

Report to Overview & Scrutiny Board
Public Realm Transformation – New Operating Model
Questions & Responses
3rd August 2021

1. There is a lack of data, evidence and analysis on why the option of having an integrated public realm service carried out in-house by a Local Authority Company was dismissed.

Both an in-house and a LAC service were considered and dismissed. For the integrated public realm services contract that started in 2019/20 stopped, as agreed by Cabinet in September 2020 due to the Covid-19 pandemic, extensive research had been undertaken and a costed business case produced. This business case considered options for the delivery of integrated public services. Modelling showed that, when the set up costs for the formation of the Local Authority Company (LAC) was included in the costs, the LAC model was more expensive than the outsourcing model. The LAC model was also rejected at the time as the Council had little experience to set up the LAC for these services, lacked the skills to directly manage the refuse service and all the financial risks would be retained by the Council and not shared with a contractor. Also, the LAC model did not enable the Council to draw upon the experiences and different approaches to delivering these services that suppliers have gained from across the country and beyond to achieve the best outcomes for the Council. This, as agreed by Cabinet in September 2019, led to the conclusions that the LAC was not the best model to adopt. Although there are fewer services in scope for the integrated recycling & waste collection and street cleansing contract, the circumstances that led to that conclusion have not changed.

More detail about costs that are commercially sensitive are outlined in the Exempt element of this report.

2. Given the shrinking number of private sector operators and acknowledged market congestion, the cost of the integrated service may exceed what would be deemed Value for Money cost. There is a lack of detail on any Plan B.

If the procurement exercise proved not to be value for money, the Council has a least three options that it could consider. These are outlined in the Exempt element of this report.

3. There is a lack of detail on the specifications of the Contract and the practical operational workings of the contract.

The Cabinet report which has been called in was for approval to tender and not the award of a contract. Furthermore, as we are following a competitive dialogue process the specification will not be finalised until the process is complete. The specification is for waste and recycling collection from all dwellings in Havering, and street cleansing to the public highway and public places. Contained within the specification is weed control too. As competitive dialogue is the procurement route chosen, all contract documents, including the specification, remain in draft until agreed in the final stages of procurement.

The contract will specify for all elements of cleansing, including litterbin emptying, fly tip, graffiti and flyposting removal, etc. and waste and recycling collections from households. Minimum standards have been outlined in the specification and, during the procurement stages, dialogue will consider improvement to these requirements, and these will be specified in the final contract. The contract will also seek prices for different method collections, such as a separate weekly food collection, to comply with any new legislation that may be introduced during the life of the contract.

The Council specifying an 'outcome-based' contract, outlining to bidders the minimum service standards that must be met without defining the methods of delivery needed to achieve these outcomes. This allows bidders greater flexibility to decide how and when to deliver the services and encourages innovation and keenly priced bids.

4. There is no detail on how each London Borough provides its waste, street cleansing and weed control contract.

This was not a key factor in deciding the most appropriate procurement route and operating model. However, the most common service delivery model in London is to outsource waste collection and street cleansing in one integrated contract, with the second most common being delivery by in-house services (DSO). Waste collections and street cleansing by delivery model for the London Boroughs are:

- Contactor 18
- LAC & DSO 1
- LAC 2
- DSO 11
- Contactor & DSO 1 (Havering)

Although the exact number of London councils outsourcing weed control is not known, as this a specialist function, it is understood the majority of Local Authorities either directly outsource weed control for highways or include it in their street cleansing contracts.

5. There is no detailed risk analysis in having the proposed service outsourced.

All risks were considered in the Cabinet reports, please refer to the 2019 and 2021 Cabinet reports.

Waste collection services are already outsourced and, regardless of the procurement model adopted, would need to be retendered once the contract expires (July 2023). Market testing strongly indicates that tendering a standalone waste contract will not attract bidders as there are other more attractive opportunities for suppliers to consider being procured at a similar time. To be successful, Havering's contract must be attractive to compete with these other supplier opportunities. The market indicates that Havering's procurement opportunity will be better contested if the contract included other services too, i.e. street cleansing. Havering's weak position is further compounded by other issues too (as outlined in the exempt element of this report). The market did not favour a waste contract combined with grounds and tree maintenance, and if it was included, many may subcontract the services to another supplier.

There is the potential that additional recycling collection services may be required during the life of the contract, as outlined in the Government's consultation paper 'national waste policy' that may increase costs. The outcome of this consultation is not currently known but, as the national waste policy should be published later this year, the Council will have a clearer indication of the recycling requirements during dialogue sessions with bidders and these requirements can be included in the specification. A matrix will be developed in the summer of 2022 detailing costs.

If outsourced, there will be street cleansing vehicles that are surplus to requirement. These vehicles are internally leased from workshops. Some vehicles have shorter leases than others, with almost all leases ending before the new Contract starts. All vehicles will be disposed of through auction. The vehicles auctioned may not clear the lease balance, and the service's budget will be put under pressure. An estimate will be made on the auction value of the vehicles nearer to the time of award, and included in a cost matrix in the report outlining award in the summer of 2022.

The Council has a legal obligation to ensure due diligence and appropriate consultation for the Council's staff that are to be transferred through the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). Officers will develop a detailed mobilisation plan which will include the transfer of its staff and staff of 3rd party contractors (where applicable) at the end of their contracts to the newly procured contractor post contract award. For staff that work directly for Havering Council who are subject to transfer, their pension arrangements have been considered and the new contractor may seek either admission to the Havering pension fund or alternatively will be required to provide a broadly comparable fund under the pension's regulations. Pension risks are outlined further in the exempt element of this report.

The waste and recycling collection services, trunk road cleansing and weed control services are already outsourced. The Council has limited responsibilities with the regard to the TUPE process for these staff but, as it is in the Council's best interest to ensure that this progresses smoothly, will endeavour a smooth transition (if an incumbent is not awarded the contract) from one provider to another.

6. No evidence has been provided on the desired service standards and that an outsourced contract will improve performance.

The Council is to specify an 'outcome-based' contract, outlining to bidders the minimum service standards that must be met without defining the methods of delivery needed to achieve these outcomes. This allows bidders greater flexibility to decide how and when to deliver the services and encourages keenly priced innovation.

The information provided in the service specification seeks to provide for at least an 'as is' service; i.e. the current standards are to be maintained or improved. The significant difference is where possible, an outcome is required for the contractor to deliver; the council will not be prescriptive about the way that services are delivered. Therefore, for example, the specifications requires waste to continue to be collected weekly but seeks for streets to be kept clean to a specified standard rather than the Council specifying the frequency of the service.

Competitive Dialogue will enable significant flexibility as the Council can, in dialogue with the bidders, continue with the process until it is satisfied that a solution (or solutions) is available within the Council's budget that is capable of meeting the Council's needs has been identified. The integration of the waste collection services and street cleansing functions will remove demarcation inefficiencies about who is responsible for litter and spillages in the street scene, leading to cleaner streets. This model is adopted in other local authorities as outlined in question 4 above and outlined in the exempt element of this report.

7. There is no detail on how the Contract will provide for future changes to the waste collection service arising out of Government legislation.

The changes brought about by the changes in legislation through the National Waste Policy are not known yet. The Council hopes that these will be known towards the end of the year. The contract will seek prices to deliver services as they are currently delivered but will also seek prices for separate recycling methods, including food waste collection and refuse containerisation, to ensure adaptability and the flexibility to introduce additional services in the future should legislation and/or the Council require them. Based on their experience of delivering similar services across the country and beyond, bidders will have different approaches on how best to achieve the Council's required outcomes.

It is anticipated that the new Government National Waste Policy will have "considerable change" to waste collection methodology over the coming years. The National Waste Policy should be

published later this year, so the council will have a clearer indication of the waste requirements during dialogue sessions with bidders. The waste industry will also be keeping abreast of the new legalisation, and will be prepared for this eventuality.

8. There is no detail on the criteria that will be used to assess the bidders.

Normal procurement procedures will prevail, governed by statute and council standing orders. The anticipated procurement route is for the contract notice to be published in September 2021. Potential providers may express a request to participate and will complete a Selection Questionnaire (SQ). The SQ will be evaluated and those organisations which have demonstrated adequate economic and financial standing, technical and professional abilities will be selected to progress.

A two-stage Competitive Dialogue process will then commence. Suppliers will be expected to evidence quality and price against method statement and these will be evaluated against an agreed criteria (as will be set out in the contract documents) after the first stage of dialogue, bidders will submit their detailed solutions (ISDS). These will be evaluated. Those organisations that submit adequate solutions will be invited to the second stage of dialogue, followed by submission of their final tenders. This will be evaluated, and the best tender selected for award of the contract.

The evaluation criteria is based on a 50:50 ratio for price and quality to drive competitive pricing with good quality services. Evaluation at each stage is undertaken by the appropriate officers, i.e. legal, HR, finance, technical, etc. assisted by external advisors, specialists in this type of procurement and the waste industry.

9. There are no details on the proposed KPI's to assess performance in terms of quality and timing of service and whether payment will be linked to performance.

It is too early in the process to predict how the payment by performance mechanism will be implemented into the new integrated contract. A suite of KPIs will be included in the contract documentation and this will be evaluated through competitive dialogue. This will become more apparent after the competitive dialogue stages. The council will provide a baseline position for the payment mechanism during the competitive dialogue process and the bidders will be provided with opportunities to comment on the proposed mechanism. The new contract will be monitored and guided by the use of effective technology to measure performance. A concise number of performance indicators, focusing on the strategic aspects of the services that outline the minimum standards to be achieved, will be included within the payment mechanism. The payment mechanism will describe, once agreed at the conclusion of the competitive dialogue process, the mechanism for the calculation of the invoice, the application of any performance deductions in the event that performance indicators are not achieved, and the application of, if relevant, any performance incentives.

10. There is no detail of how IT systems will be collecting performance data and who will be self-monitoring performance.

This will become more apparent after the competitive dialogue stages. The contractor will be expected to monitor their performance so they can quickly rectify any issues. This information will be shared with the council. Contractors will also share their raw data so the council can review the performance detail as required. The council will also monitor contract performance. However, it is too early in the process to predict exactly what IT systems will be offered by bidders.

11. There is no detail on the proposed IT system to ensure common data systems, procedures and processes.

It is too early in the process to predict what IT systems will be offered. This will become more apparent after the competitive dialogue stages. Nonetheless, it is expected that any IT system adopted will be available to the Council and/or integrate with the council's own IT systems.

12. There is no detail of the due diligence that the Council will undertake to assess each potential bidder.

Normal procurement procedures will prevail, governed by statute and council standing orders. Bidders who provide a Selection Questionnaire (SQ) will be evaluated and those organisations which have demonstrated adequate economic and financial standing, technical and professional abilities will be selected to progress.

13. There is a lack of detail on how the £10 million value of the contract was arrived at. What are the current costs to the Council?

This is outlined in the exempt element of this report.

14. There is a lack of detail on the potential availability of a Depot to potential bidders.

The contract specification provides information on depot location and availability, and it will be discussed at the dialogue phase in further detail. Where depots are to be transferred for use, appropriate licences/leases and conditions will be in place, with an expectation that these will be returned to the council when the contract expires in as good as or better condition than at the point of transfer. More is outlined in the exempt element of this report.

15. There is a lack of full financial costs, overheads and savings arising from the integration contract including plant and equipment, staff costs including redundancy.

It is too early in the process to predict the full costs. These will become clear following competitive dialogue. The current strategy is best value, to obtain high performing value for money services at the least cost.

All the vehicles used by street cleansing are out of lease when the new contract starts, so will be auctioned once they are surplus to requirement. The contractor will be expected to provide all their own vehicles and equipment. This will form part of the evaluation criteria as discussed in question 8 of this report. Redundancies are not anticipated and all staff are subject to TUPE transfer as discussed in question 5 above.

16. There is no detail on the normal profit margin on these kind of contracts

Profit margins are commercially sensitive. The Council is not in a position to know these, so cannot provide further information.

17. There is a lack of detail on what data and information will be supplied to potential bidders.

The contract will specify for all elements of cleansing, including litterbin emptying, fly tip, graffiti and flyposting removal, etc. and waste and recycling collections from households. Minimum standards have been outlined in the specification and, during the procurement stages, dialogue will consider improvement to these requirements, and these will be specified in the final contract. The contract will also seek prices for different methods of collection, such as a separate weekly food collection, to comply with any new legislation that may be introduced during the life of the contract.

The Council is specifying an 'outcome-based' contract, outlining to bidders the minimum service standards, against a suite KPI's, that must be met without defining the methods of delivery needed to achieve these outcomes. This allows bidders greater flexibility to decide how and when to deliver the services and encourages innovation and keenly priced bids.

The number of households, including if they are houses, low rise or high rise dwellings, will be provided to bidders. Data will also be provided on collection methods (such as bags, containers, underground storage containers, etc.) and the volume and composition of waste. Population and house growth predictions will also be available. As now, there will be a mechanism to increase the contract payment for additional dwellings should there be any.

Robust performance indicators including those for household collections completed will be specified in the contract. These performance indicators will outline the minimum standards required.

18. There is a lack of detail on the governance arrangements between the Council and successful bidder, particularly around later possible variations of the contract.

Normal procedures will prevail as governed by council standing orders. Also, as will be specified, there will be three tiers of management in this Contract; a Contract Partnership Board, Contract Management Group and Contract Operations Group. The Contract Partnership Board of senior managers will meet quarterly to look at strategic contractual issues, efficiencies and areas for continued improvement. The Contract Management Group will meet formally on a monthly basis to look at contract performance and improvement. The Contract Operations Group will meet at least weekly to address and resolve day-to-day service issues. Variations, if required, will be agreed at the appropriate level, then made through normal contract procedures. This will be outlined in the contract documentation.

There is already a Client team to manage the waste collection, weed control and tree maintenance contracts. A new team will be created to reflect the skills, knowledge and experience necessary to client the new contract. The client team will be resourced to undertake its function robustly and will take advantage of any improved technology and ICT systems that are potentially available through the contract.

19. There is a lack of detail on how many household collections are being completed per day and the projections of increased volumes of waste due to increased housing developments and continued home working in full or in part during the life of the contract and how any increase will be accommodated in the contract.

The number of households, including if they are houses, low rise or high rise dwellings, will be provided to bidders. Data will also be provided on collection methods (such as bags, containers, underground storage containers, etc.) and the volume and composition of waste. Population and house growth predictions will also be available. As now, there will be a mechanism to increase the contract payment for additional dwellings should there be any.

Robust performance indicators including those for household collections completed will be specified in the contract. These performance indicators will outline the minimum standards required.

20. There is a lack of detail in how the replacement of any equipment will be catered during the life of the contract.

It is too early in the process to predict how the equipment, if necessary, will be replaced. This information will become available during the procurement phases of competitive dialogue and will form part of the evaluation criteria as discussed in questions 8 and 15 above.