

RURAL, ECONOMIC AND ENVIRONMENTAL AFFAIRS COMMITTEE

11TH JANUARY 2012

REPORT OF HEAD OF REGULATORY SERVICES

WASTE MANAGEMENT SERVICE EFFICIENCY AND SAVINGS REVIEW WASTE TASK GROUP OPTION APPRAISAL OUTCOME

1.0 PURPOSE OF REPORT

- 1.1 To inform Members of views of the of the Waste Task Groups appraisal of the efficiency and cost saving options available following extensive discussion with the councils integrated waste management service provider 'Biffa Municipal Ltd ' (formerly Verdant)

2.0 RECOMMENDATIONS

- 2.1 **Members consider the Waste Task Group recommendation, that being a revised method of service delivery detailed as Option C at section 3.124 with a view to it being implemented from the earliest practicable date and a supplementary estimate of £15,000 be approved from the Corporate Priorities Reserve to finance the implementation costs**
- 2.2 **In the event that Members do not wish to proceed with any of the recommendation at para. 2.1 above or any of the other options, that Members delegate authority to the Head of Regulatory Services to negotiate the terms of a 1 year extension (Option A1) to allow more time for further consideration (please note para 3.6 below).**

3.0 KEY ISSUES

BACKGROUND

- 3.1 The current waste service is delivered on a contractual basis through our partners (Biffa) and comprises the following:
- Fortnightly collection of household waste ('black bins')
 - Fortnightly collection of compostable 'green' waste ('brown bins')
 - Weekly collection of separated recyclable waste (metals, paper, glass and plastics) in recycling boxes
- 3.2 The service operates on the basis that following collection, the recycled waste is sold on the open market to generate income. The market value for some of the recyclable materials fluctuates significantly but Melton has consistently achieved very good rates for the materials collected. In addition, the exiting contract has facilitated a recycling rate of 50.5% in 2010/11, which has sustained Melton's existing position as amongst the 'top quartile' areas for recycling.
- 3.3 The collection contract was extended in 2010 and runs to 2017, at which time it will be required to be re-tendered on the open market. The current integrated waste management service includes street cleaning, refuse, recycling and green waste collections and for 2011/12 is budgeted to cost £2.4.m per annum but includes mechanisms for adjustments (positive and negative) based on the cost of labour, fuel, vehicles and inflation (formally the 'Baxter's index'), and also variations for any increases or decreases in the number of properties served. The

contract includes various incentives and penalties for service delivery and 'break points' to allow renegotiation of its terms. Members may wish to note that this indexation is currently under review and is the subject of a separate report on this agenda covering agreement or otherwise to a revised, reliable Nationally agreed index or 'formula' on which to base such adjustments. This is because of relevant changes to the existing 'Baxter's index' in current use make it obsolete.

- 3.4 In the budget setting process in 2010/11, the waste contract was identified as a key area to examine for potential efficiencies and savings. The context for this is that at £2.4 million, the contract for waste and cleansing represents 40% of the net annual general fund revenue expenditure. The indexation referred to above and adjustments (for example, those arising from additional dwellings) outstrips any increase in Council income and if left unaltered, the contract will account for an increasing proportion of expenditure. Subsequently Officers have met with the contractors and a series of options for future direction have been identified. These are addressed in turn below.
- 3.5 Members are advised that negotiations with Biffa Municipal have now reached a point where the current proposal on offer should be considered as their 'best and final' offer. Biffa have indicated that their kerbside vehicles are coming towards the end of their expected efficient operational life and because of this, significant changes in regards to vehicle changes would be more readily achievable and affordable in April 2012. The discussions they have entered have been on this understanding and it should be understood that longer term negotiations (effectively Option A1) may negate this opportunity, with the effect of significantly altering the costs incurred. Alternatively, the decision to replace the vehicles could be postponed by one year (Option A1) if additional time is require to determine the future direction of the service. However, it should be noted that this is likely to incur additional expense to the existing contract if due to increasing unreliability of existing vehicles as they become older.
- 3.7 Members may wish to note that the Government's recent revision to the UK's Waste Strategy has considered defining an existing compost material standard (PAS 100) as a basic requirement in regards to the diversion of green waste from landfill. This is effectively a move towards classing garden waste that is not processed to that standard, as not actually being adequately recovered and which will therefore accordingly not count towards the UK landfill diversion targets or towards an individual Authority's recycling rate. The result of this would therefore be not attracting a recycling or recovery credit payment (currently in the region of £45 per tonne). They have also given an indication that they are seriously considering introducing marked restrictions in regards to land filling garden waste in the coming years. In essence collection authorities may have to ensure they can divert significant tonnages of green waste away from land filling in an acceptable and sustainable way within the systems they operate. A risk is that a chargeable contractor operated service such as the proposed garden waste club, may not divert sufficient tonnages to meet this requirement , however it should be noted that Biffa Municipal do remain confident that a Garden waste club would be successful and would build up in numbers of customers and tonnages diverted year on year.
- 3.8 The REEA meeting in September 2011 received a report that covered all the Options available including detail of the advantages and disadvantages of each option. This level of detail is not covered within this report and are summarised below for ease of reference.
- 3.9 **Options in Original REEA report :**

Option A: No Change to existing service and continue to develop smaller opportunities for efficiencies and savings.

Option B: The current operators' proposal, i.e.; For a period of 5 years:

- Remove the provision of the 'Green Waste' service (current brown bin service) and replace it with an 'opt in' voluntary garden waste 'club' operated independently from the Council (to be provided by our existing contractors)
- Collect recycled waste on a comingled basis (fortnightly)
- Maintain existing domestic refuse service (current black bin service) (fortnightly)
- Accept a fixed sum of £15.00 per ton for the co-mingled recyclable material for the remaining 5 years of the current contract

Option C: Seek to negotiate an improved version of option B, but instead without a fixed sum payment with payment for this option, being calculated according to the market value of the material.

Option D: Consider termination of the existing contract and retender on the open market.

Option E: Select elements from the above options to maximise cost efficiency. This option will require agreement as some of the contractors' proposals may not be available in isolation of other parts of their Option B proposal.

Option F: Members determine an alternative option on the way forward to explore further.

3.10 At that meeting it was determined that the Council's Waste Task Group should consider the options and report back their views back to REEA.

3.11 At the time the Waste Task Group met discussions with Biffa had resulted in changes to some of the options. A briefing note considered by the Waste Task Group outlined the options along with a table of outcomes for each option arising from those changes. These revised options have been amended following further discussions:

3.12 **Revised (and final) Options:**

3.121 **Option A** – no change from the existing service – clearly achievable, requiring no direct action or any additional costs, but with minimal savings.

3.122 **Option A1** – This option arose during the negotiations: retain the existing service for a further year (April 2012 - March 2013), agreeing with the contractor the way any additional cost incurred for the delivery of the service during the 1 year extension will be apportioned to agree during that 12 month period service configuration post March 2013 or its further retention.

3.123 **Option B (revised)** - a proposal from the contractors that involves a reduced annual sum for the contract, linked to collection of recyclable materials on a comingled basis and the purchase the materials for a period of 5 years at £15 per tonne (5 years being the remaining term of the existing contract) and with the management of residents garden waste being undertaken through a 'green waste' club (that Biffa municipal would manage and operate independently).

The contractor has indicated that the provision of a reduced annual sum (achieved through operational savings) i.e. the switch from kerbside separation to co-mingled collections of recyclables – only stands if the Council agree to sell the co-mingled recyclable materials collected to the contractor at the rates they propose.

The contractors have also stated that if we agree to their proposals, they will guarantee to pay (at the rate we agree) for an 'uplift' of 25% from current levels in the tonnages of recycle

collected. This has been reflected in the 'Option Outcome' table. Biffa have presented this option as generating a very significant saving to the existing contract (£455,000). However, this needs to be counter balanced with the manner in which the changes would affect the costs associated with the 'green waste' service and income associated with the sale of recycled materials. This has been the subject of discussion between officers and the contractor, which have not resulted in full agreement. The figures presented are founded on officers calculations based on known (current) income levels for recycling materials, improved recycling rates that are anticipated from a comingled, single container, approach and agreed sums associated with green waste. The final offer from Biffa (Oct 18th) has included a reduced claim for payment required if we agree to the 'Green Waste Club' proposal. In place of the annual £50k originally proposed, the reduced proposal seeks £30k in year 1, reduced to £25k in year 2, down to £0 by year 3 as they expect the income to them, at that time, to be sufficient for them to run the green waste club service independent of any Council financial support. **Appendices A and B** set out the financial implications of the Green Waste Club in terms of cost and income to the Council, based on anticipated take-up rates.

- 3.124 **Option C:** an improved version of option B, i.e. as per option B but the value of the collected co-mingled recycled materials will be based on the value of the actual % split of materials. They would be purchased at an initial rate of £25 per tonne and thereafter the price will be adjusted using a %age split of the collected material measured every 3 months, with the purchase costs being determined by an independent recyclable material price index.

It has been agreed that the 'letsrecycle.com' web site would be use to establish the 3 monthly value of the co-mingled recyclables. The site provides an average sales value for materials based upon the average value achieved by sellers selling to industry merchants and buyers. This is effectively a commodity market with material values fluctuating in the main according to supply and demand. The sales value of each material is commonly adjusted as required sometimes on a weekly basis. Members may wish to note that we have been using this material price guide successfully since 2003 to calculate the value for some of the materials we currently sell to various material merchants This independent recycle material price guide is used by many authorities who work this way, such as Charnwood BC, who now use the 'lets recycle' web site within their recently let recycling tender in a similar way to that which is being proposed here.

For clarification, the introduction of a 'co-mingled' service would involve the diversion of the existing brown bin for recycling materials and the provision of a new bin for garden waste if customers subscribed. This would be part of their joining fee.

- 3.125 **Option D:** consider termination of the existing contract and retender on the open market

There are a series of Risks and implications of termination which are detailed below (advice from the Solicitor to the Council):

- There is a provision for the Council to terminate the contract at any time on 12 months notice to the contractor "on the fifth anniversary of the contract "and every five years thereafter". The words "and every five years thereafter" suggests that the 12 month notice is being served on the fifth anniversary of that cycle, so as to take effect a year later.
- On this basis, the Council could have terminated the contract in 2009, or could also do so in 1st April 2014 or a year earlier if the alternative interpretation is favoured.
- The contract has been extended rather than a fresh contract being drawn up; therefore the fifth anniversary of the start date (2003) is the date we would have to work from.

- There are no provisions in the contract re liquidated damages/penalties on termination etc so if the contract were terminated *in accordance* with Clause 46.1(the five year termination clause, i.e at 1st April 2014) there should be no problem.
- However, if the contract is adhered to then the Council would not be able to find a different supplier of this service until 2014/15, (after lawful termination) by which time nearly two years of savings or more might have been forgone. The temptation may be to simply terminate sooner and take a chance. However, if the contract is terminated outside of the terms of Clause 46.1 then the contractor may have a claim for damages for breach of the contract, i.e. it being terminated 2 to 3 years earlier than allowed for under the contract, leading to a damages claim equal to loss of earnings on the contract for that period (£1.2m). The contractor would be able to seek damages so as to put themselves back in the position they would have been in had the contract not been terminated early. The sum could be considerable and negate any savings made from a new supplier of this service unfortunately.
- The absence of a liquidated damages clause means that it is difficult to be precise regarding the kind of penalties that would be incurred on early termination. Therefore, as I understand it you would be guided by how much the contractor earns per annum from the contract.

3.126 **Option E:** Select elements from the above options to maximise cost efficiency.
This For all practical purposes this option is not available.

3.127 **Option F :** To be determined by this Committee. At this time no other practical options have emerged .

3.13 **Waste Task Group**

3.14 The Waste Task Group met on 20th October to discuss in detail the options available, the revisions to those options, and any agreed changes to those options that had resulted from the most recent discussions with Biffa Municipal Ltd.

3.15 The meeting considered:

- The detail and likely outcome for each option
- The way customers might perceive and react to the various changes proposed
- The level of acceptability for each
- The balance of cost saving vs. service reduction / enhancement for each
- That the paramount consideration was the need to find savings from within the contract
- That any particular option assured legislative compliance

3.16 It was commented that since the start of the discussions with Biffa Municipal Ltd, that they had shifted their stance in favour of the Council some considerable way. **The outcome of the meeting identified that the option most likely to result in retaining a good recycling and recovery performance standard, was to provide for a service that customers would appreciate brings both improvement, along with unavoidable reduction, and one that ensures legal compliance with current directives and legislation and importantly offers the highest level of efficiencies is Option C.**

3.17 **Members also raised concerns that customers would need support in order to adopt the Green Waste Club approach comprising advanced notice, extensive publicity and potentially financial support for those on low incomes, to prevent them from being deterred, or excluded, from the approach.**

4.0 **POLICY AND CORPORATE IMPLICATIONS**

- 4.1 This report identifies Option C as the best direct cost saving option. Should Option C be adopted and a chargeable scheme for the collection of Garden Waste be introduced, then a policy that effectively bans Garden waste from the Black refuse bin would be required as a logical prerequisite in support of a chargeable system, such as the Option C, that being the contractors proposal that includes the introduction of subscription based Garden Waste club.
- 4.2 Options B and C may have a negative impact on the Council's reputation for its high level recycling service particularly in regards to its current free garden waste service. There may also be a demand to increase resources (and the costs associated with that) associated with Option B and C in order that any Garden waste ban be monitored and enforced. Members may wish to note that the Biffa Garden waste club will effectively be run and administered independently of the Council. By collecting garden waste on the Council's behalf, they will however be discharging the Council of its statutory duty to do so, and therefore the Council will ensure the service is appropriate, fit for purpose, and does not conflict with any existing Council policy or direction.

5.0 **FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

- 5.1 The detailed financial implications of each option is set out in **Appendix C (exempt)**.
- 5.2 Although the administration of the Green Waste club would be Biffa's responsibility, the Council will still be able to claim for green waste disposal credits and would also be liable for the gate fee cost for the green waste. Appendix A shows the anticipated take-up and financial impact of the scheme. It is currently expected that Biffa will charge customers around £30 per year to service a standard 240 litre wheeled bin fortnightly throughout the year with concessions for Direct debit payment of around 10% and the possibility of further reductions for advance payment.
- 5.3 Biffa has confirmed that they will not seek to recover any redundancy costs resulting from the service change onto the Council.
- 5.4 Biffa has stated that the proposed service change option requires the purchase of alternate new vehicles with unavoidable availability lead times. The implication of this is that the financial details of the contractors Option C is only guaranteed at this current time, effectively any further delay in making a firm determination beyond the time that this report is received by members is highly likely to result in increased costs or reduced savings from within the Option C proposal.
- 5.5 Members should note that the current kerbside collection vehicles in use are leased by Biffa and are due for return in March 2012. If the Council requires an extension to our existing service as we seek more time to determine the way forward, the costs associated with extending the kerbside vehicles beyond their return date is expected to be in the region of £1000 per week, with Biffa expecting to recover such costs from the Council.
- 5.6 The Medium Term Financial Strategy (MTFS) shows the Council is set to lose a further £400k from its Formula Grant in 2012/13. Local Government funding is also being reviewed and there is great uncertainty surrounding funding in later years although almost certainly this will be reduced. In response to these pressures waste management was an area identified for review as part of the budget setting process for 2011/12 and the budget consultation exercise undertaken in 2010.

5.7 The MTFS shows that as a result of this further loss in grant and despite the savings estimated from Parkside the Council will still be under considerable pressure in later financial years.

5.8 There is uncertainty in respect of the future reliability of Green Waste recycling credits (see para. 5.7 above) and a realistic prospect that they may be removed at some point in the future. Appendix A shows the anticipated level of credits that changes to the contract may give rise to and, consequently, the reduced impact that would occur if they were deleted.

5.9 Should Option C be chosen as the new service, the Committee is asked to note the requirement for a service change budget £15k. This would be used to provide legal notification of the new service along with the publicity and promotion and publicity associated with establishing new collection methods. As this would need to be incurred in 2011/12 financial year a supplementary estimate is required and it is recommended that this be met from the corporate priorities reserve.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 Options B and C represent a variation of the existing contract. Legal advice is that variations to contracts beyond 20% of their value represent a new arrangement and are required to be retendered because of the magnitude of the variation. It is considered by the solicitor to the Council that Options B and C fall beneath this threshold.

7.0 COMMUNITY SAFETY

7.1 There are no direct community safety implications arising from this report.

8.0 EQUALITIES

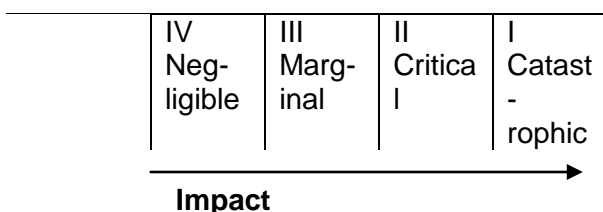
8.1 An Equalities Impact Assessment would be required for any of the options that significantly change the delivery of the service.

9.0 RISKS

9.1

Very High A				
High B	3		1	
Significant C		2		
Low D				
Very Low E				
Almost Impossible F				

Risk No.	Description
1.	That negotiations with Biffa extend beyond a time that changes can be made to maximise savings or even achieve the full expected savings
2.	A future restriction on landfilling garden waste is introduced without the council having a suitable system in place to meet such a requirement
3.	Negative public reaction to reduced standard of service i.e removed free garden waste collection



10.0 CLIMATE CHANGE

10.1 Waste Management services are known to be a Council service that can impact upon Climate Change issues. Members may wish to note that the generation of greenhouse gases known to be harmful to the environment and have a negative impact in regards to climate change issues, does vary slightly but not significantly between recycling options.

10.2 There is no difference in regards to refuse collection.

11.0 CONSULTATION

11.1 The suggestion of changers to the waste and recycling service were included in the 'have your say' exercise in early 2011. Indeed the proposals derive in part from the responses received. The key outcomes from the exercise were as follows:

Which of the following options would you support in order to either reduce the cost of the service or improve the quality (which may mean e

- | | |
|--|--------------|
| • Keep the service as it is | 60.8% |
| • Stop collecting green waste (will save £237,000) | 31.9% |
| • Collect all types of plastics from the roadside (an extra £105,000) | 7.3% |
| • Collect food waste separately (will cost an extra £250,000) | 1.0% |
| • Collect household waste weekly (will cost and extra £400,000) | 8.4% |

If Green Waste was to be an optional self-funding service which customers signed up for, how much would you be prepared to pay for this service:

- | | |
|-----------------------|--------------|
| • £10 per year | 58.3% |
| • £20 per year | 29.2% |
| • £30 per year | 7.1% |
| • £50 per year | 5.8% |

11.2 It is important that the Council keeps to its commitment made in the Community Consultation Strategy to ask people's views to help shape services and to feedback on the information received and how this was used. This report follows up on the 2011/12 Budget Consultation exercise by considering the comments received on waste management and using these to help construct options for changes to the waste management service. The public's majority view on waste management was to 'Keep the Service as it is' in the survey feedback however many individual comments were received on waste management issues and from this level of interest, the Council understands that this is an area where the public feel they have important views to offer.

11.3 Although this report uses some of that information, this report utilises information from other sources as well. The exercise has lead to the options identified and addressed above and it should be recognised that these have not been directly presented as alternatives in any form of consultation. Members may wish to undertake further consultation and the following table suggests the forms this might take, together with how the options proposed linked to the previous consultation. However, it should be noted that significant additional consultation may

impair our ability to secure changes in time to take effect in the 2012/13 budget, but this may be the preferred way forward in the light of the significant level of public interest in this area.

Option	Description	Public Consultation	Next Steps
A	No change	61% of public agree with this option	Set up a specific focus group to further develop the service
B	5 year change : <ul style="list-style-type: none"> Green waste club Co-mingled recyclate collected fortnightly Accept fixed sum £15/tonne 	32% of public accept not collecting green waste ... with 58% accepting £10 per year No consultation carried out on co-mingled recyclate collected fortnightly	Set up a specific focus group to consider the contractor's green waste club; charges for collection and fortnightly co-mingled collection
C	Negotiate with contractor on Option B	See (B) above	See (B) above
D	Terminate existing contract	No consultation carried out	Use specific focus group, current and future consultations to provide service delivery options during the procurement period
E	Select elements ... cost efficiency	Not considered	To be considered further
F	Committee to consider alternative	Not considered	To be considered further

12.0 WARDS AFFECTED

12.1 All Wards are affected: the impacts would apply to the entire community.

Contact Officer: J Worley, Head of Regulatory Services

Date: 21st December 2011

Appendices:

A: Green Waste Club : impacts on income

B: Green Waste club : cost comparison

C: EXEMPT - Financial Implications