

## **Report to the Cabinet**

**Report reference:** C-019-2015/16

**Date of meeting:** 23 July 2015



**Epping Forest  
District Council**

**Portfolio:** Governance and Development Management

**Subject:** Compensation for Missed Refuse Collections

**Responsible Officer:** Derek Macnab (01992 564050).

**Democratic Services:** Gary Woodhall (01992 564470).

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

- (1) The Council recognises the unacceptable level of service that some residents have received following the change to the revised 4 day Waste and Recycling collection arrangements;
- (2) The Cabinet notes that the refuse and recycling service is improving towards the level that is expected in the District;
- (3) That, following careful consideration and advice, it is not considered to be in the best interest of Council Tax payers, to offer individual financial compensation; and
- (4) That the Cabinet resolves to determine the correct response on a District-wide basis at the conclusion of the Scrutiny review.

### **Executive Summary:**

As a result of a competitive procurement process, the Council appointed Biffa Municipal Ltd as its Waste, Recycling and Street Cleansing contractor from the 4 November 2014. After a mobilisation period, the contractor successfully operated the previous five-day collection regime up until the 12 May 2015. However, the transfer to revised four-day collection arrangements, which was a central feature to their tender, has brought about a significant number of missed collections. This report addresses the issues of how to deal fairly with complaints from residents as a result of the failure to collect their waste and recycling, on the days of the agreed schedule.

### **Reasons for Proposed Decision:**

The Council has received in the region of 5400 complaints regarding missed collections from the time of the new four-day collection arrangements. Many of the complainants are seeking financial compensation. The Council is required to reach a decision on this issue in an appropriate and reasonable manner, seeking to balance the legitimate right to complain, against the best interests of the use of public funds.

### **Other Options for Action:**

The Council could consider agreeing a set amount of compensation for each missed collection. It would be extremely difficult to verify each individual claim, particularly as

awareness of any successful claim through social media etc, would in all likelihood generate many other additional claims. The Council could agree a compensation amount at this stage before the service stabilises and risk further impacts.

### **Report:**

1. The Council's contract with its previous Waste, Recycling and Street Cleansing Contractor came to an end after a 10 year period on the 3 November 2014. In order to secure a new service contract, a competitive procurement exercise was undertaken. The procurement methodology adopted was "competitive dialogue" by virtue of the number of potential variables, for example, the requirement for an incoming contractor to provide their own depot, due to the redevelopment of the Council's Depot in Langston Road. The procurement was led by the previous Director of Environment and Street Scene, supported by a multi-disciplinary officer team, and external consultants White Young and Green. All contractors bid on both a five day collection and four day collection arrangement. The most advantageous tender in terms of price and quality, was submitted by Biffa Municipal Ltd, who were appointed by Council in May 2014.

2. In the run up to the start of the new contract in November 2014, a mobilisation period was initiated to include all the necessary work to transfer staff and purchase the new fleet and information technology, required to deliver the proposed revised service arrangements. The contract handover went well and Biffa performed satisfactorily during the period from November up until May 2015, undertaking the previous five-day collection arrangements.

3. Residents were advised of the changes to the collection schedule by a letter to all households, as well as media releases. An on-line tool on the Council's Website, providing information on the changes planned from the 12 May 2015 was also promoted. It was anticipated, based not only on the experience of Biffa, but other authorities who have undertaken such a change to four-days, (which has been an increasing feature of municipal waste collection arrangements), that a level of disturbance was to be anticipated. Indeed, extra resource was planned, not only by Biffa, but by the Council, whose Customer Contact Team, deal with all public enquiries and the Council's Waste management staff who monitor and manage the contractual arrangements.

4. Despite prior planning, it was soon apparent that the Contractor was initially unable to successfully complete the new four-day rounds. There were several reasons for this service failure, some of which have been claimed to have been outside of the contractor's direct control, particularly with respect to technical problems with the new fleet and issues with the new customer relationship management system. This has been compounded by the unfamiliarity of the new rounds with the contractor's staff taking time to adapt the new working arrangements and information technology. The Council has already agreed to set up a review to be undertaken by the Neighbourhoods Select Committee, which will examine the reasons why the problems have occurred in detail and identify any lessons for the future. Discussions at the most senior level within the Council and Biffa continue, resulting in extra resource being introduced, to stabilise the contract.

5. However, in summary, the Council has received in excess of 17,000 telephone enquiries by residents regarding the new collection arrangements and has recorded up until early July, 5400 missed collections to be rectified. In addition, over 5000 e-mail enquiries have been received through E-refuse.

6. Again, up until early July, ninety-three residents have submitted Stage 1 Complaints and two have reached Stage II. The vast majority are seeking some form of direct financial recompense. The Council must of course consider the best overall approach in the interests of all residents. It would be time consuming and not cost effective to analyse all of the

complaints in the detail required. Nor would it take account of those who have had missed collections but not telephoned and/or formally complained.

7. The Council needs to formally adopt a considered and equitable position on this issue. There is a need to both recognise the failures and agree a consistent approach going forward. This would be expected by the Local Government Ombudsman, who will need to ultimately deal with such complaints, if residents are not satisfied with the Council's response.

8. The Council has taken reasonable measures to mitigate disturbance through prior planning and pro-active measures to respond to the problems, these include directly hiring in other external contractors to clear the backlog of those residents most badly affected. The fact that the responsibility for the failure to collect, rests with the contractor compounded by the fact that it would be almost impossible to accurately verify every claim, leads to the conclusion that to compensate individually, in the circumstances, would not be in the wider interest of all Council Tax payers in the district. This is not to say that the Council does not have the utmost sympathy with residents, who rightly expect a better service. Indeed, the Environment Portfolio Holder has apologised to the public on several occasions through the media and the Cabinet re-states that apology.

9. It is recognised that although clear improvements are being made, the waste service has not yet fully stabilised, and while every effort is being made to ensure a satisfactory service is provided from now on, it is not possible to conclude at this stage that there will be no more issues that could potentially give rise to complaints.

10. When the Neighbourhoods Select Committee completes their review of the issues a wider assessment of the impacts on an area basis will be available. At this stage Cabinet will be able to consider whether a District wide or area bases impact is observable. With this information Cabinet will be able to further assess what appropriate action should be taken

#### **Resource Implications:**

To compensate individually all possible complaints, even if verification was possible, would require a significant sum for which supplementary funding would have to be sought. It would also involve the staff who are dedicated to stabilising the service currently.

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

The Contract with Biffa was procured in accordance with OJEU regulations. The contract contains default mechanisms. However, after a service change a 3 month moratorium is applied.

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

The Council is a top ten recycling authority with collection rates at around 60%. The situation is being monitored to establish the effect on this performance. The new contract involves collection of additional materials in a more environmentally manner.

#### **Consultation Undertaken:**

No external consultation undertaken.

#### **Background Papers:**

Tender Documents and Contract with Biffa.

**Risk Management:**

Formal Risk Management arrangements applied during the procurement process. If Biffa fail to stabilise the contract and deliver the required level of service in the future, the Council may ultimately be faced with the need to consider a re-tender.

# 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 Council operates a system of assisted collections for residents unable to present their wheeled bins and recycling at kerbside. A number of these assisted collections have been missed and Waste Client Officers are working hard to ensure that these more vulnerable residents are assisted.