

Report of: Business Officer, Contracts

Report to: Chief Officer Waste Management

Date: 9th November 2017

Subject: Procurement strategy for waste paint collection, re-use and disposal

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input 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?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
<p>Appendix1 and 2 to this report has been marked as exempt under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council. The information is exempt if and for so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In this case the report author considers that it is in the public interest to maintain the exemption.</p>		

1 Purpose of this report

- 1.1 To provide an update to Chief Officer Waste Management on contractual arrangements for waste paint collection, re-use and disposal, and to gain agreement to the procurement strategy for the future provision of this service.

2 Recommendation

- 2.1 The Chief Waste Management Officer is recommended to note the contents of this report and approve the issue of a licence, which is subject to the performance of contractual requirement, to Seagulls Reuse Ltd for the siting of and collection of waste paint from collection banks on the Council's eight Household Waste Sorting Sites (HWSS), and the subsequent re-use, recycling and disposal of this paint.

3 Background information

- 3.1 Seagulls Reuse Ltd is a small third sector company which focuses on delivering environmental awareness and re-used resources to the Leeds community. They

aim to engage and support local people, particularly those facing disadvantage, and to create volunteering, training and job opportunities. The business operates on a simple collection round that takes material back to a central depot where useable paint is mixed to new colours and combined into useful quantities to be sold on at reduced rates.

- 3.2 The Council is committed to capitalising on the capacity within the third sector in Leeds where mutual objectives and priorities can be met, such as those relating to environmental benefit and social value. The re-use of paint represents an environmentally sustainable option when compared to other disposal options for what constitutes a hazardous waste material, and there are significant social benefits linked to Seagulls' employment and volunteering practices, involvement in community projects, and offer of reduced cost paint to low income families.
- 3.3 The City Council have formally contracted with Seagulls Reuse Ltd since 2010. Seagulls were initially successful in an open procurement which highlighted the limited opportunities for contractors offering paint re-use, and with the associated local social benefits. Subsequent contracts were awarded following a market testing exercise where Seagulls were the only respondent. Use of a voluntary transparency notice further supports the evidence for the lack of this particular market as no feedback from potential alternative suppliers was received.
- 3.4 Ongoing liaison with both the third sector and the waste industry by officers in Waste Management has still been unable to identify alternative providers of this service.

4 Main issues

4.5 Licence

- 4.5.1 It is proposed that a 'licence to occupy' be issued to Seagulls for this next contractual term, with this now deemed the most appropriate form of agreement for this arrangement whereby a third party is siting and servicing their infrastructure on Council land. Although it is an option to issue a licence in conjunction with a competitive procurement exercise, this is not a requirement, since the licence itself is not governed by Contract Procedure Rules.
- 4.5.2 A five year licence for paint banks is being developed with Land and Property Officers in Asset Management. On approval of this report this licence will be issued to Seagulls, with the licence conditional upon the performance of the contract. The Heads of Terms for the licence agreement are included as Appendix 1.

4.6 Contract

- 4.6.3 Seagulls are currently under contract until 21st November 2017. The banks are well used by Leeds residents and the collection service runs smoothly picking up an average of 29 tonnes per month across all sites, with complaints and operational issues a rarity.

4.6.4 Contract management work with Seagulls has been focused on improving reporting, record keeping and communication with an aim to strengthen the business planning side of the organisation to complement their already established creative and charitable work.

4.7 Sustainability

4.7.1 The Council has worked with Seagulls to support them in achieving their aim to become more self-sufficient as a business. The duration of the licence agreement proposed is designed to provide Seagulls with the certainty that they need to enable them to invest in and grow the organisation.

4.7.2 Support has been provided to Seagulls through the Commercial Team in the Council's Projects, Programmes and Procurement Unit (PPPU), who have worked with key Seagulls personnel to develop a business plan designed to clarify and reinforce the future strategy of the organisation. This work has been used to inform the contract, and to provide confidence to all parties that the arrangement is sustainable for the duration of the licence.

4.8 Value for Money

4.8.1 To ensure value for money to the Council through this arrangement, a market sounding exercise has been conducted with other commercial providers of paint waste disposal. The details of this exercise are included in confidential Appendix 2 to this report, and demonstrate that Seagulls compare favourably from a price perspective. The appendix also includes details of Seagulls' proposed contractual price.

4.8.2 Furthermore, the Social Value Measurement exercise completed (the results of which are also summarised and included within Appendix 2) demonstrates that a very significant wider social value can be attached to Seagulls' activities, estimated at around £500k per annum.

4.8.3 Value for money is further assured through the contract pricing mechanism using banded tonnages to ensure that the benefits of any economies of scale through increasing volumes are shared with the Council. .

5 Corporate Considerations

5.1 Consultation and Engagement

5.1.1 The Executive Member has been fully consulted on the issues relating to this contract. It is not considered that the recommendation made will have a significant impact on any particular ward or community, and as such no further consultations have taken place.

5.2 Equality and Diversity / Cohesion and Integration

5.2.1 An Equality Impact Assessment has been completed and it is not considered that the content of this report or the recommendations made will have any negative

impacts on a specific individual or group in terms of equality, diversity, cohesion and integration.

5.2.2 The positive impacts of the decision for Leeds residents, for Seagulls and for the re-use sector are reflected in the assessment. They include:

- **Secure appropriate outlets.** Waste being effectively managed, particularly problem waste streams, limits opportunities for individuals or groups to be adversely affected by wider environmental crime issues.
- **Resale paint inclusively priced to be accessible.** A primary aim of the Seagulls operation is to make paint affordable to all. The ethos of everyone having the ability to improve their surroundings and take pride in where they live breaks down barriers and inequality in deprived neighbourhoods.
- **Continuation of a wide range of training, employment and volunteering opportunities.** Seagulls provide support to 37 individuals on a range of different programmes and this decision allows the work to continue. The security that provides is particularly important for working with individuals with personal aspects to their programme such as mental health concerns or confidence issues where improvements will only be seen long term.
- **Inputs to the re-use sector at a local level benefiting Leeds.** The decision enables financial and material inputs into a Leeds based social enterprise that creates a closed loop for the material within Leeds. Paint is collected from and sold to Leeds residents ensuring the environmental and well-being benefits remain in the city.

5.3 Council policies and City Priorities

5.3.1 Issuing this licence has numerous positive links to Council priorities in terms of waste reduction and recycling, cost efficiency, but also employment and equality.

5.4 Resources and value for money

5.4.1 Value for money is discussed in the section 4.4 of the report. The social benefits of this service have indirect impacts in terms of mitigating costs to the Council which are included in confidential Appendix 2.

5.5 Legal Implications, Access to Information and Call In

5.5.1 The decision is categorised as a significant operational decision and is not eligible for call in. Officers in Asset Management have been consulted throughout the licence process.

Note that by virtue of Access to Information Rules 10.4.(3) The Appendices attached to this report are restricted as confidential. This is on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council.

It is considered that the public interest in maintaining this information as exempt outweighs the public interest in disclosing the information, as disclosure may prejudice the outcome of the procurement process, whilst the details of the tender proposals within the appendices also contain the financial details/business affairs of individual companies.

5.6 Risk Management

- 5.6.1 A risk register will be drawn up and maintained throughout the course of the licence with escalating and high risks being reported at a Chief Officer level.
- 5.6.2 If the recommendation to issue a licence subject to contract as described within this report is not approved then the Council will risk being in a position where no formal arrangements are in place for dealing with a difficult waste stream.
- 5.6.3 Any risk of challenge from another supplier through the issue of a licence and effectively the award of a contract without seeking competition is deemed to be extremely low due to the lack of comparable options in the market. The Procurement Unit have been consulted and endorse the process being adopted.
- 5.6.4 The risk to the future viability of Seagulls will be monitored and controlled post award through contract management by the Waste Strategy and Infrastructure Team. The risk of not issuing a licence and continuing to offer short term arrangements would constrain the potential capabilities and growth of Seagulls as an organisation.

6 Conclusions

- 6.1 Taking into consideration the environmental and social benefits that can be delivered by Seagulls alongside the lack of viable alternatives for the Council for what represents a difficult waste stream, the most favourable option to both sides is clear. A licence, subject to contract, offers the security Seagulls require to invest in their future and ultimately become more sustainable, but also provides the Council with a solution that delivers significant social benefits and overall value for money.

7 Recommendations

- 7.1 The Chief Waste Management Officer is recommended to note the contents of this report and approve the issue of a licence, which is subject to the performance of contractual requirement, to Seagulls Reuse Ltd for the siting of and collection of waste paint from collection banks on the Council's eight Household Waste Sorting Sites (HWSS), and the subsequent re-use, recycling and disposal of this paint.

8 Background documents¹

- 8.1 N/A

¹ 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.