

Report to the Cabinet

Report reference: C-092-2013/14

Date of meeting: 19 May 2014



**Epping Forest
District Council**

Portfolio: Environment

Subject: Appointment of new Waste Management Service Provider

**Responsible Officer: Derek Macnab (01992 564050)
John Gilbert (01992 564062)**

Democratic Services Officer: Gary Woodhall (01992 564470)

Recommendations/Decisions Required:

- (1) That Biffa Municipal Limited be appointed as the Council's waste management service provider for the ten year period commencing 3 November 2014 and ending on 2 November 2024 for the initial sum, subject to annual indexation, of £5,082,794.56 per annum;**
- (2) To note that, subject to recommendation (1), the new waste and recycling collection service will be based upon a four day Tuesday to Friday service commencing at the start of March 2015;**
- (3) To note that, subject to recommendation (1), the new waste management service will operate from Langston Road depot until the end of February 2015 and then from two depots located in Edmonton (dry recycling) and Waltham Cross (Residual, commingled food and garden and streets) from March 2015;**
- (4) To note that, subject to recommendation (1), the service enhancements and improvements which will result from the procurement exercise and that the new service to be delivered is the "as is service", with no requirement for a third wheeled bin;**
- (5) To agree that the services to be provided by the appointed contractor have been assessed in accordance with the requirements of EU Waste Framework Directive as enabled in UK law by The Waste England and Wales Regulations 2011 (as amended);**
- (6) To give delegated authority to the relevant Portfolio Holder and the Directors of Neighbourhoods and Governance to make limited minor adjustments to the contract and specification so as to enable the maximum efficiencies and economies to be achieved, including the determination of whether provisional sum items should remain within the contract ,and to amend the contract and specification accordingly; and**
- (7) To note the overall saving over the present contract of £416,680 per annum.**

Executive Summary:

The contract with the Council's current service provider Sita comes to an end on 2 November 2014. The procurement exercise to appoint a new service provider commenced in March 2013, using Competitive Dialogue. Eight bidding contractors were selected following the initial pre-qualification stages and these were reduced, through the dialogue process, to the four which are subject to this report.

Competitive Dialogue has enabled detailed discussions throughout the process between the Council and the bidding contractors, and this has resulted in a specification and associated conditions of contract which fully meet the Council's aspirations for the future, within the Council's envelope of affordability.

In addition to the overall annual saving of £416,680, the recommended provider and the new specification and contract also allow for a raft of service improvements plus opportunities in the future for generating further savings, including:

- an early exit from Langston Road depot, facilitating the proposed redevelopment for retail use and the associated revenue benefits for the Council
- a wholly new fleet from April 2015, reducing vehicle downtime and delivering reduced fuel usage and carbon emissions (reduction estimated at 120 tonnes per annum)
- four day (Tuesday to Friday) operations, avoiding the associated Bank Holiday Monday disruptions
- a new ICT system providing real time information and opportunities for future alignment as the Council's corporate CRM system, ability to send text messages to residents for appointments, real time recording of missed collections, contaminated bins and associated collection data
- improved street cleansing standards and the retention of local village/town sweepers, the removal of weeds and undergrowth
- creation of area improvement teams, a business improvement team and annual customer satisfaction survey
- creation of an Epping Forest Environment Investment fund
- a commercial waste/ recycling service with an element of profit sharing
- greater co-operation and synergies between the streets service and Grounds Maintenance
- the collection of additional materials for recycling at the kerbside, such as ©Tetrapaks, batteries and small electrical items
- recycling sacks to be delivered annually to all residents

The new service will be based upon the existing one, in that there will be no requirement for a third wheeled bin. The service will therefore be:

- weekly collection of food and garden waste via the existing (green lidded) wheeled bin
- alternate weekly collection of recyclables via the blue box and clear sack
- alternate weekly collection of residual waste via the existing (black lidded) wheeled bin

This reports sets out the results of the final stage of dialogue and the receipt of final tenders.

Reasons for Proposed Decision:

To appoint the waste management service provider for the ten year period 3 November 2014 to 2 November 2024.

Other Options for Action:

The Competitive Dialogue process has throughout had a clear rationale for the appointment process, and this rationale should be maintained. The contractor being recommended for appointment has scored the highest points in accordance with the declared assessment

process, based upon 50% quality and 50% price. Whilst it is possible for Cabinet to select an alternative service provider, to do so runs the significant risk of a challenge to the appointment process.

Report:

Background

1. The contract with the Council's current service provider Sita comes to an end on 2 November 2014. The procurement exercise to appoint a new service provider commenced in March 2013, using Competitive Dialogue. Eight bidding contractors were selected following the initial pre-qualification stages and these were reduced, through the dialogue process, to the four which are subject to this final report.

2. Cabinet, at its meeting in February 2014, agreed that four bidding contractors, Biffa, Serco, Sita and Urbaser, should proceed to the final stages of Competitive Dialogue, and that they should be asked to provide tenders based on two service levels:

- (i) the current 5 day (Monday to Friday) service; and
- (ii) a 4 day (Tuesday to Friday) service.

3. All four bidding contractors have been through the final dialogue stages which took place from 17 to 26 February 2014. Each was allocated two full days, the first covering feedback on their last tender submissions (ISDS) and discussions around the specification and conditions of contract. The second day was used to enable them to demonstrate, in a live environment, their proposed ICT solution(s), followed by a final summing up session. Competitive Dialogue formally closed on Friday 7 March.

4. Final tenders were required to be submitted by noon on 4 April 2014. Four tenders were received, opened by the Environment Portfolio Holder and all four were considered to be compliant. Therefore, all were able to be assessed in accordance with the declared process, set out in the Descriptive Document.

Tender Assessments

5. At the meeting in February, Cabinet also agreed to amend the balance between price and quality for the final tender process. At the earlier stages tenders were assessed on a 60% price and 40% quality basis, but at this final tender stage the balance was amended to one of 50% for each component. Furthermore, the 50% quality component was sub-divided such that the officer technical assessment accounted for 40% and the Member interview panel for 10% of the quality component.

Quality

6. As with previous submissions, bidding contractors were required to submit eleven method statements, each of which was assessed by the officer technical team. As with the previous stage, each method statement was required to achieve a minimum standard of 60% to allow the bid to proceed. The bidder with the highest scoring technical assessment was awarded the maximum available score of 4,000 points with the other bids receiving a score based upon proportionality with the highest score.

7. This final tender stage has had Member involvement through a pro-rata Member interview Panel. The Panel comprised:

- Councillor Will Breare-Hall, Environment Portfolio Holder (Con);
- Councillor Mrs Syd Stavrou, Finance and Technology Portfolio Holder (Con);
- Councillor Mrs Mary Sartin, Chairman of Council (Con);

- Councillor Mrs Caroline Pond (LRA); and
- Councillor Peter Spencer (Lib Dem).

The Panel conducted interviews over the 1 and 2 May 2014, when bidding contractors were required to make a presentation and respond to five set questions dealing with issues such as Safer, Cleaner & Greener, Equality & Diversity, Best Value, Service Enhancements and Partnership working. The presentations and responses to questions were assessed by the Member Panel using the same scoring system as the officer technical assessment, with the highest assessment being awarded the maximum available 1,000 points and the other bids receiving a score based upon proportionality with the highest score.

Price

8. The financial assessment accounts for 5,000 of the 10,000 points available. As set out in paragraph 2 above, bidders were able to submit two bids:

- (i) an as is service based upon the current five day working week; and/or
- (ii) an as is bid based upon a four day (Tuesday to Friday) working week.

Bidding contractors could choose to bid one or both options, but it was their lowest overall bid which was assessed, irrespective of whether over a five or four day working week.

9. The tendered sums were subject to the following checks and adjustments:

- (a) checked for numerical accuracy; and
- (b) adjusted for:
 - the utilisation of capital provided by this Council (a potential reduction in tendered sum);
 - the residual value of a depot facility at the end of the initial ten year period (a potential reduction in the tendered sum); and
 - the costs to the Council of a day change arising from the four day working week option (an increase in the tendered sum).

The lowest adjusted tender sum was awarded the maximum available score of 5,000 points, with the other bids receiving a score based upon proportionality with the highest score.

Outcome

10. The overall outcome of this assessment process can be seen at Appendix 2(a), (b) and (c), the detail of which is considered to be commercially sensitive and therefore included as a confidential paper. For the purposes of the publicly available record, the outcome is summarised below:

	Technical Assessment (4,000pts)	Member Panel (1,000pts)	Financial Assessment (5,000pts)	Total (10,000pts)
Biffa	4,000.00 (1)	952.38 (3)	4,770.65 (3)	9,723.03 (1)
Serco	3,652.17 (2)	1,000 (1)	4,683.77 (4)	9,335.94 (2)
Sita	3,456.52 (3)	1,000 (1)	4,807.02 (2)	9,263.54 (3)
Urbaser	3,260.87 (4)	904.76 (4)	5,000.00 (1)	9,165.63 (4)

11. It can therefore be seen that the highest scoring bidding contractor arising from the assessment process is Biffa Municipal Limited and it is therefore recommended that Biffa

Municipal Limited be appointed as the Council's waste management service provider for the ten year period commencing 3 November 2014 (**Recommendation (1)**).

12. In paragraph 8 above, reference is made to bidding contractors submitting tenders for a four day or five day service. In each case the lowest tendered sum was assessed, irrespective of whether it was four or five day. In the event, and subject to Cabinet agreeing to appoint the highest scoring tender submission, the winning contractor Biffa Municipal Limited will be providing a four day service.

13. The four day service, in conjunction with depot changes and the coming into operation of the Essex County Council (ECC) waste transfer stations will require a full review of collection arrangements resulting in changes in collection days for a significant number of residents. Since this will take some time to consider, plan, advertise and implement, these changes will not come into effect until March 2015 at the earliest. (**Recommendation (2)**).

Depots

14. One of the key reasons for adopting Competitive Dialogue as the preferred procurement route was the need for the Council to be able to vacate the existing Langston Road depot site to facilitate its development for retail purposes. Bidding contractors were therefore required to bring forward options for the operation of the service from alternative locations. Of the four bidding contractors two brought forward proposals to use their own existing depot facilities and two proposed building new facilities either within or outside of the district. Whatever the proposal, each bidding contractor was required to submit full details on the proposed facilities and of the process for mobilisation at their proposed facilities including the processes for staff consultation. These were assessed as part of the technical evaluation process and are referred to again later in the report (see "Impact Assessments – TUPE).

15. As part of the technical and financial assessments consideration was given to the practicalities and deliverability of the solutions offered, especially where depots were being proposed which were located outside of the district boundary. As mentioned in paragraph 9 above, a specific financial allowance was made in respect of new build facilities where the depot would be handed over to the Council at the end of the contractual term, recognising the benefit which would accrue to the Council. Furthermore, the contract requires that in the event of a contract failure, or at the end of the contract term, the depot(s), whether new or in the ownership of the contractor, would remain available for the Council's use.

16. Subject to recommendation 1 and the appointment of Biffa Municipal Limited, the service will operate from the existing depot at Langston Road until no later than the end of February 2015. From March 2015 street cleaning, commingled food and garden waste and residual waste operations will be based at the Biffa depot at Waltham Cross and the dry recycling operations will be based at the Biffa depot in Edmonton (north London). These proposed locations are close to the District's boundary and were carefully assessed to ensure that they were entirely practical. Biffa has set down in considerable detail the routings and timings involved from these locations and there is no reason to believe that services will in any way be affected by the depots being just outside of the District boundary. The early vacation of the Langston Road Depot in March 2015 may, dependent upon progress with the development of a new depot for the Grounds Maintenance and Fleet Operations, enable the re-development of Langston Road for retail use to proceed at a faster pace than originally envisaged. (**Recommendation (3)**).

Service Improvements

17. The contract and specification bring a raft of service improvements plus opportunities in the future for generating further savings, including:

- an early exit from Langston Road depot, facilitating the proposed redevelopment for retail use and the associated revenue benefits for the Council

- a wholly new fleet from April 2015, reducing vehicle downtime and delivering reduced fuel usage and carbon emissions
- four day (Tuesday to Friday) operations, avoiding Bank Holiday Monday disruptions and changes to collection days
- a new ICT system providing real time information and opportunities for future alignment as the Council's corporate CRM system, ability to send text messages to residents for appointments, real time recording of missed collections, contaminated bins and associated collection data
- improved street cleansing standards and the retention of local village/town sweepers, the removal of weeds and undergrowth
- creation of area improvement teams, a business improvement team and annual customer satisfaction survey
- creation of an Epping Forest Environment Investment fund
- a commercial waste/ recycling service with an element of profit sharing
- greater co-operation and synergies between the streets service and Grounds Maintenance
- the collection of additional materials for recycling at the kerbside, such as ©Tetrapaks, batteries and small electrical items
- recycling sacks to be delivered annually to all residents

18. The new service will be based upon the existing one, in that there will be no requirement for a third wheeled bin. The service will therefore be:

- weekly collection of food and garden waste via the existing (green lidded) wheeled bin
- alternate weekly collection of recyclables via the blue box and clear sack
- alternate weekly collection of residual waste via the existing (black lidded) wheeled bin

(Recommendation (4)).

The Waste England and Wales Regulations 2011 (amended 2012)

19. The above regulations are designed to implement the requirements of the EU Waste Framework Directive 4 insofar as it applies to the handling and processing of certain recyclable materials. The essence of the Directive is to ensure that materials collected as recyclables, are indeed recycled, and do not unnecessarily find their way into landfill. It is therefore all about the quality of the material collected and the ability of materials processors to sort materials and provide high quality materials for subsequent use.

20. However, the Directive considers this requirement from the starting point that collection authorities should collect recyclable waste, and in particular paper, glass, plastic and metals as separate waste streams. At first sight, this would appear to prevent the type of commingled collections that this Council, and indeed many others, provide. Commingled collections are used by collection authorities because they are effective, residents are not burdened with a multiplicity of containers, there is no need for complex kerbside sorting at the point of collection and it has been demonstrated that commingled collections result in higher levels of participation and greater recycling performance.

21. However, whilst all that is the case, the EU Directive, as indicated above, is targeting the final product and not the manner of collection per se, there being concerns that the quality of materials collected is often poor, due to contamination, and instead of the materials being recycled, they are rejected and end up in landfill. The Directive and the Regulations which translate that into law have therefore introduced what is known as TEEP. TEEP is the acronym for "Technically, Environmentally and Economically Practicable" and in forming a judgement about the type of collection methodology that should be used, a TEEP analysis has to be undertaken to demonstrate that it is not Technically, Environmentally and Economically Practicable to collect the four described waste streams separately.

22. It had been hoped that Government would, through DEFRA, issue guidance to

councils on how they should approach TEEP and the need for the assessment. However, that guidance has not been forthcoming. Government has approached the issue partially through the introduction of a quality assessment programme for material recovery facilities (MRFs) whereby they will have to routinely sample incoming feedstock and outgoing materials to demonstrate the levels of contamination of collected materials and the quality of the final product.

23. As part of the tender assessment process, prospective tenderers have had to address TEEP, both in terms of how their proposed collection methodologies reduce and control contamination and also how their intended materials processors will sort and handle the materials collected to reduce, as far as possible, the amount of material which ends up in landfill. The Project Team also introduced, in the absence of any government guidance, its own TEEP assessment process, whereby the Team sought to assess a range of criteria which form the TEEP assessment. Tenderers were required to consider similar criteria.

24. At the end of April, the Waste and Resources Action programme (known as WRAP) published guidance on how to navigate through the TEEP process. This guidance was produced by a consortium of professional bodies with an interest in recycling. This is very complex, and the process has to be carefully undertaken, since all local authorities who are using commingled collections or are considering their introduction, must satisfy themselves that they have considered the requirements of the Directive and the Regulations and that, in the event that commingled collections continue or are introduced, they can demonstrate their rationale for doing so.

25. Given the complexity of this process, WYG, the consultants who have been assisting the Council with the procurement, were commissioned to apply the guidance to the Council's tendering procedure, to its proposed collection strategy and to the TEEP analysis already employed during the procurement process. The outcome of this assessment is set out in Appendix 1, where it can be seen that the collection and treatment methodology proposed by the successful bidder, is deemed to meet the requirements of TEEP. **(Recommendation (5))**

26. However, it is important to recognise that this is an issue which is likely to remain high profile for the foreseeable future. It will therefore be important to review the Council's TEEP analysis from time to time. It is for that reason that Members are asked to note that TEEP features in the Legal & Governance Implications and Risk Management sections of this report.

Final Contract Amendments

27. Within the contract and specifications there are a number of items known as provisional sums. These relate to services where, although priced within the contract, the Council may if it wishes, elect to have that work provided in a different manner or indeed by a different provider. The key examples of this include:

- (i) the collection and handling of the Council's confidential waste;
- (ii) the collection of the Council's own commercial and food waste; and
- (iii) the stickering of abandoned vehicles.

28. The final contract documentation will also require limited and minor amendments to reflect the tender to be accepted, since a small number of options were deliberately left open in order to achieve the greatest levels of efficiency and economy.

29. Therefore, before the contract is finally signed, decisions will be required on whether or not to require Biffa to undertake that work, remain with the current provider or seek a different provider altogether and whether other amendments as alluded to above are required. In order to simplify this process it is suggested that delegated authority be given to

the relevant Portfolio Holder and the Director of Neighbourhoods and Director of Governance to make those determinations and then to amend the contract documentation accordingly. There are no financial consequences since a decision to exercise service provision outside of this contract will only be made where the cost effects are neutral or preferably positive. **(Recommendation (6)).**

Resource Implications:

30. Throughout the Competitive Dialogue process, bidding contractors have been made aware of the Council's financial circumstances and the need to be able to deliver high quality services at an affordable cost. The Competitive Dialogue process has been helpful in this regard since it has been possible to explore different service delivery options with contractors whilst understanding relative costs. Furthermore, the process has enabled the Council to place a cap on costs through requiring bidding contractors not to increase the tendered sums from the last tender returns, other than in very prescribed circumstances. At this final tender stage, only Sita increased their costs, based upon prospective pay awards and some other factors. The increase was modest and the Procurement Project Team was satisfied that the increase could be justified. Therefore, Sita were permitted to remain within the procurement process.

31. Confidential Appendix 2 sets out the full details of the bids and relevant commentary. Subject to recommendation (1) and the appointment of Biffa Municipal Limited this results in an annualised contract sum of £5.083 million. Although the core service is the same, the proposals for delivery are different, and therefore a direct comparison between contracts is difficult. However, the recommended successful tender bid should be seen in the context of the budgeted contract sum for 2013/14 of £5,466,710 per annum, and therefore a potential contractual saving of £383,710 per annum.

32. There are however additional factors to be taken into account, including the costs of procuring sacks being wholly within the tender sum, and that the successful contractor will pay the Council up to £1.85 million for the Council's residual fleet and associated plant. The contract specification also required the provision of significant improvements in ICT and technology, which whilst not immediately providing for cost savings, have the potential to do so throughout the life of the contract. The new contract will be delivered from alternative depot locations in Edmonton and Waltham Cross. This will free up the Langston Road depot for its future redevelopment subject to the provision of a replacement depot facility for the Grounds Maintenance and Fleet Operations Services and will not require the Council to find the capital required to finance the re-provision of a depot facility, the estimated cost of which would be in the region of £2.5 million. When these changes are factored in, the total is saving is £1,463,490.

33. There are however some income reductions associated with the new contract, which would have arisen in any event due to changes in the way organic waste is treated. At present all organic waste is treated by Sita at their own appointed plant, and the Council receives a full recycling and avoided disposal cost credit from the County Council for each tonne. In April 2011, Cabinet took the decision to deliver all organic waste to the County Council to be treated within its newly procured organic waste contract, on the basis that this was broadly cost neutral and that it provided a degree of budget certainty, especially in the run up to retendering the contract. Therefore, when tendering this new contract, tenderers were informed that they would be required to deliver organic waste to the County Council's new transfer station in Harlow. This has resulted in a loss of £994,000 of recycling credit income, but this has been offset by the fact that there are no equivalent contractor costs for haulage, gate fee and treatment within the new contract. There are also minor reductions in income arising from the recycling of street cleansing arisings, due to the Environment Agency applying higher standards on the material collected, and bring schemes. The total of reduced income is £1,046,810 resulting in an overall saving of £416,680 per annum **(Recommendation (7)).**

34. It is also worthy of note that this overall saving should be seen in the context of savings already delivered within the existing contract. As part of the negotiations to extend the contract for three years with Sita in 2011, approximately £2.4 million was removed from the original contract sum through a rebate on recycling gate fees. This £800,000 per annum rebate would have ceased in November 2014, and given that operational costs had not changed, the new contract saving can realistically be seen as an addition to that £800,000 per annum.

35. The table below sets out the overall financial consequences of the recommended bidder's tender:

Item	Current (£)	Recommended (£)	Saving / (cost) (£)
Contract	5,466,710	5,083,000	383,710
Premises			78,100
Supplies & services			263,440
Other contractors			133,390
Depot savings			75,014
Gate fees			430,436
Contract savings			1,364,090
Loss of recycling credits			(994,000)
Street cleansing recycling			(28,700)
Reduction in of bring bank income			(24,110)
Costs associated with 4 day service and day change			(5,000)
Income losses/expenditure			(1,051,810)
Net position			312,280
Interest on capital			104,400
Overall saving per annum			416,680

Legal and Governance Implications:

The procurement exercise was undertaken in accordance with EU procurement rules using Competitive Dialogue. The Descriptive Document originally stated that only three bidders would be taken forward into the final tender stage, but Cabinet at its meeting in February 2014 agreed, on the basis that all four remaining bidders were content with the proposal, to take all four into the final tender stage.

Earlier in the year, the DCLG issued its "Guidance on weekly rubbish collections". Contained within the guidance are a number of examples of where councils are collecting residual waste weekly, with the intention of encouraging others to adopt similar practices. Although the guidance does contain one or two examples of weekly collections of recyclables, the predominant issue is around weekly collections of putrescible waste which is provided in this District, via the weekly collection of food and garden waste. Given that there is no intention to reduce the level of service provided through the new contract, it is considered that the DCLG guidance is being adhered to.

Government is also in the process of introducing quality standards for the processing of recyclates and requires Councils to undertake what is known as a "TEEP" analysis of proposed collection and recycling systems. TEEP is the acronym for "Technically,

Economically and Environmentally Practicable". Each bid submission at this final tender stage has been assessed against the TEEP criteria. It is considered that the "as is" and amended "as is" collection systems being procured comply with the TEEP requirement. Furthermore, contractors have addressed the issue of TEEP within their method statements to demonstrate that they too have fully considered the requirements of TEEP and the forthcoming recycle quality standards.

Safer, Cleaner and Greener Implications:

The waste and recycling services are key front line services and therefore crucial to the health and wellbeing of the district. They also have a significant role to play in respect of the management of fly-tips, graffiti removal etc alongside the neighbourhood enforcement teams.

The new contract brings with the potential for significant environmental enhancements, such as:

- (i) new, fuel saving fleet, Euro 6 compliant (from March 2015);
- (ii) fleet able to use diesel/biofuel mix
- (iii) collection fleet fitted with electric lifts (reducing noise and power consumption)
- (iv) single pass collection of dry recyclables;
- (v) depot locations reducing distances and fuel usage;
- (vi) increase in street cleansing standards;
- (vii) potential to drive recycling to 60% and beyond; and
- (viii) pro-active management of fly tipping "hot spots"

It is estimated that the above changes to the vehicle fleet and methods of service delivery will reduce greenhouse gas emissions by up to 30% and nitrogen dioxide by up to 63%. This equates to around 120 tonnes less carbon produced per annum.

Background Papers:

Previous Cabinet reports on the procurement exercise.
Notes of the Portfolio Holder Advisory Group.

Consultation Undertaken:

WYG Environmental Consultancy.
Portfolio Holder Advisory Group.

Impact Assessments:

Risk Management

(1) The TEEP analysis is attached as Appendix 1 and is referred to in the main body of the report. TEEP remains a potential area for challenge and the principles of the guidance published by WRAP should be reviewed from time to time and always should any changes to collection methodology be proposed.

(2) The contract puts arrangements in place dealing with the use of or transfer of assets in the event of an (unlikely) early contract termination. In addition, the contract required a successful bidder to either provide a bond in the sum of £750,000 for the life of the contract or place the same amount with the Council in escrow. Should Biffa be appointed as in recommendation (1), their preference is to place £750,000 in escrow. This provides considerable comfort in the event of the Council needing to hire in collection assets at short notice.

(3) The contract shares the risk evenly between the contractor and the Council in respect of recycle prices. This risk share was necessary to include since all contractors indicated that they were not prepared to shoulder that entire risk themselves. Therefore, if on balance commodity prices increase, the Council benefits from half of that increase, but if overall

commodity prices fall, then the Council must meet half of that decrease in value. The contract is one which will work on the basis of partnership, and it is anticipated that should commodity markets fall to any significant degree, discussions between the Council and the contractor will take place, the intention being to mitigate losses to both parties.

(4) All Council owned vehicles will transfer to the contractor at contract commencement. A fixed value has been attached to those vehicles of £1.85 million. This will be paid by the contractor to the Council once it is satisfied that the vehicles are roadworthy etc. All new vehicles, plant & equipment will be provided by the contractor, and in order to protect the Council in the unlikely event of a contract failure, the contract has a lien which transfers the ownership of plant and equipment to the Council, to ensure continuity of service.

(5) The financial stability of all bidding contractors was assessed at the tender pre-qualification stage and again before the final stage of dialogue. All four bidding contractors were found to be financially sound.

Transfer of Undertakings (Protection of Employment) Regulations (as amended) (TUPE)

The TUPE regulations place obligations upon incoming service providers to protect the conditions of employment of those employees who transfer from an incumbent service provider to a new one, where the contract provider changes. Subject to recommendation (1), it is anticipated that a significant number of the workforce currently employed by Sita, will transfer to Biffa. Waste contractors are very experienced in such matters, since it is not unusual for contracts to change on re-tender. Both Sita and Biffa will need to work closely together, alongside Trades Unions where relevant, to ensure that:

- (1) the transfer of staff is efficiently undertaken, to ensure that at contract commencement, there is suitable experience within the workforce to provide the service;
- (2) there is proper negotiation between Biffa and transferring staff; and
- (3) due to the change of depot locations in March 2015, this issue is discussed in detail with the workforce and Trades Unions.

This will form a key element of the contract mobilisation process, which will be delivered by a mobilisation team comprising Biffa and Council senior managers.

Due Regard Record

Name of policy or activity:

Procurement of waste management services

19 May 2014 John Gilbert

The waste and recycling service provides services across the District to all its residents, businesses and visitors. As such, it has to be able to adapt to the different requirements of service users. Account has to be taken of the differing needs of those who need to use or access the service. Particular groups such as:

- (a) the elderly or infirm;
- (b) those with disabilities;
- (c) differing religious groups; and
- (d) differing ethnic groups;

have been identified and the Council already has in place policies and practices for residents in these categories, such as assisted collections, information in different languages and formats and special collections to reflect the requirements of religious holidays and ceremonies.

There are no special requirements identified for any other residents who fall within the definition of those with "Equality Protected Characteristics".

As part of the assessment of the final tenders bidding contractors were required to demonstrate their understanding of Equality duties and at the Member Interview Panel one of the five assessed topics contractors were required to address the Panel was their understanding of these issues and how they were going to address them through the contract.