

Wards affected: All

Cabinet

12th June 2023

Waste & Recycling Collection Services

Report of the Director of Public Services

1. Purpose of Report

- 1.1 This report seeks approval from Cabinet to agree an extension to the current Waste & Recycling contract with Suez, as the original term is due to end on 31st July 2024.
- 1.2 The report considers options for the future delivery of these services but concludes that an extension is the best course of action to allow sufficient time for a detailed appraisal of the respective costs and merits of each option. Other considerations in support of this course of action include the potential higher cost of alternatives, the considerable uncertainties in the waste industry created by impending legislative changes, and supply chain constraints around vehicles.
- 1.3 An extension will provide continuity through a period of uncertainty as the implications of a Deposit Return Scheme, Extended Producer Responsibilities, and potential changes to how local councils are required to collect waste work their way through the system. To try to second guess the impact of these changes would be imprudent and could result in considerable financial detriment if operational arrangements need to adapt in the future.
- 1.4 Similarly, 'soft market testing' has indicated that new bidders would be wary of this uncertainty and would reflect this in their pricing (and, indeed, may choose not to tender for the work at all). This means the council would be in the disadvantageous position of facing limited market competition plus 'risk pricing' from any bidders, and so a more sensible approach is to wait until stability returns to the market.
- 1.5 It may also be that the council wishes to see this type of service run through a public sector delivery model rather than a commercial organisation, and the space provided by a short extension will allow these options to be explored fully and with due diligence.
- 1.6 For all these reasons, it is considered unwise to rush into alternative arrangements at the end of the current contract. However, it is essential that an important public service like waste and recycling collection is delivered efficiently and effectively, and so discussions with Suez have stressed the need for any extension to provide both good value for money and a reliable service for local residents.

2. Need for a decision

- 2.1 The Waste & Recycling Collection contract with Suez expires on July 31st 2024 and the terms of the contract allow for an extension period of anything up to a maximum of 8 years, should both parties agree.
- 2.2 Given the estimated annual value of the contract during any extension there is a need to seek both Cabinet and Council approval as the revenue budget would need to be increased to facilitate this approach.

3. Recommendation

- 3.1 It is recommended that Cabinet resolves:
 - a) the Head of Finance, in consultation with the relevant Portfolio Holders, should negotiate the detailed terms of a contract extension with Suez for a further two years, and report to a future Cabinet once this is concluded.
 - b) a further report should be brought to Cabinet later in the year which provides a detailed analysis of future delivery options for a sustainable waste and recycling service in the borough.

4. Background

- 4.1 The Waste & Recycling Collection contract was awarded to Suez in 2015 and commenced on August 1st, 2016 for an initial term of 8 years, with an option to extend for up to a maximum of a further 8 years.
- 4.2 The contract covers Waste & Recycling collections from all Calderdale residential properties, with recycling being collected weekly and general waste fortnightly. In addition, there are a number of ancillary services, including paid for garden waste and bulky household waste collections, clinical waste collections, and bin/container deliveries.
- 4.3 The contract covers seven operational sites: A Transfer Loading Station (TLS) at Halifax where waste is bulked up for onward transportation for further treatment; a Materials Recycling Facility (MRF) at High Level Way where recycling is bulked up prior to delivery to re-processors; and five Household Waste Recycling Centres (Halifax, Brighouse, Todmorden, Elland and Sowerby Bridge) where residents can take a wide range of materials for recycling or disposal.
- 4.4 The contract introduced some key changes, with the overall aim being to reduce waste and increase reuse and recycling, including the ability to recycle additional items, new and improved vehicles, and in-cab technology to allow real-time reporting by crews. It also introduced a chargeable garden waste collection service and a re-use shop at Brighouse Household Waste Recycling Centre.

Missed Collections

- 4.5 The contract tolerance for missed collections not rectified within 24 hours is 105 per week. For the first few months of the contract figures were higher than this for a prolonged period, resulting in performance deductions being levied against Suez in October 2016.
- 4.6 In early 2017 Suez carried out a rebalance of the routes which mostly addressed these issues, and for the next three years collections went to schedule apart from some pressures around holiday periods (particularly Christmas) and during severe weather.
- 4.7 The Covid pandemic had a major impact on the service due to higher sickness absence rates and increased tonnages collected from households due to displacement of waste from offices, factories, schools etc, and an upsurge in online shopping creating more cardboard. More vehicles parked in residential areas during the day also created access issues (which are difficult at the best of times in the borough's many narrow streets), causing delays to collections as crews had to revisit several times.
- 4.8 In addition to the problems caused directly by the pandemic, Suez has been affected by other issues including a shortage of HGV drivers across the country due to EU nationals returning home at the onset of the pandemic and the impact of Brexit. This meant that towards the end of 2021 Suez was struggling to fully resource all the vehicles required to complete the daily collection schedules, and a significant amount of work was consequently dropped.

- 4.9 Since February 2022 collections have returned to a more settled state with the occasional exception due to bank holidays and the extreme weather conditions experienced in summer.

Recycling Performance

- 4.10 The contract has an annual target to collect 18,000 tonnes of recycling from Calderdale residents.
- 4.11 In the early years of the contract the amount collected was affected by dramatic drops in the quantity of paper presented at kerbside.
- 4.12 This was partly caused by the continuing switch to online media viewing but also by the reduction in frequency of the local newspaper from daily to weekly. For context, around 2,600 tonnes of paper were collected in 2020/21, which is half of the amount collected in 2010/11.
- 4.13 Despite this, the overall amount of recycling collected has steadily increased throughout the contract, with the target of 18,000 tonnes being surpassed in the last three years, with a peak in 2020/21 when 22,280 tonnes were collected.
- 4.14 Provisional figures for 2022/23 show a reduction down to pre Covid levels, possibly caused by the current cost of living crisis affecting the purchasing habits of residents.
- 4.15 Over the term of the contract, recycling rates have averaged around 50% which compares well with other local authorities and puts Calderdale:
- In the top 100 authorities every year except one.
 - In the top 50 authorities for the last two years.
 - In the top 25% throughout the contract, and within the top 10 for the last 2 years when comparing performance against other Unitary Authorities (i.e., those with responsibility for both Waste Collection and Waste Disposal).
 - In the top 5, and the second-best recycling performer for the last 2 years, out of the 22 Yorkshire and Humber region authorities.
 - Best recycling authority in West Yorkshire for over 10 years.
- 4.16 Performance in respect of waste to landfill is equally impressive, through a positive partnership with the council's waste disposal contractor. Over the last 6 years the amount of CMBC waste ending up in landfill has dropped from 6% to under 1%, significantly reducing the environmental impact of waste generated in Calderdale.

Waste & Recycling Collections System

- 4.17 Calderdale's kerbside-sort system is seen as the preferred type of service within the industry, as it allows a better quality of recycling to be captured, avoiding many of the contamination issues facing authorities with co-mingled collections (who then face additional disposal costs as well as lower recycling performance).
- 4.18 In terms of frequency, Calderdale offers far more collections to residents than most other authorities, due mainly to the weekly recycling collections - 78 Waste and Recycling collections are scheduled per property per year (52 weekly recycling and

26 fortnightly residual waste), which is 50% more than residents in Bradford, Kirklees, Leeds, and Wakefield receive.

Uncertainties

- 4.19 The Environment Act 2021 contains several pieces of legislation that could have a marked impact on the Waste & Recycling service, with provisions which are due to be introduced over the next few years. Unfortunately, timescales are constantly being altered, further adding to the uncertainty this is creating.
- 4.20 One of the key provisions of the Environment Act will see the introduction of a Deposit Return Scheme (DRS) during 2025 for drinks containers of various sizes.
- 4.21 A DRS has the potential to increase recycling and change consumer behaviour to perhaps a greater extent than any current recycling initiative. However, it would be likely to impact directly on kerbside recycling collections, with residents returning containers to shops or vending machines to reclaim the deposit rather than using the kerbside recycling collection service (where they would not be able to reclaim the deposit).
- 4.22 At the moment, it is confirmed that cans and plastic bottles will be part of the DRS, and there are ongoing discussions around glass and cartons / Tetrapak being included too.
- 4.23 These changes are likely to dramatically affect not only the overall amount of recycling collected at kerbside (and thus revenue streams), but also the relative amounts of different material collected, which affects the required physical configuration of Recycling Vehicles.
- 4.24 A further possible change could make garden waste collections both mandatory and free of charge.
- 4.25 Suez currently use one vehicle to undertake garden waste collections from approximately 5,000 properties who pay for the service, and to roll this out to any household requesting a free service would obviously require more loaders, HGV drivers and vehicles. Additional costs would also be incurred for more garden waste wheelie bins and a new collection method would have to be devised for those properties that cannot accommodate a wheelie bin.
- 4.26 Other provisions of the Environment Act concern consistent recycling collections and Extended Producer Responsibility.
- 4.27 Consistent recycling collections refers to the requirement to collect separately all glass, metal, plastic, paper & card, and food waste.
- 4.28 Given the current collection system in Calderdale, compliance with this provision is not expected to be an issue, although there are apparent conflicts between this and DRS given that both will be targeting some of the same materials.
- 4.29 Extended Producer Responsibility (EPR) will require producers to pay the full net cost of managing specified products and materials at end of life, in order to incentivise more sustainable use of resources. This will lead to producers having to meet the

associated costs of local authorities in collecting these materials, as well as contributing to the cost of littering and fly tipping from discarded packaging.

- 4.30 This again could affect the volume of materials collected, and therefore any future contract specification (which needs reliable estimates of tonnages) as producers may look to use more sustainable packaging and thus avoid additional costs. Any innovations in packaging solutions, e.g., 'vegware' plastic alternative, would potentially cause an initial increase in waste until suitable recycling provision is established for new materials.
- 4.31 EPR is due to be the first provision brought in and was originally planned for 2023, though this has now been delayed to 2024 at the earliest.

Covid Pandemic

- 4.32 As mentioned above, the Covid pandemic had a significant effect on the Waste & Recycling service, both in terms of operational delivery and the increased tonnages of recycling presented for collection.
- 4.33 However, there is a need to understand the enduring impacts or what the "new normal" is, particularly home working which has the potential to produce higher levels of recycling and to lead to continuing access issues with more cars parked on residential streets during collection times.
- 4.34 This could require more narrow/limited access vehicles to facilitate collections, and as these have lower storage capacities then more vehicles may be needed overall to maintain current collections schedules.
- 4.35 In addition to the uncertainties from the Environment Act mentioned above, there are other unknowns that will only become more evident over the next few years.

5. Options considered

A number of options exist for the delivery of waste and recycling services. These include a contract extension, a new procurement exercise, a Joint Venture Partnership with a local authority trading company, and insourcing waste & recycling collections. Further information on the respective merits of each is outlined below.

New Procurement Exercise

- 5.1 Informal meetings have taken place with prospective bidders, all of whom highlighted the volatile and uncertain landscape within the waste management industry, essentially echoing many of the issues outlined above.
- 5.2 The potential impacts of legislation were emphasised, along with issues concerning staffing and recruitment. Spiralling wages within the industry, and in general, were identified as a key risk for bidders. These would mean a shift away from contract mechanisms that have been in place over many years, particularly around indexation.
- 5.3 The accuracy of data supplied for potential contractors to prepare bids was also noted as a key concern, given the impact this can have on the number and configuration of the vehicles required to provide the service (and thus also staffing, depot space etc.)

- 5.4 A further issue raised was in relation to the lead-in times required for vehicles, which can be as long as 12-18 months.
- 5.5 The cost of bidding for such tenders was also raised as a concern, with the more intricate service designs being more problematic, and bidders wanting to have clear parameters for what is required from them in order to keep costs down – something that is difficult at the moment for the reasons outlined above.
- 5.6 It is also clear that bidders will no longer accept the risk involved with recycling revenue, due to the market volatility, with a view that this income should be retained by the client and not be used to underwrite or discount service provision.
- 5.7 Recent work carried out by another Council in a similar position through a series of market testing events with potential interested parties further corroborates many of these points.
- 5.8 They found that the market is now extremely risk averse, and whilst in the past the private sector would take most risks (and price for them) many of the aforementioned issues have now become ‘showstoppers’ meaning that a number of contractors (and there are not many in the market anyway) simply would not bid for such risky work.
- 5.9 If an open procurement exercise were to be carried out at this point in time it is believed that the current uncertainties would lead to a reduced number of bids, leading to a less competitive market.
- 5.10 It is also likely that there would be increased risk pricing by any bidders who did return tenders. In addition, there would also be difficulties in securing the vehicles required prior to the start date, plus the potential for costly contract variations further down the line if vehicles are found to be unsuitable once the implications of legislative changes are fully understood.

Local Authority Trading Company

- 5.11 A further option would be delivery through the formation of a Local Authority Trading Company, effectively a partnership with another local authority with trading capabilities.
- 5.12 The Teckal principle utilises procurement law to allow the direct award of “in house” services to another local authority trading company.
- 5.13 The principle applies in circumstances where two or more contracting authorities collaborate in partnership and form a separate legal entity over which they have joint control and provide the majority of works or services back to one or more of the authorities.
- 5.14 There are requirements that the arrangements need to satisfy to comply with the principle: the authorities must exercise control over the company; the company must carry out the essential part of its activities with the authorities (at least 80%); there must be no element of private equity; and the authorities must have influence over the strategic objectives and significant decisions of the company.

- 5.15 The council has been approached by a Local Authority Trading Company to explore the possibility of a partnership being created to deliver waste & recycling services in Calderdale.
- 5.16 The Partnership model created under this method brings a range of potential benefits, including:
- Greater council control and member influence than in outsourced services
 - Flexibility in responding to changes in the council's priorities
 - Commercial approach to service delivery without the risks presented by outsourcing
 - Planning and delivery of services which complement the corporate objectives of the partner council
 - Lower procurement costs.
- 5.17 The creation of a partnership can also act as a staging point, allowing a gradual transition from outsourced service through to in house delivery, whilst giving an insight into the prospective costs of such service and building internal expertise and experience.

Insourcing Waste & Recycling collections

- 5.18 A series of meetings have been held between officers from a range of services across the council to explore the possibility of bringing the waste & recycling collection service back in house from August 2024, but these have resulted in several concerns being raised about the costs, deliverability, and timescale, making it an extremely high- risk approach at this time.

Legal issues

- 5.19 The most significant issue to resolve would be around TUPE and the detailed work required to ensure that staff transfer into the employ of the Council on appropriate terms and conditions, taking into account pension entitlement and current salary provision.
- 5.20 This work would be wholly dependent on cooperation from Suez and therefore requires the company to be aware of the Council's intention to in-source the service.
- 5.21 In addition, the due diligence and detailed work that would have to be undertaken over the coming months might result in the cost being assessed as too high for the in-source option.

Financial issues

- 5.22 There would be a need for a thorough due diligence process as a matter of urgency in order to fully understand the business model, assets and liabilities etc, including all back office and overheads, and any future liabilities, projections, and replacement costs.

- 5.23 It is difficult to estimate back office or on costs – there would be a need to talk to other similar authorities to get a sense of these costs as the council is unlikely to be able to operate on the same costs basis as Suez.
- 5.24 There are likely to be significant resource implications from an in-sourced service, including the borrowing costs (MRP and interest) both from a budget perspective but also as these are brought on the balance sheet if they are material (which they may be) it will start to impact the amount of debt and assets the council has on book and operational borrowing limits etc. This may affect the council's ability to take on more borrowing down the line if there is a need to spend a lot more on vehicles, particularly if these are electric or hydrogen options.

Human Resource Issues

- 5.25 There are considerable implications and potential difficulties in transferring 160+ employees into the council through TUPE arrangements, including the impact on other back-office services, including HR, Payroll and Legal.
- 5.26 Costs can be significant and staff employment costs need to be considered before deciding to take on a transfer, including costs of buying new equipment, any new work premises, and staff wages, plus employer pension contributions. How much this will cost will depend on the size of the transferring workforce and whether they're paid higher rates than existing staff.
- 5.27 Some employees may not be willing to transfer, and this could potentially cause resourcing issues for service delivery if a key employee(s) chose not to transfer. Consideration would need to be given as to whether the full knowledge base and expertise required is transferring in or whether there would be gaps because of some staff being not willing to transfer.
- 5.28 A TUPE transfer into the Council may also create equal pay / differential issues in the workforce as the transferring staff may be on better (or worse) terms and conditions and this situation would need to be managed internally.

Other issues

- 5.29 Difficulties in securing vehicles ahead of the start date has been highlighted as a concern by Transport Services, confirming what potential bidders had mentioned. In addition, there would be an estimated £8m capital investment required to purchase the necessary plant and fleet of around 50 vehicles.
- 5.30 There would also be issues to overcome around fleet maintenance, including the need for additional workshop space and potential training needs were the council to provide this in-house.
- 5.31 As noted above, there are seven operational depots currently run by Suez, but these would become the council's responsibility, bringing with it potentially significant costs in terms of maintenance and utility usage.
- 5.32 Whilst many of the Household Waste Recycling Centres have undergone refurbishment over the last decade, the main site used for bulking up waste (the

Transfer Loading Station at Lee Bank, Halifax) is now around 40 years old and may need some refurbishment soon.

- 5.33 Suez currently use space at the back of Battinson Road to operate their Materials Recycling Facility (MRF). Whilst this is adequate in terms of location, it is an operation that further impinges on the general space at Battinson Road and is also prone to the elements, resulting in a regular need for additional resources to keep the surrounding area clear of litter.
- 5.34 The current contract relies heavily on accurate real time reporting, using fleet management software built to be compatible with the council's own IT systems. This includes routing and daily round information, reporting of any incidents, vehicle tracking, and CCTV - all of which is immediately available to council staff and enables the website to convey messages to residents in a timely manner.
- 5.35 With the increase in digital communication, this has emerged as the main form of contact with residents and has proved a crucial element in maintaining good customer services. Any future waste and recycling service would need to procure or build the software, including test systems, and provide ongoing technical support, with the potential for significant costs.
- 5.36 For the reasons above, whilst insourcing the service is a possibility in the future, it would be better to allow a longer lead time to explore this fully, with too many risks involved in trying to implement in haste.

Contract Extension

- 5.37 The terms of the waste & recycling contract allow for an extension of up to 8 years, subject to both parties agreeing.
- 5.38 As part of the options appraisal process, officers have held a series of meetings with senior managers at Suez to explore the possibility of such an arrangement.
- 5.39 Given the uncertainties around the impact of the legislative changes and post Covid conditions, there are obvious benefits from continuity of service delivery whilst impacts become clearer and allow the longer-term future of the service to be scoped with more accuracy - essentially, a contract extension will buy time to make a better-informed decision that lessens the risk of costly mistakes in service specification.
- 5.40 It is difficult to make good procurement decisions in a situation of uncertainty, and there is also every possibility that there will be less economic volatility and disruption to supply chains as we move through this period.
- 5.41 An extension provides certainty of delivery post-2024, no disruption or change for residents, and should allow sufficient time to fully understand the consequences of the legislative and post-Covid landscape referred to above.
- 5.42 Also, given the risk pricing that has been indicated by potential bidders should the council undertake an open procurement exercise, the extension option appears to provide good value for money for its duration when considered against the alternatives.

- 5.43 On this basis, a two-year extension is recommended, as this will allow for the impacts of legislative change to be more properly understood and thus give more certainty to longer term service design and operational delivery.

6. Financial implications

- 6.1 Initial negotiations demonstrate that the costings provided for 2024 onwards are in line with current contract parameters and can be managed within budget. Additional items that need to be considered due to the age of the contract will require further negotiation at this stage. Vehicle replacement and maintenance are examples of these items.
- 6.2 The income gainshare agreement will not continue and Calderdale will receive 100% of all recycling income. This will assist in any contract increases.
- 6.3 All quoted figures provided by Suez will be based on current prices and be subject to the usual CPI uplift agreed within the contract.

7. Legal Implications

- 7.1 Waste and Recycling collections are a statutory service that must be provided to residents, although the council has discretion on the collection frequency, materials collected, types of containers used and presentation points for collection.
- 7.2 In August 2015, Cabinet approved the award of the Waste & Recycling contract to Suez, for an initial period of 8 years, with a possible extension of up to 8 years.
- 7.3 Given the estimated increase in revenue budget requirements, the extension will require Council approval.

8. Human Resources and Organisation Development Implications

- 8.1 There are no HR implications for existing Council employees, as the recommendation is to continue to outsource the service in the same way as at present, but with the improvements indicated in section five above.

9. Consultation

- 9.1 Customer feedback is continually monitored and evaluated, and appropriate operational changes made to improve service delivery.

10. Environment, Health and Economic Implications

- 10.1 The current contract delivers good environmental impacts, as set out above, and Suez recruit many employees locally.

11. Equality and Diversity

- 11.1 As there are no proposals to change current arrangements, there are no specific implications, and Suez will continue to operate within their existing statutory obligations.

12. Summary and Recommendations

- 12.1 There are significant changes on the horizon for waste & recycling collection services, due to new legislation and uncertainties around post-Covid demands, plus the wider economic climate that could influence both people's behaviour and costs of delivery.
- 12.2 These could affect the total amount of recycling collected, as well as the different types of materials, thereby compromising the ability to accurately forecast at the moment (and thus specify in a contract) the resources required to deliver the service in the future.
- 12.3 Indications have been received through soft market testing that this would lead to an increase in risk pricing from other providers due to the number of unknowns, thus leading to significantly higher annual costs.
- 12.4 Similarly, insourcing the service is impractical at the present time due in part to these unknowns, but also the impact on other services, delays in obtaining resources and the need for additional skills and capacity which would take time to put in place.
- 12.5 The extension option will provide an additional period of financial certainty, whilst also minimising risk in what is a fundamental and universal public service.
- 12.6 An extension period of two years would also provide clear benefits in terms of minimal service disruption whilst the impacts of changes in the waste world can be evaluated.
- 12.7 It would also allow for alternative options such as a joint venture partnership or insourcing to be fully considered, and with access to more accurate data to predict future service requirements.
- 12.8 Therefore, Cabinet is recommended to approve the principle of a two-year extension to the current contract, with detailed terms subject to negotiation and subsequent agreement.

For further information on this report, contact:

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The documents used in the preparation of this report are:

- 1. Correspondence with Suez
- 2. Contract documentation
- 3. Performance information - local and national

The documents are available for inspection at:

Battinson Road depot, Halifax.