

Somerset Waste Board
Friday 14 December 2018
10.00 am Council Chamber,
South Somerset District
Council, Brympton Way, Yeovil
BA20 2HT



To: The Members of the Somerset Waste Board

Councillor Derek Yeomans, South Somerset (Chair)
Councillor Nigel Woolcombe-Adams, Mendip (Vice-Chair)
Councillor Nigel Taylor, Mendip
Councillor Patrick Berry, Taunton Deane
Councillor Hazel Prior-Sankey, Taunton Deane
Councillor Martin Dewdney, West Somerset
Councillor Brenda Maitland-Walker, West Somerset
Councillor Jo Roundell Greene, South Somerset
Councillor Gill Slocombe, Sedgemoor
Councillor Dawn Hill, Sedgemoor
Councillor David Hall, County Council
Councillor Mike Pullin, County Council

Issued By Scott Wooldridge, Strategic Manager - Governance and Risk - 6 December 2018

For further information about the meeting, please contact Julia Jones or Scott Wooldridge or 01823 359027 or jjones@somerset.gov.uk / 01823 357628 or swouldridge@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda.

This meeting will be open to the public and press, subject to the passing of any resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers



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AGENDA

Item Somerset Waste Board - 10.00 am Friday 14 December 2018

**** Public Guidance notes contained in agenda annexe ****

1 **Apologies for Absence**

2 **Declarations of Interest**

3 **Minutes from the meeting held on 28 September and the Extraordinary Meeting held on 2 November** (Pages 7 - 18)

The Board is asked to confirm that the draft minutes of the previous meetings are accurate or to agree any amendments that are necessary.

4 **Public Question Time**

The Chairman will allow members of the public to present a petition on any matter within the Board's remit. Questions or statements about any matter on the agenda for this meeting may be taken at the time when each matter is considered (see guidance notes).

5 **Waste Board Constitution and membership 2019/20** (Pages 19 - 114)

To consider the report.

6 **Financial Performance Update 2018/2019 and Draft Budget 2019/2020** (Pages 115 - 122)

To consider the report.

7 **Somerset Waste Partnership Business Plan 2019 - 2024** (Pages 123 - 142)

To consider the report.

8 **Performance Report - April 2018 to September 2018** (Pages 143 - 164)

To consider the report.

9 **Recycle More & Collection Contract Procurement** (Pages 165 - 170)

To consider the report.

Possible exclusion of the press and public

PLEASE NOTE: Although the main report for this item not confidential, supporting appendices available to Board Members contain exempt information and are therefore marked confidential – not for publication. At any point if Board Members wish to discuss information within this appendix then the Board will be asked to agree the following resolution to exclude the press and public:

Exclusion of the Press and Public

Item Somerset Waste Board - 10.00 am Friday 14 December 2018

To consider passing a resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to exclude the press and public from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, within the meaning of Schedule 12A to the Local Government Act 1972:

Reason: Information relating to the financial or business affairs of any particular person (including the authority holding that information).

10 **Somerset Waste Board Forward Plan** (Pages 171 - 174)

To review the latest version and items of business for future meetings.

11 **Information Sheets Issued Since the Last Meeting**

This is an opportunity for Members to raise matters contained in the following information sheets issued since the last meeting. A compendium of information sheets will be available for members to inspect at the meeting.

12 **Any other urgent items of business**

The Chairman may raise any items of urgent business.

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1 Inspection of Papers

Any person wishing to inspect Minutes, reports, or the background papers for any item on the agenda should contact Julia Jones on tel. (01823) 359027 or 357628, fax. (01823) 355529 or email jjones@somerset.gov.uk

2 Notes of the Meeting

Details of the issues discussed and decisions taken at the meeting will be set out in the Minutes, which the Board will be asked to approve as a correct record at its next meeting. In the meantime, details of the decisions taken can be obtained from Julia Jones or Scott Wooldridge in the Democratic Services Team on tel. (01823) 359027 or 357628, fax. (01823) 355529 or email jjones@somerset.gov.uk

3 Public Question Time

At the Chair's invitation you may ask questions and/or make statements or comments about **any matter on the Board's agenda**. You may also present a petition on any matter within the Board's remit. **The length of public question time will be no more than 30 minutes in total.**

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been signed. However, questions or statements about any matter on the agenda for this meeting may be taken at the time when each matter is considered.

If you wish to speak or submit a petition, **then you will need to submit your statement or question in writing to Julia Jones by 12noon on the Tuesday prior to the meeting.** You can send an email to jjones@somerset.gov.uk or democraticservices@somerset.gov.uk send post for attention of Julia Jones, Democratic Services, County Hall, Taunton, TA1 4DY.

You must direct your questions and comments through the Chair. You may not take direct part in the debate.

The Chair will decide when public participation is to finish.

If there are many people present at the meeting for one particular item, the Chair may adjourn the meeting to allow views to be expressed more freely.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

An issue will not be deferred just because you cannot be present for the meeting.

Remember that the amount of time you speak will be restricted normally to three minutes only.

5 **Emergency Evacuation Procedure**

In the event of the fire alarm sounding, members of the public are requested to leave the building via the signposted emergency exit, and proceed to the collection area outside. Officers and Members will be on hand to assist.

6 **Somerset Waste Board Forward Plan**

The latest published version of the Forward Plan is available for public inspection at County Hall or on the County Council web site at:

<http://democracy.somerset.gov.uk/mgListPlans.aspx?RPId=196&RD=0>

Alternatively, copies can be obtained by telephoning (01823) 359027 or 357628.

7 **Excluding the Press and Public for part of the meeting**

There may occasionally be items on the agenda that cannot be debated in public for legal reasons (such as those involving confidential and exempt information) and these will be highlighted in the Forward Plan. In those circumstances, the public and press will be asked to leave the room while the Cabinet goes into Private Session.

8 **Recording of meetings**

The Council supports the principles of openness and transparency, it allows filming, recording and taking photographs at its meetings that are open to the public providing it is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings and a designated area will be provided for anyone who wishing to film part or all of the proceedings. No filming or recording will take place when the press and public are excluded for that part of the meeting. As a matter of courtesy to the public, anyone wishing to film or record proceedings is asked to provide reasonable notice to the Committee Administrator so that the relevant Chair can inform those present at the start of the meeting.

We would ask that, as far as possible, members of the public aren't filmed unless they are playing an active role such as speaking within a meeting and there may be occasions when speaking members of the public request not to be filmed.

The Council will be undertaking audio recording of some of its meetings as part of its investigation into a business case for the recording and potential webcasting of meetings in the future.

A copy of the Council's Recording of Meetings Protocol should be on display at the meeting for inspection, alternatively contact the Committee Administrator for the meeting in advance.

SOMERSET WASTE BOARD

Minutes of the Meeting of the Somerset Waste Board held in the Luttrell Room, County Hall, Taunton, on Friday 28 September 2018 at 10.00am.

PRESENT

Cllr P Berry	Cllr J Roundell-Greene
Cllr D Hall	Cllr G Slocombe
Cllr B Maitland-Walker	Cllr N Woolcombe-Adams (Vice Chair)
Cllr H Prior-Sankey	Cllr D Yeomans (Chair)
Cllr M Pullin	

Other Members Present: Cllrs M Keating and T Munt

Apologies for Absence: Cllrs D Hill, M Dewdney, N Taylor

492 **Declarations of Interest** – agenda item 2

Members of the Waste Board declared the following personal interests:

Cllr H Prior-Sankey	Somerset County Council
Cllr D Yeomans	Member of Curry Rivel Parish Council
Cllr M Pullin	Member of Mendip District Council

493 **Minutes of the meeting held on 29 June 2018** – agenda item 3

The Minutes of the meeting of the Board held on 29 June 2018 were taken as read and following endorsement by the Board they were signed as correct by the Chair.

494 **Public Question Time** – agenda item 4

There were no public questions.

495 **Financial Performance Update 2018/2019 and Development of the Annual Budget 2019/2020** – agenda item 5

The Chair invited the Managing Director Mickey Green to introduce the report which set out the financial performance against the approved Annual Budget for the first 3 months of the current financial year (April to the end of June), and a forecast outturn position. This was also the formal commencement of the budget setting process leading to the Annual Budget for 2019/20 and included a recommendation regarding the changes to the cost sharing agreement for the new council which replaces Taunton Deane and West Somerset from April 2019 onwards.

There was also a request from the County Council for in-year savings and proposals from the Managing Director and the Finance Officer as to how these could be met.

There were further points and discussion regarding waste disposal and it was

noted there was a huge drop in March due to the heavy snow and that the hot dry weather in July and August had led to a low green waste tonnage. The indicative budget requirements for 2019/20 for collection were highlighted showing an equitable cost sharing agreement for this period onwards.

The Chair moved the recommendations.

Somerset Waste Board **RESOLVED** to:

- i. Note the summary financial performance for 2018/2019 year to date and the potential outturn position for each partner authority.
- ii. Consider the draft budget for 2019/2020 and the key factors that will influence the budget setting process.
- iii. Approve the changes to formulae in the Cost Sharing Agreement that relate to the new Council to replace Taunton Deane and West Somerset from April 2019 onwards as set out in Appendix 1.
- iv. Approve the approach set out in section 3 below in order to deliver the in-year savings requested from the County Council, and delegates to the Managing Director (in consultation with the Chair) the authority to conclude the necessary actions to deliver these savings, other than the potential contract extension with Viridor, which will be subject to a Board decision on 2 November.

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report.

REASON FOR DECISION: As set out in the officer report.

496 **Performance Report - April 2018 to June 2018** - agenda item 6

Members were given a summary of the key performance indicators for the period from April 2018 to June 2018 and compared these to the same period in 2017. The Board was also updated on the current kerbside collection service performance issues and the actions being taken to address these issues. A new format for the performance report was shown at Appendix C.

Headline figures to note for this period included a 4% rise in the total reused, recycled and composted, and also in garden waste shown in the table at 2.1. An increase in non-household waste being sent to landfill and being reused, recycled and composted was also highlighted and it was felt this indicated the continued effectiveness of the permit scheme and endorsed the efforts of Somerset Waste Partnership (SWP) officers operating in the towns and villages to drive commercial waste out of the domestic stream.

Other points discussed included:

- A general increase in the amount of material being sent for recycling, including cans, cardboard, green, glass, plastic and wood
- The continuing challenges facing the collection service in dealing with an aging fleet of vehicles
- Staff shortages, particularly drivers, especially at the Taunton depot
- Ongoing work with Kier to address performance in specific areas such as assisted collections, repeat missed collections, and garden waste

collections.

- Initiatives to address this were starting to have effect and more drivers were being recruited
- Although the overall variation in the number of incidents of fly tipping were insignificant, there were some anomalies including a significant rise in the Taunton Deane area. This was being investigated further.
- Informing local members about missed collections and how they were being dealt with.
- Continual thefts at depots of fuel and batteries and also damaged caused to the fleet in Bridgwater which had led to missed collections
- Other issues which had caused missed collections included extremely hot weather and a resulting decline in productivity as well as accidents on the M5.
- Performance penalties imposed on the contractor were having an effect and had lead to a 50 per cent decrease in missed collections
- Problems of roadworks particularly in Sedgemoor which made it difficult for collections
- Clarity was sought about what was classed as fly tipping and what was household waste on sites where people had been living

The Chair moved the recommendation.

The Somerset Waste Board **RESOLVED** to note the tonnage and performance results within appendices A & B, and welcomed the draft future performance report format in appendix C.

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report.

REASON FOR DECISION: As set out in the officer report.

497 **Recycle More Project update** - agenda item 7

Members were updated on the progress of the procurement of a new waste and recycling collection contractor since the last report in June. Since then there had been a selection of potential suppliers, and a pre-invitation to submit detailed solutions, covering three periods of dialogue with the selected companies. This had been a positive process, and all were very supportive of the Somerset Waste Partnership's aims and were confident of contact capability.

A new approach to the contract provisions relating to changes in law had been introduced. Acquiring a new authority depot site remained work in progress but it had not been possible to make progress at the pace originally hoped. There was ongoing work to explore potential site options. It became clear through the dialogue sessions that it was most likely to be advantageous for SWP to fund capital assets by borrowing through the Public Works Loans Board (PWLB) in exchange for contract discounts. The contract was therefore amended to extend the range of assets that can be funded through PWLB to include plant and machinery (including vehicles).

Further discussion included:

- Risk share mechanisms were a key focus

- It was difficult to predict material volumes
- The contract award announcement was due in March next year
- Submissions were due in early October and there would be a presentation to the Board in November
- If submissions varied significantly from original proposals, it may also be necessary to obtain partner approval for the changes
- It was expected there would be several strong bids for the contract but there was contingency plan in place should it be required.

The Chair moved the recommendation.

Somerset Waste Board **RESOLVED** to note the progress made in procuring a new collection contract.

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report.

REASONS FOR DECISION: As set out in the officer report and as debated at the meeting.

498 **Proposed fees and charges** – agenda item 8

The Chair invited Contract Manager Colin Mercer to introduce this report which sought member approval for fees and charges applied to waste services for which a charge may be made, for the financial year 2019/2020.

It was recommended the charge for a replacement bin and of garden and bulky waste collections was increased by 3.5% rounded to the nearest 10p to mitigate against inflationary pressures and to continue to cover the contractual cost of providing the service.

Local authorities currently charging their residents to use household waste recycling centres have until 1 April 2020 to make alternative arrangements for such sites. It was recommended that the entry charge for the two such sites in Somerset (Dulverton and Crewkerne Community Recycling Sites) remained at £2 until such time as the board makes a decision on the potential contract extension with Viridor and hence any changes to recycling Sites.

It was also recommended that charges for some materials received at the Recycling Centres for gas bottles, hardcore and tyres and for asbestos and plasterboard continue to be raised in line with inflation and rounded to the nearest 10p.

Further points raised included:

- The difference between the fees and charges of garden waste collections and members were reminded that South Somerset District Council had offered a 2-year option to its residents
- Promotion to residents of using the green waste bin
- Consideration of whether the charges should be rounded up to the nearest pound.

The Chairman moved the recommendation.

The Board **RESOLVED** to agree to recommend the proposed charges as set out in Table 1 for introduction in April 2019.

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report.

REASON FOR DECISION: As set out in the officer report.

Note – Table 1 is shown in the amended report in the supplementary agenda

499 **Outline Business Plan 2019-24** – agenda item 9

The Chair invited the Somerset Waste Partnership Managing Director Mickey Green to introduce the report. He explained that the Somerset Waste Partnership Draft Business Plan for the period 2019 to 2024 would be coming to a number of meetings, starting in September for a discussion on priority areas and approach.

A draft business plan was due to be presented by the Board on 2 November 2018, partner consultation in November and December and then approval from the Board on 14 December 2018. The approval timetable had been amended to align better with the new collection contract procurement timetable.

A number of issues outlined in the 2018 -2023 plan still applied but had moved on such as: the impact of the withdrawal from the EU, the potential for legislative change, community recycling centre changes, financial pressure and demographic changes.

Key areas in the plan included:

- Moving away from landfill as the disposal route for residual waste by 2020
- Procuring a new collection contractor by 2020 and rolling out the Recycle More service model from 2020
- Reviewing the core services contract with Viridor and consideration of a possible extension to the contract
- Restructuring SWP so that it had the right level of resources to realise its ambitions
- Developing a long-term strategy in line with the expected Central Government Resources and Waste Strategy
- Focussing on behavioural change (in particular, schools, plastic, food)
- Putting in place the technology that will underpin improved customer service
- Refreshing the approach to performance reporting so that it better reflects SWP's vision and demonstrates progress against the business plan.

Members were supportive of the proposals. The Chair moved the recommendations.

Somerset Waste Board **RESOLVED** to:

i. Approve the broad approach and proposed priority areas for inclusion in the Business Plan 2019-24 as set out in Sections 2 and 3 of the report.

ii. Approve the revised timetable for Business Plan approval for this year:

- November 2nd 2018 - Draft Plan to be submitted for Board approval;
- November/December - Partner authority consultation and approval
- December 14th 2018 - final Board approval

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report

REASON FOR DECISION: As set out in the officer report.

500 Somerset Waste Board Forward Plan – agenda item 10

The Board were updated by the Governance Manager on the latest position of the forward plan and that there was no scheduled business for the next meeting.

501 Information Sheet Issues Since the Last Meeting – agenda item 11

There were none.

502 Any Other Business of Urgency – agenda item 12

There were no items raised.

(The meeting ended at 11.07pm)

**COUNCILLOR DEREK YEOMANS
CHAIR OF THE SOMERSET WASTE BOARD**

SOMERSET WASTE BOARD

Minutes of the Meeting of the Somerset Waste Board held in the Luttrell Room, County Hall, Taunton, on Friday 2 November 2018 at 10.00am.

PRESENT

Cllr P Berry	Cllr G Slocombe
Cllr M Dewdney	Cllr N Taylor
Cllr D Hall	Cllr N Woolcombe-Adams (Vice Chair)
Cllr B Maitland-Walker	Cllr D Yeomans (Chair)
Cllr M Pullin	
Cllr J Roundell-Greene	

Other Members Present: Cllrs T Munt and D Mansell

Apologies for Absence: Cllrs D Hill and H Prior-Sankey

503 **Declarations of Interest** – agenda item 2

Members of the Waste Board declared the following personal interests:

Cllr D Yeomans	Member of Curry Rivel Parish Council
Cllr M Pullin	Member of Mendip District Council
Cllr N Taylor	Member of Somerset County Council

504 **Public Question Time** – agenda item 3

There were no public questions.

505 **Viridor Core Services Review** – agenda item 4

The Chair invited Somerset Waste Partnership Managing Director Mickey Green and Contracts Manager David Oaten to introduce the report which considered the contractual, financial, operational and social worth of extending the Core Services Contract held with Viridor Ltd. Based on the negotiations with Viridor, the proposed extension offered a savings profile which delivers significant savings now (as opposed to only realising savings from 2022 onwards should we procure). Reference was made to the Impact Assessment for the proposed change in recycling site opening hours.

Most of this savings package will be delivered through non-customer facing contractual changes. The only proposed change for customer facing related to the rescheduling of the opening hours at the recycling sites – to continue to provide all 16 recycling sites, but offer longer weekend opening hours across the network and opening hours better aligned to public use (longer Summer hours) whilst providing value for money through the extended contract term.

Members were informed the current end date was in 2022 and the proposal for an additional 9 years would result in £300,000 this year, £2.1m from 2019/20-2021/22 and then £1.3m per annum from 2022/23 onwards, delivering a total savings package of £14.1m.

Further discussion points raised included:

- This was in line with SWP's vision, the implementation of Recycle More and would not shunt costs to other SWP partners
- Viridor had delivered the acceptance of plastic pots, tubes and trays at the recycling sites early
- Support for educational waste programmes to local communities and within schools throughout the extended contract term
- Viridor are content with a new approach where Somerset County Council take 100% of savings to the value of £500k, and then share any additional savings on a 50:50 basis.
- There was wide support regarding the proposed changes in opening hours at the recycling sites with some specific minor concerns that it might not be popular with some residents
- There was also support for keeping the two existing community recycling sites at Dulverton and Crewkerne open.

Officers were thanked for their work on this and it was recognised that while councils were under financial pressure, the economy in the county was booming and it was a good result to be able to keep all the sites open.

The Chair acknowledged the good relationship that existed with Viridor's parent company, Pennon, and moved the recommendations.

Somerset Waste Board **RESOLVED** unanimously to approve:

1. the Core Services Contract extension with Viridor Ltd and take advantage of the savings profile offered to March 2031, thereby negating the need to tender the service from 2022
2. the modification of the recycling site opening hours in line with Appendix 1, with effect from 1st April 2019
3. the use of the savings identified from the modification of the closed landfill management criteria to safeguard the continuance of the Community Sector Integration Plan for the extended contract term
4. the monitoring of future use of the Crewkerne & Dulverton Community Recycling Sites during the period April to September 2019 with a view of potentially removing the entrance fee charges from October 2019 to offset the significantly reduced operational hours at these sites
5. delegated authority to the Managing Director, in consultation with the Chairman & the Lead Director for Economic and Community Infrastructure & Director of Commissioning, Somerset County Council, to conclude final negotiations with Viridor to ensure the impact of future changes to the contract are mitigated and to ensure further savings opportunities are maximised during the extended contract term and to agree the final contract Deed of Variation with Viridor.

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report.

REASON FOR DECISION: As set out in the officer report.

506 **Draft SWP Business Plan 2019 - 2024** - agenda item 5

Members were reminded that this set out how SWP will work towards its Vision over the next five years, with a particular focus on current year Actions. The Business Plan contained three areas of focus - delivering excellent services, changing behaviours, and building capability.

The actions contained in this, set out the most significant set of changes to Somerset's waste services since SWP's inception in 2007, and covered all aspects of services. It was also expected that this would be the most significant set of changes to national resources and waste policy for a generation, and the environmental impact of waste had a public profile higher than ever before. The scale of policy change expected would have significant impacts upon future business plans.

Points highlighted in the plan included:

- Key challenges and opportunities including – policy change and local government reorganisation, full employment, demographic changes, technological changes, legal challenges, increasing public awareness of environmental issues.
- Changing behaviours through Recycle More, moving away from landfill, ensuring homes are built with waste in mind
- SWP also proposed to adopt two charities – Refugee Aid from Taunton (RAFT) and WasteAid
- A list of actions, when they were due to happen, and why were listed in a table from page 34
- Information about the budget for 2019/20 with a draft budget summary table shown on page 43

Other points discussed raised included:

- Concern that housing development plans do not build in bin storage areas
- It was felt more influence could be achieved by getting something written into local plans about waste storage
- The issue had been raised with the Department for Environment and Rural Affairs but also needed to be pushed by each planning authority
- It was agreed individual councillors should continue to raise this to help bring about changes
- Members were reminded that this was also included in the business plan.

The Chair moved the recommendation.

Somerset Waste Board **RESOLVED** to approve the Draft Business Plan for partner authority consultation.

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report.

REASON FOR DECISION: As set out in the officer report.

507 **Recycle More Project update** - agenda item 6

A progress report on the procurement of a new waste and recycling collection contractor was presented to the Board in September 2018. This report provided a summary of progress since then.

A team of SWP officers, finance, representatives from partners and commercial and technical advisers had been evaluating the bids during October. To be compliant, all bidders had to submit a bid which delivered Recycle More as specified by SWP and approved by the Board and partners.

Members were reminded that ahead of commencing this procurement SWP and the Board were clear that the risk sharing mechanism in the new collection contract would need to change as the market has changed substantially since the current collection was let in 2007 and it would simply not be possible to secure a new contractor who took on all dry recycling risk.

SWP were continuing to explore site options for a new depot site to be developed but members were asked to further consider as to whether it was essential and offered value for money.

The next steps were highlighted in a flow chart shown on page 56 and members were informed that final tenders were being invited in January. The roll out of Recycle More would be completed in phases within a two-year period.

The Chair moved the recommendation to move into confidential session so that further information could be given.

Somerset Waste Board **RESOLVED** to:

1. agree the case for applying the exempt information provision as set out in the Local Government Act 1972, Schedule 12A and therefore to treat the attached confidential report and its appendices in confidence, as they contain commercially sensitive information, and as the case for the public interest in maintaining the exemption outweighs the public interest in disclosing that information.
2. to exclude the press and public from the meeting for the consideration of the attached confidential report and its appendices where there is any discussion at the meeting regarding exempt or confidential information.

Following a presentation and further discussion on this issue, the meeting was then brought back into public session.

The Chair then moved the recommendations and Somerset Waste Board **RESOLVED** to:

1. note the progress made in procuring a new collection contract.
2. agree recommendation 1 a) in the confidential report
3. delegate authority to the Managing Director, in consultation with the New Service Task and Finish Group and partner s151 Officers, to

finalise a dry recycle risk share mechanism consistent with a 50/50 risk sharing principle.

4. delegate authority to the Managing Director, in consultation with the New Service Task and Finish Group, to revise the procurement process and documentation to reflect the uncertainty over the availability of a new authority depot.
5. authorise the Managing Director to undertake any appropriate consultation with partner authorities and progress the procurement of a new Collection Contractor.

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report.

REASONS FOR DECISION: As set out in the officer report and as debated at the meeting.

508 **Somerset Waste Board Forward Plan** – agenda item 7

The Board were updated by the Governance Manager on the latest position of the forward plan and that there was no scheduled business for the next meeting.

509 **Information Sheet Issues Since the Last Meeting** – agenda item 8

Mr Green informed members there had been an information sheet regarding the Viridor contract extension.

510 **Any Other Business of Urgency** – agenda item 9

There were no items raised.

(The meeting ended at 11.25pm)

**COUNCILLOR DEREK YEOMANS
CHAIR OF THE SOMERSET WASTE BOARD**

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Somerset Waste Board
14 December 2018
Report for decision

Waste Board Constitution and membership 2019/20

Lead Officer: Scott Wooldridge, Monitoring Officer and Strategic Manager for Governance and Risk

Author: Scott Wooldridge, Strategic Manager for Governance and Risk

Contact Details: 01823 357628

Forward Plan Reference:	SWB/18/03/02
Summary:	<p>The report sets out proposed revisions to the Waste Board's constitution and membership for 2019/20 as a result of the future amalgamation of Taunton Deane Borough Council and West Somerset Council to create the new Somerset West and Taunton local authority.</p> <p>The proposed changes to the constitution and board membership will require the Board to recommend to all partner authorities the dissolution of the current Board and agreement to establish a new Waste Board with an amended constitution to reflect the revised membership. Subject to the Board's approval to the proposals within this report</p>
Recommendations:	<p>That the Somerset Waste Board:</p> <ol style="list-style-type: none"> 1. Endorse the proposed revision to the draft Constitution (Appendix A) for the Somerset Waste Board and recommend this for approval by all partner authorities and the new Somerset West and Taunton Shadow Authority by 1 April 2019. 2. Delegate authority to the Board's Treasurer in consultation with the Administering Authority's Monitoring Officer to update the Inter-Authority Agreement (IAA), as set out in Appendix B, to reflect the various changes agreed previously by the Board. The Board is further requested to agree for the amended IAA to be recommended for approval by all partner authorities and the new Somerset West and Taunton Shadow Authority by 1 April 2019. 3. Recommend to the partner authorities and the new Somerset West and Taunton Shadow Authority that with effect from 1 April 2019 the current Board and its membership (comprising six partner authorities) is dissolved and to then agree the formation of a new

	<p>Somerset Waste Board (comprising five partner authorities) and appoint members to that Board.</p> <p>4. Delegate authority to the Monitoring Officer of the Administering Authority to take forward the above recommendations in conjunction with the partner authorities and Somerset West and Taunton Shadow Authority</p>
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1. Background

1.1. Since 1992 the Somerset Waste Partnership has improved working arrangements in waste management across the County. In 2007, the partner authorities (comprising Somerset County Council, Mendip district council, Sedgemoor district council, South Somerset district council, Taunton Deane borough council and West Somerset council) agreed to establish the Somerset Waste Board as a Joint Committee with an Administering Authority. The Partner Authorities delegated responsibilities for waste collection, waste recycling, and waste disposal to the Waste Board.

1.2. The legal powers to constitute a Joint Committee and discharge the Partner Authorities' statutory waste functions and responsibilities to it are in Sections 101 and 102 of the Local Government Act 1972, and the Local Authorities (Arrangement for the Discharge of Functions) (England) (Amendment) Regulations 2001 made under Section 20 of the Local Government Act 2000.

A Joint Committee does not have a separate legal personality and as such is not able to hold contracts or employ staff. In this instance a well established solution is that one of the authorities becomes the 'administering authority' for the purpose of holding contracts and employing staff.

1.3. The Board has a Constitution and there is also an Inter-Authority Agreement which sets out how the partners work together and how costs are shared amongst partners.

1.4. The Constitution sets out the membership of the Waste Board, its functions and voting arrangements. Each of the six Partner Authorities is represented on the Board by two Elected Members, one of whom is the Portfolio Holder for Waste and/or Environment functions. There are 12 elected members on the Waste Board and they are supported by officers from Somerset Waste Partnership, the Administering Authority (Somerset County Council) and from partners.

2. Future constitutional matters for the Board

2.1. The Board received reports in 2017 and in June 2018 regarding the amalgamation of Taunton Deane Borough Council and West Somerset Council.

2.2. The Government has approved the Structural Change Order relating to the two councils which has resulted in the formation of a Shadow Authority during 2018 pending the creation of a new single authority named Somerset West

and Taunton in April 2019. Shadow Authority arrangements are designed to manage the transition from two councils into one. The Shadow Authority consists of all 84 Members of both existing councils and is an entity in its own right.

- 2.3.** The Somerset West and Taunton (Local Government Changes) Order 2018 provides the new Shadow Authority with powers to take decisions to enable the new Council to be operational from 1 April 2019. All property, liabilities, rights and responsibilities of Taunton Deane Borough Council and West Somerset Council shall on the reorganisation date (1st April 2019) transfer to the new Council as set out in Part 3 of the Local Government (Boundary Changes) Regulations 2018.
- 2.4.** Following the approval to the Structural Change Order, work has progressed to review the Constitution and Inter Authority Agreement (IAA). The process for this is set out in clause 20 of the IAA and section 16 of the Constitution.
- 2.5.** Section 16 of the Board's Constitution outlines that if it is agreed by all of the Partner Authorities that another local authority should be permitted to join the Board, then pursuant to Regulation 11(2)(c) of the 2000 Regulations, the Board shall be dissolved with a view to a new board being established and a replacement constitution on similar terms to the existing Constitution (as varied by agreement of the proposed Partner Authorities) being completed. Essentially this requires the Partner Authorities to approve the dissolution and replacement of the current IAA and Constitution, along with the membership of the Board to coincide with the creation of the new authority.
- 2.6.** The proposed revised Constitution and revised IAA are set out in Appendices 1 and 2. The key revisions as a result of the creation of the new authority are:

 - A revised the membership of the Board to replace references to Taunton Deane and West Somerset councils with the new authority. The new authority will be entitled to two representatives.
 - The Board membership will reduce from 12 members to 10 members (still reflecting two members per partner authority)
 - Revise the quorum requirements from six members to five members, with the requirement for at least one member from each of three (currently four) different Partner Authorities
 - The need to review the scrutiny arrangements and in particular the membership of the Joint Scrutiny Panel
- 2.7.** The revised IAA requires further amendments in order to ensure that the various changes agreed by the Board overall several years are reflected in the version to be considered by Partner Authorities and the new Shadow Authority. The most recent change was agreed by the Board in September 2018 in relation to the formation of the new Somerset West and Taunton council.
- 2.8.** The proposed membership of the new Somerset Waste Board from 1 April 2019 is Somerset County Council, Mendip district council, Sedgemoor district council, South Somerset district council and Somerset West and Taunton council i.e. the new partner authorities.
- 2.9.** During 2018/19, in addition to Taunton Deane and West Somerset Councils being consulted, the shadow authority will also need to be involved in the development of the 2019/20 Annual Budget and the Business Plan.

- 2.10.** Subject to the Board's approval to the proposed revisions to the Constitution and IAA, it will be necessary for these to be recommended to each of the Partner Authorities to dissolve the current Board and to approve the creation of the new Somerset Waste Board from April 2019.

3. Background papers

- 3.1** Waste Board Constitution
- 3.2** Somerset Waste Partnership Inter Authority Agreement
- 3.3** The Somerset West and Taunton (Local Government Changes) Order 2018



**SOMERSET
WASTE BOARD**

DRAFT CONSTITUTION

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CONSTITUTION

THE SOMERSET WASTE BOARD is a Joint Committee of local authorities in the County of Somerset established pursuant to sections 101(5) and 102 of the Local Government Act 1972 and all other relevant enabling legislation by the following Partner Authorities:

- (1) SOMERSET COUNTY COUNCIL of County Hall, Taunton, Somerset TA1 4DY (the "**County Council**"); and
- (2) MENDIP DISTRICT COUNCIL of Cannards Grave Road, Shepton Mallet, Somerset BA4 5BT ("**Mendip**"); and
- (3) SEDGEMOOR DISTRICT COUNCIL of Bridgwater House, King Square, Bridgwater, Somerset TA6 3AR ("**Sedgemoor**"); and
- (4) SOUTH SOMERSET DISTRICT COUNCIL of PO Box 25, The Council Offices, Brympton Way, Yeovil, Somerset BA20 2DS ("South Somerset"); and
- (5) SOMERSET WEST AND TAUNTON COUNCIL of The Deane House, Belvedere Road, Taunton, Somerset, TA1 1HE ("Somerset West and Taunton").

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Constitution, unless the context otherwise requires:

"2000 Act"

means the Local Government Act 2000;

"2000 Regulations"

means the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (S.I 2000 No. 2851) as amended by the Local Authorities (Avoided Arrangements for the Discharge of Functions) (England) (Amendment) Regulations 2001 (S.I. 2001 No. 3961);

"Administering Authority"

means the authority appointed pursuant to clause 5 of the Inter Authority Agreement;

"Aims and Objectives"

means the aims and objectives set out in **Appendix 2**;

"Annual Business Plan"

means the Business Plan approved by the Board in accordance with paragraph 10. The Business Plan shall include an action plan and a risk register;

"Annual Budget"

means the annual budget for a Financial Year referred to in **paragraph 11**;

"Annual General Meeting"

means the first meeting of the Board after 1 May in each year in accordance with paragraph 3 of Appendix 3;

"Board"

means the Joint Committee established pursuant to clause 3.1 of the Inter Authority Agreement and known as 'The Somerset Waste Board';

"Business Day"

means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London;

"Chairman"

means the chairman from time to time of the Board elected in accordance with **paragraph 1.1 or 3 of Appendix 3**;

"Chief Executive"

means the Chief Executive or the head of paid service of the relevant Partner Authority (ies);

"Clerk of the Board" or "Clerk"

means the clerk of the Board appointed pursuant to clause 4.1.1 of the Inter Authority Agreement;

"Collection Contract"

means the contract for the collection and recycling of household waste for the County of Somerset entered into by the Administering Authority on behalf of the Board on 12th October 2007 and subsequently extended by Deed of Variation dated 19th October 2012 until 1st October 2021;

"Commencement Date"

means 30 September 2007;

"Constitution"

means this constitution and its appendices;

"Disposal Contracts"

means together the following contracts:

- (a) the core services contract;
- (b) the NWTF contract;
- (c) the tonnage agreement; and
- (d) the strategic partnering agreement,

entered into by the County Council and Viridor Waste Management Limited and dated 13 May 2006;

"Executive or Cabinet"

means the executive body of a Partner Authority appointed pursuant to the 2000 Regulations;

"Financial Year"

means a calendar year commencing on 1 April in any year;

"Inter Authority Agreement"

means an agreement of even date entered into by the County Council, Mendip, Sedgemoor, South Somerset and Somerset West and Taunton in relation to the formation and operation of the Somerset Waste Board as may be amended from time to time;

“Joint Scrutiny Panel”

Means an informal advisory scrutiny panel as defined in paragraph 13.2 and Appendix 5 paragraph 1.17

"LGA 1972"

means the Local Government Act 1972;

"Managing Director"

means the head of the Single Client Group appointed in accordance with **paragraph 17.2**;

"Material Change"

means a change proposed to the approved Business Plan (including the Annual Action Plan) or to this Constitution in accordance with **paragraphs 10 and 12** which a Partner Authority (acting reasonably) considers to be a material change to the nature or operation of the Board (including a change which has a material impact on service design or the cost of the services provided under the Principal Contracts) and which it considers must be subject to approval by elected members of the Partner Authority;

"Monitoring Officer"

means the monitoring officer for the Board appointed pursuant to clause 4.1.3 of the Inter Authority Agreement;

"Partner Authority"

means any one of the County Council, Mendip, Sedgemoor, South Somerset and Somerset West and Taunton whilst ever they remain as Partner Authorities and such other local authorities which from time to time become Partner Authorities in accordance with **paragraph 16.8** of this Constitution and clause 14.5 of the Inter Authority Agreement;

"Principal Contracts"

means the Collection Contract and the Disposal Contracts and any contracts replacing such contracts and such other contracts as the Board may administer from time to time on behalf of the Partner Authorities;

"Scheme of Delegation"

means the scheme of delegation adopted by the Board from time to time by which the Board will authorise its sub-committees and officers of the Administrative Authority to exercise certain of its powers and duties;

"Scrutiny Arrangements"

means the arrangements made by each Partner Authority for the scrutiny of its decisions in accordance with Section 21 of the 2000 Act;

"Scrutiny Committee"

means the committee of each Partner Authority responsible for Scrutiny Arrangements;

"Single Client Group"

means the group of officers employed by the Administering Authority on behalf of all the Partner Authorities to carry out the roles and functions set out in clause 8 of the Inter Authority Agreement;

"Standing Orders and Rules of Procedure"

means the standing orders and rules of procedure for meetings of the Board and its sub-committees together with the financial regulations and contract procedure rules for the Board (which shall be those of the Administering Authority), subject to such amendments or additions as the Board sees fit except amendments to the financial regulations and contract standing orders which shall be those of the Administering Authority;

"Strategic Management Group" or "SMG"

means the board comprising the Director or Senior Manager from the Partner Authorities with responsibility for Environmental Services and/or Commissioning and having the role and responsibilities set out in clause 10 of the Inter Authority Agreement;

"Substitute Member"

means a person nominated by a SWB Member to attend a meeting of the Board in his place in accordance with **paragraph 4.8**;

"SWB Member(s)"

means a member of the Board appointed by a Partner Authority in accordance with **paragraph 4.1**;

"SWB Scrutiny Arrangements"

means the arrangements set out in **Appendix 5**;

"Treasurer"

means the appropriately qualified financial officer appointed pursuant to clause 4.1.2 of the Inter Authority Agreement;

"Vice-Chairman"

means the vice-chairman for the time being of the Board elected in accordance with **paragraph 1.1 or 3 of Appendix 3**.

1.2 Interpretation

- 1.2.1 In this Constitution (unless the context requires otherwise):
- 1.2.2 references to paragraphs and appendices are to the paragraphs and appendices of this Constitution. Any reference to a sub-paragraph is to the relevant sub-paragraph of the paragraph in which it appears;
- 1.2.3 the table of contents and headings are not part of this Constitution and are not to be taken into account in the interpretation of this Constitution;
- 1.2.4 the use of the masculine gender alone includes the feminine and neuter genders and the singular includes the plural and vice versa;
- 1.2.5 references to legislation (including subsidiary legislation), regulations, determinations, and directions include all amendments, replacements, or re-enactments thereof and all regulations, determinations, directions and statutory guidance made or given under them save that the treatment under this Constitution of any such amendment or modification that imposes any new or extended obligation or liability adversely affecting the parties or any of them shall be determined by the Board after consultation with the Partner Authorities, provided that where any Partner Authority (acting reasonably) considers such amendment or modification would result in a Material Change, the amendment or modification shall require the approval of the Partner Authority;
- 1.2.6 the terms "including" and "in particular" are illustrative only and are not intended and shall not limit the meaning of the relevant words that precede them;
- 1.2.7 the term "persons" means individuals, companies, industrial and provident societies, limited liability partnerships, statutory bodies, or other bodies with a legal personality and includes H.M. Government, government departments, and the European Union and its constituent parts.
- 1.3 The appendices to this Constitution are to have effect as if set out in full in the body of this Constitution and references to this Constitution include the appendices.

2. FUNCTIONS AND ACTIVITIES TO BE UNDERTAKEN BY THE BOARD ON BEHALF OF THE PARTNER AUTHORITIES

- 2.1 The Partner Authorities have each agreed and resolved to form the Board with effect from the Commencement Date.
- 2.2 The Partner Authorities have each agreed and resolved that the Board should discharge their respective statutory functions with respect to waste disposal, waste collection and recycling of waste which statutory functions are set out in **part I of Appendix 1**.
- 2.3 The Partner Authorities acknowledge that the Disposal Contracts have been entered into in furtherance of the Aims and Objectives and they further acknowledge that the Board shall endorse and adopt the Principal Contracts.
- 2.4 In the performance of the statutory functions delegated to the Board, the Partner

Authorities hereby agree that the Board shall undertake on behalf of the Partner Authorities the activities set out in **part II of Appendix 1**.

- 2.5 The Board shall not make any decisions the effect of which would be to put any Partner Authority in breach of any contract (including the Principal Contracts).
- 2.6 The Partner Authorities acknowledge that any decision taken by the Administering Authority that puts a Partner Authority in breach of any contract (including the Principal Contracts) shall not be implemented and any costs or losses incurred by a Partner Authority arising from any such decision shall be apportioned equally between the Partner Authorities in accordance with the cost sharing principles in schedule 5 of the Inter Authority Agreement.

3. COMMENCEMENT AND DURATION OF THE BOARD

The Board has been established in accordance with the resolutions of the Partner Authorities referred to in **paragraph 2.1** with effect from the Commencement Date and shall continue in existence unless and until dissolved by resolution of a majority of the Partner Authorities in accordance with **paragraph 16.6**.

4. COMPOSITION OF THE BOARD

- 4.1 Each Partner Authority shall appoint two of its elected members to be its representatives on the Board.
- 4.2 The SWB Members shall be appointed by each Partner Authority in accordance with the Partner Authority's constitution.
- 4.3 For each Partner Authority, one SWB Member shall be the portfolio holder for waste and/or the environment.
- 4.4 All such appointments of SWB Members shall be made in accordance with the relevant statutory provisions of sections 101 and 102 of the LGA 1972 and of the 2000 Regulations, as they may from time to time be applicable to each of the Partner Authorities.
- 4.5 Each SWB Member shall have one vote at meetings of the Board.
- 4.6 Each SWB Member shall remain in office until removed or replaced by his appointing Partner Authority, or in the case of a SWB Member who is a member of an Executive until he ceases to be a member of the Executive of his appointing Partner Authority. Notice of the removal or replacement of a SWB Member shall be given to the Clerk.
- 4.7 The proceedings of the Board shall not be invalidated by any vacancy or any defect or purported defect in the appointment of any SWB Member.
- 4.8 Any SWB Member may, by giving written notice thereof to the Clerk, nominate a Substitute Member to attend a meeting of the Board in his place.
- 4.9 Except where permitted under 4.9A below, where a Substitute Member takes the

place of a SWB Member who is a member of his appointing Partner Authority's Executive then such Substitute Member must also be a member of his appointing Partner Authority's Executive.

- 4.9A If both SWB Members representing one authority are Members of that Partner Authority's Executive and wish to nominate a Substitute Member in accordance with paragraph 4.8 above, then either one (but not both) of the two SWB Members may nominate a Substitute who is not a member of the Executive.
- 4.10 A Substitute Member shall have the same rights of speaking and voting at meetings of the Board as the SWB Member for whom he is substituting.
- 4.11 Members of the SMG and the Single Client Group, together with the Treasurer, Monitoring Officer and the Clerk, shall be entitled to attend meetings of the Board to advise the Board on matters relevant to the functions and activities of the Board but shall have no voting rights.
- 4.12 Each Partner Authority may send any of its officers (as it considers to be appropriate) to meetings of the Board, or any sub-committee thereof, to support its SWB Members.

5. ROLE OF SWB MEMBERS

- 5.1 The responsibilities of a SWB Member shall be as follows:
 - 5.1.1 to act in the interests of the Board as a whole except where this would result in a breach of statutory or other duty to their Partner Authority or would be in breach of their Partner Authority's adopted code of conduct for elected members;
 - 5.1.2 to be committed to, and act as a champion for, the achievement of the Aims and Objectives;
 - 5.1.3 to be a good ambassador for the Board;
 - 5.1.4 to attend Board meetings regularly, vote on items of business and make a positive contribution to the achievement of the Aims and Objectives;
 - 5.1.5 to remain acquainted with emerging technologies and processes in the area of waste management; and
 - 5.1.6 to act as an advocate for the Board in seeking any necessary approval from their Partner Authority to the draft Business Plan, the Annual Action Plan and decisions of the Board requiring ratification from their Partner Authority (provided always that the SWB Member approves the relevant document or decision subject to ratification).

6. MEETINGS OF THE BOARD

The provisions of **Appendix 3** shall apply to the conduct of meetings of the

Board and its sub- committees. In addition part I of Schedule 12 of the LGA 1972 (in so far as not contrary to the provisions of **Appendix 3**) shall apply to meetings of the Board.

7. RESPONSIBILITIES OF THE CHAIRMAN AND VICE-CHAIRMAN

7.1 The responsibilities of the Chairman are as follows:

- 7.1.1 to act as an ambassador for the Board and to represent the views of the Board to the general public and other organisations;
- 7.1.2 to ensure that the meetings of the Board are conducted efficiently and in accordance with the Standing Orders and Rules of Procedure;
- 7.1.3 to encourage the Board to delegate sufficient authority to the Managing Director and to other officers of the Single Client Group or the Administering Authority to enable the Board's functions and activities to be carried out efficiently between meetings of the Board;
- 7.1.4 together with the SMG to monitor and appraise the performance of the Managing Director;
- 7.1.5 to establish a constructive working relationship with, and to provide support for any sub- committees and to the Single Client Group or to the Administering Authority or any other officers to whom the Board have delegated any of its powers and functions;
- 7.1.6 to ensure that the Board monitors and controls the use of delegated powers; and
- 7.1.7 to liaise with the Administering Authority regarding the Board's meetings and the conduct of its business.

7.2 The role of the Vice-Chairman is to deputise for the Chairman during any period of the Chairman's absence or at other times as appropriate and his responsibilities shall be the same as those of the Chairman.

7.3 Except as provided by this Constitution, neither the Chairman nor the Vice-Chairman has any authority or powers beyond those of any other SWB Member.

8. DELEGATION TO SUB-COMMITTEES AND OFFICERS

8.1 The Board may arrange for any of its functions to be discharged in accordance with the provisions of the Scheme of Delegation.

8.2 The Board may appoint working groups consisting of SWB Members, officers from the Administering Authority (including of the Single Client Group) and officers of any of the Partner Authorities to consider specific matters and report back to the Board or any sub-committee with recommendations.

9. STRATEGIC MANAGEMENT GROUP

The roles and responsibilities of the SMG are set out in clause 10 of the Inter

10. BUSINESS PLAN

- 10.1 No later than 30 September in each year the Managing Director shall, having consulted with SMG, submit an outline draft Annual Business Plan to the Board in respect of the next ensuing five Financial Years (covering the next Financial Year and the following four Financial Years). The outline draft will indicate key changes and actions that might be undertaken in the period and included in the Annual Business Plan, so far as can be reasonably proposed at the time, and seek the views of the Board on these and any other potential areas of focus as may be proposed by members of the Board or Partner Authorities.
- 10.2 Subject to having considered any comments or suggested amendments from the Board, SMG and the Joint Scrutiny Panel and, having regard to the timetable in paragraph 10.3 below, the Managing Director shall submit to the Board the draft Business Plan in respect of the next ensuing five Financial Years (covering that Financial Year and the following four Financial Years) .
- 10.3 No later than 24 December in each year the Board shall consider the suitability of the draft Business Plan for the performance during the next five Financial Years of the functions and activities delegated to it by the Partner Authorities (together with the contractual commitments of the Partner Authorities under any relevant contracts including the Principal Contracts) in accordance with the Aims and Objectives and shall use its reasonable endeavours to approve the draft Business Plan (subject to such amendments as the Board may require) for consultation with the Partner Authorities.
- 10.4 No later than the first Friday in the February of each Financial Year each Partner Authority will submit a report to its elected members to obtain approval for the draft Annual Business Plan. In addition, each Partner Authority will provide any comments or proposed amendments to the draft Annual Business Plan to the Board.
- 10.5 No later than 28 February in each financial year the Board, having taken into consideration any comments or proposed amendments by the Partner Authorities, and subject to such further amendments as the Board may require, shall use its best endeavours to adopt the draft Business Plan as its approved Annual Business plan.
- 10.6 The Board shall perform the statutory functions delegated to it by the Partner Authorities and the activities referred to in **paragraph 2** in conformity with the approved Business Plan.
- 10.7 At any time within a Financial Year the Board may agree by a majority vote of the SWB Members a proposal to amend the Business Plan for that Financial Year to accommodate any unforeseen circumstances and to assist the Board in achieving the Aims and Objectives.

- 10.8 Where the Board is to consider amendments to the Business Plan in accordance with **paragraph** 10.5 above, the Managing Director shall forthwith notify the Chief Executive of each of the Partner Authorities of the proposed amendments. Each Partner Authority shall have a period of 20 Business Days from receipt of the proposed amendments in which to consider them and where a Partner Authority (acting reasonably) considers the proposed amendments to be a Material Change that Partner Authority shall forthwith (and in any event within five Business Days of expiry of the 20 Business Day notice period) notify the Managing Director that such amendments constitute a Material Change that requires the approval of the Partner Authority.
- 10.9 Where no Partner Authorities serve notice (in accordance with **paragraph** 10.6) on the Managing Director, the Board may implement such proposed amendments.
- 10.10 Where one or more of the Partner Authorities has notified the Managing Director that it considers the proposed amendments to be a Material Change, the Board shall not implement such proposed amendment unless and until the notifying Partner Authority has approved the proposed amendments and informed the Managing Director that it has approved such proposed amendments. Until such time as the proposed amendments have been approved, the current approved Business Plan (as may have been amended from time to time in accordance with this Constitution) shall apply. Partner authorities may make comments to the proposed amendments which do not constitute a material change and in these circumstances these comments will be considered by the Board.

11. ANNUAL BUDGET

- 11.1 The Board and the Partner Authorities will prepare the Annual Budget for each Financial Year in accordance with the following deadlines:
- 11.1.1 No later than 31 July in each Financial Year each Partner Authority will provide estimates of the additional number of residential properties included in the Council Tax base in its administrative area to the Treasurer, the Single Client Group and the Administering Authority;
- 11.1.2 No later than 30 September in each Financial Year the Treasurer will circulate to the Board and to the SMG member and s151 officer of each Partner Authority a draft Annual Budget in respect of the following Financial Year;
- 11.1.3 Subject to having considered any comments or suggested amendments from the Board, SMG, s151 officers and the Joint Scrutiny Panel, and any new information, the Treasurer shall, having regard to the timetable below, submit to the Board the draft Budget in respect of the following Financial Year.
- 11.1.4 No later than 24 December in each year the Board shall consider the suitability of the draft Budget and shall use its reasonable endeavours to approve the draft Budget (subject to such amendments as the Board may require) for consultation with the partner authorities.

- 11.1.5 No later than 1 December in each Financial Year each Partner Authority will provide confirmation of the actual number of additional residential properties included in the Council Tax base in its administrative area as at 1 December in that Financial Year to the Treasurer and the Single Client Group;
- 11.1.6 No later than the first Friday in the February of each Financial Year each Partner Authority will submit a report to its elected members to obtain approval for the draft Annual Budget and consider whether the draft Annual Budget should be included in its medium term financial plan. In addition, each Partner Authority will provide any comments or proposed amendments to the draft Annual Budget to the Board;
- 11.1.7 The Board shall use its best endeavours to approve the Annual Budget by no later than 28 February in each Financial Year.
- 11.2 If the Partner Authorities or the Board are unable to approve the draft Annual Budget for a Financial Year before 28 February in any year, the Board shall perform its delegated functions and activities set out in **paragraph 2** in conformity with the approved Annual Budget for the previous Financial Year subject to such adjustment for inflation, tax and prevalent demographic growth as required under the terms of the Principal Contracts and to meet any increased costs of employment of the existing Single Client Group, until such time as the Partner Authorities and Board can approve an Annual Budget.
- 11.3 At any time within a Financial Year the Board may agree by a majority vote amendments to the Annual Budget for that Financial Year to accommodate any unforeseen change in circumstances and/or to assist the Board in achieving the performance of its statutory functions and/or other activities in accordance with the Aims and Objectives.
- 11.4 Where the Board is to consider amendments in accordance with **paragraph 11.4** above, the Managing Director shall forthwith notify the Chief Executive of each of the Partner Authorities of the proposed amendments to the Annual Budget. Each Partner Authority shall have a period of 20 Business Days from receipt of the proposed amendments in which to consider them and to notify the Managing Director that such amendments require the approval of the Partner Authority.
- 11.5 Where no Partner Authorities serve notice (in accordance with **paragraph 11.5**) on the Managing Director the Board may implement such proposed amendment.
- 11.6 Where one or more of the Partner Authorities has notified the Managing Director that it needs to approve the proposed amendments, the Board shall not implement such proposed amendments unless and until the notifying Partner

Authority has approved the proposed amendments and informed the Managing Director that it has approved such proposed amendments.

- 11.7 The Partner Authorities shall each pay their contribution of the Annual Budget to the Administering Authority in accordance with clause 13 and schedule 5 of the Inter Authority Agreement.

12. AMENDMENTS TO THE CONSTITUTION

- 12.1 The Board may at any time by a unanimous vote propose to amend the Constitution.
- 12.2 Any of the Partner Authorities may, if it considers it appropriate to do so, propose amendments to the Constitution and submit any such proposals to the Board.
- 12.3 Where the Board proposes amendments in accordance with **paragraph 12.1** above or has been notified of a proposed amendment by a Partner Authority in accordance with **paragraph 12.2**, the Managing Director shall forthwith notify the Chief Executive of each of the Partner Authorities of the proposed amendments.
- 12.4 Each Partner Authority shall have a period of 20 Business Days from receipt of the proposed amendments in which to consider them and where a Partner Authority (acting reasonably) considers that the proposed amendments constitute a Material Change that Partner Authority shall forthwith (and in any event within 5 Business Days of expiry of the 20 Business Day notice period) notify the Managing Director that such amendments constitute a Material Change that requires the approval of the Partner Authority. Partner authorities may make comments to the proposed amendments which do not constitute a material change and in these circumstances these comments will be considered by the Board.
- 12.5 Where no Partner Authorities serve notice (in accordance with **paragraph 12.4**) on the Managing Director the Board may implement such proposed amendments.
- 12.6 Where one or more of the Partner Authorities has notified the Managing Director that it considers the proposed amendments constitute a Material Change, the Board shall not implement such proposed amendment unless and until the notifying Partner Authority has approved the proposed amendments and informed the Managing Director that it has approved such proposed amendments.
- 12.7 Where an amendment of the Constitution is implemented in accordance with **paragraph 12.5** or **paragraph 12.6** the Clerk shall forthwith circulate to each of the SWB Members each Partner Authority and to the Treasurer, Monitoring Officer and Managing Director an amended Constitution incorporating such amendments.

13. SCRUTINY ARRANGEMENTS

- 13.1 The decisions, actions and activities of the Board shall be subject to the formal

Scrutiny Arrangements of each Partner Authority.

- 13.2 Subject to paragraph 13.1 the Joint Scrutiny Panel may make recommendations to the Board or to individual partner authorities so far as they concern matters associated with the function or activities delegated to the Board.

14. CONDUCT AND EXPENSES OF SWB MEMBERS

- 14.1 SWB Members shall be subject to the code of conduct for elected members adopted by the Partner Authority that nominated them to be a SWB Member.
- 14.2 SWB Members shall be entitled to receive payment of their attendance expenses as a SWB Member in accordance with the LGA 1972 and their Partner Authority shall be responsible for such payments.

15. LIABILITY OF BOARD MEMBERS

A SWB Member shall have the same responsibilities and liabilities as those that apply when sitting on other committees and bodies as an appointed representative of his nominating Partner Authority.

16. CESSATION OF MEMBERSHIP OR DISSOLUTION OF THE BOARD

- 16.1 Any of the Partner Authorities may, on giving 12 months' written notice to the Managing Director, withdraw from membership of the Board.
- 16.2 Where any of the Partner Authorities does serve notice to withdraw from membership of the Board, the Partner Authorities shall cooperate and seek to agree the arrangements regarding the relevant Partner Authority's exit from the Board.
- 16.3 In the event of withdrawal from the membership of the Board by a Partner Authority the provisions of clause 14 of the Inter Authority Agreement shall apply.
- 16.4 If two or more Partner Authorities give notice of withdrawal from membership of the Board in accordance with **paragraph** 16.1 in the same Financial Year, the Board shall consider whether or not it is economic or practicable for the Board to continue to operate on behalf of the remaining Partner Authorities and shall make appropriate recommendations to the remaining Partner Authorities whether or not the Board should continue in operation and if so make recommendations as to any appropriate amendments required to the Constitution and the arrangements for the performance of the functions and activities of the Board.
- 16.5 In the event that the County Council ceases to be a member of the Board, the remaining Partner Authorities shall amend the Constitution or reconstitute the Board as necessary to give effect to the withdrawal of the County Council as a waste disposal authority.
- 16.6 A majority of the Partner Authorities may at any time (whether as a result of the

Board's recommendations under **paragraph** 16.4 or otherwise) agree (by formal resolutions by each of them) that the Board should be dissolved on a date not less than six months from the date of the decision to dissolve the Board.

16.7 In the event of a decision by the Partner Authorities to dissolve the Board the provisions of clause 15 of the Inter Authority Agreement shall apply.

16.8 If it is agreed by all of the Partner Authorities that another local authority should be permitted to join the Board, then pursuant to Regulation 11(2)(c) of the 2000 Regulations, the Board shall be dissolved with a view to a new board being established and a replacement constitution on similar terms to this Constitution (as varied by agreement of the proposed Partner Authorities) being completed.

17. THE SUPERVISION AND MONITORING OF THE ADMINISTERING AUTHORITY AND THE SINGLE CLIENT GROUP

17.1 The duties of the Administering Authority and the Single Client Group pursuant to clauses 5 and 8 of the Inter Authority Agreement are set out in **Appendix 4**.

17.2 The Board shall appoint the Managing Director through an appointment panel made up of SWB Members as agreed by the Board.

17.3 The Board shall receive regular reports from the Managing Director on the activities and performance of the Administering Authority (including the Single Client Group) in relation to their duties set out in clauses 5 and 8 of the Inter Authority Agreement. In addition, the SMG shall receive regular reports from the Managing Director on the activities and performance of the Single Client Group.

17.4 The Board shall also receive regular reports from the Treasurer and the Managing Director on the financial performance of the Board.

17.5 Copies of such reports and the decisions of the Board thereon shall be circulated to each of the Partner Authorities.

APPENDIX 1

Statutory functions and activities delegated to the Board Part I

The Board's functions shall comprise the statutory functions of each of the Partner Authorities under each of the following enactments (which for the avoidance of doubt shall include all subordinate legislation made under the relevant enactment):

1. Environmental Protection Act 1990 Part II s. 34, s34A, s.45, s45A, s.46A, s46B, s46C, s46D, s.47, s47ZA, s47ZB, s.48, s.51, s. 52, s.55, s59, s63A, s71, s73A;
2. Waste and Emissions Trading Act 2003 s.9, s.12,s.31; s.32;
3. Environment Act 1995 s.108, 108A, 109;
4. Refuse Disposal (Amenity) Act 1978 section 2(1)(b)
5. Local Government Act 1972 s.111, in so far as its use is calculated to facilitate or is incidental or conducive to the discharge of any of the functions referred to in paragraphs (a) to (h) of this Appendix;
6. Local Government Act 2000 s.2, in so far as its use relates to the promotion or improvement of the economic, social and/or environmental well-being of the whole of the County of Somerset or any part thereof in respect of matters directly related to the management or recycling of waste; and
7. Localism Act 2011 s.1, in so far as the use of the general power set out therein is calculated to facilitate the discharge of any of the functions referred to in Part II of this Appendix

Part II

In performance of the statutory functions referred to in Part I the Board shall also undertake the following activities on behalf of the Partner Authorities:

1. manage the Principal Contracts for the delivery of an integrated waste management service across the County of Somerset in so far as such service relates to all or any of the areas of the Partner Authorities through the Single Client Group;
2. supervise and monitor the Managing Director and the Administering Authority (including the Single Client Group) in the performance of their duties and functions under this Constitution;
3. approve and implement the Business Plan;
4. approve and implement the Annual Budget;
5. seek to influence and advise central government on waste and recycling policies;

6. commission research and associated public opinion surveys etc. on waste and recycling;
7. ensure that the legal and statutory functions delegated to it by the Partner Authorities are being discharged effectively;
8. liaise with the Managing Director to ensure that a strategic policy for waste and recycling across the County of Somerset is formulated and approved; and
9. assist the Partner Authorities in meeting their respective responsibilities (including but not limited to) under the:
 - (a) European Community Strategy for Waste Management 1989 (as reviewed in 1996);
 - (b) EU Directive 757 4427 EEC as amended by Directive 917 1567 EEC and adapted by Directive 967 3507 EEC on Waste (The Framework Directives on Waste);
 - (c) Environmental Protection Act 1990;
 - (d) Anti-Social Behaviour Act 2003;
 - (e) Clean Neighbourhoods and Environment Act 2005;
 - (f) Refuse Disposal (Amenity) Act 1978 (insofar as this relates to abandoned vehicles, public safety and amenity);
 - (g) Environmental Protection (Waste Recycling Payments) Regulations 1992 (as amended 1994);
 - (h) EU Landfill Directive (Council Directive 1993/317 EC);
 - (i) EU IPPC Directive (Council Directive 967 617 EC);
 - (j) Landfill Tax Regulations and the Finance Act 1996;
 - (k) Controlled Waste (England and Wales) Regulations 2012;
 - (l) Environmental Protection (Duty of Care) Regulations 1991;
 - (m) Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991;
 - (n) Environment Act 1995;
 - (o) Waste Emissions Trading Act 2003;
 - (p) Household Waste and Recycling Act 2003;
 - (q) EU Waste Electronic and Electrical Equipment Directive;
 - (r) Local Government Act 1999 (best value duty);
 - (s) Local Government Act 2003 (duties under the Code of Practice for Workforce Matters);
 - (t) Controlled Waste (Registration of Carriers and Seizure of Vehicles) (Amendment) Regulations 1998, SI 605;
 - (u) End-of-Life Vehicles Regulations 2003, SI 2635;

- (v) End-of-Life Vehicles (Producer Responsibility) Regulations 2005, SI 263;
- (w) Environmental Protection (Duty of Care) (England) (Amendment) Regulations 2003, SI 63;
- (x) The Waste (England and Wales Regulations) 2011 as amended

- (aa) EU Regulation on the Supervision and Control of Shipments of Waste 259/1993;
- (bb) EU Regulation laying down Health Rules concerning Animal By-Products not intended for Human Consumption 1774/2002;
- (cc) Waste Electrical and Electronic Equipment Regulations 2006, SI 3289;
- (dd) Waste Electrical and Electronic Equipment (Waste Management Licensing) (England and Wales) Regulations 2006, SI 3315;
- (ee) Waste Incineration (England and Wales) Regulations 2002, SI 2980;
- (ff) Waste Management (England and Wales) Regulations 2006, SI 937;
- (gg) Waste Management Regulations 1996, SI 634; and
- (hh) Pollution Prevention and Control Act 1999.
- (ii) The Waste (England and Wales) Regulations 2011 (as amended)
- (jj) The Hazardous Waste (England and Wales) Regulations 2005 (as amended)
- (kk) The Waste Electrical and Electronic Regulations 2013 (as amended)

APPENDIX 2

Aims and Objectives of the Somerset Waste Board

1. Each of the Partner Authorities recognise in particular the need to address central government and EU targets for recycling and recovery of waste and the promotion of sustainable development including the use of waste as a resource and waste minimisation.
2. Each of the Partner Authorities, in recognition of the need for delivering best value, promoting financial efficiency and effectiveness, and securing continuous improvement in the provision of waste management services, wish to:
 - 2.1 develop and deliver long term strategies in respect of the collection and disposal of waste;
 - 2.2 consider managing waste from outside Somerset if commensurate benefits accrue and such action has been approved by all of the Partner Authorities;
 - 2.3 be recognised as a leading provider of sustainable waste management services in the United Kingdom;
 - 2.4 procure services, facilities, assets and solutions to meet the current and future central government and European targets for recycling and recovery of waste;
 - 2.5 work together in a spirit of mutual trust, support and respect, and to ensure that when difficulties or differences of opinion arise they are addressed quickly, honestly and openly;
 - 2.6 share in a fair and equitable manner the costs and work included in achieving these Aims and Objectives;
 - 2.7 endeavour to fully engage all stakeholders and to maximise the benefits arising from the co- operation of the Partner Authorities through the Board and the contributions that each Partner Authority may be able to make through its participation in the Board; and
 - 2.8 provide a forum and mechanisms for ensuring that there is a coherent programme and organisational structure for waste management and for joint working.

APPENDIX 3

Provisions governing the conduct of meetings of the Board

1. At its AGM meeting the Board shall:
 - 1.1 elect from among the SWB Members the Chairman and Vice-Chairman for the next year by a simple majority of votes provided that if a deadlock occurs between two or more SWB Members a second secret ballot shall immediately be conducted for the election of the Chairman and Vice-Chairman;
 - 1.2 Review, as required, the Constitution, its Standing Orders, Rules of Procedure and Scheme of Delegation
 - 1.3 approve the schedule of meetings for the remainder of the year.
2. Subject to **paragraph** 5 of this Appendix 3 and paragraph 1.14 of Appendix 5 , and the need exceptionally to call additional meetings, the Board shall meet at least four times each year. The Chairman shall decide the venue, date and time of all meetings of the Board. Wherever practicable, at least 10 Business Days notice of such meetings shall be given to each SWB Member, the Managing Director, the Treasurer, the Monitoring Officer and to each of the Partner Authorities by the Clerk.
3. Meetings of the Board shall be open to the public and press except during consideration of items containing confidential or exempt information in accordance with the provisions of sections 100 to 100K of the LGA 1972; and reports to and the minutes of the Board shall (subject to the provisions of sections 100 to 100K of the LGA 1972) be available to the public and press as though they were the reports or minutes of a meeting of a Partner Authority.
4. Any SWB Member may requisition a meeting of the Board by giving notice of such requisition to the Chairman and to the Clerk. Immediately upon receipt of such requisition, the Chairman shall call a meeting of the Board in accordance with **paragraph** 2 of this Appendix 3 which shall be no later than 10 Business Days after the receipt by the Clerk of the notice of requisition.
5. The Standing Orders and Rules of Procedure shall be applicable to meetings of the Board. The Standing Orders and Rules of Procedure may only be amended or replaced if the amendment or replacement is agreed by not less than three-quarters of the SWB Members.
6. The quorum for a meeting of the Board shall be five SWB Members, which shall include at least one SWB Member appointed by each of three different Partner Authorities; no business may be transacted at a meeting of the Board unless a quorum is present.

7. If a quorum is not present within 30 minutes of the time set for the commencement of a meeting of the Board (or a quorum ceases to be present during a meeting) the meeting shall be adjourned to the same time and venue five Business Days later or to such other date, time and venue as the Chairman (or other person who is chairing the meeting) shall determine.
8. The Chairman or Vice-Chairman may be removed by a majority vote of all of the SWB Members present at a meeting of the Board subject to the Chairman or the Vice-Chairman being given the opportunity to address the meeting before the vote is taken to put his case as to why he should not be removed.
9. If the Chairman or the Vice-Chairman is removed by a majority vote of the Board or resigns or is otherwise unable to continue as Chairman or Vice-Chairman he may be replaced by the election of an SWB Member as Chairman or Vice-Chairman as the case may be by a majority vote of the Board (in accordance with the provisions of **paragraph 3** of this Appendix 3).
10. The Chairman shall normally preside at all meetings of the Board. If the Chairman is not present within 15 minutes of the time for the commencement of a meeting, or being present does not wish to preside or is unable to do so, then the Vice-Chairman shall preside at that meeting. If (in the event of the absence or non-availability of the Chairman) the Vice-Chairman is not present within 15 minutes of the time for the commencement of the meeting or does not wish to preside or is unable to do so, the meeting shall appoint another SWB Member to chair the meeting.
11. In the event of an equality of votes in relation to an agenda item at the first Board Meeting at which that agenda item is discussed, the person chairing that meeting shall not have a second or casting vote, if a vote to defer that agenda item ("**Deferral Vote**") is passed by a majority of the SWB Members present. In the event of a Deferral Vote the agenda item shall be deferred for a period of not less than five Business Days ("**Deferral Period**") and the Board Meeting shall be adjourned to a date beyond the expiry of the Deferral Period as determined by the person chairing the meeting. During the Deferral Period the SWB Members shall be able to consult their Partner Authorities and discuss the agenda item with other SWB Members. At the adjourned Board meeting the agenda item shall be discussed again and any written views received from Partner Authorities shall be reported to the Board for consideration by the meeting. If at the adjourned meeting there is an equality of votes in relation to that agenda item the person chairing that meeting shall have a second or casting vote.

APPENDIX 4

Roles and duties of the Administering Authority, the Single Client Group and the Strategic Management Group

1. THE ADMINISTERING AUTHORITY

- 1.1 The roles and duties of the Administering Authority as set out in clause 5 of the Inter Authority Agreement are to:
 - 1.1.1 arrange for the Single Client Group to discharge its roles and functions as set out in clause 8 of the Inter Authority Agreement;
 - 1.1.2 receive each Partner Authority's share of the Annual Budget calculated in accordance with the principles set out in Schedule 5 of the Inter Authority Agreement;
 - 1.1.3 make the payments due under the Principal Contracts;
 - 1.1.4 ensure that the Board operates in accordance with the Constitution and Standing Orders and Rules of Procedure including notifications for meetings of the Board;
 - 1.1.5 arrange for the Treasurer to promptly and diligently perform the role of accounting officer for all funds held on account of the Board and to make and provide all appropriate banking and accounting arrangements and services required for the due and proper receipt holding and application of such funds and to assist the Board in the discharge of its functions;
 - 1.1.6 arrange for the Monitoring Officer to promptly and diligently perform the role of monitoring officer in relation to the Board and to notify the monitoring officers of the other Partner Authorities should it appear to him at any time that any proposal decision or omission of the Board constitutes or may give rise to a contravention of any enactment or rule of law or maladministration under Part III of the Local Government Act 1974;
 - 1.1.7 subject to clause 4.4 of the Inter-Authority Agreement provide promptly and diligently such legal advice as requested by the Board from time to time;
 - 1.1.8 provide promptly and diligently such human resources advice and services as requested by the Board from time to time;
 - 1.1.9 provide promptly and diligently such additional administrative resources and office facilities that may be reasonably necessary to discharge the Board's functions;
 - 1.1.10 where agreed by the Board hold any capital assets in respect of the Principal Contracts and the Single Client Group on behalf of the Board and/or the Partner Authorities;
 - 1.1.11 be the contracting authority on behalf of the Board;
 - 1.1.12 to carry out any functions delegated to it by the Board; and
 - 1.1.13 instigate and defend legal proceedings on behalf of the Board, the other Partner Authorities (subject to obtaining the prior written consent of the relevant Partner

Authority(ies)) and itself as appropriate.

- 1.2 The Administering Authority shall be responsible for the appointment, employment and management of the staff of the Single Client Group (other than the Managing Director who shall be appointed by the Board in accordance with clause 5.5 of the Inter Authority Agreement) and for the payment of the salaries, wages, income tax, national insurance contributions, and all other payments and emoluments of such staff provided that such payments shall not, without the approval of the Board exceed the amount specified within the Annual Budget for such expenditure.
- 1.3 The Administering Authority shall provide such administrative resources and office facilities that may be reasonably necessary to enable the Single Client Group to carry out its functions and activities.
- 1.4 The Administering Authority shall be responsible for the employment of the Managing Director on such terms and conditions as agreed by the Board and the Administering Authority shall be responsible for the payment of the salary, wages, income tax, national insurance contributions, and all other payments and emoluments of the Managing Director provided that such payments shall not, without the approval of the Board exceed the amount specified within the Annual Budget for such expenditure.
- 1.5 The Administering Authority shall ensure that all contracts entered into by it on behalf of the Board shall contain provisions enabling them to be novated to all or any of the Partner Authorities, at no cost to the Partner Authorities other than reasonable legal costs incurred in completing such novations.

2. THE SINGLE CLIENT GROUP

- 2.1 The roles and duties of the Single Client Group as set out in clause 8 of the Inter Authority Agreement are to:
 - 2.1.1 monitor and manage the performance of the Principal Contracts;
 - 2.1.2 in conjunction with support provided by the Administering Authority to prepare monitor and control the progress of the Business Plan, Annual Action Plans and the Annual Budget to ensure they continue to fulfil business needs;
 - 2.1.3 advise the Board generally on waste management initiatives (both local and national) and the progress in delivering the Aims and Objectives;
 - 2.1.4 prepare reports and recommendations for consideration by the Board, support the setting of the strategic direction of the Board and the context within which services are developed, managed and operated;
 - 2.1.5 ensure that where any information is received from or requested by a supplier or contractor, the dissemination, collation and provision of information is effected within a timescale which is compatible with any time provisions detailed in the Principal Contracts and in any event as soon as is reasonably practicable;
 - 2.1.6 refer any requests from the contractors for a consent or approval to appropriate officers, the Board or the Managing Director as appropriate and then

communicate any decision back to the contractors. Such communications shall be within a timescale which is compatible with any time provisions detailed in the Principal Contracts and in any event as soon as reasonably practicable;

- 2.1.7 prepare and make recommendations to the Board on waste management issues involving central government and other external agencies;
- 2.1.8 provide a full assessment of the short, medium and long term financial, resource, service, legal and contractual implications of the waste management service for the Board, the Administering Authority and each Partner Authority;
- 2.1.9 prepare and submit for approval by the Board an annual internal audit plan. Regularly report on the findings of any audits undertaken to the Board and to the section 151 officers of all of the Partner Authorities; and
- 2.1.10 prepare a strategic risk register relating to the functions of the Board and regularly submit this, together with details of any mitigation actions implemented, to the Board.

3. THE STRATEGIC MANAGEMENT GROUP

- 3.1 The Partner Authorities agree that the SMG shall have the following role and responsibilities:
 - 3.1.1 to ensure that the legal duties and statutory functions of the Partner Authorities delegated to the Board in accordance with the Constitution are being discharged effectively in accordance with relevant legislation and with due economy, efficiency and effectiveness;
 - 3.1.2 to ensure that the duties of the Partner Authorities with respect to best value are complied with;
 - 3.1.3 to review each Business Plan and Annual Action Plan prepared by the Single Client Group and make recommendations for any changes it deems necessary (acting reasonably) in accordance with **paragraph 10** prior to submission to the Board for approval;
 - 3.1.4 to review the Annual Budget prepared by the Treasurer and where relevant make recommendations for any changes it deems necessary (acting reasonably) in accordance with **paragraph 11** before submission to the Board and each Partner Authority for approval;
 - 3.1.5 to consider the reports submitted by the Managing Director regarding the performance of the Board; and
 - 3.1.6 to review the effectiveness of the Board in:
 - (a) helping each Partner Authority to meet its statutory and local

targets; and

- (b) achieving efficiency savings on behalf of all of the Partner Authorities,

following which it shall report and, where appropriate, make recommendations to the Partner Authorities on the effectiveness of the Board and any changes or amendments necessary to improve the effectiveness of the Board.

4. ROLES OF THE OFFICERS TO THE BOARD

Clerk

The Partner Authorities agree that the role of the Clerk shall be to provide clerical and administrative support to the Board including, but not limited to, calling meetings of the Board, taking minutes at meetings and circulating agendas and minutes and other papers.

Treasurer

The Partner Authorities agree that the role of the Treasurer shall be to perform the role and functions as set out in the Inter Authority Agreement and in particular those duties set out in clauses 5.2.5, 16.1 to 16.4 of the Inter Authority Agreement.

APPENDIX 5

SWB Scrutiny Arrangements

- 1.1 The decisions made by the Board shall for the time being be subject to the Scrutiny Arrangements of each Partner Authority and each Partner Authority acknowledges the requirements in **paragraph** 1.8 below for cooperation between the respective Scrutiny Committees of each Partner Authority.
The potential for the establishment of formal joint scrutiny arrangements once permissible under legislation will be investigated by the Clerk for consideration by the Board and adoption following consultation with the Partner Authorities.
- 1.2 Any decision of the Board, except those agreed as urgent in accordance with **paragraph** 1.3 of this Appendix, shall not be implemented until the Scrutiny Arrangements of the Partner Authority whose membership has called in the decision or action has been completed.
- 1.3 Where the Board decides that a decision must be implemented without delay and as a matter of urgency any subsequent 'call in' of that decision should normally relate only to the process leading to the decision and not to the decision itself.
- 1.4 A summary record of decisions made by the Board will be made available to the public via the website of the Administering Authority within two Business Days of the decision being made. At the same time the Administering Authority will notify the summary record of decisions to all Partner Authorities for them to make available to their members as they see fit. The summary record will indicate which of the decisions are subject to the urgency provision and therefore are not available to be 'called in' prior to implementation.
- 1.5 All decisions of the Board (unless urgency is specified in accordance with **paragraph** 1.3 of this Appendix) to be subject to call-in within five Business Days of publication. If not called in during that period any decision shall then be available for implementation.
- 1.6 A call in of a decision should only be permitted if the decision directly affects the Partner Authority whose membership wishes to call it in.
- 1.7 The SWB Members and the relevant officers from each Partner Authority (including the officers of the Single Client Group employed by the Administering Authority) shall fully co-operate with the relevant Scrutiny Committee of any of the Partner Authorities. The Managing Director may identify the appropriate officer(s) to attend a scrutiny meeting. The SWB Chairman may nominate the SWB Member(s).
- 1.8 Where a decision is called in by more than one Partner Authority, each of the Scrutiny Committees of each of the Partner Authorities calling in the decision will be invited to meet jointly to hear evidence, views, options considered, reasons for decision and to ask questions of appropriate SWB Member(s) and officers of the Administering Authority (including of the Single Client Group) and others invited to participate.

- 1.9 After these “hearings”, each relevant Scrutiny Committee will meet separately to decide on what comment, view or recommendations (if any) it wishes to make to the Board.
- 1.10 Where the account to be given to the Scrutiny Committee requires the production of a report, then the SWB Member or officer concerned will be given sufficient notice to prepare the documentation.
- 1.11 A SWB member who is also a member of a Scrutiny Committee or a sub-committee of such a committee should regard himself as having a personal and a prejudicial interest if a Scrutiny Committee consideration relates to a decision made, or action taken, by the Board or any sub committee of the Board.
- 1.12 Any other SWB Member attending a scrutiny meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action should declare a personal interest.
- 1.13 Once it has formed recommendations on a call-in (or proposals for development in accordance with **paragraph** 1.16 of this Appendix) a Scrutiny Committee shall prepare a formal report and submit it for consideration by the Board.
- 1.14 The Board shall consider the report of a Scrutiny Committee at its next suitable meeting and shall issue a formal response to such a report.
- 1.15 The Clerk shall monitor the operation of the provisions relating to call-in and urgency annually, and submit a report to the Board with proposals for review if necessary.
- 1.16 A Scrutiny Committee should notify one of the SWB Members for his Partner Authority if it includes in its work programme any aspect of policy development or review relating to the work or functions of the Board.
- 1.17 Subject to the above paragraphs the partners may, without compulsion, appoint up to two members to an informal Joint Waste Scrutiny Panel, for the purpose of reviewing the draft annual business plan and any topic requested by the partners. The Joint Scrutiny Panel is not a formal scrutiny body as defined in paragraph 13.1 or within this Appendix but it may make recommendations to the Board or to individual partner authorities so far as they concern matters associated with the function or activities delegated to the Board.

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DATED

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SOMERSET COUNTY COUNCIL

and

MENDIP DISTRICT COUNCIL

and

SEDGEMOOR DISTRICT COUNCIL

and

SOUTH SOMERSET DISTRICT COUNCIL

and

SOMERSET WEST AND TAUNTON COUNCIL

INTER AUTHORITY AGREEMENT
relating to the Somerset Waste Board

Nabarro
Lacon House
84 Theobald's Road
London WC1X 8RW

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INTER-AUTHORITY AGREEMENT

DATE 30TH SEPTEMBER

2007

PARTIES

- (1) SOMERSET COUNTY COUNCIL of County Hall, Taunton, Somerset TA1 4DY (the "**County Council**"); and
- (2) MENDIP DISTRICT COUNCIL of Cannards Grave Road, Shepton Mallet, Somerset BA4 5BT ("**Mendip**"); and
- (3) SEDGEMOOR DISTRICT COUNCIL of Bridgwater House, King Square, Bridgwater, Somerset TA6 3AR ("**Sedgemoor**"); and
- (4) SOUTH SOMERSET DISTRICT COUNCIL of PO Box 25, The Council Offices, Brympton Way, Yeovil, Somerset BA20 2DS ("**South Somerset**"); and
- (5) SOMERSET WEST AND TAUNTON COUNCIL of The Deane House, Belvedere Road, Taunton, Somerset, TA1 1HE ("Somerset West and Taunton").

IT IS AGREED AS FOLLOWS:

RECITALS:

- (A) The County Council is the waste disposal authority for the County of Somerset under section 30(2) of the Environmental Protection Act 1990 and the other Partner Authorities are the waste collection authorities for their respective districts under section 30(3) of the Environmental Protection Act 1990.
- (B) The Partner Authorities wish to create a statutory joint committee to be known as the Somerset Waste Board to manage all waste collection and waste disposal services on behalf of the Partner Authorities and to improve the quality and efficiency of their waste collection, recycling, waste disposal and allied services.
- (C) The Partner Authorities have each agreed to form a joint committee under sections 101(5) and 102 of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (S.I. 2000 No. 2851) as amended by the Local Authorities (Arrangements for the Discharge of Functions) (England) (Amendment) Regulations 2001 (S.I. 2001 No. 3961) made under section 20 of the Local Government Act 2000 and any other enabling legislation.
- (D) The Partner Authorities wish to establish a clear and accountable framework under which they can work together in delivering their waste disposal and waste collection responsibilities and to promote the economic, environmental and social well-being of their respective areas. They wish to be able to respond in a more effective and co-ordinated way in relation to the development and implementation of the Joint Waste Management Strategy and to introduce and promote joint working arrangements that will be in the best interests of the Council Tax payers of the Partner Authorities.

- (E) Each of the Partner Authorities recognises in particular the need to address central government and European targets for waste minimisation, recycling and recovery of waste and the promotion of sustainable development including the use of waste as a resource.
- (F) The Partner Authorities have an aspiration to move towards the creation of a joint waste authority when legislation permits.
- (G) The Partner Authorities have each resolved to:
1. form the Board with effect from the date of this Agreement;
 2. delegate to the Board their statutory functions in relation to waste disposal or waste collection and the recycling of waste as set out in appendix 1 of the Constitution; and
 3. to agree the Constitution.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement unless the context otherwise requires:

"2000 Act"

means the Local Government Act 2000;

"2000 Regulations"

means the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (S.I. 2000 No. 2851) as amended by the Local Authorities (Arrangements for the Discharge of Functions) (England) (Amendment) Regulations 2001 (S.I. 2001 No. 3961) made under Section 20 of the 2000 Act;

"Administering Authority"

means the authority referred to in **clause 5.1**;

"Agreement"

means this agreement (including its schedules);

"Aims and Objectives"

means the aims and objectives set out in appendix 2 to the Constitution;

"Annual Action Plan"

means a plan for the performance by the Board of its functions and activities in any Financial Year pursuant to paragraph 10 of the Constitution to be contained in the Business Plan prepared for that Financial Year and including an audit plan and risk register;

"Annual Budget"

means the annual budget of the Board for a Financial Year approved or amended by the Partner Authorities in accordance with **clause 12** and paragraph 11 of the Constitution;

"Authority"

means any Partner Authority;

"Best Value"

means the duty of best value authorities under section 3(1) of the Local Government Act 1999 to make arrangements to secure continual improvement in the way in which its functions are exercised having regard to economy, efficiency and effectiveness;

"Board"

means the joint committee established pursuant to **clause** 3.1 known as 'The Somerset Waste Board';

"Business Day"

means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London;

"Business Plan"

means the rolling five year business plan approved by the Board from time to time in accordance with paragraph 10 of the Constitution together with the First Business Plan as set out in appendix 4 of the Constitution;

"CEDR"

means the Centre for Effective Dispute Resolution;

"Chief Executive"

means the Chief Executive or the head of paid service of the Partner Authority(ies);

"Clerk of the Board" or "Clerk"

means the clerk of the Board appointed pursuant to **clause** 4.1.1;

"Collection Contract"

means the contract for the collection and recycling of household waste for the County of Somerset to be entered into by the Administering Authority on behalf of the Board, and the Collection Contractor;

"Collection Contractor"

means ECT Recycling CIC (or such other contractor as may be appointed under the terms of the Collection Contract from time to time);

"Commencement Date"

means the date of this Agreement;

"Confidential Information"

means information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would, or would be likely to, prejudice the commercial interests of any person, trade secrets, intellectual property rights and know-how of either party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1988;

"Constitution"

means the constitution of the Board as set out in **Schedule** 1 (The Constitution);

"Disposal Contracts"

means together the following contracts:

- (a) the core services contract;
- (b) the NWTF contract;
- (c) the tonnage agreement; and
- (d) the strategic partnering agreement,

entered into by the County Council and Viridor Waste Management Limited and dated 13 May 2006;

"DPA"

means the Data Protection Act 1998;

"EIR"

means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations;

"EPA 1990"

means the Environmental Protection Act 1990;

"Financial Year"

means a calendar year commencing on 1st April in any year;

"First Business Plan"

means the outline business plan for the first Financial Year of the operation of the Board contained in appendix 4 of the Constitution;

"FOI Act"

means the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such Act;

"Joint Waste Management Strategy"

means the joint municipal waste management strategy adopted by the Board from time to time as required under section 32 of the Waste and Emissions Trading Act 2003;

"Landfill Allowances Trading Scheme" or "LATS"

means the landfill allowances trading scheme established pursuant to the Waste and Emissions Trading Act 2003 and the Landfill Allowances and Trading Scheme (England) Regulations 2004;

"LGA 1972"

means the Local Government Act 1972;

"Managing Director"

means the head of the Single Client Group appointed by the Board pursuant to **clause 9** and paragraph 17.2 of the Constitution;

"Material Change"

means a change proposed to this Agreement or to the operation of the Board which a Partner Authority (acting reasonably) considers to be a material change to the nature or operation of the Board (including a change which has a material impact on service design or the cost of the services provided under the Principal Contracts) and which it considers must be subject to approval by elected members of the Partner Authority;

"Monitoring Officer"

means the officer appointed pursuant to **clause 4.1.3**;

"Partner Authority"

means any one of the County Council, Mendip, Sedgemoor, South Somerset and Somerset West and Taunton whilst ever they remain as Partner Authorities and such other local authorities which from time to time become Partner Authorities in accordance with **clause 14.5** and paragraph 16.8 of the Constitution;

"Personal Data"

means personal data as defined in the DPA which is supplied to a contractor by the Board, the Administrating Authority or a Partner Authority or obtained by a contractor in the course of performing services to the Board;

"Precept Dates"

means the dates set each year for payment of the Council Tax precept to the County Council;

"Principal Contracts"

means the Collection Contract and the Disposal Contracts and any contracts replacing such contracts and such other contracts as the Board may administer from time to time on behalf of the Partner Authorities;

"Prohibited Act"

means:

- (a) offering, giving or agreeing to give to any servant of a Partner Authority any gift or consideration of any kind as an inducement or reward:
 - (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement, the Principal Contracts or in relation to the operation and administration of the Board; or
 - (ii) for showing or not showing favour or disfavour to any person in relation to this Agreement, the Principal Contracts or in relation to the operation and administration of the Board;
- (b) entering into this Agreement or any other contract with a Partner Authority or other public body relating to this Agreement or the Board in connection with which commission has been paid or has been agreed to be paid by a Partner Authority or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any

- such contract for the payment thereof have been disclosed in writing to the other Partner Authorities;
- (c) committing any offence relating to this Agreement, the Principal Contracts or in relation to the operation and administration of the Board:
 - (i) under the Prevention of Corruption Acts 1889 -1916;
 - (ii) under the LGA 1972;
 - (iii) under legislation creating offences in respect of fraudulent acts; or
 - (iv) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with a Partner Authority; or
 - (d) defrauding or attempting to defraud or conspiring to defraud a Partner Authority in relation to this Agreement, the Principal Contracts or in relation to the operation and administration of the Board;

"Review Notice"

means a notice served by any Partner Authority in accordance with **clause 20.1**;

"Review Report"

means a report of a review referred to in **clause 20.3**;

"Single Client Group" or "SCG"

means the group of officers employed by the Administering Authority appointed from time to time pursuant to **clause 8**;

"Standing Orders and Rules of Procedure"

means the standing orders and rules of procedure for meetings of the Board and its sub-committees together with the financial regulations and contract procedure rules for the Board (which shall be those of the Administering Authority), subject to such amendments or additions as the Board sees fit except amendments to the financial regulations and contract procedure rules which shall be those of the Administering Authority;

"Strategic Management Group" or "SMG"

means the group comprising the Directors of Environment (or equivalent) from the Partner Authorities formed in accordance with, and having the role and responsibilities set out in **clause 10**;

"SWB Member"

means a member of the Board nominated by a Partner Authority in accordance with paragraph 4 of the Constitution;

"Treasurer"

means the treasurer of the Board appointed pursuant to **clause 4.1.2**;

"TUPE"

means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time;

"VAT"

means value added tax;

"Workforce Code"

means the Annex D, the "Code of Practice on Workforce Matters in Local Authority Service Contracts", in "Best Value and Performance Improvement" (ODPM Circular 03/2003) (as the same may be amended, supplemented, replaced and/or reissued from time to time).

1.2 Interpretation

1.2.1 In this Agreement (unless the context requires otherwise):

- (a) references to clauses and schedules are to the clauses and schedules of this Agreement. Any reference to a sub-clause is to the relevant sub-clause of the clause in which it appears;
- (b) references to paragraphs and appendices are to the paragraphs and appendices of the Constitution;
- (c) the table of contents and headings are not part of this Agreement and are not to be taken into account in the interpretation of this Agreement;
- (d) the use of the masculine gender alone includes the feminine and neuter genders and the singular includes the plural and vice versa;
- (e) references to legislation (including subsidiary legislation), determinations, and directions include all amendments, replacements, or re-enactments thereof and all regulations, determinations, directions and statutory guidance made or given under them save that the treatment under this Agreement of any such amendment or modification that imposes any new or extended obligation or liability adversely affecting the parties or any of them shall be determined by the Board after consultation with the Partner Authorities, provided that where any Partner Authority (acting reasonably) considers such amendment or modification would result in a Material Change, the amendment or modification shall require the approval of the Partner Authority;
- (f) any reference to a requirement for "consent" or "approval" shall be taken to be the prior written consent or approval of the relevant person or body;
- (g) the terms "including" and "in particular" are illustrative only and are not intended and shall not limit the meaning of the relevant words that precede them;
- (h) the term "persons" means individuals, companies, industrial and provident societies, limited liability partnerships, statutory bodies, or other bodies with a legal personality and includes H.M. Government, government departments, and the European Union and its constituent parts; and
- (i) the Schedules to this Agreement are to have effect as if set out in full in the body of this Agreement and references to this Agreement include the Schedules.

1.2.2 The principles set out in this **clause** 1.2 shall be borne in mind and applied so far as appropriate in the interpretation of this Agreement and in the resolution of any disputes under this Agreement.

2. COMMENCEMENT AND DURATION

This Agreement and the rights and obligations of the Partner Authorities under this Agreement shall take effect on the Commencement Date and shall continue until terminated or they expire in accordance with **clause** 15.

3. FORMATION OF THE SOMERSET WASTE BOARD

3.1 The Partner Authorities have each agreed and resolved to form the Board with effect from the Commencement Date.

3.2 The Partner Authorities have each agreed and resolved that the Board should discharge their respective statutory functions with respect to waste disposal, waste collection and the recycling of waste which statutory functions are set out in appendix 1 part I of the Constitution.

- 3.3 In the performance of the statutory functions delegated to the Board the Partner Authorities hereby agree that the Board shall undertake on behalf of the Partner Authorities the activities set out in appendix 1 part II of the Constitution.
- 3.4 The Partner Authorities have agreed that the Board may perform all, or some of, its functions through contracts with third party contractors (including the Principal Contracts) and that the Administering Authority shall be a party to these contracts on behalf of the Board.
- 3.5 The Partner Authorities acknowledge that the powers, duties and functions of the waste disposal authority in respect of sections 6 to 8 of the Waste And Emissions Trading Act 2003 remain with the County Council, and that sections 9, 12, 31 and 32 have been delegated to the Board. In accordance with paragraph 2.7 of the Constitution and **clause** 13.8 and **Schedule** 5 (Budget and Cost Sharing Agreement) the Partner Authorities agree that the Single Client Group and the Board will work in close consultation with and support and advise the County Council with regard to trading under LATS. The County Council shall remain responsible for trading, liable for the purchase of allowances or payment of any penalties arising as a result of exceeding allowances and shall retain the benefit of any income received from trading under LATS, and will work in close consultation with and support and advise the Single Client Group and the Board with regard to the waste strategy implications of its trading activities and plans.
- 3.6 The Board shall operate and be governed in accordance with the Constitution as may be amended from time to time in accordance with paragraph 12 of the Constitution.
- 3.7 The Administering Authority shall procure that the Managing Director shall notify the Chief Executives of the Partner Authorities of any proposed amendments to the Constitution in accordance with paragraph 12.3 of the Constitution. Each Partner Authority shall consider any such proposed amendments in good faith and act reasonably in deciding whether or not any proposed amendments amount to a material change (as defined in the Constitution).
- 3.8 The Board shall continue in existence unless and until dissolved in accordance with **clauses** 7.3, or 15 or paragraph 16.6 of the Constitution.

4. ADMINISTRATIVE SUPPORT TO THE BOARD AND THE APPOINTMENT OF THE OFFICERS OF THE BOARD

Appointment

- 4.1 The Partner Authorities hereby agree with effect from the Commencement Date that:
 - 4.1.1 the Clerk of the Board shall be the 'Group Manager Democratic Services' of the Administering Authority for the time being, or such other officer as the Administering Authority shall determine having regard to the nature and responsibilities of the role;
 - 4.1.2 the Treasurer of the Board shall be the section 151 officer of the Administering Authority; and
 - 4.1.3 the Monitoring Officer of the Board shall be the Monitoring Officer of the Administering Authority.

Roles of the officers

- 4.2 The role of the Clerk shall be as set out in paragraph 4 of appendix 6 of the Constitution.
- 4.3 The role of the Treasurer shall be as set out in paragraph 4 of appendix 6 of the Constitution.

Administrative support to the Board

- 4.4 Legal advice and services shall be provided to the Board by the Administering Authority. In the event of conflict of interest or potential conflict of interest between the interests of the Board and the interests of the Administering Authority, the Board shall appoint the Head of Legal Services of one of the other Partner Authorities to advise and act on behalf of the Board.
- 4.5 Human resources advice and services shall be provided to the Board by the Administering Authority.
- 4.6 The Administering Authority shall provide or arrange such additional administrative services, resources and office facilities that may be reasonably necessary to enable the Single Client Group and the Board to discharge their roles and functions.
- 4.7 The costs of providing the above advice and services shall form part of the Annual Budget of the Board and shall be funded by the Partner Authorities in accordance with the principles set out in **Schedule 5** (Budget and Cost Sharing Agreement).

5. ROLE AND RESPONSIBILITIES OF THE ADMINISTERING AUTHORITY

- 5.1 The Partner Authorities agree that the County Council shall be the Administering Authority for the purposes of this Agreement until removed or replaced in accordance with **clause 7**.
- 5.2 The Administering Authority shall:
 - 5.2.1 arrange for the Single Client Group to discharge its roles and functions as set out in **clause 8**;
 - 5.2.2 receive each Partner Authority's share of the Annual Budget calculated in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement);
 - 5.2.3 make the payments due under the Principal Contracts;
 - 5.2.4 ensure that the Board operates in accordance with the Constitution and Standing Orders and Rules of Procedure including notifications for meetings of the Board;
 - 5.2.5 arrange for the Treasurer to promptly and diligently perform the role of accounting officer for all funds held on account of the Board and to make and provide all appropriate banking and accounting arrangements and services required for the due and proper receipt holding and application of such funds and to assist the Board in the discharge of its functions;

- 5.2.6 arrange for the Monitoring Officer to promptly and diligently perform the role of monitoring officer in relation to the Board and to notify the monitoring officers of the other Partner Authorities should it appear to him at any time that any proposal decision or omission of the Board constitutes or may give rise to a contravention of any enactment or rule of law or maladministration under Part III of the Local Government Act 1974;
 - 5.2.7 subject to **clause** 4.4, provide or arrange promptly and diligently such legal advice as requested by the Board from time to time;
 - 5.2.8 provide or arrange promptly and diligently such human resources advice and services as requested by the Board from time to time;
 - 5.2.9 provide or arrange promptly and diligently such additional administrative services, resources and office facilities that may be reasonably necessary to discharge the Board's functions;
 - 5.2.10 where agreed by the Board hold any capital assets in respect of the Principal Contracts and the Single Client Group on behalf of the Board and/or the Partner Authorities;
 - 5.2.11 be the contracting authority on behalf of the Board;
 - 5.2.12 to carry out any functions delegated to it by the Board; and
 - 5.2.13 instigate and defend legal proceedings on behalf of the Board, the other Partner Authorities (subject to obtaining the prior written consent of the relevant Partner Authority(ies)) and itself as appropriate.
- 5.3 The Administering Authority shall be responsible for the appointment, employment and management of the staff of the Single Client Group (save that the Managing Director shall be appointed by the Board in accordance with paragraph 17.2 of the Constitution) and for the payment of the salaries, wages, income tax, national insurance contributions, and all other payments and emoluments of such staff provided that such payments shall not, without the approval of the Board exceed the amount specified within the Annual Budget for such expenditure.
- 5.4 The Administering Authority shall provide such administrative services, resources and arrange or provide such office facilities that may be reasonably necessary to enable the Single Client Group to carry out its functions and activities.
- 5.5 The Administering Authority shall ensure that all contracts entered into by it on behalf of the Board shall contain provisions enabling them to be novated to all or any of the Partner Authorities, at no cost to the Partner Authorities other than reasonable legal costs incurred in completing such novations.

6. ROLE AND RESPONSIBILITIES OF THE PARTNER AUTHORITIES

- 6.1 Each Partner Authority acknowledges the role and responsibilities of the Administering Authority and each Partner Authority's obligations to share in good faith the costs of the Board in accordance with this Agreement and the Constitution.
- 6.2 The Partner Authorities acknowledge and agree that they shall promptly pay any money properly due in accordance with this Agreement and the Constitution (including but not limited to their contributions to the Annual Budget) to the Administering Authority.
- 6.3 Where any Partner Authority (acting in good faith) disputes all or any part of any sum due the undisputed amount of such sum shall be paid to the Administering Authority in accordance with

clause 13 and the principles set out in **Schedule 5** (Budget and cost sharing agreement) and the provisions of **clause 32** shall apply in respect of the disputed amount.

- 6.4 Following resolution of the dispute in question any amount agreed or determined to have been payable shall be paid forthwith to the Administering Authority together with any additional amount calculated in accordance with **clause 13.6**.
- 6.5 The Partner Authorities shall use all reasonable endeavours to make any decisions or ratify any decisions of the Board as required by this Agreement or the Constitution as soon as reasonably practicable.
- 6.6 Each Partner Authority shall consider any proposed amendments to the Business Plan (including the Annual Action Plan) under paragraph 10.7 of the Constitution in good faith and act reasonably in considering whether or not the proposed amendments amount to a material change (as defined in the Constitution) requiring the approval of the Partner Authority.
- 6.7 Each Partner Authority shall consider any such proposed amendments to the Annual Budget under paragraph 11.5 of the Constitution in good faith and act reasonably in considering whether or not to approve any proposed amendments.
- 6.8 Each Partner Authority shall grant to the Administering Authority leases and give consent to the grant of underleases to the Collection Contractor (in forms to be agreed by the relevant Partner Authority and the Administering Authority) of its respective depot(s) or part thereof as may be reasonably required by the Collection Contractor for the provision of the services under the Collection Contract and as agreed by the relevant Partner Authority acting reasonably and taking into account any other operational requirements for which the depot is or may be required.
- 6.9 The Partner Authorities shall comply with their obligations as set out in **Schedule 2** (Transition arrangements).

7. REPLACEMENT OR REMOVAL OF THE ADMINISTERING AUTHORITY

7.1 Resignation of the Administering Authority

- 7.1.1 The Administering Authority may upon giving at least one year's written notice to the Managing Director and to the Chief Executives of the other Partner Authorities resign from the position of Administering Authority.
- 7.1.2 The Partner Authorities shall upon receipt of such notice as soon as possible agree (in consultation with the Board) that one of the other Partner Authorities shall replace the resigning Administering Authority with effect from the expiry of such notice.
- 7.1.3 The provisions of **Schedule 3** (Change of Administering Authority) shall apply as to the novation of the Principal Contracts (but excluding the Disposal Contracts which shall remain with the County Council) and the arrangements for the transfer of the staff of the Single Client Group and all assets, property, rights and liabilities of the outgoing Administering Authority held by it or undertaken on behalf of the Board to the incoming Administering Authority.

7.2 Removal of the Administering Authority

- 7.2.1 If the Administering Authority:
- (a) commits a substantial or persistent breach of the terms of this Agreement or of the provisions of the Constitution; or
 - (b) fails to redress substantial or persistent under-performance of its duties under this Agreement or fails to meet the reasonable requirements of the Board; or

- (c) commits gross misconduct contrary to the provisions of local government legislation or contrary to proper practices and conduct,

a majority of the other Partner Authorities may terminate the appointment of the Administering Authority under this Agreement by not less than six months' written notice to the Administering Authority whereupon following the service of such notice, the other Partner Authorities shall as soon as possible agree (in consultation with the Board) that one of the other Partner Authorities shall take over the duties of the Administering Authority with effect from the date of expiry of such notice and the provisions of **Schedule 3** shall apply.

7.3 In the event that the Administering Authority has resigned or its appointment has been terminated (in accordance with this **clause 7**) and no other Partner Authority wishes to assume the role of the Administering Authority, the Partner Authorities shall be deemed to have agreed to the dissolution of the Board on the effective date of the resignation or termination and the provisions of **clause 15** and **Schedule 6** (Exit arrangements) shall apply.

8. THE SINGLE CLIENT GROUP

8.1 The Administering Authority shall establish the Single Client Group headed by the Managing Director to carry out on behalf of the Board the following activities:

- 8.1.1 to monitor and manage the performance of the Principal Contracts;
- 8.1.2 in conjunction with support provided by the Administering Authority to prepare monitor and control the progress of the Business Plan, Annual Action Plans and the Annual Budget to ensure they continue to fulfil business needs;
- 8.1.3 to advise the Board generally on waste management initiatives (both local and national) and the progress in delivering the Aims and Objectives;
- 8.1.4 prepare reports and recommendations for consideration by the Board, support the setting of the strategic direction of the Board and the context within which waste services are developed, managed and operated;
- 8.1.5 ensure that where any information is received from or requested by a supplier or contractor under the Principal Contracts, the dissemination, collation and provision of information is effected within a timescale which is compatible with any time provisions detailed in the Principal Contracts and in any event as soon as is reasonably practicable;
- 8.1.6 refer any requests from contractors for a consent or approval to appropriate officers, the Board or the Managing Director as appropriate and then communicate any decision back to the contractors under the Principal Contracts. Such communications shall be within a timescale which is compatible with any time provisions detailed in the Principal Contracts and in any event as soon as reasonably practicable;
- 8.1.7 to prepare and make recommendations to the Board on waste management issues involving central government and other external agencies;
- 8.1.8 to provide a full assessment of the short, medium and long term financial, resource, service, legal and contractual implications of waste management services for the Board, the Administering Authority and each Partner Authority; and
- 8.1.9 prepare and submit for approval by the Board an annual internal audit plan. Regularly report on the findings of any audits undertaken to the Board and to the section 151 officers of all of the Partner Authorities; and

8.1.10 prepare a strategic risk register relating to the functions of the Board and regularly submit this, together with details of any mitigation actions implemented, to the Board.

8.2 The provisions of **Schedule 2** (Transition agreement) shall apply in relation to the transfer of staff, assets and equipment from the other Partner Authorities to the Administering Authority in respect of the establishment of the Single Client Group with effect from the Commencement Date.

9. THE MANAGING DIRECTOR

9.1 The Partner Authorities agree that the Managing Director shall be appointed by the Board in accordance with paragraph 17.2 of the Constitution and shall report to the Board.

9.2 The duties and functions delegated to the Managing Director shall be agreed by the Board in accordance with the scheme of delegation adopted by the Board in accordance with paragraph 8.1 of the Constitution.

10. STRATEGIC MANAGEMENT GROUP

10.1 The Partner Authorities shall with effect from the Commencement Date form the SMG.

10.2 The SMG shall meet as and when required and the Partner Authorities shall share (in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement) the administrative costs and arrangements required for the SMG.

10.3 The Partner Authorities agree that the SMG shall have the following roles and responsibilities:

10.3.1 to ensure that the legal duties and statutory functions of the Partner Authorities delegated to the Board in accordance with the Constitution are being discharged effectively in accordance with relevant legislation and with due economy, efficiency and effectiveness;

10.3.2 to ensure that the duties of the Partner Authorities with respect to Best Value are complied with including any duties under the Workforce Code;

10.3.3 to review each Business Plan and Annual Action Plan prepared by the Single Client Group and make recommendations for any changes it deems necessary (acting reasonably) in accordance with paragraph 10 of the Constitution prior to submission to the Board for approval;

10.3.4 to review the Annual Budget prepared by the Treasurer and where relevant make recommendations for any changes it deems necessary (acting reasonably) in accordance with paragraph 11 of the Constitution before submission to the Board and each Partner Authority for approval;

10.3.5 to consider the reports submitted by the Managing Director regarding the performance of the Board; and

10.3.6 to review the effectiveness of the Board in:

(a) helping each Partner Authority to meet its statutory and local targets; and

(b) achieving efficiency savings on behalf of all of the Partner Authorities,

following which it shall report and, where appropriate, make recommendations to the Partner Authorities on the effectiveness of the Board and any changes or amendments necessary to improve the effectiveness of the Board.

11. BUSINESS PLAN

- 11.1 The Partner Authorities acknowledge the requirements of paragraph 10 of the Constitution in respect of the preparation and agreement of the Business Plan and the Annual Action Plan.
- 11.2 The Partner Authorities shall comply with the requirements of paragraph 10 of the Constitution and provide such reasonable assistance as is necessary to each other, the Board and the Administering Authority to assist in delivering the Business Plan and the Annual Action Plan.

12. ANNUAL BUDGET

- 12.1 The Partner Authorities acknowledge the requirements of paragraph 11 of the Constitution in respect of the preparation and agreement of the Annual Budget.
- 12.2 The Partner Authorities shall comply with the requirements of paragraph 11 of the Constitution and provide such reasonable assistance as is necessary to each other, to the Board and to the Administering Authority to assist in preparing the Annual Budget.

13. CONTRIBUTIONS TO THE ANNUAL BUDGET AND TO THE BOARD'S COSTS BY THE PARTNER AUTHORITIES

- 13.1 The Partner Authorities shall contribute to the Annual Budget in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement).
- 13.2 The amount of each Partner Authority's annual contribution towards the costs of the Board in any Financial Year shall be such amounts as shall be specified for that Partner Authority in the schedule of payments attached to the Annual Budget for that Financial Year.
- 13.3 Each Partner Authority shall pay to the Administering Authority on behalf of the Board monthly instalments each equal to one twelfth of the annual sum payable by it to the Board in accordance with this **clause 13** and **Schedule 5** (Budget and cost sharing agreement) on the Precept Dates.
- 13.4 Where any Partner Authority (acting in good faith) disputes all or any part of any sum due the undisputed amount of such sum shall be paid to the Administering Authority forthwith and the provisions of **clause 32** shall apply in respect of the disputed amount.
- 13.5 Following resolution of the dispute in question any amount agreed or determined to have been payable shall be paid forthwith to the Administering Authority together with the reasonable costs and compensation for any losses incurred by the Administering Authority calculated in accordance with **clause 13.6**.
- 13.6 In the event of any Partner Authority failing to make a payment under **clause 13.3** on the relevant Precept Date, it shall pay to the Administering Authority reasonable costs and compensation for any losses incurred by the Administering Authority in respect of the outstanding instalments such amount to be calculated on a daily basis (commencing from the first Business Day after the relevant Precept Date) for each day a Partner Authority is late in making such payment.
- 13.7 Before the start of each Financial Year, the Administering Authority shall issue to each Partner Authority an annual payment and invoicing schedule for the forthcoming Financial Year, identifying the twelve monthly payments due on the Precept Dates.
- 13.8 The County Council shall report the number of allowances bought and sold and financial details of all LATS trades to the Single Client Group and the Board.

- 13.9 The Partner Authorities agree to keep under review the structure of the payment of contributions under this Agreement to minimise any adverse VAT implications for any of the Partner Authorities.

14. CESSATION OF MEMBERSHIP

- 14.1 Any of the Partner Authorities can withdraw from membership of the Board in the manner set out in paragraph 16 of the Constitution.
- 14.2 In the event that a Partner Authority withdraws from the Board that Partner Authority shall continue to meet in full:
- 14.2.1 its contributions in respect of any period during which that Partner Authority was a member of the Board in accordance with **clause** 13 including any arrears of such contributions;
- 14.2.2 any additional contractual or other financial commitments and liabilities incurred by the Board on its behalf not covered within its contributions under **clause** 13; and
- 14.2.3 its ongoing contributions and liabilities in respect of the Principal Contracts as notified from time to time by the Administering Authority and shall remain subject to this Agreement in respect of such ongoing contributions and liabilities calculated in accordance with the principles set out in **Schedule** 5 (Budget and cost sharing agreement).
- 14.3 A Partner Authority withdrawing from the Board shall be entitled to receive its fair share of any assets held by or on behalf of the Board at the date of their withdrawal when those assets are realised or sold by or on behalf of the Board unless the remaining Partner Authorities decide to retain such assets in which event they shall compensate the withdrawing Authority for its share of the market value of such assets.
- 14.4 If more than one Partner Authority gives notice of withdrawal from membership of the Board in any Financial Year the provisions of paragraph 16.4 of the Constitution shall apply.
- 14.5 If it is agreed by all Partner Authorities that another local authority should be permitted to join the Board then pursuant to Regulation 11(2)(c) of the 2000 Regulations the Board shall be dissolved and this Agreement terminated with a view to a new Board being established and a replacement agreement on similar terms to this Agreement (as varied by agreement of the proposed Partner Authorities) being completed with effect from the date of termination of this Agreement.

15. DISSOLUTION OF THE BOARD

- 15.1 A majority of the Partner Authorities may at any time (whether as a result of the Board's recommendations or otherwise) agree (by formal resolutions by each of them) that the Board should be dissolved with effect six months from the date of the decision or the date on which the agreement referred to in **clause** 15.2 below is completed if later.
- 15.2 In the event of agreement that the Board should be dissolved or in the event of the termination of this Agreement in accordance with **clause** 31 the Partner Authorities shall (acting reasonably) negotiate and seek to agree and execute a legally binding agreement dealing with the novation or termination of the Principal Contracts (excluding the Disposal Contracts) and the allocation amongst the Partner Authorities of the property, assets, rights, staff and liabilities held or employed by the Administering Authority on behalf of the Board. Such agreement shall include, as a minimum, provisions to deal with the matters listed in **Schedule** 6 (Exit arrangements).

- 15.3 This Agreement shall terminate upon the relevant date the agreement entered into by the Partner Authorities in accordance with **clause** 15.2 above becomes legally binding or upon such date as the Partner Authorities agree unanimously that no further liabilities, assets or ongoing obligations, including those under the terms of the Principal Contracts, shall exist in relation to the Board.

16. ACCOUNTS, AUDIT AND REPORTING

- 16.1 The Administering Authority shall procure that the Treasurer shall maintain the accounts of the Board in accordance with the requirements of the Local Authorities (Accounts and Audit) Regulations 2003 and the Audit Commission Act 1998 and with the requirements of relevant central government departments, H.M. Revenue and Customs and all other applicable requirements.
- 16.2 The Administering Authority shall procure that the accounts of the Board shall be audited annually in accordance with the requirements of the Audit Commission Act 1998 and the Local Authorities (Accounts and Audit) Regulations 2003 by the external auditor appointed by the Audit Commission.
- 16.3 The Administering Authority shall procure that the Treasurer shall ensure that all financial statements including information relating to group accounts and audit reports (where applicable) shall be submitted to the Board for approval and copies shall be provided to the section 151 officer of each Partner Authority by no later than 15 May in each Financial Year in respect of the un-audited accounts and by no later than 31 August in each Financial Year in respect of the audited accounts.
- 16.4 The Administering Authority shall procure that the Treasurer shall provide sufficient financial information to the section 151 officer of each Partner Authority to enable each Partner Authority to report on the financial status of the Board against the relevant Annual Budget.

17. ARRANGEMENTS INSURANCE, INDEMNITIES AND CONDUCT OF CLAIMS

Indemnities

- 17.1 Excluding any liabilities in respect of the Collection Contract (which shall be subject to **clause** 19.5) insofar as the Administering Authority shall perform its obligations and functions as Administering Authority in accordance with the provisions of this Agreement, the Partner Authorities hereby agree to be bound by and comply with any or all outcomes of the exercise of such obligations and functions and each Partner Authority hereby undertakes to pay to the Administering Authority its appropriate share of any additional costs, contributions to claims or liabilities which may arise as a result of the performance by the Administering Authority of its obligations under this Agreement in accordance with the principles set out in **Schedule** 5 (Budget and cost sharing agreement).
- 17.2 Each of the Partner Authorities shall indemnify the others of them from and against any damages or awards (including legal expenses on an indemnity basis) paid by them to their employees or their personal representatives or to third parties in settlement of any claims arising from a breach by that Partner Authority of this Agreement, negligence of that Partner Authority or its employees or agents acting in the course of their employment, damage to real and personal property or injury to persons including injury resulting in death.
- 17.3 Neither the Administering Authority nor any other Partner Authority shall be responsible or obliged to indemnify any other Partner Authority for:

- 17.3.1 any liability which arises as a direct result of a Partner Authority acting on the instructions of the Partner Authority claiming under any indemnity in this Agreement (to the extent that the other Partner Authority is entitled to give such instructions); or
- 17.3.2 any injury, loss, damage, cost and expense caused by the negligence, wilful misconduct or a breach of this Agreement by the Partner Authority claiming under any indemnity in this Agreement or an agent, contractor or employee of that Partner Authority.
- 17.4 None of the Partner Authorities shall be liable in tort to any other or others of the Partner Authorities for any negligent act or omission of that other Partner Authority or those other Partner Authorities relating to this Agreement and the only remedy of such other Partner Authority or Authorities is under this Agreement. Each Partner Authority shall use reasonable endeavours to procure that no agent, contractor or employee of it brings a claim in tort or otherwise against any of the other Partner Authorities.
- 17.5 Any indemnity under this **clause** 17 shall be without prejudice to any indemnity by the same Partner Authority under any other provision of this Agreement.
- 17.6 None of the indemnities under this Agreement shall apply, and there shall be no right to claim damages for breach of this Agreement whatsoever to the extent that any loss claimed is for loss of profits, loss of use, loss of production, loss of business or loss of business opportunity or is a claim for consequential or for indirect loss of any nature allegedly suffered by any Partner Authority.

Insurance

- 17.7 The Administering Authority shall take out and maintain the following insurances (or make suitable provision to self-insure) in respect of the employees, premises and equipment allocated to the Single Client Group:
- 17.7.1 public liability insurance;
- 17.7.2 employees liability insurance;
- 17.7.3 buildings and/or contents insurance; and
- 17.7.4 any other insurances required by law or agreed by the Board to be appropriate.
- 17.8 In relation to the insurances referred to in **clause** 17.7:
- 17.8.1 the interests of the other Partner Authorities shall be noted on the policies;
- 17.8.2 none of the Partner Authorities shall take any action or fail to take any action nor allow anything to occur which would entitle an insurer to refuse a claim under any of the insurance policies or which may render such a claim wholly or partially repayable; and
- 17.8.3 the Administering Authority shall provide on request to the other Partner Authorities copies of insurance policies referred to in this **clause** 17.7 and evidence of the payment of the premiums and that the insurances are in full force and effect.
- 17.9 The Administering Authority may (subject to the prior agreement of the Board and the other Partner Authorities) decide to self insure in respect of any risks or interest as defined and agreed by the Board and the other Partner Authorities on the basis that the Partner Authorities through their funding of the Board under this Agreement shall meet that liability as if the Board were an insurer of such risks or interest.
- 17.10 Each Partner Authority shall assist each of the other Partner Authorities in respect of the insurance requirements and obligations in this Agreement.

Conduct of claims

- 17.11 This **clause** 17.11 shall apply to the conduct, by a Partner Authority from whom an indemnity is sought under this Agreement, of claims made by a third person against a Partner Authority having (or claiming to have) the benefit of the indemnity. The Partner Authority having, or claiming to have, the benefit of the indemnity is referred to as the "**Beneficiary**" and the Partner Authority giving the indemnity is referred to as the "**Indemnifier**". Accordingly:
- 17.11.1 if the Beneficiary receives any notice, demand, letter or other document concerning any claim for which it appears that the Beneficiary is, or may become entitled to, indemnification under this Agreement, the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable having regard to any timescale imposed by a notice, demand, letter or any other form of document received by the Beneficiary;
- 17.11.2 subject to **clauses** 17.11.3, 17.11.4 and 17.11.5 below, on the giving of a notice by the Beneficiary pursuant to **clause** 17.11.1 above, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of at least half of the liability arising out of the claim, the Indemnifier shall (subject to providing the Beneficiary with an indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action (over and above those which the Beneficiary would otherwise have borne if the Indemnifier had no entitlement to conduct the relevant claim) be entitled to dispute the claim in the name of the Beneficiary at the Indemnifier's own expense and take conduct of any defence, dispute, compromise, or appeal of the claim and of any incidental negotiations. The Beneficiary shall give the Indemnifier all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim;
- 17.11.3 with respect to any claim conducted by the Indemnifier pursuant to **clause** 17.11.2 above:
- (a) the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the claim;
 - (b) the Indemnifier shall not bring the name of the Beneficiary into disrepute; and
 - (c) the Indemnifier shall not pay or settle such claims without the prior consent of the Beneficiary, such consent not to be unreasonably withheld or delayed;
- 17.11.4 the Beneficiary shall be free to pay or settle any claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:
- (a) the Indemnifier is not entitled to take conduct of the claim in accordance with **clause** 17.11.2 above; or
 - (b) the Indemnifier fails to notify the Beneficiary of its intention to take conduct of the relevant claim within 20 Business Days of the notice from the Beneficiary under **clause** 17.11.2 above or notifies the Beneficiary that it does not intend to take conduct of the claim; or
 - (c) the Indemnifier fails to comply in any material respect with the provisions of **clause** 17.11.3 above;
- 17.11.5 the Beneficiary shall be free at any time to give notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any claim (or of any incidental negotiations) to which **clause** 17.11.2 above applies. On receipt of such notice the Indemnifier shall promptly take all steps necessary to transfer the conduct of such claim to the Beneficiary, and shall provide to the Beneficiary all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim. If the Beneficiary gives any notice pursuant to this **clause** 17.11.5 then the Indemnifier shall be released from any liability under its indemnity under **clause** 17 (as the case may be) and,

without prejudice to any accrued liabilities, any liability under its indemnity given pursuant to **clause** 17.11.2 in respect of such claim;

- 17.11.6 if the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity, the Beneficiary shall forthwith repay to the Indemnifier whichever is the lesser of:
- (a) an amount equal to the sum recovered (or the value of the saving or benefit obtained) less any out of pocket costs and expenses properly incurred by the Beneficiary in recovering the same; and
 - (b) the amount paid to the Beneficiary by the Indemnifier in respect of the claim under the relevant indemnity; and
- 17.11.7 any body taking any of the steps contemplated by **clauses** 17.11.2 to 17.11.5 shall comply with the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement.

18. THE DISPOSAL CONTRACTS

- 18.1 The Administering Authority shall be responsible for the management, monitoring and administration of the Disposal Contracts.
- 18.2 The Partner Authorities acknowledge the provisions of paragraph 2.5 of the Constitution that the Board shall not make any decisions the effect of which would be to put the Administering Authority in breach of the Principal Contracts.
- 18.3 The Partner Authorities acknowledge that any decision by the Board which puts the Administering Authority in breach of the Disposal Contracts shall not be effective and that any costs or losses incurred by the Administering Authority arising from any decision of the Board which puts the Administering Authority in breach of the Disposal Contracts shall be apportioned between the Partner Authorities in accordance with the principles set out in **Schedule** 5 (Budget and cost sharing agreement).
- 18.4 In the event of the replacement or removal of the County Council as Administering Authority in accordance with **clause** 7, the Disposal Contracts shall not be novated or assigned and the County Council shall retain all its obligations, benefits and liabilities under the Disposal Contracts.

19. COLLECTION CONTRACT

- 19.1 The Administering Authority shall enter into the Collection Contract on behalf of the Board and each of the other Partner Authorities.
- 19.2 Each Partner Authority acknowledges that it accepts the terms of and agrees to be bound by the Collection Contract.
- 19.3 The Partner Authorities agree that the provisions of this **clause** 19 and **Schedule** 7 (Collection Contract) shall apply in respect of the administration of the Collection Contract.
- 19.4 The Administering Authority shall (acting as a reasonable local authority) administer the Collection Contract in accordance with its terms.

- 19.5 The Administering Authority shall indemnify the other Partner Authorities in respect of any claims, losses or liabilities incurred by a Partner Authority as a result of the Administering Authority:
- 19.5.1 wilfully breaching the terms of the Collection Contract;
 - 19.5.2 negligently administering the Collection Contract;
 - 19.5.3 failing to act as a reasonable local authority in administering the Collection Contract; and/or
 - 19.5.4 wilfully failing to ensure that the information compliance and enforcement requirements necessary for the Partner Authorities to meet their obligations under the Workforce Code are met.
- 19.6 Each of the other Partner Authorities hereby undertakes to pay to the Administering Authority its appropriate share of any additional costs, contributions to claims or liabilities which may arise as a result of the performance by the Administering Authority of its obligations under the Collection Contract in accordance with **clause 13** and the principles set out in **Schedule 5** (Budget and cost sharing agreement).
- 19.7 The Partner Authorities agree that any decision taken by the Board which puts the Administering Authority in breach of the Collection Contract shall not be implemented and that in the event that any costs or losses are incurred by the Administering Authority (arising from any decision of the Board which puts the Administering Authority in breach of the Collection Contract) they shall be apportioned between the Partner Authorities in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement).

20. REVIEW OF AGREEMENT

- 20.1 At any time any one or more of the Partner Authorities may seek a review of this Agreement and the operation of the Board and its performance of its functions and activities by giving notice thereof to the other Partner Authorities and to the Managing Director.
- 20.2 A meeting of the SMG shall be convened within 20 Business Days from the date of service of the Review Notice and the SMG in consultation with the Partner Authorities shall determine the terms of reference of the review and the person or persons (which may include members of the SMG or one or more of the Chief Executives) by whom it is to be conducted and the timescale for its completion.
- 20.3 On production of the Review Report copies thereof shall be supplied to the Board and each of the Partner Authorities for them to comment thereon in accordance with such reasonable timescale as the SMG shall decide.
- 20.4 On receipt of comments from each of the Partner Authorities within the timescale referred to in **clause 20.3** (or any extension thereof agreed by or on behalf of the SMG), the Board shall meet to consider the content and recommendations of the Review Report in the light of the comments received from the Partner Authorities and determine the amendments (if any) it recommends should be made to this Agreement or to the operation of or the services managed by the Board and report to the Partner Authorities with its recommendations.
- 20.5 Where the Board proposes any amendments in accordance with **clause 20.4** above, the Managing Director shall forthwith notify the Chief Executive of each of the Partner Authorities of such proposal. Each Partner Authority shall have a period of 25 Business Days from receipt of the proposal in which to consider it and where a Partner Authority (acting reasonably) considers the proposed amendment is a Material Change it shall forthwith notify the Managing Director.

- 20.6 Where no Partner Authorities serve notice (in accordance with **clause** 20.5) on the Managing Director, the Board may implement such proposed amendment, acting on behalf of and with the authority of the Partner Authorities. Provided that where the proposed amendment involves a variation to this Agreement it shall require the written approval of all of the Partner Authorities in accordance with **clause** 30.
- 20.7 Where one or more of the Partner Authorities has notified the Managing Director that it considers the proposed amendment is a Material Change under **clause** 20.5, the Board shall not implement such amendment unless and until each notifying Partner Authority has approved the proposed amendment and informed the Managing Director that it has approved such proposed amendment or not.

21. CONFIDENTIALITY

Confidentiality

- 21.1 Without prejudice to **clause** 21.2 and subject to **clauses** 21.4 to 21.8, each Partner Authority shall during the currency of this Agreement and at all times following termination keep private and confidential and shall not use or disclose (whether for its own benefit or that of any third party) save as provided by this Agreement any confidential information about the business of or belonging to any other Partner Authority or any party to the Principal Contracts or other contract entered into on behalf of the Board which has come to its attention as a result of or in connection with this Agreement or the functions or operation of the Board provided always that this obligation shall not relate to any such information which:
- 21.1.1 comes into the public domain or is subsequently disclosed to the public (other than through default on the part of the relevant Partner Authority or any other person to whom the Partner Authority is permitted to disclose such information under this Agreement); or
- 21.1.2 is required to be disclosed by law (including, but not limited to, any request of or inquiry by the Information Commissioner); or
- 21.1.3 was already in the possession of the Partner Authority (without restrictions as to its use) on the date of receipt.
- 21.2 Each Partner Authority shall be entitled to use or disclose any confidential information about the content or operation of this Agreement insofar as this is reasonably necessary for the discharge of that Partner Authority's functions.
- 21.3 Each Partner Authority acknowledges that any other of the Partner Authorities may be obliged to disclose information relating to this Agreement pursuant to a request for such information made by a third party under the FOI Act or the EIR as the case may be (a "**Request**").
- 21.4 Where a Partner Authority (the "**Requesting Party**") receives a Request in relation to information in another Partner Authority's possession, the Requesting Authority shall notify the relevant Partner Authority (the "**Receiving Party**") in writing of the Request and the Receiving Party shall provide that Requesting Party at no charge with any information which is in the Receiving Party's possession and such other assistance as the Requesting Party may reasonably require which is needed from the Receiving Party to enable it to respond to the Request.
- 21.5 Where a Requesting Party requires information from a Receiving Party as envisaged by **clause** 21.4, the Requesting Party shall notify the Receiving Party in writing as soon as possible, after receiving the Request, of the information and/or assistance required, the form in which it should be provided and the date by which it is needed. The Receiving Party shall provide the information to the Requesting Party in accordance with the Requesting Party's notice. The

Receiving Party shall notify the Requesting Party forthwith if it does not hold the requested information.

- 21.6 The Partner Authorities shall not disclose any information relating to this Agreement or the Principal Contracts that it considers in its unfettered discretion, is exempt as described in Part II of the FOI Act or Part II of the EIR (as the case may be).
- 21.7 A Receiving Party shall not respond directly to any Request notified to it pursuant to **clause** 21.4 unless expressly authorised to do so by the Requesting Partner.
- 21.8 A Requesting Party shall notify the Receiving Authority as soon as practicable but in any event within five Business Days of receiving the Request.
- 21.9 A Partner Authority shall inform the other Partner Authorities in writing as soon as reasonably practicable (and in any event within five Business Days) whenever it receives a Request relating to this Agreement setting out:
- 21.9.1 the nature of the Request;
 - 21.9.2 where possible, the identity of the person making the Request;
 - 21.9.3 what information relating to this Agreement is covered by the Request;
 - 21.9.4 whether and to what extent the relevant Partner Authority intends to disclose the information requested (including the intention to disclose any information relating to this Agreement); and
 - 21.9.5 a reasonable timescale in which the other Partner Authorities may make any representations to the Partner Authority receiving the Request.
- 21.10 Subject to **clauses** 18.3 and 19.7, a Partner Authority shall not be responsible to the other Partner Authorities for any loss, damage, harm or detriment howsoever caused, arising from or in connection with the disclosure of any information in respect of any Request.

Announcements

- 21.11 Subject to the terms of this Agreement, a Partner Authority shall not make any public statement or issue any press release or publish any other public document relating to, connected with or arising out of this Agreement or the matters contained therein without obtaining the other Partner Authorities' prior approval as to the contents thereof and the manner of its presentation and publication.
- 21.12 The provisions of this **clause** 21 shall survive termination or expiry of this Agreement.

22. EQUAL OPPORTUNITIES

- 22.1 The Board shall adopt a policy to comply with its statutory obligations under the Race Relations Act 1976 (as amended), the Sex Discrimination Act 1975 (as amended), the Disability Discrimination Act 1995 (as amended), the Equality Act 2006, the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Sex Discrimination) Regulations 2005, the Employment Equality (Age) Regulations 2006, or any other relevant legislation relating to discrimination in the employment of employees and accordingly will not unlawfully treat one group of people less favourably than others because of their colour, race, disability, sex, sexual orientation, nationality, ethnic origin or age in relation to decisions to recruit, train, promote, discipline or dismiss its personnel.

- 22.2 In the event of any finding of unlawful discrimination being made against the Board, the Administering Authority or a contractor of the Administering Authority in respect of any matter relating to this Agreement by any court or industrial tribunal, or of any adverse finding in any formal investigation by the Commission for Equality and Human Rights the Administering Authority shall inform the other Partner Authorities of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 22.3 The Board or as the case may be the Administering Authority shall, on request, provide the other Partner Authorities with details of any steps taken under **clause** 22.2.
- 22.4 The Board or, as the case may be, the Administering Authority shall set out its policy on the prevention of unlawful discrimination:
- 22.4.1 in instructions to those concerned with recruitment, training and promotion;
- 22.4.2 in documents available to its personnel, recognised trade unions or other representative groups of its personnel; and
- 22.4.3 in recruitment advertisements and other literature.
- 22.5 The Board or as the case may be the Administering Authority shall observe as far as possible, and at least in accordance with the Administering Authority's published criteria, the Code of Practice relevant to employment matters issued by the Commission for Equality and Human Rights (or its predecessor organisations).
- 22.6 The Board or as the case may be the Administering Authority shall provide such information as the other Partner Authorities may reasonably request for the purpose of assessing the compliance of the Board or as the case may be the Administering Authority with this **clause** 22.
- 22.7 The Board or as the case may be the Administering Authority shall procure that any contractors or sub-contractors (including the contractors and sub-contractors under the Principal Contracts) providing services to the Partner Authorities comply with the obligations set out in **clauses** 22.1 and 22.3 to 25.5 (inclusive).

23. LOCAL COMMISSIONER

- 23.1 Where any investigation by the Commission for Local Administration in England takes place the Partner Authorities shall:
- 23.1.1 provide any information requested in the timescale allotted;
- 23.1.2 attend any meetings as required and permit their personnel so to attend;
- 23.1.3 promptly allow access to and investigation of any documents deemed to be relevant;
- 23.1.4 allow themselves and any employee deemed to be relevant to be interviewed;
- 23.1.5 allow themselves and any employee to appear as witnesses in any ensuing proceedings; and
- 23.1.6 co-operate fully and promptly in every way required by the Commission during the course of that investigation.

24. DATA PROTECTION

- 24.1.1 In relation to all Personal Data, the Board, the Administering Authority and the other Partner Authorities shall at all times comply with the DPA as a data controller if necessary, including

maintaining a valid and up to date registration or notification under the DPA covering the data processing to be performed in connection with this Agreement.

24.1.2 The Board or as the case may be the Administering Authority and the other Partner Authorities shall only undertake processing of Personal Data reasonably required in connection with this Agreement and shall not transfer any Personal Data to any country or territory outside the EEA.

24.1.3 The Board, the Administering Authority and the other Partner Authorities shall not disclose Personal Data to any third parties other than:

(a) to the other Partner Authorities to whom such disclosure is reasonably necessary in order for the other Partner Authorities to carry out their obligations under this Agreement; or

(b) to the extent required under a court order,

provided that disclosure under **clause** 24.1.3(a) is made subject to written terms substantially the same as, and no less stringent than, the terms contained in this **clause** 24 and that the Board, the Administering Authority and the other Partner Authorities shall give notice in writing to the other Partner Authorities of any disclosure of Personal Data which any Partner Authority is required to make under **clause** 24.1.3(b) immediately upon becoming aware of such a requirement.

24.1.4 The Board, the Administering Authority and the other Partner Authorities shall bring into effect and maintain all technical and organisational measures to prevent unauthorised or unlawful processing of Personal Data and accidental loss or destruction of, or damage to, Personal Data including taking reasonable steps to ensure that staff who have access to the Personal Data are adequately trained and competent.

24.2 Indemnity

Each of the Partner Authorities shall indemnify and keep indemnified the other Partner Authorities against all losses, claims, damages, liabilities, costs and expense (including reasonable legal costs) incurred by them in respect of any breach of this **clause** 24 by any act or omission of that Partner Authority.

25. WAIVER AND SEVERABILITY

25.1 Waiver

25.1.1 No term or provision of this Agreement shall be considered as waived by any Partner Authority unless a written waiver is given by that Partner Authority.

25.1.2 No waiver under **clause** 25.1.1 shall be a waiver of a past or future default or breach, nor shall it amend, delete or add to the terms, conditions or provisions of this Agreement unless (and then only to the extent) expressly stated in that waiver.

25.2 Severability

If any term, condition or provision of this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality and enforceability of the other provisions of or any other documents referred to in this Agreement.

26. NO PARTNERSHIP

- 26.1 Nothing in this Agreement is to constitute or be deemed a partnership within the meaning of the Partnership Act 1890, the Limited Partnerships Act 1907, the Limited Liability Partnerships Act 2000 or any other legislation concerning partnerships or limited liability partnerships.
- 26.2 None of the Partner Authorities shall hold itself out as the agent of any one or more of the other Partner Authorities or to have any authority to bind any one or more of the other Partner Authorities except to the extent that this Agreement expressly provides otherwise.

27. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

28. ENTIRE AGREEMENT

Except where expressly provided in this Agreement, this Agreement constitutes the entire agreement between the Partner Authorities in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement.

29. EXTENT OF OBLIGATIONS AND FURTHER ASSURANCE

- 29.1 Nothing in this Agreement is to require any of the Partner Authorities to act in any way that is inconsistent with its obligations or duties as a local authority.
- 29.2 Each of the Partner Authorities undertakes (subject to **clause** 29.1) to do all things and execute all further documents that may reasonably be required by one or more of the other Partner Authorities to give effect to this Agreement.

30. VARIATIONS

Subject to the express provisions of this Agreement, no variation of this Agreement will be valid or effective unless agreed unanimously by the Partner Authorities and recorded in writing.

31. PREVENTION OF CORRUPTION

31.1 Corrupt gifts and fraud

Each Partner Authority warrants that in entering into this Agreement it has not committed any Prohibited Act.

31.2 Termination for corrupt gifts and fraud

- 31.2.1 If a Partner Authority or a SWB Member (or anyone employed by or acting on behalf of any of them) or any of its or their agents commits any Prohibited Act, then any Partner Authority shall be entitled to act in accordance with the provisions of this **clause** 31.
- 31.2.2 Upon discovering that a Prohibited Act has occurred any Partner Authority may serve notice on the Managing Director of the Prohibited Act that has occurred and the Partner Authority affected. Upon receiving such notice of a Prohibited Act the Managing Director shall serve a

notice on the Chief Executive of the Partner Authority subject to the Prohibited Act copied to the Chief Executives of all of the other Partner Authorities (a "**Notice of a Prohibited Act**").

- 31.2.3 Upon receipt of a Notice of a Prohibited Act the Partner Authority subject to the Prohibited Act shall have 3 months to take such steps and actions as are reasonable and are agreed by the Board taking account of the nature of the Prohibited Act which may include suspending the relevant employee and taking action under the Partner Authority's disciplinary procedure or where the Prohibited Act relates to an SWB Member removing its SWB Member from the Board.
- 31.2.4 Where a Partner Authority fails to take action in accordance with clause 31.2.2 the other Partner Authorities shall meet to decide what further action to take against the Partner Authority and may by unanimous vote agree to:
- (a) where the Partner Authority subject to a Notice of a Prohibited Act is the Administering Authority the Administering Authority shall be removed and the provisions of **clause 7.2** (Removal of the Administering Authority) and **schedule 3** (Change of Administering Authority) shall apply unless within 3 months of the vote the Administering Authority takes such steps and actions as are reasonable and are agreed by the Board in accordance with **clause 31.2.3**;
 - (b) where the Partner Authority subject to a Notice of a Prohibited Act is not the Administering Authority then the IAA shall terminate and the provisions of **clause 15** (Dissolution of the Board) shall apply unless within 3 months of the vote the Partner Authority subject to a Notice of a Prohibited Act takes such steps and actions as are reasonable and are agreed by the Board in accordance with **clause 31.2.3**; or
 - (c) take such other action or steps as are reasonable taking into account the nature of the Prohibited Act and its effect on the Board.

32. DISPUTE RESOLUTION

- 32.1 Any dispute arising from the interpretation and operation of this Agreement shall in the first instance be referred to the SMG, which shall, acting in good faith, attempt to resolve such dispute.
- 32.2 Where either the SMG is unable to resolve such dispute, or where in the opinion of the SMG such dispute might be more effectively resolved in another forum, the SMG may refer such dispute to the following bodies/forums (listed in order of referral) until such dispute is resolved:
- 32.2.1 a meeting of the Chief Executives and/or leaders of each of the Partner Authorities; then
 - 32.2.2 a mediator appointed by the Partner Authorities in accordance with **clause 32.3**; then
 - 32.2.3 an arbitrator appointed by the Partner Authorities in accordance with **clause 32.4**.
- 32.3 **Mediation**
- 32.3.1 A referral of a dispute to mediation shall be in accordance with the CEDR Model Mediation Procedure.
 - 32.3.2 If the Partner Authorities cannot agree on a mediator, the Partner Authorities shall appoint a mediator nominated by CEDR.
 - 32.3.3 The Partner Authorities shall use their reasonable endeavours to conclude the mediation within 40 Business Days of referral of the dispute to mediation.
 - 32.3.4 The Partner Authorities shall each bear their own costs incurred in relation to any mediation and any costs incurred by the Administering Authority acting on behalf of the Board shall be

shared in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement).

32.4 Arbitration

- 32.4.1 If the dispute is not resolved in accordance with **clause 32.3** within 40 Business Days of referral of the dispute to mediation, any Partner Authority may (by service of a written notice on the other Partner Authorities within 10 Business Days of expiry of the period for mediation) refer the dispute to an arbitrator who shall be of not less than 10 years standing or qualification.
- 32.4.2 If the Partner Authorities cannot agree on an arbitrator within 15 Business Days of service of the written notice referred to in **clause 32.4.1** above, the Partner Authorities shall appoint an arbitrator nominated by the President for the time being of the Chartered Institute of Arbitrators.
- 32.4.3 Any reference to arbitration in accordance with this **clause 32.4** shall be conducted in accordance with the Rules of the London Court of International Arbitration and the arbitration shall be held at a venue agreed by the arbitrator.
- 32.4.4 The arbitrator's decision shall be final and binding on the parties.
- 32.4.5 The costs of the arbitration shall be paid as directed by the arbitrator.

33. GOVERNING LAW AND ENFORCEMENT

This Agreement shall be governed by and construed in all respects in accordance with the laws of England and Wales. Subject to **clause 32**, the English courts shall have exclusive jurisdiction to settle any disputes that may arise out of or in connection with this Agreement.

34. NOTICES

34.1 Form and service of notices

All notices under this Agreement shall be in writing and all certificates, notices or written instructions to be given under the terms of this Agreement shall be served by sending the same by first class post, facsimile or by hand, or leaving the same at:

The Board

County Hall, Taunton, Somerset TA1 4DY

01823 356113

Partner Authority

Somerset County Council

County Hall, Taunton, Somerset TA1 4DY

01823 356113

Partner Authority

Mendip District Council

Cannards Grave Road, Shepton Mallet,
Somerset BA4 5BT

01749 344050

Sedgemoor District Council

Bridgwater House, Kings Square,
Bridgwater, Somerset TA6 3AR
01278 446412

South Somerset District Council

PO BOX 25, The Council Offices,
Brympton Way, Somerset BA20 2DS
01935 462188

Somerset West and Taunton Council

The Deane House, Bevedere Road,
Taunton, Somerset. TA1 1HE
01823 356329

34.2 Provision of information to representatives

Where any information or documentation is to be provided or submitted to the Clerk of the Board, a SWB Member or a Partner Authority's representative, it shall be provided or submitted by sending the same by first class post, facsimile or by hand, or leaving the same at the addresses set out in **clause** 34.1 marked for the attention of the Clerk of the Board, the relevant SWB Member, or the relevant Partner Authority's representative.

34.3 Change of details

A Partner Authority shall notify any change of its nominated address or facsimile number by prior notice to the other Partner Authorities.

34.4 Notices by post

Notices given by post shall be effective upon the earlier of actual receipt and five Business Days after mailing. Notices delivered by hand shall be effective upon delivery. Notices given by facsimile shall be deemed to have been received where there is confirmation of uninterrupted transmission by a transmission report and there has been no telephonic communication by the recipient to the senders (to be confirmed in writing) that the facsimile has not been received in legible form:

- 34.4.1 within two hours after sending, if sent on a Business Day between the hours of 9 a.m. and 4 p.m.; or
- 34.4.2 by 11 a.m. on the next following Business Day, if sent after 4 p.m. on a Business Day but before 9 a.m. on that next following Business Day.

35. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

IN WITNESS whereof this Agreement has been duly executed as a deed and has been delivered on the date that appears at the front of this Agreement.

The Common Seal of)
SOMERSET COUNTY COUNCIL)
was hereunto affixed in the presence of: Page)83

The Common Seal of)
MENDIP DISTRICT COUNCIL)
was hereunto affixed in the presence of:)

Authorised Officer

The Common Seal of)
SEDGEMOOR DISTRICT COUNCIL)
was hereunto affixed in the presence of:)

Authorised Signatory

The Common Seal of)
SOUTH SOMERSET DISTRICT COUNCIL)
was hereunto affixed in the presence of:)

Authorised Signatory

The Common Seal of)
SOMERSET WEST AND TAUNTON COUNCIL)
was hereunto affixed in the presence of:)

Chief Solicitor

SCHEDULE 1

The Constitution

SCHEDULE 2

Transition arrangement

1. DEFINITIONS

Definitions used in this **Schedule 2** shall be the same as those set out in the Agreement, with the following additional definitions:

"Relevant Employees"

means employees who are assigned (for the purposes of TUPE) to the provision of the management of waste disposal, treatment, collection and recycling services or any services which are substantially the same as the management of waste disposal, treatment, collection and recycling services or any part thereof (including for the avoidance of doubt the Transferring Employees);

"Relevant Transfer"

means a relevant transfer for the purposes of TUPE;

"Transfer Date"

means the Commencement Date;

"Transferring Employees"

means those employees employed by the Partner Authorities immediately prior to the Transfer Date in the provision of the management of waste disposal, treatment, collection and recycling services, whose names are listed in **Part 2 of Appendix 2** (Transferring Employees);

2. TRANSFER OF ASSETS

- 2.1 The assets required by the Collection Contractor are identified in the list attached as **Appendix 1** to this **Schedule 2** and shall be transferred at nil cost from the relevant Partner Authorities into the possession and ownership of the Administering Authority on the service commencement date of the Collection Contract in order that they can be made available by the Administering Authority to the Collection Contractor in accordance with the Collection Contract.
- 2.2 Where any additional assets are required to be transferred to the Administering Authority, the relevant Partner Authority(ies) shall promptly cooperate with the Board in the transfer of such assets to the Administering Authority.

3. TRANSFER OF EMPLOYEES

3.1 **Application of TUPE**

The Partner Authorities agree that TUPE applies to this Agreement, whether or not it shall be determined by an employment tribunal or a court of any instance or jurisdiction that TUPE does not apply as a matter of law.

3.2 **Administering Authority's responsibilities**

The Administering Authority shall:

- 3.2.1 subject to the right of any Transferring Employee to object to being employed by the Administering Authority, accept into employment the Transferring Employees on 0:01am on the Transfer Date upon the same terms and conditions of employment and length of service as they enjoyed immediately prior to the Transfer Date;
- 3.2.2 become responsible for the payment of all salaries and provision of other contractual benefits (including those implied through custom and practice) and making any deductions from the salaries of any Relevant Employees with effect from the Transfer Date.
- 3.2.3 If any contract of employment of a person other than a Transferring Employee has effect as if originally made between the Administering Authority and such person as a result of TUPE, then the Administering Authority will consult with the Board to establish whether the person shall be deployed within the Single Client Group or be given notice to terminate such contract of employment where such action is permitted by law.

3.3 **Partner Authorities' responsibilities**

The Partner Authority who employed the relevant Transferring Employees immediately prior to the Transfer Date shall be responsible for all emoluments and outgoings in respect of the relevant Transferring Employees, including without limitation all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and otherwise, up to the Transfer Date (whether or not due for payment at the Transfer Date).

4. **EXISTING CONTRACTS FOR WASTE COLLECTION AND RECYCLING**

- 4.1 The Partner Authorities acknowledge that apart from the County Council each Partner Authority has in place existing arrangements for the provision of waste collection and recycling services, which will come to an end upon the service commencement date of the Collection Contract.
- 4.2 Each Partner Authority shall remain responsible for its current waste collection and recycling arrangements until the service commencement date under the Collection Contract or such other date as agreed by the Partner Authorities in consultation with the Board.
- 4.3 Each Partner Authority shall have due regard to any comments made by the Board in respect of the operation of its current waste collection and recycling services and shall not make any significant change to its current arrangements without consulting the Board.

5. **DEPOTS**

- 5.1 The Partner Authorities each acknowledge that the Administering Authority needs to secure access from the relevant Partner Authorities to the depots required by the Collection Contractor under the Collection Contract.
- 5.2 Each relevant Partner Authority shall promptly grant, in accordance with **clause 6.8**, to the Administering Authority or to the Collection Contractor as directed by the Managing Director such tenancy at will or lease (in a form to be agreed by the relevant Partner Authority and the Administering Authority) of the relevant depot or part thereof and take such steps as are required to secure access for the Collection Contractor to perform the Collection Contract from the service commencement date for the Collection Contract.

- 5.3 Where a Partner Authority grants only temporary access to the relevant depot or part thereof under **paragraph 5.2** above it shall subsequently grant a lease to the Administering Authority and give consent to the grant of an underlease to the Collection Contractor (in forms to be agreed by the relevant Partner Authority and the Administering Authority) of the relevant depot or part thereof in accordance with **clause 6.8**.

SCHEDULE 3

Change of Administering Authority

PART 1

1. INTRODUCTION

- 1.1 This **Schedule 3** describes the duties and responsibilities of the Partner Authorities in respect of the transfer of the rights and obligations from the Outgoing Administering Authority to the Replacement Administering Authority (as defined below).
- 1.2 Definitions used in this **Schedule 3** shall be the same as those set out in the Agreement, with the following additional definitions:

"Administering Authority Obligations"

means the obligations of the Administering Authority under this Agreement which for the avoidance of doubt shall include the Collection Contract Obligations;

"Board Assets"

means any assets purchased by the Outgoing Administering Authority using the funds of the Board (including any assets transferred at the Commencement Date);

"Collection Contract Obligations"

means the obligations of the Administering Authority as party to the Principal Contracts (excluding the Disposal Contracts);

"Exit Assistance"

means the provision of advice, training, assistance, information, data (and format thereof) and actions as are reasonably requested by the Replacement Administering Authority to effect a smooth transfer (and continued operation) of any of the Administering Authority Obligations from the control and provision of the Outgoing Administering Authority to the Replacement Administering Authority;

"Exit Plan"

means the agreed plan for the transfer and transition arrangements, setting out the timetable and scope of required activities as set out in this **Schedule 3**, for transferring all or part of the Administering Authority Obligations from the control and provision by the Outgoing Administering Authority to the control and provision of the Replacement Administering Authority;

"Exiting Employee"

means an Outgoing Administering Authority Employee who is listed in the Exiting Employees List and who is intended to transfer to a Replacement Administering Authority on a Handover Date;

"Exiting Employees List"

means the list of Outgoing Administering Authority Employees agreed between the Outgoing Administering Authority and the Replacement Administering Authority in accordance with this **Schedule 3** (as such list is updated before the relevant Handover Date by agreement between the Parties);

"Exiting Personnel"

means a member of the Outgoing Administering Authority Personnel who is listed in the Exiting Personnel List;

"Exiting Personnel List"

means the list of Exiting Personnel agreed between the Outgoing Administering Authority and the Replacement Administering Authority in accordance with this **Schedule 3** (as such list is updated before the relevant Handover Date by agreement between the Parties);

"Handover Date"

means the date of transfer from the Outgoing Administering Authority to the Replacement Administering Authority in accordance with this **Schedule 3**;

"Key Personnel"

means the positions and/or individuals of the Outgoing Administering Authority Personnel identified by the Replacement Administering Authority from time to time, and agreed with the Outgoing Administering Authority, as important to the provision of the Administering Authority Obligations;

"Novation Date"

means the date of novation of the Collection Contract to the Replacement Administering Authority in accordance with this **Schedule 3** and the Collection Contract;

"Novation Notice"

means the notice served on the Collection Contractor in accordance with this **Schedule 3** and the Collection Contract;

"Ordinary Course of Business"

means either:

- (a) acts, omissions or conduct which are consistent in all respects with the prevailing pattern, or course of conduct, or management used by the Outgoing Administering Authority in the delivery of the Administering Authority Obligations or which are undertaken in order to comply with the applicable obligations under this Agreement; or
- (b) acts, omissions or local conduct which a well-managed local authority would undertake (assuming that such local authority is acting in a prudent and reasonable manner) in relation to the delivery of the Administering Authority Obligations, or which are undertaken in order to comply with all applicable obligations under this Agreement;

"Outgoing Administering Authority Assets"

means together:

- (a) those assets owned by the Outgoing Administering Authority prior to the commencement of this Agreement and used for the purposes of performing its functions as a local authority and which have not been subject to a payment or compensation from the other Partner Authorities; and
- (b) any assets purchased by the Outgoing Administering Authority whilst performing its functions as Administering Authority using its own funds;

"Outgoing Administering Authority Employees"

means any employee of the Outgoing Administering Authority assigned from time to time to deliver or assist in delivering all or part of the Administering Authority Obligations. For the avoidance of doubt, in this definition the term **"assigned"** shall have the meaning conferred upon it under TUPE;

"Outgoing Administering Authority"

means the Administering Authority that has resigned or that the Partner Authorities have agreed to replace in accordance with **clause 7**;

"Outgoing Administering Authority Personnel"

means the Outgoing Administering Authority Employees and any officers, consultants, contractors, workers and agents of the Outgoing Administering Authority assigned from time to time to deliver or assist in delivering all or part of the Administering Authority Obligations, or to fulfil its obligations under this Agreement. For the avoidance of doubt, in this definition the term **"assigned"** shall have the meaning conferred upon it under TUPE;

"Outgoing Administering Authority Personnel Information"

means such information concerning the Outgoing Administering Authority Personnel as the Replacement Administering Authority shall reasonably request from time to time including:

- (a) regarding each member of the Outgoing Administering Authority Personnel, identified by a unique reference number or code which shall remain the same each time the Outgoing Administering Authority Personnel Information is provided by the Outgoing Administering Authority to the Replacement Administering Authority: type of worker (self-employed contractor, contractor employed by a third party, agency staff or other); current employer; start date and (if different) date of commencement of continuous employment; job title and post held; the delivery of the Administering Authority Obligations in which the Outgoing Administering Authority Employee is engaged; current salary or hourly rate, all overtime, shift and other allowances, and any bonus or commission earned in the last twelve months; date of next salary review and percentage increase in last review; length of service; notice period for termination of employment (stating any difference between the notice given by the employer or employee); date of birth; location; hours of work; contract type (permanent or temporary); percentage of working time spent on the Administering Authority Obligations; holiday entitlement; benefits (including without limitation health insurance, life insurance, sickness benefits, car, bonus, commission) and total benefit cost; pension membership and pension cost (including employer contribution to pension scheme); entitlement to any enhanced redundancy benefits or payments. This Outgoing Administering Authority Personnel Information shall be presented in excel spreadsheet format or some other easily intelligible form acceptable to the Replacement Administering Authority; and

- (b) regarding all the Outgoing Administering Authority Personnel: total costs of the (i) salaries; (ii) benefits; (iii) social security and national insurance costs; and (iv) miscellaneous costs (such as staff loans and training grants) in respect of all the Outgoing Administering Authority Personnel; copies of any staff handbooks and policies applicable to them; terms and conditions of employment or engagement; copies of any agreement between the Outgoing Administering Authority and a trade union or labour organisation or employee representatives or details of any other arrangements for informing and consulting with Outgoing Administering Authority Personnel or representatives; positions vacant; death benefits; disability benefits; details of any applicable bonus schemes, commission arrangements; pay scales and structures; current or anticipated claims or other litigation or other disputes and details of any accidents, injuries or health and safety issues; details of any Outgoing Administering Authority Personnel on leave (including without limitation maternity leave, adoption leave and sick leave) including whether the individual is receiving contractual sick pay and, if so, when this entitlement expires;

"Parties"

means together the Outgoing Administering Authority and the Replacement Administering Authority;

"Replacement Administering Authority"

means the Partner Authority agreed by the Partner Authorities in accordance with **clause 7**.

PART 2

2. EXIT PLANNING

2.1 Date for provision of Exit Plan

2.1.1 The Outgoing Administering Authority shall provide the Replacement Administering Authority with a draft Exit Plan within:

- (a) 20 Business Days from the date of the written notification provided in accordance with **clause 7.1.1** where the Outgoing Administering Authority has decided to resign; or
- (b) 20 Business Days of the date of receipt of written notification provided in accordance with **clause 7.2.1** where the Partner Authorities have agreed to replace the Administering Authority.

2.1.2 The draft Exit Plan shall specify in detail how and when (having regard to the timescales set out in this **Schedule 3**) the Outgoing Administering Authority will fulfil all the obligations of this **Schedule 3** and any other obligations relating to exit in the Collection Contract.

2.1.3 The Replacement Administering Authority shall provide to the Outgoing Administering Authority the Replacement Administering Authority's reasonable comments on the draft Exit Plan within 20 Business Days of the Replacement Administering Authority's receipt of the draft Exit Plan. The Outgoing Administering Authority shall incorporate the Replacement Administering Authority's comments and suggestions and shall issue a revised version of the Exit Plan within 10 Business Days of receipt of the Replacement Administering Authority's reasonable comments and suggestions.

- 2.1.4 The Exit Plan shall not be effective until approved by the Replacement Administering Authority and the Board.
- 2.1.5 The Parties shall review and update the Exit Plan in consultation with the Board and the SMG as appropriate up to and including the Handover Date.
- 2.2 **Exit Management Roles**
- 2.2.1 Each Party shall appoint a suitable individual to manage the exit process (an "**Exit Manager**").

PART 3

3. EXIT ARRANGEMENTS

3.1 Date for provision of Exit Assistance

- 3.1.1 The Outgoing Administering Authority shall provide the Exit Assistance and fulfil all the obligations set out in this **Schedule 3** within 40 Business Days of:
- (a) where the Outgoing Administering Authority has decided to resign, the date of the written notification provided in accordance with **clause 7.1.1**; or
 - (b) where the Partner Authorities have agreed to replace the Administering Authority, the date of receipt of written notification provided in accordance with **clause 7.2.1**.
- 3.1.2 The obligation to provide the Exit Assistance and fulfil all the obligations of this **Schedule 3** from the relevant date is independent of and not contingent upon the Parties having an agreed form of Exit Plan in place. Where there is an agreed Exit Plan in place, the Outgoing Administering Authority shall provide to the Replacement Administering Authority and to the Board weekly reports of progress against the Exit Plan and of any problems, anticipated problems and delays and of any appropriate actions to be taken by the Outgoing Administering Authority in response.
- 3.1.3 At the Board or the Replacement Administering Authority's request, the Outgoing Administering Authority shall continue to provide the Exit Assistance and continue with the implementation of the Exit Plan for a period of up to six months (or such longer period as the Replacement Administering Authority may request) from the Handover Date.

3.2 Option to purchase or use Outgoing Administering Authority Assets

- 3.2.1 The Outgoing Administering Authority shall prepare a list of the Outgoing Administrating Authority Assets and the Board Assets as part of the Exit Plan.
- 3.2.2 Upon the Handover Date, at the direction and discretion of the Replacement Administering Authority in consultation with the Board:
- (a) the Replacement Administering Authority shall have the option to acquire through purchase all or any of the Outgoing Administering Authority Assets excluding land and buildings and software in consideration of the payment by the Replacement Administering Authority of the net book value of these assets; or
 - (b) the Replacement Administering Authority shall have the option where possible to continue to use such assets.
- 3.2.3 The Outgoing Administering Authority shall immediately transfer any Board Assets to the Replacement Administering Authority and the provisions of **paragraph 3.2.6** shall apply to such assets as if they were transferring Outgoing Administering Authority Assets.

3.2.4 Either option set out in **paragraph** 3.2.2 above shall be exercisable by the Replacement Administering Authority by service of notice upon the Outgoing Administering Authority as soon as possible and no later than 20 Business Days prior to the Handover Date, and the option shall take effect on the Handover Date.

3.2.5 Within five Business Days of receipt of notice from the Replacement Administering Authority that it shall exercise an option set out in **paragraph** 3.2.2 above, the Outgoing Administering Authority shall appoint an independent expert agreed by the Replacement Administering Authority to review and report on the condition and proposed value of the Outgoing Administering Authority Assets. The Outgoing Administering Authority shall provide a copy of the report to the Replacement Administering Authority and the Board and the costs of the expert will be borne by the Outgoing Administering Authority.

3.2.6 Whenever, pursuant to this **paragraph** 3.2, the Outgoing Administering Authority transfers Outgoing Administering Authority Assets to the Replacement Administering Authority, the Outgoing Administering Authority shall ensure that:

- (a) the Replacement Administering Authority is provided with all relevant and available documentation, user manuals and other such information; and
- (b) the Replacement Administering Authority is provided with full and unencumbered title (with full title guarantee) to the Outgoing Administering Authority Assets.

3.3 **Assignment or novation of third Party Contracts and Outgoing Administering Authority Subcontracts**

3.3.1 In relation to any third party contracts (other than the Collection Contract or the Disposal Contracts), where no third party consents are required to assign or novate such contracts, the Outgoing Administering Authority shall prepare and execute assignments or novations of such contracts to the Replacement Administering Authority.

3.3.2 Where a third party consent is required to assign or novate a contract, the Outgoing Administering Authority shall use all reasonable endeavours to procure such assignment or novation to the Replacement Administering Authority and do all other things reasonably necessary to obtain such third party consents.

3.3.3 Where a third party consents to the assignment or novation of a contract, the Partner Authorities will pay any fees charged by the third party in association with such assignment or novation in accordance with the principles set out in **Schedule** 5 (Budget and cost sharing agreement).

3.4 **Novation of the Collection Contract**

3.4.1 The Replacement Administering Authority shall serve a Novation Notice on the Collection Contractor stating that it wishes to enjoy the rights and assume the obligations, liabilities and duties of the Administering Authority under the Collection Contract and specifying the Novation Date not to be less than 30 Business Days from the date of service of the Novation Notice.

3.4.2 The Outgoing Administering Authority shall provide the Replacement Administering Authority with an up-to-date list of existing and/or threatened disputes relating to the obligations under the Collection Contract, and use its best endeavours to resolve such disputes. Where the dispute affects the interests of the Replacement Administering Authority and/or the Partner Authorities, the Outgoing Administering Authority shall not settle the dispute or accept any liability without consulting the Board and without the prior consent of the Replacement Administering Authority, such consent not to be unreasonably withheld or delayed.

3.5 **Software**

The Outgoing Administering Authority shall transfer (or shall use all reasonable endeavours to procure the transfer of) the ownership of or a licence to use any software required to perform the function of Administering Authority or to perform the obligations in this Agreement to the Replacement Administering Authority at no cost.

3.6 Accommodation

3.6.1 Upon the Handover Date, at the discretion of the Replacement Administering Authority, the Replacement Administering Authority shall have the option to use all or part of the Outgoing Administering Authority's accommodation for a period of up to 18 months from the Handover Date where termination has occurred as a result of **clause 7.1** or up to 12 months following the Handover Date where termination has occurred as a result of **clause 7.2**.

3.6.2 The option set out in **paragraph 3.6.1** above, shall be exercisable by the Replacement Administering Authority by serving notice upon the Outgoing Administering Authority as soon as possible following its appointment as the Replacement Administering Authority and no later than:

(a) three months prior to the Handover Date where notice has been served under **clause 7.1.1**; or

(b) two months prior to the Handover Date where notice has been served under **clause 7.2.1**

and shall take effect on the Handover Date.

3.6.3 The Outgoing Administering Authority shall make all or part of the Outgoing Administering Authority's accommodation available pursuant to the option, in consideration of the payment of a reasonable charge reflecting the market rate for the proportion of the Outgoing Administering Authority's accommodation used and the period of use. The Parties agree that (subject to this **paragraph 3.6.3**) such use shall be subject to such reasonable terms and conditions as are agreed between the Parties from time to time.

3.7 Intellectual property rights

3.7.1 The Outgoing Administering Authority shall at the reasonable request of the Board promptly execute such documents and take or desist from such action as the Board may reasonably require in order to assure to the Replacement Administering Authority the full benefit of any intellectual property created by the Outgoing Administering Authority in respect of the Administering Authority's Obligations and to confirm the Replacement Administering Authority's title thereto.

3.7.2 To the extent that it is permitted to do so, the Outgoing Administering Authority shall grant to the Replacement Administering Authority a licence to use any third party intellectual property rights used in the performance of the services and necessary for the provision of the services by the Replacement Administering Authority. To the extent that the Outgoing Administering Authority is not permitted to grant licences to the Replacement Administering Authority of any third party intellectual property rights, it shall use its reasonable endeavours to assist the Replacement Administering Authority to procure the necessary rights direct from the relevant third party(ies).

3.8 Exiting Employees

3.8.1 No later than:

(a) six months prior to the Handover Date where the Outgoing Administering Authority is resigning in accordance with **clause 7.1**; or

(b) three months prior to the Handover Date where the Outgoing Administering Authority is being replaced in accordance with **clause 7.2**,

the Outgoing Administering Authority shall provide the Replacement Administering Authority with a list of the names of all members of the Outgoing Administering Authority Personnel.

3.8.2 Within 30 Business Days of provision of the list described in **paragraph 3.8.1** above, the Outgoing Administering Authority and the Replacement Administering Authority shall agree: (a) the identity of the employees who would transfer under TUPE on the Handover Date and so should be included on the Exiting Employees List; and (b) the identity of any individuals who are not employees but are Key Personnel or who, if they had been employees, would have been members of the Exiting Employees List and so should be included on the Exiting Employees List. The Exiting Employees List may be updated from time to time by agreement and shall be finalised by the Parties immediately before the Handover Date.

3.8.3 The Parties agree the appointment of a Replacement Administering Authority is likely to result in a transfer on the Handover Date of the Exiting Employees' employment to the Replacement Administering Authority in accordance with TUPE.

3.8.4 In the event that TUPE does not for any reason operate to transfer to the Replacement Administering Authority the contracts of employment of any of the members of the Exiting Employees, the Replacement Administering Authority shall treat the Exiting Employees no less favourably than had TUPE applied and the Replacement Administering Authority will offer employment to the Exiting Employees from the Handover Date.

3.9 **Outgoing Administering Authority Information and Outgoing Administering Authority Personnel Exit Information**

3.9.1 During the period of:

(a) six months prior to the Handover Date where the Outgoing Administering Authority has resigned; and

(b) three months prior to the Handover Date where it has been agreed to replace the Outgoing Administering Authority;

the Outgoing Administering Authority shall provide the Replacement Administering Authority with the Outgoing Administering Authority Personnel Information.

3.9.2 The Outgoing Administering Authority shall notify the Replacement Administering Authority of any change to the Outgoing Administering Authority Personnel Information. The Outgoing Administering Authority shall clarify any matters in respect of the Outgoing Administering Authority Personnel Information and generally co-operate in respect of any reasonable requests by the Replacement Administering Authority concerning the Outgoing Administering Authority Personnel Information. In all such matters the Outgoing Administering Authority shall act as soon as reasonably practicable and in any event within 10 Business Days of any such change or request.

3.9.3 On the Business Day immediately before the Handover Date the Outgoing Administering Authority shall again provide to the Replacement Administering Authority the Outgoing Administering Authority Personnel Information complete and accurate as at the date of provision.

3.10 **Information and Consultation**

3.10.1 The Outgoing Administering Authority shall consult and keep informed the Replacement Administering Authority regarding any information it intends to provide or consultation it proposes to have with Outgoing Administering Authority Personnel and their representatives under TUPE or regarding its exit as Outgoing Administering Authority.

3.10.2 The Outgoing Administering Authority shall offer the Replacement Administering Authority the opportunity to attend and participate in any meetings prior to the Handover Date where information is given to or there is consultation with Outgoing Administering Authority Personnel and their representatives under TUPE or regarding it ceasing to be the Administering Authority. The Replacement Administering Authority shall co-operate with the Outgoing Administering Authority and shall discuss with the Outgoing Administering Authority in advance of any meeting any information which the Replacement Administering Authority is to impart to the Outgoing Administering Authority Personnel.

3.10.3 The Replacement Administering Authority and the Outgoing Administering Authority shall jointly report to the Board and the SMG (in a form to be agreed) before the Handover Date.

3.10.4 The Outgoing Administering Authority and the Replacement Administering Authority shall jointly communicate to the Exiting Employees in a form to be agreed by the Board before the Handover Date (in order to meet their respective obligations under TUPE).

3.11 **Outgoing Administering Authority Shadowing**

3.11.1 Either:

- (a) at least six months prior to the Handover Date where the Outgoing Administering Authority is resigning in accordance **clause 7.1**; or
- (b) no later than three months from receipt of written notice from the other Partner Authorities that they intend to replace the Administering Authority in accordance with **clause 7.2**,

the Outgoing Administering Authority shall provide reasonable assistance to the Replacement Administering Authority to familiarise itself with the delivery of the Administering Authority Obligations and this may include reasonable information on and access to:

- (c) relevant facilities including assets and accommodation;
- (d) the Outgoing Administering Authority Personnel;
- (e) the Key Personnel; and
- (f) the following information (subject to any overriding confidentiality obligations and licence restrictions):
 - (i) detailed system documentation; and
 - (ii) the key provisions of more significant decisions made about the Principal Contracts that would assist the Replacement Administering Authority in undertaking its duties; and
 - (iii) contact details for the Key Personnel and/or Outgoing Administering Authority Personnel; and
 - (iv) information regarding any unresolved disputes and those which are likely to remain unresolved at the Handover Date,

all of such information to be updated and finalised by the Outgoing Administering Authority at the Handover Date.

3.12 **General obligations**

3.12.1 No later than 20 Business Days following the Handover Date, and after the final payroll, the Outgoing Administering Authority shall provide the Replacement Administering Authority with updated payroll information and tax and statutory details for the Exiting Employees.

3.12.2 During the six months after the Handover Date, the Outgoing Administering Authority shall not, without the Replacement Administering Authority's prior consent, solicit from the

Replacement Administering Authority any Exiting Personnel or Exiting Employee. This restriction shall not apply to situations where such Exiting Personnel or Exiting Employee or person makes an unsolicited response to a general recruitment advertisement by the Outgoing Administering Authority.

3.12.3 The Outgoing Administering Authority shall fully co-operate with the Replacement Administering Authority's reasonable requests to procure the smooth transfer of the Exiting Employees and engagement of Exiting Personnel.

3.12.4 The Outgoing Administering Authority shall not prevent, restrict or hinder (or seek to do so) any Exiting Personnel member from working for the Replacement Administering Authority after the Handover Date if they so choose. The Outgoing Administering Authority shall waive any restrictions or financial penalties whether direct or indirect (including those in any staff benefits documentation) relating to the employment or engagement of Exiting Personnel by the Replacement Administering Authority.

3.13 **Employment warranties and indemnities**

3.13.1 The Outgoing Administering Authority warrants that as at the Handover Date:

- (a) full particulars of the Exiting Employees will have been disclosed together with all the current terms and conditions of their employment whether or not recorded in writing or implied by custom or practice or otherwise (including all information required by law to be included in particulars of terms of employment) including but without limitation: date of birth; date of commencement of employment; job title; remuneration; bonuses; commission; enhanced redundancy entitlement; pension schemes or pension rights and benefits; and all other arrangements and employment related claims, and the Outgoing Administering Authority shall warrant that all of such particulars are true and accurate and complete in all respects; and
- (b) it will have satisfied all ongoing and accrued liabilities of any nature for which it is liable as employer of the Exiting Employees.

3.13.2 In respect of any claims and/or losses arising directly or indirectly out of or in connection with:

- (a) a failure by the Outgoing Administering Authority to comply with its obligations under TUPE including without limitation any order to pay compensation or any award made pursuant to TUPE in connection with this Agreement or the termination of it including without limitation any claim for its or their failure to inform and/or consult pursuant to TUPE and any claim pursuant to sections 188 to 193 of the Trade Union and Labour Relations (Consolidation) Act 1992, provided the Outgoing Administering Authority's breach was not due to the failure of the Replacement Administering Authority to comply with its TUPE obligations;
- (b) any claim by or on behalf of Outgoing Administering Authority Employees arising from their employment with or its termination by the Outgoing Administering Authority except as provided in this **Schedule 3**;
- (c) any act or omission of the Outgoing Administering Authority in relation to the Outgoing Administering Authority Employees or the Outgoing Administering Authority Personnel;
- (d) any failure to provide or any inaccuracy in the Outgoing Administering Authority Personnel Information; and/or
- (e) any claim against the Replacement Administering Authority by or on behalf of any person other than the Exiting Employees whether on the basis that they are or may be an employee of the Replacement Administering Authority as a result of the termination

of this Agreement or otherwise and whether on the basis that TUPE applies or otherwise,

and such claims and/or losses arise as a result of a negligent act or omission of the Outgoing Administering Authority, the Outgoing Administering Authority shall indemnify and keep indemnified the Replacement Administering Authority in respect of such claims and/or losses. Where any such claims and/or losses arise which are not a result of a negligent act or omission of the Outgoing Administering Authority, the Partner Authorities shall share the amount of such claims and/or losses in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement).

- 3.13.3 If any contract of employment of a person other than an Exiting Employee has effect as if originally made between the Replacement Administering Authority and such person as a result of TUPE, then the Replacement Administering Authority will consult with the Board to establish whether the person shall be deployed within the Single Client Group or to give notice to such person to terminate such contract of employment where such action is permitted by law.

3.14 **Apportionments, information and general**

- 3.14.1 The Outgoing Administering Authority shall provide, as soon as practicable following the Handover Date, copies of all tax, PAYE, social security and national insurance records and, if requested by the Replacement Administering Authority, copies of any other documents or records (agreed by the Replacement Administering Authority and the Outgoing Administering Authority) which the Replacement Administering Authority thinks are relevant to the Exiting Employees provided that:

- (a) the Outgoing Administering Authority shall preserve the originals of such records or documents for a period of at least three years (or such longer period required by law) after the Handover Date and shall allow the Replacement Administering Authority access to the same at all reasonable times as necessary to enable the Replacement Administering Authority to deal with any matters relating to the Exiting Employees and any employees who transfer by TUPE and, if requested by the Replacement Administering Authority, shall produce them for the appropriate authorities; and
- (b) if the Outgoing Administering Authority wishes to dispose of or destroy such records or documents earlier, it shall inform the Replacement Administering Authority in advance and the Replacement Administering Authority may require any such records and documents to be delivered up to it.

3.15 **Bonuses and commission payments**

- 3.15.1 The Outgoing Administering Authority shall be responsible for the payment of any bonuses and commission to eligible Outgoing Administering Authority Personnel (including Exiting Employees and Exiting Personnel) payable in respect of the Administering Authority Obligations arising in respect of the final 12 months prior to the Handover Date where those bonuses or commissions are either deferred after the Handover Date or where an Exiting Employee or a member of the Exiting Personnel ceases to be eligible for such bonus or commission by reason of his transfer from the Outgoing Administering Authority. The Replacement Administering Authority will assume the outstanding obligation of the Outgoing Administering Authority in respect of the Exiting Employees' accrued holiday entitlements and accrued holiday remuneration at the Handover Date and in consideration the Outgoing Administering Authority will pay the full amount necessary to enable the Replacement Administering Authority to meet the cost of providing such holiday entitlements and remuneration as at the Handover Date.

3.16 **Ordinary Course of business**

- 3.16.1 From:
- (a) the date of the written notice provided in accordance with **clause 7.1.1**; or
 - (b) the date of receipt of written notice provided in accordance with **clause 7.2.1**,
- up to and including the Handover Date, the Outgoing Administering Authority shall:
- 3.16.2 not, without the Replacement Administering Authority's prior consent, act outside the Ordinary Course of Business;
- 3.16.3 devote time and resources to the continued delivery of the Administering Authority Obligations to ensure that there are no disruptions and no reductions in the level of service provided; and
- 3.16.4 notify the Replacement Administering Authority of matters of which it is aware which adversely affect the Outgoing Administering Authority Assets or the Outgoing Administering Authority Personnel.

SCHEDULE 4

Form of Annual Budget

SWB FORM OF ANNUAL BUDGET

Expenditure

Single Client Group

- Salaries & on-costs
- Travel & Subsistence
- Admin, training, meetings & IT
- Advertising & campaigns
- Office rent & accommodation
- SWAP Team

Support Services

- Legal
- Insurance
- Finance
- Audit
- Human Resources
- ICT
- Customer Services
- Other support services

Direct Services

Waste Disposal

- Disposal – Landfill
- Disposal – HWRCs
- Disposal - IVC (food waste)
- Disposal - Hazardous waste
- Composting

Kerbside Recycling

- Weekly (TDBC;MDC;SSDC)

Fortnightly (WSDC;SDC)

Cardboard Collection (WSDC)

Garden Waste Collections

Household Refuse

Fortnightly (TDBC;MDC;SSDC)

Weekly (WSDC;SDC)

Weekly (TDBC;MDC)

Household Refuse – Communal

Food Waste Transfer

Bring Banks

Strategic sites

Neighbourhood sites

Schools & SS Recycling

Clinical Waste

Household Collections

Other Collections

Clinical Waste Disposal

Bulky Waste Collections

Communal Recycling

Schools & SS Refuse

Commercial Waste

Commercial waste collection

Commercial waste disposal

SWB Directed Collections

Container Maintenance & Delivery

Internally and externally clean

'Basic Maintenance/repairs'

'Major Maintenance/repairs'

2 Wheeled Bin Repair

Delivery of Sort-it! New Household Kit

Delivery of Sort-it! New Household Kit

Delivery of 4 wheeled bins

Delivery of 2 wheeled bins

Delivery of Kerbside Box

Delivery of Food Waste Containers

Day Works

Admitted Body Pension Costs

Base pension cost

Incremental pension cost

Transitional Costs

Depot Costs

Bring Site Bin Financing

Schools Bin Financing

ECT Discount

Inter Authority Transfers

Transfer Station Avoided Cost

Payment in Lieu of Recycling Credits

Vehicle Financing Net Saving

Total Direct Expenditure

Income

Garden waste charges
Bulky waste charges
Hazardous waste grant
Commercial waste charges
DEFRA Waste Performance & Efficiency Grant
Schools & Social Services
Avoided Waste Transfer
Payment in Lieu of Recycling Credits

Total Income

Total Net Expenditure

SCHEDULE 5

Budget & Cost Sharing Agreement

Definitions

Definitions used in this **Schedule 5** shall be the same as those set out in the Agreement, with the following additional definitions:

"Communal Refuse Collection Capacity"

means the annual potential volume of communal waste collection in any Waste Collection Authority Area, calculated for the relevant Waste Collection Authority as the sum of:

T x F

Where:

T - total volume of communal refuse collection containers made available to residents at each collection site in a Waste Collection Authority Area; and

F - the annual number of collections made at each site;

"Communal Recycling Sites"

means micro recycling bring sites provided to households not suitable for kerbside collections;

"County"

means the area within the administrative boundaries of Somerset County Council;

"Earmarked Reserve Accounts"

means the account established by the Board in the name of each Partner Authority into which surpluses and deficits shall be allocated in accordance with the relevant cost sharing formula (for example, where a surplus is generated in the depot costs budget, it shall be allocated to the Earmarked Reserve Account of the Waste Collection

Authorities using the Waste Collection Authorities un-weighted formula as set out in **paragraph 3** of this **Schedule**);

"Neighbourhood Bring Sites"

means smaller recycling bring sites located in residential areas and catering for local communities;

"Payment in Lieu of Recycling Credits"

means the prevailing rate of contribution to the Annual Budget paid by the Waste Disposal Authority for each tonne of dry recyclable waste collected and recycled as a result of the functions of the Waste Collection Authorities which have been delegated to the Board and set at £33.08 per tonne in 2007/08 and increased by 3% in each Financial Year thereafter;

"Residential Properties"

means residential properties registered for Council Tax as defined by the District Valuer and included in his valuation list as at 20th December each year;

"Sparsity Weighting Factor"

means the coefficient used to reflect the variation in unit waste collection cost that results from variation in population density as agreed from time to time by the Board in accordance with **clause 20**. The Sparsity Weighting Factors for each Waste Collection Authority at the Commencement Date are:

Mendip	99.22%
Sedgemoor	93.34%
South Somerset	99.22%
Taunton Deane	93.59%
West Somerset	108.78%;

"Strategic Bring Sites"

means large recycling bring sites located in areas such as supermarket car parks and catering for large catchment areas;

"Waste Collection Authority (ies)"

means any one of Mendip, Sedgemoor, South Somerse, Somerset West and Taunton;

"Waste Collection Authority Area"

means the area within the administrative boundary of the relevant Waste Collection Authority;

"Waste Disposal Authority"

means the County Council.

1. COST SHARING PRINCIPLES

- 1.1 These cost sharing principles are intended to ensure that the costs of the Board and the relevant services administered by the Board on behalf of the Partner Authorities are shared on a fair and equitable basis between the Partner Authorities.
- 1.2 The general approach adopted is to identify each cost element and to apportion it in the most logical and transparent way possible, being mindful of the need to avoid any one Partner Authority subsidising another.
- 1.3 Each cost element is apportioned according to one of the formulae or bases set out in **paragraphs 2 to 14** below.
- 1.4 Each Partner Authority shall set a budget for the waste management service within their own Authority's budget to reflect their respective share of the Annual Budget calculated in accordance with this **Schedule**. The Administering Authority shall invoice the other Partner Authorities (including VAT where appropriate) in accordance with **clause 13**. A six monthly budget versus actual reconciliation will take place for Actual Usage Basis and Payment in Lieu of Recycling Credits items as calculated in accordance with this **Schedule**.
- 1.5 All surpluses and deficits at the end of each Financial Year shall be identified by the Board and the Board shall establish the Earmarked Reserve Accounts to allocate any surpluses and deficits. Where the Board recommends the distribution of surpluses or additional contributions to fund deficits to the Partner Authorities (subject to the approval of the Partner Authorities) the Earmarked Reserve Accounts shall be used to ensure fair distribution of surpluses or deficits. Where a surplus or deficit is generated outside of the Board's budgeted activities, allocation to Earmarked Reserve Accounts should be on the basis of the client cost formula as set out in **paragraph 2** of this **Schedule** unless otherwise agreed by the Board. Where a deficit is created in any budget item funded by the Waste Disposal Authority in accordance with the formulae set out in **paragraph 2** of this **Schedule** such a deficit cannot be funded by reserves residing in the Earmarked Reserve Accounts of the Waste Collection Authorities without the prior agreement of all of the Waste Collection Authorities. Where a deficit is created in any budget item funded Waste Collection Authorities in accordance with the formulae set out in **paragraph 2** of this **Schedule** such a deficit cannot be funded by reserves residing in the Earmarked Reserve Accounts of the Waste Disposal Authority without the prior agreement of the Waste Disposal Authority.
- 1.6 In each Financial Year the Board shall set the Annual Budget in accordance with the provisions of this Agreement and the Constitution. The Annual Budget shall be a forecast of the costs and income of the Board for the forthcoming Financial Year, reflecting the actual costs and income of the previous Financial Year but also taking account of the price review mechanisms in the Principal Contracts and forecast changes in the costs of the Single Client Group and the Administering Authority. The Board shall follow normal local government conventions in setting the Annual Budget and shall ensure that the Annual Budget setting process is transparent and open to scrutiny by all of the Partner Authorities.
- 1.7 The Annual Budget setting process shall take account of savings targets set by the Board in consultation with the Partner Authorities. In each Financial Year the Board shall be required to assess budgets and performance to drive out inefficiencies. The section 151 officers from each Partner Authority shall meet with the Strategic Management Group annually to consider any proposals for savings targets and to share relevant financial information.
- 1.8 Amendments to the cost sharing formulae shall be made in accordance with the provisions of **clause 20** of this Agreement. There may be circumstances in which the Board may agree to dampen the immediate financial effect of such amendments in order to ensure ongoing affordability of waste management services to all Partner Authorities.

- 1.9 The Board shall support and advise the County Council in respect of trading under LATS. The County Council shall own the proceeds of the sale of any landfill allowances. Any costs associated with purchasing any landfill allowances, or fines levied by central government under LATS shall be the direct responsibility of the County Council. The County Council shall work in close consultation with and update, support and advise the Single Client Group and Board with regard to the waste strategy implications of its trading activities and plans.
- 1.10 Net surpluses generated (after taking into account treasury management costs and any changes in financial rates and capital financing costs) by the Administering Authority as a result of its management of positive cash flows on behalf of the other Partner Authorities shall be allocated to their respective Earmarked Reserve Accounts. Whilst the County Council remains the Administering Authority these allocations shall be made in accordance with the Waste Collection Authorities un-weighted formula as set out in **paragraph 3** of this **Schedule**.
- 1.11 The cost sharing formulae shall apply to the Board in respect of its budget for the 2007/08 – part Financial Year and all future Financial Years unless amended in accordance with this Agreement.

2. CLIENT COSTS FORMULA

- 2.1 The initial division of costs is between the Waste Disposal Authority and the Waste Collection Authorities with the Waste Disposal Authority responsible for 45.76 per cent of costs and the Waste Collection Authorities 54.24 per cent.
- 2.2 Following this initial division, the actual share payable by each Partner Authority shall be calculated as follows:

Waste Collection Authority share

The Waste Collection Authorities shall each be responsible for costs in equal proportion to the percentage of Residential Properties registered for Council Tax in the County located within their area.

Waste Collection Authority share = $(\text{Cost} \times 54.24\%) \times (\text{NR} \div \text{TRC})$

Where:

NR – number of Residential Properties in the relevant Waste Collection Authority Area; and

TRC – total number of Residential Properties in the County

Waste Disposal Authority share

Waste Disposal Authority share = $\text{Cost} \times 45.76\%$.

3. WASTE COLLECTION AUTHORITIES UN-WEIGHTED FORMULA

The division of costs is between the Waste Collection Authorities, with each responsible for costs in equal proportion to the percentage of Residential Properties in the County located within their area.

The formula is:

Waste Collection Authority share = $\text{Cost} \times (\text{NR} \div \text{TRC})$

Where:

NR – number of Residential Properties in the relevant Waste Collection Authority Area; and

TRC – total number of Residential Properties in the County.

4. WASTE COLLECTION AUTHORITIES ALL COUNCILS WEIGHTED FORMULA

The division of costs is between the Waste Collection Authorities, with each responsible for costs in equal proportion to the percentage of Residential Properties in the County located within their area adjusted using the Sparsity Weighting Factor.

The formula is:

Waste Collection Authority share = Cost x (NR x Sparsity Weighting Factor) ÷ CNR

Where:

NR – number of Residential Properties in the relevant Waste Collection Authority Area; and

CNR – the sum of NR x Sparsity Weighting Factor for each Waste Collection Authority.

5. WASTE COLLECTION AUTHORITIES SERVICE LEVEL BASED WEIGHTED FORMULA

5.1 The division of costs is between the Waste Collection Authorities, with each responsible in equal proportions relative to the level of service for the cost item concerned (for example all Waste Collection Authorities offering the 'Sort It! Service' shall pay the same proportion of the service cost).

5.2 Each Waste Collection Authority shall be responsible for costs in equal proportion to the percentage of Residential Properties registered within their area, as a proportion of Residential Properties in all Waste Collection Authority Areas covered by the level of service in question, adjusted using the Sparsity Weighting Factor.

The formula is:

Waste Collection Authority share = Cost x (NR x Sparsity Weighting Factor) ÷ TNR

Where:

NR – number of Residential Properties in the relevant Waste Collection Authority Area;

TNR – the sum of Residential Properties in the Waste Collection Authority Area x Sparsity Weighting Factor for the Waste Collection Authorities offering the level of service in question.

6. WASTE COLLECTION AUTHORITIES SERVICE LEVEL BASED UN-WEIGHTED FORMULA

6.1 The division of costs is between the Waste Collection Authorities, with each responsible in equal proportions relative to the level of service for the cost item concerned and the number of Residential Properties registered within their area (for example all Waste Collection Authorities offering the 'Sort It! Service' shall pay the same proportion of the cost of internally and externally cleaning wheeled bins).

6.2 Each Waste Collection Authority shall be responsible for costs in equal proportion to the percentage of Residential Properties registered within their area, as a proportion of Residential Properties in all Waste Collection Authority Areas covered by the level of service in question.

The formula is:

Waste Collection Authority share = Cost x (NR ÷ UNR)

Where:

NR – number of Residential Properties in the relevant Waste Collection Authority Area;

UNR – the sum of Residential Properties in the Waste Collection Authority Area for the Waste Collection Authorities offering the level of service in question.

7. STRATEGIC BRING SITES FORMULA

The division of costs is between the Waste Collection Authorities, with each responsible for costs in equal proportion to the percentage of Strategic Bring Sites in the County located within their area.

The formula is:

Waste Collection Authority share = Cost x (SA ÷ SC)

Where:

SA – number of Strategic Bring Sites in the relevant Waste Collection Authority Area; and

SC – number of Strategic Bring Sites in the County.

8. NEIGHBOURHOOD BRING SITES FORMULA

The cost will be shared between the Waste Collection Authorities, with each responsible for costs in equal proportion to the percentage of Neighbourhood Bring Sites in the County located within their area.

The formula is:

Waste Collection Authority share = Cost x (NA ÷ NC)

Where:

NA – number of Neighbourhood Bring Sites in the relevant Waste Collection Authority Area; and

NC – number of Neighbourhood Bring Sites in the County.

9. COMMUNAL REFUSE FORMULA

The cost will be shared between the Waste Collection Authorities, with each responsible for costs in equal proportion to the percentage of Communal Refuse Collection Capacity in the County located within their area.

The formula is:

Waste Collection Authority share = Cost x (CA ÷ CC)

Where:

CA – Communal Refuse Collection Capacity in the relevant Waste Collection Authority Area; and

CC – Communal Refuse Collection Capacity in the County.

10. COMMUNAL RECYCLING FORMULA

The cost will be shared between the Waste Collection Authorities, with each responsible for costs in equal proportion to the percentage of Communal Recycling Sites in the County located within their relevant area.

The formula is:

Waste Collection Authority share = Cost x (CRA ÷ CRC)

Where:

CRA – number of Communal Recycling Sites in the relevant Waste Collection Authority Area; and

CRC – number of Communal Recycling Sites in the County.

11. PAYMENT IN LIEU OF RECYCLING CREDITS FORMULA

The Waste Disposal Authority shall be responsible for making payments to the Board in lieu of recycling credits.

The formulae are:

Waste Disposal Authority contribution = WC x CADR

Where:

WC - tonnes of dry recyclable waste collected and recycled as a result of Waste Collection Authority functions in the County; and

CADR - current rate of Payment in Lieu of Recycling Credits

Waste Collection Authority offset = DRWA x CADR

Where:

DRWA – tonnes of dry recyclable waste collected and recycled as a result of Waste Collection Authority functions within the relevant Waste Collection Authority Area; and

CADR – current rate of Payment in Lieu of Recycling Credits

12. SWAP TEAM FORMULA

- 12.1 The initial division of costs is between the Waste Disposal Authority and the Waste Collection Authorities, with the Waste Disposal Authority responsible for 82.35 per cent of costs and the Waste Collection Authorities 17.65 per cent.
- 12.2 Following this initial division, the Waste Collection Authorities will each be responsible for costs in equal proportion to the percentage of Residential Properties located within their area.

The formulae are:

Waste Disposal Authority share = Cost x 82.35%

Waste Collection Authority share = (Cost x 17.65%) x (NR ÷ TRC)

Where:

NR – number of Residential Properties in the relevant Waste Collection Authority Area; and

TRC – total number of Residential Properties in the County.

13. CUSTOMER SERVICES

The division of costs is between the Waste Disposal Authority and the Waste Collection Authorities. The mechanism to divide costs shall be agreed subsequently by the Partner Authorities based on a recommendation prepared by the Single Client Group and agreed by the Board.

14. ACTUAL USAGE BASIS

The division of costs or income between the Waste Collection Authorities based on actual usage of the service in question by residents in each Waste Collection Authority Area.

15. DIRECTLY ASSOCIATED COSTS BASIS

The allocation of a cost to a particular Partner Authority because that cost arises as a direct result of a policy or other factor unique to that Partner Authority. Specifically, all costs associated with the functions of the Waste Disposal Authority shall be allocated on this basis to the Waste Disposal Authority.

16. COST SHARING FORMULAE APPLYING TO THE BOARD BUDGET 2007/08

Expenditure

Single Client Group

Salaries & on-costs	Client Costs Formula
Travel & Subsistence	Client Costs Formula Admin, training, meetings & IT
& campaigns	Client Costs Formula Advertising
accommodation	Client Costs Formula Office rent & Client Costs Formula

SWAP Team	SWAP Team Formula
Support Services	
Legal	Client Costs Formula
Insurance	Client Costs Formula
Finance	Client Costs Formula
Audit	Client Costs Formula
Human Resources	Client Costs Formula
ICT	Client Costs Formula
Customer Services	Customer Services Formula
Other support services	Client Costs Formula
Direct Services	
Waste Disposal	
Disposal – Landfill	Directly Associated Costs Basis (allocated to County Council) Disposal
– HWRCs	Directly Associated Costs Basis (allocated to County Council) Disposal – IVC
(food waste)	Directly Associated Costs Basis (allocated to County Council) Disposal –
Hazardous waste	Directly Associated Costs Basis (allocated to County Council) Composting
Composting	Directly Associated Costs Basis (allocated to County Council)
Kerbside Recycling	
Weekly (TDBC;MDC;SSDC)	WCA Service Level Based Weighted Formula
Fortnightly (WSDC;SDC)	WCA Service Level Based Weighted Formula
Cardboard Collection (WSDC)	Directly Associated Costs Basis (allocated to West Somerset)
Garden Waste Collections	Actual Usage Basis
Household Refuse	
Fortnightly	WCA Service Level Based Weighted Formula
(TDBC;MDC;SSDC)	
Weekly (WSDC;SDC)	WCA Service Level Based Weighted Formula Weekly
(TDBC;MDC)	WCA Service Level Based Weighted Formula Household
Refuse -	
Communal	Communal Refuse Formula
Food Waste Transfer	Directly Associated Costs Basis (allocated to County Council)
Bring Banks	
Strategic sites	Strategic Bring Sites Formula
Neighbourhood sites	Neighbourhood Bring Sites Formula
Schools & SS Recycling	Directly Associated Costs Basis (allocated to County Council)
Clinical Waste	
Household Collections	WCA un-weighted Formula
Other Collections	WCA un-weighted Formula
Clinical Waste Disposal	Directly Associated Costs Basis (allocated to County Council)
Bulky Waste Collections	Actual Usage Basis
Communal Recycling	Communal Recycling Formula
Schools & SS Refuse	Directly Associated Costs Basis (allocated to County Council)
Commercial Waste	
Commercial waste collection	Actual Usage Basis
Commercial waste disposal	Actual Usage Basis
SWB Directed Collections	WCA un-weighted Formula
Container Maint & Delivery	
Internally and externally clean	WCA Service Level Based Un-weighted Formula
'Basic Maintenance/repairs'	WCA un-weighted Formula

'Major Maintenance/repairs'	WCA un-weighted Formula
2 Wheeled Bin Repair	WCA Service Level Based Un-weighted Formula Delivery of Sort-it! New HH Kit
WCA Service Level Based Un-weighted Formula Delivery of Sort-it! New HH Kit	WCA Service Level Based Un-weighted Formula Delivery of 4 wheeled bins
WCA un-weighted Formula	
Delivery of 2 wheeled bins	WCA Service Level Based Un-weighted Formula
Delivery of Kerbside Box	WCA un-weighted Formula
Delivery of Food Containers	WCA Service Level Based Un-weighted Formula
Day Works	WCA un-weighted Formula
Admitted Body Pension Costs	
Base pension cost	Directly Associated Costs Basis (allocated to South Somerset)
Incremental pension cost	WCA un-weighted Formula
Transitional Costs	WCA un-weighted Formula
Depot Costs	WCA un-weighted Formula
Bring Site Bin Financing	Actual Usage Basis
Schools Bin Financing	Directly Associated Costs Basis (allocated to County Council)
ECT Discount	WCA un-weighted Formula
Inter Authority Transfers	
Transfer Station Avoided Cost	Directly Associated Costs Basis (allocated to County Council)
Payment in Lieu of Recycling Credits	Payment in Lieu of Recycling Credits Formula
Vehicle Financing Net Saving	Client Costs Formula
Income	
Garden waste charges	Actual Usage Basis
Bulky waste charges	Actual Usage Basis
Hazardous waste grant	Directly Associated Costs Basis (allocated to County Council)
Commercial waste charges	Actual Usage Basis
DEFRA WPE Grant	As per existing 2007/08 budgets
Schools & Social Services	Directly Associated Costs Basis (allocated to County Council)
Avoided Waste Transfer	WCA un-weighted Formula
Payment in Lieu of Recycling Credits	Payment in Lieu of Recycling Credits Formula

SCHEDULE 6

Exit arrangements

1. DEFINITION

Definitions used in this **Schedule 6** shall be the same as those set out in the Agreement, with the following additional definitions:

"District Authorities"

means all of the Partner Authorities excluding the County Council;

"Dissolution Agreement"

means the agreement entered into by the Partnering Authorities in accordance with **clause 15.2** and this **Schedule 6**.

2. INTRODUCTION

In the event of agreement that the Board should be dissolved or in the event of the termination of this Agreement in accordance with **clause 31** the Partner Authorities shall (acting reasonably) negotiate and seek to agree and execute a legally binding agreement dealing with the novation or termination of the Principal Contracts (excluding the Disposal Contracts) and the allocation amongst the Partner Authorities of the property, assets, rights, staff and liabilities held or employed by the Administering Authority on behalf of the Board. Such agreement shall include, as a minimum, provisions to deal with the matters listed in this **Schedule 6**.

3. TRANSFER OF ASSETS

- 3.1 The Administering Authority shall prepare and maintain a list of the assets owned by it on behalf of the Board and include the list in the Dissolution Agreement.
- 3.2 The Partner Authorities shall meet and (acting reasonably) apportion the ownership of the assets equally amongst the Partner Authorities and the Administering Authority shall transfer the assets to the relevant Partner Authorities.
- 3.3 Where assets cannot equally be apportioned to the Partner Authorities, one Partner Authority shall agree to accept the assets and provide compensation to the remaining Partner Authorities on a mutually agreed basis.
- 3.4 Any assets used in connection with the Board that were owned by the Administering Authority prior to the commencement of this Agreement shall, unless the Partner Authorities agree otherwise remain the property of the Administering Authority.

4. NOVATION OF THE COLLECTION CONTRACT AND ANY THIRD PARTY CONTRACTS

- 4.1 The Collection Contract shall need to be either novated to one or all of the District Authorities, or else will need to be determined in accordance with the provisions of the Collection Contract.
- 4.2 The Administering Authority shall be required to take all reasonable steps to novate the Collection Contract in accordance with the agreement reached by the District Authorities.
- 4.3 In the event that the District Authorities agree to continue the Collection Contract it may be necessary to continue other third party contracts held by the Administering Authority, in which case these will also need to be assigned or novated to the nominated District Authority or to all of the District Authorities.
- 4.4 Where a third party consent is required to any assignment or novation the Administering Authority shall use all reasonable endeavours to procure such assignment or novation to the relevant District Authority(ies) and do all other things reasonably necessary to obtain such third party consents.
- 4.5 Where a third party consents to the assignment or novation of a third party contract, the Partner Authorities shall each pay an equal share of any fees charged by the third party in association with such assignment or novation.

- 4.6 The Dissolution Agreement shall deal with any residual liabilities or ongoing responsibilities of the Partner Authorities in respect of the Collection Contract.

5. TRANSFER OF THE SINGLE CLIENT GROUP

- 5.1 In the event that it is agreed by the Partner Authorities that one of the Partner Authorities will host the Single Client Group following dissolution of the Board the Dissolution Agreement shall deal with the process for the transfer of the staff and assets of the Single Client Group to the nominated Partner Authority. In respect of such transfer the Partner Authorities shall have regard to the principles set out in **Schedule 3** (Change of Administering Authority) in respect of the transfer of the staff and assets of the Single Client Group.
- 5.2 If the Partner Authorities fail to agree a nominated Partner Authority to host the Single Client Group or if no Partner Authority is willing to host the Single Client Group then the Dissolution Agreement shall deal with the process for the transfer of the staff and assets of the Single Client Group to all of the Partner Authorities.

SCHEDULE 7

Collection Contract

1. ADMINISTRATION OF THE COLLECTION CONTRACT

Unless otherwise defined in this Agreement, terms used in this **Schedule** shall be as defined in the Collection Contract.

2. PARTNER NOTICE OF CHANGE

- 2.1 Each Partner Authority (except the County Council) may order a change to the Services (including the provision of new services) by serving a notice of change (a "**Partner Notice of Change**") on the Administering Authority, the Board and all other Partner Authorities setting out the required change in the Services in sufficient detail to enable the Collection Contractor to provide an Estimate.
- 2.2 A Partner Authority shall not issue a Partner Notice of Change which:
- 2.2.1 requires the Services to be performed in a way that infringes legislation;
 - 2.2.2 would cause any Planning Permission or Necessary Consent to be breached and/or revoked;
 - 2.2.3 would materially and adversely affect the health and safety of any person; and/or
 - 2.2.4 would substantially alter the scope of the Services.
- 2.3 Within 20 Business Days of receipt of the Partner Notice of Change, the Administering Authority shall invite a meeting of the Board to consider the implications of the Partner Notice of Change and to recommend any changes to the Partner Notice of Change.
- 2.4 On receipt of any comments from the Board and/or the Partner Authorities the Partner Authority issuing the Partner Notice of Change shall consider at its absolute discretion whether any amendment to the Partner Notice of Change is required.

- 2.5 The Administering Authority shall serve a Notice of Change setting out the change in Services requested by the Partner Authority in the Partner Notice of Change on the Collection Contractor in accordance with clause 43.2 of the Collection Contract.
- 2.6 The Administering Authority shall within 10 Business Days of receipt of the Estimate given by the Collection Contractor pursuant to clause 43.4 of the Collection Contract, forward such Estimate to the Board and to the Partner Authority that requested the change.
- 2.7 Within 25 Business Days of receipt of the Estimate the Partner Authority which requested the change may in consultation with the Board require the Administering Authority to:
- 2.7.1 confirm in writing the Estimate;
- 2.7.2 suggest reasonable amendments to the Estimate; or
- 2.7.3 request the withdrawal of the Notice of Change.
- 2.8 If a Partner Authority does not confirm its decision in writing to the Administering Authority in relation to the Estimate within 20 Business Days of the provision of the Estimate, its approval shall be deemed not to have been given and the Notice of Change will be withdrawn in accordance with clause 43.6 of the Collection Contract.
- 2.9 If the Partner Authority confirms in writing to the Board and the Administering Authority the Estimate, the Administering Authority shall confirm such change to the Collection Contractor and the change in the Services shall be effected as an agreed variation to the Collection Contract.
- 2.10 The Partner Authority requesting the change in the Services shall meet all additional costs of the Estimate through an adjustment to its contribution to the Annual Budget and in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement).
- 2.11 Where any such change in the Services results in any consequential additional costs or liabilities for the Administering Authority and/or other Partner Authorities the Partner Authority requesting the change in the Services shall meet all such additional costs or liabilities of the other Partner Authorities through an adjustment to its contribution to the Annual Budget and in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement).
- 2.12 Where any change in the Services results in a reduction in the Services Payment the Partner Authority requesting the change in the Services shall receive a reduction in its contributions to the Annual Budget in accordance with the principles set out in **Schedule 5** (Budget and Cost Sharing Agreement), provided always that such change has not increased the costs or liabilities of the other Partner Authorities in which case these costs or liabilities shall be taken into account in calculating the reduction in the Partner Authority's contributions.
- 2.13 Where the Collection Contractor requests that the Administering Authority issues a Notice of Change pursuant to clause 43.8 of the Collection Contract, the Administering Authority shall request that the Board decides whether or not to issue such a Notice of Change. A Notice of Change may only be issued if agreed by the Board.

3. WITHDRAWAL FROM THE COLLECTION CONTRACT

- 3.1 Any of the Partner Authorities (other than the County Council) may on giving 12 months' written notice to the Clerk of the Board withdraw from the joint collection and recycling arrangements.
- 3.2 In the event of a Partner Authority serving notice under **paragraph 3.1** of this **Schedule** the Administering Authority shall obtain from the Collection Contractor an Estimate of the costs of

removing the relevant Partner Authority from the Collection Contract for the remainder of the original contract term or the period of such extension as may have been agreed at the point of service of the notice under **paragraph 3.1** of this **Schedule**.

- 3.3 If the relevant Partner Authority confirms in writing to the Administering Authority its acceptance of the Estimate, the Administering Authority shall confirm such change to the Collection Contractor and the removal of the Partner Authority shall be effected as an agreed variation to the Collection Contract.
- 3.4 The relevant Partner Authority shall meet all additional costs of the Estimate including the reasonable costs incurred by the Administering Authority through an adjustment to its contribution to the Annual Budget and in accordance with the principles set out in **Schedule 5** (Budget and cost sharing agreement).
- 3.5 Where the removal of a Partner Authority results in any consequential additional costs or liabilities for the other Partner Authorities the relevant Partner Authority shall meet all additional costs or liabilities of the other Partner Authorities through a lump sum payment to the other Partner Authorities or in such other manner as the other Partner Authorities in consultation with the Board may each at their absolute discretion agree.
- 3.6 The Partner Authorities agree that where a Partner Authority withdraws from the Collection Contract in accordance with this **Schedule** the Partner Authorities agree that the principles outlined in **Schedule 3** and those contained in the Workforce Code where applicable should apply to the transfer of staff, assets and equipment from the Collection Contractor to the relevant Partner Authority or a contractor of the relevant Partner Authority.

4. EXTENSION OF THE COLLECTION CONTRACT

- 4.1 No later than 12 months prior to the expiry of the Collection Contract the Board shall meet and consider whether or not to extend the term of the Collection Contract (in accordance with clause 2.2 of the Collection Contract). Where the Board proposes to extend the term of the Collection Contract the Managing Director shall, as soon as reasonably practicable, notify the Chief Executive of each of the Partner Authorities of its decision.
- 4.2 Each Partner Authority shall have a period of 30 Business Days from receipt of the notice from the Managing Director (in accordance with **paragraph 4.1** above) in which to consider it. Where a Partner Authority (other than the County Council), acting reasonably, does not wish the Collection Contract to be extended, it shall notify the Managing Director of its decision forthwith (and in any event within five Business Days of expiry of the 30 Business Day notice period). For the avoidance of doubt, where a Partner Authority does not wish the Collection Contract to be extended it shall not be treated as withdrawing from the Collection Contract for the purposes of paragraph 3 of this **Schedule 7**.
- 4.3 Provided that at least two Partner Authorities (other than the County Council) serve notice on the Managing Director ratifying the Board's proposal to extend the Collection Contract, the Board shall procure that the Administering Authority takes all reasonable steps necessary to extend the Collection Contract (in accordance with the terms of that contract) and, where necessary, to vary the Collection Contract to reflect the reduced number of Partner Authorities who are subject to it.
- 4.4 Where only one Partner Authority serves notice on the Managing Director ratifying the Board's proposal to extend the Collection Contract, the Board shall not extend the Collection Contract and it shall come to an end in accordance with the terms of that contract.

5. DISPUTES

- 5.1 If a dispute arises in relation to any aspect of the Collection Contract, which cannot be resolved between the Contract Manager and the Contractor's Representative in accordance with clause 36.1.1 of the Collection Contract, the Administering Authority shall promptly notify the Board of the dispute.
- 5.2 In the event that any dispute is referred to mediation or arbitration in accordance with clauses 36.2 and 36.3 of the Collection Contract the Administering Authority shall promptly notify the Board and shall keep the Board regularly informed of the progress of the dispute referred to mediation or arbitration.

Somerset Waste Board meeting
14 December 2018
Report for decision

Financial Performance Update 2018/2019 and Draft Budget 2019/2020
Lead Officer: Mickey Green, Managing Director and Martin Gerrish, Finance Officer
Author: Martin Gerrish, Finance Officer
Contact Details: mgerrish@somerset.gov.uk or (01823) 355303

Forward Plan Reference:	
Summary:	<p>The report sets out the financial performance against the approved Annual Budget for the first 7 months of the current financial year from April to the end of October. (A verbal update will be provided at the meeting itself for any significant changes in November).</p> <p>The report is also an update of the Draft Budget from September's meeting that will ultimately lead to the Annual Budget for 2019/2020.</p> <p>Members are also asked to note the current financial position with regard to the funding available for the Recycle More project.</p>
Recommendations:	<p>That the Somerset Waste Board notes the summary financial performance to date as contained in this report, and how this will impact on the budgetary requirements for 2019/2020.</p> <p>That the Somerset Waste Board approves a Draft Budget of £ 46,111,300 for 2019/2020 as set out in paragraphs 2.6-2.7 below, taking into account the potential savings requests from the County Council as set out in paragraph 2.7.</p> <p>That the Somerset Waste Board notes the financial position to date with regard to the Recycle More project, and affirms the position on capital financing of vehicles and depot infrastructure as set out in paragraph 2.4 below.</p>
Reasons for recommendations:	<p>The Board needs to be aware of the financial performance of the Somerset Waste Partnership as it delivers the approved Business Plan and delegated waste service functions, to ensure that it is being managed appropriately.</p> <p>Having regular information regarding the pressures in the current budget will also give the Board a greater understanding of the requirements as set out in the draft Annual Budget for the next financial year. There is a requirement within our revised Constitution for the Board to consider the suitability of the draft Budget no later than 24th December.</p>

	<p>Partner authorities will need indicative budget figures as early as possible in order to consider their individual contributions to the Board budget and any savings requirements, and to progress setting their own annual budgets for 2019/2020.</p> <p>As with the Business Plan, setting the next year's budget is an iterative process and the Board will continue to be consulted regularly throughout the process.</p>
Links to Priorities and Impact on Annual Business Plan:	<p>The Annual Budget is entirely linked to the Annual Business Plan and sets out the financial resources required to deliver the Plan and the waste collection and disposal services that have been delegated to the Somerset Waste Board. Financial monitoring will show how the Partnership is managing its resources as it delivers the Annual Business Plan.</p>
Financial, Legal and HR Implications:	<p>Any in-year underspends attributable to partners against the Annual Budget are traditionally made available for return or for reinvestment. Conversely, failure to stay within the Annual Budget for the Somerset Waste Partnership will directly impact on the partner authorities, who would be required to make good any shortfall at year end.</p> <p>When considering the draft Annual Budget for 2019/2020, current trends in demographic growth, service uptake and waste tonnages arising in 2018/2019 are a key contributory factor in shaping the forward budget.</p> <p>The Annual Budget, once finally approved, will become the new measure for our financial performance for 2019/2020. We will continue to share the costs amongst partners in the same way as previously as set out in our Cost Sharing Agreement.</p> <p>Draft Budget figures presented within this report are based on the current service model. Costs and savings attributable to Recycle More have been included in the specific information on that project, including the earmarked reserve that is being used to finance the project.</p> <p>There are no specific legal or HR implications.</p>
Equalities Implications:	<p>None.</p>
Risk Assessment:	<p>Members will be aware from previous reports that the waste budget and actual costs, particularly disposal volumes, remain highly volatile.</p>

1. Background

- 1.1. The Annual Budget for 2018/2019 was originally set at the Board meeting of 23rd February 2018 at £45,145,256

Subsequently, the Board has agreed a number of in-year budget reductions and a drawdown from earmarked reserves on the disposal budget at the September meeting. In addition, the Board agreed the extension to the Viridor contract at the November 2018 meeting, which brings a saving from 2018/2019 onwards. Following these decisions, the 2018/2019 the Waste Board budget now stands at £44,545,260.

- 1.2. Individual collection contributions are based on key cost drivers such as household numbers, sparsity and garden waste customer numbers. As the waste disposal authority, all such costs fall to the County Council. Our Annual Budget is predominantly spent on making payments to our main contractors – Viridor and Kier.

2. Current Financial Position

2.1. Summary of budget variances

	SCC £'000	MDC £'000	SDC £'000	SSDC £'000	TDBC £'000	WSC £'000	Total £'000
Head Office	(24)	(6)	(6)	(9)	(6)	(2)	(54)
Disposal Costs	(907)	0	0	0	0	0	(907)
Collection - Recycling	0	0	0	0	0	0	0
Collection - Refuse	0	0	(0)	(0)	0	(0)	(0)
Collection - Garden	0	42	12	(16)	30	17	85
Collection Costs	0	3	2	3	3	1	11
Recycling Credits	(26)	6	4	9	4	3	0
Container Purchase & Delivery	0	(15)	(4)	(4)	(13)	(0)	(36)
Other	0	(5)	(5)	(16)	(5)	(2)	(33)
	(958)	25	3	(32)	12	17	(933)

The table above shows the variations from budget on all our major expenditure areas. **For the avoidance of doubt in the table above, 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).

Overall, the end of October position shows the underlying Somerset Waste Partnership budget is forecast to be **underspent by £933,000** (2.09% of the current budget). This is an improvement on to the previous position report to the September Board, which were July figures and showed an underspend of £562,000.

2.2. Waste Collection

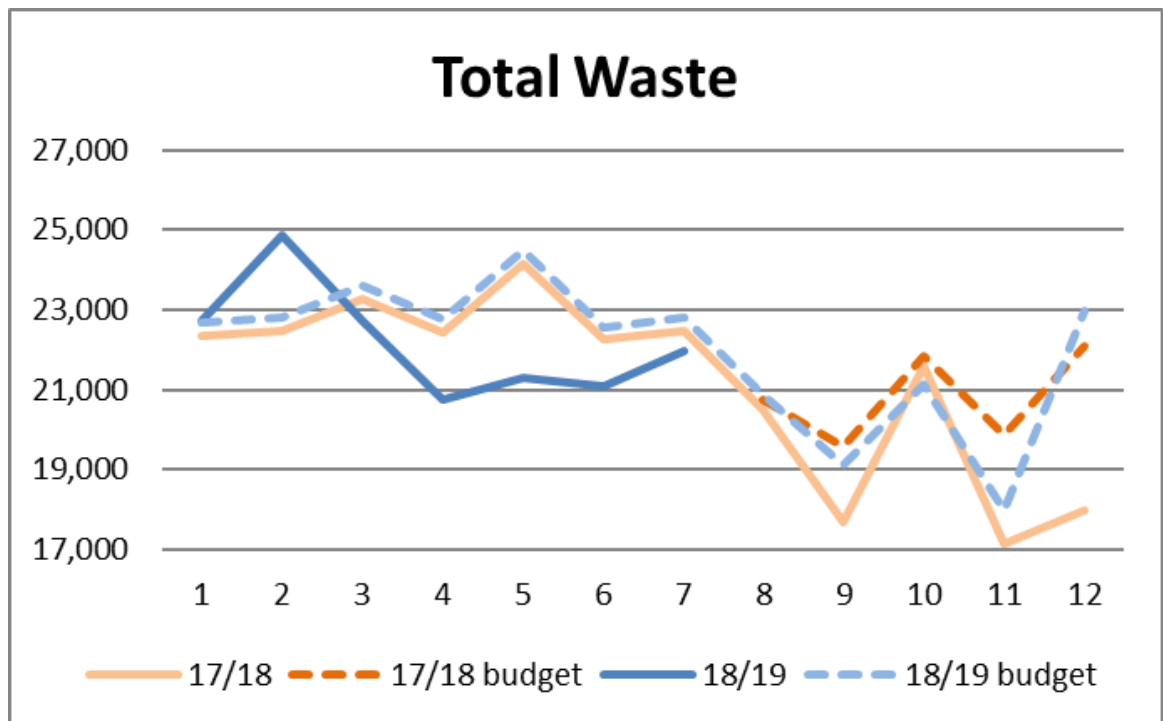
The collection position is £25,000 overspent, which is a slight deterioration from the £28,000 underspend reported to the previous report to September Board.

The main reason for this movement has been an additional £85,000 estimate on the garden waste costs, based on the number of customers subscribing to the service at the end of August. This is still being finalised ahead of the February final budget. There is a strong correlation between the individual collection partners garden waste figures and their bottom line. Members are reminded that there is compensating income for additional garden waste customers that is collected by the individual partner. Currently, the income received for additional customer exceeds the marginal cost paid to the contractor.

In addition, this overspend is partially offset by an estimated reduction in container purchase and delivery costs, Head Office costs and “Other”, which includes vehicle financing and contractor pension costs

2.3. Waste Disposal

The waste disposal figure for the Board at the end of October showed an underspend of £958,000, which is an improvement on the figures reported at the September Board of £534,000. Members will recall that a significant proportion of this underspend is caused by one-off factors (£569,000) around year end forecasting and the extreme weather, however it is clear that volumes have reduced during 2018/2019, as set out in the Performance Report, which is also on this agenda. The graph below illustrates the 2018/2019 performance in particular.



2.4 Recycle More project funding

The budget figures reported above do not include any drawdown of the earmarked reserve for Recycle More. Available funds at the start of 2018/2019 stood at £616,106. It has been agreed by the Board that we keep this funding separate from the continuation budget, and report on it separately. Section 151 officers have

wanted clarity between the on-going budget requirement and the one-off project funding.

Up to the end of October, only £86,000 of this earmarked reserve has been spent, although further costs will be incurred with the on-going support for Eunomia, who are our technical consultants. Additional support has come procurement, legal and finance staff at the Administering Authority.

It is expected that the current level of the reserve will be adequate to cover the costs incurred during the procurement and mobilisation period (April 2019 – March 2020), noting that these do not include capital costs related to depots or vehicles.

In 2016 the roll-out costs agreed by the Board were estimated at £2.2m (primarily due to the cost of new containers, cost of communications and transition support, but not including the costs of procurement).

The exact roll-out costs will depend on the winning contractor and agreed roll-out methodology and communications.

The Board are also asked to note that the depot requirement for the new service will necessitate some lease costs between contract award and contract commencement in April 2020. At present, the funding for this is not quantified, and this could be a further call on the Recycle More earmarked reserve.

It has been previously agreed that partners will not be able to take savings generated from the Recycle More service model itself, until all roll-out costs have been met. This was to ensure that all partners are treated equally, and that the order of the roll-out will not impact on individual partners.

It has always been the intention that any capital financing savings are not part of the above agreement, and that these will accrue to the partners who borrow as they arise. This has been recently confirmed with the section 151 officers, as there would have been a need to replace the fleet in any event. The Board is asked to formally confirm this arrangement.

2.5 Truck Cartel update

This collective action is still under consideration. The original terms offered by the funding partner were not sufficient for the majority of local authorities involved to agree to progress the action. The terms and conditions are now under further review. Nick Bacon QC is advising the Local Government Association on behalf of the local authorities.

2.6 Draft Budget 2019/2020 – Collection

The table below shows the year on year changes for the collection partners and the reasons why the additional budget is required. A positive number is an increase in the budgetary requirement, whilst a negative number is a decrease in the budgetary requirement. So, for example, the recycling credits budget is decreased for Districts, because the County Council provides a 3% uplift per year to the

collection partners.

DRAFT WASTE INFLATION ESTIMATES

		MDC	SDC	SSDC	SWaT
18/19 Final Budget		3,463,461	3,609,494	5,166,003	4,842,898
Inflation - Collection	3.27%	124,638	128,651	183,844	174,646
Household Growth	0.96%	46,334	16,566	27,944	41,636
Garden Waste	6.04%	46,393	20,622	(10,822)	51,218
Recycling Credits		(17,847)	(14,090)	(19,798)	(22,011)
Salaries	2.00%	2,030	2,154	3,026	2,841
Pension Deficit		0	0	0	0
Transfer station offset		(1,956)	(2,058)	(2,892)	(2,725)
New Authority changes		(3,039)	(3,488)	(4,652)	24,907
Bulkies / Containers		(9,755)	5,552	6,785	(4,852)
Waste Projects		0	0	0	0
Proposed Savings		0	0	0	0
19/20 Budget		3,650,257	3,763,405	5,349,439	5,108,558
Increase / (Decrease)		186,796	153,911	183,436	265,660
Percentage		5.4%	4.3%	3.6%	5.5%

The additional budget requirement for District partners for the collection service is £789,803, which is an increase from the September of £663,199.

There are a number of reasons for this increase to the Draft Budget:-

Inflation is now fixed at 3.27%, which is September's indices, published in October. In September, this had been estimated at 3%.

Garden waste numbers have been inflated in line with the increased customers taking the service in 2018/2019, plus the usual growth estimate. Again, income will offset these additional costs.

The Sort It Plus Business Case support to the new authority has been removed in accordance with the amendments to the Cost Sharing Agreement that the Board approved in September.

Household numbers have been provided by the individual Districts. Members are reminded that each District only pays for the actual growth in its areas. Figures as reported from each area are as follows:-

Mendip	1.54%
Sedgemoor	0.65%

South Somerset	0.71%
SWaT	1.06%

The only figures where movement is now expected to occur is in relation to housing growth or updated garden waste customers, which are regularly reviewed. South Somerset in particular appear to have attracted more garden waste customers that will be reflected in the Final Budget, but will benefit from the additional income that they will collect. This will be recalculated when we get actual household and final garden waste numbers from partners in January, ahead of the Final Budget taken to the February Board.

2.7 Draft Budget 2019/ 2020 - Disposal

As with every Draft Budget reported in December, the disposal budget is less fixed. Inflation indices are not finalised until February's figures are published, and will be estimated to provide a final Annual Budget as usual. Given the volatility of the volumes arising, these will continue to be monitored and the latest available trends will be used to estimate the final Annual Budget.

At present, the estimated average inflation across a number of disposal indices is 3.7%. The inflation uplift required is £621,400.

Landfill Tax rates from 1 April 2019 have been confirmed by the Treasury as £91.20 per tonne. This is an increase from £88.95 of 2.53% on the 2018/2019 rate. Based on the projected current tonnages budget, this would cost an additional £287,400. The total landfill tax estimate for 2019/2020 is now £10.97 million.

Assuming volumes continue as currently forecast, there will be a reduction in the budget requirement of approximately £16,000.

In total, the estimated disposal uplift required is now £892,800 (compared to £1.195m estimated in September).

The Viridor HWRC contract extension, approved by the Board in November, will also provide an additional £200,000 of savings in 2019/2020.

In addition, the County Council is requesting further savings from the Somerset Waste Board of £225,000. To meet this target, the Managing Director proposes to continue a number of in-year savings that were already agreed by the Board at its September meeting, or where base budgets can be relatively safely reduced.

For ease, these are set out below:-

- 1) Reduction in clinical waste disposal budget: £40k
- 2) Reduction on Recycling Site waste minimisation bonus: £40k
- 3) Reduction in Closed Landfill monitoring: £10k
- 4) Reduction in Recycling Site permitting costs: £15k
- 5) Reduction in fly tipping payments: £20k

For the additional £100,000 of savings, this will need to come from the continued downward volumes of waste. Whilst the direction of travel is clearly positive, this is a potential risk and is not controllable by the Somerset Waste Partnership. However, members are reminded the County Council is wholly responsible for all disposal costs and bears this risk if the trend changes.

It is not thought necessary to include an Equalities Impact Assessment for any of these savings proposals, however, this will be confirmed at the February Board meeting in time for the final Annual Budget for 2019/2020.

The total waste disposal uplift required, taking into account all of the above is £467,800.

Combined with the collection contract uplifts as set out in paragraph 2.5 above, the Draft Budget requirement for 2019/2010 is £46,111,300. This will be finalised at the February Board meeting.

3. Consultations undertaken

- 3.1. The Senior Management Group receives a summary financial management report on a regular basis, and regularly covers financial topics on their agenda.

4. Implications

- 5.1. Potential over and underspends as in sections 2.1-2.3 above, if trends continue, would result in these figures at outturn for the individual partners.
- 5.2. Financial figures as set out in the draft budget in sections 2.6-2.7 above will be incorporated in the setting of the Annual Budget for 2019/2020. Any movement at this stage, particular for collection partners, would be relatively marginal.

6. Background papers

- 6.1. Previous Financial Performance and Annual Budget reports to the Somerset Waste Board (all available on the website or from the report author).

Somerset Waste Board meeting
14 December 2018
Report for decision

Somerset Waste Partnership Business Plan 2019 - 2024

Lead Officer: Mickey Green, Managing Director

Author: Mickey Green, Managing Director

Contact Details: 01823 625707

Forward Plan Reference:	
Summary:	The Draft Business Plan for partner consultation was approved by the November 2 nd 2018 meeting of the Somerset Waste Board (SWB). This report updates the board on the partner consultation and seeks approval to the business plan.
Recommendations:	<ol style="list-style-type: none"> 1. The board notes and considers feedback from the partner consultation process as set out in paragraph 3.2, and as verbally updated for those meetings that occurred after this paper was finalised (on 4th December) 2. The board approves the Business Plan 2019-2024, subject to any amendments arising from the feedback.
Reasons for recommendations:	Approval is required to set a clear mandate for SWP activities for the period and is a constitutional requirement.
Links to Priorities and Impact on Annual Business Plan:	The annual Business Plan sets key aims and priorities for Somerset Waste Partnership for the coming year.
Financial, Legal and HR Implications:	Many actions within the business plan will require specialist input, including financial, legal, HR and procurement advice.
Equalities Implications:	Many of the actions in the business plan relate to the implementation of decisions already taken by the board, and Equalities Impact Assessments (EIAs) were undertaken at the time (for example Recycle More, Viridor Contract extension). Other actions relate to reviews/future actions, and EIAs will be carried out as appropriate (i.e. when reviews have been undertaken) to inform the board's decision making. Some other actions (e.g. around building our capabilities) will not require EIAs. In most cases the decision to proceed based on the outcome of the impact assessment will be delegated to the Managing Director and Senior Management Team of SWP. Where significant issues are identified through the assessment process that would have implications for major projects or programmes, the decision to proceed will return to the Board

	prior to commencing development.
Risk Assessment:	Failure to approve a Business Plan (a constitutional requirement) will impact on the ability of the SWP to effectively deliver the board's vision.

1. Background

- 1.1. The Board's business planning cycle requires an annual Business Plan to be formally adopted by the Board to provide a framework within which the Board can make decisions and steer the delivery of Waste Partnership services.
- 1.2. The process of review is continuous but the Business Plan contains a snapshot of where we are now, those things that have a major impact on us, resources available, summary of the budget and priority work areas.
- 1.3. The Board is almost exclusively funded from contributions from partners and has no automatic block grant from Central Government. It is therefore dependent on agreement between partners on the level of funding provided by each of them in line with the cost sharing formula. Business Planning and Budget setting are therefore part of the same process.
- 1.4. The Board has delegated authority for decision making across all services and therefore must make proposals to the partners on how savings can be made, taking into account any requirements to make savings and proposals on how this can be achieved.
- 1.5. Under the terms of the Inter Authority Agreement, the Board cannot make a decision that has an adverse financial implication on any partner without that partner's agreement. Recognising the need for partners to make difficult savings decisions, the Board does have discretion to determine how any savings targets handed down can be delivered, provided all partners sign up through approval of this draft plan.

2. Options Considered and reasons for rejecting them

- 2.1. The SWP Business Plan is a constitutional requirement and no other option is available.

3. Consultations

- 3.1. Consultation was undertaken as follows

When	Body consulted
5 th November	Mendip District Council Scrutiny
19 th November	Somerset County Council Cabinet
21 st November	Sedgemoor District Council Executive
6 th December	Somerset West and Taunton Deane Shadow Executive*
6 th December	South Somerset Executive*
6 th December	Joint Waste Scrutiny Panel*
10 th December	Mendip District Council Cabinet*

* These partner consultation meetings occurred after the deadline for finalising

Board papers for the SWB meeting on 14th December. A verbal update will therefore be provided to the board on feedback from these meetings.

- 3.2.** Feedback from partner consultation received ahead of the deadline for SWB papers has not led to any changes to the Business Plan 2019-2024. The only other change made to the Business Plan 2019-2024 is to reflect the Board's decision on 2 November to extend the Viridor Core Services Contract.

Note that the National Resources and Waste Strategy had still not been published at the time of finalising these board papers. If and when this is published, it may have significant impacts on SWP over the business plan period. This will be discussed with the board once the strategy is published.

4. Implications

- 4.1.** The SWP Business Plan is a constitutional requirement. Failure to approve the plan will result in difficulties as outlined above.

5. Background papers

- 5.1.** Draft SWP Business Plan 2019 - 2024 (Appendix A)
- 5.2.** Waste Board Constitution:
<http://www1.somerset.gov.uk/council/boards.asp?boardnum=32>

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SWP Business Plan 2019 – 2024

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Page 3	About Somerset Waste Partnership
Page 4	Key Challenges and Opportunities
Page 5	Approach to Business Plan
Page 6	Action Table
Page 14	Draft Budget Table 2019/20

Change History	
2/10/18	First draft
15/10/18	Second draft following SMG and SWP review

1. About Somerset Waste Partnership

1.1 Our vision and values

Who we are:	Somerset's Local Authorities working together as the Somerset Waste Partnership, ensuring that our household waste is reduced, collected, reused, recycled and effectively treated.
What we do:	<ul style="list-style-type: none"> • Preserve our environment by making every effort to ensure our household waste is not waste but reused as a valuable resource. • Deliver excellent customer service and value for money to create a more sustainable Somerset.
What we are aiming to become:	An exemplar for how we manage waste as a resource, work with others and support our residents to manage their household waste and make our service the best it can be.
Our values:	<ul style="list-style-type: none"> • Insight: Working with our partners to understand how and why people behave as they do and use this knowledge to shape our service. • Collaboration: Treating everyone we work with as an equal, knowing we have greater success when we work together. • Innovation: Learning from others and constantly looking at new ways of working to give the best service we can. • Quality: Focusing on excellent customer service and making the best use of the waste we collect.

1.2 Background to SWP

Somerset Waste Partnership (SWP) was established in 2007 to manage waste services on behalf of Mendip, Sedgemoor, South Somerset and West Somerset District Councils, Taunton Deane Borough Council and Somerset County Council. This made it the first county-wide waste partnership in the country.

SWP is accountable to the Somerset Waste Board (SWB), which consists of two members from each of the partner authorities. For further information about Somerset Waste Partnership and the Somerset Waste Board please visit www.somersetwaste.gov.uk. SWP has delegated authority to deliver household waste and recycling services throughout Somerset, including management of kerbside collections, recycling sites and disposal sites. These duties are in turn contracted to Kier (collection services) and Viridor Plc (recycling sites, landfill sites and treating food, garden and residual waste).

Recycle More (even more weekly recycling services, including addition of plastic pots, tubs, trays and packaging, cartons, small electrical items and household batteries; with so much capacity freed up that refuse collections are only needed every three weeks) remains the agreed model for SWP's future collection services, and any significant change to this would require SWB and partner approval.

4. Key Challenges and Opportunities

Theme	What it means for SWP
Political	National legislative/policy change: An ambitious Resources and Waste Strategy is expected in late 2018, which will have significant implications for SWP through policy e.g. on Extended Producer Responsibility, a Deposit Return Scheme, consistency and more. It is likely to be followed by a number of consultations. It may be preceded by financial instruments in the budget (e.g. incineration tax).
	Brexit: Brexit may lead to policy uncertainty, any changes to migration may affect labour availability and cost, exchange rate fluctuations or import restrictions may have cost implications for our vehicle procurement, depot construction, recycle market.
	Global policy: Other countries are following China's lead and restricting imports of recycle. Whilst over 90% of our material stays in the UK it does affect global recycle prices and demand.
	Local Government Reorganisation: Whilst SWP already acts as a single integrated service across Somerset, any changes to the structure of local government would have implications for SWP (especially if any new boundaries are not contiguous with the current county boundaries)
Economic	Financial pressure on partners: The pressure on local government finances has not abated and is particularly acute on SCC.
	Recycle risk: SWP will need to share the risk around recycle value (volume and price) under a future collection contract. This will be a significant change for District partners and require careful budget management.
	Full employment: Somerset has near full employment, especially due to the impact of the Hinkley C construction project. This creates challenges for the labour market, and pressure on housing could mean that homes are built without having waste in mind.
Social	Demographic change: Somerset's demography continues to change, in particular with an ageing population with multiple health needs. This needs to inform all aspects of what we do, remembering that our staff can potentially play a part in supporting the most vulnerable
	Driver shortages: The average age of HGV drivers is increasing and there is a shortage of suitable qualified drivers
Technological	Social media: Increasing use of social media presents an opportunity to reach more people, but also raises expectations about the speed of response (noting that not all of our public are users of social media)
	Big data: the technology available to the waste industry has radically changed, meaning that we can improve our ways of working. Our data can be a powerful tool, especially when combined with other (e.g. socio-economic) data.
Legal	Procurement/legal challenges: With the scale of contracts we let there is always a risk of legal challenge.
	Enforcement: Clamping down on trade waste abuse (and working with Districts on the scourge of fly-tipping) remain important. Ensuring residents recycle appropriately is likely to be increasingly important.
Environmental	Public awareness: there is increasing public awareness of environmental issues (especially around plastics)
	New materials: the emergence of new materials which promise the public they are degradable or compostable (when the reality is they often aren't) may cause confusion

5. Approach to Business Plan

Our Business Plan explains how we will work towards our Vision over the next five years, with a particular focus on current year actions. The Business Plan contains three areas of focus, beneath which sit a range of activities. The three areas of focus are:

Area of focus	Delivering excellent services	Changing behaviours	Building our capability
Desired outcome	<i>The services we deliver ensure our household waste is effectively collected, reused, recycled and treated.</i>	<i>People recognise that waste is a resource, and fully play their part in reducing, reusing and recycling waste</i>	<i>SWP has the capability and resources to even more effectively deliver the Board's vision</i>
Activity (see below for specific actions)	Transition to a new service model	Focus on plastics	Transforming ICT systems
	Moving away from landfill	Campaigns	Strategy & Influence
	Improving services	Changing behaviours through Recycle More	Ensuring homes are built with waste in mind
	Reviewing services	Community Engagement	Improving Performance Monitoring

The actions currently underway remain the most significant set of changes to Somerset's waste services since SWP's inception in 2007, covering all aspects of our services. We are also expecting the most significant set of changes to national resources and waste policy for a generation, and the environmental impact of waste has a public profile higher than ever before. The scale of policy change expected will have significant impacts upon our future business plans. The three areas of focus set out the actions which reflect this but need to work together for maximum impact. For example, our transition to the Recycle More service model is set out under 'delivering excellent services', but this will not be a success unless we support this by 'changing behaviours', and 'building our capability' is vital to enabling us to achieve this.

In addition to the actions set out in the Business Plan, SWP propose to adopt two charities - a local and a national charity – to support through staff fundraising and volunteering:

Local Charity	National Charity
RAFT (Refugee Aid from Taunton)	WasteAid
RAFT provide aid through donations to help refugees and displaced people wherever and whenever they are able, regardless of colour, culture and religion. It demonstrates an innovative approach to reuse and hence aligns well with SWP's vision and the waste hierarchy.	70% of the plastic in the oceans comes from places with no waste management. WasteAid helps people turn their waste into useful products, sharing recycling skills to create green jobs, improve public health and protect the environment. It works with community based organisations to help develop waste collection and recycling businesses.

1. Delivering excellent services			
What		When	Why
1.1	Transition to a new collection contractor and new service model		
1.1.1	Mobilisation of new contractor	April 2019 – March 2020	To ensure that new contractor hits the ground running
1.1.2	Active management of current collection service contract	Now – March 2020	To manage the risk of service degradation and ensure a seamless handover
1.1.3	Deeper engagement from SWP with collection contractor staff	Now – March 2020	To support a seamless handover and ensure that our collection staff are involved in the transition
1.1.4	Procuring a new fleet of vehicles	Spring/Summer 2019	To replace the ageing recycling and refuse vehicle fleet to be fit for a new service model, with further replacements of vehicles likely in 2024
1.1.5	Developing depot infrastructure	Now – Winter 2020/2021	To ensure we have the right depot network to support the future service model and housing growth
1.1.6	Rolling out a new service model (Recycle More)	Summer 2020-2022	To effectively manage the transition (in phases) of moving over 250,000 households from one service model to another, in a way which delivers excellent customer service and minimises missed collections
1.1.7	Manage major distribution of new recycling containers	Now - 2022	A new service model will trigger demand for new containers and replacement containers, and we will need to ensure effective methods are in place to distribute these
1.1.8	Recycling credits review informed by Recycle More rollout	Summer 2019 – Spring 2020	In light of a new collection contract and the rollout of Recycle More
1.2	Moving away from landfill		
1.2.1	Oversee the development of transfer stations at Walpole and Dimmer	Now – Autumn 2019	To enable the move away from landfill so that waste can be bulked up and that movements of waste are effectively managed
1.2.2	Oversee the development of a Resource Recovery Centre at Avonmouth	Now – Autumn 2019	To ensure that this is ready on time and to standard
1.2.3	Testing and commissioning of Resource Recovery Centre	Autumn 2019 – April 2020	To ensure this works as planned

Business Plan 2019-24

1.2.4	Implementing changes at HWRCs to align with acceptance criteria	Autumn 2019 – April 2020	To ensure that we optimise (environmentally and financially) the way we treat waste
1.3	Improving services		
1.3.1	Revising opening hours at Household Waste Recycling Centres (subject to a board decision on a contract extension with Viridor)	Now – April 2019	To better match opening hours to need and demand, whilst retaining all sites open
1.3.2	Potential improvements to Recycling Centres	Ongoing	To seek opportunities to improve our recycling centres, subject to development of viable solutions and robust business cases. Frome & Minehead Recycling Centres are top priorities.
1.3.3	Working together with Support Services for Education to optimise the future schools waste & recycling service	Now – Autumn 2019	To consider how we could work differently to support schools to recycle more and waste less, whilst delivering excellent service and VFM
1.3.4	Health and safety and contract management	Ongoing	Effective management of our contracts and the significant health and safety risks inherent in this industry is a key building block of our success
1.4	Reviewing services		
1.4.1	Review of opening hours and charges at Dulverton and Crewkerne Community Recycling Centres	Autumn 2019	To review ahead of latest date for removal of charges (Spring 2020)
1.4.2	Undertake further review of van/trailer permit scheme at Household Waste Recycling Centres	Spring/Summer 2019	To ensure that this is delivering the desired outcomes and to identify potential improvements
1.4.3	Review waste service fees and charges, including Garden Waste, Bulky Waste, Recycling Centre charges	Spring/Summer 2019	To reflect any legislative changes and different costs and operational approaches of a new collection contractor
1.4.4	Undertake a review of signage at Household Waste Recycling Centres	Summer/Autumn 2019	To ensure that we are communicating with the public as effectively as we can
1.4.5	Anaerobic Digester contract review	April 2020	Financial review as per contract timetable
1.4.6	Collection contract review	2022/2023 - tbc	To review the contract following the roll-out of Recycle more & major potential legislative change
1.4.7	Assisted collection review	2019/2020	Regular review of our assisted collection database to ensure that it is up to date

2. Changing behaviours			
What		When	Why
2.1	Focus on plastics		
2.1.1	SWP coordinating Refill campaign in Somerset	Now - 2024	To encourage businesses to offer free refills should support people to use a reusable container rather than substitute Single Use Plastic for another single use material
2.1.2	Encouraging take-up of PTT at recycling centres	Now - 2022	To enable those who wish to do more to do their bit & encourage people to see the difference this makes ahead of rolling out kerbside PTT collection
2.1.3	PTT at kerbside (in addition to tetrapaks, small electrical items and batteries)	July 2020 – March 2022	Phased roll-out of these major changes to kerbside collections to over 250,000 households, with intensive marketing and face to face support to drive behaviour change
2.1.4	Promote the Pledge against Preventable Plastic	Ongoing	To encourage people do take effective actions to reduce their reliance on plastic
2.1.5	Continuing to work with partners to phase out single use plastic	Ongoing	To support District and County Council and other Local Authority/Community partners in their ambitions to phase out Single Use Plastic (as SWP are also doing)
2.2	Campaigns		
2.2.1	Tackle food waste: stickering and behaviour change campaign (noting that the previous campaign was grant funded and SWP has a constrained marketing budget)	TBC	Whilst SWP has a high participation in food waste recycling (check c65%), a quarter of our residual waste, on average, is food waste. Further work is needed to understand the most effective way of addressing this, especially given the move to 3 weekly residual waste collection
2.2.3	Build trust in how we recycle and what happens to SWP recycling	Ongoing	To ensure people understand the benefit of separating their waste, what happens to their recycling and residual waste, and the financial and environmental benefits this brings.
2.2.4	Increasing our reach, in particular on social media and through our website		Social media and our website provides a cost effective means to communicate with people, and to enable them to communicate with us (especially when we enable on-

Business Plan 2019-24

			line missed collection reporting). Developing high quality digital content will become increasingly important.
2.2.5	Enforcement of service rules and householder support	Ongoing (in particular as we move to a new service model – Recycle More)	SWP’s Waste Management and customer service teams work closely with contractors and partners to resolve complex issues, investigate complaints, find solutions to problems and clamp down on abuse (including trade waste abuse & side/excess waste). Enforcement remains the last option, but in some cases is the only way to resolve issues (including flytipping – albeit this has been declining).
2.2.6	Schools against Waste	Now - Spring 2021	Three year programme to reach all Somerset primary schools, develop schools against waste programme for secondary schools, & explore ways to support schools to increase recycling. An evolved programme is likely to continue after 2021.
2.3	Changing behaviours through Recycle More		
2.3.1	Developing a robust costed communications and marketing plan for the Recycle More rollout (working closely with partner authorities)	Now - 2022	Effectively planning a comprehensive campaign will ensure that everyone is ready for Recycle More, takes advantage of the benefits it brings, and manages the transition to the new service model effectively. This will draw on the socio-economic analysis in the participation and composition analysis, enabling us to effectively target people in an appropriate way
2.3.2	Prepare Somerset for Recycle More	Now – Summer 2020	Ensure that – ahead of commencing the rollout of Recycle More – all households understand what we’re doing, when we’re doing it and why we’re doing it, and that they and us are ready for it
2.3.3	Phased support as Recycle More is rolled out	Summer 2020-2022	Targeted campaign (including additional front-line staff e.g. Waste Doctors undertaking door-knocking/targeted support) working closely with contractor and partner customer services
2.3.4	Learning from each phase of roll-out	Summer 2020-2022	Undertaking a lessons learned exercise after each roll-out phase so that we continually improve. There is a

Business Plan 2019-24

			period of learning and reflection in Spring 2021 when the roll-out will be paused to ensure we can take stock of phases to date
2.5	Community Engagement		
2.5.1	Developing partnerships	Ongoing	With limited resources, we need to develop strong partnerships with others in order to ensure that we cost-effectively drive people to change behaviours. Developing strategic partnerships with others (be it housing associations, oneteams, third sector organisations, business organisations) is a crucial means to do this.
2.5.2	Review food waste and compost champions	2019/20	With our scarce resources we need to ensure that the activities we undertake are delivering value for money
2.5.2	Promote and refresh newsletters	2019/20	SWP publish a monthly newsletter which is circulated to all parish council clerks and the Sorted e-newsletter which Somerset residents can subscribe to.
2.5.3	Attending face to face events	ongoing	Attending parish meetings and meetings of environmentally motivated groups is a key part of ensuring we remain close to our communities. With our scarce resources we need to ensure that the activities we undertake are delivering value for money
2.5.4	Refresh our approach to reuse:	2019/20	Working with Viridor, a new collection contractor (especially with regard to Reuse) and local partners (particularly VCSE) to improve reuse across Somerset

3. Building our capability			
What		When	Why
3.1	Transforming ICT systems		
3.1.2	Implementing a new customer service system	Now – Autumn 2019	To ensure that we have a fit for purpose CRM system, integrated with all partner authorities
3.1.3	Enabling web self-service	Autumn 2019	To enable customers to undertake transactions online, improving the customer experience and diverting demand away from call centres
3.1.4	Launching a mobile app	Winter 2019	Ahead of moving to Recycle More we aim to have launched a mobile app which enables to remind people of their collection day and to report issues. This will be a crucial part of making the move to 3 weekly refuse easier for Somerset residents.
3.1.5	Integrating in-cab technology	Spring 2020	In-cab technology (and 360 cameras on all vehicles) will be critical to improving our service reliability and to protecting and supporting our hardworking crews. It will also transform the effectiveness of on-line reporting.
3.1.6	Making best use of new technology	Ongoing	Changing our processes and ways of working to make best use of new technology, including how we can use ICT to support localities
3.1.7	Improve technology for making payments	Ongoing	Ensuring SWP has the capability to take automated payments over the phone, and hence is capable of supporting District Councils with certain charges for services, if desired
3.2	Strategy and influence		
3.2.1	Develop SWP long term strategy	Now – 2019/20	It is crucial that SWP has a long-term strategy, and preliminary work has commenced on this, though it will be significantly informed by the changes that may result from Central Government's Resources and Waste Strategy and Brexit.
3.2.2	Seeking to influence policy decisions at Central Government and working with partners within the	Ongoing	With a number of major government consultations expected from central government, it will be crucial that

	South West to further SWP's vision		SWP uses its reputation as a sector leader. Working with partners across the region may enable SWP to achieve things that are not possible through working solely at the County level.
3.2.3	Review how SWP supports local businesses	TBC	SWP currently only provides a waste collection and disposal service to those businesses who cannot get a commercial service from elsewhere. We need to review how we can work with businesses (for example supporting collaborative procurements for market towns which enable businesses to get a better financial and environmental outcome)
3.3	Ensure homes are built with waste in mind		
3.3.1	Working with planning authorities to ensure that residential development planning proposals have adequate provision of waste and recycling facilities	Ongoing	SWAP is currently supporting SWP in understand what we can do to ensure that SWP developer guidance has teeth and is followed
3.3.2	Ensure that waste and recycling services are implemented effectively when new developments are built and occupied	Ongoing	SWAP is currently working with SWP to identify how we can improve processes to manage this process, ensuring that we take advantage of this opportunity to change behaviours
3.4	Improving performance monitoring		
3.4.1	Improving carbon monitoring	Ongoing	SWP currently only understand their carbon impact on an annual basis, when Eunomia undertake comparative modelling across England. SWP propose to utilise the Scottish Government's carbon modelling to analyse this more frequently. Note that this is likely to be an area focussed on in forthcoming central government policy.
3.4.2	Improving end use monitoring	Ongoing	SWP were the first to publish an annual report showing exactly what happens to everything we collect for recycling. Given the increased importance of what happens to our recyclate, SWP will review the frequency and content of this, and how we can more effectively communicate it to the public
3.4.3	Customer service	Ongoing	SWP's refreshed vision highlights the importance we

Business Plan 2019-24

			place on excellent customer service, and we will accordingly place a higher priority on how we monitor this (and hence drive improvement)
3.4.4	Regular participation and composition analysis	Ongoing	Understanding behaviour will be crucial to target interventions, and regular participation and composition analysis is crucial to this. We currently have funding to undertake this every 3 years.
3.4.5	Ensure complete and accurate data in respect of container types and services is held by SWP	Ongoing	Ensuring we have robust, detailed and up to date data will enable us to target improvements more effectively.
3.4.6	Developing Insights	Ongoing	The ICT improvements we are making, together with more regular participation and composition analysis and deeper engagement with contractor staff will make a step change in the data we have available. Our focus on the circular economy also will require us to track even more effectively where our recyclate goes. We need to improve our capability to develop insights from this data.

6. SWP Budget 2019 - 20

The following table shows the projected year budget for Somerset Waste Partnership. A draft Annual Budget for the forthcoming year will be brought to the December meeting of the Somerset Waste Board, with the final budget due in February 2019.

6.1 Revenue Not Included

Control of income from residents for waste related services is retained by the collection authorities and is therefore not shown in this paper. The most significant portion of this is annual Garden Waste subscriptions, which will generate income for the district council of around £56.90 for each wheeled bin subscription in 2019/20. This is a significant offset of the cost of providing the service. Other income streams are Bulky Waste collection fees and sale of Garden Waste sacks.

6.2 Recycle More Implementation

Contributions to the Recycle More Earmarked Reserve from all partners currently totals £645,745. Spend to date on the procurement phase is £177,926. It is expected that the current level of the reserve will be adequate to cover the costs incurred during the procurement and mobilisation period (April 2019 – March 2020), noting that these do not include capital costs related to depots or vehicles. In 2016 the roll-out costs agreed by the board were estimated at £2.2m (primarily due to the cost of new containers, cost of communications and transition support, but not including the costs of procurement). The estimated roll-out costs are being reviewed and updated, but are not expected to have significantly changed. The costs will not be finalised until we have procured a new collection contractor and will cover the Transition Period (April 2020 – June 2020) and the Implementation Period (July 2020 – Summer 2022).

The Board agreed a set of financial principles for Recycle More on 18 December 2015, and these remain in place. Key principles are:

- District collection partners should not be penalised or rewarded for when they roll out within the programme.
- Sharing of the additional costs of roll out will be based on household numbers unless there is a District-specific cost.
- SWP will hold a central earmarked reserve for Recycle More and any balance (positive or negative) on the roll out process at year end to be kept centrally by the SWP to be used or recovered in future years. Any savings will initially be used to continue the roll-out. It is envisaged that no allocations will be made back to partners until the roll-out is complete, unless it becomes clear that a repayment can be made earlier.
- Funding arrangements for the additional containers (initial roll-out of new boxes and sacks, additional requests for other bins) will initially be funded through SWP's earmarked reserve. As this may not be sufficient, District partners will be free to fund this from revenue or reserves as best suits their needs. Once full rolled out, this will come through the normal Cost Sharing Agreement.

6.2 Full Draft Budget Summary 2019/20

Summary Annual Budgets 2019/2020						
Rounded £000s	Total	SCC	MDC	SDC	SSDC	SWaT
Expenditure						
Salaries & On-Costs	1036	471	120	119	168	158
Other Head Office Costs	255	116	28	30	42	39
Support Services	126	55	14	15	22	20
Disposal - Landfill	12132	12132				
Disposal - HWRs	9861	9861				
Disposal - Food waste	1533	1533				
Disposal - Hazardous waste	238	238				
Composting	1994	1994				
Kerbside Recycling	9478		1945	1948	2903	2682
Green Waste Collections	2690		514	650	719	807
Household Refuse	6371		1309	1307	1942	1813
Clinical Waste	124		25	27	37	36
Bulky Waste Collection	87		19	16	24	28
Container Maintenance & Delivery	237		51	47	74	65
Container Supply	465		98	99	142	126
Pension Costs	69		2	2	63	2
Depot Costs	186		37	40	56	53
Village Halls	5			5		
Transfer Station Avoided Costs	331	331				
Recycling Credits	2567	2567				
Capital Financing Costs	231		52	41	78	60
Total Direct Expenditure	50016	29298	4214	4346	6270	5888
Income						
Sort It Plus Discounts	-80		-16	-17	-24	-23
Transfer Station Avoided Costs	-331		-67	-71	-100	-93
May Gurney Secondment Saving	-44		-5	-5	-7	-7
Recycling Credits	-2538		-534	-509	-783	-712
Total Income	-2993	-20	-622	-602	-914	-835
Total Net Expenditure	47023	29278	3592	3744	5356	5053

Summary Draft Annual Budgets						
Rounded £000s	2019/20	2020/21	2021/22	2022/23	2023/24	
Expenditure						
Salaries & On-Costs	1036	1046	1057	1068	1079	
Other Head Office Costs	255	255	255	255	255	
Support Services	126	126	126	126	126	
Disposal - Landfill	12132	12696	13280	13890	14528	
Disposal - HW/RCs	9861	10240	10639	11054	11485	
Disposal - Food waste	1533	1613	1698	1786	1880	
Disposal - Hazardous waste	238	253	268	285	302	
Composting	1994	2151	2321	2504	2702	
Kerbside Recycling	9478	9842	10220	10614	11021	
Green Waste Collections	2690	2792	2899	3010	3125	
Household Refuse	6371	6616	6870	7133	7407	
Clinical Waste	124	129	134	139	144	
Bulky Waste Collection	87	91	94	98	101	
Container Maintenance & Delivery	237	246	255	265	276	
Container Supply	465	483	502	521	541	
Pension Costs	69	69	69	69	69	
Depot Costs	186	186	186	186	186	
Village Halls	5	5	5	5	5	
Transfer Station Avoided Costs	331	341	351	361	372	
Recycling Credits	2567	2644	2723	2805	2889	
Capital Financing Costs	231	231	231	231	231	
Total Direct Expenditure	50016	52055	54183	56405	58724	
Income						
Sort It Plus Discounts	-80	-80	-80	-80	-80	
Transfer Station Avoided Costs	-331	-340	-351	-361	-372	
May Gurney Secondment Saving	-44	-44	-44	-44	-44	
Recycling Credits	-2538	-2615	-2693	-2774	-2857	
Total Income	-2993	-3079	-3168	-3259	-3353	
Total Net Expenditure	47023	48976	51015	53146	55371	
Assumptions						
This is a continuation budget and does not include the impact of recycle more or a new contractor						
1% annual pay award for all years						
1% housing growth for all years						
Collection contract inflation 3% in all years						
Disposal contract inflation between 2.5% & 4.25% (for different contract areas), annually in all years						
Tonnage growth 1.5% annually for all years						

Somerset Waste Board meeting
14 December 2018
Report for information

Performance Report - April 2018 to September 2018

Lead Officer: David Oaten, Contracts Manager – Treatment & Infrastructure

Author: John Helps, Performance Monitoring Officer

Contact Details: 01823 625705

Forward Plan Reference:	SWB 18/10/02
Summary:	<p>This report summarises the key performance indicators for the period from April 2018 to September 2018 and compares these to the same period last year where relevant. The report is presented in the new format previously agreed by the Board, which aims to give a more rounded view of performance. Key headlines are:</p> <ul style="list-style-type: none"> • Recycling: The hot dry summer led to a significant reduction in garden waste, and there was a small drop in dry recycling (mostly street sweepings, and the ongoing trend in less paper). This led to a small drop in our recycling rate (NI192) to 54.1% (down 0.72% compared to the same period in 2017). • Residual household waste: This fell slightly by 1.02% (2.49kg per household) compared to the same period last year. SWP remains on track to move away from landfill by 2020. • Recycling sites: The number of visitors in July – September fell significantly (down 8%), probably due to the poor growing season. Tonnages also fell, the largest reduction being in garden waste. • End use: We are still recycling around 90% of what we collect in the UK, with the proportion recycled in Somerset falling slightly due to lower levels of garden waste. • Missed collections: Whilst not yet back to the level we would like to see, there has been a steady improvement, underpinned by Kier addressing some of the underlying issues (e.g. driver shortage). We continue to closely monitor this area. • Fly tipping: A 9% reduction in the number of fly tips was seen compared to the previous year.
Recommendations:	That the Somerset Waste Board notes the performance results in the Second Quarter Performance Management Report
Reasons for	

recommendations:	Report for information only. Whilst this report sets out specific actions being taken to address areas of concern; the business plan sets out how we focus on improving performance.
Links to Priorities and Impact on Annual Business Plan:	Transparency – Publishing Key Performance Indicators
Financial, Legal and HR Implications:	No direct financial, legal or HR implications.
Equalities Implications:	No equalities implications
Risk Assessment:	Areas of poor performance inform our overall risk assessment. A summary of risk is now included within each quarterly performance report, showing our top risks and setting out changes in risks and mitigating actions.

1. Background

- 1.1. As part of SWP's drive for continuous improvement, and as agreed at the September 2018 Board, Members will note that we have now moved to a new format of performance report. This ensures that each quarter, Board Members receive an update on progress in delivering the business plan, key risks, health and safety, recycling metrics (including tonnage, percentage and national indicator suite), end use, missed collections, fly-tipping, financial performance (noting that a separate finance report is still provided) and communications/customers. Subject to the views of the board, we will continue to improve how we report performance in the future to the board.

2. Consultations Undertaken

- 2.1. Consultation on findings in this report have been undertaken with SWP's Senior Management Group (officer representatives from partner authorities) and with SWP's Senior Management Team.

3. Implications

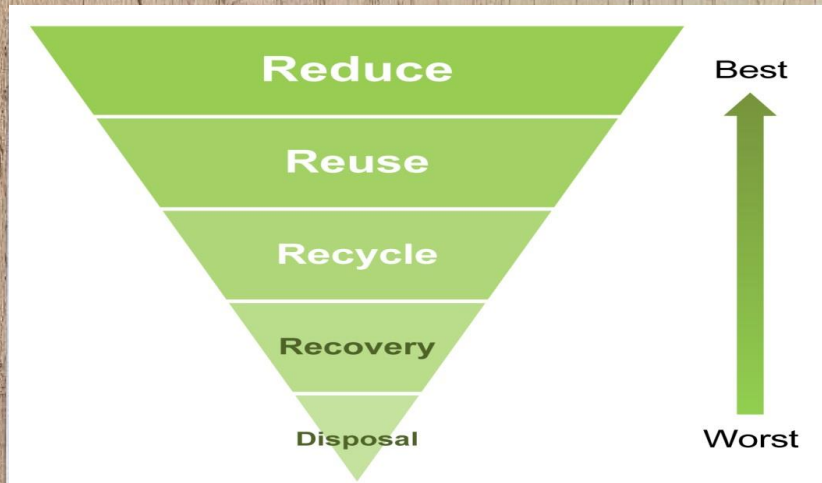
- 3.1. Implications of the performance data are:
- Ongoing work required with Kier to manage service quality
 - Reviewing budget forecasts to reflect the hot dry summer and low garden waste
 - Work closely with District Council partners to manage risks around ongoing implementation of new CRM system

4. Background papers

- 4.1. Performance Monitoring Report Q2 2018-19

Somerset Waste Board Second Quarter 2018-19

PERFORMANCE REPORT



Somerset
Waste
Partnership



Our Vision

Who we are: Somerset's Local Authorities working together as the Somerset Waste Partnership, ensuring that our household waste is reduced, collected, reused, recycled and effectively treated.

What we do:

- Preserve our environment by making every effort to ensure our household waste is not waste but reused as a valuable resource.
- Deliver excellent customer service and value for money to create a more sustainable Somerset.

What we are aiming to become:

An exemplar for how we manage waste as a resource, work with others and support our residents to manage their household waste and make our service the best it can be.

Our values

- **Insight:** Working with our partners to understand how and why people behave as they do and use this knowledge to shape our service.
- **Collaboration:** Treating everyone we work with as an equal, knowing we have greater success when we work together.
- **Innovation:** Learning from others and constantly looking at new ways of working to give the best service we can.
- **Quality:** Focusing on excellent customer service and making the best use of the waste we collect.

Business Plan

Our Business Plan explains how we will work towards this Vision over the next five years, with a particular focus on current year actions. The Business Plan contains three areas of focus, beneath which sit a range of activities.

Background

Somerset Waste Partnership (SWP) was established in 2007 to manage waste services on behalf of Mendip, Sedgemoor, South Somerset and West Somerset District Councils, Taunton Deane Borough Council and Somerset County Council. This made it the first county-wide waste partnership in the country. SWP has delegated authority to deliver household waste and recycling services throughout Somerset, including management of kerbside collections, recycling sites and disposal sites. These duties are in turn contracted to Kier (collection services) and Viridor Plc (recycling sites, landfill sites and waste disposal). SWP is accountable to the Somerset Waste Board (SWB), which consists of two elected members from each of the partner authorities. For further information please visit www.somersetwaste.gov.uk

Somerset Waste Partnership Business Plan 2018-2023

Building Capability

- Improving Intelligence
 - Review performance data procedures
 - Improve integrity of service data
- Developing systems
 - Develop ICT strategy
 - New Customer Service systems
 - Website Upgrades
 - Develop and launch Mobile App
 - Round management and performance software
- Understanding behaviour
 - Waste Composition Analysis
- Internal Review
 - Review of SWP staffing structures
 - Manage SWP office move
- Developing influence
 - Embed waste requirements in planning guidance to ensure new developments take full account of waste

Action on Waste Prevention, Reuse, Recycling and Recovery

- Implementing future collection arrangements (Recycle More model)
 - Procure provider for collection services from 28 March 2020
 - Explore early introduction of household battery collections and trialling ways to increase capture of small waste electricals
 - Initiate vehicle procurement
- Reducing cost and impact of waste
 - Targeted waste prevention and minimisation activities
 - Pilot SWP Education Service
 - Continue to explore effective media for communicating messages
 - Refresh SWP Waste Prevention Strategy
- Infrastructure
 - Oversee development of Infrastructure required to deliver new residual waste treatment

Maintaining Services and Operational Effectiveness

- Viridor Core Services Contract Review
- Active management of collection service contract
- Review waste services Fees and Charges structures, admin. costs and implications of varying charges
- Recycling Site Maintenance
- Assess impact of changes to legislative framework, including removal of powers to designate Community Recycling Sites and to charge for non-household waste at Recycling Sites
- Plan for Broadpath Landfill Site closure
- Plan for Dimmer transition
- Plan for a potential new Council for Taunton Deane and West Somerset following the Government's announcement that it is 'minded to' approve it

Purpose of the Report

This report reflects the SWP's ongoing progress towards the priorities laid out in the Business Plan.

This report sets out the key activities and measures used to check our performance for the year against the priorities we are working towards. It doesn't cover everything we do, but does set out the aspects of our work that are most relevant to the Somerset Waste Board.

Further information about how the Somerset Waste Partnership monitors and reports on performance can be found on the SWP website

www.somersetwaste.gov.uk

Key to KPI ratings used

This report includes Key Performance Indicators (KPIs), where progress is assessed against targets and project updates.

Performance is shown using Performance Ratings, progress is shown in terms of Direction of Performance (DOP) through the use of arrows.

Performance Indicator



Performance is on or exceeding target
Project is on target



Performance is off target but within tolerance
Project requires attention



Performance is off target outside tolerance
Project is off target

Performance Rating



Performance is improving



























Performance is steady



Performance is declining

Executive Summary - Second Quarter 2018-19 (Submitted to 14th December 2018 Somerset Waste Board)

Measure	Headlines	Direction of Performance	Performance Rating
Business Plan Progress: Building Capability	SWP's major project in this area is to implement a new customer service system which will enable online reporting and to utilise new contractor technology. Part of this is to link it with partner council CRM systems. An SWP restructure is underway, and we will move offices on 7 December.		
Business Plan Progress: Action on waste prevention, reuse, recycling and recovery	SWP remains on track in the major procurement exercise it is undertaking to secure a new collection contractor, and to transition away from landfill by 2020. The pilot SWP education service has been a success, as has our refreshed social media strategy and focus on plastics.		
Business Plan Progress: Maintaining services and operational effectiveness	Viridor Core Services contract negotiation was carried out and considered and approved by SWB on 2 November 2018. We continue to actively manage the collection contract, though whilst issues over the summer have been addressed and we are seeing improvement, the level is not what we expect.		
Risks	Our top 2 'red' risks are: 1. Implementation of the new Customer Service System. 2. Health and Safety of staff and public at kerbside and recycling sites		
Health & Safety	10 accidents to members of the public (up 1) including 1 RIDDOR and 2 environmental incidents reported at HWRCs. The ratio of accidents to visits remained constant at 1 per 100,000 visits. 33 accidents to Kier operational staff (up 10) and 858 increase in near misses reported (a positive move).		
Waste Minimisation	A reduction in the total Reused, Recycled & Composted of -11.47kg/hh and a decrease in the amount of household residual waste disposed of -2.49kg/hh leading to an overall reduction in waste arising of -13.96kg/hh. Q1 & Q2 NI 191 = 241.98kg/hh, which was reduction of -2.49kg/hh.		
All Recycling & Recycling Sites	A decrease in garden waste, down 2,419 tonnes and dry recycling, down 352 tonnes. A decrease in the quantity of residual waste contributing to a reduction in NI 193 to 44.70%, with both of these changes in recycling and residual waste reducing NI 192 to 54.14%.		
End Use of Materials	Continued use of UK based reprocessors dealing with materials from Somerset. Although, there was a slight increase in the weight sent abroad of 89.65 tonnes (1.07%).		
Missed Collections	Q2 (July- September 2018) saw an improving picture in the level of missed collections. From a high at the beginning of July (1,078 misses per week), down to a low at the end of September (444 per week), although this was still not as low as at the beginning of April (410 per week).		
Fly Tipping	Decrease overall of 206 fly tips - from 2,279 in 2017-18 to 2,073 in 2018-19.		
Financial Performance	At the end of Q2 (September 2018) SWP showed a forecast budget underspend for the year. Emerging trends since then suggest that tonnages (in particular green waste) are down. SWB approved the £800k savings requested from SCC in September and are on track to be realised.		
Customer Interaction & Communications	A reduction in collection complaints during Q2 from a high in July of 395, to a low in September of 205. 240,158 hits on the Somerset Waste Partnership website in Q2. 19,073 deliveries of our 'sorted' Ezine.		



Why do we measure and report this?

This part of the 2018-2023 Business Plan set out what we needed to do in order to ensure that SWP is an organisation that is able to work intelligently to improve delivery of the financial, social and environmental benefits of an effective resource management service.

What are the actions in this part of the Business Plan

- 1) **Improving Intelligence**
 - Review performance data procedures & improve integrity of service data
- 2) **Developing systems**
 - Develop ICT strategy, new Customer Service systems, website upgrades, develop and launch Mobile App, implement round management and performance software
- 3) **Understanding behaviour:** Waste Composition Analysis
- 4) **Internal Review:**
 - a) Review of SWP staffing structures
 - b) Manage SWP office move
- 5) **Developing influence:** Embed waste requirements in planning guidance to ensure new developments take full account of waste

What have we achieved so far this year?

- 1) **Improving Intelligence:** A deep dive into missed collections undertaken and follow up work has identified a number of improvements to our data procedures, and given us a much greater understanding of service performance. The scope of internal audit for 2018/19 was refocussed onto issues of data quality and information flows. Initial fieldwork by SWAP has been undertaken, and will be reviewed by SWP and SMG to focus further work.
- 2) **Developing systems:** The implementation of a new customer service system is ongoing. SWP have been working closely with partners to ensure that we are able to offer both Direct Access and system integration (as different partners have different needs) in a way which is legally compliant (reflecting SWP's statutory duties and data controller responsibility) and which aligns with the mobilisation timescale for the new contract. A way forward has been developed which - subject to SMG agreement and then technical and legal sign-off to the detailed approach, should enable us to implement this in a way which meets SWP's needs and those of all partners.
- 3) **Understanding behaviour:** Waste Composition and Participation analysis was undertaken for SWP by Resource Futures in late Spring and reported to SWP in Summer 2018.
- 4) **Internal Review:** This aims to ensure that SWP has the capability, skills, capacity and structure appropriate to respond to all our pressures and opportunities. The consultation period has been concluded. Transition to Office 365 (new devices and applications) successfully completed.
- 5) **Developing influence:** Developer guidance has been shared with all partners, working through SMG. This remains ongoing.

What are we focussing on next?

- 1) **Improving Intelligence:** A review of SWAP initial fieldwork has resulted in agreement on a reduced number of priority areas to initially focus upon. Ensuring new developments are planned with waste in mind is the top priority area. SWP exploring waste/recycling benchmarking club through Adept.
- 2) **Developing influence:** Ongoing discussions with SCC around SPD, and with SMG to embed the existing developer guidance within local development plans.
- 3) **Developing systems:** Complete user acceptance testing, integration with contractor system (Echo) ahead of implementation with partners. Agreement from all partners on approach to implementation and integration.
- 4) **Understanding behaviour:** Review the waste composition and participation analysis to inform and integrate future strategy and plans. A report will be brought to the board summarising the findings.
- 5) **Internal Review**
 - a) Undertake recruitment to new posts/ring-fenced posts
 - b) Move offices to Broughton House (still on the Blackbrook Business Park) in on 7 Dec 2018

What will success look like by the end of the 2018/19 financial year?

- 1) **Improving Intelligence:** SWAP review completed and clear actions identified to improve data quality and information flows; processes around missed collection/service quality issues fully embedded.
- 2) **Developing systems:** A new customer service system is ready to launch, enabling SWP to focus work with a future collection contractor on aligning with in-cab/new system. Self-service reporting on SWP website (and partners) implemented. App designed and ready for roll-out.
- 3) **Understanding behaviour:** Analysis of Waste Composition and Participation review undertaken, reported to the board, and embedded in our future plans and strategies.
- 4) **Internal Review:** Revised structure is in place and bedded in delivering the desired benefits, new office move completed with minimal disruption, safe transition to Office 365 and new cloud based systems enable processes and working practices to be improved. office move successfully undertaken, supporting more effective ways of working.
- 5) **Developing influence:** All partners have engaged with their planning teams/other relevant stakeholders to ensure they are aware of and effectively use SWP developer guidance; agreed with SCC and partners how best to give our developer guidance teeth (e.g. a potential Supplementary Planning Document and embedded in Local Development Plan).



Why do we measure and report this?

An important part of the governance of the Somerset Waste Partnership is our annually updated and approved Business Plan, this highlights the major tasks and challenges we face over the coming 5 years and is therefore vital that we keep the Members updated on progress.

What are the main Business Plan items that we are focusing on right now?

What has changed since the last time we reported?

- 1) **Implementing future collection arrangements** (Recycle More model):
 - a) Procure provider for collection services from 28 March 2020
 - b) Explore early introduction of household battery collections and trialling ways to increase capture of small waste electricals
 - c) Initiate vehicle procurement
- 2) **Reducing cost and impact of waste:**
 - a) Targeted waste prevention and minimisation activities
 - b) Pilot SWP Education Service
 - c) Continue to explore effective media for communicating messages
 - d) Refresh SWP Waste Prevention Strategy
- 3) **Infrastructure:** Oversee development of Infrastructure required to deliver new residual waste treatment

- 1) **Implementing future collection arrangements** (Recycle More model):
 - a) The procurement process for a new collection contractor remains on track, having completed the ISDS stage. The SWB meeting on 2 November reviewed the outcomes of the ISDS stage and agreed the approach to the final stage. Discussions with SSE mean that the schools service will now be a mandatory rather than a provisional item
 - b) As set out in the Q1 report it is unlikely that we will be able to introduce the early collection of household batteries or trial ways to increase capture of small WEEE. However, SWP have introduced the recycling of plastic food PTT at all recycling sites
- 2) **Reducing cost and impact of waste:**
 - a) The SWP Education Service has been successful piloted - reaching 89 primary schools across Somerset by the end of November 2018 (10 months into the project) Feedback from schools and pupils has been excellent
 - b) Pledge Against Preventable Plastic distributed to c7000 homes in Frome
 - c) Successful giveaway of nearly 1,500 rolls of food waste liners through libraries, with over 300 new subscribers to SWPs 'Sorted' e-newsletter.
- 3) **Infrastructure:** The development of the infrastructure for residual waste treatment is on track (Avonmouth RRC and the two transfer stations) and SWP will move away from landfill by 2020.

What are we focussing on next?

What will success look like by the end of the 2018/19 financial year?

- 1) **Implementing future collection arrangements** (Recycle More model):
 - a) Final stage of dialogue with bidders to refine bids. Refine procurement documents (inc risk share mechanism) ahead of publication of final tender documents on 4 January
 - b) Updating partners on progress alongside business plan consultation process
- 2) **Reducing cost and impact of waste:**
 - a) Plastic will continue to be a high priority. SWP seeking to conclude advice to communities that want to collect PTT at a central point
 - b) Developing the specification for the proposed 2 year extension to the Schools Against Waste Programme (so Somerset's primary schools are visited in the first 3 years of this programme), to include working with schools to improve their recycling rate
 - c) The SWP Waste Prevention Strategy will be broadened into a waste minimisation strategy and will be informed by the anticipated Central Gov't resources & waste strategy
- 3) **Infrastructure:** Development of Walpole transfer station has commenced. Around 550 staff will be on site at Avonmouth in the next 3 months (the peak construction period)

- 1) **Implementing future collection arrangements** (Recycle More model):
 - a) A new collection contractor has been procured, and transition planning has commenced ahead of mobilisation in Spring 2020
 - b) We have clarity on vehicles and can commence work to procurement a new fleet
- 2) **Reducing cost and impact of waste:**
 - a) Targeted waste prevention and minimisation activities have been successful and managed volume growth, and we have developed a business case for a marketing budget which better reflects our ambition
 - b) A 2 year contract for the Schools against Waste Programme has been let enabling the current success to continue, with a more well developed support to schools to improve their own recycling
 - c) Our social media strategy continues to be successful (building on the doubling of Facebook followers so far), enabling us to cost-effectively influence more people
 - d) A draft SWP Waste Minimisation Strategy has been developed and informed by government policy, which SWP has been influential in shaping
- 3) **Infrastructure:** The development of the infrastructure required to move SWP away from landfill by 2020 remains on track



Why do we measure and report this?

The actions in this element of the 2018-2023 Business Plan ensures the day to day functions of the SWP are delivered effectively and safely, focussing on maintaining the quality of service, predicting risks and preventing issues arising.

What are the main Business Plan items that we are focusing on right now?

- 1) **Viridor Core Services Contract Review**
- 2) **Active management of Collection Service Contract**
- 3) **Review waste services Fees and Charges structures, admin. costs and implications of varying charges**
- 4) **Recycling Site Maintenance**
- 5) **Assess impact of changes to legislative framework**
- 6) **Plan for Broadpath Landfill Site**
- 7) **Dimmer transition**
- 8) **Plan for a new Council**

What has changed since the last time we reported?

- 1) **Viridor Core Services Contract Extension:** Negotiations with Viridor have been concluded and the SWB agreed on 2 Nov that a contract extension delivers SWP's requirements (including keeping all HWRCs open and delivering savings requirements).
- 2) **Active management of collection service contract:** Driver shortages and other issues led to a deterioration of service quality. SWP have imposed performance deductions and Kier have implemented numerous arrangements to address the driver shortage. This has had the desired effect and performance has improved, albeit SWP continue to keep a close eye on performance in this area.
- 3) **Review waste services Fees and Charges:** to be undertaken once we have a new contractor as this will influence fees, charges and processes.
- 4) **Recycling Site Maintenance:** On track, including repair of staff facilities at Dulverton.
- 5) **Assess impact of changes to legislative framework:** SWP MD has liaised closely with central Gov't to understand and influence the direction of travel on policy.
- 6) **Plan for Broadpath Landfill Site:** Closure is likely to be delayed, but this has no adverse impact on SWP.
- 7) **Dimmer transition:** On track.
- 8) **Plan for a new Council** for Taunton Deane and West Somerset: principles agreed and reflected in draft budget.

What are we focussing on next?

- 1) **Viridor Core Services Contract Extension:** Raising awareness amongst the public of changed hours from April 2019 (e.g. site specific leaflets). Viridor undertaking staff consultation.
- 2) **Active management of collection service contract:** Ongoing regular meetings with senior mgmt., ongoing performance deductions where merited, work with Kier to ensure there is a plan through to the end of the contract life.
- 3) **Review waste services Fees and Charges:** dialogue with potential collection contract suppliers to inform our thinking (esp. on garden waste and bulky waste/reuse).
- 4) **Recycling Site Maintenance:** Remain on track.
- 5) **Assess impact of changes to legislative framework:** Continue to seek opportunities to influence Gov't, and re-establish and refresh SW waste network (meeting in December).
- 6) **Plan for Broadpath Landfill Site closure & 7) Dimmer transition:** Ensure on track.
- 7) **Plan for a new Council** for Taunton Deane and West Somerset: Draft proposed changes to constitution and Inter-Authority Agreement in line with principles agreed by SWB, and seek a decision at the December SWB meeting.

What will success look like by the end of the 2018/19 financial year?

- 1) **Viridor Core Services Contract Review:** Implementation plans are well on track - the public are aware (and supportive) and staff are content.
- 2) **Active management of collection service contract:** Service quality is returning towards the long term acceptable level, and the issues identified with missed collections (e.g. assisted collection, repeat missed) have been resolved.
- 3) **Review waste services Fees and Charges:** Having awarded a contract to a new supplier we are ready to commence work on a review of fees and charges. We will have commenced work on a review of the HWRC permits scheme.
- 4) **Recycling Site Maintenance:** Remain on track.
- 5) **Assess impact of changes to legislative framework:** SWP is influential at the national level.
- 6) **Plan for Broadpath Landfill Site closure & 7) Dimmer transition:** Plans on track.
- 7) **Plan for a new Council** for Taunton Deane and West Somerset: Constitutional changes and budgetary changes all approved and we seamlessly transition to working with the new authority.



Why do we measure and report this?

Whilst our full risk register is brought to the Board every 6 months, SWP keeps these risks under constant review. It is important to investigate, highlight and where possible mitigate against known upcoming risks in order to ensure we remain operationally effective in the services we provide, whilst building capability to deal with future challenges.

What are the risks that we should be focusing on right now?

Our 8 'red' risks are:

1. Inefficiencies due to customer services and partners IT systems not being joined up.
2. Lack of resources and complexity around implementation of new Customer service system
3. Health and Safety of staff and public at kerbside and recycling sites
4. Financial pressures of the partners
5. Ageing fleet of vehicles becoming unreliable
6. Service degradation as the contract comes to an end.
7. Driver and loader shortages on kerbside collections
8. Reduction in contractor's management team or frontline staff.

There are two new opportunities:

Op 7. Potential opportunity that government policy may require packaging producers to take on responsibility for the recycling and disposal costs their decisions result in.

Op 8. Opportunity to utilise front-line crews to support localities through the effective use of technology

What has changed since the last time we reported?

	Risk No.	Risk Summary	Current Rating (Previous)
New Risks:	Op 7	Extended Producer Responsibility	9 (-)
	Op 8	In-Cab technology and localities	9 (-)
Increased Risks:	6	Lack of SWP resources to implement new CS system	16 (9)
	7	Failure to implement new CRM system	20 (16)
Reduced Risks:	14	Risk of lack of bidders reduced as we progress the procurement process.	9 (12)
	15	Likelihood of bidders pricing high to mitigate risk reduced as we progress the procurement process.	4 (12)
	16	Risk of failing to achieve economic and efficiency objectives reduces as we progress the procurement process.	8 (12)
	17	Risk of failing to achieve environmental and social objectives reduces as we progress the procurement process.	4 (2)
	18	Risk of procurement process taking too long reduces as we progress the procurement process.	10 (15)
	21	Need for a new depot has reduced as procurement progresses.	12 (16)

What are we doing to ensure these risks are managed?

1-2. Increased SMG oversight, additional SWP resources, including increased ICT and legal support, partner ICT involvement in collection contract procurement process, joint working with partners to identify options on CRM system implementation.

3. Regular monitoring, supporting Kier in liaison with police to ensure dangerous driving from the general public is robustly addressed.

4. Close liaison between SWP MD and partners to understand impact on SWP. Finance paper sets out how SWP propose to meet SCC savings requirements for 2019-20 without impacting on our ability to deliver the SWB vision.

5-8. Regular monitoring through ops meetings and senior meetings, penalties for poor performance, working closely with Kier on recruitment and retention, increased direct engagement with front-line staff by SWP, continued secondment of experiences staff to Kier.

Op 8. Monitoring use of technology in other areas. Procurement process will explore opportunities.

What will success look like in terms of managing risks?

Future success would mean an overall reduction in our risk profile, (e.g. fewer 'reds') and success of the mitigation measures we've put in place.

1-2. New customer service systems being introduced adding flexibility and efficiency which will enable integration with next generation IT, including collection service "in-cab" and tracking systems. All this should improve the customer experience. Agreement with District partners on a way to align this with District CRM systems. Capacity and capability to implement. Development work on track.

3. The issues inherent with the service are well managed, and Avon & Somerset police take our concerns seriously.

4. SWP continues to have the budget available to deliver the Board's vision whilst meeting partners' saving requirements, and this doesn't affect the excellent working arrangements with SWB.

5-8. We can see the improvement in Kier's performance and they are on track to deliver their commitment to SWP (in the early termination agreement) that there will be no service degradation ahead of the end of the contract.



Why do we measure and report this?

The Waste Management sector has an injury and fatality rate significantly higher than the all-industry average. Health and Safety management within the scope of the Somerset Waste Partnership has therefore always had a very high profile. A public report on a quarterly basis helps maintain awareness, gives transparency and keeps members up to date on performance.

Kier ES - H&S Performance and Initiatives

Accidents to Kier operational staff is up by 10 to 33, with the trend from reporting to the Somerset Waste Board in the graph below. There were no injuries involving members of the public.

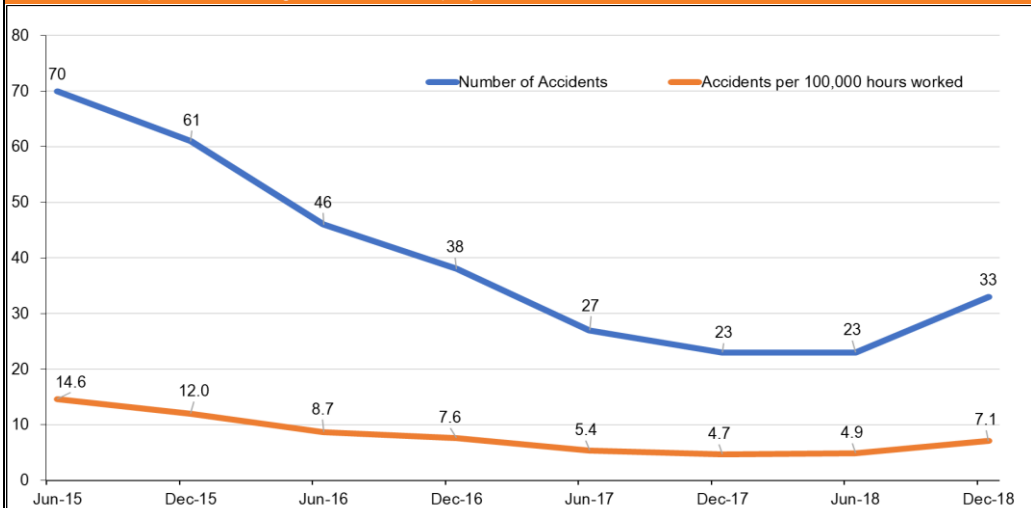
The number of accidents per 100,000 hrs worked has risen to 7.1, its highest for 2 years, but still well below the figures previously seen on the SWP contract. As a performance comparison: The Health and Safety Executive (HSE) recently reported the National Waste Industry accident figures for the period 2010-11 to 2016-17. This shows around 4.0% of staff employed in the waste industry suffer work related injuries. Applying that same criteria to Kier statistics show their figure as 1.3%, a third of the historic national average and commendable performance.

Near Miss / Hazard Spot reports, used to identify potential hazards for review and any possible action required, has risen substantially again to 1,837, a further increase of 858, from 979 in June 2018. This shows a big rise over the last 12 months, when you consider the figure reported a year ago (Dec 17), was 77. Kier welcome the continued improvement from the previous low and declining numbers, as it enables management to identify potential issues before they occur.

There were no RIDDORS, Environmental Incidents, or Dangerous Occurances reported.

Kier have rolled out a 'Welfare Awareness' campaign to staff, aimed at health, diet and fitness.

Kier ES - H&S performance figures for Kier employees



Viridor - H&S Performance and Initiatives

Accidents to members of the public increased to 10 (up by 1), including one trip injury, notified under the Reporting of Injuries Diseases & Dangerous Occurrences Regulations (RIDDOR). The ratio of accidents remained near constant at around 1 accident per 100,000 visits. Given the recent history shows level performance and the fact the Somerset contract always compared well to other Viridor contracts when figures were available; we consider this performance as a good and sound benchmark to be used going forward.

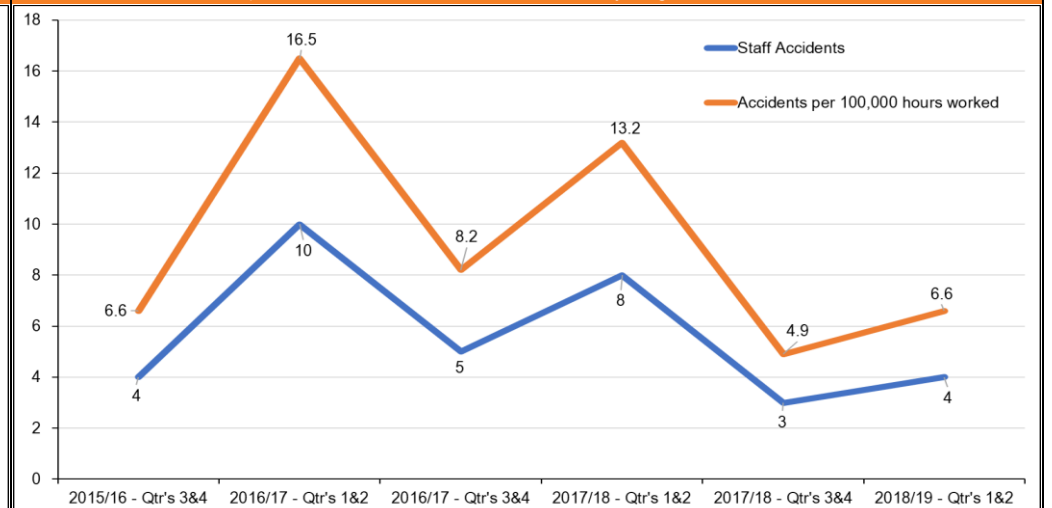
As we are now reporting accidents to the public, measured against site visits separately, it gives us the opportunity to report on employees in the same way. Therefore, accidents to Viridor employees, per 100,000 hrs worked, is 6.63. We are unable to compare that to the HSE figure, as we have with Kier ES at this time, but work on producing that for the next report has started.

Near miss reporting is up to 107 (+30%). Recognition of hazards is always seen as a positive.

There were 2 environmental incidents: both fires inside containers attended by the Fire Brigade, one in a metal container that ignited during compaction and the other inside a garden/organic waste container, assessed as having combusted due to the high summer temperatures.

Viridor H&S initiatives: 'Homesafe', aimed at staff getting home injury free: A nine point 'Toolbox Talk' program for HWRC staff on H&S: A review of all HWRCs Traffic Management Plans.

Viridor - What does H&S performance look like on Somerset Recycling Sites



Why do we measure and report this?

In accordance with the waste hierarchy, reducing the amount of waste that is generated in the first place, is the best environmental (and financial) outcome. Reporting on the amount of waste overall (and residual waste in particular) that each household in Somerset generates, ensures we continue to target the minimisation of residual waste, in addition to ensuring that we treat what waste does arise as a valuable resource.

What tonnage have we had to handle this quarter?

Over Q1 & Q2 the total waste Reused, Recycled & Composted decreased by -11.47kg/hh, with -6.90kg/hh of material lost at the kerbside and -4.57kg/hh from recycling sites. Of these amounts, green garden waste from the kerbside accounted for -4.03kg/hh, with -5.51kg/hh of green garden waste coming from the sites.

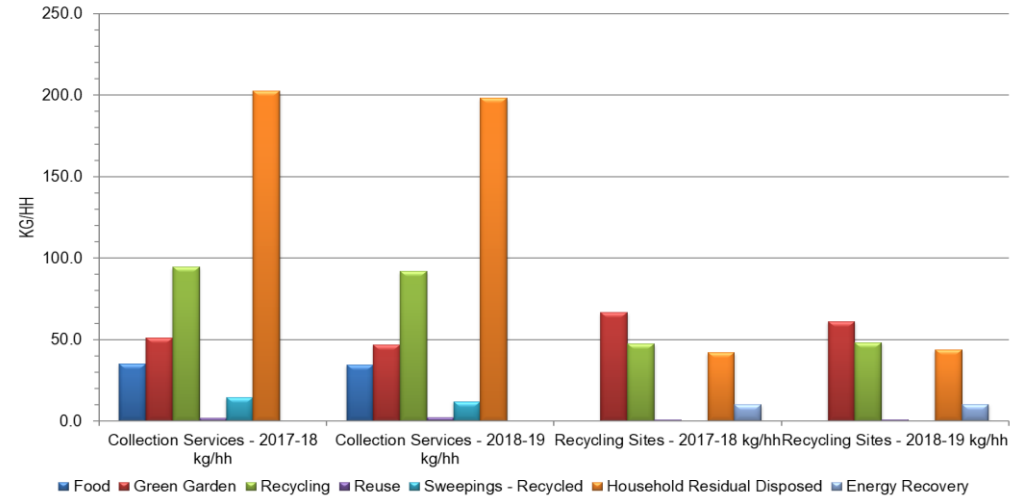
There was also a corresponding decrease in the amount of household residual waste disposed of -2.49kg/hh, with -4.24kg/hh from kerbside, offset by a small increase at the recycling sites of 1.75kg/hh. This brought the Total Household Arisings to 527.62kg/hh for the first two quarters, with an overall decrease of -13.96kg/hh, the majority of which came from the kerbside service.

This resulted in an overall cumulative performance for NI 191: Residual Household Waste per Household (kg/hh) = **241.98kg/hh**

NI 193: Percentage of municipal waste landfilled = **44.70%**.
This increased by 1.03% from the previous year's = **43.67%**

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HOUSEHOLD ARISING (kg/HH) Q1 & Q2 - 2018



What are we doing to ensure we continue to improve?

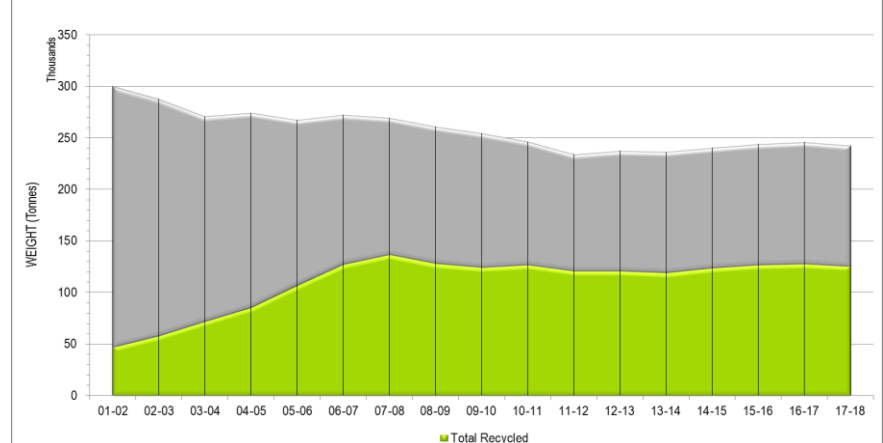
Various initiatives have either commenced, or are planned to do so over the next 12-18 months, some of which include:

- 1) Schools education programme.
- 2) Recycle More, which will include the introduction of PTT, cartons, battery collections and increasing the capture of small electricals.
- 3) Food waste participation campaign.
- 4) Increasing targeted social media publicity.
- 5) A new draft Waste Minimisation Strategy - informed by expected national policy, this will include setting targets and considering how we report waste minimisation.
- 6) Moving away from landfill by 2020.
- 7) Focus on plastics.

What will future success look like?

A reduction in the amount of household waste we handle, with more used as a resource - tackling the stagnation that has been seen in Somerset (and nationally) in driving down waste.

TOTAL WEIGHT LANDFILLED & RECYCLED - 2001-02 to 2017-18





Why do we measure and report this?

Where waste does arise, the best thing that can be done with it is that it is recycled. The recycling rate at kerbside and at our recycling centres helps keep track of how we are managing our household waste, ensuring we are pushing as much of it as we can up the waste hierarchy to derive the most benefit from it, whilst keeping our costs down.

What has happened in this quarter?



What has driven the changes in this quarter?

SWP's overall recycling rate for April - September 2018 decreased slightly compared to the same period last year. This was driven by a decrease in the recycling rate at both the kerbside 46.95% and the recycling sites 71.58%. The main drivers were decreases in garden waste across both and dry recycling at the kerbside.

Materials that saw significant changes in the weight collected compared to the same period last year were: Garden waste down 2,419 tonnes, street sweepings down 633 tonnes, paper down 207 tonnes.

These were all offset slightly by an increase in the amount of glass recycled, up 285 tonnes, wood up 190 tonnes and clothes and shoes up 149 tonnes.

The significant reduction in garden waste was seen across both the kerbside collections, down 1,022 tonnes and the recycling sites, down 1,397 tonnes and was a result of the exceptionally hot dry summer.

Recycling and reuse rate (NI192) for Apr-Sep 2018: 54.1% (decrease of 0.72% since Q1 - Q2 2017)

What are we doing to ensure we continue to improve?

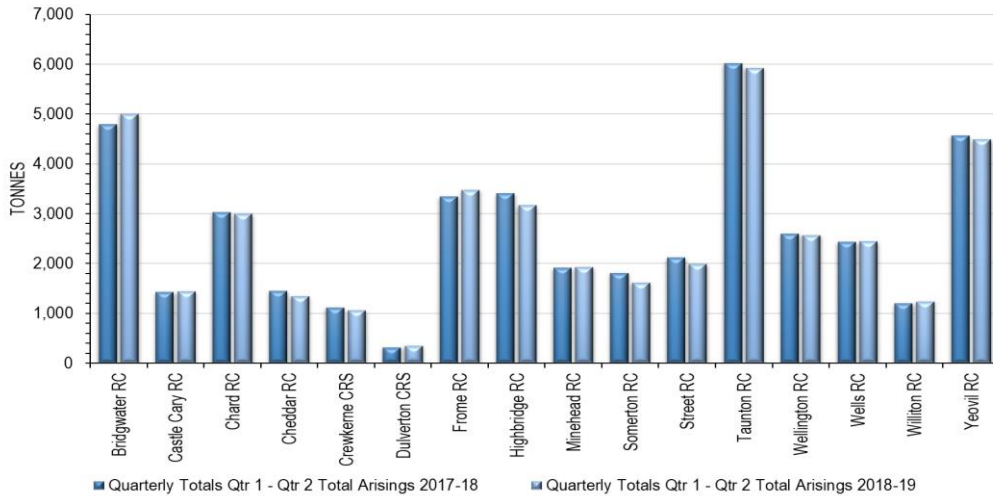
Work continues on contract procurement for the new Recycle More service. Construction of the new Resource Recovery Centre at Avonmouth to move us away from landfilling our residual waste, which will greatly improve the result for NI 193 in 18 months time. More detail on these two major projects can be found in the Business Plan section of this report.

What will future success look like and what are we doing about it?

As ever, future success would see lower total arisings as well as reductions in NI 191 and increases in NI 192 after commencement of Recycle More, as well as significant reductions in NI 193, once Avonmouth RRC is receiving the majority of Somerset's residual household waste.

What has happened and what has changed in this quarter?

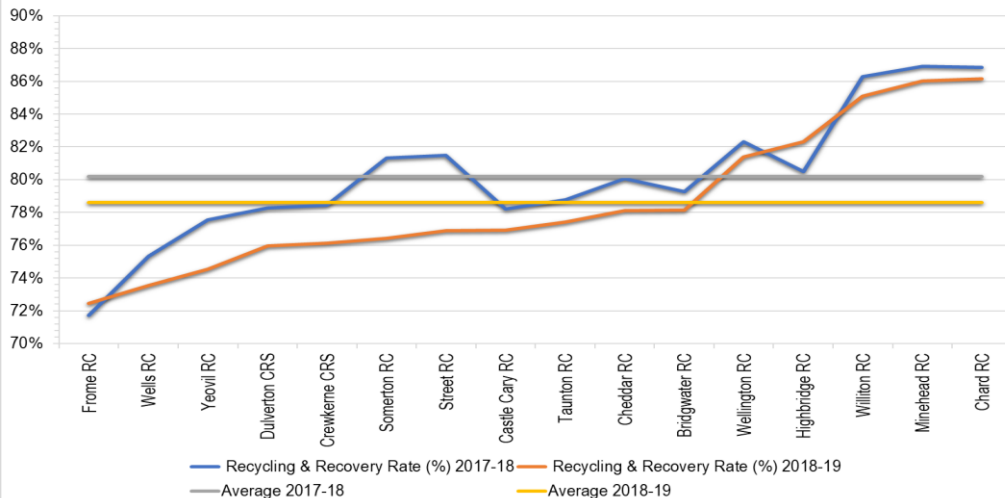
Q1 & Q2 RECYCLING SITE TOTAL ARISING - 2018-19 COMPARED TO 2017-18



Recycling Site	Q2 - 2018-19 Visitor Numbers - July - September			
	2017-18	2018-19	Variance	% Change
Bridgwater RC	56,973	54,985	-1,988	-3.49%
Castle Cary RC	13,683	12,828	-855	-6.25%
Chard RC	47,148	34,481	-12,667	-26.87%
Cheddar RC	16,181	15,351	-830	-5.13%
Crewkerne CRS	8,155	8,207	52	0.64%
Dulverton CRS	2,492	2,339	-153	-6.14%
Frome RC	29,539	31,741	2,202	7.45%
Highbridge RC	42,376	39,691	-2,685	-6.34%
Minehead RC	31,810	29,968	-1,842	-5.79%
Somerton RC	16,848	15,970	-878	-5.21%
Street RC	27,953	24,705	-3,248	-11.62%
Taunton RC	76,505	72,155	-4,350	-5.69%
Wellington RC	29,473	29,208	-265	-0.90%
Wells RC	27,255	25,717	-1,538	-5.64%
Williton RC	20,221	13,279	-6,942	-34.33%
Yeovil RC	52,137	46,667	-5,470	-10.49%
All Sites	498,749	457,292	-41,457	-8.31%

Note : Table shows Q2 only, rather than cumulative data for Q1 - Q2.

Q1 & Q2 RECYCLING SITE RECYCLING RATE % - 2018-19 COMPARED TO 2017-18



Total arisings are down by 499 tonnes. This total comprises of 1,397 tonnes of garden waste and 159 tonnes of wood for recovery, offset by increases in recycling & reuse of 457 tonnes, residual waste 408 tonnes and hardcore & soil 192 tonnes.

Without the loss of the 1,397 tonnes of garden waste the total recycling rate (incl. recovery 78.33%) would have been closer to the result for 2017-18 (79.73%). However, the difference is quite marginal and it is expected the outturn figure for the 2018-19 will be similar, or better than in 2017-18.

The best performing sites for Q1-Q2 are, Chard RC (86.15%) and Minehead RC (86.03%), with the worst performing being Frome RC (72.44%) and Wells (73.53%).

The number of visits dropped from 956,413 in 2017-18 to 937,070 in 2018-19, which equates to a reduction of 19,343 (2.02%). The majority of the reduction in visits being seen in July 21,070 (12.31%) and August 16,189 (9.24%). Table of visitor numbers shows data for Q2 only, rather than cumulative for Q1- Q2. This is to highlight the impact of the weather during this period.

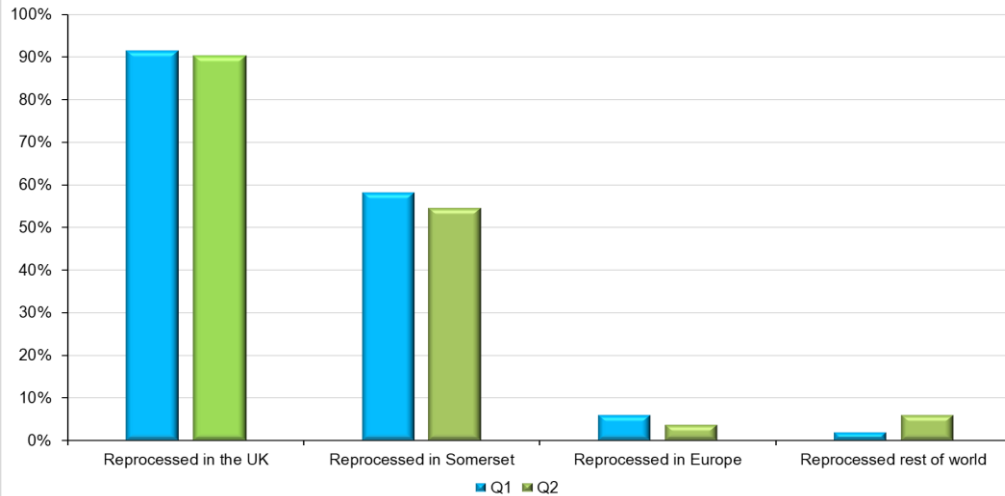
The hot and dry weather is also likely to have contributed to reductions in both total arisings and recycling performance over the summer months, particularly during July and August.

Why do we measure and report this?

As the first Authority in the UK to publish the detail of what we do with our household waste, it remains important that we are transparent to our Members and residents in terms of how and where we treat and recycle the materials we handle - in particular how much stays in Somerset and the UK, and how much remains in closed loop recycling. In the run-up to Recycle More, it is particularly important that we emphasise to Somerset residents that the way they separate their recycling and the way we collect it means that it is nearly all recycled in the UK and in the 'best' way possible - building trust in our services.

What are the headline numbers for 2018/19?

RECYCLING END-DESTINATIONS Q1 AND Q2



Have there been any significant changes since the last report?

We are still recycling around 90% of our waste in the UK. There has been a slight increase in the amount exported in Q2 due to Viridor sending all cardboard to China for reprocessing rather than using a mix of reprocessors in the UK and overseas. Another factor is the hot, dry summer resulting in lower tonnages of garden waste. This impacts on the quantity reprocessed in Somerset (54% in Q2, down from 58% in Q1) and therefore the UK (90% in Q2, down from 91% in Q1).

Both Viridor and Kier have well established contracts with reprocessors so unless there are any operational or business issues, the main reprocessors do not change very frequently.

The main materials exported were: mixed paper and cardboard from recycling centres, cardboard from the kerbside collections, plastic bottles, and textiles which are sent to developing countries for reuse.

The banks for plastic bottles and pots, tubs and trays at recycling centres have proved increasingly popular with residents, with over 49.5 tonnes collected in Q2 compared to 34.6 tonnes in Q1. The mixed plastics are sent to Viridor's plastic reprocessing plant in Kent where they are sorted into different plastic types and sent to reprocessors to be made into new plastic packaging and other products.

What changes are likely to have happened the next time we report?

Overseas markets are continuing to restrict imports of waste. This may impact on materials exported, however SWP is largely insulated from this due to the high quality of our kerbside sort material. The exception to this is when the balers break down at the kerbside depots and materials are sent to a MRF which use their own reprocessors.

We are awaiting the new Resources and Waste Strategy which will be published imminently. This may impact on how recyclables are managed in the future and also the types of materials used in packaging. We are also expecting a consultation on a Deposit Return Scheme which would impact on the beverage containers collected at the kerbside in particular.

What will future success look like?

The appointment of a new collections contractor and transition to Recycle More will increase the amount of recyclables captured (both existing and new materials). We will continue to produce high quality, in-demand recyclables. We will continue to reprocess in the UK where possible, and into closed loop applications.

We are researching information about carbon savings to add to the benefits of the End Use Register and looking at new ways of presenting the information to give Somerset residents confidence that their efforts to separate their recyclables make a difference.



Why do we measure and report this?

Missed collections remain the cause of the majority of customer contacts to the Waste Partnership and remains an area of concern whilst we are in the process of moving from our incumbent collection contractor, to the new Recycle More contract.

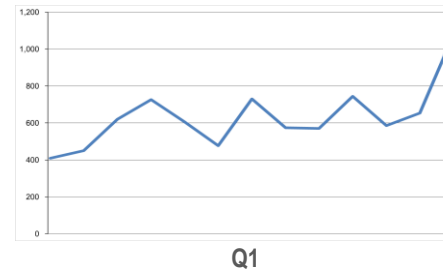
What are the headline numbers?



What are the issues underlying current performance?

Since our last performance report back in September we have seen an increased stability in the provision of drivers and loaders across the contract and although still a very volatile situation, we can see from the data a positive impact on service reliability. It is also an indication that other issues identified in the improvement plan, for example, increased maintenance provision, outside operational hours, is also having a positive impact on the reliability of the service.

Comparing last quarters performance graph below left, compared to this quarter below right we can clearly see performance regarding missed collections is heading in a positive direction. However, it continues to be an area of concern.



What are we doing about it?

This is an important measure of overall contract performance. We will continue to monitor the level of missed collections weekly and analyse this data in our regular operation meetings with our contractor Kier. The main aim will be to identify issues early and take any action necessary to mitigate against escalation in the numbers of reported missed collections.

Where possible we will continue to identify and support measures to recruit and retain suitably qualified drivers and other staff, to support and maintain the requirements of the service.

Senior management at Kier committed to SWP that there would be no service degradation as we approach the end of the contract and we meet regularly with the senior management at Kier, to review performance and ensure this commitment is honoured. We also continue to monitor the effectiveness of the improvement plan to ensure this live document is capable of meeting the current pressures on the service.

Where do we expect to be by the end of the year?

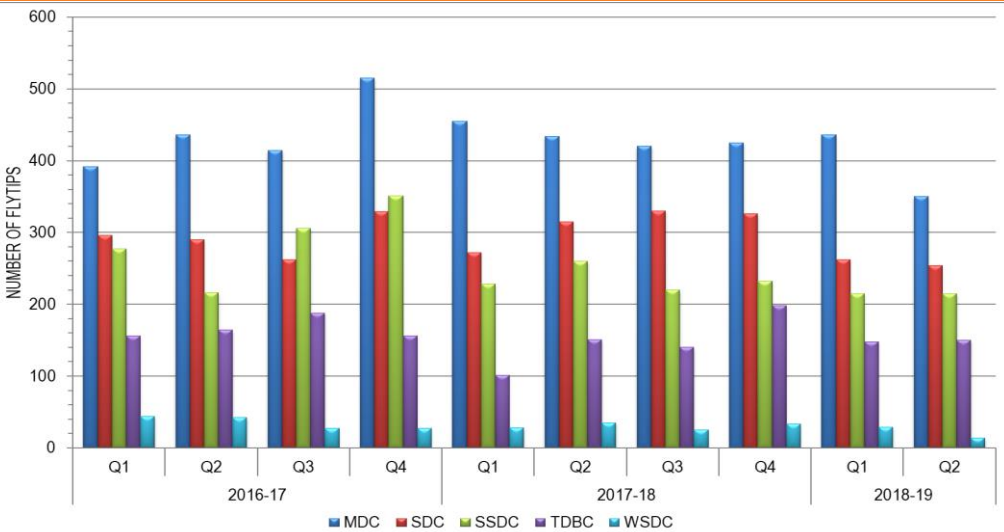
The level of performance is reliant on a number of factors, holidays, weather, etc. but the biggest factor affecting performance recently has been the reliability of the vehicles and the ability of our contractor to attract and keep staff numbers, particularly drivers, at an appropriate level to ensure consistent service provision.

However, over this period the concerted efforts that Kier have put in to recruit additional drivers (for example increasing retention bonuses, substantially improving their marketing to prospective employees and putting in place mechanisms to bring in drivers from beyond Somerset) have started to bear fruit and we hope this will continue to provide a more stable level of performance.

Why do we measure and report this?

Fly tipping continues to be a blight on the Somerset landscape and it is vitally important that we monitor whether any of the service changes we make impacts the level of this criminal activity. Whilst we report fly tipping numbers as part of this Board report, the Waste Partnership has little control or influence over the number of fly tips being shown, as the statutory function to manage fly tipping events still rests with the partner District authorities.

What are the headline numbers?



Have there been any significant changes in what's being fly tipped?

The number of incidents for Q1 & Q2 have dropped by a total of 206 incidents, from 2,279 in 17-18 to 2,073 in 18-19. Fly-tipping in all Districts actually improved this year by between 20 and 103 incidents, the only exception to this being TDBC which increased by 46. There is no evidence that any of SWP's activities have contributed to any increases in fly-tipping.

Overall across the Partnership the main increases were 'Tyres' (63), 'Construction / demolition / excavation' (43) and 'Chemical-drums-oil-or-fuel' (10), with the decreases being 'Other household waste' (263), 'Black bags - household' (22) and 'Other commercial waste' (19).

What are we doing about it?

Whilst we report fly tipping numbers as part of this Board report, the Waste Partnership has little control or influence over the number of fly tips being shown, as the statutory function to manage fly tipping events still rests with the partner District authorities.

What will future success look like?

A continuing reduction in the total number of fly tips across the Somerset, as has been demonstrated over the last couple of years. No negative impacts from any SWP actions. Continued effective joint working with Districts around enforcement (and crucially, publicising any successful prosecutions).



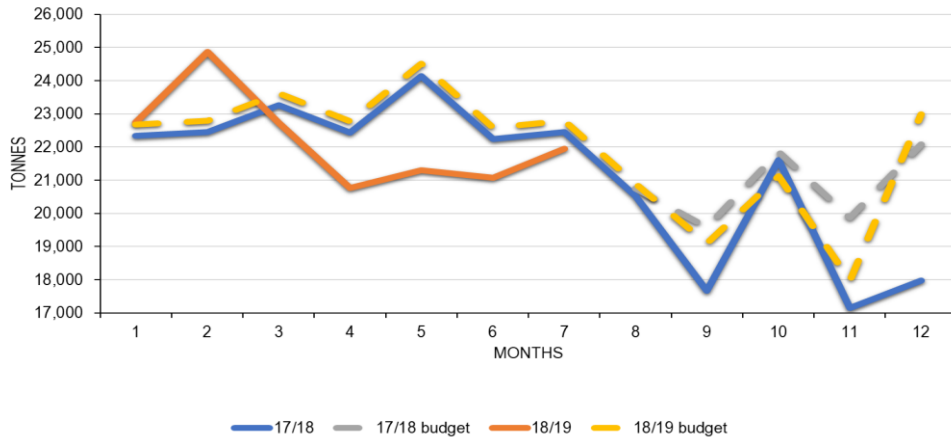
Why do we measure and report this?

It is important to keep track of how we are managing our finances, ensuring we are remaining within budget. A separate finance report continues to be presented to the SWB, but a summary is included here to ensure that this report presents a rounded picture of our performance.

What is our forecast outturn position?

What has changed since the last time we reported?

TOTAL WASTE



This is the second quarterly finance report for 2018-19. It compares the budget (set in Dec 2017) to the actual spend for the first 6 months of 2018-19 and our revised expectation of what the full year budgetary position will look like.

Collection budget: The budget for all District partners is showing a £25k overspend - negligible in the context of a £17.1m collection budget. This is a direct result of increased garden waste customers for which additional income collected locally.

Disposal budget: Q2 is showing a significant £979k underspend from the budget, which is driven by 2 key factors. Firstly, due to snow the March 2018 disposal costs were far lower than were accrued for at the end of the 2017-18 financial year. When this accrual was reversed in Q1 of the 2018-19 financial year it resulted in a £305k benefit to the current year budget. Secondly, our forecasts for the rest of the year now expect tonnages to be lower than were predicted when the budget was set in Dec 2017 (because actuals for Q3 and Q4 last year were lower than expected, and these actuals are now reflected in our expectations for this year). Tonnages are currently 2.5% less than the same period last year.

Savings request: A request for a saving of £800k was made by SCC of SWB and approved by SWB in September. SWP are on track to deliver these in-year savings due to the approval of the core services contract, tight management of non-customer facing budgets, and lower than forecast waste tonnages.

What are we doing to ensure we remain within budget/deliver required savings?

What will future success look like?

1. Continuous monitoring of waste volumes and tracking spend.
2. Schools education program and media communication to drive appropriate behaviour to maximise waste minimisation and recycling.
3. Review of all budget lines to identify any spend areas that could be frozen, reduced or stopped.
4. Review of earmarked reserves to release any possible one off funds.
5. Negotiations with Disposal contractor to secure in year savings as part of the contract extension.
6. Closely reviewing waste data: As shown in the diagram above, there are reductions in green waste and landfill (the former likely to have been driven by the hot dry summer). Whilst it is early in the year and much can yet change, this disposal budget is on target to deliver SCC's saving request.

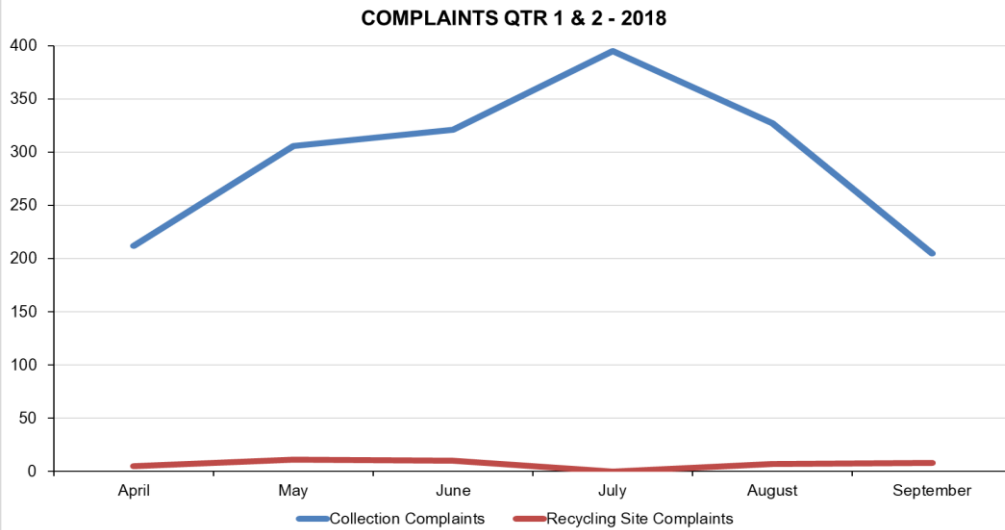
1. All partners are underspent in total at the year end (this would take into account income received at the Districts for chargeable services).
2. In year waste volumes are less than budgeted (noting that many of the influences on this - e.g. the weather - are outside of SWP control).
3. Budgets identified for in year savings are not overspent at year end.
4. Contractor negotiations are successfully concluded.
5. Savings requirements made by partners of SWP are delivered in full.

Why do we measure and report this?

SWP's revised vision highlights the importance of delivering excellent customer service, and the importance of driving behavioural change. It is vital that SWP are accountable to the board on these crucial aspects of our service.

What are the headline numbers?

Key highlights in performance



A reduction in collection complaints during Q2 of 190, from a high in July of 395, to a low in September of 205.

Recycling Site complaints remained fairly steady at an average number of about 5 per month, for Q2.

Overall volumes have reduced due to a reduction in service issues as well as summer holidays which tends to reduce the volume of contact overall in our partner contact centres.

What changes are likely to have happened the next time we report?

What will future success look like?

Expectations in Customer Contact - We expect there to be a slight increase in calls as residents prepare for Christmas and also due to the change in collection days over the Christmas period. However, we do not expect that to be significant. Service issues look to continue to be low.

My Waste Services - Development work on the new SWP system is ongoing. This is necessary to enable customers to undertake all their transactions online, whilst still ensuring that those customers who also/still use phone access via District Councils have a seamless customer experience. The new system should also enable us to much more effectively monitor trends in customer interactions, so that we can identify issues.

By the end of December we expect to have signed off the additional development necessary to ensure we can integrate our CRM system with District Council partners (e.g. ensuring that we put in place controls to ensure that Districts can only see the data related to customers in their own District).

We expect to have My Waste Services ready to go-live early in the 2019/20 financial year, meaning that SWP will be able to launch online reporting on its website and via mobile phones/app. Districts will be able to access this system directly or to integrate their own CRM systems with My Waste Services - the overall aim to be a seamless customer experience whilst supporting channel shift.

What are the headline numbers?

Social Media	Start Jul	End Sep	Growth
Facebook followers:	3,501	3,838	337
Twitter followers:	2,090	2,120	30

Website Hits	Page Views	Unique Page Views
Jul	83,761	68,416
Aug	87,815	71,508
Sep	68,582	56,029

Sorted Ezine	Deliveries	Unique Opens with Images
Jul	6,288	4,443
Aug	6,334	3,986
Sep	6,451	4,034

Briefing sent monthly to 326 parishes and directly, or indirectly to every county and district councillor.

Pledge Against Preventable Plastic cards: 10,000 printed in September for the Schools Against Waste Programme, to distribute to pupils during its 100 primary school visits.

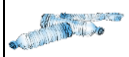
What are we focussing on in the next quarter?

Communications on ...

- 1) Christmas waste reduction and recycling, including trees
- 2) Advanced promotion of the recycling sites upgrade
- 3) Further efforts to encourage both reduction in plastic purchases and increased recycling of plastic household and food pots, tubs and trays

Key highlights in performance

Facebook topics with reach and reactions

		Reach	Reactions
	24/07/2018 In hot weather, collections start from 6am...	29,300	508
	14/09/2018 What plastics you can recycle and where...	8,800	176
	20/09/2018 All the secrets of your rubbish bin...revealed!...	10,600	216

Twitter topics with reach and reactions

		Reach	Reactions
	13/07/2018 Recycling collections delayed after loader injured...	2,657	24
	15/08/2018 Wells drilled into Somerset landfills...	1,526	14
	13/09/2018 Drink deep. Get free refills, give free refills...	9,086	13

What will future success look like?

Based on past trends, 100+ additional followers on Facebook per month, 10+ additional followers on Twitter per month.

Improving impact from a rising engagement by residents in all the communications channels of Somerset Waste Partnership and their promotion of behaviour change to reduce-reuse-recycle.



Contact us

If you have any specific questions or comments on this publication, please contact the Somerset Waste Partnership on 01823 625700, or email enquiries@somersetwaste.gov.uk

This document is also available in Braille, large print, tape and on disc and we can translate it into different languages.
We can provide a member of staff to discuss the details.
Please phone 01823 625700.



Somerset Waste Board meeting
14 December 2018
Report for decision

Recycle More & Collection Contract Procurement: Update
Lead Officer: Mickey Green, Managing Director
Author: Mickey Green, Managing Director
Contact Details: 01823 625707

Forward Plan Reference:	
Summary:	This report summarises progress in procuring a new collection contractor (and hence delivery of Recycle More).
Recommendations:	<p>It is recommended that the Board:</p> <ol style="list-style-type: none"> 1) notes the progress made in procuring a new collection contract, in particular the proposed approach to sharing risk around recycle income 2) Agrees the case for applying the exempt information provision as set out in the Local Government Act 1972, Schedule 12A and therefore to treat the attached confidential report and its appendices in confidence, as they contain commercially sensitive information, and as the case for the public interest in maintaining the exemption outweighs the public interest in disclosing that information. 3) Subject to the approval of recommendation (2) above, agrees to exclude the press and public from the meeting for the consideration of the attached confidential report and its appendices where there is any discussion at the meeting regarding exempt or confidential information. 4) Considers the recommendations contained within the confidential report. 5) Subject to approval of the recommendations above, authorises the Managing Director to progress the procurement of a new Collection Contractor.
Reasons for recommendations:	To ensure that the Somerset Waste Board is kept up to date with this major procurement exercise and has the opportunity to shape the approach taken.
Links to Priorities and Impact on Annual Business Plan:	The procurement delivers Task 5.2 within the SWB Approved Business Plan 2018-23 concerning the implementation of future collection arrangements.

<p>Financial, Legal and HR Implications:</p>	<p>In addition to delivering the environmental benefits of Recycle More a new collection contract aims to deliver significant savings to all partners, through reduced contract costs, lower disposal costs and additional recycling credits for district partners – estimated in total at up to £1.7m. It has been evident from soft market testing and dialogue that all potential suppliers are becoming more risk averse, and that there is considerable uncertainty in the markets for recycled materials. A robust procurement process has been developed to realise these benefits, enable potential suppliers to propose innovative solutions to meet our environmental and financial objectives, and ensure that risks are shared appropriately. Getting risk share arrangements right will be crucial to securing best value. Staff will TUPE transfer to the new contractor, and SWP aims to proactively engage with staff throughout the procurement process.</p>
<p>Equalities Implications:</p>	<p>None. An Equalities Impact Assessment was undertaken when the Board approved Recycle More, and SWP updated this ahead of the procurement. It will be updated when the Board are making a final decision on the contract award in February 2019.</p>
<p>Risk Assessment:</p>	<p>The risks related to the procurement of a new collection contractor and Recycle More have been reviewed and are set out in the updated risk register.</p>

1. Background

- 1.1. A progress report on the procurement of a new waste and recycling collection contractor was presented to the Board in November 2018. This report provides a summary of progress since then.

In confidential session on 2 November the Board reviewed the outcomes of the ISDS evaluation and moderation of the Permitted and Variant Bids received from the three Bidders who submitted ISDS Bids. As this feedback has now provided back to Bidders, the conclusions of the Board are no longer commercially confidential and are summarised below:

The service methodology (Recycle More) should remain as is:

The Recycle More service methodology was unanimously adopted by all partner authorities and the Somerset Waste Board as the future service specification in 2016. This was based on anticipated improvement in environmental and financial performance. However, because affordability is a key concern for all partner, we designed a procurement process which allowed suppliers to be able to offer solutions to the dry recycling service that may deliver additional financial improvements. SWP made clear to all Bidders that what mattered was affordability, but also that we would need a high standard of evidence that any proposal will not adversely affect our environmental quality or customer satisfaction. Bidders were

clear that such Variant Bids would be evaluated at the first stage of the procurement (ISDS), and that the Somerset Waste Board would decide whether alternatives to Recycle More were sufficiently compelling (particularly around affordability, but also on environmental and customer experience grounds). On 2 November the Board concluded that the case for allowing service methodologies other than Recycle More was not compelling, and as such that final stage (ISFT) Bids would only be invited on the basis of the Recycle More service methodology previously approved.

SWP will not secure an additional depot:

The Recycle More service requires a new fleet of vehicles, and the type of recycling vehicles we are likely to procure requires a different depot configuration (for example to enable efficient transfer of all recyclable materials). Soft market testing demonstrated that there was a concern that a much larger depot than any of our current depots may be required to service the centre and west of the County (currently serviced from depots in Bridgwater and Taunton). Identifying and securing a new depot site is a major piece of work and purchasing/leasing a new depot was likely to incur significant costs, so we needed to be assured that this was necessary and offered value for money. SWP explored this with Bidders during dialogue, and the procurement process at the first stage of the procurement (ISDS), was designed to identify whether an additional depot was necessary and whether it offered better value. The procurement process clearly demonstrated that an additional depot was not necessary for Recycle More, nor did it offer better value. It remains likely that considerable changes will be made to how we use our existing depots, and some extension of sites and working areas may be required. The final stage of the procurement process will thus proceed without SWP offering up a new depot.

The risk share principle of 50/50 should be maintained, but amended to reflect the better value for partners that can be obtained by reflecting proposals from some Bidders (such as for a cap and collar which limits their liability):

SWP recognise that the value of dry recycling fluctuates over time and that this comprises mostly of unit value changes (commodity markets) but also due to changes in quantities. Ahead of commencing this procurement SWP and the Board were clear that we would need to move to a risk sharing mechanism in the new collection contract – it would simply not be possible to secure a new contractor who took on all dry recycling risk. SWP tested out their ideas through Soft Market Engagement, and this contributed to establishing the fundamental principles we have used in designing the procurement process and a risk sharing mechanism. All District Council partners are aware that managing the fluctuation in recyclate income is likely to require some form of equalisation reserve to minimise the risk of a significant fluctuation in budgets from year to year.

SWP required that all Bidders to submit an ISDS Bid on the basis of our proposed risk-share mechanism. However, we recognised that Bidders may be able to deliver better value to SWP through changes to this mechanism. We have discussed this area intensively during dialogue, and the procurement process allowed (but did not require) Bidders to submit a Variant bid– i.e. a different approach that was acceptable

to SWP but offered better value to partners. Bidders are also aware that it would be very difficult for us to robustly evaluate different risk share mechanisms at final tender stage, so we need to create a consensus mechanism. ISDS submissions demonstrated that better value is likely to be obtained for all partners if we adapt our current mechanism to reflect key elements from Bidders ISDS submission, in particular some form of cap and collar mechanism on the contractor's risk exposure. On 2 November the Board accordingly authorised the Managing Director of the SWP, in consultation with the New Service Task and Finish Group and partner s151 Officers, to finalise a dry recycle risk share mechanism consistent with a 50/50 risk sharing principle.

2. Progress to date

- 2.1.** A number of dialogue sessions are being held with all Bidders in this stage of the procurement to feedback on their ISDS Bids (and hence provide Bidders with the information necessary to improve their Bids), feedback on the key issues around service methodology and depots, and to agree a consensus recycle risk share mechanism which is consistent with the 50/50 risk share principle but reflects some of the proposals from Bidders that will enable SWP to realise better value (such as a cap and collar mechanism). This stage of dialogue is also crucial to ensure that Bidders proposals are robust and to secure the best value for money solution possible.

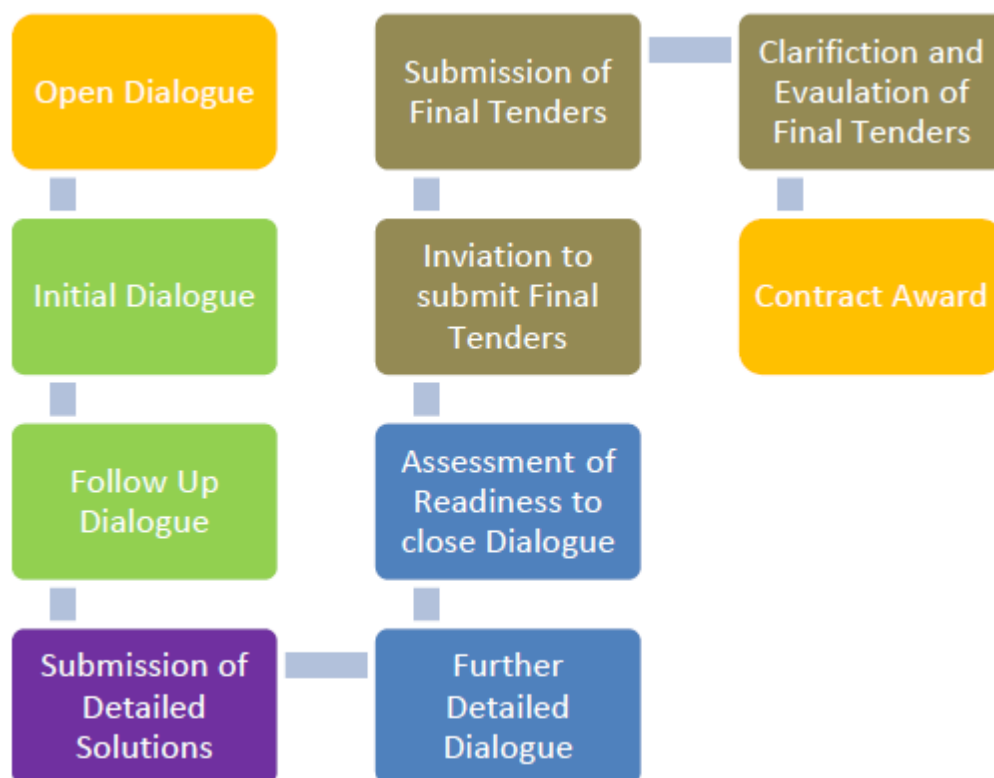
Other progress includes refining the contractual and procurement documents to reflect feedback from Bidders and the learning from the ISDS stage of the procurement process. This aims to ensure that the procurement process is optimised to deliver the best value solution to partners.

3. Issues to be addressed in confidential discussion

- 3.1.** In confidential session the Board will be updated on the progress in the dialogue SWP have been having with Bidders, and also on the outcome of dialogue on a revised risk share mechanism.

4. Next steps

- 4.1. The flowchart below shows the whole procurement process. By 14 December we anticipate having completed ‘further detailed dialogue’ and have undertaken the ‘assessment of readiness to close dialogue’.



An outline of the remaining stages of the procurement process following the Board meeting on 14 December is provided in the table below:

Phase	Time	Comments
Invitation to submit final tenders (ISFT)	4 Jan 2019	Publication of final specification reflecting the previous stages of the process
Submission, evaluation & moderation of final tenders	4 Feb – 29 Feb	This includes all activity necessary to identify the most economically advantageous tender, including meeting with SMG (project board)
SWB decision to award contract	14 Mar 2019	A decision by SWB to award is followed by a statutory standstill period before it is made public.
Mobilisation	May 2019 – end March 2020	This is the period in which the new provider gears up to provide the services including procurement of vehicles, plant and equipment, and close engagement with staff.
Service Commencement	28 March 2020	The first collections by the new provider will be on Monday 30 March 2020.
Complete roll out of Recycle More	End of March 2022	The specification requires that Recycle More must be rolled out in 5 phases within 2 years of commencement, including a bedding in period of 3 months and allowing for a period of learning and reflection in March and April 2021.

5. Contingency plan: Local Authority Company (LAC)

- 5.1.** As previously reported SWP have commenced work to explore this option as a contingency. However, with strong Bidders competing to win the SWP Contract it is not currently considered necessary to escalate the contingency plan beyond the research phase.

6. Background papers

- 6.1.** Report to SWB “Recycle More” 16th December 2016.
- 6.2.** Report to SWB “Contractual Negotiations for Recycle More” 30 June 2017, Confidential Report to SWB “Contractual Negotiations and Procurement Strategy for Recycle More” 3 November 2017.
- 6.3.** SWP Business Plan 2018-23 Approved by SWP on 15th December 2018.
- 6.4.** Report to SWB “Recycle More & Collection Contract Procurement: Update” 23 February 2018
- 6.5.** Report to SWB “Recycle More & Collection Contract Procurement: Update” 29 June 2018
- 6.6.** Report to SWB “Recycle More & Collection Contract Procurement: Update” 28 September 2018
- 6.7.** Report to SWB “Recycle More & Collection Contract Procurement: Update” 2 November 2018, Confidential Report to SWB “Recycle More & Collection Contract Procurement: Consideration of ISDS submissions and approach to final tender specification” 3 November 2017.

Somerset County Council Forward Plan of proposed Key Decisions

The County Council is required to set out details of planned key decisions at least 28 calendar days before they are due to be taken. This forward plan sets out key decisions to be taken at Cabinet meetings as well as individual key decisions to be taken by either the Leader, a Cabinet Member or an Officer. The very latest details can always be found on our website at <http://somerset.moderngov.co.uk/mgListPlans.aspx?RPId=134&RD=0&bcr=1>

Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 defines a key decision as an executive decision which is likely:

- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.

The Council has decided that the relevant threshold at or above which the decision is significant will be £500,000 for capital / revenue expenditure or savings. Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds once it is delegated to the school.

Cabinet meetings are held in public at County Hall unless Cabinet resolve for all or part of the meeting to be held in private in order to consider exempt information/confidential business. The Forward Plan will show where this is intended. Agendas and reports for Cabinet meetings are also published on the Council's website at least five clear working days before the meeting date.

Individual key decisions are shown in the plan as being proposed to be taken within a ten day period, with the requirement that a report setting out the proposed decision will be published on the Council's website at least five working days before the date of decision. Any representations received will be considered by the decision maker at the decision meeting.

In addition to key decisions, the forward plan shown below lists other business that is scheduled to be considered at a Cabinet meeting during the period of the Plan, which will also include reports for information. The monthly printed plan is updated on an ad hoc basis during each month. *Where possible the County Council will attempt to keep to the dates shown in the Plan. It is quite likely, however, that some items will need to be rescheduled and new items added as new circumstances come to light.* Please ensure therefore that you refer to the most up to date plan.

For general enquiries about the Forward Plan:

- You can view it on the County Council web site at <http://www.somerset.gov.uk/CabinetForwardPlan>
- You can arrange to inspect it at County Hall (in Taunton).
- Alternatively, copies can be obtained from Scott Wooldridge or Julia Jones in the Democratic Services Team by telephoning (01823) 359027 or 357628.

To view the Forward Plan on the website you will need a copy of Adobe Acrobat Reader available free from www.adobe.com
Please note that it could take up to 2 minutes to download this PDF document depending on your Internet connection speed.

To make representations about proposed decisions:

Please contact the officer identified against the relevant decision in the Forward Plan to find out more information or about how your representations can be made and considered by the decision maker.

The Agenda and Papers for Cabinet meetings and details of planned key decisions to be taken by Cabinet Members or Officers can be found on the County Council's website at:

<http://www1.somerset.gov.uk/council/boards.asp?boardnum=3>

Weekly version of plan published on 3 December 2018

FP Refs / Date proposed decision published in Forward Plan	When decisions due to be taken and by whom (**)	Details of the proposed decision	Documents and background papers to be available to decision maker	Does the decision contain any exempt information requiring a resolution for it to be considered in private and what are the reasons for this?	Contact Officer for any representations to be made ahead of the proposed decision
9 November 2018	Somerset Waste Board 14 Dec 2018 To consider proposed revisions to the Constitution and Membership of the Board for 2019/20 to recommend to partner authorities	Issue: Waste Board Constitution and Membership 2019/20			Scott Wooldridge, Strategic Manager Governance & Risk and Council's Monitoring Officer Tel: 01823 359043
1 October 2018	Somerset Waste Board 14 Dec 2018 To consider the report	Issue: Draft budget for 2019/20 and Finance Performance Update Q2			Martin Gerrish, Strategic Manager - Financial Governance and Finance Officer for SWP Tel: 01823 355303
15 October 2018	Somerset Waste Board 14 Dec 2018 To consider the report	Issue: Somerset Waste Partnership Business Plan			Mickey Green, Managing Director - Somerset Waste Partnership Tel: 01823 625707
15 October 2018	Somerset Waste Board 14 Dec 2018 To consider the report	Issue: Performance Monitoring Report Q2 2018/19			David Oaten, Contracts Manager - Treatment and Infrastructure Tel: 01823 625721
15 October 2018	Somerset Waste Board 14 Dec 2018 To consider the report	Issue: Recycle More Project Update		Part exempt	Mickey Green, Managing Director - Somerset Waste Partnership Tel: 01823 625707

Weekly version of plan published on 3 December 2018

FP Ref / Date proposed decision published in Forward Plan	Date / period when decision due to be taken and by whom (**)	Details of the proposed decision	Documents and background papers to be available to decision maker	Does the decision contain any exempt information requiring a resolution for it to be considered in private and what are the reasons for this?	Contact Officer for any representations to be made ahead of the proposed decision
7 December 2018	Somerset Waste Board 15 Feb 2019 To consider the report	Issue: Annual Budget 2019/20			Mickey Green, Managing Director - Somerset Waste Partnership Tel: 01823 625707
7 December 2018	Somerset Waste Board 15 Mar 2019 To consider the report	Issue: Recycle More			Mickey Green, Managing Director - Somerset Waste Partnership Tel: 01823 625707
7 December 2018	Somerset Waste Board 28 Jun 2019 To consider the report	Issue: Financial Outturn and use of balances 2018/19			Mickey Green, Managing Director - Somerset Waste Partnership Tel: 01823 625707
7 December 2018	Somerset Waste Board 28 Jun 2019 To consider the report	Issue: Performance Outturn 2018/19			Mickey Green, Managing Director - Somerset Waste Partnership Tel: 01823 625707
7 December 2018	Somerset Waste Board 28 Jun 2019 To consider the report	Issue: Constitutional matters and 2019/20 Board membership and meeting dates			Scott Wooldridge, Strategic Manager Governance & Risk and Council's Monitoring Officer Tel: 01823 359043