

Committee Name and Date of Committee Meeting

Cabinet – 23 January 2023

Report Title

Future Provision for Household Waste Recycling Centres

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

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Ward(s) Affected

Borough-Wide

Report Summary

The current Household Waste Recycling Centre (HWRC) contract has been in place since October 2018 and is delivered in partnership with Barnsley and Doncaster Councils. In October 2023 the current contract expires, and officers have been working to explore the potential to continue to work in partnership to deliver this service. The negotiations have not been successful due to policy differences between the Councils and as a result, a range of options have been developed to continue the delivery of this statutory service after the current contract expires.

Options considered include the contracting out of the services, alongside a range of internal delivery models. There are significant complexities attached to developing an in-house service in what is a highly regulated industry. However, there are also a range of potential benefits in terms of new services and more flexibility in delivering existing services, to meet the needs of residents and the Council.

After collaborative consideration of the options across relevant Council departments, this report recommends an in-sourced delivery of customer facing sites and facilities, with these being supported by contracted haulage and disposal. In recognition of the complexities, this report further recommends the procurement of a delivery partner to

provide the HWRC service for up to three years, whilst also supporting the Council to develop and implement its in-house delivery model. In addition, haulage and disposal aspects of the contract will continue to be provided by the market beyond the in-sourcing of the front-end of this service.

Recommendations

1. That Cabinet approve Option 3, which will provide for an in-sourced delivery of customer facing sites and facilities, with these being supported by contracted haulage and disposal, following an initial fully contracted service, and authorises the Strategic Director of Regeneration and Environment in consultation with the Cabinet Member for Transport and Environment (subject to confirmation by the Strategic Director for Finance and Customer Services) to agree the final delivery arrangements and subject to Council approval through the budget process.

List of Appendices Included

Appendix 1 Equality Impact Assessment
Appendix 2 Carbon Impact Assessment

Background Papers

Previous Cabinet Report July 2022 - <https://moderngov.rotherham.gov.uk/documents/s136866/Item%2014%20-%20HWRC%20Cabinet%20Report%20Final%20v1.11.pdf>

Environment Act 2021 - [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2021/12/section/1)

Consideration by any other Council Committee, Scrutiny or Advisory Panel
None

Council Approval Required
No

Exempt from the Press and Public
No

Future Provision for Household Waste Recycling Centres

1. Background

1.1 The Current Household Waste Recycling Centre (HWRC) Contract is due to terminate on 28 October 2023. The Council has a statutory obligation to provide HWRCs to residents within the Borough. Rotherham has 4 sites:

- Greasbrough - Car Hill, S61 4QL
- Bramley - Lidget Lane, S65 4LY
- Rawmarsh - Warren Vale, S62 7SS
- North Anston - Magilla, Common Road, S25 4AH

1.2 The current contract is delivered in partnership with Barnsley Council and Doncaster Council. Following a Cabinet decision in July 2022, the Cabinet Member and relevant officers have been engaged with Barnsley and Doncaster Councils in order to develop the parameters for the future contract. There remained some key outstanding issues such as the weighting given to social value in the evaluation of tender submissions, with Rotherham Council seeking a higher weighting reflecting existing policy. In addition, the length of time for delivery of the contract and agreement to pay the Real Living Wage were also matters of ongoing negotiation with Rotherham seeking to ensure workers would be paid the Real Living Wage, again in line with the existing policy position. Ultimately, a shared policy position could not be reached and as a result the Council, through this report, is seeking to develop and implement options for delivery of a bespoke local HWRC service.

2. Key Issues

2.1 In considering options for future delivery, officers have reconsidered the options presented within the Cabinet report dated 11th July 2022. The primary options remain the same, the Council could choose to deliver this service through a third party via a contract. Alternatively, the Council could seek to bring all, or parts, of the services in house.

2.2 As set out within the previous report, referred to above, the Council is committed to a number of key principles which will drive the future service offer. In particular these are areas such as increasing innovation in the re-use of materials, ensuring social value through any contracted provision and ensuring that all workers receive the Real Living Wage. In relation to ambitions such as increasing re-use, the Council is seeking to make the best use of resources available through initiatives such as re-use shops, which could include the potential for building skills and employability locally, supporting wider ambitions around training and employment. Additional flexibility in terms of general site management and the potential to create a commercial waste offer may also be beneficial in delivering future services, as well as the ability to effectively adapt service as the Environment Act 2021 and associated national strategies begin to be implemented.

- 2.3 In order to ensure thorough exploration of the strengths and weaknesses of the varying approaches and the costs associated, the Council has undertaken, with independent partners, an analysis of the options with a focus on the principles set out in the previous Cabinet report. The analysis focussed on a range of areas including (but not limited to) the ability to adapt to new legislation or changing demands, management of risk and staffing implications.
- 2.4 All of the options for future delivery will require capital investment in new equipment as well as signage and infrastructure works. Providing the capital directly will not only reduce costs, due to favourable interest rates available to the Council, but may also limit contractor uplift and provide the potential for recovering some value at the end of the operational life. It also allows for greater flexibility in future delivery, meaning the service could be brought in-house.
- 2.5 In relation to strengths, both in-house models of delivery scored higher (high is good). This is primarily due to the level of the control this would allow the Council to have which may be critical in responding to secondary legislation under the Environment Act 2021, allowing flexibility in use such as commercial operations and providing the greatest capacity to deliver enhanced social value or increasing reuse.
- 2.6 When considering the weaknesses, the in-house models of delivery scored lower (low is good). This is largely driven by issues such as a lack of competitive pricing through contracted provision, lack of flexibility to adapt to some of the key challenges on the horizon, or to align to Council priorities.
- 2.7 Conversely there are risks in bringing the service in-house, largely around experience and technical competencies, efficiencies of scale and in-sourcing risks, alongside general delivery. It should be noted that activities on HWRC sites can present safety risks due to the use of machinery, the processing of waste and the numbers of public visitors. In addition, the Council will need to develop expertise and experience it does not currently hold.
- 2.8 The table below provides an overview of the scores associated with the varying models. As can be noted, both in-house options (whether including or excluding haulage) scored highest. Option 1 is repeated as two different lengths of outsourced options were considered during the analysis with the three-year contract being discounted as the worst option.

	Strengths – Weaknesses	Opportunities-Threats	Total	Ranking
Outsourced 5 + 3 year (Option 1)	9	-3	6	3
Outsourced 3 year (Option 1)	-2	-3	-5	4
In-house excluding haulage and disposal	16	3	19	1

(Option 3)				
In-house including Haulage and disposal (Option 2)	16	3	19	1

- 2.9 With regards to the option of developing a contracted service provision, officers at all levels have remained fully engaged in the process supporting the planned procurement of the partnership contract. This includes market engagement, public consultation and the development of the detailed specification. This means the Council is able to relatively quickly adapt learning and documentation to support local delivery however, the scale of the task should not be underestimated.
- 2.10 In considering in-sourcing all or parts of the service, a number of challenges have been identified. A few examples of the areas of consideration are listed below, and each of these represents a significant programme of work, which will take time to deliver:
- Relevant Permitting
 - Training and Certification of Competent Staff
 - Infrastructure challenges on the sites
 - Staffing issues including Transfer of Undertakings Protection of Employment (TUPE) transfer arrangements
 - A range of procurements from physical assets to site services and IT systems
 - Health and Safety development of systems and safe working practices
- 2.11 Delivery against these varying demands would require the input of a range of Council services as well as external technical experts and is likely to be unachievable within the timescales prior to the existing contract expiring, without significant additional investment or diversion of a significant proportion of services such as the Waste Management Team, the Procurement Team, Health and Safety Team, IT and others. As a result, options for internal delivery are underpinned by the need for a short-term arrangement, via a contractor, for delivery of the services, as well as support for the Council to develop and implement an internal delivery model. This is set out in options 2 and 3.

3. Options considered and recommended proposal

3.1 Option 1 – Contracted Provision

This option would seek to procure the full delivery of the HWRC service for the long term under an 8-year contract, which would allow the service to run until 2031.

- 3.2 The Council would lease the 4 HWRCs to the successful provider. The terms on which the provider is allowed to occupy the sites, including the provider's obligation as to use of the site, would be clearly documented. The contract would contain certain performance indicators and have obligations that the contractor is obliged to deliver. It would contain measures that would set out

when the contract could be terminated. A contracted service also allows for risk to be managed on the Council's behalf.

3.3 Option 2 – Full In-House Delivery (following an initial fully contracted service)

This option would seek to create a fully in-sourced service. This would mean the Council managing the sites and all associated activities. The operation of HWRCs can be separated into operation of the sites themselves, and then what happens to the waste after it is deposited. In terms of operating the sites, this requires permitting, as waste collection and disposal is a regulated activity. It would also involve employment and management of staff on the site, assets on the site and any risk and safe working practices associated with the site. With regards to disposal, this consists of two main aspects which are the haulage of material from the site and the subsequent processing of that waste (which may be disposal or recycling).

3.4 In order to deliver the haulage and disposal elements of the service, the Council would need to procure providers for the disposal of a large number of separate types of waste. Due to the relatively small tonnages of waste that the Council will collect, as compared to larger national businesses or larger Councils, it is likely to be significantly more expensive. In addition to the costs, the haulage and disposal of waste has little impact on the service delivery for residents, who are largely impacted by the way that the sites operate as opposed to the disposal of items, acknowledging residents will want to be assured as to the responsible processing and disposal of waste. Direct delivery would however benefit from full control over aspects such as emptying or moving of skips, which may support more effective operations on the site.

3.5 This option also acknowledges some of the challenges outlined in section 2.11 and 3.9. In order to address these challenges, the proposal is to procure a delivery partner for a period of up to three years. This delivery partner would be required both to deliver the HWRC service, for the duration of the contract, and support the Council to purchase the relevant assets and develop the relevant infrastructure and systems to deliver services in-house by the end of the contractual term.

3.6 Whilst this option would provide the technical support required to establish safe systems and working practices, there would still be a range of operational activities and procurements required in order to ensure the Council is ready to take over the service following the end of the contractual period. A large amount of this work relates to the front-end delivery of the services. If in addition the Council chose to in-source haulage and disposal as is proposed with this option, there would be around 30 types of materials which would require separate disposal procurements and in addition, safe working practices and procedures alongside the procurement or hire of Heavy Goods Vehicles and employing a number of drivers, which is an area the Council currently has difficulty in recruiting and retaining qualified staff.

3.7 Option 3 (recommended option) – In-sourced delivery of customer facing sites and facilities, with these being supported by contracted haulage and disposal (following an initial fully contracted service)

This option would seek to in-source all the front-facing aspects of the delivery of HWRC sites. This would allow the Council direct control over the service delivery to residents, allowing for greater flexibility within the service, full control of policies and procedures and the ability to create innovation in the management of waste at HWRCs.

3.8 Again, this option acknowledges the challenges outlined in option 2 and section 2.11 and would therefore seek a short-term delivery partner to both deliver the HWRC service (up to a 3-year contractual period), whilst also purchasing the relevant capital assets, on behalf of the Council, and supporting the Council to develop systems and practices for the delivery of an in-house front-end service i.e., the operation of the HWRC sites.

3.9 Within this option, the contractor would provide haulage and disposals both for the initial contractual period (up to three years) and a further two years, providing a total contract length of up to five years (with an optional +2 extension, giving a total potential contract length of seven years). The suggested term is based on the initial contract period being focussed on the in-sourcing of the 'front end' service, therefore allowing a further two years to consider next steps in relation to haulage and disposal. The market for recycling commodities is relatively unstable however recycled materials do carry value, this combined with significant impending changes as a result of the Environment Act 2021 make it necessary to review the haulage and disposal within the five-year period to ensure the Council can achieve best value for money over the medium to long term. Offering a longer-term relationship with a supplier through the five-year total contract length is intended to increase the appeal to the market whilst also allowing the operational space for the range of changes required. Haulage and disposal elements of the contract would be based on a risk and profit share which is likely to deliver best value for money in the short term. This is the recommended option.

4. Consultation on proposal

4.1 A consultation was undertaken across Barnsley, Doncaster and Rotherham to gauge resident satisfaction with the current HWRC provision, materials they would like to see introduced and any areas they believe could be improved. The consultation results showed that although residents are largely happy with the current HWRC service, they would most like to see improvements to the materials accepted at site and in particular accepting paint and increasing the reuse and repair. The other two areas residents would like to see improved are the size of the sites and the opening hours. A directly delivered service allows for the greatest capacity to respond to any changes required.

4.2 A market engagement exercise was also conducted as part of the work with Barnsley and Doncaster Councils. The market responded that they would

prefer at least an 8-year term, but most of the reasoning was to allow the appropriate time for the assets to depreciate. Contractors feel that material volatility is always a key risk across HWRC contracts, compounded by the upcoming changes in legislation. These changes will lead to the introduction of a Deposit Return Scheme, Extended Producer Responsibility, and changes in kerbside collections, which are a direct result of the Environment Act 2021. As such they would expect any risk to be shared by the Council. Contractors highlighted the long lead in times for any new vehicles, plant machinery and equipment and advised these should be considered when putting the contract together. Additionally, contractors agree in working towards reducing carbon emissions and are firmly behind pushing reuse/repair and social value. They were asked about accepting and recycling paint, carpets and mattresses, which they were positive about.

- 4.3 In considering in further detail the Councils own options, an additional market engagement exercise has been undertaken in order to test the varying options with the market of providers. A total of 8 providers of waste services responded to the Council's market engagement exercise. All providers had an interest in working directly with the Council. Five of the providers would be interested in working with the Council to support developing an in-house delivery service, two further providers were more cautious, and all made comments on how this could best be achieved. Again, when considering interest in providing haulage and disposal for the Council five of the respondents were interested in providing this service and the same again in terms of interest in working with the Council under an in-sourced service delivery model. The market engagement does demonstrate an effective level of market interest which would support a competitive tender should the Council choose this option.

5. Timetable and Accountability for Implementing this Decision

- 5.1 As noted within the body of the report the contract will end in October 2023 by which point a new provision must be in place. Under the recommended option, it is proposed that procurement activity would commence in January 2023, which would allow the appropriate time for selection and mobilisation.
- 5.2 Concurrently with the initial contract period of up to three years, the Council would mobilise itself to deliver the front-end of the service in-house. This would become effective in October 2026. Subsequently, haulage and disposal options for future delivery would need to be in place by October 2028.

6. Financial and Procurement Advice and Implications

- 6.1 The Council's net budget 2022-23 for the HWRC Service is £1.023m. The budget covers the payment to maintain the joint service with Barnsley and Doncaster. It was acknowledged in the previous Cabinet report in July 2022 that even remaining within the partnership, costs were likely to increase. In addition, the Councils further ambitions in areas such as increased re-use and commitment to the Real Living Wage will also increase costs, however, may positively impact on the management of recycling materials in the future

which may generate further income, whilst also allowing the Council broad flexibility in service delivery. The cost of each option is broken down in the following sections however the table below provides a high-level cost comparison.

Option	Total Cost £,000	+/- Vs Current Provision £,000
1 Fully Outsourced	1,180	157
2 Full In-House with initial 3-year contract	1,201	178 +56k after 3 years
3 In-house front facing delivery following a Contracted Provision (up to 3 years)	1,201	178 +44k after 3 years

6.2 The following cost assumptions are based on current prices for direct comparison, inflation will impact each model to a varying degree, however it is complex to project that forward within significant accuracy.

Option 1. Contracted Provision for 8 years.

It is estimated that this would cost approximately £730,000 for the management fee, £350,000 for haulage and £100,000 for loyalty bonuses. This represents a total cost of £1,180,000 an increase of £157k on the current contract and offers the cheapest option.

6.3 Option 2 Full in-house delivery following Contracted Provision.

The initial cost of £1.201m represents an increase of £178k on current contracts. The increases are management and haulage costs. This option also requires RMBC to purchase the capital equipment. The management fee is estimated at £750k due to the shorter term proposed than in option 1.

Following the 3 years contract the in-house option could then be operated on a cheaper basis owing to income from recyclables, no loyalty payments but increased overheads however, a further £123,600 would be needed after the 3-year period (offset by the increase of at least £67k income) This would increase to £1.257m after this period.

6.4 Option 3 In-sourced delivery of customer facing sites and facilities, with these being supported by contracted haulage and disposal.

Initial costs are as per Option 3; £1.201m per annum. After the contract period an in-sourced delivery system could see the HWRC's then run as above at a cheaper cost following the contract with the difference being haulage, however additional operatives would be needed meaning a further £123,600 would be required, offset in the same way as above (Option 2).

The cost of the service is £1.201m for 3 years increasing to £1.245m after this period.

6.5 The Capital costs associated with bringing the services in-house are estimated to be in the region of £2.4m. Capital purchases would be made through the contract associated with the recommended option, ensuring the contractor seeks best value for money.

6.6 As detailed throughout the report, all the varying options have associated procurement implications associated with them. The estimated contract value of the recommended option is in excess of the threshold contained within the Public Contracts Regulations 2015 (as amended) (“the Regulations”) and as such the procurement activity must be undertaken in compliance with the Regulations and the Council’s own Financial and Procurement Procedure Rules.

7. Legal Advice and Implications

7.1 The Council is lawfully able to adopt any of the options put forward in the report. As stated above any procurements will need to be conducted in accordance with the Public Contracts Regulations 2015 (as amended) and the FPPR. The necessary contractual arrangements will need to be concluded with third party providers to include all matters referred to within the report and all further matters to ensure successful operation of the HWRC sites and associated services.

8. Human Resources Advice and Implications

8.1 The Transfer of Undertakings (Protection of Employment Regulations) 2006 (commonly known as TUPE) will apply to the insourcing/in house delivery of services. Employees would therefore transfer to the employment of the Council under TUPE, on their existing terms and conditions of employment.

8.2 Under TUPE, all liabilities of the ‘transferor’ (BDR Partnership) relating to employees transfer over to the ‘transferee’ (the Council). The Council would therefore inherit liability for any statutory rights, claims and liabilities of transferring employees. Any risks identified should be managed as part of the due diligence process.

8.3 Consultation and engagement would be undertaken with Trade Unions on any transfer of employees, including any proposed changes to working practices (TUPE measures), in line with normal human resources policies and procedures.

9. Implications for Children and Young People and Vulnerable Adults

9.1 There are no specific implications arising from this report.

10. Equalities and Human Rights Advice and Implications

10.1 The Equality Impact Screening is attached as appendix one.

10.2 The service is already contracted out at present and procuring a new contract would be a continuation of the current provision. Rotherham Metropolitan Borough Council are legally obligated to provide the service and residents would only be affected if the service was not provided. Policies are in place to ensure that there is equitable service to all residents in the borough. In considering bringing the service in-house, a full review of site accessibility will be considered as part of the infrastructure works required.

11. Implications for CO2 Emissions and Climate Change

11.1 The Carbon Impact Assessment is attached as Appendix 2. As this is a procurement of an existing service there are no increases in terms of carbon emissions however, the contract and procurement will seek to reduce emissions by the service provider over the lifetime of the contract.

12. Implications for Partners

12.1 There are no specific implications identified for partners.

13. Risks and Mitigation

13.1 There is the possible risk that no contractors bid for the HWRC contract due to an uncertain market and impending changes within the waste industry. This would leave the Council no option but to run the services themselves due to the statutory obligation to provide HWRCs to residents within the Borough. In order to mitigate this risk the Council has engaged in two market engagement exercises and has confirmed market interest. Any contract engaged will have appropriate levels of risk transfer. The procurement documentation will be robust with clear requirements and industry standard expectations.

13.2 There are a range of risks associated with the in-sourcing of the service, these will be managed through a stand-alone risk register for the project, should Cabinet choose to progress with an in-house delivery model. There are also risks as a result of secondary legislation under the Environment Act 2021 and an in-house model will allow the Council to adapt to these changes more effectively.

14. Accountable Officers

Sam Barstow, Assistant Director for Community Safety and Street Scene
Barry Connolly, Head of Environmental Services

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	09/01/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	03/01/23
Assistant Director, Legal Services (Monitoring Officer)	Phillip Horsfield	21/12/22

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