

1 June 2017

TO FBC EXTERNAL AUDITORS

FYLDE BOROUGH COUNCIL: BUDGET AND ACCOUNTS

In common with others in Lancashire, my Council has introduced an optional subscription charge for collecting green waste.

It is a service I have chosen not to receive.

But I am concerned that unless this service is accounted for in a transparent manner taxpayers such as myself will not be able to see whether our council tax is being used to subsidise what is now a subscription service provided to only part of Fylde Borough's taxpayers.

Likewise, those who subscribe to it will be unable to see whether they are being charged the actual cost of providing the service, or whether part of their subscription to this service is being used to cross-subsidise other council spending.

Unlike other Council services - such as leisure, where the service is provided from taxation but sometimes the tax required might be reduced by a charge made to individuals who access the service (e.g. swimming pool entry charges) - the green waste subscription charge has been introduced to enable the service to remain available after a support payment (equal to the cost of the service) is removed by Lancashire County Council from next year. Fylde has decided to recover the cost of providing the green waste service from the subscription it charges.

I took this matter up with my council and asked if the subscription service was to be treated as a separate cost centre within the Council's budget.

I was told there was no proposal at this stage to create a cost centre for the green waste subscription service. The income from subscriptions was expected to be shown as a single line in the overall waste and recycling cost centre.

This approach (which appears to be the same as that adopted by neighbouring Wyre Council) means that it will not be possible for taxpayers to see the sum expended on the green waste service separately from other waste expenditure.

Using the Freedom of Information provisions, I had asked Wyre BC (who had had a complete year of operating their green waste service) to provide me with "The Council's total cost of operating the green waste collection service, including support service and management costs."

Their answer was "The cost elements of the waste & recycling service are not broken down independently. The full costs of operating all elements of the service and support costs are £2,937,437. In year 1 the initial set up costs for the green waste service were £53,900. Going forward it is expected these will be absorbed within current budgets."

I supposed that a similar reply would be made by my own Council after its first year of the subscription as well, so I wrote to ask for the decision on having a separate cost centre to be reconsidered. (A copy of my letter - which sets out the arguments in more detail - is attached)

Fylde's S151 Officer replied: "Thank you for your letter dated 27th February 2017 regarding the green waste subscription service, and please accept my apologies for not replying earlier."

I have spoken to the Chair of Operational Management Committee and he has indicated that the objective of introducing the green waste scheme is, and always has been, to achieve the corporate priority of mitigating the impact of the loss of the LCC waste subsidy, as set out in the approved Corporate Plan.

Subsequent to receiving your letter, an amendment to the substantive motion was proposed at the budget Council meeting of 2nd March 2017 as follows:

"Accounting for income and expenditure on the Green Bin Service should be shown as a separate item in the budget book and published in the accounts to ensure that only the true costs of the service are charged to our residents."

This amendment appears to be consistent with the request in your letter. A vote was taken and the proposed amendment was lost, which indicates that the Council does not support such a proposal.

The budget book as currently presented shows the estimated income from the opt-in green waste service within the cost centre for waste services for Fylde. This approach is consistent with the accounting approach being taken by neighbouring Lancashire councils who introduced a charge for green waste applicable for 2016/17.

I am therefore comfortable with the existing arrangements for accounting for green waste."

I was not satisfied with this answer to my letter and I emailed Fylde saying:

"Thank you for your reply. I too apologise for my own slowness in responding to you.

I believe you may have expected that I would not be satisfied with what you have said.

Cllr Eaves' indication is uncertain as to the extent of the mitigation being sought, and if it exceeds the green waste service cost, it may conflict with what he told the Council on 5 December 2016 when the matter was debated when in response to a specific question about the scale of the mitigation being sought, he told Cllr Mrs Oades "It is the objective of the subscription service to look to the costs of the green waste service itself."

I also note what you say about the decision at Budget Council, but I am far from certain that the decision was correctly taken. There are grounds to believe that it was ultra vires and that in fact, within the parameters of the Constitution, it may be that no budget has been set for 2016/17 at all, let alone on that particular item. I believe the Monitoring Officer misled the Council in this matter and that has resulted in a decision which should not be allowed to stand.

I therefore ask that in the interim, you maintain the ability to extract all income and costs for the green waste subscription service separately from the other waste services the Council provides until this matter is resolved. I note your answer about your being comfortable with the existing arrangements should not preclude this.

I should also be obliged if you would provide me with the name and the email contact details for the current external auditors of the Council. I expect them to be my next port of call in this matter."

Sadly [External Auditor's Name], you will see that what began as a simple issue has grown into something potentially much more complicated.

If you wish to know more about the budget amendments and the debate at both that and the subsequent meeting where Cllr Peter Collins challenged the minutes of the Budget Council meeting, a video recording of both Council meetings is available online.

However, at this stage, I would prefer to focus on the matter of the need for separate costings of income and expenditure for the green waste subscription service to be provided, and I seek your advice.

1. Is there currently a legal requirement for the income from green waste subscriptions to be used only for delivery of the service, or are councils free to use the subscription income to offset or subsidise other service costs with it as well? (I understood there is a provision that requires car parking income to be spent only on transport issues for example.)

2. I should also like to know if, having now introduced a subscription service that is not to be funded by taxation, Fylde may choose to subsidise those subscriptions with Council Tax or other taxation-derived income - particularly after what Cllr Eaves told the Council meeting on 5 December 2016.
3. I am also curious as to the status of the green waste service income. I know of no other council services that are funded by voluntary subscriptions. Clearly it is not a tax because subscribing is voluntary. It appears to be closer to business income, but the Council is setting both the policy and details of its implementation (and the charges) as though it were a tax. Can you help me to understand the status of this income please?
4. Are there 'guidelines' or is there a Code of Practice (or similar) that recommends or requires separate accounting for subscription services such as the green waste? Has CIPFA provided guidance on the matter of separating costs and income for green waste and if so, is Fylde following it?
5. As the Council's external auditor, and in the interests of public transparency and accountability, do you believe Fylde should publish its expenditure and income for the green waste service in a way that allows taxpayers to see the income raised, the amount expended, and thus be able to identify any surplus or shortfall on the green waste service?

In conclusion I reiterate that my main concern is financial accountability on the green waste issue, but as Fylde's finance officer has used the matter of the 'separate accounting' amendment put by Cllr Mrs Oades being 'lost' as a partial justification for his not having a separate cost centre for green waste, I will also briefly mention that at the budget meeting the Mayor announced Cllr Oades' amendment had been carried, (even though the minute says it was lost), and the subsequent challenge of that minute by Cllr Collins at the next Council meeting further exposed what I believe was improper and wrong advice to the Council by Fylde's Monitoring Officer. That advice is so at variance with the Council's Constitution, I believe it to be ultra vires.

According to the Council's Constitution, the successful closure motion to 'Move next business' (which was properly moved and passed by the majority party at the budget meeting), ought to have ceased debate on the budget and any amendment to it, and moved to the next item of business on the meeting's agenda. It follows that Fylde's budget has only been approved by disregarding or varying what Fylde's Constitution required. This leads me to the view that Fylde has either set an unlawful budget, or has not set one at all if the provisions of the Constitution hold sway. The Chief Executive and the Monitoring Officer believe the contra advice given by the Monitoring Officer in effect, overrode the provisions of the Constitution. I fundamentally disagree with this view.

I mention this, (and am prepared to expand further on it if required), only because it impacts on my primary concern which is transparency for taxpayers such as myself, and for subscribers, in the matter of accounting for green waste.

If you wish to see the videos of the relevant Council meetings at which the matter was debated, they may be viewed at:

Budget Council: <https://www.youtube.com/watch?v=g7WEDIWtKLM>

Cllr Oades moves amendments starting at about 33 minutes into the recording.

Subsequent Council: <https://www.youtube.com/watch?v=pDPnfl6to1E>

From the start of the meeting. The first few minutes of Cllr Collins' challenge to the minutes are not audible on the video. The inaudible part actually says "Thank you Mr Mayor, I would like to propose an amendment to the minutes, but first I'd like to stress my concerns as to whether or not correct procedure was followed at the last meeting.

At that meeting Cllr Oades proposed some amendments. Cllr Roger Small put forward a closure motion on one of these amendments that was to proceed to the next business.

Now, I've always taken this to mean that, if the closure motion is successful, then the meeting should have proceeded - as is stated in the constitution - to the next business on the agenda, which would have been Item 9, the St Annes Neighbourhood Plan.

But the Monitoring Officer" (At this point his microphone is switched on, and he goes on provides his arguments which are then debated).

I look forward to your reply

Yours sincerely