

To:	Charity Retailers
Produced by:	Charity Retail Association
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Contact:	mail@charityretail.org.uk Tel: 020 7697 4080

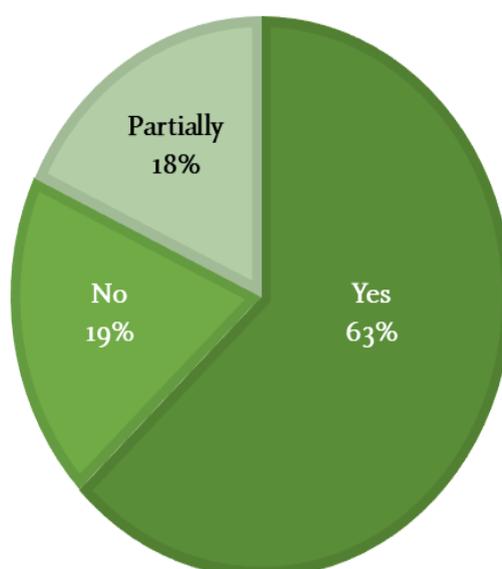
Council waste charges – the legal picture

Charity shops are able to sell – either on the shop floor or to textile traders – 95 per cent of all the clothing donations they receive . The remaining 5 per cent, as it originated from a domestic property and has not been altered, is still defined as domestic waste and therefore should be exempt from disposal charges.

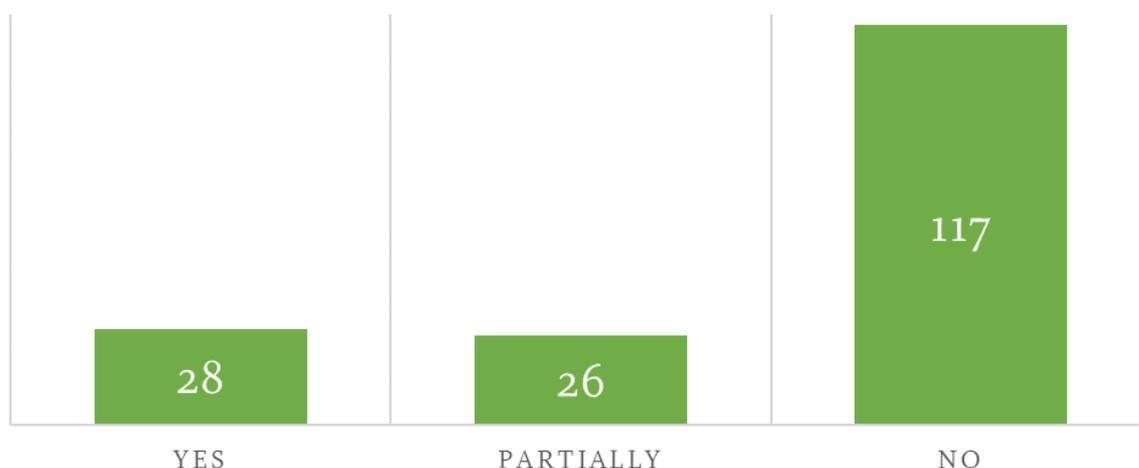
It is only this kind of waste, and only when taken to a civic amenities site, that charity retailers generally expect to be exempt from charges.

As the two figures , below, indicate, the vast majority of local authorities do abide by this expectation and allow charity shops access to their sites to dispose of this kind of waste free-of-charge.

Eligible councils - do they accept charity shop waste?



Eligible councils accepting household waste - do they levy a charge?



Despite the good headline figures, these charts do make it clear that a significant minority of local authorities are restricting charity shop access to their sites in one way or another. Anecdotal evidence from our membership indicates that this is a growing trend which will only continue as council budgets are further squeezed.

How are they able to do this, when the waste in question is clearly definable as household waste? To answer this question, an analysis of the legal situation throughout the country is required.

The legal picture - England and Wales

The regulations around waste disposal in England and Wales were most recently updated through the Controlled Waste Regulations (2012). We are confident that when they set about making these reforms, the government was not intent on introducing disposal charges for charity shops.

Schedule one of these regulations lists various types of waste and categorises each of them. Waste from 'a charity shop selling donated goods originating from domestic property' is clearly listed as 'domestic waste' and domestic waste is exempt from disposal charges.

Additionally, in the government's official response to the public consultation on the new regulations they responded to Question 20 – 'Do you agree that charity shops and re-use organisations should benefit from free waste disposal?' by stating:

'We believe these organisations play a crucial role in facilitating re-use and diverting used goods away from the waste stream, as the majority of items donated to charity shops and

re-use organisations would otherwise probably have been discarded and disposed of in domestic waste. Their activities reduce the cost to local authorities, and hence to local taxpayers, of collecting and disposing of used items.

‘We therefore continue to believe that it is not appropriate for charity shops and re-use organisations to pay for the disposal of waste which originated in domestic properties.’

Finally, the government’s own impact assessment on the proposed new regulations stated that they would:

‘... exempt charity shops and re-use organisations from disposal charging on the grounds that their activities contribute to waste prevention by encouraging and facilitating the reuse rather than disposal of goods, thereby benefitting taxpayers by reducing tonnages going to landfill. The Regulations will be amended to explicitly define waste from these sources as being household waste and ensure that they are entitled to free disposal.’

How then, are local authorities able to instigate charges for household waste? The answer seems to be a contradiction in the law.

While the 2012 regulations clearly define surplus donations as domestic waste, the Environmental Protection Act, which sets out the duty to provide places for the deposit of household waste, refers to those facilities being free of charge only for ‘persons resident’ in the waste collection authority’s area to deposit their household waste. A charity shop is arguably not a ‘person resident’ and some local authorities seem to be using this loophole to charge.

This contradiction has also prompted some bizarre outcomes, specifically, that when a charity shop engages the waste collection authority to collect its domestic waste, the authority may impose collection charges but not disposal charges, but if the shop takes the same waste to a household recycling centre themselves they can be charged disposal fees!

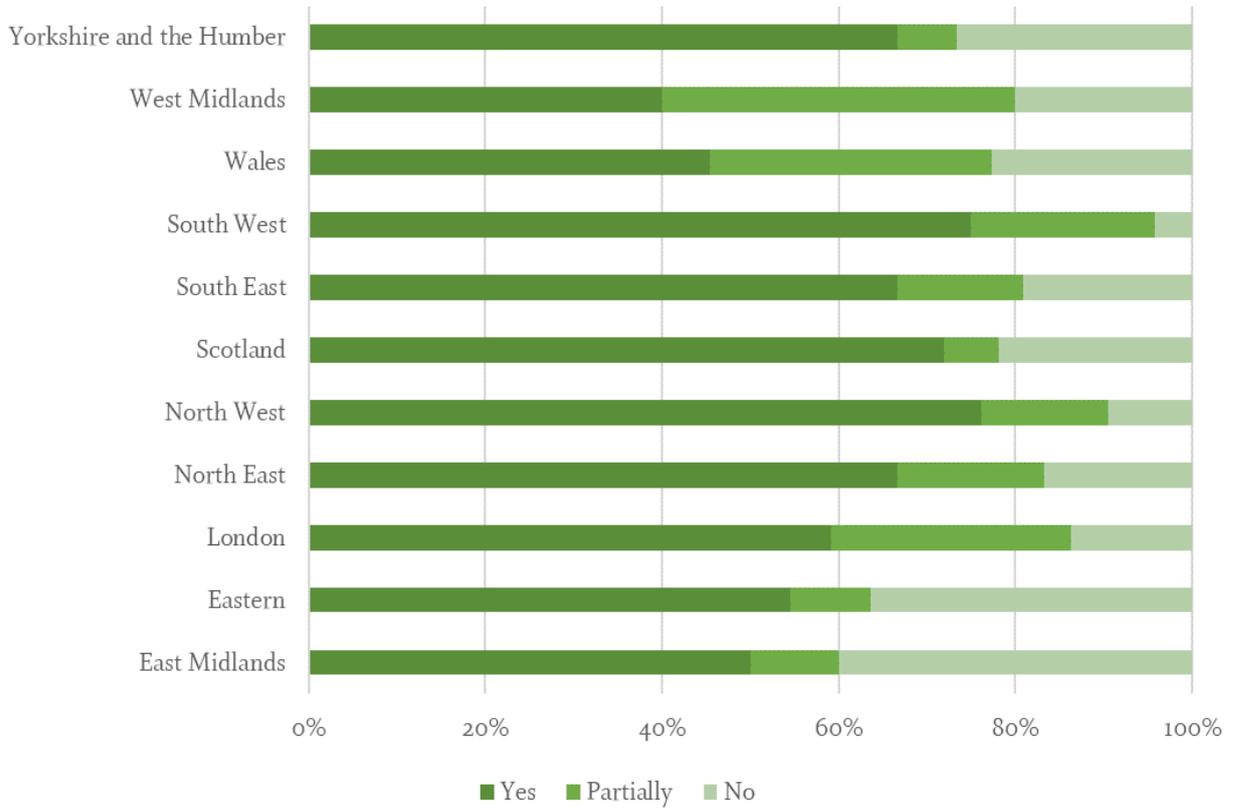
The legal picture - Scotland

Scotland has no equivalent of the 2012 regulations. They are still using an older set of regulations which classify all waste from charities as household waste but do not include a set of provisions around charges and exemptions.

The Scottish equivalent of the Environmental Protection Act again notes that free disposal is for ‘persons resident’ in the council area.

Therefore, the legal situation in Scotland is much the same, only without recent (2012) public statements from the government about their intention to ensure charity shops can dispose of waste without charges. Despite this, the data from our FOI survey of councils reveals that authorities in Scotland are amongst the least likely to reject or charge for charity shop household waste, as shown below.

Councils accepting charity shop waste - by location



Councils charging for charity shop waste - by location



The legal picture - Northern Ireland

Northern Ireland's equivalent of the 2012 regulations are the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013. These regulations made the same changes in terms of defining charity shop waste as household waste and also referring back to underlying legislation about what services a civic amenities site must offer.

This underlying legislation (the equivalent to the Environmental Protection Act in England and Wales) does not make reference to 'persons resident' in the same manner, instead saying that 'no charge shall be made ... in respect of household waste.' Such provisions should ensure that charity shops are able to dispose of household waste in Northern Ireland.

Our view

The Charity Retail Association believes that, given the invaluable role charity shops play in reducing waste that goes to landfill (and local authorities' landfill tax bills), and the waste's clear legal status as household waste, councils should allow charity shops to dispose of this waste for free at their local civic amenities site.

To be clear, we are not asking councils to let shops dispose of the other regular business waste they produce in their back offices. We are also not asking them to collect the waste for free.

What is more, we believe that this is also the viewpoint of the UK government and most politicians throughout the country. We are not aware of any statements from legislators that laws and regulation were intended to stop charity shops disposing of this kind of waste for free. In fact, we are aware of many statements to the contrary, particularly in England at the time when the 2012 regulations were being enacted.

We therefore believe that the governments in Westminster, Holyrood, and Stormont should act to remove these loopholes and ensure that the legislation is enacted as intended. We believe that this would not require primary legislation and could be achieved simply through statutory instruments.

This simple change would hugely benefit the UK's 11,200 charity shops and allow them to do even more to generate social value for their communities, economies and environments.