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| Report to | Lead Cabinet Member for Transport and Environment |
| Date | 26 July 2010 |
| Report By | Director of Transport and Environment |
| Title of Report | Re-use Credit Scheme Policy |
| Purpose of Report | Further consideration of waste prevention through the re-use. |

RECOMMENDATIONS: The Lead Member is recommended to:

(1) consider re-use as part of the review of waste education and activities currently being carried out with Borough and District Councils, taking account of current funding pressures; and

(2) ask DEFRA to ensure that the European Commission establishes that the payment of re-use credits is a general exemption to state aid and to revise its guidance on recycling and re-use credits to address state aid.

1. Financial Appraisal

1.1 There are no financial consequences to the County Council from these recommendations, but there are significant longer-term funding pressures and a payment for re-use would add to County Council expenditure, so that the consideration of re-use needs to be in the context of other actions that might reduce waste arisings and hence costs. One of the objectives of the current review of waste education and action activities is to identify the best actions that will reduce waste disposal costs for the County Council.

2. Supporting Information

2.1 The Government permits Waste Disposal Authorities to pay recycling credits for re-use, and considers that "...it would be considered unreasonable for an authority to avoid paying credits to third parties where their activity made a measurable contribution to increasing reuse..." (Guidance on the Recycling Credit Scheme, 2006, para. 3.20). Furniture re-use is easy to measure, as the objects are large and easily identified as belonging to one type or another (to enable a reasonable estimations of weights), the more difficult area is the determination of what otherwise would have happened to the item of furniture i.e. whether it would have been sold, given away or disposed of as waste.

2.2 The Municipal Waste Management Strategy for East Sussex (MWMS) has as one of its main objectives to "reduce the amount of waste we produce and increase the amount of waste we re-use" (MWMS, 2006). This is both compatible with the emphasis on waste prevention in the EU Waste Directive 2008 and the National Waste Strategy 2007.

2.3 Two charities based in East Sussex, Furniture Now! and Hastings Furniture Service, and Councillor Daniel, have asked that the County Council considers payments of credits for furniture re-use (furniture is currently the only appropriate material for re-use credit payments as it is well-suited for re-use and can be refurbished, is large enough to be tracked to verify re-use, and does not generally raise safety issues that might be associated, for example, with electrical and plumbed goods). In March, 2010, the Lead Member decided to defer consideration of this issue to enable further discussions to take place with the Department for Environment, Food and Rural Affairs (DEFRA, responsible for waste policy), and the Department for Business, Innovation and Skills (BIS, responsible for competition policy) on the issue of state aid for re-use; officers were asked to report back on these discussions so that the Lead Member could consider a policy on a Re-use Credit Scheme.

2.4 Discussions and other contact have taken place with DEFRA and BIS, as well as with local government waste associations and colleagues – none had previously considered state aid in respect of re-use or recycling credits. EU state aid rules exist to ensure that competition is not harmed as a result of state support for some organisations; state aid is generally illegal but exemptions are possible. Advice from Government is that re-use does not appear as a general exemption, but that on a small scale a case could be made to exempt each organisation that receives support. The Government advises that the County Council might want to commission legal advice on state aid and re-use.

2.5 Since March, the Government has announced in-year cuts to public spending of £6bn, of which local authorities will bear £1.2bn, and signalled more to follow in the spending review to be completed in the autumn. The County Council budget for 2010/11, within which a trial 3 year re-use scheme would have been established, has been re-allocated to assist with urgent and immediate budget pressures arising as a result of the cuts in specific and area-based grants this year and budgets for future years are likely to be cut further. Against this background, there is no budget in 2010/11 to fund a re-use credit scheme.

2.6 The County Council's activities on waste education and action are currently under review. Many of the activities currently take place as part of the EU-funded "Waste in Action" project that ends in March, 2011. The review will include a consideration of objectives for future work, the County Council's role and action versus those of others, and the funding for specific activities. The national organisation, Waste and Resources Action Programme (WRAP), has offered its involvement in this review at no cost to the County Council, and has already identified waste prevention as a key activity, with bulky waste, such as furniture (and home composting, food waste and textiles), as the four areas most worth exploring for future waste prevention activities. The review will conclude by December, 2010, and will involve Borough and District Councils and other key partners. The case for funding a Re-use Credit Scheme will be included in this review.

3. Environmental Issues

3.1 Re-use prevents materials becoming waste.

4. Community Safety Issues

4.1 The provision of refurbished furniture for low income residents assists the establishment of safe and stable homes.

5. Conclusion and Reason for Recommendation

5.1 A scheme for re-use is best considered as part of the County Council's current review of its support for all waste education and action that will propose a programme for 2011/12 and beyond. In any event, no budget is available in 2010/11 for a new re-use scheme. The Government needs to consider re-use in the light of state aid rules and to seek its exclusion as a general exemption, to allow the development of local support without the unnecessary complication for councils and supported organisations required by the application of the de minimis rule.

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Local Member: All

BACKGROUND DOCUMENTS:

BIS, June 2010. "State Aid: A Beginner's Guide." <http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/10-951-state-aid-beginners-guide> accessed on 27 June, 2010.

Appendix 1 – State Aid Discussions

1. Discussions and other contact have taken place with DEFRA and BIS, as well as with local government waste associations and colleagues – none had previously considered state aid in respect of re-use or recycling credits. EU state aid rules exist to ensure that competition is not harmed as a result of state support for some organisations; state aid is generally illegal but exemptions are possible.
2. Advice from BIS is that state aid is a consideration for re-use where there is support to any undertaking involved in economic activity i.e. where organisations, even if they are charities, have any activities that place goods on a market, even if the goods are not provided at a profit; and if support is selective i.e. it favours one location, sector, type of business or individual undertaking. “General block exemptions” are made for categories of economic activity and these do not have to be reported to the European Commission for their consideration as possible state aid (but no block exemption has been established for re-use). “De minimis” exemptions also apply for where the value of all state aid received by an organisation is less than Euro 200,000 over a rolling three year period in total (the de minimis exemption does not apply if organisations are involved in some activities, such as agriculture, and does not apply if the organisation is “at risk”).
3. In March, DEFRA offered to consult their legal advisers for a view as to whether re-use schemes are a general exemption; after several changes of staff, this was not done and a DEFRA waste policy officer has advised only that it seems likely that state aid rules would not have been established with the intention of preventing re-use schemes, that it is unlikely that undertakings in this sector not receiving state aid would complain, but that the County Council might want to seek legal advice itself.
4. The chief officers of Furniture Now! and the Hastings Furniture Service were told about the need for these state aid discussions with Government shortly after the March meeting, and in a brief meeting between them and the County Council were introduced to the possible need for the “de minimis” calculation.