

Report to: **Executive**
Date: **16th September 2021**
Title: **Waste and Recycling Update**
Portfolio Area: **Councillor Keith Baldry - Environment**

Wards Affected: **All**

Urgent Decision: **Y** Approval and clearance obtained: **Y**

Date next steps can be taken:

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Recommendations:

That the Executive:

1. Notes the actions taken to ensure that the Council meets its statutory service requirements with regard to waste and recycling.
2. Extends the temporary suspension of the Garden Waste service until a further review at the next meeting of the Executive on 14th October 2021.
3. Continues to hold FCC to account in relation to its performance and continues to monitor FCC's resources and recruitment to ensure that the non-statutory garden waste collection service can resume as soon as is practically possible.
4. Considers all available options, including those options available under the contract, to improve the performance of the waste and recycling service.

1. Executive summary

1.1. Purpose of this report is to:

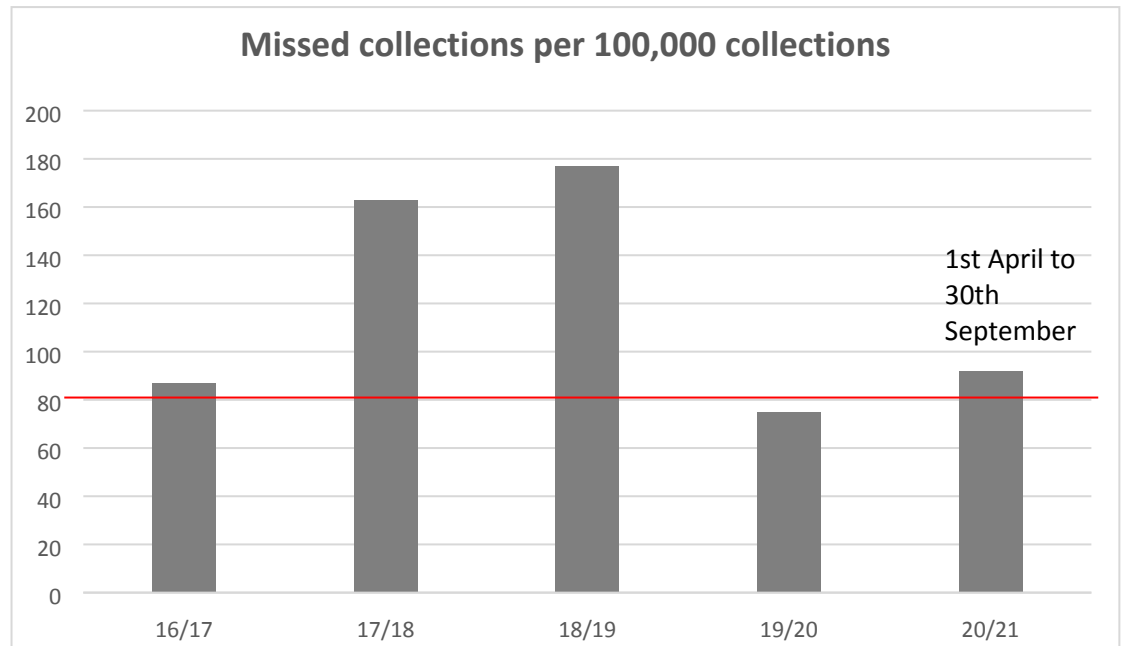
1.1.1. Provide the Executive and non-Committee Members with an update on the Council's actions to hold FCC, the Council's waste and recycling contractor, to account for the poor performance experienced by some residents over the last 6 months.

1.1.2. Update the Executive on the impact of the National HGV/LGV driver shortage.

- 1.1.3. Update the Executive in relation to the temporary suspension of the Garden Waste collection service and FCC's actions taken to ensure that it has sufficient staff to deliver all elements of the waste and recycling contract.
- 1.1.4. Update the Executive on the current contractual performance of FCC.

2. Background

- 2.1. The contract with FCC is worth over £48 million in total over the initial period of 8 years (over £30 million in South Hams) and covers both South Hams and West Devon Councils with separate requirements for each. As such the documentation is extensive and detailed. As of April 2021 there will be 6 years remaining on the contract.
- 2.2. Key drivers for outsourcing the service included; modernisation of the service, driving value for money and improving service delivery. At the time of contract award, the financial savings were stated as follows;
 - 2.2.1. A saving of £286,000 per annum in the first 18 months of the contract, increasing to an annual saving of £424,000 per annum over the remaining 6.5 years of the contract term (on moving to the Devon aligned service at September 2020) against the current services and equivalent future aligned service.
 - 2.2.2. The contract is a joint contract with West Devon. The award of a shared service with West Devon resulted in additional savings for West Devon and an additional saving for South Hams of £107,000 per annum. This is included within the savings figures in 2.2.1.
 - 2.2.3. A total saving of £3.19 million over the 8-year contract term. This figure includes the shared saving.
- 2.3. FCC submitted its first year annual report in August 2020 and the findings of this were included in the performance report to the Executive on 22nd October 2020. The Executive report provided evidence that FCC was meeting the contract's key objectives with acknowledgement of opportunities for improvement in the areas of litter/dog bin and bank collections.
- 2.4. The graph shown in 2.4 illustrates that in the first year of the contract FCC improved waste collection performance to achieve the industry benchmark of less than 80 missed collections per 100,000 collections.



2.5. Impact of the Covid-19 pandemic

- 2.5.1. As lockdown came into force in late March 2020, FCC saw a 20% reduction of staff available for work due to self-isolation. Despite the dual challenge of fewer staff and unlike many other areas across the country, all services were maintained with the exception of bulky waste collections which had to be suspended due to Devon County Council's decision to close the Recycling Centres.
- 2.5.2. In the financial year 20/21, the Council has reimbursed £158,728 to FCC for a portion of their increased costs that can be directly attributed to the Covid-19 pandemic, these are primarily made up of additional staffing and overtime (where FCC staff were either self-isolating or shielding) and Personal Protective Equipment (PPE). The £158,728 has been funded from the Government Covid-19 Support grant as these costs were submitted to the Government on the Council's monthly DELTA returns.
- 2.5.3. Despite the impacts of Covid-19, the graph in paragraph 2.4 demonstrates that contract operations between April and September 2020, on the whole, remained above the Key Performance Indicators (KPIs). Officers agreed to suspend applying points for missed domestic collections due to the number of contractor staff self-isolating and the excessive amount of waste being presented. During July, August and September, the number of missed bins were slightly over the 80 per 100,000 target by 16, 16, and 26 respectively.
- 2.5.4. The proposed move to the Devon Aligned Service or kerbside recycling service had been planned for September

2020. Due to problems with supply chains (Delays in the manufacturing and delivery of the new recycling vehicles and delays in the construction of the new recycling transfer station) forced the decision to delay the introduction of the new service. This in turn led FCC to propose a 2-stage approach, implementing the round changes from the new service in October 2020 and the implementation of the new recycling service from March 2021 to reduce risks of any further Covid-19 related impacts.

2.6. FCC's implementation of the phased plan

- 2.6.1. FCC implemented the new rounds during the week commencing 4th October. The implementation moved the vast majority of recycling collections to the Ivybridge depot and all other collections to the Tor Quarry depot near Kingsbridge. This was in preparation for the Devon Aligned Service and the new recycling transfer station built at Ivybridge.
 - 2.6.2. The implementation resulted in severe disruption to collections across the District throughout October and November and resulted in FCC attending the Executive meeting on 17th December 2020, where FCC presented a plan to improve performance and minimise future disruption.
 - 2.6.3. The plan saw FCC's increase the number of resources to deliver the services and adopt a phased approach to the roll out of the Devon Aligned Service commencing 15th March 2021 and continuing through April and early May.
- 2.7. At the extraordinary meeting on 17th June 2021, Council resolved at its special meeting that the Executive would continue to meet with FCC's senior management on a weekly basis to review the implementation of FCC's recovery plan and ensure that performance improved. A target date of 12th July was stated as a target for when performance should be back at acceptable i.e. contracted service levels. Minute 31/21 refers.
- 2.8. Whilst performance improved when FCC implemented its plan on 28th June, repeated persistent missed and missed assisted collections for our residents continued. An increase in driver and crew sickness levels began to degrade performance again from mid-July culminating in the operational temporary suspension of the garden waste service, which is a non-statutory service, on 16th August.

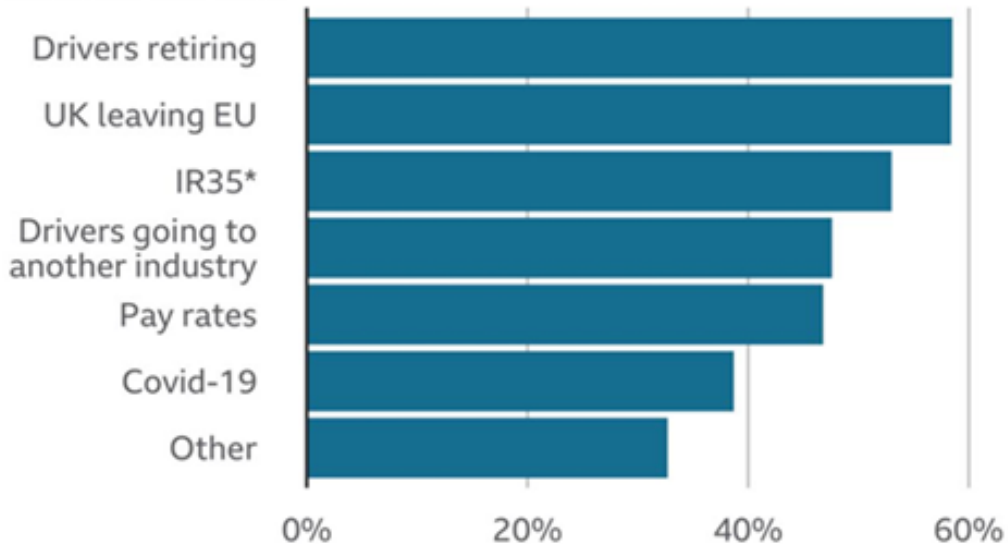
3. Impact of the National HGV / LGV Driver shortage

- 3.1. The widely reported National HGV/LGV driver shortage has compounded the operational issues. The Road Haulage Association (RHA) estimate a shortage of over 100,000 drivers,

the DVLA has a backlog of over 30,000 tests to carry out, changes to the testing and ongoing certification have resulted in a significant increase in drivers retiring.

Hauliers' reasons for driver shortage

Percentage selecting each reason in survey, multiple answers allowed



*Recent changes have been made to off-payroll working rules, known as IR35

Source: Road Haulage Association survey, 615 responses



- 3.2. This has resulted in pay rates increasing as the various industry sectors try to ensure that they retain and attract enough drivers for their businesses. The knock on effect of this is that FCC has seen a number of drivers resign to get better pay rates, it has then struggled to attract new drivers and there is no temporary/agency capacity to backfill these roles or cover sickness absences.
- 3.3. Many Local Authorities across the country have experienced disruption in waste collection services. In the South West the following Local Authorities have publicly reported issues:
- West Devon - Disruption to recycling - attempting to return the following day
 - Exeter CC - Garden waste suspended from 4-16th Aug
 - Plymouth - Disruption to garden waste services, with no plans to recover if missed until next collection. Bulky waste service suspended
 - East Devon - Disruption to recycling Service - Advice to leave it out for 4 days and if not collected put extra out on next collection. Bulky waste service suspended
 - North Devon - Garden waste running behind - Advice to leave waste out for 5 working days if not returned to then put out on next collection

- Teignbridge - Delays in some areas across all service - aiming to recover asap if whole road missed
- Torbay - Disruption across all services
- Somerset - Garden waste suspended for 6 -10 weeks
- Bristol - Garden waste suspended for 6 weeks

3.4. The Council is the only District Council in Devon that provides a free garden waste collection, all other Councils offer a chargeable subscription service or do not offer a service.

3.5. Recent press coverage highlighted that 3 Devon Authorities had written to the Home Secretary requesting that the Government grant temporary visas for European HGV trained drivers to ease the shortage. FCC's Chief Executive wrote directly to the Home Secretary on 30th July requesting this, highlighting the impact that the driver shortage is having on the waste industry as a whole and as a member of the Environmental Services Association (ESA) signed a letter sent to the Government on 2nd August.

FCC's letter is attached as Appendix A to this report.

ESA's open letter is attached as Appendix B to this report

3.6. In Response to the driver shortage FCC has;

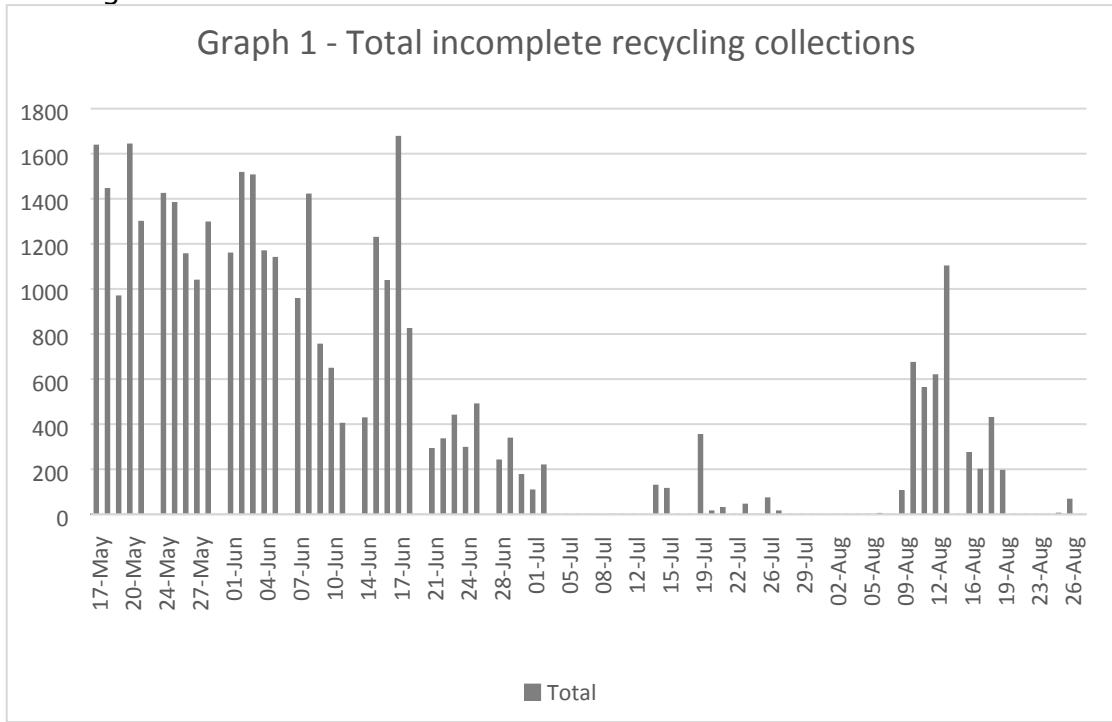
- 3.6.1. Launched a national and local recruitment campaign.
- 3.6.2. Awarded their South Hams drivers a 12% pay increase.
- 3.6.3. Looking at the wider pay and conditions package including devising a bonus scheme that rewards performance and loyalty to retain staff.
- 3.6.4. Introducing a driver apprenticeship scheme.
- 3.6.5. Increasing the flexibility of employment i.e. part-time.

3.7. To illustrate the problem, when FCC had a Covid-19 outbreak in November 2020, 20 drivers and loaders were sent home to self-isolate on a Friday afternoon, over the weekend FCC successfully sourced 20 replacement agency staff to maintain service delivery. Currently FCC are unable to source any agency drivers despite widening the number of agencies used and offering increased pay rates.

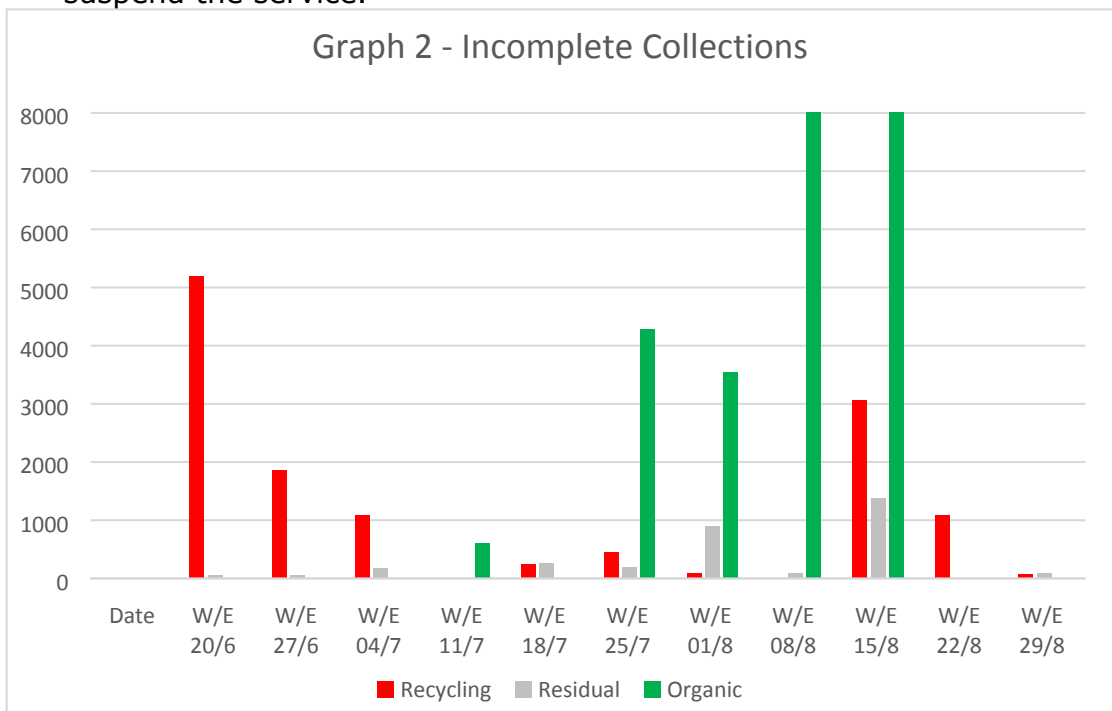
4. Performance to date

4.1. The following graphs illustrate an improvement in performance with the recycling service when FCC implemented their recovery plan and migrated some 14,000 households from a kerbside sort collection to a co-mingled collection. However, performance subsequently degraded from mid-July 2021 to mid-August 2021 as a result of staff leaving, increased sickness absences and FCC's inability to backfill resources with agency staff as a result of the national driver shortage explained in Section 3.

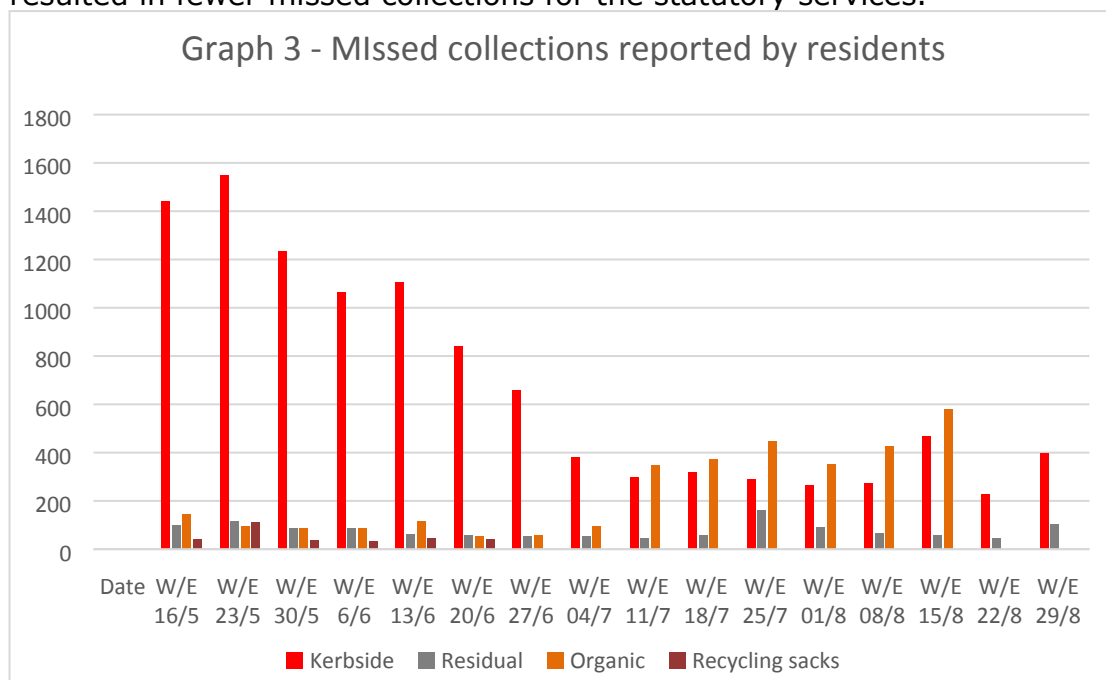
4.2. Graph 1 below shows the incomplete recycling collections reported by FCC since mid-May to the end of August. It clearly shows an improvement in performance followed by a subsequent increase in failures as the impact of the contractor being unable to provide sufficient resources became more apparent during August.



4.3. Graph 2 shows the incomplete collections for all waste streams and clearly shows the inability of FCC to resource the garden waste collection service and the deterioration in performance in the 4 weeks preceding the operational decision to temporarily suspend the service.



4.4. Graph 3 shows the number of customer reported missed collections and illustrates that as a result of FCC having no resources to recover missed collections, the number of missed reports increased across all waste streams. The immediate impact of the suspension of the garden waste service has resulted in fewer missed collections for the statutory services.



4.5. The temporary suspension of the garden waste collection service was instigated to ensure that FCC had sufficient resources to ensure the delivery and continued improved performance of the core statutory services (residual, recycling and clinical waste collections). However, in the course of the last 4 weeks, FCC has lost 5 drivers to other roles and recruited only 1. The result being that the operational positive impact on the core statutory services has been negated.

4.6. It is therefore recommended that the temporary suspension of the garden waste collection service (a non-statutory service) is extended until the next Executive meeting on 14th October 2021.

5. Action taken to date

5.1. The Council continues to monitor FCC's contractual performance and is applying contractual remedies (deductions) as in accordance with Schedule 5 of the Contract. The table below shows the remedies that have been applied since the beginning of the year.

Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Total
£ 18,000	£ 15,850	£ 17,625	£ 22,875	£ 52,750	£ 66,250	£ 193,350

- 5.2. The Council have advised FCC that they will continue to apply deductions on all aspects of the service bar the currently suspended garden waste collection.
- 5.3. The Council has formally written to FCC setting out the concerns that the Council has with FCC. These can be summarised as follows:
 - 5.3.1. FCC is failing to meet the performance levels specified within the contract.
 - 5.3.2. The Council requires significant assurance that FCC can restore service levels to those stipulated within the contract.
 - 5.3.3. That FCC's Devon Aligned Service recovery plan requires significantly more detail so that the Council can assess whether it will meet the contractual specification.
 - 5.3.4. FCC's failure in the design of the round review, the new recycling transfer station and the number of vehicles required to deliver service.
 - 5.3.5. The Council has incurred significant costs to support FCC and the expectation that these costs will be recovered from the contractor.
 - 5.3.6. The Council's disappointment that despite the offer of additional resources and early notice, FCC has not been able to implement in full, the summer street cleansing plan that the Council requested.
 - 5.3.7. The reputational damage to the Council
- 5.4. The Chief Executive and Director, Customer Service Delivery have been and continue to consult with:
 - The Local Government Association
 - Other Devon Local Authorities
 - Other third parties with significant experience in the operation of successful Council waste collection contracts.
 - Independent Technical Experts

6. Organisational changes

- 6.1. The Councils' contract manager has decided to retire and the senior waste specialist has been successful in obtaining a new role outside of the organisation. As an interim measure the Director of Customer Service Delivery has temporarily appointed the Case Management Business Manager to assume overall responsibility for waste and environmental services. Members will be aware that this Officer has been seconded from their current duties to support FCC over the last 3 months and is fully conversant with all the issues. A number of other temporary appointments will be made to ensure continuity of existing services.

7. Next Steps.

- 7.1. Monitoring FCC's Performance
 - 7.1.1. The Executive continue to meet with FCC's senior management team on a weekly basis to review and challenge performance against the contract specification.
 - 7.1.2. Daily calls take place every morning with FCC and the Councils' officer team. The calls review the previous day's performance, operational issues that have occurred and any issues that are materialising on the day.
 - 7.1.3. Officers and FCC are now focusing on the complex and repeat missed collection issues, as well as key priorities such as assisted collections.
 - 7.1.4. Officers are recording all contractual rectifications and defaults and reporting these back to FCC on a quarterly basis.
- 7.2. Officers will provide a report to the next meeting of the Executive that assesses FCC's plan for migration of all residents to the Devon Aligned Kerbside recycling service.
- 7.3. The Executive continues to hold FCC to account in relation to its performance and continues to monitor FCC's resources and recruitment to ensure that the non-statutory garden waste collection service can resume as soon as is practically possible.
- 7.4. The Executive considers all available options, including those options available under the contract, to improve the performance of the waste and recycling service.

8. Implications

Implications	Relevant to proposals	Details and proposed measures to address
Legal/Governance	Y	The Council has a statutory duty to arrange for the collection of household waste in its area and to arrange for the separate collection of waste paper, metal, plastic and glass from households, (unless it is not necessary to ensure that waste undergoes recovery operations; and is not technically, environmentally and economically practicable). The collection of certain types of household waste can be subject to a charge being paid; garden waste is one such type. The duty to collect is one that is subject to reasonableness and policy. Given the contractual relationship with FCC and the present circumstances affecting that relationship, if the Executive wishes to discuss the Council's options under the contract it is likely that such discussion will involve the disclosure of exempt information within the meaning of paragraphs 3

		and 5 of Schedule 12A of the Local Government Act 1972 and it is in the public interest that the discussion takes place in the absence of the press and public.
Financial implications to include reference to value for money	Y	In the financial year 20/21, the Council has reimbursed FCC for a portion of their increased costs that can be directly attributed to the Covid pandemic, these are primarily made up of additional staffing and overtime (where FCC staff were either self-isolating or shielding) and PPE. The £158,728 has been funded from the Government Covid Support grant as these costs were submitted to the Government on the Council's monthly DELTA returns. The Council continues to monitor FCC's contractual performance and is applying contractual remedies (deductions) as per Schedule 5 of the Contract. The table in 5.1 shows the remedies that have been applied since January 2021 of £193,350.
Risk	N	
Supporting Corporate Strategy	Y	
Climate Change - Carbon / Biodiversity Impact	N	
Comprehensive Impact Assessment Implications		
Equality and Diversity	None	
Safeguarding	None	
Community Safety, Crime and Disorder	None	
Health, Safety and Wellbeing	None	
Other implications	None	

Supporting Information

Appendices:

Appendix A – FCC letter to the Home Secretary

Appendix B – ESA letter to the Government

Background Papers: N/A

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed/sign off	Yes
SLT Rep briefed/sign off	Yes

Relevant Heads of Practice sign off (draft)	Yes
Data protection issues considered	Yes
Need for a Communications Plan?	Yes
Accessibility checked	Yes