

24 February 2022

Report of	Assistant Director of Place and Client Services	Author	Maggie Ibrahim Ben Plummer ☎ 508965
Title	Overview of the Environment Act 2021		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This [Environment Act](#) is “to make provision about targets, plans and policies for improving the natural environment; for statements and reports about environmental protection; for the Office for Environmental Protection; about waste and resource efficiency; about air quality; for the recall of products that fail to meet environmental standards; about water; about nature and biodiversity; for conservation covenants; about the regulation of chemicals; and for connected purposes”.
- 1.2 This report highlights how the plans and policies for improving the environment will have implications for the Council services, particularly around air quality, waste reduction and planning. The report details the implications to each of these service areas where they are currently known. An ongoing consideration of the Act’s requirements and funding mechanisms will be needed by service area leads.

2. Recommended Decision

- 2.1 No decision to make at this time.

3. Reason for Recommended Decision

- 3.1 Note the implications of the Environment Act on the Council’s services and that teams across the Council will be putting plans in place to respond to these.

4. Alternative Options

- 4.1 No alternative option.

5. Background Information

5.1 The Environment Bill went through several readings in parliament and was passed in 2021. The Environment Act is to make provision about targets, plans and policies for improving the natural environment; for statements and reports about environmental protection; for the Office for Environmental Protection (OEP); about waste and resource efficiency; about air quality; for the recall of products that fail to meet environmental standards; about water; about nature and biodiversity; for conservation covenants; about the regulation of chemicals; and for connected purposes.

5.2 Several overall outcomes of the Act were:

- Creation of the Office for Environmental Protection, that will be responsible for holding the government, local authorities and relevant organisations to account in meeting key environmental targets to be established as part of the Act, as well as advising Government on environmental laws.
- Requiring organisations to 'pay regard to' environmental principles – with some crucial exceptions. The five principles comprise the integration principle, prevention principle, precautionary principle, rectification at source principle, and the polluter pays principle.
- Requiring the secretary of state for DEFRA (Department for Environment, Food and Rural Affairs) to set long-term legally binding targets on air quality, biodiversity, water, resource efficiency, and waste reduction. These targets must be of at least 15 years in duration and be proposed by late 2022. However, despite lengthy debates arguing for the introduction of legally binding interim-targets to ensure the long-term targets are met, the government did not adopt them.

5.2 This report is for information purposes and details the implications for several services: air quality, waste reduction, and planning.

5.3 Air Quality:

- The Government have set themselves a legally binding duty to produce [two new air quality targets](#) in legislation by **31st October 2022**.
- This will probably be by amending the Air Quality Standards regulations 2010. One of these Air Quality targets is likely to be for a PM2.5 (particulate matter that is 2.5 micrometers in diameter) target. However, it is still to be decided whether this should be a concentration-based approach similar to now i.e., Air Quality Management Areas (AQMA)s and an action plan for exceedances or whether this will be set on an emissions based approach where a list of actions would be given to local authorities and required to be undertaken to reduce PM2.5.
- The other target is still being developed by DEFRA and the Air Quality Expert Group and the Committee on the Medical Effects of Air Pollutants (COMEAP) but advice is that this is going to be a longer-term (15 year) target. Along with these new targets is likely to be an update to the national air quality strategy.
- Any new air quality targets/limits are likely to be consulted upon prior to the deadline.

5.4 The implications of this for Council is that there may be new targets to meet for the management of air quality in Colchester. These can be addressed through the Council's work on improving air quality through the Clean Air for Colchester project, and monitoring of air pollution can be measured and report in the Annual Air Quality Status Report, alongside daily monitoring that will be received through the air quality sensors to be installed in the town centre.

5.5 **Waste and Recycling:**

- The Act also outlines how the government will reduce waste and make better use of resources.
- Three key consultations have been undertaken, the proposals within which will potentially see the biggest changes to waste services in years. These include changes to the ways that services work, the infrastructure required, and the way in which councils' costs are recovered:
 - Extended Producer Responsibility for Packaging (EPR): The proposals cover the mechanisms to make packaging producers responsible for the full net cost of managing packaging that they place on the market. This includes all costs incurred from collection, sorting, and recycling, as well as litter and refuse management costs. This also includes the management of packaging items that are still placed in any non-recyclable residual waste stream.

The reforms seek producers to bear much greater costs for the collection and disposal of packaging waste than at present. Fees paid by producers will be used to support both local authorities and businesses to provide packaging waste management services. In turn, the increased quantity and quality of recycling collected will help producers to meet packaging obligations and demonstrate that packaging placed on the market is properly recycled.

Local authorities which operate efficient and effective services will have their full net costs of managing packaging waste disposed of by households met by packaging producers. This is proposed to include local authority transitional costs in meeting requirements, including the collection of a core set of packaging materials for recycling.

- Deposit Return Scheme (DRS): The proposals instigate upfront deposits for plastic, metal and glass drinks containers, to be reimbursed at return points; aiming to incentivise recycling of these items and improve recycling quality. It is still to be determined through consultation whether this will be an 'on the go' or 'all in' system, the latter including larger bottles and multipack items.

It is proposed that the scope of the deposit return scheme should include the following materials: - PET bottles - Steel and aluminium cans - Glass bottles

- Consistency in household and business recycling: aims to standardise the materials collected across the UK from households and businesses.

Government is committed to achieving a recycling rate of 65% of municipal waste being recycled by 2035 (Colchester Borough rate is currently circa 53%). Aside from landfill tax, there are few other incentives for local authorities or businesses to recycle more and move waste further up the waste hierarchy.

Following the outcome of the second consultation on recycling consistency, the Secretary of State will specify the types of materials to be collected within each recyclable waste stream, in regulations.

These recyclable waste streams must be collected separately from other household waste and they must be collected for recycling or composting. The consistency measures proposed aim to ensure that every home in England will get separate food waste and garden waste collections and all households will also be able to place plastic, paper and card, glass and metal in their recycling bins so that less waste goes to landfill and more is recycled.

- The Environment Act requires that **food waste** must be collected at least weekly, separately from other household waste and from the dry recyclable waste streams (i.e. glass, metal, plastic, paper and card) and sent for recycling or composting. They propose the materials to be collected as food waste from households, businesses and non-domestic premises which is already consistent with the current collection model in Colchester.
- The Controlled Waste (England and Wales) Regulations 2012 allow local authorities to charge for the collection of **garden waste** for recycling. The proposal for free fortnightly collection, was given mixed support at the first consultation stage. Government therefore stated that they would give further consideration to the costs and benefits of the policy before making a decision. The consultation states: a free minimum garden waste collection service provided by local authorities to householders with a garden still offers good carbon emission reduction benefits and other recycling benefits compared to a charged service. If a free minimum collection service for garden waste is introduced for households with a garden, this states that this should be a minimum fortnightly collection service, equivalent to a maximum capacity of 240-litre and local authorities would be able to charge for more frequent collections and/or additional capacity.
- The Government believes it should be feasible to introduce collections and recycling for all **films and flexibles** by no later than the end of financial year 2026/27. Individual local authorities and commercial waste collectors collecting from households will be expected to introduce collections as soon as is feasible ahead of this. These specific requirements would cover all consumer plastic film and flexible packaging. This includes laminated and metallised formats (for example crisp packets), and flexible formats incorporating multiple layers of plastic and/or other materials such as aluminium (for example, pet and baby food pouches). Collections from businesses are proposed to be introduced no later than the end of financial year 2024/25. This recognises that commercial waste collectors can move faster than local authorities to introduce collection of plastic films and flexibles as contracts with their customers are for much shorter time periods.

Government also want to improve the recycling of waste from **non-domestic premises** that produce household waste and relevant waste from businesses. They propose that the dry recyclable waste streams collected from non-household municipal premises should include the same materials as those in the equivalent recyclable waste streams from households, in the financial year 2023/24. This would ensure consistency between what people are able to recycle at home, at school and at work.

Government recognises that these new duties will impose additional costs on local government, and it will follow the new burdens guidance to ensure the costs of new statutory duties for local authorities are covered.

Timeline: Government remain committed to the implementation of packaging Extended Producer Responsibility as soon as possible and propose implementing it through a phased approach commencing from 2023 with the appointment of the Scheme Administrator in early 2023.

Further elements of EPR, including modulation of fees based on recyclability of packaging, payments for the management of litter and payments to businesses for the cost of managing packaging waste would be introduced in Phase 2, from 2024.

The timetable for the consistency in collections set out that for Household collections:

- **Dry recyclable waste streams** – from **October 2023**
- Weekly separate **food waste** collections introduced during **2023/24** financial year
- Separate **garden** waste collections in **2023/24**
- **Plastic film** – phased with a defined end date of the financial year **2026/27**
- Business waste changes should be implemented from 2023/24 with **recyclable plastic films** no later than the end of the financial year **2024/25**

5.6 **Planning:**

There are a several implications arising from the Environment Act for the Planning Service;

1. All new developments will be required to deliver a ten per cent increase in biodiversity. This includes nationally significant infrastructure projects, such as major energy developments. On sites where these biodiversity gains are secured, they would have to be managed for at least 30 years. A government amendment, introduced in September, would create a duty and power to allow the secretary of state to review, and increase if appropriate, this minimum duration period.
2. The new biodiversity metric, used by planners and developers to calculate their net gain requirement, would be subject to Parliamentary approval. Another government amendment would require the secretary of state to “lay the biodiversity metric and any revised biodiversity metric before Parliament”.
3. Ministers would have to review the amount of land being entered onto new biodiversity gain site registers. Under the bill, a publicly-available "biodiversity gain site register" must be set up for each development site, which must be maintained for at least 30 years after the scheme has completed.
4. The act introduces a new system of spatial plans aiming to boost biodiversity and protect valuable habitats. Local Nature Recovery Strategies (LNRSs) are a new system of spatial strategies for nature, and will cover the whole of England – with no gaps. The environment secretary will appoint a ‘responsible authority’ to lead each LNRS area, and this authority will have to map the most valuable existing habitat for nature, map specific proposals for creating or improving habitat, and agree priorities for nature’s recovery. These responsible authorities are assumed to be county level and above partnerships e.g. Local Nature Partnerships. It is intended to help developers avoid the most valuable existing habitat and focus habitat creation where most appropriate.

5. Species conservation and protected site strategies will be part of LNRs. Feeding into LNRs, the act introduces a "species conservation strategy" as a new mechanism to safeguard the future of particular species at greatest risk, and a "protected site strategy", which will seek to achieve a similar purpose in respect of protected sites. The measures will place a new duty on local planning authorities to cooperate with Natural England and other local planning authorities and public bodies in their establishment and operation.
6. Local authorities will have to produce a biodiversity report every five years. They will need to describe action taken and its impact, and a summary of action taken under the BNG policy. The reports will also provide valuable information to update Local Nature Recovery Strategies.
7. Other key measures in the Act related to Planning:

Trees at home have gained some protection. The act requires local highway authorities to consult with communities before felling street trees - unless the trees qualify for certain exemptions. This could have resource and financial implications for local authorities.

The Act committed to halt species decline by 2030.

Conservation covenants have been formalised. A conservation covenant is an agreement between a landowner and a body such as a charity or public body to do or not do something on their land for a conservation purpose. Conservation covenant agreements will now need to be executed as deeds, rather than just "in writing signed".

6. Equality, Diversity and Human Rights implications

- 6.1 An Equality Impact Assessment has not been completed to assess the implications of the Environment Act as yet. This is because some implications of the Bill are still unclear.
- 6.2 However, as part of the Bill, the creation of environmental targets for water, air, biodiversity and waste should also bring about positive benefits for human health. For example, if further air quality targets are set in air quality management areas, this would help benefit human health in some of the more deprived areas of Colchester.
- 6.3 On the other hand, there will be other measures that may disadvantage some groups, such as the creation of a Deposit Return Scheme. This would raise the costs for consumers to purchase drinks, however this can be redeemed through taking back drinks containers for recycling.

7. Strategic Plan References

- 7.1 The actions established as part Environment Act link to themes and priorities within the Strategic Plan 2020-23 including:

Tackling the Climate Challenge and leading sustainability:

- Air quality across Colchester is improved
- Continue to support residents to reduce, reuse and recycle their waste
- Enhance environments to create more space for nature to grow and thrive through natural seeding and greening

Growing a fair economy so everyone benefits:

- Develop opportunities to ensure the new economy is greener, sustainable and more resilient
- Encourage green technologies and innovative solutions to the Climate Emergency.

8. Consultation

8.1 There are no consultations implications of this report.

9. Publicity Considerations

9.1 There are no publicity considerations from this report.

10. Financial implications

10.1 The financial implications of the Environment Act are as yet unclear for local authorities. However, the Government have laid out that changes to waste services as a result of the Environment Act that impacting upon the costs of local authorities to delivery new statutory duties, will be covered.

11. Health, Wellbeing and Community Safety Implications

11.1 There are no significant impacts on community safety from the Environment Act. However, as highlighted, the Environment Act could bring about health and wellbeing benefits from improved air quality and improvements in biodiversity levels.

12. Health and Safety Implications

12.1 There are no health and safety implications from this report.

13. Risk Management Implications

13.1 There are no risk management implications from this report.

14. Environmental and Sustainability Implications

14.1 The Environment Act will introduce a number of requirements of local authorities, that will ultimately result in the production of better environmental outcomes.

14.2 For example, the creation of local nature recovery strategies and requirement for biodiversity net gain in planning will help provide more protection for valued green space and biodiversity.

14.3 Key changes to the management of waste, including the introduction of a deposit return scheme and consistent recycling collections, will help to capture more waste for recycling and reduce litter. This will benefit biodiversity and improve the aesthetics of our green spaces. Improving the management of green spaces is already a key part of Council projects, with the joint aims of benefitting biodiversity, alongside physical and mental health.

14.4 Although targets for reductions in key air pollutants have not been set as part of the Act, it is clear this is a focus of the Act. The Council's 'Clean Air for Colchester' project already has a focus on improving air quality, and links in with other council projects that promote

sustainable modes of travel which will in turn help to improve air quality. Improving air quality brings both benefits for human health and reductions in pollutants that contribute to climate change.

- 14.5 The introduction of more focus to be on reducing sewage discharge into rivers, waterways and coastlines is also welcome. This alongside, the better management of water supply and demand will be important as the climate changes. The River Colne is a valuable asset, and the Council is already working to understand how it can be managed to preserve its recreational, environmental and aesthetic value.