

<b>REPORT TO</b>	<b>DATE OF MEETING</b>
Cabinet	12 February 2014

Report template revised June 2008



<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
Waste Management Contract and Cost Sharing Agreement	Neighbourhoods and Streetscene	Mark Gaffney	5

## SUMMARY AND LINK TO CORPORATE PRIORITIES

Through the Lancashire Waste Partnership districts receive cost sharing payments from Lancashire County Council (LCC) as an alternative to the previous system of recycling credits. All districts took the opportunity to switch to cost sharing in 2004, except one which remained on the recycling credit option.

In September 2012, LCC offered a revised cost sharing option to the districts but would not state its position in relation to recycling credits. Members considered that an informed decision could not be taken without the recycling credit information.

LCC has now approved a policy and provided information on recycling credits. This report provides these details and proposes a way forward.

The report also details the proposed contract period for the new waste contract. The Council's partnering contract with Enterprise (now Amey) expires in June 2015 and preparation for the procurement process is now underway.

The report links directly to all of the Council's corporate priorities but especially Clean, Green and Safe.

## RECOMMENDATIONS

That Cabinet agrees:

1. That the revised Cost Sharing Agreement is accepted.
2. That authority is delegated to the Director of Neighbourhoods, in consultation with the Deputy Leader, Cabinet Member for Neighbourhoods and Streetscene, to agree the final terms and conditions of the revised Cost Sharing Agreement.
3. That the contract period for the new waste contract is set as 7 years with extension options of up to 7 years (14 years in total).

## DETAILS AND REASONING

### 1. Cost Sharing Agreement

Through the Lancashire Waste Partnership districts receive cost sharing payments from LCC. The payment is based on a rate per property for which the districts are required to provide collection of an agreed range of recycled materials. The cost sharing agreement replaced the previous system of LCC paying districts recycling credits and districts directly raising income from the sale of recycled materials. Under the cost sharing system, LCC pay the districts a rate per property based

on the service provided and receives the recycled materials collected by the districts for which LCC pays the districts a compensatory payment for loss of income. The Council receives maximum payments from the scheme due to its high performance in service provision and the range of materials collected from the borough's properties.

LCC introduced the cost sharing scheme to help incentivise districts to deliver against the Lancashire Waste Strategy by diverting waste from landfill and improving recycling performance. The Council entered into the scheme, along with all but one district, as at the time it was financially advantageous compared to the previous system of recycling credits. LCC enhanced the payments and the cost sharing payment enabled more robust financial planning compared to the recycling credits, which fluctuated depending on the amount of recycling collected.

LCC has reviewed the Cost Sharing Agreement which is a 10 year agreement expiring at the end of March 2014. The revised offer from LCC, which was made in September 2012 and which is still available to the Council, is broadly in line with the existing agreement except for the following key differences:

1. The revised agreement will be for a period of 5 years and will be from April 2013.
2. Year 1 of the revised agreement will be 2013/14, thus replacing the final year of the existing agreement which ends on 31 March 2014.
3. The payments are fixed for 5 years with no annual increase.
4. There will be no extra payments for property growth.
5. The impact from 2013/14 onwards against income is a shortfall of £54,000 per annum, totalling circa £270,000 over the 5 years 2013/14 to 2017/18. The offer does include a second front loaded option with increased payments in the first 2 years. However, this is balanced by reduced payments for the remainder of the period so that the total payment over the 5 years is the same for both options.
6. Whilst it will still be a requirement to provide a minimum of 90% of the borough's properties with a three stream collection, there will no longer be a requirement to provide separate collection of food waste for those properties which require this service (generally terraced and flats without gardens). This will be optional for each authority. A three stream service is separate collections for residual waste, recycled materials and garden waste. The Council's service level allows for the mixing of food waste with garden waste in the brown bins which can still continue under the revised arrangements.

The current cost sharing arrangement was designed to save LCC costs associated with landfill by encouraging the districts to divert waste and increase recycling. The revised cost sharing arrangement is a fixed fee and offers little if any financial incentive to encourage districts to increase recycling rates. Also there is no increase in payment for districts such as South Ribble where housing numbers are due to increase.

To assist the Council to take an informed decision, it was considered necessary to compare the revised cost sharing offer against returning to the previous system of recycling credits. LCC continued to refuse to make this information available even though great efforts were made by officers and the cabinet member to obtain it. LCC maintained its position that the detail of a revised recycling credit scheme would not be available until sometime before April 2014.

LCC has taken counsel advice and has now approved a policy for making recycling payments which is attached as Appendix A to this report. The interpretation of the policy in how it affects the Council is that should the Council not have a Cost Sharing Agreement with LCC, the Council would still be required to continue to deliver all of its waste and recycled materials to LCC's existing disposal facilities. In this event LCC considers that Recycling Credits would not be payable. It is only where a Waste Collection Authority (district council) retains waste for recycling that the Waste Disposal Authority (LCC) is required to pay Recycling Credits. However, LCC consider that this would only apply if the County Council did not provide disposal and recycling facilities, as a Waste Collection Authority cannot choose to retain its waste for recycling when the Waste Disposal

Authority has facilities in place for it. In summary, LCC's policy deems the Council as not being entitled to Recycling Credit payments.

## **2. Waste Contract**

The Council's partnering contract with Enterprise (now Amey) commenced in June 2005 and expires in June 2015. The contract was for an initial period of 7 years with an option to extend for up to 3 years which gives the full term used of 10 years.

Discussions have been held with neighbouring councils to ascertain if there is any interest in undertaking a joint procurement. There is no interest at this point in time but discussions have been held with Chorley Borough Council (CBC) around the potential to align contracts in the future. CBC currently outsources its waste service but the contract does not expire until 2021. In November 2013, Cabinet approved a number of matters in relation to the tendering process for the waste service. Included in the approvals were two options in relation to the contract period. These were 8 years with 7 years of potential extensions and a second option of 6 years with 9 years of potential extensions. The shorter main contract period would enable the Council to align with CBC after 6 years, if this was to be an option, and undertake a joint procurement for a combined contract.

Advice taken at the time suggested that these options could be included in the tendering process. However, further procurement advice has now been taken and this has identified that the above two options would be extremely difficult to evaluate and may also carry the risk of challenge. It has been advised that a better option would be to tender on the basis of a 7 years main contract period with up to 7 years of potential extensions. This is also in line with the main contract period of the existing contract. This option should still achieve value for money due to a potentially long contract term but still also give the potential opportunity to align with CBC in 6 years' time. This could be achieved by the two councils undertaking a joint procurement process and either CBC extending for a further 1 year or the Council joining the combined contract 1 year after commencement.

## **The Way Forward**

The existing Cost Sharing Agreement expires on 31 March 2014. Should the Council not accept the revised cost sharing offer there is a risk that LCC may withdraw it. This would leave the Council exposed to a significant financial loss of income as detailed in the financial implications. It is therefore proposed that the Council accepts the revised Cost Sharing Agreement. It is also further proposed that authority is delegated to the Director of Neighbourhoods, in consultation with the Deputy Leader, Cabinet Member for Neighbourhoods and Streetscene, to agree the final terms and conditions of the revised Cost Sharing Agreement. This includes how the £54,000 of additional income received in the current year 2013/14 is treated. Any attempts by LCC for this money to be repaid will be strongly resisted.

Regarding the contract period for the new waste contract, it is proposed that the 7 years main contract period with up to 7 years of extensions is approved.

## WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

<b>FINANCIAL</b>	<p>The revised cost sharing payment based on LCC's offer would still be circa £970,000 per annum. Whilst this is a reduction of circa £270,000 over the revised 5 year agreement, it still equates to a payment to the Council over the 5 year period of circa £4,850,000 to support the costs of its waste service.</p> <p>The budgeted cost sharing payment from LCC for current year 2013/14 was originally £1,004,851. This included a reduction of £54,000 to reflect the reduction contained in the revised Cost Sharing Agreement.</p> <p>As the Council has not signed up to the new agreement which commenced on 1 April 2013, it has continued to claim payments from LCC based on the old agreement which expires on 31 March 2014. The revised estimate forecasts have therefore been increased to £1,058,851 to reflect this position. Should the Council decide to accept the revised agreement, discussions would have to take place with LCC with regard to how the higher payments during 2013/14 would be treated.</p> <p>Budget forecasts for 2014/15 onwards currently include for the reduction in income of £54,000 per annum. The attached table in Appendix B show the impact on budget over the period of the revised agreement. Whilst the Council will strongly resist, LCC may require the Council to repay £54,000 of income received in 2013/2014.</p> <p>The above financial implications need to be considered against the new LCC policy in that the Council will not be entitled to recycling credits.</p>
<b>LEGAL</b>	<p>LCC has indicated that any change to the cost sharing terms and conditions will be contained in a deed of extension and variation to the existing cost sharing agreement. Should the Council agree to accept the revised offer then Legal Services will be involved in any negotiations with LCC with regard to the conditions contained in the deed of extension and variation.</p> <p>Legal Services will also provide legal support throughout the procurement process for the waste contract and shall ensure that all statutory and legal requirements are met.</p>

<b>RISK</b>	<p>The existing Cost Sharing Agreement expires on 31 March 2014. Should the Council not accept the revised cost sharing offer there is a risk that LCC may withdraw it. This would leave the Council exposed to a significant financial loss of income as detailed in the financial implications.</p> <p>An issues and risk log has been developed as part of the project management arrangements for the waste contract procurement. This will be monitored, reviewed and updated by the project team throughout the life of the project.</p>
-------------	--

<b>THE IMPACT ON EQUALITY</b>	An equality impact assessment is under development as part of the project management arrangements. This will be monitored, reviewed and updated by the project team throughout the life of the project.
-------------------------------	---

<b>OTHER (see below)</b>	The waste service and procurement project links with Asset Management, Equality, Diversity and Community Cohesion, Corporate Plans and Policies, Health and Safety, Efficiency Savings/Value for Money, Health Inequalities and Sustainability.
--------------------------	---

<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

## BACKGROUND DOCUMENTS

Lancashire Waste Strategy  
 Risk Assessment  
 Cabinet Report November 2013