

COMMITTEE	Finance Policy and Resources
DATE	1 February 2018
REPORT TITLE	Commercial Waste Containers Revised Policy
REPORT NUMBER	CHI/17/265
DIRECTOR	Bernadette Marjoram
REPORT AUTHOR	Mike Cheyne

1. PURPOSE OF REPORT:-

- 1.1 The purpose of this report is to update the policy regarding the ongoing practice of commercial waste containers being left on the public road and to define a restriction in collection times to control the indiscriminate obstruction of streets and pavements.

2. RECOMMENDATION(S)

- 2.1 That the committee:

- (a) Endorses the attached policy and approves the proposed course of action to actively reduce the problems associated with commercial waste containers.
- (b) Approves the Implementation Date of 1st May 2018 with enforcement and charging commencing 1st October 2018

3. BACKGROUND/MAIN ISSUES

- 3.1 At its meeting of the 29th August 2013 the Enterprise Strategic Planning and Enterprise Committee approved a policy for the management of commercial waste bins across the city and instructed officers to proceed with enforcement of the Policy

- 3.2 The approved policy is as follows:

- 3.2.1 All commercial premises are to be informed of their responsibilities under the terms of the Environmental Protection Act 1990 as to the requirement that it is their responsibility to ensure that they have proper storage, within the bounds of their property, for the storage of refuse.

- 3.2.2 In the event that a bin is left out in the street after 1100 hrs on any day of the week the business in question will be requested to remove the bin within 24 hrs. Any further transgressions will result in the business being served notice under the terms of Section 87 of the Roads (Scotland) Act 1984 to remove bin within 24 hours. To avoid further abuse the notice will apply for a period of 6 months from day of issue.
- 3.2.3 Those businesses who do not comply with the notice will have their bin removed by the Council and a charge given to the businesses for the removal, storage and their return. This charge will be £500 for removal and storage.
- 3.2.4 In the event that waste materials are left outwith a storage bin a £50 Fixed Penalty Notice will be applied under the terms of the Environmental Protection Act 1990 (Section 34)
- 3.3 Following adoption of the policy, letters were sent to commercial premises within the city centre who were noted to be causing an offence, advising them of their obligations with respect to storage and management of their waste bins and that action would follow should they continue with the current practices.
- 3.4 Officers visited individual premises on a number of occasions to provide advice and instruction with regard to the need to comply with the environmental and roads regulations
- 3.5 Due to resource implications and issues relating to the coordination of the various services required to rigorously enforce the policy further action to date has been restricted.
- 3.6 Recent review of the city centre has indicated a significant increase in the depositing of commercial bins on the footways, in part caused by changes to waste legislation that requires businesses to make provision for recycling and food waste collections. It is therefore felt that the current low profile approach has not produced the necessary results and that actions using the full extent of the legislative powers available should be implemented to resolve the current problems.
- 3.7 It is considered that the use of the statutory powers given to this Council as the Roads Authority under the Roads (Scotland) Act 1984 would be the most effective instrument to use to take forward a robust enforcement regime.
- 3.8 The revised policy introduces a time window (1230-1430) during which there will be a total prohibition on collections and therefore no waste containers are allowed to be left on the street during this period. Defining the period will facilitate enforcement of the policy.
- 3.9 In practice, it is anticipated that the removal of the container would be the last act in a series of engagements with businesses where early discussion and support is undertaken to seek alternatives to leaving containers on the street. Once a notice is served, the Waste and Recycling Service will be requested to empty the container and remove it to a storage area.

3.10 Commercial Waste Containers Revised Policy

- 3.10.1 All commercial premises are to be informed of their responsibilities under the terms of the Environmental Protection Act 1990 as to the requirement that it is their responsibility to ensure that they have proper storage for the produced waste, this does not mean on the adopted road.
- 3.10.2 For the area of the BID (shown in Appendix A) there will be a total prohibition on collections and subsequently no commercial waste containers will be allowed to be left on the street between 12.30 hrs and 14.30hrs on any day. Other areas of the City will have different prohibition times; these will be discussed with waste collectors in order that their business collection continuity can be maintained.
- 3.10.3 Any business failing to comply with this prohibition will be requested to remove the offending container.
- 3.10.4 Any further transgressions will result in the business being served notice under the terms of Section 87 of the Roads (Scotland) Act 1984 to remove bin within 24 hours. To avoid further abuse the notice will apply for a period of 6 months from day of issue.
- 3.10.5 Those businesses who do not comply with the notice will have their bin removed by the Council and a charge given to the businesses for the removal, storage and their return. This charge will be £500 for removal and storage.
- 3.10.6 Any waste container not collected within 5 working days will be subject to a additional disposal charge of £150.
- 3.10.7 Exemption Certificates will be available for businesses that currently are unable to comply with the requirement of the policy. Exemption Certificates will only be provided, at a cost of £100 per bin, to those businesses that can show sufficient reason for the bins to remain on the street along with an improvement plan.
- 3.10.8 In the event that waste materials being left outwith a storage bin a £200 Fixed Penalty Notice will be applied under the terms of the Environmental Protection Act 1990 (Section 33).
- 3.10.9 Every waste container must have the name of business using the bin prominently displayed on the bin.
- 3.10.10 Should the revised policy be approved, officers will work in partnership with Aberdeen Inspired, The Aberdeen City Centre Partnership and Aberdeen Chamber of Commerce to engage with businesses and inform them of the

new policy, its requirements on the businesses and the enforcement implications should they not be met.

3.10.11 The requirements of the revised policy will be conveyed to businesses through the issue of a letter and a media campaign to be promoted through council officers in conjunction with our other partners and our media team.

4. FINANCIAL IMPLICATIONS

4.1 Income received from the issue of any fixed penalty notices will be managed by Roads Operations and passed to Waste Services to cover the costs of collection, removal and disposal of the offending containers.

4.2 The proposed charges for removal return and storage of commercial waste bins should be sufficient to cover the costs to Waste Services. The service will monitor the cost of removal and storage of the bins from businesses that may refuse to pay or may have gone out of business. If there is an emergent cost pressure from this activity, this will be reported to a future committee.

5. LEGAL IMPLICATIONS

5.1 The Council is exempt from requiring to be registered as registered carriers of controlled waste under regulation 2 of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991. This has been confirmed with SEPA.

6. MANAGEMENT OF RISK

6.1 **Financial:** There is no financial risk to the Council provided the fixed penalty notices are paid.

6.2 **Employees:** They will need to work alongside the businesses to ensure an understanding of the situation.

6.3 **Customer / citizen** There will clearly be a number of businesses who claim that they cannot meet the requirements of the legislation because they have been advised by Council officers or the Fire Service that they require to remove bins from their property (usually in the case of Environmental Health), or they have nowhere internally to store the size of bin they have (it is supplied under a nationwide contract that specifies the size of the bin) or it was always intended that the bin would be outside when given planning permission.

6.3.1 A meeting between the Waste Collectors and the Council has already taken place; further meetings will be arranged if this policy has been approved.

- 6.3.2 Additionally, internal alterations to the premises may be required to accommodate bins and this may attract the need for building warrant approval. It is not considered to be a suitable project for a pilot scheme. This problem is citywide, but most apparent to anyone travelling round the city centre.
- 6.4 **Environmental:** This change in Policy should assist in improving the environment.
- 6.5 **Technological:** None
- 6.6 **Legal:** There may be a legal challenge from businesses with no room to store their containers within the boundaries of their property as they will be unable to comply with the policy. Exemption certificates can be issued in order to aid the above
- 6.7 **Reputational:** Reputational will be both positive and negative, positive from the citizens, negative from the affected businesses

7. IMPACT SECTION

7.1 Economy

- 7.1.1 The Council aims to support improvement in the local economy to ensure a high quality of life for all people in Aberdeen. The implementation of the Policy may have an influence on how business has to be carried out.

7.2 People

- 7.2.1 The Council is committed to improving the key life outcomes of all people in Aberdeen and so has agreed a set of Equality Outcomes (2017-21) http://www.aberdeencity.gov.uk/council_government/equality_and_diversity/eqd_report_2017_21.asp
The removal of Commercial Waste Containers from the street will enhance the environment for both citizens and tourist; provide clearer walking areas for those in wheelchairs and assist the partially sighted as they move around the area

7.3 Place

- 7.3.1 The removal of Commercial Waste Containers from the street will enhance the build environment and improve the street scene

7.4 Technology

- 7.4.1 The operation of enforcement will use existing technologies

8. BACKGROUND PAPERS

<http://councilcommittees/documents/g1652/Public%20reports%20pack%2009th-Jun-2009%2014.00%20Policy%20and%20Strategy%20Committee.pdf?T=10>

<http://councilcommittees/documents/g2896/Public%20reports%20pack%2029th-Aug-2013%2014.00%20Enterprise%20Strategic%20Planning%20and%20Infrastructure%20Committe.pdf?T=10>

9. APPENDICES (if applicable)

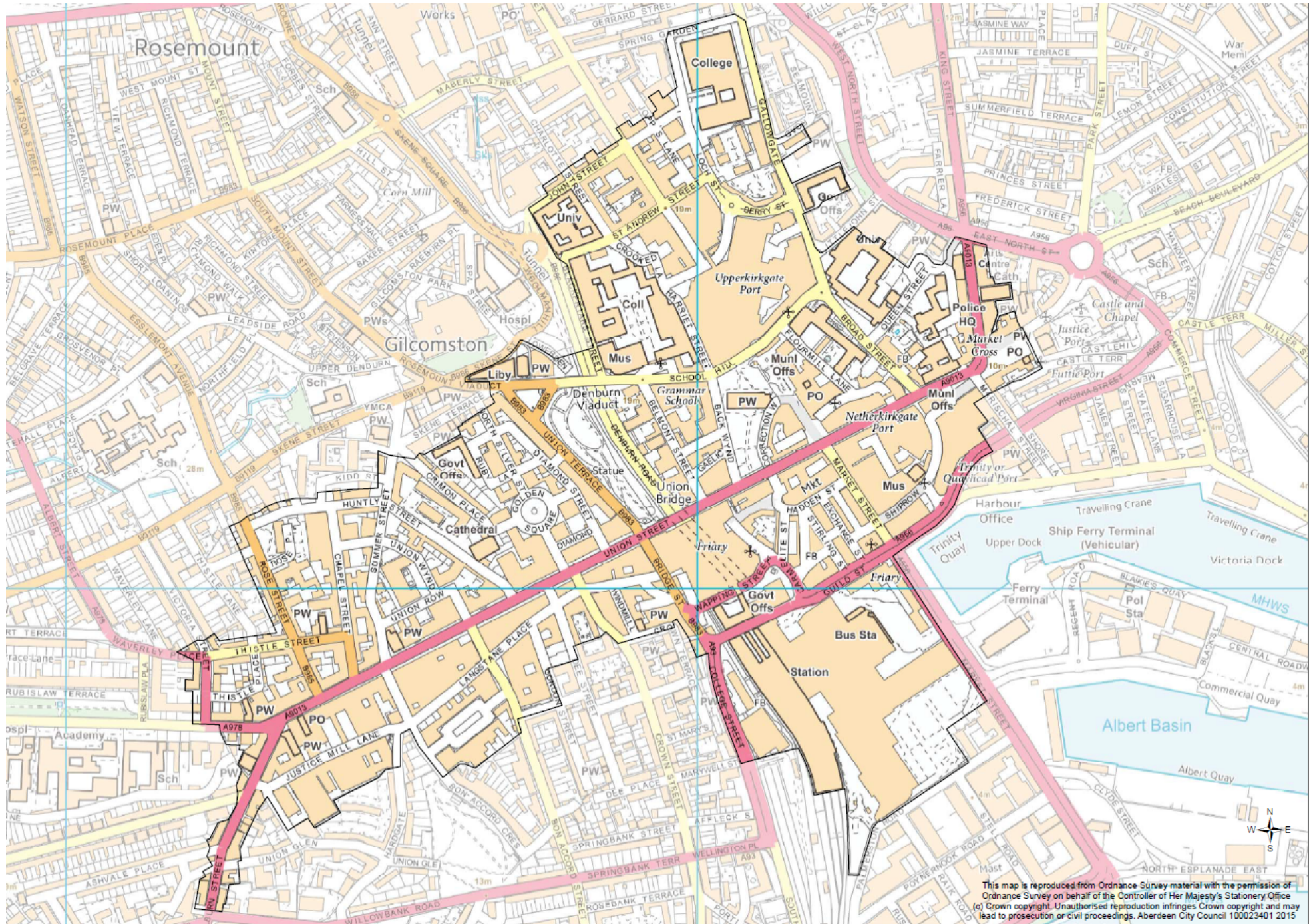
9.1 Appendix A showing the BID area

10. REPORT AUTHOR DETAILS

Name: Mike Cheyne
Job title: Roads Infrastructure Manager
Email address mcheyne@aberdeencity.gov.uk:
Phone number 01224 522984

HEAD OF SERVICE DETAILS

Name Mark Reilly
Job title Head of Service PI&E
Email address MaReilly@aberdeencity.gov.uk
Phone number 01224 523910



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Aberdeen City Council 100023401 2015