

Appendix A1.

Title: Business Planning Update: the Bristol Waste Company Ltd 2019/20 – 2021/22

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Background:

1. The Bristol Waste Company (BWC) was established via a detailed business case which resulted in the Cabinet decision of 11th June 2015.
2. The process of governing the companies is principally with the Mayor making “reserved matter” decisions as the shareholder, following advice from the Shareholder Group. The approval of the BWC business plan is an annual process, and a critical decision which is reserved to the Mayor which sets the direction for the future of the company.

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3. The Bristol Waste Company Limited exists predominantly to fulfil functions required of it by the Council under an agreement for services, where less than 20% of its activities are to trade or to provide commercial services with other organisations or the public (what is known as a Teckal company).
4. On the 11th August 2016, a Cabinet decision was made which agreed to grant Bristol Waste Company a contract to deliver an integrated waste service, including street cleansing and winter maintenance for a period of 10 years.
5. An updated detailed business plan for Bristol Waste Company Limited has been submitted for approval and is attached as Appendix A2 and Exempt Appendix J1 and J2. Exempt financial commentary is provided at Exempt Appendix J3.

Other options considered:

6. Do nothing: The Council has a responsibility as sole shareholder of the Bristol Waste Company to monitor and evaluate the operational and trading performance of the company and ensure alignment of funding with the medium term financial plan. As well as this, BWC is required to present and request approval from Cabinet to their business plans.
7. Winding up Bristol Waste Company: The company benefits from Teckal exemption use of which is complex and can be subject to challenge. Therefore the council and the company must ensure that the company is within the Teckal parameters and satisfy the two key Teckal compliant tests:
 - a. the control test: The local authority must control all of the shares in the company and must also exercise effective day-to-day control over its affairs; in other words, the same as the relationship between the council and one of its internal directorates. This can be achieved through the governance structure.
 - b. the functional test: The company must be “inwardly and not outwardly focused”. 80% rule – that is, over 80% (calculated based on three years) of its turnover – must be for its public sector owners. Any contracts with other public sector bodies or private sector entities will not benefit from the Teckal exemption and the company will have to tender in the ordinary way for such contracts in accordance with any applicable procurement legislation.
8. Diversifying activities - If the company has diversified its activities and more than the 20% of its (three

year) turnover relates to trading activity beyond the Council as its public sector owner then the exemption will not be available and the company will need to bid in competition for the renewal of the core waste contract. It should be noted that there is no guarantee that the company would succeed in winning the contract. If that core contract remains critical to the stability of the company's financial position, then failure to win the contract may mean the trading company ceases to be viable.

9. The company's latest business plan indicates Teckal compliance; and in particular credible activity which shows 1 – 3 year revenue projections that satisfy the 'function' test as outlined above.
10. The Business plan shows there is operating value (derived from managing the Council's waste horizons) to be achieved by the Council if it continues to trade. The refreshed business plan explains the company's commercial strategy, and assumptions on which its business plan is built.

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