

## Understanding the market

### Service Delivery Review

1. To gain a better understanding of the views and attitudes of the wider waste management industry, a service delivery review was undertaken by the waste service in June and July 2012. The review took the form of a series of individual meetings with a range of local, national and international service suppliers, together with an online questionnaire that could secure responses from a wider audience. The review collated views on:
  - a. The effectiveness of the current service delivery model and what other models could be considered by the Council
  - b. Waste management best practice
  - c. Future industry developments
  - d. How services could be packaged to achieve the optimum service format for the Council
  - e. How value for money might be demonstrated
  - f. Identifying opportunities for savings and efficiencies.

### 2. Key conclusions from the review

- One of the weaknesses of Wiltshire's current delivery model was the mixed economy of in-house and contracted-out waste and recycling collection services. The efficiencies to be gained through optimisation of routes, depot locations and tipping points, together with cross boundary (ex-district council) working were consistently highlighted.
- Where the service options and risks are well understood and specified suppliers recommended using the restricted tender procurement process.
- There was very little appetite for an integrated contract, i.e. bundling all collection and disposal services together. Suppliers were very keen on services being packaged into 'lots' that had commercial and operational synergies, as this was likely to be the most attractive option to the market.
- Offering small packages, as opposed to large integrated contracts, can encourage involvement of smaller, local businesses, as either the main or sub contractor, and provide better visibility of costs. This route was considered to result in a better value service.

### Soft Market Testing

3. During April 2013 the waste service undertook another waste industry market consultation, or soft market test. The scope and structure of the exercise was designed in conjunction with the Corporate Procurement Unit (CPU) with the purpose of gaining a greater understanding of how the supply market operates, so that any subsequent procurement exercise was designed in a way that encourages a broad range of potential suppliers.

4. A comprehensive questionnaire was published online via the Council's Pro-contract procurement portal (<https://www.supplyingthesouthwest.org.uk/>). To ensure the market was aware of the consultation over 50 suppliers of waste services were directly notified of the opportunity to contribute to the exercise. In addition, over 15 local and national voluntary and community service organisations were contacted directly about the consultation.
5. In total, 12 questionnaires were returned; eight from national and international companies (including a wholly social enterprise provider of recycling services). The remaining four suppliers consisted of two smaller voluntary and community sector organisations (in terms of the elements of service provision they are interested in, as opposed to the scale of the organisation), a logistics company and a consultancy. The consultation generated a significant volume of detailed information from the supply market, which can be used to shape procurement and specification documents. Importantly, the responses also confirmed the views of the service about key aspects of any future service delivery.

#### Key Conclusions from the Consultation

6. Clarity of the service required by the Council was repeatedly emphasised, as were good communications at all stages of the process. Other key attributes of a good tendering exercise cited by suppliers included:
  - a. Opportunity for innovation and submission of variant tenders
  - b. No fixed method of service delivery
  - c. Clear evaluation criteria
  - d. Transparency of process
  - e. Sufficient time to prepare tenders
  - f. Clear timetable
  - g. Clear political alignment
  - h. Provision of accurate service data
7. In terms of the procurement route, the eight large suppliers had experience of both restricted tender and competitive dialogue, but only one specifically expressed a preference for the competitive dialogue route. This reinforced the messages received during the previous service delivery review.
8. In addition, surveys of selected neighbouring councils and those with similar characteristics (in terms of size, rurality and collection services) to Wiltshire Council were undertaken in March and April 2013. The surveys sought service delivery, performance and financial data against which our own services could potentially be benchmarked. It also sought to identify any potential partnering arrangements with other councils and/or infrastructure capacity that might be beneficial to Wiltshire's service delivery. The limited responses received showed that direct cost comparisons are difficult to assess and establish conclusions from. The information provided some useful contacts and identified some waste transfer station and materials recovery facility capacity in a neighbouring authority.

### **Collection Method for Dry Recyclable Materials**

1. Currently, the Council operates a system with features of both a co-mingled model (plastic bottle and card), and kerbside sort (the 'black box' collections). A proposal to move to a wholly co-mingled model has been considered but this is not without risks. It was noted in the previous report to Cabinet in November 2012 that there was a judicial review that had been ongoing to determine the legality of the way in which DEFRA had transposed the wording of the EU revised Waste Framework Directive into UK law on the subject of separate collection of recyclable materials. This appeared to permit co-mingled collections as a viable option. This action against DEFRA, brought by members of the reprocessing sector, prompted changes to the wording of the UK legislation following which the judicial review was recently dismissed in a UK court. The claimants have subsequently indicated that they would mount no further challenge to DEFRA's interpretation and transposition of the revised Waste Framework Directive into UK law. However, there remains the risk that action could still be brought against individual local authorities seeking to move away from a kerbside sort model (where the quality of dry recyclable material is generally higher and hence of greater value) toward co-mingled collections. Legal advice is that this risk is low.
2. To help evaluate both systems Improvement and Efficiency Social Enterprise were commissioned to carry out a high level financial comparison of the two waste collection methods, together with an assessment of their relative performance and respective benefits and risks.
3. Whilst the results of this analysis suggested that a co-mingled method would deliver a cheaper service, largely due to projected savings in vehicles and crews, many of the conclusions were based upon estimated costs and other data. One of the report's conclusions was that there is very limited publicly available data. Other conclusions are listed below.
  - a. A commonly held advantage of a kerbside sort model is the higher prices received for recyclable materials. In building a financial model this is an important variable. Due to a lack of information Improvement and Efficiency Social Enterprise assumed a 5% reduction in the value of material collected using a co-mingled system. It is not possible to robustly test this assumption due to the commercial sensitivity of the rates paid for recyclable materials.
  - b. Another commonly held advantage of the co-mingled method is an increase in the quantity of material collected. This method requires less deliberation on the part of residents as all dry recyclable materials are placed in one bin. This results in greater levels of separation of recyclable materials from the household waste. This in turn increases performance and income levels. However, limited data has resulted in an assumed 5% increase in quantity of material collected using a co-mingled method. Some anecdotal evidence would suggest a greater increase should be attributed, but Improvement and Efficiency Social Enterprise, in the absence of hard data, have adopted prudent estimates.

- c. One of the key differentiating factors between kerbside sort and co-mingled methods has been the reject rate from the materials recovery facilities which receive and sort the recyclable materials. Materials recovery facilities supporting kerbside sort collections are often quite basic and relatively inexpensive to finance. They receive pre-sorted materials and so ensure a low reject rate. The quality of the materials results in higher income. In Wiltshire, the reject rate for kerbside sort dry recyclables is less than 2%. This compares with 5-6% for the co-mingled plastic bottle and cardboard. This reject rate could rise considerably with the addition of other materials and rates of 15% and above are not uncommon. This would render such a system financially unviable. To support a fully co-mingled stream a much higher specification materials recovery facility would be required. This would either be built in Wiltshire or capacity at a nearby commercial facility could be procured. Modern materials recovery facilities built to high technical specifications claim reject rates as low as 2-3% and are capable of accepting a wider range of materials than currently collected within Wiltshire. Such low reject rates have not been demonstrated consistently in existing plants. Some newer plants have achieved this but only on a relatively short term basis. The reject rate reflects the quality of the material delivered to the plant as well. On this basis, Improvement and Efficiency Social Enterprise assumed a 4% reject rate for financial comparisons. Operating costs for a facility are also estimated as these are commercially sensitive.
  - d. Improvement and Efficiency Social Enterprise's analysis also suggests a significant reduction in staffing, and consequently vehicles, associated with a co-mingled service. However, this comparison was undertaken from a current baseline and makes no allowance for the impact of the proposed re-modelling of collection rounds to be implemented in 2014-15. This will reduce the apparent differences in cost. The extent of this is as yet not known and the full year savings of remodelling rounds won't be confirmed until the end of 2013.
- 4. When estimating the differences in costs, taking both collection and treatment processes into account, the analysis concluded that a kerbside sort option would be around 16% more expensive than a co-mingled service. On that basis it concluded that there is the potential for savings if the council adopts a co-mingled model.
  - 5. Other potential advantages associated with a co-mingled model include:
    - (i) Greater public acceptance, arising from greater simplicity, fewer bins, and fewer collection vehicles in total causing less congestion
    - (ii) Fewer vehicles producing less carbon emissions.
  - 6. Given the data inadequacies described and the lack of evidence available, whilst the work done appears to favour a co-mingled collection method, the results are not sufficiently robust to properly inform a decision at this time.

7. There is an ongoing national drive to improve the quality of recyclable materials and provide for flexibility and choice of collection system by improving the performance of materials recovery facilities and so reduce reject rates.
8. The Government recognise that in order that the apparent choice in the interpretation of the revised Waste Framework Directive is really available to local authorities, materials recovery facilities must be able to produce recyclable materials which meet the quality specifications of the re-processing industry. If quality levels can be raised, greater income from the sale of recyclable materials would be available. Re-processors generally considered the quality of materials from co-mingled systems to be lower than that from kerbside sort collections. This resulted in the judicial review referred to in paragraph 1 above. However, data is limited with many materials recovery facilities neither assessing nor reporting on quality. DEFRA has now committed to an action plan that will legislate for:
  - Consistent performance data from materials recovery facilities to be provided through the national reporting system Waste Data Flow – which would therefore be available to local authorities
  - Quality management systems to be mandatory for all materials recovery facilities
  - Mandatory minimum technical specifications for all large scale materials recovery facilities
  - Standard quality grades for recyclable paper, plastics, metals and glass.
9. The outcome of these changes, which are expected to be in place by the end of 2014, should be reliable, consistent and transparent information on the performance of materials recovery materials facilities and the quality of recyclable materials being delivered to re-processors. This evidence is not yet available to inform the council in making a decision on the choice of collection method for recyclable materials at this time.

**Assessment of Non-financial Factors**

1. Each factor was weighted according to its importance in the context of service delivery. Scores were allocated to reflect whether each factor would be better managed by an in-house service or private sector provider. If the view was that an in-house service and private sector contractor could manage the factor equally well, a neutral score of zero was given. Scores were subsequently aggregated to generate a recommendation. The results of this exercise indicated a recommendation to outsource the collection service, based upon a qualitative analysis.
2. There is an assumption built into some responses that the Council will have already identified and extracted some significant efficiency savings prior to 2016, largely resulting from a fundamental redesign of collection rounds which is due to be implemented in 2014-15. Results from the Council's soft market testing exercise show that this is the most often cited means by which a contractor would seek to introduce innovation and generate efficiency savings from an outsourced model.
3. Whilst some of the scores suggested a wide disparity between in-house and outsourced services, in reality the outcome was often quite finely balanced with material factors being identified that could support either option. One example is the provision of depots where the case for outsourcing was made. There was recognition that there will be a need for greater depot space in the future, owing to the current reliance on Hills Waste Solutions for depot space for the kerbside sort vehicles as the current provider of the 'black box' dry recyclables service. In addition, FCC has provided additional depot space for the vehicles for the plastic bottle and cardboard collections in the west. The Council's current depot strategy is unlikely to result in the provision of new facilities by 2016. At present there is no funding in the Council's capital programme for the provision of the additional depot space required.
4. In a number of cases, scores which favoured an outsourcing model were based upon perceptions of the likely availability of future funding, particularly capital. Whilst it was recognised that councils could borrow at a cheaper rate than the private sector, final scores also reflected the Council's priorities for capital investment.

**Communications**

1. Internal communications and stakeholder engagement will be an integral part of the success of this project. The broad nature of the project and potential sensitivities regarding the future delivery of waste services require a comprehensive communication strategy to support the council in engaging with a wide range of stakeholders in a timely manner.
2. Robust and extensive internal communications are essential in order to communicate effectively to internal waste operational and back office staff, unions and staff working for current contractors. Any decisions made will have significant implications for many staff and it is therefore essential that messages are timely and are communicated in an open and transparent manner.
3. A communication and stakeholder engagement strategy has been developed to support the rollout of this project, the principal aims of which are:
  - To deliver clear and tailored messages to project stakeholders in a timely manner, using appropriate communication channels
  - To respond promptly and accurately to any concerns and anxieties
  - To ensure all project communications are consistent with the corporate communication protocols, branding and guidelines.
4. Key stakeholders identified include:
  - Wiltshire Council waste management staff
  - Current contractors (Hills Waste Solutions and FCC)
  - Trades Union representatives
  - Other Council services
  - Local media
  - Community partners
5. There are a number of key communications issues throughout this project, predominantly regarding maintaining service continuity and reducing any reputational risk to the Council. The following key principles will be integral to the communications programme in order to manage these:
  - Advise staff of the outcome of this and other Cabinet decisions in a timely manner, and provide additional information which is relevant to the decision made.
  - Where necessary, communicate, guide and support staff through any TUPE implications and arrangements over an extended period of time. Ensure that there is regular and timely contact between HR and waste management staff.
  - Provide staff with consistent and detailed information about any changes in policies and operational practices that may affect their role.

- Work effectively with key personnel from our current contractors to provide consistent messages to their staff about decisions made and the implications of those decisions.
- Ensure that all staff have access to reliable and timely information in order to respond to rumours, concerns and anxieties.
- Work effectively with trades union representatives throughout the project to ensure that they have an opportunity to contribute to and understand the implications of decisions made.
- Engage with community partners and local media at key milestones during the project.



**Leveraging Social Value and Public Services (Social Value) Act, 2012**

1. In order to progress the new aims and principles raised under the Act, we have adopted the principles of the Wiltshire Compact to guide the procurement work undertaken so far. These include addressing the promises of building stronger, more resilient communities in Wiltshire; promoting, supporting and encouraging the work of community groups and volunteering in Wiltshire; and recognising and promoting the importance of equality, diversity and human rights to ensure an inclusive approach in the creation of stronger, more resilient communities. We have engaged the Compact in reaching out to the voluntary and community sector in Wiltshire to enable these organisations to become fully engaged in the pre-procurement process in a timely manner.
2. The Waste Re-use Forum was set up in 2012, with the aim of actively promoting engagement with the voluntary and community sector to consider joint ways of working, including conducting trials which explore ways of achieving this, such as identifying items suitable for re-use from the household recycling centres, exploring ways of working more closely to deliver the bulky household waste collection service whilst achieving a higher rate for re-use than is secured currently, and producing a service information leaflet about this service and the importance of engaging with the voluntary and community sector.
3. Building on the relationships forged through this forum, pre-procurement engagement began in February 2013 by highlighting and distributing our market testing exercise to all voluntary and community sector organisations involved in the Waste Re-use Forum, the Wiltshire Compact, and broader international, national and local organisations that we were otherwise aware of. This included engaging with broader umbrella voluntary and community sector organisations such as the Furniture Re-use Network and the Charity Retail Association. Three of those organisations positively responded to the exercise.
4. We now understand that some voluntary and community sector organisations have the capability to deliver the whole waste collection service by contracting with the Council directly. In contrast, other voluntary and community sector organisations are able to deliver discrete elements of the service, such as delivering the bulky household collection service, which could be achieved through sub contracting to either the Council or a private contractor. The organisations who are able to do this, deliver their services on a national scale. All of these options present opportunities for the Council to develop the social value of the waste collection service from where it currently stands.
5. Whether the collection service is delivered in-house, by a private contractor or by a voluntary and community sector organisation, working with the voluntary and community sector can be specified as a service requirement and can be achieved through a partnership approach, service level agreement or by formal contract arrangement in each scenario.

6. Private contractor respondents to the market consultation exercise carried out by the Council confirmed that contractors already either directly employ or sub-contract out elements of their waste collection contracts to the voluntary and community sector, most by using the voluntary and community sector to deliver the bulky household waste collection service. On a local level, voluntary and community sector organisations have limited capacity to expand their working practices, although they have all previously expressed interest in closer working with the Council's broader waste management service.
7. There is an opportunity to further develop the role of drivers and loaders in the waste collection service to effectively become part of the 'eyes and ears' of the Council and other public agencies on the ground. This could have distinct advantages for services such as adult care, public health, and consumer protection. Further consideration will be given to this and any training required.

#### Public Services (Social Value) Act, 2012

8. There are some practical considerations related to The Public Service (Social Value) Act 2013 and these are set out below.
  - (i) Whilst larger waste contractors are national or international in scale, the majority of the workforce is likely to be recruited locally. The need for skilled and experienced management means that senior posts are likely to be recruited nationally, by both a contractor and an in-house provider.
  - (ii) As set out in paragraph 5 above, working with the voluntary and community sector can be specified as a service requirement whether the service is delivered in-house or through a contract. Working with the voluntary and community sector can be achieved through a partnership approach, under a service level agreement or by formal contract arrangements in either scenario.
  - (iii) As set out in paragraph 6 above, respondents to the market consultation exercise carried out by the Council confirmed that contractors already either directly employ or sub-contract out elements of the waste collection contract to the voluntary and community sector. This mainly involves using the voluntary and community sector to deliver the bulky household waste collection service.
  - (iv) Involving the voluntary and community sector in delivering the waste management service demonstrates that the Council is delivering the Wiltshire Compact promises of building stronger, more resilient communities in Wiltshire; promoting, supporting and encouraging the work of community groups and volunteering in Wiltshire; and recognising and promoting the importance of equality, diversity and human rights to ensure an inclusive approach in the creation of stronger, more resilient communities.

**TUPE issues**

1. Issues include, but are not limited to:
  - (i) Pensions liabilities
  - (ii) Loss of key staff leading to potential service disruption
  - (iii) Industrial unrest
  - (iv) Inadequate mobilisation period
  - (v) Inflated tender pricing
  - (vi) Lack of comprehensive and timely employment data
  
2. From engagement with the market it is clear that the most significant risk relates to pension liabilities. Most suppliers cited this as a key area of concern and appear to focus on inherited liabilities. This would potentially arise with staff transferred from the Council to a contractor when the new supplier applied for Admitted Body Status to the Local Government Pension Scheme and the terms for funding any additional liabilities resulting from, for example, national changes in employer contribution rates were not fully resolved in the contract. This in turn could attract a risk inflated price if there was not a mechanism in place to deal with resulting liabilities.

**Project Group and Communications**

3. In line with Council TUPE guidance, a project group will be established to manage the TUPE issues and subsequent communications with staff. This group will have representatives from finance, human resources, legal, waste management, and trades unions to ensure that all options and proposals are considered and the TUPE process is managed in accordance with all legal requirements.
  
4. It is essential that timely communications are delivered to those staff potentially affected by TUPE arrangements and the project group will work with the communications project team and representatives from current and future contractors to prepare and deliver information on any decisions made, the implications of the decision and in response to questions, rumours and concerns.