

Council

5th December 2023

Name of Cabinet Member:

Cabinet Member for Finance and Resources – Cllr Richard Brown
Cabinet Member for City Services – Cllr Patricia Hetherton

Director approving submission of the report:

Director of Streetscene and Regulatory Services

Ward(s) affected:

All

Title:

Delivery of a Future “Best in Class” Refuse Collection Service for Coventry.

Is this a key decision?

Not applicable – Council decision

Executive summary:

The City Council has a legal duty to collect and treat household waste as laid out in the Environmental Protection Act 1990. Whilst the waste types collected are prescribed by national government, the method of treatment and the frequency of collection are matters for each local authority.

The collection of household waste is one of the most visible, universal services provided by any local authority with a weekly transaction at every household. Coventry is no different, and it is therefore important that the residents of the city receive a “best in class” waste collection and treatment service.

In order to continue to develop a “best in class” waste collection service, it is imperative that the City Council has a good quality trained workforce with appropriate terms and conditions of employment, reflecting a modern and responsive service delivering for the residents of Coventry.

This report seeks to outline measures to be taken to develop a “best in class” waste collection service, how waste collection colleagues will be deployed to meet the evolving needs of Coventry Residents and how the terms and conditions on which colleagues are employed will support those

aims. There is no proposal within this report to change the method or frequency of domestic refuse collection in Coventry.

Recommendations:

Council is recommended to:

- Note the measures to be taken to create a modern and responsive waste collection service and the subsequent changes to terms and conditions upon which those operating in the service will be employed.

List of Appendices included:

None

Background papers:

None

Other useful documents

None

Has it or will it be considered by Scrutiny?

No

Has it or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Yes – 5th December 2023

Report Title: Delivery of a “Best in Class” Refuse Collection Service for Coventry.

1. Context (or background)

- 1.1. The City Council has, historically, operated an in-house waste collection service for household waste and recycling. The City Council also operates a household recycling collection service for the residents of Nuneaton and Bedworth on behalf of the Borough Council. The disposal and / or treatment of both commercial and domestic waste are managed on the City Council's behalf by several subsidiary companies owned by the City Council. There is no proposal to change the existing arrangements for the disposal and / or treatment of domestic waste in Coventry. Nor is there any proposal to change the method or frequency of refuse collection for Coventry residents.
- 1.2. Since the cessation of the industrial action by waste HGV drivers in August 2022, the City Council has operated waste collections using a mixed workforce directly employed on City Council terms and conditions or employed by Tom White Waste on their terms and conditions. The City Council terms and conditions provide for the operation of “task and finish” for waste collection rounds, whilst Tom White Waste terms and conditions do not. The use of task and finish means that the Council's directly employed staff can finish their shift once a group of collection rounds have completed their assigned task (e.g. the collection of recyclable waste) and have returned to the depot.
- 1.3. The use of Tom White Waste employees to assist in the delivery of the City Council's domestic refuse collection service since the beginning of 2022 has provided many benefits to the service, not least through an overall change in culture to one that better serves the residents of Coventry. However, the current mixture of staff working on different terms and conditions, with one set of terms and conditions providing for the operation of “task and finish” reduces the flexibility to deliver a “best in class” service. For example, deploying resources effectively whilst working to two sets of terms and conditions is not conducive to delivering the best service for the residents of Coventry and is expensive to operate. It also hampers the service's ability to be reactive to demand led service needs. The City Council is looking to modernise the service, and as part of this, it considers that change is best delivered by having a single directly employed workforce, with new terms and conditions providing for standardised and predictable working hours and the removal of “task and finish”.
- 1.4. Over the last six months, negotiations on the realignment of terms and conditions have taken place with the trade unions recognised by the City Council, namely: Unite, Unison and GMB. Unfortunately, despite the best efforts all parties, no agreement on a mechanism for change has been reached. In addition, there is currently no agreement on the single proposal from the three trade unions to move forward with the continued development of a “best in class” refuse collection service as outlined below.

2. Options considered and recommended proposal

- 2.1. Officers have sought independent legal advice on a way forward to introduce new contractual arrangements, including a move away from “task and finish” so as to allow the City Council to continue to develop a “best in class” waste collection service. The following two options are considered to provide an equitable and legally compliant way forward.
- 2.2. **Option 1** – the market testing and outsourcing of the waste collection service to a third party not owned by the City Council.

- 2.3. Following an open and transparent procurement exercise, the City Council would transfer the operation of waste collection to a third party. This would involve the transfer of the employment of City Council and Tom White Waste employees (insofar as the latter were assigned to the waste collection contract between the City Council and Tom White Waste) to the new contractor by virtue of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) 2006.
- 2.4. In this scenario, the City Council would retain the statutory legal duties for the collection, treatment and disposal of waste from within Coventry. However, the contractor would discharge this duty on behalf of the City Council. The benefit of this option would be to outsource to a third party the requirement to achieve the City Council's objectives as set out above.
- 2.5. Early modelling suggests that there is no short-term saving in terms of budget or actual spend from this option, as, in addition to the employment costs already incurred by the City Council, any private contractor will want to take a profit margin from the contract with the City Council. This would therefore add a percentage increase to the current costs of providing the waste collection service in Coventry. Further, outsourcing will not achieve the harmonisation of terms and conditions of employment of itself, and a transferee may be unwilling to make changes to terms and conditions following transfer because of the risk of legal challenge.
- 2.6. The likely timescale to deliver this option would be nine to twelve months, allowing for both a procurement process and the TUPE transfer.
- 2.7. Given the potential increase in cost from an outsourced waste collection service, the inevitable loss of direct control of a highly visible universal service, and the Council's inability to achieve direct change to support the continued development of the service, this option is not recommended.
- 2.8. **Option 2** – To modernise the service and establish standardised and predictable patterns of waste collections, a single set of terms and conditions for those working in waste collection is introduced without the use of "task and finish" system, via direct recruitment and changes to the contractual terms of existing employees.
- 2.9. Option 2 retains an in-house waste collection service, and, by virtue of that continued direct control, achieves the City Council's aim of continuing to improve the service by delivering a change in terms and conditions, including a move away from "task and finish". In support of this option, it is proposed that:
 - 2.9.1. Vacant posts in the Council's establishment which are currently being covered by Tom White Waste employees would be recruited to directly on new City Council terms and conditions. These new terms and conditions would not include continued use of "task and finish".
 - 2.9.2. Following collective consultation, existing employees on City Council terms and conditions will be offered the same terms and conditions as new starters. After collective consultation is concluded, and assuming that no new information comes to light as part of that process, any employee not agreeing to the variation of their terms and conditions will be given notice to terminate their existing contract of employment and offered re-engagement on the City Council's new contract.
- 2.10. Once that process is concluded, the waste service will also look at rebalancing the rounds to ensure that work is being allocated effectively and in line with the capacity of the service

- 2.11. Allowing for both the consultation time, and contractual notice to be given (if required), this option can be delivered in less than nine months.
- 2.12. This is the proposed option, as it retains control of the service, achieves a uniform set of terms and conditions, and reaches a conclusion sooner, which in turn allows the progress to a “best in class” service to continue at a pace.

3. Results of consultation undertaken

- 3.1. Negotiations with trade unions and information briefings to colleagues have taken place on the above options over the last six months. Formal notification to the trade unions along with collective consultation will be undertaken, followed by individual consultation with City Council colleagues in the event that we reach the stage of proposing to dismiss employees.

4. Timetable for implementing this decision

- 4.1. Based upon the recommended option, it is anticipated that the move to new terms and conditions across the board would be achieved between May and July 2024.

5. Comments from Chief Operating Officer (Section 151 Officer) and Chief Legal Officer

- 5.1. Financial Implications
- 5.2. The recommended option is within the existing budget allocation for the service. Should any early retirement / voluntary redundancy payments arise from the round rebalance these will be dealt with separately.
- 5.3. Legal Implications

The recommended option is compliant with the Council’s legal obligations. It is within the Council’s powers to reduce its use of third-party contractor staff in favour of directly recruiting staff to the service, and it is a matter for the Council as to the terms and conditions it offers new recruits. The proposal to change the terms and conditions of existing staff will also follow the Council’s legal obligations as to consultation before any decision is made to dismiss and re-engage employees.

6. Other implications

- 6.1. **How will this contribute to the One Coventry Plan?**

<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>

The continued development of a “best in class” waste collection service will help to further promote recycling within the City, contributing towards the One Coventry goal of tackling the causes of climate change. Waste collection is a universal service, but a more efficient and effective “best in class” service will better support all residents including the most vulnerable.

- 6.2. **How is risk being managed?**

The introduction of a new contract / new terms and conditions for waste employees will be managed as a major but distinct project in the wider programme to continue to develop a “best in class” waste collection service. Project risk will be considered by the project team, which is chaired by a Director and, where appropriate, risks will be escalated to the corporate leadership team.

6.3. What is the impact on the organisation?

The impact on overall direct employee numbers will only be known once recruitment to the service has taken place and following the round review. These impacts will be managed through the City Council's agreed HR processes.

6.4. Equalities / EIA?

As there is no change to service delivery, an equality impact assessment has not been completed. However, the City Council is aware of its workforce profile in this area and is committed to improving the diversity of the workforce that collects waste in our city. Therefore, a bespoke recruitment process is being implemented to attract a wide range of candidates to our waste collection roles.

6.5. Implications for (or impact on) climate change and the environment?

None

6.6. Implications for partner organisations?

None

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