Explanatory Memorandum to the Controlled Waste (England and Wales) Regulations 2012

This Explanatory Memorandum has been prepared by the Department for Environment and Sustainable Development and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Controlled Waste (England and Wales) Regulations 2012. I am satisfied that the benefits outweigh any costs.

John Griffiths AM
12 March 2012

1. Description

This instrument revokes and replaces the Controlled Waste Regulations 1992[1], and is made on a composite basis with the Department for Environment, Food and Rural Affairs. It classifies waste as household, industrial or commercial waste, and also lists the types of waste for which local authorities may make a charge for collection and disposal. The instrument enables local authorities (as waste collection authorities under the Environmental Protection Act 1990) to charge under section 45 of that Act for the disposal of waste arising from a wider range of non-domestic premises than the 1992 Regulations permitted; it also consolidates previous amendments, and includes some amended and updated definitions and classifications to improve the clarity of the Regulations and bring them into line with other recent legislation. It also provides that certain litter and refuse is to be treated under Part 2 of the Environmental Protection Act 1990 in the same way as waste collected under section 45 of the Act.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

Composite regulations are appropriate as the issues facing local authorities in Wales are the same as in England and a common approach where we have similar policy is considered beneficial for consistency of application across England and Wales.

3. Legislative background

3.1 Part 2 of the Environmental Protection Act 1990 ("the 1990 Act") is the principal primary legislation relating to waste.

3.2 Section 75 provides for definitions. Subsection (2) defines waste and subsections (5), (6) and (7) classify certain waste as "household waste", "industrial waste" and "commercial waste". Subsection (8) gives power to make Regulations providing that waste of a prescribed description is to be treated for the purposes of provisions of Part 2 as being or not being household, industrial or commercial waste.

3.3 Classification affects the duties and powers of local authorities under Part 2 of the 1990 Act in relation to waste. In particular, local authority duties and powers in section 45 in relation to collection of waste and charging for collection and subsequent disposal are defined by the classification.

3.4 The principal EU measure on waste is Directive 2008/98/EC (OJ No L312, 22.11.08, p3). Some provisions of Part 2 of the 1990 Act implement parts of that Directive (for example section 34 – see the transposition table

[1] SI 1992/588

annexed to the explanatory memorandum for SI 2011/988 for fuller details[2]. These provisions use the term "controlled waste", which is defined in section 75(4) of the 1990 Act to depend on the terms "household waste", "industrial waste" and "commercial waste". The Regulations ensure that the term "controlled waste" has the same effect as the meaning of "waste" in the Directive.

3.5 Section 45(1) and (2) of the 1990 Act set out duties and powers of waste collection authorities in relation to the collection of waste. Subsection (3) provides that no charge can be made for the collection of household waste except in cases prescribed in regulations (in which case a reasonable charge may be made). Subsection (4) empowers a reasonable charge to be made for the collection and disposal of waste other than household waste. Regulation 4 of the 1992 Regulations prescribed certain types of waste in relation to which a collection charge could be made under section 45(3). Regulations 5 to 7A provided that certain descriptions of waste were to be treated as industrial and commercial waste for the purposes of Part 2 of the 1990 Act.

3.6 The relevant functions of the Secretary of State under the Environmental Protection Act 1990, were transferred, in relation to Wales, to the National Assembly, by the National Assembly for Wales (Transfer of Functions) Order 1999[3] and have subsequently been transferred to the Welsh Ministers by virtue of Section 162, and paragraph 30, of Schedule 11 to the Government of Wales Act 2006. The Welsh Ministers are designated for the purposes of the European Communities Act 1972, in relation to the prevention, reduction and management of waste[4].

3.7 This instrument is composite and subject to annulment (the negative procedure).

4 Purpose & intended effect of the legislation in Wales

4.1 The 1992 Regulations predated significant changes in waste legislation and policy, including the landfill tax which is Governments main driver to reduce waste to landfill and encouraging recycling and recovery of waste. By insulating certain premises from the cost of disposing of their waste, the 1992 Regulations undermine efforts to reduce waste and increase recycling. The exemption from disposal charging also extended to private institutions and some businesses, and disposal costs are being paid by the taxpayer. As the cost of disposing of waste continues to rise, the market for waste services is being increasingly distorted by artificially low local authority charges which exclude disposal costs. The types of premises exempted from disposal costs are:

Types of Premises to which Schedule 2 of the 1992 Regulations applies		
NHS Hospitals	Private Schools	Penal Institutions

[2] http://www.assemblywales.org/bus-home/bus-third-assembly/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=209538&ds=3/2011

[3] S.I. 1999/672

[4] S.I. 2010/1552

Private Hospitals	Further Education Colleges	Public Halls
Residential Hostels	Universities	Royal Palaces
Care Homes	Self Catering Accommodation	Charity Shops
Child Care Facilities (pre-school)	Caravan Sites	Charities
LEA Schools	Campsites	

4.2 This instrument describes waste which is to be treated as household waste, industrial waste or commercial waste, and specifies (under section 45(3) of the 1990 Act) the types of household waste for which a collection charge may be made. In addition, it specifies that certain types of household waste are to be treated as commercial waste for the purpose of enabling a charge to be made for the collection of the waste and, in some cases, its disposal under section 45(4) of the 1990 Act.

4.3 This instrument also provides that Part 2 of the Act has effect as if references to controlled waste collected under section 45 include references to litter and refuse collected under sections 89(1)(a) and (c), 92(9) and 92C(3) of the Act. This continues the policy provided for in the 1992 Regulations.

4.4 This means that this instrument will allow local authorities to charge for the collection and disposal of waste arising from non-domestic properties, (except for charity shops selling donated goods and 're-use' organisations to the extent that the waste came from domestic property, and village halls and premises used for public meetings) whereas now they only charge for collection. It also enables litter collected on premises occupied by educational establishments will be charged for in the same way as other non-hazardous waste generated on the site.

5. Consultation

5.1. A formal public consultation was held between November 2010 and January 2011. This received responses from 11 consultees in Wales: 7 local authorities, the Welsh Local Government Association, 1 Water Company, 1 Charity Shop and 1 private individual. The consultation paper and summary of responses are available[5].

5.2. A list of the consultees is available at: http://archive.defra.gov.uk/corporate/consult/controlled-waste-regs/101108-controlled-waste-regs-consultees.pdf.

5.3. The Welsh Government's response to the consultation addresses the specific questions raised in the consultation, and is available on the same web link. The Welsh Government does not intend to issue further guidance in respect of these Regulations, but will keep this issue under review.

[5] http://wales.gov.uk/consultations/environmentandcountryside/schedule2waste/?lang=en&status=closed

6 Regulatory Impact Assessment

6.1 England and Wales have prepared a joint Impact Assessment which examines costs and benefits, which is enclosed at **Annex 1** to this Explanatory Memorandum. The Impact Assessment is based on the best available information.

6.2 The impact on business, charities or voluntary bodies is that local authorities can now charge them (with some exemptions), for the disposal of waste from their premises. The majority of businesses already pay for the disposal of their waste, and the impact on small businesses is discussed below. Charity shops are defined in the Regulations as separate premises from those used for charitable purposes, and are exempt from disposal charges, but only to the extent that the waste came from domestic property. Premises used wholly or mainly for public meetings will also be exempt.

6.3 The impact on the public sector is slightly positive, as the taxpayer will no longer be required to pay for the disposal of waste arising from private institutions and businesses.

Regulating small business

6.4 The legislation affects small business.

6.5 The approach taken is that local authorities shall have the discretion on whether to charge for collection and disposal of waste on a case-by-case basis, allowing them to make decisions which best support local needs.

6.6 A formal public consultation was carried out, which included seeking views of small businesses. The majority of small businesses already pay for the disposal of their waste. Those likely to be affected by these Regulations are in the self-catering holiday accommodation and childcare (pre-school) categories.

7. Post implementation review

Welsh Government will continue to discuss the management of household waste with local authorities and to monitor the effectiveness of the Statutory Instrument. A post implementation review to assess the Controlled Waste Regulations 2012 will be carried out in 5 years or sooner if monitoring indicates a need for an earlier review.

Annex 1

Joint England and Wales Impact Assessment: Review of Schedule 2 of the Controlled Waste Regulations (1992)

Title: **Review of Schedule 2 of the Controlled Waste Regulations (1992)** **Lead department or agency:** Defra **Other departments or agencies:** Welsh Government	Impact Assessment (IA)
	IA No: Defra 1035
	Date: 09/03/2012
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The disposal of waste from certain non-domestic premises ("Schedule 2 premises") is paid for by local taxpayers if the premises choose to use Local Authority (LA) waste services. LAs have no powers to charge for disposal of the waste, only for its collection. As LAs have a duty to collect this waste, if requested, this anomaly is distorting the market for waste services, with LA fees undercutting those of private waste contractors. The legislation was introduced when waste collection was the main consideration and disposal costs were nominal. Disposal now accounts for over 50% of total waste management costs, and this continues to rise. Legislation change is required to allow LAs to fully recover the costs of their non-domestic waste service from users, and remove the burden from taxpayers.

What are the policy objectives and the intended effects?

Allow local authorities to recover the full costs of the waste service from non-domestic users, thereby reducing public spending.

Remove the market distortion created by the public subsidy of disposal costs, to create a level playing-field for private sector waste management businesses.

To ensure that legislation effectively contributes towards Government policy aims of reducing waste, increasing recycling rates and providing waste services funded on the 'polluter pays' principle.

Promote localism by giving decision-making powers and responsibility for non-domestic waste service fees back to local authorities.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

(1) Issue Guidance on interpretation the legislation.

(2) Repeal and replace the Secondary Legislation.

The preferred option is (2). While (1) might reduce confusion and variation in the interpretation of the legislation, it will not resolve the issue of the subsidy or meet our policy objectives. Replacing the legislation will meet all of our policy objectives and also allow us to address other issues with the current Regulations such as outdated terminology and interactions with newer legislation.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 4/2017 **What is the basis for this review?** Duty to review. **If applicable, set sunset clause date:** Month/Year	
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: ..... Date: .....

Summary: Analysis and Evidence Policy Option 1

Description:

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate: -0.05**

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		10		
High				
Best Estimate	0.01			**-0.5**

Description and scale of key monetised costs by 'main affected groups'

Defra's and the Welsh Government's admin costs are not substantial as the information will be posted on the internet. The one off admin burdens on business and LA's is £0.05m. The waste management costs to Local Authorities involved with handling the total additional Schedule 2 waste is estimated to be £81m for England and £3m for Wales. As a result Schedule 2 premises benefit from a subsidy of £81m for England and £3m for Wales and thus these are transfer costs with a net effect of 0.

Other key non-monetised costs by 'main affected groups'

There is also a potential cost to commercial waste contractors, who are being priced out of contracts with Schedule 2 organisations by the subsidised fees offered by Local Authorities. This is approximately 1,546kt of waste in England and 0.07kt in Wales. We have not been able to establish the scale of this cost, as the data is commercially sensitive however such distortion prevents viable businesses from continuing to operate and decreases the overall competitive performance of the market.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

The option does not incur any monetised benefits

Other key non-monetised benefits by 'main affected groups'

Local authorities and their customers will have a better understanding of their respective rights and duties. Private and public-sector Schedule 2 customers will continue to benefit from subsidised waste disposal. Transparency benefits which should lead to fewer disputes over the interpretation between authorities and their customers and right levels of infrastructure investment as a result of legislation certainty. It is however not possible to quantify these benefits.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

The assumptions in the modelling of costs are discussed in detail in relevant sections. There is no information available to evaluate how the Schedule 2 waste is treated by commercial operators in comparison to local authorities.

The main risks are that with increasing costs of waste management more businesses choose to use local authority collection services. One consequence could be from there being insufficient infrastructure, that Local Authorities may be forced to send more waste to landfill which incurs additional environmental costs (including landfill tax) and secondly the switch of Schedule 2 waste from the private sector could have adverse effects for commerical operators due to loss of revenue.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs:	**Benefits:** 1.80	**Net:** 1.80	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			06/04/2012		
Which organisation(s) will enforce the policy?			Defra and Welsh Government		
What is the annual change in enforcement cost (£m)?					
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** -	**Non-traded:** -	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** N/A	**Benefits:** N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	**Micro**	**< 20**	**Small**	**Medium**	**Large**
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

[1] Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Summary: Analysis and Evidence Policy Option 2

Description:

Replace Secondary Legislation to allow WDA to charge for disposal of waste from non-domestic Schedule 2 premises, (excl charity shops & re-use organisations) and issue supporting guidance.

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate: -0.14**

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		10		
High				
Best Estimate	0.02			**-0.14**

Description and scale of key monetised costs by 'main affected groups'

Defra's and the Welsh Government's admin costs are not substantial as the information will be posted on the internet. The one off admin burdens of replacing secondary legislation is £0.14m to business and LAs. If LAs recover full costs of Schedule 2 waste handled in the baseline, this yields savings in present value terms of £251million for England and £14million for Wales. Schedule 2 organisations will now face this additional cost of £251m for England & £14million for Wales. The costs net off and have 0 impact on NPV.

Other key non-monetised costs by 'main affected groups'

The option does not incur any non monetised costs.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

The option does not incur any monetised benefits.

Other key non-monetised benefits by 'main affected groups'

Greater economic efficiency as a result of the removal of a subsidy. Schedule 2 premises will no longer have their waste management choices constrained by a distorted marketplace, which may lead them to choose private waste collections more tailored to their business needs. Increased transparency and policy certainty benefits. Promotes the Polluter Pays Principle and Schedule 2 premises will face the full costs of waste disposal which may incentivise them to produce less waste. Please see pg18

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

The assumptions and sensitivities in the modelling of Schedule 2 waste are discussed in detail in the evidence base. To reiterate, as a result of no data being available on forecasting Schedule 2 waste arisings or how it is managed between LA's and Schedule 2 waste premises, assumptions have been made to illustrate the magnitude of the impacts.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 4.99	**Benefits:**	**Net:** -4.99	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			06/04/2012		
Which organisation(s) will enforce the policy?			Defra and Welsh Government		
What is the annual change in enforcement cost (£m)?					
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:**	
Does the proposal have an impact on competition?			Yes		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** N/A	**Benefits:** N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	**Micro**	**< 20**	**Small**	**Medium**	**Large**
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	20
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	20
Small firms Small Firms Impact Test guidance	Yes	20
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	20
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	20
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	20
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	Yes	20
Rural proofing Rural Proofing Impact Test guidance	No	21
Sustainable development Sustainable Development Impact Test guidance	Yes	21

[1] Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Enviros Consulting Ltd 2009 *Understanding current management arrangements for Schedule 2 of the Controlled Waste Regulations 1992 waste (WR0308)* Defra http://randd.defra.gov.uk/Document.aspx?Document=WR0308_8699_FRP.pdf
2	Defra 2010 'Stakeholder feedback on Stakeholder Feedback on Controlled Waste Regulations' http://www.defra.gov.uk/environment/waste/localauth/documents/stakeholder-feedback.pdf
3	Defra 2010 'Review of Schedule 2 of the Controlled Waste Regulations (1992), Consultation Stage Impact Assessment' http://www.defra.gov.uk/corporate/consult/controlled-waste-regs/101108-controlled-waste-regs-ia.pdf
4	Defra and WAG 2010 'Review of Schedule 2 of the Controlled Waste Regulations (1992): Proposals for amending and updating the legislation.' http://www.defra.gov.uk/corporate/consult/controlled-waste-regs/101108-controlled-waste-regs-condoc.pdf

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Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

There is discretion for departments and regulators as to how to set out the evidence base. However, it is desirable that the following points are covered:

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing);
- Costs and benefits of each option (including administrative burden);
- Risks and assumptions;
- Direct costs and benefits to business calculations (following OIOO methodology);
- Wider impacts;
- Summary and preferred option with description of implementation plan.

Problem under consideration

At present, Local Authorities are required to collect waste, if asked, from organisations listed in Schedule 2 of the Controlled Waste Regulations (1992) (CWR). This list includes among others, schools, hospitals, prisons and various types of self-catering holiday provision; it does not distinguish between private and public sector organisations. The CWR allow Local Authorities to make a charge for the collection of this waste, but not for its disposal. This legislation was passed at a time when disposal costs were minimal, before statutory EU targets to reduce waste going to landfill and the introduction of the landfill tax.

Defra commissioned Enviros in 2009 to produce a report on the current management of Schedule 2 waste in order to inform the review of the legislation.

They found that the current split of public to private Schedule 2 premises is 32% and 57% respectively (with an additional 10% being categorised as either public or private), however some 75% of the waste, by weight, arises in the public sector.

At present, around 50% of this Schedule 2 waste is collected by private waste contractors even though they charge for both collection and disposal. This situation seems to have arisen as a result of a combination of factors, including variable interpretation of the legislation, but for larger premises in particular, by the more flexible and tailored waste services available from the private sector. However, the escalating costs of disposal including pre-treatment requirements and Landfill Tax means that many of these contracts are becoming a more expensive option than Local Authority collection. Some organisations have already switched to Local Authority (LA) services to take advantage of the cheaper fees, and there is a significant risk that large amounts of waste, which Local Authorities have not budgeted for, will come into the public sector for disposal.

The **Enviros report** calculated in 2007/08 this would amount to an additional 600,000 tonnes of waste transferring into the public sector. They assumed that if recycling rates of 30% could be achieved for this waste, then around 400,000 tonnes would be landfilled, placing an additional cost of £24-£32 million pounds, based on charges of £60-£80 per tonne of waste and also assuming that the recycling services cover their own costs. This represented an increase of between 2.2% and 2.9% in disposal costs for local authorities; these costs are offset by a reduction in disposal costs for Schedule 2 premises currently paying private waste contractors for the full cost of disposal.

Rationale for intervention

Unfortunately, due to the age of the Regulations, it has not been possible to locate any record of the considerations leading to its introduction so it is not clear why the legislation did not allow the recovery of disposal costs for Schedule 2 waste, so we can only speculate on the reasoning.

The policy landscape was fundamentally different in 1992 – the 'polluter pays' principle was not embedded in public policy for example, and there was no Landfill Tax. There have been substantial changes in the legislative framework, including the introduction in 1999 of the Landfill Directive, which requires pre-treatment of waste and restricts the types of waste which can be disposed of in landfill, and the Waste Framework Directive, which has been revised and implemented in domestic legislation this year. Amongst a range of measures it enshrines the principle of the waste hierarchy as a priority in law, and introduces requirements for the separate collection of paper, metal, plastic and glass.

In 1992, the vast majority of waste would have been disposed of in landfill at minimal cost, so it is important to note that disposal costs would have been negligible when compared to the cost of collection when these regulations were first introduced, unlike today when they make up over 50% of the cost of handling waste, and so the 'polluter pays' principle would

not have been a material consideration in disposal charging. It is, therefore, more appropriate to consider the merits of the legislation against current public policy.

Currently, at a time of tightening public spending, it is more important than ever for the taxpayer to no longer subsidise the waste disposal costs of private businesses. Again the position here has moved on from when the legislation was first introduced, with far more private businesses operating premises that would have mainly been in the public sector at the time of the original legislation (for example private hospitals and care homes.)

In the public sector, the split of responsibility for meeting the cost of waste services creates confusion and opacity within public budgets, and public funding is not aligned to expenditure where Schedule 2 premises switch between Local Authority and private sector waste services.

As the cost of disposal continues to rise, Schedule 2 premises have increasingly been moving from private-sector contracts to Local Authority waste services, creating a shortfall in Local Authority funding that has been met by the taxpayer. Central Government funding for waste services is not ring-fenced. The most recent spending review and local Government settlement did not include any element of funding for management of waste from Schedule 2 premises. Local Authorities are, therefore, currently funding Schedule 2 waste disposal costs from council tax and other parts of their non-ringfenced budgets.

Local Authorities are concerned about the effect of large amounts of Schedule 2 waste coming back into the public sector because the disposal costs would be a significant drain on their resources and this material has not been included in their strategies for meeting their landfill diversion targets as required under the EU Landfill Directive. In addition, the existing Regulations insulate organisations listed in Schedule 2 from the full costs of the environmental impact the waste they produce causes, reducing the financial incentive for these premises to reduce waste or to recycle.

The Regulations pre-date, and consequently do not reflect the polluter pays principle (PPP) that underpins all EU and UK waste legislation of the past fifteen years. They include some out of date terminology and are generally agreed by users to be difficult to interpret in places.

Policy Objectives

To remove public funding of private business costs. Allowing local authorities to recover the full costs of the waste service from non-domestic users will benefit the taxpayer. In addition, both public and private sector Schedule 2 premises will be incentivised to reduce their waste disposal costs.

To remove the market distortion. By removing the public funding of Schedule 2 premises' disposal costs, we aim to create a level-playing field for private sector waste management businesses. This will also increase the ability of Schedule 2 organisations to choose the most appropriate waste management services for their circumstances.

To promote waste reduction and recycling. Amending the legislation to ensure that it effectively contributes towards Government policy aims of reducing waste, increasing recycling rates and providing non-domestic waste services based on the 'polluter pays' principle.

To promote localism. By giving decision-making powers and responsibility for non-domestic waste service fees back to local authorities, they can make decisions on how best to support local organisations and be fully accountable to their local electorate for their decisions.

To have legislation which is clear and easy to use, and subject to regular review. This will help local authorities and service users to understand their respective rights and responsibilites.

Description of Options considered

1) Issue Guidance

The original guidance, issued in 1992, does little more than restate the legislation, a factor that has contributed to significant variations in how the Regulations are interpreted and applied. Although there are frequent disagreements on interpretation between Local Authorities and Schedule 2 customers, there is no case law to clarify the issues.

We could seek to issue more detailed guidance, to set out our interpretation of the legislation, and to encourage stakeholders who disagree with our interpretation to seek judicial review to clarify the legislation in the Court.

If all parties agree with our interpretation, then guidance could improve consistency of fee charging across the country and reduce disputes. This guidance would have no statutory basis, and would not resolve the fundamental problems with the Regulations; the subsidised fees and lack of incentive to manage waste sustainably.

There are no significant costs associated with the production of guidance but, by publicising the availability of the subsidy, it is likely to accelerate the rate at which Schedule 2 organisations seek waste services from Local

Authorities. We assume that, as waste disposal becomes progressively more expensive, almost all Schedule 2 waste that is currently handled by the private sector would come into the public sector to avoid waste disposal charges. We have assumed that around 10% of Schedule 2 premises will continue to use the private sector in order to benefit from services tailored to their specific needs, despite the greater cost.

We have assumed that the switch to Local Authority waste services will take place gradually to reflect, though to a lesser extent as a result of the guidance, imperfect information on LA charging and Schedule 2 premises holding long term contracts with commercial operators.

2) Repeal and replace the Controlled Waste Regulations 1992

This is the preferred option. We propose to replace the Regulations to allow waste disposal authorities to charge for disposal of all waste arising from non-domestic properties.

We would exempt charity shops and re-use organisations from disposal charging on the grounds that their activities contribute to waste prevention by encouraging and facilitating the reuse rather than disposal of goods, thereby benefitting taxpayers by reducing tonnages going to landfill. The Regulations will be amended to explicitly define waste from these sources as being household waste, and ensure that they are entitled to free disposal.

The proposed powers would continue to be permissive, allowing local authorities the ability to make decisions on charging that best reflect the needs and priorities of local people.

Baseline - Do Nothing

In order to assess the implications of both options being adopted, the table below shows the amount of Schedule 2 waste Local Authorities would handle if no further intervention took place.

Headline Assumptions

The methodology involved uses the 2007/08 Schedule 2 waste figures from the Enviros report and projects these forward based on the following assumptions.

Annex 2 is taken from the 2007/08 Enviros report and provides a breakdown of the total schedule 2 waste per premise and by the amount within and outside the municipal solid waste (MSW) stream for both England and Wales. As can be observed from the tables, the public/private split per schedule 2 premise differs for each region. For example, the public private sector split for "care homes for England is 81% and 19% whereas for Wales this is 94% and 6%. Therefore to ensure regional disparities are accounted for, the below assumptions are applied separately to England and Wales rather than to the sum of the total waste.

The proportion of total Schedule 2 waste in the municipal solid waste (MSW) stream, 4% is assumed to be constant

The rate of MSW waste growth (and therefore the level of Schedule 2 waste arisings) is based on our in-house econometric modelling applied to both England and Wales. The analysis models different growth rates for Schedule 2 waste under the "Sensitivities" section.

The composition of the Schedule 2 waste is assumed to remain constant based on the 2007/08 split.

The proportion of Schedule 2 waste managed within the MSW stream progressively increases at **5%** per annum as disposal costs become more expensive. The report by Enviros is a static assessment providing information on the amount of Schedule 2 waste for England and Wales only for 2007/08. There is no other information available to assess the profile of schedule 2 waste for prior years and thus to forecast the baseline the analysis primarily links the 5% increase per annum to changes in the landfill tax and tightening of budgets. As figure 1 indicates, a significant proportion of Local Authorities charge for collection only and thus there is scope for more Schedule 2 premises to consider this a viable option as the savings in disposal costs become even more substantial. The 5% is applied to the percentage currently in the municipal waste stream for each Schedule 2 premise category separately for England and Wales.

Prior to 2019/20, the analysis has modelled Schedule 2 premises gradually using LAs for their waste collection and disposal to reflect mainly imperfect information on LA charging as is reflected in the report and Schedule 2 premises holding long term contracts with commercial operators.

Table1: Schedule 2 waste arisings within MSW stream in England and Wales for the years 2010 to 2020

Schedule 2 Premises for England & Wales – tonnes within MSW Stream	**2010/11**	**2011/12**	**2012/13**	**2013/14**	**2014/15**
NHS Hospitals	6,066	6,352	6,686	7,063	7,478
Private Hospitals	1,006	1,054	1,109	1,171	1,240
Residential Hostels	1,029	1,078	1,134	1,198	1,269
Care Homes	19,161	20,065	21,120	22,310	23,619
Child care facilities (pre-school)	13,106	13,724	14,446	15,259	16,155
LEA Schools	170,321	178,354	187,740	198,309	209,953
Private Schools	3,486	3,650	3,843	4,059	4,297
Further Education Colleges	83,905	87,863	92,486	97,693	103,430
Universities	132,753	139,015	146,330	154,569	163,644
Self Catering Accommodation	31,107	31,023	31,100	31,287	31,546
Caravan Sites	20,887	21,873	23,024	24,320	25,748
Campsites	8,255	8,644	9,099	9,611	10,175
Penal Institutions	11,259	11,790	12,411	13,109	13,879
Charity Shops	6,501	6,808	7,166	7,569	8,014
Schedule 2 Waste within MSW stream	**508,842**	**531,291**	**550,902**	**587,529**	**620,448**
% Within MSW stream	48%	50%	53%	55%	58%
Schedule 2 waste Outside MSW stream	**548,909**	**521,118**	**491,090**	**473,842**	**449,732**
% Outside MSW stream	52%	50%	47%	45%	42%
TOTAL SCHEDULE 2 WASTE	**1,057,751**	**1,052,409**	**1,041,992**	**1,061,370**	**1,070,180**

Schedule 2 Premises for England & Wales – tonnes within MSW Stream	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**
NHS Hospitals	7,929	8,356	8,942	9,503	10,103
Private Hospitals	1,315	1,394	1,483	1,576	1,676
Residential Hostels	1,345	1,423	1,517	1,612	1,714
Care Homes	25,046	26,558	28,244	30,017	31,912
Child care facilities (pre-school)	17,131	18,147	19,318	20,532	21,828
LEA Schools	222,633	235,472	251,057	266,149	274,802
Private Schools	4,557	4,832	5,139	5,461	5,806
Further Education Colleges	109,676	115,884	123,104	130,362	138,110
Universities	173,528	183,572	195,682	207,972	221,101
Self Catering Accommodation	31,859	32,202	32,586	32,984	33,396
Caravan Sites	27,303	28,904	30,789	32,722	34,788
Campsites	10,790	11,424	12,168	12,932	13,748
Penal Institutions	14,717	15,600	16,596	17,639	18,752
Charity Shops	8,498	8,994	9,583	10,185	10,827
Schedule 2 Waste within MSW stream	**656,327**	**692,760**	**736,205**	**779,646**	**818,563**
% Within MSW stream	61%	64%	67%	70%	72%
Schedule 2 waste Outside MSW stream	**424,447**	**397,649**	**369,242**	**339,288**	**314,357**
% Outside MSW stream	39%	36%	33%	30%	28%
TOTAL SCHEDULE 2 WASTE	**1,080,774**	**1,090,409**	**1,105,447**	**1,118,934**	**1,132,920**

To summarise for both England and Wales the total Schedule 2 waste dealt by local authorities between 2010/11 to 2019/20 is estimated to be 6.11mt and 0.38mt and for commercial operators 4.11mt and 0.23mt respectively. Please note these figures aggregate England and Wales therefore the "% with MSW stream" and "% outside the MSW stream will be different when considering the two regions separately. Please see tables 4 and 5 for the percentage split by region.

Redefinition of Municipal Solid Waste Arisings

The term "municipal waste" is used in relation to the EU Landfill Directive targets to reduce biodegradable municipal waste to landfill, and in the related Landfill Allowance Trading Scheme for England and the Landfill Allowances Scheme[1] in Wales. The definition of municipal waste is household waste, and waste that is similar in nature and composition. Until relatively recently, it was interpreted quite narrowly to refer to waste collected by local authorities. This would have included all household waste (whether from domestic properties of from the non-domestic premises listed in Schedule 2) and any commercial or industrial waste collected by the authority.

Following discussions with the European Commission in 2010, the UK's interpretation of the definition of municipal waste was revised. As a result we now use the following terms in relation to waste managed by local authorities:

Local Authority Collected Municipal Waste (LACMW)

LACMW refers to the previous 'municipal' element of the waste collected by local authorities. That is household waste, and any commercial or industrial waste which is collected by the local authority and which is similar in nature and composition to household waste. It excludes construction and demolition waste

Local Authority Collected Waste (LACW)

All waste collected by the local authority. This is a slightly broader concept than LACMW as it would include all LACMW plus any construction and demolition waste which is collected by the authority. LACW is the definition that is now used in statistical publications, which previously referred to municipal waste.

Municipal waste is now interpreted as a much broader subset of waste. This is based on the European Waste Catalogue classifications of waste and covers household waste and around half of all commercial and industrial waste.

It should be noted that the Controlled Waste Regulations (1992) do not contain any reference to "municipal waste", as the classification of controlled waste is not dependent on the body that collects it.

Current financing of Schedule 2 municipal solid waste (MSW) arisings

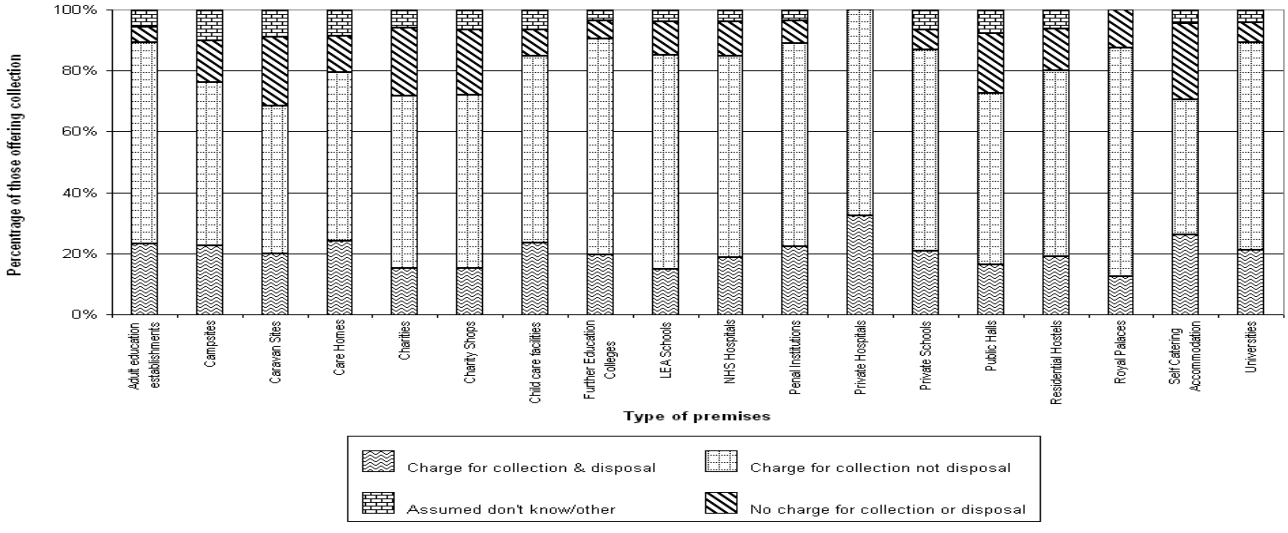
Local Authorities in England currently do not have funding for Schedule 2 disposal costs. The money to support Schedule 2 premises' waste services is not included in the Revenue Support Grant and therefore the impact of the policy options on Local Authority budgets will not be double counted. The disposal costs of waste from Schedule 2 premises will not form part of LA bids for central funding in the future.

Charging policies of local authorities that provide a collection to different types of premises

Taken from the Enviros report, the charging policies for waste disposal authorities varies considerably reflecting both the misinterpretation of the current legislation and contractual obligations in providing the service.

The full cost Local Authorities will incur within the baseline and over the appraised period assumes that the current charging options and their proportions stay the same up until 2020. Thus of the Schedule 2 waste which enters the MSW stream, local authorities incur disposal costs for the proportion which "charge for collection not disposal", both collection and disposal costs for the proportion where this is "no charge for collection or disposal" and no costs for "charge for collection and disposal". For "assumed don't know/other" the modelling has not applied any costing and held it constant.

Figure 1: 2007/08 charging policies for Local Authorities to Schedule 2 premises



[1] http://wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/disposal/landfill/allowances/?lang=en

Source: Enviros Consulting Ltd 2009 *Understanding current management arrangements for Schedule 2 of the Controlled Waste Regulations 1992 waste (WR0308)* Defra

Waste Management Costs

Though the analysis will calculate the estimated disposal costs LA's will face as a result of both options, that is issuing guidance and amending the legislation, this will not be included in the final NPV. *This is because waste collection and disposal costs merely transfer from the commercial sector to the public sector for both options and therefore do not incur new additional costs.*

Both within the baseline and for the following options we have assumed that the management of Schedule 2 waste is the same as that of municipal waste arisings.

For future projections of waste management, figures taken from the LAWRRD model in Defra provide MSW recycling rates for England and applying this to the Schedule 2 waste within the MSW waste stream can provide estimates on the tonnages of recycling and remaining residual waste.

For Wales, the "Towards Zero Waste" 2009 strategy provides targets on the amount recycled and composted for years up to 2019/20 and these percentages again were used to estimate the recycled and residual waste figures.

For the proportional split on how the residual waste is disposed of (energy from waste or landfill) and of which is recycled (MRF or composted) the analysis takes the most recent breakdown from WasteDataFlow for England and StatsWales for Wales and assumes constant thereafter. In the risk and sensitivities section the analysis models a scenario where all waste is sent to landfill to reflect the extreme case.

Figures for the gate fees for the various treatments are taken from WRAP Gate Fees Report 2009 to calculate the disposal costs. Similarly for collection costs the analysis used WRAP's "Kerbside Recycling: Indicative Costs and Performance" report.

Landfill Allowance Scheme

Local Authorities may face additional costs from the Landfill Allowance Trading Scheme/Landfill Allowances Scheme when dealing with the additional Schedule 2 waste managed previously by commercial operators. Note that the future of LATS is being considered as part of the Government's Review of Waste Policy. Currently, waste statistics show that Local Authorities are making good progress towards meeting the 2010 target and are in fact sending less biodegradable waste to landfill than the total allowances allocated to them. This situation however may change for future targets as the diversion will be more difficult to achieve.

It is possible to estimate the additional waste both the English and Welsh LA's will send to landfill from Schedule 2 waste premises. If we are to assume that the composition of Schedule 2 waste is the same as that from households, the amount of biodegradable waste in MSW is assumed to be 68% for England and 61% for Wales.

The additional amount sent to landfill for the target year is as follows.

Table 2: Additional biodegradable tonnage of waste in MSW assumed to be landfilled in England

Year	Schedule 2 Waste within the MSW stream	Additional tonnage sent to landfill	% to landfill	Biodegradable (68%)	England Target
2012/13	524,895	38,479	39%	26,166	7,459,998

For Wales the figures for landfill were obtained by using the "Towards Zero Waste" strategy which includes targets for the maximum level of landfill for years 2019/20 of 10%. The percentage sent to landfill was interpolated from the 2009/10 actual figures.

Table 3: Additional biodegradable tonnage of waste in MSW assumed to be landfilled in Wales

Year	Schedule 2 Waste within MSW stream	Sent to landfill	% to landfill	Biodegradable (61%)	Wales Target
2012/13	32,800	15,114	46%	9,220	470,000

The consequence of this will be dependent upon how well LA's are meeting their target. If all allowances are close to if not all used, the impact of the additional waste coming into the LA waste stream could potentially drive up allowance prices resulting in additional costs to taxpayers.

Costs and Benefits of Each Option

The following sections describe the costs and benefits associated with each policy for both England and Wales. Please see page 16 for the summary table of the policies.

Please note there is no data available on the growth of Schedule 2 waste or how it is currently being managed between commercial operators and local authorities for future years. In the absence of data, the analysis is based on the assumptions highlighted on page 9 which reflect the most appropriate models, statistics and reports currently available along with policy judgement.

The analysis calculates the full private costs of each policy option and reports the figures in present value terms.

Option 1 – Issue Guidance

Option 1 assumes that with better information on the current legislation, more businesses will become aware of the free disposal costs made available by Local Authorities and hence two effects are modelled.

1) More waste from Schedule 2 premises will be diverted from the commercial sector at a faster rate.

Similar to the baseline, with the landfill tax escalator increasing disposal costs, businesses will be more motivated to consider different options in managing their waste and therefore the analysis assumes a greater amount of Schedule 2 waste will be redirected to the MSW stream. An annual 15% increase is now applied to the percentage currently in the municipal waste stream for each type of Schedule 2 premise for England and Wales. As figure 1 highlights, in 2007/08 a significant proportion of Local Authorities were either charging incorrectly or unaware of the legislation requirements. Therefore such information failures account for the different rate of transition to the public sector for the Do Nothing baseline and Option 1.

It is assumed that by 2019/20 only those Schedule 2 premises which require specialised services that only commercial operators can provide will remain within the private sector. This is estimated to be around 10% -14% of the total Schedule 2 waste depending on the region. Examples of such tailor –made services which would induce this proportion to remain with private carriers relates primarily to collections. For instance, many Schedule 2 premises require daily collections or find it is more cost effective to have one waste provider collect all the types of waste from a site which is producing both household and industrial waste rather than opt for a LA which is not obligated to do so.

A summary of the results is indicated as follows:

Table 4: Schedule 2 waste arisings in England with issue guidance (tonnes)

Year	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Schedule 2 Waste	996,168	993,479	995,963	1,001,938	1,010,254	1,020,256	1,031,479	1,043,547	1,056,278	1,069,482
Within MSW stream	479,025	544,835	623,560	714,823	787,618	839,367	870,372	899,491	932,506	967,299
% Within MSW stream	48%	55%	63%	71%	78%	82%	84%	86%	88%	90%
Outside MSW stream	517,144	448,644	372,403	287,115	222,637	180,889	161,106	144,056	123,772	102,183
% Outside MSW stream	52%	45%	37%	29%	22%	18%	16%	14%	12%	10%

Table 5: Total Schedule 2 waste arisings in Wales with issue guidance (tonnes)

Year	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Schedule 2 Waste	59,089	58,930	59,077	59,432	59,925	60,518	61,184	61,900	62,655	63,438
Within MSW stream	29,818	34,100	39,215	42,835	45,889	49,178	50,419	51,716	52,987	54,394
% Within MSW stream	50%	58%	66%	72%	77%	81%	82%	84%	85%	86%
Outside MSW stream	29,271	24,830	19,862	16,597	14,036	11,341	10,765	10,184	9,668	9,044
% Outside MSW stream	50%	42%	34%	28%	23%	19%	18%	16%	15%	14%

The incremental difference in comparison to the baseline is as follows. By 2015/16 most of the schedule 2 premises where possible have shifted their waste to the Local authorities.

Table 6: Additional Schedule 2 waste entering the MSW stream due to issuing guidance for England (tonnes)

Schedule 2 Premises	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Addition to MSW stream	0	44,736	98,665	161,908	203,783	221,831	216,404	206,385	197,481	194,839

Table 7: Additional Schedule 2 waste entering the MSW stream due to issuing guidance for Wales (tonnes)

Schedule 2 Premises	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Addition to MSW stream	0	2,909	6,415	8,220	9,276	10,387	9,374	8,617	8,366	8,290

2) With clear guidance, the proportion of LA's charging different to the legislation requirement decreases so that by 2019/20 all LA's are only charging for collection only.

The following table shows the proportional split in different charging offered to each Schedule 2 premise for both England and Wales in 2010/11 and the subsequent effects after issuing further guidance by 2019/20. The modelling assumes by 2019/20 all local authorities will "charge for collection not disposal". Furthermore the divergence is gradual to reflect contractual obligations and (though to a lesser extent) imperfect information continuing to persist in the market.

Table 8: Charging policies for Local Authorities to Schedule with proportions for England and Wales

	2011/12				2019/20			
	Charge for collection &disposal	Charge for collection not disposal	No charge for collection or disposal	Assumed don't know/ either	Charge for collection &disposal	Charge for collection not disposal	No charge for collection or disposal	Assumed don't know/ either
NHS Hospitals	20%	64%	12%	4%	0%	100%	0%	0%
Private Hospitals	21%	79%	0%	0%	0%	100%	0%	0%
Residential Hostels	20%	60%	15%	5%	0%	100%	0%	0%
Care Homes	25%	55%	15%	5%	0%	100%	0%	0%
Child care facilities	25%	60%	10%	5%	0%	100%	0%	0%
LEA Schools	15%	70%	10%	5%	0%	100%	0%	0%
Private Schools	20%	70%	5%	5%	0%	100%	0%	0%
Further Education Colleges	20%	70%	8%	2%	0%	100%	0%	0%
Universities	20%	65%	10%	5%	0%	100%	0%	0%
Self Catering Accommodation	25%	40%	30%	5%	0%	100%	0%	0%
Caravan Sites	20%	50%	20%	10%	0%	100%	0%	0%
Campsites	22%	50%	15%	13%	0%	100%	0%	0%
Penal Institutions	22%	78%	0%	0%	0%	100%	0%	0%
Charity Shops	15%	50%	23%	12%	0%	100%	0%	0%

Costs of Option 1:

The issuing of guidance therefore has implications on both local authorities and Schedule 2 private businesses. For reporting purposes the analysis will assess the additional costs Local Authorities face from the additional Schedule 2 waste coming into the MSW stream and implications based on different charging policies.

Higher waste management costs to Local Authorities

The following analysis calculates the aggregate change in costs Local Authorities face depending on the specific type of charging policy they offer.

- As expected, the number of Local Authorities which offer "no charge for collection or disposal" reduces given that more Local Authorities transfer to "charge for collection not disposal". Therefore the aggregate cost to the reduced number of local authorities who remain under this charging policy will decrease (as in total there are now fewer of them).

- The total cost for those local authorities operating a "charge and collection" policy is zero in both the baseline and from issuing guidance as costs are fully recovered. However, as above, the number of Local Authorities offering this type of charging policy decreases.
- More of the Local Authorities highlighted above are progressively moving towards "charge for collection not disposal" to comply with the regulation, and so the overall total costs under this category increases substantially (they can no longer charge for disposal).

No charge for collection or disposal

A proportion of Local Authorities in the baseline and as evident in the report charge for neither collection nor disposal and therefore with the guidance will have the opportunity to save on collection costs as more diverge towards collection charge only. The savings to Local Authorities are as follows:

Table 9: Change in Local authority costs from proportion offering no charge for collection or disposal (£m)

Increase in costs to LA's	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
England	£0.00	-£0.27	-£0.62	-£1.11	-£1.97	-£3.04	-£4.28	-£5.55	-£6.82	-£8.03	**-£31.67**
Wales	£0.00	-£0.01	-£0.03	-£0.07	-£0.13	-£0.18	-£0.25	-£0.32	-£0.38	-£0.43	**-£1.80**
Total	**£0.00**	**-£0.28**	**-£0.65**	**-£1.18**	**-£2.09**	**-£3.22**	**-£4.53**	**-£5.87**	**-£7.19**	**-£8.46**	**-£33.48**

* please note negative numbers represent savings to Local Authorities

The total savings to private-sector Schedule 2 premises is £8.91m for England and £0.29m for Wales.

Charge for collection not disposal

With clearer guidance Local Authorities will face higher costs based firstly on more Schedule 2 waste coming into the MSW stream and secondly additional disposal costs for those that previously incorrectly charged for collection and disposal from Schedule 2 businesses.

Table 10: Change in Local authority costs from proportion offering charge for collection but not disposal (£m)

Increase in costs to LA's	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
England	£0.00	£2.46	£5.52	£9.30	£12.52	£14.44	£15.53	£16.45	£17.51	£18.85	**£112.59**
Wales	£0.00	£0.15	£0.33	£0.47	£0.59	£0.68	£0.70	£0.73	£0.76	£0.80	**£5.22**
Total	£0.00	£2.61	£5.85	£9.77	£13.11	£15.13	£16.23	£17.18	£18.28	£19.65	**£117.81**

The net additional cost to Local Authorities from issuing guidance is £81million and £3million for England and Wales respectively over the 10 year period in present value terms. From private Schedule 2 premises this equates to additional costs of £15m for England and £0.41m for Wales. As stated previously, though these costs have been analysed and assessed, they are not included in the final NPV of the IA as they represent redistribution costs from commercial waste management operators to Local authorities.

Charge for collection and disposal

No impacts as local authorities recover the full costs of waste management.

Landfill Allowance Scheme

As option 1 would result in waste from the commercial sector entering the MSW stream at a faster rate, the additional biodegradable waste going to landfill is 21,811 tonnes for England and 1803 tonnes for Wales.

Table 11: Additional biodegradable tonnage of waste in MSW assumed to be landfilled in England

Year	Additional Schedule 2 Waste within the MSW stream	Sent to landfill	% to landfill	Biodegradable (68%)	England Target
2012/13	106,916	32,074	30%	21,811	7,459,998

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Table12: Additional biodegradable tonnage of waste in MSW assumed to be landfilled in Wales

Year	Additional Schedule 2 Waste outside MSW stream	Sent to landfill	% to landfill	Biodegradable (61%)	Wales Target
2012/13	6,415	2,956	46%	1,803	470,000

Local Authorities who have insufficient capacity to divert waste to alternative treatments then landfill would either have to buy additional allowances or face fines of £150/tonne in England and £200/tonne in Wales.

GHG disbenefits from earlier shift to LAs

We have assumed that the treatment of Schedule 2 waste remains the same under either commercial operators or LA's. There is no quantitative evidence available which shows how Schedule 2 waste is treated by commercial operators however with sufficient infrastructure and revenue, a higher proportion of the waste could be diverted from landfill to treatments higher up in the waste hierarchy in comparison. There are substantial environmental benefits from avoided landfill. Every tonne of residual waste diverted from landfill saves approximately 420kg of carbon at an environmental benefit of £45 (Landfill Bans model).

Admin Costs

The guidance will be published on the website and therefore does not incur any substantial additional costs. The one off administrative burdens are defined as "administrative activities that businesses are required to conduct in order to comply with the information obligations that are being imposed".

For Option 1 the time it would take to read the guidance would be 1 hour and the hourly cost of the member of staff in business completing this is £19.20. The price is therefore 1x£19.20.

The main admin burden will fall on all 378 Local Authorities in England and Wales resulting in admin costs of £7,258. Although most of the customers will rely on their local authority for information, many of the small customers like caravan parks and self-caterers will get advice from their trade bodies and the big premises (prisons, universities, hospitals and colleges) may also read the guidance fully. Such trade bodies and Schedule 2 premises account for approximately 2000 businesses and additional admin costs of £38,400.

The total admin costs for Option 1 is £45,658.

Loss to private waste contractors

Private sector waste contractors will be increasingly disadvantaged in the marketplace for handling Schedule 2 waste, as they are undercut by local authorities who are unable to charge for disposal of the waste. Without being able to establish the scale of this cost, as the data is commercially sensitive, this equates to approximately 1,546kt for England and 0.07kt for Wales. Such distortion prevents viable businesses from continuing to operate and decreases the overall competitive performance of the market.

Table 13: Additional amount of waste outside of municipal waste stream from issuing guidance for England and Wales (000t)

Year	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
Schedule 2 Waste	0	-48	-105	-170	-213	-232	-226	-215	-206	-203	-1,618

Benefits of Option 1

Transparency Benefits

Issuing guidance would reduce the number and range of interpretations currently in use. Many local authorities are only looking for clarity and are not that concerned about the finer legal points. However, those that have devised strategies and invested heavily around alternative interpretations would not be so open to change and may persist with their interpretation unless and until a court rules otherwise.

Infrastructure certainty

The key factor to consider is whether, as the Enviros report states, the facilities currently used by local authorities have the capacity to accept the tonnage which is currently managed by commercial operators. The analysis calculates an additional 25% of Schedule 2 waste overall entering the MSW stream. Policy certainty can help LA's forecast future waste arisings and subsequent disposal treatment demands, however a level of long-term uncertainty will remain as Schedule 2 customers can opt in and out of local authority services.

Subsidy to Schedule 2 businesses

Businesses of a type listed in Schedule 2 will continue to benefit from having their waste disposal costs paid by the taxpayer if they have their waste collected by their local authority, and more businesses may take up this option as the guidance makes them aware of their rights. The modelling calculates cumulative savings of £81million and £3million for England and Wales respectively. For private-sector Schedule 2 premises this equates to savings of £15m for England and £0.41m for Wales. Please see Annex 3 for further detail.

Of which to small firms

The Schedule 2 premises which tend to compose of small firms are self catering accommodation, caravan sites and camp sites. Although at consultation stage, the covering letter requested data from businesses to allow the

analysis to improve its assessment of the impact on small firms, none of the responses provided any figures. Without therefore information on the business size for each category, we have assumed the proportion attributing to small businesses is in the region of 80% - 90%. Applying 85% to each schedule 2 waste category estimates the following decrease in costs to small firms.

Table 14: Change in waste management costs to Small Firms for England and Wales

Increase in costs to small firms (£m)	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
England	-£0.00	-£0.10	-£0.23	-£0.39	-£0.60	-£0.81	-£0.91	-£0.82	-£0.74	-£0.66	-£5.25
Wales	-£0.00	-£0.01	-£0.01	-£0.02	-£0.03	-£0.04	-£0.03	-£0.03	-£0.02	-£0.02	-£0.19
Total	**-£0.00**	**-£0.10**	**-£0.24**	**-£0.41**	**-£0.63**	**-£0.85**	**-£0.94**	**-£0.84**	**-£0.76**	**-£0.67**	**-£5.44**

* please note negative numbers represent an increase in cost to Local Authorities

Option 2 – Amend the Secondary Legislation

Costs of Option 2:

Admin Costs

The admin costs for Option 2 relate to businesses reading and understanding the new legislation. The explanatory notes will be published on the website and therefore does not incur any substantial additional costs. The one off admin burdens for this option are greater as this guidance would take longer to read; 3 hours therefore the total cost of activity for 378 local authorities and 2000 large Schedule 2 premises and trade bodies is £136,973.

Taxpayer no longer pays for the disposal of waste from Schedule 2 businesses

Given that Local Authorities will be able to charge for services similar to those offered by private waste management companies; Schedule 2 premises would now cover the disposal costs for the amount of waste they generate. The total costs are estimated to be in the region of £251m for England and £14m for Wales. For private-sector Schedule 2 premises, this equates to £41.51m for England and £0.69m for Wales. Please see Annex 3 for the methodology and full breakdown.

Of which to small firms

As stated previously the Schedule 2 premises which tend to compose of small firms are self catering accommodation, caravan sites and camp sites. It should be noted that the majority of the small businesses who responded to the public consultation agreed that they should pay for their own waste disposal. Applying the same proportions as previously, the change in costs to small firms is as follows.

Table 15: Change in waste management costs to Small Firms for England and Wales

Increase in costs to small firms (£m)	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
England	£2.47	£2.53	£2.57	£2.64	£2.70	£2.69	£2.69	£2.69	£2.70	£2.71	£26.4
Wales	£0.08	£0.08	£0.08	£0.09	£0.09	£0.09	£0.09	£0.09	£0.09	£0.09	£0.88
Total	**£2.56**	**£2.61**	**£2.66**	**£2.73**	**£2.79**	**£2.78**	**£2.78**	**£2.78**	**£2.78**	**£2.80**	**£27.3**

Benefits of Option 2:

Full Cost Recovery

As stated previously, the amendment of the Secondary legislation will enable Local Authorities to charge for both collection and disposal costs for all non-domestic premises but excluding charity shops and reuse organisations. The British Heart Foundation stated in the consultation responses they would face an additional cost of £200k per annum if this were to be extended to their charity shops as well.

Ultimately the choice of service provider will rest, as previously, with the creator of the waste based on who can provide the most appropriate service, however, this time without the distortion of the taxpayer picking up over half the cost of the Local Authority service. Should Local Authorities handle this waste, they too would be able to recover all costs.

Local authorities could now recover the full costs of handling the waste they previously dealt with in the baseline. The savings are £251m for England and £14m for Wales in present value terms. From private-sector Schedule 2 premises, this equates to £41.51m for England and £0.69m for Wales.

Table 16: Additional disposal and collection costs for Schedule 2 waste in England relative to the baseline (£m)

Year	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
Landfill Gate Fee	-£3.3	-£3.2	-£3.1	-£3.1	-£3.1	-£3.1	-£3.2	-£3.3	-£3.3	-£3.4	-£32.1
Landfill Tax	-£7.1	-£8.2	-£9.1	-£10.2	-£11.3	-£11.4	-£11.7	-£11.8	-£12.1	-£12.3	-£105.3
Efw	-£4.1	-£4.0	-£3.9	-£3.9	-£3.9	-£4.0	-£4.0	-£4.1	-£4.2	-£4.3	-£40.4
Recycling*	-£2.7	-£2.8	-£3.0	-£3.1	-£3.2	-£3.3	-£3.4	-£3.5	-£3.6	-£3.7	-£32.4
Total Disposal Costs	**-£17.2**	**-£18.2**	**-£19.2**	**-£20.3**	**-£21.5**	**-£21.9**	**-£22.3**	**-£22.7**	**-£23.3**	**-£23.6**	**-£210.2**
Total Collection Costs	**-£3.7**	**-£3.8**	**-£3.8**	**-£3.9**	**-£4.0**	**-£4.1**	**-£4.2**	**-£4.3**	**-£4.4**	**-£4.4**	**-£40.6**
TOTAL	**-£20.9**	**-£22.0**	**-£23.0**	**-£24.3**	**-£25.5**	**-£26.0**	**-£26.5**	**-£27.0**	**-£27.6**	**-£28.1**	**-£250.8**

* of which is MRF and composting

Table 17: Additional disposal and collection costs for Schedule 2 waste in Wales relative to the baseline (£m)

Year	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
Landfill Gate Fee	-£0.3	-£0.3	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	**-£2.3**
Landfill Tax	-£0.6	-£0.6	-£0.7	-£0.8	-£0.8	-£0.8	-£0.8	-£0.8	-£0.7	-£0.7	**-£7.3**
Efw	-£0.0	-£0.0	-£0.0	-£0.0	-£0.0	-£0.0	-£0.0	-£0.0	-£0.0	-£0.0	**-£0.4**
Recycling*	-£0.1	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	**-£2.0**
Total Disposal Costs	-£1.1	-£1.1	-£1.1	-£1.2	-£1.3	-£1.3	-£1.3	-£1.3	-£1.2	-£1.2	**-£12.0**
Total Collection Costs	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.2	-£0.3	-£0.3	-£0.3	-£0.3	**-£2.4**
TOTAL	-£1.3	-£1.3	-£1.4	-£1.4	-£1.5	-£1.5	-£1.5	-£1.5	-£1.5	-£1.4	**-£14.4**

Polluter Pays Principle

Legislation covering this area will reflect the polluter pays principle. Schedule 2 waste producers will have greater responsibility for waste production and greater choice to use sustainable waste management options. This will yield GHG benefits in the form of waste prevention or increasing rates in recycling.

Please note some of the waste prevention benefits could possibly be slightly reduced should there be perverse consequences, such as Schedule 2 premises requiring users to take their rubbish home and thus increasing the amount of waste in the domestic waste stream. However, this scenario is considered highly unlikely.

In our analysis we have not factored in waste prevention given the uncertainty around its impact. To illustrate the environmental benefits of incentivising better behaviour please see box below.

Polluter Pays Principle

Effect 1: Waste prevention – Assuming a 1% reduction per annum in Schedule 2 waste arisings which Local Authorities charge for collection not disposal under the baseline.

Environmental Benefits: The maximum environmental benefits are the savings from landfill disposal and the embedded emissions. The maximum GHG benefits in for the 10 year period come to £3.98m in present value terms.

Financial Savings: This relates to savings in collection and disposal costs from no longer having to manage the waste that is being prevented. The savings this would yield range from £0 (if the firm has to invest in certain technology in order to achieve such reductions in waste) to £74 plus landfill tax, the most expensive form of collection and disposal per tonne of waste. For a 1% reduction in Schedule 2 waste per annum under the baseline, the cumulative financial savings are between £0-£8.3m for England and Wales.

Effect 2: Assuming an additional 1% of the total Schedule 2 waste per annum is recycled

Environmental Benefits: The saving in embedded emissions from recycling and landfill disposal yield benefits of approximately £1.24m in present value terms.

Financial Savings: The net financial savings from sending more waste for recycling between 2010/11 to 2019/20 is £1.95m in present value terms. Again, this is the difference in collection and disposal costs for recycling relative to landfill.

Transparency Benefits

Similar to Option 1 there are greater transparency benefits from amending the legislation. More clearly worded and easily understood legislation would lead to fewer disputes over interpretation between authorities and their customers.

Local accountability

Local authorities will be able to choose whether or not to charge for collection and/or disposal, giving them the flexibility to support local social and private enterprise, and ensure best use of local budgets in a way that reflects the priorities of local people. Local taxpayers would have a say in whether their money should be used to support non-domestic waste disposal, which they do not currently have.

Infrastructure certainty

There would also be greater transparency of budgets for the local authorities and publicly funded Schedule 2 organisations. Local Authorities would have a better understanding of their longer-term liabilities, improving their ability to estimate current and future waste arisings and therefore be more likely to invest in the correct levels of infrastructure.

Other Benefits

Market distortions caused by local authorities being unable to charge for disposal would be removed. Hidden subsidies in the form of free waste disposal encourage waste creation as the benefits to business for every tonne of waste becomes greater than the cost of disposal. This also leads to the crowding out effect as private sector waste operators are adversely affected by the taxpayer picking up the cost of disposal when premises choose Local Authority waste services.

Finally the option also increases the potential for greater economic efficiency for both local authorities and publicly funded Schedule 2 organisations. Increasing competition should generate lower prices and encourage more environmentally efficient treatment of waste.

Risks and Assumptions

The main risk is whether Local Authorities will have sufficient infrastructure to deal with the additional Schedule 2 waste. Such incapacity could drive more of the additional waste to landfill and therefore result in higher disposal costs than estimated in this analysis. However, option 2 will remove the main incentive for large premises to choose Local Authority waste services.

The main key assumptions regarding the analysis were our in-house projections for waste growth and the proportion that is assumed to be landfilled for Schedule 2 waste. If we were to change these assumptions the range in the waste management costs to Local Authorities over the full 10 year period is as follows.

Table 18: Sensitivity analysis results

	England (£m)			**Wales (£m)**		
Total waste management Costs (£m)	Standard	0% Waste Growth	100% to landfill	Standard	0% Waste Growth	100% to landfill
Option 1	80.92	79.04	165.82	3.42	3.93	9.46
Option 2	-250.8	-246.6	-398.6	-14.56	-14.35	-£24.8

Direct costs and benefits to business calculations (following OIOO methodology)

One-In, One-Out

Fees and charges will be out of scope, except where they are being increased because of additional regulatory activity. Where the scope of fees and charges are unchanged but the levels are moving from subsidised to full cost recovery they should not be affected by One-in, One-Out. Conversely, where more efficient regulatory activity leads to lower fees and charges these can count as “Outs”.

Local authorities are not funded by central government for the disposal of Schedule 2 waste, and so these costs are borne by local taxpayers. Therefore, as confirmed by the Better Regulation Executive, this is not applicable to the Controlled Waste Regulations as the power given to local authorities is to charge a fee for a service and the policy option is moving from a subsidised fee structure to a full cost recovery one. Businesses are under no obligation to get their waste disposal service from the council.

Summary and preferred option with description of implementation plan

Table19: Distribution of costs

Option	**Who is collecting S2 waste?**	**Who is paying for the disposal of the S2 waste?**	**Who is paying for the collection of the S2 waste?**
1) Issue Guidance	Increasingly LA's as situation made more explicit through guidance	Taxpayers	S2 Premises
2) Secondary Legislation	LAs or Commercial Operators, depending on who offers more cost-effective service in individual situations	S2 Premises	S2 Premises

Table 20: Summary of Costs and Benefits

Option	Costs	Benefits
1) Issue guidance	LAs incur additional maximum waste management costs of £81million and £3million for England and Wales respectively. These are transfer costs and therefore are not included in the final NPV. Costs of issuing guidance - £0.05m	Transparency Benefits Infrastructure investment due to policy certainty.
2) Secondary Legislation	Recovery of cost in present value terms of £251m for England and £14m for Wales in present value terms. These are transfer costs and therefore are not included in the final NPV. Cost of amending secondary legislation - £0.14m	Transparency Benefits- Clearer guidance, leading to fewer disputes and less confusion Infrastructure certainty Imposing PPP correctly Removal of market distortions, creating greater economic efficiency

Specific Impact Tests for preferred policy choice: Option 2 - Amend Secondary Legislation

Equality Impact Assessment

The impact on Equalities of the proposed changes to the Regulations have been considered and found not to be relevant. The changes concern the power of authorities to charge institutions for waste disposal and therefore have no impact on individuals.

Competition Assessment

Removing the subsidy local authorities are required to provide by Law on waste disposal to ensure a level playing field for commercial operators.

Small Firms Impact Tests

The majority of 'small firms' likely to be affected by the proposed change of the Regulations are in the self-catering holiday accommodation and childcare (pre-school) categories. We believe that the majority of these are currently recipients of local authority waste services so potentially could see the greatest impact on their budgets, if local authorities choose to charge them for waste disposal. We have no data on the additional costs potentially incurred by these sectors, although we sought further information as part of the public consultation. Small firms who responded to the consultation generally agreed that a public subsidy of their operating costs was not sustainable. Please note that for indicative purposes, the analysis does provide an estimation of the overall costs to small firms. To repeat, businesses are required by law to pay for their waste services but those that fall under Schedule 2 and use Local Authority waste services are currently receiving free waste disposal, paid for by the taxpayer, which they would lose under this proposal.

Greenhouse Gas Impact Assessment

Landfill tax incentivises both sectors to increase recycling and recovery operations and reduce landfill. Public and private sector waste managers will be subject to the same requirements to collect key recyclables separately from the residual waste stream under the revised Waste Framework Directive. Therefore we consider that any transfer of waste between the public and private sectors will have minimal impact on GHG emissions.
However, by allowing local authorities to recoup the full costs of handling Schedule 2 waste, we expect that many will be able to offer an improved recycling service to their current Schedule 2 customers. Removing the distorting effect of the current subsidy will also encourage Schedule 2 customers to seek out cost-effective recycling services from the private sector where their Local Authority is unable to meet their requirements. Overall, therefore, there may be a small positive impact on GHG emissions.

Wider Environmental Issues Impact Assessment

There are no wider environmental issues arising from the proposed change to the Regulations. The changes may cause a movement from one service provider to another but the laws governing waste management apply equally to private contractors and local authorities.

Health and Well-being Impact Test

Local authorities will retain the duty to collect from Schedule 2 premises, if requested, so public health will not be compromised. The proposed changes to the Regulations have no impact on the Health and well-being of service recipients or providers. The laws governing Health and Safety and the management of waste apply to whoever is providing the service.

Human Right Impact Assessment

The proposed changes have no direct impact on Human Rights.

Justice Impact Test

The proposed changes will make the Regulations more complete, remove the opportunity for variation in interpretation, reduce the need for legal challenge and ensure potential customers have a clear understanding of the services they can expect from their local authority at no additional cost.

Rural Proofing Impact Test

The duty on a local authority to make arrangements to collect waste falling under Schedule 2, if asked, has been retained in the proposed new Regulations to ensure that those in remote rural areas can be sure their waste will be collected even if private waste contactors refuse to collect from remote areas.

Sustainable Development Impact Test

The proposed changes are expected to foster the principles of sustainable development, by requiring Schedule 2 Institutions that use local authority services to pay for disposal of their waste they will be, for the first time, incentivised to reduce the amount of waste they produce (the highest aspiration of the waste hierarchy).

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Annex 1: Post Implementation Review (PIR) Plan

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Basis of the review: Statutory duty to review forms part of the legislation. This is set for 2017, five years after the regulations come into force.
Review objective: A proportionate check that the regulation is operating as expected.
Review approach and rationale: Scan of stakeholder views, including local authorities and "Schedule 2" customers, to establish whether they have any concerns over the interpretation or application of any aspect of the regulations. We consider that this will be sufficient to allow us identify any perverse outcomes and to 'fine-tune' the regulations, given that it will only be 5 years since the extensive consultation process on introducing the regulations.
Baseline: The baseline is set out in the main body of the impact assessment.
Success criteria We will consider the regulations to be successful if they have created a level-playing field for local authorities and commerical waste contractors to compete for business. We will revisit the rationale for exempting charity shops, reuse organisations, and premises used for public meetings from waste disposal costs to ensure that they are still producing negligable amounts of waste and that there is no widespread abuse of the exemption.
Monitoring information arrangements: We plan to survey local authorities in 2016 to determine how the waste is being managed, followed by informal stakeholder engagement to get their views on how the new legislation is working and whether any further changes are needed.
Reasons for not planning a review N/A

Annex 2: 2007/08 Schedule 2 waste breakdown for England and Wales

Table A2-1: 2007/08 Schedule 2 waste arisings split for England per premise

Schedule 2 Premises	Split	Total Within MSW stream	Amount estimated to be currently in municipal waste stream (tonnes)	Amount estimated to be currently outside of municipal waste stream (tonnes)	Amount estimated to be currently in municipal waste stream (tonnes)	Amount estimated to be currently outside of municipal waste stream (tonnes)
NHS Hospitals	7%	81,079	5,766	75,313	7%	93%
Private Hospitals	0%	5,173	1,066	4,107	21%	79%
Residential Hostels	0%	2,238	1,047	1,191	47%	53%
Care Homes	10%	106,686	20,412	86,274	19%	81%
Child care facilities (pre-school)	4%	46,035	13,722	32,314	30%	70%
LEA Schools	24%	261,508	173,351	88,157	66%	34%
Private Schools	2%	19,355	3,711	15,643	19%	81%
Further Education Colleges	14%	154,542	83,818	70,725	54%	46%
Universities	23%	251,088	135,624	115,464	54%	46%
Self Catering Accommodation	3%	33,084	33,084	0	100%	0%
Caravan Sites	4%	46,980	21,616	25,364	46%	54%
Campsites	2%	18,636	8,559	10,077	46%	54%
Penal Institutions	4%	41,609	11,919	29,689	29%	71%
Charity Shops	1%	14178	6,695	7,483	47%	53%
		1,082,191	**520,390**	**561,801**	48%	52%

Source: Enviros Consulting Ltd 2009 Understanding current management arrangements for Schedule 2 of the Controlled Waste Regulations 1992 waste (WR0308) Defra

Table A2-2: 2007/08 Schedule 2 waste arisings split for Wales per premise

Schedule 2 Premises	Split	Total Within MSW stream	Amount estimated to be currently in municipal waste stream (tonnes)	Amount estimated to be currently outside of municipal waste stream (tonnes)	Amount estimated to be currently in municipal waste stream (tonnes)	Amount estimated to be currently outside of municipal waste stream (tonnes)
NHS Hospitals	10%	6,633	823	5,810	12%	88%
Private Hospitals	0%	134	27	107	20%	80%
Residential Hostels	0%	142	71	71	50%	50%
Care Homes	10%	6,709	403	6,306	6%	94%
Child care facilities (pre-school)	2%	1,354	515	839	38%	62%
LEA Schools	26%	16,542	11,665	4,877	71%	29%
Private Schools	0%	320	76	244	24%	76%
Further Education Colleges	15%	9,712	7,325	2,386	75%	25%
Universities	26%	16,965	8,584	8,381	51%	49%
Self Catering Accommodation	1%	708	708	0	100%	0%
Caravan Sites	3%	2,148	1,074	1,074	50%	50%
Campsites	1%	816	408	408	50%	50%
Penal Institutions	2%	1,119	312	807	28%	72%
Charity Shops	1%	822	367	455	45%	55%
		64,124	32,358	31,765	50%	50%

Source: Enviros Consulting Ltd 2009 Understanding current management arrangements for Schedule 2 of the Controlled Waste Regulations 1992 waste (WR0308) Defra

Annex 3: Impact on Private Schedule 2 Premises

To calculate the impact to private schedule 2 premises, to begin with assumptions on the public and private proportions for some Schedule 2 premises needed to be made. As per table 19, for the small proportion of Schedule 2 premises where there is no information available on the split even after requests at consultation stage, a standard 50:50 estimate has been used.

Table A3-1: Public private split for Schedule 2 Premise

Public/Private	**Year**
Public	NHS Hospitals
Private	Private Hospitals
50% Private	Residential Hostels
50% Private	Care Homes
50% Private	Child care facilities (pre-school)
Public	LEA Schools
Private	Private Schools
Public	Further Education Colleges
Public	Universities
Private	Self Catering Accommodation
Private	Caravan Sites
Private	Campsites
Public	Penal Institutions

The proportion of Schedule 2 waste in the baseline for England and Wales which is private is 0.65mt and 0.02mt respectively.

Table A3-2 Amount of private sector Schedule 2 waste for England and Wales within MSW stream (tonnes)

Year	**2010/11**	**2011/12**	**2012/13**	**2013/14**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**
Private Hospitals	795	832	876	925	980	1039	1103	1172	1245	1324
Residential Hostels	386	404	425	449	476	504	536	569	605	643
Care Homes	6706	7023	7392	7808	8267	8766	9306	9885	10506	11169
Child care facilities	4587	4803	5056	5341	5654	5996	6365	6761	7186	7640
Private Schools	2615	2738	2882	3044	3223	3418	3628	3854	4096	4355
Self Catering Accommodation	21775	21716	21770	21901	22083	22301	22546	22810	23089	23377
Caravan Sites	14621	15311	16117	17024	18023	19112	20288	21552	22906	24352
Campsites	5366	5619	5914	6247	6614	7013	7445	7909	8406	8936
Schedule 2 Waste	**56,850**	**58,446**	**60,433**	**62,740**	**65,320**	**68,150**	**71,217**	**74,512**	**78,038**	**81,795**

Private Costs to business from Option 1

The total saving to private Schedule 2 premises from Option is £15m for England and £0.41m for Wales. Please see below for breakdown.

No charge for collection and disposal

Fewer local authorities will offer a free service and thus those Schedule 2 premises previously benefiting from this will now face collection costs.

Table A3-3: Amount of private sector schedule 2 waste entering the MSW stream for England and Wales (tonnes)

Increase in costs to S2 Premises	**2010/11**	**2011/12**	**2012/13**	**2013/14**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**Total**
England	£0.00	£0.11	£0.27	£0.45	£0.65	£0.87	£1.15	£1.47	£1.80	£2.14	**£8.91**
Wales	£0.00	£0.00	£0.01	£0.01	£0.02	£0.03	£0.04	£0.05	£0.06	£0.07	**£0.29**
Total	**£0.00**	**£0.11**	**£0.28**	**£0.46**	**£0.67**	**£0.90**	**£1.19**	**£1.52**	**£1.86**	**£2.21**	**£9.20**

Charge for collection not disposal

With the clarification more schedule 2 businesses where possible will transfer their business to local authorities and thus the additional disposal costs local authorities now face would have previously been paid by schedule 2 premises in the baseline.

Table A3-4: Amount of private sector schedule 2 waste entering the MSW stream for England and Wales (tonnes)

Increase in costs to S2 Premises	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
England	£0.00	-£0.38	-£0.83	-£1.38	-£2.05	-£2.74	-£3.37	-£3.84	-£4.37	-£4.92	**-£23.88**
Wales	£0.00	-£0.00	-£0.03	-£0.05	-£0.07	-£0.09	-£0.10	-£0.11	-£0.12	-£0.13	**-£0.70**
Total	**£0.00**	**-£0.39**	**-£0.86**	**-£1.39**	**-£2.12**	**-£2.83**	**-£3.42**	**-£3.95**	**-£4.49**	**-£5.05**	**-£24.49**

Charge for collection and disposal

No impact on business for the proportion of Local Authorities which continue to charge for disposal or collection as would be the case in the commercial sector.

Costs to business from Option 2

By amending the legislation, local authorities will be able to compete with private waste operators on a level playing field having the choice to charge for both collection and disposal if not previously done so. For those Local Authorities previously offering a specific charging service, the additional costs to private Schedule 2 premises only is £41.51m for England and £0.69m for Wales.

No charge for collection and disposal

Table A3-5: Additional costs to private Schedule 2 premises (£m) for England and Wales

Increase in costs to S2 Premises	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
England	£1.94	£1.96	£1.98	£2.01	£2.05	£2.05	£2.05	£2.05	£2.06	£2.07	£20.22
Wales	£0.06	£0.06	£0.06	£0.06	£0.06	£0.06	£0.06	£0.06	£0.07	£0.07	£0.63
Total	**£2.00**	**£2.02**	**£2.04**	**£2.07**	**£2.11**	**£2.11**	**£2.11**	**£2.11**	**£2.13**	**£2.14**	**£20.85**

Charge for collection not disposal

Table A3-6: Additional costs to private Schedule 2 premises (£m) for England and Wales

Increase in costs to S2 Premises	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
England	£1.83	£1.92	£2.00	£2.10	£2.19	£2.20	£2.22	£2.24	£2.27	£2.31	£21.29
Wales	£0.06	£0.06	£0.06	£0.07	£0.07	£0.07	£0.07	£0.07	£0.07	£0.07	£0.06
Total	**£1.89**	**£1.98**	**£2.06**	**£2.17**	**£2.26**	**£2.27**	**£2.29**	**£2.31**	**£2.34**	**£2.38**	**£21.35**

Charge for collection and disposal

No impact on business for the proportion of Local Authorities which continue to charge for disposal or collection as would be the case in the commercial sector.