

# Communities Committee

Item No.

|  |   |
|--|---|
| <b>Report title:</b>   | <b>Administration of the Single Use Carrier Bags Charges (England) Order 2015</b> |
| <b>Date of meeting:</b>  | <b>7 September 2016</b>   |
| <b>Responsible Chief Officer:</b>  | <b>Tom McCabe - Executive Director of Community and Environmental Services</b>    |
| <b>Strategic impact</b><br><br>This report is necessary to enable the Committee to determine how the County Council will discharge its new functions under the Single Use Carrier Bags Charges (England) Order 2015. |   |

## Executive summary

### **Recommendation:**

**The committee is asked to delegate the functions of the administrator for the purposes of the Single Use Carrier Bags Charges (England) Order 2015 to the Head of Trading Standards.**

## **1. Proposal**

- 1.1. The function of the 'administrator' of the Single Use Carrier Bags Charges (England) Order 2015 is to enforce the Order, and is defined as the relevant local authority. For Norfolk, this is Norfolk County Council.
- 1.2. Unlike similar "trading" or consumer protection legislation, the Order does not state that it is the role of the weights and measures authority to enforce the provisions. Nevertheless the explanatory memorandum to the Order states at paragraph 7.16 that 'the charge will be enforced by local authority trading standards officers'.
- 1.3. **It is therefore recommended that the committee delegates the functions of the administrator for the purposes of the Order to the Head of Trading Standards.**

## **2. Evidence**

- 2.1. As per section 1.2 above the assumption is that the Order will be enforced by Trading Standards Officers.
- 2.2. Administrators are afforded specific powers of entry, inspection and test purchase to enable them to enforce the provisions of the Order, that mirror existing powers familiar to Trading Standards Officers.
- 2.3. Defra has recommended a light-touch approach to enforcement, despite the comprehensive enforcement regime laid out in the Order; which includes fixed and variable monetary penalties, compliance notices, non-compliance penalties and publicity notices. Administrators are required to issue a notice of intent prior to issuing any of the civil sanctions described above.
- 2.4. The administrator has to publish a report both on their website and for inspection

at their offices; specifying the cases in which a civil sanction has been imposed and any discharge of a monetary penalty. The first report is required by 31 May 2018.

- 2.5. The administrator also has to publish guidance about their use of civil sanctions under the Order. This has already been achieved through guidance posted alongside the current CES Enforcement Policy on the Trading Standards pages of the NCC website. It is proposed that this guidance will be referenced in the revised CES Enforcement Policy which is due for presentation to the Communities Committee in October.
- 2.6. Whilst the light-touch enforcement approach appears to be fully justified given the impact of the Order to date (please see section 4.4 below), there are nevertheless powers and duties placed on the administrator. The Trading Standards Service is best placed within the County Council to execute those powers and fulfil those duties, given their familiarity with similar enforcement regimes. The Service also holds business data and collates intelligence pertinent to enforcement of the Order.

### **3. Financial Implications, Issues and Risks**

- 3.1. There are de minimis financial and staffing implications as, if any light touch enforcement is required, it will be conducted by Trading Standards Officers alongside current enforcement duties.
- 3.2. Delegation of the new functions arising from the 2015 Order to the Head of Trading Standards is being sought further to advice provided by nplaw.

### **4. Background**

- 4.1. The Single Use Carrier Bags Charges (England) Order 2015 requires retailers with 250 or more employees to charge at least 5 pence for unused single use carrier bags (SUCB) for taking goods out of shops or for delivering them. The charge is a targeted, proportionate approach to the problem of carrier bag distribution and littering. Paper bags are not in scope. Plastic bags take longer to degrade in the natural environment, can harm wildlife, particularly marine mammals and seabirds and are extremely visible when littered. Retailers are not permitted to use the proceeds of the sale of the bags.

Ahead of the introduction of this legislation it was presumed that the 5p charge per bag would significantly reduce the number people use. Social research suggested that this is acceptable to consumers.

The Order also requires retailers to submit records to the Secretary of State, Department of Environment, Food & Rural Affairs (Defra), regarding SUCB sales for each reporting year.

- 4.2. Breaches of the order are:
  - Failure to charge for a SUCB
  - Failure to keep records
  - Failure to supply records
  - Provision of false or misleading information
  - Obstruction.
- 4.3. Before 5 October 2020, Defra will carry out a review of the Order. As part of the review there will be an assessment as to whether the objectives of the Order have been met and, if any objectives remain appropriate, if they could be dealt with in a way that imposes less regulation.

- 4.4. Eight months on from the legislation coming into force, Defra released a press statement stating that shoppers are set to take home 6 billion fewer plastic bags in England this year and over £29 million has been donated to good causes, including charities and community groups. The weight of 6 billion plastic bags is the equivalent to roughly 300 blue whales, 300,000 sea turtles or 3 million pelicans.
- 4.5. Background Paper: Explanatory Memorandum to the SUCBC (England) Order 2015 (Appendix 1)

## **Officer Contact**

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

**Officer name :** Sophie Leney

**Tel No. :** 01603 224275

**Email address :** [sophie.leney@norfolk.gov.uk](mailto:sophie.leney@norfolk.gov.uk)



If you need this report in large print, audio, braille, alternative format or in a different language please contact 0344 800 8020 or 0344 800 8011 (textphone) and we will do our best to help.