



**Brighton & Hove
City Council**

POLICY & RESOURCES COMMITTEE ADDENDUM

4.00PM, THURSDAY, 9 JULY 2015

AUDITORIUM - THE BRIGHTELM CENTRE

ADDENDUM

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39 APPROVAL TO ESTABLISH COMMERCIAL WASTE COLLECTIONS	1 - 8
Report of the Executive Director for Environment, Development & Housing (copy attached).	
<i>Contact Officer: Jan Jonker</i>	<i>Tel: 29-4722</i>
<i>Ward Affected: All Wards</i>	

Subject:	Commercial Waste Collection Business Case		
Date of Meeting:	9 July 2015		
Report of:	Executive Director of Environment, Development & Housing		
Contact Officer:	Name:	Richard Bradley	Tel: 29-4725
	Email:	Richard.bradley@brighton-hov.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 In May 2012 the Council's Cabinet approved a commercial waste collection trial. The trial was never launched due to service disruption and the requirement to first resolve issues around the collection services from households. The service is now bedding down and the business case has been updated.
- 1.2 A Part 1 Report outlining the Service Plan for Cityclean includes the recommendation to establish a commercial waste collection service in accordance with the parameters set out in the report and subject to final agreement of the detailed operational arrangements by the Executive Director of Finance and Resources and the Executive Director of Environment, Development & Housing. This report provides background information pertaining to the commercial business case.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the additional information contained in this Part 2 report.
- 2.2 That the Committee authorises the Executive Director Environment, Development & Housing, following consultation with the Executive Director Finance & Resources to adjust the set price by up to 20% to allow for competitive advantage for potential large contracts

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Relevant background information is detailed in the Part 1 report, the key elements of the business case are summarised below. The service is expected to be of particular interest to small businesses who produce a maximum of a few refuse bags per day. Customers will purchase rolls of bags from the council, the cost of which includes the bag, collection, disposal and administration costs.

- 3.2 To inform the business case, businesses were surveyed to assess what types of wastes they produce, how they contain and dispose of it and what their costs are. The survey was promoted on line and through organisations including the Business Improvement District, Visit Brighton and the Chamber of Commerce. 164 businesses responded to the survey.

Commercial Waste Collection Business Case

- 3.3 The detailed business case is attached as Appendix 1. The key fixed and variable costs are:
- Cost of bags
 - Cost of collection
 - Cost of disposal
 - Fixed overheads and administration costs.

Cost of Bags

- 3.4 The bags used for the service will be a distinctive colour to assist with any enforcement work and minimise the risk of the system being abused. The bags will be procured using existing frameworks and the cost is £0.07.

Cost of Collection

- 3.5 Commercial waste bags will be placed in communal bins by the customers. The bins are emptied regularly and for the initial phase it is not anticipated that extra collections or extra bins will be required. If the service gets close to capacity a freeze can be put on signing up new customers until the viability of increasing collection frequency is determined.

Weight of Commercial Waste Bags

- 3.6 The disposal cost per bag is variable, as it depends on the weight of refuse put in to the bag. To inform the business case research has been done on the weights of trade bags and the most robust data has been produced by WRAP which reports the average weight of a commercial waste bag is 5.2kg. A small sample of 16 bags was weighed in Brighton and Hove. The average weight in this small non representative sample was 9.88kg per bag, nearly double that reported by WRAP.
- 3.7 To err on the side of caution the business case has been modelled based on the worst case scenario of an average weight of 10kg per bag and a second scenario using 7.5kg per bag, which is half way between the WRAP figure and that sampled locally.

Cost of Disposal

- 3.8 Bags of commercial waste will be co-collected with household waste and it will therefore have to be disposed of through the same route, at the Hollingdean Waste Transfer Station prior to onward transportation to the Energy Recovery Facility in Newhaven. The tonnage of commercial waste will be calculated based on the number of bags sold and regular sampling of the weight of trade bags.

- 3.9 Household waste takes priority at the contract facilities and it is therefore theoretically possible that commercial waste will have to be allocated to landfill should household waste tonnages increase significantly or the ERF be unavailable for any other reason.
- 3.10 This is considered to be highly unlikely. The ERF has the capacity to process approximately 242,000 tonnes per annum. In 2014 it processed 195,000 tonnes of contract waste from East Sussex and Brighton & Hove. 44,000 tonnes of commercial, non-contract waste was processed by Veolia. As contract waste (including commercial waste collected by Cityclean) takes priority over commercial waste brought in by Veolia there is in excess of 40,000 tonnes of capacity. The tonnage produced by 1,000 small businesses joining the service is estimated to be between 2,000 and 2,600 tonnes per year.
- 3.11 For the reasons set out above the risk of having to pay landfill disposal rates for collected commercial waste is considered to be extremely low. The calculations show that the service would still return a profit if disposal costs were charged at landfill rates if the service is not liable to VAT payments. In the worst case and very unlikely scenario, if landfill charges had to be paid, the service was VAT liable and the weight of bags was higher than expected the service would run at a small loss (3p per bag) of the proposed rate of £2.25 per bag. In these unlikely circumstances the charges would need to be increased to return a profit.

VAT

- 3.12 Currently Local Authorities are exempt from VAT for commercial waste collections. This is being challenged by commercial waste operators who argue it gives local authorities an unfair advantage.
- 3.13 The business case for commercial waste has been assessed both with and without the local authority being liable for VAT. If local authorities do become liable to pay VAT charge VAT on commercial waste services this is unlikely to happen for at least 12 months.

Fixed Overheads & Administration Costs

- 3.14 The overheads for the service are low as it is based on using existing infrastructure. A new ICT module will be required to manage the customer database, and there will be an annual fee associated with its maintenance. Marketing and promotional materials will need to be designed. Distribution costs are included in the administration costs. The set up costs are expected to be less than £8,000 and annual running costs less than £4,000.
- 3.15 The service can be managed and administered within existing resources up to a certain point. The number of customers is expected to grow gradually as businesses will want to wait until the end of existing contracts before changing suppliers. The administration resource can be grown gradually as demanded by the service.
- 3.16 It is anticipated that the service can comfortably absorb 300 customers within existing resources.

Other Cost Factors

- 3.17 Of the 164 businesses surveyed 12 stated they disposed of their waste in council bins and five stated they took their business waste home and disposed of it with their domestic waste. Therefore 10% of respondents admitted disposing of their waste through the domestic waste stream. It is likely that other respondents to the survey were not as honest and a higher percentage of businesses currently use communal bins to dispose of their waste at no cost.
- 3.18 Offering a commercial service will provide an alternative to those businesses, once they are made aware of their responsibilities through more effective enforcement activity.

Business Case Summary

- 3.19 The average cost per bag that businesses pay through current private sector suppliers is £1.98 but this varied significantly from £0.50 to £4.00. Most paid around £2.00. The extremely low costs were only reported by a small number of respondents and these responses are not believed to be representative or reliable. Many commercial operators charge Duty of Care costs or administration fees in addition to the cost per bag, a source of complaint of many customers.
- 3.20 Based on the market research it is proposed to charge £2.25 per bag. As part of the business case a number of scenarios have been modelled based on this charge. Given that it is extremely unlikely that trade waste will be disposed of to landfill as outlined above, this scenario is not detailed below. The two main scenarios are
- Scenario A – Average weight of 10kg per bag disposed to energy recovery
 - Scenario B - Average weight of 7.5kg per bag disposed to energy recovery
- 3.21 The net profits for both scenarios have been modelled based on the current situation where the service would be exempt from VAT and a future scenario which may require VAT to be paid.

4.0 Risks & Opportunities

- 4.1 Overall the proposed service is low risk to the council. Set up costs are low, and no significant additional resources will be required until the service grows significantly, by which point the income projections will be very robust. The council can manage the number of customers it takes on. The risks and opportunities are summarised below.
- 4.2 Opportunities
- The council has most of the expertise and infrastructure in place to provide commercial waste collection services
 - Communal containers will provide a USP for the service as small businesses will be able to get rid of their waste at their convenience without having to keep it on their premises until scheduled collection.
 - In house collection service will help reduce the number of commercial collection vehicles in the city centre
 - Collections can be timed to have minimal impact on the city centre

- An in house service has the potential to enhance the reputation of the council

4.3 Risks

- Potential customers may be reluctant to engage with the council following the recent service disruption
- Future disruption could significantly affect the viability of the business
- If the service is very successful and existing infrastructure of bins reaches capacity collection frequency will need to be increased or more bins installed. However the council can manage this risk by controlling how many customers it signs up. It is expected that the service can accommodate 300 customers within existing resources but this will be kept under review.
- Many businesses will be looking for one service provider to deal with all their waste needs. This business case only deals with refuse yet many businesses produce a lot of recyclable materials. Collections of recyclable materials will need to be modelled. Most commercial recycling is likely to be cardboard and glass, for which the existing communal bring banks will not have sufficient capacity. It is likely that a bespoke commercial recycling round needs to be established. Bulky cardboard cannot be processed through the Materials Recycling Facility at Hollingdean and will need to be kept and tipped separately.
- Businesses continue to use communal waste bins illegally, rather than engage in the new arrangements increasing the cost burden for the council. To minimise this risk mre effective enforcement needs to be stepped up.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The proposed charges will be subject to the council's Corporate Fees and Charges Policy. Fundamentally, the policy aims to increase the proportion of income contributed by users of services where appropriate, rather than the cost being met from the general Council Taxpayer. The proposed charges have been compared with appropriate comparator groups and are based on estimated costs to ensure it at least achieves cost recovery. As a minimum, charges will be reviewed annually as part of the budget and service planning process.

The net income in the 2015-16 financial year is expected to be minimal as the take up from businesses is expected to increase to full capacity over a period of time. It is anticipated that the one-off set up costs of £8,000 are to be funded from the income received in the current financial year, which any in-year surplus intended to fund other City Clean projects and offset any in year overspends within the City Clean budget. Any significant variation to the 2015-16 budget will be reported as part of the council's budget monitoring process.

Based on the assumptions outlined in the report, the estimated recurring net income based on the different scenarios is expected to be between £39,000 and £90,000. The figures assume 300 customers, which is considered to be achievable within existing infrastructure and resources with minimal additional

cost of waste collection. Expansion of commercial waste collection beyond existing capacity will be subject to the demonstration of an acceptable business case as the cost implications will be different.

The recurring financial impact of the proposed scheme will be incorporated in future years budget as part of the budget setting process when information on the costs and income becomes more robust and can be accurately forecast.

The additional cost of waste disposal will impact on the financial liability related to the Waste PFI contract. An element of fee income that is considered to offset the disposal costs will be allocated to the Waste PFI budget to ensure that there is minimal impact of the ongoing financial liability on the PFI budget. There will be regular audits of the weight per bag of commercial waste to ensure that the income allocated to the PFI budget is sufficient to cover costs.

Finance Officer Consulted: Sue Chapman

Date: 11/06/15

Legal Implications:

- 5.4 The Council is empowered to collect commercial waste under s45(1)(b) of the Environmental Protection Act 1990.

Under the Environmental Protection Act 1990, the Council has a duty to collect commercial waste if requested to do so and has the power to charge a 'reasonable' fee for the service. This activity does not need to be conducted through a company because of the specific provisions in the Environmental Protection Act 1990 which authorise the activity. Case law (R (Western Riverside WA) v Wandsworth [2005] EWHC 536) is clear that what is 'reasonable' does not mean costs recovery only and can be at the prevailing market rate, or higher.

The arrangements for commercial waste collection will need clear Terms and Conditions to be agreed between the Council and businesses using the service and will include requirements for compliance with the Waste (England and Wales) Regulations 2011 in respect of the duty of care of businesses who handle commercial waste.

There are ongoing Court proceedings in relation to whether the current VAT exemption for Local Authorities operating commercial waste collection is unlawful/anti-competitive. The litigation is at an early stage. HMRC are being supported by the LGA to present the argument in favour of justifying and continuing the exemption.

Lawyer Consulted: Elizabeth Culbert

Date: 050615

Equalities Implications:

- 5.5 As contained in the Part 1 report

Sustainability Implications:

- 5.6 The council, by operating a commercial waste service, can help reduce the level of traffic movements in the city. The existing vehicle trips to service the

communal bins will service the business premises opting into the service. Thus those businesses will not need to receive a visit from a commercial waste vehicle, reducing trips.

- 5.7 The feasibility of communal recycling services for businesses will be positively assessed in light of this proposed trial.

Crime & Disorder Implications:

- 5.8 The commercial waste trial has no significant implications for crime or disorder.

Risk and Opportunity Management Implications:

- 5.9 A key risk will be that businesses will use the bins regardless of whether they have paid for the service through the purchase of bags. Although, some businesses maybe doing this already, there is a likelihood that this could increase with the promotion and operation of the trial. For this reason, a contingency has been built in with the proposed cost structure above.

Public Health Implications:

- 5.14 The commercial waste trial has no implications for public health. Any service changes will be subject to a detailed risk assessment.

Corporate / Citywide Implications:

- 5.15 This proposal addresses a specific priorities in the corporate plan, namely to trial a commercial waste collection service.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 As contained in the Part 1 report

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The reasons for the recommendations are set out in the body of the report.

