



CABINET

Subject Heading:

Public Realm Transformation - Procurement Update and Amended Strategy

Cabinet Member:

Cllr. Dervish

SLT Lead:

Barry Francis, Director of Neighbourhoods

Report Author and contact details:

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Policy context:

This decision supports the Corporate Plan, especially 'A Great Place to Live' as outlined in the Places theme

Financial summary:

The financial savings identified in the current MTFS (£500k over two years) are unlikely to be achieved. There will also be an added pressure required to fund the cost of the extension should Members agree this recommendation as outlined in exempt Appendix 1.

Is this a Key Decision?

Yes as:

Expenditure or saving (including anticipated income) of £500,000 or more

When should this matter be reviewed?**Reviewing OSC:**

Environment

The subject matter of this report deals with the following Council Objectives

Communities making Havering
Places making Havering
Opportunities making Havering
Connections making Havering

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Appendix 1, 2 and 4 of this report are exempt from publication by virtue of paragraph 3 and 5 of the Access to Information Procedure Rules set out in the Constitution pursuant to Schedule 12A Local Government Act 1972, as amended in that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information); and Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

SUMMARY

1. This report updates Members on the progress of the integrated Public Realm Services contract procurement as agreed by Cabinet (September 2019). Tendering had commenced but with the outbreak of the Covid-19 pandemic bidders needed to concentrate of service delivery and not new business during this period of uncertainty. Consequently tendering was paused in March 2020.
2. This delay has impact on the project plan. Initially the contract for the Integrated Public Realm Services, subject to Cabinet approval, was to begin in August 2021. However, with the delay the earliest the contract could start would be February 2022 due to the additional time needed to complete the procurement. There is also no guarantee that there will not be further delays due to the uncertainty over the continuing Covid-19 pandemic. Also, waste services are collecting significantly more household waste now than before the Covid-19 pandemic and waste compositions are likely to be different. When these tonnages will return to 'normal' is unknown. Further delays and continued increased tonnages of household waste may have serious consequences for future service delivery of Public Realm services.
3. This report summarises the impact and risk associated with the delayed programme and outlines an alternative medium term strategy to deliver Public Realm services. The report also outlines the need to extend the current waste and recycling contract with Serco for two years, the tree maintenance contract with City Suburban for six months and outlines costs and risk of these options.

RECOMMENDATIONS

For the reasons stated in this report and its appendices, Cabinet is asked to agree to:

1. Stop the integrated public realm services procurement;
2. extend the current waste and recycling contract with Serco for a period of two years commencing 1 August 2021; and
3. extend the tree maintenance contract with City Suburban for a period of six months commencing 1 April 2021.

REPORT DETAIL

1.0 Background

- 1.1 Cabinet agreed (September 2019) the Business Case for the operating model to deliver all Public Realm services within a single integrated contract. Services to be included in the 'new' Integrated Public Realm Services contract were waste and recycling collection, street and gully cleansing, grounds and tree maintenance, elements of parks development, weed control and winter maintenance (gritting). Waste and recycling collection, tree maintenance and weed control services are all outsourced functions. Street and gully cleansing, grounds maintenance, parks development and winter maintenance services are all in-house services. This outsourcing programme has a savings target of £500k as identified in the current MTFS (300K for 2021/22 and 200K for 2022/23).
- 1.2 Tendering began with viable and healthy competition, with the Integrated Public Realm Services contract to start in two phases, cleansing and waste collection operations in August 2021 and grounds and trees maintenance operations to start in November 2021. During the tendering phase, one bidder withdrew and another requested to delay tendering. This limited competition. Also, as all bidders would have struggled to undertake due diligence and the Council was unable to compete several tasks due to the Covid-19 restrictions and lockdown, procurement was halted in March 2020.
- 1.3 Continuing to tender for an Integrated Public Realm Services contract is no longer a viable option. As outlined in sections 2 and 9 of this report as there are now too many risks associated with the programme to be able to continue as previously planned. This was never the intention, but the Covid-19 pandemic has changed the procurement landscape, especially for waste services. This report outlines the strategy for all services that were to be included in the Integrated Public Realm Services contract to ensure the Council can continue to deliver high quality services with continued high standards.

2.0 Waste and Recycling Collection Contract and Services

- 2.1 The waste and recycling collection contract is currently delivered on behalf of the Council by Serco. This seven-year contract expires on 31 July 2021, and has scope to be extended for up to three years. Had the procurement of the 'new' Integrated Public Realm Services contract commenced as planned there would be no reason to have utilised the extension provision. As this is no longer the case, the waste contract needs to be extended. Since the Covid-19 pandemic, more household waste is being collected every week and waste compositions are likely to have significantly changed. When this situation is to return to 'normal' or the 'new normal' is unknown. A second Covid-19 spike or local lockdowns could exacerbate this situation, which may also reduce

potential bidders' capacity to tender for new business presenting a risk for any future short-term procurement exercise. If the Council was to re-tender a waste contract now there is a significant risk that contractors would base their bids on the high waste tonnages currently being collected and on the current waste composition. This could result in overpriced submissions and potentially the wrong type and number of vehicles being purchased. For these reasons, delaying tendering and extending the current waste contract for two years until the full effect of Covid-19 is better understood would be prudent.

2.2 Extending the waste and recycling contract for two years would also allow adequate time to research the full effect of Covid-19 on the waste industry, carry out market testing and enough time to pass for competitive tendering to be undertaken and future waste requirements to be understood both in terms of waste volume and composition.

2.3 Serco was awarded the current waste and recycling contract that started in 2014. This seven-year contract has scope, if both parties agree, to be extended for up to three years. Serco has indicated that they are willing to extend the contract, and a two-year extension has been negotiated. Serco will work with the Council to continue to deliver high service performance standards. Prior to the impact of Covid-19 residents' satisfaction rates with the waste collection service was 88% (Ipsos Mori 2018). In the event of poor performance, the Council retains mechanisms and 'levers' to manage the contract.

2.4 The cost to extend the waste contract is outlined in exempt Appendix 1, with Serco's 'LB Havering Environmental Services Contract Extension Proposal 2021 - 2023', included as exempt Appendix 2.

2.5 During 2021 research into waste composition and tonnage trends will continue and will be used to inform the procurement of the new contract following the period of extension. This procurement will take over one year to complete to ensure adequate time to tender, evaluate, award (by Cabinet) and mobilise (nine months required for the contractor to purchase appropriate specialised vehicles). Tendering will begin in 2022 with ample time to procure a high quality service for July 2023.

2.6 The Mayor of London agreed the waste tender specification for the integrated contract. As this is a statutory requirement for any waste procurement, any change in procurement options will require the Council to consult the Mayor's office again. This can take several weeks to complete, but can be achieved within this timeframe.

3.0 Tree Maintenance Contract

3.1 The tree maintenance contract is delivered on behalf of the Council by City Suburban. This contract was awarded for five years. This contract is for the maintenance of the borough's highways, housing and park trees. Contractual performance has been good, and the contract remains good value for money.

There is scope, if mutually agreed, to extend this contract for up to one year. City Suburban has indicated extending the contract for six months on the current terms is acceptable. This extended contract will end on 2 October 2021. The Council will seek to retender for the new contract to start on Sunday 3 October 2021.

- 3.2 There will be an additional cost for this extension to cover inflation that can be contained within budget, as outlined in exempt Appendix 1. Extending and retendering the tree maintenance contract is relatively straightforward. Procurement for a new tree maintenance contract will begin in early 2021 to ensure adequate time to tender, evaluate and mobilise the new contract.

4.0 Weed Control Contract

- 4.1 The current weed control contract delivered by S.H. Goss expires on 31 December 2020. Officers are reviewing the options available to the Council as to the future of this contractual arrangement. Any new contract is anticipated to commence in February 2021.

5.0 In-house Services: Grounds Maintenance, Parks Development, Street and Gully Cleansing and Winter Maintenance

- 5.1 Grounds maintenance, parks development, street and gully cleansing and winter maintenance (road gritting) services were to be included in the outsourced integrated Public Realm services contract, with appropriate staff transferred to the contractor. These services will now continue as in-house functions. The coronavirus pandemic has shown that the in-house Public Realm services were able to respond in a flexible manner, supporting one another and provide support to struggling contractors too at the height of the pandemic thus ensuring service continuity delivered at high standards. Although both the street cleansing and grounds maintenance services have recently been remodelled generating savings, the integration of these services with the parks development service is likely to generate further efficiencies and greater resilience for the council and its services to its residents.
- 5.2 The Grounds Maintenance, Parks Development and Street Cleansing services will be reviewed and integrated to improve delivery efficiencies. By integrating some parks development and grounds maintenance tasks more efficiencies are likely. This process will be in accordance with Council's Change Management policy. Careful modelling to deliver Members and residents expectations will be undertaken. Modelling would be a bottom up approach to ensure the delivery of high quality standards and outcomes. With this option, there will be a slight reduction in vehicle requirements (and costs). The remaining vehicles would continue to be serviced and repaired in the Council's workshops. Without frontline services standards deteriorating, it is unlikely all the savings required in the current MTFS linked to outsourcing

Public Realm (£300K in 2021/22 and £200K in 2022/23)) will be achieved, as outlined in exempt Appendix 1.

- 5.3 The winter maintenance and gully cleansing services will continue to be delivered by the Council's Highways department.

6.0 Indicative timetable

- 6.1 Subject to the recommendations in this report being approved by Cabinet, the indicative timetable for the programme (in consultation with the Lead Member for the Environment and appropriate approvals) is:

Measure	Timeframe
Waste and Recycling: <ul style="list-style-type: none">• Extend contract to 29 July 2023• Start waste collection from 7am• Retender contract• Anticipated Award (Cabinet)• New contract start	October 2020 February 2021* Early 2022 Late 2022 30 July 2023
Tree Maintenance Contract: <ul style="list-style-type: none">• Extend contract to 2 October 2021• Retender contract• Anticipated Award• New contract start	October 2020 Early 2021 Summer 2021 3 October 2021
Weed Control Contract <ul style="list-style-type: none">• Expires• Retender contract• Anticipated Award• New contract start	December 2020 Sept/Oct 2020 Nov/Dec 2020 February 2021
Grounds maintenance, parks development and street cleansing <ul style="list-style-type: none">• Service review• Implementation	October 2020 April 2021
Winter maintenance (gritting) and gully cleansing services <ul style="list-style-type: none">• Remain within the Highways Service	-

*Early implementation to assist with additional savings before extension commences

REASONS AND OPTIONS

7.0 Reasons for the decision: There are a range of statutory requirements the Council delivers in respect of public realm services to its residents and local businesses. Plans were in place to ensure the smooth transition of public realm services from several in-house and outsourced service providers to one single provider. With the development of the Covid-19 pandemic, procurement plans faltered and the Council has had to rely on its contingency plans to build a revised strategy that will ensure that the Council can continue to deliver its statutory responsibilities and meet Members, residents and local business expectations.

8.0 Other options considered

8.1 Several options were considered. These are:

1. Continue to tender for an Integrated Public Realm Services contract

The uncertainty of this approach was considered to contain too many risks.

Primarily these were:

- It was unknown when tendering could recommence, and the duration of the waste contract extension indefinable, limiting the ability to negotiate terms with the existing contractor
- High likelihood of bidders dropping out, especially if there is a second spike in Covid-19
- Procurement timetable unknown
- Need to restart procurement as companies may have become financially unviable due to the Covid-19 pandemic, increasing the time to undertake the procurement
- Waste volumes are not as specified in the original tender documents and when or if these are to return to normal is unknown
- The composition of waste specified in the original tender documents is likely to have changed significantly and when or if these are to return to normal is unknown
- Likelihood of poor participation from potential bidders, especially if there is a second spike in Covid-19
- Likelihood of due diligence not completed by bidders and the Council due to restrictions if there is a second spike in Covid-19

2. Consider a new operational models:

a) Retendering waste immediately for the new contract to start in August 2021 (no extension required)

The uncertainty of this approach was considered to contain too many risks. Primarily these were:

- Likelihood of poor participation from potential bidders, especially if there is a second spike in Covid-19
- Likelihood of due diligence not completed by bidders and the Council due to restrictions if there is a second spike in Covid-19

- Contractors unable to specify for vehicles for the start of the contract as the mobilisation period would be too short
- No time to undertake market testing to understand the markets' preferred requirements
- Not enough time to consult partners and undertake required consultations
- High probability that tendering would be delayed, and not starting on time
- Open tender process with no negotiation, little time for bidder clarification (that may lead to additional risks around liabilities and pricing) requiring the specification to be right first time for this high profile service to ensure it continues delivering high performance
- To shorten procurement timetable for the Council to hire refuse vehicles was considered, but this proved not to be good value for money and few vehicles with the correct specialist specification were available

b) Retendering waste contract for the new contract to start in August 2022 (one year waste extension contract required)

The uncertainty of this approach was considered to contain too many risks. Primarily these were:

- Likelihood of low participation, especially if there is a second spike in Covid-19
- Not enough time to research the impact of waste volumes and composition, leading to poor specification and likelihood of contractors
 - pricing for risk increasing the cost of the new contract
 - incorrect refuse vehicles leading to poor service delivery and/or overpriced bids
- Limited time to consult partners and undertake required consultations
- Limited time to undertake market testing
- Rushed procurement and probability of delays

c) Set up a Local Authority Trading Company (LATC)

As outlined in the Cabinet report September 2019, this option was dismissed as:

- Would leave all the operational and financial risks with the Council
- Requires significant investment and resources
- Additional skill input required from market, especially for waste services
- Required LATC governance and management structure to be established will create delays.

IMPLICATIONS AND RISKS

10.0 Financial implications and risks:

10.1 Savings

The financial savings identified in the current MTFS connected with outsourcing Public Realm (£300K in 2021/22 and £200K in 2022/23) are unlikely to be achieved. To extend the waste contract for two years, growth is required as outlined in Appendix 1 (exempt), required from August 2021 through to July 2023. This growth adds to the corporate financial burden. The cost to extend the tree maintenance contract can be contained within budget. It is expected, providing there is no significant increase costs, the weed control contract could be contained within the existing budgets too.

- 10.2 These costs have been identified as a pressure for 21/22, 22/23 and 23/24 and will be considered as part of the MTFS 21/22 process, as outlined in exempt Appendix1.

11.0 Legal implications and risks:

- 11.1 The Council is under a number a statutory duties to provide a lot of the services detailed within this report. Amongst these the Highways Act 1980 provides in s41 that a Highway Authority must maintain a public highway and that includes a requirement to keep it clean and free from obstructions. The Council is also a principal litter authority under the Environmental Protection Act 1990. Under the Landlord and Tenant Act 1985, the long leases it grants to long leaseholders and the Housing Act 1980 the Council has various obligations to its long leaseholders and secure tenants to maintain and clean estate blocks and common areas. Officers are mindful that future arrangements will require appropriate consultation during the procurement stages.
- 11.2 The Council as a contracting authority having broad discretion in assessing the factors it takes into account when deciding option to abandon a procurement. The exercise of discretion is not limited and there is no implied obligation under the Public Contracts Directive (the Directive) or the Public Contracts Regulations 2015 (the Regulations) to carry a procurement to an award. The overarching rationale for the abandonment is detailed in the body of the report. Officers will provide all bidders and candidates notification of the decision in compliance with treaty principles of transparency and equal treatment.
- 11.3 The waste contract was awarded to Serco in 2014 and allows for an extension for up to three years. The Council is exercising its right to extend the contract for two years. The tree maintenance contract with City Suburban includes provision for an extension. The recommendations in this report seek authority to extend these contracts to ensure service continuity in line with Regulation 72(1)(a) of the Regulations. Once contracts are to be retendered, the Council is required to procure within the Public Contract Regulations 2015 with appropriate governance decisions made at the relevant time.
- 11.4 Further exempt legal implications are appended to exempt Appendix 4 to this report.

12.0 Human Resources implications and risks:

- 12.1 The in-house services to be included in the internal review are grounds maintenance, parks development and street cleansing. These services employ over 160 staff directly, with additional seasonal agency workers as required. HR has been involved in this programme from an early stage, and they will continue to offer guidance on staffing matters.
- 12.2 It is intended to integrate the in-house services. Any changes to service delivery will follow the Council's Change Management procedures. Any restructure which becomes apparent following this programme will be managed through the Council's Change Management process.
- 12.3 This may be an unsettling time for staff. Managers have kept staff and Trade Unions updated, and will continue to keep them informed as the programme progresses. Support will continue to be offered to all staff through the Employee Assistance Programme. Formal consultation with Trade Unions and staff will commence at the appropriate time. Risks will be identified and managed with due diligence taken accordingly including relevant Equalities Impact Assessment (EqIA).

13. Equalities implications and risks:

- 13.1 Appendix 3 outlines the detail of the Equalities Impact Assessment (EqIA). As outlined above, 162 full-time staff directly in current in-house services. It is unlikely that there would be any specific individual impacts to any particular characteristic or group of staff.
- 13.2 The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:
 - (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not; and
 - (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

- 13.3 The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

14.0 Health and Wellbeing implications and Risks

- 14.1 Neutral impact. There will be no changes to current services and where assisted services are required, these will continue. Therefore, there are no additional impact to residents or staff.

BACKGROUND PAPERS

None

Appendices:

- 1 Exempt – Finance
- 2 Exempt – ‘Environmental Services Contract Extension Proposal 2021 – 2023’ from Serco
3. Equalities Impact Assessment
4. Exempt - Legal