

North Yorkshire County Council
Business and Environmental Services
Executive Members

27 May 2022

**Changes to Services to be delivered by Yorwaste Ltd
using the 'Teckal' Procurement Exemption**

Report of the Head of Service - Waste

1.0 Purpose of Report:

- 1.1 To report to Business and Environmental Services (BES) Executive Members and the Assistant Director Travel, Environmental and Countryside Services (TECS) of proposed changes to services to be delivered by Yorwaste Ltd through a directly awarded contract using the 'Teckal' procurement exemption.
- 1.2 To inform BES Executive Members and the Assistant Director TECS of the mechanisms by which those changes are to be implemented.
- 1.3 To seek the necessary approvals to implement the changes and vary the services contract with Yorwaste Ltd.

2.0 Background

2.1 Services Contract

2.1.1 On 18 March 2014, the County Council Executive agreed:

- The principle of awarding relevant contracts for future waste services to Yorwaste Ltd without competitive procurement, where the conditions for the Teckal exemption are satisfied.
- To delegate authority to the Corporate Director (BES) to determine which future waste service contracts are to be awarded to Yorwaste Ltd.

2.1.2 To be able to use the Teckal exemption, Yorwaste Ltd has to satisfy three tests:

- The first is that the Contracting Authorities who are the shareholders of the company must exercise the same level of control over the company as they do over their own departments. North Yorkshire County Council ("NYCC") and City of York Council ("CYC") are the shareholders of the company and collectively have more than 50% of the voting members on the board;
- The second is that a minimum of 80% of the turnover of the company must be generated from work delivered to its shareholders (the 80:20 rule); and
- The third is that there is no direct private capital participation in the company.

2.1.3 On 18 September 2015, NYCC and Yorwaste Ltd entered into a contract ("the Services Contract") for the provision of waste management services utilising Teckal exemption. CYC and Yorwaste Ltd entered into separate services contracts at the same time. The individual services being provided are detailed in a series of schedules to the Services Contract ("Schedule"), each Schedule setting out the specification in relation to each service. The addition or removal of services is practically achieved by varying the agreement to add or remove Schedule(s).

- 2.1.4 A collaboration agreement was entered into between NYCC, CYC and Yorwaste on 18 September 2015 (the “Collaboration Agreement”). This provides the mechanism for collaboration in respect of waste activities across North Yorkshire and beyond. Additional Contracting Authorities wishing to join the collaboration are able to accede to the Collaboration Agreement using the process set out within the agreement. The service is then provided by the Teckal compliant company via either of the Authorities through the collaboration.
- 2.1.5 On 1 April 2020, Harrogate Borough Council entered into a Collaboration Agreement with NYCC, CYC and other Partner Organisations to allow NYCC to deliver waste management services on their behalf. These services are delivered through “the Services Contract” between NYCC and Yorwaste Ltd. Yorwaste are currently providing green waste and DMR processing through the Services Contract.
- 2.1.6 There is a potential conflict of interest in relation to the fact that the Corporate Director of Business and Environmental Services (BES) is also a Director of Yorwaste Ltd. For this reason, any Council decisions made in relation to Yorwaste Ltd were delegated to the Assistant Director, Travel, Environmental and Countryside Services on 15 March 2022.

2.2 Contract Schedules

Bulky Waste

- 2.2.1 The seven borough and district councils in North Yorkshire deliver a number of services in their role as Waste Collection Authorities (“WCAs”), including the collection of bulky waste from householders’ properties. Bulky waste includes items such as sofas and mattresses, large appliances and furniture.
- 2.2.2 Traditionally, the WCAs have carried out bulky waste collection services ‘in house’ or have sought a contractor to deliver the service on their behalf. Harrogate Borough Council (“HBC”) are currently outsourcing this service to a third party contractor and for propose for NYCC to appoint Yorwaste to discharge this function within the Service Contract with Yorwaste.
- 2.2.3 Yorwaste will be responsible for the collection of items from householder properties, and will deliver them to an NYCC nominated delivery point, which will be either be a household waste recycling centre or a waste transfer station. HBC will facilitate the booking and payment from householders.

Skip Service

- 2.2.4 HBC currently locate containers such as skips, at depots (a “Collection Point”) for the bulking up wastes such as sweepings and general waste before transporting to a disposal facility (a “Delivery Point”). HBC are currently outsourcing the transport element of this service to a third party contractor. The disposal of this waste is the responsibility of NYCC as a WDA. HBC propose for NYCC to appoint Yorwaste to collect waste from Collection Points and transport to Delivery Points as arranged by NYCC in their role as Waste Disposal Authority by a new Service Contract.
- 2.2.5 The Services Contract would require development of bespoke schedules for a bulky waste and skip service, to deliver the services required by HBC.

3.0 Benefits of the services being delivered under a Collaboration Agreement

3.1 Benefits to NYCC include:

- 3.1.1 The certainty and control that go with delivering services through a company owned by the Council;

- 3.1.2 Contributions to NYCC contract management overheads; and
- 3.1.3 Increasing the 80% public sector work enabling Yorwaste to increase the 20% share of the business
- 3.1.4 The awarding of this work to Yorwaste will help smooth the transition when local government reorganisation occurs. As the continuing authority, NYCC's contract with Yorwaste will continue uninterrupted without the requirement to novate a contract.
- 3.2 Benefits to HBC include:
 - 3.2.1 No requirement to carry out a procurement exercise;
 - 3.2.2 Better flexibility on changes to their service; and
 - 3.2.3 The householder will not see any change in the collection of their bulky waste.
- 3.3 Benefits to Yorwaste Ltd include:
 - 3.3.1 The introduction of new services which they are currently not undertaking for the WCAs, allowing them to expand the range of services which they currently offer;
 - 3.3.2 Reduces the risk of losing work to sector competition; and
 - 3.3.3 Longer term guarantee of services to allow longer term strategic investments in fleet to be considered and staff security in post.

4.0 Legal Implications

- 4.1 Yorwaste Ltd is a 'Teckal' company meaning that contracts are permitted to be directly awarded to it without the need for a procurement exercise by its owning Authorities. The award of the additional services by NYCC on behalf of HBC to Yorwaste Ltd are therefore in accordance with Regulation 12 of the Public Contracts Regulations 2015 (the "2015 Regulations").
- 4.2 In accordance with the Council's Contract Procedure Rules, a procurement Gateway 3 report was signed on 11 September 2015 to record the decision to award the Services Contract. This variation to the Services Contract will require a Gate 4(a) Contract Extension / Variation report under the Council's Contract Procedure Rules.

5.0 Financial Implications

- 5.1 There are no procurement costs using the proposed approach.
- 5.2 The charges will be passed to HBC from NYCC so there will be no direct impact on NYCC. There will however be a benefit to NYCC as increased services delivered by Yorwaste to HBC will reduce NYCC's proportion of fixed charges at waste transfer stations.
- 5.3 Yorwaste Ltd are currently required under the Services Contract to show value for money in all services that they currently deliver on behalf of the Council. All three parties will monitor the new Schedules against a range of agreed performance indicators to ensure value for money is being delivered.

6.0 Equalities Implications

6.1 There are no impacts on any of the protected characteristics for equalities as a result of the matters discussed in this report. An Equalities Impact Assessment screening form is attached at Appendix A.

7.0 Climate Change Implications

7.1 A Climate Change Impact Assessment has been completed, and concluded that Yorwaste managing the services would potentially reduce emissions from travel due to their current operations within Harrogate District and the location of their Waste Transfer Station at Harewood Whin. The form is attached at Appendix B.

8.0 Summary

8.1 On 18 March 2014 the Council's Executive agreed the principle of awarding relevant contracts for future waste services to Yorwaste Ltd without competitive procurement, where the conditions for the Teckal exemption are satisfied.

8.2 On 18 September 2015 the Council and Yorwaste Ltd entered into the Services Contract for the provision of waste management services, for a 10 year period with two 5 year extensions, following a period of work undertaken to ensure that the company met the conditions of the Teckal Exemption.

8.3 On 1 April 2020 HBC entered into a Collaboration Agreement with NYCC, CYC and other Partner Organisations to deliver economic and well-being benefits in their respective areas in relation to waste management.

8.4 This report seeks a decision to incorporate waste management services into the Services Contract to enable HBC to access the Services Contract using a collaboration agreement, as agreed in principle by the Executive.

9.0 Recommendations

9.1 That BES Executive Members and the Assistant Director TECS note the contents of the report.

9.2 That the Assistant Director TECS, in consultation with BES Executive Members, agrees the:

- Addition of two new Schedules to the Services Contract between NYCC and Yorwaste Ltd to deliver the provision of a bulky waste collection and skip service.

9.3 Implementation of the decision is subject to the necessary Gate 4a document being completed as described in paragraph 4 of the report.

Peter Jeffreys
Head of Service - Waste

Author of Report: Joanne Kearney

Background documents: None

| Initial equality impact assessment screening form | | | |
|---|---|-----|------------------------------|
| This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate. | | | |
| Directorate | Business and Environmental Services | | |
| Service area | Travel, Environmental and Countryside Services | | |
| Proposal being screened | Changes to Yorwaste Services Contract | | |
| Officer(s) carrying out screening | Joanne Kearney | | |
| What are you proposing to do? | To obtain approval to vary the Yorwaste Services Contract to add new Schedules to the to deliver a bulky waste collection from Householders properties and collection and transportation of waste to a delivery point, to Harrogate Borough Council | | |
| Why are you proposing this? What are the desired outcomes? | The decision to migrate waste management services to Yorwaste Ltd using an exemption from procurement regulations was agreed by Executive in March 2014. These are the next parts in delivering this change. | | |
| Does the proposal involve a significant commitment or removal of resources? Please give details. | No | | |
| Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics | | | |
| As part of this assessment, please consider the following questions: | | | |
| <ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? | | | |
| If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt. | | | |
| Protected characteristic | Potential for adverse impact | | Don't know/No info available |
| | No | Yes | |
| Age | X | | |
| Disability | X | | |
| Sex | X | | |
| Race | X | | |
| Sexual orientation | X | | |
| Gender reassignment | X | | |
| Religion or belief | X | | |
| Pregnancy or maternity | X | | |
| Marriage or civil partnership | X | | |
| NYCC additional characteristics | | | |
| People in rural areas | X | | |
| People on a low income | X | | |
| Carer (unpaid family or friend) | X | | |
| Does the proposal relate to an area where there are known | No | | |

| | | | | | |
|---|--|------------------------------------|---|-----------------------|--|
| inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details. | | | | | |
| Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion. | No | | | | |
| Decision (Please tick one option) | <table border="1"> <tr> <td>EIA not relevant or proportionate:</td> <td>X</td> <td>Continue to full EIA:</td> <td></td> </tr> </table> | EIA not relevant or proportionate: | X | Continue to full EIA: | |
| EIA not relevant or proportionate: | X | Continue to full EIA: | | | |
| Reason for decision | The decision is being taken to complete a contract award process. | | | | |
| Signed (Assistant Director or equivalent) | Peter Jeffreys | | | | |
| Date | 03/05/22 | | | | |



Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email climatechange@northyorks.gov.uk

Version 2: amended 11 August 2021

Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:

Planning Permission
Environmental Impact Assessment
Strategic Environmental Assessment

However, you will still need to summarise your findings in the summary section of the form below.

Please contact climatechange@northyorks.gov.uk for advice.

| | |
|---|---|
| Title of proposal | Changes to Yorwaste Services Contract |
| Brief description of proposal | To obtain approval to vary the Yorwaste Services Contract to add, where required, new Schedules to the to deliver bring banks and dry mixed recyclables reception, transport and processing services to Harrogate Borough Council |
| Directorate | Business and Environmental Services |
| Service area | Transport, Environment and Countryside Services |
| Lead officer | Peter Jeffreys |
| Names and roles of other people involved in carrying out the impact assessment | Joanne Kearney, Waste Management |
| Date impact assessment started | May 2022 |

Options appraisal

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

No

What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

The proposed new schedules being added to the Services Contract will be a cost to HBC rather than NYCC.

| How will this proposal impact on the environment? N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation. | | Positive impact (Place a X in the box below where | No impact (Place a X in the box below where | Negative impact (Place a X in the box below where | Explain why will it have this effect and over what timescale? Where possible/relevant please include: <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents | Explain how you plan to mitigate any negative impacts. | Explain how you plan to improve any positive outcomes as far as possible. |
|--|-------------------------------------|--|--|--|--|--|---|
| Minimise greenhouse gas emissions e.g. reducing emissions from travel, increasing energy efficiencies etc. | Emissions from travel | x | | | The change to Yorwaste will have a positive impact as Yorwaste will be working from a depot within 3 miles of Harrogate Borough area. | N/A. | N/A |
| | Emissions from construction | | x | | | | |
| | Emissions from running of buildings | | x | | | | |
| | Emissions from data storage | | x | | | | |
| | Other | | | | | | |
| Minimise waste : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic | | | x | | The waste hierarchy is already considered as part of the service delivered | N/A | Continue to encourage separation of wastes and recycling /reuse |
| Reduce water consumption | | | x | | | | |

| <p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p> | Positive impact (Place a X in the box below where | No impact (Place a X in the box below where | Negative impact (Place a X in the box below where | <p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> Changes over and above business as usual Evidence or measurement of effect Figures for CO₂e Links to relevant documents | <p>Explain how you plan to mitigate any negative impacts.</p> | <p>Explain how you plan to improve any positive outcomes as far as possible.</p> |
|--|---|---|---|---|---|--|
| Minimise pollution (including air, land, water, light and noise) | | x | | | | |
| Ensure resilience to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers | | x | | | | |
| Enhance conservation and wildlife | | x | | | | |
| Safeguard the distinctive characteristics, features and special qualities of North Yorkshire's landscape | | x | | | | |
| Other (please state below) | | | | | | |

Are there any recognised good practice environmental standards in relation to this proposal? If so, please detail how this proposal meets those standards.

N/A

Summary Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The change in contractor of these services to Yorwaste will potentially reduce travel distances as Yorwaste already operate within Harrogate district and operate a waste transfer station on the district boundary.

Sign off section

This climate change impact assessment was completed by:

| | |
|------------------------|--|
| Name | Joanne Kearney |
| Job title | Waste Contracts Manager |
| Service area | Transport, Environment and Countryside Services |
| Directorate | BES |
| Signature | Joanne Kearney |
| Completion date | May 2022 |

Authorised by relevant Assistant Director (signature): Michael Leah

Date: 13/05/2022