

<b>Subject:</b>	<b>Commercial Bins on the Highway: Outcome of Public Consultation</b>		
<b>Date of Meeting:</b>	<b>22 June 2021</b>		
<b>Report of:</b>	<b>Executive Director Economy, Environment &amp; Culture</b>		
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 City Environment receives a number of complaints about commercial waste bins on the highway, including issues caused by their placement, the volume of them and the anti-social behaviour they encourage. At its meeting on 25 June 2019, Environment, Transport & Sustainability Committee approved for a public consultation to take place on the preferred approach for managing commercial waste bins on the highway.
- 1.2 This report presents the outcomes of this public consultation and a revised proposed approach for managing commercial bins, based on the feedback received.

**2. RECOMMENDATIONS:**

- 2.1 That Environment, Transport & Sustainability Committee note the outcomes of the public consultation in Appendix 1.
- 2.2 That Environment, Transport & Sustainability Committee note the approaches adopted in other areas across the country in Appendix 2.
- 2.3 That Environment, Transport & Sustainability Committee approves the revised approach for managing commercial bins on the highway as set out in Appendix 3, including the roads within T-Zones, and its inclusion in the Environmental Enforcement Framework from 1 February 2022.

**3. CONTEXT / BACKGROUND INFORMATION**

- 3.1 Brighton & Hove City Council previously enforced against commercial waste bins on the highway but this service stopped in approximately 2009. Since this date there has been a proliferation of commercial bins placed in locations across the city.
- 3.2 City Environment receives a number of complaints about commercial waste bins on the highway, including issues caused by their placement, the volume of them and the anti-social behaviour they encourage. Where complaints have been

made about Brighton & Hove City Council commercial waste bins, efforts are made to find alternative locations or recommend that the business uses the trade waste sack service, if they are in the permitted area. Where other complaints are made, council officers have requested they are moved, but this is not always complied with.

3.3 Issues caused by commercial bins include:

- Blocking of pavements and highways causing obstructions and safety issues, particularly for those in a wheelchair or pushing a pram or buggy
- One commercial bin being placed on the highway, and then attracting more and more
- Some being placed in residential streets, away from the business in question so the bin does not impact on the business, but causing a nuisance elsewhere
- Used as a canvas for graffiti vandalism and/or used as a structure to carry out graffiti vandalism on a building or other surface
- Encourages litter and debris to be left on top; each business' Duty of Care requires them to keep the bin locked at all times, therefore when a member of the public sees a bin and is unable to use it, litter is sometimes left on the lid
- Encourages fly-tipping

3.4 Some examples of these are in Appendix 4.

3.5 By adopting the approach detailed in Appendix 3, it is anticipated that there will be improved access to and use of the highway, improved safety, reduced litter, as well as an improved appearance of key areas in the city.

3.6 It is recognised that times are hard for businesses at present. However, there needs to be improvements as to how commercial bins are managed. Many businesses already store their bins or waste sacks on site and only place on the highway at the time of collection. This needs to be replicated in the T-Zones.

## 4. Consultation process

4.1 The consultation launched on 30 September 2020 and closed on 31 March 2021. The closing date was extended twice to encourage as many businesses as possible to respond.

4.2 Social media posts promoting the consultation and inviting feedback were shared throughout the period. A Member briefing was produced and encouraged for distribution. On 8 March 2021, following a noted low response rate from businesses in potential T-Zones, businesses in the areas were either written to or emailed with details of the proposal and how they could provide their feedback.

## 5. Consultation results

5.1 522 responses were received. The results have been analysed and are provided in more detail in Appendix 1. The high-level results show:

- 58.6% of respondents strongly agreed or tended to agree that commercial bins on the highway were a problem in their local area

- 74.3% of respondents strongly agreed or tended to agree that commercial bins on the highway were a problem in Brighton & Hove
- 79.3% of respondents strongly agreed or tended to agree that the council should introduce a better way of managing commercial bins on the highway
- 64.9% of respondents strongly agreed or tended to agree with the introduction of time banding in T-Zones
- 50.8% of respondents strongly agreed or tended to agree that the time banding should be 6.00am to 9.00am
- 57.9% of respondents strongly agreed or tended to agree that an FPN of £110 should be issued to businesses that do not comply with the time banding
- 84.0% of respondents strongly agreed or tended to agree that business names should be on all commercial bins in the city

5.2 There were other suggestions as to how commercial bins can be better managed on the highway, some of which can be explored further. This is detailed in Appendix 1.

## 6. Revised model and implementation

6.1 Based on the feedback received and the research completed into arrangements in other cities across the UK, a revised model has been developed and for which approval is sought.

6.2 The reasoning for the proposed model in Appendix 3 is:

<b>Feature</b>	<b>Explanation</b>
A model to manage commercial bins on the highway	The results of the consultation demonstrate there is a need for the council to manage commercial bins on the highway. The research demonstrates restrictions on when commercial bins can be on the highway is common practice in the UK
Time banding	The feedback showed that a morning only time slot would not work for many businesses. Therefore, reflecting on the feedback, a second time slot has been introduced. This means businesses can present their bins and bags for collection on the highway between 6.00am and 9.00am and then 6.00pm and 9.00pm. Bins and/or sacks cannot be left out overnight.
Roads in T-Zones	The final list of roads is included in Appendix 3 and are presented in maps in Appendices 5 and 6. Some additional streets have been added to the maps to prevent displacement of bins from nearby roads within the T-Zones.
Enforcement of T-Zones	In order to ensure the model is adhered to, enforcement measures are required. The proposed £110 fine amount is in line with other offences in the Environmental Enforcement Framework.
Bin ownership	There was overwhelming support for bins to be

	labelled with the name of the business. This will apply across the whole city, not just roads in T-zones.
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6.3 If approval is received to proceed, a programme of communication will take place. This will include:

- Writing to businesses in the T-Zone areas to notify them of the change and what they need to do to comply, including reminders
- Regular social media posts
- Creating a web page with all relevant information
- Providing Environmental Enforcement Officers and other council services with an information sheet to share with businesses during their routine activities

6.4 Businesses will be given time to make the arrangements necessary to adhere to the model. Options available to them include smaller bins, more frequent collections or, if they are in the communal bin area, purchasing trade waste sacks from the council. They should speak to their waste management provider about their options.

6.5 The new approach to managing commercial bins on the highway will be implemented from 1 February 2022 and will form part of the Environmental Enforcement Framework.

6.6 Based on the feedback, officers will give consideration to a phase 2 to incorporate further areas of the city, learning from the implementation of phase 1.

## **7. City Environment Modernisation Programme**

7.1 There are a number of projects in the Modernisation Programme which are also designed to help tidy up the city, alongside this project. This includes:

- Improving the communal bin system which is looking to enhance the appearance, capacity and frequency
- Graffiti Reduction Strategy which is seeking to reduce the amount of graffiti vandalism around Brighton & Hove
- Environmental Enforcement Framework which is regularly reviewed to address anti-social and illegal behaviour and to minimise waste clean-up and disposal costs

## **8. Consistency in recycling businesses in England**

8.1 On 7 May 2021, the government published the second consultation seeking views on consistency in households and business recycling in England. The proposals for waste management for businesses are similar to those proposed for households. The proposed waste streams which businesses must collect are glass, metal, plastic, paper and card, and food waste.

8.2 The recyclable waste streams should be collected separately from each other unless the following apply: it is not technically or economically practicable or there is no significant environmental benefit in doing so; or if an exemption to this

requirement is set out in legislation. Food waste must always be collected separately from the other recyclable waste streams and residual waste.

- 8.3 The government is seeking views on the types of waste materials to be included in the recyclable waste streams; the extent to which new duties should apply to different types of non-household municipal premises; and measures to reduce the cost of recycling and waste management for businesses and micro-firms in particular, to help them recycle more and make it easier to comply with the Environment Bill measures. Recognising the impact this may have on some businesses, particularly micro-firms, the government is seeking views on whether there should be an exemption for micro-firms.
- 8.4 The consultation is open until 4 July 2021 and businesses are encouraged to respond: <https://consult.defra.gov.uk/waste-and-recycling/consistency-in-household-and-business-recycling/>

## **9. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 9.1 Through the public consultation, stakeholders were provided with an opportunity to share their ideas on alternative ways to manage commercial bins on the highway. The feedback has been used to make changes to the original proposed model.
- 9.2 Do nothing is also an option, though the council will continue to receive complaints about the bins on the highway, and they will continue to cause the issues listed in 3.3.

## **10. COMMUNITY ENGAGEMENT & CONSULTATION**

- 10.1 This is detailed in the main body of the report and appendices.

## **11. CONCLUSION**

- 11.1 This report and appendices provide Members with outcomes from the public consultation on managing commercial bins on the highway and examples of approaches adopted elsewhere. It is recommended that the model in Appendix 3 is adopted to reduce the detrimental visual and environmental impact that commercial bins have on the city. Businesses will need time to liaise with their waste management providers and therefore an implementation date of 1 February 2022 is recommended.

## **12. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 12.1 The recommendation to add the management of commercial bins to the Environmental Enforcement Framework from 1 February 2022 would allow Fixed Penalty Notices to be issued as an enforcement measures in line with other commercial waste offences. Any surplus income from Fixed Penalty Notices, are legally ring fenced to support specific environmental purposes.

- 12.2 Enforcement will be carried out within existing resources, but any additional spend is expected to be funded from additional income and any significant variation to budget will be reported as part of the council's monthly budget monitoring process.

*Finance Officer Consulted: John Lack*

*Date: 09/06/2021*

Legal Implications:

- 12.3 Section 47 of the Environmental Protection Act 1990 provides that waste collection authorities may require that commercial waste is stored in receptacles of a certain kind, including requirements as to where the receptacles are placed for waste collection purposes and steps to be taken by occupiers of premises to facilitate the collection of the waste. Section 47ZA of the 1990 Act provides that fixed penalty notices may be issued where the waste collection authority's requirements are not complied with.

*Lawyer Consulted: Hilary Woodward*

*Date: 28/05/2021*

Equalities Implications:

- 12.4 The feedback received during the consultation highlighted some of the issues arising due to the volume and placement of commercial bins across Brighton & Hove.
- 12.5 Possability People, a support organisation helping disabled people to live independently, is supportive of the approach Cityclean is taking to make pavements and roads accessible and safe for all.
- 12.6 Adopting a model to manage commercial bins on the highway will improve the accessibility and safety of the city's roads and pavements. See Equality Impact Assessment in Appendix 7 for more information.

Sustainability Implications:

- 12.5 Improving how commercial bins on the highway are managed allows the council to protect the environment from detrimental activities associated with them, such as littering, fly-tipping and graffiti.

Crime & Disorder Implications:

- 12.6 As detailed in the main body of the report, commercial bins on the highway can lead to anti-social behaviour and environmental crimes. Managing the bins in a more effective way will reduce this.

Corporate / Citywide Implications:

- 12.7 Managing commercial bins on the highway will make the city a more attractive place for residents and visitors and support the visitor economy.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Analysis of responses to the public consultation
2. Approaches across the UK
3. Revised approach to be implemented, including roads
4. Issues in Brighton & Hove
5. Overview of T-Zones
6. Ward maps of T-Zones
7. Equality Impact Assessment

### **Background Documents:**

None

