

CHESHIRE WEST AND CHESTER

PART A - REPORT TO CABINET

Date of Meeting:	16th January 2019
Report of:	Maria Byrne and Graham Pink
Cabinet Member:	Cllr Karen Shore
Title:	Review of the Waste Services Contract

1.0 **What is the report about?**

- 1.1. The Council's waste collection provider, Kier, has formally requested to exit early its Waste Services (waste collection) contract with the Council. This report presents the findings of a commercial review of the options for the Council in responding to Kier and recommends a preferred option for decision by Cabinet.
- 1.2. A further report is in Part B of this Cabinet agenda, which contains related information that is not to be published because it is commercially sensitive.

2.0 **Recommendations**

Subject to the agreement of recommendation 2.1 of the report on the review of the Waste Services contract to be considered in Part B of this agenda, that Cabinet:

- 2.1. On satisfactory completion of due diligence, delegates authority to the Deputy Chief Executive Places and Chief Operating Officer, following consultation with the Cabinet Members for Environment and Legal and Finance, to enter into an early exit agreement in relation to the Council's Waste Services Contract.
- 2.2. Delegates authority to the Director of Governance to conclude all agreements necessary to complete the early exit of the contract with Kier.
- 2.3. Agrees the preferred service delivery model – a Local Authority Trading Organisation to be effective from 1st April 2020. A further report to be presented to Cabinet in June 2019 detailing the operating model for the Local Authority Trading Organisation, consistent with the principles set out in 4.16 below and ensuring alignment with Government guidance.

3.0 **Reasons for the recommendations**

- 3.1. To minimise risk around the future service delivery and affordability of the waste collection service in the light of Kier's desire to exit the contract.
- 3.2. To ensure that residents continue to receive a high quality and efficient service that provides best value to the Council.
- 3.3. To minimise disruption and to provide stability for what is a high performing and effective operational workforce.

- 3.4. To ensure the Council retains flexibility in future service provision, enabling it to implement changes recommended through its Waste Strategy Review and /or national policy changes.
- 3.5. To ensure that a Cabinet decision can be made in sufficient time that an alternative solution is in place to deliver the service from April 2020.

4.0 **Report details**

Waste Services Contract

- 4.1. The Council's 'Waste Services Contract' (for Waste Collection) commenced on 1st April 2012 for a term of fourteen years. The contract was awarded to May Gurney Ltd and subsequently transferred to the Kier Group, following its successful acquisition of May Gurney in 2013. In the past 18 months, Kier has made a corporate decision to exit the waste market. This has resulted in the early exit of its contracts with various local authorities across the UK including Bristol City Council, the Somerset Waste Partnership, and East Sussex Council. Cheshire West and Chester Council represents the only remaining large waste collection contract held by Kier.
- 4.2. The Council pays an annual fee for the service, based on the number of properties in scope of the tender (the Council pays extra for growth in property numbers if 5% above this initial volume). The annual tendered cost was a net £7.8m.
- 4.3. Since contract commencement, operational performance has remained stable, with current annual household waste recycling performance in excess of 58% and customer satisfaction levels of over 96%. This level of performance has been driven through a combination of a dedicated local workforce and the Council's robust approach to contract management.

Future Waste Strategy and the need for flexibility

- 4.4. After a decade of relatively stable national waste policy, there is likely to be significant change within the UK waste industry over the coming years. To enable the Council to assess the impacts of such changes an independent assessment of the market from both a national and local perspective was commissioned.
- 4.5. On 18th December 2018, the Government outlined its future plans for household waste in the DEFRA Resources and Waste Strategy document. The DEFRA Strategy proposes significant changes in waste policy across the UK that are likely to have a fundamental impact on local authority operations. It outlines various long term ambitions including a commitment to ban food waste from landfill by 2030. There is a focus on reducing the production of plastic waste, including a new Extended Producer Responsibility (EPR) and deposit return schemes.
- 4.6. The introduction of EPR aims to make manufacturers and producers more responsible for their products, and any associated packaging. This means producers will be required to help to pay for the costs of collecting, transporting and recycling and will be responsible for disposing of products and materials at the end of their life. Currently in the UK these costs fall mainly on local authorities.

- 4.7. EPR has the potential for local authorities to recover much of the current costs associated with waste and recycling collections. However, it is likely that in order to do this Councils will be required to meet pre-conditions; which may require changes to be made both in terms of collection and/or processing methods.
- 4.8. The Council has commenced a strategic review of its household waste and recycling service. Places Overview & Scrutiny Waste Task Group will oversee the review. It is anticipated that the strategic review will not only consider the emerging national policy, but also the Council's and public's local needs. The Council's new/revised waste strategy will be endorsed by Cabinet and in place from early 2021.

Early Exit Offer

- 4.9. Kier has submitted proposals indicating their wish to exit early the Contract with the Council. Their offer includes a financial payment together with the transfer of specified assets to enable the existing service to be delivered.
- 4.10. In order to appraise the options available to the Council an officer Waste Board was established made up of senior officers from the Waste Service along with officers from legal, finance and commercial management.
- 4.11. An independent external consultant was commissioned to provide specialist technical and sector knowledge to inform the Council's decision.

Options Available to the Council

- 4.12. In the event of exiting the contract early there are a range of alternative service delivery options available to the Council. The options considered were:
- Re-procurement
 - Bringing the service back into Local Authority Control
 - i. Local Authority Trading Organisation
 - ii. In House Provision

Options Appraisal Approach

- 4.13. The options appraisal process was conducted by Council officers supported by external legal and technical advisors. Objective appraisal criteria were developed that assessed both the qualitative and financial aspects of each of the service delivery options. The criteria was then used to score each option to determine the most appropriate service delivery model should the Council decide to accept Kier's early exit offer.

Option Appraisal Outcomes

- 4.14. The options appraisal process concluded that;
- The Council should exit the contract with Kier.
 - Re-procuring the service was not viable at this point in time

- From a quality and financial evaluation perspective a Local Authority Trading Organisation represents the most appropriate alternative service delivery model

4.15. The recommended option will ensure that residents experience no change or disruption to the current service and that all necessary steps are taken to ensure a seamless transition.

4.16. The exact form and operating model of the Local Authority Trading Organisation is subject to further development, however, it is proposed that it be based on the following core co-operative principles;

- Democratic member control through specified matters reserved to the shareholder board including reinvestment of any surplus
- Potential employee and stakeholder representation on the Board in order to provide greater influence and strategic control over the direction of the organisation
- Clear service specification, performance management arrangements and reporting to ensure effective oversight and that Council outcomes continue to be met
- Separate commissioning role to design future service provision ensuring ongoing development of the Waste Strategy and successful service delivery
- Option to second staff from the Council to provide shared values and expertise
- Staff education, training, information and trade union involvement so they can contribute effectively to the management of the organisation
- Cooperation with other similar organisations to share best practice and explore opportunities for growth
- Provides additional social value

5.0 **How does the decision contribute to the Council's Plan?**

5.1 Having an efficient and effective Waste Collection service contributes to our Council Plan outcomes around Thriving Communities, in particular 'Cleanest, safest and most sustainable neighbourhoods in the country'. This report sets out proposals to ensure that we are able to continue to meet this important Council Plan outcome.

6.0 **How does the decision contribute to working with the Councils Partners?**

6.1 Kier is currently the Council's appointed Waste Services contractor and delivery partner. This report sets out proposals for how this contractual arrangement will be brought to an end whilst ensuring that residents experience no change or disruption to the way that the current high performing service is delivered and that all necessary steps are taken to ensure a seamless transition.

6.2 The impact upon the Council's wider partners will be considered as part of a further report to be presented to Cabinet in June 2019 outlining the detailed Local Authority Trading Organisation solution.

7.0 What are the legal aspects?

7.1. These aspects are referenced within the report in Part B of this agenda.

8.0 What risks are there and how can they be reduced?

8.1. These aspects are contained within the report in Part B of this agenda.

9.0 What will it cost?

9.1. The Local Authority Trading Organisation option provides the overall lowest cost option over the period of the remaining contract term to 2026.

10.0 What is the impact of the decision on health inequalities and equality and diversity issues?

10.1. The service specification and delivery method will remain unchanged; therefore there will be no new or additional impacts.

For further information:

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Background Documents:

Documents are available for inspection at: n/a