

| Report of   | Meeting | Date                       |
|---|---------|----------------------------|
| Director (Customer and Digital)<br><br>(Introduced by the Leader of the Council and Cabinet Member (Strategy and Reform)) | Council | Wednesday<br>20 April 2022 |

|                              |    |
|------------------------------|----|
| Is this report confidential? | No |
|------------------------------|----|

|                       |     |
|-----------------------|-----|
| Is this decision key? | Yes |
|-----------------------|-----|

|   |   |
|---|---|
| Savings or expenditure amounting to greater than £100,000 | Significant impact on 2 or more council wards |
|---|---|

## Waste Collection Services Review

### Purpose of the Report

- To consider options for the future delivery of the Councils waste collection service.

### Recommendations to Council

- That Council agree **one** of the following options:
  - extend the existing **outsourced** waste collection contract with FCC Environment (UK) Ltd for a further 3 plus 4-year term, and under new commercial terms, commencing 11 June 2022.

**OR**

- Insource all** waste collection services to be operated directly by South Ribble Borough Council, commencing 11 June 2022.

As a consequence of accepting this option, Council acknowledges that:

- under Transfer of Undertakings (Protection of Employment) regulations (TUPE) the contracts of employment of all relevant employees engaged in the delivery of the current FCC waste contract will transfer to the Council.

- ii. specialist advice on insourcing, project management and other support services necessary to facilitate mobilisation of waste services to the Council will be sourced to support the changes.
- iii. due to restricted timescales, contracts with suppliers engaged to facilitate insourcing of waste services including IT hardware and software will be sought and directly awarded.

### Reasons for recommendations

3. The Council is legally obliged by section 45 of the Environmental Protection Act to collect waste and deliver it to a point of disposal. It has the power to determine whether to do this itself or appoint a contractor to do so on its behalf.
4. The Council has been in discussions with its incumbent supplier FCC for a 3 plus 4-year contract proposal. This has culminated in FCC submitting their 'best and final offer' facilitated through an extension to the existing contract.
5. It is essential to consider the two key options for determining the future waste service delivery model for the council as outlined in this report in line with the councils' values, corporate goals and costs.

### High level summary of options

6. Options summary table.

| Option A: <b>Outsourced</b><br>Extend the outsourced waste services contract with FCC under new commercial terms effective 11 June 2022.   | Option B: <b>Insourced</b><br>Insourced waste services to be delivered directly by South Ribble Council, effective 11 June 2022.  |
|--|---|
| <ul style="list-style-type: none"> <li>○ Agree a 3 plus 4-year extension to the existing FCC contract with a review at 3 years under new commercial terms.</li> <li>○ No change to the service delivery model.</li> <li>○ A significant uplift in the annual contract cost primarily in relation to increases in staff and fuel costs.</li> <li>○ Pricing is subject to annual inflation and ongoing Real Living Wage commitments from 1 April 2022 and beyond.</li> </ul> | <ul style="list-style-type: none"> <li>○ The waste services contract with FCC will expire on Friday 10 June 2022.</li> <li>○ The Council will then deliver the following services:               <ul style="list-style-type: none"> <li>- household waste and recycling collections</li> <li>- garden waste collections</li> <li>- commercial waste collections</li> <li>- bulky waste collections</li> <li>- clinical waste collections</li> <li>- waste container deliveries</li> </ul> </li> <li>○ Staff employed by FCC would transfer to the Council under TUPE, approximately 54 staff, on terms and conditions to be agreed. Additional agency staff may be recruited outside TUPE.</li> </ul> |

Option B: **Inourced (Contd.)**

Insource waste services to be delivered directly by South Ribble Council, effective 11 June 2022.

- The Moss Side depot including service workshop, office complex and waste fleet are all owned and managed by the Council.
- The Council would inherit service delivery costs including staff, fuel, and associated overheads. Pension related costs for employees. There are no VAT implications.
- One off mobilisation cost will also apply.
- This will be offset against the contract profit margin which shall no longer apply to service costs.

**Other options considered and rejected**

7. A Local Authority Trading Company (LATC) may provide some additional benefits, such as lower costs, as compliance with the Local Government Pension Schemes (Miscellaneous) Regulations is not required.
8. An LATC, is an Arm's Length Management Organisation within a local authority. It can provide wider services to the council and can do so on a commercial basis.
9. In consideration of the time constraints to enable a LATC arrangement and implications on employee terms and conditions, this option has been rejected but may be considered in the future.

**Corporate priorities**

10. The report relates to the following corporate priorities:

|  |  |
|--|--|
| <b>An exemplary council</b>                  | Thriving communities                     |
| A fair local economy that works for everyone | Good homes, green spaces, healthy places |

**Background to the report**

11. The council provides waste and recycling collection services to over 50,000 households. This is a significant and high-profile service delivered daily throughout the borough all year round and includes garden waste collections.

12. The Council has outsourced waste and recycling collection services for around 30 years and to FCC since 2015. The waste contract is in the final months of a 7-year contract term and will expire on 10 June 2022.
13. The contract includes an option for an extension up to a period of 7 years. The annual contract value is currently £1.8 million.
14. The governments national Resources & Waste Strategy along with obligations under the Environment Act will impose changes on the delivery of waste services by the council over the next few years.
15. Other than the impact of the national shortage of HGV drivers, FCC's contract performance has generally been good, performing well throughout the pandemic.
16. Negotiations on a contract extension commenced with FCC in 2020. FCC submitted a revised pricing schedule proposal and indicated that they would seek an increase to the annual contract price, based on:
  - a. The first term of the contract had been commercially challenging for FCC.
  - b. The risks that the contract could face in the period to 2029 with rising costs, the impact of the economic challenges, and volatile markets due to global events
17. Given economic uncertainties, the council proposed a 3 plus 4-year extension to the current contract, including a mid-term review and break clause after 3 years.
18. A revised pricing proposal was submitted in December 2021. This indicated a significant annual cost increases reflecting further underlying economic risks and challenges in the current and forecasted financial climate.
19. The price increase is comprised mainly of increases in driver pay rates, increases in National Insurance contributions, increase in fuel costs, and factors cost of the Real Living Wage to March 2022.
20. Commercial discussions with FCC have continued following their pricing proposal in December 2021.
21. In advance of this meeting, FCC were invited to and have submitted their 'best and final offer' for the cost of a 3 plus 4-year contract extension including agreement in principle to part insourcing some aspects of ancillary waste services.
22. The substantive options are outlined in the recommendations.

### **Insourcing waste and recycling services**

23. Insourcing waste services will inevitably present risks that require mitigation and careful management. Some key considerations are outlined in Appendix A.
24. A decision to insource waste services will require the council to undertake appropriate consultation and comply with the regulations in as far as they might apply in accordance with the TUPE regulations 2006.

25. An insourced service is expected to give more direct control to the Council, can be more flexible to respond to future changes without restrictions imposed by contract terms.
26. Flexibility is important in the delivery of services to residents to implement changes quickly as the amounts and types of waste collected will change.
27. There is no impact on the management of infrastructure relating to the Moss Side depot, or associated with the fleet, the repair and service workshop, office complex, and fuel supplies irrespective of the delivery model as this remains within full ownership of the council.
28. The council funds the cost of the Real Living Wage for loaders employed by FCC. Increases to the RLW and inflationary increases apply from 1 April 2022 and are therefore excluded from the commercial proposals.
29. A summary of the cost is provided in a separate report and irrespective of the operating model, the council is not immune from rising costs in this sector.

### **Climate change and air quality**

30. The work noted in this report impacts on the following areas of climate change and sustainability targets of the Councils Green Agenda: net carbon zero by 2030, reducing waste production.

### **Equality and diversity**

31. There are no equality and diversity impacts.

### **Risk**

32. Waste collections are the most high-profile council service. Any fundamental change to service where the effects may be positive or negative will carry reputational risk to the council.
33. A summary of key risk considerations is outlined in Appendix 1.

### **Comments of the Statutory Finance Officer**

34. The waste budget for 2022/23, approved by Council in February 2022, is set at £2,170,800 which includes an increase of £293,000 over the budget for 2021/22, based on assumptions made in respect of rising inflation, fuel costs, staffing costs and increases in the real living wage.
35. Based on the full year estimated costs of insourcing the service, Option B above, annual savings of approximately £178,500 against the 2022/23 budget would be made.
36. In comparison, the extended contract cost, reflecting inflationary increases (fuel, staffing and the real living wage) in 2022/23 will exceed the budget set.

### **Comments of the Monitoring Officer**

37. The existing contract with FCC permits the proposed extension and equally, it is lawful to allow the contract to expire without extension and insource the waste service

provision. What is the appropriate approach is for members to decide based upon the information provided within this report and the part 2 item containing confidential financial information. Members are reminded that value for money should be a prime consideration, but this is not confined to monetary value.

38. Members are asked to consider the risk summary in making this decision to ensure they are satisfied that any risks connected to the preferred option can be properly managed.

**Background documents** (or There are no background papers to this report)

### **Appendices**

39. **Appendix A:** Summary Key Risk Considerations
40. **Appendix B:** Commercial/ Financial Profile & Associated Correspondence (Part 2)

| Report Author: | Email:                       | Telephone: | Date:         |
|----------------|------------------------------|------------|---------------|
| Asim Khan      | asim.khan@southribble.gov.uk |            | 30 March 2022 |

## Appendix A – Summary Key Risk Considerations

| Option                                   | A  | B   |
|--|--|---|
| <b>SERVICE OPTIONS</b>                   | <b>OUTSOURCED</b>  | <b>INSOURCED</b>  |
| <b>Performance</b>                       | FCC's contract performance has generally been good and was maintained well throughout Covid pandemic.  | Insourcing represents a significant change and carries a risk of impacting performance; however, the waste collection services will remain the same so adverse effects on performance are unlikely. |
| <b>Financial risk</b>                    | <p>An outsourced contract provides budget certainty due to fixed contract pricing, and more insulation against rising/ unforeseen costs than in-house service.</p> <p>Back-office management of the service including HR, payroll, IT, procurement, management, H&amp;S sits with contractor</p> | <p>There is no contractual control so costs may become inflated and creep up over time.</p> <p>There are cost and resource implications for additional back-office management.</p>                  |
| <b>Operational and reputational risk</b> | With an outsourced service the council can rely upon a contractor with the relevant capability, experience, and contingencies to operate the services on its behalf, with contractual penalties for any service failure.   | Responsibility for day to day operation, service quality and legal compliance would fall directly upon the council.   |
| <b>Infrastructure</b>                    |  | The council is in a strong position in this aspect since it already has its own depot, workshop, offices, fleet and manages fuel.   |
| <b>Service flexibility</b>               | Service changes/additions and associated costs would have to be negotiated with the contractor and the council may not receive the full benefit of efficiencies especially mid contract.   | <p>An insourced service can more readily make service changes.</p> <p>The council may lack some of the relevant skills and expertise to successfully deliver the changes however</p>                |

| Option                         | A   | B   |
|--------------------------------|---|---|
|                                |   | these can be procured with temporary external support as and when required.   |
| <b>Management of workforce</b> | The responsibility for management of the workforce sits with the contractor, including sickness, absence management, disciplinary procedures, staff welfare, and health and safety management.        | <p>TUPE regulations will apply to all transferring staff, protecting the terms and conditions of employment however, the policies and procedures will be set by the employer. This can be challenging for an insourced service with the use of council policies and procedures to manage an operational frontline workforce.</p> <p>There is a risk that more advantageous terms may adversely affect attendance and sickness absence. An in-house service demands direct management of unplanned absences such as sickness, which tends to have higher rates in waste collection services. As an essential frontline service this can necessitate a large agency cost budget to cover leave/sickness with temporary staff.</p> |
| <b>Capabilities and skills</b> | <p>The contractor has significant experience and expertise in waste services delivery.</p> <p>The contractor has experience of negotiating with frontline staff and potential Trade Union issues.</p> | <p>The council requires a team to mobilise the insourced service requiring HR, H&amp;S, ICT, legal, finance teams.</p> <p>A lack of direct operational experience within the council's management team of frontline waste services may result in the service not being delivered as efficiently and effectively.</p> <p>Insourcing provides an opportunity to develop the expertise of staff and the capacity of the council workforce to fill this gap in skills.</p>  |
| <b>Contingency management</b>  | FCC has multiple municipal waste contracts across several local authorities and therefore the capability of drawing equipment, staff and experience from other contracts in emergencies.              | The council has limited contingency arrangements without significant resource and cost implications, however there is scope for collaborative working with Neighbourhood services to meet waste service   |



| Option                              | A  | B   |
|-------------------------------------|--|---|
|                                     |  | contingency demands if required but will be subject to a review of T&C's.   |
| <b>Health and safety management</b> | <p>There are significant health and safety risks that must be actively managed effectively in waste collection services to ensure the welfare of staff, legal compliance and ensure a quality, reliable and consistent service.</p> <p>This is managed by the contractor with added benefits of organisational campaigns and investment in enhancing safety.</p> | <p>There are significant cost and resource implications of ensuring the safety and legal compliance of waste services delivery.</p> <p>It is anticipated that a Compliance Officer role could transfer to the council from FCC to ensure continuity regarding health and safety compliance.</p> |
| <b>Service integration</b>          | There is little scope for integration with other council services that are not within the contract.  | Insourcing can enable the council to develop more integrated and joined up services, particularly in Neighbourhood services, which could respond more ably to a range of inter-related issues.  |