Somerset Waste Board meeting
29 June 2018
Report for decision

Financial Outturn and the Use of Balances

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Forward Plan Reference:	SWB/17/03/01
Summary:	Although a change in legislation means that a Joint Committee such as the Somerset Waste Board is no longer required to produce full statutory accounts in accordance with the CIPFA Code of Practice and to undergo a full external audit, it has been agreed by the Board that we would bring a report and summary financial statements to the Annual General Meeting in June. As part of the end of year financial reporting, we ask the Board to approve the proposed use of balances held as at 31st March 2018, and an update on the 2 legal claims that are being pursued. Looking forward, the budget for 2019/2020 will be the first that the Board will set that will need to reflect the formation of a new authority to replace Taunton Deane and West Somerset. Work to update our current Cost Sharing Agreement will need to be undertaken ahead of the first draft budget reported back to the Board in September. This report sets out the principles that will underpin this work.
Recommendations:	**That the Somerset Waste Board: -** **1. Notes financial outturn position of the Partnership overall and the individual partners' balances at year end, and the summary accounts for 2017/2018 as presented in Appendix A;** **2. Confirms the recommendations of the partner authorities, (as summarised in Appendix B), as to the use of the individual surpluses and deficits as at 31st March 2018.** **3. Notes the updates on the 2 respective legal claims being made on behalf of the SWB (paragraph 2.6 below).** **4. Re-affirms the underlying principles for the necessary amendments to the Cost Sharing**

	Agreement as a result of the formation of a new authority to replace Taunton Deane and West Somerset (paragraph 2.7 below); and **5. Authorises the Managing Director in consultation with the Senior Management Group to propose detailed changes to the Cost Sharing Agreement ahead of formal Board approval of the changes at the September 2018 meeting (paragraph 2.7 below).**
Reasons for recommendations:	The Board, as those charged with governance, need to be aware of the final financial performance of the Somerset Waste Partnership for 2017/2018, and some of the key reasons behind the performance. It is for the Board to confirm recommendations of the partners as to the usage of any useable balances at the end of the financial year. The first draft budget for 2019/2020 will be considered at the September meeting, and reviewing the Cost Sharing Agreement is a necessary pre-requisite to allow a budget for the 5 as opposed to the current 6 partners to be prepared.
Links to Priorities and Impact on Annual Business Plan:	The request to retain the one-off income obtained from the rental and sale of vehicles ties into the Business Plan objective for implementation of Recycle More. The further request from the County Council to retain some of the underspend within the Partnership is a recognition of the further infrastructure costs that will be needed for the collection-disposal interface.
Financial, Legal and HR Implications:	If the recommendations in this report are approved, particularly with regard to balances, the impact on each partner is set out in Appendix B. There are no specific legal or HR implications of this report.
Equalities Implications:	There are no specific equality impacts of this report.
Risk Assessment:	The risks associated with these recommendations are primarily concerned with a situation where partners withdraw the vehicle income previously set aside. Previous papers brought to the Somerset Waste Board have indicated the need for one-off funds to be available for the implementation of Recycle More, and members have already agreed to retain this income within the Partnership for this purpose.

1. Background

1.1. The Board set its Annual Budget for 2017-2018 (originally totalling £43,577,620) at its meeting of 24th February 2017. Individual partner contributions, and the income and expenditure that are subsequently charged to each partner, are prescribed within our Cost Sharing Agreement.

Our Annual Budget is predominantly spent on making payments to our main contractors – Viridor and Kier. These payments account for approximately 97% of our expenditure.

1.2. A number of assumptions are made in the setting of each Annual Budget, such as the tonnage arising, amounts going through each disposal option, household numbers, inflation, the amount of kerbside recycling achieved for recycling credits and the number of green waste customers. Some of these cost drivers are quite volatile and this will account for the variations from budget reported below.

2. Financial performance and options for balances

2.1. Summary outturn figures

The table below shows the variations from budget on all our major expenditure areas. **For the avoidance of doubt in the table below, negative figures shown in brackets are underspent budgets. Figures not in brackets are overspent budgets.** (A zero figure indicates that the line is on budget or that it is not a budgetary responsibility of that partner). Figures are rounded to the nearest £000.

Summary of budget variances

	SCC £'000	MDC £'000	SDC £'000	SSDC £'000	TDBC £'000	WSC £'000	Total £'000
Head Office	(67)	2	2	2	2	1	**(59)**
Disposal Costs	(1,025)	0	0	0	0	0	**(1,025)**
Collection - Recycling	0	(6)	(8)	(9)	(7)	(4)	**(33)**
Collection - Refuse	0	(1)	(1)	(2)	(2)	(0)	**(7)**
Collection - Garden	0	(1)	(2)	4	30	15	**45**
Collection Costs	0	3	3	4	6	1	**16**
Recycling Credits	(20)	13	1	10	1	(4)	**0**
Container Purchase & Delivery	0	(19)	(0)	(23)	(9)	0	**(50)**
Other	(7)	(5)	(5)	(15)	(5)	(2)	**(40)**
	(1,118)	**(15)**	**(12)**	**(30)**	**16**	**6**	**(1,153)**

New Collection Contract costs- funded from the earmarked reserve	**51**
Earmarked reserve (prior years vehicle income)	**(421)**
	(1,523)

Overall, if we exclude the in-year spend on the new collection contract, the total Partnership **underspend was £1,153,000** (2.656% of the original budget). This represents an improvement on the December position reported in February (where we forecast to be underspent by £798,000 or 1.8% of the budget). The reasons for the variances reflect the position previously reported to the Board, and are set out in sections 2.2. and 2.3 below.

2.2 Collection variations

The overall position for District partners has not changed significantly since the last Financial Update to the Somerset Waste Board in February 2018. At that point (Quarter 3), we were forecasting a total overspend of £69,000, (0.42% of the agreed collection budget) compared to a **final outturn underspend of £35,000** (0.21% of the agreed collection budget).

Excluding the garden waste performance, all Districts were underspent. (Members are reminded that the overspend on garden waste costs experienced by most partners are compensated by the income that the relevant District partner receives directly, so the reported overspends on Taunton Deane and West Somerset are effectively netted off).

There were minor changes in Quarter 4 on budget lines that members are familiar with, such as recycling credits and new containers. Final container costs, (which are a variable budget line), reduced slightly in the final quarter (costs down £16,000). Recycling credits improved slightly, and came much closer to budget as a result. At Quarter 3, we were estimating a shortfall of £60,000 across all the Districts combined, which was 2.5% of the recycling credits budget. By year end, this was only a £20,000 shortfall (0.8% of the budget). Looking back, achieving 99.2% of the recycling credits budget is the exactly the same performance against budget as for 2016/2017.

Head Office costs were generally underspent, although there were some additional pensions deficit contributions payable. Smaller savings were achieved across the collection contract, such as vehicle financing c£18,000, depot costs c£6,000 and contract pension payments c£9,000.

The “headline” figure above does not include any drawdown of the earmarked reserve for Recycle More (£421,284), which has been set aside for the project costs as reported in previous Board papers. By the end of the last financial year, £50,678 has been spent on the Recycle More project, leaving a balance of £370,606 for future years.

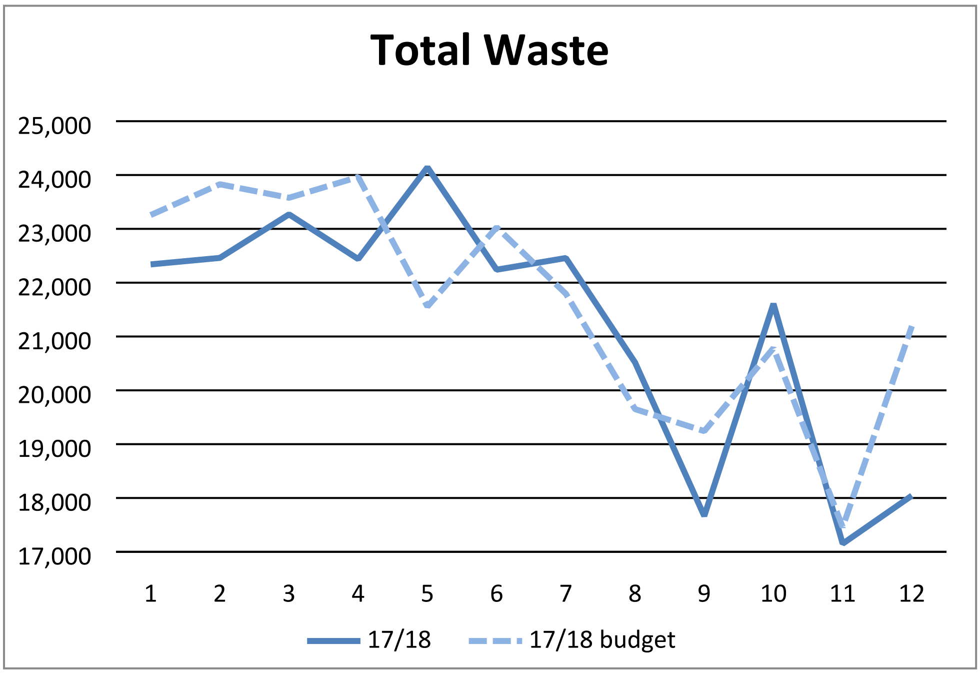
2.3 Disposal variations

The disposal position improved again during Quarter 4, increasing the underspend on this budget area from £867,000 to £1,118,000 or 4.11% of the budget.

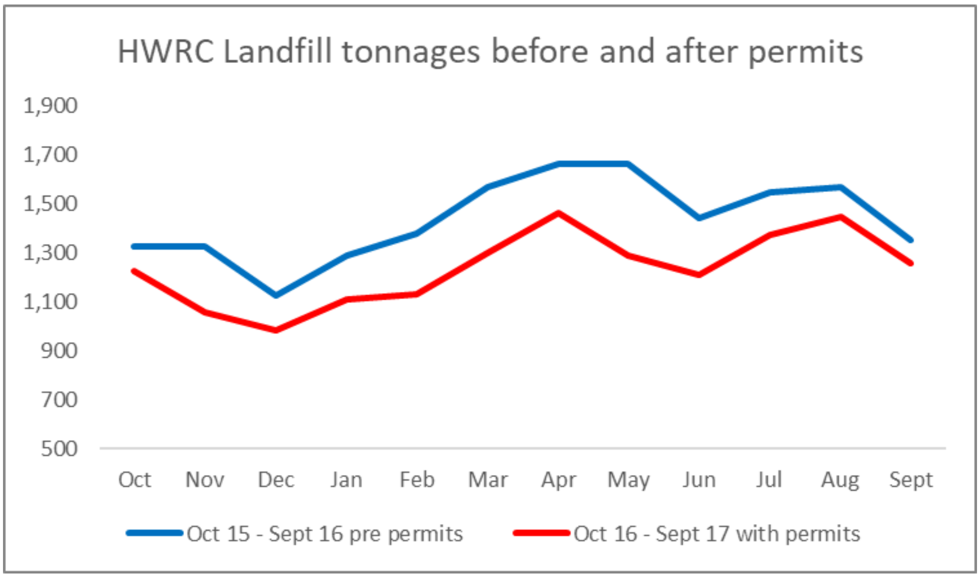
The downwards trend in disposal tonnages has been reported in previous financial and performance updates. This was particularly noticeable with the Recycling Centres, where the full-year effect of the permit system resulted in tonnages under budget in the first few months of 2017/2018. The tonnages then were closer to budget until month 12.

Obviously, the heavy snow during March led to a significant reduction in March at both the Recycling Centres (28% down on the previous year) and on the kerbside (16% down on the previous year). Tonnage figures to date cannot confirm whether or not there will be a corresponding upturn in the start of this financial year.

The first graph (Total Waste) below illustrates this point.



The graph below shows the impact of the permits over the 12 month period before and after their introduction (landfill tonnages only). This equates to a 14.5% decrease in tonnages.



2.4 Use of balances

In setting the Annual Budget for 2017/2018, it was already envisaged that funds would be required to pump-prime changes to the collection service. Recycle More will require a number of one-off pump-priming costs (in addition to any new vehicles that will be capital financed). The District section 151 officers preferred that the on-going contract inflation be built into the Annual Budget 2017/2018, and it would be the one-off vehicle rental and sale income that could be made available for Recycle More.

Officers have previously reported the need for one-off funding for the Recycle

More project, and reports on this project have set out where these costs could fall. Members are asked again to carry forward the rental and sale income from vehicles into the next financial year. The request for the use of District balances in Appendix B is made on this basis. The combined total of this income for the last 3 financial years now stands at £370,606.

Again, it is the officers' intention to bring forward other elements of the Business Plan that may require funding to the Board and when such needs arise.

In addition to the costs and earmarked reserves above, there is an additional request for £246,000 of the County Council disposal underspend to be carried forward within the Partnership. It is requested that this amount is carried forward for Recycle More, where there will be a need for disposal infrastructure such as delivery and tipping points. There is also a need for additional staffing support for the tendering and roll-out phases of the project, which will need one-off funding.

2.5 Preparation of financial statements

Following the change in legislation for our financial years commencing 1st April 2015 and afterwards, and agreements at previous Board meetings, we no longer produce a full set of accounts under the CIPFA Code of Practice, and do not have to host (or pay for) a full external audit. External audit will naturally look at the waste position as part of their audit of the County Council, our Administering Authority. This saves several weeks of Finance time as a result, which has been used to provide further time to support the Recycle More project.

However, summary accounts are still prepared for the Annual General Meeting (Appendix A). These are prepared in accordance with the CIPFA Code of Practice, using standard accounting principles and practice, except that we sometimes provide greater detail for members.

Our Constitution and Inter Authority Agreement set out the earmarked reserves that we maintain for each of the Partners. These reserves and balances are set out in the bottom half of the Balance Sheet (£1,729,801).

In summary, the amounts held by the Partnership are the £1.523m figure referred to above (the underspend in 2017/2018), £0.181m of lease payments (simply a timing difference) and a small balance of £0.025m of West Somerset funding from 2014/2015 that it is not allowed to withdraw from the Partnership under the Sort It Plus funding agreement.

2.6 Legal claims

During 2017/2018, the Board were updated on 2 claims that were being made on its behalf.

The national claim on "fluff" (whereby we contend that landfill tax should not be payable on disposal materials used for engineering purposes) has been the subject of a court ruling since the last Board meeting (Let's Recycle link included below).

Biffa, Veolia and Devon Waste Management have lost their appeal against HMRC regarding whether black bag waste used as landfill ‘fluff’ is liable for landfill tax. The three companies argued that as the waste was being ‘used’, it was not being deposited as waste and therefore an exception and not liable for landfill tax as outlined in the Finance Act of 1996. Even though the HMRC representative accepted that the waste was “used”, the judge concluded that the court does “not consider the deposit in a landfill cell of black bag waste which is intended to remain there permanently to be one of those exceptions” even if it used to line landfill cells and protect the cell liners.

Biffa will be appealing the decision, but this is a grave blow for the Somerset Waste Partnership’s chances of recovering any money through its own claim.

The truck cartel claim is still being mapped out. The latest position is that the Local Government Association (which is co-ordinating the action of behalf of all interested authorities) has engaged an eminent QC to look at the funding proposals and to see how they could be amended to further protect the interests of participating Authorities. His response is being fed back to the legal firms who are proposed to take action on our behalf.

2.7 Cost sharing for the new council

From April 2019, a new council will be in existence in Somerset, replacing Taunton Deane and West Somerset.

From a Somerset Waste Partnership financial perspective, this will impact on our budget preparation, and in particular on our Cost Sharing Agreement, which calculates individual partner contributions into the pooled budget. There are a number of formulae that split costs amongst collection partners in particular, based on factors such as households, customers and sparsity.

The first draft budget for 2019/2020 will come to the Board at its September meeting, and finance staff will need to have a basis for splitting collection costs in an appropriate manner between 4 as opposed to 5 collection partners.

Initial thoughts amongst finance officers and the Senior Management Group are that the **minimal amount of changes be made at this stage**, not least because there will need to review the whole Cost Sharing Agreement again ahead of Recycle More in April 2020.

Members are asked to agree that the Senior Management Group be tasked with proposing amendments to the Cost Sharing Agreement back to the Board in September.

It is critical that these changes avoid any cost shunting, and that no authority is better off or worse off as a result of the new council. The proposals will need to be mindful of the key principles in the Cost Sharing Agreement, and which we have always works to, such as: -

“costs . . . are shared on a fair and equitable basis”
apportion costs in “the most logical and transparent way possible”
“being mindful of the need to avoid any one Partner Authority subsidising another”

2.8 Capital approvals for Recycle More

There is an update on Recycle More elsewhere on this agenda. Previously, partners have been willing to fund capital costs (primarily for vehicles) in return for a reduced cost from the contractor, and some have made provisions within their capital programme to do so.

It is still highly probable that this opportunity will still exist and provide a return to investing partners, and that capital monies set aside will still be required.

3. Consultations undertake

3.1. The outturn position, use of balances and plans to incorporate the new council in our Cost Sharing Agreement have been discussed with the Senior Management Group.

4. Implications

4.1. Should the use of balances be approved, District partners will be paid or be required to pay back the sums as set out in Appendix B.

5. Background papers

5.1. **Somerset Waste Board Constitution** and **Inter Authority Agreement**.
"**Annual Budget 2017/2018**" from the Somerset Waste Board meeting 24th February 2017.
"**Financial Performance Update 2017/2018 and Final Budget 2018/2019**" from the Somerset Waste Board meeting 23rd February 2018.
BIFFA case https://www.letsrecycle.com/news/latest-news/waste-firms-lose-latest-landfill-fluff-case

5.2. For any background papers, please contact the report author.