

Notice of KEY Executive Decision (Special Urgency)

Subject Heading:	Waste contract extension
Cabinet Member:	Cllr Barry Mugglestone
SLT Lead:	Andrew Blake-Herbert
Report Author and contact details:	Imran Kazalbash Assistant Director Public Realm 01708 433831
Policy context:	This report supports the Corporate Plan especially “A Great Place to Live as outlined in the Places theme
Financial summary:	The cost of the extension will be £1.927m from revenue costs
Reason decision is Key	This is a key decision as it concerns expenditure of £500,000 or more and has an effect on two or more Wards
Date notice given of intended decision:	<i>This is a decision pursuant to para 11 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, made under “special urgency” with the consent of the Chair of the Overview and Scrutiny Board.</i>
Relevant OSC:	Places
Is it an urgent decision?	Yes
Is this decision exempt from being called-in?	Yes, due to Special Urgency.

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

Key Executive Decision

People - Things that matter for residents

Place - A great place to live, work and enjoy

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1. To agree to further extend the contract for the collection of waste and recycling with Serco Ltd from 29th July 2023 to midnight on 21 October 2023 at a value of £1.927m; and
2. To delegate authority to the Assistant Director of Public Realm to finalise and agree all associated arrangements and documents necessary to effect the extension.

AUTHORITY UNDER WHICH DECISION IS MADE

3.2 Powers of the Chief Executive

(b) To exercise the powers delegated to any member of staff so far as the law allows.

3.3 Powers of Members of the Senior Leadership Team

Financial responsibilities

(a) To incur expenditure within the revenue and capital budgets for their allocated portfolio as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

STATEMENT OF THE REASONS FOR THE DECISION

The Council has entered into a new integrated waste and street cleansing contract arrangements with Urbaser Ltd (Urbaser) due to commence upon expiry of the current waste contract with Serco Ltd (Serco) on 30th July 2023. Urbaser will deliver services under the new contract from Central Depot, Rainham Road. A programme is in place to deliver the construction works required at this depot to ensure that it is fit for purpose.

Due to construction and project delays the completion of these works has been delayed and they will not be completed by the original service commencement date of 30 July 2023. The works will be substantially completed by 11 September 2023. Small-scale works to the fuel bay will be completed between 11 September and 25 October 2023 however, this will not prevent Urbaser from delivering the services from this location from the revised service commencement date of 22 October 2023.

Key Executive Decision

Extending the current waste and recycling contract with Serco until the 22 October 2023 will allow adequate time for the substantial completion of the works to Central Depot and will allow the Council to meet its statutory obligation to carry out waste collection services pending the commencement of the Urbaser contract.

An urgent decision to approve extension of the contract is required to ensure the following is achieved within the remaining short period:

- to ensure the Council can put the contractual arrangements in place with Serco and Urbaser to effect the change which requires legal and business partner input
- to ensure leases can be varied; suppliers and subcontracting arrangements can be varied e.g., fleet hire
- to obtain Commercial Board approvals from Serco and Urbaser
- The Council can achieve certainty that its statutory services (waste collection) can be delivered
- The necessary staff consultations and communications can be undertaken

OTHER OPTIONS CONSIDERED AND REJECTED

Several options were considered but were disregarded as they were not viable.

Option 1:

Do nothing – this is not viable as the current contract expires on 29 July 2023 and the Council must deliver this statutory service

Option 2:

Deliver the services from an alternative depot: The council considered a depot belonging to the London Borough of Newham – this option was explored however Newham confirmed that contract exists with a voluntary organisation for occupation, and it would not be feasible for them to end this within the timescales required

Option 3:

Temporary alternative depot – this option was explored and narrowed down to 2 possible sites. However, upon further investigation it was clear that neither of these sites could be mobilised in the timescales required and the risks of delivery presented were too great. It was noted that the Traffic Commissioner would be unlikely to grant an Operator's Licence for the sites and the planning requirements could not be met in the timescales.

PRE-DECISION CONSULTATION

Leader of the Council, Cabinet Member for Environment, Theme Board, SLT,

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Imran Kazalbash

Designation: Assistant Director of Public Realm

Key Executive Decision

Signature:

A handwritten signature in cursive script, appearing to read "J. Kugelberg".

Date: 21/04/23

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council is a Waste Collection Authority and has a statutory duty to collect waste and recycling from households in the Borough.

The Council's waste contract with Serco commenced on the 3 August 2014 with an initial term of 7 years. The contract has previously been extended until 29 July 2023. Extension is permitted up to a maximum term of 10 years, namely 31 July 2024 and the proposed extension is therefore within the permitted maximum term.

The costs of extension include costs not currently provided for in the contract (e.g. delayed start costs). It is understood that these are provided at cost. On that basis, the variation in cost is considered a non-substantial and therefore permissible variation to the contract under Regulation 72(1)e of the Public Contracts Regulations 2015. In particular, as the additional items are provided at cost the variation does not change the economic balance of the contract in favour of the contractor.

For the reasons set out above the Council may extend the contract.

FINANCIAL IMPLICATIONS AND RISKS

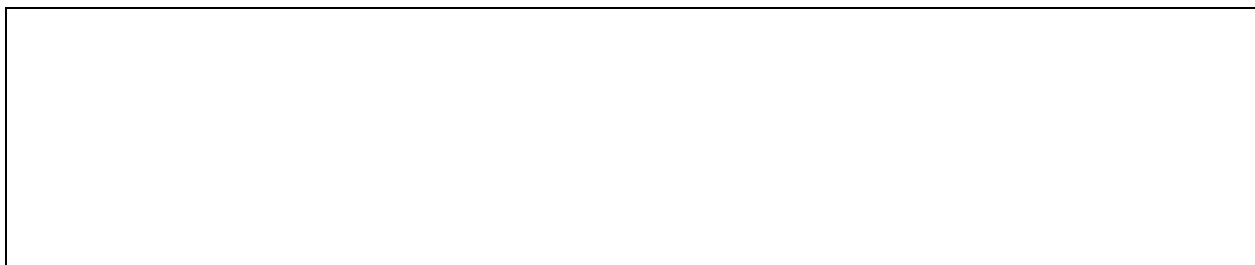
The 2023/24 service budget has been set based on the original planned new contract start date. The table below shows the additional costs arising from this extension :

Additional costs arising from contract extension	£m
Fleet Maintenance	0.045
August bank Holiday supplement	0.020
CPI and property uplift	0.018
Delayed start costs (lease, staffing, licences, vehicles etc)	0.165
Total additional costs	0.248

These costs are over and above the contract payments that will be made to the contractor for the service delivery to October end date of £1.679m.

The total cost of the extension therefore is £1.971m. It is assumed that this cost can be managed within the service budget for 2023/24 approved by Council in March 2023.

Key Executive Decision



HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The delay will push back the transfer of Serco employees to Urbaser under the TUPE legislation. This will be managed by Serco.

There will also be a delay to the TUPE transfer of Council employees currently delivering the Street Cleansing service to Urbaser. This is being managed within the joint HR meetings.

Staff and Trade Union representatives have been updated regarding this matter. In relation to the TUPE transfer of Street Cleansing employees there will be ongoing employee and Trade Union consultation meetings continuing to take place throughout the period.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

“Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the council is properly aware of the effects and has taken them into account, the duty is discharged

This extension does not present any equalities or social inclusion risks. The contract will continue to be delivered in accordance with the contractual obligations that have been in place over the previous 7 years.

Key Executive Decision

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

There are no health and wellbeing implications or risks associated with this extension. Where assisted collections take place, they will continue under these arrangements.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There is no adverse impact in respect of climate change

BACKGROUND PAPERS

Key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Details of decision maker



Signed

Name: Andrew Blake-Herbert
CMT Member title: Chief Executive

Date: 27 April 2023

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____