
Subject:	EAST KENT WASTE 2021
Meeting and Date:	Cabinet – 5 November 2018
Report of:	Roger Walton, Director of Environment and Corporate Assets
Portfolio Holder:	Councillor Nicholas Kenton, Portfolio Holder for Environment, Waste and Health
Decision Type:	Key Decision
Classification:	Unrestricted

Purpose of the report: To provide an update on the East Kent Waste 2021 project, recap on the decisions taken to date and seek confirmation for the next steps.

Recommendation: To confirm agreement:

- a) To continue with the same recycling & waste collection methodology as presently implemented across the District when the new service arrangements start in 2021. Food will be collected in a separate dedicated vehicle for the recycling round.
- b) To proceed with the procurement of the next recycling and waste collection contract with an outsourced service provider in partnership with FHDC to be operational from the end of the current joint contract on 15 January 2021.
- c) To work with FHDC to complete an options appraisal exercise to consider the operational costs, risks and benefits of insourcing the street cleansing service.
- d) To authorise the Director of Environment & Corporate Assets in consultation with the Portfolio Holder for Environment, Waste and Health to negotiate and conclude with KCC a new performance payment mechanism to operate from 2021 that takes into account the current level of payments and the need to incentivise improving recycling rates.
- e) To agree to establish a project budget of £100K to cover additional consultancy support notably preparation of the new contract specification, new contact and new partnership agreements.

1. Summary

- 1.1 This report seeks to firstly update Cabinet on the collaborative work undertaken in partnership with the East Kent Districts and Kent County Council (KCC), over the past few months reviewing the current recycling & waste collection service arrangements across East Kent and considering options for their future development.
- 1.2 The detailed review, which has now been completed, focused in particular on service methodology, infrastructure investment and future governance structures. The work

has now progressed to a point where decisions need to be taken as to the future collection methodology and procurement arrangements as set out in the report.

1.3 Introduction

Background

- 1.4 To recap, it is now more than 10 years since the East Kent Districts formed a partnership with Kent County Council with the aim of delivering a consistent collection scheme across the East Kent district which not only delivered savings, but streamlined the four diverse recycling and waste collection methods that existed at that time.
- 1.5 The project sought to essentially take a 'unitary' approach to the provision of recycling and waste services across East Kent and set aside the previous arrangements which tended to focus on the individual budget imperatives of each Council and instead to implement the solution which offered the greatest savings to the taxpayer, whilst maximising recycling performance.
- 1.6 This work led to the preparation of a Memorandum of Understanding that sought to bind the Council's together, which was subsequently developed into a detailed legal agreement, the '5-way inter-authority agreement', between the five Councils, signed in October 2010.
- 1.7 The 5-way agreement commits the four District Councils to make changes to their recycling & waste collection services with KCC committing in return to provide both enabling and capital funding to facilitate these service changes. The agreement extends until 15 January 2021, and contains no provisions for any extension. This date ties in with the end of the joint Dover and Folkestone & Hythe District Council (FHDC) collection contract with Veolia, which includes the KCC responsibilities for reprocessing of the recycle collected across all four East Kent District authorities.
- 1.8 Whilst the East Kent Districts continue to work together and share a common service methodology, there are separate contractual arrangements. Canterbury's contract for waste collection and street cleansing was awarded to Serco in April 2013 and has an end date of 31st March 2021, which was intended to closely align with the DDC/ FHDC contract, whilst Thanet District Council continue to run an in house direct service delivery for both waste collections and street cleansing.

Consultancy Review

- 1.9 As the end date for the inter-authority agreement and current contractual arrangements is approaching, officers have been working with the partner authorities in East Kent reviewing the future development of the recycling & waste collection services in East Kent focusing in particular on service methodology, infrastructure investment and future governance structures.
- 1.10 It was recognised at the outset that given the complexity of the service and issues to be considered that specialist advice would be required and the Council's therefore agreed to share the cost of procuring consultancy support to prepare a business case covering issues such as service methodology, infrastructure investment and future governance structures as set out in the report, focusing on the benefits of creating a joint waste company.
- 1.11 They also agreed to seek funding to support the consultancy work from the Kent Resource Partnership (KRP) and the KRP Members Board agreed on 21 February 2018 to allocate £12k from the KRP's Project Budget for 2017/18 towards the consultancy work with the remaining consultancy costs to be split equally between the four East Kent Districts and Kent CC.

1.12 Tenders for the study were duly invited and the consultants Ricardo Energy & Environment appointed in October 2017 to undertake the review, which has been split into two distinct phases:

(a) Phase 1

- a. Review of Current Services & Options Appraisal
- b. Business case for capital investment
- c. Two-tier authority funding arrangements

(b) Phase 2

- a. Service Delivery Options Appraisal
- b. Assessment of Procurement Market
- c. Reporting

1.13 The consultancy work is now virtually complete and Ricardo have now shared with lead officers a first draft of their 'Collections Modelling and Options Appraisal Report', detailing the outcome of the study.

Collection Methodology

1.14 With regards to service methodology, the study reviewed a range of alternative service delivery options and considered the merits of changing the current collection methodology looking at the implications for residents as service users, the financial benefits in terms of reducing servicing costs and the potential to increase recycling volumes and incomes in the process. The consultants were tasked with modelling a range of different schemes including three-weekly collections, fortnightly co-mingled and multi-stream/kerbside sort.

1.15 The financial cost of each scheme was considered from the perspective of the districts as the Waste Collection Authorities, KCC as the Waste Disposal Authority and the 'whole system' combined cost. The outcomes of this modelling are detailed in the 'East Kent Collection Modelling Report' prepared by Ricardo.¹

1.16 The financials outcomes for the Districts for each collection option are summarised in table below.² Please note that the costs represented here are the base operational costs (i.e. without Council overheads) based on a set of assumptions for the purposes of comparison.

¹ Ricardo report available on request.

² EK Collections Modelling Report – Table ES1 page iv

Description		Net Collection cost (including Garden Waste Income) - S1			
		Canterbury	Dover	FHDC	Thanet
Opt 0	Current service	£4,115,000	£2,599,000	£2,276,000	£3,295,000
Opt 1a	Current service & no food	£3,281,000	£2,021,000	£1,674,000	£3,069,000
Opt 1b	Twin stream: wk 1 - DMR+food; wk2 - P&C+food	£4,483,000	£2,629,000	£2,448,000	£3,856,000
Opt 1c	Twin stream: fortnightly paper & card + dedicated food	£3,938,000	£2,474,000	£1,992,000	£3,695,000
Opt 2a	3 weekly residual; fortnightly twin stream & dedicated food	£3,944,000	£2,865,000	£2,505,000	£4,056,000
Opt 2b	3 weekly twin stream on separate weeks & dedicated food	£4,298,000	£3,171,000	£2,854,000	£4,065,000
Opt 2c	3 weekly twin stream with food in twin pack	£4,047,000	£2,533,000	£2,486,000	£3,430,000
Opt 3	Glass separate as current	£3,860,000	£2,605,000	£2,238,000	£3,280,000
Opt 4a	Commingled + food in pod	£3,721,000	£2,851,000	£2,333,000	£2,943,000
Opt 4b	Commingled + food in dedicated vehicle	£3,796,000	£2,957,000	£2,528,000	£3,914,000
Opt 5a	Weekly multi-stream	£5,626,000	£3,614,000	£3,810,000	£4,750,000
Opt 5b	Weekly multi-stream with no food	£5,861,000	£3,829,000	£3,230,000	£4,856,000

1.17 The report concludes that, Option 1a, which maintained the current fortnightly collection scheme but without a separate weekly food collection, would be the most cost effective system. However this option was discounted as the reduction in service involved by removing the food recycling option was likely to create hygiene concerns about food only being collected fortnightly, the expected increase in residual waste makes it marginally less cost effective in terms of whole system costs.

1.18 The recommended option is therefore Option 1c, the next most cost effective option, which is the existing collection scheme with a small variation involving the food being collected by a separate dedicated vehicle on the recycling week. This is supported for the following reasons: -

- Operationally it is the next most cost effective option. The flexibility offered by a separate food collection vehicle means that the recycling rounds can be carried out by twin pack vehicles rather than a twin pack with a pod with reduced capacity and removes the current inefficiencies of single pass recycling vehicles needing to tip at separate sites. This system has indeed already been partly implemented by the current contractor.
- From the customer perspective, the proposed collection scheme essentially remains the same. Scheme consistency and familiarity is important to maintaining recycling levels and resident participation. There is no need for a transition period to a new scheme or the cost of new containerisation.

1.19 The recommendation is therefore that the Council continues with the same recycling and refuse collection methodology/scheme as presently implemented across the district with the new service arrangements in 2021. Food will be collected in a separate vehicle for the recycling round.

Service Delivery Arrangements

1.20 The Council's waste, recycling and street cleansing contract with Veolia Ltd currently costs £3.65m per annum. This is broadly split £1.5m for the street cleansing service and £2.15m for the refuse and recycling collection service. The options appraisal exercise conducted by Ricardo focused solely on the future recycling & waste collections service delivery arrangements. Street cleansing is covered later in this report.

- 1.21 From a customer perspective the contracted service provided by Veolia on behalf of the Council appears to have operated effectively. Key performance indicators for missed bins and load contamination have been met. However, whilst there has been a constructive working relationship with Veolia Ltd it is understood that from, their perspective, the contract is loss-making.
- 1.22 There is therefore a risk that the costs of the service will increase at the conclusion of the current contract and this has been reflected in the Medium Term Financial Plan which includes provision for a £800k per annum increase in the waste collection and street cleansing budget from April 2021 onwards, a further £200k has been reflected in the Medium Term Financial Plan for the period January 2021 to March 2021. The cost analysis now carried out by Ricardo as part of the options appraisal exercise supports the view that future service delivery costs will almost certainly see an increase.
- 1.23 In reviewing options for service delivery three options were considered; in-house, outsourced and a local authority owned waste company also described as a 'Teckal' company.³ The options were firstly considered in terms of cost and then in terms of the risk and benefits.
- 1.24 The Ricardo final report on this stage of the options appraisal exercise is still being prepared. They have however presented their conclusions to the project group. The key slide is included as Appendix 1. For this Council the estimated cost with profit, pensions and central support assumptions for each option are as follows: -
- Outsourced - £2,860,100 (pension 3%/profit 6%/central support 2%)
 - 'Teckal' Company - £3,113,100 (pension 3%/central support 10%)
 - Insourced/In-house - £3,222,700 (pension 23%/central support 7%)
- 1.25 The above costs are assessed on the baseline option (i.e. the current collection scheme, excluding DDC's direct costs for officers and accommodation) which is on an operational level comparable to option 1c as discussed previously. As expected the assessment is based on a number of assumptions and includes caveats as to future costs, market conditions, inflationary pressures and regulatory changes. The best way of looking at the figures is how they rank the options rather than necessarily a guide to future costs. It is however noted that all options exceed the current contract cost.
- 1.26 In terms of the risks and benefits of each service delivery options these can be summarised as followed: -
- **Outsourced**
The Council's waste collection services have been provided through outsourced contractual arrangements for more than 20 years and so this is the option that we have most experience of managing. It would allow us to access private sector expertise for what is a complex service as well as the economies of scale of a large supplier. Service performance risk is often dependent on the quality of the

³ 'Teckal' company or sometimes known as the 'Teckal exemption' after the 1999 ECJ case *Teckal Srl v Comune di Viano and Azienda Gas-Acqua Consorziale (AGAC) di Reggio Emilia*. The judgement allowed an exemption to procurement regulations that allows public authorities to directly award contracts to a separate legal entity provided certain conditions are met in terms of the authority's direction and control over the legal entity and the 'essential' services provided. The 'Teckal' exemption has subsequently been incorporated in UK law in the Public Contract Regulations (Reg. 12).

contractor, the contractual remedies that can be actioned and the financial viability of the bid/operating model if it can be sustained over the length of the contract.

- **Insourced**

The principal benefit of operating the service in-house is having direct control over the operations. In-house costs are generally expected to be higher mainly due to pension on-costs and central support costs. For the Council the main risk would be in building the new service from the ground up including the major capital outlay and procurement of new vehicles and plants, attracting experienced management staff and the steep learning curve of operating the new service.

Whilst we have recent experience of this, having insourced the grounds maintenance team in 2017, taking on responsibility for the provision of recycling and waste collections would be a much higher risk and would involve significant capital investment in vehicles, depot facilities etc.

- **Teckal or Local Authority Owned Waste Company**

A number of Councils have over recent years taken advantage of the Teckal exemption to deliver a range of services including recycling and waste collections. The Teckal exemption allows the contracting authority or indeed authorities to establish a separate vehicle (ordinarily a company) to provide services back to it (or them) and provided the requirements of that exemption are met, a procurement exercise will not be required. It is most commonly used to deliver shared service.

The exemption was formerly based on case law and whilst case law will continue to be important it has recently been codified in the new Public Contracts Regulations 2015. In round terms exemption requires that:

- The authority(s) must control the vehicle as if it were an internal department
- More than 80% of the Teckal company's activities must be with its controlling authority
- There can be no direct private share or ownership participation in the company

Compared with an insourced service, the Teckal option would enable the service to be run in a more commercial setting and offers the opportunity to avoid incurring the considerable cost pressures which could arise from Standardisation of Terms and Conditions and the Local Government Pension Scheme implications.

Equally, when compared with the outsourcing approach, the Teckal option will clearly mitigate the cost of a procurement process, avoid the need to meet a contractor's profit margin, and would potentially provide greater control and flexibility over services.

Building on the work undertaken by Ricardo, officers have held discussions with Norse, a Teckal company wholly owned by Norfolk CC and visited Suffolk Coastal DC (SCDC) and East Cambridgeshire DC (ECDC) who both operate waste services through a Teckal company although each are taking a very different approach.

Suffolk Coastal DC

Norse Commercial Services (part of the Norse Group, which is wholly owned by Norfolk County Council) has now entered into joint ventures with over 20 other Councils.

The partnership arrangement dates back to April 2009, when SCDC entered into a service contract with Suffolk Coastal Services Limited (now Suffolk Coastal Norse Limited) for the provision of a range of services including waste management and grounds and buildings maintenance. At the same time SCDC acquired 20% of the shares of Suffolk Coastal Norse (SCN) which is a subsidiary of the Norse Group of companies which is itself a wholly owned subsidiary of Norfolk County Council. Profits and losses are shared 50%/50% with SCN.

The service model involves a governance arrangement which has Norse owning 51% of the company, with the business managed through a Board of Directors and includes a Partnership Board, which includes member representation.

Whilst this potentially provides a stronger level of control over service provision it does appear that this relies to a significant extent on the establishment and maintenance of strong inter-personal relationships between individual managers within SCN and SCDC. Whilst this can be made to work it appeared that there were risks that the relationship with SCN could evolve into them being treated as an external provider so negating some of the benefits.

East Cambridgeshire DC

East Cambridgeshire DC (ECDC) has taken a very different approach by establishing a bespoke Teckal exempt company which took over responsibility for waste collection services from Veolia earlier this year.

Whilst the service is still bedding it was clear from the discussions that the approach they had taken was providing a greater degree of control both in terms of service provision and budgetary control. Savings had accrued from merging the client operation with service delivery.

In contrast to the experience at SCDC the Teckal company was fully embedded within ECDC and appeared to offer the potential to be more closely aligned with Council objectives.

- 1.27 In conclusion, whilst the Teckal approach does offer some benefits there are equally significant risks involved in seeking to establish a Teckal company either alone or in partnership with one or more of the East Kent Districts. The recycling and waste collection service is a front line high profile service and operating this either in-house or as a Teckal company, would require significant capital investment and in order to succeed the Council would need to successfully recruit experienced staff to lead the service.
- 1.28 It is also recognised that the joint contract arrangements with FHDC have enabled savings to be derived from both the sharing of client management costs as well as the contractor's senior management and administration staff.
- 1.29 On balance therefore, it is proposed to proceed with the procurement of the next waste, recycling and refuse collection contract through a tendering process leading to the appointment of an outsourced service provider. This would appear to be the most cost effective option and the service delivery option with which we have the most understanding and experience of managing and the successful operation of the current contract.

1.30 FHDC are keen to continue to work jointly with DDC in procuring and operating a joint contract including the continuation of the joint contract management arrangements, which see the service being led by DDC with FHDC staff seconded to work with the Waste Services Team based at Whitfield. This proposal was agreed by Cabinet on the 16th October, subject to DDC agreement.

1.31 If Cabinet support the recommendation the project timetable for the procurement process is as follows:

Jan – Jun 2019	Approval of tender/service specification
Jun – Mar 2020	Procurement processes.
July 2020	Approval of tender award for contract appointment
Jan 2021	Start of new services

1.32 As regards collaboration in service provision with the other East Kent Districts, whilst discussions with Canterbury and Thanet continue, there are limited benefits to be derived through the creation of a single service arrangement. Canterbury continue to consider their options and it appears unlikely that Thanet will wish to change from the current in-house arrangement. Given the reasonably tight timeframe DDC needs to determine how it intends to proceed.

Street Cleansing

1.33 The current joint contract with Veolia UK does of course cover street cleansing across the two Districts as well as recycling & waste collections. Whilst the work undertaken by Ricardo was focused solely on the provision of recycling and waste collection services, decisions do also need to be taken about how the Council operates the street cleansing service when the contract ends in January 2021.

1.34 The alternative arrangements available for provision of the service are broadly similar to those outlined above. Street cleansing operations offer some clear synergies with the grounds maintenance service and the level of capital investment required is much less than is involved in say procuring refuse freighters. FHDC's Cabinet considered and agreed a report on October 17th, which proposed undertaking an options appraisal exercise looking into the operational costs, risks and benefits of insourcing the street cleansing service.

1.35 The FHDC report indicated that this exercise will seek to consider issues such as:

- Would an in-house option provide improved direction and control?
- What would the new service arrangements cost?
- How would the depot arrangements work and/or is there a need for investment in a new site?
- Are there benefits of operating street cleansing as a shared service between DDC & FHDC?

1.36 As the services are currently operated jointly, it is proposed to work with FHDC on this review and to provide a further report to Cabinet in early 2019 to tie in with the procurement plan outlined above, as this would still allow the street cleansing service to be incorporated in the specification for the waste collection service if this was considered the best approach or would allow a good lead in time for the procurement of plant and vehicles if the service was insourced.

Joint Working

- 1.37 Officers from Kent County Council (KCC) have been fully involved within the options appraisal exercise, which also considered the future working relationship between the East Kent districts, acting as Waste Collection Authorities and KCC, as the Waste Disposal Authority. This included looking at the future processing arrangements for recyclate and the form of any future performance payment mechanism.
- 1.38 Currently, the recycling processing arrangements are included within the 5-Way Inter Authority Agreement between the East Kent Districts and KCC and this KCC element of the service is included within the contract with Veolia. KCC have advised that when this contract ends in 2021 they will directly procure and contract the future recyclate processing agreements and so this will not need to be included within any contractual arrangements procured by the District Councils.
- 1.39 The 5-Way Inter Authority Agreement includes the arrangements for the payment by KCC to each of the East Kent districts of an annual 'Enabling Payment' to support the provision of services based on the current recycling methodology. This agreement also ends in 2021. The enabling payment as agreed sought to compensate the Districts for the notional additional costs of operating the services over and above simpler collection arrangements and also represents a payment for materials diverted, income generated from recyclate and lower waste disposal costs. The current enabling payment for DDC is fixed at £612,090 and is paid annually.
- 1.40 KCC have indicated that they are keen to see future payments be more closely related to performance payment, which is similar to the approach taken within West Kent and as reported to KCC's Environment & Transport Cabinet Committee on 15 May 2018. This has been partly driven by KCC's concern that the expected levels of diversion and revenue generated from recyclate sales anticipated under the current agreement have not been achieved and that any future payments made by KCC will only be paid to recognise actual cost savings realised.
- 1.41 As part of the recent review, Ricardo modelled the new proposed performance payment mechanism based on current recycling performance. For DDC this resulted in a similar annual payment this approach illustrates how reliant the new scheme would be on consistent data accuracy and the potential level of variance between financial years.
- 1.42 The present position is that KCC have offered to fix the performance payment subject to conditions calculated on recycling performance in 2019/20. This would help smooth the financial impact to annual budgets of price and performance variations. Discussions on the form of such a reward mechanism are ongoing and will ultimately need to be shaped into a formal legal agreement.
- 1.43 The Districts will be seeking that this agreement should also place obligations on KCC to invest in the provision of infrastructure to avoid the need to tip at separate sites and to make facilities available for the processing of recyclate at convenient locations.
- 1.44 Cabinet are asked to note the position with these discussions and authorise the Director of Environment & Corporate Assets in consultation with the Portfolio Holder to continue to negotiate and conclude with KCC a new performance payment mechanism to operate from 2021 that takes into account the current level of payments and the need to incentivise improving recycling rates.

Project Support

1.45 Now that the options appraisal exercise has been completed, work now needs to commence on the procurement and delivery stages as outlined above. If cabinet agree the recommendations to continue to work in partnership with FHDC, then further consultancy support is expected to be required for the following: -

- Project support for the procurement programme from planning stage through to service transition.
- Preparation of the tender specification and supporting documents.
- Legal support for the preparation of contract documentation and inter-authority agreements (if required).
- Market expertise and advice for the tender evaluation process.
- Any additional consultancy required for the Street Cleansing options appraisal.

1.46 Estimating the level of support necessary is difficult at this stage but based on the previous project in 2010, it is suggested that a total budget of £100,000 be allocated to support this work.

2. Identification and Evaluation of Options

2.1 There are two Options available to Cabinet:

Option 1: To accept the recommendations regarding the future service methodology for the recycling & waste collection service, the proposal to continue the joint arrangement with FHDC and the associated procedural arrangements and to note the proposals regarding the preparation of a business case for the street cleansing service.

Option 2: To take any other actions as Cabinet may advise.

2.2 Option 1 is the preferred option as the current contract arrangements end in a little over two years and work now needs to be undertaken to ensure continuity of service. The proposals outlined have been shown to provide the most cost effective solution and from the customer perspective, as the proposed collection scheme essentially remains the same, the scheme consistency and familiarity will hopefully ensure in maintaining recycling levels.

3. Resource Implications

3.1 To progress the project through the procurement phase, will require further consultancy support. It is proposed to allocate the sum of £100k for this purpose, £25k from the current year's contingency (Special Projects Reserve), with £75k Special Project reserve funding being proposed for inclusion in the Medium Term Financial Plan to cover costs in 19/20 (subject to approval of the 19/20 budget by Cabinet and Council).

4. Corporate Implications

4.1 Comment from the Section 151 Officer: Accountancy have been consulted and have nothing further to add (VB)

4.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

4.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications however in discharging their duties members are reminded to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>

5. Appendices

Appendix 1 – Gross Operational Costs: Out-source to In-source

6. Background Papers

None.

Contact Officer: Roger Walton Ext: 42420

Appendix 1 – Gross Operational Costs: Out-source to In-house



For Canterbury, Dover and FHDC modelled current private sector pensions of 3% and profit margins (6%); in-sourced pension of 23% and central recharge costs (7%);

Teckal private sector 3% pension and higher overheads (central support) 10% reflecting less opportunity for economies of scale.

- In-sourcing is likely to be more expensive due to pension impacts
- Teckal likely to be cheaper than in-sourcing as private sector pensions can be paid
- Extent to which out-sourcing delivers a saving depends on overheads and profit margin built into private sector cost model vs degree of additional resource required by the Council to bring services in-house

Ricardo PLC 2018