

**Commissioning and Procurement Executive Committee / Companies  
Governance Executive Committee – 12/09/2023**

<b>Subject:</b>	Procurement of Waste Services		
<b>Corporate Director(s)/ Director(s):</b>	Colin Parr, Corporate Director for Communities, Environment & Resident Services		
<b>Portfolio Holder(s):</b>	Councillor Corall Jenkins, Portfolio Holder for Energy, Environment and Waste Services and Parks		
<b>Report author and contact details:</b>	Carl Pendleton - Waste Disposal Manager E: <a href="mailto:carl.pendleton@nottinghamcity.gov.uk">carl.pendleton@nottinghamcity.gov.uk</a>		
<b>Other colleagues who have provided input:</b>			
<b>Key Decision</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Subject to call-in</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Reasons:</b> <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Significant impact on communities living or working in two or more wards in the City	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<b>Type of expenditure:</b> <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital If Capital, provide the date considered by Capital Board Date:			
<b>Total value of the decision:</b> £10m over ten years at present value, this is subject to new tender rates and inflation over the period.			
<b>Wards affected: All</b>			
<b>Date of consultation with Portfolio Holder(s):</b>			
<b>Relevant Council Plan Key Outcome:</b>			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input checked="" type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input checked="" type="checkbox"/>		
<b>Summary of issues (including benefits to citizens/service users):</b>			
<u>Green Waste Composting:</u> The Council has a statutory duty as a Waste Disposal Authority under Section 51(1)(a) of the Environmental Protection Act 1990 (EPA) to arrange for the disposal of controlled waste collected in its area by the Waste Collection Authority which is also the Council. The current contract for green waste composting expires in March 2024, after running for the last five years. The separate collection and composting of green waste contributes c.12% per annum to the Council's overall recycling performance.			
As a result, a procurement exercise needs to take place to continue to provide this essential service in a compliant manner.			
<u>Household Waste &amp; Recycling Centre (HWRC):</u> The Council has a statutory duty under Section 51(1)(b) of the EPA to provide places at which			

persons resident in its area may deposit their household waste. The EPA requires that each place provided is open at all reasonable times including at least one period on a Saturday or Sunday. The Council has discretion to determine the number of these facilities, the location of such facilities and the opening hours. The Council currently provides one HWRC for its residents located on Redfield Road in Lenton.

The current contract for managing this HWRC expires in March 2024. As a result, a procurement exercise needs to take place to continue to provide this essential service in a compliant manner.

**Exempt information: State 'None' or complete the following**

None

**Recommendation(s):**

- 1 To approve the undertaking of a compliant procurement exercise for the provision of a green waste composting contract for the Council;**
- 2 To approve the undertaking of a compliant procurement exercise for the provision of management and operational services of the Council's Household Waste and Recycling Centre under contract to the Council;**
- 3 To delegate authority to the Corporate Director for Communities, Environment & Resident Services, in consultation with the Director of Legal and Governance and the Corporate Director of Finance and Resources, to award contracts to the successful bidders**

**1. Reasons for recommendations**

- 1.1 To allow the council to discharge its statutory duty as a Waste Disposal; Authority through tendering exercises defined by the Public Contract Regulations 2015 for the procurement of these waste disposal services.
- 1.2 To procure provision for appropriate treatment of waste, via a competitive tendering exercise, enabling value for money and to seek continuously improving environmental performance through increased recycling, recovery and diversion of waste from landfill.

**2. Background (including outcomes of consultation)**

- 2.1 The Council has a statutory duty under Section 51 of the Environment Protection Act (EPA) 1990 to provide places at which persons resident in its area may deposit their household waste. The EPA requires that each place provided is open at all reasonable times including at least one period on a Saturday or Sunday. The Council has discretion to determine the number of these facilities, the location of such facilities and the opening hours. The Council currently provides one HWRC for its residents located at Redfield Road in Lenton.

Whilst the Council owns the HWRC, historically the management and operation of this service has been outsourced, adhering to financial and EU procurement rules. Assessment of the merits of bringing this service provision in-house concluded that conditions were not favourable as contracts for the

eventual reprocessing or disposal of the waste managed through the HWRC form the largest proportion of the cost for providing this service and these contracts would still be necessary. Currently, the Council does not have any scalable advantage in the sale of recyclables or direct disposal of waste collected through the HWRC as it does not directly operate waste reprocessing or disposal facilities. The current volatility of the secondary recycling commodity markets means that the Council would likely be significantly disadvantaged on such a small-scale operation. Therefore, the option to seek competitive tenders is being sought.

- 2.2 The Council has a statutory duty as a Waste Disposal Authority (Unitary Authority) under the Environment Protection Act (EPA) 1990 to arrange for the disposal of waste collected on its behalf as a Waste Collection Authority. Green waste composting adds significantly to the City's recycling rate (c.12% per annum) which contributes towards the Council's Carbon Neutral 2028 (CN28) agenda. By continuing to secure green waste processing capacity within appropriate geographic proximity to the City, the Waste Disposal service aims to reduce the Council's carbon transport impact. The nature of large industrial composting requires large amounts of space, distance from near neighbours and ideally close to where the end product (compost) is utilised, usually on farm. These conditions preclude the possibility of providing this service in-house. Therefore, the option to seek competitive tenders is being sought.

### **3. Other options considered in making recommendations**

- 3.1 The option to do nothing is rejected on the basis that delivery of the services described would not be compliant with the Council's Contract procedure Rules.
- 3.2 The option to directly award contracts is rejected on the basis that it would not comply with Public Contract Regulations 2015.
- 3.3 The current contracts expire in March 2024. As a result, the solution which offers Best Value to the Council is to seek new contracts through competitive tendering. In-sourcing has been discounted and there are no viable delivery solutions which meet the Council's requirements.

### **4. Consideration of Risk**

- 4.1 Lack of competition during a tendering exercise is a recognised risk in pursuing new contracts. The two incumbent contractors have indicated that they would be keen to submit bids, although at this stage this is not guaranteed. There are alternate providers for these services, although based on service intelligence, this is limited. The Council will actively engage with known suppliers to encourage bids and competition for these services.

### **5. Best Value Considerations**

- 5.1 Bringing these services in-house would be impractical in the short to medium term and offers no material advantage. For the HWRC contract, the largest proportion of cost is the off-site treatment of waste collected through the HWRC, including separation into component materials and onward delivery of separated wastes to end-markets for recycling or further waste treatment. To secure Best Value it is sensible to ensure that the entity tasked with management and operation of the

HWRC itself, also has access to such waste processing facilities and end-markets and can obtain the best prices through economies of scale by combining waste managed through the HWRC with other wastes within its portfolio to place on the market. The Council has no ability or capacity to screen or store bulked materials, nor does it have suitable arrangements for accessing recycling markets directly or hauling waste directly to reprocessors. For this reason, tendering a contract for HWRC operation to incorporate onward treatment of waste collected through the site, is the better option to deliver Best Value.

- 5.2 For green waste composting, in-house provision would require the Council to obtain a suitable site and obtain the necessary planning and permitting consents necessary to compost green waste at scale, in addition to finding end-markets for the compost product produced. The Council would find it challenging in the current financial climate to raise the necessary resources to deliver this as a viable option.
- 5.3 There is currently no opportunity to jointly procure these services with other local authorities due to the times of their current contract expiry dates being incompatible. Flexibility in this regard is a consideration in determining the length of contract award with the proposal to award for an initial two years with options to extend annually up to a maximum of ten years for each contract. If circumstances change and better value can be delivered through joint enterprise with other local authorities, the contract structures would therefore allow for such flexibility.
- 5.4 Completing an open tender procurement, taking into account service requirements and flexibility demonstrates best value in these cases at this current time.

## 6. **Finance colleague comments (including implications and value for money/VAT)**

- 6.1 In undertaking a compliant procurement process for these contract renewals, consideration and adherence to Financial Regulations will be required and the renewal must ensure value for money is achieved by the Council.
- 6.2 The contracts have sufficient budget to cover their current costs within the service. Contract costs are increased annually by RPI. An allowance for this inflationary increase is contained within the MTFS budget pressure funding for the service ensuring inflation is covered.
- 6.3 As part of the procurement process, the value of the contracts and the available budgets must be a key consideration. Should the revised contracts exceed the budgets this will result in a budget pressure which will need to be managed by the service. If it is not possible to contain costs within the current available budget or by the service, the Corporate Director of Communities, Environment and Residents Services will need to be consulted on options and if a pressure arises the Section 151 Officer will need to be consulted before the contracts can be agreed.

Sejal Mistry  
Senior Commercial Business Partner  
19<sup>th</sup> July 2023

## 7. **Legal colleague comments**

Nottingham City Council has a statutory duty under the Environmental Protection Act 1990 to arrange for the disposal of residential waste. Given the total estimated value of the contract, a full procurement exercise will need to

be undertaken in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015.

S O'Bradaigh, Senior Solicitor 01-08-2023

## 8. **Other relevant comments**

### 8.1 **Procurement colleague comments**

Procurement colleagues will assist with the tendering exercise on order to secure a best value compliant contract, the contract will have break clauses inserted into the agreement to further ensure best value for the duration of the contract.

Comments provided by Paul Ritchie, Procurement Category Manager 17/07/2023.

## 9. **Crime and Disorder Implications (If Applicable)**

9.1 Both these functions enable residents to dispose of waste compliantly with due regard to its environmental impact and thus avoid and reduce enviro-crime through provision of , appropriate waste management services.

## 10. **Social value considerations (If Applicable)**

10.1 The Nottingham City Council Procurement Strategy 2018-2023 drives social value for the City by outlining how we will address economic, social and environmental considerations at all stages of the procurement cycle, through the framework of the Public Services (Social Value) Act 2012. It sets out under its key economic, social and environmental themes how procurement will deliver the objectives of supporting the local economy, delivering social and community benefits, and environmental sustainability through all purchasing activity. Social value will be evaluated based on the qualitative responses received from bidders to the two tender opportunities.

10.2 In this context, both these services (provision of HWRC and treatment of separately collected green waste) provide opportunity to meet several of the social and environmental benefits identified in the Procurement Strategy including:

- Ensuring procured services are accessible and appropriate to meet the diverse needs of all citizens and communities;
- Ensuring that the successful contractor commits to, and adopts the ethical employment practices set out in the NCC Business Charter and commits to employment and training opportunities for the most disadvantaged communities; focusing on offering entry level jobs;
- Maximising social and community benefits wherever possible through relevant requirements in specifications, for example through the development of community reuse schemes in partnership with successful the HWRC operator (this also facilitates actions defined within the Council's Municipal Resources and Waste Strategy);
- Taking a 'whole lifecycle' approach to costs – including considering the external costs of environmental impacts, where these can be quantified and monitoring the supply chains accessed by contractors to further minimise the carbon impact of providing these services;

10.3 These services are highly valued by residents, many see them as essential services to enable them to dispose of their household waste which they are unable to present for kerbside collection, and to dispose of their green waste by recycling it into compost. The contracts will require the successful operator to meet key contractual Performance Indicators defined by social value considerations. This will ensure that the contracts are designed to maximise the social value objectives set out by the Council.

**11. Regard to the NHS Constitution (If Applicable)**

11.1 N/A

**12. Equality Impact Assessment (EIA)**

12.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:

This represents no change in service, design or delivery

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

**13. Data Protection Impact Assessment (DPIA)**

13.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because:

The activities do not require the collection or processing of any data bound by data protection laws

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

**14. Carbon Impact Assessment (CIA)**

14.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because:

As part of the recently adopted Municipal Resources and Waste Strategy, a carbon impact assessment of the whole waste management service was presented to demonstrate retention of these services was essential to reducing its carbon impact

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

**15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

15.1 None

16. **Published documents referred to in this report**

16.1 None