

<b>Report Title:</b> Call In – Cabinet Key Decision – Options for the future of the Garden Waste Collection Service	
<b>Report to:</b> Corporate Scrutiny Committee	
<b>Date:</b> 31 <sup>st</sup> July 2023	<b>For:</b> Advice
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Report Presented by:</b> Kim Mayo, Head of Governance and Monitoring Officer	
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## 1. Purpose of the Report

- 1.1 This report seeks to provide some additional information to the Corporate Scrutiny Committee (the Committee) around the wider management of Cabinet’s considerations of the garden waste project, under each of the call in grounds.

## 2. Summary of Issues

### The Cabinet Decision (the Decision)

- 2.1 At its meeting on 10<sup>th</sup> July 2023, Cabinet considered a report titled ‘*Options for the future of the Garden Waste Collection Service*’, (the Report). This Report is set out in Appendix A. After consideration of the Report the Cabinet approved the following:
- a. Approved the introduction of a subscription-based Garden Waste Collection Service (Option 2) as outlined in the report;
  - b. Agreed an annual subscription charge of £55 for this service based on the financial models shown at paragraph 7 in the report, with a 50% discount for any additional bins requested by customers.
  - c. Agreed an early bird discount of 50% on the subscription fee in year 1 for sign-up by 30th November 2023 to incentivise take-up and help with forward planning of resources;
  - d. Agreed an initial subscription period of 13 months from 4th March 2024 to 28th March 2025 and thereafter a period of 12 months renewable on 1st April each year;

- e. Approved expenditure against the £200,000 agreed by Council on 20th February 2023 to cover the set-up costs of the new service in 2023/24;
  - f. Offered a garden waste collection service using only bio-degradable sacks sold by the Council at a cost of £8 per roll of 20 (i.e. 40p per sack including collection) to households who were not on wheeled bin collections; and
  - g. Delegated authority to the Cabinet Member for Transformation, the Environment and Customer Services, in consultation with the Corporate Director, Operational, to agree the terms and conditions to be applied to the new service.
- 2.2 As part of the decision-making process Cabinet had the benefit of the Report, together with the following background papers;
- a. Briefing Note to Management Board, dated 8<sup>th</sup> January 2019 and 21<sup>st</sup> April 2021;
  - b. Briefing Note to Investment & Development Programme Steering Group, dated 12<sup>th</sup> May 2021;
  - c. Defra Consultations on consistency in Household waste Collections 2019 and 2021;
  - d. Equality Impact Assessment; and
  - e. Cabinet Report dated 13<sup>th</sup> March 2023, Domestic Garden Waste Service.
- 2.3 The consideration of the proposals on whether to introduce an annual charge for the collection of garden waste, has been subject to a long-term review, with initial considerations being brought forward as early as 2018. The matter has been discussed at officer and Member level throughout this period. This includes discussions at Management Board and with the Joint Executive Team. Supporting those discussions have been a range of reports, background papers, and financial modelling.

### **The Labour Group Call In Notice (the Labour Notice)**

- 2.4 On 17<sup>th</sup> July 2023 the Monitoring Officer received a Call In Notice from the Labour Group, supported by Councillors Fincken, Martin, Mason, Diamond and Jefferies. The Labour Notice is set out in Appendix B and sets out that the call in of the Decision is under three of the seven assessment criteria, set out within paragraph 17.16 of Braintree District Council's (the Councils) Constitution, namely:
- (a) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures;
  - (c) The decision is not consistent with Council policy; and
  - (d) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable.
- 2.5 Under each of these grounds the Labour Notice sets out the reasons why the decision needs to be scrutinised and was accepted as a valid notice.

## **The Independent & Green Group Call In Notice (the I&G Notice)**

2.6 On 19<sup>th</sup> July 2023, the Monitoring Officer received a Call In Notice from the Independent & Green Group, supported by Councillors Abbott, Hooks, Finch, Thorogood, Walsh, Taylor, Staines and Wright. The I&G Notice is set out in Appendix C and sets out that call in of the Decision is under five of the seven assessment criteria, as set out within paragraph 17.16 of the Councils Constitution, namely:

- (a) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures;
- (c) The decision is not consistent with Council policy;
- (d) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable;
- (e) The decision is contrary to a previously agreed decision made by the Council, which has not been superseded by a subsequent decision; or
- (g) The decision was not taken in accordance with the principles set out in Article 7 (Decision-Making) of the Constitution.

2.7 Under each of these grounds the I&G Notice sets out the reasons why the decision needs to be scrutinised and was accepted as a valid notice.

### **Review of the Call In Grounds**

2.8 The Monitoring Officer has reviewed each of the grounds set out in the Labour and I&G Notice, and below are the considerations and additional information around the wider management of the garden waste project.

#### **(a) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures**

2.9 The Notices set out that the Council should have conducted consultations with the public, employees, trade unions, and all District Councillors.

2.10 The collection of garden waste is a discretionary service. In accordance with the Controlled Waste Regulations 2012, the Council is permitted to make a reasonable charge for the service. There are no statutory obligations on the Council to conduct a consultation in relation to this Decision. In the absence of a statutory obligation, the Council would consider whether it is necessary to undertake a consultation. This is dependent on the circumstances, including having regard to the fact that consultations can be time consuming and costly to undertake. As to whether a consultation is necessary will depend upon the matter being considered, this will include having regard to whether the outcome of the consultation is likely to already be known, the information being available elsewhere, whether similar work has been undertaken by another, and whether it would produce a meaningful engagement or response. Those local authorities who participated in the benchmarking exercise provided sufficient information regarding the public's views on the introduction of charges for the collection of garden waste. In one instance, a local authority who had undertaken a consultation exercise showed that 84%

of the circa seven thousand responses were against the introduction of the charge. However, 27,000 households signed up following the implementation of a charged service in the first two weeks.

- 2.11 The duty to consult with Council employees only arises in particular circumstances. The Decision does not involve any redundancies, changes to their contracts of employment or any changes to health and safety considerations. Therefore, for the purposes of this Decision, there is no need to carry out a collective consultation with employees or any recognised trade union.
- 2.12 Agency staff are currently used to support in the delivery of the operational services. These are engaged either through short term contracts or on an ad hoc basis to cover annual leave and sickness of permanent staff. The Council's obligations to agency staff is different to those of its permanent employees. The Cabinet report acknowledges that there may be a need to reduce reliance on the number of agency staff, as permanent staff not required on the green waste service (subject to customer take-up) are redeployed to other service areas within waste. This will reduce the actual cost of using Agency Staff thus contributing towards the operational savings set out in the Report. There is no impact to the Council's permanent staff. If this changes, consultation will be undertaken in accordance with the employment legislative provisions, at that time.
- 2.13 It is not possible to challenge the Decision on the basis of a failure to consult, where there is no statutory or other obligation on the Council to carry out a consultation, either with the public or with its employees.
- 2.14 The Council operate a Cabinet Model; this means that the functions and responsibility of the Council are separated between the Cabinet and the Council. This separation is either determined by statute or through delegations of functions from Council to Cabinet. The roles and responsibilities of Cabinet are set out in Article 6 of the Constitution. Cabinet is responsible for the day-to-day decision-making process and for exercising all executive functions. These functions are exercised either by Cabinet or by the Cabinet Members. The Decision relates to functions and decision making which fall under the executive arrangements.
- 2.15 As a result, there is no requirement for the Cabinet in undertaking the Decision to carry out a wider consultation with the Council membership. However, there has been a number of opportunities through which non-Cabinet Members could express their views on the proposals. The matter has been considered by Cabinet on two separate occasions, namely 13<sup>th</sup> March 2023 and 10<sup>th</sup> July 2023. As part of those meetings, the Leaders of all Political Groups are invited to attend. This provides an opportunity for the Group Leaders to participate in the debate before Cabinet and put forward the views of their respective political groups.
- 2.16 Further the matter was considered at various meetings during the Council's budget setting process, when there was consideration regarding the allocation of £200k for the garden waste project. Those meetings were held before, the

then titled, Performance Management Scrutiny Committee, and Council between October 2022 and February 2023. During those meetings, all Members had the opportunity to express their views and considerations.

- 2.17 Finally, Members do have the ability to register to speak at a meeting for which they are not a Member, in accordance with the provisions of the Constitution. Therefore, it was open to any Member to speak at either Cabinet meeting, should they have wished to do so.
- 2.18 Accordingly, it is not possible to bring a challenge alleging a failure to consult with all Members, where there is no requirement on the Cabinet to do so, before exercising their functions. Members have a range of routes through which they could bring forward their views through routes already available to them.

**(c) The decision is not consistent with Council policy**

- 2.19 The Call in Notices suggests that 60% of all properties in the district will not use their green bins under the new charging scheme. However, the Council does not know whether this is to be an accurate reflection of the take up. The report confirmed that the financial modelling was indicative, based on the evidence the Council had gathered. As a result, the S.151 Officer had stated at paragraph 7.3 of the Report that in line with best practice the financial model would be reviewed and updated every 3 months following the introduction of the service, at which point actual take-up will be known.
- 2.20 The Report sets out alternative methods available to residents within the district should they not wish to sign up to the service. This includes the option to undertake home composting or using the Household Waste Recycling Centres (HWRC). If green garden waste is taken to the HWRC or composted at home, then the waste is being recycled through that process, on an independent basis. Each of the alternative methods available continues to support the Council's sustainability aims its Climate Change Strategy. If the take up is lower, there is a further possibility that the number of Refuse vehicles on the roads will reduce, which will further support the Council's sustainability aims.
- 2.21 During the covid pandemic lockdown periods, the Council suspended the green waste collection service. During this period, whilst there was an increase in the number of complaints received relating to bonfires in the district, it is not possible to link those all to the burning of garden waste, bonfires often relate to the burning of a range of material. There is nothing to prevent residents having bonfires, however, the Council do discourage such activity. Whilst this was during a very different period, it is one of the many considerations the Cabinet and officers took into account during the garden waste project. This was supported, by the benchmarking undertaken with other local authorities, who did not identify any significant increase in fly tipping following the introduction of their charges. The Council is entitled to rely upon the detailed benchmarking exercise it undertook, which gathered a range of evidence which helped to inform the Decision.

- 2.22 Further the call in Notices set out that the Decision is not an ‘excellent value for money service’ based on the fact that the charge will be subject to annual increases. Where fees and charges apply it is reasonable to anticipate that these will be subject to future inflationary increases. A review of fees and charges is part of the normal budget setting process, for which there is an entire schedule presented to Council which sets out all the charges applied by the Council and any proposed increase. The Council’s fees and charges are subject to scrutiny by the Committee and debate before full Council ahead of a vote on the approval of the overall budget. An estimated increase for the garden waste charge has been used in the financial modelling and the assumption is made clear within the Report at Section 7, Financial Implications; however, Note 2 to the Table states that this is subject to the annual review of fees and charges. The Council itself is subject to inflationary pressures on pay and other costs and therefore as part of the Council’s financial management, where users are required to contribute to the cost of a service the respective charges are also subject to annual review. This approach is no different to that taken with all other fees and charges.
- 2.23 Value for money must be considered at all levels. For the residents who choose to sign up to the service in the first year and take advantage of the early bird discount, the costs per collection is £1.02. At full charge for this first year for customers who sign up after the end of the discount period (from 1<sup>st</sup> December 2023 onwards), the cost is £2.04 per collection. Value for Money is subjective, and residents will determine whether this represents value for money to them. Value for money to the Council balances the cost of the service with the requirements of the service users. Residents will be able to retain their current green bins, therefore if they wish to later subscribe to the service, they will not incur any additional fees for a bin. This supports those making a decision about their garden waste at a later date and ensures that there is no future barrier to them subscribing to the service.
- 2.24 The I&G Notice sets out that the decision will result in the majority of households no longer having collections. This is not supported by any evidence, and the Council cannot confirm that this will be the case. The Council benchmarking indicates that where charges have been introduced by other local authorities, the take up of the service has ranged from 0.3% to 45% in the first year. The benchmarking also identified that uptake did significantly increase in all areas in subsequent years. The take up can be affected by a number of factors. The local authority with the lowest take up, their cost of the service was £96 per year, which was one of the highest costs identified as part of the benchmarking. Further, for this local authority, there had not been a collection service prior to the charge being brought in. Accordingly, residents for that area were used to managing their garden waste themselves. Uptake is further likely to have been impacted in this area due to residents being asked to purchase a garden waste bin.
- 2.25 The financial modelling has taken into account the evidence provided as part of the benchmarking exercise and the Decision has had the benefit of the lessons learned at other local authorities. The report sets out that the service

will be subject to quarterly reviews. Further, the implementation of the Decision will be supported by a communications plan, ensuring that residents are aware of the charges, alternative methods available to them, and allow them to have a long lead in time so as to make a decision on whether to sign up to the service or not.

- 2.26 The challenge under the corporate objective relates to the impact of the Decision on vulnerable residents. The Monitoring Officers consideration is covered under the section below and is relevant for this section too.

**(d) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable**

- 2.27 As part of all decisions taken, the Council must undertake an Equality Impact Assessment (EIA). This was completed for this Decision and was attached as a background paper to the report before Cabinet. The EIA is attached as Appendix D. The report acknowledges that the Decision will have a disproportionately adverse impact on people with a particular characteristic. However, it goes on to state:

*11.4 There may be people with disabilities and older people with gardens who are unable to afford to subscribe to the new service and who are not sufficiently mobile to take their waste to a Household Waste & Recycling Centre. The scheme will permit neighbours to share a bin if that makes it more affordable... Otherwise, the Council would recommend home-composting...*

- 2.28 Further the EIA sets out the considerations of the impact of the Decision against the protected characteristics. It acknowledges that there may be older people and disabled people who are unable to afford to pay for garden waste collections. It sets out that the Council's mitigation would include encouraging home composting or use of the HWRC's. To support this the Council will be running a targeted communications campaign aimed at educating vulnerable groups, with a view to giving them as much notice as possible of the changes and promoting discounts on composting bins through the Essex County Council Scheme.
- 2.29 This is a discretionary service, and therefore if people are unable or unwilling to sign up to it, there are alternative methods available through which they are able to effectively deal with their garden waste. The Council has been clear as part of its considerations that those alternative methods will be actively promoted through the Council's various communication platforms.
- 2.30 It is important to note that where an EIA identifies an impact on protected characteristics this is not a reason for the Decision not to be implemented. Where an impact is identified, it is important that all possible steps to mitigate the impact are explored. However, there may be instances where mitigation is not available. Again, in such instance, this wouldn't preclude the Decision being implemented. The call in under this ground, seeks to say that the

Council has failed to give this impact consideration and as set out above this is not the case.

- 2.31 The Report at section 8 'Impact on Recycling Performance' sets out the Council's considerations regarding the impact of the Decision on the recycling rates. The Report acknowledges that there will be an impact on the Council's recycling rates and overall recycling performance. To assist with the considerations Section 8 contains a table which provides information on the likely impact on the recycling percentage, shown as -11.92% in 2024/25. These rates are further reflected as part of the table in Section 7, Financial Implications, within the Report.
- 2.32 It is worth noting that as part of the background papers and internal discussions, and following the publication of the Report, the Council had sought legal advice regarding the Waste Inter-Authority Agreement held with Essex County Council. As a result of the advice, the Council has been able to agree that there will be no reduction in the value of any composting credits or tipping fees as a result of the Decision, during the implementation stage of the Decision.
- 2.33 Furthermore, the Decision report sets out the implications of the indicative reduction in the tonnage and income from Essex County Council as a result of the reduction in garden waste collected by the Council, during the first three years of the new charging scheme.
- 2.34 The challenge under this ground seeks to suggest that this was only mentioned in passing. Having regard to the background papers, the wider considerations of the Council and its officers, and the information set out above and, in the report, shows that this aspect was given sufficient consideration.
- 2.35 The I&G Notice indicates that there has been no analysis of the split of diversion of green waste. Appendix 1 of the report provides an analysis of the growth in take-up from those Councils who have introduced charges to the service. In addition, as part of the earlier considerations the proposals have been subject to detailed and complex financial modelling, which has been considered and reviewed by officers and Members during the broader discussions relating to the proposed charges.
- 2.36 Further the I&G Notice sets out that the report only considered 3 options. The requirements for decision making, at the point of the decision is to consider what options are viable at that time. This normally means that there is a 'do nothing option', 'do something option' or a 'do something else option'. This does not mean that there has not been any other options considered as part of the project management process. There can be many options considered, some high level options such as whether to have a collection service or not and if so, whether to charge for that service or not, all the way down to operational options around the level of service that could be provided, balanced against what financial options there are in relation to dealing with the Council's budget position etc. In all project management, earlier options are given initial consideration, and many are discounted during the process of



finalising the options for which a decision is required. It is best practice that at the point the decision is being considered that the options brought forward are those that are real and actual options at that time that can be delivered. There is no requirement for the report to contain all options considered during the lifetime of the project. The options set out within the report are in line with all other reports brought before a decision-making body at this Council.

- 2.37 The call in sets out that there should be a further discount offered to those in receipt of means tested benefits. This is not in line with current practice in relation to charges applied by Operations. There are no other discretionary charges that are subject to such a discount. If the Council wished to introduce such a discount, that would be subject to a further decision. For the purposes of this call in, it is not possible to call in a decision that is in line with current practice.
- 2.38 Further the call in states that the Decision is premature. However, the Decision has been under consideration since 2018. During that time the Government have indicated that they anticipate making an announcement on the requirements for collection services. The Government first launched their consultation on the Waste Strategy and Waste Reforms in February 2019. However, further announcements have been continuously delayed, and as such the Government has significantly delayed issuing its final guidance on its waste transformation proposals. There has now been a five year delay and with no firm indication of when the Government will bring this forward. The Cabinet considers that it is not appropriate to delay its Decision indefinitely. Therefore, in the absence of any firm date, the Council is permitted to bring forward proposals that are in line with the current requirements and guidance.
- (e) The decision is contrary to a previously agreed decision made by the Council, which has not been superseded by a subsequent decision;**
- 2.39 The call in suggests that the Decision is contrary to the Councils agreed position to support a 60% recycling target, increasing to 75% by 2030. Whilst the Decision acknowledges that there will be a reduction, this is anticipated to be short term, as many residents look to sign up to the service year on year. It is important to acknowledge that the Council must balance its priorities and consider those short term and long-term impacts, against decisions it has taken. For this Decision, the budget pressures faced by the Council must be addressed. However, in the long term, it is considered that the recycling targets agreed remain appropriate.
- (g) The decision was not taken in accordance with the principles set out in Article 7 (Decision-Making) of the Constitution**
- 2.40 Set out within Article 7 of the Council's Constitution there are a number of decision making principles. Many have been dealt with under the various headings above and will not be repeated here.

- 2.41 The Cabinet has been open and transparent about the intention to consider whether to bring forward a charge for the collection of the green waste. This was made clear at its meeting on 13 March 2023. At that meeting it provided an update that there was further investigatory work needed before Cabinet could be in a position to take a decision on the matter. It is important that Cabinet holds all the necessary information at the time of the Decision, and therefore it is completely appropriate for it to delay any decision. That was further clarified by the Leader who confirmed at that meeting that no decision on the charges had been made, and that following the conclusion of the further investigatory work, it would be for the new Cabinet to consider whether to introduce the charges or not.
- 2.42 At the point of a decision, the matter was set out in the Decision Planner, giving 28 days' notice of the intention to take a decision. This is followed by the publication of the agenda and reports in advance of the meeting and in accordance with the statutory requirements, therefore giving notice of the intention to take a decision and what the recommendation are within the reports.

### **3. Conclusion**

- 3.1 It is not possible to call in a decision simply because of a dislike of the Decision. A call in must be based upon an identifiable failing of the decision maker to take into account key areas of considerations that, if they had, could have influenced the decision taken.
- 3.2 Having regard to each of the challenges brought under the Labour and I&G Notices, it is important to note that none of the challenges are supported by evidence or separate independent analysis. Rather each sets out statements against the Decision. In this context evidence can mean a range of information that supports the challenges being brought or setting out clearly where the concerns of those calling in a decision. For instance, a suggestion that the decision is against policy, there would be the expectation that that suggestion is supported by specifically identifying why it is not in line with that policy etc.
- 3.3 The Council has since 2018 undertaken significant work in the review and consideration of whether to introduce a charge for the green waste service. This includes significant financial modelling, consideration of all options, and benchmarking through other local authorities that have brought in the charges. During that time the considerations have been refined and collated into the proposal that was brought forward for Cabinet approval in July 2023.
- 3.4 Having regard to the above information, the Monitoring Officer is satisfied that neither call in is brought on grounds which would give rise to a finding that the Council has failed in its consideration of the matter.

#### **4. Next Steps**

- 4.1 The call in Notices are being considered by a special meeting of the Corporate Scrutiny Committee (the Committee). At the meeting to consider the call-in notice, the Committee will limit its consideration to the reasons stated in the call-in notice. The meeting shall be conducted in the following way:
- (a) The Members requesting the call-in shall attend and explain their objections to the decision and the reasons for the call-in against the stated criteria.
  - (b) The decision-maker shall establish the reasons behind the decision;
  - (c) Questions can be asked by:
    - (i) Those calling in the decision;
    - (ii) The relevant Cabinet Member or relevant Officer; and
    - (iii) The Committee.
- 4.2 All questions will be at the discretion of the Chairman, taking account of relevance to the subject matter. Both those calling in the decision and the decision maker are permitted to stay at the meeting whilst the Committee debates and decides what action to take at the discretion of the relevant Committee Chairman. However, they will not be able to participate in the general debate. The Chairman may allow them to answer questions or points of clarification arising through the debate.
- 4.3 On considering the matter, the Committee will decide whether or not to ask the decision-maker to reconsider its decision.
- a. If the Committee decides to ask the Cabinet to reconsider their decision, a special meeting of Cabinet will be called. This has been set for Monday 7<sup>th</sup> August 2023.
  - b. If the Committee decides that it does not wish to refer the matter back to Cabinet, the decision shall be confirmed and shall take effect at the conclusion of the meeting of the Committee.

There is no further opportunity to call in the Decision.

#### **5. List of Appendices**

- 5.1 Appendix A – Cabinet Report, Options for the Future of the Garden Waste Collection Service, dated 10<sup>th</sup> July 2023.
- 5.2 Appendix B - Call In Notice of the Labour Group dated 17<sup>th</sup> July 2023
- 5.3 Appendix C – Call in Notice of the I&G Group dated 19<sup>th</sup> July 2023.
- 5.4 Appendix D - EIA

## Agenda Item: 7

<b>Report Title:</b> Options for the future of the Garden Waste Collection Service	
<b>Report to:</b> Cabinet	
<b>Date:</b> 10 <sup>th</sup> July 2023	<b>For:</b> Decision
<b>Key Decision:</b> Yes	<b>Decision Planner Ref No:</b>
<b>Report Presented by:</b> Councillor Tom Cunningham, Cabinet Member for Transformation, the Environment and Customer Services and Deputy Leader	
<b>Enquiries to:</b> Paul Partridge, Head of Operations <a href="mailto:Paul.partridge@braintree.gov.uk">Paul.partridge@braintree.gov.uk</a>	

## 1. Purpose of the Report

- 1.1 To consider options for the future of Braintree District Council (the Council) Garden Waste Collection Service.

## 2. Recommendations

- 2.1 It is **RECOMMENDED** that Cabinet:

- (a) Approves the introduction of a subscription-based Garden Waste Collection Service (Option 2) as outlined in this report;
- (b) Agrees an annual subscription charge of £55 for this service based on the financial models shown at paragraph 7 in this report, with a 50% discount for any additional bins requested by customers.
- (c) Agrees an early bird discount of 50% on the subscription fee in year 1 for sign-up by 30<sup>th</sup> November 2023 to incentivise take-up and help with forward planning of resources;
- (d) Agrees an initial subscription period of 13 months from 4 March 2024 to 28<sup>th</sup> March 2025 and thereafter a period of 12 months renewable on 1<sup>st</sup> April each year;
- (e) Approves expenditure against the £200,000 agreed by Council on 20<sup>th</sup> February 2023 to cover the set-up costs of the new service in 2023/24;
- (f) Offers a garden waste collection service using only bio-degradable sacks sold by the Council at a cost of £8 per roll of 20 (i.e. 40p per sack including collection) to households who are not on wheeled bin collections; and
- (g) Delegates authority to the Cabinet Member for Transformation, the Environment and Customer Services, in consultation with the Corporate Director, Operational, to agree the terms and conditions to be applied to the new service.

### 3. Summary of Issues

- 3.1 The collection of garden waste is a discretionary service for which the Council may make a reasonable charge under the Controlled Waste Regulations 2012. For many years, the Council has provided a non-chargeable garden waste service.
- 3.2 The Environment Act 2021, which incorporates the Government's proposals for Consistency in Household Waste Collections, contains reference to six core recyclable streams to be collected from households including garden waste. Defra originally consulted on these proposals in 2021 and, 18 months on, a response is still awaited and there is no indication when this will be received. Consequently, it is proposed that the Council takes a pragmatic view to avoid delaying plans any further and considers proposals based on current legislation and local decision-making.
- 3.3 The operating budget for garden waste in 2023/24 is £683,000 and this level of expenditure is no longer sustainable or affordable. In common with other local authorities, the Council is having to think more commercially and be more self-sufficient financially and the introduction of a subscription-based service would make a significant contribution to reducing the overall costs of the service and enable the Council to continue to provide a valued service to those customers who choose to opt-in.
- 3.4 Some 232 of 326 Councils nationwide - over 70% - currently charge for garden waste collections as a non-essential, opt-in service. Across Essex, the 13 other councils operate as follows:-

Local Authority	Service charge?	Price for bin collections
Basildon DC	Yes	£25 p.a. (2023/24) £50 p.a. (2024/25)
<b>Braintree</b>	<b>PROPOSE</b>	<b>£55 p.a. (2024/25)</b>
Brentwood BC	Yes	£60 p.a.
Castle Point BC	Yes	£37 p.a.
Colchester CC	Yes (From 2024)	TBC
Harlow DC	Yes	£48 p.a.
Maldon DC	Yes	£56 p.a.
Southend Unitary	Yes	£69.50 p.a. (D/D) £82.00 p.a. (non D/D)
Tendring DC	Yes	£90 p.a. in year 1 £55 p.a. year 2+
Uttlesford DC	Yes	£50 p.a.
Chelmsford CC	No	N/A
Epping DC	No	Unable to charge as collect mixed garden waste & food waste.
Rochford DC	No	
Thurrock	No	Service withdrawn May 2023

Some authorities also provide sack collections in addition to bins. See Appendix 1 for more detail.

- 3.5 Customer participation rates for collections provided by the Essex councils varied considerably during the first year of operation, ranging from 3.5% to 15%. In year 1, the financial model has assumed a 10% take-up followed by 20% and 26% in years 2 and 3 respectively.
- 3.6 The existing service is disproportionate inasmuch as it is funded by Council taxpayers irrespective of whether or not they use the service. Introducing a charge would mean that only those who use the service would pay for it and this would be seen as a fairer way of providing the service. Those who do not opt-in to the service have the option of home-composting or taking their garden waste to their local Household Waste and Recycling Centre. Others may choose to vary the frequency they cut their grass and leave some areas to rewild.
- 3.7 The recommendations set out in this report help support the following corporate objectives:-
- A sustainable environment and a great place to live, work and play;
  - A high performing organisation that delivers excellent and value for money services; and
  - Delivering better outcomes for residents and businesses and reducing costs to taxpayers.
- 3.8 In 2009/10, the Council entered into a Waste Inter-Authority Agreement (IAA) with Essex County Council (ECC). This is a formal legal document which provides a clear and accountable framework under which the Council and other Waste Collection Authorities (WCAs) and ECC as the Waste Disposal Authority (WDA) work together to deliver their waste objectives.
- 3.9 The IAA requires the Council to submit a formal Ad-hoc Review to ECC to inform them of any changes in its planned service delivery. This is to enable ECC to review the impact of the changes on them as a WDA and consequently any payments they make to the Council under the terms of the IAA. This is explained in more detail under Section 9 of this report.

#### **4. Proposed Opt-in Garden Waste Service**

- 4.1 If approved, the service would commence from Monday, 4<sup>th</sup> March 2024, and operate on a fortnightly basis over 50 weeks of the year, allowing for a 2-week suspension in the week before and the week after Christmas to ensure there is adequate staff cover over this period.
- 4.2 It is proposed to set an annual subscription of £55 p.a. in the first year (13 months) for a standard 180L bin, with an additional one-off charge of £34 for new or replacement bins.
- 4.3 A 50% discount on the annual subscription price would apply to collections of any additional bins requested by customers i.e. £27.50 in 2024/25.

- 4.4 An early bird discount of 50% is proposed for customers who sign-up by 30<sup>th</sup> November 2023 to encourage participation and help establish the likely level of demand for service so that resources can be managed accordingly.
- 4.5 Within the District, there are c.1,700 households that have remained on black sack collections as they are not suitable for wheeled bin collections. These householders would be offered a garden waste collection using bio-degradable sacks sold by the Council at a cost of £8 per roll of 20 including collection (no other sacks would be accepted). 3 sacks have equivalent capacity to a 180L wheeled bin.
- 4.6 In considering the level of charge, benchmarking was undertaken with other Essex & Suffolk Authorities, details of which are set out at Appendix 1. Charges in Essex range from £37 p.a. to £90 p.a. but research by the Local Authority Recycling Advisory Committee puts the national average at £43, with 60% of annual subscriptions at between £40 and £60 for a 240L bin – either weekly or fortnightly.
- 4.7 The Council's preferred method of payment is by Direct Debit (BACS Transfer) via an on-line link. However, debit and credit card telephone payments will be considered on request.
- 4.8 Based on strong advice from other local authorities, it is not proposed to make any resource changes (vehicles and labour) in the first two years as it is difficult to accurately predict the level of customer participation, and this will vary until such time as our customer base is fully established. However, there will be an overall reduction in the cost of the service through operational savings, as set out in 4.9 below. Thereafter, the impact on resources will be considered as part of the route optimisation and service efficiency and a three-monthly review of the financial model to inform future budget planning.
- 4.9 The in-house service offers the flexibility to switch resources across the whole of the waste service as and when needed in order to minimise costs and maximise service efficiency. The operational savings reflected in the financial model are based on the following:-
- 1) Less vehicles deployed on the garden waste service resulting in reduced fuel and maintenance costs;
  - 2) The opportunity to redeploy vehicles to replace those that ordinarily would be hired in when breakdowns occur across the whole service; and
  - 3) Reduction in the numbers of agency staff needed, as permanent staff will be redeployed to cover absences across the whole waste service.
- 4.10 If a resident moves within the District, their subscription would transfer to their new address. No refunds in whole or in part would be issued.
- 4.11 It is proposed that those residents who do not opt-in to the new service retain their green bins and repurpose these as they wish e.g. for storage, as a compost bin or for water collection, etc. Provision will be made for the Council to collect any unwanted bins on request.

## 5. Communications

- 5.1 An important learning point from other authorities is that effective communication is essential to helping customers understand the need for the service change and to encourage take-up. If Option 2 is approved, it is proposed that officers carry out an extensive communication programme (not consultation) with residents, ward members, and town/parish councils to explain the rationale for introducing a chargeable service and how it will work, and to answer frequently asked questions. Funding for a communication plan has been included in the financial model and will be developed in conjunction with the Comms and Marketing Team and the Council's Community Engagement Officer.

## 6. Options

- 6.1 OPTION 1: Maintain status-quo i.e. provide a non-chargeable garden waste collection service over 9 months of the year (March to November).
- 6.2 OPTION 2: (PREFERRED OPTION) Provide an opt-in subscription-based garden waste collection service, commencing 4<sup>th</sup> March 2024, on a fortnightly basis over 50 weeks of the year, allowing for a 2-week suspension i.e. the week before and the week after Christmas.
- 6.3 OPTION 3: Cease the existing service from 1 April 2024.
- 6.4 Evaluation of the Options

<b>OPTION 1: Maintain Status Quo</b>	
<b>Pros</b>	<b>Cons</b>
<p>No change in service delivery to existing customers.</p> <p>No change in performance (subject to seasonal demand) i.e. tonnage of waste collected and overall recycling percentage.</p>	<p>Existing discretionary service is financially unsustainable and unaffordable given the Council's financial position.</p> <p>Missed opportunity to help close the Council's budget gap.</p> <p>Disproportionate to residents who don't use the service (flats and other residents without gardens).</p> <p>Service over a 9-month period does not reflect seasonal demands.</p> <p>May not align with the Government's proposals under Consistency in Household Waste Collections, however, at the time of writing, there is a lack of clarity and uncertainty around these proposals.</p>



<b>OPTION 2: Opt-in Subscription based service</b>	
<b>Pros</b>	<b>Cons</b>
<p>New revenue stream will contribute significantly towards addressing the Council's budget deficit.</p> <p>Helps maintain delivery of essential front-line services.</p> <p>Reduced operating costs and a reduction in the expenditure budget based on a lower customer base e.g. labour, fuel and vehicles.</p> <p>Reduced vehicle mileage (depending on take-up) will lower vehicle emissions which supports the Council's Climate Change objectives.</p> <p>Ensures continuity of the garden waste collection service to residents who request it, which may otherwise have to be withdrawn.</p> <p>Year-round service better reflects seasonal demands.</p> <p>Fairer as only those who use the service will pay for it.</p> <p>Unwanted returned bins will create a stock of spares that can be re-issued to customers avoiding new capital requirements.</p> <p>Encourages home-composting for those households that do not opt-in to the new service.</p>	<p>Increase in complaints owing to new charge and potential for (unjustified) missed bin reports.</p> <p>Reduction in tonnage of garden waste collected by the Council, resulting in lower recycling performance and reduced Recycling Credits.</p> <p>May not align with the Government's proposals under Consistency in Household Waste Collections, however, at the time of writing, there is a lack of clarity and uncertainty around these proposals.</p>

<b>OPTION 3: Cease the service completely</b>	
<b>Pros</b>	<b>Cons</b>
<p>Maximum saving of £653,000 p.a. against budget expenditure of £683,000 p.a.</p> <p>Fewer Council vehicle movements resulting in less emissions which supports the Council's Climate Change objectives.</p>	<p>Does not fully meet budget expenditure.</p> <p>Loss of a valued service to customers.</p> <p>Potential staff redundancies (if unable to redeploy).</p>
	<p>Reduction in tonnage of garden waste collected and the Council's overall recycling performance (albeit some of this waste will be recycled at home or via Household Waste &amp; Recycling Centres).</p> <p>The current service would end 31<sup>st</sup> March 2024. Some residents may not wish to retain their green bin and so the Council would need to collect and dispose of them.</p>

## **7. Financial Implications**

- 7.1 The net operating budget for the existing garden waste service is £683,000. As shown in the table below, income from the new subscription-based service based on a charge of £55 p.a. is expected to deliver a net saving against the budget of £119,000 in year 1 based on 10% take-up, £491,000 in year 2 based on 20% take-up and break-even by year 3 based on 26% take-up. However, the critical factor for income is the number of householders who subscribe to the service.
- 7.2 In the current financial year, there will be a requirement for one-off set-up costs of c.£200,000 to cover comms, routing software, modifications to the CRM database, and payment collection methods. This funding was allocated at Council on 20<sup>th</sup> February 2023 as part of the 2023/24 budget.
- 7.3 Members are asked to note that the financial modelling, expenditure and income projections are indicative and based on benchmarking undertaken with other councils. Actual income and operating costs will vary depending on the number of customers who opt into the service. For this reason, it is recommended best practice that the financial model be reviewed and updated every 3 months following introduction of the service.

<b>Green Bin Charging Indicative Costings</b>	<b>Notes</b>	<b>Budget 23/24</b>	<b>Year 24/25</b>	<b>Year 25/26</b>	<b>B/Even Year 26/27</b>	<b>Withdraw Service 24/25</b>	<b>Withdraw Service 25/26</b>	<b>Withdraw Service 26/27</b>
<b>Annual Subscription Charge</b>	<b>2</b>	£0.00	£55.00	£60.00	£65.00	£0.00	£0.00	£0.00
<b>Subscribers %</b>		100%	10%	20%	26%	0%	0%	0%
		<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Subscription income	<b>3</b>	-18	-205	-687	-953	0	0	0
Other income (ECC Credits)		-417	-66	-110	-156	0	0	0
<b>TOTAL INCOME</b>		<b>-435</b>	<b>-271</b>	<b>-797</b>	<b>-1,109</b>	<b>0</b>	<b>0</b>	<b>0</b>
Operating Costs	<b>4 / 5 / 6</b>	1,118	835	989	1,109	100	0	0
<b>NET COST OF SERVICE</b>	<b>7</b>	<b>683</b>	<b>564</b>	<b>192</b>	<b>0</b>	<b>100</b>	<b>0</b>	<b>0</b>
<b>Annual Budget Saving</b>			<b>-119</b>	<b>-491</b>	<b>-683</b>	<b>-583</b>	<b>-683</b>	<b>-683</b>
Retained shared costs	<b>8</b>					37	33	30
<b>Annual Budget Saving</b>						<b>-546</b>	<b>-650</b>	<b>-653</b>

### Notes to the Table above

- Note 1:** The first year of operation (24/25) is for a 13-month period March 2023 to March 2024 inclusive. Future years are for 12 months.
- Note 2:** The subscription charge from 25/26 is subject to review as part of the corporate annual fees and charges review.
- Note 3:** Subscription income includes a 50% early bird discount (by 30/11/23) for year one only (24/25), with a 70% take up estimated.
- Note 4:** Operating costs include an allowance in year one for the collection of unwanted green bins from non-subscribing residents.
- Note 5:** Operating costs allow for an increase in the number of routes in years two and three as demand is anticipated to increase.
- Note 6:** Operating costs include an allowance for annual inflation.
- Note 7:** A separate budget of £200,000 (not included in costings above) has been allocated for initial start-up and comms costs in 2023/24.
- Note 8:** If the service is withdrawn there are some shared costs which will be retained for use within the remaining service areas.

7.4 If Option 3 is approved (cessation of service) there are some shared costs that would need to be realigned to other service areas. On that basis, the expected saving in year 1 would be £546,000, rising to £653,000 by year 3.

## **8. Impact on Recycling Performance**

8.1 Given that the Council will be moving from a non-chargeable to a chargeable service, it is inevitable that not all households will subscribe to the new service. Consequently, the tonnage of garden waste collected will reduce

and this will impact on the Council's overall recycling performance. These impacts are reflected in the modelling work in 8.2 below.

- 8.2 The most recent studies undertaken by the Waste and Resources Action Programme (WRAP) on recycling performance show that the introduction of charges for garden waste is likely to result in a fall in recycling yields of c.25%, although this will improve as more residents take up the service. The table below shows the impact on the Council's recycling performance of the new opt-in service in the first years of operation.

Green Bin Charging Indicative Recycling Performance	2023/24	Chargeable Service			Withdraw Service 2024/25+
		2024/25	2025/26	2026/27	
Recycling percentage (All Waste)	46.57%	34.65%	36/52%	38.17%	31.58%
Impact Upon Recycling Percentage		-11.92%	-10.05%	-8.40%	-14.99%
Recycling %: Green Contributor	19.13%	3.43%	5.65%	7.79%	0.00%
Recycling %: Other Recycling	27.44%	31.22%	30.87%	30.39%	31.58%
<b>Recycling %: Total</b>	<b>46.57%</b>	<b>34.65%</b>	<b>36.52%</b>	<b>38.17%</b>	<b>31/58%</b>

## 9. Legal Implications

- 9.1 The Environmental Protection Act 1990 Section 46 provides that household waste shall be collected without charge except in cases prescribed by Regulations made by the Secretary of State. These Regulations include the Controlled Waste Regulations 2012 which list types of household waste for which a charge for collection can be made. Garden waste is listed under Schedule 1 paragraph 4.
- 9.2 The Environment Act 2021 incorporates the Government's proposals for Consistency in Household Waste Collections. Defra consulted on these proposals in 2021 and their response is still awaited.
- 9.3 In 2009/10, the Council entered into a Waste Inter-Authority Agreement (IAA) with Essex County Council (ECC). This is a formal legal document which provides a clear and accountable framework under which the Council and other Waste Collection Authorities (WCAs) and ECC as the Waste Disposal Authority (WDA) work together to deliver their waste objectives. The IAA includes payments made by ECC to WCAs in the form of Recycling and Compost Credits and also for tipping outside of WCA boundaries.
- 9.4 It is a legal requirement under the IAA that any changes to service delivery require WCAs to submit a formal Ad-hoc Review to ECC, which was done following Cabinet on 13<sup>th</sup> March 2023. This automatically triggers a joint review of the existing and proposed changes to service delivery including performance and all associated revenue payments that ECC makes to the Council.
- 9.5 However, ECC acknowledges that Option 2 would be a new service and it will be difficult to accurately predict how it will perform. For this reason, it

has been agreed that the service will be reviewed in conjunction with ECC as part of the IAA Annual Review in October/November 2024.

## **10. Other Implications**

- 10.1 Research has been undertaken with other Essex local authorities and the 'Top 10' in England & Wales (in 2021/22) that operate a chargeable garden waste service and none had seen an increase in fly-tipping of garden waste.
- 10.2 None of the councils consulted reported an increase in burning of waste and there has been no evidence of this arising during the annual winter service suspension.
- 10.3 It is recognised that some residents will opt for a compost bin instead of using a subscription-based service. Home composting remains the most environmentally friendly option and the Council will continue to promote this message.
- 10.4 There is likely to be increased demand on the Customer Services Centre in the run up to the introduction of the new service where customers opt to pay over the phone or where they have concerns and/or queries. This will be partly mitigated by the communications plan, encouraging on-line applications and the inclusion of pertinent information on the website e.g. FAQs. However, provision has been made in the financial model for an Administrative Officer in 2023/24 to support mobilisation of the new service.
- 10.5 When the Government publishes its response to Defra's consultation, the Council will need to consider any new statutory requirements and reflect these within its future service delivery.
- 10.6 If Members approve the option to withdraw the service, every effort will be made to avoid the risk of staff being made redundant either through redeployment elsewhere within the Waste Management Service or other operational vacancies.

## **11. Equality and Diversity Implications**

- 11.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:
  - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not; and
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 11.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 11.3 The Equality Impact Assessment indicates that the proposals in this report will have a disproportionately adverse impact on people with a particular characteristic.
- 11.4 There may be people with disabilities and older people with gardens who are unable to afford to subscribe to the new service and who are not sufficiently mobile to take their waste to a Household Waste & Recycling Centre. The scheme will permit neighbours to share a bin if that makes it more affordable, (although the subscription and payment would be in one name and address only). Otherwise, the Council would recommend home-composting. The Council already promotes a scheme jointly with Essex County Council that offers compost bins for sale at a big discount, but an open compost heap would work just as well. Composting is the most environmentally friendly way of dealing with garden waste and is something that many people already do.

## **12. List of Appendices**

- 12.1 Appendix 1: Results of benchmarking with other local authorities.

## **13. Background Papers**

- 13.1 Briefing Note to Management Board – 8<sup>th</sup> January 2019 & 21<sup>st</sup> April 2021
- 13.2 Briefing Note to Investment & Development Programme Steering Group – 12<sup>th</sup> May 2021
- 13.3 Defra Consultations on Consistency in Household Waste Collections 2019 and 2021
- 13.4 Equality Impact Assessment
- 13.5 [Cabinet Report 13<sup>th</sup> March 2023](#) – A Domestic Garden Waste Service

**APPENDIX 1 - BENCHMARKING WITH ESSEX & SUFFOLK AUTHORITIES**

COUNCIL	Charge for Service?	Collection Charge	Charge for bin	Collection frequency	Standard bin size	Initial Uptake: %	Current Uptake: %	Total Income Year 1	Projected Income 2022/23	Green waste in residual waste?	Issues with fly-tipping
Basildon DC	<b>YES</b>  Initiated 1 June 2023	<b>2023/24:</b> £25 first bin £15 per additional  <b>2024/25:</b> £50 first bin £25 per additional	50% off additional bins	Weekly collections with Xmas break.  <b>2023/24:</b> 37 collections <b>2024/25:</b> 42 collections		27,000 households in the first 2 weeks	N/A	N/A	N/A	N/A	N/A
Braintree DC <b>(Current position)</b>	<b>NO charge for first bin</b>  Charge applies to subsequent bins	First bin – no charge  Additional bins: £45 p.a.	First bin – no charge  Additional and replacement bins £34 (one-off)	Fortnightly, suspended for 3 months over winter.	180L	N/A	N/A	N/A	N/A	N/A	
Brentwood DC	<b>YES</b>	£60 (bin hire + collection for each bin)  OR  £4 roll of 10 sacks	Included in price	Fortnightly  Suspended for 2 weeks at Xmas	240L	7.3%	21.08% as at 2019 (no update available)	Initiated 2002		Initially	
Castle Point DC	<b>YES</b>	£37 bin collection  £7.50 for 20 biodegradable sacks  Can collect 2 x 'bundles'	Included in price. May have as many bins as required at same price.	Weekly, all year round.	240L	15%	33%	£170,000	£487,000	None	Significant in first year. Now falling year on year.
Chelmsford CC	<b>NO</b>										
Colchester CC	<b>Introducing Jan 2024</b>	Prices tbc									
Epping Forest DC	<b>NO</b>										
Harlow DC	<b>YES</b>	£48 (bin collection subscription)  £33 bag supply and collection	One-off £33 for bin  Additional bags are £22 for 20	Fortnightly, all year round	240L	0.3% (based on initial charge of £96 p.a.)	11%	£10,000	£189,000	NO  No green waste collection existed prior to chargeable service	NO  No collection existed prior to chargeable service
Maldon DC	<b>YES</b>	£56 bin collection	£31 per bin (one-off). Same for additional bins.	Weekly Feb-Dec Fortnightly Dec-Feb Suspension over Xmas.	240L	3.5%	50%  (13,279 Subscriptions)	No data	£690,000	NO	NO
Rochford DC	<b>NO</b>										

These authorities are unable to charge as they currently collect food and garden waste combined.

COUNCIL	Charge for Service?	Collection Charge	Charge for bin	Collection frequency	Standard bin size	Initial Uptake: %	Current Uptake: %	Total Income Year 1	Projected Income 2022/23	Green waste in residual waste?	Issues with fly-tipping
Southend Unitary	YES	£69.50 by D/D £82 (non D/D) £11 for 10 sacks	One-off £33.  Can buy additional capacity, but no details available on the cost.	Fortnightly, all year round.	240L	Not Available	31.3%  Awaiting Update				
Tendring DC	YES	£90 (first year for collection plus bin)  £55 subsequent years	Included in first year price.	Fortnightly, suspended for 2 weeks over Xmas.	240L	3.8%	21%				
Uttlesford DC	YES	£50 (bin + collection)  £37.50 for LCTS.	£25.50 one-off for each additional bin.	Fortnightly, all year round.	240L	5%	20%			No change	No change
Thurrock	NO	Service withdrawn completely in May 2023									

#### SUFFOLK AUTHORITIES

East Suffolk (Waveney & Suffolk Coastal)	YES	£50 (bin collection)	£12 additional bin. Delivery free	Fortnightly, all year round.	240L	W = 45% SC = 55%	W = 45% SC = 55%  54,764	£1,076,502	£2,545,238	No change	No change
West Suffolk (Forest Heath & St./ Edmundsbury)	YES	£47 (bin collection)	Included in price.	Fortnightly, all year round.	Not Available.	40%					

**NOTES:** With the exception of Basildon DC & Colchester CC, the Essex Authorities shown above who currently charge have always charged for their garden waste service.

The four Suffolk Authorities have moved from a non-chargeable to a chargeable service in recent years.



CALL IN by the Labour Group

Cabinet Meeting 10<sup>th</sup> July, 2023

Item 6. OPTIONS FOR THE FUTURE OF THE GARDEN WASTE COLLECTION SERVICE

**Reasons why the decision needs to be scrutinised based on the seven assessment criteria as requested in the Call In Procedure**

- a. The decision maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures.**

The Council has failed to consult the current users of the service and council tax payers throughout the district. Has it consulted the employees who provide the service or their union representatives? Has it consulted those officers who are responsible for implementing the Council's climate change policies?

- c. The decision is not consistent with Council policy.**

The Council's policies include the declaration of a Climate Change Emergency in July 2019 and the target to be carbon neutral as far as practical by 2030, as well as supporting our communities to reduce the impacts of climate change across the Braintree District. This decision is contrary to those policies.

- d. The decision did not take into account relevant considerations or other material factors and therefore the decision is unreasonable.**

The relevant considerations include the reduction in the Council's recycling rates, the failure to promote policies which tackle the climate emergency and the inability or unwillingness of less well off, disabled and elderly residents with gardens to pay the proposed charge. The reduction in the recycling rate for garden waste is mentioned in passing in the report but no figures are given; the other matters are not mentioned at all.

Signed

**The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures**

The decision was taken without properly consulting all district councillors. Charging for garden waste collections is an important district-wide issue that affects all wards. Although councillors were informed of the intention to charge for garden waste, and questions could be asked via the Budget Scrutiny process, there was no general debate of all councillors and the details of the Cabinet decision, and its significant implications for council policy and performance, were never put to any BDC councillors other than Cabinet members and were never made known to residents in advance such that they could be properly consulted and feedback provided which could have informed the Cabinet.

These matters include:

That the decision was based, as set out in the Cabinet report, on an increase in the charge each year, from £55 in yr 1 to £65 in yr3.

That the decision was based, as set out in the Cabinet report, on a significant fall in recycling performance.

That the decision therefore, as set out in the Cabinet report, will result in a significant loss of recycling credits – in yr 1 of £350k, in yr 2 of £307K and in yr 3 of £261K. This amounts to a cumulative impact on council finances of £918k over 3 years. Break-even may only be reached in yr 3.

The intention and decision was not properly communicated externally to residents via BDC comms. As well as no mention of escalating charges year on year, the hit on recycling performance and the large impact on revenue from loss of recycling credits, it was claimed in the Cabinet report and in comms that the current system is “disproportionate” as not all residents use the green bins.

But no mention was made of the fact that 88% of households do use the current system, ie it is close to being a universal service and is paid for via council tax as many other services are paid for. In fact the gearing of use to the taxpayer residential base is higher than for many other local authority services such as libraries, cycle paths, environmental health, swimming pools, planning

enforcement, social care etc. There is a well-established principle that in paying local taxes, services as a whole are paid for whether or not an individual may use them much or at all. In this case all council tax payers contribute and 88% of households do use the service.

And whilst it is true that a minority of residents contribute via council tax for paying for the current service they do not use, none would get a rebate in future years to compensate them for moving to the subscription-based service. They would still pay the same, in fact more with projected council tax rises.

**The decision is contrary to the Council's Budget and Policy Framework;**

**The decision is not consistent with Council policy;**

The Corporate Objectives quoted in the Cabinet report at para 3.7 have not been met by the decision. They are:

***A sustainable environment and a great place to live work and play***

The Cabinet decision will significantly impact on recycling rates and it is unknown as to how much bulk green waste will be diverted to landfill via the grey bin collections with a collapse of over 60% of all properties in the district no longer using green bins. This is not therefore a decision that meets sustainability aims.

The Cabinet decision assumes more take up of home composting, wilding and use of Recycling Centres. Whilst the first 2 outcomes are desirable, the green bin system is mature ie it has been in place for many years. Many residents already home compost to some extent and there have been several campaigns to encourage this such as offering discounted compost bins. But in addition, the Cabinet decision ignores completely that some types of garden waste cannot be readily composted such as woody hedge and shrub cuttings which already make up a significant proportion of green waste taken to Recycling Centres. The assumption, on the basis of a collapse in the use of green bins, must therefore be that more residents will be driving vehicles to Recycling Centres, which is an unsustainable outcome to be weighed against reduced use of waste freighters by the council.

Although the Cabinet report says it is not anticipated there will be an increase in fly-tipping or bonfires, it cannot be known with certainty that in Braintree

District some negative changes will not happen, particularly given the very large change from the current tonnage collected to the projected.

***A high performing organisation that delivers excellent value for money services***

The long-established green waste collection system is forecast to collapse to just 10% of households taking part in yr 1, compared to 88% now. The decision appears to be almost entirely a revenue decision, without taking proper account of all factors, which in this case involves moving from the great majority of residents having a garden waste collection to perhaps only a quarter - and they will have to pay an extra, and escalating annual cost for it in addition to council tax. That is not an “excellent value for money service”.

***Delivering better outcomes for residents and businesses and reducing costs to taxpayers***

The Cost-of-Living Crisis is a major priority for the council with several decisions of Full Council supporting measures to assist residents. Yet the Cabinet decision will increase costs to any resident who wishes to continue having a green bin collection whilst at the same time offering no rebate to residents which the Cabinet report and BDC comms say are “disproportionately affected” by the current system.

The Cabinet decision will mean that the great majority of residents currently using the green bin system, and indeed a majority of all households in the district, will not have collections. But there is very little information that informed the Cabinet decision about how this will affect vulnerable residents such as the elderly and those with disabilities, who are less likely to drive a car or be physically able to take bulky garden waste to the Recycling Centres. Access to Recycling Centres also now requires pre-booking which is an additional barrier to more vulnerable members of the community.

The Cabinet report suggests they may be able to use the green bins of their neighbours but this assumes they have a relationship that would enable that or indeed that their neighbours even have a green bin. Given the projected collapse in use of green bins in yr 1 to just 10%, many such vulnerable people could be left in a difficult position of no access to a green bin, difficulties with accessing a Recycling Centre and so not in a “better outcome”. The report

claims the new system will be “fairer” but is difficult to see how that claim can be justified in any respect with regard to more vulnerable residents.

**The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable**

The Cabinet report failed to set out the history or relevant trajectory of council recycling performance. Projections in the Cabinet report of the impact of the green bin charging decision were only compared to recycling performance in 23/24, which is only a part year, in fact not yet even a half year.

There was no analysis of the likely split of diversion of green waste materials given that the Cabinet report stated green bin collections will collapse (from 88% of all households) to just 10% in yr 1, then 20% in yr 2 and 26% in yr 3. That is still a fall of over 60% even by yr 3. It is likely that a significant amount of garden waste will be put into the grey bin waste stream. If that does occur, it would hit both the council’s waste/recycling performance and would result in an increase in organic waste to landfill, which is both undesirable in itself and a cost to taxpayers via the Landfill Tax charged.

Only 3 options were put to the Cabinet:

Status quo – described as “unsustainable” in the Cabinet report;  
Scrap the whole green waste system – politically and reputationally highly damaging as this was never suggested previously;  
Charge on the basis of the decision taken.

Realistically, there was thus only one option. No other options were offered such as a compromise position that had lower charges and discretionary elements for those on low incomes and the vulnerable, to try to maintain a higher level of recycling and therefore minimise loss of recycling credits.

A further option could be to review the frequency of overall waste and recycling collections to see what savings opportunities could be achieved.

The Cabinet decision was premature. The Government is due to announce the requirements for collection services and the Cabinet report acknowledged this. An option could have been to delay a decision on charging until the Government intentions are known. If the Government decides to make garden waste collections a requirement, the charging system will have to be scrapped

and taxpayer money will have been wasted, including part or all of the £200k start up budget allocation.

The outcome of the subscription-based system on staffing is unclear.

**The decision is contrary to a previously agreed decision made by the Council, which has not been superseded by a subsequent decision**

The Council many years ago agreed to support the 60% recycling target shared with the Essex authorities. More recently Council voted to support a 75% target by 2030. The Cabinet decision is based on the projections in the report of a collapse of overall recycling performance of between 12% in yr 1 to 8% in yr 3 with a resultant overall rate well under 40% even at yr 3. This is contrary to policy and would take the district backwards to recycling levels not seen for about 2 decades.

The Council has also made commitments to tackle Climate Change. A higher proportion of green waste going to landfill will result in increased emissions of CO<sub>2</sub> and CH<sub>4</sub>, which are the main 2 greenhouse gases driving climate change.

**The decision is inconsistent with a previous Overview and Scrutiny recommendation that has been accepted by Cabinet or Council and that recommendation has not been superseded by a subsequent decision; or**

**The decision was not taken in accordance with the principles set out in Article 7 (Decision-Making) of the Constitution.**

In respect of the decision-making principles, it is submitted that the following are not met:

**(a) the action taken will be proportionate to the desired outcome** – it is not proportionate as there are significant uncertainties as to the outcome, with a projected break even only in yr 3 and significant uncertainty as to what collection requirements are to be handed down by the Government which could result in charging being withdrawn;

**(b) decisions will be taken following due consultation and taking into consideration professional advice from Officers** – there has been no consultation with the wider (non-Cabinet) membership of the council nor residents on the details of the charging system. The post-decision BDC comms

omitted key parts of the decision and information in the supporting report including the escalating annual cost and the collapse in recycling;

**(c) due regard will be shown for human rights and all decisions will be based on balancing the rights of the individual against the public good** – the decision fails to take proper account of the impacts on more vulnerable members of the community including those with disabilities, the elderly and those without cars.

**(d) open transparent decision making** – the details in, and which follow the decision, were not openly communicated in advance of the Cabinet meeting when the opportunity clearly was there to do so after the elections (May to July) to inform residents and all councillors in relation to proposed annual cost increases, the expected collapse of recycling levels and the significant loss of the recycling credits which negatively affect the financial position such that a break-even may only be achieved by yr 3.

**(e) clarity in the aim and desired outcome of the decision** – the aim is apparently to raise income to cover the current cost of the service. But in doing so the service will collapse to just 10% of current use in yr 1, only recovering to 26% in year 3 compared to 88% now.

**(f) explanations of the options considered and the giving of reasons for the choices made** – there was in effect only one option offered because Option 1 (status quo) had already been discounted, Option 2 was the one chosen and Option 3 was complete ending of the service. No other options were considered.

**(g) decisions will be taken that comply with the law and this Constitution.**

# Equality Impact Assessment

## Full



Directorate

Operations

Service

Strategy and Policy

Title of policy, strategy, project or service

Chargeable garden waste collections

Is the policy, strategy, project or service;

Existing

New/proposed

Changed/Reviewed

 x

Q 1. Aim of the policy, strategy, project or service

To introduce a subscription-based Garden Waste Collection Service. This will be provided for 50 weeks of the year as an 'opt-in' service, with only 2 weeks suspension at Christmas.

Q 2. Give details of existing information, data and consultations you have used to consider the impact this policy, strategy, project or service is likely to have on the protected characteristic

This is a new policy to change the current free fortnightly garden waste collection to a paid subscription service. Residents will have the option of subscribing to the service or making their own arrangements to dispose of their garden waste, such as by composting or using Household Waste & Recycling Centres.

Garden waste is a discretionary service and 70% of local authorities that collect this type of material charge for the service. With ever increasing demands on the Council's budget, the Council proposes to introduce a subscription-based service in line with its budget strategy, to ensure that essential services can continue to be delivered.

Q3. If there are gaps in this information, data and consultations how will you address this?

E.g. if you are planning to carry out a consultation tell us who you will consult with and when.

N/A



Q 4. Thinking about each of the protected characteristics what impact does or could the policy, strategy, project or service have on each? How will you address this?

Group	Impact (positive or negative)	Proposed action (including by whom, by when)
Age	<p>There may be older people with gardens who are unable to afford to pay for garden waste collections and who may not be mobile enough to take waste to a Household Waste and Recycling Centre. In these circumstances, the Council would recommend home-composting as the most appropriate way of dealing with garden waste.</p>	<p>It is proposed to offer an early bird discount of 50% on the full year's subscription to those who sign up for the service by 30 November 2023. This will be for an initial period of 13 months and thereafter the normal annual charge will apply.</p> <p>Compost bins are available at a big discount via a scheme promoted by Essex County Council and customers would be signposted to the offer as needed. However, use of a bin is not essential and an open compost heap would work just as well.</p> <p>We will run a targeted communications campaign aimed at educating vulnerable groups, with a view to giving them as much notice as possible of the change. We will also run communications campaigns on our usual channels to ensure as much coverage as possible.</p>
Disability	<p>There may be disabled people with gardens who are unable to afford to pay for garden waste collections and who may not be mobile enough to take waste to the recycling centre. In these circumstances, the Council would recommend home-composting as the most appropriate way of dealing with garden waste.</p>	<p>As above.</p>
Gender reassignment	<p>There will be no impact on people who have had gender reassignment.</p>	<p>None required.</p>
Marriage & civil partnership (only in respect of eliminating unlawful discrimination).	<p>There will be no impact on people regarding their marital status.</p>	<p>None required.</p>

Pregnancy & maternity	There will be no impact on pregnant people or those on maternity leave.	None required.
Race	There will be no impact on people regarding their race.	None required.
Religion or belief	There will be no impact on those from a particular religion or belief system.	None required.
Sex	There will be no impact on people regarding their sex.	None required.
Sexual orientation	There will be no impact on people regarding their sexual orientation.	None required.

Completed by (Print name):

Carolyn Harley

Signature :

Approved by Head of Service (print name):

Paul Partridge

Signature :