

This information is available free of charge in electronic, audio, Braille and large print versions, on request.

For assistance in understanding or reading this document or specific information about this Agenda or on the "Public Participation" initiative please call the Committee Team on 01629 761133 or email committee@derbyshiredales.gov.uk

08 February 2022

To all Councillors:

As a Member of the Council, please treat this as your summons to attend the **Extraordinary Council Meeting on Thursday, 17 February 2022 at 6.00pm** in the **Council Chamber, Town Hall, Matlock DE4 3NN**.

This meeting will be recorded and published for viewing after the conclusion of proceedings on the District Council's website at www.derbyshiredales.gov.uk or via our YouTube channel.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'James McLaughlin'.

James McLaughlin
Director of Corporate and Customer Services

AGENDA

1. APOLOGIES

Please advise the Committee Team on 01629 761133 or email: committee@derbyshiredales.gov.uk of any apologies for absence.

2. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions on the subject matters(s) identified in the summons **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by electronic mail) **BY NO LATER THAN 12 NOON OF THE DAY PRECEDING THE MEETING**. As per Procedural Rule 14.4 at any one meeting no person may submit more than 3 questions and no more than 1 such question may be asked on behalf of one organisation.

3. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member, her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at that time.

Page Nos.

4. WASTE MANAGEMENT CONTRACT INDEPENDENT REVIEW

03 - 82

To consider a report detailing the findings and recommendations arising from the Independent Review of the Waste Management Contract with Serco undertaken by Allen Graham of Circling Squares. Please note the second appendix relating to this report is exempt and will be considered after the exclusion of public and press.

5. EXCLUSION OF PUBLIC AND PRESS

At this point the Committee will consider excluding the public and press from the meeting for the remaining item of business for the reasons shown in italics.

(The following report is exempt because it contains information relating to any particular person including the Council and the business affairs of the Council.)

6. INTERNAL AUDIT REPORT – WASTE COLLECTION SERVICE

83 - 103

To present, for Member's information, the internal audit report arising from a review of the Waste Collection Service.

NOTE

For further information about this Agenda or on "Public Participation" call 01629 761133 or email: committee@derbyshiredales.gov.uk

Appendix 2 to this report is exempt under the Local Government Act 1972 Schedule 12A paragraph 3 - Information relating to the financial or business affairs of any particular person

COUNCIL
17 February 2022

Report of the Director of Corporate and Customer Services (& Monitoring Officer)

WASTE MANAGEMENT CONTRACT INDEPENDENT REVIEW

PURPOSE OF REPORT

To consider a report detailing the findings and recommendations arising from the Independent Review of the Waste Management Contract with Serco undertaken by Allen Graham of Circling Squares.

RECOMMENDATIONS

1. That the findings and recommendations of the Independent Review of the Waste Management Contract with Serco be received.
2. That the thanks of the Council be conveyed to Allen Graham of Circling Squares and Nik Hughes-Roberts of Recircle Consulting for their work.
3. That the progress made against the recommendations made in the Independent Review be noted.
4. That approval be given to a supplementary revenue budget of £15,000 in 2021/22 (financed from the general reserve) and a further £15,000 to be included in the draft revenue budget for 2022/23 to continue to engage the services of Nik Hughes-Roberts of Recircle Consulting to support the Council in navigating contractual and legal issues connected to the contract with Serco.
5. That, where urgent decisions are required to be taken in respect of service delivery or contractual matters, in the event that a Council meeting cannot be organised to make a decision within a necessary timescale, consultation take place with political group leaders through the Leaders Advisory Group.
6. That, in the event of the circumstances arising where urgent decisions are required and consultation takes place with the Leaders Advisory Group, Political Group Leaders be recommended to consult their groups and provide feedback promptly to Officers in order for timely decisions to be made.

WARDS AFFECTED

District-wide

STRATEGIC LINK

The purpose of the independent review was to provide a strategic review of the delivery of the provisions of the contract by Serco. The review report itself provides an opportunity to understand what lessons can be learned and improvements made both in the delivery of the service, as well as ensuring that residents in the Derbyshire Dales receive excellent service from the Council and its contractors.

1 BACKGROUND

- 1.1 At its meeting held on 14 October 2021, the Council received a petition from nearly 600 residents which requested the authority “to commission an independent enquiry into Serco’s delivery of its 2020 waste contract and impose penalties for non-compliance where they are found to be applicable. We believe this is necessary so that the Council can meet its environmental and climate commitments in the future while representing value for money for tax payers and residents.”
- 1.2 At the same meeting, having debated a Motion seeking to establish an independent review of the contract with Serco for the provision of waste and recycling services, the Council resolved to:-
- Initiate an independent review of the Waste and Recycling Collection Contract to establish Serco’s performance against the requirements of the contract using qualitative and quantitative methods.
 - Require an evaluation of current contractual and operational issues including current market conditions, environmental impacts and financial impacts arising as a result of service disruptions encountered.
 - Require an assessment of the decisions taken, the likelihood of rectification within current contract parameters and identify possible alternative solutions.
 - In the interests of expediency, delegate authority to the Community and Environment Committee to agree appropriate Terms of Reference and to commission ‘Recircle Consulting’ to undertake the review given their knowledge of the Derbyshire Dales, the contractual requirements with Serco and their relevant market intelligence.
 - Require the completion of the review by 31st December 2021 and for it to be reported to an extraordinary meeting of Community and Environment Committee in January 2022.
 - Approve a supplementary revenue estimate of £20,000 for 2021/22 for the appointment of ‘Recircle Consulting’ to undertake the review.
- 1.3 On 17 November 2021, the Community and Environment Committee approved the appointment of Allen Graham of Circling Squares to conduct the review according to the following terms of reference:
- a) To evaluate the provisions of the contract with Serco for the delivery of waste and recycling services that took effect in August 2020; specifically whether the contract specification, mobilisation and implementation met the requirements approved by Elected Members in December 2019 and whether the contract was adequate in the context of the competitive waste services market at that point in time and presently.

- b) To evaluate the Council's management of that contract, including:
 - i. Whether the response to the recent service disruption and decisions taken by Officers/Members was necessary, effective and proportionate
 - ii. Areas of good practice
 - iii. Areas of improvement
 - iv. Operational / market constraints and future mitigating measures to address any identified contract failings

- c) To evaluate Serco's performance in the delivery of the contract
 - i. Review of contract documents and requirements
 - ii. Contract mobilisation and August 2020 implementation.
 - iii. Quantitative analysis of data in relation to KPIs and other key performance measures
 - iv. Review of financial impact associated with diversion of waste streams
 - v. Qualitative review of other contract performance/compliance
 - vi. Review feedback from the Waste & Recycling team in their dealing with residents and Elected Members, and Serco's response to those requests.

- d) To establish and summarise the root causes of recent service disruption and identify the actions required to be considered in order to mitigate future wide scale service disruption to residents.

1.4 The Committee also established a steering group of Members to work with Allen Graham to provide guidance, structure and feedback to ensure that the review remained independent and focused on learning opportunities for all parties. Councillors Cruise, Gamble, Salt, Slack and Swindell served on the Steering Group.

2 REPORT

2.1 Having commissioned the independent review into the history, actions, approach and recovery plan adopted following severe service disruption experienced by residents of the Derbyshire Dales in relation to domestic waste and recycling services, the scope of the review was additionally defined by the Member Steering Group as reviewing whether the contract with Serco remained "fit for purpose", whilst verifying and commenting upon the actions taken within the external environment of the time and, in particular, the impact of the pandemic. The review was supported by the commissioning of Recircle Consulting, who had been separately commissioned by the Council in October 2021 to provide expert market knowledge together with an objective evaluation of the contractor's performance in the delivery of the waste collections contract (covered by part c of the terms of reference).

2.2 The full review report prepared by Allen Graham is enclosed at Appendix 1 to this report, which sets out the methods utilised in gathering and reviewing information from contract documentation, other correspondence and speaking to staff from the Council and Serco. The conclusions reached by Allen Graham in respect of the implementation of the contract are set out on pages 39 and 40 of the review report, but are listed here:

- The evidence provided both verbally and in writing during the course of this review lead to the conclusion that there has been an incomplete delivery of the contract requirements by Serco.

- As a result of key components not being fully implemented or delivered there has been an undoubted impact upon service delivery resulting in an accelerated and unmanageable volume of customer enquiries and complaints
- The volatile environment caused by the pandemic impacted significantly upon the strategic and operational capacity of both the contractor and the authority. In particular the escalation of household waste resulting from changing behaviours combined with vehicle delays and staff shortages placed additional pressures that required close management by the contractor
- The remote working environment imposed upon both parties appears to have been significant in disrupting the effective man management of the contract in its early stages as key service areas were disrupted and stretched to react to competing and variable priorities
- Evidence presented provided reassurance that senior management remained responsive to supporting the Waste and Recycling Manager, providing clear advice and direction within the first 3 months of the contract commencement
- Officers of Derbyshire Dales District Council, and in particular the waste and customer service teams have continually gone the “extra mile” to protect the authority’s reputation, resolve customer complaints and assist the contractor in recovering the situation
- My review has established that, once the seriousness of the situation became apparent, the Chief Executive and Director of Community and Environment had taken proportionate and necessary steps to
 - Communicate effectively with the senior management of Serco
 - Engage and communicate with members of the authority
 - Identify the root causes and attempt to negotiate remedial steps to establish an emerging recovery plan
- The Authority has not yet received the benefits of the whole of the contract as intended
- It will be necessary to evaluate and agree the financial and contractual consequences caused by non-delivery of the key deliverables of the contract whilst considering the future impacts of any customer behavioural changes which continue as the pandemic hopefully recedes
- Serco is responding and has acknowledged in a discussion during my visit to the depot that they “took the eye off the ball” and the contract was not supervised and managed to the level they set themselves
- A recovery plan is now in place which was an essential first step to prevent further deterioration and secure improvement for the residents
- A separate technical evaluation of Serco’s performance (covering part C of the terms of reference for the review) has been concluded and supports the conclusions of this review.

2.3 The following recommendations have been made to the Council by Allen Graham:

1. That Derbyshire Dales District Council continues to maintain and further the dialogue utilising the formalised contract management arrangements
2. That the dialogue is extended to include:
 - a) Resolving existing performance and payment discrepancies to ensure these are equitably resolved taking into account the Council’s additional support commitments

- b) An agreement regarding how any re-basing required to take account of changes in customer behaviour caused either by the pandemic or the emerging sustainability agenda will be addressed
- c) Establishing the intentions and approach for both parties to ensure the ongoing fulfilment of the contract

3. That the Council also communicates the importance and urgency of resolving the MIS and round optimisation issues through a clear and robust plan

4. That the Corporate Leadership Team re-establish a corporate approach to overseeing the critical success factors of implementing the contract, reacting to unsatisfactory performance and advising Members of on-going options for future delivery

5. That consideration is given to enabling customer service staff access to relevant data and options to escalate and remedy customer queries.

6. That a review of the corporate management capacity is undertaken to ensure that future transformational and modernisation projects are adequately resourced.

2.4 Recircle Consulting's report provides a detailed evaluation of Serco's performance against the contract. This report is enclosed as an exempt appendix under paragraph 3 of Schedule 12A of the Local Government Act 1972. The reason for the exemption is that the report contains information relating to the financial or business affairs of Serco which the Council may rely on in future negotiations and actions with Serco. It is considered that the publication of this information would not serve the public interest as it would undermine the Council's position in respect of ongoing negotiations and potential future legal action. The findings and recommendations from Recircle's report are captured by the conclusions and recommendations from Allen Graham.

2.5 To assist Members consideration of the recommendations from Allen Graham, officers have set out the progress made in respect of the areas where recommendations have been made.

Recommendation	Progress	Officer Lead
<p>1. That Derbyshire Dales District Council continue to maintain and further the dialogue utilising the formalised contract management arrangements.</p>	<p>Monthly Contract Meetings, which monitor and measure service performance and delivery, have continued, as outlined in the terms and conditions of the contract.</p> <p>There are also weekly Contract and Operational meetings taking place, as well as daily updates on performance, and this has been the case for several months.</p> <p>In addition to the regular meetings and ongoing dialogue, the Council is applying mechanisms available in the contract to help manage contract behaviour and address outstanding issues and under performance.</p>	<p>Director of Community & Environmental Services</p>

Recommendation	Progress	Officer Lead
<p>2. That the dialogue is extended to include:</p> <p>a) Resolving existing performance and payment discrepancies to ensure these are equitably resolved taking into account the Council's additional support commitments</p> <p>b) An agreement regarding how any re-basing required to take account of changes in customer behaviour caused either by the pandemic or the emerging sustainability agenda will be addressed</p> <p>c) Establishing the intentions and approach for both parties to ensure the ongoing fulfilment of the contract</p>	<p>The Chief Executive, the Director of Community & Environmental Service and the Waste & Recycling Manager met with Serco's MD for Citizens Services and with Serco's Regional Director, who holds the portfolio for the Derbyshire Dales contract, on Wednesday 26 January to progress the outstanding matters.</p> <p>At the above meeting, the Council requested that Serco to confirm its intentions and outline a timeframe for returning to the contractually required level of service.</p> <p>There is a follow up meeting arranged for Monday 14 February, where Serco is expected to provide an update on their progress.</p> <p>Officer's focus is currently on encouraging Serco to return levels of Service to those set out in the contract. As part of this, it may be necessary to undertake 're-basing' to account for the influence on the Covid-19 pandemic on waste generation. It will be for Serco to propose a change in this regard, which as yet Serco has not done.</p>	<p>Director of Community & Environmental Services</p>

Recommendation	Progress	Officer Lead
3. That the Council also communicates the importance and urgency of resolving the MIS and round optimisation issues through a clear and robust plan	Officers are utilising contractual mechanisms to drive / manage the process of Serco resolving the MIS issues. Should Serco fail to resolve the MIS issues within appropriate timescales then a further escalation of the contractual mechanisms will be applied.	Director of Community & Environmental Services
4. That the Corporate Leadership Team re-establish a corporate approach to overseeing the critical success factors of implementing the contract, reacting to unsatisfactory performance and advising Members of on-going options for future delivery	Weekly updates prepared for Corporate Leadership Team. Contract management team to be established to provide timely interventions and contract oversight.	Chief Executive / Director of Community & Environmental Services
5. That consideration is given to enabling customer service staff access to relevant data and options to escalate and remedy customer queries.	Customer Services staff were given access to and training on the Whitespace system on 9 February 2022.	Director of Corporate and Customer Services
6. That a review of the corporate management capacity is undertaken to ensure that future transformational and modernisation projects are adequately resourced	Individual discussions commenced with Corporate Leadership Team. Proposals to be formulated and presented to Council for consideration in due course.	Chief Executive

2.6 The review commissioned by the Council provide a comprehensive reflection on what has occurred in respect of the waste management contract with Serco. It should also be recognised that the review is also a snapshot of the situation at a particular moment in time. The operational delivery of the waste contract continues to be challenging and residents have experienced and continue to experience inconsistency in service delivery which remains a source of frustration for them and for officers at the Council.

2.7 In recognition of the dynamic and constantly changing situation, it is recommended that the Council approves additional budgetary provision of £15,000 in 2021/22 and £15,000 in 2022/23 to retain the services of Nik Hughes-Roberts of Recircle

Consulting to ensure that the authority continues to receive the high quality advice and support to react and respond to situation with Serco. Over the coming weeks, Recircle Consulting will be supporting the Council with the analysis of data, review of KPIs (inc. supporting information and billing) and application of contract mechanisms to improve Serco's performance levels.

- 2.8 Member involvement, oversight and ownership of decision making in respect of the provision of waste and recycling services will take on increased importance in the short term following consideration the independent review report. Residents of the Derbyshire Dales have turned to their elected representatives for answers throughout the periods of disruption to service provision and it is important that Members, as community leaders and representatives, are able to provide clear explanations as to decisions taken in respect of this key service. It is likely that decisions may need to be made quickly to respond to contractual developments or legal advice. Whilst decision making by the full Council is the preferred and appropriate route to deal with these challenges, the arrangement of meetings of the Council with a need to provide five clear days' notice may not always best serve the interests of the Council in such situations where expedient decision making is required.
- 2.9 As stated, there will always be a presumption that such matters will be referred to Council, however it is recommended that, where urgent decisions are required, the relevant officers (likely to be the Chief Executive or Director of Community and Environmental Services) be required to consult with the Leaders Advisory Group before taking any decisions to give representatives of all political groups the opportunity to comment and influence any decision making under the urgency procedure. Whilst the Leaders Advisory Group presently has no constitutional status, such a body is often in operation informally in local authorities for the purposes of consultation and political engagement outside of the formal governance framework, and it is considered a useful vehicle for consultation and communication where prompt decisions are required. In such cases, it is suggested that political group leaders take the opportunity to consult their own group Members on any proposals during any timescale set aside for broader consultation before a decision is required to be made. The Council cannot direct the requirements for consultation with political groups by their own group leaders, so this is submitted as a suggestion to ensure that, where urgent decisions are required to be taken by officers, as many Members have the opportunity to influence that decision as possible.
- 2.10 In making a recommendation to enable consultation through the Leaders Advisory Group where urgent decisions are required, this is ensure that there is a One Council approach to addressing and resolving the issues relating to the waste and recycling services contract. This is not intended to bind individual Members or groups to a particular course of action, but to maintain transparency where decisions are required. Where urgent decisions are required and enacted, such decisions will be reported back formally to the Council meeting.

3 RISK ASSESSMENT

Legal

- 3.1 Having received the independent review reports, the Council is being asked to receive the findings and recommendations. The table at paragraph 2.5 sets out the

work undertaken to date responding to the recommendations that have been made in the independent review.

- 3.2 The overall legal risk to the Council should be managed by the issue of Default/Remediation Notices as necessary to reinforce the need for performance levels to be met and to be clear that any change to those levels should be negotiated with Serco and dealt with via a Variation Agreement. The recommendations in this report to provide an efficient model of decision making where the Council is required to respond quickly to service delivery or contractual issues will strengthen the Council's position whilst maintaining political ownership and oversight and providing transparency. The legal risk associated with this report is considered to be low.

Financial

- 3.3 One of the report recommendations seeks approval for further budgetary provision (£15,000 in 2021/22 and £15,000 in 2022/23) to continue to engage the services of Nik Hughes-Roberts of Recircle Consulting to support the Council in navigating contractual and legal issues connected to the contract with Serco. The financial risk of this is assessed as low.
- 3.4 One of the conclusions of the review is that "It will be necessary to evaluate and agree the financial and contractual consequences caused by non-delivery of the key deliverables of the contract whilst considering the future impacts of any customer behavioural changes which continue as the pandemic hopefully recedes".
- 3.5 There is also a recommendation (in the table in paragraph 2.5) that dialogue is extended to include "Resolving existing performance and payment discrepancies to ensure these are equitably resolved taking into account the Council's additional support commitments".
- 3.6 Over the coming weeks, Recircle Consulting will be supporting the Council with the analysis of data, review of KPIs (inc. supporting information and billing) and application of contract mechanisms to improve Serco's performance levels. Once this work has been concluded, the financial implications and risks will be assessed; any significant budgetary changes will be reported to a future Council meeting.

4 OTHER CONSIDERATIONS

- 4.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.
- 4.2 Having received and reviewed the independent report and recommendations, there are no actions that impact on the climate change agenda. Whilst regard has been had to climate change implications, a climate change impact assessment has not been undertaken. However, it is acknowledged that some of the decisions taken during the recent period of service failure will have had an adverse climate change impact. In particular, as documented on page 38 of the review report, the suspension of separate food waste collections. Whilst the Council acknowledges and understands the impacts of sending food waste to landfill and the subsequent production of Methane this operational decision was taken to free up teams to enable all other scheduled waste collections, including recycling collections to take place. As referred to in the report a recovery plan is now in place, which will seek to

ensure that such measures are not necessary again.

5 CONTACT INFORMATION

- 5.1 James McLaughlin, Director of Corporate and Customer Services, 01629 761281 or james.mclaughlin@derbyshiredales.gov.uk

6 BACKGROUND PAPERS

- 6.1 Report to Community and Environment Committee - Independent Review of the Waste and Recycling Services Contract with Serco – Proposed Terms of Reference and Appointment of Independent Review Officer – 17 November 2021
- 6.2 Petition to Derbyshire Dales District Council – Independent Inquiry into Serco’s delivery of the Waste Contract
- 6.3 Minutes of the Council meeting held on 14 October 2021

7 ATTACHMENTS

- 7.1 Appendix 1 – Derbyshire Dales & Serco WASTE Management Contract Independent Review – Report of Allen Graham
- 7.2 Exempt Appendix 2 – Contract Performance Review – Waste Collections – Report of Recircle Consulting

Derbyshire Dales & Serco

Waste Management Contract Independent Review
(Private & Confidential)

Prepared by: Allen Graham MBA, C Dir, MloD, IRRV Hons

Contents

Report Section	Page(s)
Independent Review Remit	3 - 6
Method Utilised	7
Contract Process - Procurement	8 - 11
Contract Process - Specification	12 - 16
Contract Process - Award	17 - 19
Contract Mobilisation	20 - 25
Contract Implementation	21 - 34
Service disruption and intervention	35 - 38
Contract Implementation Findings	39
Review Recommendations	40
Areas of Good Practice	41
Areas for Improvement	42
Acknowledgements	43

Independent Review Remit

- Following an approach by the Local Government Association and submission of a written proposal, Derbyshire Dales District Council commissioned Circling Squares Ltd to conduct an independent review regarding the history, actions, approach and recovery plan adopted following severe service disruption experienced by the residents of Derbyshire Dales District Council in relation to the domestic waste and recycling services.
- The scope was additionally and subsequently defined by a cross party member group as reviewing whether the contract remains “ fit for purpose” whilst verifying and commenting upon the actions taken within the current external environment in particular the impacts of the pandemic.
- The work of Circling Squares was supported by the commissioning of Recircle Consulting Ltd who were separately commissioned to provide expert market knowledge together with an objective evaluation of the contractors performance in the delivery of the waste collections contract (Item c of the full terms of reference).

LIMITATION: This report has been prepared on behalf of and for the exclusive use of Circling Squares Limited's Client, and is subject to and issued in connection with the provisions of the agreement between Circling Squares Limited and its Client (Derbyshire Dales District Council). Circling Squares Limited accepts no liability or responsibility whatsoever for the use of this report for any purpose other than within the Client agreement, or in respect of any use of or reliance upon this report by any third party.

Review Stakeholder Structure

Independent Officer

Allen Graham – Circling Squares Ltd

Member Working Group

Senior Officers

External Service Provider
Serco Representatives

External Specialist Consultant
Recircle Consulting

Derbyshire Dales Services / Staff
Contract Team
Customer Services

Terms of reference (Summarised)

A) Evaluate the provisions of the contract with Serco which took effect in August 2020

- Specification
- Mobilisation
- Implementation

B) Evaluate the Councils management of the contract

- Response upon contract start date
- Response to recent service disruption and decisions taken by officers / members
 - Necessary
 - Effective
 - Proportionate
- Areas of good practice
- Areas for improvement
- Operational / market constraints

Terms of reference (Summarised) 2

C) Evaluate Serco's performance in the delivery of the contract*

- Contract documents and requests
- Contract mobilisation and August 2020 implementation
- Quantitative analysis of data in relation to KPI's
- Review of financial impact associated with diversion of waste stream
- Qualitative review of other contract performance / compliance
- Review feedback from the waste and recycling team in their dealing with residents and elected members, and serco's response to those requests

D) Evaluate and summarise

- Root causes of recent service disruption
- Identify the actions required to be considered in order to mitigate future wide scale service disruption to residents.

* Section C to be undertaken by Recircle Consulting Ltd

Methods Utilised

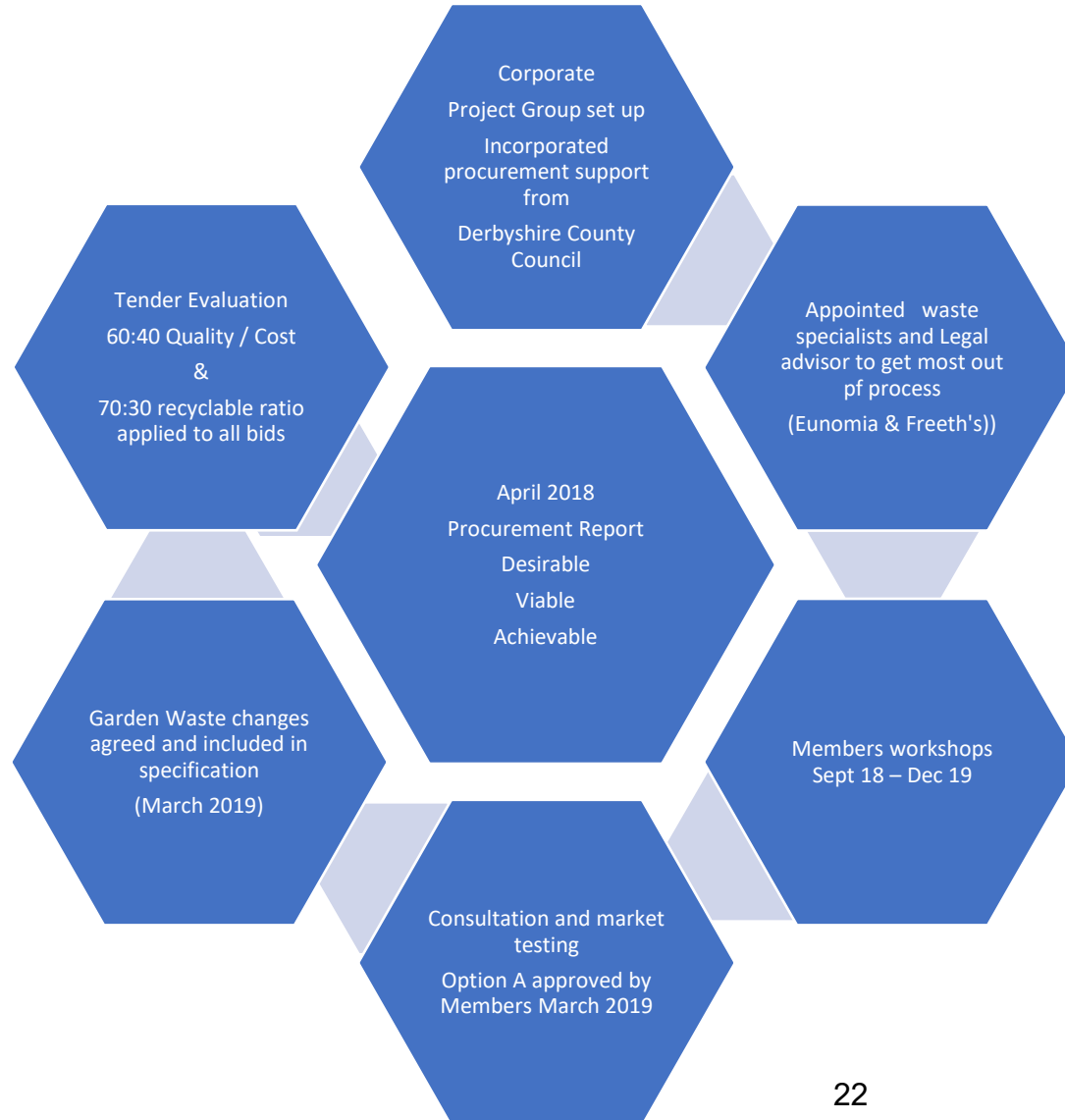
- Circling Squares Ltd have endeavoured to utilise its experience and knowledge of local government to consider and comment upon the written information presented by officers, members of Derbyshire Dales District Council and representatives of Serco.
- The investigation has incorporated information provided including the following:
 - Contract documentation incorporating:
 - Specification
 - Method Statements
 - Contract
 - Report produced by Recircle Consulting Ltd
 - Copies of emails and correspondence supplied by officers of Derbyshire Dales District Council.
- The independent review process also incorporated :
 - gathering information and views from 10 meetings (both on-site and virtually)
 - Speaking to range of council staff, a cross party members working group and a representative of Serco.
 - Visiting the Serco depot
 - Undertaking additional research and reading.

Overview of Procurement Process Adopted

To evaluate the provisions of the contract with Serco it is first necessary to also consider the process adopted to establish the requirements, specification and objective decision making to award the contract.

- Derbyshire Dales District Council had previously awarded an 8 year contract (2012 – 2020) to provide waste collection services. Serco was the appointed contractor for that period.
- In 2017 the Authority recognised the need to review the existing service provision, test the market, seek improvements and secure best value through a competitive process.
- The further procurement was identified as likely to be a challenge, especially to attract competition to bid against an existing external supplier and taking into account the changing market environment, the size and value of the contract and the particular localised challenges in existence within the Derbyshire Dales District Council area.
- The review quickly concluded that the Authority adopted a recognised and robust corporate approach to review, research and advise members upon options for the procurement.
- The procurement approach included the engagement and proactive involvement of necessary external support. This approach recognised the gaps in internal capacity, knowledge and expertise – the review identified three key areas:
 - Waste management Industry expertise (supplied by Eunomia Ltd)
 - Contract legal advice and representation (supplied by Freeth's)
 - Procurement procedure advice (Supplied by Derbyshire County Council)
- There was evidence to suggest that meaningful opportunities were presented to actively engage, brief and listen to members throughout the procurement process.

Overview of procurement process adopted



- A procurement report was received by the Council in April 2018.
- The report concluded that a procurement was desirable, viable and achievable.
- Member workshops ran throughout the procurement process
- A decision was made by the Council in March 2019 to include garden waste charges within the specification
- Particular focus was given towards the level of shared risk that would be applied for recyclables to attract competitors (70:30 risk).
- Tender evaluation was split between 60% Quality and 40% Cost.

Corporate procurement project team – notable good practice

Corporate Support

Head of Regeneration & Policy
(Chair)
Head of Corporate Services
Head of Resources (S151)

Financial Service Manager
Communications & Marketing Officer
Digital Communications Officer

Waste Service Area

Head of Community and Environment

Environmental Service Manager
Recycling Advisor
Waste & Recycling Officer
Waste Supervisor

External Support

Waste Specialists
(Eunomia)

Legal Specialists
(Freeth Solicitors)

Derbyshire County Council
(Senior Procurement Officer)

Procurement – Summary of key risks identified

The documentation supplied, together with the reports available provide confidence that clear and careful consideration was given to market conditions and specific incentives or clauses to ensure a competitive procurement process was successful. The key risks can be summarised as:

- No contractor would take 100% liability in respect of recyclables therefore would require a joint risk approach (70:30 identified as applicable).
- Areas highlighted as potential risks for contractors (thus preventing them bidding) included:
 - No provision for an extension of contract (8 years option included by Council)
 - Inadequate provision for change control procedures within the contract (Incorporated into the contract)
 - Inappropriate performance management Framework (Appropriate KPI framework identified in contract)
 - Insufficient provision for good quality data relevant to the service - to address this concern, the Council included the requirement for a management information system (MIS). (Whitespace was Serco's proposed solution included in their offer to meet the Council's specification).
- The market had changed significantly since the previous procurement in 2012. It was highlighted that the reduced market was likely to reduce the number who would bid for a contract of the scale and complexity being offered by Derbyshire Dales District Council.
- Following three bidders showing interest only two bids were actually received.

Contract Specification - Overview

An independent review of the documentation and procurement process has concluded that the contract specification included within the package was formulated and communicated to bidders in a clear and transparent manner.

It also appears clear that through the comprehensive and diligent use of the external resources available and in particular the waste advisor appointed by Eunomia the specification was produced to take account of:

- The requirements needed to increase engagement by contractors
- Required reporting mechanisms to assist with efficient and effective self monitoring of the contract by the contractor
- Changing market conditions prevailing at that time
- The changing and growing use of technology to maximise efficiency, performance and customer responsiveness.
- The likely foreseeable future demands though housing growth and behavioural changes to support future sustainability.

Specification – The specifics (1)

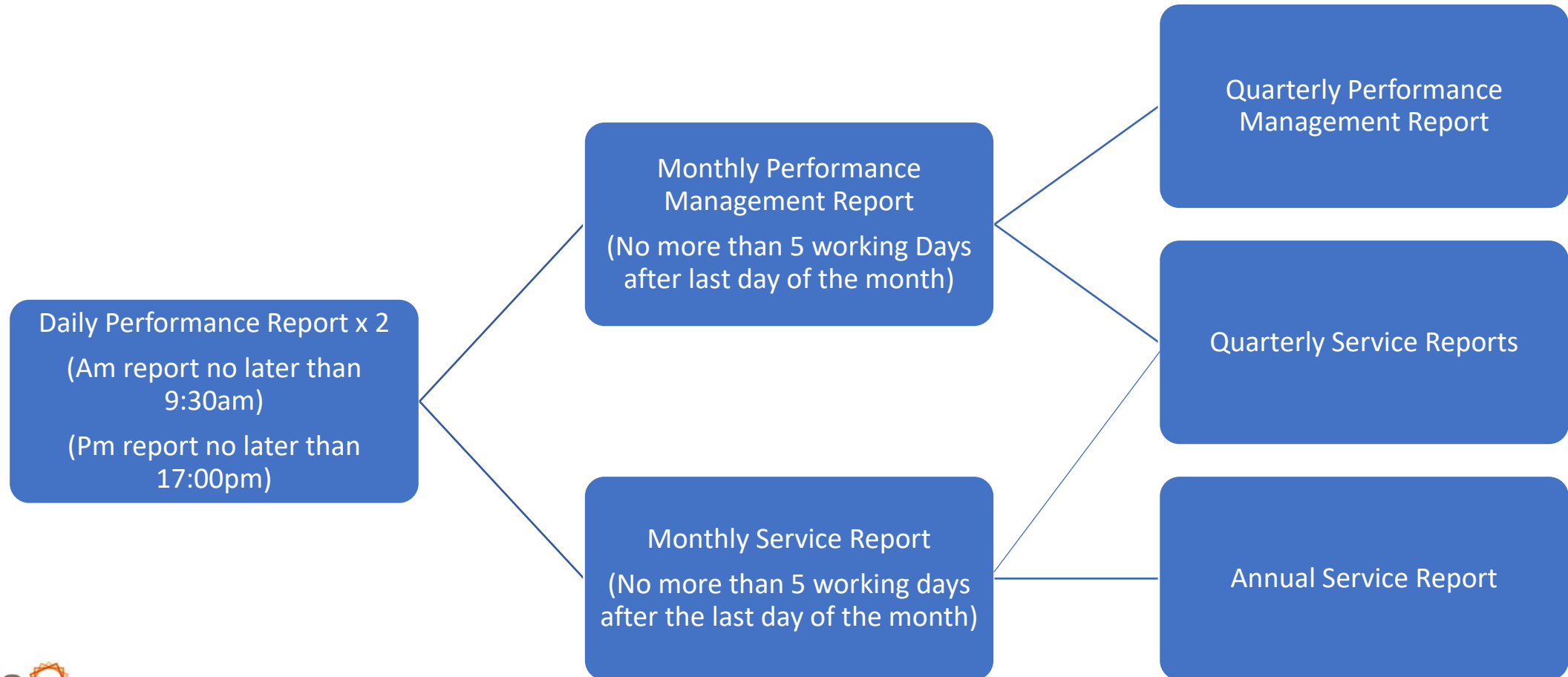
The Independent Review identified the following key components included within the specification:

1. A requirement to introduce a revised and modernised service model in particular to meet 3 strategic outcomes:
 - i. The customer is at the centre of service delivery and the Authority and Contractor address the needs of the customer in a modern, friendly and efficient way.
 - ii. The contract delivers maximum value for money
 - iii. The parties work together and share their respective responsibilities.
2. In relation to (1) above the specification detailed a commitment (by the authority) to provide modern vehicles and for the contractor to operate utilising in-cab technology to log real time service issues.
3. The in-cab technology was to be operated in real time to enable both the contractor and the Authority to locate and contact vehicles at any time during operational hours.
4. The need to develop use of the technology by stipulating a clear and unambiguous performance management framework.
 - “The contractor shall monitor its own performance against the requirements of this specification and report to Derbyshire Dales District Council on its performance of the services in the Monthly Performance Management Report” (S12.1 Specification pg19).
5. The specification also detailed the outputs required through the use of a management information system (MIS)
 - “The MIS will seamlessly integrate with the Authority’s systems to ensure that information can flow between the parties as required by the specification from service commencement” (S14 Service output 5 Specification pg 20)
6. The specification then adequately highlighted the data and reporting framework utilising the authorised officer to represent the interests of Derbyshire Dales District Council.

Specification – The specifics (2)

7. Information and an indication of how a joint management board would be set up was provided.
 - “The contractor and the Authority will form a Joint Management Board, comprising of the Authorised Officer, the Contractor’s representative, and senior staff from each organisation as appropriate for the circumstances”. (S15.11 Specification pg 24)
8. A business continuity plan was also required as a “service output” and it specifically included three key areas which relate to the recent service disruption.
 - The loss of access to Contractors Staff (e.g. flu pandemic, industrial action) (S16.3.2)
 - Failures relating to technology, e.g. the MIS (S16.3.5); and
 - Failure of the supply chain (16.3.6)
9. The specification also covered the intended standards and interface for enquiries and complaints. (S18 pg28 – 29)

Summary of management reporting requirements – contractor required to provide (Table1 S15.3 pg23)



Summary of key points in relation to the specification

- The contract specification was significantly clear and contributed to a robust and transparent procurement process.
- The bidders responded to address and make commitments in respect of the specification points summarised above.
- The specification documented a strategic intent for the contract to be implemented and managed within a framework based upon joint and transparent working designed to deliver their respective responsibilities and commitments.
- The specification was built upon a clear understanding that efficiency and responsiveness would be achieved through the use of a management information system that would provide real time information.
- At the time of issue the specification combined with the bid documents and contract appears to take account of all the reasonable services that would be required for effective and improved service delivery.

Therefore there was no reason to believe that the contract or the procurement process was not fit for purpose. The package issued also provided for a clear change control process that could facilitate and take into account any unforeseen changes that needed to be considered and agreed over the proposed term of the contract.

Award of Contract

As a result of the procurement process a final report was presented on 18th December 2019 it included:

- A comprehensive explanation of the procurement process
- Commentary in respect of key elements and risks – majoring upon future delivery (3 weekly collections), Garden waste and finance

The report also clearly referred to:

- Better use of technology – including this key feature to modernise the service.
- Serco committing to providing a fully functional management information system that would integrate with Derbyshire Dales District Council customer relationship system. However further research revealed that there was a reliance on the specification and the contractors response rather than the use of specific clauses regarding non-delivery being written into the contract
- The possibility of the introduction of three weekly collection services from the midpoint of the contract. It was clarified that this would be a further decision of the Council. However this also effectively illustrated that the Council (and contractor) would have a future opportunity to review the contract cost taking into future financial pressures.

The procurement process had also resulted in higher than anticipated cost resulting in a significant financial deficit against the budget previously allocated. This is illustrated in summary form as follows:

Award of contract - financial deficit

	2020/2021 £000	2021/2022 £000	2022/2023 £000
Contract price (Contract cost – fully inclusive of vehicle financing, depot costs and recycling income)	£3,080	£3,182	£3,117
Anticipated net income from garden waste	£(166) Cost	£475	£566
Net Contract Cost	£3,246	£2,707	£2,551
Budgeted	£2,433	£2,433	£2,433
Estimated Shortfall	£813	£274	£118

- Fluctuation reserve created £712,000 to allow for reduction in recyclable income which can be volatile
- Deficit would need to be balanced by 1) better than budgeted income from garden waste or recyclables 2) service efficiencies.

Summary of award of contract

The report documented the rationale, reasons and risks to award the contract to Serco. The award included a decision for the Council to fully finance the procurement of new vehicles to support the modernisation and delivery of the contract.

The decision to award the contract was made on the understanding that the following key features would also be included:

- Electronic bin lifts
- In Cab technology to improve efficiency and performance data
- Introduction of a management information system to improve speed and quality of information between the customer, the district council and the contractor.
- Introduction of an “opt in” chargeable green waste service
- weekly food waste collections using dedicated vehicles.

The review has not highlighted any evidence that the contract awarded was not fit for purpose and the decision to award the contract was clearly supported by a majority of the Council. The procurement and decision was by both officer and members focussed upon the new and improved service delivery model. This focus may have inadvertently deflected consideration of the provisions within the contract in respect of early termination. This is not uncommon and therefore maybe should be a learning point for the future to ensure consideration to the “what if” scenarios are modelled and where possible (within a commercial negotiation) included within the contract.

The start date of the contract was specified as being the 20th August 2020 – providing an eight month mobilisation period.

Contract Mobilisation & considerations and Impacts as a result of Covid19 (1)

Following the decision in December 2019 to award the contract to Serco, evidence both written and verbally shows that initial steps were taken to commence key elements of the mobilisation of the contract. In particular letters have been provided confirming that the vehicles were ordered by Serco and that they had received assurances that delivery slots were allocated.

Throughout this review there appears to have been an expectation that business was being conducted as normal. Clearly by March 2020 the whole Country was placed in a lockdown situation and Local Authorities as key public service leaders and providers were tasked with supporting a “National Crisis”.

The effect of the pandemic is still effectively impacting upon the running of the organisation nearly two years later and this cannot and should not be underestimated. Derbyshire Dales has prided itself over many years on running a highly efficient and lean organisation and this review has revealed that there continues to be a high level of pressure, being managed by senior leaders and front line staff in particular, to maintain normal services whilst reacting to the demands and support requirements of other public sector partners and central government.

As a result of this unpredictable and unfamiliar working environment it is necessary to acknowledge the significant impact of Covid19 upon the working environment, which in turn impacted upon the mobilisation and delivery of the contract. In particular there was a requirement for members of the corporate leadership team to:

- support the needs and demands of the Local Resilience Forum and Government Departments (requiring up to 3 meetings each week from April 2020 – present)
- initiate new processes and procedures to support payments to local businesses, collection and delivery of food for vulnerable residents, returning to the high streets initiatives, vaccination and test sites support whilst ensuring licensed premisses were COVID safe.
- Initiate and implement remote working arrangements for staff and members
- Switch partnership arrangements from face to face and “on site” meetings to remote business relationship building – thus relying upon the integrity of the remote systems and personnel involved to record and relay accurate decision making and progress reporting
- Ensure governance and safe working was maintained whilst also continuing normal statutory business (e.g. closing accounts and collecting waste etc).

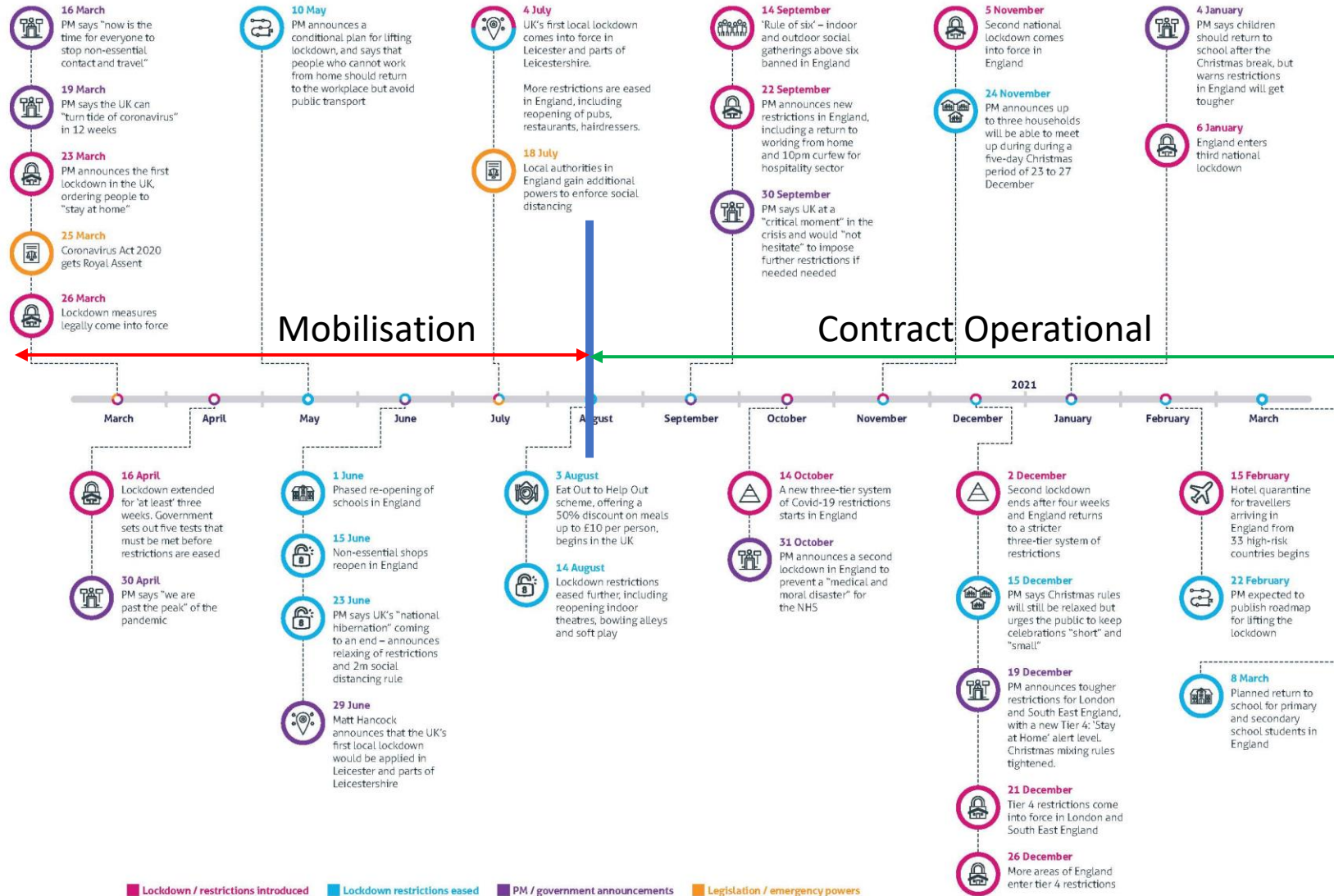
Contract Mobilisation & considerations and Impacts as a result of Covid19 (2)

There was therefore naturally a period of adjustment (never experienced before) to take into account the following:

- Disruption to normal reporting and line management arrangements (requiring trust and empowerment of staff to work with less supervision and direction).
- Introducing new and transformational meeting and decision making procedures within both the operational and democratic domains.
- Re-prioritisation of the transformational elements of the programme to ensure remote working was adequately supported whilst continuing business as usual.

There appears to have been an expectation by officers and members that they needed to continue to deliver everyday services whilst also reacting to the new demands being placed by central government to protect the community, supporting businesses and implementing and maintaining contractual relationships in key areas such as leisure and waste. This was undertaken without any significant increase in resources.

The following section details findings in respect of the mobilisation of the contract which was clearly undertaken through a remote working environment with the contractor Serco, who also would have been adjusting to the challenges of managing a business through a remote working environment. The following diagram illustrates the timeline and cross over with mobilisation and delivery.



Contract Mobilisation

- The good practice of utilising a corporate team approach with external support (legal and waste specialist) was initially maintained and was an essential requirement to ensure that:
 1. The key commitments of the contractor was tracked and fulfilled
 2. That the timelines agreed was either maintained or reviewed
 3. That any difficulties or blockages were identified and either resolved or escalated as required.
- However, partly due to the changing environment, during the mobilisation period and many of the aspects in relation to mobilisation being seen as operational, there was a migration of responsibilities away from the chair of the procurement group back towards the director responsible for the delivery of the service (Community and Environmental Services)
- This change may have contributed to a deflection from the consideration and importance of the transformational elements of a service redesign in respect of the customer journey. In particular the central customer service team could have benefited from greater access to data to minimise customer queries within the service area. This is an area which is still frustrating to customer service staff and contributed to further pressures when the service delivery began to fail.
- Corporate focus switched from the mobilisation of the contract to the specifics and management of the introduction of green waste charging. This was understandable as there was a requirement to ensure income was maximised.
- The transformational elements of the data integration rested with the transformation team, working along side operational staff of the waste team. The review has revealed this is a small and specialised resource , which has a stretching agenda, this would have been further compounded by the emerging covid19 requirements.
- External support arrangements changed resulting in reducing the specialist advice and support being provided by Eunomia during the mobilisation period, This was at a critical time and contributed to a reduction in capacity to hold the contractor to account and advise the authority upon industry issues emerging.
- Emerging difficulties were identified in respect of vehicles delivery delays , data and technology implementation and slow and fragmented responsiveness from Serco.

Contract Mobilisation Review Findings (1)

- Covid Lockdown was in full force resulting in an extremely stretched senior team and workforce in Derbyshire Dales District Council .
- Clearly the Covid19 lockdown presented new and unknown challenges in communications, management processes and prioritisation – it was not and continues not to be business as normal.
- There is significant evidence that meetings, reporting and decision making became less formal resulting in actions potentially being either lost or reliant upon single points of contact who were also working in isolation.
- Establishing new relationships between senior Serco staff became much more challenging and not helped by the apparent lack of continuity and clarity from Serco.
- The remote challenges and increasing lack of continuity resulted in council officers having to pursue issues more than could have reasonably been expected..
- The lack of engagement is evidenced from the difficulties officers experienced in securing Serco engagement and escalation for key issues including vehicle delivery, data migration and round optimisation.
- The staff clearly feel loyal to the brand and reputation of Derbyshire Dales District Council and discussions with staff illustrated that they attempted to go “the extra mile” in trying to resolve the emerging issues.
- The contract management structure and processes for Derbyshire Dales District Council may have benefited from a review by the corporate leadership team to ensure it was fit for purpose within the new environment. However this does not appear to have been undertaken due to competing priorities and lack of time caused by the demands of the pandemic response.

Contract Mobilisation Review Findings (2)

- It appears clear that during the mobilisation period the first evidence of household waste increasing became evident to Serco. – however there is no evidence that the contractor formally documented or raised this as an issue with Derbyshire Dales DC.
- Covid19 rule changes (law) potentially presented a legitimate reason to exercise the change control procedures contained within the contract, however no evidence has been provided that this was initiated or raised.
- Supply chain issues in respect of vehicle delivery can be evidenced but no record was provided to illustrate Serco wished to action a change control, revert to pre-contract operating models or delay contract deliverables (In cab technology).
- It has been confirmed that no consideration was given to either extending the mobilisation period or delaying the contract start date, which effectively resulted in the commencement of the contract without some of the key deliverables detailed within the specification and method statements.

Implementation (Derbyshire Dales District Council)

Despite the continuing uncertainty caused by the prevailing pandemic and additional uncertain economic factors (vehicles delays and driver shortages) the contract implementation proceeded with effect from 20th August 2020.

At the beginning of the contract it was natural that the implementation focussed upon the operational delivery of the contract – collecting household and bulky refuse however there was evidence that there were problems being experienced at an early stage including:

- data sharing and integration to the Council systems was very limited and basic.
- Contract relationships appeared to be based upon informal one to one meetings (Waste and Recycling Manager & Serco Contract Manager) rather than a formalised and structured approach – this exposed an increasing risk to a perception of a single point of contact, closed management style and lack of formal recording and communication of decisions.
- Verbal evidence presented that some staff felt uncomfortable that they were actively deterred staff from raising emerging issues directly with Serco.
- Reporting and partnership arrangements defined within the specification and contract were not formalised and fully defined and do not appear to have been set up by either party.
- A lack of corporate leadership team (CLT) oversight of the implementation therefore there was a minimal level of collective awareness of the emerging key issues including:
 1. KPI's and how these related to finance (Invoice certification and payment process).
 2. Transformation (CRM and customer service interaction)
 3. Vehicle delivery
 4. Increasing sense of isolation felt by key members of the waste team

Implementation (Serco)

It should maybe be acknowledged that the onus for implementation of the contract would have mainly fell upon the contractor. They had the responsibility to ensure all the key deliverables were in place to carry out the contract in accordance with the specification.

Where this was not achievable then the contractor would have had the responsibility to be transparent and highlight any difficulties with their client (utilising the agreed management and monitoring arrangements).

The review has led to a view that this was not utilised as intended and that the Authority was having to constantly pursue Serco outside the agreed framework. The review together with the report produced by Recircle has identified the following key aspects which ultimately appears to have significantly contributed to the service failure experienced from May 2021 – September 2021.

- Clear and unequivocal evidence that vehicle delivery was substantially delayed resulting in severe delays in the ability to provide in-cab technology and data.
- Inconsistent contract management personnel resulting in lack of continuity, local knowledge and corporate memory of the contract. (4 regional directors and 3 contract managers with the post currently vacant).
- A strong perception of remote and light oversight of contract implementation resulting in Serco being slow to respond to the increasing number of service failures.
- On-going commitments being made but not being delivered. e.g. Whitespace data and round optimisation.
- Lack of data integration resulting in increasing service failures and a deteriorating responsiveness.
- No urgency or evidence of implementing the processes and data management to provide round optimisation options.
- As a result of the national shortage of drivers it triggered an increased movement of employees which impacted upon teams across the County, region and nation.

However it is acknowledged and supported that the challenging external environment was an increasing factor in the ability of Serco to respond to aspects of the increasing demand being experienced. In particular the vehicle delays and driver shortages were impacting on waste collection services nationally.

Contract Management & Governance

The contract together with the specification and the contractors response details the contract management and monitoring arrangements. This should have been put in place and become operational from the contract start date..

This framework along with the KPI monitoring arrangements does not appear to have been formally set-up during either the mobilisation or contract implementation periods.

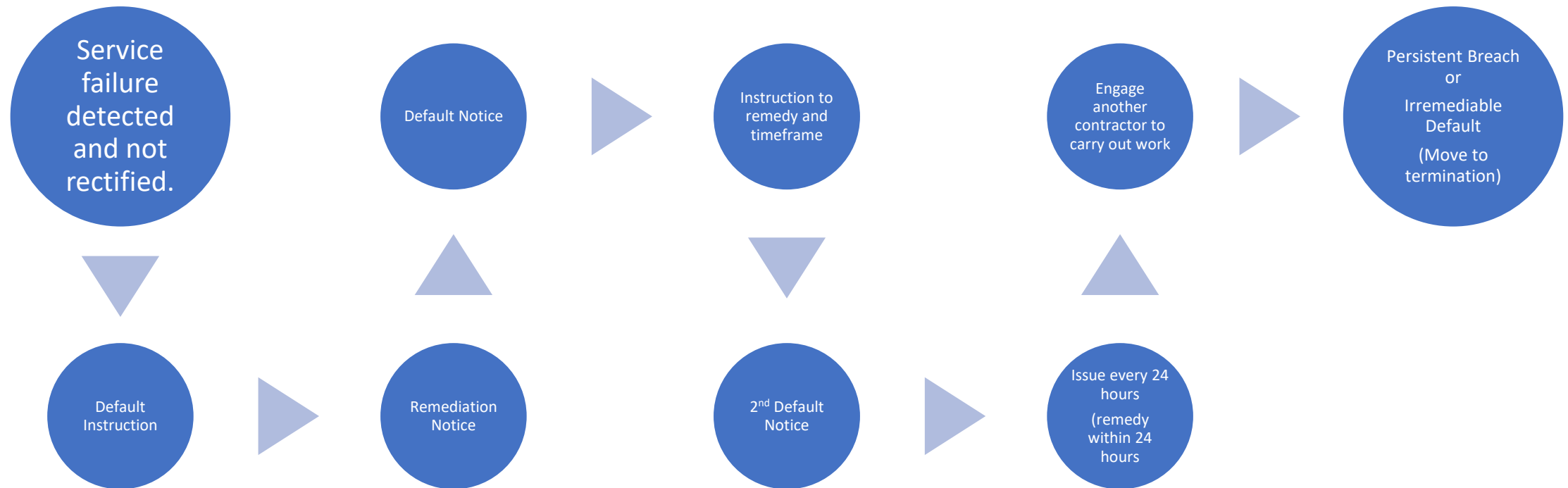
There has been evidence produced to suggest that this is now in existence and operating on a formal basis (with recorded decisions).



Authorised Officer – Contract Monitoring

- Only one post (Waste and Recycling Manager) was the specified post to be the authorised officer.
- Data presented illustrates that the officer attempted to evaluate, record and impose KPI reductions, however these were disputed due to Serco having a lack of confidence in the data capture.
- The review has established that despite the performance framework stipulating that daily and monthly management reports should be produced these were not being received by the authorised officer.
- The authorised officer should have ensured senior officers were fully apprised of the deteriorating situation, ensuring senior officers become involved through the use of the contract reporting arrangements . But there appears to be no formal record that this occurred.
- It would also appear the authorised officer attempted to remedy the situation in isolation and with minimum transparency with colleagues and line managers.
- Once service completions discrepancies came to light there was a clear process put in place to establish the facts.
- As a result there was a significantly reduced opportunity to utilise contract provisions to protect the councils overall position at an earlier opportunity. An example of the process that should have been adopted to record an increase of missed bins and incomplete rounds is illustrated as follows;

Contract monitoring and escalation for service failure



Note: If disputed refer to partnership board within 28 days – In writing or if verbally followed up in writing ASAP

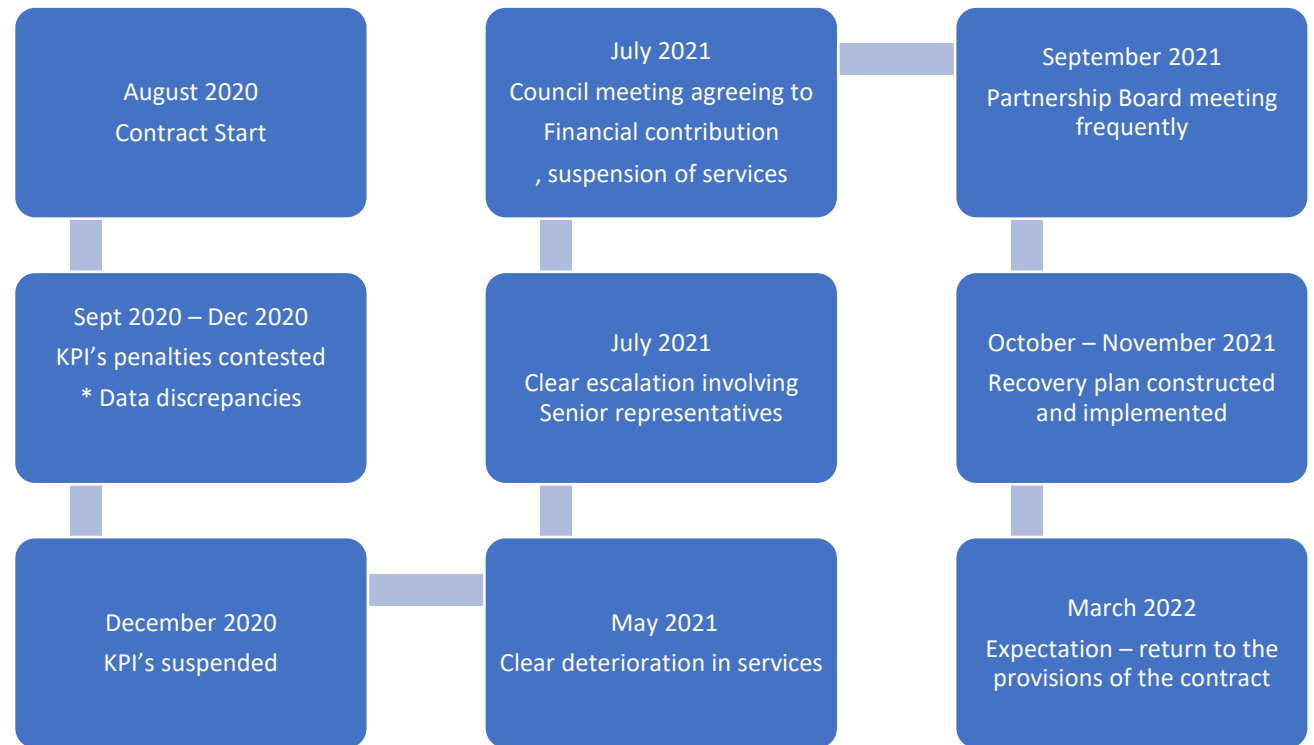
Post Contract – Key milestones and issues identified.

The contract was implemented on time but was weakened by three key issues – late vehicle delivery, lack of working in cab technology and failure to provide reports.

The Authority were co-operative by agreeing to suspend the measurement of KPI's in December, however this did not prevent a steady decline in service delivery with missed collections and an increasing perception of deteriorating staff availability and morale.

Whilst the national shortage of drivers began to bite Serco also experienced difficulty in retaining staff and requested additional financial support – again the authority supported the request

As the service failure became more evident internal investigations revealed weaknesses that required senior management intervention and action by both organisations – this resulted to in changes to personnel and a further escalation in engagement at a senior level with Serco.



Impact of Service Failure

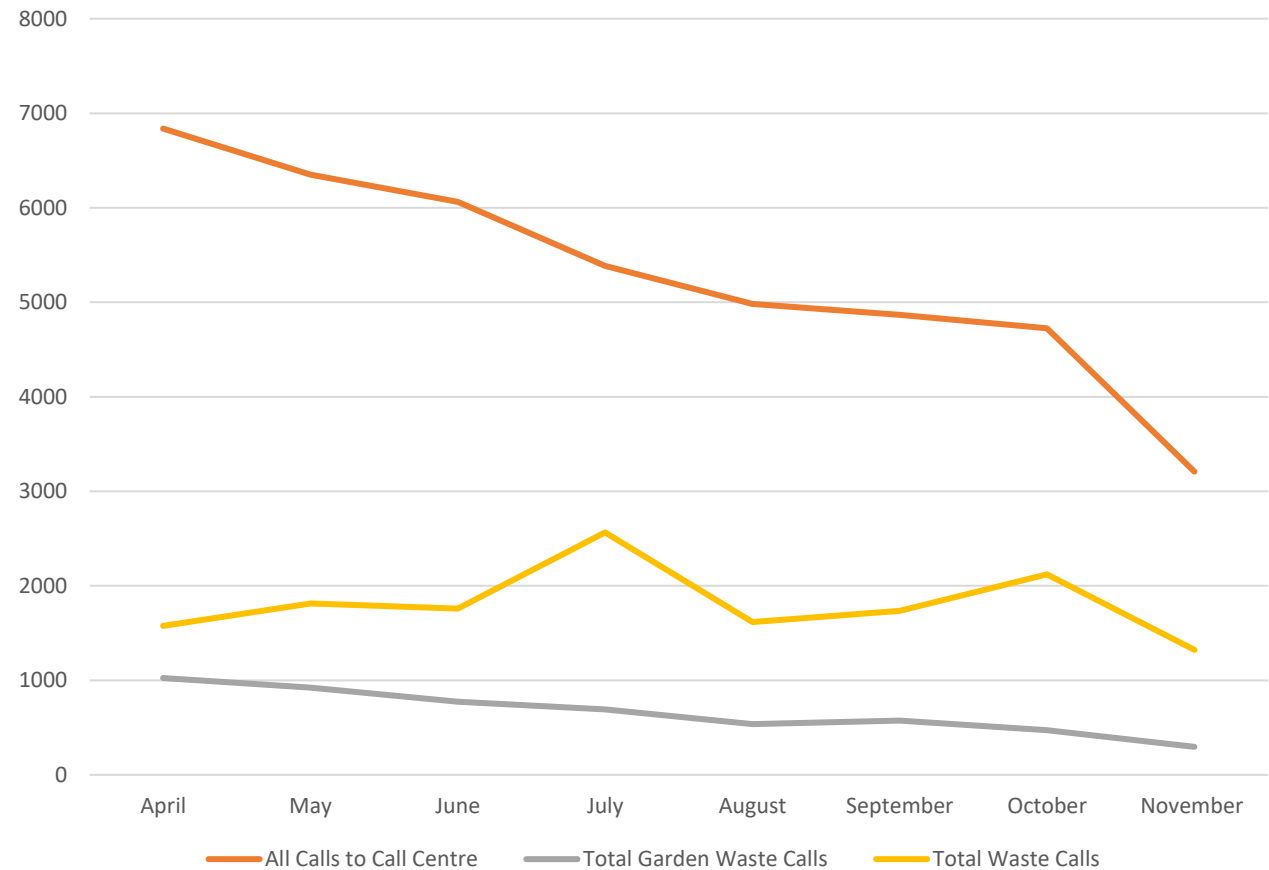
The impact of the continued service failure in respect of management reporting, data integration and failed round completions was significant in respect of reputation, customer dissatisfaction and resource utilisation.

In particular officers of both waste management and customer services were increasingly deflected from key duties to resolve an increase in customer and member queries and complaints.

The graph opposite illustrates that despite the suspension of garden waste services there was an increase both in number and proportion of waste calls which became difficult to manage. The graph however excludes emails received which were significant and overwhelming resulting in a significant deterioration in responsiveness.

Staff shared examples of how they went “the extra mile” to ensure the deteriorating situation was brought back under control. It was clear that the number of channels and methods used by customers and members resulted in a duplication of enquiries which became difficult to manage,

Customer Service Centre Calls received
April 2021 – November 2021



Perceived operational / market constraints

There is no doubt that the implementation and operation of the waste contract was impacted by the wider challenges caused by the pandemic and arguably other economic factors materialising from national changes.

However it would be wrong to immediately conclude that this accounts for the non-delivery of significant elements of the contract deliverables which were clearly documented within the specification.

This review has consistently received representations that there was either a slow response or uncoordinated or inconsistent project planning during the mobilisation and implementation of the contract. The likely impacts of such behaviours upon the successful delivery of a contract are illustrated in the table opposite.

It should be noted that since the intervention of the senior management of both organisations that two of the key elements (speedier allocation of resources and coordinated and planned project management) have improved. As a consequence the recovery plan is succeeding in reducing the service disruptions and complaint volumes are decreasing

This approach should be maintained whilst the true and longer term impacts of the pandemic and associated behaviour changes are established.

	Pandemic Impact	Likely Impact of inconsistent or slow allocation of resources	Likely Impact of fragmented project planning
Vehicle Delivery	High	Medium	High
Lack of Data Reporting	Low	High	High
In Cab Technology	Impacted by late vehicle delivery	High	High
Round Optimisation	Medium (volatile volumes)	High	High
Increase in waste volumes	High	Medium	High
Customer Relationship Management integration (CRM)	Medium	High	High
Implementing the required governance of the contract	High	High	High

Reporting and Invoicing

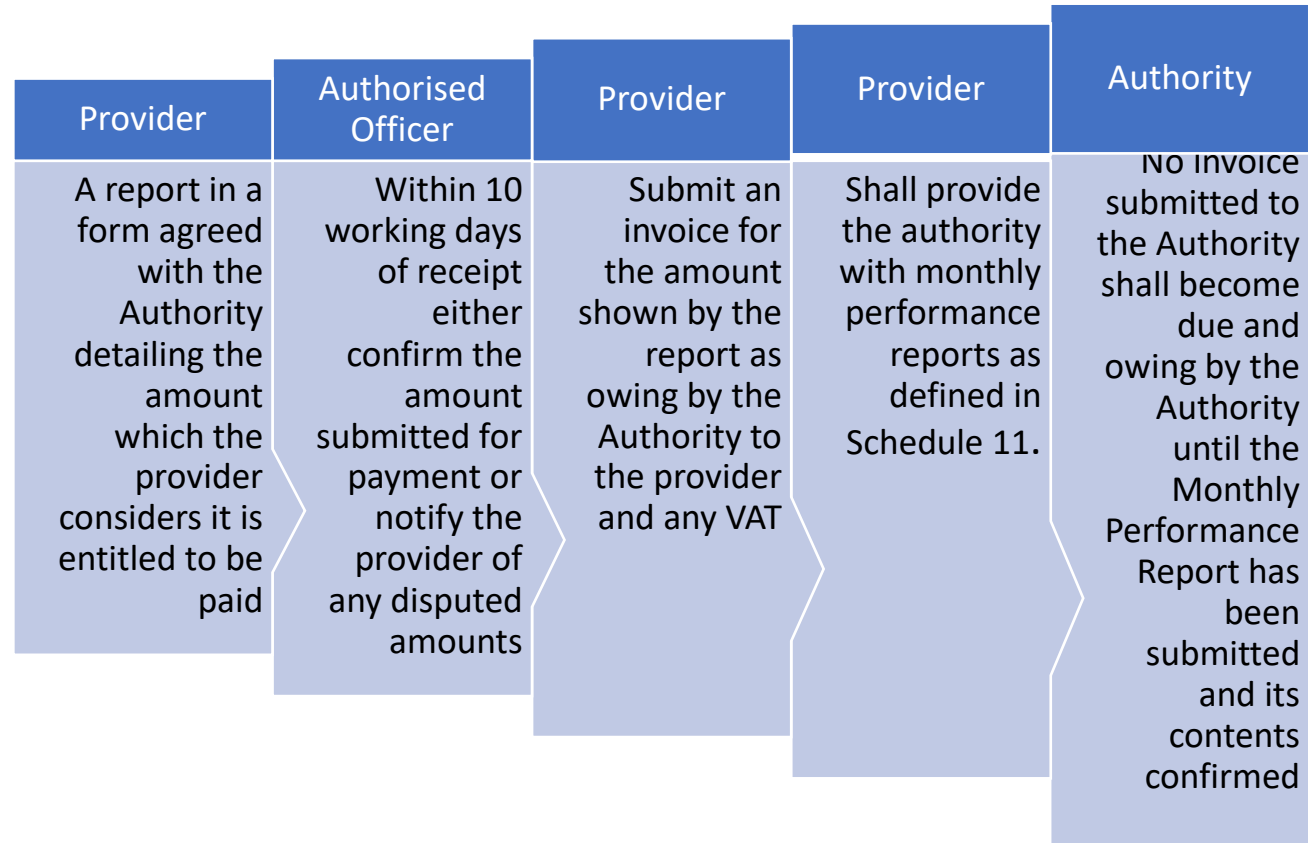
The contract provided a clear process and framework in respect of how payments under the contract should be calculated.

Central to the performance monitoring and payment mechanisms was a core requirement for the contractor to provide daily and monthly performance reports.

The contract also stipulates that no invoice submitted shall become due and owing by the Authority until the monthly performance report has been received.

My review can confirm that no monthly performance reports were received by the Authority until December 2021.

However despite the clear frustrations and service failures Derbyshire Dales District Council continued to make payments to Serco for invoices received up until June 2021.



Service disruption and intervention

This independent review has involved discussions and receipt of copies of emails and documents from numerous staff within the Authority.

Problems following implementation of the contract were overseen by the Waste and Recycling Manager who clearly engaged and received instruction from the Chief Executive in November 2020. The service disruption began to further escalate from March 2021 and peaked during the summer of 2021. The response of staff from within the Authority was in my view proportionate and involved a variety of actions to establish the causes, seek solutions and escalate communications with Serco. Through this approach and as a result of a whistle-blower it was discovered that there were discrepancies internally in respect of reported service issues. As a result an internal investigation was established by the Director of Community and Environmental Services in accordance with recognised employment law practice, this concluded in August 2021. In addition an internal audit report was instigated by the Monitoring Officer and Director of Resources and this reported its findings to senior officers in November 2021.

During my engagement I have also received alternative views regarding the options and actions under the contract that could have been pursued. This included the more aggressive option of accelerating a legal route to implement non payment and non delivery of the contract. This view contrasts with the pragmatic approach adopted to ensure the service was maintained, problems communicated and stability in service delivery secured before pursuing redress for unsatisfactory delivery.

From the material available to me, and my own research I have concluded that the Chief Executive and his senior team took a balanced and proportionate approach to consulting key staff, informing lead politicians, securing member support and engaging senior representatives from Serco to resolve immediate problems. This was done whilst preserving the options open to the Authority to pursue appropriate reassurances or future redress for service failure or incomplete contract delivery.

In reaching this conclusion I have taken into account the unusual operating environment caused by the on-going pandemic, the national crisis declared by the government in 2020 and the following cabinet office guidance on contractual behaviour issued to all local authorities in May and June 2020.

The cabinet office guidance encouraged authorities to pursue a pragmatic approach and ultimately the Chief Executive and his Directors also needed to consider the best use of resources to prevent further deterioration in the situation.

The recent improvements in the service delivery supported by formalised governance and an emerging recovery plan should provide members with a growing confidence that their interests are being continued to be pursued.

Cabinet Office - Guidance on responsible contractual behaviour in the preference and enforcement of contracts impacted by the covid19 emergency. Issued 7th May 2020

- In summary, the Government is strongly encouraging all individuals, businesses (including funders) and public authorities to act responsibly and fairly in the national interest in performing and enforcing their contracts, to support the response to Covid-19 and to protect jobs and the economy. (para 3)
- Responsible and fair behaviour is strongly encouraged in performing and enforcing contracts where there has been a material impact from Covid-19. This includes being reasonable and proportionate in responding to performance issues and enforcing contracts (including dealing with any disputes), acting in a spirit of co-operation having regard to the impact on the other party (or parties), the availability of financial resources, the protection of public health and the national interest (Para 5)
- In particular, responsible and fair behaviour is strongly encouraged in relation to the following:
 - (a) requesting, and giving, relief for impaired performance, including in respect of the time for delivery and completion, the nature and scope of goods, works and services, the making of payments and the operation of payment and performance mechanisms;
 - (b) requesting, and allowing, extensions of time, substitute or alternative performance and compensation, including compensation for increased cost or additional performance;
 - (c) making, and responding to, *force majeure*, frustration, change in law, relief event, delay event, compensation event and excusing cause claims;
 - (d) requesting, and making, payment under the contract;
 - (e) making, and responding to, claims for damages, including under liquidated damages provisions;
 - (g) exercising remedies in respect of impaired performance, including enforcement of security, forfeiture or repossession of property, calling of bonds or guarantees or the initiation or continuation of insolvency or winding up (or equivalent) proceedings;
 - (h) claiming breach of contract and enforcing events

Cabinet Office - Guidance on responsible contractual behaviour in the preference and enforcement of contracts impacted by the covid19 emergency. Issued 7th May 2020 (Update 30th June 2020)

Issue 2 – Extensions of time (and associated costs)

- Parties to commercial contracts should consider carefully, and reasonably, what reliefs may be available, including whether an extension of time for performance should be granted, how additional costs should be dealt with and whether terms should be renegotiated to preserve the viability of the contract to accommodate the impact of Covid-19. (para 11)

Issue 3 – Avoidance and resolution of disputes

- The Government strongly encourages parties to seek to resolve any emerging contractual issues responsibly, through negotiation, an early neutral evaluation or mediation, before these escalate into formal intractable disputes.
- Links to full guidance:
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/883737/ Covid-19 and Responsible Contractual Behaviour web final 7 May .pdf
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/899175/ Update - Covid-19 and Responsible Contractual Behaviour - 30 June final for web .pdf

Derbyshire Dales DC - Commitment to Partnership

As a result of the approach taken there appears to be a significant level of evidence that demonstrates the flexibility and pragmatic behaviour by Derbyshire Dales District Council to assist Serco. This included providing substantial increased financial commitments to sustain the partnership despite important elements of the contract specification not being currently delivered. This includes:

- Providing the vehicle capital cost £3,612,382 (£451,548 PA)
- Authorising up to 50% contribution to support a request by Serco, to support the pay uplift for HGV drivers
- Authorising the cost of leasing an additional vehicle requested by Serco
- Agreeing to reduce the Green waste charge from £50 to £35 following the inability to maintain a full green waste service
- Agreeing for KPI's to not be applied for a period of 3 months
- Agreeing the suspension of side waste collection for recycling thus impacting upon the level of income likely to be received.
- Agreeing to return to the co-mingling of food waste for 3 months
- Agreeing to the suspension of green waste

Contract Implementation Conclusions (1)

- The evidence provided both verbally and in writing during the course of this review has led to the conclusion that there has been an incomplete delivery of the contract requirements by Serco.
- As a result of key components not being fully implemented or delivered there has been an undoubted impact upon service delivery resulting in an accelerated and unmanageable volume of customer enquiries and complaints.
- The volatile external environment caused by the pandemic impacted significantly upon the strategic and operational capacity of both the contractor and the authority. In particular the escalation of household waste resulting from the changing behaviours combined with vehicle delays and staff shortages placed additional pressures that required close management by the contractor.
- The remote working environment imposed upon both parties appears to have been significant in disrupting the effective management of the contract in its early stages as key service areas were disrupted and stretched to react to competing and variable priorities.
- Evidence presented provided reassurance that senior management remained responsive to supporting the Waste & Recycling Manager, providing clear advice and direction as within the first 3 months of the contract commencement.
- Officers of Derbyshire Dales District Council, and in particular the waste and customer service teams have continually gone the “extra mile” to protect the authorities reputation, resolve customer complaints and assist the contractor in recovering the situation.
- My review has established that once the seriousness of the situation became apparent that the Chief Executive and Director of Community and Environment had taken proportionate and necessary steps to:
 1. Communicate effectively with the senior management of Serco
 2. Engage and communicate with members of the authority
 3. Identify the root causes and attempt to negotiate remedial steps to establish an emerging recovery plan.
- The Authority has not yet received the benefits of the whole of the contract as intended.

Contract Implementation Conclusions (2)

- It will be necessary to evaluate and agree the financial and contractual consequences caused by non delivery of the key deliverables of the contract whilst considering the future impacts of any customer behavioural changes which continue as the pandemic hopefully recedes.
- Serco is responding and has acknowledged in an discussion during my visit to the depot that they “took the eye of the ball” and the contract was not supervised and managed to the level they set themselves.
- A recovery plan is now in place which was an essential first step to prevent further deterioration and secure improvement for the residents.
- A separate technical evaluation of Serco’s performance (Terms of reference part C) has been concluded and the report produced by Recircle Consulting Ltd has been made available to senior staff and supports the conclusions of this review.

Review Recommendations

As a result of this review and the detailed findings contained within the report of Recircle Consulting Ltd it is recommended that Derbyshire Dales District Council:

1. Continue to maintain and further develop the dialogue utilising the formalised contract monitoring arrangements.
2. That the dialogue is extended to include:
 1. resolving existing performance and payment discrepancies to ensure these are equitably resolved taking into account the Councils additional support commitments
 2. an agreement regarding how any re-basing required to take account of changes in customer behaviour caused by either the pandemic or the emerging sustainability agenda will be addressed.
 3. establishing the intentions and approach for both parties to ensure the ongoing fulfilment of the contract
3. That the Council also communicates the importance and urgency of resolving the MIS and round optimisation issues through a clear and robust plan
4. That the Corporate Leadership Team re-establish a corporate approach to overseeing the critical success factors of implementing the contract, reacting to unsatisfactory performance and advising members of on-going options for future delivery.
5. That consideration is given to enabling customer service staff access to relevant data and options to escalate and remedy customer queries
6. That a review of the corporate management capacity is undertaken to ensure that future major transformational and modernisation projects are adequately resourced.

Areas of Good Practice

The review has confirmed that there have been areas where the authority has adopted best practice including:

- Independent and corporate lead for procurement.
- Recognising and beginning to utilise data management and technology to inform the customer journey / interaction
- Ceasing the opportunity to modernise and attempt to future proof the service through a contracting arrangement.
- Utilising the Council's buying and financial capacity to purchase new vehicles.
- Communication messaging to residents to highlight known issues, promote targets and confirm progress.
- Council decisions to be collaborative and identifying priorities.
- Senior officer utilisation of negotiation techniques to leverage a response whilst ensuring an improvement was secured.

Areas of Improvement

The review has revealed a number of key areas where improvement is required to minimise the chances of either a system failure or sudden decline in service standards:

- Urgently formalise the contract management group required to oversee the contract. These need to have clear terms of reference, agenda standards and action note protocols.
- Ensure finance have representation on the joint management board.
- Ensure the S151 officer creates and maintains adequate invoicing procedures to complement the deduction process identified within the contract.
- Consider appointing an additional authorising officer
- Establish “whitespace” read access requirements for customer contact staff to assist with minimising “hand offs” to waste officers.
- Review resources required to document the customer journey and consider how customer service staff could be further utilised to manage expectations and ad hoc service delivery items.
- Undertake a review of the corporate capacity to support the contract in particular how finance and legal support can and should be accessed.
- Staffing levels in the key areas of
 - Corporate leadership
 - Finance
 - Contract management

Acknowledgments

The completion of this review could not have been possible without the participation, openness and transparency of staff from Derbyshire Dales District Council, Recircle Consulting Ltd and Serco.

Circling Squares Ltd would like to acknowledge the trust placed in the process particularly the staff from waste, customer, legal and democratic services. It has become increasingly clear during the review that the staff have endeavoured to ensure that the services and reputation of the authority have been protected despite the continuing uncertain and volatile environment.

Thanks and appreciation is also extended to the cross party member group established to provide me with guidance, structure and feedback to ensure the review remained independent and focussed upon the learning opportunities available for all parties to deliver consistent and appropriate waste services for the residents of Derbyshire Dales District Council.