HOUSEHOLD WASTE RECYCLING CENTRE CONTRACT UPDATE

Report of the Director of Environment & Infrastructure

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Executive Member: Terry Hone, Community Safety & Waste Management

Purpose of report

1.1 To provide Cabinet with an update on the Household Waste Recycling Centre (HWRC) service contract, including the outcome of negotiations with the contracted service provider, Amey, around an agreed early exit.

1.2 This report should be read in conjunction with the accompanying Part II report.

2. Background

2.1 HWRCs are provided by Hertfordshire County Council as the Waste Disposal Authority (WDA) under Section 51 of the Environmental Protection Act 1990. It is a statutory requirement to provide places within the county for use by its residents to dispose of their own household waste.

2.2 The Council currently provides a network of 17 HWRCs geographically spread across the county. The HWRC service is highly regarded alongside the work of Waste Collection Authorities (WCAs) in contributing to Hertfordshire’s Waste Strategy and high recycling rate. The service is well utilised by residents, with approximately 1.8 million visits per annum.

2.3 The service is run and operated on behalf of the authority by Amey who were awarded an eight and a half year contract (the “Agreement”) that runs until 6 March 2023.

2.4 As previously reported the costs of operating the HWRCs in Hertfordshire have consistently compared very favourably with the average costs of other WDAs. Using the latest dataset (2018/19) from the National Association of Waste Disposal Authorities (NAWDO) and comparing with similar service contracts i.e. excluding those costed as part of a wider PFI agreement and excluding residual waste final treatment costs, demonstrates that, dependent on a per site or per household
calculation, the Hertfordshire service is in the order of £2.5m to £2.8m less per annum than the average and ranks as the lowest cost service amongst all surveyed peer comparators.

2.5 Amey has acted in good faith throughout negotiations and the HWRC service performs to a satisfactory level with no contract failures. Amey continues to perform above the agreed minimum (baseline) target level of 65% performance, for the diversion of all waste from the residual, ‘general rubbish’, stream. The recorded averages for this indicator in each year of the contract is as follows; 72.2% in 2015/16, 71% in 2016/17, 65.8% in 2017/18 and 66.3% in 2018/19.

2.6 In addition, a high level of customer satisfaction has been provided by Amey; firstly, an independent survey once every 2 years recorded 88.5% satisfaction in 2015/16 and 2016/17 and 86% in 2017/18 and 2018/19. Secondly, monthly ‘mystery shopping’ audits have been conducted and recorded averages of 78.08% in 2015/16, 88.75% in 2016/17, 91.55% in 2017/18 and 92% in 2018/19. The numbers of complaints recorded in 2018/19 were 142, which is low in comparison to the approximate 1.8 million visits per annum.

2.7 When combining the level of service with the overall cost the Agreement provides value for money for the Council and continues to insulate the Council against significant risks in market volatility. However, as a result, any future arrangements beyond this Agreement will be a budget pressure to the Council including bearing the risk on market volatility for materials collected at the HWRCs. This has been recognised in the Council’s Integrated Plan with an ongoing £1m pressure identified from 2021/22 onwards.

2.8 At the Community Safety & Waste Management Cabinet Panel in March 2018, Members were alerted to the fact that markets for the sale of material arising from the HWRCs had been significantly affected by world economic conditions adding pressure to the viability of Amey’s operation and that the Council had been approached by Amey to confirm their intention to undertake operational changes in order to reduce its financial burden under the Agreement.

2.9 At the Panel meeting on 10 September 2018, Members were made aware that Amey had expressed continuing concerns about the financial viability of the contract and wanted to work with the Council to explore ways (easement measures) that would reduce their financial losses. Members were provided with a further update at the Panel on 28 June 2019.

2.10 At the November 2019 meeting Members were updated on work which had exhausted the potential ‘easement measures’ and as a result noted the request by Amey to exit the Agreement (by early termination) for the operation of the Hertfordshire HWRCs by December 2020 (at the latest). The Cabinet Panel recommended, and Cabinet agreed, that officers continue negotiations with Amey to try and facilitate a managed exit from the Agreement while ensuring the Council’s interests and financial position are protected.

2.11 This report provides information on the outcome of the negotiations with Amey since the November 2019 meeting and includes a final recommendation for the future
service direction. Members attention is drawn to the Part II paper to this report that contains a costed assessment of the alternative options up to the natural expiry date of the Agreement in March 2023 and includes an assessment of risks and opportunities associated with agreeing to an early exit from the Agreement with Amey.

3. **Recommendations**

3.1 The Special Cabinet Panel considered a report on this item of business at its meeting on 6 May 2020. The Panel recommended to Cabinet that Cabinet:

3.1.1 notes the further work on alternative delivery models and risks in this Part I report and the detailed costing, terms of exit and opportunities in the Part II paper to this report;

3.1.2 approves the request by Amey to exit the Agreement for the operation of the Hertfordshire HWRCs on 30 September 2020;

3.1.3 approves that the services are brought back under the direct control of the Council, that is, an ‘in-house’ delivery option, from 1 October 2020;

3.1.4 authorises the Assistant Director Transport, Waste and Environmental Management to enter into a Deed of Exit (“DoE”) with Amey by 1 September 2020 at the latest to end the current contract on 30 September 2020 subject to agreement from Amey and the fulfilment of all contractual obligations that would arise at the natural expiry date of the Agreement and otherwise comply with the DoE; and

3.1.5 that, subject to 3.1.4 above, Cabinet Authorises the Assistant Director Transport, Waste and Environmental Management to sign and approve any necessary documents to facilitate an early end of the Agreement.

3.2 Note that officers will provide updates to this Panel in July 2020 and September 2020 on the progress of 3.1.2 above.

4. **Progress update**

4.1 Since the November Panel officers have been negotiating with Amey to facilitate a managed exit seeking to ensure that the Council’s interests, and financial position are protected. This has included the transparent assessment of the most up to date cost pressures being experienced by Amey including, but not limited to, staffing numbers, wages, haulage and market costs and income for materials managed. Support from across the Council has been provided from a range of colleagues and departments, including the legal, finance and improvement sections.

4.2 Officers have agreed and signed a largely non-binding without prejudice and subject to Cabinet agreement ‘Principles of Exit’ (PoE) document that sets out an overview of the proposed agreed terms of exit (see the Part II paper for further detail) which will,
should Cabinet approve the officer recommendations, be developed into a formal and binding Deed of Exit (DoE) from the Agreement.

4.3 The DoE will set out the obligations that Amey are currently required to satisfy at the natural end date of the Agreement which would be brought forward to the agreed date of exit from the Agreement, for example, the appropriate condition for all Council assets to be returned such as containers.

4.4 The negotiations with Amey also took account of how the Council would be affected by movement in the markets for dry recycling material, the resources to manage an early transition of the services as well as structural changes required to the Council’s Waste Management Unit (WMU).

4.5 The cross-departmental project team has reviewed options in accordance with the identified key aims, that is to:

- Ensure a seamless transition for service users
- Minimise budget pressures
- Provide flexibility in future service provision and policy with a potential for service and performance improvement

5. Options appraisal

5.1 Since the November meeting, the cross-departmental project team have evaluated the alternative delivery options against a ‘base case’ of continuing with the Agreement through to March 2023, namely:

- **Option 1: In-house** - to bring the existing service in-house
- **Option 2: Local Authority Trading Company** - to set up a Local Authority Trading Company (LATC) to deliver the service
- **Option 3: Re-procurement of the current model** - continuing to have the service provided by a single commercial contractor

5.2 The base case: Continuation of the Agreement

5.2.1 Throughout this process the Council has been clear that its preference was to explore ways of continuing the Agreement with Amey to its conclusion in March 2023.

5.2.2 However, the recycling markets in 2019 and going forward are increasingly volatile and as previously reported to this Panel, are in a very different place to 2013/14 when the Agreement was tendered. Amey’s losses have been confirmed to be in the order of £1.2 million per annum when compared to their tendered position, primarily resulting from a reduction in the value of recyclable material and increased haulage costs.

5.2.3 It is recognised that this significant change in world markets and the associated impact on contract costs means that in any event the Council will experience a pressure on the waste management budget from March 2023. Market conditions are thought unlikely to improve in the immediate term and
discussions with potential service providers suggests that if they were to tender for any future procurement, the risk of market movement should sit with the tendering authority or, at best, they would take a more risk adverse approach resulting in higher overheads and a risk share on costs / income. Therefore, not only will service costs be higher there is likely to be an ever-changing budget profile in any case as costs reflect changes in the market conditions.

5.2.4 Continuing with the Agreement remains an option and the Council is under no obligation to agree to end the Agreement early. However, it is recognised that the Agreement is under strain and this is likely to adversely impact on elements of service delivery. Although the Agreement has presented excellent value for money for the Council, the decline in the market value of materials in recent years has removed any incentive for Amey to recycle as much as possible. Therefore, remaining in the Agreement will mean little or no progress in improving recycling rates or customer satisfaction levels. Furthermore, continuing to enforce a contract that is under increasing financial strain will inevitably result in Amey looking for ways to perform compliantly but reduce their costs by reverting to the ‘bare minimum’ which is explored in further detail in the Part II paper to this report.

5.3 Options 1 and 2: Implementing an in-house or LATC model (below and Appendix A)

5.3.1 LATC and in-house options have benefits in terms of flexibility giving the Council more control over the service, with greater flexibility in its delivery both in response to future efficiencies and the changing needs and expectations of service users. A further positive is that the Council owns the freehold of a number of HWRCs and the majority of assets and therefore has a good base on which to in-source the service.

5.3.2 However, as the service has not been under the direct operation of the council previously there is a higher level of risk associated with in-sourcing verses re-procurement. The current structure of the WMU is not set up to manage in-house services, although this risk should be mitigated through the transfer of Amey employees, and a restructure within the county hall team. It should be noted that the HR team has substantial expertise in managing TUPE transfers and the WMU retains experience from prior to the Amey Agreement when they were more involved in day to day operations of the service which will help mitigate the risk.

5.3.3 In-sourcing of waste services has been successfully introduced in recent years by other local authorities such as Leicestershire County Council, Warwickshire County Council and North Lincolnshire. Furthermore, councils such as the London Borough of Redbridge have brought waste services back in-house following negotiation with and support from Amey. Amey have confirmed that they would assist the Council to aim for a seamless transition e.g. in the continued provision of safe systems of work currently employed across the network and a management team to assist in mobilising services.
5.3.4 Whilst Members should note that a smooth transition would be the priority above immediate improvements, there are potential service improvements that can be explored including:

5.3.4.1 Improved performance and savings from residual waste disposal – under the Agreement the Council pays for the disposal of all residual waste and, with Amey responsible for the net cost of all other materials (which have increased significantly due to the changes in market conditions), there is insufficient incentive for the contractor to divert more than the minimum requirement (65%) from the residual waste containers.

An In-House or a LATC model would be tasked with improving levels of performance and would be free to explore the possibilities of increasing staffing levels or amending policy and practise to realise net savings in residual disposal costs by improving diversion levels. Further assessment of this is contained within the accompanying Part II report.

5.3.4.2 Exploring the introduction of new materials for recycling – Amey have and continue to recycle a wide variety of materials but expanding beyond the existing range is a new financial burden when it is over and above what they are required to do as a minimum. Provided that markets for new materials are available, reliable and it is viable to collect, that is, less than the cost of disposal, new material streams could be explored.

5.3.5 Throughout periods of the Agreement with Amey, when markets have changed, there has been no incentive to swiftly source new suppliers. Materials such as rigid plastics have in the past ceased to be collected for periods of time because the value fell and Amey were already meeting the minimum requirements. An In-House or LATC would have the ability to maintain service continuity in such arrangements so long as an end market was available thereby mitigating service user complaints.

5.3.6 The In-house and LATC options differ in governance structure. The In-house model would fit into the existing WMU and whilst restructuring and/or additional staff would be required this would be limited in comparison to the LATC. A LATC would require significant investment and ongoing running costs to create and manage a separate company including a new management board and staffing structure. Furthermore, being a separate company would require a surplus to be set aside, and although this could be paid back to the Council it may be retained to invest in the company in a similar way to a private contractor. Resourcing such a company set up is also a consideration when wider council transformation projects are already being developed or are in the early stages of operation.

5.4 **Option 3:** Re-procurement of the current model

5.4.1 Re-procurement of the contract still offers benefits such as accessing external expertise and managing an element of risk (e.g. staff provision guarantees and plant failure risk) and there is certainly an advantage in an external provider being required to manage a significantly sized workforce. However, the
significant shift in market economics and approach to risk adoption by the private sector since the time of the original procurement is considered to impact negatively on this option.

5.4.2 Contract timings and length of a procurement for this option will be an issue with a redesign of the contract required to meet future requirements not achievable in the timescales required. A contract period of at least seven years would likely be required to achieve reasonable value for money.

5.4.3 Whilst potential service improvements identified could be written into a re-procurement process the contractor would add their profit and desired changes through the lifetime of the contract would require negotiation prior to implementation thereby reducing flexibility. Due democratic process to agree any service realignment would best be concluded prior to tendering any opportunity which would increase the timetable for this option.

5.4.4 As reported at the November 2019 Panel, a number of suppliers are exiting or reducing their activity in the direct provision of services such as HWRC operation with a shift to a focus on energy markets as a future business model expressed by some. This has the potential effect of reducing the likely level of competition for an approach to the market with increasing risks against achieving value for money in the service.

5.5 In conclusion, following the project team’s further investigations, an in-house model remains the most attractive option for the Council. A good quality re-procurement exercise is not achievable in the timeframe available and there is no incentive to create a LATC that would not seek to commercially trade its services beyond what is already permissible through in-house provision in the short or medium term. Further, there is a disincentive because of the significant investment and ongoing running costs of creating and managing an LATC.

5.6 An in-house model offers a timely and smooth transition, flexibility in service and infrastructure changes prior to a period of expected change (for example development of new ‘super-sites’). It also offers direct control to shape services for residents in a volatile environment for dry recycling material streams and enables direct and timely responses to the increasing awareness of environmental matters, the emerging Sustainability Plans of the council and to Central Government direction from the Resources and Waste Strategy.
6. **Hertfordshire Delivery Framework**

6.1 Officers have considered how a major transition of this front-line service to bring it under direct control supports the Council’s Hertfordshire Delivery Framework as below:

6.2 Operational excellence is about the ability and desire to improve and innovate in services provided for residents. Adopting a direct delivery model for the HWRCs affords the Council greater control in volatile times and it can respond to the desire to perform better and deliver enhancements across the network.

6.3 The “Hertfordshire fit for the future” document covers a range of areas including managing the housing and population growth planned across Hertfordshire. Greater control over the HWRC service affords an unfettered opportunity to deliver on the ambition for bigger, better more efficient sites and to explore links to the Hertfordshire economy (through contracted work with local supply chains and material processing and handling) and with our communities (improved re-use, repair and upcycling projects with partners).

6.4 ‘Delivering Transformation’ links to a direct delivery model with future opportunities and technological improvements to consider and provides the potential to offer a ‘smarter’ more modern service for residents. It can directly benefit the authority through innovative operational and financial business case consideration e.g. ‘live’ information on site capacity for materials and advancing proposals for decreased vehicle movements through compaction of materials.

6.5 Developing our people and our organisation is well met by greater control through a direct delivery model with a positive challenge to take on and develop a local work force with their own ideas and aspirations. The front-line nature of the HWRC service affords an opportunity for the Council to directly learn from resident visits and develop and enhance the service in response to changing expectations.
7 Financial Implications

7.1 To identify the financial pressure to the Council for the available options, the November 2019 report explored the current costs to Amey in service delivery as a baseline and amended figures for items that were either not applicable and/or would differ amongst the options.

7.2 Figures have been calculated over a two year and six month period to represent the cost to the Council for an exit at the end of September 2020 through to the natural expiry of the contract. This was used for the purposes of negotiating terms of exit with Amey and is detailed in the Part II paper to this report.

7.3 As was the case in the November 2019 report, the impact to the Council has also been considered over a longer service period (see Graph 1 below) to allow for a fairer assessment of the alternative options as some are influenced more or less in the short term (e.g. set up costs) and depreciation of assets or in the level of profit retained by a LATC.

7.4 The figures for modelling all options include assumptions on the transfer of risk, either back to the Council or a new supplier e.g. the declining income in material value, the cost of ongoing resource and/or restructure and pension liability as may be appropriate.

7.5 It should be noted that, the further internal review of implementing a LATC, including lessons learnt, has increased costs when compared to the figures presented to the November 2019 Panel, notably, due to an increased management structure. Graph 1 shows figures for a LATC with and without a profit margin. The probable retention of some or all of the profits within the company has a significant effect on the options analysis and is further detailed in Part II of this report.

7.6 Graph 1 indicates that there will be a significant increase in costs for each of the identified alternative options. This is not surprising given the value for money under the Agreement for the Council since its commencement in October 2014. The analysis reconfirms that the in-house option is the most financially attractive alternative as it represents the lowest increase in costs to the Council.
8. **Legal Implications**

8.1 External legal advice has been provided throughout the negotiation process and this has been reviewed by the Council’s Commercial Law team. Much of the risk associated with the potential service changes have been highlighted within the main body of the report and the sections below provide a view on the legal principles of the potential service options.

A summary of the legal implications of each option is set out below.

8.2 **The Base Case:**

8.2.1 Continuing with the Agreement until its expiry in March 2023 will mean no immediate legal implications with both Amey and the Council being bound by the terms of the current Agreement. The Council will at the expiry of the Agreement be faced with the same choice of alternative service delivery models as it has now.

8.2.2 However, it is highly likely that continuing with the Agreement (with declining performance standards) will require a significant amount of legal resource at additional cost to the Council. Managing a contract that is likely to be in dispute carries the risks of legal claims and ultimately court proceedings are a possibility.
8.3 Option 1 – Bringing the service in house

8.3.1 As a WDA, the Council is empowered to arrange itself to provide the statutory waste disposal services required by s51 of the Environmental Protection Act 1990.

8.3.2 Ending the current Agreement and bringing the services in house to be undertaken by the Council will give rise to a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). Transferring employees will be entitled to the enhanced settlement provided by the Local Government Pension Scheme.

8.4 Option 2 – Local Authority Trading Company (LATC)

8.4.1 The Council is empowered to incorporate a wholly owned company under a number of powers, including by virtue of s.1 Localism Act 2011.

8.4.2 As a wholly-owned LATC, the Council is able to make a direct award to it by virtue of Regulation 12 of the Public Contracts Regulations 2015 (the so-called Teckal exemption). The Council is not required to undertake a procurement exercise prior to this award.

8.4.3 The Council will need to ensure that it remains compliant with Regulation 12 throughout the life of the LATC, including ensuring that the following conditions are satisfied:

a) The Council exercises control over the LATC similar to that it exercises over its own departments;

b) More than 80% of the activities of the LATC are carried out in the performance of tasks entrusted to it by the Council; and

c) There is no direct private capital participation in the LATC.

8.4.4 Once the LATC is incorporated, the Council would need to appoint directors to the LATC. It will also need to consider the most appropriate governance structure. The Council would draw on the experience gained on its other wholly-owned companies for this purpose.

8.4.5 The award of a contract to the LATC by the Council will give rise to a relevant transfer for the purposes of TUPE. In terms of pensions, the LATC is not obliged to offer transferring employees access to the Local Government Pension Scheme, which is a key advantage, but it may need to enter into an admission agreement for the purposes of those employees who were previously members of the LGPS prior to the original outsourcing to Amey.

8.5 Option 3 – Re-procurement of the current model

8.5.1 In a re-procurement of the current model, the Council would be obliged to undertake an open and transparent tender exercise as required by the Public Contracts Regulations 2015. Regardless of the procurement
route deemed most appropriate, this process would likely be a minimum of 9 months from OJEU issue and more likely 12 months. If a service reconfiguration is required, the process would be in the order of 18 months. In any case, this option will involve a significant level of resourcing, particularly if the chosen procurement route is competitive dialogue.

9 Equalities Implications

9.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered, the equality implications of the decision that they are making.

9.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the county council’s statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.

9.3 The Equality Act 2010 requires the county council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.

9.4 There is no expected impact on service users under either an in-house or LATC delivery model, as in the short to medium term there would be no change to the service currently provided. However, these will need to be carefully considered as part of any future services changes or any re-procurement that changed service provision.

9.5 Staff terms and conditions will be protected by TUPE legislation and equality issues will be given due regard prior to such a change. The Council’s due diligence process as the ‘receiving’ company would include attention to this through a specific EqIA, which would be completed as part of the delivery phase of this option. Communication channels for transferring staff would be provided in conjunction to a consultation process.

9.6 There is no EqIA relating to this report.

Background information

Community Safety & Waste Management Cabinet Panel meetings
Appendix A - The Investigation into Alternative Delivery Models

Background

In November 2019 the project team presented a high level options appraisal of alternative delivery models for the Household Waste and Recycling Service, should the current Agreement with Amey come to an end (no later than December 2020).

The project team identified five suitable longlisted options that were evaluated against ten criteria designed to assess their desirability, feasibility and viability. The outcome of this process demonstrated that the in-house model scored highest overall for desirability, feasibility and viability. The scoring of each model is summarised in Table 1 below.

Table 1: Longlist Options Appraisal Summary

<table>
<thead>
<tr>
<th>Option</th>
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<tr>
<td><strong>Option 1: In-house</strong></td>
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<tr>
<td>To bring the existing service in-house</td>
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<td><strong>Option 2: Local Authority Trading Company</strong></td>
<td>2&lt;sup&gt;nd&lt;/sup&gt;</td>
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<tr>
<td>To set up a Local Authority Trading Company (LATC) to deliver the service</td>
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<td><strong>Option 3: Re-procurement of the current model</strong></td>
<td>3&lt;sup&gt;rd&lt;/sup&gt;</td>
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<tr>
<td>Continuing to have the service provided by a single commercial contractor</td>
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<td><strong>Option 4: Re-procurement of disaggregated services</strong></td>
<td>4&lt;sup&gt;th&lt;/sup&gt;</td>
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<td>Re-configuring the service to be provided by multiple commercial contractors</td>
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<td><strong>Option 5: Base case</strong></td>
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<td>To continue with the current model and provider based on the original contract pricing through to March 2023</td>
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The two highest scoring options were then shortlisted and assessed in more depth. This included a detailed proposition for each option, which focused on the main technical features of each model, alongside the key advantages and disadvantages of each model overall. These propositions were presented for Members to indicate any preference for the future provision of the service.

The Two Alternative Models

In November 2019 Members agreed that an in-sourced or LATC service will give the Council more control over the service, with greater flexibility in its delivery both in response to future efficiencies and the changing needs and expectations of service users. Officers underwent a process of identifying current and future indicative service costs through:

- scrutinising a wide range of information provided by Amey
- working with support services officers across the Resources Directorate
• examining the support services arrangements put in place for other recent council ‘spinouts’, particularly the Libraries Service and Herts at Home

Where information was unavailable assumptions have been made in order to arrive at a pragmatic cost model.

Implementation

The project team produced a comparison of the indicative timelines and resource required from across the Council to implement the two alternative delivery models (Figure 1 below). It should be noted that the figure below does not include the resource required from the WMU to lead the selected change project.

Risk Assessment

The project team have conducted a risk assessment associated with bringing the service in-house. Risks relate to resources, timelines, financial analysis and continuation with the contract and is included as Appendix B to this report.

In light of the COVID-19 pandemic, a new risk has been inserted. At this moment in time, it is thought that the recommendation for direct service delivery can still proceed as the work to complete the transfer is largely capable of completion through remote working. However, there are other considerations which are highlighted in Appendix B to this report. This risk will of course be kept under review.
Figure 1: Indicative implementation timeline

**HWRC alternative delivery model indicative project timeline**

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<tr>
<th>Insourcing Task</th>
<th>May-20</th>
<th>Jun-20</th>
<th>Jul-20</th>
<th>Aug-20</th>
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ongoing activity    key effort   estimated additional resource for LATC set-up

Set-up of LATC requires additional resource days when compared to the in-house model across several areas. Specifically:

- HR (recruitment of CEO, CFO and senior management)
- Finance (set-up of financial structures and accounts; capital structure; treasury considerations)
- SAP development
- Legal/Governance (drafting corporate governance and board structure, SLA agreement and KPIs)
- Pensions transfer

*Note: To date, Amey have not provided sufficient information regarding technology infrastructure to thoroughly investigate the support and resource required but it is considered limited in its nature due to existing council assets and majority of site staff not requiring individual access to their own IT equipment.
## Appendix B

<table>
<thead>
<tr>
<th>Risk Description and Potential Impact</th>
<th>Risk Rating</th>
<th>Existing and/or Proposed Mitigating Measures</th>
<th>Risk Rating with Mitigations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COVID-19 Impact</strong></td>
<td>Red / Severe</td>
<td>Direction from health officials and Senior Management Team on how to prevent the spread of the virus should mitigate the number of staff absences due to illness. However, the pandemic is still at an early stage, and the full impact will not be known for some time. As such, it is hard to implement mitigations at this time as they are largely out of the control of the project team.</td>
<td>Red / Severe</td>
</tr>
<tr>
<td>As the pandemic progresses, resource across the Council will be impacted as staff fall ill and are absent from work or are assigned to new duties to assist with tackling the crisis. This could delay the delivery of this project as it requires support from colleagues across the Resources Directorate. As much as the pandemic impacts the Council, it will also impact Amey in a similar way. This could affect their ability to assist with the transition of the service and provide information in a timely manner. It is known that businesses across the United Kingdom are facing financial difficulty during this time, with some collapsing. As recycling centres are closed, so called 'off-taker' companies which trade in recyclable materials could be impacted. In particular, small businesses who trade in niche materials. If these companies collapse, new 'off-takers' will have to be sourced in a tight timescale.</td>
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</table>
| **Service Capacity / Capability**    | Red / Severe| • Engagement with Amey to better understand relevant issues before transfer  
• Interim management arrangements agreed early on | Green / acceptable |
| The Waste Management Unit does not have the capacity or skills to run an in-house Service, | |


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| with the current structure of the team not set up to manage in-house services. | Red / Severe | • Re-structure within the Waste Management Unit to ensure the Service structure is fit for purpose  
• Transfer in of Amey staff and inclusion in management review  
• Absorb learning from the in-sourcing of waste services successfully achieved by other local authorities  
• Placement and cost of support from corporate support services (such as Health & Safety) included in analysis to review all existing procedures to ensure adequate provision under any proposed new structure | Green / acceptable |
| **Implementation resources**  
Implementation is dependent on securing corporate resources and professional advice as required to support delivery by 1 October 2020, which may not be available. This could result in key milestones being missed. | Red / Severe | • Improvement Team, Health & Safety, HR, Finance and Legal support already working on the project  
• Project Team to secure adequate support from corporate functions for implementation  
• Early engagement with services that are required later in the process (i.e. Fleet, Property, Technology) to ensure the project is on their work programme(s)  
• Project management to identify emerging resource issues and raise with governance as required | Green / acceptable |
| **Transfer of unknown future market risks**  
The council would take on the commercial and financial risks (e.g. market fluctuation, unlikely to be a flat budget profile), meaning it becomes more complex to predict. This may result in unexpected costs/budget pressures. | Red / Severe | • Financial analysis to be updated as actual data is received  
• Factored in £300,00 into ‘one-off’ settlement figure for market volatility which reflects a historically low position for the markets | Amber / Significant |
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<td><strong>Long-term financial liabilities</strong></td>
<td><strong>Amber / Significant</strong></td>
<td>- Close monitoring of the markets and supplier negotiation/management to maximise sales income / minimise costs</td>
<td><strong>Amber / Significant</strong></td>
</tr>
<tr>
<td>Under this model transferring staff are entitled to 'take-up' the Council's Local Government Pension Scheme, which is significantly more expensive than Amey’s existing scheme. Should the service be outsourced in the future, there is a risk that pension liabilities may not be fairly apportioned.</td>
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<tr>
<td><strong>Inaccurate financial modelling / assumptions</strong></td>
<td><strong>Amber / Significant</strong></td>
<td>- Work closely with Amey and seek professional Legal, HR and Financial advice to ensure that the Service can reach the best solution for future arrangements, that take into consideration the long-term liabilities associated to this option&lt;br&gt;- Corporate financial analysis used&lt;br&gt;- Conservative estimates used in modelling (i.e. 100% pension take up)&lt;br&gt;- Mitigation level presented as 60% considered more likely than full take-up.&lt;br&gt;- Inclusion of contingencies and sensitivities in analysis to mitigate risk of assumptions</td>
<td><strong>Amber / Significant</strong></td>
</tr>
<tr>
<td>Financial analysis assumptions or information provided by Amey is incorrect, meaning costs are higher than anticipated. This may result in budget pressures being created during implementation.</td>
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| **HR / TUPE challenges**             | **Amber / Significant** | - Build in enough time to be able to purchase anything that is required if it becomes necessary, e.g. containers.  
- Legal Services to assure the process and set out each parties responsibilities  
- TUPE legislation to be followed with HR assurance  
- Early engagement with Amey, directly with Amey staff and Trade Unions as appropriate  
- HR support to anticipate any emerging issues  
- Project management to identify and escalate any issues as required  
- Consider in advance whether political approval is required for extensions to the contract in the event of a gap  
- Interim arrangements for all contracts/services.  
- Make signing of Principles of Exit document and agreement to exit subject to timely completion of the TUPE process | **Green / Acceptable** |
| **Third-Party Contracts**            | **Amber / Significant** | - Interim arrangements for all Third-Party contracts/services in place early on  
- Early engagement with corporate resources including Legal and Finance to ensure all contracts or alternative arrangement will be in place in adequate time  
- Full time project management to identify emerging issues and raise with governance as required  
- Early identification of systems and technologies used by current supplier  
- Novation of existing technology contracts | **Green / Acceptable** |
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| There is a risk that there is insufficient time to procure any specialist technologies, systems or equipment to manage the Service or Company. Which may result in unexpected costs/budget pressures, reputational risk and/or danger to staff or the public. Meaning sites must be closed which may result in the council not meeting its statutory duty. | Red / Severe | • Explore internal support service options  
• Procurement (time implications).  
• Make signing of Principles of Exit document and agreement to exit subject to timely completion of the novation / procurement process  
• Use of external legal / procurement expertise if required to deliver emergency procurements. | Amber / Significant |
| **Continue with the contract**  
*Challenges with continuation of contract* |             |                                                                                                             |                             |
| Amey may ‘work to rule’ for the next 3 years of the contract to minimise their losses, creating a heightened risk of corner-cutting and a more combative contractual relationship. To manage a contract in such distress would require additional internal resource within the waste management unit and additional legal support, increasing service costs.  
This may result in the Council being unable to meet aspirations for increased recycling in the medium term and reduced customer satisfaction.  
Managing a contract that is likely to be in dispute carries the risks of legal claims and ultimately court proceedings, which may result in reputational damage to the council. | Red / Severe | • Legal support to anticipate any emerging issues  
• Additional Service management put in place to identify and escalate any performance issues as required  
• Detailed risk identification and planning for prevention of potential issues to be regularly updated.  
• External legal support | Amber / Significant |