

ST HELENS FOOD WASTE
WDA/21/23

Recommendation

It is recommended that:

1. Members note the current status of matters with regards to St Helens food waste collections and contractual arrangements under the Waste Management & Recycling Contract (WMRC);
2. Members agree to delegate authority for the decision on future operational and contractual arrangements for St Helens food waste to the Chief Executive in consultation with the Authority Chairperson.

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ST HELENS FOOD WASTE
WDA/21/23

Report of the Chief Executive

1. Purpose of the Report

- 1.1 To inform Members of the current status of, and request in relation to, St Helens food waste collections and disposal management arrangements under the terms of the Waste Management and Recycling Contract between MRWA and Veolia.
- 1.2 To seek Members' approval to delegate authority for the future decision on operational and contractual arrangements for St Helens food waste to the MRWA Chief Executive in consultation with the Authority Chairperson.

2. Background

- 2.1 St Helens Council currently collect food waste from households in their District. Food waste collections are undertaken on the same vehicle as their segregated dry recyclable materials (paper, card, cans etc.)
- 2.2 In 2022/23, St Helens collected 3,158 tonnes of food waste. No other Councils are currently collecting food waste.
- 2.3 MRWA has a contract with Veolia, the Waste Management & Recycling Contract (WMRC) which covers a range of services which includes for the transfer and treatment of food waste (termed 'Kitchen Waste' under that contract). Food waste which is separately collected by any of the Merseyside Councils is defined as Exclusive Contract Waste under the WMRC i.e. MRWA are obliged to direct those Councils to deliver any food waste they separately collect into Veolia's facilities.
- 2.4 Until the end of 2021, St Helens were delivering both dry recyclables and food waste into a transfer station operated by Biffa in St Helens under two separate contract arrangements. Biffa managed the dry recyclables under a contract arrangement with St Helens and the food waste through a separate contract arrangement with Veolia.
- 2.5 At the end of 2021, Biffa's transfer station was closed by the Environment Agency; it was not known at that time how long the closure would be for.

To ensure minimal impact on their collections, St Helens agreed a short-term (to end December 2023) contract with CEW Recycling Group (CEW) delivering to a facility in the centre of St Helens town. Whilst Veolia did not have a contractual arrangement with CEW, they agreed a temporary waiver of their contractual right to exclusivity of food waste to support the continued co-location deposit of food waste with the dry recyclables at the CEW facility.

- 2.6 Since that time, St Helens have managed their own food waste transfer and treatment arrangements for which Veolia have been paid a compensation rate for their agreement to waive their contractual right to exclusivity.
- 2.7 St Helens are preparing for the future of their dry recyclable and food waste transfer arrangements and have recently undertaken a procurement exercise for the transfer and treatment of those materials. The outcome of that procurement exercise is currently under review by St Helens.
- 2.8 In planning for their future collections, St Helens have asked MRWA for flexibility in relation to their food waste management options, which includes the potential to request a further extended waiver of Veolia's right to exclusivity over food waste transfer and treatment. Veolia have in response provided a number of options and rates for MRWA to consider, which includes for the potential to agree to extend their waiver of their rights under the WMRC. In addition to their agreement to allow St Helens to enter into their own agreements, Veolia have also offered options including:
 - i) St Helens deliver their food waste into Gillmoss (for Veolia to bulk and transfer to treatment from there);
 - ii) Veolia to collect from St Helens' preferred transfer station (for Veolia to transport the food waste to treatment);
 - iii) Veolia to direct St Helens to deliver collected food waste to a nominated food waste treatment facility.

3. Food waste legislation

- 3.1 In considering the current status of St Helens food waste collections, it is important to understand the legal context regarding food waste collections in general. The Environment Act 2021 has made the separate collection of food waste from households, relevant non-domestic properties (such as

schools, universities and hospitals) and from commercial businesses mandatory.

- 3.2 Secondary legislation (the Regulations) are awaited which are expected to clarify the date from which such collections will be mandated.
- 3.3 As such, all Councils are expected to have to implement a separate food waste collection service for all households (and, where relevant, the other premises as defined in the legislation) at some point soon. Under current contract arrangements, food waste collected by Merseyside's District Councils will (unless otherwise agreed) be directed to be deposited at a Veolia nominated facility.
- 3.4 Separate discussions are currently underway with Veolia to agree future contractual arrangements for the expected expansion of food waste collections into the contract facilities.

3. Current status

- 3.1 As of the writing of this report, St Helens are considering the outcome of their recent tender exercise. It is expected that following the tender exercise outcome, discussions will be undertaken between St Helens and MRWA to consider a mutually agreeable position for the management of St Helens food waste. This may include the potential to formally agree a waiver of exclusivity with Veolia and for St Helens to undertake the management of their food waste under their own contractual arrangements for a period of up to 4 years from 1st January 2024.
- 3.2 It is important to highlight that whilst they have done so for this particular request, Veolia are under no obligation to agree to waive their contractual rights either now or in the future. Any potential future requests e.g. from another Council who may seek to manage food waste under their own arrangements, may not be agreed by Veolia.
- 3.3 Agreement on a future arrangement for St Helens food waste needs to be formalised between the respective parties at the earliest opportunity and in any event well in advance of 31st December 2023 when the current agreements expire.

4. Risk Implications

- 4.1 The following risk analysis has been undertaken in relation to this report.

Merseyside Waste Disposal Authority

22nd September 2023

Identified Risk	Likelihood Rating	Consequence Rating	Risk Value	Mitigation
Agreement not reached on acceptable solution for all parties (MRWA/St Helens/Veolia)	2	3	6	Maintain open dialogue between all parties.
That future requests for Veolia to waive their rights re food waste may not be agreed.	2	2	4	Open engagement with all Councils (through LCR Partnership) to develop operational plans.
Veolia withdraw their agreement to waive their rights (impacting St Helens operations)	2	3	6	Maintain open dialogue between parties. Formalise all agreements reached.

5. HR Implications

5.1 There are no HR implications associated with this report.

6. Legal Implications

6.1 MRWA has a contract in place with Veolia (the Waste Management & Recycling Contract, WMRC) which includes for the transfer and treatment of food waste collected by Merseyside's District Councils as an exclusive contract waste. MRWA are therefore obliged to direct the Councils to deliver any food waste they collect into the Veolia facilities, unless otherwise expressly agreed with Veolia.

7. Environmental Implications

7.1 The final food waste management solution for St Helens food waste will take into consideration minimising total transport distance (from transfer to treatment facility) and therefore the carbon impact of this service, wherever possible.

8. Financial Implications

- 8.1 The overall annual operating costs to MRWA and the Levy will depend upon the final agreed solution. Based upon tonnages currently being handled by St. Helens, costs could range from approximately £75,000 to approximately £200,000. Where it is agreed that St Helens can manage the food waste themselves without using the WMRC contract arrangements, they are potentially eligible to claim for recycling credit payments from the Authority (subject to their chosen method of food waste treatment). These payments are subsequently recovered via the levy but with a two year time delay.
- 8.2 The agreed solution will aim to optimise the operational position and minimise the overall collective costs to MRWA and St Helens wherever possible.

9. Conclusion

- 9.1 MRWA has a contract with Veolia which has exclusivity over the management of food waste separately collected by Merseyside Councils.
- 9.2 St Helens have, since early 2022, managed food waste they collect under their own local contractual arrangements, for which Veolia have agreed to temporarily waive their right of exclusivity.
- 9.3 St Helens are in the process of procuring services for the transfer and management of their dry recyclables and food waste and have requested flexibility for the future food waste transport and treatment operations, including the potential to continue to manage the waste outside of the Veolia agreement, subject to a review of the outcome of their procurement.
- 9.4 Members are therefore asked to:
- i) note the current status of matters with regards to St Helens food waste collections and contractual arrangements under the Waste Management & Recycling Contract (WMRC) and their request to for MRWA to agree with Veolia that they potentially waive their right to exclusivity of food waste, should this prove to be the preferred solution;
 - ii) agree to delegate authority for the decision on the future operational and contractual arrangements for St Helens food waste to the Chief Executive in consultation with the Authority Chairperson.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.