

CABINET

23 MAY 2025

REPORT OF THE PORTFOLIO HOLDER FOR ENVIRONMENT & ICT

A.2 UPDATE ON THE WASTE AND RECYCLING COLLECTION AND STREET SWEEPING CONTRACT PROCUREMENT

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To provide an update to Cabinet following receipt of detailed submissions from bidders at the Invitation to Submit Detailed Solutions (“ISDS”) stage of the procurement process, to set out options for the way forward and seek agreement to a revised set of Core Specification Principles based upon the following circumstances:

- Greater Essex is now part of the Government’s Priority Programme for Devolution which includes responding to Local Government Reorganisation (LGR), which has been announced since the commencement of the procurement process and the risk and uncertainty that this brings; and,
- the detailed solutions received from the bidders indicate a contract price that is not affordable to the Council.

EXECUTIVE SUMMARY

- At its meeting on 26 July 2024, Cabinet agreed to the commencement of a procurement process to appoint a contractor to deliver the Council’s waste and recycling collection and street cleaning service from 2026 onwards, based upon a set of principles, which translated into a specification for detailed solutions to be submitted against.
- The Council’s project team has been supported throughout the procurement process by four external organisations, chosen for their experience in supporting similar procurements elsewhere.
- The procurement process largely adhered to the timeline previously suggested and is now well under way and the first detailed solutions have been submitted by the bidders.
- The price for these detailed solutions is not affordable by the Council, being potentially over £7m per annum above the current associated budgets.
- Now that the detailed solutions have been submitted, officers will be entering into competitive dialogue discussions with each individual bidder, after which the Council’s requirements are finalised, and final detailed solutions (tenders) are invited.
- As part of the process so far, officers have provided feedback to the bidders involved on their submissions to date and held two dialogue sessions with them aimed at reducing the contract price.

- Whilst price reductions are possible, they do not bring the price to a level that is affordable to the Council over the proposed contract term.
- All of the work undertaken on the procurement so far, including the development of the service specification, has worked to a set of Core Specification Principles that were adopted by Cabinet in July 2024.
- Since the commencement of the procurement process central government has announced proposals for Devolution and Local Government Reorganisation (LGR) and the Council, being part of Greater Essex, is now on the Government's Priority Programme. LGR in particular casts a question over whether the Council should now, at this stage, be entering into a minimum eight year contract when the councils it is likely to be merged with operate different delivery models for services for waste including in-house provision. The new unitary authority is also likely to become both a waste collection and a waste disposal authority (as defined in the Environmental Protection Act 1990).
- From an elected member administration view, a shorter contract term allows the new unitary authority scope to determine how services will be aligned much earlier in its life, potentially realising better value for money and greater efficiencies sooner. These were options explored earlier in the process but before Greater Essex was invited to submit LGR proposals.
- The Council has received External Legal Advice on options on the way forward, that is considered in Part B (due to legal professional privilege), and **Cabinet should ensure an assessment of the advice, analysis of the risks and their mitigations is undertaken prior to the recommendations set out in this report being determined.**
- It is recommended that the Core Specification Principles are altered to reflect:
 - a shorter contract term;
 - a reduction in specification aimed at reducing the level of risk and uncertainty whilst increasing affordability;
 - that the Council does not take any risk on the value of the dry mixed recycling (DMR) collected at the kerbside; and,
 - that the Council does not fund the up-front purchase of any vehicle fleet.

RECOMMENDATION(S)

It is recommended that following consideration of the legal advice and options available (in Part B) and following its assessment and analysis of the risks and their mitigations, and the contents of that report, Cabinet:

- (a) notes the extensive work undertaken on the procurement process so far, both by officers and external consultants following the Core Principles adopted in July 2024 and subsequent decisions;**
- (b) acknowledges the impact of Greater Essex being part of the Government's Priority Programme and responding to Local Government Reorganisation, the Council must reassess its position with regards to the duration of the contract term;**

- (c) acknowledges that in addition to (b) above, the information received through the current procurement exercise to date would place the Council in the position of not being able to reasonably afford the cost should it decide to continue with the service as currently specified;**
- (d) agrees that in addition to (b) and (c) above, to balance associated risks, uncertainty and value for money alongside affordability, the option to purchase the vehicle fleet and the risk sharing option in respect of DMR will no longer be considered;**
- (e) is committed to ensuring it continues to fulfil its statutory duties and provide a Waste Collection service beyond the ending of the current contract in March 2026 and complying with the additional requirements of the Environment Act 2021 from April 2026;**
- (f) subject to (b) to (e) above and having considered the legal advice and options available (in Part B) and following its assessment of the advice, analysis of the risks and their mitigations, and the contents of this report, agrees to continue with the existing procurement process but with amendments to the contract length and specification (Option 1) based on the following key principles:**
- (i) the contract term will be reduced to 3 years with an option for an extension period of 2 years based upon responding to the risk and uncertainties of LGR;**
 - (ii) a reduction in the service specification to ensure affordability and comply with our statutory duty to provide a waste collection service and street cleaning service;**
 - (iii) the Council will not take any financial risk on the value of DMR material collected (Service Delivery Option A); and**
 - (iv) the Council will not fund the up-front purchase of any vehicle fleet (Vehicle Funding Option B).**
- (g) in addition to (e) and (f) a revised set of Core Specification Principles, as set out in Table 3, will form the basis of the revised detailed contract specification;**
- (h) authorises the Corporate Director for Operations & Delivery, in consultation with the Leader of the Council, the Portfolio Holder for Environment & ICT, the Portfolio Holder for Assets and Community Safety, the Section 151 Officer and the Monitoring Officer, following the dialogue stage, to determine the detailed revised service specification for the Invitation to Submit Final Tenders stage, ensuring the principles set out in (f) above are adhered to;**
- (i) approves an additional budget of £100k be made available for consultancy support funded via the Corporate Investment Fund, taking the total budget to date to £0.400m; and**
- (j) acknowledges that a further report will be presented to Cabinet following the evaluation of final tenders, which will include proposed financial / budget adjustments as necessary.**

REASON(S) FOR THE RECOMMENDATION(S)

The Council's contracts with Veolia Environmental Services for household waste and recycling collection and street sweeping both expire on 1st April 2026. As such, a contractor needs to be found to deliver these services on expiry of the current arrangements.

The recommendations will ensure that the Council continues to progress the future of this important statutory service, meeting its affordability envelope whilst complying with the Environment Act 2021 requirements due to be introduced during 2026.

Under the Environmental Protection Act 1990 the Council is designated as a Waste Collection Authority (WCA) and as such has a statutory duty to collect household waste and recycling from homes in the district. From 2026, the Council will be required under provisions in the Environment Act 2021 to collect a wider range of recyclable material and as such any new service commencing in 2026 must be compliant with this requirement.

The procurement exercise for the new contract for 2026 and beyond commenced before the announcement of LGR. The Council is part of an early stage of the LGR process and is anticipated to be merging with other local authorities in Essex to form a new Unitary Authority (subject to Government's decision). The new Unitary Authority is expected to be vested in May 2028 and as such it is anticipated that when the new Unitary Authority is set up, it will seek to rationalise the contracts that will automatically novate (through the Structural Boundary Change Orders) across from their sovereign Councils. With neighbouring councils that the Council could be merged with (as a minimum Braintree and Colchester) both providing waste services through an "in house" service it has become prudent that the next contract procured for the district of Tendring should be of a suitable duration so that the Unitary Authority does not have to delay any ambitions to harmonise services across the new, larger council.

The Government has indicated in feedback on LGR Interim Plans that further detail would be helpful on potential service transformation opportunities and invest-to-save projects from unitarisation across a range of services e.g. for front line services, and whether different options provide different opportunities for back-office efficiency savings. It is clear from this statement that continuing with an eight year contract term would not align with Government's expectations.

At the ISDS stage of this procurement bidders were asked to price three options for the handling of dry mixed recycling and two options for vehicle purchasing with the view that the Council would select one of each option for final tender stage. The recommendations have reflected upon these previous options, which are now being amended due to the uncertainties and risks of responding to LGR and the affordability position.

ALTERNATIVE OPTIONS CONSIDERED

The table below provides clarity for readers on the different options discussed in the report.

Table 1 - Procurement process i.e. the options that are being considering now

Option 1	Amend the procurement – reduced specification and contract length.
Option 2	Abandon the procurement and launch a new procurement under the Procurement Act 2023 for a short term contract based on the specification and contract length as proposed for Option 1.

For options 1 and 2 above a decision is required in relation to the purchase of the vehicles and the risk share for dry mixed recycling (see Cabinet Paper July 2024 for initial considerations)	
Funding of Vehicles	
Vehicle Funding Option A (VFOA)	Council funds vehicle purchase up front
Vehicle Funding Option B (VFOB)	Contractor funds vehicles
Dry recycling value risk share	
Service Delivery Option A (SDOA)	100% risk to the contractor
Service Delivery Option B (SDOB)	50/50% split on risk
Service Delivery Option C (SDOC)	Bidders proposed % split
<p>Wider considerations and options are set out elsewhere in this report.</p> <p>Options associated with either ending or continuing with an amended procurement process are considered in detail in Part B.</p>	

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES			
<p>This decision will contribute to the Corporate Plan 2024 – 28 (Our Vision) themes of:</p> <ul style="list-style-type: none"> • Pride in our area and services to residents • Championing our local environment • Financial sustainability and openness <p>Additionally, Cabinet agreed at its meeting in March 2025 to a set of Highlight Priorities for 2025/26. One of those priorities is to complete the procurement of the waste contract.</p>			
OUTCOME OF CONSULTATION AND ENGAGEMENT (including with the relevant Overview and Scrutiny Committee and other stakeholders where the item concerns proposals relating to the Budget and Policy Framework)			
<p>The Leader of the Council and the Portfolio Holders for Environment & ICT and Assets & Community Safety have all been involved in the development of the service specification that bidders received at the ISDS stage of the procurement.</p> <p>Those portfolio holders along with other members of Cabinet have been consulted as part of the development of this report.</p>			
LEGAL REQUIREMENTS (including legislation & constitutional powers)			
Is the recommendation a Key Decision (see the criteria stated here)	YES	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the	11 March 2025

		Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	
<p>Local Government Reorganisation (LGR)</p> <p>The Secretary of State for Housing, Communities and Local Government, in exercise of his powers under Part 1 of the Local Government and Public Involvement in Health Act 2007 ('the 2007 Act'), invited any principal authority in the area of the county of Essex, to submit a proposal for a single tier of local government. An interim plan was submitted in March 2024, as endorsed by Council and approved by the Leader.</p> <p>Statutory Requirements</p> <p>The household waste and recycling collection and street sweeping services are a statutory function of the Council under the Environmental Protection Act 1990 with the Council designated as a Waste Collection Authority (WCA). Essex County Council (ECC) is the Waste Disposal Authority (WDA).</p> <p>As has been highlighted recently elsewhere in the country, the collection of household waste is a critical service for the Council with significant public health, reputational and financial consequences if a service is not provided consistently. It is therefore important that the Council procures the right level of service and one that is affordable.</p> <p>The Council has an existing Inter Authority Agreement (IAA) in place with ECC who in addition to handling the disposal of the residual waste collected, also fund the food waste collection service provided in the district and undertake the disposal of the food waste. ECC also receive and arrange the composting of the garden waste collected. It is not anticipated that this tender process will affect the IAA and the funding and waste disposal arrangements provided under it.</p> <p>The Environment Act 2021 amended some sections of the Environmental Protection Act 1990 (EPA 90) and introduces some additional responsibilities in respect of the collection of household recycling. Section 45 of the EPA 90 covers the collection of household waste. As set out in the EPA 90 and the Separation of Waste (England) Regulations 2024 from 31 March 2026, Councils will be expected to collect a wider range of recyclable materials from the kerbside including glass. Unlike the original Environment Act proposals, there will not be a requirement that these materials are collected separately and a comingled collection will be permitted. From 31 March 2027 Council will be required to undertake a kerbside collection of flexible plastic films for recycling. The service specification used at ISDS stage was designed to account for these new, additional requirements.</p> <p>The Government policy statement published on 29 November 2024 states that the new default requirement for most households and workplaces will be 4 containers for:</p> <ul style="list-style-type: none"> • residual (non-recyclable) waste • food waste (mixed with garden waste if appropriate) • paper and card • all other dry recyclable materials (plastic, metal and glass) 			

This is what the bidders have proposed at ISDS stage along with a separate garden waste collection as specified.

The current position and proposed amendments to the service specification and contract length

The External Legal Advice attached to Part B (due to legal professional privilege) sets out the legal implications. Particular attention to the advice concerning the recommended way forward is required and Cabinet should ensure an assessment of the advice, analysis of the risks and their mitigations is undertaken prior to the recommendations set out in this report being determined.

Under the Public Contract Regulations 2015, the Council is under an obligation to set out its requirements and needs in the 'Find a Tender Service (FTS) Notice' and the descriptive document (Reg 30(6)) in a transparent way such that economic operators considering the opportunity have enough information for them to make an informed decision on whether they tender or not. Such requirements and needs should remain the same through the procurement, subject to dialogue, such that the Contract awarded is in line with the contract advertised.

YES	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
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The proposed recommendations are responding to the situation the Council finds itself in, as set out in detail throughout the report, and allowing the current procurement exercise continuing within a revised set of Core Specification Principles but allowing some flexibility between Cabinet's decision and the detailed specification being finalised following an Officer's decision, which will be recorded in the normal manner. The expectation is that the procurement process will continue until final tenders are received and a report back to Cabinet at that stage, prior to awards of contract being made.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The current procurement process brings a number of individual elements relating to the collection of waste and street cleaning together, with existing budgets therefore held cross various lines of the forecast. In aggregate these budgets total **£6.831m** in 2025/26 and this is therefore the comparable figure against which the outcome of the tender process needs to be compared. It is important to highlight that additional / separate budgets are held within Parking Services and the HRA to meet their individual costs associated with cleaning of car parks and the estate.

In terms of early considerations of affordability ahead of the tender process commencing, the risk had been recognised within various financial performance / budget reports, including the acknowledgement of an underlying general cost pressure 'allowance' of **£0.500m**, alongside the recognition that on-going revenue 'headroom' may have to be identified within the budget via efficiencies and savings over and above this general 'allowance' if required. Subject to the scale of the additional on-going revenue funding required to meet the cost of the new contract, it was also acknowledged that this may have to be complemented by the use of existing one-off funding over the life of the contract or as part of a transitional / hybrid approach.

Based on the most up to date position emerging from the current tender process, and notwithstanding the significant change / impact from local government reorganisation, the scale of additional funding required to meet the cost of an eight year contract is significant and is deemed to be unaffordable as discussed below.

The current procurement process is inherently complex with various options included such as risk sharing around dry recyclable material prices and the Council funding the vehicles associated with the delivery of the contract up-front, being a potential alternative approach to the contractor funding the vehicles with the potential that the council can borrow funding at a lower rate than the contractor.

The evaluation of tenders is therefore equally as complex and comprehensive, with a brief summary of the process so far being as follows:

- Upon receipt of the Bidders Detailed Solutions, evaluation was undertaken in accordance with the Evaluation Framework and Model published in the Invitation to Submit Detailed Solutions, and the Bidders were provided with the scores and feedback for guidance only.
- The feedback was not exhaustive, and not all areas were listed. The purpose of the feedback was to provide Bidders with general guidance on development of their response for final tender stage and not to correct the responses or to reduce the number of Bidders.
- The Bidders were informed to further develop their method statements and to identify and address weaknesses and areas of concern as applicable and to note that any amendments they proposed to their Solutions at Final Tender stage may result in increases or decreases to the scores allocated at Detailed Solutions stage.
- Evaluation and feedback on behalf of the Authority did not provide any scores for the price submissions. However, all Bidders were notified that their financial submissions were currently in excess of the Authority's budget for the services.
- With the above in mind and following informal consultation with Cabinet, the Authority invited the bidders an opportunity to discuss possible changes to the Specification at the first dialogue session. In addition, the Authority sought to understand ways in which the Bidders considered the costs could be reduced.
- Two dialogue sessions have since been held with the bidders. The first session was used to explain the challenge associated with affordability and to discuss aspects of the specification where officers felt that could be amended in order to reduce the price. The bidders were invited to consider these possible areas for price reduction along with others where they felt that either their bids could be adjusted or the service specification amended.
- Bidders followed up by submitting affordability papers that officers and the council's consultants were able to consider in advance of the second dialogue meeting.
- Bidders were able to propose sizeable potential price reductions that facilitated good discussions during the second dialogue meeting. In terms of affordability, potentially the most cost effective option emerging from the current procurement process to date is set out in Part B.

Taking the indicative figures set out in Part B into account, the additional on-going revenue funding required over and above existing annual budgets would potentially be in excess of **£7.000m** per year, over double the existing budget. It is very difficult to isolate the elements that have contributed to the increases in costs compared to the existing contract, but it will include a significant element relating to the requirements emerging from the Environment Act 2021 that specifies the provision of a kerbside glass collection service, food waste collections and from 2027 flexible plastics from all properties over and above the services already provided. It is also accepted that the underlying costs of contractors within the market would have also significantly increased over recent years as well as their view of the risk of further adverse factors over the

contract term, which they would have priced into the submissions. It is also acknowledged that taking various such factors into account has led to not being able to identify through the current procurement process an option that remains within the existing budgetary 'envelope' as originally highlighted within earlier reports.

There is a real risk that the annual net cost set out within Part B could be even higher in practice as estimates of items such as the income from recyclable material and changes in legislation are difficult to forecast, along with prevailing interest rates. These amounts are therefore effectively 'provisions' for risks that the Council could be exposed to over the life of the contract.

Conversely, costs could also be higher if any risks are transferred back to the contractor as included within options set out within the current tender, as their prices would undoubtedly reflect risk premiums. The current tender process and proposed approach therefore continues to seek to balance the level / elements of risk transfer between the contractor and the Council across the various permutations to deliver affordability and value for money.

Notwithstanding the impact of LGR, especially around the length of the contract, the options emerging from the current procurement process to date are unaffordable. This applies to both:

- the use of one-off funding to meet the shortfall across the current initial eight year contract term, and;
- the identification of corresponding revenue savings elsewhere within the General Fund budget to meet the on-going annual short fall of over **£7.000m** per annum.

In terms of the first point, this would require in excess of **£56.000m** (over the initial term) being identified and set aside ahead of any contractual commitments being made. The Council does not have access to this scale of one-off funding within its current financial position.

In terms of the second point, the current annual shortfall equates to approximately 40% of the Council's current net budget. The identification of offsetting / on-going revenue savings over the life of an eight year contract would undoubtedly present the risk of the Council not being able to deliver its statutory / core functions and at serious financial risk of not having enough money to meet its annual forecast expenditure.

It is also worth highlighting the timing of the expiration of the current contract has coincided with a number of events emerging during the tender process which include:

- the new Environment Act 2021 requirements
- LGR
- Changes in the wider market
- Potential upcoming changes in legislation
- The Local Government spending review

Along with the affordability issues emerging from the current tender process highlighted above, the Council is faced with a number of difficult challenges and a high degree of uncertainty.

The Council therefore has no realistic alternative but to explore alternative approaches to enable it to meet its statutory obligations without jeopardising the Council's financial standing, including exploring ways to reduce risks and uncertainty in the most pragmatic and reasonable way possible. With the emergence of LGR during the current tender process, this along with affordability issues now frame the potential options going forward. This includes acknowledging

the potential opportunities that LGR may provide and highlights the pragmatic advantages of a potentially shorter term / interim solution through to 2029/2030, which could effectively 'bridge' the time between now and the establishment of unitary authorities from 2028, when a longer term view can be taken.

Other Potential Issue - Extended Producer Responsibility (EPR) funding

The Authority has received notification from DEFRA that our estimated total pEPR payment for 2025/26 will be £892,000, which in theory covers the estimated costs associated with collection of household packaging waste from kerbside and communal collections, and waste brought to bring sites only. The payment may also cover the cost of handling, sorting and sale of dry recyclable material where appropriate.

Given the significant reduction in other elements within the Government's wider funding announced within and alongside the recent Local Government Finance Settlement for 2025/26, this funding has effectively been included already within the base budget to offset reduced funding elsewhere – it can therefore not be treated as additional grant income to support the cost of the current tender.

In future years, it is expected that this will again form part of the wider / overall funding settlement rather than as net additional funding available to Local Authorities. This is therefore not a relevant consideration at this stage of the tender process.

Other Potential Issue - Food waste funding

The authority is already in receipt of £270,000 new burdens funding to provide a kerbside food waste collection service to approximately 11000 properties that currently do not receive the service. This initial funding is for the procurement of the food waste containers and additional collection vehicle(s). Discussions with other Councils in Essex has highlighted that the level of funding is of concern and may not be reflective of the actual costs to provide these additional capital projects. An additional £78,000 grant funding has also been allocated to the Authority with the grant intended to cover the costs associated with Officer time for the purchase of containers, vehicles, re-routing of collection rounds, communications and I.T burdens.

There may therefore be potential additional capital costs over and above those set out in Part B. Other potential capital costs have also been excluded at this stage (i.e. if there was a change in containers used), but this will form part of the next stage of the process as set out elsewhere in this report.

Support funding

A current budget allocation of **£0.300m** has been set aside to support the preparation and procurement of the new contract. This budget has so far been spent in the following areas:

Table 2 – Budget allocation / spend to date		
Activity	Delivered by	Spend / Commitment
Preparation of an Options Appraisal and Outline business case and	The East of England Local Government Association	£34,853 to date
Procurement support	Essex County Council	£19,851 to date
Specification writing	WRM Sustainability Ltd	£18,561 to date
Legal advice	Sharpe Pritchard LLP	£85,472 to date
Financial consultancy advice	Eunomia	£27,895 to date

Communications	TDC Communications Team	£15,000 estimated requirement at service rollout stage
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A total of £186,632 has so far been spent on consultancy services leaving a budget of £113,368 remaining. The budget of **£0.300m** was considered to be sufficient for consultancy costs although the additional support that has been drawn upon in relation to the challenges set out within this report has increased the anticipated spend. It is proposed that a further £100k be made available, funded by a transfer from the Corporate Investment Fund which currently totals **£4.457m**.

Vehicle procurement

At ISDS stage of the procurement program bidders were required to provide two funding options for vehicle procurement. Vehicle Funding Option B (VFOB) was where the bidder financed and purchased the vehicles and Vehicle Funding Option A (VFOA) where the Authority financed the vehicles. The rationale being that the Authority can access prudential borrowing at cheaper interest rates compared to commercial rates available to bidders. The difference in cost between VFOA (Authority financing) and VFOB could be in the region **of £2.000m** over the duration of the eight year contract with VFOA potentially being the lowest cost option.

Although it is acknowledged that the option of the Council purchasing the required vehicles provides in principle the lower cost option, the emergence of LGR during the current tender process along with the affordability issues highlighted above, raises significant value for money questions when taken over the originally anticipated eight year contract. This Council accessing borrowing ahead of LGR and the ability to defray costs over a potentially shorter period of time reduces the potential associated advantages of VFOA.

Dry mixed recycling risk share

As part of the detailed solutions stage of the procurement, bidders were requested to provide costings for three options to manage, process and sell the Dry Mixed Recycling (DMR) collected at the kerbside on the materials markets. These three options consisted of the bidder taking 100% risk of the material (Service Delivery Option A (SDOA)) and presented as the Council's preferred option at ISDS), 50% shared risk with 50% laying with the Authority (Service Delivery Option B (SDOB)) and a bid back option where bidders could propose an alternative risk share (Service Delivery Option C (SDOC)).

As part of the market research with potential bidders, SDOB and SDOC were preferred as commodity markets can fluctuate and sharing the risk with the Authority provided a buffer to bidders and reduced the contract cost associated with risk pricing.

For context, the reference to risk share of the DMR is based upon the quantity and quality of the material collected at the kerbside, how this material is processed and sorted into their constituent materials and then ultimately sold on the commodity market as a valuable recyclable resource. Each type of material collected at the kerbside will have its own market value, be that as revenue or cost and it is these values that can increase or decrease from month to month and is what constitutes part of the risk share mechanism. Other factors included within the risk share are costs associated with the disposal of contamination and non-target materials collected and the processing/sorting costs of sending these materials to a Materials Recovery Facility (MRF).

With the implementation of the Environment Act 2021 increased materials will have to be collected at the kerbside, including glass, plastic pots, tubs trays, cartons and flexible plastics (2027) by all collection authorities which could have the impact of flooding the materials commodity market and pushing down prices. Additionally Deposit Return Scheme (DRS) is set to be implemented in October 2027. The scheme will cover single-use drink containers made from plastic, steel, and aluminium, ranging in size from 150ml to 3 Litres plastic bottles. Removing these materials from the kerbside collection will reduce the overall value of materials sent for processing and subsequent revenue.

Similarly to the vehicle funding options, the emergence of LGR means that the Council needs to maintain a focus on balancing risk, uncertainty and value for money. In light of the relatively short contract period proposed, SDOA remains the preferred approach. It is however acknowledged that the potential annual cost of this approach could be approximately £0.250m higher per annum than the alternative options, but removes the potential volatility risk within future commodity markets.

Yes	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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There are no major additional comments, as the points set out elsewhere in the report adequately reflect the significant financial challenges associated with the current procurement process. The Council's response to meeting the final contract costs that emerge from the proposals set out within this report will be included within the associated report to Cabinet later in the year and will be based on the approach set out elsewhere i.e. the use of one-off funding / potential identification of offsetting savings and efficiencies as necessary.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Following submission of detailed solutions by bidders the bids are unaffordable and outside of the Authority's budget for the service.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	These are important long term decisions for the Council and as such will be undertaken in accordance with the constitution, making use of delegated powers where appropriate.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Waste and recycling services are significant budget areas for the Council and also ones where we have good levels of information both in respect of operational delivery and cost. This data will be used as part of the decision making processes going forwards.

The Council is under a broad Best Value Duty that relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in Part 1 of the Local Government Act 1999 ("the 1999 Act") to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". In practice, this covers issues such as how authorities exercise their functions to deliver a balanced budget (Part 1 of the Local Government Finance Act 1992), provide statutory services and secure value for money in all spending decisions. Best

value authorities must also demonstrate good governance, including a positive organisational culture, across all their functions and effective risk management.

To provide greater clarity to the sector on how to fulfil the Best Value Duty, recent statutory guidance sets out seven overlapping themes of good practice for running an authority that meets and delivers best value. These seven best value themes build on the lessons learned and reflect what most local authorities already do or are striving to achieve. A detailed description of these themes, including characteristics of a well-functioning local authority and indicators used to identify challenges that could indicate failure, is set out within the revised guidance and financial management and sustainability is a reoccurring expectation throughout the themes and indicators. How the Council responds to new or developing issues, such as those set out within this report, therefore remains an important element of demonstrating these key requirements.

MILESTONES AND DELIVERY

The project has largely adhered to the key procurement target dates as set out in the July 2024 Cabinet report. There was some slippage on key dates and those actual dates achieved along with revised future dates are shown in Table 2 below. A more detailed project management document is being used by officers. This document is being overseen by the Waste Contract Board. It should be noted that the target dates may be further adjusted as the process develops.

Key	
SSQ	Standard Selection Questionnaire
FTS	Find a Tender Service (Notice)
ITPD	Invitation To Participate in Dialogue
ISFT	Invitation to Submit Final Tender

Table 2 – Key procurement target dates *(subject to adjustment as the project develops)*

EVENT	DATES
Cabinet Meeting (Decision to Procure)	26-Jul-24
FTS Notice published	16 Oct 24
SSQ and Draft Docs issued	16 Oct 24 to 15 Nov 24
SSQ Evaluation	18-21 Nov 24
SSQ Outcome Letters	29 Nov 24
ITPD Docs Issued (final)	29 Nov 24 to 17 Jan 25
Depot Tour/Visits	
Dialogue Intro Session (aka Bidder Day)	09-Dec 24
Detailed Solutions Submitted	17-Jan-25

Detailed Solutions Evaluation	20-Jan 25 to 07-Feb 25	
Detailed Solutions Moderation	11 Feb 25 to 14 Feb 25	
Detailed Solutions Feedback	03 March 25 to 06 March 25	
Detailed Dialogue Session(s)	09/06/2025 – 27/06/2025	
Issue ISFT (Invite to Submit Final Tenders)	30/06/2025 – 30/07/2025	
ISFT Evaluation	30/07/2025 – 15/08/2025	
ISFT Moderation	18/08/2025 – 21/08/2025	
ISFT Outcome Letters	30/09/2025	
Standstill Period	30/09/2025 – 09/10/2025	
Cabinet Paper on Forward Plan	21 July 25	
Cabinet Meeting (Decision to Award) + 5 Day Call-In	22/9/2025	
Award Letters	13/10/2025	
Preferred Bidder Stage	30/09/2025 - 27/10/2025	
Contract Collation	30/09/2025 - 27/10/2025	
Contract signature	28/10/2025- 11/11/2025	
Mobilisation	12/11/2025 - 31/03/2026	
Contract Start Date	01 April 26	

ASSOCIATED RISKS AND MITIGATION

Detailed risks in respect of the recommended approach, and in respect of which external legal advice has been received, are covered in Part B. More general risks are set out below.

Compliance with the Environment Act 2021

Compliance with “Simpler Recycling” / Environment Act 2021 requirements for collection of recyclable materials – the service will be designed to comply with what we know about the future requirements from 2026 and therefore it will be possible to comply with the new requirements. There is a risk that full compliance with the Environment Act requirements will not be possible from 1 April 2026 and that is an increasing possibility the longer that this

procurement process is delayed. Once the likelihood of compliance on 1 April 2026 is fully known officers will make contact with DEFRA to explain the position. Currently it is understood that the Council will not be penalised for non-compliance.

Readiness for current contract expiry

The broad procurement timeframes set out elsewhere in this report must be adhered to such that a contract award can be made leaving sufficient lead in time for the successful contractor to prepare for the commencement of the new service and if required, procure necessary vehicles and any additional containers that are required to meet the demands of the Environment Act 2021. With the likelihood that service changes will be taking place across the country at the same time there will be increased lead times for vehicles, bins, drivers and workforce.

As already mentioned above, the timeframe for the procurement process, contractor mobilisation combined with implementing a new collection service is of considerable risk. Whilst contractors may have access to spare vehicles the current lead time for refuse collection vehicles is nine months from point of placing order and with demand on vehicle manufacturers and bin manufacturers expected to increase as a consequence of the Environment Act requirements it is anticipated that lead times will extend and as such this will place a risk on the deliverability of the new service in the required timeline.

This risk has already been mitigated by way of an extension to the existing contractual arrangements with the current contractor, to the end of March 2026. However, the current timeline from contract award to contract start date is under six months, the successful bidder will have minimal time to effectively mobilise resources to meet the contract deadline of 1st April 2026. These are ultimately circumstances which the Council has to respond to, as a result of the position it finds itself in to ensure to can deliver a statutory service and comply with the requirements of the Environment Act 2021 within the context of its financial position and the Greater Essex LGR programme.

Procurement risks

A new legal regime under the Public Procurement Act 2023 came into full force and effect on 24 February 2025. If the procurement is abandoned and started again the new procurement will be under the new legislation and the Council will be under pressure to complete the new process in time for making a contract award and allowing sufficient mobilisation time before commencement of the new contract in April 2026.

There are a large number of waste contracts set to be renewed in the coming year(s) and waste collection contractors have limited resources within their bid teams. As such and with the proposed changes to the specification and contract duration one or more of the bidders may choose to withdraw from the procurement exercise.

Key financial risks are set out elsewhere in this report.

EQUALITY IMPLICATIONS

A further equality impact assessment will be undertaken as part of the service mobilisation plan.

SOCIAL VALUE CONSIDERATIONS

The Public Services (Social Value) Act 2012 requires public authorities to “have regard to economic, social and environmental well-being in connection with public service contracts; and

for connected purposes.” The Council wishes to work collaboratively on social value with suppliers, partners, and the community to benefit Tendring.

As part of this procurement exercise, TDC having adopted the national Themes, Outcomes and Measure (‘TOMs’) method of classifying and evaluating Social Value. The measures selected have been adapted to compliment the District’s context and priorities as outlined within TDC’s Corporate Plan 2024-2028 (Our Vision) and in-line with the Council’s recently adopted Social Value Policy, with a focus on areas such as protecting the local environment and creating opportunities within Tendring.

Social Value commitments will form part of the resultant Contract following this procurement exercise and therefore, there is a requirement for the fulfilment of Social Value commitments and reporting of progress throughout the contract term by the successful Bidder.

No changes are proposed to the social value aspects of this procurement.

IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION

Local Government Reorganisation will change the local government landscape significantly.

Essex is in the priority programme and as such the vesting date for a new Unitary Authority could be as soon as May 2028. Whilst a large amount of detail is yet to be determined and finalised it is known that existing contracts will novate across to the new authority and there is a requirement through the government’s criteria to achieve efficiencies in service delivery. Currently, although numbers of unitary authorities in Greater Essex are uncertain, due to their proximity and geography (which is a key criteria in the Government’s invitation to submit proposals) it seems likely that Tendring will merge with Colchester City Council and Braintree District Council (possibly with others) to form a unitary authority.

Waste and recycling collection and street cleaning services are undertaken by in house services at both these authorities currently. Naturally, the new authority will want to consider how these services are delivered across the new larger district. Having one area serviced by a contracted out service and two areas by different in-house services will require an analysis as to what the best solution for the new district as a whole is.

Entering into an eight year contract commencing in 2026 will commit the new unitary council to that arrangement until 2034 – an arrangement that they will not have been involved in the decision making for.

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2050

The waste services are the largest contributor to the Councils carbon emissions from fleet vehicles that are included as Scope 3 emissions in the Councils emissions reporting. Consequently, the Council will continue to explore with potential contractors the options available to reduce those emissions within an affordable financial envelope. The rural nature of the district and the current purchase cost and mileage range mean that a full electric fleet is unlikely to be possible.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	None
Health Inequalities	None
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	None
Area or Ward affected	All wards within the district will be affected

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>Readers are referred to the report presented to Cabinet on 26 July 2024. That report set out a comprehensive background to the procurement exercise that is now being undertaken.</p> <p>More detailed information relating to the procurement process is presented in Part B.</p> <p>Working through the procurement process, detailed solutions were invited from the bidders who were taken through to that stage following the Selection Questionnaire stage of the process.</p> <p>The detailed solutions submitted by bidders were evaluated in terms of quality and scores compiled before their prices were evaluated. All bidders submitted solutions demonstrating that they can deliver the services as specified.</p> <p>Affordability</p> <p>The Detailed Solutions received indicate a likely annual cost to the Council that is substantially more than the current budget for the service. These solutions are therefore unaffordable.</p> <p>As the procurement is being run through the competitive dialogue process the Council has worked with the Bidders through dialogue meetings to explain the affordability position and to try and reduce this gap by suggesting areas of the service specification that can be reduced and inviting Bidders to make their own proposals for price reduction. The Bidders have engaged in this process, provided valuable input and suggested some other areas for savings.</p> <p>Whilst the budget gap could potentially reduce, the Bidders have not been able to reduce the cost gap to a level that the Council can afford. With possible reductions, the contract, as currently specified, remains unaffordable, especially for an initial eight year contract duration (for reasons set out in the report).</p> <p>Officers believe further reductions are possible by reverting to the current street cleaning specification introduced in 2012 and updated in 2019 that is frequency based rather than the output based specification issued at ISDS stage. This will provide a reduced level of service than Members aspired to at the commencement of this process. Litter picking of the beaches at Holland on Sea will need to be added as was proposed at ISDS stage as that has been done on an ad hoc basis since they were created and other adjustments to seafront cleaning frequency will be made.</p>

Additionally, and as was included at ISDS, it is proposed to add in a requirement for new garden waste wheeled bins to be delivered within a specified timeframe as currently that is an area of weakness for the service.

Additional performance management indicators and live monitoring of contractor vehicles and operatives is something that was included in the ISDS specification. It is proposed that this is included as an option in the specification at Final Tender stage as a further cost reduction may be possible if the option is not taken up. Quarterly performance reviews via a Waste Contract Board will remain.

Local Government Reorganisation

In addition to the issue of affordability, during the procurement period the Government has announced devolution plans and Local Government Reorganisation (“LGR”). The Council is part of an early stage of the Greater Essex Priority Programme for Devolution and LGR and is likely to be merging with other local authorities in Essex to form a new Unitary Authority, who be responsible for the collection of waste and street cleaning services and possibly also waste disposal.

The new Unitary Authority is expected to be vested in May 2028 and as such it is anticipated that when the new Unitary Authority is set up, it will seek to rationalise the contracts that will automatically novate (through the Structural Boundary Change Orders) across from their sovereign Councils. In previous LGR in other parts of the country, major contracts, such as waste collection are highlighted as those which require more attention in seeking harmonisation, due to their scale and nature. With LGR pending, the current position being uncertain and the decision of Full Council that Tending should be placed in the best possible position at transfer to the Unitary authority, the Council is under an obligation to review all its procurements of which the waste collection and street cleaning procurement is one.

Options considered and associated risks

In light of the budgetary constraints and LGR, the Council must now consider the legal risks associated with the following options that are available at this point as alternatives to continuing with procuring the service and contract, as currently specified based upon the principles as previously set out:

Option 1: Continue with the existing procurement process but reducing the service specification significantly and reducing the Contract Period to 3 years with an option to extend; or,

Option 2: Abandon the current procurement process and commence a new procurement exercise under the Procurement Act 2023 for a short term contract based around a specification similar to the current service being delivered with additions to ensure compliance with the Environment Act 2021 Simpler Recycling requirements.

External Legal Advice has been received by the Council (which remains confidentially sensitive and subject to legal professional privilege, which is waived if disclosed) has provided a thorough assessment of these options. The Legal Advice is presented and discussed in Part B. Prior to determining its position on the way forward, it is essential that Cabinet consider the advice and the content of Part B to ensure it is making an informed a decision.

The recommendation to Cabinet is to proceed with Option 1 for the reasons set out in the report and seek approval to continue dialogue with bidders based on alterations to the Core Specification Principles that, subject to the dialogue discussions, will be translated into a revised service specification and contract duration with delegations to enable this alternative policy position to be progressed.

The alterations to the Core Specification Principles will be more closely aligned with the service that is currently provided in the district with the addition of a wider range of recycling collection in order to be compliant with the Environment Act 2021 requirements. The alterations will also reduce the level of risk and uncertainty whilst increasing affordability.

Dry Recyclable Materials Risk

The recommended approach to dry mixed recycling is that the delivery option SDOA (100% contractor risk, which was the Council's indicated preferred option at ISDS stage), continues as the option for consideration as part of the final tender stages.

This option exposes the Council to least amount of risk and uncertainty associated with potential price fluctuation over the revised contract term.

The Deposit Return Scheme (DRS) is anticipated to commence in October 2027 and will take a proportion, perhaps as much as 80%, of the plastic container mix out of the recycling collected at kerbside as residents take advantage of the scheme. The DRS is expected to impact the value of recyclable materials and the processing fees. Risk pricing by the bidders may be reduced if the Council agrees that the impact of the DRS is not foreseeable and remains a risk to the Council.

Vehicle Fleet Funding

The recommended approach to vehicle fleet funding is that the Council does not fund the fleet up front, with additional details set out earlier within this report.

Core Specification Principles

With the above in mind, it is recommended that Cabinet approve the revised Core Specification Principles in Table 3 below:

Table 3 – Revised Core specification principles

General principles applicable to both aspects of the service

- One single contract for both street cleaning and waste & recycling collection services
- Performance standards / performance management framework built-in with ability to hold contractor to account
- Council to provide customer contact centre and handle all queries / complaints
- Option for TDC to be provided with access to live vehicle data in order to facilitate more effective performance monitoring
- Three year initial contract term with an optional two year extension period
- Annual formal review mechanism built in to more readily facilitate changes / efficiency improvements. Quarterly performance review meetings via a Waste Contract Board
- Contractor to fund the up-front purchase of the vehicle fleet.

- Chargeable bulky item collection service to be included, administered by the contractor
- Fowler Road depot made available to the contractor on a lease at no charge, as currently
- Inclusion of container delivery teams specific to garden waste service and container delivery

Waste & Recycling Collection service

- Fortnightly residual waste collection from wheeled bins (weekly for those on black sack service)
- Recycling collection to be compliant with Environment Act 2021 requirements – twin stream alternate weekly with containers including glass one week and fibres (paper and cardboard) the other. Boxes to be used for presentation of the material.
- Weekly food waste collection for all residents including flats and rural/restricted properties
- Chargeable garden waste collection service available to all residents as part of the core contract with no change to collection frequency or subscription costs.
- Contractor to take 100% of the risk on the dry recyclable material value

Street cleaning service

- Frequency based service with set cleaning and bin emptying schedules.
- Option for provision of a mobile response team
- Inclusion of “new beaches” at Holland on sea into the contract
- Additional seafront blue bins above current numbers to support frequency based service during summer period
- Summer period for cleaning and bin service to be expanded to March to end September in each year of the contract

The revisions are aimed at reducing risk and uncertainty for the Council whilst increasing affordability.

It is recommended that within the core principles above, officers be given the flexibility to enter into dialogue with the bidders in order that a final contract specification can be prepared for ISFT stage. A delegation is therefore recommended to the Corporate Director for Operations & Delivery to approve the service specification to be used at ISFT stage, providing he has consulted with the Leader of the Council and the Portfolio Holders for Environment & ICT and Assets & Community Safety along with the Council’s S151 Officer and Monitoring Officer.

PREVIOUS RELEVANT DECISIONS

Cabinet, 26 July 2024 – decision to commence procurement exercise with various delegations to portfolio holders and Corporate Director for Operations & Delivery

Waste and recycling collection and street sweeping procurement - decision on short extension to existing contracts

8 October 2024 - Assets & Community Safety Portfolio Holder, Environment & ICT Portfolio Holder, Leader of the Council and Corporate Finance & Governance Portfolio Holder –

That the Leader of the Council, the Portfolio Holder for Environment and the Portfolio Holder for Assets, having consulted with the Corporate Director (Operations & Delivery), the Section 151 officer and the Monitoring Officer:-

- 1. Authorises the extension of the current contracts with Veolia Environmental Services (UK) Ltd for Street Cleaning and Waste and Recycling Collection on the same terms as existing and such that they both expire on 31 March 2026; and*
- 2. Authorises the Corporate Director for Operations & Delivery in consultation with the Head of Legal Services to make the contract extensions.*

Waste and recycling collection and street sweeping procurement – decision on specification, topics or dialogue and tender evaluation criteria.

8 October 2024 - Assets & Community Safety Portfolio Holder, Environment & ICT Portfolio Holder, Leader of the Council and Corporate Finance & Governance Portfolio Holder-

That the Leader of the Council, the Portfolio Holder for Environment and the Portfolio Holder for Assets having consulted with, and taken on board feedback from, the Member Working Group and the Waste Contract Project Board:-

- 1. approve the high level contract specification, as presented to the Member Working Group and Waste Contract Board at their respective meetings held on 1st October 2024 and set out in the slides in Appendix A to the report;*
- 2. approve the aspects of the specification about which dialogue will be held with bidders, as set out in the report; and*
- 3. approve the tender evaluation criteria, as set out in Appendix B to the report.*

Approval of the Social value Themes, Outcomes and Measures to be used for the waste contract procurement

8 October 2024 - Assets & Community Safety Portfolio Holder, Leader of the Council and Corporate Finance & Governance Portfolio Holder -

The Leader of the Council, acting on behalf of the Portfolio Holder for Assets who was unavailable due to a family bereavement, agrees the Social Value Themes, Outcomes and Measures (TOMs) appended to this decision against which the social value aspects of the waste contract tender submissions will be considered.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

None

REPORT CONTACT OFFICER(S)	
Name	Damian Williams
Job Title	Corporate Director – Operations & Delivery
Email/Telephone	dwilliams@tendringdc.gov.uk 01255 686319