

# Waste Disposal - Proposed Inter Authority Agreement

<b>Cabinet</b>	19 November 2020
<b>Report Author</b>	Mike Humber - Director of Operations
<b>Portfolio Holder</b>	Cllr Albon - Cabinet member for Operational Services
<b>Status</b>	For Decision
<b>Classification:</b>	Unrestricted
<b>Key Decision</b>	No
<b>Ward:</b>	District Wide

## Executive Summary:

TDC is the collection authority for domestic waste, KCC is the disposal authority. An existing inter authority agreement describes the collection methodology and a mechanism for payments (known as enabling payments) associated with the waste service to be made by KCC to TDC. The current 10 year agreement is between the 4 East Kent districts and KCC. This existing agreement expires on 15 January 2021. The existing agreement includes the standards required for collection and transfer of the various domestic waste streams along with waste from street bins, dog bins, bulky waste collections and street cleansing arisings. A new agreement has been drafted with the intention of this coming into force on 16th January 2021 thereby avoiding a gap between the old and new agreements. This agreement will also set out the model for the sharing of income and savings by KCC with TDC for waste recycled and therefore diverted from landfill. This report therefore seeks Cabinet's agreement to enter into the agreement and delegated authority for the Director of Operations to negotiate and agree final terms and enter into this new agreement.

## Recommendation(s):

That Cabinet agree to Option 1 -

1. That the Council enters into a new Inter Authority Agreement with Kent County Council for a period of 5 years from 16 January 2021;
2. That the Director of Operations is given delegated authority to undertake all steps to negotiate and agree the final terms of the agreement (in consultation as necessary with the Portfolio Holder);
3. That the Director of Law and Democracy is given delegated authority to sign the final agreement.

## Corporate Implications

### Financial and Value for Money

There is currently an enabling payment in place which is made by KCC annually. The revised payment that will become due under the new agreement will be approx 40% less than existing. The 2021/22 budget report going to Council in February will result in the base budget for Operational Services being adjusted to reflect this change. The new agreement is proposed to commence on 16th January 2021 and the payment will be adjusted on a pro rata basis in year. Any unbudgeted impact in 2020/21 has been reported through the normal budget monitoring process

## **Legal**

The new agreement will commit both parties to the terms which enable payment to be made by KCC to TDC for a 50% proportion of income and savings made by KCC associated with the disposal of recycling and waste collected by TDC. Provisions exist for variation in the event of legislative changes or by mutual consent.

## **Corporate**

The council has enjoyed the security of a 10 year agreement regarding the transfer of waste to KCC for disposal with a fixed associated enabling payment. If no new agreement is entered into there will be no associated enabling/performance payment which will have a significant budget impact. The new agreement will be on the basis of a lower value annual payment as described in section 2 of this report. However there will also be a mechanism for this payment to rise in the event that household waste recycling performance is improved.

## **Equality Act 2010 & Public Sector Equality Duty**

The Equality Impact Assessment undertaken concluded that no Protected Characteristics will be impacted upon either positively or negatively as a result of this contract award. The proposed agreement is between TDC and KCC and the waste collection service for Thanet residents will not be impacted upon or changed.

## **CORPORATE PRIORITIES**

This report relates to the following corporate priorities: -

- *Environment*
- *Communities*

### **1.0 Introduction and Background**

1.1 Thanet District Council (TDC) is the Waste Collection Authority (WCA) for household waste. Kent County Council (KCC) is the Waste Disposal Authority (WDA). KCC is responsible for arranging the recycling/disposal of waste collected from households by the WCA's in the county. Household waste and mixed recycle from households along with other waste streams such as waste from street bins and street cleansing is collected by TDC and taken to a waste transfer station that has been contracted by KCC. See Annex 1 for a list of waste streams included in the proposed agreement.

1.2 TDC entered an Inter Authority Agreement (IAA) with KCC in 2010 as part of the East Kent Waste Partnership regarding the disposal of household and street waste. The

agreement sets out and describes criteria for enabling payments which are made by KCC to TDC to support the delivery of the kerbside collection service which is split into 4 main streams in the interests of recycling waste.

- 1.3 The existing agreement will naturally expire on 15th January 2021 with no option for an extension. A new agreement is therefore required to allow TDC to continue to receive the benefit of enabling payments based upon recycling performance.

## **2.0 The Current Situation**

- 2.1 A new agreement has been drafted with a proposed 5 year term (3 years with 2 year extension option). The previous agreement was between the 4 authorities of the East Kent Waste Partnership and KCC. However the East Kent districts will this time negotiate new agreements separately based on each authority's individual circumstances, this is largely due to the differing waste collection arrangements of each authority. The proposed agreement is therefore solely between TDC and KCC.
- 2.2 The proposed agreement does not change the collection methodology known as the Nominal Optimum Method (NOM). The NOM sets the way that waste streams are presented by collection authorities in Kent. i.e. separate paper/cardboard (red bag or bin), mixed recyclate (blue bin), food waste (brown bin) and residual (black bin). This collection methodology is not possible everywhere in Thanet due to a number of factors but offers the maximum opportunity for cost efficient recycling by KCC as Waste Disposal Authority, this then in turn benefits TDC via the enabling payment.
- 2.3 The current Inter Authority Agreement includes the arrangements for the annual enabling payment by KCC to each of the East Kent districts to support the provision of services based on the current collection and recycling methodology. The enabling payment as agreed sought to compensate the Districts for the notional additional costs of operating the services over and above simpler collection arrangements and also represents a payment for materials diverted from landfill, income generated from recyclate and lower waste disposal costs. The balance of this income and saving is shared on a 50/50 basis by KCC with TDC as part of the enabling payment. The current enabling payment (until 15th January 2021) for TDC is £518,950 p.a.
- 2.3 KCC have been clear that future payments will be more closely related to a performance payment, which is similar to the approach taken within West Kent. This has been partly driven by KCC's concern that the expected levels of diversion from landfill and revenue generated from recyclate sales anticipated under the current agreement have not been achieved and that any future payments made by KCC will only be paid to recognise actual cost savings realised. Income and savings will still be shared on the 50/50 basis and will be based on the current recycling performance. The agreement will contain provision for adjustment in the event that recycling performance changes beyond agreed thresholds.
- 2.4 On this basis the annual payment will be approximately 40% less than the sum paid annually under the current agreement. This situation is not peculiar to Thanet and reflects KCC's intention to shift the balance of risk on recycling performance which they have carried throughout the existing 10 year agreement.

## **3.0 Options**

- 3.1 Option 1 - (As summarised in the recommendations above) - That Cabinet agree that the Director of Operations shall (in consultation with Finance and Legal colleagues) agree the final terms of a new Inter Authority Agreement with Kent County Council with a duration of 5 years (3 years with 2 year extension option) commencing from 16th January 2021 for the disposal of the waste streams listed in Annex 1 including household waste. This agreement will set out the financial model for the sharing of income and savings by KCC with TDC for waste recycled and therefore diverted from landfill. The proposed agreement does not affect the existing waste collection methodology adopted by TDC as a waste collection authority so there will be no change to household waste collection arrangements or impact on the way that our residents present household waste.
- 3.2 Option 2 - That Cabinet do not agree to enter into a new agreement with KCC. Note this would not affect the obligation of KCC as disposal authority to accept recyclate and waste from Thanet via the contracted waste transfer station. It would however mean that there would be no obligation on KCC to share income and savings resulting from the diversion of waste from landfill.
- 3.3 Option 3 - As option 1 but with a varied contract term as recommended by Cabinet.

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### **Annex List**

Annex 1: Waste Streams collected by TDC and transferred for disposal by KCC

### **Background Papers**

None

### **Corporate Consultation**

**Finance:** Matthew Sanham, Financial Services Manager

**Legal:** Estelle Culligan, Director of Law and Democracy