

# North Yorkshire County Council

## Executive

20 September 2022

### Selby District Council Outsourced Services Model

Report of the Assistant Director – Travel, Environmental and Countryside Services

*This report contains exempt information as described in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) (information relating to the financial or business affairs of any particular person (including the authority holding that information)) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information*

#### 1.0 Purpose of Report

1.1 For members of Executive to note the recommended decision of Selby District Council not to procure a replacement Environmental Services contract and to approve the recommendations made here to:

- directly provide recycling and waste services, street cleansing services and grounds maintenance services when the Selby District Council Environmental Services contract expires on 31 March 2024;
- to set up a cross department working group to mobilise the transfer of services prior to 1 April 2024;
- for officers to report back to Executive with a full capital and revenue budget for the transferred service in early 2023, following the serving of the contractual termination notice and receipt of service resource information (staff, fleet, plant and equipment and IT requirements).

#### 2.0 Background

2.1 The seven District and Borough Councils in North Yorkshire are Waste Collection Authorities (WCAs) and under the Environmental Protection Act 1990 have a duty to collect household waste from residential properties within their boundaries. North Yorkshire County Council is a Waste Disposal Authority and under the same act has a duty to provide disposal facilities for waste collected by a WCA.

2.2 With the exception of Selby District Council, the six other District and Borough Councils all directly deliver waste and recycling services in-house. Selby District Council has provided these services via third party contractors since 1999. The current contract commenced on 1 October 2009 and is due to expire on 31 March 2024. The integrated Environmental Service contract covers domestic and commercial waste and recycling collections, street cleansing services and grounds maintenance.

2.3 The new North Yorkshire Council as a Unitary Authority will have a duty under the Environmental Protection Act 1990 to arrange for the collection and disposal of

household waste and so a suitable contract succession plan must be in place to ensure continuity of the Selby District Council service. The new North Yorkshire Council will also have a duty to provide certain street cleansing and grounds maintenance services.

### 3.0 The Report

- 3.1 A business case for a new operating model for waste services for North Yorkshire has been developed to inform the contract succession plans for Selby District Council. The business case has reviewed current service provision, impacts arising from the Government's Resources and Waste strategy (R&WS) and integration of current services into a single model.
- 3.2 The impacts on collection from the R&WS, whilst not published, are anticipated to have a major impact on collection services over the next five to ten years. A single service model for waste collection will provide the best platform to manage and implement change, deliver service efficiencies and provide the basis for service consistency for all residents across North Yorkshire.
- 3.3 Local government reorganisation (LGR) will bring together seven waste collection services that all provide collections differently. Integrating and rationalising services to achieve service consistency will take time to achieve.
- 3.4 A key milestone in integrating services into a single model is having an approved contract succession plan for the Selby District Council contract which expires on 31 March 2024.
- 3.5 Selby District Council had produced a business case to inform the decision on the Selby District Council contract succession, with reference to the preferred operating model for waste for North Yorkshire Council which is being discussed by the LGR workstream. This business case is attached at **Appendix A** and includes three headline options which were considered for the new service delivery model. These options were:
  - as is (re-procurement)
  - direct provision ('in-house')
  - a 'Teckal' company
- 3.6 A key factor in undertaking the options appraisal has been the timescales required to deliver each option along with the Selby District Council contract expiry date and associated service transfer timescales. To manage a smooth transfer of service from Selby District Council's contractor to a new service model will take about 18 months and the contract terms provide for serving any relevant notices regarding contract termination 18 months prior to contract expiry. This requires a decision to approve the new service model prior to end of September 2022 allowing a contract notice to be served in October 2022.
- 3.7 Extensive work has been undertaken to deliver LGR and integrate waste services that has looked at all aspects of current waste services to plan for service change and integration. Whilst there are no major service changes planned prior to vesting day, work is ongoing in the development of integration plans for the service post vesting day.

- 3.8 The development of the business case for a single service model for waste is a key milestone in the integration planning. Political approval of the preferred service model in September 2022 allows sufficient time to manage the service transfer from Selby District Council's contractor into the new model upon contract expiry. Integration and rationalisation of the six in-house services will also commence after vesting day and allow for a seamless transfer of Selby District Council services on 1 April 2024.
- 3.9 Three service model options have been appraised within the business case as summarised in para 3.5 above. Whilst the option of remaining as is with a re-procurement of current services has been appraised, this can be discounted as this does not provide a single service model. The option of transferring services into an existing 'Teckal' company owned by NYCC (Yorwaste) has been appraised but the timescales for achieving such a service transfer are the biggest argument against this model as Yorwaste do not currently provide these services to the Council; equally a 'Teckal' company for Selby District Council services does not provide a single service model. The model of a direct provision single countywide service is overwhelmingly the best option from an operational perspective.
- 3.10 A report recommending that a replacement contract is not procured and that termination notice is served on the current contractor went before Selby District Council's Executive on 1 September 2022. Within that report is a financial appraisal comparing the Selby District Council contracted service with in-house direct provision has concluded that such a transfer would be broadly cost neutral to North Yorkshire Council.
- 3.11 Serving of the termination notice requires the contractor to provide all necessary information to affect smooth service transfer, which will include but is not limited to-
- Staff effected
  - Vehicles and plant
  - IT systems
- 3.12 Provision of this information will be used to create a service budget for waste and recycling, street cleansing and grounds maintenance services.

#### Service Mobilisation

- 3.13 The transfer of contracted services to the new North Yorkshire Council will require a detailed mobilisation plan with specialist support from a number of departments including but not limited to HR, Legal, Finance, ICT, Fleet, Procurement and Communications. A high-level mobilisation plan is included in the business case at Appendix A and highlights a number of key work packages including-
- TUPE transfer of employees
  - Depot establishment (including relevant licenses and insurance)
  - Vehicle and plant provision
  - ICT Systems Development
- 3.14 In addition to these work packages, new arrangements will need to be procured to support the continuation of collection services and include bulking, hauling and processing of dry mixed recycling (DMR). These third party contracts are currently managed by Selby District Council's contractor and not directly by the Council. Yorwaste who manage DMR for some of the District and Borough Councils, confirm that Selby's materials can be accommodated to ensure consistency of service and best value.

- 3.15 Whilst the focus of the business case is waste and recycling services, the Selby District Council contract also includes the provision of street cleansing and grounds maintenance services which will also need to transfer to the new North Yorkshire Council.
- 3.16 Along with the TUPE transfer of employees in these work areas, mobilisation will need to include-
- The purchase of relevant fleet (the waste collection fleet and the large mechanical sweeper is owned by Selby District Council but other vehicles used for these services are not, including two supervisor vans, one footpath/precinct sweeper, four 3.5 tonne caged tippers, and three smaller ground maintenance trucks vans with an total approximate capital value of £365k)
  - Purchase/hire of relevant grounds maintenance equipment including mowers, strimmers, leaf blowers and chain saws, with an approximate capital value of £40k for four ride-on mowers, plus additional costs for the smaller plant and equipment)
  - Provision to collect and dispose of large scale and hazardous fly tips
  - Arrangements to dispose of grounds maintenance waste.
- 3.17 To address mobilisation issues and to successfully transfer services to the Council, it is recommended that a cross department working group is established by October 2022 for completion by March 2024.

#### **4.0 Equalities**

- 4.1 An Equalities Impact Assessment screening has been completed at **Appendix B**, and a full EIA is not required at this time. Any future proposed service changes will be subject to separate EIA screening.

#### **5.0 Finance**

- 5.1 A financial evaluation has been carried out by Selby District Council, the detail of which is contained within the North Yorkshire Waste Management New Operating Model Business Case at Appendix A. As referenced in point 3.9 of the report, the TEKAL option is not viable for non-financial reasons, and therefore only the external provider and in house options have been financially appraised.
- 5.2 The analysis assumes most costs remain the same between the external provider and in-house options. The areas where it is anticipated there will be differences are:
- Shared costs currently charged in the contract would largely be picked up by existing resources in house
  - No profit requirement on the in house option
  - Higher pension costs in house due to higher employer contribution rate
  - No requirement for a contract manager post in house.
- 5.3 Whilst the above would indicate a small saving, there are a number of assumptions in the analysis, so it is more reasonable at this stage to conclude that transferring services to the new North Yorkshire Council at contract expiry would be cost neutral.
- 5.4 Following the serving of the termination notice, the contractor is required to provide all necessary information to affect smooth service transfer. Provision of this

information will be used to create a service budget for waste and recycling, street cleansing and grounds maintenance service. Officers will report to the Executive following receipt of this information with a full capital and revenue budget requirement for the service. It is currently estimated that purchase costs for capital replacement for additional fleet and mowers is £405k. Revenue financing costs associated with this capital are expected to be covered by the existing financing costs that form part of the current external provider contract. Revenue costs of mobilisation are expected to be covered by existing resources, and therefore no additional costs required.

5.5 Fees and charges have not been considered as part of this report as they are being reviewed separately as part of LGR.

## 6.0 Legal

6.1 A local authority can choose to provide services directly that have previously been contracted out if it decides this is the best option for service provision.

6.2 The new North Yorkshire Council as a Unitary Authority will have a duty under the Environmental Protection Act 1990 to arrange for the collection and disposal of household waste and so a suitable contract succession plan must be in place to ensure continuity of service post contact expiry.

6.3 TUPE will apply to any organised grouping of employees working for the contractor who had the principal purpose of carrying out the activities required by the contract. These employees will be entitled to transfer to North Yorkshire Council when the contract ends and the service is brought in house. All such employees will be entitled to transfer on their own terms and conditions of employment. Action will be required prior to a transfer to ensure that obligations for consultation with trade unions or employee representatives and sharing information with employees can be properly met.

## 7.0 Climate Change

7.1 A climate change impact assessment has been completed, attached as **Appendix C**.

## 8.0 Recommendations

8.1 It is recommended that Executive notes the content of the report, decision of Selby District Council Executive not to re-procure the contract and approve:

- the in-house provision of services contained in Selby District Council's Environmental Services contract by North Yorkshire Council from 1 April 2024;
- the establishment of a cross department working group to mobilise the transfer of services from October 2022; and
- officers report back to the Executive in early 2023 with a full capital and revenue budget for the transferred service, following the serving of the contractual termination notice and receipt of service resource information (staff, fleet, plant and equipment and IT requirements).

Michael Leah  
Assistant Director – Travel, Environmental and Countryside Services

Authors of Report: Aimi Brookes, Service Development Manager - Waste

Peter Jeffreys, Head of Service - Waste

Background Documents:

Appendix A – Equality Impact Assessment Screening Document

Appendix B - North Yorkshire Waste Management New Operating Model Business Case

Appendix C – Climate Change Impact Assessment

Appendix D - CONFIDENTIAL – Financial Appraisal