

WIRRAL COUNCIL

CABINET

11 SEPTEMBER 2014

SUBJECT:	REVIEW OF BIFFA CONTRACT EXTENSION PROPOSAL
WARD/S AFFECTED:	ALL
REPORT OF:	KEVIN ADDERLEY, STRATEGIC DIRECTOR FOR REGENERATION & ENVIRONMENT
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR BERNIE MOONEY, ENVIRONMENT & SUSTAINABILITY
KEY DECISION?	YES

1.0 EXECUTIVE SUMMARY

- 1.1 The core period of the current Waste and Environmental Streetscene Services Contract is due to end in March 2017. Under the scope of the original OJEU notice, it is possible to extend the contract to March 2027. This report presents a formal offer from Biffa Waste Services for agreeing to the extension now, in return for immediate and future discounts on the core contract price. Members of the Cabinet are requested to review the officers' analysis of the Biffa proposal and determine whether it is in the Council's best interest to accept the offer.
- 1.2 **Appendices 1, 2 and 3** contain sensitive commercial information related to the management accounts and future business strategy of Biffa PLC. In order to protect the commercial competitiveness of Biffa's position in the waste management market and to ensure the Council and Biffa are not disadvantaged in future procurement opportunities, this information has been classified as Exempt Information from public scrutiny, as set out the relevant paragraph/s of Schedule 12A of the Local Government Act 1972.

2.0 BACKGROUND AND KEY ISSUES

2.1 Waste & Environmental Streetscene Services Contract

- 2.1.1 The Environmental Streetscene Services contract was awarded to Biffa Waste Services in May 2006 and came into force on 22nd August 2006. The scope of services carried out by the contractor includes all household waste and recycling collections, street cleansing and fly tip removal, waste collection from schools and council offices and wheeled bin deliveries.
- 2.1.2 The core contract runs to 2020. On 19th July 2012, Cabinet approved the decision to allow Biffa to "buy out" an existing break clause within the contract and extend the break clause decision to March 2017 (Minute 59 refers). The initial break clause would have enabled the Council to terminate the contract early in August 2014.

The decision to extend the break clause was predicated on the sound performance of the Biffa contract over a six year period, an assessment of the state of the market and the immediate financial benefits to the Council of up to £1.2m pa in efficiency and contract savings.

- 2.1.3 The OJEU notice for the contract makes further provision to extend the existing contract to March 2027. This would be a seven year extension on the core contract term, or a ten and a half year extension from the 2017 break clause. It is important to note that the current (reduced) contract value is based on running a waste collection fleet over a ten year life span as opposed to the seven years that was originally specified. Therefore any new contract or extension proposal the Council considers should be based on a further ten year period to allow for the purchase of new fleet at the discounted value in 2017. To run a new fleet over a 7 year period would increase the annual contract price by at least £350k pa.
- 2.1.4 In 2006, the total core contract price was £10,250m. Since 2006, contract costs have been subject to 26% inflation through the application of the Retail Price Index. However, through rigorous negotiations with the contractor and routine service reviews, the impact of this uncontrollable cost has been minimised.
- 2.1.5 The 14/15 core contract cost is £11.842m, consisting of £8.068m for waste collection and £3.773m for street cleansing (assuming 2% inflation in August 2014). The contract price has been discounted by a total of £2.219m through a number of initiatives. The total savings to the Council, however, far exceed this amount. By working successfully with the contractor since 2006, the Council now draws in new income for Bulky Waste, Schools Waste, Garden Waste and wheeled bin provision/replacements, projected to be £2.612m this year.
- 2.1.6 Members are reminded of the notable achievements within the contract to date:
- A successful Gateway 5 Review within the first contract year;
 - The borough wide rollout of the grey and green bin waste collection service to over 145,000 properties, including collections on Bank Holidays;
 - The restructuring and expansion of the garden waste service to over 108,000 properties;
 - The significant improvement in local environmental quality through better street cleansing and related activities resulting in achievement of the challenging Public Service Agreement (PSA) standard;
 - A year on year improvement in service reliability, including response times and missed bin performance;
 - Improved service quality highlighted within the last Comprehensive Area Assessment;
 - Services given high acclaim in the 2010 "Living in Wirral" consultation exercise.
 - Annual Revenue saving through the 11/12 Break Clause Review of £1.2M (Minute 59 refers, Cabinet 19 July 2012). Please note that £1m of this saving resulted from a reduction in contract price. The remaining £200k saving was taken through other council led initiatives within the Waste and Environmental Services section.
 - £1m Street Cleansing budget option saving successfully delivered in 2013
 - Introduction of a successful garden waste subscription service in 2013, resulting in a minimum £1.2m saving over three years to 15/16.

3.0 PROPOSED EXTENSION OFFER

3.1 Summary of Offer

3.1.1 **Exempt Appendix 1** details the value and suggested terms of the formal offer from Biffa in return for the Council extending the contract to 2027. In summary the proposal offers the Council a one-off saving split between 2014/15, 2015/16 and 2016/17 followed by a continued annual reduction in the core contract price throughout the remainder of the extended contract period to the equivalent value. Officers asked Biffa to clarify the benefits to Biffa if the contract extension was agreed. In a response dated 10th February 2014 (**Exempt Appendix 2** refers), Biffa indicated that the savings they could offer arose from avoiding future procurement and mobilisation costs, the ability to re-finance their operations and a reduction in overheads due to the stable nature of the contract. The discount is not linked to any service changes.

3.1.2 In addition, Biffa have confirmed the following:

- A commitment to reduce the burden of inflation by agreeing to applying inflation through the consumer price index as opposed to the retail price index during the extended contract term.
- A large part of the costs associated with the contract are linked to staffing costs (approximately 62%). Inflation has risen by 26% over 7 years. However, the Biffa workforce has received only a 17% increase in salary. Biffa have therefore committed to only claiming actual inflation on staffing costs from the Council during the extended contract term, should the Council wish to accept this aspect of the offer. Assuming pay increases would never exceed inflation, this alternative pay mechanism could reduce the burden of CPI by at least £500k pa by 2027 based on historical trends.
- Agreeing to the contract extension now, enables the Council and Biffa to work in partnership to identify further opportunities for savings. Officers believe that additional significant savings could be realised over a three year period through exploring income opportunities, considering capital investment opportunities, introducing the collection of further waste streams for recycling and driving out further efficiencies. As Biffa only has another 2 years and 8 months guaranteed left to run on the contract, they would be unwilling to commit to any time consuming and difficult ventures if the contract was not extended. Whilst all of these joint ventures could be pursued as part of a new tender, it would be at least 3-5 years before any of the savings could be sought, especially if the contract was awarded to a new service provider.
- Introduction of a “pain-gain” clause be added to the contract so both parties are incentivised to seek continued efficiencies.
- A commitment to move towards neighbourhood working in order to optimise local solutions, in line with the Council’s Corporate Plan.
- A continued willingness to assist the Council to achieve high recycling targets. **Exempt Appendix 3** details a letter from Biffa, highlighting an opportunity to redesign the fleet from April 2017 to enable the segregation of more waste streams, such as food waste.

3.2 Officer Comments and Observations

- 3.2.1 Biffa has stated that this offer is final and could not be increased. However, it is the view of officers that there are opportunities to discuss the profit margins that should be expected throughout the extended contract period, in order to improve on the current offer.
- 3.2.2 Biffa delivered on the £1m of procurement savings guaranteed as a result of the 2012 break clause extension. Further savings were identified as part of this work relating to improving efficiencies of the waste and recycling collection rounds. However, due to the subsequent budget options agreed around the garden waste subscription charge and the street cleansing savings, this work has had to be postponed. It is necessary to establish that this saving is not “double counted” in the current proposal, and to continue to push Biffa for this saving, separate from their current offer.

Appendix 4 details key risks and opportunities arising when considering Biffa’s offer. A risk register has been kept since the offer was first proposed by Biffa. Initially 3 key areas of risk were identified as “RED”. After further negotiations and seeking clarification from Biffa, these risks have been reduced as follows:

Green: “Future Proofing the contract for Legislative changes”

The Council may be required to introduce separate food waste collections in future. Biffa have indicated their intention to replace the fleet with vehicles that could facilitate this (Appendix 3 refers) avoiding the deployment of an additional fleet thereby minimising total resources deployed.

Amber: Escalating Revenue costs through the continued application of RPI

Appendix 1 details an alternative approach to inflation that is designed to reflect real inflatory costs on 72% of the contract price as opposed to an inflation calculator. This risk could only be reduced completely if the service was ran in-house, however, inflation would still apply to most aspects of the running costs.

Green: Workforce unrest if Biffa’s offer was linked to workforce changes

Biffa have clarified that the discount they have offered is not predicated the council agreeing to any service or workforce changes.

A complete up to date risk register can be viewed in **Appendix 5**. Officers are satisfied that the residual risks associated with this decision are manageable and proportionate to the benefits of accepting Biffa’s proposal.

4.0 VALUE FOR MONEY REVIEW

4.1 Waste Collection

- 4.1.1 Wirral Council now charge for all services possible, do not operate a food waste collection service and have implemented alternate weekly collection services

borough wide on a comingled service officers suggest that Wirral should sit comfortably in the top quartile of most VfM statistical comparisons.



4.1.2 APSE Comparison

In 13/14, Wirral's net costs for all waste and recycling collection operations equated to £56.60 per household (Recycling credit income for kerbside collected material has not been included as the WCA/DA arrangement dictates it must be paid back two years later). This compares to an average cost of £75.66 per household (Latest 2011/12 APSE data).

4.1.3 Audit Commission Comparison

According to the latest published Audit Commission VfM data (12/13) Wirral Council's total spend on waste management is £13.32 less per head of population than the average spend of all English Councils, placing it in the best third grouping (**figure 1** refers)

Figure 1 Total Waste Management costs per head for Wirral Council compared to all English Councils (12/13)







Indicator	Period	Value	% change	DoT	Rank (Percentile)	Average
Spend on waste management per head	2012/13	£30.65 per head	-3%		 In the lowest third	£43.97 per head

Source: Audit Commission Website: <http://profiles.audit-commission.gov.uk> retrieved 3rd June 2014

4.1.4 According to the Audit Commission VfM comparison data, Wirral are also in the best third when compared to other Metropolitan Authorities and in the top quartile when compared to nearest statistical neighbours. Total waste management costs are a better comparison of VfM than waste collection costs alone, as significant investment in recycling collections can reduce waste disposal costs. The introduction of the garden waste subscription service and a discount arising from the proposed contract extension will strengthen this position even further for 14/15.

4.1.5 Waste management performance for 12/13 is also high, with Wirral placed in the top fifth for reducing the amount of waste it collects, and in the top third for recycling performance when compared to its statistical nearest neighbours (**figure 2** refers). Performance is in the middle third when compared to other Metropolitan Councils.

Figure 2 Waste performance for Wirral Council compared to statistical nearest neighbours (12/13)

Indicator	Period	Value	% change	DoT	Rank (Percentile)	Average
Waste arising per household	2012/13	876Kg	-1%		 In the best 20%	942Kg
Percentage of household waste sent for reuse, recycling, and composting	2012/13	40.43%	0%		 In the best third	37.92%
Residual household waste arising (kg per household)	2012/13	515Kg	-2%		 In the best 20%	575Kg

Source: Audit Commission Website: <http://profiles.audit-comission.gov.uk> retrieved 3rd June 2014

4.1.6 Future opportunities for improvement

It is the view of officers that the VfM of the waste and recycling operations could be improved further by the reviewing a number of areas:

- Identifying a new income stream through the launch of a trade waste service (14/15 business plan objective and Future Council project);
- The proposed “pain-gain” clause provides an early opportunity to review the cost of delivery across all waste and environmental services. If the contract was retendered, it would be another 4 to 5 years before some of the more difficult efficiencies could be realised from this area.
- In 2012, it was recognised by an external consultancy that a further 2 alternate weekly collection rounds could be removed. This work was deferred, primarily because Biffa wanted to determine the impact of the garden waste subscription service on residual waste tonnages. Early indications are that the impact on residual tonnages are not as great as Biffa projected. It is therefore recommended that work be undertaken to realise these efficiencies, in addition to any consideration of the extension proposal.

4.2 Street Cleansing

4.2.1 Audit Commission Comparison

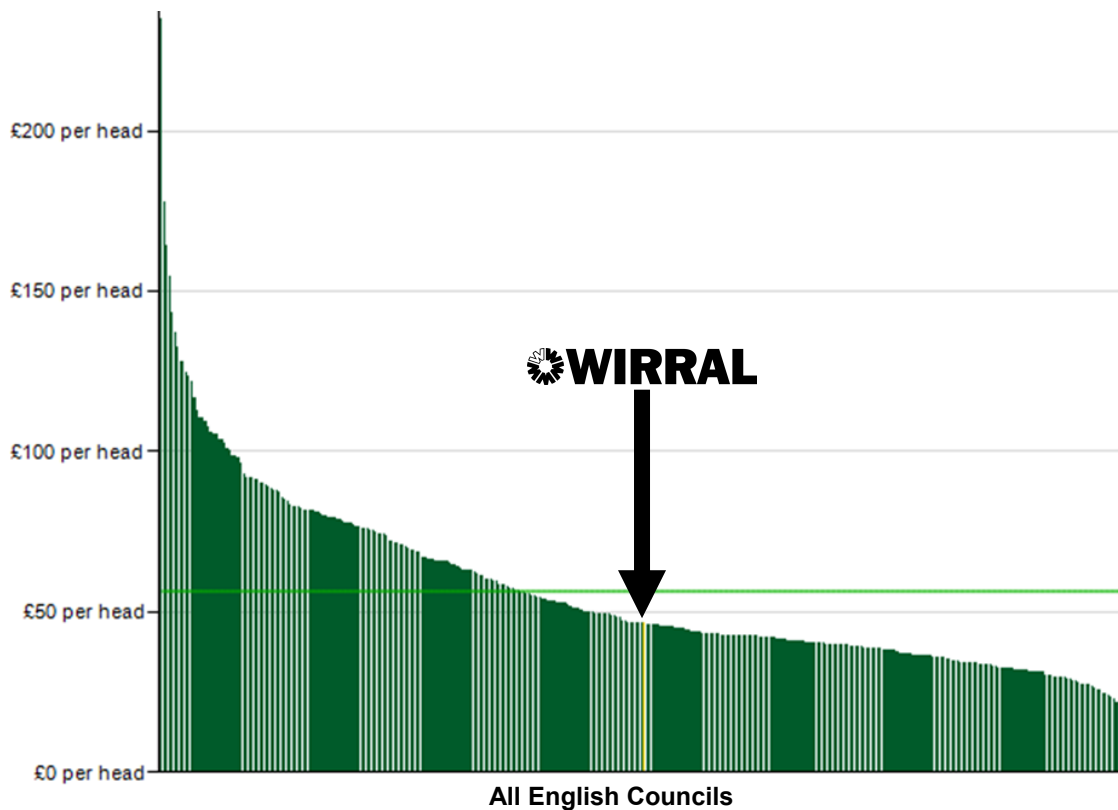
In 2012/13 the Audit Commission placed Wirral in the middle third of all English Councils for the total spend on street cleansing services (£15.57) and the highest third compared to our statistical nearest neighbours. Wirral spent £3.05 more per head of population on Street Cleansing than the average of all other English Councils. However, Wirral have also enjoyed high cleansing standards from a high frequency high performing, well resourced contract.

The projected 14/15 total cost of street cleansing on Wirral has now been reduced to £14.53 per head of population. This includes 35% of all council recharges, overheads and all associated budgets such as staffing (client team, enforcement and administration) and communications campaigns.

4.3 Overall VFM Comparison

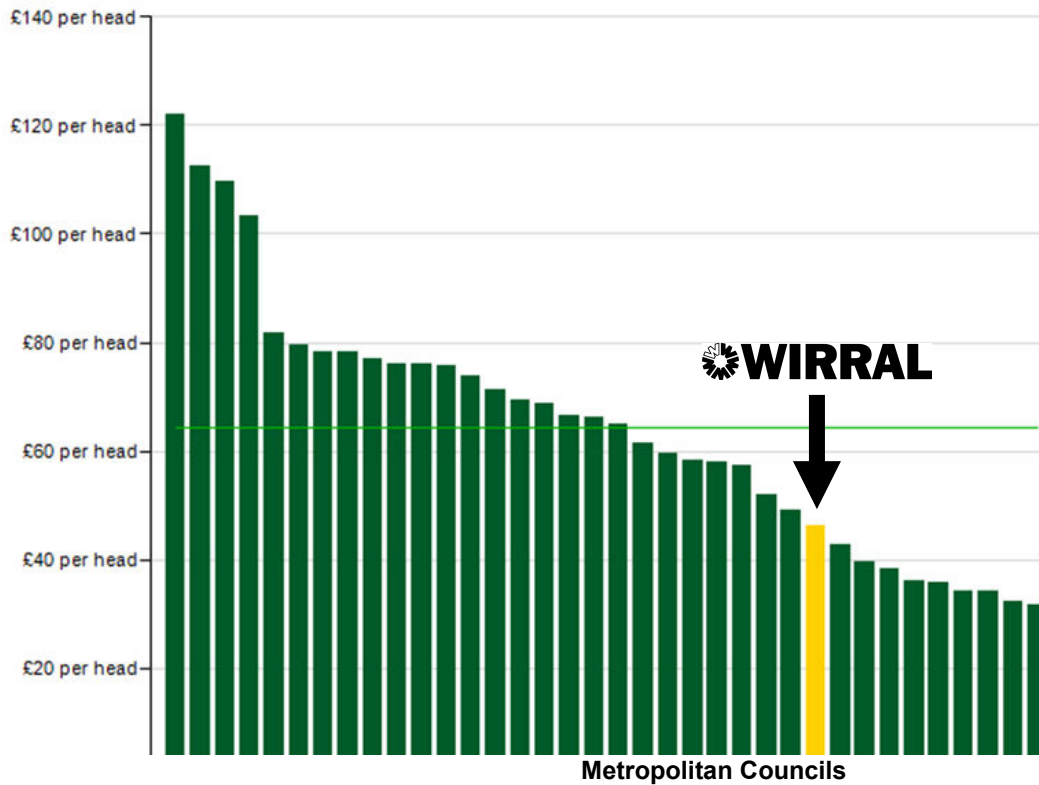
4.3.1 Whilst street cleansing costs seem to be high when compared to other local authority grouping, it is important to note that the Audit Commission figures used to calculate the VfM data are taken from local authority revenue out turns. How these costs are grouped and apportioned by each council can vary considerably. Therefore, a useful comparator is the total costs of environmental services which combined waste management and street cleansing costs. **Figure 3** shows Wirral's "ranking" when considering total environmental services costs. **According to the Audit Commission website, the average spend on environmental services in England was £56.49 per head of population, compared to £46.22 on the Wirral. Wirral were ranked 10/36 (top third) when compared to Metropolitan Councils and 4/16 (top quartile) in its statistical nearest neighbour group in 12/13 (Figures 4 and 5 refer respectively).**

Figure 3: Environmental Services cost comparison for Wirral Council compared to all English Councils (12/13)



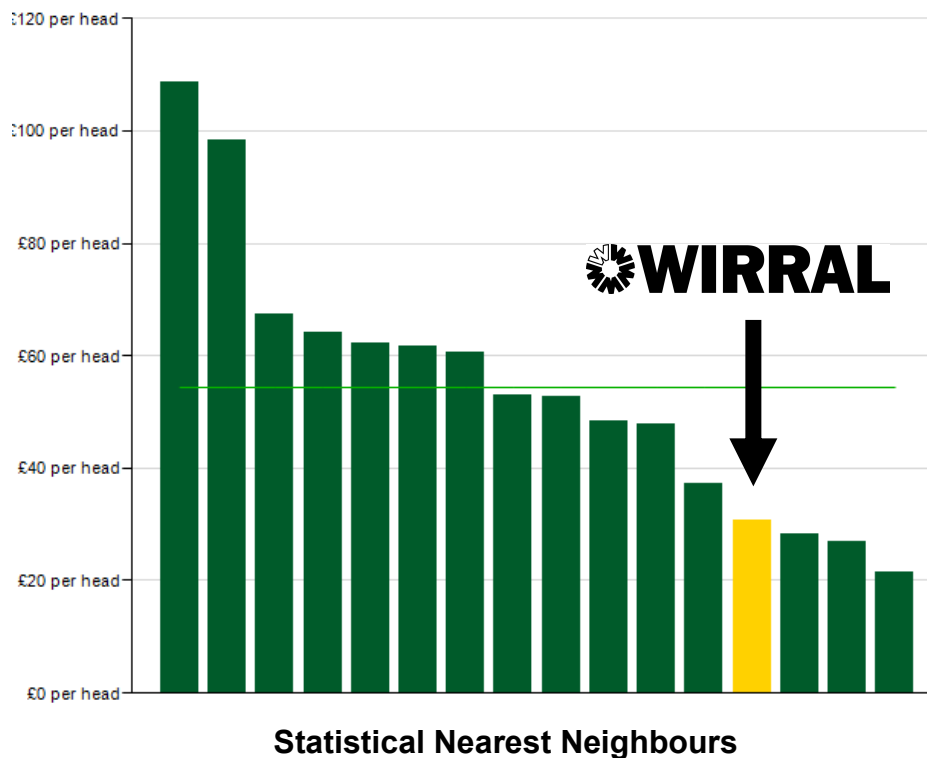
Source: Audit Commission Website: <http://profiles.audit-comission.gov.uk> retrieved 3rd June 2014

Figure 4: Environmental Services cost comparison for Wirral Council compared to all metropolitan councils (12/13)



Source: Audit Commission Website: <http://profiles.audit-comission.gov.uk> 3rd June 2014

Figure 5: Environmental Services cost comparison for Wirral Council compared to statistical nearest neighbours (12/13)



Source: Audit Commission Website: <http://profiles.audit-comission.gov.uk> retrieved 3rd June 2014

4.2.2 APSE Comparison

Wirral's current cost of street cleansing per household is £31.84. This compares to an APSE 11/12 average of £37.04 (latest figures available). Costs would have to be less than £28.68 to get into the top quartile, and less than £20.34 to get into the top ten percent. Should the Biffa extension proposal be accepted, the 14/15 costs (including annual inflation projections) would be £28.56. Please note that for the next 3 years, £250Kpa of this budget is being used to pay back the transitional costs (such as redundancy monies) required to realise last year's £1m budget option saving. If this were excluded from the calculations, the cost per household for street cleansing would reduce to £26.85, placing Wirral in the top quartile. It is very probable that other Councils have also reduced their budgets since 11/12, so the top quartile mark is likely to have changed.

4.2.3 Merseyside Comparison

In 13/14, Wirral officers carried out a desk top comparison of operational costs with other Merseyside districts in order to better understand the value Wirral Council get from its street cleansing contract. It is important to note that the raw data supplied by each district has not been independently verified at the time of writing.

The study showed that Biffa contract costs per head of population were marginally less than a recently let contract by Liverpool City Council. Now that the full year impact of the £1m discount has been applied, the Wirral contract is around £0.80 per head cheaper than the Liverpool contract. It is important to recognise that differences in the contract specification means that direct comparison should be made with caution. For example, included in the Wirral figures are all costs for alleyway cleansing (approximately £400Kpa). In Liverpool, alleyway cleansing is carried out as part of the waste collection contract. Conversely, Liverpool's contractor still carries the risk of ensuring statutory cleansing standards are maintained at all times, whereas Wirral Council, not the contractor, now carries that risk for most areas.

Notwithstanding this, the reduced cleansing frequencies operated on the Wirral still enable us to maintain statutory cleansing standards most of the time, and the additional Biffa resource deployed through the new neighbourhood teams provides adequate flexibility should a street require bringing up to standards outside of the schedule.

4.2.4 The same desk top study revealed that Sefton Council's street cleansing services are currently cheapest per head of population on Merseyside, despite deploying 24 more frontline operatives than Biffa. Accepting the Biffa Extension proposal would bring operational costs within 15p per head of population of Sefton's 12/13 stated costs. It is likely that the terms and conditions of operatives are a contributing factor to the costs of this service. In order for Wirral to reduce costs down below the level of Sefton Council, it would be necessary to review this area in partnership with our contractor.

4.2.5 Unfortunately, very few districts are carrying out borough wide cleansing audits (the old NI195 performance indicator). Resident satisfaction survey data is also not available. This makes it very difficult to determine exactly how good a job Biffa are actually doing with the resources they work to in comparison to other districts. However, along key gateways and primary shopping areas, cleansing standards in

Wirral are significantly higher than the national average, as monitored by one of the Council's key corporate indicators.

- 4.2.6 The Merseyside study indicates that Biffa are using less mechanical sweeping resource per km than any other district. Despite their method statements in the contract recognising the importance of mechanically sweeping pavements, this practice is still limited, limiting the efficiency and quality of cleanse across the borough. If a contract extension is to be agreed, officers recommend that it is conditional on agreeing the terms of providing new mechanical resources to enhance pavement sweeping and resulting productivity.
- 4.2.7 A similar, but more complex comparison of operating costs for waste collection has also been carried out with Merseyside and Halton, but the findings were not available at the time of writing.

4.3 Current performance of the Environmental Streetscene Services Contract

Officers have recently completed an annual review of Key Performance Indicators for 2013/14. Performance across all areas has been maintained despite a number of key challenges presented as a result of delivering the budget option savings. In the first quarter of 13/14, cleansing standards and service reliability for waste and recycling collections did deteriorate. This was attributed to low workforce morale due to the risk of redundancies linked to the budget options. However, Biffa overcame this issue from quarter 2 onwards and showed steady improvements throughout the rest of the year. Quarter three and four showed "over performance" in a number of key areas, despite deploying less resources and facing a number of service changes.

5.0 STRATEGIC CONSIDERATIONS

5.1 Potential Service Delivery Models

In deciding whether or not to extend the existing contract, it is important to be aware of alternative service delivery models that would not be able to be pursued until post 2027.

5.1.1 In-sourcing

Whilst many local authorities consider commissioning out frontline services in order to reduce core workforce capacity and release assets, a growing number of Councils have recently in-sourced services. An APSE study in 2009 focussed on 50 examples across a range of services and cited the following common reasons for bringing services back in house:

- Poor contractor customer services performance
- Underbidding of contractors leading to contractual failure and poor resourcing
- Low staff morale due to poor terms and conditions and short term contracts, impacting on poor quality services.

In the case of Wirral Council, none of these issues apply. However, it is important to note that allowing the contract to terminate in 2017, would enable the Council to re-package its services and consider which, if any services could be run more

efficiently in-house. The return of the waste service in-house in Three Rivers, for example, has been twinned with efficiency savings of over £1.5m.

Insourcing Street Cleansing would also open up the opportunity of aligning this key Streetscene service with Grounds Maintenance, which is currently ran by the Parks and Countryside Service. Merging the street cleansing and grounds maintenance function is a very popular service delivery model, and may provide greater flexibility to work at a neighbourhood level to deliver local outcomes.

5.1.2 Joint or Collaborative Procurements

Local Authority areas coming together to commission services results in larger procurements that are attractive to a greater number of bidders and can result in a more competitive tender price being secured than tendering alone. In addition, it may be possible to realise further savings from joint contract management or call centre resources. For example, Manchester and Trafford Councils are currently tendering for their new Waste Services Contract.

It is important to note that a significant proportion of the savings often arise from consolidation of depots and re-routing rounds across geographical boundaries. Such benefits are not readily available to Wirral with its Merseyside neighbours and the variance in waste collection methodologies and waste delivery points between Wirral and Cheshire districts prohibits such a merger.

5.1.3 Alternative “packaging” of services

The Waste and Streetscene Environmental Services contract covers waste collection and street cleansing services. There is little synergy between the operation of these services and at a local level they are generally managed as two separate services by Biffa, with two distinct workforces working to different terms and conditions. Economies of scale are realised through administrative functions, equipment purchasing, a joint vehicle and use of a single depot and vehicle workshop, as well as joint management at the higher, more strategic levels.

If the services were re-commissioned, officer would recommend uncoupling these service areas. This would enable Street Cleansing to be “packaged” with grounds maintenance or even highway maintenance.

The existing terms and conditions of the waste collection and street cleansing workforce are very “generous” and out of synch with local authority employees or indeed, other private sector employees in the same industry. In order to maximise the value for money of these services in future it will be necessary to review these. The resulting risk of disruption to frontline services is extremely high. The current packaging arrangement would certainly result in workforce unrest in both services at the same time. If these services were commissioned under two separate arrangements, this risk could be reduced.

5.2 Waste Policy and Future Proofing

5.2.1 Whether the waste collection element of the contract is extended or re-let, it would need to be “fit for purpose” up to 2027. No recycling targets have been set post 2020, but officers anticipate that an increase in recycling performance to between 60% and 75% will be required within the next 16 years. It is likely that new

investment through new contracts would be commissioned to reach such targets. However, Biffa have clarified (Appendix 3) that they intend (should the Council wish) to procure a new waste collection fleet capable of separating food waste in addition to the current waste streams we send for recycling. They have also recognised the need to further reduce the frequency of the residual waste collection service to reach the highest recycling levels and indicated a willingness to work with the Council to implement this if it were ever necessary.

5.2.2 From January 2015, every waste collection authority has an ongoing legal duty to demonstrate their waste collection services are TEEP (Technically, Environmentally and Economically Practicable). Should any service changes be identified as a result of this assessment, the “open book” clause within the contract provides some protection to ensure Biffa do not profit from any changes we are forced to make.

5.3 State of the Market and Contract Term

5.3.1 Street Cleansing

An APSE “State of the Market” on-line survey concluding in February 2014 states that 74% of local authority respondents anticipated their street cleaning budget to decrease in the next year by between 5% and 20%, with one fifth of authorities expecting the cuts to be greater than 20%.

In July 2013, Wirral Council was one of the first councils to make significant changes to its cleansing service resulting in a 40% reduction in frontline operatives and lower sweeping frequencies in residential areas. A 22% reduction in the cleansing budget was realised at this time. As a result of the changes, the Council introduced a Corporate Indicator to ensure the cleansing standards in investment areas and along key gateways was maintained at all times. For the past 12 months, this indicator has exceeded the target of 92% of streets being maintained to acceptable cleansing standards as defined in the Code of Practice on Litter and Refuse. The State of the Market Survey indicates that 44% of local authority responders expected cleansing standards to fall in the next year.

Should the Biffa proposal be accepted, the cleansing budget would be reduced by a further 6.4%, meaning that Wirral Council would be placed firmly in the top 20% of local authorities for successfully reducing the cost of cleansing.

The survey also highlights an intended shift towards more reactive working around a needs based approach, which Wirral is likely to try to implement as part of a move towards neighbourhood working.

5.3.2 Waste Collection

The APSE latest “State of the Market” on-line survey conducted in August 2013 stated that the majority of local authority respondents anticipated their waste collection budget to decrease between 5% and 10% over a five year period with around one fifth of respondents expecting the cuts to be between 10% and 20%. Since the break clause review in 2012, the contract price for waste collection has been discounted by £9.6k, equating to 11.9% of the 14/15 budget provision for the core contract. Accepting Biffa’s extension proposal will result in a further (minimum) 6.4% reduction in costs meaning that in a two year period service costs will be reduced by 18.3%. This demonstrates that Wirral is in the top 20% of Councils

actively reducing the costs of waste service operations. Please note that this does not factor the £2.2+ income stream that is currently generated to further offset waste management costs.

5.3.3 Procurement Market Review

In June 2012, Eunomia Research and Consulting carried out a review of the procurement market for waste collection and environmental services in order to inform the Council's break clause decision. At the time they stated that the market was highly competitive and a good time for procurement, citing several examples of recent procurements comparable to Wirral Council. All indications are now that the markets are consolidating. Aggressive bidding that led to the award of a number of loss leader contracts has resulted in a number of companies pulling back from the waste industry. This means the likely cost of re-tendered services will be higher in 2017 than in 2012.

Eunomia suggested that in order to secure value for money during the break clause review, contract savings of between £1m and £1.5m should have been secured. They specifically suggested that a saving of 10% could be achieved through retendering street cleansing. The Council actually secured a £1m pa contract saving from the break clause deal, with a further saving identified once the impact of the budget options were known. This, combined with the revenue savings proposed in the latest extension offer would therefore to continue to assure value for money going forward in a consolidating market.

It is important to note that Eunomia further recommended that the contract clauses relating to indexation, labour cost inflation and future efficiency gains be varied to minimise future price increases. These changes were not implemented as part of the 2012 break clause buy out agreement but are proposed to be implemented as part of the extension offer.

5.3.4 Financial benefits of Retendering

It is very difficult to estimate the costs and benefits of re-tendering, especially as any new contract would not start until April 2017. However, it is the view of officers that the following approximate savings currently would "fall out" of the tender exercise:

- Garden Waste profit retention from the garden waste subscription service fleet reductions: £85k
- Street Cleansing profit retention from the £1m budget option: £75k for profit retention
- Waste Collection: £200k for round efficiencies
- Waste Collection: Rationalisation of the Bulk Bin Service (currently overpriced): £200k
- Inflation paid through RPI that has not been passed onto the workforce: £150k

This amounts to less than the current Biffa offer. Obviously, market forces at the time could result in further savings, but equally, costs could increase slightly.

6.0 OTHER OPTIONS CONSIDERED

6.1 Reject Biffa's Extension Offer

6.1.1 Section 3 highlights the key risks and opportunities surrounding the extension decision. Other than ensuring Wirral gets the true market value for its services post 2017, there is one other significant benefit from rejecting Biffa's offer. The council would be able to defer its decision on whether to extend the contract for a maximum period of 10 months, when the March 2017 break clause option would have to be formerly considered to allow for the possibility of retendering the contract. This may allow the council more time to determine how it may wish to package environmental services in the future, should it be unable to agree to that at this time.

6.1.2 However, rejecting Biffa's offer outright would prohibit any further savings to be generated from the contract in 14/15 and likely to inhibit savings to be achieved up until April 2017 when it is anticipated that Biffa would offer of an alternative financial incentive to extend the contract to 2027 as part of the Council's break clause decision. It is not possible to predict whether the value of the financial incentive would increase or decrease from the current offer, but the Council would have lost the opportunity to make immediate savings.

6.1.3 It is also important to highlight that rejecting Biffa's offer to extend would result in approximately £150k in procurement costs to re-tender the work, as well as taking up significant officer time to the value of at least £100k.

7.0 CONSULTATION

7.1 No consultation has been carried out due to the commercial sensitivity of the proposal.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 Extending the contract with Biffa would deny any opportunity for the third sector to tender for this work until post 2027. However, Biffa have indicated a willingness to adapt their working methods to accommodate the Council's neighbourhood management approaches that could lead to opportunities within this sector in the extended contract term.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 Accepting Biffa's extension proposal offers significant revenue savings as detailed in Appendix 1 for 14/15, 15/16 and 16/17 and represents a total saving on the contract price of 6.4%.

9.2 The proposal also includes an alternative application of inflation, replacing RPI with a combination of CPI and true inflatory costs. Officers estimate that on historical trends, this could avoid cost of up to £500kpa by 2027.

9.3 There are no staffing or resource implications arising from the report, however, officers estimate that up to £250k in tendering costs (consultant fees and staffing time) could be avoided if the contract was extended.

10.0 LEGAL IMPLICATIONS

- 10.1 Officers have confirmed that there is provision in the original OJEU notice (CPU010805) to extend the contract for a seven year period from August 2020 to August 2027. This current Biffa proposal requires the removal of the 2017 break clause agreed in July 2012 and the full extension to 2027.
- 10.2 The Legal colleagues have highlighted that it is necessary to limit the amount of material changes to the contract in order to minimise the risk of the Council being challenged on the legalities of the extension. There are no service changes proposed as a result of this extension proposal. Apart from reducing the price of the contract, there are only two variations proposed:
- (i) To alter the inflation calculation. As the proposal is to apply a mechanism that is most likely to save the Council money, and be less advantageous to the contractor, it is not envisaged that a challenge would arise from previous tenderers.
 - (ii) To introduce a “pain-gain” clause. There are a number of existing clauses relating to need for the contractor to drive continuous improvement and efficiencies. Introducing this clause will not supersede them, but allows greater flexibility to tackle the most challenging of efficiency projects by recognising the costs and risks associated with them to both the contractor and Council. The new clause does not quantify the apportionment of risks and benefits to either party as this will need to be determined / agreed for each future project.
- 10.3 Due consideration has been given to establishing whether the Biffa proposal offers VfM (Sections 4 and 5 refers) as required under the Council’s Contract Procedure Rules. However, it is important to note that the only decisive way to determine whether a more advantageous contract could be secured by the Council would be through retendering the contract.

11.0 EQUALITIES IMPLICATIONS

- 11.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?
(a) Yes and impact review is attached –
<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010-0>

12.0 CARBON REDUCTION IMPLICATIONS

- 12.1 The Waste and Environmental Streetscene Services contract seeks to increase recycling through efficient waste collection operations. Due to the proposed changes to the application of annual inflation, there will be an incentive for the Council to monitor fleet fuel consumption and take pro-active steps to minimise it. In addition, Biffa have committed to assisting the Council to collect food waste in an efficient way should it be required to do so in the future.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 13.1 There are no planning or community safety implications arising from this report.

14.0 SUMMARY

14.1 Due to the limitations of data sets around VfM and fluctuating procurement markets, the only way of knowing exactly how advantageous Biffa's proposal is to the Council would be to decline the offer and go back out to the market. Members must therefore balance the risks and lost opportunities of accepting the offer with the financial benefits and future opportunities gained by securing a long term deal. To summarise:

The opportunities lost include:

- Ability to re-package services where synergies may result in enhanced neighbourhood working capacity and reduced operating/client team costs (e.g. A Street Cleansing, highway maintenance and grounds maintenance bundle);
- The ability to go to the market in a re-tender exercise.

The opportunities gained include:

- Immediate revenue savings totalling a minimum of 6.4% over three years;
- Avoidance of procurement costs of up to £250k in 16/17;
- Stability of provider with proven track record in performance;
- Immediate identification of significant further efficiencies, rather than waiting for a new; provider to "find their feet" post 2017.

15.0 RECOMMENDATIONS

15.1 Cabinet is requested to:

- (i) Note the outcome of the VfM review detailed in Section 4 of this report, and the continued success of the Waste and Environmental Streetscene Service Contract in reducing costs and improving performance.
- (ii) Authorise the Strategic Director of Regeneration and Environment to enter into negotiations with Biffa to secure minimum revenue savings as outlined in this report in return for a long-term contract extension to 2027.
- (iii) Instruct the Strategic Director of Regeneration and Environment to report the final outcome of the contract extension negotiations to Cabinet for approval no later than October 2014.

16.0 REASON FOR RECOMMENDATIONS

16.1 The Council has unprecedented financial reductions to make over the next 3 years. The Waste and Environmental Streetscene Contractor has a proven track record of working with the Council to make challenging savings in the statutory functions of waste collection and street cleansing. Extending the contract with the existing provider guarantees revenue savings over the next three years and avoids future procurement costs of up to £250k in external consultants and officer time. With all the information available, officers have concluded that any savings arising from a re-tender exercise would not significantly differ from that offered by Biffa at this time. In fact, costs of retendering are just as likely to be worse than the Biffa offer as they are to be better. By accepting a "deal" now, the Council benefit from savings from 14/15 onwards. In addition, immediate work can begin to identify significant future efficiencies.

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APPENDICES

Exempt

Appendix 1: Biffa Proposal: Contract Extension to 2027

Appendix 2: Clarification of Biffa benefits

Appendix 3: Biffa clarification re: future proofing

Open

Appendix 4: Risk-Opportunity Matrix

Appendix 5: Risk Register

REFERENCE MATERIAL

Insourcing: A guide to bringing local authority services back in-house (APSE 2009)

State of the Market Survey 2014: Local Authority Street Cleansing Services (APSE 2013)

State of the Market Survey 2013: Local Authority Refuse Services (APSE 2014)

Audit Commission Website: <http://profiles.audit-comission.gov.uk>

2012 Wirral Break Clause Review, Eunomia Research and Consulting

OJEU notice CPU010805: Streetscene Services to include refuse, recycling and street cleansing.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	
Environmental Streetscene Services Contract Break Clause Review	19 July 2012
Environmental Streetscene Services Contract Break Clause Review	21 June 2012
Environmental Streetscene Services Financial Review	12 April 2012
Sustainable Communities Overview and Scrutiny	
Environmental Streetscene Services 5 th Annual Review	30 January 2012
Environmental Streetscene Services 6 th Annual Review	29 January 2013