

CABINET MEMBER FOR ENVIRONMENTAL SERVICES

Wednesday 15 November 2023

LGPS Pension Guarantee for Waste Contract

Timetable	
Meeting	Date
Housing, Health and Environment PAC	Tuesday 14 November 2023
Cabinet Member for Environmental Services	Wednesday 15 November 2023

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	Cabinet Member for Environmental Services
Lead Head of Service	William Cornall, Director of Regeneration and Place
Lead Officer and Report Author	Jennifer Stevens, Head of Environment and Public Realm
Classification	Public
Wards affected	None

Executive Summary

The Council has awarded the Mid Kent Waste Contract to SUEZ Recycling and Recovery UK and as part of the mobilisation, they are required to gain Admission Body status to enable four long-serving employees to remain within the LGPS.

To achieve this Maidstone and Ashford Borough Councils, as the Scheme Employer, are required to provide a guarantee to protect the fund from any shortfall or additional costs associated with underfunding or unpaid contributions.

Purpose of Report

Recommendation to Cabinet Member for Environmental Services

This report makes the following recommendation to the Cabinet Member for Environmental Services;

1. To approve the provision of a guarantee to the total value of £383k to the Kent Pension Fund in partnership with Ashford Borough Council.

LGPS Pension Guarantee for Waste Contract

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>We do not expect the recommendation will by itself materially affect achievement of corporate priorities. However, it will support the Council’s overall achievement of its aims as set out in section 3.</p>	Head of Environment and Public Realm
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendation will not specifically impact the cross-cutting objectives.</p>	Head of Environment and Public Realm
Risk Management	<p>The risks associated with the recommendation have been considered and are very low. However, the risk of not providing a guarantee is significantly higher as this will prevent the contractor from delivering its contractual obligations.</p>	Head of Environment and Public Realm
Financial	<p>The potential costs associated with this risk are not budgeted. This is due to it being a one-off nature and due to it being a low-risk guarantee. If funding were to be needed it would be managed within the in-year financial position or potentially from the general reserves.</p>	Head of Finance

Staffing	We will deliver the recommendations with our current staffing.	Head of Environment and Public Realm
Legal	The Council has negotiated with the new Service Provider, KCC and the Pensions Actuary to reach this position which is the best that could be achieved. The risk is shared with Ashford Borough Council and is deemed low. The Council has the power to enter into such an arrangement and it will facilitate a smooth handover to the new Service Provider.	Lucinda MacKenzie-Ingle, Team Leader, Contracts and Commissioning, MKLS
Information Governance	The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes.	Information Governance Team
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Equalities & Communities Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Head of Environment and Public Realm
Crime and Disorder	There are no implications to Crime and Disorder	Head of Environment and Public Realm
Procurement	No implications	Head of Environment and Public Realm
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and; <ul style="list-style-type: none"> • There are no implications on biodiversity and climate change. 	Head of Environment and Public Realm

2. INTRODUCTION AND BACKGROUND

3.1 In December 2022, the Communities, Housing and Environment Policy Advisor Committee recommended to Cabinet that the Mid Kent Waste Contract be awarded to Suez Recycling and Recovery UK.

- 3.2 Since then, work has been progressing on the mobilisation of the Contract which is due to commence on 24 March 2024. This has included plans for the service, communications, staff and vehicles.
 - 3.3 As part of the mobilisation, staff currently employed by Biffa Municipal Ltd on the current Mid Kent Waste Contract will transfer to SUEZ Recycling and Recovery UK.
 - 3.4 There are currently four employees on this contract that were originally Council employees and as such are members of the Local Government Pension Fund, administered by Kent County Council. To enable these employees to continue these rights, SUEZ Recycling and Recovery UK are required to become an Admission Body for the scheme. Maidstone and Ashford Borough Councils, as the Scheme Employer, are required to provide a guarantee to the Pension Fund to ensure that should any shortfall occur, this would be recovered. The level of guarantee for this is £383k, which is split across Maidstone and Ashford Borough Councils, as both have transferring employees in the LGPS.
 - 3.5 The value of the Guarantee has been calculated at £383k, shared between Maidstone and Ashford Borough Councils. This value is based on a risk assessment of the fund and considers costs that could arise from underfunding, strain (such as redundancy costs) or unpaid contributions over the 8 year contract period. The risk of these coming to fruition have been assessed and are considered low, with additional protections to the Council included in the main agreement of the Mid Kent Waste Contract.
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3. AVAILABLE OPTIONS

- 3.1 The Council could decide to provide the Guarantee in partnership with Ashford Borough Council.
 - 3.2 Alternatively, the Council could decide it is not willing to offer a Guarantee for the Pension which would prevent the SUEZ Recycling and Recovery UK from gaining Admission Body status and prevent the four affected employees from remaining within the LGPS.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 It is recommended that the Council agree to provide the guarantee and enable the four eligible employees to remain within the LGPS.
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5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework.
- 5.2 The key risk to the Council is that it could be liable for costs up to £191k should the guarantee come into effect. However there have been no risks

identified over the past 10 years, during the current Mid Kent Waste Contract and no requirement to support the fund.

- 5.3 There is a greater risk to the Council should it decide not to provide the required Guarantee as the obligations within the Mid Kent Waste Contract would not be deliverable. There is a requirement within the contract for SUEZ Recycling and Recovery UK to gain Admission Body status and this would be compromised if a Guarantee is not provided. Although an alternative Guarantee or Bond could be considered, it is not assumed that the Kent Pension Fund would accept this and that it could be delivered in time for contract commencement.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Communities, Housing and Environment Policy Advisory Committee recommended the award of the Mid Kent Waste Contract to SUEZ Recycling and Recovery UK in December 2022 and had previously considered the contract on several occasions. Outsourcing the contract was the agreed commissioning route and as such the employee's rights must be protected.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 If agreed, the Council will sign the Guarantee within the Admission Body Agreement alongside Ashford Borough Council and this will form part of the Mid Kent Waste Contract.
- 7.2 The Housing, Health and Environment Policy Advisory Committee considered the matter on 14 November 2023 and recommended that the recommendation be approved.

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None