

Subject:	City Clean Dispute Resolution		
Date of Meeting:	19 October 2021		
Report of:	Chief Executive		
Contact Officer:	Name:	Geoff Raw	Tel: 291132
	Email:	geoff.raw@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: Urgency

By reason of the special circumstances below, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency.

Note: Reasons for urgency

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) are that the report relates to an ongoing trade dispute which has been the subject of ongoing negotiations and the up to date position and information set out in the report was not available at an earlier stage.

1 PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report outlines how officers have responded to the steer given at the 13th October Policy & Resources Committee and have negotiated and agreement in principle with GMB to resolve the current city clean dispute. The resolution of the dispute is subject to committee approval of the agreements that appear in the Part 2 report on this committee's agenda.

2 RECOMMENDATIONS:

That the committee:

- 2.1 Notes how officers have negotiated the agreements that appear in the part 2 report in accordance with the instructions from this committee, to work within the framework set by the 13th October Policy & Resources Committee and with the objective of getting best value for the council taxpayers, addressing low pay, taking into account legal and financial implications
- 2.2 Notes that any resulting financial commitments as set out in the part 2 report would need to be factored into the sequence of reports leading up to and including Budget Council and will be considered by the cross-party Budget Review Group as part of the process.

3 CONTEXT/ BACKGROUND INFORMATION

- 3.1 The current dispute follows representations from GMB officials with respect to the movement between rounds of HGV drivers on resident and business refuse and recycling services. The ballot paper is provided below but a summary is here:

“... failures to follow Council policy’s (sic) and procedures regarding HGV holding drivers, and resulting unilateral decision making around variations of duties, crew changes, planning for collecting of dropped work, and the accumulating resultant effect and toll on Driver's health and wellbeing and associated issues within the refuse, recycling, com-bins and trades waste.”

- 3.2 As reported to the special meeting of Policy & Resources committee on 13th October 2020, the local management team, supported by the Executive Director for Environment, Economy and Culture, had sought to address trade union concerns to avert escalation to industrial action, through meetings over several weeks during which the issues were discussed and suggested solutions offered. Whilst is our view that discussions to find a local management resolution were able to make progress, the GMB balloted their members for industrial action and following a ballot (see Appendix 1) have undertaken strike action from 5th to 17th October. Further strike dates were announced from 21st October to 21st November 2021. GMB have confirmed that if the recommendation of this report is accepted without amendment to the offers in Appendices 1 and 2 of the Part 2 report, the strike action will be suspended
- 3.3 This industrial action has affected all areas of the city and is most evident where residents and businesses are unable or have chosen not to retain their waste on their property and premises.
- 3.4 There were two distinct elements concerning resolution of the dispute relating to operational matters and latterly pay.
- 3.5 Following the negotiation steer provided by 13th October Special Policy & Resources committee, the Chief Executive and his management team have negotiated with GMB an agreement in principle to resolve the dispute, as outlined by the formal offer documents are included in the Part 2 report.

Resolution of 13th October Special Policy & Resources Committee

- 3.6 On 13th October, a special meeting of the Policy & Resources committee met to consider options for negotiating a resolution to the dispute. Having had regard for the financial and legal implications, the committee provided the Chief Executive as Head of Paid Service and his management team a clear negotiating steer.
- 3.7 The committee resolved the following:

(1) *That the Chief Executive as Head of Paid Service and his management team be instructed to urgently seek agreement with the GMB based on the steer provided in part II of the meeting as a framework, with the objective of getting best value for council taxpayers and addressing low pay; taking into account legal and financial advice, and report back to a future meeting of the Policy & Resources Committee once negotiations have been concluded;*

- (2) *That it be noted that any resulting financial commitments would need to be factored into the sequence of reports leading up to and including Budget Council and will be considered by the cross-party Budget Review Group as part of the process;*
- (3) *That the negotiating team be instructed to immediately seek a dispensation specifically to urgently address fire safety issues on behalf of residents, namely relating to bin stores, if the request to suspend strike in (4) below is not agreed by the GMB;*
- (4) *That the Chief Executive be instructed to immediately engage additional third-party support (as outlined in section 4 of the report) to advise the negotiating teams in swiftly resolving the dispute in the interest of residents and businesses and ask the GMB to suspend strike action on this basis, so that an agreed negotiator can be found; and*
- (5) *That it be noted that during the debate a Conservative Group Councillor used the words “we cannot negotiate with terrorists” in relation to the GMB - 2- Union. The committee completely condemns these totally unacceptable remarks*

Steps taken by officers to implement the 13th October Special Policy & Resources Committee Resolution

3.8 Following the 13th October Special Policy and Resources Committee the Chief Executive and his management team continued negotiations with the GMB with the aim of resolving the dispute and in accordance with the resolution passed by this committee.

Engaging additional third party support (2.4 of 13th October resolution)

3.9 The chief executive wrote to GMB on 14th October 2021 with a formal offer for discussion. A copy of this letter is included in the part 2 report. This letter also outlined the steps that officers had taken to identify immediately third-party support that could advise both negotiating teams. This followed the recommendation of the committee that third party support should be engaged who would be agreeable to both sides.

3.10 The letter to GMB outlined the following options for consideration:

- Independent Industrial Relations Advisor, Officers had arranged for an industrial relations advisor to be immediately available to provide support both virtually and face to face.
- ACAS. Officers had contacted ACAS about their conciliation services, and can access this support at any time
- National employers dispute resolution. Officers had spoken to the LGA, and explained to GMB in the letter the option to use the dispute resolution mechanisms as outlined in the NJC terms and conditions
- Officers also invited GMB to let officers know if there were other options that they wanted to explore.

3.11 On the basis of the offer of the options outlined above, the letter sought agreement from the GMB to suspend the strike action to allow time for negotiations to resolve the dispute, and if agreed for the appointment of a third party advisor. The GMB did not formally respond to this offer of third-party

support but did agree to meet officers on the 15th October and during this meeting there was a commitment from both sides to seek to resolve the dispute, including the issues related to pay and grading.

Negotiations with GMB on 15th and 17th October to seek agreement with GMB (2.1 of 13th October resolution)

- 3.12 At the end of the meeting of 15th October good progress had been made, and there was an understanding from both parties that agreement had been reached. Following the meeting the Chief Executive made revised formal offers to GMB. These offers were made on the basis that the strike action would be suspended.
- 3.13 Following the meeting, GMB raised concerns about the written offers and sought clarification. These concerns were set out in emails received on 15th and 16th October, and as a result further meeting was convened on 17th October to continue negotiations.
- 3.14 A further meeting with GMB took place on 17th October 2021 and following further detailed discussions at this meeting, a form of wording was agreed that met both GMB and officer's approval.
- 3.15 The formal offers for resolving the dispute and the financial, legal and other implications are included in the part 2 report on this agenda.

Requests for to dispensation (2.3 of 13th October resolution)

- 3.16 Due to the fact that the negotiations on 15th October did not result in the strike action being suspended, requests for dispensation were made to GMB in accordance with the resolution made at 13th October Policy & Resources committee which instructed officers *to immediately seek a dispensation specifically to urgently address fire safety issues on behalf of residents, namely relating to bin stores, if the request to suspend the strike in 2.4 is not agreed by the GMB.*
- 3.17 In accordance with the sequence of resolution measures agreed by the 13th October Special Policy & Resources Committee, dispensation letters were sent to the GMB on the 16th October. These letters were only sent after the GMB stated they were not prepared to suspend strike action. The letters are included in Appendix 4
- 3.18 Following the sequence in the 13th October committee resolution, these letters were sent on the 16th October once it became clear that the request to suspend the strike action during the discussions that took place on 15th October had not been agreed by the GMB. The letters are included in Appendix 1

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The GMB have confirmed that industrial action will be suspended if the committee approve, without amendment, the offers set out in the part 2 report and therefore alternative options risk the continuation of industrial action, or an increase in the financial implications and legal risks.

4.2 Given the framework outlined in 3.7, the agreement in principle with GMB reduces as far as is possible, the legal and financial risks. The financial and legal implications are outlined in the part 2 report.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Specific community consultation is not considered necessary for this report.

5.2 Consultation with other Trade Unions will follow as described in section 4.

6. CONCLUSION

6.1 This is a very challenging set of issues to resolve with significant financial, legal, implications.

6.2 The information in paras 3.6 to 3,16 sets out how officers have negotiated the agreements with GMB in accordance with the instructions from this committee, to work within the framework of options agreed by the 13th October P&R Committee and with the objective of getting best value for the council taxpayers, addressing low pay, taking into account legal and financial implications

8. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

8.1 The financial implications are set out in the part 2 report

Lead Finance Officer: Nigel Manvell

Date: 18 October 2021

9. Legal Implications:

9.1 The legal implications are set out in the part 2 report

Lawyer: Elizabeth Culbert

Date 18 October 2021

10. Equalities Implications:

10.1 The equality implications are covered in the legal implications of this report.

11. Sustainability Implications:

No specific sustainability implications arise from this report.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1: Letters to GMB dates 16th October 2021

Documents in Members' Rooms

None

Letters dated 16th October 2021

Date: 16th October 2021
E-mail: Geoff.raw@brighton-hove.gov.uk

Dear Gary

Exemptions Request - City Clean Industrial Action consisting of strike action

Following the recommendation agreed at Policy & Resources Committee on 14th October 2021, the Council requests exemption from strike action to enable the collection of waste from bin stores. This request is made in order to urgently address fire safety issues on behalf of residents.

The exemption request is detailed below in terms of risk to the public and health and safety.

Bin Stores: increased fire risk of overloaded internal bin stores in housing blocks and residential care premises

The information below has been supplied by the council's Fire Safety Officer:

When a normal waste collection service is in place, fires occur in bin stores with reasonable regularity. The causes of the fires vary from deliberate ignition to accidental fires caused by smoking materials and hot items being disposed of. The severity of these fires also varies depending on the location within the space of the seat of the fire and what materials are burning.

Regular collections from bin stores keep the risk from fire to a tolerable level. Similarly, the regular monitoring of the material and removal of potentially hazardous substances, such as gas cylinders, contribute to reducing the risk outcomes.

When bin stores are not emptied, the increase of rubbish can lead to increased arson and more accidental fires. The Police and East Sussex Fire and Rescue Service have notified the Council of five incidents of arson in relation to waste on Saturday 15th October 2021. We are also aware of three earlier fire incidents.

The impact of a fire, should one break out, is also likely to be greater because of the increased volume of material within the bin stores. There is an increased the risk to life and property due to the accumulation of waste in the bin stores. Although most bin stores have fire resisting materials separating them from the common ways, they are still part of the building and a severe fire will potentially affect residents. Similarly, the

likelihood of increased deposits of hazardous materials will raise the potential severity outcomes.

When bin stores are full there will be increased fly tipping and dumping in inappropriate locations within buildings, which also carries risk to health and safety, potentially blocking fire exits or creating further fire risks within the buildings.

There is also an added risk to public health through malodour, flies and a food and harbourage source for vermin.

Exemption request

The Council is therefore requesting an exemption for staff on the dates set out below to enable the clearance of waste from bin stores on those days when striking is taking place. Please confirm by Monday 18th October at 5pm whether this exemption request is agreed.

Alongside the work to be undertaken by City Clean staff as set out in the table below, the Council will use contractors on Sunday 17th October to pick up some of the worst of the side waste and waste in bin rooms that has built up and which is now causing a health & safety and fire risk. As well as addressing the health & safety and fire risk, this will also enable the communal bin drivers to work as normally as possible on Monday to Wednesday next week. We are considering whether there may also be a need for contractors to undertake this work on Monday 18th – Wednesday 20th October 2021.

Kind regards

Geoff Raw
Chief Executive
Brighton & Hove City Council

Date	Bin stores exemption request
Monday 18/10/2021	No strike action
Tuesday 19/10/2021	No strike action
Wednesday 20/10/2021	No strike action
Thursday 21/10/2021	Three drivers (Six loaders)
Friday 22/10/2021	Three drivers (Six loaders)
Saturday 23/10/2021	Three Drivers (Six Loaders)
Sunday 24/10/2021	Three Drivers (Six Loaders)
Monday 25/10/2021	Three drivers (Six loaders)
Tuesday 26/10/2021	Three drivers (Six loaders)
Wednesday 27/10/2021	Three drivers (Six loaders)

Date	Bin stores exemption request
Thursday 28/10/2021	Three drivers (Six loaders)
Friday 29/10/2021	Three drivers (Six loaders)
Saturday 30/10/2021	Three drivers (Six Loaders)
Sunday 31/10/2021	Three drivers (Six Loaders)
Monday 01/11//2021	Three drivers (Six loaders)
Tuesday 02/11/2021	Three drivers (Six loaders)
Wednesday 03/11/2021	Three drivers (Six loaders)
Thursday 04/11/2021	Three drivers (Six loaders)
Friday 05/11/2021	Three drivers (Six loaders)
Saturday 06/11/2021	Three drivers (Six Loaders)
Sunday 07/11/2021	Three drivers (Six Loaders)
Monday 08/11/2021	Three drivers (Six loaders)
Tuesday 09/1/2021	Three drivers (Six loaders)
Wednesday 10/11/2021	Three drivers (Six loaders)
Thursday 11/11/2021	Three drivers (Six loaders)
Friday 12/11/2021	Three drivers (Six loaders)
Saturday 13/11/2021	Three drivers (Six Loaders)
Sunday 14/11/2021	Three drivers (Six Loaders)
Monday 15/11/2021	Three drivers (Six loaders)
Tuesday 16/1/2021	Three drivers (Six loaders)
Wednesday 17/11/2021	Three drivers (Six loaders)
Thursday 18/11/2021	Three drivers (Six loaders)
Friday 19/11/2021	Three drivers (Six loaders)
Saturday 20/11/2021	Three drivers (Six Loaders)
Sunday 21/11/2021	Three Drivers

Date	Bin stores exemption request
	(Six Loaders)

Date: 16th October 2021
E-mail: Geoff.raw@brighton-hove.gov.uk

Dear Gary

Exemptions Request City Clean Industrial Action consisting of strike action.

The Council is requesting an exemption in relation to the ongoing industrial action to enable the collection of waste accumulating around communal bins and recycling points across the city. The exemption request is detailed below in terms of the health and safety risk to the public.

Side waste: increased fire and health and safety risk of side waste on the city's highways and pavements

The following information has been supplied by the council's Health & Safety and Environmental Health Teams:

Following 12 days of non-collection of communal refuse, recycling and glass, a considerable amount of side waste and fly-tips have built up around communal bins, as well as at recycling points across the whole city.

There are approximately 680 communal refuse bins, 1,500 communal recycling bins and 150 glass communal bins across the city. In addition to this, there are over 60 recycling points offering recycling and glass collections. These bins are in high density areas, attracting a lot of traffic and footfall.

Waste around communal bins and recycling sites is starting to intrude onto the road and pavement. This presents a health and safety risk not only for traffic using the road, but also prevents pedestrians from using the pavements, forcing them into the road. It is particularly problematic for disabled people and those pushing prams.

In addition, the build-up of side waste has increased the fire risk. The causes of the fires vary from deliberate ignition to accidental causes, such as smoking materials and hot items being disposed of. Regular removal of waste from communal bins and recycling points keeps the risk from fire to a tolerable level. Similarly, the regular removal of potentially hazardous substances, such as gas cylinders, contribute to reducing the risk outcomes. When there is more rubbish, there can be more fires. This may present a risk to life, property and the environment, depending on the location of the bin. It is noticeable that there are increased fly-tips of bulky waste, alongside black bag waste, and this may also include hazardous materials which raises the potential severity outcomes.

There have been eight reported incidents of fires relating to excess waste in recent days:

- A bin on the corner of Springfield Road and Beaconsfield Road

- A bin at Preston Circus
- A bin on Western Road
- Bin fire 16th October Trinity Street
- Bin fire 16th October Richmond Terrace
- Bin fire 16th October Morely Street
- Bin fire 16th October Kingswood Street
- Bin fire 16th October Pavilion Parade

In relation to one fire on 16th October, at the junction of Morley Street and Grand Parade, a block of flats was scorched and therefore this has been recorded as an arson with intent.

There is also an added risk to public health through malodour, flies and a food and harbourage source for vermin.

Exemption request

The Council is therefore requesting an exemption for staff on the dates set out below to enable the clearance of side waste from communal bins and recycling points on those days when striking is taking place. Please confirm by Monday 18th October at 5pm whether this exemption request is agreed.

Alongside the work to be undertaken by City Clean staff as set out in the table below, the Council will use contractors on Sunday 17th October to pick up some of the worst of the side waste and waste in bin rooms that has built up and which is now causing a health & safety and fire risk. As well as addressing the health & safety and fire risk, this will also enable the communal bin drivers to work as normally as possible on Monday to Wednesday next week. We are considering whether there may also be a need for contractors to undertake this work on Monday 18th – Wednesday 20th October 2021.

Kind regards

Geoff Raw
Chief Executive
Brighton & Hove City Council

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Thursday 11/11/2021	Three drivers (Six loaders)
Friday 12/11/2021	Three drivers (Six loaders)
Saturday 13/11/2021	Three drivers (Six Loaders)
Sunday 14/11/2021	Three drivers (Six Loaders)
Monday 15/11/2021	Three drivers (Six loaders)
Tuesday 16/11/2021	Three drivers (Six loaders)
Wednesday 17/11/2021	Three drivers (Six loaders)
Thursday 18/11/2021	Three drivers

Date	Bin stores exemption request
	(Six loaders)
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Saturday 20/11/2021	Three drivers (Six Loaders)
Sunday 21/11/2021	Three Drivers (Six Loaders)

