

Key Decision Required:	Yes	In the Forward Plan:	No – Access to Information Procedure Rule 15 - General Exception relied upon
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CABINET

11 DECEMBER 2015

REPORT OF THE MONITORING OFFICER

A.4 TO CONSIDER CEASING THE DELIVERY OF BLACK SACKS

(Report produced by L Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The previous report presented to Cabinet in November 2015 proposing ceasing the delivery of black sacks contained a Key Decision, which had not been included within the Council's Forward Plan as required by the Access to Information Regulations and Procedure Rules. Constitutionally, the Monitoring Officer is required to inform Cabinet where an omission would give rise to unlawfulness. The General Exception rule is now being relied upon and consequently, Cabinet is requested to reconsider the recommendation and retake the decision.

EXECUTIVE SUMMARY

At its meeting on 20th November 2015, Cabinet considered a report from the Portfolio Holder for Environment concerning the delivery of black sacks, via the Council's waste contractor, Veolia. Currently, the Council provides and delivers fifty two black sacks once a year for the collection of residual waste from householders (i.e. non-recyclable waste). The cost of this service is currently £154,728 per annum (2015/16) and the current estimate for 2016/17 is £158,000.

The Council is required to make savings of £2 million in 2015/16 and a further £2 million in 2016/17, ceasing provision of the sacks will make a significant contribution to the required saving in 2016/17.

Potential savings in excess of £100,000 and effecting one than two wards is a Key Decision. A Key Decision must not be made until details of that decision are contained and published within the Council's Forward Plan for 28 days, subject to the general exception and special urgency provisions.

The contractor, who has previously delivered the black sacks, requires an order to be placed for the continuation of this service for 2016, the timing of this order will impact upon the delivery schedule and cost of the service will increase if delayed. Cabinet has previously sought to endorse the recommendation to cease delivery, with a view to saving future expenditure from the 2016/2017 budget. This decision needs to be retaken due to procedural administrative errors. For this reason, it is impracticable for the decision now to be contained within the Forward Plan and the General Exception provisions contained within Regulation 10 of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and Rule 15 of the Council's Access to Information Procedure Rules are being relied upon and have been complied with by the Monitoring Officer.

Cabinet are requested to reconsider the recommendation to cease delivery of black sacks, making future savings from 2016/17 against other considerations. Many residents already purchase additional black sacks as they use more than one a week but given the Council's commitment to reducing overall waste tonnage and increasing the level of recycling, ending the provision of sacks purely for non-recyclable materials therefore, could be seen as counter intuitive.

RECOMMENDATION(S)

- (a) That the future provision and delivery of black sacks by the Council to residents is ceased with effect from 2016; and
- (b) A promotion and press campaign is delivered to provide information about the ceasing of the service and informing residents how waste should be presented running alongside our promotion of increased recycling.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Our Place

Protect and enhance our environment countryside and coast.

Providing a quality waste service which is affordable and sustainable ensures that an effective waste service can be provided for residents in the district which will also reduce the incidence of fly tipping and littering.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The cost of delivering fifty two black sacks once per year to residents in 2015 was £154,728 and the current estimate for 2016 is £158,000.

Payment for the sacks and deliveries is spread over the financial year following delivery and therefore, the saving from ceasing the provision and delivery of the sacks with effect from January 2016, will accrue from April 2016 (2016/17 budget). This decision does not impact upon the budget for 2015/16, as this expenditure has already been committed. The future 2016/17 budget will be amended to reflect Cabinet's decision if ceasing the service is approved.

Risk

There are no significant risks associated with the proposal as the Council has the power to undertake this action although it may lead to adverse publicity as residents object to this discretionary service being removed.

LEGAL

The Council has a legal duty under the Environmental Protection Act 1990 to collect household waste, but there is no statutory requirement for local authorities to provide black sacks or any other receptacle for residual waste, these are discretionary services.

There may be issues in terms of how residual waste is presented for collection at the kerbside if black sacks are no longer provided as residents may use other types of receptacle which would not be acceptable, for example large numbers of small plastic bags. The Council can serve a statutory notice under Section 46 of the Environmental Protection Act 1990 to require residents to present waste in a specified receptacle. If this were undertaken it would be used to deal with residents who subsequently become persistent offenders. The main route of influencing behaviour would be via a significant press campaign and promotion and any enforcement action would be taken as a last resort.

Key Decisions must be made in accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, the provisions of which are also requirements within the Council's Access to Information Procedure Rules contained within Part 5 of the Constitution.

Key Decisions are defined within Article 13 of the Constitution. A "key decision" means a Cabinet decision that is likely to -

- result in the local authority incurring expenditure which is, or the making of savings which are in excess of £100,000 or is significant having regard to the local authority's budget for the service or function to which the decision relates; or
- be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

The General Exception provisions contained within Regulation 10 of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and Rule 15 of the Council's Access to Information Procedure Rules are relied upon to ensure a lawful decision is made without prior publication in the Forward Plan.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Crime and Disorder

In the initial stages of ceasing provision of black sacks there may be increased littering associated with residents using inadequate receptacles to present waste which does not keep the waste secure. It is envisaged that this would be short lived as a significant promotion campaign would be launched to encourage residents to present waste appropriately which would be backed up by a notice under Section 46 of the Environmental Protection Act for persistent offenders.

Equality and Diversity

The majority of residents will be affected equally by the removal of black sacks. However, there are a very small number of residents who do not receive black sacks currently for example those in flats which have a chute system for disposing of waste.

Area or Ward Affected

All wards will be affected by this change.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Council has delivered, via its waste contractor, black sacks free to residents for a number of years.

Changes have previously been made to the service as a consequence of the need to make cost savings when the delivery was changed from twice to once a year.

Two rolls of twenty six sacks are provided on an annual basis between January to March.

CURRENT POSITION

Currently the Council provides, via the waste contractor Veolia, most residents within Tendring (approximately 68,500 properties) with 52 black sacks (two rolls of twenty six bags) per annum. These are delivered during January through to the end of March and are delivered along with the recycling calendar/leaflet.

Black sack delivery starts once the refuse and recycling catch up after Christmas has been finished (2nd week of January). The deliveries have to be completed by end of March as the recycling Calendar runs from April to the end of March.

The cost for the purchase and delivery of the black sacks during 2015 was £154,728.

Costs for 2016 are estimated at £158,000.

Currently the Council sells black bags at the Weeley Office and through Brightlingsea Town Council at £1.76 per roll to the public in relatively small numbers (maximum of 500 rolls per year).

Residents in the area already purchase significant numbers of black sacks as many households present more than one sack a week for collection and all major supermarkets stock black sacks for sale.

Proposal

The current proposal is to cease the provision of black sacks to all households.

This will provide a cost saving of approximately £158,000 in the first year, increasing year on year, and would contribute to the significant savings the Council needs to make going forward.

Recycling may also increase when black sacks are removed as household demands on buying their own black sacks may incentivise them to reduce the amount placed in the bags.

Associated with removal of the provision of black sacks would be a significant promotions campaign via press releases and the council's web site and also some media promotion which can be achieved using existing budgets.

It is envisaged that the promotion campaign would focus on highlighting that black bags will no longer be delivered, from when the change will take effect, the importance of cost

saving, the importance of increasing recycling and the need to present waste for collection in a suitable receptacle.

Residents may also initially present waste in lesser quality bags which may lead to increased litter.

If inadequate waste receptacles were repeatedly used it is possible that a notice would be served under the Environmental Protection Act 1990, section 46, to require waste to be presented properly. In most cases this would be following contact and an educational approach had been used to influence the proper presentation of waste.

The Council currently sells black sacks through its Weeley site and Brightlingsea Town Council site, priced at £1.76 for a roll of twenty six. It is also proposed to stop this service as it was primarily implemented to support the free delivery service.

Tendring, Braintree and Harlow councils have been awarded a grant from the Department for Communities and Local Government in terms of recycling. The grant for Tendring is in relation to the provision of caddy liners for the food waste containers.

This is one off funding which will be for one year only and it is proposed to distribute these liners to households next year, which could be in the January to March period, and would therefore also provide extra encouragement to increase food recycling which is currently lower than when the service was first introduced.

Any decision to cease or continue the provision of black sacks needs to be made quickly as any delay may increase costs due to the lead in period for bulk ordering bags and for deliveries to be organised.

Veolia are currently contracted to provide a recycling leaflet once a year and usually they do this in conjunction with the black sack delivery. If there is a delay in ordering the sacks and Veolia have already started delivering the leaflets then if they have to revisit properties Veolia have estimated that this will increase the delivery cost by £2500 for every extra week they have to spend delivering.

Across Essex the majority of Councils provide a wheeled bin service.

Of those who still collect via black bags, Basildon stopped free delivery of sacks in 2011, Maldon are going to a wheeled bin service next year, Castle Point provide twenty six free sacks for a fortnightly collection and Colchester provide free sacks for a weekly collection.

Basildon's experience of stopping free delivery was that a clear communications campaign is essential and although they had to deal with a number of concerns at first, they had no issues the following year.

BACKGROUND PAPERS FOR THE DECISION

Report to Cabinet on 20th November 2015