

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

CABINET

**WEDNESDAY, 13 SEPTEMBER 2017 AT 11:30 HOURS
IN SPECIAL MEETING - COMMITTEE ROOMS 3 AND 4, COUNCIL
HOUSE, VICTORIA SQUARE, BIRMINGHAM OR AT THE CLOSE
OF THE SCHEDULED CABINET MEETING, WHICHEVER IS THE
SOONER – RECONVENED FROM 24 AUGUST 2017,**

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.birminghamnewsroom.com) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 APOLOGIES

To receive any apologies.

3 UPDATE ON RE-ORGANISATION OF WASTE MANAGEMENT SERVICE

Joint report of the Interim Chief Executive and the Corporate Director - Place.

(Previously circulated - please see below)

Addendum attached.

4 EQUAL PAY STRATEGY 2017

Report was considered and noted on 24 August 2017

5 OTHER URGENT BUSINESS

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

3 - 32

6 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Minutes - Exempt Paragraphs 3 and 4

P R I V A T E A G E N D A

7 **UPDATE ON RE-ORGANISATION OF WASTE MANAGEMENT SERVICE**

Item Description

8 **EQUAL PAY STRATEGY 2017**

Item Description

9 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

Re – convened Cabinet from 24th August and 1st September to 13th September

PUBLIC REPORT (See attached report of 24th August 2017)

UPDATE ON REORGANISATION OF THE WASTE MANAGEMENT SERVICE

Reconvened Cabinet 13th September 2017

See attached report originally circulated for Special Cabinet on 24th August 2017

Following the update brought originally to Cabinet on 24th August there have been the following developments:

- 1) ACAS talks were taking place with trades unions at the end of August
- 2) Redundancy notices were issued to Grade 3 Leading Hands on Thursday 31st August 2017. Trade unions were notified that afternoon. The issue of these notices had been delayed but had always been the next stage in implementation of the Waste Reorganisation proposals brought to Cabinet on 27th June
- 3) The issuing of the redundancy notices triggers the “priority movers” policy of the Council where we seek to redeploy staff whose posts are affected by restructuring into other posts within the Council. We have been providing information about those opportunities to staff affected and we have held a further Job Fair but with very few attenders, due to UNITE’s instruction to their members not to engage.
- 4) Industrial action restarted on 1st September with the same pattern of three one hour disruptions to service. Management have reviewed the approach to covering the refuse operations and run drop in sessions for elected members to assist in being able to provide information and assistance to the public. UNITE have notified the Council of a ballot for further industrial action.
- 5) Since 1st September there have been informal discussions to try and set out the parameters for further discussions with trades unions and these discussions are continuing
- 6) The aim continues to be to end the dispute.

Stella Manzie, Interim Chief Executive

Jacqui Kennedy, Corporate Director, Place

Cllr Lisa Trickett, Cabinet Member for Clean Streets, Recycling and Environment

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	CABINET	<i>Exempt information paragraph number – if private report:</i>
Report of:	Stella Manzie Interim Chief Executive, Jacqui Kennedy, Corporate Director Place	
Date of Decision:	24th August 2017	
SUBJECT:	UPDATE ON REORGANISATION OF THE WASTE MANAGEMENT SERVICE	
Key Decision: Yes / No	Relevant Forward Plan Ref: N/A	
If not in the Forward Plan: (please "X" box)	Chief Executive approved O&S Chair approved <input type="checkbox"/>	
Relevant Cabinet Member(s) or Relevant Executive Member:	Councillor Lisa Trickett, Cabinet Member – Clean Streets, Recycling and Environment	
Relevant O&S Chair:	Councillor Victoria Quinn, Chair Housing and Homes Overview and Scrutiny Committee	
Wards affected:	All	

Purpose of report:

- 1.1 This report deals with the issues arising from the implementation of proposals for reorganisation of the Waste Management Service to secure high quality services and demonstrate value for money set out in the Cabinet Report of 27th June 2017
- 1.2 It reports on the industrial action by the union Unite since 30th June and consequent costs and on discussions with all four trades unions represented in the Waste Management workforce
- 1.3 It seeks endorsement to engage with ACAS and to continue the next steps towards a structure to deliver improved quality of service, whilst operating within the allocated budget and within the Council's policy objectives.

This matter was not included in the Forward Plan because it was not clear what the timing of the report would be. Recent developments relating to the industrial action and the scheduling of a Special Cabinet Meeting facilitated the urgent reporting of recent discussions.

2. Decision(s) recommended:

That the Cabinet note the recommendations below and consider them in the light of the accompanying private report.

- 2.1 Endorse progression and implementation of the decisions taken by Cabinet 27th June 2017 for the re organisation of the waste management service and the next stages including issuing the redundancy notices to the 106 employees (in 113 posts) currently designated as Grade 3 Leading Hands.
- 2.2 Note the impact of the disruptive industrial action by the Unite union including disruption and inconvenience to the public and additional costs to the Council and the public.
- 2.3 Note the operational plans in place to maintain refuse collection at reduced frequency, clear up side waste and clear any backlog.
- 2.4 Build on discussions between the Leader, Unite and ACAS, involving all four of the trade unions represented in the waste workforce, on ways to resolve the current industrial action involving Unite and disputes raised by other Trade Unions.
- 2.5 Continue the delegation to the Corporate Director Place to conclude discussions on Street Cleansing structures and organization
- 2.6 Endorse the proposal to put in place a discount for current subscribers to the green waste service for 2018/19 as a way of making a refund to those who have lost out on the service as a result of the industrial action with delegation to the Cabinet Member and Corporate Director for Place in consultation with the Chief Financial Officer to implement.

Appendix 1 to this report contains more detail about the changes being proposed and more detailed information is contained in the Private Report due to financial, commercial and industrial relations implications.

Lead Contact Officer(s):	Darren Share, Assistant Director, Waste Management
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3. Consultation

Internal

- 3.1 As detailed in the Cabinet Report 27 June 2017 consultation on the reorganisation of the Waste Service has been taking place since 26 January 2017 in the form of a business case and proposal to restructure senior management in Waste Management and from 3 March the next phase was launched which focused on a restructure of the front line operation. The risk of redundancy was contained in the Section 188 notice issued at the corporate meeting on 1 March 2017.
Since the start of the consultation there have been 24 meetings with Trade Unions lasting approximately 57 hours
There have been some meetings with all trade unions during the course of the industrial action – the last one of these was on 20th July
There has been communication between management and individual trade unions on specific issues. The two unions with the larger balance of members in the Waste and Refuse service are Unite and UNISON, with GMB and UCATT holding the balance.
- 3.2 Management has continued to engage with Unite in an effort to resolve the dispute however this has not been possible. One meeting took place between the Interim Chief Executive and the Unite regional organiser on 31st July. Discussions have taken place between the Leader of the Council and the Unite regional organiser and ACAS - proposals resulting from these discussions have been published in the press.
- 3.3 UNISON balloted on the potential for strike in this area but as yet the result has not been formally shared with BCC. However informally the Council has been advised that the ballot achieved 42% therefore secured no mandate for industrial action.
- 3.4 GMB and UCATT have separately reported that consultation with their members has taken place and membership has indicated no appetite to oppose the management proposals.
- 3.5 GMB and UCATT have also stated that they are aware from the media that separate negotiations might be taking place with other unions. Should the proposals that have been consulted upon change, they may enter into dispute as they fear they are being excluded from consultation.
- 3.6 Attached as Appendix 2 is a summary of the trade union notices of industrial action.
- 3.7 No Joint Trade Union proposals have been presented for the refuse collection service despite repeated requests, encouragement and opportunity made by management, throughout the consultation.
- No alternative proposals have been submitted by Unite (the only trade union in dispute and taking industrial action) since the Cabinet meeting 27th June.
 - Unite has stated that there are savings that could be made in refuse collection but they will not negotiate until the proposal to remove the Grade 3 Leading Hand role is taken off the table. Management cannot agree to this.
 - A further “red line” has been introduced by Unite in relation to an employee disciplinary matter.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

- 4.1.1 The City Council has a number of statutory obligations in relation to public health and cleaner streets which is why it provides a Waste and Refuse service.
- 4.1.2 The Council has to demonstrate to its auditors that its decisions are in line with value for money and annually the Leader and Chief Executive have to sign off value for money statements.
- 4.1.3 The Council also has to meet the obligations of being an employer including complying with the requirements of the Equality Act.

4.2 Financial Implications

- 4.2.1 The Council allocated a significant level of additional resources of £5.7m to the Waste Management Service in 2017/18 to reflect the fact that the operational cost of the service was significantly in excess of the agreed budget for 2016/17 (there was a overspend of £11.9m for Waste Management Services). Even with this significant increase in corporate funding, the proposals for the re-organisation of the Waste Management Service agreed by Cabinet on the 27 June were required to enable expenditure to be contained within the agreed budget for 2017/18.
- 4.2.2 In particular, a decision not to proceed with the proposed deletion of the Grade 3 roles will result in an increase in costs of £0.6m in a full year.
- 4.2.3 The budget for 2017/18 assumed that the new operating model would commence on the 1 July 2017. The delay in the introduction of the new model to the 1 October will result in an estimated overspend of £2m in 2017/18. Any additional on-going full year financial implications will need to be evaluated and incorporated in the budget for 2018/19.
- 4.2.4 There are additional costs associated with the contingency plans that have been put in place in response to the industrial action. The estimated weekly costs have ranged between £21,000 per week in the early stages of the industrial action in July to the current weekly estimate of £311,000 as external contractors have been mobilised (the details are set out in a separate schedule in the Private Report). This will be an additional pressure on the Council's finances for 2017/18.
- 4.25 However, the more significant potential financial implications arising from a decision not to continue with the implementation of the new operating model arise from a significant increase in the risks in relation to further equal pay claims. The financial implications arising from the probable equal pay risks are set out in more detail in the Private Report. In summary, in light of the advice given as to the low probability of the Council being able to mount an effective defence to such claims, meeting such liabilities would more than wipe out available headroom in the equal pay contingency, any uncommitted sums for capital investment and all available revenue reserves.

This would still leave a significant gap which would lead to the need for very significant and urgent reductions in both revenue and capital commitments and would also lead to the statutory chief financial officer (the s151 officer) having to consider whether the Council was in a position to set a lawful and balanced budget.

Financial Implications of Operational Response to Industrial Action

4.2.6 There have been additional costs associated with the contingency plans which have been put in place in response to the industrial action, amounting to a weekly cost in the range of £21, 000 (July) to £311, 000 (August). The increase in the figure attributable to the employment of additional contractors to assist with collection. These are in addition to the costs already incurred and included in the budget. It is proposed to minimise additional costs of the clear up by utilising the already incurred contracted spend to assist with clearing the backlog rather than incurring additional overtime. Every additional element of cost incurred increases the numbers of jobs likely to be needed to be lost across the Council given the Council's budget situation.

4.3 Legal Implications

4.3.1 The Cabinet Report 27th June 2017, set out in the Legal Section, the legal definition of redundancy and the duty of an employer to mitigate redundancies.

4.3.2 The Cabinet Report highlighted that since the start of the current refuse collection system (Collective Agreement 2011) the current working arrangements and crew structure have not delivered value for money savings targets and they will not meet the business need of the future. Performance and productivity of refuse collection in particular has not matched the predicted levels. This problem is exacerbated by a staffing structure which does not reflect modern day good practice because it encompasses too many grades within a small team. Two tiers of supervision in a team of 3 (Grade 4, Grade 3 and Grade 2) is neither appropriate nor sustainable. The re-organisation proposals agreed by Cabinet on 27th June 2017, approved the 'redundancy' of these GR3 roles as there is no longer a requirement for them to perform this role.

4.4 Public Sector Equality Duty (see separate guidance note)

The Equality Impact Assessment is attached at Appendix 3

Relevant background/chronology of key events:

5.1 The key organisational changes in the Refuse and Waste service, proposed in the June 27th Report were as follows:

- The removal of compressed working hours with all employees working a 5 day 7.3 hours per day 36.5 working hour week rather than 4 days at 9.133 hours per day
- Removal of the Leading Hand role on Refuse Collection Grade 3 (113 posts)
- Operationally the separation of commercial and domestic collections onto separate vehicles and crews where it practicable to do so, thereby enabling domestic and trade waste operational resources and costs to be ring – fenced.

- The location of the start and finish points for each or any collection round will be across any of the Council depots and employees will be asked to work flexibly from any of the depots and employees will be asked to work flexibly from any of the depots as the business requirement demands. These changes are consistent with all employees on the Birmingham Contract

Upon implementation of this reorganisation Refuse Collection Service:

Will deliver within the budget allocated :

- Weekly collection of residual domestic waste (354, 356 properties per week)
- Fortnightly collection of kerbside residual materials (177,178 properties per week)
- Consistent productivity for all collection rounds based on national benchmark (mid – range national average)
- Remodelled collection rounds that assure maximum efficiency
- A revised fit for purpose management structure
- The continued provision of Chargeable services e.g. Green waste, Trade Waste, Bulky Waste
- A significantly reduced reliance on use of agency and overtime .the reduction in agency workers will enable more investment in trained and competent full time employees of Birmingham City Council (Currently of 595 staff, over 200 are agency employees)

5.2 The key recommendations agreed in the Cabinet Report of 27th June were to:

- Approve the proposal for the reorganisation of the Waste Management Service with effect from 1st July 2017
- Note the proposals regarding Street Cleansing reorganisation and delegate the authority for completion of this reorganisation to the Corporate Director Place and Cabinet Member
- Achieve continued discussions with the Trade Unions in parallel with taking forward the proposal in the report with a view to seeking to avert industrial action
- Bring an end to the collective agreement of 2011

The paragraphs below set out events since officers have sought to implement those agreed recommendations.

5.3 Letters of invitation for week beginning 3rd July 2017 were issued to Leading Hands to attend one to one meetings to discuss options, carry out a skills audit and issue notice of redundancy to enable them to move onto the Priority Movers list. Very few Leading Hands attended as they were advised not to by Unite and Unison trade union representatives.

5.4 Due to lack of attendance at the one to ones on 14 July 2017 the Corporate Director of Place wrote to Leading Hands at their home address advising them of the proposals and encouraging them to engage with management through a confidential telephone hotline to seek redeployment opportunities to suitable alternative graded roles within the directorate. The offer was also made to discuss other issues, e.g. financial hardship, training etc. Disappointingly, although the letter was sent to 106 employees, there were only a handful of calls to the confidential hotline or any other response.

Unite have made it clear that they have instructed Leading Hands not to engage with management approaches to move the restructuring forward.

- 5.5 Job fairs were held on 28 and 31 July where managers from the services with the 203 vacancies were in attendance. Disappointingly only 10 Leading Hands attended. The feedback to managers again was that Unite had advised colleagues not to engage with the process. However, all 10 colleagues who attended and / or expressed an interest now either have taster trials or alternative proposed job roles on their current Grade 3 salary.
- 5.6 Unite have indicated through their dispute that they will not accept any deletion of the Grade 3 role and although informal discussions have been held with Unite locally and regionally while they have been in dispute with the Council through working to rule and industrial action, it has not been possible to overcome that challenge.
- 5.7 A meeting was held on 20 July 2017 with Trade Union colleagues attended by the Chief Executive and the Chief Operating Officer with a view to agreeing a positive way forward. However, later on 20 July Unite submitted notification of their proposal to increase their industrial action.
- 5.8 On 24 July 2017 a letter by the Chief Executive was sent to Leading Hands explaining the need for change and attaching all of the Grade 3 job vacancies dated 24 July 17

Initiation of industrial action

- 5.9 On 27 June, immediately after Cabinet, the Corporate Director of Place met with the Trade Union representatives and advised of the next steps which were to issue communications to the workforce in relation to removal of the compressed hours working week and the deletion of the role of Leading Hand on refuse crews. In discussion with Trade Union colleagues one to one meetings with employees were scheduled for week beginning 3 July to enable Trade Union representation for all.
- 5.10 Unite Trade Union notified the authority of a ballot for industrial action on 23 May 2017. Following a majority in favour of the ballot Unite commenced industrial action on 30 June 2017 and that industrial action has escalated further. Unite recently announced that they are seeking to ballot their members to extend industrial action through to December 2017.
- 5.11 An exemption was sought from Unite to allow crews to clear refuse from high rise flats, particularly in light of the Grenfell Tower fire. However, Unite refused that request for exemption and therefore contractors were employed directly to clear the 213 high rise blocks in the city. This has now been extended to all BCC sheltered accommodation in the city

Industrial Action time line

- 5.12 The industrial action has taken place from 30th June to 16th August, although it should be noted that productivity dropped significantly in refuse teams from the announcement of a ballot on industrial action and before any legal industrial action. It should also be noted that productivity levels outside the hours of legal industrial action have been significantly affected.

Industrial Action time line cont

- 30th June - Industrial action by Unite commenced with two hours per day stoppage 6 to 8am
- Up to 13th July - Informal discussions continued with Unite colleagues but no resolution to the dispute was achieved.
- 20th July Round Table with Trade Union colleagues was held chaired by Chief Operating Officer and attended by the Chief Executive and Managers from the Waste Management Service.
- 27th July Unite issued notification that they were increasing their hours of industrial action by an additional hour's stoppage with effect from 11 August 2017.
- 11th August Unite issued notification of intention to Ballot for industrial action through to December
- 16th August Industrial Action suspended following Leader's discussions with Unite.

Operational response to industrial action

- 5.13 Initial response plans to the planned industrial action were disrupted by the actions of the workforce in and around the industrial action which increased its impact. From the data it is apparent that missed collections in the city increased significantly at least two weeks before the industrial action started. It is also apparent from the data that levels of productivity were significantly reduced as a result of the industrial action. The contingency plans in place were initially challenged by the extent of industrial action taken, i.e. not only Unite members with mandate for industrial action but other Trade Union colleagues and agency workers are also informally working to rule and taking industrial action. Initially management made a conscious decision not to use legal action to challenge this in the hope that a solution to the industrial action might be found.
- 5.14 Over the course of the action, a range of different approaches to tackling the operational side of the response. Due to the poor level of performance and higher level of sickness absence and unofficial industrial action officers concluded it was necessary to change from the routine weekly main collections and fortnightly (recycling) collections to a whole ward, whole clearance approach. Week 1 of this approach commenced 24th July 2017. At the current lower level of productivity, this approach allowed for the whole city to be cleared over three weeks.
- 5.15 The prioritisation of the wards was based upon the combination of reports of missed collections and last dates of full clearance of the waste. This approach put the whole of the resource into the ward on the same day and at the same time, all crews and all management support. This met with some resistance from some members of the workforce as it changed normal routines. It also made it easier to supervise completion of the planned routes.
- 5.16 The contingency plan is based on a three week clearance of the city. This first three week cycle concluded on 13 August 2017 with teams clearing over 90% of the city's roads and properties. The plan comprised of resources allocated on a ward by ward basis on a three week cycle to clear all waste. Unfortunately this has involved temporarily collecting recycling and domestic waste together and suspending the recycling collection

As part of the contingency, alongside the workforce we have also employed a number of third party contractors to provide increased capacity and a number of teams drawn from the wider workforce, e.g. Housing, Parks, Enforcement, Street Cleaning to do sack clearance and side waste clearance using caged vehicles. It is also planned to recruit a properly employed internal and an external alternative casual workforce in order to maintain the refuse collection provision in the city.

- 5.17 The ambition was to clear 100% of the side waste, sacks and empty all bins on one cycle by 13 August 2017 and the Council nearly succeeded in doing this. However, the escalation of industrial action on 11 August, severely impacted on this ambition. However over 90% of the city in terms of properties and roads was cleared. The remaining roads have gradually been cleared by recovery crews.
- 5.18 Due to the industrial action, there has been a backlog in bulky waste clearance. This 'paid for' service was temporarily suspended to enable us to concentrate on domestic waste removal. However, this has been reinstated with effect from 15 August 2017. This service is currently being delivered by contractors.
- 5.19 There have also been some issues in relation to the "charged for" garden waste collection service. It is proposed to provide a discount on renewing this service in 2018/19. This proposal is based on the significant cost associated to actually providing a cash rebate. Some customers may also be entitled to refunds. This is under review. Recommendation 2.5 of this report refers. The financial implications for 2018/19 will need to be calculated depending on the size of the discount.
- 5.20 We have retained private contractors to clear the city council's 213 high rise blocks on the grounds of health and safety. We have recently extended that to cover all of our sheltered accommodation too to provide refuse collection clearance and other significant high risk areas.
- 5.21 We have suspended the pre-booking arrangements for vans at our Household Recycling Centres (HRC's), where they are dropping off waste sacks etc. We have extended the opening hours of HRC's and three housing associations (over 5000 properties) have offered to bring their waste from their neighbourhoods direct to the HRC's for disposal.

Impact of the industrial action on residents in Birmingham.

- 5.23 There is no doubt that the impact of the industrial action, has, as Unite have intended , been extremely disruptive on the regular weekly collection of refuse, the recycling collections and collections of bulky waste. As has been mentioned above the union refused exemptions in relation to tower blocks which meant that very early Housing had to bring in private contractors to ensure the safety and protection of residents from inflammable rubbish. Since 30th June the Council have tried a variety of approaches In relation to contingency plans as set out earlier in section 5. There has been extensive and understandable criticism of the Council and the union Unite by the public via press and media and social media

- 5.24 The Council's Customer Services have made a huge effort in responding to customer queries and complaints. They have hugely assisted the Waste Management Service as have other colleagues in other services in the Place Directorate in particular Housing and Parks. Similarly Communications the Website management team have worked hard to enable the information flow to the public. There is no doubt however that the inconvenience to the public has been immense and customers have felt a great deal of resentment.

Communications

- 5.25 Officers have recognised that they have needed to improve the communication with elected members who had to deal with a huge volume of queries from the public in their area, as the dispute continued. If the dispute continues and we need to continue the same method of three weekly cycles, we would propose some Member officer workshops on different ways to tackle this. Through member feedback we are finding out more about refuse patterns in different areas, fly – tipping etc., which will enable us to tailor services more.
- 5.26 There have been extensive use of different forms of media including videos via social media, post code related information about collections etc. , to try and reach as many people as possible. The dispute has received extensive coverage locally, regionally and nationally bringing reputational damage to the Council, the city and its profile. Being able to communicate clear messages has sometimes been hampered by the nature and unpredictability of the “go slow”. But the effectiveness of this has improved. Both the Cabinet Member and the Corporate Director Place have been on TV and radio to promote the Council's messages.

Recent Developments

- 5.27 On 16th August an ACAS statement was issued as a result of discussions between the Leader, Unite and ACAS.

Birmingham City Council and Unite the Union have today made sufficient progress in their talks for the Shop Stewards to pause industrial action. Birmingham City Council cabinet members have agreed in principle that the grade 3 posts will be maintained. Consequently there are no redundancy steps in place. In addition the parties will now look to discuss, through ACAS, how the service can be improved, with the intention of improving efficiencies in performance of the bin collection service generally, including what savings can be made, and specifically how best the current Grade 3 roles can now be maintained and developed so that they take forward the ambition to deliver cleaner streets and align to wider Total Place principles. Unite have also agreed in principle to recommend to their members work pattern changes, including consideration of a 5 day working week. Both parties agree the working week should be designed to maximise service delivery. To assist in the resolution of outstanding issues both parties will go to ACAS. These discussions will be with the intention of incorporating any agreement as an amendment to the Waste Management Service Cabinet Report in September 2017. Both parties are pleased to be recommencing industrial relations and pleased that the bin collection can resume without disruption.

5.27 Later that day Unite issued a further statement:

“Unite, the country’s largest union, today (Wednesday 16 August) said that it has achieved victory in the Birmingham bin dispute which will result in the suspension of the current industrial action.

The union said that the city council had accepted the refuse workers’ case and restored the grade 3 jobs, which are responsible for the safety at the rear of the refuse vehicles.

Normal collection of bins will resume, as Unite and the city council hold further talks under the auspices of the conciliation service, Acas to resolve the outstanding issues.”

“The council has addressed our members’ concerns, including the safeguarding of the grade 3 post that is vital to the safety at the rear of the refuse vehicles. Unite also welcomes the fact that our suspended rep is now returning to work “

5.28 The Council issued the following statement:

“The Acas statement in connection with the Waste and Refuse dispute does not represent the Council’s position until these matters are considered at the Council’s Special Cabinet Meeting on 24th August 2017. The decision on the waste reorganisation taken by Cabinet on 27th June is still the current position of the Council.”

5.29 While productivity is still extremely low there does seem to have been a limited return to work from the Unite members. However given uncertainty about the ACAS discussions the Corporate Director of Place has continued to operate the contingency arrangements in place already, to assist in the catch up. There has been a request for overtime from the operatives, which has been refused.

Street Cleansing

5. 30 As agreed at the Cabinet Meeting in June, one Trade Union meeting has taken place to discuss Street Cleansing with additional weekly meetings scheduled starting 1st September 2017. In addition to the restructuring, local cleansing plans are under development and local Ward Councillor meetings have started to discuss the Cleaner Street Plans submitted and to identify resources for each Ward. Additionally a review of expenditure and contracts is being carried out for items such as Big Belly bins, bin sensors etc. and a proposal on these will be submitted to the Trade Unions through the meetings scheduled, alongside the development of local proposals for scheduling of mechanical sweeping where the locality requires/permits to deliver cleaner streets.

Key Issues

5.31 Key industrial issues and more details about the financial implications of the industrial action which are commercially sensitive due to negotiations with contractors are contained in the private report.

Evaluation of alternative option(s):

- 6.1 This report sets out the position to date in relation to the 27th June Cabinet Report proposals to implement the reorganisation of the Waste Management Service. The Waste Management Service have sought alternative proposals from trades union representatives but these have not been forthcoming in the refuse service, unlike in street cleansing where there have been more constructive discussions which should lead to agreement.
- 6.2 One alternative would be to retain the current organisation of the service including the ineffective productivity and rounds management and a non cost- effective approach. The current proposals set out a way forward which moves to a five day system.
- 6.3 The Waste Management Service have examined alternative refuse systems and looked at approaches in different cities

Reasons for Decision(s):

- 7.1 The report ensures that Cabinet and the Council more widely are informed within the governance framework of the consequences of the implementation of the reorganisation of the Waste Management Service agreed in 27th June, the delay to that implementation as a result of disruptive industrial action by UNITE and recent developments in industrial relations discussions.

Signatures**Date**

Cabinet Member or Executive
Member or Ward Forum
Chair

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Chief Officer:

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List of Background Documents used to compile this Report:**List of Appendices accompanying this Report (if any):**

1. Productivity and Effectiveness Issues - Extract from Cabinet Report 27th June 2017
2. Summary of Trade Union Notifications of Industrial Action – Waste Management
3. Equality Impact Summary

Report Version	<u>V1 Final</u>	Dated	<u>23 August 2017</u>
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Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> (a) tackle prejudice, and (b) promote understanding.
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none"> (a) marriage & civil partnership (b) age (c) disability (d) gender reassignment (e) pregnancy and maternity (f) race (g) religion or belief (h) sex (i) sexual orientation

APPENDIX 1 - PUBLIC REPORT

Update on Reorganisation of Waste Management Service Productivity and Effectiveness Issues

24th August 2017

Extract from Cabinet Report 27th June 2017

6.1 Refuse Collection

The Cabinet Report 27th June 2017 brought to an end the Collective Agreement of 2011 to assure improved productivity, performance and value for money. This was on the basis that since the start of the current refuse collection working arrangement (Collective Agreement 2011) the current working arrangements have not delivered value for money savings targets and they will not meet the business need of the future, levels of productivity did not compare favourably when benchmarked and from a performance perspective levels of missed collections remained unacceptable.

6.2 Since 2013 there has been a historical structural base budget problem because the budgets were based on national productivity levels but the performance and productivity of refuse collection in particular has not matched the predicted levels. There is the potential for this now to be exacerbated by the very positive growth figures for the number of households in Birmingham in future years and the resulting demand for refuse collection services (an additional 50,000 households to the current 354,356 households, over the next 20 years). This level of poor productivity cannot be justified and does not provide value for money for Birmingham citizens and cannot be afforded within the Council's financial envelope and without addressing this can adversely impact on other key services within the local authority.

6.3 The table below shows BCC Refuse Collection service productivity against other 'core cities' (2017): although it is acknowledged not all services are the same across authorities (no side waste policies, edge of property, single bin movements etc.) there is enough comparison to clearly show Birmingham has a problem with productivity. The rounds were designed with an average of 1,200 collections for recycling and 1,500 collections for residual waste. It is clear that the Birmingham City Council Refuse Collection service is not operating to acceptable levels of productivity:

Table 1: Productivity levels of Birmingham Refuse Collection compared to other major cities

City	Working Day (hours) over five day week	Average No of properties per round
Liverpool	7.5	1,067
Manchester	7	1,308
Sheffield	8	1,100
Nottingham	7.5	1,375
Leeds	7.5	1,165
Birmingham	9.125	1,058
PROPOSAL	7.3	1,100

This approved operating model from Cabinet 27th June sets a realistic target for the service going forward, consistent with other core cities.

- 6.4 Missed collections continue to be an issue for the service. Currently additional resources are allocated to keep missed collections to a minimum. The new round structure has taken the historical missed collection data into account in order to improve service performance. The proposal reiterates the role of the Team Leader Driver for the supervisory and management responsibility of the team. This makes this responsibility closer to the front line. The intention is to significantly reduce missed collections and improve citizen satisfaction and reduce costs of revisits, complaints handling etc. and to involve the service in a total place approach to cleaner streets in the city.

- 6.5 The central issue in the 2011 system is the compression of hours into four days, leaving one day not covered by conventional staffing arrangements leading to large use of overtime arrangements and/or use of agency staff and consequent budget overspends. This problem is exacerbated by a staffing structure which does not reflect modern day good practice because it encompasses too many grades within a small team. Two tiers of supervision in a team of 3 (Grade 4, Grade 3 and Grade 2) is neither appropriate nor sustainable.

Furthermore the structure was last reviewed in 2011, since then wheeled bins have been introduced. This means that the role of Leading Hand is redundant as there are only two loaders operatives at the back of the vehicle now and colleagues are not consistently picking up sacks they predominantly present wheeled bins to the vehicle for emptying, (historically there could be three or four loaders presenting sacks to the vehicle, this crew required supervision. This is no longer required. Both operatives at the back of the vehicle have the same training and work to a consistent safe working practice and risk assessment. The Team Leader driver as a Grade 4 in the current and proposed model is responsible for the health and safety of the crew, utilising cameras on the vehicle and assuring compliance with the safe working practice and risk assessment.

The 2016/17 outturn position for Waste Management was an overspend of £11.9m of

which £8.4m related to employee costs:

Table 2: Costs of Overtime and employment of Agency staff 2011 to 2017

	2011/12 £m	2012/13 £m	2013/14 £m	2014/15 £m	2015/16 £m	2016/17 £m
Overtime	4,649	2,890	1,643	543	1,261	1,073
Agency	5,809	8,180	7,258	8,074	8,803	7,949

As stated in the Cabinet Report in June. This level of overtime and agency is unsustainable and the mix of full time employees and agency/overtime working has not enabled the service to look forward and prepare a workforce fit for the future. Trade Union colleagues are supportive of the move to permanent recruitment of staff.

The service needs to deliver and develop consistently to shared objectives and deliver consistently high quality services through a well-trained, highly competent and highly motivated workforce, this has not been the case historically.

Currently the Refuse collection service employs 395 directly and approximately 200 via Agency working. Street Cleansing service employ 236 directly and approximately 100 via Agency working.

These proposals enable the recruitment of a significant number of staff and the creation of Grade 2 posts, some of which may be utilised to accommodate apprenticeships to attract younger people into the service.

We have held two recruitment open days and these were very well attended, in particular by agency staff currently assigned to the service. A further event is planned after the advertisement has been published in the local papers, through local media and targeted activity. As part of this recruitment process, we will be encouraging applications from under-represented groups.

- 6.6 For Refuse Collection, as referenced earlier, the transition to wheelie bin collections during the period 2012/13 to 2015/16 significantly changed the resourcing and management requirement from the previous sack collection service. Previous to the wheelie bin roll out, refuse collection teams often comprised of 4 or 5 staff. Roles would include advancing sacks and working with the vehicle throwing the bags into the back. The introduction of wheelie bins reduced the number of the budgeted crew to 3. The introduction of wheelie bins was to enable the service to reduce its annual running costs. The current operating model and financial budget is still based on these same assumptions which anticipated increased performance and productivity levels using the new collection methodology. To date the service has failed to achieve these targets. Additionally there is little replication of best practice across the four depots, with each depot operating largely independently such that economies of scale are therefore not fully realised.

- 6.7 In previous years, the cost of transition to wheelie bins was financially supported by £30 million of grant aid from the Department for Communities and Local Government which expired in 2015-16. During 2011/12 to 2015/16 saving targets placed on the Waste Management budget amounted to £22.213 million. Many of these savings have been achieved by charging for services such as green and bulky waste rather than any significant front line employee reductions or increased productivity in Refuse Collection or Street Cleansing.
- 6.8 Street Cleansing
- It is recognised that both the effective emptying of street litter bins and the clearing of rubbish dropped by the public through street cleansing services are a fundamental and vital part of clean streets. They are amongst the top priorities of the public in all external consultations.
- The business community is also very concerned about it in terms of the presentation of the city. The Council recognises the vital role of Street Cleansing Services and wants to ensure that the service is set up in the best way to work in partnership with other council services and external partners in particular our communities.
- There has been a need for a review of the operating structures for some time due to significant flaws in the existing structure. The service has been overspent in recent years and in 2016/17 the overspend in Street Cleansing was just over £2m, the majority of this spend relating to employee costs, in particular agency and overtime, included in Table 2 in Paragraph 5.5.
- 6.9 A new operating model is currently being developed for Fleet and Garage Services, aimed at tackling the current challenges faced by the service. This is outside the scope of this report and will be the subject of a report in the Autumn.
- The senior management of the service has been agreed with the introduction of specific service leads, one managing Refuse Collections Service and one managing Street Cleansing across all four depots. This will ensure consistency across all depots. Depot management will comprise of Service Managers (GR6) and Assistant Service Managers (GR4). This level of management will have additional responsibility for performance management such as budgets and vehicle optimisation. District Team Leaders will assist the management of street cleansing and the Driver Team Leader in Refuse Collections will directly manage collection crews in terms of performance and productivity, customer care, resource use e.g. fuel usage etc.
- 7.0 The District Team Leaders and Driver Team Leaders are an essential part of the management team and will be directly responsible for day to day management of the crew and the productivity and health and safety of their staff. They will receive additional managerial/supervisory, customer care, staff welfare and ICT training. This role has recently been re-evaluated and the role remains at a Grade 4.
- 7.1 At the Cabinet meeting in June it was agreed to establish a joint management and Trade Union Service Improvement Board will be established to take forward the improvement and changes needed to deliver an effective and efficient service. Due to the ongoing dispute and industrial action from Unite this has not been possible, but will be launched

as soon as the dispute is concluded

7.2 The District Team Leaders and Driver Team Leaders are an essential part of the management team and will be directly responsible for day to day management of the crew and the productivity and health and safety of their staff. They will receive additional managerial/supervisory, customer care, staff welfare and ICT training. This role has recently been re-evaluated and the role remains at a Grade 4.

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7.4 Improved service standards and cost - effectiveness

The refuse collection service will continue with delivery of a weekly collection.

Removal of the compressed hours and working a standard 5 day week with scheduled collections etc. The service will operate with permanent employees delivering the service over 5 days (rather than operating fifth shift using overtime or agency, thereby significantly reducing both).

Rounds will be redesigned to ensure the most efficient collection method; this might mean a change to some collection days although this will be kept to a minimum and where required will be supported by a public facing communications plan. This will reduce the demand on overtime and agency payments, drive up productivity and reduce the complexity around rotas.

The restatement of service standards and redesign of round patterns alongside the provision of performance and productivity reports for the team will enable more proactive performance and productivity led by the Team Leader Drivers in Refuse Collection. This assures a measurement of effectiveness with the objective of a more effective and efficient service with fewer missed collections and improved customer satisfaction.

WM Industrial Action Summary - 21 August 2017

Appendix 2

Activity	Date (TBC)	Comments	Actions/RAG
Formal notice of Unite intention to ballot received	23 May	Refuse Collection Grade 2 Loader, Grade 3 Leading Hand and Grade 4 Driver TL	
Unite notification of ballot outcome received	14 June	176 entitled to vote; 53% voted. 86 were in favour of action	
UNITE notice 1 of industrial Action	16 June	<ul style="list-style-type: none"> Ban on overtime and work to rule which will consist of adhering to contractual start and finish times (6 am to 3.37 pm) and returning to work base yards for washing facilities for every 15 minute concession break and half hour lunch breaks. Strike action commencing at 10:45 hours and concluding at 15:37 hours on 30th June, 2017. Series of two hour stoppages commencing at 06:00 hours on: 3 July 2017, 11th July 2017, 19th July 2017, 27th July 2017 and 4th August 2017 	Action starting 30 June
UNITE notice 2 of industrial action	30 June	To take part in discontinuous strike action consisting of a series of two hour stoppages commencing at 06:00 hours on: 14th, 17, 18th, 20th 21st, 24th 25th, 26th, 28th, 31st July, 2017, 1st, 2nd and 3rd August 2017	Increased activity from 14 July

Activity	Date (TBC)	Comments	Actions/RAG
UNITE notice 3 of further industrial action	14 July	<ul style="list-style-type: none"> Two hour stoppages commencing at 06:00 hours on 7th, 8th, 9th August 2017 and each day, thereafter, up to and including 1st September 2017 Ban on overtime and work to rule consisting of adhering to contractual start and finish times (6 am to 3.37 pm) and returning to work base yards for washing facilities for every 15 minute concession break and half hour lunch breaks 	<ul style="list-style-type: none"> Increased activity from 7 August Ending 1 September
Unite Notice 4 of Industrial action	27 July	<ul style="list-style-type: none"> a series of one hour stoppages commencing at : 07:00 hours, 10:30 hours and 13:30 hours on August 11th 2017 and each day, thereafter, up to and including 21st September 2017. In addition to existing measures Relates to Ref Col Crew – Gr 4, 3 and 2 	<ul style="list-style-type: none"> Action starting Friday 11 August Ending 21 September
Unite notice of intention to ballot received	10 August	Over the imposition of Management's restructuring proposals, pressuring members to breach health and safety protocols and safe working practices, victimisation of Unite Representatives and members and allocation of work to agencies and private contractors in furtherance of dispute over breaking of local agreements made with Unite in 2011 regarding compressed working weeks and staffing/grade levels resulting in job cuts, changes to work patterns and the removal of G3 Team leader role.	Ballot papers to be dispatched 17 August

Equality Analysis

Birmingham City Council Analysis Report

EA Name	Reorganisation Of Waste Management Service - Sept 2017
Directorate	Place
Service Area	Place - Fleet & Waste Management
Type	New/Proposed Function
EA Summary	To reorganise the Waste Management Service. Specifically around the removal of blanket compressed hours and the introduction of a five out of seven day working week with deletion of GR3 Leading Hand posts, to report on industrial action and operations to deal with this. To recommend engagement with ACAS.
Reference Number	EA002266
Task Group Manager	bethany.hughes@birmingham.gov.uk
Task Group Member	valerie.lecky@birmingham.gov.uk
Date Approved	2017-08-23 00:00:00 +0100
Senior Officer	darren.share@birmingham.gov.uk
Quality Control Officer	placeequalitycontrol@birmingham.gov.uk

Introduction

The report records the information that has been submitted for this equality analysis in the following format.

Initial Assessment

This section identifies the purpose of the Policy and which types of individual it affects. It also identifies which equality strands are affected by either a positive or negative differential impact.

Relevant Protected Characteristics

For each of the identified relevant protected characteristics there are three sections which will have been completed.

- Impact
- Consultation
- Additional Work

If the assessment has raised any issues to be addressed there will also be an action planning section.

The following pages record the answers to the assessment questions with optional comments included by the assessor to clarify or explain any of the answers given or relevant issues.

1 Activity Type

The activity has been identified as a New/Proposed Function.

2 Initial Assessment

2.1 Purpose and Link to Strategic Themes

What is the purpose of this Function and expected outcomes?

The purpose of the function is to carry out a service modernisation programme for both refuse collection and street cleansing. This will bring the service within its new operating budget. The redesign will flatten the structure, reorganise operations, make use of improving technology and improve communications throughout the service. It will rationalise terms and conditions of street cleansing and refuse collection to ensure consistency, economies of scale and efficiencies, specifically around the removal of blanket compressed hours and the introduction of a five out of seven day working week.

For each strategy, please decide whether it is going to be significantly aided by the Function.

Children: A Safe And Secure City In Which To Learn And Grow	No
Health: Helping People Become More Physically Active And Well	Yes

Comment:

The collection of clinical and assisted residual and recycling waste helps people to live independently at home. Many elderly and disabled people required assisted collection and this needs to be incorporated in any changes.

Housing : To Meet The Needs Of All Current And Future Citizens	Yes
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Comment:

The City is projected to grow by up to 10,000 households per year over the next five years. This will attract a significant increase in demand on both street cleansing and refuse collection. The provision of a more efficient service will ensure the needs of the citizen will be met. Citizens will be encouraged to work with the service to improve the cleanliness of their local environment.

Jobs And Skills: For An Enterprising, Innovative And Green City	Yes
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Comment:

A recruitment plan will be developed, this includes the creation of apprenticeships to work within Waste Management Services and across the Place portfolio. There will also be considerable efforts to recruit to reflect more accurately the demography of the city.

2.2 Individuals affected by the policy

Will the policy have an impact on service users/stakeholders?	Yes
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Comment:

To provide the most efficient service possible, rounds will need to be reworked. This could mean a change of the day of collection for service users. Waste Services are a universal service however, some people are impacted more by non-collection. The Industrial Action to date appears to have disproportionately impacted on some of the poorer areas of the City due to limited access to transport to dispose of their waste at HRCs. In addition, the Industrial Action appears to have had a disproportionate impact upon residents in need of assisted collections. Both of these have been identified in the contingency plan and actions put in place to mitigate any further impact.

Will the policy have an impact on employees?	Yes
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Comment:

Restructuring will have an impact on the remaining employees. The duties of the GR3 Leading Hand role have diminished due to the improvement of operations and introduction of the wheeled bins, now embedded since April 2016, which has therefore made this post redundant. The Loader role has remained unchanged at GR2. There are alternative roles at same basic pay for redundant GR3's. If employees choose to remain in the refuse service as a GR2 Loader there will be financial loss.

The removal of blanket compressed hours and the change in working days will potentially affect employees with care commitments. This will be addressed by holding individual consultation and wherever possible individual requests for flexible working to address these needs will be given due consideration.

There are enough posts at the same grade (over 106) for redeployment of the GR3 Leading Hands. There are also 150 GR2 Loader posts in addition to this. Future vacancies may arise due to the corporate VR Trawl. Redundancy is a possibility and everything will be done to mitigate this.

Will the policy have an impact on wider community?	No
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2.3 Relevance Test

Protected Characteristics	Relevant	Full Assessment Required
Age	Relevant	No
Disability	Relevant	No
Gender	Relevant	No
Gender Reassignment	Relevant	No
Marriage Civil Partnership	Relevant	No
Pregnancy And Maternity	Relevant	No
Race	Relevant	No
Religion or Belief	Relevant	No
Sexual Orientation	Relevant	No

2.4 Analysis on Initial Assessment

A business case had been produced and any potential staffing impact will be managed in accordance to the HR policies and procedures.

The proposed change to remove the compressed hours will impact on all staff connected to refuse collection (341).

One to one meetings will be held with any employee requesting flexible working to see if the service could accommodate this.

The proposed removal of the Leading Hand will directly affect 106 people in post. It is proposed to hold individual meetings with these employees to discuss options. It is the aim of the City Council to mitigate against redundancy.

This is a large workforce broken down into the following areas; 95% male, 2% have a registered disability.

41% have identified themselves as White British, 52% made no comment. However, it is evident that the workforce is predominantly white male.

The age profile is as follows:

20-29 - 3.73%
30-39 - 16.02%
40-49 - 33.98%
50-59 - 37.71%

60-69 - 8.43%
>70 - 0.14%

The breakdown of the Leading Hand position is 106 male and the age profile is as follows:

20-29 - 2%
30-39 - 24%
40-49 - 38%
50-59 - 32%
60-69 - 4%

This is a large workforce which includes all the protected characteristics that might be impacted upon by these proposals, none more so than others. There are plans to consult relevant individual employees via 1:1's and group consultations. The aim of the operating model is to reduce the missed collections, improve the service, reduce the journey times - removing the unnecessary journeys to improve air quality.

This service, as with all BCC services, is required to deliver an efficient, effective, economic, value for money service. If these savings are not delivered by this service this could have a disproportionate impact on other services which may have different protected characteristics.

3 Full Assessment

The assessment questions below are completed for all characteristics identified for full assessment in the initial assessment phase.

3.1 Gender - Assessment Questions

3.1.1 Gender - Relevance

Gender	Relevant
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Comment:

It is acknowledged that the workforce is predominantly male and does not reflect the City's population in terms of the protected characteristics.

3.1 Concluding Statement on Full Assessment

The restructure delivers an improved service provision.

An action plan will be drawn up based upon the Cabinet decision. This action plan will follow all BCC policies and procedures.

4 Review Date

31/07/18

5 Action Plan

There are no relevant issues, so no action plans are currently required.

