

## **Report to the Cabinet**

**Report reference:** C-049-2014/15  
**Date of meeting:** 1 December 2016



**Portfolio:** Environment  
**Subject:** Revised funding for the Waste Management Service  
**Responsible Officer:** Qasim (Kim) Durrani (01992 564055).  
**Democratic Services:** Gary Woodhall (01992 564470).

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### **Recommendations/Decisions Required:**

(1) That in order to respond to cost pressures on the Council's waste management service, a report be made to the Council for the approval of the following Supplementary DDF and CSB estimate for:

(a) a sum of £90,640 DDF to meet the costs of additional dry recycling sacks for July 2015 to March 2016;

(b) a sum of £202,654 DDF to meet the costs of a change in the composition of the dry recyclable materials collected from November 2015 to March 2016;

(c) a sum of £64,000 DDF to meet the costs of the increased number of properties in the District from November 2014 to March 2016; and

(d) a sum of £343,903 CSB, comprising of: £120,853 for dry recycling sacks, £143,050 for the change in the composition of the dry recycling materials collected and £80,000 for additional properties, is agreed for 2016/17 onwards;

(2) To agree to make a formal amendment to the Waste Management Contract to address any changes in composition of dry recycling materials in future ensuring that the Council can gain financially if the quality of materials collected improved; and

(3) That a further report is brought to Cabinet with regard to service change options that could be used to mitigate the increased costs in relation to recycling sacks and composition change for future years of the contract.

### **Executive Summary:**

A number of cost pressures on the waste management service have been building since the new contract was awarded in November 2014, which have only been fully highlighted over the last few months due to the initial focus being on improving the quality of the service. These have now resulted in a variation request by Biffa to the Council, which, under the terms of the contract, needs to be formally considered.

This report highlights the main additional cost considerations, namely the composition of dry recyclate, the number of dry recycling bags issued and the implications of the number of additional properties required to be serviced, from the start of the contract.

## **Reasons for Proposed Decision:**

Biffa have submitted a claim for extra costs in relation to the Waste/Recycling and Street Cleansing Services. The Council needs to consider the basis and merits of their claim.

## **Other Options for Action:**

To not consider the matters raised by Biffa would be unreasonable with respect to partnership working and open to challenge under the terms of the Contract.

## **Report:**

### Recycling Sacks:

1. Epping Forest is the second best council in Essex with respect to recycling performance. In addition, the most current national league table published by Letsrecycle.com places the district as 16<sup>th</sup> highest nationally for recycling and composting, out of the 320 local authorities who report recycling performance. It also appears, from the information available, that the district is 55<sup>th</sup> highest for overall dry recycling and the highest dry recycling performer utilising our collection methodology, i.e. mixed dry recycling and separate glass collection.

2. In terms of residual/non recycling waste the district is 41<sup>st</sup> lowest in England with just 402kg of waste per household not being recycled or composted. This, given that the district collects some of the highest tonnages (968kg per household of total waste) demonstrates the Council's overall excellent recycling performance. This is something to be proud of and should be celebrated. An increase in recycling performance, besides reducing the cost of processing and landfilling for the Disposal Authority, means the Council earns more in Recycling Credit income, which is paid per tonne of material recycled.

3. The dry recycling collection service relies on residents presenting recyclable items for collection at the kerbside. Although residents can present recycling in any clean and clear sack, the Council has historically provided clear plastic sacks free of charge. Under the previous contract the Council purchased and maintained a stock of sacks, with the contractor only being responsible for delivery to outlets. There was no direct delivery to households, rather residents could collect sacks from the, currently, 57 designated outlets across the district.

4. However, alternative proposals were submitted by Biffa during the competitive dialogue phase of the procurement process. It was suggested that the best way to safeguard and potentially improve dry recycling performance was to introduce a direct delivery of sacks to each household. This was accepted by the Council as part of the Tender Award. However, in addition, the ability to collect additional sacks from the designated outlets was retained, although the expectation was that the volume collected would decline. An additional benefit of the annual delivery was that Biffa could utilise their bulk purchasing power to order in the annual stock, rather than periodic orders throughout the year to supply outlets.

5. An evaluation of the number of sacks required was undertaken, which concluded that a figure of 5,550,000 should be specified within the contract, comprising of 4,750,000 to cover the annual delivery to 47,500 dwellings (which equates to 4 sacks per household, per fortnightly collection, offering similar capacity as a 180 litre bin) and a further 800,000 to be made available to the outlets.

6. Biffa commenced direct delivery of the sacks, which they were responsible for purchasing, to households in June 2015, the starting point of the new arrangement. Therefore, in the period 1 July 2015 to 30 June 2016, Biffa directly delivered the 4,750,000 sacks. However, demand from outlets has continued to be high, with the estimate of 800,000 greatly exceeded. In total, some 3,107,000 sacks were distributed above the 5,550,000 contract allowance i.e. 8,657,000 sacks. This is the period when the new Biffa contract was faced with multiple operational challenges and this led to a delay in the situation being addressed. However, lessons have been learnt and officers will work with Biffa to ensure that in future any such issues are reported in a timely manner. Once the issue was highlighted officers undertook a thorough audit of the sacks supplied to confirm that the figures are accurate. In order to help control costs going forward, the annual delivery will cease and revert to the previous outlet only collection regime. However, it should be noted that the level of outlet-only bags issued previously did approach 8,000,000 at its peak. The total cost of additional recycling sacks from 1 July 2015 to 31 March 2016 is £90,640, this is a cost already incurred by Biffa (**recommendation 1a**).

7. The additional costs for supplying dry recycling sacks will not change unless the current policy of free supply of sacks to households is changed. It is therefore necessary to allocate ongoing budget for the purchase and supply of dry recycling sacks to households. The estimated cost, based on current usage, is an additional £120,853 per annum.

#### Recycling composition:

8. All dry recycling materials collected from residents' door steps are taken by Biffa to their recycling facility at Edmonton, where the materials are separated and sorted for onward sale to national and international companies. The income generated from the sale of recycling material depends on their type and quality, for example, aluminium can generate an income of £600 per tonne and paper £50 per tonne. The dry recycling collected in the district comprises of a number of materials which, when presented as a percentage of all materials collected, is called the "composition" for the purpose of the contract. The income per tonne of material collected depends on the composition of the material. The greater the quantity of materials of greater value in the commodity market, the higher the per tonne rebate the Council receives.

9. In September 2013, during the procurement process, the Council provided all tenderers, as a result of a clarification request, with a sample composition analysis of the dry recycling material at the time. This enabled the tenderer to price the value per tonne of the materials to be offered as rebate to the Council. This sample was obtained with the assistance of the Council's then contractor, Sita Suez, and was considered to be a fair reflection of general composition.

10. In January 2016, Biffa submitted a contract variation request seeking a re-basing of the dry recyclate composition, arguing that the quality of the material was significantly inferior to what they had been led to expect through the procurement process. The Waste Management Partnership Board, whilst acknowledging the request, asked for officers and representatives of Biffa to enter into discussions to ensure that the sampling methodology adopted was truly representative of the recyclate collected across the whole district and that the results of the sampling from Biffa's recycling facility were accurate and fully verifiable. The result of this work now confirms that the composition is different to that detailed at the time of the procurement process. There may be a number of reasons for this, including the reduction of paper as people change to electronic news media, increased cardboard through on-line purchasing and the overall reduction in packaging weight by retailers.

11. The variance in the composition of recycling material has meant that the per tonne income that Biffa can achieve is significantly less than what they offered to rebate the Council

in their tender. The difference in the income per tonne due to the worsening of the recycling composition is £12.45, which over a year equates to a loss to Biffa of some £143,050. Biffa have incurred the additional costs since the commencement of the contract in November 2014. It is now recommended that a one off payment of £202,654 be made to Biffa to cover the additional costs from November 2015 to March 2016 (**recommendation 1b**).

#### Property growth:

12. A decision was made before the commencement of the contract with Biffa to link the number of properties served to the Local Land and Property Gazetteer (LLPG). At the time of award of contract in November 2014 the Gazetteer was not finalised and the registered number of properties in the district was estimated at 55,000. This was the figure used by Biffa to design the provision of waste and recycling collections and street cleansing services, of the associated publically adopted highway. The actual number of properties, once the Gazetteer was finalised, was 55648.

13. From November 2014 to November 2016 an additional 434 properties have been added to the Gazetteer. This means that since the start of the contract Biffa should be paid for an additional 1082 properties (648 due to the lower estimate at tender stage and 434 new properties constructed since November 2014). The additional costs associated with the increased number of properties from the commencement of the contract have been paid to Biffa, as required under the contract, however the budget provision was not increased. This means the expenditure for the waste management service will be over budget unless adequate uplift is applied.

14. The Council is obliged under contractual arrangements to pay Biffa for the work that has been undertaken, all payment dues to Biffa for the 1082 properties have been made, and it is now necessary to make a one off allocation in the budget of £64,000 to cover the additional properties added to the waste management contract from November 2015 to March 2016 (**recommendation 1c**).

#### In Conclusion:

15. The additional costs incurred by Biffa, in relation to the three issues highlighted above, are not sustainable. The Waste Management Partnership Board, which oversees the waste management contract with Biffa, has been monitoring these costs and believes the contract needs to be brought onto a more sustainable footing.

16. The costs associated with the supply of dry recycling sacks, changes in the composition of the dry recycling materials collected, the lower estimate of number of properties in the District at the start of the contract and the number of additional properties built since the first anniversary of the contract represent ongoing expenditure. To ensure delivery of the service is not compromised, it is necessary to increase the revenue budget of the Waste Management Service by £343,903 CSB, comprising of: £120,853 for dry recycling sacks, £143,050 for the change in the composition of the dry recycling materials collected and £80,000 for additional properties (**recommendation 1d**).

17. The Waste Management Contract is one under which the Council incurs the largest revenue expenditure. It will be necessary to make a formal amendment to the Contract. It is recommended that the amendment includes the ability for the Council to gain financially if the composition of material collected improves in future (**recommendation 2**).

#### Future Options:

18. The Waste Management Partnership Board was presented at their last meeting with

some preliminary information on options for service changes, which could result in efficiency savings, to offset the costs of sacks and the composition of materials issues. More work needs to be carried out, including assessment of the impact on residents of any changes to the collection service, before an informed decision can be made by Cabinet.

19. However, in summary, four options were presented to the Partnership Board:

- (i) The provision of additional, chargeable, bins for mixed organics;
- (ii) The introduction of Biffa's 'Green Waste Club' and separate food waste collection;
- (iii) The introduction of a third wheeled bin for dry recyclate; and
- (iv) The introduction of a third wheeled bin for dry recyclate and glass.

20. Three of the four options presented have the potential to not only increase recycling performance, but also to reduce the revenue costs of the contract to the Council, particularly if the need for dry-recycling sacks was eliminated. However, at this stage not enough information is available to identify the scale of any savings. It is recommended that a review of the dry recycling collection service be carried out, with a focus on the options for replacing dry recycling sacks with a third wheelie bin and a detailed report setting out the business case be presented to a future Cabinet (**recommendation 3**).

### **Resource Implications:**

The DDF growth costs of £357,294 relate to: increased number of recycling sacks supplied to residents, changes in the composition of dry recycling materials collected and the additional properties added since the commencement of the Biffa contract in November 2014. By making these payments the additional costs incurred by Biffa will be recovered and the contract will be stabilised.

In the current financial year Biffa have already surpassed the limit of sacks specified in the contract of 5,550,000. Given the trend of demand of sacks last year it is estimated that a CSB allocation of £120,853 is needed for 2016/17 onwards.

The composition, type of various materials, of dry recyclables collected at the door step has changed since the information was provided to tenderers in September 2013. This has resulted in a financial loss to Biffa, due to the quality of materials being collected being worse than what Biffa were advised at the tender stage. To address the difference in the value per tonne of the dry recycling material, based on the two compositions, it is recommended to have a CSB allocation of £143,050 per year from 2016/17 onwards.

To address the anomalies in the number of properties from the commencement of the Biffa contract in November 2014, due to errors in the Gazetteer and additional properties constructed, a CSB allocation of £80,000 is required from 2016/17 onwards.

### **Legal and Governance Implications:**

Relevant legislation includes:

- Environmental Protection Act 1990
- Controlled Waste Regulations 1992
- Local Government & Finance Act 1988
- Household Waste & Recycling Act 2003

### **Safer, Cleaner and Greener Implications:**

The waste management service offers key front line services that are crucial to the health and wellbeing of the residents of the district. Improving performance, including the levels of recycling, will reduce the overall tonnage going to landfill.

**Consultation Undertaken:**

Biffa contract management team.

**Background Papers:**

Cabinet and Portfolio Holder Advisory Group reports and notes of meetings leading up to the decision to award the waste management contract to Biffa Municipal Limited.

**Risk Management:**

Unless the issues are addressed, there is a risk of failure on behalf of the contractor which would present a significant service risk to the Council in ensuring that their statutory responsibilities for waste/recycling collection are met.

# Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

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The waste management service provides a wide range of services to all residents across the District. Out of the specific group or characteristics that the Council has a legal duty to have due regard for the following are affected by the services provided under the waste management contract:

- (a) Age (elderly or infirm)
- (b) Disability
- (c) Religion or belief
- (d) Race (various ethnic groups)

There are already policies and practices in place for residents in the above categories, for example assisted collections, ability to provide information in different languages or format such as Braille.