


Agenda Item No:	5	
Committee:	Overview and Scrutiny	
Date:	3 April 2017	
Report Title:	Comprehensive Spending Review: Increase Sewage Treatment Works Charges	

Cover sheet:

1 Purpose / Summary

To consider the Comprehensive Spending Review action to 'Increase Sewage Treatment Works (STW) Charges'

2 Key issues

- STW service includes sewage treatment works and pumping stations which service residential properties, travellers sites, leisure centres, boat pump out, and industrial area
- Existing charges are based on Anglian Water (AW) charging structure which fully reflects OfWat charging guidance
- In-house R&M service provided by Cleansing Workshop team considered to be cost effective although savings may be possible through economies of scale if linked in partnership to a larger procurement in future
- Reviewed service costs and recharges results in a post CSR service cost for 2017/18 of £3,570, together with additional income of £530, which represents a reduction of £28,530 on the pre-review draft 2017/18 budget
- Legal advice that in the absence of specific legal regulations, it would be appropriate to follow OfWat charging guidance
- In order to ensure the most cost effective service going forward the following actions are proposed;
 - Take no further actions in respect of increasing charges for sewage treatment works over and above any AW increase
 - Review the staffing of the Cleansing Workshop as part the CSR review planned for later in 2017/18
 - Continue to keep an open mind for possible future tendering opportunities
 - Review sewage treatment works charges to ensure fully in line with AW charging structure and utilising accurate up to date data
 - Consider future Capital investment in STW's as part of Asset management Plan (AMP) review of future spending requirements

3 Recommendations

- It is recommended that Members consider and give feedback on the proposed Comprehensive Spending Review for the action 'Increase sewage treatment works charges', which will then be considered by Cabinet for implementation.

Wards Affected	Rural Wards
Forward Plan Reference	
Portfolio Holder(s)	Councillor Ralph Butcher, Portfolio Holder for Growth
Report Originator(s)	Trevor Watson, Head of Assets & Projects
Contact Officer(s)	Trevor Watson, Head of Assets & Projects Gary Garford, Corporate Director Growth & Infrastructure
Background Paper(s)	

4 CSR Objective

- 4.1 Increase sewage treatment works charges
- 4.2 Savings target £24,370

5 Background / introduction

- 5.1 FDC operate a collection of sewage treatment works, pumping stations, and related assets, all of which are collectively managed under the 'Sewage Treatment Works' budget.
- 5.2 These assets can be summarised as follows;
- Former HRA: 13 STW's (serves 227 private properties, 167 housing association properties, and 1 school)
 - Travellers sites: 3 STW's and 3 foul water (FW) pumping stations (serves 5 sites with 58 pitches)
 - 1 Leisure Centre pumping station (FW)
 - 1 Boat pump out (FW)
 - 1 Industrial pumping stations (SW) (serves factory development and highway)
- See Appendix A for details
- 5.3 The oldest plants still in use were installed in 1958 and 1968 respectively. The following table summarises the age of the plants operated or age since last refurbished;

Age	<10yrs	10-20yrs	>20yrs
FDC*	9	1	5
Other (Travellers sites)	2	0	4

*excludes one Leisure Centre pumping station where age unknown

- 5.4 The expected life span of a treatment plant is 20yrs.

5.5 Since stock transfer in November 2007 six plants have been transferred to Anglian Water linked to their S101A programme of 1st time rural sewerage schemes. These opportunities have helped reduce the scale of the ongoing FDC obligation. Equally, in the same period, £836,000 has been spent in Capital Improvements on the remaining stock. This has in some part improved the reliability and efficiency of the stock and hence helped keep down the ongoing operational costs and resource requirements.

6 Existing Service Standards

6.1 The maintenance service is delivered by the in-house garage and workshop team, with desludging tendered to an external provider.

6.2 Key service standards;

- Weekly site inspections
- Programmed servicing and desludging
- Out of hours emergency response
- Twice yearly discharge samples and analysis, plus adhoc samples as required
- Limited telemetry at some historic 'problem' sites or where recent refurbishment
- Capital improvement programme funding ended 2015/16

6.3 Service excludes any responsibility for upstream pipework

7 Existing Finance

7.1 Sewage Treatment Works Budget Summary

	Outturn 2015/16	Original 2016/17	Draft Budget 2017/18 (pre- review)	Draft Budget 2017/18 (post review)	Commentary
Gross Expenditure					
Employee Costs	44,046	38,350	41,000	18,450*	Based on 1.1 FTE plus overtime *Staff time adjusted to reflect monitoring and review of recharges to Travellers budget
Premises Costs	74,621	81,900	82,620	82,620	
Transport Costs	7,512	10,450	10,600	5,150	
Supplies and Services	25,020	15,800	20,150	20,150	
Total Expenditure	151,199	146,500	154,370	126,370	
Gross Income					
Reimbursements	4,985	0	0	0	One off income from Roddons for services provided
Receipts	505	800	800	800	March Boat Pump-out tokens
Fees & Charges	113,367	120,600	122,000	122,000	STW charges – see income and charging below

Total Income	118,857	121,400	122,800	122,800	
Net Service Cost	32,342	25,100	31,570	3,570	

7.2 Summary excludes support services and Capital Charges.

7.3 For existing Income summary see confidential 'Appendix B'

8 Existing Charging Structure

8.1 Fenland District Council has Sewage Plants in various parts of the District. Private and Housing Association residents are charged for the use of these facilities from the point of occupation.

- private customers charged by direct billing based on Anglian Water Charges. These comprise Yearly Unmetered Charges and Half Yearly Metered Charges
- Roddon's Housing Association are charged on the basis contained within the stock transfer agreement

8.2 Anglian Water have various charging structures, FDC follow the charging schemes as follows:-

- Unmetered Charge (calculated by property Rateable Value) - Customers are charged by this method from move in date
- Metered Charges - (calculated by volume of water used from meter readings. Charges are in advance using past meter readings) – Customers should reside in the property for at least 6mths & be able to provide actual readings prior to being charged by this method.
- Customers charged via this method use various charge schemes offered by AW for those who use high or low volumes of water.

8.3 Roddons fee is calculated on the number of properties and is increased each year by the RPI plus an annual increase of 5% as agreed in the transfer agreement in 2007 (see 10.2). Adjustments are made when Roddons sell properties

9 Future R&M and Capital Investment

9.1 The in-house team provides a cost effective R&M service which supplements the activities of the workshop team, delivered in conjunction with a tendered tankering/desludging service. The workshop will be subject to a specific CSR review later in the year when the impact of the new Brown Bin scheme will be known. In advance of this staff time monitoring has been undertaken which has been reflected in the draft budget figures for 2017/18 (see 7.1). This has also allowed internal recharges to be reviewed. The consequence of this has been to verify the actual sum which would need to be recovered to provide a cost neutral STW service.

9.2 There are few alternatives to the existing status quo going forward. Anglian Water will only consider adoption of plants which have significant and costly enhancements to meet their specification requirements. In many cases, even with appropriate upgrades the constraints of the site rule out any form of transfer.

9.3 Contact has been made with a neighbouring authority to establish if there are opportunities to join the two authorities assets into a combined service contract. They agree in principal to the possibility but have no timetable for their future tendering exercise.

9.4 A desk top study suggests that savings in the order of £11,000-£25,000 could be achieved on the current STW budget by undertaking a joined up tendering exercise with

SHDC, however it is less clear that FDC could enjoy such competitive rates if tendering alone. It is therefore proposed that this CSR exercise should assume the existing in-house service continues and assess future opportunities for service efficiency as they present themselves.

- 9.5 It may also be possible to improve service efficiency by further investment in telemetry to remotely monitor the operation of sewage treatment plants and pumping stations. Limited telemetry has been introduced at some historically 'problem' sites or those where recent refurbishments have been completed to provide an early warning of failures to enable early intervention and avoid unnecessary costs. At this time this investment will be contained within the revenue budget. SHDC plants all have telemetry and the introduction of such equipment to FDC sites is likely to be required for a joined up service to be viable in the future.
- 9.6 The future Capital investment in sewage treatment works will need to be considered in the light of the recently approved Asset Management Plan 2017-20 which detailed an action plan for the future maintenance and continued investment in retained assets. Part of the action plan is to develop funding strategies for future priority Capital investment.
- 9.7 Without such a programme the risk of potential plant failure with associated pollution and potential prosecution increases. There is also a risk that the operational benefits of the Capital improvements completed since 2007 will be eroded. Additionally, some level of investment may be required before any contracting out of the service might be possible depending on the tender specification, ie. performance specification with risks relating to discharge quality resting with a contractor will require the plants to be brought up to a standard where the contractor is prepared to provide the service on that basis. The alternatively would be a contract based on an output specification of undertaking specified actions and the employer retaining the risk if the plants fail to produce an effluent of the required quality.

10 Legal Issues and Constraints

- 10.1 The issues and constraints regarding a review of this service depend on the nature of the customer. The Council provide services to three distinct groups, Roddons Housing Association, Residential Properties, and internal services.

10.2 Roddons Housing Association

- The Agreement with Roddons sets out the service we will provide in relation to the treatment of effluent from Roddons properties and the maintenance and renewal of the Sewage treatment plants.
- Roddons will pay an annual fee taking into account the number of their properties using the STW's, which will be determined by the Council each year.
- The Agreement provides that the fee will be determined in accordance with the following clause:- see confidential Appendix B

In addition to the Agreement, the Council entered into a Transfer to Roddons which confirms that Roddons will *"contribute a fair proportion of the costs of operating, maintaining repairing and renewing the Transferor Sewage Treatment Plants"*.

Taken together the legal advice is that the Council can charge Roddons a fair proportion of the costs, subject to a maximum figure calculated in accordance with the clause above.

10.3 Ex-council properties sold under the Right to Buy

An old RTB conveyance, assumed to be representative of RTB conveyances generally confirms that the property owner is obliged to pay a fair and equitable share of the expenditure incurred by FDC in administering and maintaining the sewage treatment plants. However, as relates to sales that go back over 25 years unless we look at each

individual conveyance we cannot say with any certainty what provisions for the payment of charges were made in relation to each property.

Whilst FDC still hold RTB files for properties that were sold 5 years prior to the stock transfer we do not have any other files and therefore in order to look at each conveyance we would have to obtain details of all the ex RTB properties and then obtain copies from the Land Registry, at a cost to the Council for each document obtained.

In any event, any clauses that are contained in the conveyances ought to be read in conjunction with the Water Industry Act 1991, albeit that this is not strictly enforceable against the Council, which states that any clauses in conveyances relating to charges post 1991 are invalid and the provisions of the act apply instead

In addition to the above advice, we were made aware of a case involving services charges imposed by Southwark Council. These sums proved to be in excess of what Southwark was required to pay Thames Water for the services concerned and the High Court ruled this was unlawful as the Water Resale Orders prohibit water and sewerage being resold at a profit. This case illustrates that increasing charging for sewerage can be a real minefield – albeit this particular case relates to tenanted property and charges to tenants.

As mentioned, the Water Resale Orders apply to sewerage services bought by one company and sold to another. They would apply for example to any charges that Roddons may pass on to their customers, which must be no more than what they pay to us plus a reasonable administrative cost, but they do not apply to the charges the Council charges to Roddons.

10.4 Current legal advice suggests the options relating to RTB and residential properties are:

Obtain a list of RTB properties sold that are linked to the plants, and review the deed store and land registry to obtain copies of the documents. This is likely to be very time consuming and may not reveal all the relevant documents as they are often unavailable from the land registry or

As part of the review process, make it clear that if any property owners believe they should not have to pay the reviewed charges due to a relevant provision in documentation with the Council, ask for them to provide copies of any documentation to support that.

There are significant legal constraints on the scope of charges imposed by Sewerage Undertakers and OfWat provide guidance in relation to reviewing fees and maximum increases – with a requirement to undertake an impact assessment if the increase is more than 5%. Whilst Fenland is not a regulated sewerage undertaker it is recommended that in relation to charges made to residential properties the guidance is followed as far as possible.

Therefore, the scope of what can be achieved in increasing charges will need careful legal consideration before implementation.

11 Community Impact and Consultation

11.1 The FDC operated sewage treatment plants principally service social or former social housing developments. As such increases in charges would need to be carefully considered against the demographic of the communities served. This is likely to be a strong influence on the residents ability to pay and the potential for an increase in non-payment.

11.2 No formal consultation requirements have been identified. However, if Fenland were a statutory sewerage undertaker we would be obliged to consult with the Consumer Council for Water. Legal advice recommends a consultation with those properties affected in line with the OfWat guidelines as far as possible.

12 Conclusions

- 12.1 The implementation of the CSR review has involved a detailed appraisal of all aspects of the Sewage Treatment Works service budget together with the legal framework behind the service.
- 12.2 The current service resources are now accurately reflected in the service budget and this information will be reflected in the Cleansing Workshop CSR review to be undertaken later in 2017/18 as well as informing this review.
- 12.3 Recharges to other budgets, such as travellers sites which are outside of the General Fund budget, are also now fully reflective of the actual situation, leaving the draft 2017/18 budget (post review) reflecting the projected service cost of £3,570.
- 12.4 The legal factors are also compelling. Although the service is not directly regulated, the legal opinion is that the Council cannot make a reasonable decision about the charges without having regard to the rules. The Council is a public body and is required to act in accordance with public law principles.
- 12.5 Although a number of the sewage treatment functions are commercial in nature, there is a significant portion that are either charged directly to consumers (ex right to buy properties) or indirectly to consumers (as the charges to housing associations are going to be passed on to their residents). In addition, FDC have historically linked charges to those set by Anglian Water, a regulated sewage undertaker.
- 12.6 From a property owners position the residents are likely to assume that their rights were protected against the council in the same way that they are against Anglian Water. That said, FDC are not strictly bound by the rules and therefore if we were to decide to act outside of those rules, this would be acceptable so long as that decision was also made in accordance with public law principles – for example the obligation to act reasonably.
- 12.7 However, given the complexities of the guidance on charges set by OfWat, developing an alternative charging scheme rather than following the already agreed system adopted by Anglian Water would need much detailed consideration and consultation.
- 12.8 The CSR exercise has also highlighted one specific anomaly where a school is connected to our plant and to date recharged on a similar basis to residential properties. It has however come to light that AW would charge a school on a commercial tariff. This correction will increase income by £530 at 2016/17 rates.
- 12.9 The review of service costs and recharges (7.1 and 12.3), together with amended charging arrangement for the connected school (12.8) will result in a service budget saving of £28,530, of which £2,830 relates to recharges to travellers sites and increased income, and £25,700 which will feed into the future Cleansing Workshop CSR review.
- 12.10 In view of the operational, legal, and financial conclusions contained within this review fees should not be increased over and above any AW increase.
- 12.11 In order to ensure the most cost effective service going forward the following actions are proposed;
 - Review the staffing of the Cleansing Workshop as part the CSR review planned for later in 2017/18
 - Continue to keep an open mind for possible future tendering opportunities
 - Review sewage treatment works charges to ensure fully in line with AW charging structure and utilising accurate up to date data
 - Consider future Capital investment in STW's as part of Asset management Plan (AMP) review of future spending requirements

SUMMARY OF PROPERTIES CONNECTED ON 01 January 2016
FDC SEWAGE TREATMENT WORKS

Location	Private	Private Fee Exempt	Roddons HA	Minster HA	Nene HA	School	Total
Belt Drove	11	0	1	0	0	0	12
Burnthouse Road	67	0	8	0	0	0	75
Churchill Road	9	0	17	0	0	0	26
Church Lane	25	0	20	14	0	0	59
Fen Road	3	0	5	0	0	0	8
Garden Lane	4	0	10	0	0	0	14
Inkerson Fen	4	0	2	0	0	0	6
Lindens Close	11	0	12	0	0	0	23
Newgate Road	64	1	32	0	0	1	98
Newlands Road	3	0	19	0	7	0	29
Overstone Road	9	2	3	0	0	0	14
Ramsey Road	12	0	9	0	0	0	21
Waldersea Sidings	2	0	8	0	0	0	10
	224	3	146	14	7	1	395

SUMMARY OF PROPERTIES CONNECTED ON 01 January 2016
CCC TRAVELLER SITES

Location	Pitches	Notes
Fenland Way (Trav)	14	Chatteris
Newbridge Lane (Trav)	14	Elm
Sandbank, (Trav)	10	Wisbech St Mary
Seadyke (Trav)	12	Murrow
Turf Fen Bridge (Trav)	8	Murrow
	58	