

JOINT WASTE DISPOSAL BOARD

NOTICE OF MEETING

THURSDAY 12 JULY 2012

TO: ALL MEMBERS OF THE JOINT WASTE DISPOSAL BOARD

You are invited to attend a meeting of the Joint Waste Disposal Board on **Thursday 12 July 2012 at 10.00 am** in the Longshot Lane Waste Recycling Centre, Longshot Lane, Bracknell, RG12 1RL. An agenda for the meeting is set out overleaf.

Mark Moon
Project Director

Members of the Joint Waste Disposal Board

Councillor Mrs Dorothy Hayes MBE, Bracknell Forest Council (Chairman)
Councillor Iain McCracken, Bracknell Forest Council
Councillor Paul Gittings, Reading Borough Council
Councillor Angus Ross, Wokingham Borough Council
Councillor Rob Stanton, Wokingham Borough Council
Vacancy, Reading Borough Council

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- 2 Follow the green signs**
- 3 Use the stairs not the lifts**
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If you require further information, please contact: Katharine Simpson
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JOINT WASTE DISPOSAL BOARD
Thursday 12 July 2012 (10.00 am)
Longshot Lane Waste Recycling Centre, Longshot Lane, Bracknell, RG12 1RL.

AGENDA

- | | Page No |
|---|----------------|
| 1. APOLOGIES FOR ABSENCE | |
| 2. DECLARATIONS OF INTEREST | |
| Members are required to declare any personal or prejudicial interests and the nature of that interest, in respect of any matter to be considered at this meeting. | |
| 3. MINUTES OF THE MEETING OF THE JOINT WASTE DISPOSAL BOARD | 1 - 4 |
| To approve as a correct record the minutes of the Joint Waste Disposal Board held on 22 March 2012. | |
| 4. URGENT ITEMS OF BUSINESS | |
| To notify the Board of any items authorised by the Chairman on the grounds of urgency. | |
| 5. PROGRESS REPORT | 5 - 10 |
| To receive an update on the progress made by the re3 project since the Joint Waste Disposal Board's last meeting on 22 March 2012 | |
| 6. HOUSEHOLD WASTE RECYCLING CENTRE ACCESS | 11 - 14 |
| To propose potential changes to the access arrangements at the re3 Household Waste Recycling Centre's as requested by Members at the Joint Waste Disposal Board on 22 March 2012. | |
| 7. EXCLUSION OF PUBLIC AND PRESS | |
| To consider the following motion: | |
| That pursuant to Regulation 21 of the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000 and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of item 14 which involves the likely disclosure of exempt information under the following category of Schedule 12A of the Local Government Act 1972: | |
| (3) Information relating to the financial or business affairs of any particular person. | |

Reports Containing Exempt Information

- | | | |
|----|---|---------|
| 8. | REVIEW OF FIRST FIVE YEARS OF THE RE3 JOINT WASTE PUBLIC FINANCE INITIATIVE | 15 - 64 |
| | To receive a briefing on the work undertaken to review the first five years of the re3 Joint Waste Public Finance Initiative and identify the partnership's next steps. | |
| 9. | REPORT ON LEGAL ADVICE FROM PROFESSIONAL ADVISORS | 65 - 66 |
| | To receive a briefing on legal advice received from professional advisors. | |

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Agenda Item 3

JOINT WASTE DISPOSAL BOARD
22 MARCH 2012
(6.00 - 7.35 pm)

Present: Bracknell Forest Borough Council
Councillor Iain McCracken
Councillor Mrs Dorothy Hayes MBE

Reading Borough Council
Councillor Paul Gittings

Wokingham District Council
Councillor Gary Cowan
Councillor Rob Stanton

Officers Pete Baveystock, Wokingham Borough Council
Pete Thompson, Reading Borough Council
Oliver Burt, Reading Borough Council
Janet Dowlman, Bracknell Forest Council
Dave Fisher, Reading Borough Council
Kevin Holyer, Reading Borough Council
Steve Loudoun, Bracknell Forest Council
Mark Moon, Wokingham Borough Council

Apologies for absence were received from:

Councillor Ms Eden, Reading Borough Council

60. Declarations of Interest

There were no declarations of interest.

61. Minutes of the Meeting of the Joint Waste Disposal Board

RESOLVED that the minutes of the meeting of the Joint Waste Disposal Board held on 14 December 2011 be approved as a correct record and signed by the Chairman.

62. Urgent Items of Business

There were no urgent items of business.

63. Joint Waste Disposal Board Project Update

The Board received a report providing an update on progress made since its last meeting on 14 December 2012. The report included updates on: operations and facilities, Community Repair, food waste and finance.

There continued to be concern that traders were disposing of commercial waste at Longshot Lane without paying by claiming that it was home DIY waste. The possibility of introducing an honesty form had been investigated however feedback indicated that this would not currently be practicable and that particular suggestion would not be progressed further at this time. The Board requested that officers identify alternative options that would not impact financially on residents.

The Board stressed that although they wanted to assist small businesses, measures needed to be put in place to ensure that traders paid to use the service available for example by giving traders access to the site at set times and making them go through the weighbridge. It was agreed that a report exploring the options available to the Board would be brought to the next meeting.

The Board was informed that it was anticipated that publicity of the Community Repaint scheme would commence in the near future. It was agreed that representatives from all three Councils would be available to support the initiative when the scheme was ready to be launched publicly.

It was noted that processing costs for food waste had fallen significantly over the last eighteen months and developments in the area would continue to be monitored.

It was reported that the new five-year haulage contract had become operational on 4 December 2011. It was anticipated that the new contract would deliver an annual saving of approximately £320,000. A sum that could amount to savings of approximately £1.7million across the five year contract term.

RESOLVED

- i. That progress made since the Board's last meeting on 14 December 2011 be noted
- ii. That the re3 Project Team work with the Contractor to develop proposals to encourage and support small traders to utilise the PFI facilities
- iii. That no further action need be taken in respect of a stand alone Honesty Form system at the Household Waste Recycling Centres as this was not the solution to the problem. Officers to identify alternative solutions to the problem.
- iv. That the commencement of the Community Repaint Scheme be noted and a dates for publicity circulated
- v. That the anticipated financial outcomes be noted.

64. Exclusion of Public and Press

RESOLVED that pursuant to Regulation 21 of the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000 and having regard to the public interest members of the public and press be excluded from the meeting for the consideration of item 7 which involves the likely disclosure of exempt information under the following category of Schedule 12A of the Local Government Act 1972:

- (3) Information relating to the financial or business affairs of any particular person.

65. Report on Legal Advice from Professional Advisors

The Project Director presented a report providing a briefing on contractual matters.

The Board discussed the report, proposals received in relation to a previously suggested contractual review and the potential implications arising from the amended recommendations tabled at the meeting.

The Board was informed that advice had been sought from Eversheds over a way forward to resolve contract issues with WRG and it had been felt that pursuing mediation in an effort to release the information that WRG was holding would be the most appropriate way forward at this time.

It was acknowledged that the full implications of the consequences should mediation be unsuccessful were not yet known and it was agreed that a full report detailing this would be brought to a future meeting of the Board. **(Action: Mark Moon/Oliver Burt)**

Contractual Affairs

Following a Board request a specification had been drawn up for a review of the re3 waste PFI contract and circulated to Eversheds and the legal teams of each Council. Responses to the proposals had subsequently been received from Eversheds and the Legal Services Team at Bracknell Forest Council.

It was noted that the proposal from Bracknell Forest Council made it clear that they would be unable to complete every element of the proposed specification and that external assistance would need to be sought for Phase 3 while Evershed's proposal did not contain full costing figures.

It was agreed that further work was required before a fully informed decision could be made and it was agreed that a further report would be brought to the next meeting. **(Action: Mark Moon/Oliver Burt)**

Members considered amended recommendations tabled at the meeting.

RESOLVED:

- i. That members request the release of a total of £60,000 for the funding from each authority, to allow the progression of the strategy set out in Evershed's advice dated 21 March 2012.
- ii. Members approve the prosecution of the strategy to complete the mediation process at an estimated cost of £45,000 and progress further investigation. In the event that the mediation is inconclusive and the authorities have to progress to a 'part 8' claim or early neutral evaluation to achieve a resolution, explicit approval will be sought from the Joint waste Disposal Board.
- iii. That any costs that might arise as a result of pursuing the amended recommendations tabled at the meeting be apportioned in accordance with the Joint Working Agreement i.e. that proportions of cost and potential share of revenue to be equal to the proportion of Contract Waste delivered by each council in the relevant year.

66. **Dates of Future Meetings**

It was acknowledged that evening meetings were problematic for Board members and it was agreed that future meetings of the Joint Waste Disposal Board would be scheduled to take place during office hours.

The possibility of increasing the frequency of Board meetings so that they became bi-monthly would enable the Board to respond in a timely fashion to any issues that might arise was suggested.

A meeting would be scheduled for July. Meeting dates for the remainder of the 2012-13 municipal year would be discussed at the July meeting.

CHAIRMAN

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TO: **JOINT WASTE DISPOSAL BOARD**
12 July 2012

PROJECT UPDATE
(Report by the Project Director)

1. INTRODUCTION

1.1 The purpose of this report is to inform the Joint Waste Disposal Board (JWDB) of progress since its last meeting on 22 March 2012.

2. RECOMMENDATIONS

2.1 To note progress made since the last meeting on 22 March 2012.

2.2 That Members instruct officers to draft a response to the recent guidance on street sweepings and gully emptyings issued by the Environment Agency (EA).

2.3 That Members decide whether to respond directly to the EA or via the Local Government Association (LGA) or similar representative body.

3. SUPPORTING INFORMATION

EA Guidance on Street Sweepings and Gully Emptyings

3.1 The Environment Agency has issues guidance on the management of street sweepings and gully emptyings.

3.2 The re3 councils have previously composted some, or all, of this material.

3.3 The guidance makes it clear that waste material collected in the course of sweeping streets and emptying gullies is not considered appropriate for treatment via composting. The reason given is that it could contain, and may be expected to contain, constituents which have a hazardous nature.

3.4 Having consulted with our PFI Contractor, officers have ascertained that the composted product, containing street sweepings alongside green waste, has no issues in terms of chemical content.

3.5 There are two principal implications of the guidance – firstly on the impact on performance and, secondly, an additional cost. For the re3 councils, the following impacts are estimated:

	Additional Cost	Impact on Recycling Rate
BFBC	£28,000	-1.28%
RBC	£34,000	-1.30%
WBC	£103,000	-3.50%

3.6 Officers are aware that the guidance will impact on many other councils too. Various waste management and local authority bodies are already making their objections known and may seek further clarifications or a revision of the guidance.

- 3.7 Members may wish to contribute to the response to the EA Guidance either directly or via a body such as the Local Government Association. If that is the wish of Members then Officers will be glad to draft a response.

Contractor Rebrand

- 3.8 Our PFI Contractor has undergone a name-change as part of a rebranding exercise. Waste Recycling Group (WRG) Ltd, have become FCC Environment (UK) Ltd.
- 3.9 Throughout the life of the re3 contract, our PFI Contractor has been owned by a Spanish parent company called Fomento de Constuccion y Contratas (FCC). The rebranding of WRG and Focsa services (UK) is part of an integration plan for the businesses.
- 3.10 The Contractor has now written to the re3 Project Director in order to explain the changes being made and with the intention of assuring the councils that the name changes will not have any implications to the re3 Contract. The letter assures the councils that 'there has been no change of any kind in any of the legal entities or structure within the Group'.
- 3.11 Copy Certificates of Incorporation on Change of Name have also be provided.
- 3.12 The Project Director has asked the in-house legal team for the re3 partnership to consider the assurances given and any further implications. Officers are also going to undertake some additional company checks.
- 3.13 Should any concerns remain; the Project Director will raise them with the Contractor at an appropriate level and seek

Mini-MRF and Retail Outlet

- 3.14 Members will recall that officers have previously reported on this issue. In September 2011, officers reported feedback from the Contractor on our request for the consideration of what the two facilities would have cost had the Contractor provided them in accordance with their contractual undertakings. At the time, the information provided by the Contractor was insufficient and officers asked for further detail and consideration.
- 3.15 The Contractor has now provided a more coherent briefing in which they detail the steps they have taken, and the costs incurred, in providing replacements for the Mini-MRF and Retail Outlet.
- 3.16 In summary, the Contractor appears to consider that it has directly and indirectly delivered upon all undertakings and that no monies are due to the re3 councils.
- 3.17 Officers are seeking clarification on a number of issues which arise from the Contractor's briefing and will report back in the event that there is any change in outcome.

Oxfordshire County Council Minerals and Waste Core Strategy

- 3.18 Officers met with colleagues from Oxfordshire County Council (OCC) on May 16th to discuss re3 inputs to landfill in Oxfordshire.
- 3.19 The re3 Project Team had provided a response for the re3 councils on the consultation OCC were conducting during the development of their strategy which

they hope to submit in August 2012. Upon receipt of the re3 response, OCC wished to undertake further discussions.

- 3.20 Officers were able to assure OCC that the re3 councils seek to follow the waste hierarchy wherever possible. While the re3 contract will continue to result in some waste being sent to sites or facilities in Oxfordshire, the re3 councils are keen to reduce the use of landfill wherever possible.
- 3.21 Since the start of the re3 contract, the amount of waste sent to landfill has decreased from 145,000t in 2007/08 to an estimated 35,000t in 2012/13.

Potential Support for the Royal Borough of Windsor and Maidenhead

- 3.22 Colleagues from The Royal Borough of Windsor and Maidenhead (RBWM) have approached officers of the re3 councils to enquire about potential support during the period of the Olympics (27th July to 12th August) and Paralympics (29th August to 9th September).
- 3.23 The proximity of the rowing competition to a key RBWM waste management facility has led to concerns that in the event of an emergency, it may not be possible to successfully complete scheduled waste collections.
- 3.24 As a result, and in consultation with our PFI Contractor, re3 Officers have agreed a package of support which has been offered to RBWM and which could be mobilised in the event of an emergency during the dates at 3.18 above.
- 3.25 The support offered has been agreed with our PFI Contractor and is set at a level which will not adversely affect re3 operations. The support offered relates to council refuse freighters alone and not residents wishing to utilise either of the re3 HWRC's.

Finance

- 3.26 The full year outturn for 2011/12 is attached under Appendix 1.
- 3.27 The £18,000 projected collective overspend that was reported to the Board in March 2012 has reduced to a £50,400 underspend.
- 3.28 The first reason for the improved outturn figure is that, following reconciliation by the contractor, the Waste Minimisation saving increased by £40k to £172k. This consists of £111k of promotional savings and £68k of salary savings.
- 3.29 The second reason for the improved outturn is a further haulage saving of £24,500 in March, which was not included in the previously.
- 3.30 Furthermore, waste arisings for March 2012 were around 150 tonnes below forecast.
- 3.31 A statement of expenditure on the 2011/12 re3 Management budget is included under Appendix 2.
- 3.32 As predicted in the March 2012 meeting, this budget has been fully expended.
- 3.33 Figures for Quarter 1 2012/13 are due next month; therefore an update to the Board regarding this year's financial position will be made as part of the Annual Financial Statement which is presented at the September Board meeting.

- 3.34 In a similar vein, there has been very little expenditure for the year to date on re3 Management costs. A statement will be included in the Annual Financial Statement at the September Board meeting.

BACKGROUND PAPERS

Board Reports 22 March 2012
JWDB Progress Report 20 September 2011

CONTACTS FOR FURTHER INFORMATION

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Appendix 1

re3 PFI Budget Monitoring

2011/12 Waste PFI Outturn

		BFBC £	RBC £	WBC £	TOTAL £
Apr-11	Actual (Adjusted)	511,750	673,664	769,134	1,954,548
May-11	Actual	483,510	762,724	787,882	2,034,116
Jun-11	Actual	522,176	697,694	731,556	1,951,426
Jul-11	Actual	500,800	720,775	753,378	1,974,953
Aug-11	Actual	500,270	738,648	770,362	2,009,280
Sep-11	Actual	509,820	783,266	794,023	2,087,109
Oct-11	Actual	477,140	661,771	705,768	1,844,679
Nov-11	Actual	489,590	680,833	729,467	1,899,890
Dec-11	Actual	408,485	651,134	642,061	1,701,680
Jan-12	Actual	494,019	676,883	751,596	1,922,499
Feb-12	Actual	420,733	603,677	614,896	1,639,306
Mar-12	Actual	488,814	678,786	728,312	1,895,913
TOTAL		5,807,108	8,329,855	8,778,436	22,915,398
Business Rates		104,007	134,898	141,517	380,422
Planners Farm Lease (note 5)		11,368	9,802	16,330	37,500
Waste Min Savings from 10/11 (note 6)		-13,702	-17,632	-19,376	-50,709
Waste Min Saving 2011/12 (note 7)		-46,484	-59,817	-65,735	-172,037
2011/12 Projected Outturn		5,862,297	8,397,106	8,851,171	23,110,574
2011/12 Original Budget		5,989,706	8,482,900	8,789,855	23,262,460
Revised 2011/12 Budget		5,951,220	8,419,900	8,789,855	23,160,975
Projected Over/Underspend		-88,923	-22,794	61,317	-50,401

Variance from revised budget (%)

-1.5%

-0.3%

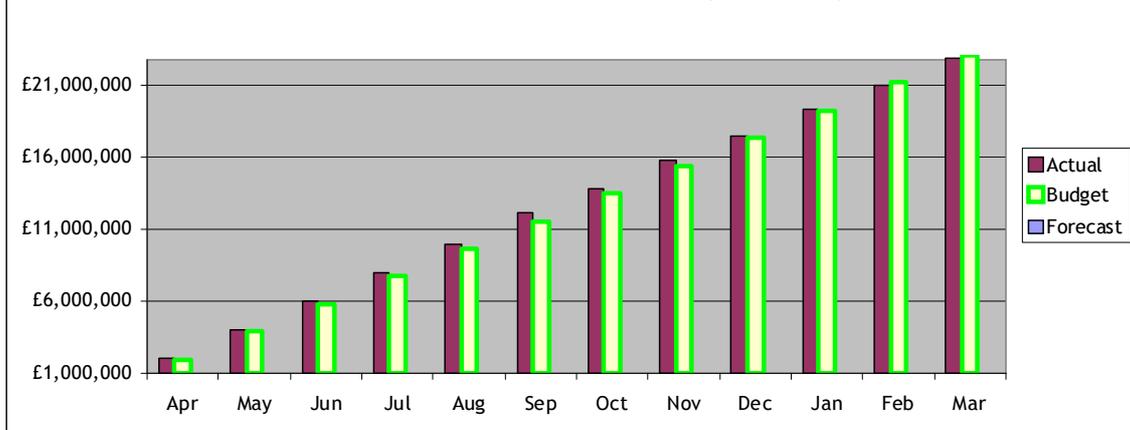
0.7%

-0.2%

Notes

1. Based on actual figures for full year
2. Trade waste disposal included in RBC costs & budget.
3. BFBC Budget removed £38k due to forecast diversion of street sweepings from landfill to composting.
4. RBC Budget removed £63k in Mar 11 due to unspecified budget reduction.
5. Outstanding Planners Farm lease liability split according to contribution to Composting Payment 2007/8 to 2010/11 total.
7. 2011/12 Waste Min budget reduced from £182,400 to £50,000 per July 11 JWDB; actual savings for 11/12 were £172k.
8. This does not include re3 Management costs

2011/12 Budget v Actual & Forecast (Cumulative)



Appendix 2

JWDB - re3 Waste PFI Management Costs 2011/12				Period to 31 March 2012
Employees	Budget	YTD Cost	YTD Variance	Comments
	£	£	£	
Salaries, NI & Super	170,800	170,492	-308	
Training (£3,000)	3,000	60	-2,940	
Employees sub total	173,800	170,552	-3,248	
Other Costs	Budget	Cost	Variance	Comments
Transport				
Travel Expenses	900	759	-141	
Supplies & Services				
Equipment	500	0	-500	
Stationery	500	316	-184	
Consultancy Fees	20,000	23,808	3,808	
Purchase of Computer Equipment	1,800	2,263	463	
Mobile Phones	400	202	-198	
Other Costs sub total	24,100	27,348	3,248	
2011/12 Total	197,900	197,900	0	
Council Share		£		
Reading		65,967		
Bracknell		65,967		
Wokingham		65,967		
Total		197,900		

Agenda Item 6

**TO: JOINT WASTE DISPOSAL BOARD
12 July 2012**

HOUSEHOLD WASTE RECYCLING CENTRE ACCESS (Report by the Project Director)

1. INTRODUCTION

- 1.1 The purpose of this report is to propose potential changes to the access arrangements at the re3 Household Waste Recycling Centre's (HWRC's) as requested by Members at the Joint Waste Disposal Board (JWDB) on 22 March 2012.

2. RECOMMENDATIONS

- 2.1 **To note progress made since the last meeting on 22 March 2012.**
- 2.2 **That Members approve the retention of the current access arrangements at both Longshot Lane and Smallmead HWRC's.**
- 2.3 **That Members require officers to make the supplementary amendments, described between 3.9 and 3.13, below, to the current access arrangements.**
- 2.4 **That Members request a further review of access arrangements be undertaken after 12 months as described at 3.14**

3. SUPPORTING INFORMATION

Background

- 3.1 One of the options put forward for discussion at the JWDB Meeting on 22nd March was the potential for changing the opening hours of the HWRC's. Research, previously presented to the JWDB, showed that:
- Of 122 surveyed sites, opening hours at the re3 facilities are on average 2 hours longer per day.
 - 42% of surveyed sites did not open before 9.00am.
 - For re3, only 4.46% and 3.10% of patrons, at Longshot Lane and Smallmead respectively, visited the HWRC before 9.00am.
 - 45% of surveyed sites close at or before 6.00pm.
 - For re3, only 5.91% and 6.43% of patrons, at Longshot Lane and Smallmead respectively, visited the HWRC between 6.00pm and 8.00pm. During the summer months, these hours represent 16.66% of site opening hours.
 - At the weekend, visits to the site after 6.00pm are particularly scarce with only 0.03% of visits to Longshot Lane and 0.31% of visits to Smallmead being between 6.00pm and 8.00pm.
- 3.2 Alongside looking at the opening hours, there is the potential for the re3 councils to address the challenge to local authorities, contained in the Government's Waste Review 2011, to see whether HWRC's might be able to provide recycling services for Small and Medium Enterprises (SME's).
- 3.3 Finally, officers are keen to ensure that access arrangements at both sites are the same. The physical differences between the two facilities have led the Contractor to adopt slightly different approaches at each site. To ensure operational consistency, there must be equal arrangements for patrons at the re3 sites.

- 3.4 With these objectives in mind, members approved, at the JWDB Meeting on 14th December 2011, a recommendation which proposed that they receive a further report detailing potential options for changing the HWRC opening hours, promoting savings and efficiency and utilising the public facilities to greater effect.
- 3.5 Since then, officers have looked further afield at what other councils are doing, engaged with our PFI Contractor in discussions on specific elements of the HWRC and trade waste services and engaged the assistance of Resource Futures, a consultancy with a track record of working in this area.
- 3.6 It has proved to be extremely challenging for those involved to find a solution which addresses the service-focussed perspective of the councils with the PFI Contractor's operational considerations.

Proposal

- 3.7 The current system was developed by the PFI Contractor to address the contractual requirement for a height barrier at both sites and has prevailed throughout a period in which user satisfaction has been very high.
- 3.8 The proposal is therefore that the HWRC's should broadly retain the existing access and trade waste arrangements with a handful of minor supplementary changes.
- 3.9 Firstly, officers feel that the arrangements for 'over height' vehicles should be the same at both sites. This is fair to site users and also ensures that neither site becomes relatively more attractive because its approach to trade abuse, for example, is perceived to be less rigorous.
- 3.10 Secondly, officers feel that new and further consideration should be given to the idea of a Disclaimer Form (previously described in reports to the JWDB as an 'Honesty' Form). Officers feel that this idea could work well alongside the height barriers.
- 3.11 The JWDB has previously written to HWRC staff to thank them for their contribution to the fantastic user satisfaction survey results. The promotion and support of diligence by HWRC staff, who work in challenging circumstances, is a key element in seeking to dissuade and identify any trade waste abuse of the re3 facilities. Officers feel that being able to ask a small number of patrons (who may be bringing in trade waste) to complete a Disclaimer Form, would contribute to efforts to deter this sort of usage. It would also be a welcome development for site staff.
- 3.12 Thirdly, the councils would like the PFI Contractor to review its pricing and service policy for trade customers – and we understand this is going to happen.
- 3.13 The Contractor undertook a small survey of existing users recently. It identified some areas of service in which improvements would be appreciated by customers. Officers feel that helping trade customers to recycle as much as possible is important – if that can be achieved, it could save traders money and make the facility more attractive to SME's and micro-businesses.
- 3.14 Finally, officers feel that the arrangements should be reviewed in 12 months time. This will enable the councils to ensure that the service remains fit for purpose and able to change, should change prove to be appropriate, according to its role in the wider range of services provided by the re3 councils.

BACKGROUND PAPERS

Board Reports 22 March 2012
JWDB Progress Report 14 December 2011

CONTACTS FOR FURTHER INFORMATION

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Agenda Item 8

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Agenda Item 9

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