

**Report of: Business Officer – Waste Management**

**Report to: Chief Officer Waste Management**

**Date: 23rd July 2015**

**Subject: Request to waive CPR 9.1 and award a new contract with the existing supplier for glass collection and recycling.**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**SUMMARY OF MAIN ISSUES**

1. The formal contract for the collection and recycling of glass arising from community drop off sites and through the Defra funded communal glass collection service expires on 31<sup>st</sup> July 2015.
2. The current contract was an interim arrangement agreed in August 2014 to allow a more comprehensive procurement to be undertaken. An options appraisal was conducted to assist in the scoping of this procurement and it identified some viable opportunities for improvements in a longer term contract. However, due to a current review of the recycling strategy, including the potential for kerbside glass collections, then it is considered that a full procurement should only be undertaken once that strategy is clearer and the procurement can fully reflect the scope of services required in respect of glass collection and recycling.
3. The incumbent provider, Berrymans, have delivered a good level of service to the Council for a number of years and informal discussions would indicate that they are happy to continue to do so. There are no operational impacts with retaining current arrangements though it is intended to negotiate with Berryman's with a view to further improving the value for money of this arrangement.
4. Berrymans were successful in securing the current arrangement through a competitive exercise demonstrating they were offering value for money at that time. The markets for glass have declined since that time and Waste Management Officers will seek to negotiate an improved offer from Berrymans in conjunction with securing a new arrangement.

## **RECOMMENDATIONS**

1. The Chief Officer Waste Management is recommended to note the contents of this report and approve the waiver of CPR 9.1 to enter into a new contract with LCC's existing glass provider without seeking further competition.

## **PURPOSE OF THIS REPORT**

- 1.1 The report seeks to give the Chief Officer Waste Management sufficient information to approve the waiver of CPR 9.1 and permit a new contract to be awarded to the current glass collection and recycling contractor without seeking competition.

## **2 BACKGROUND INFORMATION**

- 2.2 An open procurement was conducted and a contract awarded to Berrymans in 2012 for the provision of a comprehensive glass contract that includes: bottle bank glass collection service, bulk glass collection service and LOLER (lifting operations and lifting equipment regulation) inspections. The contract was for a period of only 2 years, expiring on 31<sup>st</sup> Aug 2014, due to uncertainty in the glass market.
- 2.3 In August 2014 the Chief Officer for Waste Management approved the award of a further short-term contract to Berrymans. This contract expires on 31<sup>st</sup> July 2015.
- 2.4 The 440 bottle banks across the Leeds area provide a key service as glass is not included in any kerbside collections currently. In 2014/15 the contract collected 8530 tonnes in bottle banks and a further 650 tonnes in bulk collections.
- 2.5 The contract has been performed well with any minor contract related issues being quickly resolved.

## **3 MAIN ISSUES**

- 3.1 The current glass collection and recycling contract will expire on 31<sup>st</sup> July 2015 and a new contractual arrangement is needed to provide the Council with the security of a committed price and a service standard to deliver against.
- 3.2 The current contract was awarded on the basis that the period of the contract would be used for a procurement exercise. This involved an options appraisal that scoped a number of scenarios including the transfer in ownership of the Councils banks to the successful contractor. This was considered a favourable option in some respects, particularly as the licencing aspect of the siting of the banks could be streamlined and the responsibility around managing repairs and movements would fall to the contractor. However, it is not considered prudent to make such a significant service decision until strategic work on glass collections in Leeds has been concluded, and before a fuller assessment has been made of the potential financial and legal implications of incorporating the provision of the banks into the contract.
- 3.3 Whilst it is acknowledged that a series of short-term arrangements are far from ideal in contract terms they are offering the Council protection from an unsuitable contract during a period of potential change for glass recycling.
- 3.4 Berrymans have been informally consulted regarding a new contract and are pleased to continue providing the service. They are aware that Waste Management Officers intend to negotiate an improved price for LCC as part of the formalisation of a new arrangement. This negotiation will drive financial benefits for the Council but also clearly set out the flexible approach that will be adopted to accommodate service developments as and when they happen. Communication

with Berrymans to date indicates that this flexible approach won't need to be 'risk priced' as the changes to services will be an enhancement to capture more glass.

- 3.5 The contract will be awarded from 1<sup>st</sup> August 2015 up until LCC decision making processes have identified the scope of glass services in the medium term. The contract will be for no more than 3 years, although even this period of time would fall well within the OJEU threshold in terms of contract value.

## **4 CORPORATE CONSIDERATIONS**

### **4.1 Consultation and Engagement**

- 4.1.1 It is not considered that the recommendations made in this report will have a significant impact on any particular ward or community, and as such no consultations have taken place with residents or Councillors.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.2 An equality, diversion, cohesion and integration screening form has been completed and is attached to this report. It is not considered that the recommendations made will have any impact on a specific individual or group.

### **4.3 Council policies and the Best Council Plan**

- 4.3.1 The City's Best Council Plan 2013-2017 sets out a key objective to deal with waste effectively. The waiver of CPR 9.1 and award of a contract to the existing supplier will both help to deal with waste effectively, and achieve efficiency in the use of resource and the delivery of the overall Waste Management Contracts Plan.
- 4.3.2 It is paramount that procurements and contracts in the Council are undertaken with a view to ensuring openness, transparency and fairness. The publication of this report will serve as a visible record of the actions undertaken and the reasons for these.
- 4.3.3 Recycling continues to be a high priority for the Council, with a Waste Strategy target of 55% of household waste recycled by 2016. The continued recycling of glass will contribute to achieving this aspiration.

### **4.4 Resources and value for money**

- 4.4.1 Due to the reduction in the market price of glass observed from late 2014 the service currently budgets for the sale of material to no longer provide the authority with an income.
- 4.4.2 Officers will be aiming to secure greater value for money for the Council through the negotiation of an improved pricing arrangement.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 This decision is not subject to call-in as it is not a key decision. The decision is a significant operational decision and will be published by the Council. There are no grounds for treating the contents of this report as exempt from publication or confidential in terms of the Council's Access to Information Rules.

## **4.6 Risk Management**

- 4.6.1 The main risks of awarding this contract without conducting a procurement exercise are that the Council is not getting the best price and that the award is challenged by a competitor.
- 4.6.2 There is a risk that by not going to the market income could be lost; however, this is considered small as Berrymans were proven to be competitive in the 2012 procurement and though the value of glass has fallen it is still considered that the prices are competitive as they are tracked according to market conditions and any fluctuations are reflected in the contract price. It is also expected that any new contract would similarly have a variable element to the price based on market rates so as to avoid excessive risk pricing from contractors.
- 4.6.3 The risk of a potential challenge from a competitor is reduced by the market being small, and due to the certainty that there will need to be a procurement for the full contract, in which Berrymans' competitors would have the opportunity to be involved.

## **5 CONCLUSIONS**

- 5.1 Waiving CPR 9.1 will allow the award of an essential contract to the existing provider, thereby ensuring continuity of service and value for money. It is recommended that the proposed contract period be from 1<sup>st</sup> Aug 2015 until strategic decisions on the glass service have been concluded, but not exceeding a duration of 3 years.

## **6 RECOMMENDATIONS**

- 6.1 The Chief Officer Waste Management is recommended to note the contents of this report, approve the waiver of CPR 9.1 to enter into a new contract with LCC's existing glass provider without seeking further competition.

## **7 BACKGROUND DOCUMENTS<sup>1</sup>**

- 7.1 N/A

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.