

JOINT WASTE DISPOSAL BOARD

NOTICE OF MEETING

FRIDAY 8 APRIL 2016

TO: ALL MEMBERS OF THE JOINT WASTE DISPOSAL BOARD

You are invited to attend a meeting of the Joint Waste Disposal Board on **Friday 8 April 2016 at 11.00 am** in the Longshot Lane Household Waste Recycling Centre, Longshot Lane, Bracknell, RG12 1RL. An agenda for the meeting is set out overleaf.

Members of the Joint Waste Disposal Board

Councillor Mrs Dorothy Hayes MBE, Bracknell Forest Council
Councillor Iain McCracken, Bracknell Forest Council
Councillor Paul Gittings, Reading Borough Council
Councillor Liz Terry, Reading Borough Council
Councillor Anthony Pollock, Wokingham Borough Council
Councillor Angus Ross, Wokingham Borough Council

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- 1 Leave the building immediately**
- 2 Follow the green signs**
- 3 Use the stairs not the lifts**
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JOINT WASTE DISPOSAL BOARD
Friday 8 April 2016 (11.00 am)
Longshot Lane Household Waste Recycling Centre, Longshot Lane, Bracknell, RG12
1RL

AGENDA

Page No

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**

Members are requested to declare any disclosable pecuniary or affected interest in respect of any matter to be considered at this meeting.

Any Member with a Disclosable Pecuniary Interest or an affected interest in a matter should withdraw from the meeting when the matter is under consideration and should notify the Democratic Services Officer in attendance that they are withdrawing as they have such an interest. If the Disclosable Pecuniary Interest is not entered on the register of Members interests the Monitoring Officer must be notified of the interest within 28 days.
3. **MINUTES OF THE MEETING OF THE JOINT WASTE DISPOSAL BOARD** 5 - 8

To approve as a correct record the minutes of the Joint Waste Disposal Board held on 15 January 2016.
4. **URGENT ITEMS OF BUSINESS**

To notify the Board of any items authorised by the Chairman on the grounds of urgency.
5. **CONTRACT GUIDANCE REPORT** 9 - 16

To receive a report providing contract guidance on the Payment Mechanism.

Exclusion of the Press and Public

To consider the following motion:

That pursuant to Regulation 4 of the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2012 and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of item 5 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 (including the authority holding that information)*

- | | | |
|----|---|----------|
| 6. | PROPOSALS FOR THE HOUSEHOLD WASTE RECYCLING CENTRES
To consider a report setting out proposals for the Household Waste Recycling Centres. | 17 - 44 |
| 7. | RE3 STRATEGIC REPORT
To consider a report setting out the draft re3 Strategy. | 45 - 80 |
| 8. | FINANCIAL REPORT
To consider a report summarising the financial position of the joint waste PFI. | 81 - 118 |
| 9. | ANY OTHER BUSINESS | |

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**JOINT WASTE DISPOSAL BOARD
15 JANUARY 2016
(2.00 - 3.15 pm)**

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

Reading Borough Council
Councillor Paul Gittings

Wokingham District Council
Councillor Anthony Pollock
Councillor Angus Ross

Officers Oliver Burt, re3 Project Manager
Anna Fowler, re3 Communications and Marketing Officer
Steve Loudoun, Bracknell Forest Council
Mark Smith, Reading Borough Council
Josie Wragg, Wokingham Borough Council

Apologies for absence were received from:

Councillor Liz Terry, Reading Borough Council

26. Declarations of Interest

There were no declarations of interest.

27. 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 16 October 2015 be approved as a correct record and signed by the Chairman.

Minute 21 – It was agreed that a visit to the Sutton Courtney MRF would be arranged for later in the year.

28. Urgent Items of Business

There were no urgent items of business.

29. re3 Partnership Progress Update Report

The Board considered a report providing an update on the progress made in relation to the shared re3 PFI Contract since its last meeting on 16 October 2015. The report covered updates on: street sweepings, correspondence with Government, insurance matters, the re3 Material Reclamation Facility (MRF), business continuity and contingencies and changes to service delivery plans.

It was reported that, following work to ensure the processing of street sweepings met with approval from the Environment Agency, a two month trial during October and November 2015, had collected 718 tonnes of street sweepings. Of which, 75-80% had been recycled. It was stressed that the composition of the sweepings would change through the year and the recycling rates would fluctuate as the trial progressed.

To date no response had been received in response to a letter sent to Defra relating to the strategic requirements of local government and the ways that the Government might create the conditions within which councils and the waste industry could thrive. It was agreed that rather than continuing to correspond with Defra to minimal effect the possibility of arranging a meeting with Defra so that these concerns could be put directly to representatives would be explored.

Further work had taken place to establish more accurate costs for work to improve the existing fire system. Estimates now placed the cost of the work as being approximately £450,000. It was envisaged that this shortfall could be funded from the Maintenance Reserve Fund however the situation would need to be carefully considered.

A workshop had been held to enable the testing of business continuity plans and emergency plans were now being updated to ensure they continued to be fit for purpose.

RESOLVED that:

- i. The progress made over the last quarter in relation to the aspects of contract delivery described in the re3 Strategic Waste Manager's report be noted
- ii. The changes described in paragraphs 5.25 to 5.30 of the re3 Strategic Waste Manager's report be trialed
- iii. A report reviewing the trial described in paragraphs 5.25 to 5.30 of the re3 Strategic Waste Manager's report and recommendations relating to changes to the Service Delivery Plan be brought back to the Board in six months time

30. re3 Proposed Marketing and Communication Activity for 2016

Anna Fowler, re3 Marketing and Communications Officer, attended the meeting to present a report setting out the proposed marketing and communications activity for 2016.

The Board noted that the draft Communications Protocol had now been updated to incorporate comments made at the Board's previous meeting. It was agreed that if a lead member was not available to approve a draft responses to a media enquiry then approval would be sought from the second Board member. If both members from one local authority were not available then approval would be sought from the relevant Council Leader or Deputy Leader. It was agreed that the flowcharts would be amended to reflect this situation.

The Board was presented with drafts of factsheets focusing on waste management processes which could be used to on a number of platforms to answer some of the questions regularly asked by the public. The factsheets had been designed using the refreshed house style and it was proposed that these factsheets would be launched by the lead members from each council at an event held at a local primary school.

RESOLVED that:

- i. The content of the report be noted
- ii. The proposed marketing and communications activities planned for 2016 be approved

31. **Exclusion of Public and Press**

RESOLVED that pursuant to Regulation 4 of the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2012 and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of items 8 and 9 which involve 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.

32. **Finance Report**

The Board received a report summarising the financial position of the joint waste PFI for the 2015/16 financial year to date, a second draft of the 2016/17 budget and the quarterly performance report for the third quarter of 2015/16.

It was noted that the current combined recycling rate for the re3 councils stood at 37.38% which was below the 50% target in the Contractual Requirements. Government guidelines did not currently permit recycling rate calculations to include figures for the recycling of bottom ash waste from incineration however if these figures were added then the recycling rate would increase by approximately 8%. This mismatch and how it might be challenged was questioned by the Board. The Board was informed that previous representations on the matter had met with limited success and it was suggested that a further representation be made to the appropriate Government Minister. It was suggested that future reports include two columns showing recycling rates with and without the recycling of bottom ash waste.

It was noted that there had been a 1% reduction in the amount of glass tonnage recycled through bottle banks. The Board was informed that feedback showed that some residents were unsure about which bottle banks some glass should be deposited in and it was suggested that this be added to the relevant marketing fact sheets. It was suggested that promotion of the bottle banks should be added to the proposed marketing activity for the coming year.

It was noted that approximately 3% of the residual waste being sent to landfill was wet paper and card board which couldn't currently be recycled. It was questioned whether drying the paper and card before sending it to be recycled might be a suitable way to increase recycling rates of these materials..

It was agreed that the 2014/15 end of year figures would be added to the Quarter 4 report so that comparisons could be made and trends identified.

The Board commended the revised format of the Performance Management Report and it was agreed that the reports should be used to brief their respective Councils on waste matters. It was agreed that re3 Officers would be happy to help present the reports if required.

RESOLVED that the contents of the Financial Report be noted.

33. **Contract Guidance Report**

The Board received a report providing a briefing on the re3 Contract. It was noted that the briefing had been produced to provide Board members and officers with an overview and background understanding of the re3 PFI Contract.

Arising from the Board's questions and comments the following points were noted:

- Similar reports would focusing on payment and performance would be brought to future meetings
- If a procedure change constituted either a budget saving or was cost neutral then authority to approve the decision was delegated to the Project Director. If a change had the potential to incur capital costs then all three Councils had to agree the decision
- The new haulage contract had been agreed in December 2015

The Board noted the report.

CHAIRMAN

**TO: JOINT WASTE DISPOSAL BOARD
8 APRIL 2016**

**CONTRACT GUIDANCE REPORT – PAYMENT MECHANISM
Report of the re3 Strategic Waste Manager**

1 INTRODUCTION

1.1 The biennial audit of the re3 contract (undertaken in 2015) identified that it would be helpful if a guidance document were produced. A contract guidance report was presented to the Board at the January 2016 meeting. The purpose of this report is to provide guidance on the Payment Mechanism.

2 RECOMMENDATION

2.1 That Members note the contents of this report.

3 ALTERNATIVE OPTIONS CONSIDERED

3.1 Not applicable.

4 REASONS FOR RECOMMENDATION

4.1 This report contains no decisions for Members, only briefing.

5 BACKGROUND INFORMATION

Background

5.1 The re3 PFI Contract commenced on December 4th 2006 following over a year of intensive negotiations. The Contract was initially valued at £611m over its 25 year term.

5.2 The re3 councils were successful in securing £37m support for the project through the Private Finance Initiative (PFI). In cash terms, as the councils chose to receive the support throughout the life of the contract, the support equates to £74m and very broadly to £1m per council per annum.

5.3 The current annual cost of the contract is £26m. Management of the Contract (additionally including internal and statutory reporting, financial management and monitoring of KPIs) is delivered by 2.6 FTE.

5.4 Recommendation 1 in the report on the 2015 audit of the re3 contract advises that there is a need for guidance for Members and senior officers. It says:

'...it would be helpful to produce a consolidated guidance document which explains the relationship between elements of the Contract'

5.5 The recommendation was accepted, by the prevailing Project Director and a timetable for the production of such guidance set for the first Joint Waste

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Disposal Board meeting of 2016.

- 5.6 This report contains advice on the Payment Mechanism, the contract document which sets out the calculation of the Unitary Charge payable by the Councils to the Contractor.

Guidance

- 5.7 This report provides a consolidated source of guidance for Members and Senior Officers of the re3 councils on the Payment Mechanism. The report constitutes neither legal advice nor advice on managing the contract or Contractor.

- 5.8 The monthly Unitary Charge is based upon a Waste Flow Forecast (of tonnage) that is agreed between the Councils and the Contractor in advance of the contract year.

- 5.9 The Unitary Charge comprises the following payments:

- a) the Baseline Payment
 - b) the Recycling Payment
 - c) the Composting Payment
 - d) the Energy Recovery Payment
 - e) the Landfill Payment
 - f) the Beneficial Use Payment
 - g) the CA Site Payment
 - h) the Waste Minimisation Fee
 - i) the Monthly Estimated Recyclate Income Compensation Payment
 - j) Passthrough Costs
 - k) the Extended Hours Payment
 - l) the Rejected Load Payment
 - m) the Contamination Payment
 - n) the First Annual Reconciliation Payment and
 - o) the Second Annual Reconciliation Payment
- Less
- i. Excess Profit Share in respect of the previous Contract Year
 - ii. the Royalty Payment and
 - iii. the Quarterly Reconciliation Payment

Baseline Payment

- 5.10 The Baseline Payment is applicable to every tonne of contract waste that is delivered to the re3 Project Facilities (the Transfer Stations, the MRF and the Longshot Lane and Smallmead Recycling Centres/HWRCs).

- 5.11 The Baseline Payment is subject to a guaranteed tonnage of 190,000 tonnes per year. The guarantee is required because the Baseline Payment is the means of the Councils repaying the costs of building the re3 facilities to the Contractor.

- 5.12 As noted in the Contract Guidance report, the re3 councils secured PFI credits

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in order to fund the construction costs, which are spread over the life of the contract.

- 5.13 Since commencement of the contract in 2006, annual contract waste has only been below the guaranteed threshold once – in 2012/13 during the economic crisis.
- 5.14 Contract tonnage in excess of the 190,000 tonne threshold is charged in banded rates, which are significantly reduced costs per tonne.

Recycling Payment

- 5.15 The Recycling Payment is calculated based upon the number of tonnes of contract waste that are recycled each month plus recycling haulage costs.
- 5.16 Recycling tonnage is collected at bring banks, the Recycling Centres (HWRCs) and by the council kerbside collections (excluding any contaminated/MRF-rejected tonnage).
- 5.17 As with the Baseline Payment, recycling tonnage is charged according to weight bands, although there is no minimum tonnage requirement.
- 5.18 Haulage is charged on the tonnage of kerbside collected recyclables that are delivered by the Councils to Longshot Lane and then transported by the Contractor to the Smallmead MRF.

Composting Payment

- 5.19 The Composting Payment is calculated based upon the number of tonnes of contract waste that are composted each month plus haulage costs.
- 5.20 Composting tonnage is collected at the Recycling Centres, by the kerbside collections and by the Councils' parks/grounds maintenance teams.
- 5.21 Composting tonnage is charged according to weight bands, and there is no minimum tonnage requirement.
- 5.22 Haulage is charged on every tonne of contract waste that is sent for composting.

Energy Recovery Payment

- 5.23 The Energy Recovery Payment is calculated based on the tonnage of contract waste which is sent to the Lakeside EfW facility each month.
- 5.24 Tonnage sent to Lakeside is subject to an annual maximum of 61,200 tonnes. In 2011 the Councils procured an additional 10,000 tonnes per annum of EfW capacity.
- 5.25 EfW tonnage is charged at a fixed gate fee subject to annual inflationary

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increases.

- 5.26 Haulage is charged on every tonne of contract waste that is sent to EfW (on both contracts).

Landfill Payment

- 5.27 The Landfill Payment is calculated based on the tonnage of contract waste which is sent to landfill each month.
- 5.28 The charge is comprised of Landfill Tax, the landfill gate fee and the haulage fee. Haulage is charged on every tonne of contract waste that is transported to landfill by the Contractor.
- 5.29 The Payment Mechanism sets out the annual landfill gate fees for the term of the contract, and these are subject to contractual inflationary increases.
- 5.30 The council is entitled to make a Recovery Performance Deduction from the Landfill Payment where the contractor sends more waste to landfill than the calculated maximum tonnage to landfill.

Beneficial Use Payment

- 5.31 The Beneficial Use Payment is calculated based on the tonnage of contract waste at the Recycling Centres that is diverted for reuse – namely hardcore and soil.
- 5.32 The charge is a fixed rate that is subject to contractual inflationary increases each year.

CA Site Payment

- 5.33 The CA Site Payment is paid to the contractor each month for the operation of the Longshot Lane and Smallmead Recycling Centres (previously known as CA Sites/HWRCs).
- 5.34 This is a fixed payment that is subject to contractual inflationary increases each year.

Waste Minimisation Fee

- 5.35 At the commencement of the contract, £100,000 per annum was put aside from the councils payments to fund education and waste minimisation activities. A further £50,000 was put aside to fund staff costs for the two posts.
- 5.36 From the start of the contract until January 2011 the waste minimisation function was carried out by the contractor. At this point the remaining Waste Minimisation Officer left, and the arrangement was reviewed.
- 5.37 In July 2011 the re3 Board took the decision to utilise their own resources to undertake waste minimisation activities, and reduced the Waste Minimisation

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Fee to £50,000 per year (indexed annually).

- 5.38 In 2015 the councils appointed the re3 Communications and Marketing Officer. As the contractor is no longer providing the waste minimisation service, there is no longer the need to pay the full Waste Minimisation Fee in the Unitary Charge.
- 5.39 A Change Notice has been agreed which makes the provision to pay the contractor a Waste Minimisation Fee of £1 per annum. This is in order to retain the contractual mechanism should it be required in the future.

Monthly Estimated Recyclate Income Compensation Payment

- 5.40 The contractor is required to provide an estimate of the amount of Recyclate Income Compensation Payment forecast to be due in the contract year. The Monthly Estimated Recyclate Income Compensation Payment is equal to one twelfth of the annual estimate.
- 5.41 Where income is above the sharing threshold the councils will receive a 40% share. Where income is below the sharing threshold there is potential for the councils to have to compensate the contractor (on the basis of lower tonnage or poorer composition).

Passthrough Costs

- 5.42 Passthrough Costs are primarily charges for disposing of wastes that are not subject to the types of charges described above, typically hazardous wastes deposited at the Recycling Centres (e.g. plasterboard, asbestos, paint).
- 5.43 These types of hazardous wastes are charged at spot (i.e. not fixed) prices, and the contractor is required to use reasonable endeavours to minimise processing costs to the councils.
- 5.44 Passthrough Costs also cover Additional Works charges, such as additional emptying of bring banks and installation and operation of new bring bank sites.

Extended Hours Payment

- 5.45 The contractor is entitled to charge for any period of extended opening of the facilities that is requested by the councils. Extended opening is typically required following Bank Holidays when the kerbside collection crews work different hours to 'catch up'.

The Rejected Load Payment

- 5.46 Green waste and kerbside collected recycling are subject to a Waste Acceptance Protocol whereby if a council-delivered load is too contaminated for processing to be viable, the contractor can reject the load and charge the councils for handling.

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- 5.47 In the early years of the contract the contractor did on a few occasions express intent to reject a small number of loads but the re3 Project Team managed this and to date we have not had a Rejected Load Payment.

The Contamination Payment

- 5.48 The councils pay the Contamination Payment to the contractor in respect of the additional processing of contaminants present in the kerbside collected recycling.
- 5.49 The charges per tonne are graded, depending upon the level of contamination assessed by compositional surveys to be within the collected recycling. The councils are currently paying the highest rate per tonne due to the levels of contamination.

Performance Deductions

- 5.50 The Performance Mechanism of the contract has 71 performance standards against which the contractor's performance is monitored.
- 5.51 When performance failures exceed the contractual tolerance, the councils are entitled to apply Performance Deductions.
- 5.52 The most frequent cause of Performance Deductions is 'turnaround failures', where council-authorized vehicles are held on site in excess of 20 minutes, usually due to site congestion.

First Annual Reconciliation Payment

- 5.53 The First Annual Reconciliation Payment is undertaken following the end of each contract year and comprises the Recovery Gainshare and the actual Recyclate Income Compensation Payment, less the Estimated Recyclate Income Compensation Payment.
- 5.54 The Recovery Gainshare entitles the contractor to a 50% share in any net council share of Landfill Tax savings, when the actual tonnage of waste set to landfill is less than a calculated Target Landfill Tonnage.
- 5.55 Estimated Recyclate Income Compensation Payments are compared against the actual Recyclate Income Compensation Payments, and a reconciliation payment is made (this can be to or by the councils, depending on whether actual income earned exceeded the forecast).

Second Annual Reconciliation Payment

- 5.56 The Second Annual Reconciliation Payment is undertaken following the end of each contract year and comprises the Diversion Gainshare less the Annual Diversion Performance Deduction.
- 5.57 The Diversion Gainshare entitles the contractor to a share of income earned from the sale of surplus LATS (Landfill Allowance Trading Scheme) permits.

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- 5.58 The cessation of the LATS scheme in 2012/13 means that this calculation is now obsolete.
- 5.59 The Annual Diversion Performance Deduction entitles the councils to a deduction from the Landfill Payment when the councils incur additional LATS costs as a result of sending more waste to landfill than the calculated target tonnage.
- 5.60 As above, with the LATS scheme no longer in operation, this calculation is no longer required.

Excess Profit Share

- 5.61 The Excess Profit Share mechanism ensures that contractor profits beyond those modelled at the time of contracting are shared with the councils.
- 5.62 Where contractor profits are 1.5 times above expected, the councils are entitled to 25% of the excess.
- 5.63 Where contractor profits are twice that expected, the councils are entitled to 75% of the excess.

Royalty Payment

- 5.64 The contractor pays the councils a Royalty Payment in respect of Third Party (i.e. non-council) waste that is received at the facilities.
- 5.65 This payment is subject to a cap of £50,000 a year.

Quarterly Reconciliation Payment

- 5.66 Following the end of each quarter, the contractor calculates the Quarterly Reconciliation Sum, which is the sum of the quarterly charges based on the tonnage forecast, less the sum of the quarterly charges based on the actual tonnages received.

New Developments

- 6 A successful trial was undertaken in autumn 2015 to send street sweepings for processing, which results in a significant proportion being diverted from landfill, and at a lower cost to the councils. A Change Notice has been agreed and a new section will be introduced to the Payment Mechanism to capture sweeping tonnage and processing costs.
- 6.1 Another trial is being undertaken to send residual material from the Recycling Centres to FCC's MRF in Sutton Courtenay. A small amount of the material is separated for recycling and the remainder is used for RDF (Refuse Derived Fuel), thereby diverting this tonnage from landfill at a lower cost. If this arrangement is made permanent then a new section for RDF will be added to the Payment Mechanism.

6 ADVICE RECEIVED FROM ADMINISTERING AUTHORITY

Head of Legal Services

6.1 None

Corporate Finance Business Partner

6.2 None

Equalities Impact Assessment

6.3 None.

Strategic Risk Management Issues

6.4 None from this report.

7 CONSULTATION

Principal Groups Consulted

7.1 Not applicable.

Method of Consultation

7.2 Not applicable.

Representations Received

7.3 Not applicable.

Background Papers

Audit Report, 16th October 2015
Contract Guidance Report, 15th January 2016

Contacts for further information

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 6

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Agenda Item 7

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Agenda Item 8

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