

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

30 JUNE 2020

REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

ABSORBENT HYGIENE PRODUCTS WELSH GOVERNMENT GRANT

1. Purpose of report

- 1.1 To seek Cabinet approval on the allocation of a Welsh Government grant to support Absorbent Hygiene (AHP) recycling services, suspend the relevant council's Contract Procedure Rules and delegate authority to the Head of Operations - Communities to liaise with Kier to purchase vehicles and equipment to support the AHP service.

2. Connection to corporate well-being objectives / other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015**:-
 1. **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

- 3.1 During the procurement of the council's waste contract in 2017, the Council introduced a separate kerbside collection and recycling of absorbent hygiene products. This has been a popular service since its introduction and 1,187T of this waste was diverted from landfill in 2019-20. There are currently 7,000 registered service users (end of May 2020) and this is regularly managed to avoid unnecessary visits to those who no longer require this service.
- 3.2 Welsh Government (WG) is now developing a joint programme with local authorities to improve the recycling levels of AHP. By taking an 'all Wales' collaborative approach, the aim is to provide a long term and financially sustainable treatment for AHP waste. There are two phases to this programme which addresses collections and treatment and, in order to secure sufficient levels of participation, Welsh Government has made capital funding available for the purchase of vehicles, containers and depot changes, providing that there is a 7 year commitment from local authorities to the programme.
- 3.3 Nine Welsh local authorities, including the council, currently provide separate AHP collection services and in order to ensure equity of funding, Welsh Government negotiated a capital grant equivalent to the capital cost of existing AHP services for each of those nine local authorities. This grant can be used for non AHP services, at the discretion of local authorities. However, any expenditure must demonstrate how the grant leads to higher recycling levels and/or zero waste aspirations.

- 3.4 This council made an application for grant funding and in November 2019 was awarded £238,079 for the purchase of specialist vehicles, containers and depot improvements. The addition of the capital grant to the Capital Programme was approved by Council on the 22nd January 2020.
- 3.5 In order to resolve their fleet issues in dealing with AHP waste, Kier had already initiated the purchase of 2 vehicles and had determined a suitable specification, manufacturer and quotation. This purchase has since been postponed in order for the council to resolve financial and legal implications in administering the grant.
- 3.6 Due to the timescales for vehicle production and commissioning, it would not have been possible to spend the grant prior to the deadline of 31st March 2020. Therefore, WG agreed that the Council could utilise the original grant funding for other capital expenditure incurred in accordance with part 1 of the Local Government Act 2003 at our discretion and to then reallocate an equivalent amount to this AHP programme in 2020-21.

4. Current situation/proposal

- 4.1 Under the council's Contract Procedure Rules, purchases over £100,000 must be tendered and advertised on Sell2Wales as a minimum. Deviation from this procedure requires Cabinet approval to suspend the Contract Procedure Rules. Purchases under £25,000 require a minimum of three quotes to be obtained for the goods or services.
- 4.2 The council's fleet services undertook a soft market exercise to determine whether the required specialist vehicles could be purchased at a comparable rate to those acquired by Kier Environmental Services. As these vehicles aren't in our usual 'stock', the council does not benefit from any market discounts and there appears to be an approximate increase in costs of £5,000 per vehicle, in comparison to those negotiated by Kier.
- 4.3 It would therefore, be in the best interest of the service to delegate authority to the Head of Operations – Communities to liaise with Kier to purchase the two AHP vehicles but the vehicles remain in the ownership of the council. However, Kier would maintain the safety and maintenance of the vehicle throughout the contract period. At the end of the contract period, the vehicles would be returned to the council. The Council will benefit from a financial reduction in the annual contract cost for these items. This will require a variation to the waste contract.
- 4.4. Cabinet needs to be aware that by not complying with the Council's Contract Procedure Rules the Council is exposed to the risk of potential challenge from other providers of such vehicles as we are purchasing the vehicles without any competition which breaches the requirements of procurement legislation.
- 4.5 The grant would also support the purchase of two skips for the temporary storage of AHP. This would ensure that the material is segregated throughout the collection and transportation process to avoid contamination. It is requested that authority be delegated to the Head of Operations – Communities to liaise with Kier to purchase these skips in compliance with the Council's Contract Procedure Rules. At the end

of the contract period, the skips are transferred back to the council. This again will require a variation to the waste contract.

- 4.6 The purchase of AHP bags and containers is already required under the contract with Kier and the grant funding shall be allocated to support this purchase through the existing conditions within the waste contract, thereby reducing the overall cost of the contract to the Council as it will no longer need to fund those costs from its own budget. The purchase of AHP bags and containers shall be carried out by Kier in accordance with the provisions of the waste contract.
- 4.7 Tondu Transfer Station and Community Recycling Centres operates under a licence from National Resources Wales (NRW). During 2019, NRW inspected the sites and directed drainage improvement works to allow the continued use of external storage areas. In an effort to limit the risk of NRW restrictions, Kier immediately instructed a contractor to install and repair drainage within these sites.
- 4.8 The Council leases Tondu Transfer Station and Community Recycling Centre to Kier and the lease specifies a maintain and repair obligation on Kier. However, the service recognises that these drainage works go beyond these requirements and these alterations were a direct consequence of NRW intervention for improved standards for site operations. These drainage works will allow continued use of the land for waste management, beyond the end of the contract period.
- 4.9 Kier have made us aware of these improvement works as they progressed and have requested a contribution to the cost incurred. As these improvements allow greater use of the site yards for storage, it creates an opportunity to protect against contamination risks from AHP storage. Therefore, these works can be allocated to the grant funding and it is recommended that the council contribute £29,877.29 which equates to 60% of the value of the works. (this value formed part of the original funded £238k bid to Welsh Government).
- 4.10 It should be noted that the works were not procured by Kier in accordance with the Council's Contract Procedure Rules therefore there is again a risk of challenge to the Council as detailed in paragraph 4.4 above.

5. Effect upon policy framework and procedure rules

- 5.1 This report has no effect on the corporate Policy Framework and Procedural Rules.

6. Equality Impact Assessment

- 6.1 An Equalities Impact Assessment has been carried out and is attached in **Appendix A** and no groups with protected characteristics identified by the Equalities Legislation 2010 are considered to be adversely affected by the contents of this report

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment based on the 5 ways of working and any requisite mitigating measures have been set out in **Appendix B**.

- 7.2 **Long term** – The grant funding is intended to support all local authorities in Wales to collect and recycle AHP. Where these services already exist, the funding can be utilised to offset costs associated with waste services.
- 7.3 **Prevention** – This grant funding secures AHP recycling and reductions in residual waste which will increase recycling levels
- 7.4 **Integration** – The grant funding will support purchases of vehicles and equipment which will reduce the cost of the service through the Council's waste contract.
- 7.5 **Collaboration** – This grant is awarded by Welsh Government in order to generate interest an all Wales resolution for recycling of AHP.
- 7.6 **Involvement** – This funding should improve collection methods for service users and create efficiency in the service

8. Financial implications

- 8.1 The AHP Capital grant received from WG in 2019-20 was approved by council in January 2020. The spend was displaced on other projects in 2019-20 due to the timing of the award in the financial year and the requirement to resolve both financial and legal implications of the grant, and therefore is available for use in 2020-21.
- 8.2 The proposed expenditure is in line with the offer letter from Welsh Government and the council has demonstrated how the grant leads to higher recycling levels and/or zero waste aspirations in line with the conditions of the grant.
- 8.3 The purchase of the AHP vehicles relating to the AHP service would generate a deduction to contract costs with Kier of approximately £33,616 per year

9. Recommendations

- 9.1 It is recommended that Cabinet:
- 9.1.1. approves the allocation of £238,079.00 to fund the items which are the subject of the original application to Welsh Government for the Welsh Government AHP Grant;
- 9.1.2 suspend the relevant part of the Council's Contract Procedure Rules and delegate authority to the Head of Operations - Communities to liaise with Kier to purchase two vehicles for AHP collections on behalf of the Council;
- 9.1.3 delegate authority to the Head of Operations - Communities to liaise with Kier to purchase two skips specifically for the storage of AHP waste on behalf of the Council in accordance with the Council's Contract Procedure Rules;
- 9.1.4 approves a partial repayment of £29,877.29 to Kier for the drainage improvement works which were carried out at Tondu Transfer Station and Community Recycling Centres
- 9.1.5. delegate authority to the Head of Operations – Communities in consultation with the Interim Head of Finance and Section 151 Officer and Head of Legal, HR and Regulatory Services to agree the terms of the deed of variation to the

waste contract with Kier and to arrange execution of the deed of variation on behalf of the Council, subject to such delegated authority being exercised in consultation with the Head of Legal, HR and Regulatory Services.

Zak Shell
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Background documents: None