

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

5163

Author:

Carl Pendleton

Department:

Communities, Environment and Resident Services

Contact:

Carl Pendleton

(Job Title: Waste Disposal Manager, Email: [carl.pendleton@nottinghamcity.gov.uk](mailto:carl.pendleton@nottinghamcity.gov.uk), Phone: 0115 8765639)

Subject:

Procurement of Waste services

Total Value:

£735,000 (Type: Revenue)

Decision Being Taken:

- 1) To approve to seek contracts for treatment, recycling and disposal, utilizing ESPO frameworks, for the following services:  
Street Sweepings, Hazardous waste, Food waste.
- 2) To delegate the award of any frameworks to the Head of Waste and Street Cleansing.

**Reasons for the Decision(s)**

The Council has a statutory duty as a Waste Disposal Authority (Unitary Authority) under the Environment Protection Act (EPA) 1990 Section 51 (a), to arrange the dispose of waste collected by the waste collection authority. The contract/framework for treatment and disposal of street sweepings is due to expire at the end of March 2025, and needs replacing. There is a new need for contracts for the treatment and disposal of various hazardous wastes, as required, and commercially collected food waste.

To be compliant with procurement legislation, there is a need to run a procurement exercise. This can be done by inviting tenders but is time consuming and adds significant extra work for supporting corporate services, legal services, procurement, and finance. Using ESPO frameworks ensures the process is fully compliant with UK procurement legislation. Suppliers listed have been assessed for their financial stability, track record, experience and professional ability whilst streamlining the process.

Seeking only a 3 yr. framework prevents the need to go to a later Executive board and allows us to secure the framework before they expire later this year. We expect there to be replacement frameworks next year. Food waste is a new service, and we will have a better idea of the scale of commercial food waste and if domestic food waste is to be phased in during 2028. This should give us a competitive volume which to seek a tender. Once contracts are finalised, the usual process of spending control/approval will be applied to ensure the council adheres to financial compliance.

**Briefing notes documents:**

Briefing Note - Procurement of Waste Services 2024 - Draft 160724.docx

**Other Options Considered:**

1. Do nothing. This approach would not enable the Council to fulfil its statutory duties, as an authority with no secured outlet. This option is rejected because it does not fulfil the statutory obligations placed on the WDA.
2. Seek an open procurement via a full tendering exercise, this is a lengthy time-consuming process requiring significant input from legal and procurement services usually take 6-9 months. The Framework for street sweepings is more competitive than the rates received under a previous open tender. It may be possible to have further competition under a framework where there are several suppliers. To secure these services quickly, this option was discounted at present. This does not preclude seeking an open procurement in the future if it became apparent an open tender would be more competitive.
3. To complete an EU/UK compliant procurement process using ESPO Frameworks for these services and award new contracts. This option allows us to fulfil both statutory obligations and secure an outlet.

**Background Papers:**

None

**Published Works:**

None

<b>Affected Wards:</b>	<b>Citywide</b>
<b>Colleague / Councillor Interests:</b>	<b>None</b>
<b>Consultations:</b>	<b>Those not consulted are not directly affected by the decision.</b>
<b>Crime and Disorder Implications:</b>	<b>The management of fly-tipped hazardous waste and the ability to clear this from ourstreet is key in attracting further fly-tipping and for safer communities.</b>
<b>Equality:</b>	<b>EIA not required. Reasons: This is not a new service, but is replacing current arrangements with new contracts</b>
<b>Regard for NHS Constitution:</b>	<b>Local authorities have a statutory duty to have regard to the NHS Constitution when exercising their public health functions under the NHS Act 2006. In making this decision relating to public health functions, we have properly considered the NHS Constitution where applicable and have taken into account how it can be applied in order to commission services to improve the health of the local community.</b>
<b>Decision Type:</b>	<b>Portfolio Holder</b>
<b>Subject to Call In:</b>	<b>Yes</b>
<b>Call In Expiry date:</b>	<b>30/08/2024</b>
<b>Advice Sought:</b>	<b>Legal, Finance, Procurement</b>
<b>Commissioner Comments:</b>	<b>The Commissioners are content with this decision</b>

**Legal Advice:**

This decision seeks approval via Portfolio Holder delegated decision to enter into contracts, using the ESPO framework, for the treatment, recycling and/or disposal of Street Sweepings, Hazardous waste and Food waste.

The Council is a Waste Disposal Authority ("WDA"), as defined by the Environment Protection Act 1990. As a WDA, the Council is under a duty to dispose of controlled waste collected in its area by Waste Collection Authorities - s51 1990 Act. "Controlled Waste" is defined, by section 75 of the 1990 Act as "...household, industrial and commercial waste or any such waste.", thus includes the categories of waste that are the subject matter of this decision.

Using contracts secured through the ESPO framework should assist the Council meet this statutory duty. Further, using the ESPO framework should ensure a compliant route to market in accordance with prevailing Regulations and the Council's own constitution. In order to deliver maximum flexibility, subject to any impact of the costs that this might create, consideration should be given to the contracts being for a one year duration with the options to extend twice for a further period of one year each up to a maximum of three years.

The Council needs to ensure it is acting within its legal powers when offering commercial waste services and it is clear under that statutory provision it is operating.

Anthony Heath, Head of Legal, 26th June 2024

**Finance Advice:**

This decision is to seek approval to enter into contracts using the ESPO framework. It is to allow access to use certain providers to provide solutions for the various waste treatment and disposals highlighted in the report.

Currently there is no spending commitment regarding these contracts but budget has been allocated previously for these contracts as some are existing arrangements. Once contracts are finalised, the usual process of spending control/approval will be applied to ensure council adheres to financial compliance.

Advice provided by Sohaib Chaudhry (Senior Commercial Business Partner) on 26/07/2024.

**Procurement Advice:**

The procurement team agrees with the approach to this decision and will support the tendering exercises to ensure that fully compliant, value for money contracts are entered into via mini-competition processes under the terms of the ESPO frameworks. Advice provided by Paul Ritchie (Procurement Manager) on 17/07/2024.

**Signatures**

Corall Jenkins (Executive Member - Communities, Waste, Equalities)
SIGNED and Dated: 22/08/2024
Colin Parr (Corporate Director, CERS)
SIGNED and Dated: 08/08/2024