

## OVERVIEW & SCRUTINY COMMITTEE

7 July 2022

### BRIEFING NOTE – RECYCLING PERFORMANCE PAYMENTS

#### Background

A request was made by members of the Overview & Scrutiny Committee at their meeting on 7 July that:

“an informal briefing note be circulated to members of the Overview and Scrutiny Committee on the provision of Performance Payments from Kent Council Country outlining their scale over previous years, how they are derived and their relationship to the Inter Authority Agreement between Kent County Council and the Borough Council.”

This briefing note covers the current Recycling Performance Payments (PP) system which forms part of the formal, legally binding Inter-Authority Agreement with Kent County Council (KCC). A similar agreement is in place between Tunbridge Wells Borough Council with whom we operate the South West Kent Waste Services Contract, and KCC have similar agreements with other Kent districts. The briefing note also describes the previous Recycling Credits system which was superseded by the PP system.

#### Recycling Credits

Recycling credit payments were introduced nationally some years ago, via the Environmental Protection (Waste Recycling Payments) Regulations 2006, to incentivise Waste Collection Authorities to boost recycling and reuse by diverting waste from landfill.

In recognition of the need to divert waste from landfill, the Government introduced the recycling credit scheme to incentivise recycling and composting of household waste by Waste Collection Authorities (WCA) and by third parties. It made available to recyclers the savings in disposal costs that result from recycling household waste, where the body which collected the household waste for recycling was not also responsible for disposing of that waste.

The responsibility for the collecting and disposing of waste in two-tier areas is generally split between the district/borough councils and county councils respectively. Locally Tonbridge & Malling Borough Council acts as the WCA and Kent County Council acts as the Waste Disposal Authority (WDA) with responsibility for the disposal of any waste collected.

The introduction of this legislation meant that the WDA (Kent County Council) had an obligation to pay the WCA (Tonbridge & Malling Borough Council) the money they saved by diverting waste from landfill. The amount paid was directly linked to the cost of landfill disposal. As an exception to this regulation, WDAs are permitted to direct WCAs to use a treatment facility of their choice. In this circumstance, the WDA would be liable for the treatment costs and would not be obligated to pay a Recycling Credit to WCAs. Kent County Council elected, at that time, to pay Recycling Credits and to allow WCAs to make their own treatment arrangements, although generally the WCA utilised the facilities provided by the WDA. One example of where they chose not to do so were the provision of glass collections from recycling bring sites. WCAs took

advantage of the option to dispose of this heavy material via a third party and benefit not only from income from the glass paid by reprocessors but by the additional income from the WDA in recycling credits.

This table shows the achievement of the Recycling Credit income against the Budget set for the three financial years prior to the Performance Payment regime being implemented:

	<b>Original Estimate</b>	<b>Revised Estimate</b>	<b>Outturn</b>
<b>2016/17</b>	£373,500	£360,000	£350,311
<b>2017/18</b>	£347,000	£347,000	£340,488
<b>2018/19</b>	£347,000	£347,000	£360,765

Collection authorities were intended to use the Recycling Credits to help offset the cost of introducing higher performing recycling services. The recycling credits system was supposed to ensure cost-sharing between WCAs, which collect waste, and WDAs, which dispose of it. It meant that savings from avoided waste disposal costs that accrue to WDAs as a result of recycling by WCAs were shared with WCAs to provide a financial incentive to improve recycling. However, by the time officers were starting to look at options for the new contract arrangements in 2016, preparing for the incumbent contract end date in 2019, the recycling credits system no longer provided sufficient incentive for many WCAs to put in place services to collect materials such as food waste as the payments were too low to support these services. The system was also set up when the default disposal method for non-recycled items was landfill. The waste disposal infrastructure had changed significantly both nationally and within Kent. TMBC had not only the benefit of a local energy-from-waste plant at Allington but a local in-vessel composting facility at Blaise Farm, as well as North Farm Transfer Station just over the borough boundary in Tunbridge Wells.

Waste management infrastructure has changed considerably since this Regulation was introduced and is now considered to be inflexible, no longer providing sufficient incentive for positive sustainable waste management. Some two-tier authority areas had already been using alternative payment methods to better balance the cost and rewards of recycling.

In preparation for the new Waste Contract specification, due to be implemented in 2019, TMBC & TWBC officers had lengthy discussions with KCC regarding the opportunities for improving kerbside recycling services and the potential financial arrangements that could be put in place to maximise both the environmental & financial benefits of improved recycling, offsetting collection costs and reducing disposal costs.

### **Performance Payments**

As a result of those discussions, in a report to the Street Scene & Environment Advisory Board (SSEAB) on 6 November 2017 officers provided details of a proposed Inter Authority Agreement (IAA), to be entered into as a legally binding agreement between TMBC as the WCA and Kent County Council as the WDA. The

aim of the IAA was to encourage increased levels of recycling by providing this Council with an incentive to maximise kerbside recycling, directly reducing the waste disposal costs for KCC and indirectly the TMBC Council Taxpayer. Given that most methods of disposal costs for waste are more expensive than those for recycling & reprocessing it, where higher levels of recycling are achieved KCC's disposal costs are generally reduced. This is especially the case where materials can be delivered direct to the reprocessors or disposal sites as this avoids additional costs of delivery to transfer stations and the associated haulage costs. Accepting that a more comprehensive kerbside collection arrangement would be more expensive for this Council, it was essential that any IAA mutually benefited both authorities.

The IAA intended to replace all existing arrangements in relation to payments made by KCC to this Council, including recycling credits, and the core principles of the IAA were: -

- both KCC and TMBC to commit themselves to the most economically advantageous and closest coordination reasonably possible of waste services in Tonbridge and Malling.
- TMBC to introduce, provide and maintain the proposed method of collection [known then as the Nominal Optimal Method, or NOM] across its administrative area, reaching the maximum number of households.
- TMBC to deliver waste streams in accordance with the NOM to transfer points and facilities specified by KCC.
- KCC to retain responsibility for the haulage and disposal of all materials.
- TMBC to purchase necessary containers to facilitate the new collection arrangements.
- the IAA to commence on the commencement date of the new collection contract and to be in force until the expiry of the contract. However, the IAA allowed for an interim financial arrangement for recycling credits to continue to be paid until such time as the new recycling service was fully rolled out. In practice the service was implemented part-way through 2019/21 financial year.

The IAA is in place for the duration of the current contract with Urbaser. There are provisions within the IAA for either party to withdraw at any time with an appropriate period of notice. However, there are significant financial implications for either party should they wish to terminate the IAA.

KCC are obligated to provide appropriate disposal arrangements for the kerbside collection services currently provided by the Partnership, and the Partnership is obligated to maintain the agreed collection arrangements for the duration of the contract and of the IAA. There are clauses which cover the impact of changes of legislation, such as the Environment Act 2021, but in principle neither party is to be worse off financially because of any decision taken by TMBC or KCC.

The IAA also sets out in detail the financial obligations of each partner. In overview, the Council would receive a recycling support payment from KCC based on its recycling performance and would retain all income achieved through the levy of a

garden waste collection charge. This performance-based approach to the sharing of savings achieved was supported by officers and was anticipated to provide a real incentive to improve rates of recycling across the borough.

At the time of that report to SSEAB in November 2017, the total waste collected from households in Tonbridge and Malling was around 48,000 tonnes and the associated waste disposal cost to KCC was in the order of £4.2m. The recycling rate at TMBC was around 42%. With the proposed method of collection, the waste disposal costs were expected to reduce and TMBC's recycling rate expected to rise to over 50% of household waste collected within the borough. Dependent on take up of the opt-in garden waste collection service and based on anticipated tonnages, our consultants estimated that overall waste disposal costs could reduce by circa £980,000. This figure was indicative and was dependent on a range of factors including the final contract specification and methodology proposed by the tenderers.

Under the IAA, it was expected that TMBC would receive what is now called a Performance Payment equal to 50% of the saving achieved compared to the baseline waste disposal cost (based on the latest full year tonnage data at that time from 2016/17). Where a saving was not achieved in any one year the Performance Payment would be zero and any increase in cost would be recovered first from future year's savings. Where the proposed new services were not delivered for a significant length of time for some reason, again the Performance Payment would be zero for the period the services were not fully delivered.

Based on the above this was expected to result a Performance Payment to TMBC of £492,000 in the first full year of the new recycling services being provided. The final version of the IAA was approved by Cabinet on 4 September 2018.

#### **How the Performance Payment is calculated:**

The calculation for making the Performance Payments in each period is set out in the legally binding IAA. The actual calculation is:

$((\text{Baseline Tonnes} \times \text{Baseline Disposal Cost}) - (\text{Actual Tonnes} \times \text{Actual Disposal Cost})) \times 50\% = \text{Performance Payment}$

An example of how this works in practice – **using illustrative rather than actual tonnages & costs** - would be:

Baseline Tonnes of Food Waste - to energy-from waste = 1,000 tonnes

Baseline Disposal Cost - to energy-from-waste = £100 per tonne

Actual Tonnes of Food Waste - to treatment facility under new service = 900 tonnes

Actual Disposal Cost - going to treatment facility under new service = £50 per tonne

$((1,000 \text{ tonnes} \times £100) - (900 \text{ tonnes} \times £50)) = £100,000 - £45,000$

$£100,000 - £45,000 = £55,000$  in avoided disposal costs

$£55,000 \times 50\% = \text{Performance Payment to TMBC of } £27,500$

This calculation is applied against all waste material streams TMBC collect and which KCC dispose of and is used to generate the Performance Payments quarterly in each financial year. The calculation also considers gate fees at transfer stations (such as North Farm) and haulage from those sites to the treatment plants. It also considers any income KCC may receive from the sale of any materials. Officers from both Councils jointly check and approve the tonnage & cost data being used in each quarter and then TMBC invoice KCC for the agreed Performance Payment.

### **Budget versus Income**

This table shows the achievement of Performance Payment income against the Budget set for each financial year since the IAA was implemented:

	<b>Original Estimate</b>	<b>Revised Estimate</b>	<b>Outturn</b>
<b>2019/20</b>	£345,000	£345,000	£310,947
<b>2020/21</b>	£690,000	£450,000*	£502,639
<b>2021/22</b>	£590,000	£570,000	£628,018**
<b>2022/23</b>	£570,000	tbc	tbc

\* Tonnages were severely impacted by the Covid pandemic with significant increases in all material streams, but especially residual waste, impacting in anticipated disposal costs. This was taken into account at Revised Estimate stage

\*\* Due to the suspension of the garden waste service, KCC agreed to use actual tonnages from the previous year in order to calculate the PP due for the period of the suspension and ensure the impact of the suspension had no negative impact on income.

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