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**TITLE: Changes to the Controlled Waste Regulations**

Committee: Community and Environment

Date: 21 November 2012

Author: Waste Strategy Team Leader

[M156]

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1.0 ISSUE

1.1 To report on changes resulting from revision of the Controlled Waste Regulations 1992, implementation of the power to charge some non-domestic properties by Cambridgeshire County Council and implications to East Cambridgeshire District Council.

2.0 RECOMMENDATION(S)

2.1 It is recommended that where disposal charges will be applied by Cambridgeshire County Council from April 2013, that the Council treats collections as trade waste, and arranges alternative providers for service users.

3.0 BACKGROUND/OPTIONS

3.1 Schedule 2 of The Controlled Waste Regulations 1992 enabled local authorities to make charges for collection, but not disposal of household waste collected from certain types of premises.

3.2 Types of premises included under Schedule 2 included: residential hostels, public halls, schools & further education establishments, hospitals, residential care homes/nursing homes, premises occupied by community interest companies or charities, camp and caravan sites.

3.3 Although East Cambridgeshire District Council had the power to impose collection charges on these types of premises it has never done as a result of the administrative burden that this would impose.

3.4 The revised Controlled Waste Regulations that were introduced in April 2012 give authorities the power to charge for waste disposal for certain of these types of premises.

3.5 Cambridgeshire County Council and the five Districts have been working together to develop a local policy on applying the revised Regulations so there is a consistent charging policy across Cambridgeshire. Cambridgeshire County Council have agreed to use the power to charge certain premises

with provision for some exemptions, which is due to be implemented April 2013. This joint policy is attached as Appendix 1.

- 3.6 Where disposal charges are applied they will be levied through Waste Collection Authorities, such as East Cambridgeshire District Council. This gives Waste Collection Authorities the option of absorbing disposal costs or passing them on to the service users.
- 3.7 The level of disposal cost that would apply to East Cambridgeshire is not yet known as charging levels have yet to be agreed.
- 3.8 If East Cambridgeshire decides to pass on disposal charges to affected premises additional administrative work would be created, and it is suggested that collection charges would also need to be applied by the District to cover these costs. This would effectively be treating waste from these types of premises as trade waste.
- 3.9 As East Cambridgeshire does not operate a trade waste service it is suggested that the simplest approach would be to make arrangements for such premises through commercial waste providers, which would avoid the need for further action by the Council.
- 3.10 Agreement has been reached with South Cambridgeshire District Council & Fenland District Council that they would be willing to provide such services within East Cambridgeshire. The District has been divided in two so that each has its own area of operation (Appendix 2). If neither wished to serve a particular premises, this could be referred to the Council's waste contractor Veolia as currently happens where trade waste enquiries are made at the Council.
- 3.11 Further investigations would need to be carried out as to the nature of activities at addresses identified, but initial investigations have suggested that; 1 nursing home, 1 private school & 3 camp/caravan sites might be affected by changes in East Cambridgeshire. The camp/caravan sites would be exempt from disposal charges if they were found to be in receipt of Small Business Rate Relief.

#### 4.0 ARGUMENTS/CONCLUSIONS

- 4.1 It is suggested that waste disposal charges should be passed on to service users.
- 4.2 It is suggested that charging identified premises through the Council's current waste service would be complicated due to the need to identify the amount of waste produced by each premises for payment to Cambridgeshire County Council and recharge to the premises.

4.3 It is suggested that treating affected premises as trade waste producers and arranging alternative providers is the most effective solution, and avoids additional administrative burden.

4.4 If a premise insists on East Cambridgeshire continuing to provide a trade waste service, as is a legal requirement, the Council can arrange this through a commercial provider in exchange for an administrative fee.

#### 5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 By taking the proposed approach the Council will avoid any financial implications resulting from this change.

5.2 An Equality Impact Assessment (INRA) has been completed and is included as Appendix 3.

#### 6.0 APPENDICES

6.1 Appendix 1 - RECAP policy on implementation of changes to the Controlled Waste Regulations

6.2 Appendix 2 – Areas of service provision within East Cambridgeshire by South Cambridgeshire District Council & Fenland District Council

6.3 Appendix 3 - Equality Impact Assessment (INRA)

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**Background Documents**

None

**Location**

Room FF113  
The Grange,  
Ely

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## Cambridgeshire and Peterborough Waste Partnership local policy on the implementation of the Controlled Waste (England and Wales) Regulations 2012 as amended by the Controlled Waste (England and Wales) (Amendment) Regulations 2012

### 1. Overview and principles

- 1.1 The Controlled Waste (England and Wales) Regulations 2012<sup>1</sup> came into force on 6 April 2012. These Regulations were slightly amended by the Controlled Waste (England and Wales) (Amendment) Regulations 2012 which come into force on 9<sup>th</sup> October 2012. These two Regulations are collectively referred to in this policy document as the CWR 2012. Whilst Government were seeking to clarify the previous regulations (CWR 1992) there remains some ambiguity in the new Regulations, in particular around local discretion on charging so that decisions can be made by local authorities that are best suited to local circumstances. The purpose of this document is to set out the local policy to be adopted by the RECAP Partners in the Cambridgeshire area.
- 1.2 The CWR 2012 will be applied unless an organisation is affected by a specific policy listed in Section 4 of this document. The organisations where the CWR 2012 will be applied are listed in Appendix 1.
- 1.3 Based on the results of the national consultation<sup>2</sup>, which included representation from all stakeholders, a local consultation with RECAP Operations Panel and the local priorities of Cambridgeshire authorities the following principles were agreed: -
- 1) The Councils support the polluter pays principle.
  - 2) Council tax payers' money should not be used to offset / subsidise public/private sector commercial waste collection and disposal costs.
  - 3) Care needs to be taken when imposing charging which impacts on services that are commissioned by Cambridgeshire County Council (County Council) and results in higher cost for those services.
  - 4) Care should be taken where facilities directly support local communities or are owned or controlled by that community within the County.
  - 5) Consideration should be given to the impact decisions would have on the County Council and the District Councils in the area.
- 1.4 The national and local consultation, the five principles above and the Government Response to the Consultation<sup>3</sup> were used to reach the decisions contained in section 3 and 4 of this policy.

### 2. Legislative context

- 2.1 The CWR 2012<sup>4</sup> prescribes how certain types of household, commercial and industrial waste must be treated. This includes defining when a collection charge for household waste may be made. It also defines when household waste must be classified as commercial waste for the purposes of charging for disposal of the waste collected subject to the exemptions provided by the CWR 2012.<sup>5</sup>
- 2.2 The CWR 2012 are not therefore totally prescriptive and leave the decision on whether to charge or not to each local authority for some property types.

<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2012/811/contents/made>

<sup>2</sup> <http://archive.defra.gov.uk/corporate/consult/controlled-waste-regs/120315-controlled-waste-regs-summary-responses.pdf>

<sup>3</sup> <http://www.defra.gov.uk/publications/2012/03/15/pb13727-controlled-waste-regulations/>

<sup>4</sup> <http://www.legislation.gov.uk/ukxi/2012/811/contents/made>

<sup>5</sup> CWR 2012 Schedule 1 subparagraph 4(8) and CWR (Amended) 2012 section 4A

- 2.3 The District Councils as Waste Collection Authorities (WCAs) have a duty to arrange for the collection of commercial waste when requested to do so<sup>6</sup>. The authority can make a reasonable charge for the collection and disposal of commercial and industrial waste collected.<sup>7</sup>
- 2.4 The County Council has a duty to make arrangements for the disposal of waste collected by the WCAs<sup>8</sup> and the County Council is entitled to reimbursement for the disposal charges from the Districts for their collection of commercial and industrial waste<sup>9</sup>.

### 3. Overarching Policy:

- 3.1 Organisations will be identified to the best of the Local Authorities ability so that the appropriate charging policy may be applied. Where there is ambiguity in the CWR 2012 and in this policy, the Operations Panel will reach a decision on how to class that premise type so that a joint approach can be adopted across Cambridgeshire on the charging policy.
- 3.2 Payment of council tax is used as criteria to distinguish those organisations that may be classed as a non-chargeable under the CWR 2012.
- 3.3 A District Council may choose not to apply a charge for collection because of the principles set out in section 1.3 of this policy. The District will inform the County Council of such decisions and a disposal charge will not be applied. These decisions will be taken back to Operations Panel so that a joint approach can be adopted across Cambridgeshire.
- 3.4 Cambridgeshire County Council may decide not to apply a disposal charge to those wastes classified as commercial waste because of the principles set out in section 1.3 of this policy. These decisions will be taken back to Operations Panel so that a joint approach can be adopted across Cambridgeshire.
- 3.4 Disposal charging will be implemented from 1 April 2013.
- 3.5 This policy will be reviewed as required or at least every 5 years.

### 4 Policy on waste types from specific premises

As previously mentioned, there remain some property types where the District Councils and the County Council can use their discretion whether or not to make a charge. In deciding whether a charge should or should not apply, the relevant principles in paragraph 1.3 above are shown in italics for each case.

#### 4.1 Residential, nursing and care homes

*Aligned to principles 1 to 5*

Waste from a residential, care and nursing home is classified as household waste.

- a) These premises will be charged for waste collection and disposal when more than 50% of their residents are non-council tax payers.
- b) Premises receiving a District Council Collection with free disposal prior to 6 April 2012 will continue to do so providing there is no break in contract. Returning customers to District Services would be charged disposal as in paragraph 4.1 (a).

#### 4.2 University and Colleges (Higher Educational Establishments)

*Aligned to principles 1, 2 and 5*

<sup>6</sup> Environmental Protection Act, Part II Section 45

<sup>7</sup> EPA, Part II Section 45 (4)

<sup>8</sup> EPA, Part II Section 51 (1)

<sup>9</sup> EPA Part II Section 52 (9)



Waste from a University and Colleges (Higher Educational Establishments) is classified as household waste.

- a) These premises will be charged for waste collection and disposal, unless otherwise exempt, for all waste from its business that is carried out on site, for example lecture /seminar rooms, staff offices, libraries. This will include Halls of Residence that are part of the establishments that carries out business on behalf of the University/College and is subject to University/College Rules and Regulations.
- b) Clarification on this definition was sought from Defra and was used to decide the above.

#### 4.3 Hospitals

*Aligned to principles 1, 2 and 5*

Waste from a hospital is classified as household waste.

- a) These premises will be charged for waste collection and disposal, unless otherwise exempt, for all waste from its business that is carried out on site, including waste from business, health care facilities and some accommodation.
- b) These premises will not be charged for disposal for accommodation that is occupied by council tax payers or accommodation is provided for persons with no other permanent address and the waste is collected separately from other waste collected on site, for example, multi-occupancy residential buildings.

#### 4.4 Premises used wholly or mainly for public meetings

*Aligned to principles 1, 3, 4*

Waste from a premises used wholly or mainly for public meetings is classified as household waste for which a collection charge may be made. For purposes of assessing wholly or mainly, this will apply if 51% or more of the lettings are for public meetings. For clarity, premises not used for public meetings can be classed as commercial waste.

### 5. **Clarification of premise types**

5.1 Waste from premises used for charitable purposes is dealt with in three places within the Regulations and can be either commercial or household waste. The following provides clarification:

- a) Waste from premises occupied by a charity, for example headquarters and offices, is to be regarded as commercial waste (Schedule 1 paragraph 2 row 13 of the Regulations).
- b) For charity shops selling donated goods originating from a domestic property, waste will be regarded as household waste for which a collection charge can be made. Where waste originates from a non-domestic property a collection and disposal charge can apply (Schedule 1 paragraph 4 row 11).
- c) Waste from a community interest company or charity or other non for profit company which collects goods for re-use or waste to prepare for re-use from domestic property is household waste for which a collection charge can be made. Where waste originates from a non-domestic property a collection and disposal charge can apply (paragraph 4 row 12).

## Appendix 1

**Below lists organisations where there is no local policy and the CWR 2012 will be applied. This list is not exhaustive and the CWR 2012 will be consulted when making any decision.**

The CWR 2012 provides the following exemptions: -

- (i) The exemption will be for those premises which are (i) currently – i.e. immediately before the Regulations came into force – receiving free disposal **and** (ii) receiving Small Business Rate Relief as defined in section 43(1) of the Local Government Finance Act 1998, calculated in accordance with section 43 (4A)(a).
- (ii) Publicly funded schools and Further Educational colleges who currently benefit from free disposal immediately prior to Regulations coming into force will continue to be exempt from waste disposal charges.

### Household waste

- Places of worship – *no collection or disposal charge applied (Schedule 1 para 2, row 5)*
- Residential hostel – *A collection charge can be applied. No disposal charge can be applied. (Schedule 1 para 2, row 10)*
- Publically funded schools and Further Education Colleges or other education establishments (publically funded as defined in Schedule 1 subparagraph 4 (8)) benefitting from a District Council collection with free disposal prior to 6 April 2012. *A collection charge can be applied. (Schedule 1 para 2, row 15)*
- Non-publicly funded schools, nursery and preschools – *A collection charge can be applied. A disposal charge may be applied, unless they qualify for an exemption as per (i) and (ii) above. (Schedule 1 para 2, row 15)*
- Penal institution – *A collection charge can be applied. A disposal charge may be applied, unless they qualify for an exemption. (Schedule 1 para 2, row 17)*

### **Commercial waste (all must be charged, collection and disposal, unless they qualify for an exemption as per (i) above)**

- Self catering accommodation, campsites and caravan sites used as holiday accommodation
- Premises occupied by a clubs, societies or any association of persons in which activities are conducted for the benefit of members.
- Premises occupied by a court, government department, local authority, persons appointed to discharge public functions and body incorporated by Royal Charter.
- Hotel
- Trade or commercial business
- General Practitioners

### **Industrial waste (all must be charged collection and disposal)**

- Workshop Laboratory waste
- Science research association
- Premises used for the breeding, boarding or stabling of animals



**Table 1**

Summary of the Controlled Waste (England and Wales) Regulations 2012 as amended by the Controlled Waste (England and Wales) (Amendment) Regulations 2012 which came into affect 6 April 2012 and local policy for Cambridgeshire. The Regulations apply the following exemptions:

- (iii) The exemption will be for those premises which are (a) currently – i.e. immediately before the Regulations came into force received free disposal and (b) eligible for Small Business Rate Relief as defined in section 43(1) of the Local Government Finance Act 1998, calculated in accordance with section 43 (4A)(a).
- (iv) Publically funded schools and Further Educational colleges who currently benefit from free disposal immediately prior to Regulations coming into force will continue to be exempt from waste disposal charges.

Description	Classification	Charging Policy	Exceptions applied
Domestic caravan	Household waste	No collection or disposal charges to be applied.	
Places of worship	Household waste	No collection or disposal charges to be applied.	
Moored vessel for living accommodation	Household waste	No collection or disposal charges to be applied.	If used as business then to be treated as commercial waste.
Residential hostel <sup>10</sup> provides accommodation only to persons with no other permanent address.	Household waste	Only a collection charge can be applied.	
Garden Waste from domestic property	Household waste	Only a collection charge can be applied.	Chargeable if chargeable in the Regulations Schedule 1 paragraph 4 row 11 to 17.
Clinical Waste from domestic property	Household waste	Only a collection charge can be applied.	
Gypsies and travelers caravan site	Household waste	No collection or disposal charge if domestic waste.	May apply reasonable terms to the collection of waste from caravan sites, by issuing a notice under section 46 of the Environmental Protection Act 1990.
Asbestos from domestic property	Household waste	No charge if from small-scale DIY.	
Hall used for public meetings	Household waste	Only a collection charge can be applied.	For lettings of more than 50% for commercial use will be classed as commercial waste and a disposal charge can be applied.
Military Single Living Accommodation	Household waste	No collection or disposal charges to be applied if premise is a domestic accommodation and is self contained living	

<sup>10</sup> Provision of accommodation only to persons with no other permanent address or who are unable to live at their permanent address.

Description	Classification	Charging Policy	Exceptions applied
		accommodation.	
University and colleges	Household waste	Chargeable for collection and disposal.	Exempt if the establishment receives financial support from the Council or the Higher Education Authority or is an institution conducted by a higher education corporation and received a local authority collection with free disposal before 6 April 2012.
Schools and further education establishment	Household waste	Chargeable for collection and disposal. Disposal will not be charged to those that are public funded and receiving local authority collection with free disposal before 6 April 2012.	A disposal charge will not be applied if the qualify for the exemption in paragraph (ii) above.  Non-publically funded schools and those on commercial collection are chargeable.
Hospital	Household waste	Chargeable for collection and disposal.	Exemption applies to those premises occupied by council tax payers or accommodation is provided for persons with no other permanent address and the waste is collected separately from other waste collected on site, for example, multi-occupancy residential buildings.
Residential home, care home and care home with nursing and nursing homes	Household waste	These premises will be charged for waste collection and disposal when more than 50% of their residents are non-council tax payers.	Exempt if receiving a District Council Collection with free disposal prior to 6 April 2012 providing there is no break in contract.
Prison or penal institution	Household waste	Chargeable for collection and disposal.	
Waste from premises occupied by— (a) a community interest company (a company registered with the registrar of companies), or (b) a charity or other not for profit body, which collects goods for re-use or waste to prepare for re-use from domestic property	Household waste	Only a charge for collection can be applied, unless waste originates from non-domestic premise then collection and disposal charges can be applied.	Non-domestic waste may be exempt if the principles in section 3 of the local policy can be applied and agreed by RECAP Operations Panel.
Charity Shops	Household waste	Only a charge for	Non-domestic waste

Description	Classification	Charging Policy	Exceptions applied
		collection can be applied, unless waste originates from non-domestic premise then collection and disposal charges can be applied.	may be exempt if the principles in section 3 of the local policy can be applied and agreed by RECAP Operations Panel.
Premises occupied by a charity used for charitable purposes	Commercial waste	Chargeable for collection and disposal.	A disposal charge will not be applied if the qualify for the exemption in (i) above.  May be exempt if the principles in Section 3 of the local policy can be applied and agreed by RECAP Operations Panel.
Camp and caravan site	Commercial waste	Chargeable for collection and disposal.	A disposal charge will not be applied if qualify for the exemption in (i) above.  Waste from domestic premises is to be treated as household waste with no collection or disposal charges.
Royal Palace	Commercial waste	Chargeable for collection and disposal.	
Club, society or association	Commercial waste	Chargeable for collection and disposal.	A disposal charge will not be applied if the qualify for the exemption in (i) above.  May be exempt if the principles in Section 3 of the local policy can be applied and agreed by RECAP Operations Panel.
Self Catering accommodation	Commercial waste	Chargeable for collection and disposal.	A disposal charge will not be applied if they qualify for the exemption in (i) above.
Medical Practitioners	Commercial waste	Chargeable for collection and disposal.	A disposal charge will not be applied if they qualify for the exemption in (i) above.
Waste arising from works of construction or demolition, including waste	Industrial Waste	Only a collection charge can be applied.	

## The Cambridgeshire and Peterborough Waste Partnership

Description	Classification	Charging Policy	Exceptions applied
arising from preparatory work by occupier of a domestic property.			

**Impact and Needs/Requirements Assessment (INRA)**

<b>Name of Policy:</b>	Approach to changes to the Controlled Waste Regulations
<b>Lead Officer (responsible for assessment):</b>	Dave White, Waste Strategy Team Leader
<b>Department:</b>	Environment
<b>Others Involved in the Assessment (i.e. peer review, external challenge):</b>	Liz Knox Head of Environmental Services
<b>Date INRA Completed:</b>	05/11/12

**'Policy' needs to be understood broadly to include all Council policies, strategies, services, functions, activities and decisions.**

- (a) **What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

A workable approach to implementation of waste disposal charges to some categories of premises identified under the revised Controlled Waste Regulations 2012.

- (b) **Who are its main beneficiaries?** i.e. who will be affected by the policy?

The policy would affect premises identified as now liable for waste disposal charges.

- (c) **Is the INRA informed by any information or background data (quantitative or qualitative)?** i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

The assessment is based on decisions made in Cambridgeshire County Council's policy for implementation of changes to the Controlled Waste Regulations regarding recovery of waste disposal cost from certain categories of organisations.

**(d) Does this policy have the potential to cause an impact (positive, negative or neutral) on different groups in the community, on the grounds of (please tick all that apply):**

**Ethnicity**  
**Gender**  
**Disability**

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

**Age**  
**Religion and Belief**  
**Sexual Orientation**

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

**Please explain any impact identified (positive, negative or neutral):** i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

No direct affect on any of the identified groups.

**(e) Does the policy have a differential impact on different groups?**

**NO**

**(f) Is the impact *adverse* (i.e. less favourable) on one or more groups?**

**NO**

**(g) Does it have the potential to disadvantage or discriminate unfairly against any of the groups in a way that is unlawful?**

**NO**

**(h) What additional information is needed to provide a clear picture of how the activity is impacting on different communities and how will you collect this information, i.e. expert groups, further research, consultation\* etc?** Where there are major gaps in information that cannot be addressed immediately, these should be highlighted in your recommendations and objectives at the end of the INRA.

The Councils action is in response to decisions made by Cambridgeshire County Council on how it will apply legislative change. Its policy was informed by the outcome of a Community Impact Assessment, and it is not thought necessary that this Council carries out a duplicate process.

\* The Consultation Register is available to assist staff in consulting with the Council's stakeholders. If you are consulting on a new or revised policy contact the Principal HR Officer.

- (i) Do you envisage any problems with these methods of information collection?** i.e. not accessible to all, timescale not long enough to obtain all of the necessary information, translation facilities not available, insufficient resources etc.

Premises affected by changes will be given as much notice as possible to enable necessary measures to be put in place in advance of their implementation. The Council will assist with identification of possible service providers.

- (j) If it has been possible to collect this additional information, summarise the findings of your research and/or consultation (please use a separate sheet if necessary).**

N/A

- (k) What are the risks associated with the policy in relation to differential impact and unmet needs/requirements?** i.e. reputation, financial, breach of legislation, service exclusion, lack of resources, lack of cooperation, insufficient budget etc.

Risks are:

Changes will only affect a small number of premises in East Cambridgeshire. It is possible that some negative publicity will result. The Council's actions are, however, in response to implementation of new Regulations and Cambridgeshire County Council's decision to recover disposal costs from certain organisations, so the Council should not be seen as directly responsible.

- (l) Use the information gathered in the earlier stages of your INRA to make a judgement on whether there is the potential for the policy to result in unlawful discrimination or a less favourable impact on any group in the community, and what changes (if any) need to be made to the policy.**

Option 1:	No major changes, the evidence shows no potential for discrimination.	√
Option 2:	Adjust the policy to remove barriers or to better promote equality.	
Option 3:	Continue the policy despite potential for adverse impact or missed opportunity to promote equality.	
Option 4:	Stop and remove the policy – if the policy shows actual or potential unlawful discrimination it must be stopped and removed or changed.	

- (m) Where you have identified the potential for adverse impact, what action can be taken to remove or mitigate against the potential for the policy to unlawfully discriminate or impact less favourably on one or more communities in a way that cannot be justified?** Include key activities that are likely to have the greatest impact (max. 6). Identified actions should be specified in detail for the first year but there may be further longer term actions which need to be considered. To ensure that your actions are more than just a list of good intentions, include for each: the person responsible for its completion, a timescale for completion, any cost implications and how these will be addressed. It is essential that you incorporate these actions into your service plans.

This completed INRA will need to be countersigned by your Head of Service. **Please forward completed and signed forms to Nicole Pema, Principal HR Officer.**

All completed INRAs will need to be scrutinised and verified by the Council's Equal Opportunities Working Group (EOWG) and published on the Council's Intranet to demonstrate to local people that the Council is actively engaged in tackling potential discrimination and improving its practices in relation to equalities. Please be aware that you will be asked to attend a half-an-hour session to summarise the findings of the INRA to the EOWG Verification panel.

**Signatures:**

<b>Completing Officer:</b>	<b>Dave White</b> _____	<b>Date:</b>	<b>06.11.12</b> _____
<b>Head of Service:</b>	<b>Liz Knox</b> _____	<b>Date:</b>	<b>6.11.12</b> _____