

Date - 26 April 2019
Report of the - Lead Director, Dr Anthony Leonard
Subject - Joint Waste Requirements and Expectations

Recommendation: It be **RESOLVED:** That the Key Service Requirements be noted.

Report Author: Madeleine Gorman, Waste Partnership Manager

1. This report identifies the key service requirements and contract provisions which have changed from those described in the current (Kier) contract. During 2018, the Joint Waste and Recycling Committee (JWRC) took a series of key procurement decisions (Minute JWRC17/12 refers) that were incorporated into the Specification and Conditions of Contract documents. The JWRC has received regular updates as the procurement project developed and ultimately finalised all of the documents which form the Contract.
2. The final suite of documentation prepared for execution includes the Specification (Schedule 2) which describes the service requirements and Biffa's Service Delivery Plan (SDP) (Schedule 3) which describes how Biffa intend to deliver the services. All known points of ambiguity between the Specification and the SDP have been resolved during mobilisation although further work will be necessary during the first year to clarify and if necessary, adjust local Contractor and Client officer expectations as to exactly how the service requirements are being met.
3. In addition to the service differences reported in 2018, officers wish to bring the following key service requirements to Members' attention:

Batteries and Small Waste Electric and Electronic Equipment (WEEE)
4. In their tender, Biffa committed to expand the range of dry mixed recycling to be collected by offering to configure the new vehicles with small compartments for batteries and small WEEE. Implementation of this expanded recycling service remains, pending agreement with Veolia South Downs Limited as the disposal site operator.

Payments for Containers
5. Containers will be purchased by Biffa and the actual cost will then be recovered from each council. Biffa will maintain specified stock levels to allow orders for new or replacement bins to be fulfilled. The delivery of containers from stock to each household will be charged separately at the tendered unit rate. To manage costs each council should consider whether a greater level of control is exerted over the ability for residents to order containers for themselves (e.g. through council websites).

Storage Capacity and Additional Containers
6. While the primary measure for a successful recycling service is the percentage of waste diverted for recycling (i.e. the recycling rate), residents have been actively encouraged to present as much recycling as possible. As

Kier held liability for the cost of all containers, residents were permitted (by the councils) to request extra recycling bins – although in practice Kier often refused to meet such requests. By contrast, the Councils have sought to limit the storage capacity for residual waste at 180litres (except for households which meet agreed criteria), although a high proportion of older 240 litre bins remain in circulation. Additional storage capacity usually means a higher volume of waste is presented for collection and Biffa will assess the impact of additional bins on the collection rounds in due course. The Councils may consequently need to review the current policy for approval of additional container(s).

Fly tipping and Enforcement

7. During the mobilisation period, officers and Biffa managers aim to clarify expectations with regard to fly-tipping and enforcement activities. Large volumes of rubble etc. in rural lay-bys can be very difficult to investigate and prevent. However Biffa is keen for the Councils to tackle smaller regular incidents such as retailers inappropriately leaving their waste on the street. Each council may consequently need to consider how their available enforcement resources are prioritised.

Changes to Service Requirements (Variations)

8. During the procurement project, each councils' financial position and the consequent need for maximum resource efficiency was emphasised. Tenders were carefully developed to ensure the necessary level of staff and vehicle resources could be sustained (allowing for normal levels of absence, sickness etc.) but without the contract price allowing for lots of extra contingency / flexible resources. This means there is close alignment between the specified Service Requirements and the resources available to deliver those requirements. Thus if/when a council decides to change its Service Requirements, the Change provisions offer a level of protection so that Change instructions cannot result in materially adverse impacts for any party.

Performance Management

9. Performance management is only one aspect of successful contract management. These contractual provisions enable a clear understanding of the work standards that are expected and provide a mutually understood mechanism for addressing performance which is not meeting expectations. With the potential to be either unduly penal or ineffective in tackling poor performance, the Performance Management Framework (PMF) for the new joint waste contract has been carefully developed through the procurement process. The Competitive Procurement with Negotiation (CPN) procedure enabled the Councils to discuss service standards and consider the financial impact on the Contract Price of taking a relatively penal approach to managing performance (i.e. the use of financial deductions when targets are not met). Alternate approaches, including the potential for financial enhancements were also considered (i.e. use of additional or bonus payments when targets are met or exceeded). The final PMF has therefore been developed specifically for this Contract.
10. It is important that all the parties to a Contract, and its stakeholders, properly understand what service details are included (and excluded). Client and Contractor goodwill and leadership is essential during the early phase of the new Contract to prevent minor conflicts and disputes escalating. Services are

often expected to continue in exactly the same way as before, even when the service requirements have been specified differently.

11. The Partnership's vision is to deliver a predominantly self-monitoring Contract that operates as a single integrated service across all partner authorities. There is an onus on the Contractor to evidence the level of performance being achieved and to respond to performance failures in a timely fashion to minimise the impact to Customers and to ensure a high-quality service is delivered. The PMF relates to the Contractor's obligations in the Specification (Schedule 2 to the Contract) and the Contractor's Service Delivery Plan (Schedule 3 to the Contract) and it sets out the principles for remedy and default for performance failures and the services' Key Performance Indicators (KPIs).
12. A "honeymoon period" is effective for the first twelve (12) weeks from the start of the Contract and then a further eight (8) weeks after implementation of long-term Routine Services Programme (RSP). To allow time for Biffa management to meet staff and become accustomed to the local depots and operations they are required to continue operating the current round structure for 12 weeks. Biffa then have until Christmas 2019 to implement their long term RSP (which is expected to involve round re-scheduling) and they then have eight weeks for the required service standards to be achieved consistently. Pending new information being available once Biffa start the Contract, the RSP is planned for implementation in October meaning that service delivery should be settled by the end 2019.
13. After the honeymoon period(s) the Supervising Officer(s) and/or the Authorised Officer may issue a Rectification Notice (RN) and/or Default Notice (DN) in response to any work or services that are not performed by the Contractor in accordance with the Contract. Service failures are categorised as "Rectifiable" or "Non-rectifiable" and each incurs either "Performance Points" or "Performance Deductions".
14. If the Contractor fully complies with the terms of a RN, within the Rectification Period, then no further action is taken. Using the most common example of a missed collection, the RN is effectively the missed bin worksheet which includes all the descriptive details of the service failure and the timescale for recovery of the work. Each missed bin worksheet (RN) incurs one Performance Point. Provided the collection is then made within the timescale no further contract administration is required. Ultimately 200,000 points (across all Services) in 12 months may result in termination. Members should note that different Performance Standards have different Performance Point values.
15. DNs are issued in response to service failures which cannot be rectified. Using the example of Repeated Missed Collections which occur at the same household more than twice over a five week period, the DN incurs a financial deduction of £10. Ultimately £250,000 of deductions (across all services) in a 12 month period may result in termination. Members should note that different Performance Standards have different deduction values.
16. Performance will be reviewed during the monthly Contract Review and Performance meetings and the descriptions, targets, rectification periods, Performance Points and Performance Deductions for each KPI can be reviewed annually through the Annual Services Improvement Plan. This

process gives opportunity for all parties to the Contract to revise service requirements and consequently cost.

Dr Anthony Leonard
Lead Director

Risk Assessment Statement

It is important that stakeholders understand the Contract so as to avoid unnecessary conflict and dispute. The joint procurement and management of waste services across Hastings, Rother and Wealden enables the delivery of these services to be operated consistently at lower cost. However, this invariably means there is less opportunity for local differences in terms of the services delivered.