it is contractually liable. Any negotiation is likely to be justified as urgent under regulation 72(1)(c) of the Public Contracts Regulations 2015.

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

6.3 Closure of all RCHW facilities libraries does not have a disproportionate impact on any protected groups.

7 List of appendices

None

8. List of Background papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Simon Walsh, Cabinet Member for Environment and Climate Action	25 March 2020

In consultation with:

Role	Date
Executive Director for Place and Public Health	25 March 2020
Mark Carroll	
Executive Director for Finance and Technology (S151 Officer)	23 March 2020
Stephanie Mitchener for	
Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	23 March 2020
Paul Turner	

Exemption from call in

I agree that it is in the best interests of the Council for this decision to be implemented urgently and therefore this decision is not subject to call in (paragraph 20.15(xix) of the constitution applies).

Councillor Mike Mackrory – Chairman of the Corporate Policy and Scrutiny Committee

Date: 25.03.20