

MAYOR OF LONDON

Cllr Richard Cornelius

Leader of the Council
London Borough of Barnet
North London Business Park
Oakleigh Road South
London N11 1NP

Date:

27 JUN 2018

Dear Cllr Cornelius,

London Environment Strategy – Withdrawal of Weekly Separate Food Waste Collection - Consultation prior to the issuing of a Mayoral direction

I am writing to you again, following on from my recent letter of 19 June 2018.

In that letter I expressed to you my urgent concern at the decision, taken by the London Borough of Barnet's Environment Committee (5 June 2018), to withdraw the current weekly separate food waste recycling collection service offered to all properties receiving a kerbside recycling service (the Brown Box Collection/ Service).

I understand that LB Barnet plans to commence withdrawal of the Brown Box Collection from 27 July 2018, total cessation to be completed as soon as practical thereafter, and that it imminently plans to start a communications campaign to inform residents of the service change. That notification is in effect the beginning of the Service's withdrawal as residents are likely to stop recycling food waste separately and will incorporate it in the residual waste (black) bin as a consequence.

As I stated in my letter, that decision stands in direct contradiction to a key provision within the municipal waste management provisions of my recently published London Environment Strategy ("LES"), which requires waste authorities in London to provide, as a minimum, a separate weekly kerbside collection of food waste to all properties with kerbside recycling collections by 2020 at the latest (see Proposal 7.2.1 (a) and supporting text) – this is the Strategy's "separate food waste requirement".

All waste authorities in London are under a legal duty (s355 of the Greater London Authority Act 1999, as amended ("GLA Act")) to exercise their waste functions under Part II of the Environmental Protection Act 1990 in general conformity with the municipal waste provisions of the LES. The LES was published on 31 May 2018 and was in legal force on the date the Environment Committee met. Its contents had been widely communicated and LB Barnet responded to the consultation draft of the LES, not specifically mentioning any issues or concerns about what is now policy 7.2.1 (a) (separate collection of food waste), stating only that it already meets the minimum service requirement for the separate collection of food waste.

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The relevant report (Street Scene Operational Changes 2018-19) to 5 June Environment Committee did not refer to the above separate food waste requirement in the LES nor to Barnet's legal duty to perform its waste functions in general conformity with it. Neither did the report mention or indicate how LB Barnet proposes to offset the consequent reduction in recycled waste to meet the 50 per cent (by 2025) Local Authority Collected Waste (LACW) recycling target or its 50 per cent per head reduction in food waste target requirement by 2030. Environment Committee Members should at the very least have been advised of these matters in the report or verbally. The decision of the Committee to approve withdrawal of the Brown Box Collection (Service Change 2) appears fundamentally flawed and unlawful.

GLA Act 1999 powers

Under s356 of the GLA Act, I may direct an authority to exercise its waste functions in a manner, specified in the direction where I consider it necessary for the implementation of the municipal waste provisions of my LES.

The Environment Committee's decision on 5 June 2018 to authorise the withdrawal of the weekly separate food waste recycling collection service offered to all properties in the Borough of Barnet receiving a kerbside recycling ("the Brown Box Collection" / "Service"). This is contrary and in direct contradiction to the provisions concerning municipal waste management in my LES published on 31 May 2018 which require waste authorities in London to provide a separate weekly kerbside collection of food waste, as a minimum level of service, and by 2020 at the latest (Proposal 7.2.1 (a) and supporting text on pages 313 and 315, refers).

In order to establish whether, and/or the extent to which Barnet's decision to withdraw the Brown Box Collection meets legal and Strategy requirements, I am minded to issue a legal direction under s 356(1) of the GLA Act ("the Direction") in the following terms (or similar). This letter therefore constitutes formal consultation with LB Barnet as required by s 356(4)(b) of the GLA Act. I will consider your response before deciding whether or not to proceed to use my formal statutory powers under s 356(1) as indicated.

Proposed direction

1. Barnet London borough council ("the Council") shall exercise all or any of its relevant functions to secure the following outcomes.
 - (a) For a period of six weeks from the date of the Direction ("the Direction Period") the Council shall to continue to provide, or (if it has ceased) the Council shall restore, the Brown Box Collection to every household that received it prior to 5 June 2018, to be performed in the identical manner in which that Service was performed before that date. (To clarify, I do not require any new households after 5 June 2018 to be provided with the Service.)
 - (b) The Council shall not within the Direction Period make (by itself or by any third party) any specific or general announcement or communication by any means to the effect that the Service is or will be withdrawn, as such notification is considered to be in essence the beginning of the Service withdrawal.
 - (c) The Direction will take effect immediately and will be communicated to the Council by email.
2. The Council shall provide the following information to me by no later than 5 working days from the start of the Direction Period:
 - (a) All specific or general cost and performance data prepared, considered or used by Council officers or members in their assessment of the ongoing financial and operational viability of the Brown Box Collection and the cost and performance of any comparators (e.g. leaving food waste within residual bins for onward processing at Edmonton EFW plant).

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- (b) Whether and what alternatives (if any) to cessation of the Brown Box Collection were prepared or considered including any specific analysis and options appraisals that sought to place the Service's withdrawal in the explicit context of 'other choices' that it could be assessed against and the extent to which a full range of cost saving options was considered.
- (c) Any specific work undertaken to demonstrate the operational and performance impact (s) on the Council and its recycling services and targets (and the targets in my LES,) of the Service's withdrawal, and planned service enhancements (if any) that it can demonstrate the Council will continue to drive forward its performance and make a meaningful and proportionate contribution to the London wide targets in my LES.
- (d) The relevant report (Street Scene Operational Changes) to 5 June Environment Committee meeting makes significant claims of the preferred environmental performance of withdrawing the separate Brown Box Collection and requiring householders to leave their food waste in residual collection bins (black bin) for onward processing at the Energy from Waste plant at Edmonton. Please provide all relevant data and analysis that was prepared used or considered in making this assessment.
- (e) (Without prejudice to the above) all other information or other data/ material that constitutes a "background paper" to the Street Scene Operational Changes report considered on 5 June 2018, within the meaning of s 100D(5) of the Local Government Act 1972 (as amended).

The above list is not exhaustive, and my officers may come back with additional information requests as part of an explorative and iterative dialogue over the coming weeks.

I genuinely hope that it will not be necessary to such a direction and we can work cooperatively to find a way of maintaining the current Brown Box Collection (or an equivalent) for the benefit of Barnet residents.

Following the recent meeting between our respective officials (18 June), I understand that the current timing of the service withdrawal is 27 July, and that direct communications with affected residents would need to take place before this, and so are imminent.

Given the extremely short timescales that Barnet has itself set for withdrawal of the Service, I request you to formally respond to this letter for the purposes of s 356(4)(b) of the GLA Act by no later than **4pm on Thursday 5 July 2018**. Given the urgency, I consider this reasonable notice. If I do not hear from you by then I will consider making the Direction in the above terms (or similar).

Yours sincerely,



Sadiq Khan
Mayor of London