

**Title of meeting:** Cabinet

**Date of meeting:** 21 June 2022

**Subject:** Provision of Waste Collection Services

**Report by:** James Hill, Director of Housing, Neighbourhood and Building Services

**Report Author:** Colette Hill, Assistant Director of Neighbourhood Services

**Wards affected:** All

**Key decision:** Yes

**Full Council decision:** No

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**1. Purpose of report**

- 1.1. To provide Cabinet with the information required to inform the decision on the future delivery method for provision of waste collection services in the City at the end of the current contract period and sets out the implementation timescales involved in the various options.

**2. Recommendations**

- 2.1. Cabinet is asked to consider the options for the City's future waste collection service with careful consideration of the opportunities and risks, including the financial consequence to the City Council for each option. Cabinet has made it clear to officers that their preference is to bring the service back in house. In this case it is a finely balanced judgement, and this report seeks a decision on the delivery model from Cabinet.
- 2.1.1 Waste collection services are brought 'in house'
  - 2.1.2 Waste collection services are subject to procurement for an external contractor
- 2.2. Cabinet notes that either of the options will require the work to implement the decision to start immediately to ensure service continuity.
- 2.3. Cabinet takes this opportunity to commend the work of the PCC (Portsmouth City Council) waste management team and the contractor, BIFFA municipal, for their response to the pandemic in maintaining the City's collection services, noting the largely uninterrupted service delivery throughout the pandemic, and additionally

the impressive delivery of service improvements throughout the pandemic, including the roll out of additional food waste rounds.

### **3. Background**

- 3.1. As the contract comes towards the end of the contract period, PCC has appraised the options available for the future delivery model for waste collection.
- 3.2. The existing waste collection contract with Biffa Municipal began on 1 October 2011 - it is an 8-year contract with an option for a 2-year extension that has been taken up. The contract has subsequently been extended beyond the original term to 30 September 2023, and PCC will enact the option to extend by a further 6 months.
- 3.3. The contract is an 'open book' contract where the council pays for all costs incurred in delivering the service plus a profit and overhead paid to the contractor.
- 3.4. The contractor has performed well over the course of the contract and the open book nature of the contract has meant that the Council has a full understanding of the costs and been able to work with the contractor to make service decisions and set an achievable target price each year. This has helped to keep the costs under control. (Exempt appendix 1)
- 3.5. During the contract term, the contractor has also worked with the council to deliver changes to waste collection. (Exempt appendix 2)
- 3.6. The open book contract has supported joint working between the authority and the contractor, and this has been reflected in the relationship over the past 10 years which has been mainly positive. This has led to good levels of flexibility for the authority even within the constraints of the contract. Any procurement would seek to use a similar open book type of contract.
- 3.7. A project team comprising of waste management, legal, finance and procurement officers have been evaluating the options for future service provision. This has included:
  - A soft market testing exercise with 5 of the major waste management companies in the UK for the contracted-out option
  - Research with other in-house teams to better understand the challenges
  - Met with two other waste management Teckals to learn about their experiences and some the challenges involved.
  - Developed financial models for the options for consideration

### **4. Delivery Options**

- 4.1. A variety of delivery options have been considered by the project team. These include:

- a) In house - service brought in house to form part of Portsmouth City Council
- b) Teckal exemption (Local authority trading company - LATCo) This is where the local authority forms a trading company to deliver services and trade commercially to generate income. The Teckal exemption allows the council to directly award work to that company, the amount of commercial activity is limited to 20% of its overall operations, this would exclude work it undertook for other Local Authorities. This was discounted at this time as further work was required to understand the feasibility of this as an option.
- c) Shared Services organisation - this would be where two or more local authorities work together or with one leading to deliver services on behalf of those local authorities.
- d) Joint Venture - This is where the local authority works in partnership with another organisation. This has been discounted at this time as assets would be transferred to the JV contractor, any profits made would be shared with the contractor. Additionally, this would be most attractive to the partner if other council services were packaged together.
- e) Outsourcing - Procure a contractor to deliver the service.

This paper focusses on options a, and e. Option c - shared service could be enacted with option a in the future (when other local authority contracts end or there are identifiable benefits from sharing services) and for option e - a contract could be set up to include providing services to other local authorities as a future option.

- 4.2. PCC provides the depot to the contractor and there is a plan to redevelop this site to accommodate a larger fleet which is required as we move to deliver the outcomes of the Environment Act 2021. This was approved as part of February 2022 Full Council budget decision.
- 4.3. The local staff who are dedicated to the delivery of the service currently would be eligible under the Transfer of Undertakings (protections of Employment) regulations (TUPE) legislation to transfer to each of these option models.

## 5. Options for consideration

### 5.1. Option a - In house provision - existing staff transfer to become PCC employees

- 5.2. The team has considered the opportunity to bring the service in house at the end of the current contract period.
- 5.3. A business case for bringing the service in house has been developed. This case accounts for both the financial and non-financial considerations. (Exempt appendix 3)
- 5.4. **Financial Model** - For the in-house model there are two stages of costs:

- 1) Costs at time of transfer Existing Biffa T&Cs apply - main additional costs are related to the Local Government Superannuation Scheme (LGSS) Pension. (Exempt appendix 6)
- 2) Cost of transferring to PCC T&Cs (ETO model) - A change which provides an economic, technical, or organisational (ETO) reason to review the service would trigger a transfer to PCC T&Cs. This would be a notable change to existing T&Cs - (which are not all the same) including for example additional leave and sickness benefits, contractual overtime etc which would add additional costs. (Exempt appendix 6)

5.5. Additionally, there are **non-financial considerations** (exempt appendix 3)

#### 5.6. Option f - Contract out

#### Soft Market Testing (SMT)

- 5.7. PCC carried out a SMT exercise in 2020. Waste Management and Procurement staff met with 5 of the large national waste contracting companies: Biffa, Veolia, Viridor, FCC and Serco. All indicated that although the PCC is not one of the largest contracts available, it would still be of interest in terms of bidding. It was suggested that it would be more attractive if it included options to add in street cleansing at a later date and/or provided an opportunity for other LAs to join the contract for additional services such as food waste collection, etc.
- 5.8. The feedback was that the longer the contract period that could be offered the better with 8 years being suggested as the minimum with other options suggested of 10 years plus 10 years.
- 5.9. All contractors are already working with LA's who are moving away from diesel vehicles and are developing their knowledge and experience of operating greener fuels, and E-RCVs in what is an emerging market.
- 5.10. The team learnt that there are fewer companies in this market than 10 years ago, with most contracts attracting 3 or 4 bidders compared to 7 or 8 in years gone by and that they would all prefer a competitive dialogue approach to procurement.
- 5.11. All the contractors highlighted the compact nature of the city as a positive along with the infrastructure being on the island. They did also highlight that the narrow nature of some of the roads can restrict you in terms of vehicle choice. They also were aware of the transient nature of the student population and the challenge this presents in terms of managing waste.
- 5.12. **Soft Market bid** - To understand the market conditions that we would be facing during a procurement, we asked several contractors to submit non-binding soft market bids to help us to understand current market conditions. (Exempt appendix 5)

## 6. Considerations

- 6.1. **Financial** - there are a range of costs for these options, and these should be considered carefully. (Appendix 6) The service is likely to need to grow to deliver the requirements of the Environment Act 2021 - whilst there is likely to be additional burdens funding for some of this and Extended Producer Responsibility (EPR) tax payments - it is unclear how this will be calculated. Any difference in cost between the options will be multiplied by the need for additional collection crews.
- 6.2. **Risk** - Waste Collections is a high-risk industry in terms of Health and Safety and vehicle incidents. With a contract, much of the risk regarding operations is held by the specialist contractor - although PCC remains responsible for changes to service or legislative changes. With the in-house model **all** risk would transfer to PCC. It is worth noting that risk is often built into the contract price and should be considered when looking at the financial comparisons. Financial risk is mitigated in the contract model through the guaranteed maximum price mechanism. Other risks related to staffing, vehicles and fuel costs can also be mitigated with careful planning. The industry is now indicating that terms and conditions will need to improve going forward to attract and retain employees. This relates to pay as well as pensions, holiday, and sickness benefits. This is likely to increase costs from contractors.
- 6.3. **Future Housing growth** - Since the beginning of the current contract, an additional 4830 homes have been created in Portsmouth, with up to 4500 planned in the next 5 years. The housing growth during the last contract period has been managed by understanding capacity and working to make the rounds as efficient as possible. There is little capacity left in the refuse or recycling rounds. This risk is present in all models but should be considered with reference to the financial models.
- 6.3. **Social Value** - PCC wants to generate more social value from the services it delivers to give the most benefit to Portsmouth, whether that is keeping money in the city, improving the local environment, or supporting schools and communities that need it. For this service, examples of social value could include local employment and apprenticeships, or initiatives working with the community to reduce waste and improve recycling. The future delivery model of the service is an opportunity to incorporate and deliver more social value. Both options can support this (see appendix 3)
- 6.4. **Environment Act 2021** - The business case had been completed on a like for like basis. However, the Environment Act 2021 will bring meaningful change to refuse and recycling collections over the next 2-5 years. This will include changes to recycling collections to ensure consistent kerbside collections across the country (of materials - additional materials of glass, plastic pots, tubs and trays, flexible plastics, cartons and foil trays), and mandatory separate weekly food waste collections. It could also include free garden waste collections which would impact all the models as the profit element is removed. It is expected that additional burdens funding will be provided to fund food waste collections. Whilst the details of this are not clear, the act also introduces 'extended producer responsibility' which will fund the collection, recycling and disposal costs of packaging. It is likely that the start of this contract or

in house service will be close in timescales to the delivery of the proposed new Materials Recovery Facility (MRF) and change to twin stream recycling collections and the funding changes described above. These changes will require significant review and modelling of services in order to deliver an efficient service.

- 6.5. **Additional Value** - an in-house service could bring synergies and more joined up services with existing in-house services such as Green and Clean, along with opportunities to consider how street cleansing is provided for at the end of the PFI contract. A waste contractor will bring its extensive experience and knowledge from within the waste industry.
- 6.6. **Timetable** - This decision is required now to ensure the project team have sufficient time to deliver a new service provision regardless of the option chosen. This will require PCC to enact the extension to the contract for at least a further 6 months (this needs to be done by 31 March 2023) The project timetable will be developed once a decision is made about the delivery model. If the decision is to procure a contract, then this will need to begin immediately to ensure a contractor is in place. All options will require significant procurement and lead times for vehicles are up to a year.
- 6.7. **Procurement and mobilisation costs** - regardless of the delivery model, a team is required to deliver either the procurement or the mobilisation. This will include officers from waste management, finance, procurement and legal. It may also require input from HR, Health and Safety, Fleet, IT, and Insurance.
- 6.8. **Capital costs** - The capital costs of developing the depot and associated office space have been agreed to make adequate depot provision regardless of the delivery model. This also applies to the provision of the vehicle fleet. Mobilisations costs with a contract are usually amortised over the contract period.
- 6.9. **Management** - The service has been contracted out for over 15 years and the existing management team have experience of managing the contract using the open book method - which has provided an understanding of the costs of the service and how decisions impact on the costs. The Council also has experience of developing other in-house services such as cleaning and grounds maintenance.

## 7. Integrated impact assessment

- 7.1. An integrated impact assessment has been carried out and there are no impacts to any groups. This will be updated subject to the decision. (Appendix 4)

## 8. Legal implications

- 8.1. It is within the powers of the Council to implement either of the service delivery options recommended for consideration by Members. In deciding which option to take forward the Council has a duty to consider in detail the relative costs, risks and opportunities afforded by each option and to reach a decision which is consistent with principles of value for money and the Council's fiduciary duties to local taxpayers.

8.2. The relative costs, risks and opportunities entailed in each of the options are addressed in the main body of the report, the report's Appendices and the Director of Finance's comments below and will not be repeated in detail here.

**9. Director of Finance's comments**

9.1. See exempt appendix 6

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Signed by: James Hill, Director of Housing, Neighbourhood and Building Services

**Appendices:**

- Exempt appendix 1 – Contract costs 2011-2021
- Exempt appendix 2 – Improvements during current contract period
- Exempt appendix 3 – Risks and Opportunities
- Appendix 4 – Integrated impact assessment
- Exempt appendix 5 – Soft market testing information
- Exempt appendix 6 – Finance Comments

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Portsmouth City Council Budget and Council Tax 2022/2023 and Medium-Term Budget Forecast 2023/24 to 2025/26 and Capital Programme	<a href="#">Portsmouth City Council Budget and Council Tax 2022/2023 and Medium Term Budget Forecast 2023/24 to 2025/26 and Capital Programme</a>

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

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Signed by: