

POLICY REVIEW AND DEVELOPMENT PANEL REPORT

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| REPORT TO: | Corporate Performance Panel | | |
| DATE: | | | |
| TITLE: | Review of New Waste Collection Contract performance – Stage 1 – a) of the contract change transition from Kier to SERCO, and b) throughout the pandemic; with actions on the lesson to be learned | | |
| TYPE OF REPORT: | Post Implementation Review | | |
| PORTFOLIO(S): | Environment | | |
| REPORT AUTHOR: | Barry Brandford – Waste and Recycling Manager | | |
| OPEN/EXEMPT | Open | WILL BE SUBJECT TO A FUTURE CABINET REPORT: | No |

REPORT SUMMARY/COVER PAGE

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| PURPOSE OF REPORT/SUMMARY: |
| Review of New Waste Collection Contract performance – Stage 1 – a) of the contract change transition from Kier to SERCO, and b) throughout the pandemic; with actions on the lesson to be learned |
| KEY ISSUES: |
| <ol style="list-style-type: none"> 1. Demobilisation of Kier Contract 2. Mobilisation, Stabilisation and Delivery of the Serco Contract 3. Relative Contract Performance against some key objectives 4. Performance of waste related contracts through the pandemic |
| OPTIONS CONSIDERED: |
| <p>Members may consider options in respect of contracts which are signed to be limited to the governance of the contract where this is provided for within the contract and where not provided for within the contract by Contract Standing Orders.</p> <p>Members may wish to consider if there are any areas of procurement strategy which may benefit from greater consideration for large contracts in the future.</p> |
| RECOMMENDATIONS: |
| Members are invited to consider what recommendations they may wish to make given the limitations provided for by contracts which have been signed or for future contract procurement and mobilisation. |
| REASONS FOR RECOMMENDATIONS: |
| <p>The procurement decision on significant contracts is decided as a Cabinet matter before procurement is commenced with key procurement tasks delegated to officers within the Portfolio of the service. Briefings are generally provided throughout the procurement to Directors and Portfolio Holders for their consideration.</p> <p>Contracts are managed at an operational level with clear expectations set out in contract documents with performance measured and reported on through processes set out in the contract.</p> |

1. Introduction

Members have requested a wide ranging report covering the following points

- Kier contract Demobilisation
- Serco contract mobilisation and stabilisation
- Waste and related contract performance throughout the pandemic

2. Kier Contract Demobilisation

Settled process based upon one to one conversations with reference to contract and Licence to occupy. Kier had a mature attitude to demobilisation and provided continuing support.

- Allowed time of key managers to be available to Serco to facilitate change
- TUPE data was made available in a timely manner
- Renewal of wear and tear related to Kier occupation of the depot undertaken
- Exit plans for vehicles and plant produced and implemented

Final financial settlement completed promptly

3. Serco Contract Mobilisation and Stabilisation

. The decision of the councils to award the contract to Serco was made in December 2019 and the contract contained a mobilisation plan approach which was part of the tender submission documents and a contractual document. This should have provided a clear path to mobilisation.

The initial bid was made in the knowledge of the additional risks associated with Brexit, although the scale of any impacts were unknown, provided some certainty as to the need for a number of milestones to be met. The councils applied themselves to these. However, mobilisation during the middle stages was more severely impacted by Covid 19 pandemic.

Services commenced in North Norfolk DC's area in April 2020.

Covid-19 meant that processes moved on-line and it was necessary to make appropriate adjustments and work with greater agility. This had particular effect upon the delivery of some vehicles as production was slowed. The impacts of Covid 19 pandemic do not give rise to a significant (Force Majeure) event in terms of the contract with Serco.

This council understanding the implications of Covid on service delivery during the summer of 2020 considered changes to the contract in terms of the ways in which food waste were to be undertaken compared to the initial offer from Serco. The council placed orders for vehicles to provide the services as requested by Serco in accordance with the agreed timeframe.

As restrictions eased in October 2020 substantial meetings resumed and in these meetings progress was sort which affected all parts of the service for west Norfolk. These included:

- Monitoring and Reporting
- Customer Care
- Commercial Waste Collection

- Household Residual Waste Collection
- Household Dry Recyclables Collection
- Customer Empowerment
- Bulky Waste Collection
- WEEE, Batteries and Textile Collection

All of the councils sort assurance on the quality, extent and contractual compliance with all of the terms in the contract project agreement.

The work on a number of these points has not seen to date full delivery. These include:

- Battery and small electrical items for recycling
- Data capture and reporting
- Missed collections rectified promptly
- Technology to support delivery of services, on vehicle video & photographs
- Detailed emergency and business continuity plans
- Complaint processes which support the customer
- Remove the use of agency staff
- Use of smaller collection vehicles for difficult to access sites
- Bulky item reuse scheme
- Commercial Manager to help grow our trade waste business
- Weekend litter bin empties working extended hours
- Environmental Improvement Trust Grants

Areas such as the collection of batteries and small electrical items has not commenced. Progress has been made but the solutions to problems first identified to Serco during the bid stage are only now being resolved.

Areas which also remain unresolved relate to the design and implementation of new collection rounds. Serco targeted reductions in carbon di oxide emissions through the design of services, as well as through more efficient vehicles. Only in November 2021 have Serco shown indicative progress towards the creation of these rounds. Serco have said that these were disrupted due to changes in the amount of waste due to Covid 19. There has to be a degree of sympathy for that position.

Restructuring of collection rounds means that the rounds currently used are those generated by Kier and do not take full account of housing growth. The legacy of such is that some rounds have too much work to do an example of this is the round that works in North Lynn where there has been substantial new development of houses. Garden waste rounds are additionally under pressure due to the increase in the number of subscribers. Serco have identified the need for additional collection vehicles. These are as follows:

- Garden Waste
- Mixed Dry Recycling

The capital cost of these vehicles is estimated at £350,000.

Additionally, the use of legacy rounds has created issues once food waste collections were recommenced in July 2021. The rounds do not require an even allocation of personnel across the

working week to collect food waste caddies. There is a peak in use of this labour in the middle of the week, where King's Lynn and its immediate environs are collected. Prior to both Brexit and Covid there were ample available agency staff willing to work part weeks to fulfil the service. Since July this year there has been a considerable shortage of labour to deliver this work. Additional burdens have been carried by crews who have worked short staffed and delivered the contract services. Serco have rewarded these staff but it can not be overstated how much they have done extra. The profile for loader deployment is considered a key risk where it is based on agency staff and the aim of the council is to ensure that the distribution of work in new rounds provides full time permanent employment opportunities and therefore stabilise the current position. The use of agency labour was to be removed by Serco as part of the contract. The change has not been delivered.

Covid related impacts have been more significant on the proposals for re-use of bulky waste and its collection and the reduction in activity by re-use partners has been identified as a problem in providing this service. However, Serco have not made any concrete proposals for collection and storage prior to passing items on for re-use.

The proceeding paragraphs have identified a number of areas which cause substantial concern to this council. These have been raised with Serco. The contract provides for three level of meeting:

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| 1 | Local | Local managers and the local Contract Manager and the Senior Contract Manager for Serco |
| 2 | Cross Contract Officers | Local managers with Senior Contract Manager and Regional Contract Manager and Managing Director for Serco |
| 3 | Members Board | Portfolio Holders supported by Officers and Senior Contract Manager and Regional Contract Manager and Managing Director for Serco |

These meetings are minuted and programmed.

A further risk for the council is that Serco have been unable to produce an invoice pro-forma for the council identifying work volumes against the bill of quantities, income due to the council and other deductions and sums owed. Although the council can be fully certain of our estimates and expectations the absence of progress on billing is a concern. Serco.

The period of Mobilisation and Stabilisation in the contract ended at the start of August 2021 for this council. Prior to that date, as is normal for a contract of this nature, full application of certain contract conditions are waived. These will normally relate to contract deductions for the failure to deliver services fully in accordance with the project agreement.

In line with our working model for contract management the council expects to have all of the expected services delivered fully. It is incumbent on Serco to identify, record and report its performance and for the council to test and examine the information provided. Serco have not been able to produce reliable data on performance.

Performance deductions fall in to two categories

1. Administrative & Technical
2. Service Delivery

The council has identified significant shortcomings in both areas of performance and raises our concerns routinely at each appropriate level. The administrative and technical failures impinge on the internal workings of the council and cause officers to have to undertake additional work to review and assess performance and undertake checks on back office functions and does cause additional work for officers in waste management and elsewhere. They also cause increased demands on local service managers and supervisors in Serco. Serco must be obliged to meet their obligations.

The areas of service delivery which concerns the council more significantly are those which directly affect the customer through their interactions with Serco. Missed collections and missed assisted collections are higher than under the Kier contract and higher than can be reasonably tolerated. In the second phase of the report due to the Panel in 2022 these will be reported. The technical and administrative failures currently do not provide Serco with confidence in reporting these. Serco have said that the errors will be resolved in December 2021. Data for December 2021 has been provided but is not fully complete.

Contract and Contract management practices allow the council to raise these points locally and across the wider contract. This council is robust in raising its concerns.

Each contract meeting at a local level has the discussion on Health and Safety and Service Delivery. Health and safety is always a greater priority as risks to employees of Serco in providing services to residents is always greater than the health and safety outcomes of not providing services on any given day. The loss through accidents, of any seriousness, of employees will affect the ability to deliver services more significantly than any other factor in the waste collection industry. Our workers must go home safe and well at the end each day.

Service delivery focusing on the delivery of services to the most vulnerable through assisted lifts and clinical waste is the most important part of service delivery. The target for Serco, as for Kier previously, is zero defects. Each missed assisted lift bin not immediately rectified is a defect. The level of the cost of the defect represents the cost of dealing with the failure. The cost of the defect is greater than the cost of delivering the individual service for the year in the bill of quantities.

The council can step in to deliver failing service elements ourselves or employ alternate contractors. Our ability to deliver large scale interventions on this type of contract is very limited. If this were undertaken the unit cost would be higher for any activity and this would be recharged to Serco. The step in rights require one of a number of requirements to be met but the two most immediately available is the breach of statutory duty or failure to rectify any failure for 20 working days. This is a high threshold. Power to step in is not a measure lightly taken.

The cost of the services is fully contained within the service budgets and the approach which officers will recommend is that where contract deductions are made that these are used to support and improve services within Waste Management as part of the Public Open Space service area.

Serco as previously stated have used the legacy rounds from Kier whilst they create and refine their proposals. Serco propose to make round changes in May 2022. Communication of changes and the deliverability of proposed rounds and resources are a key risk. Serco have committed to provide

additional resources to prevent disruption which shall be important due to the Jubilee Bank Holidays during the period of change.

The provision of robust business continuity measures would provide a degree of confidence in the ability of Serco to implement changes in May 2022. The council has concerns over the strength of measures which will be implemented to protect services in west Norfolk. The council has asked for the plans which Serco have in place.

The council had to significantly support Serco during issues of fuel supply in September 2021, beyond that which we would have expected to have to undertake.

The council have asked for specific measures to be provided by Serco to provide reassurance these include:

- Flu Pandemic
- Weather disruption (Snow, Ice and Flood)
- Fuel supply disruption

These the business continuity events can be anticipated to impact during the time of this contract and the ability of a major contractor to have resilience measures is a contract requirement.

Key Performance Indicators

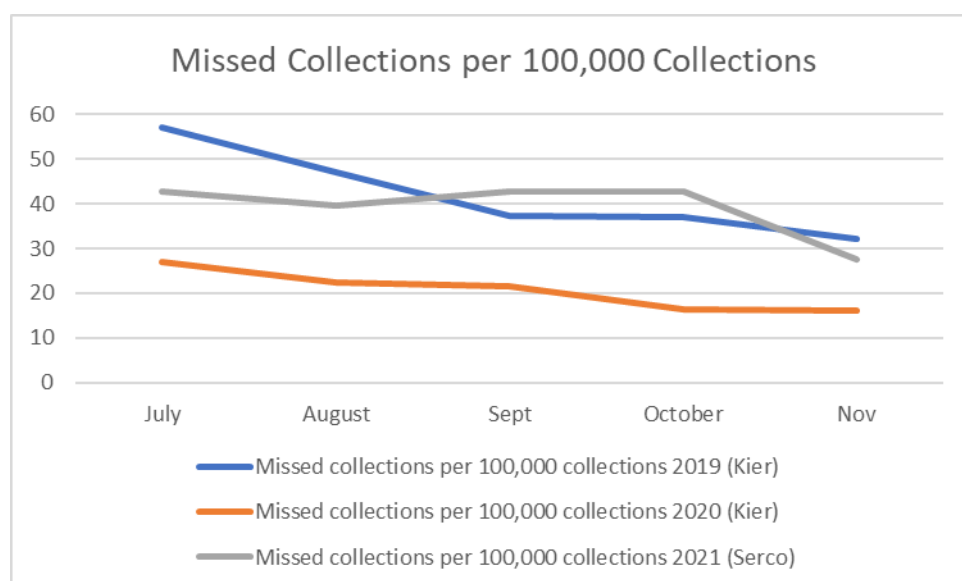
The performance of Kier and Serco have been assessed for the period of July to November 2019 & 2020 against the same months in 2021. Food waste collections are excluded and additional garden waste bins added to provide a very close comparison.

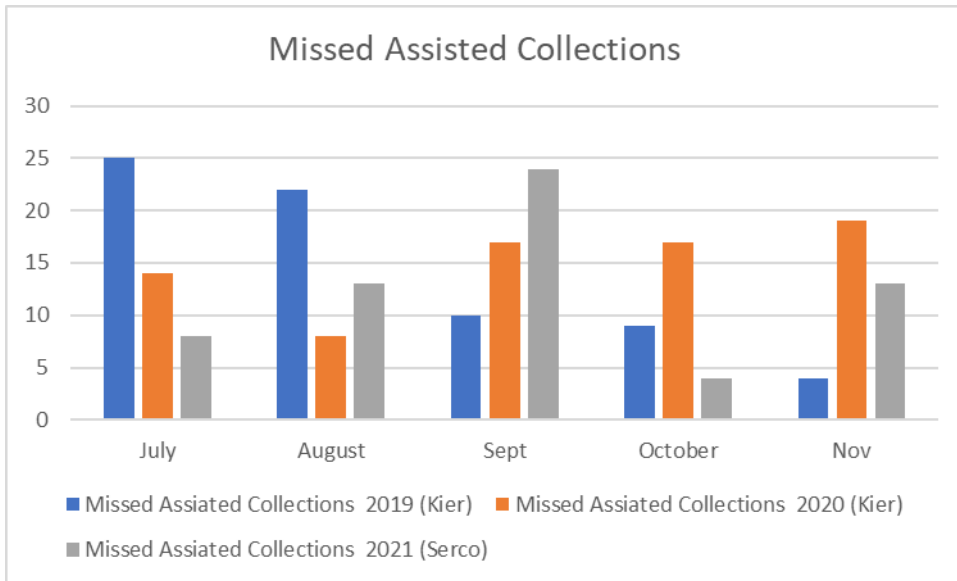
Performance measure for missed bins per 100,000 collections were set in the Kier Contract

| | |
|----------|----------------|
| Original | 15 per 100,000 |
| Revised | 25 per 100,000 |

Targets is that there are 0 (Nil) missed Assisted Collections

Trade Waste missed collections less than 2 per week





4. Performance of waste contracts during the Covid 19 pandemic

The contracts covered by this section of the report include the following

- Waste Collection and Related Services 2011-2021 (Kier)
- Waste Collection and Related Services 2020-2029 (Serco)
- Comingled Dry Recyclable Waste 2013-2024 (NEWS)
- Tip & Haul Residual Waste SLA (NEWS)

It should be fully recognised that each of these agreements have their own construction of contract clauses and although they may have common naming structures (Force Majeure) the effect of the wording creates very different levels of obligation on the parties to the contract.

Pandemic has three levels of control

- Public Health and Health and Safety
- Business Continuity
- Contract Provisions

The council and its contractors are provided with a range of advice sources throughout the period of the pandemic from national sources and were subject to national restrictions which impacted services and formed a framework for service delivery. National guidance was published for local authority procurement and contract management practices. This guidance additionally clearly articulated the expectations that would apply to those who supply goods and services to the public sector during the period of the pandemic.

Sources of information, external to the council, which were considered during the pandemic included:

- Public Health England
- DEFRA
- DHCLG
- Department for Transport
- Health and Safety Executive
- Cabinet Office
- Environment Agency
- Waste Industry Safety & Health Advisory Group

Initial preparations for Covid 19 pandemic were commenced in February 2020. During March 2020 evidence of the impacts of Covid 19 became apparent with staff absences and service difficulties. This led to the disruption of services including:

- Garden Waste Collections
- Bulky Waste Collections
- Bin deliveries

The council received from Kier a claim for Force Majeure during March and conducted negotiations during this time. The council additionally arranged for Kier to employ up to 10 additional drivers for RCV's at the council's expense to ensure continuity of service. The number actually employed maximised at 5 due to the availability of qualified drivers.

Safe operating arrangements required that the number of operatives in a vehicle were minimised and formed a fixed team. This meant that food waste collections would only be possible in very limited areas. The ability to deliver a consistent and readily communicable service to the public was not possible. Therefore as of the 6th of April 2020 food waste collections were withdrawn.

The council had examined a number of alternative scenarios for food waste collection but these were not viable in terms of service cost or capability of consistent delivery.

The 6th April 2020 was the date when garden waste collections and bulky waste collections resumed and food waste collections ceased. The council also took on the delivery of garden waste bins and the clearance of excess waste from Bring Sites as Norfolk County Council had closed HRWC's and bring site operators had ceased emptying sites temporarily as they were concerned over key worker status.

Kier as a company and especially its workforce locally worked extremely hard for the benefit of the council and residents of west Norfolk. The council supported Kier with additional drivers until the close of August 2020. However, the ability to deliver food waste collections was still imposed. The negotiations with Kier also provided in the direct removal of costs from the council for the services which Kier were unable to deliver.

The monthly contract saving was £25,500 per month for costs not incurred by Kier due to the decisions which had to be made under the contract and following the guidance issued by the Cabinet Office. The Council additionally lost income from Recycling Credits paid by Norfolk County Council of £16,000 per month.

The council created plans for the reintroduction of food waste collections after the government provided details of activities within the 'Road Map'. The initial plan was for late June 2021 but this was delayed until 19 July 2021.

Serco have delivered the reintroduction of food waste collections. Part of the impact of the legacy of withdrawing food waste collections has been two fold. Firstly, the ability to recruit a workforce to deliver the collections where they are only engaged for two or three days each week, in an environment where furlough was still applied hindered recruitment. Collection teams were working short handed at times and Covid 19 related absence was still a factor in service delivery.

Residents have become less accustomed to using food waste collection service and considerable efforts have been made to communicate and supply caddies to residents. The results of resumed collections are set out below compared to the same months in 2019 the amount collected is in Tonnes.

Comparative Food Waste Collection Tonnages

| Year | 2019 | 2021 |
|-------------|-------------|-------------|
| July | 250 | 12 |
| August | 257 | 72 |
| September | 219 | 145 |
| October | 258 | 144 |
| November | 232 | 156 |

Payment reductions to Serco for not providing the food waste service remain unresolved and form part of the wider contract mobilisation, although a formal offer has been received but not yet evaluated.

The council did see some benefits from Covid19 pandemic which included greater levels of recycling and sales of garden waste bins. An additional 2,000 brown bins subscriptions were received in the period of the pandemic. The tonnage of recycled in green bins increased by nearly 600 tonnes as people stayed at home.

The impacts on processing of collected material due to Covid19 has included outbreaks at processing sites for collected material. A substantial loss of capacity in the first quarter of 2021 was narrowly

avoided. The council has accepted under that contract the need to make payments to reflect the additional cost of keeping facilities safe and available for waste processing during the last year.

Haulage of waste from King's Lynn to Wisbech for disposal has not been affected although the amount of waste has increased. This is partially due to food waste being in the black bin and more waste being produced as people stayed at home more.

5. Consultation

Serco have been consulted on the presentation of performance figures and representatives from Serco will be in attendance to answer questions which may arise from this report.