

COUNCIL
27 April 2022

Report of the Director of Community & Environmental Services

WASTE & RECYCLING CONTRACT OPTIONS APPRAISAL

PURPOSE OF REPORT

To update Members on a report produced by Recircle Consulting detailing a qualitative assessment of the options available to the Council, should the Council find itself in a terminal dispute position on its Waste Management Contract with Serco Ltd and to seek authorisation for the commissioning of a detailed qualitative review of an in-house service delivery option.

RECOMMENDATIONS

1. That the Stage 1 qualitative assessment of service delivery options undertaken by Recircle Consulting be noted.
2. That Council agrees to the commissioning of a Stage 2 quantitative assessment to develop a detailed analysis of the necessary steps, measures, timescales and costs of changing the Council's Waste & Recycling service to an 'in-house' service delivery model.
3. That Contract Standing Orders for the procurement of consultants to undertake a Stage 2 assessment be waived in the interests of expediency in order to maintain the functioning of a public service and to avoid serious disruption to Council services.
4. That the Chief Executive and the Director of Community & Environmental Services continue to explore opportunities for partnership working and/or joint delivery of the Waste & Recycling Service with neighboring Local Authorities
5. That subject to recommendation 2, approval be given to a supplementary revenue budget of £30,000 for the appointment of an external consultant to undertake this project, financed from the waste and recycling reserve.
6. That a further report be presented to Council upon completion of the Stage 2 assessment.

WARDS AFFECTED

District-wide

STRATEGIC LINK

The delivery of an efficient and effective waste management service through the existing Waste Management contract, contributes towards the District Council's priority of keeping the Derbyshire Dales clean, green and safe. It must also balance affordability with quality in reflecting the District Council's Medium Term Financial Strategy.

1 BACKGROUND

- 1.1 The waste and recycling service is one of the most fundamental statutory services performed by the District Council and is, perhaps, the most high profile service received by the public. It therefore needs to meet the demands of the public whilst recognising recent changes in the waste management industry.
- 1.2 The District Council has outsourced its waste collection and recycling service since August 1989. The current waste and recycling contract is operated by Serco Ltd, who were the incumbent and successful bidder for the contract which commenced in August 2020. The contract comprises of alternate weekly domestic, garden and recycling waste collections, as well as a separate weekly food waste collection. The contract also includes the provision of a trade waste collection service.
- 1.3 Whilst the previous contract delivered by Serco from 2012 until 2020, was delivered successfully with excellent recycling rates, regular collections and high customer satisfaction survey results, the new contract has experienced significant disruption and inconsistent service delivery as highlighted in the recently completed Waste Management Contract Independent Review (Council report - 17th February 2022).
- 1.4 The impact of Brexit, the global COVID-19 pandemic and the more recent HGV driver crisis affected the initial delivery of vehicles and the ability to fully staff the contract on a daily basis. Whilst the extent of these issues would have been difficult to foresee, Serco's performance on the contract has not been sufficient enough to respond to these challenges. The conclusion of the Independent Review was that there has been an incomplete delivery of the contract requirements by Serco and that the Council has not received the benefits of the whole of the contract as intended.
- 1.5 In addition to the external factors impacting the service, Serco Ltd have not implemented or maintained many of their contractual obligations. This includes, but is not limited to, the provision of monthly, quarterly and yearly management and performance information, installation of 360 degree camera of vehicles, full implementation and use of the Management Information System and the implementation of recycling collections for trade waste collections.
- 1.6 As a result of the issues noted above, residents across the district have seen a significant and unacceptable level of disruption to waste collections. There have been an unprecedented amount of calls and complaints from residents regarding missed collections and there has been much public criticism of Serco's performance on this contract.
- 1.7 Since the start of the new contract, Officers have experienced difficulty in accessing relevant contract and performance information, which is crucial to the effective management of the contract. One impact of this is the reduced ability for Officers to provide residents with accurate (or at times, any) information on rescheduled collections, which the Council considers to be a fundamental aspect of customer service provision.
- 1.8 In addition, maintaining a consistent line of communication with Serco has proved challenging due to the high turnover and absence of management staff. There have been 3 different Regional Directors and 4 different Contract Managers, since the beginning of the contract in August 2020.

- 1.9 Concerns, both formally and informally, were raised with Serco in the first few months of the contract. Whilst the Council initially showed support to Serco, with the aim of resolving these matters, unfortunately, and despite numerous assurances from the contractor, several of these concerns remain. This has resulted in the Council applying the more punitive, and financially focussed, measures within the contract. To date the Council has applied the maximum amount of financial deductions available to them for both year one and year two of the contract.
- 1.10 Regular meetings with Serco's senior management team continue to take place in an attempt to address the Council's concerns. These meetings have included the relevant Contract Managers, Regional Directors and Serco's MD for Environmental Services. Following further changes in personnel at Serco, the Chief Executive alongside the Director of Community and Environmental Services now has a regular dialogue with senior management at Serco which includes, the Managing Director for Citizens Services (Serco UK and Europe).
- 1.11 Further commitments have been given by Serco to address the outstanding issues and a programme of improvement has been agreed. Whilst there has been some progress made on the outstanding issues, it is looking increasingly likely that not all of the matters will be resolved without a request for additional funding from Serco at some point in the future. At present no formal or informal request has been received, although through discussions regarding increased tonnages for recyclable waste and the need to change disposal sites for garden and food waste, Serco have alluded to a loss of approximately £700,000 per annum on the existing contract excluding the increased costs arising from the change in disposal site for garden and food waste. It is therefore extremely likely that in the future, there will be an increase in costs on waste and recycling, irrespective of who delivers the service.
- 1.12 The Council therefore needs to position itself such that any request for additional financial contributions from Serco in the future, can be assessed against other potential service delivery options and costs. Officers have therefore commissioned a stage 1 qualitative assessment of the options to provide useful information for the Council to help provide direction and / or eliminate options from detailed evaluation.
- 1.13 A copy of the stage 1 evaluation undertaken by Recircle Consulting, is attached at Appendix 1.

2 REPORT

- 2.1 In assessing possible alternative options, Officers, supported by Recircle Consulting, have considered the following delivery models:
- In-house service delivery
 - Creating a Local Authority Company (LAC)
 - Procuring a new contract (outsourcing)
- 2.2 The attached report from Recircle Consulting provides a qualitative analysis of these options, including projected timescales, level of risk, flexibility, deliverability and cost implications for each of the options noted above.

- 2.3 In addition to the 3 options above, there may be an opportunity for working in partnership with other neighbouring Local Authorities to provide a waste and recycling collection service.
- 2.4 Whilst the attached report provides Members with a more detailed overview of the options, the key points of those options are noted below.

In-house service delivery

- 2.5 Derbyshire Dales District Council has not operated an in-house waste and recycling service since August 1989. Whilst the Council owns the refuse collection vehicles on the contract, and sub-leases the depot to Serco, it would need to undertake a TUPE transfer of the workforce to staff the service. This can take several months to achieve and will require negotiations and trade union involvement. It would also see an increase in overall employer pension costs.
- 2.6 It should also be noted that at the present time, Serco does not have sufficient permanent staff to deliver the full range of contracted services and is reliant upon a pool of agency staff. In delivering an in-house service, the Council would need to recruit more staff to deliver the services and/or utilise agency staff to backfill any gaps in the provisions of a permanent workforce. In addition, it is likely that support service staff resources e.g. HR and payroll would also need to be increased in order to provide an adequate level of support to the service.
- 2.7 Whilst an in-house service delivery model would give a greater level of control to the Council, it would also expose the Council to 100% of risks, including fluctuations in commodity values, increased staff and fuel costs as well as unexpected changes to legislation.

Local Authority Company (LAC)

- 2.8 One option would be for the Council to set up a Local Authority Company (LAC) to operate as a 'trading arm'. The benefit of this approach is that the Council would be able access relief and/or exemption from certain tax implications, whilst essentially operating the service 'in house'. Approximately 10% of Councils currently operate a LAC. Whilst there would be some control over the service, the LAC could operate outside of the Council's decision making process, once the objectives and budgets have been approved. It would take approximately 18 months to set-up and implement a LAC.

Procuring a new contract

- 2.9 This would essentially be a re-run of the previous process, where Serco were appointed. Once the scope and specification have been approved by Members, the outcome would be subject to a competitive tendering process, with the successful bidder awarded the contract. Based upon previous experience, this process would take approximately two years.
- 2.10 Other options include approaching neighbouring Councils to assess the feasibility of a shared service or partnership model for the delivery of a waste contract or the procurement of an interim solution to bridge the gap between Serco and a new service provision.

- 2.11 Officers from DDDC have previously tried to encourage this approach on a number of occasions in the last few years without success. Whilst there has been some willingness at Officer level to consider this, none of the other Councils progressed this past their initial interest.
- 2.12 Recently, the Chief Executive and the Director of Community and Environmental Service met with a neighbouring Council to revisit this option, as a potential alternative delivery model, should the Council need or choose to exit the current contract. After initial encouraging discussions, further discussions are scheduled to take place.
- 2.13 In order to progress this, further and more detailed discussion would be required.

Summary

- 2.14 It is considered that continuing with Serco is likely to represent the 'path of least resistance' for the Council. It may also have the shortest delivery programme of the Options, although this is contingent on Serco's response to the current situation. On balance, utilising Serco and restoring service provision ought to be considered the Council's primary aim.
- 2.15 However, if there is no prospect of successfully restoring the services with Serco then the Council may wish to pursue an alternative option, of which the Council has three available. Each of the options has benefits and disbenefits, and none provide a 'golden bullet' solution to the Council's current issues with the waste collection services.
- 2.16 Each option attracts significant risks to its implementation and delivery. The waste collections market is currently a "sellers' market" due to the lack of competition, and the District has attributes which are likely to make the project a high-risk prospect. Bringing the service in-house will require a step-change in the approach taken by the Council to manage waste collections and will create a significant administrative burden compared with an outsourcing approach.
- 2.17 It is therefore considered that the Council should continue to work pro-actively with Serco to address the outstanding contractual issues in order to ensure that residents receive a reliable waste collection and recycling service, whilst simultaneously commissioning a stage 2 quantitative assessment for an in-house service delivery option.

3 RISK ASSESSMENT

Legal

- 3.1 The Council is currently contracted to Serco, however there is nothing that does not allow the Council to consider all options available to them especially taking into account the historical and continued level of service. It is also prudent to have investigated contingency plans in case the Council is required to serve notice due to Serco

breaching the contract, if efforts to ensure that Serco comply with its contractual arrangements fail . The legal risk is therefore low.

Financial

- 3.2 As stated above, the Council needs to position itself such that any request for additional financial contributions from Serco in the future, can be assessed against other potential service delivery options and costs. Should such a request be received, the financial implications will be assessed and reported to a future Council meeting should approval be required for additional expenditure.
- 3.3 If the Council agrees to the commissioning of a Stage 2 quantitative assessment to develop a detailed analysis of the necessary steps, measures, timescales and costs of changing the Council's Waste & Recycling service to an 'in-house' service delivery model, the estimated cost for the appointment of an external consultant to undertake this project is upto £30,000. As there is no approved budget for this, approval is sought for a supplementary revenue budget of £30,000 for the appointment of an external consultant to undertake this project, financed from the waste and recycling reserve. The reserve currently has a balance of £555,188.
- 3.4 The financial risk of the report recommendations is assessed as low. To proceed without a detailed study could leave the Council exposed to ill-informed decision-making and financial risks, should it wish to proceed with an in-house option at a later date.

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, health, human rights, personnel and property.
- 4.2 Climate Change - there are not perceived to be any direct climate change impacts associated with the recommendations contained within this report. If approved, the Stage 2 quantitative assessment should include an evaluation of the climate change impacts of changing to an 'in-house' service delivery model.

It should be noted at this stage that emissions associated with the delivery of the current outsourced waste contract are not currently included in the Council's annual 'carbon footprint' as these are defined as 'scope 3' - all other indirect emissions that occur in a company's / organisation's value chain. If the service was delivered 'in-house' the Council would expect to see a significant increase in direct emissions going forward. This would need to be considered in line with the commitment contained within the Council's approved Climate Change Strategy and Action Plan to be net zero in respect of Council operations by 2030. The Stage 2 assessment should include consideration as to whether the 'in-house' model service delivery presents the best opportunity for Council to make meaningful reductions in emissions, however they are reported.

5 CONTACT INFORMATION

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6 BACKGROUND PAPERS

Waste Management Contract Independent Review – Council 17th February 2022

7 ATTACHMENTS

Appendix 1 : Stage 1 Options Appraisal Report by Recircle Consulting