

# Brighton & Hove City Council

## Environment, Transport & Sustainability Committee

## Agenda Item 92

**Subject:** Commercial bins on the highway

**Date of meeting:** 15 March 2022

**Report of:** Executive Director – Economy, Environment & Culture

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**Ward(s) affected:** All

**For general release**

### 1. Purpose of the report and policy context

1.1 This report provides an update for committee on the implementation of Time-Banding Zones (T-Zones) to manage commercial bins on the highway. Following notifications to businesses and waste management providers about the introduction of T-Zones, some adjustments have been requested. This report presents these adjustments and makes recommendations for a change to the model.

### 2. Recommendations

2.1 That Committee agrees an amendment to the model to allow bins/sacks to be left out overnight. This will be a medium-term adjustment and be subject to review in 12 to 18 months' time once businesses are familiar with the new arrangements.

2.2 That Committee delegates authority to the Executive Director – Economy, Environment & Culture to determine the parameters of this amendment, including the types of sacks to be permitted overnight e.g. vermin proof and an appropriate time from when bins/sacks can be left outside from the afternoon / early evening.

### 3. Context and background information

3.1 This Committee approved a model for managing commercial bins on the highway in June 2021 following a lengthy consultation period. This report, detailed below in the Background Documents section, outlines the issues caused by commercial bins on the highway.

3.2 By adopting the agreed approach, 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 of the city.

### Consultation

- 3.3 The consultation launched on 20 September 2020 and closed on 31 March 2021. The deadline was extended twice to encourage more responses from businesses. Appendix 1 contains some key milestones in the development and implementation of T-Zones.
- 3.4 During the consultation period, waste management providers were written to informing them of the consultation and offered a meeting with the Assistant Director (City Environmental Management) and the Head of Strategy & Service Improvement to discuss further. None of the providers requested a meeting. Three waste management providers responded to the consultation on the consultation portal: Biffa, The Recycling Partnership and the BHCC Commercial Team.
- 3.5 Contact was also made with the Business Improvement District (BID) and Tourism Alliance setting out the consultation and asking them to share with their members. The Chamber acknowledged that they were made aware of the consultation. No concerns were expressed at this earlier stage.

### Adjustments

- 3.6 On 10 December 2021, the BID, on behalf of a number of signatories<sup>1</sup>, wrote to the Chief Executive expressing their concerns about the implementation of T-Zones. On 25 January 2022 the Assistant Director (City Environmental Management), Head of Strategy & Service Improvement and Highway Regulation Manager met with the signatories.
- 3.7 Within both the letter and at the meeting, they shared their concerns and suggested some adjustments to the model. At the meeting, it was stated that the model had been approved by Committee and any changes would also require councillor approval. Appendix 2 contains the requested adjustments and advice from officers.
- 3.8 As detailed in Appendix 2, it is recommended that a change to the model is made to allow bins/sacks to be left out overnight. It is recommended this is a medium-term adjustment as businesses make changes and be subject to review in 12 to 18 months' time once businesses are familiar with the new arrangements. There will need to be parameters in place to facilitate this, such as vermin-proof bags and a time limit on when the bins/sacks can be placed out from the afternoon / early evening.

### Additional information

- 3.9 The implementation date has already been pushed back from 1 February 2022 to 1 April 2022 to give businesses more time to prepare for the changes.
- 3.10 In many other towns and cities, commercial bins on the highway are not permitted. The businesses in Brighton & Hove who have been able to do this

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<sup>1</sup> Brighton Chamber, Brighton & Hove Food Partnership, Coxskips, PaperRound and Circular Brighton & Hove

until now, have been able to take advantage of free waste storage, but this is not something that residents of the city want to continue with, based on the results of the consultation.

- 3.11 Businesses cannot store their bins in a licenced table and chair or display area. This is to ensure fairness to everyone and to prevent businesses applying for a licensed area just to store bins. Highways Enforcement will be updating their conditions to reflect this.
- 3.12 Approximately 4000 businesses were written to, notifying them of the changes. It is clear from the city's streets that not all of these businesses leave their bins on the highway. Therefore, the majority of the proposed model will affect a small proportion of businesses. (The time-banding will impact on some of those already storing their bin(s) off the highway).
- 3.13 Implementing T-Zones encourages greater responsibility for businesses to manage their waste. In turn, this will support them in meeting their Duty of Care and potentially reducing the number of Fixed Penalty Notices issued for other offences such as overflowing or unlocked bins.
- 3.14 All businesses need to be treated equally and fairly – large, medium and small – and there will be no exceptions and no option to appeal.
- 3.15 It will mean changes for all businesses, but some alternative collection arrangements could include:
- Arrange for collections to take place from private land or property
  - Arrange for a member of staff to be present to bring bins out for collection
  - Change collection times with waste providers, or change provider
  - Arrange for smaller container and more frequent collections
  - Collaborate with other businesses who may have some space on private property
  - Think of ways to reduce waste
  - Consider using Brighton & Hove commercial refuse sacks which can be disposed of in communal bins.
- 3.16 The council cannot provide advice to individual businesses as to how to manage waste without using the public highway to store bin(s). Businesses can:
- Discuss their needs with their waste provider
  - Talk to other businesses in the city about how they manage their waste
  - Talk to businesses in other similar cities where commercial bins are not permitted to be left on the highway.

#### **4. Analysis and consideration of alternative options**

- 4.1 Through the public consultation, stakeholders were provided with the opportunity to share their ideas on alternative ways to manage commercial bins on the highway. The model agreed in June 2021 incorporated the feedback.

- 4.2 This report and appendices set out further alternative options based on subsequent feedback. The recommendations in Section 2 are based on officers' consideration of these suggestions. Other adjustments are not recommended as they do not achieve the objectives of the project.
- 4.3 At the beginning of the project, a bin licensing scheme was considered as an option. However, this was not taken forward due to not achieving the objectives of improved access to and use of the highway or an improved appearance of key areas of the city. Also, the administration required to manage a licensing scheme is very different to the provision of tables and chairs, A-boards etc.

## **5. Community engagement and consultation**

- 5.1 This is detailed in the main body of the report, the appendices and the report to committee in June 2021 which is in the Background Documents section.

## **6. Conclusion**

- 6.1 This report and appendices provide Members with an update on the implementation of changes to how commercial bins on the highway are managed. It is recommended that a change to the model, to allow bins/sacks to be placed out overnight, is approved and will be reviewed in 12-to-18-months time.

## **7. Financial implications**

- 7.1 There are no direct financial implications arising from the recommendations of this report. Any surplus income from Fixed Penalty Notices, are legally ring fenced to support specific environmental purposes.
- 7.2 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.

Name of finance officer consulted: John Lack    Date consulted:14/02/2022

## **Legal implications**

- 8.1 As noted in the June 2021 Committee report, the Environmental Protection Act 1990 allows waste collection authorities to 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. The Act also provides that fixed penalty notices may be issued where the waste collection authority's requirements are not complied with.

Name of lawyer consulted: Hilary Woodward    Date consulted:14/02/2022

## **8. Equalities implications**

- 9.1 Issues caused by commercial bins on the highway include causing obstructions, particularly those in a wheelchair or pushing a pram or buggy. The feedback received during the consultation confirmed this.
- 9.2 An Equality Impact Assessment was completed as part of the committee papers and is available in the Background Documents section.

## **9. Sustainability implications**

- 10.1 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.

## **10. Other Implications**

### **Crime & disorder implications:**

- 11.1 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.

## **Supporting Documentation**

### **1. Appendices**

Appendix 1: key milestones in the implementation of the new model

Appendix 2: requested adjustments

### **2. Background documents**

The outcomes of the consultation were reported to Environment, Transport & Sustainability Committee on 22 June 2021:

- [Commercial Bins on the Highway: Outcome of Public Consultation report](#)
- Appendix 1: [Managing commercial bins on the highway: analysis of responses to the public consultation](#)
- Appendix 2: [Managing commercial bins on the highway: approaches across the UK](#)
- Appendix 3: [Managing commercial bins on the highway: revised approach to be implemented](#)
- Appendix 4: [Managing commercial bins on the highway: issues in Brighton & Hove](#)
- Appendix 5: [Overview map of T-Zones](#)
- Appendix 6: [Ward maps of T-Zones](#)
- Appendix 7: [Equality Impact Assessment](#)

