

	Decision of Cabinet Member for Public Realm & Enforcement
	Report from the Corporate Director, Neighbourhood and Regeneration
AUTHORITY TO VARY AND EXTEND CONTRACT FOR MATERIALS RECOVERY FACILITIES ('MRF') SERVICES FOR REPROCESSING AND SALE OF COMINGLED DRY MIXED RECYCLABLE MATERIALS	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
List of Appendices:	N/A
Background Papers:	
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Name: Rashmi Agarwal Job Title: Head of Service Development & Contracts Performance Email: rashmi.agarwal@brent.gov.uk

1.0 Executive Summary

- 1.1 This report requests individual Cabinet Member approval to vary and extend a contract in respect of Materials Recovery Facility (MRF) services for reprocessing and sale of comingled dry mixed recyclable materials with West London Waste Authority in accordance with paragraph 13 of Part 3 of the Constitution. The report summarises the reasons for the request to vary and extend.

2.0 Recommendation(s)

That the Cabinet Member for Public Realm & Enforcement, having consulted with the Leader:

- 2.1 Approves the variation of the West London Waste Authority contract for Materials Recovery Facility (MRF) services for reprocessing and sale of comingled dry mixed recyclable materials for Brent Council to permit the extension detailed in 2.2

- 2.2 Approves the extension of the West London Waste Authority contract detailed in 2.1 above for a period of 12 months from 6 June 2025 to 5 June 2026.
- 2.3 Notes that subject to the approval of recommendation 2.2 the tripartite agreement for services for sorting recycling and sale of dry mixed recyclable materials with West London Waste Authority and N+P Crayford MRF Ltd shall automatically extend for a period of 12 months as set out in paragraph 3.2.9.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

- 3.1.1 Brent's Borough Plan sets out how we can achieve one of our strategic priorities "A cleaner, Greener Future", with the objective 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 encouraging more recycling and promoting reuse of items. By having the backend systems / processes in place, we can collect more types of recyclable materials.
- 3.1.2 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.

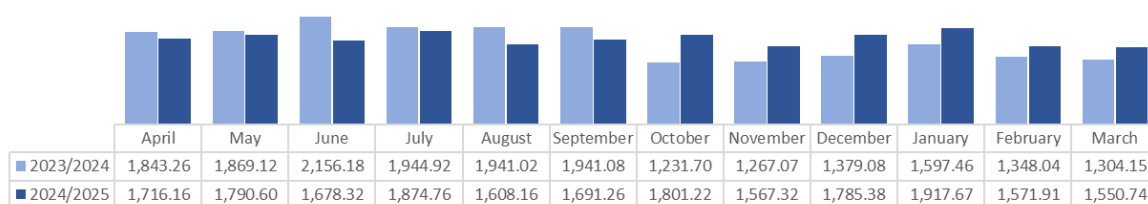
3.2 Background

- 3.2.1 On 6 June 2020, the West London Waste Authority ("WLWA") entered into a contract for the provision of services for the Sorting, Recycling and Sale of Dry Mixed Recyclable' with Valencia Waste Management Limited. The value of this contract was such that it was above the threshold for services under the Public Contract Regulations 2015 ("PCR 2015"). The contract was set up so that any of the West London boroughs could join the contract, with the London Borough of Ealing being the main borough included from the start of the contract. The contract was entered into for a period of 5 years until 5 June 2025.
- 3.2.2 N+P Crayford MRF Ltd entered into a novation agreement with Valencia Waste Management Limited under which N+P Crayford MRF Ltd ("N+P") was transferred all of the rights, obligations and liabilities under the contract from the effective date of 30 September 2021. On 14 March 2023, Lead Member approval was obtained for Brent Council to carry out a direct award of a contract to WLWA for the reprocessing of comingled recycling materials for a period of two years (the "WLWA Contract"), enabling the Council to receive services under the contract between WLWA and N+P by way of a supplemental tripartite agreement with both WLWA and N+P (the "Agreement"). The estimated value of the WLWA Contract was £2.77m over the two-year period.
- 3.2.3 WLWA was set up specifically as a statutory waste disposal authority responsible for the disposal of waste collected by the London Boroughs of

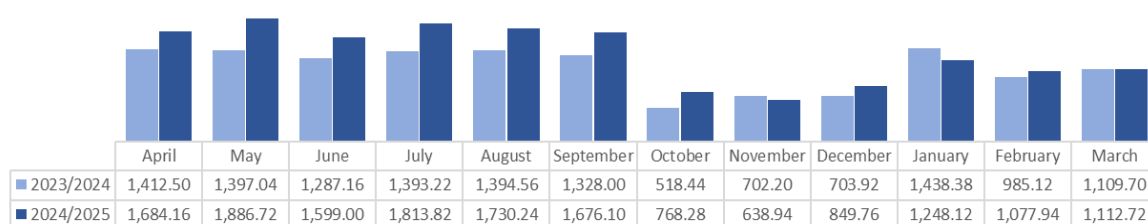
Brent, Ealing, Harrow, Hillingdon, Hounslow and Richmond upon Thames. WLWA have been procuring joint contracts for waste on behalf of its constituent boroughs for several years. This generates economies of scale and brings together expertise and resources from multiple boroughs. WLWA are in the process 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 expressed an interest to be part of this process. In January 2025, Lead Member approval was sought to delegate authority to West London Waste Authority to lead on the procurement for the transport and reprocessing of comingled and paper and card dry recyclable materials on behalf of London Borough of Brent.

- 3.2.4 The current WLWA Contract and the associated Agreement for the reprocessing of dry mixed recycling (DMR) materials comes to an end on 5 June 2025. During the procurement process for a new arrangement, the Government announced their plans for Simpler Recycling material segregation which may result in a significant change to recycling services from 2026. The implications of this now needs to be built into the tender specification by WLWA. As a result, it is necessary to extend the existing WLWA Contract and associated Agreement by 12 months. The value of the variation and extension of the WLWA Contract is estimated at £1.5m. The extension of the WLWA Contract and associated Agreement will allow WLWA to work on the new procurement with individual boroughs and complete a detailed assessment of different recycling collection arrangement in place and produce a robust tender specification to reprocore a new service on behalf of the boroughs including the London Borough of Brent.
- 3.2.5 The dry mixed recycling collected as part of the household recycling collection must be transported and processed for onward recycling. Without a contract in place the service would not be able to operate. WLWA are happy to vary and extend the WLWA Contract and have entered into discussions with N+P regarding the proposed extension of the associated Agreement.
- 3.2.6 Brent officers have good working relationship with the existing contractor, N+P, and have regular meetings in place to discuss performance. Data collected from N+P over the years suggest that Brent's recycling rates are moving in the right direction and there is further scope for improvement by working closely with N+P and WLWA for another year whilst the market is getting to grips with new simpler recycling legislation.
- 3.2.7 The below tables show the recycling performance with total tonnes of recycling collected and total tonnes accepted by the recycling processor over the last two years of the contract. There are plans this year to redirect some of the identified communal recycling rounds which is currently going to general waste due to high contamination levels. Work has been ongoing to improve the quality of recycling through education, crew training and monitoring so that these rounds can be redirected to the processor and further improve our recycling rate.

DMR (Total Collected) - Monthly



DMR (Total Accepted)



3.2.8 Benefits which the extension of the WLWA Contract and associated Agreement will bring for the Council include:

- no disruption to recycling reprocessing services which the Council is required to deliver in relation to waste disposal services;
- continuity in exploring new projects with the current reprocessor to help direct more waste to recycling from the Council's communal collection rounds.
- better pricing for material as compared to the market price, and the extension will enable to Council to continue benefiting from this.
- Completing a detailed assessment of different recycling collection arrangements in place and producing a robust tender specification with WLWA for the re-procurement, to take into account the government changes for a simpler recycling segregation.

3.2.9 Following the award of the main waste recycling contract and the Council's award to WLWA, the Council subsequently entered into the tripartite Agreement with WLWA and N+P to deal with the additional practical arrangements and management of services in Brent. The Agreement is construed alongside the main WLWA and N&P contract and sets out arrangements relating to the services and invoicing. The duration of the Agreement is listed as being operational until the expiry of the main WLWA and N&P contract. As such, the extension of the Council's WLWA Contract for 12 months and the extension of the main WLWA and N&P contract for 12 months will automatically extend the Agreement for a further period of 12 months to align the expiry dates of both agreements.

- 3.2.10 Pursuant to paragraph 13 of Part 3 of the Constitution and subject to consultation with the Leader, the Cabinet Member for Public Realm & Enforcement has delegated powers to agree the proposed variation and extension of the Contract.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 A market testing exercise with stakeholders was undertaken by WLWA earlier this year based on procuring a new contract for the transport and reprocessing of comingled and paper and card dry recyclable materials. There has been no specific consultation carried out for the variation and extension of the existing Contract.
- 4.2 The West London Waste Authority and relevant constituent boroughs, including Ealing, have been consulted.

5.0 Financial Considerations

- 5.1 The total value of the contract award in 2023 was estimated at £2.77m, but the actual contract cost over the last two years came to approximately £3.38m. The increase in costs was mainly in the first six months of contract award due to processing of mixed recycling loads from kerbside properties and communal rounds. Communal rounds attracted high levels of contaminated recycling which led to increased processing costs. In October 2023, communal recycling rounds were separated from kerbside and this change saw an improvement in processing costs. Therefore, based on last year's expenditure, and planned works with the reprocessor, the value of the 1-year proposed extension for Brent's element of the Contract is estimated at £1.5m.
- 5.2 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
- 5.3 The cost of this extension of the Contract will be funded from the existing Shared Contract and Data Hub budget. If, as anticipated, clean tonnage from communal rounds are redirected to the processor, the rebate received from the sale of materials will offset some of the costs. Early market indication on material pricing from the processors provides optimism that service will be able to manage costs.

6.0 Legal Considerations

- 6.1 Officers recommend the variation and extension of the Contract as set out in paragraphs 2.1 and 2.2.
- 6.2 The Contract was procured prior to 24 February 2025, and as such is governed under the Public Contract Regulation 2015 (PCR 2015). The value of the original Contract is such that it is subject to full application of the PCR 2015.

6.3 Under the PCR 2015, a contract may only be modified (to include an extension) without a new procurement procedure where this is done in accordance with Regulation 72 of the PCR 2015. Regulation 72 sets out various circumstances in which it is possible to vary and extend a contract. Regulation 72(1)(e) provides that a contract may be modified without a new procurement procedure where the modification, irrespective of their value, are not substantial within the meaning of paragraph (8). Regulation 72(8) provides that a modification of a contract during its term shall be considered substantial for the purposes of 72(1)(e) where one or more of the following conditions is met:

- (a) the modification renders the contract or the framework agreement materially different in character from the one initially concluded;
- (b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have –
 - (i) allowed for the admission of other candidates than those initially selected,
 - (ii) allowed for the acceptance of a tender other than that originally accepted, or
 - (iii) attracted additional participants in the procurement procedure;
- (c) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement;
- (d) the modification extends the scope of the contract or framework agreement considerably;
- (e) a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than those provided for in paragraph (1)(d).

It is considered that the Council is able to rely on Regulation 72(1)(e) of the PCR 2015 in varying and extending the Contract, as when assessing the modification against the conditions set out in Regulation 72(8), the modification is not considered to be substantial. It should be noted that potentially there are also other grounds under Regulation 72 that could be relied upon to justify the variation and extension.

6.4 As set out in paragraph 3.2.10, pursuant to paragraph 13 of Part 3 of the Constitution, the Cabinet Member for Public Realm & Enforcement, subject to consultation with the Leader, has delegated powers to agree the proposed extension and variation.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 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,

7.2 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.

7.3 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.

7.4 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.

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

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

8.0 Climate Change and Environmental Considerations

8.1 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. The extension of the Contract will help to achieve these commitments. 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.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 The services will be provided by an external contractor and there are no human resources implications for Council staff as a result of the extension of the Contract.

9.2 There are no property implications either at this stage.

10.0 Communication Considerations

10.1 N/A

Related documents:

Report - [Authority To Issue A Direct Award To West London Waste Authority For The Reprocessing Of Comingled Recycling Materials And Household Bulky Waste Collections](#)

Report - Authority to delegate authority to West London Waste Authority to lead on the procurement for the transport and reprocessing of comingled and paper and card recyclable materials -

<https://democracy.brent.gov.uk/ieDecisionDetails.aspx?ID=7240>

Report sign off:

ALICE LESTER

Corporate Director, Neighbourhoods and Regeneration