

 <b>Brent</b>	<b>Decision of Cabinet Member for Public Realm &amp; Enforcement</b>
	<b>Report from the Corporate Director, Neighbourhood and Regeneration</b>
<b>Authority to delegate authority to West London Waste Authority to lead on procurement for the transport and reprocessing of comingled &amp; paper/card recyclable materials</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Non-Key
<b>No. of Appendices:</b>	One Appendix A: Individual Cabinet Member decision report December 2022 (Direct award to WLWA for the reprocessing of comingled recycling materials for a period of two years from April 2023- June 2025).
<b>Background Papers:</b>	None
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## 1.0 Summary

- 1.1 This report concerns the current contract(s) for the transport and processing of dry mixed recycling (DMR) materials and Paper & Card. The Current arrangements with West London Waste Authority for these contracts expires in 2025. A new arrangement needs to be in place for June 2025.

- 1.2 This report seeks approval to enter into a procurement process led by West London Waste Authority to tender for new services for the transport, sorting and processing of DMR and Paper & Card

## **2.0 Recommendation(s)**

That the Cabinet Member for Public Realm & Enforcement, having consulted with the Leader in accordance with paragraph 13 of Part 3 of the Constitution:

- 2.1 Exercises delegated powers to grant an exemption from the usual Contract Standing Orders requirement to tender High Value and Medium Value Contracts in respect of:
- i) A contract for the Transport of Recyclable Materials.
  - ii) A contract for Reprocessing Comingled Recycling Materials
  - iii) A contract for Reprocessing of Paper & Card
- 2.2 Agrees to join the West London Waste Authority led procurement for call-off contracts as detailed in 2.1 above for an initial term of 3 years with the option to extend for up to a further 6 years, to be procured using West London Waste Authority internal governance processes and its dynamic purchasing system.
- 2.3 Agrees to enter a Memorandum of Understanding with the West London Waste Authority and the London Borough of Ealing to cover the respective obligations of the parties in relation to the contractual arrangements and processing of payments.
- 2.4 Notes that following the identification of preferred bidders under the West London Waste Authority dynamic purchasing system as detailed in 2.2 above, Officers will seek cabinet approval to authorise West London Waste Authority to award a contract(s) for the transport and processing of dry mixed recycling materials and Paper & Card

## **3. Detail**

### **Contribution to Borough Plan Priorities & Strategic Context**

- 3.1 Brent's Borough Plan sets out how we can achieve one of our strategic priorities "A cleaner, Greener Future". The objective being to future proof the Borough to bring about positive changes to keep the environment clean and develop our services to residents. This decision has a direct link with the Borough's aim to reduce the overall proportion of household waste being generated by encourage more recycling and promoting reuse of items. By having the backend systems / processes in place, we can collect more types of recyclable materials.
- 3.2 One of the desired outcomes of our Climate & Ecological Emergency Strategy is to tackle climate change by reducing consumption, resources, and waste. A

key factor in helping to achieve this outcome is to reduce carbon emissions from the disposal of recyclable packaging.

#### 4. **Background**

- 4.1 On 16 August 2021 Cabinet approved the Redefining Local Services Final Delivery Model and the Integrated Street Cleansing, Waste Collections & Winter Maintenance Contract Procurement Strategy. The Delivery Model adopted a specialist contracts approach and accordingly, it was agreed that the recycles reprocessing element of the Public Realm Contract, let to Veolia, was in the future, procured as a separate service to the waste collections contract. This would provide the Council with the opportunity to change providers on a more frequent basis to allow adjustment for market changes.
- 4.2 West London Waste Authority (WLWA) was set up specifically as a statutory waste disposal authority responsible for the disposal of waste collected by the London Boroughs of Brent, Ealing, Harrow, Hillingdon, Hounslow and Richmond upon Thames. The authority is governed collectively by councillors that are chosen by the six Boroughs including one councillor chosen by Brent. Officers wish to use the WLWA to procure the transport and reprocessing of comingled recycling and paper and card materials service on our behalf as it is uniquely placed, as our statutory waste disposal authority, to understand the needs of the council, the region, and the marketplace in order to devise the best arrangements for the procurement and delivery of these services.
- 4.3 In December 2022, lead member's approval was sought to issue a direct award to WLWA for the reprocessing of comingled recycling materials for a period of two years from April 2023-June 2025. See Appendix A.
- 4.4 WLWA have been procuring joint contracts for waste on behalf of its constituent boroughs for several years. This generates economies of scale and brings together expertise and resources from multiple boroughs. WLWA are in the process of procuring a new contract for the transport and processing of dry mixed recycling (DMR) materials using their DPS on behalf of London Borough of Ealing with their officers wishing to join WLWA in the procurement exercise and be part of the tender evaluation process. Officers from the London Borough of Brent would like to be part of this process.
- 4.5 Initial market analysis carried out by WLWA demonstrates that in the current climate, suppliers are looking to secure long term contracts which include Local Authority recycling tonnage due to its consistent supply. Suppliers are concerned about the uncertainty of the future (changes in legislation, materials composition, tonnage). There isn't much appetite in the marketplace for shorter terms contracts due to upcoming legislative changes in material collections / processing requirements and the investment required by Material Recovery Facilities (MRF) providers to comply.

4.6 The market conditions and appetite from MRF providers will inform the term, risk share model and any possible extension periods as part of a new contract. The initial contract offering will be medium term with the ability to adapt the contract based on market conditions and legislative changes. The current proposal by WLWA for contract length is 3+3+3 or 3+2+2. This will be finalised at point of tender and in consultation with The London Borough's of Brent and Ealing.

4.7 The approach to the risk share model will consider the impact on the market and service providers of upcoming legislative changes. The key legislative changes that will need to be factored in during procurement and the likely impacts are detailed below:

- MRF Regulations (October 2024) – Requirement on MRF's to carry out additional sampling on recyclable materials thus increasing their operating costs which have been passed on.
- Simpler Recycling (TBC) – Requirement for all Local Authorities across England to collect the same recyclable waste streams for recycling from households. Brent is largely compliant. There will be a requirement for Local Authorities to collect plastic film packaging and plastic bags from 2027. The inclusion of these additional materials will require MRF's to adapt to enable them to process these materials. The investment in technologies will add to future processing costs which will naturally be passed on.
- The pEPR and DRS legislation will impact the amount of recycling generated by households which in turn will mean less materials for the MRF's to process. Producers will be held responsible for the collection, sorting, recycling, or disposal of their product packaging. The policy is designed to transfer the annual financial burden of household packaging waste collection from taxpayers to producers.
- If DRS is adopted, a lot of the most valuable materials MRF's look for could be reduced from the waste stream. The net impact of this legislative change will ultimately mean less of a rebate to Local Authorities however this would be somewhat offset by reduced processing costs.

4.8 Subject to the authority to delegate the procurement of the contract(s) for,

- i) Transport of Recyclable Materials.
- ii) Reprocessing Comingled Recycling Materials
- iii) Reprocessing of Paper & Card

the London Borough of Brent will enter into an agreement between the London Borough of Brent, London Borough of Ealing and WLWA for the practical arrangements for managing the contract.

4.9 The proposed timetable for this procurement is:

January 2025	Procurement launched via WLWA DPS
February 2025	Tender Returns

March 2025  
April 2025  
May 2025  
June 2025

Tender Evaluation  
Contract Award  
Contract mobilisation  
New contract commences.

## **5.0 Stakeholder and ward member consultation and engagement**

5.1 An initial consultation was carried out in 2021 on the redefining of local service delivery model and results were included in the 16 August 2021 Cabinet report. A market testing exercise with stakeholders was undertaken by West London Waste Authority earlier this year and main findings from this exercise are included in the Background section.

## **6.0 Financial Considerations**

6.1 The impact on revenue budgets is not known at this stage, however based on current tonnage volumes and expenditure with our current provider and factoring in legislative changes, it is likely the new contract will come in at approximately £1.9mil per year or £17.1mil over a 9 year contract period. However, this could increase if we were to process more recyclable materials.

6.2 Our forecasts for the current recyclate reprocessing contract for the 2024/25 financial year stands at £1.7mil. The current budget is £2.29mil. The underspend is due to the processing of less recyclable materials due to our Communal recycling currently being too contaminated to process. If this material was recyclable, then the processing cost would be higher and likely inline with the budget. At present, the underspend is offsetting higher disposal costs generated by the contaminated communal recycling. As part of any new contract, we will be looking for all our recyclable material to be processed regardless of contamination thus the costs will likely meet budget expectations.

6.3 The payment to the current contractor, N+P, is dependent on the below variables:

- Volume of collected recycling tonnage – Variable.
- Volume of collected recycling material deemed not recyclable.
- Material prices at time of processing

The upcoming legislative changes referred to in point 4.7 will impact the cost of recyclate reprocessing but to what extent is unknown at present.

6.4 All contracts are subject to inflationary increases and this risk needs to be considered as part of the Council's Medium Term Financial Planning

6.5 The costs will be fully funded from the Recyclate reprocessing & Bulky waste budget. Any rebates generated from the recyclate reprocessing will contribute towards unknown / variable costs and risks which have been highlighted throughout this report.

## **7.0 Legal Considerations**

- 7.1 The estimated value of the contracts for transport and processing of DMR materials and Paper & Card is £17.1mil over the potential 9 year lifetime of the contract(s) and as such they are classed as a High Value Contract under the Council's Contract Standing Orders and Financial Regulations. All contracts will be in excess of the Public Contracts Regulations 2015 (PCR 2015) threshold for Services and the award of the contracts are therefore governed by the PCR 2015.
- 7.2 Under the Council's Contract Standing Orders, High Value and Medium Value Contracts are to be procured by way of a tender process and in accordance with all relevant Contract Standing Order requirements. However, in accordance with paragraph 13 of Part 3 of the Constitution, Individual Cabinet Members have delegated authority, in consultation with the Leader, to grant a waiver of the requirements of Contract Standing Orders provided to do so would not be contrary to the PCR 2015. It is not considered that granting a waiver in the terms requested would be contrary to the PCR 2015.
- 7.3 Recommendation 2.3 seeks authority to enter a Memorandum of Understanding with the West London Waste Authority and the London Borough of Ealing to cover the respective obligations of the parties in relation to the contractual arrangements and processing of payments. Paragraph 13 of Part 3 of the Constitution gives Individual Cabinet Members, in consultation with the Leader, delegated authority to enter into agreements.
- 7.4 The award of the contracts for transport and processing of DMR materials and Paper & Card is classed as a High Value Contract Key Decision. Following the procurement process, Officers intend to seek Cabinet authority to award to the preferred provider. As a key decision, the decision to award will be subject to a call in period of at least 5 days following publication of the decision on the internet prior to implementation of the decision. The award decision will also be subject to a 10 day standstill period under the PCR 2015.
- 7.5 Officers have been advised by the current contractor that there are no staff eligible to transfer to a new contractor under the Transfer of Undertakings (Protection of Employment) Regulations 2005.

## **8.0 Equity, Diversity & Inclusion (EDI) Considerations**

- 8.1 Pursuant to s149 Equality Act 2010 (the "Public Sector Equality Duty"), the Council must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

8.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

8.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

8.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

## **9.0 Climate Change and Environmental Considerations**

9.1 Both the Borough Plan and Climate & Ecological Emergency Strategy include commitments to expand recycling collection services to all properties in the Borough, thereby, increasing recycling and reducing waste. Diverting more waste from general disposal methods to recycling / reuse is proven to reduce the amount of greenhouse gases produced and allows for the repurposing of materials in the use of manufacturing thus reducing the need to use virgin resources.

## **10.0 Human Resources/Property Implications**

10.1 The services will be provided by an external contractor and there are no human resources implications for Council staff. There are no property implications either at this stage.

## **11.0 Communication Considerations**

11.1 There are no communication campaign considerations as part of this procurement process. There may be a need for targeted communications campaigns at a later stage to communicate the upcoming legislative changes in the recycling landscape however the scale of this is unknown at present.

### **Report sign off:**

**Alice Lester**  
Corporate Director, Neighbourhoods and  
Regeneration

