

NORTH LONDON WASTE AUTHORITY

REPORT TITLE:
THIRD PARTY REUSE AND RECYCLING CREDITS POLICY REVIEW

REPORT OF:
HEAD OF WASTE STRATEGY AND CONTRACTS

FOR SUBMISSION TO: AUTHORITY MEETING	DATE: 22nd April 2009
---	---------------------------------

SUMMARY OF REPORT:

The report advises Members of the Authority’s current policy on the registration and payment of third party reuse and recycling credits and brings forward the review of that policy from September 2009 so that it can be considered in the light of current applications for registration.

RECOMMENDATION:

The Authority is recommended to agree the Authority’s policy on Third Party Reuse and Recycling Credits for 2010/11 onwards by selecting one of the three options outlined:

- i) Option 1 as detailed in paragraphs 3.2 to 3.4; or
- ii) Option 2 as detailed in paragraphs 3.5 to 3.7; or
- iii) Option 3 as detailed in paragraph 3.8.

**Signed by Head of Waste Strategy
and Contracts**

.....
Date:

1.0 OVERVIEW

- 1.1 The Authority report entitled 'Third Party Reuse and Recycling Credit Registrations' presented at the last Authority meeting (11th February 2009) provided an overview of the recycling credit scheme; the method of calculation for payments and Government guidance on the scheme; as well as outlining the Authority's current policy on payments of reuse and recycling credits to third parties.
- 1.2 In previous years the Authority's policy has been reviewed and approved in the September cycle so that organisations can be invited to apply during November and December, and officers can make recommendations and budget provision in the February cycle for the forthcoming financial year. However, this policy review date has been brought forward at Members' request so that the policy might be considered in the context of recent applications and issues that arise as a consequence. Any potential changes to the policy that might be made as result will apply to applications for registration and payments for tonnages reused and recycled during 2010/11.

2.0 AUTHORITY POLICY ON THE PAYMENT OF THIRD PARTY REUSE AND RECYCLING CREDITS

- 2.1 The Authority has agreed to register organisations for third party reuse and recycling credits relating to 2009/10 in accordance with the conditions set out at Appendix 1. Additional detailed payment criteria apply too.
- 2.2 Under the Authority's existing policy, both non-profit making and profit-making organisations can apply to be registered and to receive reuse and recycling credits but the Authority requires to see additional measurable social and economic benefits secured from profit-making organisations in order to justify payments as at paragraph x) in Appendix 1.
- 2.3 The Authority's existing policy also makes special provision for applicants that are subject to their own statutory recycling obligations under producer responsibility legislation as at paragraph xi) in Appendix 1.

Rationale for changing the Authority's policy

- 2.4 For the past two years (2008/09 and 2009/10) the Authority has received applications for registration for reuse and recycling credits from both profit-making and non-profit making companies (prior to this date only applications from non-profit making organisations had been received and approved). In 2008/09 two applications for registration from profit making companies were approved, subject to appropriate terms and conditions being agreed. However, appropriate terms and conditions were not agreed and accordingly no payments have to date been made to either organisation. In the light of this lack of agreement it is appropriate to review the Authority's policy on the registration and potential payment of reuse and recycling credits to profit making organisations in particular.

2.5 In addition to the above, the Local Authority Recycling Advisory Committee (LARAC) which represents local authority recycling officers at a national level, has been in discussion with Tesco and other members of the British Retail Consortium (BRC) during 2008 regarding the payment of third party reuse and recycling credits to retailers as a number of authorities have faced similar requests to the NLWA for registration and payment. It is hoped that a national memorandum of understanding (MoU) might be negotiated regarding this issue between LARAC on behalf of its local authority members, and the BRC which represents the majority of retailers across the country. Any such agreement may be outside of the reuse and recycling credit regime, and would therefore have to be considered on its merits at the time. However, any agreement would only cover retailers and not other profit making organisations e.g. companies collecting materials door to door for recycling and at this stage there is no indication of when any national agreement with retailers might be reached.

3.0 PROPOSED REVISIONS TO THE AUTHORITY'S POLICY ON THIRD PARTY REUSE AND RECYCLING CREDITS

3.1 Outlined below are three alternative options for amending the Authority's policy on the payment of third party reuse and recycling credits.

Revised Policy – Option 1

3.2 The first proposed option is that the Authority's policy on the payment of reuse and recycling credits is amended to provide that profit-making organisations should still be able to apply for registration, but that they would need to make proposals for "*providing additional, measurable social and economic benefits in the Authority's area to the Authority's satisfaction in accordance with its Best Value obligations and those of its constituent borough councils*" **at the time of applying for registration**, rather than as currently, after registration has been approved.

3.3 This would mean that instead of the discussion about appropriate terms and possible benefits taking place after registration of an organisation that the applicant organisation would put forward some proposed ideas at the time of application and it would then be up to the Authority to decide whether to register them or not in the light of the same. This would have the benefits that:

- The applicant organisations would be responsible for developing proposals for providing additional benefit and in line with the North London Joint Waste Strategy that Members can consider when deciding on registration.
- That the applications for registration from profit-making organisations could be considered at the same time as the non-profit making organisations, without additional discussions needing to take place subsequently, which would assist in budget setting.
- The opportunity to register and pay credits to profit-making organisations would still remain, in line with statutory government guidance.

3.4 If this change is approved by Members, then the Authority's policy on third party reuse and recycling credits would be altered as follows:

- x) Applications for registration for third party reuse and recycling credits from profit-making companies or associated organisations (such as non-profit making trusts or foundations associated with a private, profit-making company or a company such as a charity trading company, which covenants 100% of its profits to a charity or other non-profit-making organisation) will be considered but their applications for registration and subsequent credit claims will be assessed separately against the above criteria. *Applications from these type of organisations must be accompanied by a statement detailing and even if registration is initially approved will remain subject to appropriate terms and conditions that provide the additional, measurable social and economic benefits that will be provided in the Authority's area. In order that registration may be justified the additional proposals will need to be assessed to the Authority's satisfaction in accordance with its Best Value obligations and those of its constituent borough councils. The Authority reserves the right not to register and not to pay any credits at all.*
- xi) Applications for registration from companies subject to any form of producer responsibility legislation or schemes and for wastes potentially falling within these will be considered but the Authority reserves the right to make special terms and/or not to *register and not to* pay any credits at all as at x) above.

Revised Policy – Option 2

- 3.5 The second option is for the Authority to change its policy on the payment of third party credits **for all applicants** so that reuse and recycling credits are only in future paid on materials which are not collected at the kerbside by the constituent borough councils. This alternative draws on the approach of Hampshire County Council, one of the waste disposal authorities where Tesco first trialed its new recycling banks.
- 3.6 Such a change would potentially affect some of the organisations who are currently registered to receive credits as well as potential new applicants but would have the benefit of a consistent approach to all.
- 3.7 If this change is approved by Members, then the Authority's policy on third party reuse and recycling credits would be altered as follows:
 - x) ~~Applications for registration for third party reuse and recycling credits from profit-making companies or associated organisations (such as non-profit making trusts or foundations associated with a private, profit-making company or a company such as a charity trading company, which covenants 100% of its profits to a charity or other non-profit-making organisation) will be considered but their applications for registration and subsequent credit claims will be assessed separately against the above criteria and even if registration is initially approved will remain subject to appropriate terms and conditions that provide additional, measurable social and economic benefits in the Authority's area to the Authority's satisfaction in accordance with its Best Value obligations and those of its constituent borough councils. The Authority reserves the right not to pay any credits at all.~~

- x) *Payment of reuse and recycling credits will only be made for material which is not collected at the kerbside by the constituent borough councils.*
- xi) Applications for registration from companies subject to any form of producer responsibility legislation or schemes and for wastes potentially falling within these will be considered but *they must be accompanied by a statement detailing the additional, measurable social and economic benefits that will be provided in the Authority's area. In order that registration may be justified the additional proposals will need to be assessed to the Authority's satisfaction in accordance with its Best Value obligations and those of its constituent borough councils. The Authority reserves the right not to register and not to pay any credits at all.*

Revised Policy – Option 3

3.8 An alternative to the above is for the Authority to change its policy so that profit-making organisations are no longer eligible to apply to register to receive third party reuse and recycling credits, although this carries risks. The refusal to allow profit-making organisations to apply for registration could be time limited until LARAC negotiations have concluded as outlined below. If this change is approved by Members, then the Authority's policy on third party reuse and recycling credits would be altered as follows:

- x) Applications for registration for third party reuse and recycling credits from profit-making companies or associated organisations (such as non-profit making trusts or foundations associated with a private, profit-making company or a company such as a charity trading company, which covenants 100% of its profits to a charity or other non-profit-making organisation) will *not* be considered. *(This policy will be reviewed for the next registration cycle after national negotiations regarding reuse and recycling credits payments have been concluded between local authority and retailer representatives.)*
- xi) Applications for registration from companies subject to any form of producer responsibility legislation or schemes and for wastes potentially falling within these will *similarly not be considered.*

4.0 RECOMMENDATION

4.1 The Authority is recommended to agree the Authority's policy on Third Party Reuse and Recycling Credits for 2010/11 onwards by selecting one of the three options outlined:

- i) Option 1 as detailed in paragraphs 3.2 to 3.4; or
- ii) Option 2 as detailed in paragraphs 3.5 to 3.7; or
- iii) Option 3 as detailed in paragraph 3.8.

5.0 COMMENTS OF THE LEGAL ADVISER

5.1 The Legal Adviser has reviewed this report and his comments are contained in a separate report within Part 2 of this Authority agenda.

6.0 COMMENTS OF THE FINANCIAL ADVISER

6.1 The Financial Adviser has reviewed this report and has no further comments to add.

Local Government Act 1972 – Access to information

Documents used: “Guidance on the Recycling Credit Scheme”, DEFRA, April 2006 (<http://www.defra.gov.uk/environment/waste/localauth/pdf/recyclingcreditscheme-guidance.pdf>)

Section 49 of the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005)

North London Joint Waste Strategy, March, 2009

Environmental Protection (Waste Recycling Payments) (England) Regulations 2006.

Third Party Reuse and Recycling Credit Registrations, North London Waste Authority Report, 11th February 2009

Third Party Reuse and Recycling Credit Registrations, North London Waste Authority Report, 6th February 2008

Contact Officers: Andrew Lappage, Head of Waste Strategy & Contracts
&
Barbara Herridge, Policy & Development Manager

North London Waste Authority
Unit 169, Block 1B
Lee Valley Technopark, Ashley Road
N17 9LN

Tel: 020 8489 5730
Fax: 020 8365 0254
E-mail: post@nlwa.gov.uk

**AUTHORITY POLICY ON THIRD PARTY REUSE AND RECYCLING CREDITS –
2009/10**

The Authority has agreed to pay third party reuse and recycling credits subject to a range of conditions:

- i) Only household waste, including waste collected from schools and colleges that is recycled, composted or reused is eligible for a credit.
- ii) All waste must be collected within the area served by the North London Waste Authority and its constituent borough councils.
- iii) The collection of waste for recycling (or reuse) does not conflict with existing Borough collection schemes and is consistent with the North London Joint Municipal Waste Strategy.
- iv) The Authority or the constituent borough councils do not already pay for the waste to be collected or recycled.
- v) All claimants and reprocessors that will collect and recycle waste must be registered and approved at the February Authority meeting for the subsequent financial year. Registrations must be renewed annually.
- vi) Applicants must advise the Authority of such details as are required to budget adequately and verify the claims made. These details may be amended or added to in future but are currently:
 - Organisation name and address
 - Description of recycling or reuse activity
 - Whether the organisation is a not-for-profit, profit-making or charity
 - Location by borough of waste collection points
 - Types and estimated quantities of materials to be collected for recycling or reuse.
- vii) Claims are to be made quarterly during the financial year. Quarterly claims are to be submitted to the Authority within eight weeks of the quarter end.
- viii) The waste collector and subsequent holders of the waste must be fully compliant with the waste Duty of Care and other relevant waste management regulations and evidence to support this compliance must be made available to the Authority.
- ix) All claims are to be submitted in writing to the Authority and must be supported by sufficient evidence to allow the Authority and the constituent borough councils to include the waste in the calculation of National Indicators and to satisfy all our external auditors.

- x) Applications for registration for third party reuse and recycling credits from profit-making companies or associated organisations (such as non-profit making trusts or foundations associated with a private, profit-making company or a company such as a charity trading company, which covenants 100% of its profits to a charity or other non-profit-making organisation) will be considered but their applications for registration and subsequent credit claims will be assessed separately against the above criteria and even if registration is initially approved will remain subject to appropriate terms and conditions that provide additional, measurable social and economic benefits in the Authority's area to the Authority's satisfaction in accordance with its Best Value obligations and those of its constituent borough councils. The Authority reserves the right not to pay any credits at all.

- xi) Applications for registration from companies subject to any form of producer responsibility legislation or schemes and for wastes potentially falling within these will be considered but the Authority reserves the right to make special terms and/or not to pay any credits at all as at x) above.

Report Ends