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<b>PART A:</b>	<b>MATTERS DEALT WITH UNDER DELEGATED POWERS</b>
<b>REPORT TO:</b>	<b>POLICY AND RESOURCES COMMITTEE</b>
<b>DATE:</b>	<b>10 NOVEMBER 2022</b>
<b>REPORT OF THE:</b>	<b>HEAD OF WASTE AND ENVIRONMENT BECKIE BENNETT</b>
<b>TITLE OF REPORT:</b>	<b>REVIEW OF THE COUNCIL'S PROCEDURES FOR WASTE COLLECTION FROM HOLIDAY LETS</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 To refer a number of recommendations to Policy and Resources Committee for noting and approval from Overview and Scrutiny Committee on 28 September 2022 following a review of the Council's procedures for waste collection from holiday lets.

### **2.0 RECOMMENDATIONS**

- 2.1 It is recommended that:
- i. the contents of this report are noted
  - ii. the profile of commercial waste contracts specific to holiday lets is included as a Waste & Environment Service (WES) performance indicator to enable performance to be tracked throughout the financial year
  - iii. a flat rate is charged to holiday lets from 2023/24 to simplify the price for the standard domestic waste collection service, raise awareness and improve the promotion of the Council's commercial waste collection service to holiday let owners
  - iv. income targets are increased by £94k to reflect the expectation that additional income in 2022/23 for the commercial waste service including holiday lets will be generated on an ongoing basis, of which £40k is to be utilised to fund a permanent Enforcement Officer post.

### **3.0 REASON FOR RECOMMENDATIONS**

- 3.1 At the Overview and Scrutiny Committee on Thursday 23 June 2022 the question was raised regarding waste disposal and the potential for holiday properties to have their waste collected without paying Council Tax.
- 3.2 It was resolved that a report on the issue of waste collection arrangements from holiday lets would be added to the committee forward plan for 1 September 2022 (Minute No 12). This Committee meeting was subsequently cancelled therefore this report is now going to the meeting on 28 September 2022.

- 3.3 The classification of properties as business or residential is fundamental to ensuring the Council is meeting its statutory duties for domestic waste collections and is only providing commercial waste collections to businesses who have a contract with the Council.
- 3.4 Ensuring open and transparent performance information is provided to elected members is essential to ensure the delivery of the Council Plan.
- 3.5 The Council operates a competitive commercial waste collection service and is committed to taking a proactive approach to improve the promotion of this service to increase market share and maximise income. Ensuring the pricing for holiday lets is appropriate and to raise awareness of the Council's commercial waste collection service will enable the service to operate to its full potential to increase recycling rates and ensure best value for the residents and business owners of Ryedale.
- 3.6 As an accountable public authority the Council has a legal duty to ensure services are provided in accordance with legislation and has ongoing resources in place with capacity for audit, inspection and enforcement activity.

#### **4.0 SIGNIFICANT RISKS**

- 4.1 There are a number of significant risks if there are not robust processes in place
- Properties do not have the correct status for the purposes of council tax or business rates
  - Properties receive the incorrect waste collection service
  - The Council does not receive the correct monies due for services provided
  - Appropriate enforcement action is not taken
  - Property owners do not understand their responsibilities and are at risk of breaching legislation
  - The use of a property is fundamentally changed without the appropriate planning consent which breaches planning law

#### **5.0 POLICY CONTEXT**

- 5.1 The Council must ensure robust procedures are in place to ensure compliance with planning policy and the appropriate collection of business rates and council council tax from properties across the district.
- 5.2 The Council must ensure business owners understand their legal responsibilities for their business waste collection and disposal and have appropriate enforcement capacity to take action in the event of none compliance in accordance with the Environmental Protection Act 1990 and Controlled Waste (England and Wales) Regulations 2012.
- 5.3 Duty of care legislation makes provision for the safe management of waste to protect human health and the environment and under the Waste Regulations 2011, waste transfer notes are required to include the Standard Industrial Classification (SIC) code of the transferor, that is, the business that is transferring the waste to another business.

- 5.4 A loophole that allows second homeowners to evade both business rates and council tax on a furnished holiday let property will close when new legislation becomes effective from 1 April 2023. There is currently a call for evidence where the government is looking at a registration scheme for holiday lets as part of the levelling up agenda given the significant increase in holiday lets during covid.
- 5.5 Detailed information explaining definitions for properties specific to holiday lets and service procedures for Planning, Revenues and WES is provided at Appendix 1.

### **COUNCIL PLAN PRIORITIES**

- 5.6 Our environment – We will take tough action to ensure clean and attractive streets through proactive and dedicated enforcement, prosecuting where required
- 5.7 Value for money - We will maintain strong finances into the future by delivering customer-focussed and cost-effective core services. We will deliver services in new ways, acting in a more enterprising manner, exploring opportunities to generate income on a case-by-case basis and drive service improvements.
- 5.8 Sustainability into the future - We will increase our recycling rate in line with emerging national policy and work with more trade waste customers by raising awareness with business owners of their responsibilities and promote the Council's Commercial Waste Service.

### **REPORT**

#### **6.0 REPORT DETAILS**

- 6.1 On 23 June 2022 the Overview and Scrutiny Committee raised a series of questions regarding the waste collection from holiday properties that are held on the business rate property list, to ensure the Council is receiving income due from holiday lets operating as a business or where there is no commercial waste contract in place appropriate action is taken to stop the waste collection service and remove all waste equipment.
- 6.2 It was agreed that a report on the issue of waste collection arrangements from holiday lets would be added to the committee forward plan in September.
- 6.3 A review has been undertaken which has involved liaison across a number of internal services due to the cross-cutting nature of property records held by Revenues, Planning and Waste and Environmental Services (WES).
- 6.4 Each service area is responsible for the management and maintenance of their specialist IT software systems and ensuring processes are in place that integrate internal practices and procedures and maintain efficient and effective management of property data. This includes sharing changes to the property data in one service area with other services to trigger appropriate actions and updates to deliver a "One Council" approach.
- 6.5 Liaison with Civil Enforcement and the Counter Fraud Team has also taken place to ensure the existence of appropriate internal procedures and capacity to undertake appropriate enforcement specific to WES activities.
- 6.6 It is essential that the Council has robust procedures in place to ensure it is meeting its statutory duties for domestic waste collections and is only providing commercial waste collections to businesses who have a contract with the Council.

- 6.7 Due to the waste that is generated by a holiday let being very similar to the waste generated by a residential domestic dwelling, the standard domestic waste collection service is provided to holiday lets who have a commercial waste contract with the Council. Only where the standard domestic collection service does not meet the needs of specific holiday lets is a different level of service negotiated.

## **PLANNING**

- 6.8 There are no separate procedures for holiday lets – planning applications for holiday lets are processed in accordance with the planning policy.
- 6.9 The Local Land and Property Gazetteer (LLPG) holds a property description code and a unique property reference number (UPRN) for every address in the local authority area. The property code is set to commercial for a business rated holiday let and set to residential when it is a main or second home.

## **REVENUES**

- 6.10 The majority of residents notify the Revenues Team at Ryedale District Council of any change in use to a property, as a Council we are reliant on the customer notifying us a property has changed from Domestic to Commercial use.
- 6.11 The Revenues Team make enquiries into any change of the use of a property if notified by a third party or when reports are received from the waste collection rounds.
- 6.12 Following notification of a change of use from a customer the team ask for evidence the property has changed.
- 6.13 The process in Revenues includes sending a notification to WES for follow up action and the business owner is advised that the waste collection for the business becomes a chargeable service and as the owner they are legally responsible for the waste disposal arrangements for their property when changing from a domestic to a business.
- 6.14 Customers are encouraged to speak to the Commercial Waste team in WES to discuss their specific waste requirements and to encourage them to continue with a contract with the Council plus a letter advising the business of their legal responsibilities and promoting RDCs commercial waste service is also included in with the business rates invoice.
- 6.15 When the Revenues Team receive notification from the Valuation Agency Office advising a property has been amended from a Domestic to a Commercial property the team notify both WES and Planning to enable records to be updated accordingly.
- 6.16 The cost of collection and disposal of waste is included in the calculation of Council Tax but not Business Rates. Therefore, if the business waste is collected from the property, business rated holiday let owners have a legal duty to arrange for a licenced waste carrier to dispose of the waste created by their business. The Council can provide this service along with other providers operating in the area.
- 6.17 Every property record on the Northgate Council Tax and Business Rates system has a “code description” which indicates the type of property. A report dated 23 June 2022 from the business rates system identified there were 693 properties in Ryedale listed as either holiday lets, caravan and camping sites including log cabins and hotels and guest houses which is summarised below in Table 1:

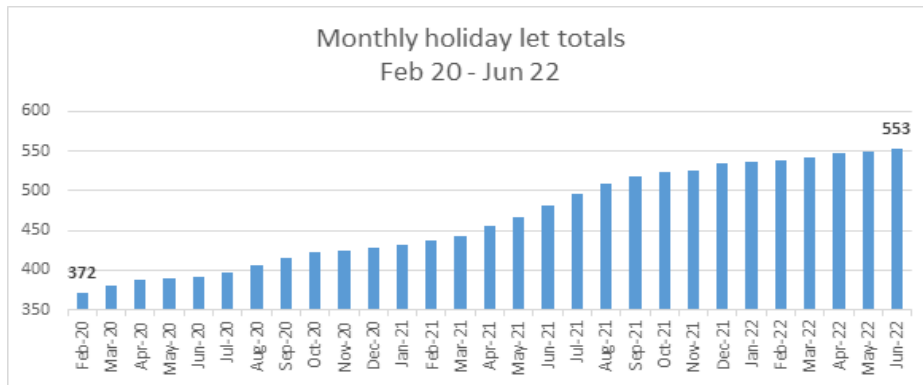
**Table 1: Profile of Business Rated Properties as at 23 June 2022  
Holiday Lets, Caravan and Camping Sites including log cabins and Hotels  
and Guest Houses**

<b>TYPE OF PROPERTY</b>	<b>TOTAL AS AT 23 JUNE 2022</b>
<b>Insert</b>	
<b>Holiday Lets</b>	<b>553</b>
Caravan and Camping Sites including log cabins	94
Hotels and guest houses	46
<b>TOTAL</b>	<b>693</b>

## **WASTE AND ENVIRONMENT**

- 6.18 The waste collection service operates as four separate service areas with collection rounds and vehicles specifically collecting domestic waste, domestic recycling, garden waste and commercial waste.
- 6.19 The waste produced by self-catering holiday lets is classified as business waste for which a charge can be made. A commercial waste contract for the standard waste collection for the business waste is typically provided by the Council as part of the normal domestic collection rounds collected by the domestic waste and domestic recycling rounds. Collecting as part of the standard domestic collections is both practical and efficient in terms of the service operating model to minimise miles and the carbon footprint of the Council's operations.
- 6.20 There is the option to arrange a specific commercial waste contract if the waste requirement exceeds the standard domestic waste collection service. Regardless of the preferred option, where the Council is providing the commercial waste collection service a contract is arranged together with a waste transfer note and an invoice raised.
- 6.21 In addition to the internal notification process described in 6.13 when a property changes its status, an annual exercise has historically been undertaken by WES using the Business Rates holiday let report to ensure the correct waste collection arrangements are in place for holiday lets.
- 6.22 This annual review exercise has historically been carried out by WES using the report provided by business rates and involves sending a letter to all holiday lets that do not have a commercial waste contract with the Council to explain the legal responsibility regarding the disposal of waste from a business and promote the Council's commercial waste service.
- 6.23 During the covid pandemic this exercise did not take place due to capacity and prioritisation of the significant volume of commercial waste account adjustments that were required for the many lock down periods that affected all businesses and keeping track of the changes that businesses made.
- 6.24 Priority was given to contacting all businesses that had a contract with the Council to discuss their specific situations to ensure the necessary adjustments were made to their commercial waste contract and account.

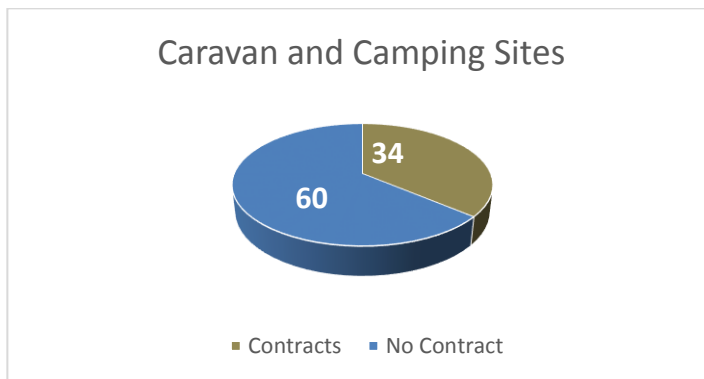
6.25 During the covid pandemic there was a huge increase in the number of properties that changed from a domestic property to a business. A total of 189 additional properties representing a 37% increase became business rated which is attributed to increases in stay at home holidays, the rise of Airbnb accommodation and the business grant scheme as shown in the graph below:



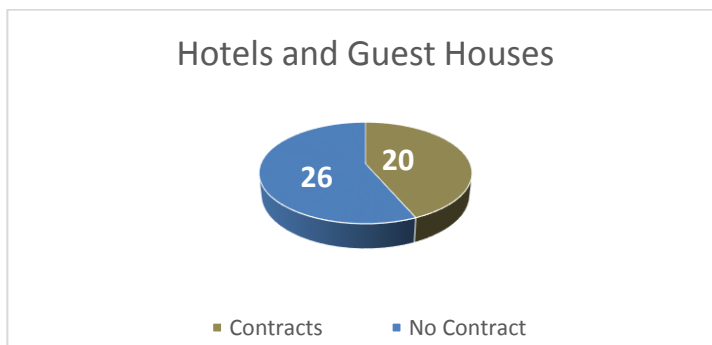
6.26 Due to the significant additional work required by officers during covid there was a need to prioritise supporting residents and businesses which resulted in lack of capacity to administer the notification process between revenues and WES. The annual review exercise was planned for 2022/23 following the annual invoicing exercise and the closedown of the final accounts.

6.27 The 2022/23 review exercise started in July and the baseline profile of waste collection contracts covering holiday lets, caravan and camping sites including log cabins and hotels and guest houses is shown below:

Total Caravan and camping sites including log cabins 94 - 34 RDC contracts

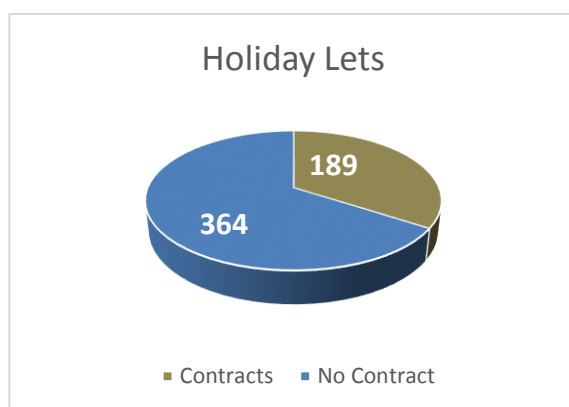


Total Hotels and guest houses 46 - 20 RDC contracts



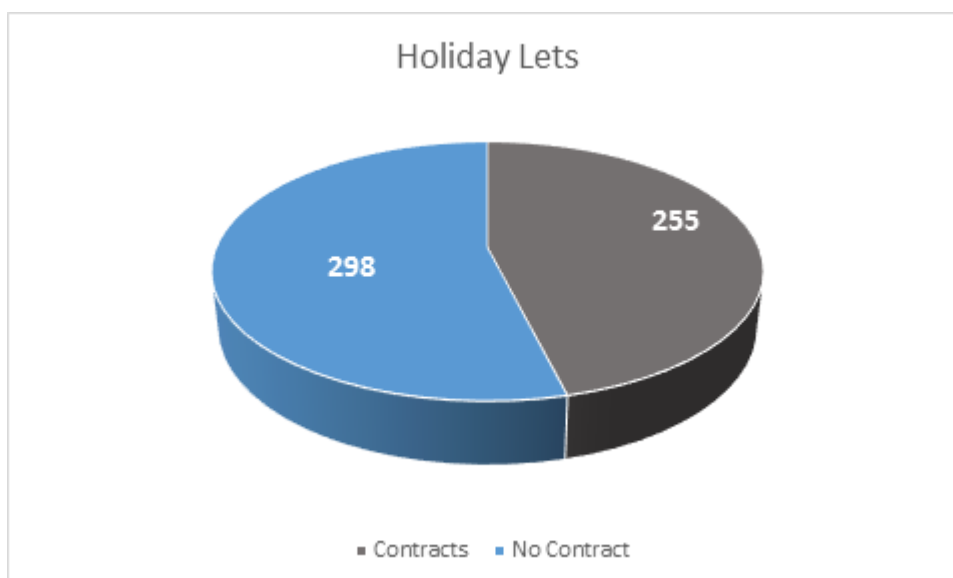
- 6.28 The review exercise excludes caravan and camping sites and hotels and guest houses as these properties are not serviced by the Council unless there is a commercial waste contract in place. It is important to note that these businesses are easily identifiable as producing commercial waste. The majority are serviced by the commercial waste collection rounds and the collection crews are able to report queries for follow up using the incab technology in the vehicles.
- 6.29 The review exercise concentrates on the holiday lets in Ryedale without a contract with the Council and has taken longer to plan than the previous annual review exercises. This is due to the significant increase in the numbers of holiday lets over the covid period and the need to ensure sufficient capacity was in place to handle the follow up calls and associated actions to set up contracts or stop the service.
- 6.30 The objective of the exercise is to arrange a contract with the Council for the waste collection service or where this is not required, action is taken to stop collections where applicable and remove all waste equipment.
- 6.31 At the start of the exercise, the profile of holiday lets in Ryedale is shown below based on the business rate list dated 23 June 2022 with 189 holiday lets (34%) out of 553 holiday lets having contracts with the Council:

Total Holiday lets 553 properties - 189 RDC contracts



- 6.32 At the beginning of July, 364 letters were sent out to the holiday lets that did not have a current waste collection contract with the Council.
- 6.33 One outcome from this exercise is that 66 properties were identified as already having a commercial waste contract with RDC. The reason for the difference is due to the different SIC codes that are used to describe the property type. This happens where a farm is the primary property and the SIC code for a farm is used however on the same site are holiday lets which have a different SIC code. Upon further investigation these properties already had a commercial waste contract for the farm and the property lets were being serviced as part of this contract.
- 6.34 The graph below therefore shows the updated profile of holiday lets to show that out of 553 there are 255 holiday lets (46%) that had a contract for their waste collection with the Council.

Total Holiday lets 553 properties - 255 RDC contracts



6.35 The 2022/23 review exercise has reconciled self-catering holiday lets and the outcomes summarising the position for the collection arrangements for their business waste as at 1 August 2022 are summarised below in Table 2:

**Table 2 - Status of Holiday Let Review as at 1 September 2022**

Status of Holiday Lets Review	Number of Properties	Notes:
Original RDC commercial waste contract baseline	189	
Properties found to already have a commercial waste contract	66	The review identified contracts already in place; reason for variance is the use of SIC codes
<b>Baseline Total RDC contracts in place</b>	<b>255</b>	<b>46%</b>
New RDC contract	162	Additional income pro-rata 22/23 £26,000; full year forecast £39,000
Other provider or self disposal	74	Follow up as part of audit and inspection programme
As a result of no response the service has stopped and equipment removed	36	Follow up as part of audit and inspection programme
Stopped being a business holiday let	26	Changed status of property from a business to domestic
<b>Sub-total</b>	<b>298</b>	
<b>Number of holiday lets 23 June 2022</b>	<b>553*</b>	

*\*as at 1 September the number of holiday lets on the business rates list totalled 566 which represents a net change of 13 additional properties becoming business rated; work is in progress as part of the process which ensures the correct waste collection arrangements are in place for these properties*



- 6.36 The outcome of the review exercise as at 1 September shows an increase of 162 (29%) new contracts with the Council representing an increase in income of £26,000 in 2022/23. The new profile of holiday let contracts is 417 (75%) out of a potential 553.
- 6.37 There have been no adverse impacts experienced as a result of stopping the waste collection service and removing equipment.
- 6.38 The income budget for commercial waste is set as a total representative of the Council's total commercial waste contract portfolio and customers are invoiced annually in advance on 1 April. In 2022/23 the original budget estimate for commercial waste contract income is £457,550 (net of disposal).
- 6.39 As at 1 September 2022 the actual total commercial waste contract income is running £81,000 over budget which is due to increases in commercial waste contract requirements of £55,000 and £26,000 attributable to the additional holiday let contracts following the review. Assuming the current level of commercial waste contracts including holiday lets continues into future years the forecast additional income is £94,000; £55,000 to realign the baseline income budget plus £39,000 additional income from holiday lets. It is recommended that the permanent enforcement officer post is funded from this additional income which will cover the salary costs to keep within the overall net budget.
- 6.40 A monthly reconciliation of the business rates holiday let report with the commercial waste contracts report for holiday lets has been introduced to track the ongoing financial position against the 2022/23 budget and to ensure appropriate action is taken for any queries highlighted.
- 6.41 The Council's commercial waste charges are currently set in bands depending on location as follows; Band 1 – Malton, Norton and A64 corridor; Band 2 – Helmsley, Kirkbymoorside, Pickering and Thornton-le-Dale; Band 3 – All other areas predominantly villages and rural locations. Due to the service operating in a highly competitive market place and the varying business needs for commercial waste collection the prices are not advertised.
- 6.42 The review has highlighted that there is very little difference in prices across the three bands for the standard waste collection service ie the difference between a Band 1 and a Band 3 is £15.57. To simplify the charging for holiday lets and to enable promotion of the Council's commercial waste collection service to this business type and to raise awareness of the responsibilities of owners of self-catering holiday lets on the website it is recommended that a set price is calculated as part of the 2023/24 budget.
- 6.43 The review exercise has also resulted in a shift towards recycling compared to pre-covid holiday let baseline data. The majority of holiday let commercial waste contracts were predominantly for a fortnightly general waste collection service with no recycling. All of the new contracts generated from the review have taken the option including recycling which will have a positive impact on the Council's recycling performance in addition to the financial benefit.
- 6.44 When WES receive a notification of a change to the status of a property from the Revenues Team, the waste collection arrangements are checked and a series of actions triggered depending on the outcome of the check. Appendix 2 shows the flowchart of the process taken to ensure there is a contract in place for RDC to collect the commercial waste, the business owner is aware of their responsibilities and if they decide not to take a contract with the Council the waste equipment is removed.

- 6.45 A proactive approach is adopted to promote the Council's commercial waste service in the communications sent to the business owner explaining their responsibilities with regard to the waste they produce as a result of their business operations and advising that RDC as a licenced waste carrier can provide their waste collection and disposal service. The business owner receives 3 separate notifications from the Council before action is taken to remove the bin when a warning letter will be issued explaining that the Council has removed their equipment and the responsibilities of the business owner regarding their business waste.
- 6.46 A business can dispose of small volumes of waste themselves by downloading and completing a waste transfer note and registering with the Environment Agency as a low tier waste carrier. The waste can be taken to a Household Waste Recycling Centre (HWRC) to be disposed of, but it must be declared as business waste and a fee is usually payable at the HWRC. There will be an opportunity to improve monitoring this activity as part of LGR.

### **AUDIT, INSPECTION AND ENFORCEMENT**

- 6.47 The current process involves follow up action by Revenues in the event of a report of a change of use or where a report is received for a property suspected of operating as a business where the revenues system shows the property as domestic. The Counter Fraud Team would investigate in these circumstances to ensure the Council was receiving the correct monies due from the property through council tax or business rates.
- 6.48 The procedures in place in WES aim to ensure there is a contract in place for commercial waste collections from holiday lets or where this is not requested the service is stopped.
- 6.49 There has not been the capacity in WES or the Civil Enforcement Team to undertake follow up audits, inspections or enforcement however in 2022/23 an additional budget was approved for a dedicated WES enforcement officer post in the event of non-compliance across all waste and environment activities including commercial waste.
- 6.50 Compliance for holiday lets will be monitored through the new WES enforcement officer post and it is essential that there continues to be an ongoing robust enforcement capacity within WES therefore it is recommended that there is ongoing budget provision for this post.

### **IMPROVEMENTS IMPLEMENTED**

- 6.51 A number of improvements have been implemented as part of the review exercise including
- All new business rated holiday let properties receive a letter with their business rates bill explaining the change to their responsibilities for their business waste and offering the Council's commercial waste collection service
  - Holiday lets now show on the Vehicle Incab System and are greyed out if there is no commercial waste contract in place
  - Ongoing monitoring of correspondence from the baseline data as part of the commercial waste account management process
  - A monthly reconciliation of the business rates holiday lets report and the commercial waste contracts database

- An alert on the customer service system checks the status of properties to prevent re-ordering of equipment that has been removed
- A new report function has been added to the Vehicle Incab System for operational crews to report any properties that they believe to be a business with household bins for further investigation
- Holiday let guidance has been issued to operational staff as a reminder
- A new sticker has been introduced to be more discreet which is affixed to all holiday let waste equipment alerting the operational crews that they are collecting commercial waste

## **7.0 IMPLICATIONS**

7.1 The following implications have been identified:

### **a) Financial**

7.2 Ensuring there are robust procedures in place for holiday lets ensures the Council is either recharging business for their waste collection service or does not service the property where there is no contract in place.

7.3 The income from commercial waste contracts including holiday lets is forecast to be over budget in 2022/23. As at 1 September 2022 the review exercise has generated additional income in 2022/23 of £26,000 which will be monitored monthly as part of the WES ongoing financial management.

7.4 As part of setting the budget for 2023/24 it is proposed that commercial waste income targets are increased by £94k to reflect the expectation that additional income in 2022/23 for the commercial waste service including holiday lets will be generated on an ongoing basis. Of this additional income £40k will be used to fund the salary costs of the permanent enforcement officer post, resulting in a £54k surplus overall. It is recognised that the Service is required to operate within an agreed budget, and should income levels not meet expected targets in 2023/24 and beyond remedial action will need to be taken to ensure this can be achieved.

### **b) Legal**

7.5 The Council must fulfil its statutory duties as detailed in the main body of the report for waste collection and disposal under the Environmental Protection Act (1990) and Controlled Waste (England and Wales) Regulations 2012.

### **c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)**

7.6 The Council must ensure efficient and effective operations to minimise the impact of its operations on the environment and take appropriate enforcement action to ensure no fraudulent activity is taking place at the expense of the public purse.

## **8.0 NEXT STEPS**

8.1 If approved, the recruitment of a permanent position will commence for a WES Enforcement Officer and the costs will be included in the baseline WES future salary budget, subject to the LGR HR protocols.

8.2 If approved, the profile of commercial waste contracts specific to holiday lets will be added to the quarterly performance indicator report to Committee to enable ongoing tracking.

- 8.3 If approved, the budget for 2023/24 will include a flat rate charge for the standard domestic waste collection service to simplify the pricing, raise awareness and improve the promotion of the Council's commercial waste collection service to holiday let owners.
- 8.4 If recommendations (ii), (iii) and (iv) are approved by Overview and Scrutiny Committee they will be forwarded to Policy and Resources Committee on 10 November for approval given there are impacts on future budgets.

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**Background Papers:**

Overview and Scrutiny Committee 23 June 2022 and 28 September 2022  
The Controlled Waste (England and Wales) Regulations 2012 – Schedule 1  
<https://www.legislation.gov.uk/uksi/2012/811>

Statutory Guidance: Waste duty of care: code of practice

[Waste duty of care: code of practice](#)

[Open consultation Developing a tourist accommodation registration scheme in England](#)