

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	20 th Aug 2012
Report of:	Strategic Director Place and Organisational Capacity
Subject/Title:	Review of Service Delivery Options
Portfolio Holder:	Councillor Rod Menlove

1.0 Report Summary

- 1.1 This report outlines potential service options for the recycling and waste service post April 2014. The report is based on legal advice to the Council from Bevan Brittan LLP, a public services law firm.
- 1.2 The recycling and waste collection services are currently operated in house (i.e. by the Council without the use of an external collection contractor) whereas the treatment and disposal elements are contracted out to a range of private sector providers. Following the completion of a transformation program to deliver efficiencies to the in-house collection service this report outlines potential options going forward following the end of the existing contracts.
- 1.3 This report describes an initial preferred delivery option and seeks a decision to appoint consultants to carry out a more detailed analysis on the preferred option and to work with the council to procure recycling and waste services from April 2014.

2.0 Decision Requested

- 2.1 Cabinet is requested to give their agreement to the procurement of a suitable technical consultant to review the existing service delivery arrangements and work with the Council to procure service delivery from April 2014. (subject to the funding set out in para 7.4 below being agreed by the Cabinet as part of the First Quarter Report on 20th August 2012).
- 2.2 The Cabinet is asked to support an 'Integrated procurement' as the initial preferred procurement option subject to the work of the technical consultants referred to in 2.1 above.

3 Reasons for Recommendation

- 3.1 To provide continuation of the recycling and waste service beyond the end of existing disposal and recycling contracts in April 2014. (The residual contract is in its extension period and can not be extended further)

- 3.2 To ensure Cheshire East Council achieves best value for provision of the recycling and waste service and seeks to reduce its operational costs as much as possible.
- 3.3 To explore alternative delivery options that will maximise value from our current waste streams and replace our current landfill disposal dependency.
- 3.4 To explore alternative methods of delivering continued improvement to the reuse and recycling systems such as through the collection of food waste and increasing recycling and reuse in partnership with the charitable sector.

4 Wards Affected

- 4.1 All Wards are affected.

5 Local Ward Members

- 5.1 All Local Ward Members

6 Policy Implications

- 6.1 Our Sustainable Community Strategy and Joint Municipal Waste Strategy seek to manage waste more sustainably promoting waste prevention, reuse and recycling.
- 6.2 Objective 7 in the Councils 2012 – 15 business plan. This requires the Recycling and Waste Service to review, assess and evaluate waste collection, treatment, and disposal to provided information about future options.

7 Financial Implications (Authorised by the Director of Finance and Business Support)

- 7.1 The review of service delivery will aim to assess the most efficient, cost effective way of continuing to deliver the recycling and waste service and delivering improvements required in disposal methods and recycling provision.
- 7.2 Based on similar waste procurement projects, it is expected that there could be savings in the order of 10% (circa £2m) against the existing forecast Waste and Recycling budgets for 2014-15 (£21m net) covering waste collection, treatment and disposal should the services be provided from the private sector. As set out in para 10.2.5 below, should the proposed food waste collection option prove to be financially viable, the expectation remains that overall savings of circa £2m against the existing forecast 2014-15 budget would be achievable.

- 7.3 Subject to Cabinets agreement to the recommendations set out above, a separate report on the review of existing arrangements, proposed business case, financial implications of the full procurement exercise costs and future savings should be reported back to the Cabinet at a future date after conclusion of the review and included as part of the business planning for 2014-15 onwards.
- 7.4 The estimated total cost for the procurement project covering technical, legal and financial consultants, based on the recent procurement activity in Highways, is believed to be in the region of £800k over a 2 year period, split roughly $\frac{2}{3}$ ^{rds} for external technical and financial support and $\frac{1}{3}$ rd external legal assistance.
- 7.5 As part of the First Quarter Review (FQR) £800,000 for this work has been identified within the Places & Organisational Capacity (POC) Directorate as additional funds required for the Waste Procurement Project, funded in part through net under-spends against POC 2012-13 investment items (£327k) with the balance £473k being an offset by other remedial actions planned by the Directorate..

8 Legal Implications

- 8.1 Existing contracts with the exception of the Household Waste Recycling Centres have been aligned to end March 2014 to remove contractual barriers to future delivery options.
- 8.2 Alternative delivery options are certain to involve HR issues and raise the possibility of TUPE transfer of the majority of Recycling and Waste staff to a private sector provider. However, an appropriate client team will need to be retained by Cheshire East to drive the strategic direction of the services forward and to continually seek to improve services through careful contract monitoring and management.
- 8.3 Alternative delivery options may involve transfer and or leasing of capital assets such as vehicle fleet and depots currently supporting the recycling and waste service.
- 8.4 The procurement of consultants whether technical, financial or legal should be discussed with the Procurement Unit and Legal Services to ensure that commissioning complies with the Regulatory Framework, Council's FPR's and best value is achieved.

9 Risk Management

- 9.1 Undertaking a scoping study is likely to make public the Council's investigation into alternative delivery options with potential implications for unions and the existing work force. Early and continued engagement of unions and the existing workforce is of paramount importance in such large, transitional projects.

10.0 Background

10.1 Current Service

10.1.1 Waste collection

The current collection service is provided in-house directly by the Council and is delivered from a depot at Commercial Road, Macclesfield in the North and a depot at Pym's Lane, Crewe in the South. The service includes the provision of a three bin system covering recyclables, garden waste and residual material. This system was introduced in 2011 and replaced the previous systems used in each of the 3 borough councils.

10.2.1 Recyclables

A silver bin is currently used for the collection of co-mingled recyclables. This bin is emptied on an alternate weekly basis. The recyclables are sent to UPM's Shotton Materials Recycling Facility for sorting having been bulked up at the transfer stations at Pym's Lane by the in-house team and at Moss Lane, Macclesfield by Henshaws.

The UPM Recyclables Contract is scheduled to expire on 13 March 2014. This Contract has the option to be extended for up to 3 years.

10.2.2 Garden waste

Garden waste is currently collected on an alternate weekly basis by the in-house team. This waste stream is then directly delivered by the in-house team to transfer stations and/or composting sites.

The Council has a contract with CRJ Waste Services for the management and subsequent composting of the garden waste. This contract is scheduled to expire on 13 March 2014. There is an optional extension period of up to 3 years.

10.2.3 Residual waste

Residual waste is also collected on an alternate weekly basis by the in-house team in a black wheelie bin. Residual waste is then directly delivered to the WRG landfill sites at Danes Moss and Maw Green.

The Landfill Disposal Contract with WRG was due to expire on 31 March 2012. This has now been extended until 31 March 2014. This Landfill Disposal Contract cannot be extended any further.

10.2.4 HWRC's

The HWRC sites are currently managed by HW Martin. This Contract was let in February 2008 and is not due to expire until 31 March 2018.

10.2.5 Food waste

Food waste is currently not separately collected. The Council is currently looking at the options for the future separate collection and management of food waste. These proposals are subject to approval of a Portfolio Holder Decision (on 6th August 2012) whereby on approval Cheshire East Council will progress a bid £3.8 million to Central Governments Weekly Collection Support Scheme to introduce weekly Food Waste Collections from May 2014.

It is anticipated however that the additional running costs of this service (+£2m forecast) will form part of this alternative delivery options proposal through an Integrated Procurement. However, the food service would only be rolled out from 2014 as part of an alternative service delivery option on the basis that a 10% (£2m) saving is achieved against existing forecast budgets for 2014-15.

In the event of a successful bid to the communities fund but where the business case for the chosen service delivery options subsequently was not able to accommodate food waste collection within the existing budget envelope, the project for weekly food waste collections would be discontinued.

10.3 Options going forwards

It is clear that the Council has aligned the UPM Recycling Contract and the CRJ Garden Waste Contract so that they come to an end at the same time as the expiry of the Landfill Contract with WRG. As the Waste collection service is currently run in-house and the Waste services contractual commitments (other than for the HWRC's) are due to terminate in March 2014, the Council has an opportunity to reconfigure the way Waste services are delivered in the future. A summary of some of the options are set out below:

10.3.1 Outsourcing the Collection Services

A key question for the Council is whether there are benefits (technical, environmental, legal and financial) in procuring collection services from the private sector.

From a legal perspective, any outsourcing would need to consider (amongst other things) the choice of procurement, contract length and scope, TUPE/pension issues, property matters, the performance/incentivisation regime and of course the pricing mechanism.

In relation to procurement choice, we would propose that the competitive dialogue procedure be used. This procedure can be accelerated and managed on a tight timescale so that only key issues are dialogued with bidders, rather than the process becoming a "free for all". This enables the procuring authority to secure the optimal value for money solution for

its circumstances, rather than being constrained by a restricted procedure process where there is limited scope for dialogue or negotiation with the bidders. A competitive dialogue process for this service could be completed from OJEU to contract signature in 12-18 months, with the new service commencing approximately 6 months later to allow for mobilisation and vehicle orders.

A practical benefit of procuring this service from the private sector is that the need for an appropriate depot/transfer station in the North of the locality could be left to the waste market to determine.

The private sector market for such services is healthy with a combination of established waste players such as Sita, Veolia Environmental Services, Focsa (now rebranded as FCC Environment), Biffa/Greenstar, and newer players such as Enterprise, May Gurney, Serco and Kier.

Procuring this service could be achieved in different ways, including through an integrated procurement (see paragraph 3.2) or a separate procurement (see paragraph 3.3)

10.3.2 Integrated procurement

The Council could commence a procurement for the delivery of all of the Waste services on an integrated basis. This would result in one contractor providing the full service from the kerbside to any residual waste treatment outlet. The service would therefore cover Waste collection, recycling, composting/anaerobic digestion, haulage and residual waste treatment. Such local authority integrated projects already exist across the UK and are also currently being procured in other localities such as Telford.

The key benefit of such a solution will be the potential economies of scale which may be achieved by one contractor delivering the whole waste solution to the Council. In addition there will be fewer practical and contractual interfaces for the Council to manage between different elements of the service. However, the potential contractors who may bid for such a service are limited to a relative few established waste contractors (although other bidders may establish consortia to deliver such a service).

Again, competitive dialogue would be the appropriate procurement route. In this case the initial procurement phase could be delivered in a time period of 18 months if the Council is clear on its requirements, has an efficient decision making process and takes a pragmatic view on commercial/legal risks.

10.3.3 Separate or semi-combined procurements

The Council could re-let separate contracts for co-mingled recyclables, garden waste/food waste management, residual waste treatment and any new outsourcing of the waste collection service.

A benefit of letting these contracts separately is that the Council may have the benefit of a greater number of bidders bidding for each contractual opportunity and each procurement would consequently be simpler.

If separate procurements are undertaken, the Council would need to determine under which procurement any transfer station/bulking provision will be provided. Whilst currently the Council's Waste service is delivering with the limited arrangements, going forwards greater flexibility may be required for transfer/bulking points for recyclables, garden/food and residual waste.

Whilst any recyclables processing, garden or food waste service could be procured separately as individual contracts there may be economies of scale of combining the responsibility for these services with any outsourcing of the waste collection service. Alternative combinations may also exist with residual waste treatment.

The options with separate and semi-combined procurements requires detailed review and this is only an initial view of the options.

10.3.4 Retaining the in-house service

The Council could continue to provide the waste collection services in-house. This would avoid the risks associated with appointing a private sector contractor to operate a key service such as Waste and any TUPE/pensions concerns. The Council would however need to carefully consider any cost savings may be missed as a result of choosing this option. It should be noted that any further cost savings are from retaining the service in house are not likely to be significant given the service redesign already undertaken by the council.

With this approach the Council would then need to determine whether the Recyclables Contract and Garden Waste Contract should be separately re-let or whether it should be combined with any residual waste treatment procurement.

Again there are several options here and this requires a detailed review with the input of special waste technical, financial and legal/procurement teams.

10.3.5 HWRC services

Whilst the current HWRC services do not expire until March 2018, this could be incorporated by legal mechanisms into any procurement for an integrated service under paragraph 3.2, under any separate procurements under paragraph 3.3 or with any arrangements involving retention of the in-house service under paragraph 3.4.

10.3.6 Contract Length

In relation to any procurement decision whether integrated, separate or semi-combined, contract length needs careful consideration. Clearly longer term contracts give the private sector financial certainty and consequently should deliver keener pricing. However, this may limit flexibility and hinder the ability of the Council to push up recycling performance over the medium to long term.

In light of the potential presence of waste treatment infrastructure capacity in and around the North West (resulting in potential spare capacity), there is not an automatic need to seek entry into 25 year PFI type contracts for waste treatment purposes.

In respect of separate waste collection procurements, the driver tends to be vehicle renewal periods and therefore these are usually structured around 7 year terms.

Finally, as the existing Landfill contract is due to expire in March 2014, this date should in itself not be the driver for determining the Council's approach and strategy for the future. For example, this risk could be managed by a running short term (say a 2 year) procurement for waste treatment/landfill and extending out the co-mingled recyclables and garden waste service contracts. This would then give the Council more time to determine the way forward and run appropriate procurements over reasonable time periods.

10.3.7 Arms length company

An alternative for the Council would be to create an arms length company to provide Waste services in the locality. The scope of the services could be comprehensive and include collection, recycling, composting and treatment or could be limited to a narrower range of say the collection services only.

This is an option that has been attractive for local authorities who have concluded not to utilise the private sector market in the traditional way but who still wish to achieve savings, for example the district authorities in Gloucestershire or the London Borough of Harrow.

Transferring the function to a separate company can facilitate the service being delivered on a more commercial basis free from the restrictions of

local government decision making and allows for flexibility around staff terms and pensions. Whilst these, and other, potential efficiencies and savings mean there can be advantages in operating a wholly owned company, in most instances the arrangement is seen as an interim step.

The typical longer term aims for any local authority going down this route would either be for other authorities to join the company (and awarding it contracts for waste functions), thereby creating greater economies of scale and efficiencies, or for the company to be “spun-out” at some point in the future either as a social enterprise / staff-mutual or to the private sector. In the latter case the use of a wholly owned company allows the local authority to assess the viability of the function as a stand alone business and the company to build up experience and a trading history before moving to an entirely independent operating model.

11.0 Access to Information

Food waste bid paper. Portfolio holder decision 6th August 2012
Bevan Brittan advice note dated 27th July 2012.

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