



# HYNDBURN

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## URGENT CABINET DECISION

### B16 EXECUTIVE URGENCY PROCEDURE

- (a) Urgent executive decisions which cannot be delayed until the next meeting of the executive or executive committee (as the case may be) may be taken by the relevant Chief Officer after consultation with the following:
- Leader
  - a Deputy Leader
  - Relevant portfolio holder (if any) or any other Cabinet member if there is no relevant portfolio holder in respect of the decision in question
  - The Mayor, pursuant to Rule C15 of the Overview and Scrutiny Procedure Rules [i.e. to agree that it is exempt from call-in].
  - Plus one of the following:
    - the Chief Executive; or
    - the Executive Director (Resources) (in the absence of the Chief Executive, or if the Chief Executive is the decision taker); or
    - the Monitoring Officer (in the absence of the Chief Executive or Executive Director (Resources), or if one is absent and the other is the decision taker).
- (b) In the absence of the Leader, Deputy Leader or portfolio holder (if any) the consent of another Cabinet member will be required.
- (c) The urgent decision, the reason for it and the reason for the use of the urgency procedure must be reported to the next meeting of the executive or executive committee (as the case may be).

HBC Constitution, Executive Procedure Rules

**Subject:** A contract for the sale of paper and cardboard recyclate.

**Report Author:** Steve Riley - Head of Community Services

**Background:**

The sale of recycling materials do not appear to be a concession contract (as the EU rules apply to works and services concessions, not supplies) but, even if it were, it falls well within the current threshold levels (around £2 million euro's). As we are purely selling the material and not purchasing anything it therefore looks like the EU rules don't apply. We are however under a duty to secure best value for the Council.

The 12 month contract for the sale of mixed paper will expire on 1<sup>st</sup> June 2015. The current contractor (Newport Paper) has offered to extend the working agreement for a further 24 months at the midpoint price. This is a reduction in their winning tender price of (+£5) to (+£0), meaning the Council will receive the midpoint price for each tonne of mixed paper with no uplift (i.e. £35 for March 2015).

There have been no contractual issues, late/disputed payments, H&S contraventions or rejecting loads in our dealing Newport Paper, which is an improvement over our previous arrangements with contractors in the market.

**Reason for Urgency:**

Initially, Newport Paper had offered a fixed price of £25 per tonne but I have been pressing the merits of maintaining the contract and excellent working arrangements with them. This resulted in the improved offer if we are willing to agree to a 24 month contract. The midpoint price structure has benefits over a fixed term price as the Council will benefit if prices rise during this period.

Newport Paper is paying the Council midpoint price, (adjusted monthly on on the letsrecycling website) plus £5. Looking back at the midpoint prices from 2001, there has only been a period of about 18 months where the price was below £25 and there is evidence from neighbouring authorities who have recently gone to market that Newport Paper's offer to the Council represent good value.

The risk of not signing up to their offer is that Newport paper withdraw the offer which would result in the Council going to open tender which will probably result in a lower price from the market.

The next scheduled Cabinet meeting is after the 1<sup>st</sup> June when the current contract expires.

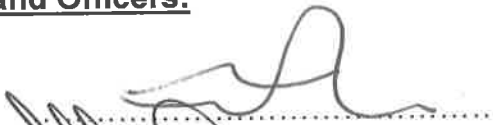






**Recommendation:**

Seek approval to waive the Contract Procedure Rules to permit the Council to enter into a contract with Newport Paper Limited on the terms set out in the report without obtaining other quotations.

**Date of Decision (when finally approved):**

20TH MAY 2015

**Signatures of Members and Officers:**

Chief Officer		Approve / <del>Do not approve</del>
Leader		Approve / <del>Do not approve</del>
Deputy Leader		Approve / <del>Do not approve</del>
Portfolio Holder		Approve / <del>Do not approve</del>
Mayor *		Approve / <del>Do not approve</del>
* to exempt from call-in		
Chief Executive, <u>or</u>		Approve / Do not approve
Executive Director (Resources), <u>or</u>		Approve / Do not approve
Monitoring Officer	.....	Approve / Do not approve

**AGENDA ITEM X**

<b>REPORT TO:</b>	Cabinet		
<b>DATE:</b>	11 May 2015		
<b>PORTFOLIO:</b>	Cllr Paul Cox - Deputy Leader - Environmental Services		
<b>REPORT AUTHOR:</b>	Steve Riley – Head of Community Services		
<b>TITLE OF REPORT:</b>	The sale of Paper and Cardboard		
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>Options</b>	Not applicable	
<b>KEY DECISION:</b>	<b>No</b>	<b>If yes, date of publication:</b>	

**1. Purpose of Report**

1.1 To brief Cabinet Members on a contract for the sale of paper and cardboard recycle.

**2. Recommendations**

2.1 Seek Cabinet approval to waive the Contract Procedure Rules to permit the Council to enter into a contract with Newport paper Limited on the terms set out in the report without obtaining other quotations.

**3. Reasons for Recommendations and Background**

3.1 The demand for recycle both within the UK and globally is slowing. The main reason for this was/is the continued downturn in the economy, which is clearly visible in the recycling industry. The most recent examples of this reduced demand are the closure of a very large Newsprint Mill in the South East in February and the fall in the price of recycle.

3.2 The Council has entered into a contract through the Official Journal of the European Union (OJEU) for the sale of our glass and mixed plastics/cans up to March 2016, with an option to extend for a further 2 years. However, due to the lack of response for the sale of mixed paper, it was decided to re-advertise the tender locally on a 12 month contract outside OJEU. This resulted in a greater number of tenders and ultimately higher tender price being achieved by the current contractor (Newport Paper).

3.3 The current contractor is paying the Council mid-point price, (adjusted monthly on the letsrecycling website) plus £5. Looking back at the midpoint prices from 2001, there has only been a period of about 18 months where the price was below £25 and there is evidence from neighbouring authorities who have recently gone to market that Newport Paper's proposal represent good value for the Council.

3.4 There have been no contractual issues, late/disputed payments, H&S contraventions or rejecting loads in our dealing Newport Paper, which is an improvement over our previous arrangements with contractors in the market.

#### 4. Alternative Options considered and Reasons for Rejection

4.1 Initially, Newport Paper had offered a fixed price of £25 per tonne but I have been pressing the merits of maintaining the contract and excellent working arrangements with them. This resulted in the improved offer if we are willing to agree to a 24 month contract.

4.2 The midpoint price structure has benefits over a fixed term price as the Council will benefit if prices rise during the agreement period. A fixed price will protect the Council if the market falls. However, if the market 'bottoms' then past evidence shows that contractors will renege on this price. The alternative to not agreeing an lower price was to cease trading.

4.3 The risk of not signing up to the agreement is that the Council will go out to an open tender and which will result in a lower price from the market place (Newport Paper or other contractors).

#### 5. Consultations

5.1 With Portfilio Holder, Executive Director of Legal and Democratic Services and other District Authorities.

#### 6. Implications

<p><b>Financial implications (including any future financial commitments for the Council)</b></p>	<p>The current arrangement for the sale of our materials is linked to a mid-point national price which can increase and decrease depending on market forces.</p> <p>If the mid-point market price remained static the loss to the authority is £5 per tonne. (£12,500pa).</p>
<p><b>Legal and human rights implications</b></p>	<p>Advice sought from the Executive Director of Legal and democratic Service</p>
<p><b>Assessment of risk</b></p>	<p>Taking up the offer to reduce the £5 per tonne uplift to £0 uplift from our existing</p>

	contractor is deemed the best option for the authority. Based on discussions with other authorities going to tender could result in a lower price being offered.
<b>Equality and diversity implications</b> <i>A <u>Customer First Analysis</u> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	An equality impact assessment (Customer First Analysis) is not deemed necessary.

**7. Local Government (Access to Information) Act 1985:  
List of Background Papers**

- 7.1 *Copies of documents included in this list must be open to inspection and, in the case of reports to Cabinet, must be published on the website.*

***If the report is public, insert the following paragraph. If the report is exempt, contact Member Services for advice.***

**8. Freedom of Information**

- 8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.