

## CABINET - 7TH JULY 2021

### Report of the Head of Cleansing and Open Spaces Lead Member: Councillor Leigh Harper-Davies

#### Part A

#### ITEM CONTRACT PROCUREMENT FOR THE PROVISION OF HOUSEHOLD RECYCLING AND WASTE COLLECTIONS & STREET CLEANSING

##### Purpose of Report

To review the different commissioning options for the provision of household recycling and waste collections, as well as street cleaning beyond 31<sup>st</sup> March 2024. Any changes to the current collection arrangements as a result of the procurement, new legislation or local policy will be subject to a separate Cabinet report.

##### Recommendations

1. That delegated authority be given to the Head of Cleansing and Open Spaces in consultation with the Strategic Director for Environmental and Corporate Services and the Cabinet Lead Member for Community Support to commence the contract procurement for the provision of household recycling and waste collections as well as street cleaning beyond 31<sup>st</sup> March 2024.
2. That Competitive Dialogue is the approved procurement route.

##### Reasons

1. To ensure that the Council continues complying with its statutory obligations under the Environmental Protection Act 1990.
2. To benefit from the interaction with suppliers while developing the specification requirements, so that best value for money and optimum performance is achieved.

##### Policy Justification and Previous Decisions

One of the key themes of the Council's Corporate Strategy is about *Caring for the Environment* and highlights that: "*We will improve and develop our outstanding waste and recycling service to make it more efficient, more resilient and better for the environment*".

Waste collection and street cleansing services are statutory functions of the Council under the Environmental Protection Act 1990. The procurement is governed by the Public Contracts Regulations 2015 (as amended) (the "PCR").

The current contract is in partnership with Serco Ltd and is due to expire on 31<sup>st</sup> March 2024. It is likely that TUPE will apply to the staff currently providing the services if the contract is not won by the incumbent. The value of the contract is above the threshold in the PCR for services contracts, which is currently £213,477, and must therefore be procured in accordance with the PCR. This means a new procurement competition.

As the value of the contract exceeds £500,000, Cabinet approval is required before the procurement process commences.

Implementation Timetable including Future Decisions and Scrutiny

An indicative timetable of the proposed procurement route is available in Appendix 1.

Report Implications

The following implications have been identified for this report.

*Financial Implications*

The size and value of this contract is such that it has significant financial implications to the Council’s budget. Factors like inflation and fuel costs can have detrimental impact on any forecasting. Officers are trying to predict (through the Medium-Term Financial Strategy) the future costs to ensure financial capacity and resilience is allowed.

*Risk Management*

The risks associated with the decision Cabinet is asked to make and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Overall Risk	Risk Management Actions Planned
Officers may not have the necessary experience and skills to fulfil the task	Remote (1)	Major (4)	Low (4)	A Project Board consisting of elected members and officers will be assembled to ensure the successful delivery of this project. Officers have been previously involved in similar exercises and will also be consulting specialists in legal and procurement services.
Responses to the tender are not acceptable	Unlikely (2)	Major (4)	Moderate (8)	Using the Competitive Dialogue as the preferred procurement route will give the Council the best chances to hear the

Risk Identified	Likelihood	Impact	Overall Risk	Risk Management Actions Planned
				views of the experts and thus ensure that their submissions meet the Council's expectations in terms of cost and performance standards
The contents of new secondary legislation under the Environment Act 2021 are unknown. This could have a significant impact on the way that services are delivered (mandatory food waste collections, potential changes to garden waste and recycling collections).	Unlikely (2)	Major (4)	Moderate (8)	The Competitive Dialogue procedure allows for the specification to be changed up until the shortlisted suppliers are invited to submit a best and final offer.
There are no many Depot facilities available in the area for the suppliers to run the day to day operations	Unlikely (2)	Major (4)	Moderate (8)	A 12-month mobilisation period is proposed to allow suppliers enough time to put in place the necessary arrangements for the provision of the services.

### *Equality and Diversity*

It is not anticipated that there will be any direct negative impacts on any groups with protected characteristics, under the terms of the Equality Act 2010, from the procurement of a new waste, recycling and street cleansing service from 2024.

An Equalities Impact Assessment has been previously completed for elements of this contract that were considered to have such implications (i.e. introduction of charges for bulky waste collections).

### *Sustainability*

The ambitions and targets of the Council's Carbon Neutral Plan 2030 will be considered as part of any arrangements made.

Key Decision: Yes

Background Papers: None

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## Part B

### Background

1. The council has a statutory duty as a Waste Collection Authority to collect Local Authority Collected Waste from the Borough and, as a Principal Litter Authority, to keep public land clear of litter and refuse within the Borough.
2. The current contract for the provision of services to fulfil the statutory duties, and to provide additional waste removal and cleansing services, expires on 31<sup>st</sup> March 2024. There is no provision within the contract to further extend the current services beyond this date.
3. Under Regulation 72 of The Public Contracts Regulations 2015, is permissible to extend a Contract by a “low value change” arrangement by up to 10% of the Initial Contract Value for Services and Supply Contracts. A contract can be increased by up to 50% of the Initial Contract Value if the Council can demonstrate that a new procurement would cause significant inconvenience or substantial duplication of costs for the contracting authority.
3. As part of the tender, the successful bidder will be required to provide a depot facility to host their operations. Due to the complexities in securing and licencing a depot, it is recommended that the procurement exercise is concluded by March 2023. This will allow for a 12 month mobilisation period prior to the contract commencement.
4. The Council owns the fleet required to deliver the services specified in the contract. At the point of the new contract commencement, the existing vehicles will have a significant residual lifespan and will be utilised by the successful tenderer. During the life of the contract, these vehicles will need replacing. In order to meet the targets, set in the Charnwood Carbon Neutral Plan 2030, some/all of these vehicles will be required to use alternative low/zero carbon fuels.
5. The procurement of the new contract will be overseen by a member/officer project board.
6. It is a difficult time to specify the requirements of a new contract, as the Council is expecting secondary legislation around new government expectations around waste and recycling collections. This legislation could have a significant impact on how waste and recycling is separated and collected. The competitive dialogue procurement procedure has been chosen as it allows changes to the contract specification throughout some of the process.

### **Commissioning options considered:**

7. **Option 1 – Deliver the services in house**  
*This is not the recommended option.*  
Whilst there are some undeniable attractions to delivering the services in house (especially in terms of flexibility), this approach would not allow the Council to use the competitive tendering process as a driver for efficiency, quality

improvement and innovation. Insourcing would likely involve significant up-front costs to pay for the transition to direct employment and would lead to substantial internal capacity and structure issues, including those required to harmonise pay and conditions and join up service provision.

8. **Option 2 – Set up a local authority trading company (LATC)**

*This is not the recommended option.*

The process of establishing an LATC would be complicated, time consuming, and resource intensive. Considerable consideration would need to be given, and external expertise sought. Following such a process there is no guarantee that such an approach would deliver better services than a competitive tendering process, thereby placing the Council in a position of additional risk and expense with no guarantee of subsequent reward.

9. **Option 3 – Commission the services from a mature and well-developed marketplace**

*This is the recommended option.*

It is a well-established pathway for the provision of such services and as such is the approach that minimises risk to the Council. The basis for this approach is that it maximises private sector expertise, opportunities for economies of scale, and the use of technology to drive performance improvements.

10. **Option 4 – Partner with one or more other councils to commission the services**

*This is not the recommended approach.*

Whilst there is an argument that procuring services across one or more councils may achieve economies of scale, such arrangements can be difficult to manage in respect of the management of the terms of existing contracts and extension provisions. There are significant concerns around what the implications might be for borough sovereignty. Such an approach also carries the issues around the need to agree the terms of the partnership (particularly in relation to the scope, scale, level of investment and the sharing of risks and rewards), and the differences in operating systems and organisational cultures across the councils involved in the partnership

11. Considering the size and complexity of the contracted services and for the reasons detailed above, procuring the services from a well-developed and mature marketplace is the recommended option.

**Procurement routes considered:**

12. **Open procedure**

*This is not the recommended route.*

Whilst the open procedure is considered the most straightforward route to awarding contracts, the process does not allow the opportunity to discuss the Authority's requirements with providers.

13. **Restricted procedure**

*This is not the recommended route.*

Such a procedure is suited for services where the requirements can easily be specified and there is no need to negotiate. In this case, the Council's

requirements are complex and require some further discussion with bidders. Therefore, the restricted procedure is not suitable.

**14. Innovation Partnership**

*This is not the recommended route.*

Such an approach would be suited to where suitable market solutions to services required do not exist and a council may work with a provider to develop such solutions. This is not the case for these services, which are a statutory provision and have a consolidated marketplace.

**15. Negotiated procedure without prior advertising**

*This was not the recommended route.*

Such a procedure would need strong justification for its use under current procurement regulations, and there would likely be issues around the transparency of appointing a provider without having a clear process in place as to why they were appointed.

**16. Competitive Procedure with Negotiation**

*This was not the recommended route*

This route is used where the contracting authority is able to fully specify its requirements and wishes to negotiate these with a view to receiving an improved bid. It is not suitable as a means for identifying the best solution and defining the means best suited to satisfying the contracting authority's needs.

**17. Competitive Dialogue**

*This is the recommended procedure for the commissioning of these services.*

Such a procedure is considered appropriate in light of the complexity and significant financial value of the services being procured. Whereas the council knows the broad scope of the services it needs, there is potential for tenderers to work with the Council to understand these requirements and optimise the proposed solutions. The benefits of this process to the Council include:

- The ability to explore opportunities for innovation through the lifespan of the contract.
- Ensuring that potential providers understand the authority's strategic aims and goals.
- The ability to explore opportunities to find the optimal balance between cost and quality.
- The opportunity to test the relationship between the council and potential providers.

The process also benefits potential providers in that:

- It allows them to understand the financial risks, including up-front investment, that might be required in the delivery of the services.
- It allows for an informed discussion around any areas of concern.

18. The intention is to procure the services in a single lot from one provider

19. A roadmap of the Competitive Dialogue route can be found in Appendix 2

### **Other factors to be considered:**

20. Social value will make up at least 10% of total tender score. Tenderers will be asked to complete a method statement as part of their final tender and will be required to commit to the social value proposals offered. The themes of the social value matrix are based on the National Themes and Outcomes Measurements Framework, and the broad categories are:
  - Jobs: Promoting local skills and employment
  - Growth: Supporting growth of responsible regional business
  - Community: Safer, healthier, and more resilient communities
  - Environment: Protecting and improving our environment
  - Innovation: Supporting social innovation
21. As part of the contract extension negotiated in 2020, the Council decided to buy the necessary fleet for the provision of these services to maximise efficiencies. This fleet is expected to last until 2028 which means that will need to be replaced during the timeframe of the new contract arrangements. Any associated costs will need to be factored in.
22. The day-to-day operations are currently run from a depot located in Mountsorrel. Such facilities are not in abundance and the capacity of any contractor to secure such a site may dictate their capacity to submit a competitive bid for this procurement exercise.

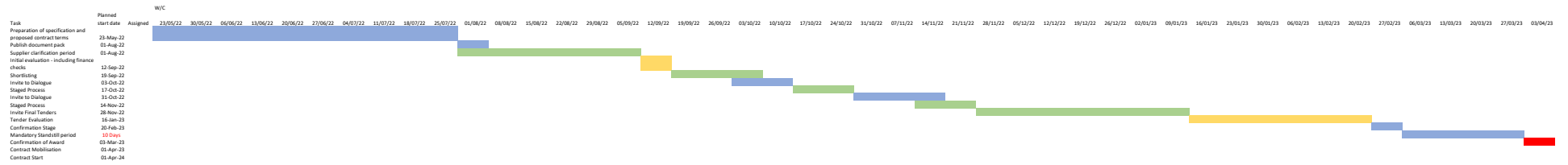
### Appendices

Appendix 1 – Proposed timetable

Appendix 2 – Competitive Dialogue roadmap



# APPENDIX 1



## APPENDIX 2

### Competitive Dialogue

### Actions Required

#### Minimum Timescales

1

Pre-Tender

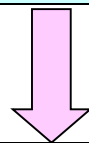
- Prepare specification & tender content
  - Define the needs and requirements
  - Set out qualitative selection criteria (including shortlisting criteria if required)
  - Set out award criteria & evaluation mechanism based on best price / quality ratio
- Finalise tender documents
- Prepare contracts

2

Advertise  
Opportunity

- Publish tender documents on electronic portal
- Advertise tender in FTS & Contracts Finder

30  
days



3

Selection Evaluation

- Respond to supplier clarifications
- Evaluate responses against selection criteria
- Seek clarifications to supplier responses where necessary
- Exclude unsuitable candidates

