

**Open Report on behalf of Andy Gutherson, Executive Director - Place**

Report to:	<b>Councillor D McNally, Executive Councillor for Waste and Trading Standards</b>
Date:	<b>19 - 23 September 2022</b>
Subject:	<b>Re-Procurement of the Household Waste Recycling Centres (HWRCs) Reception Facilities Dynamic Purchasing System (DPS)</b>
Decision Reference:	<b>I027865</b>
Key decision?	<b>Yes</b>

**Summary:**

The Council's Dynamic Purchasing System (DPS) for the disposal of the material received into the Household Waste Recycling Centres (HWRCs) has now expired and contracts let from the DPS end in October 2022. This report sets out a proposed course of action regarding the procurement of a new DPS and delegation of the necessary decisions.

**Recommendation(s):**

That the Executive Councillor for Waste and Trading Standards:

- (1)** Approves the implementation of a Dynamic Purchasing System (DPS) from October 2022 for the procurement of new contracts for the receipt and recycling of materials deposited at the Council's Household Waste Recycling Centres.
- (2)** Delegates to the Executive Director – Place authority to give effect to determine the final form of the Dynamic Purchasing System and to approve the entering into of the any new contracts procured through the DPS.

**Alternatives Considered:**

**(1) Not Awarding a Contract for disposal of waste deposited at HWRCs:**

Lincolnshire County Council has a statutory duty to dispose of waste materials deposited by Lincolnshire residents at its Household Waste Recycling Centres (HWRCs). Therefore, this option was rejected as the Council would not be fulfilling its statutory duty.

**(2) Invitation to Tender:**

Due to the number of contracts required and the requirement for flexibility in

awarding the contracts this option is not recommended. The Invitation to Tender route would not provide a flexible solution which could be changed to better reflect the requirements of interlinking contracts which will be reprocured in 2024 - such as the haulage contract for example. Also the Environment Act 2021 may require significant changes to the specifications and/or Contractors who are able to dispose of the waste and the ITT route could result in a number of ineffective contracts as it is unable to react quickly to changing requirements.

**Reasons for Recommendation:**

The course of action proposed is compliant with the Public Contract Regulations and offers a tried and tested and efficient route to procurement. The Council needs security of supply of these vital services along with a flexible solution which may be changed as and when required by the Council to reflect changing requirements.

The Environment Act 2021 may require significant changes to the way Local Authorities dispose of waste streams which could lead to significant changes to the specification and the Contractors who are able to dispose of the waste streams. The proposed procurement route will allow for the Council to close the DPS at any time with notice. As there will be a notice period in which the Council will need to have any changes in place as a result of the Environment Act 2021 we can utilise this to ensure the DPS ends as other contracts start to maintain continuity of service.

**1. Background**

1. Lincolnshire County Council has a statutory duty to dispose of waste materials deposited at its Household Waste Recycling Centres (HWRCs).
2. The Council discharges this duty by hauling materials away from HWRCs to various sites around the County where the materials are then recycled.
3. Since 2017 contracts for the receipt and recycling of this material have been issued through a Dynamic Purchasing System (DPS). A DPS is a procurement process under which suppliers who have met specified pre-qualification requirements are admitted to a list of approved suppliers to deliver specified categories of services. Contract opportunities are then offered to the suppliers on the list rather than put through a process that offers the opportunity to the open market.
4. A DPS is an excellent procurement vehicle for requirements such as these where there are a large number of individual suppliers distributed across a geographic area.
5. Since its inception the DPS for the receipt and recycling of materials from the HWRCs has worked well and the Council has taken advantage of the inherent flexibility of the DPS to improve the way the DPS functions through its life adding new waste streams and collection points and encouraging new suppliers to join to increase competitiveness for HWRC materials. The separated paper and card

collections has not had any impact to the volume of material presented at the HWRCs.

6. This DPS has now expired, and contracts let from the DPS end in October 2022. It is therefore proposed to procure a new DPS to replace the expired DPS to be based heavily on the pre-existing DPS with some minor improvements, these being:
  - a. A modification to the evaluation mechanism to allow for weightings to be applied to the gate fee and milage pricing elements. It is proposed that these weightings will be applied on lots which are traditionally high volume such as green waste and timber where it is critical that short journeys are undertaken to allow for high frequency of collections to keep HWRC sites clear at busy times. This will have additional benefits to local traffic and the environmental impact of hauling the material.
  - b. The inclusion of an additional lot for the reception of food waste to provide the Council with Anaerobic Digestion capacity in the event that we require it due to upcoming legislative changes under the Environment Act 2021.
  - c. An increase to the 'turnaround time' at the HWRC reception sites from 15 minutes to 30 minutes
  - d. The ability to add sites from neighbouring authorities, such as North and North-East Lincolnshire, to increase opportunities for efficiency and savings
7. A DPS will provide sufficient flexibility to allow for any changes that might come about from reprocurement of the material haulage contract in 2024 and also any changes to minimum treatment levels that might be required due to improvement in the quality of deposited materials as a result of ongoing engagement with the public off the back of the paper and card roll out.
8. The Council's haulage contract for HWRC materials contains a stipulation that a fixed number of vehicles are available to transport material at most times. This can be increased at peak times – for example in the summer due to increased volumes of green waste - but even so, traditionally during busy periods, it has been challenging to manage intake and outtake at the HWRC sites. The current DPS evaluation mechanism, whilst generally working well, does not easily allow the Council to weight journey times for high-volume waste streams and this has led to longer than ideal journey times from HWRC sites to reception sites causing operational disruption at the HWRCs such as containers not being emptied quickly resulting in residents being unable to deposit that particular material. Providing for this weighting within the evaluation mechanism will allow the Council to achieve shortened journey times for high volume materials resulting in more containers being emptied.
9. It is anticipated that through engagement and communication we will improve the quality of the waste material deposited at the HWRCs and this will encourage more providers onto the DPS and improve competition. The Waste Services Team are currently engaging with the public regarding the materials that can be recycled at the HWRCs. Samples of HWRC paper and card have been sent to our Paper and Card Offtaker in order to understand the quality of paper and card from the HWRC

sites and encourage other processors to join the DPS to bid for quality material which will enable LCC to generate an income from it.

10. The performance management framework in place in the current DPS works well and allows the Waste Services Operations team to effectively manage the volumes of material at the HWRC sites. The DPS provides the flexibility to review the performance management framework to bring them in line with other contracts that are due for procurement for example the haulage contract. As material streams are cleaned up the DPS will also enable the Waste Services Team to review disposal performance against the waste hierarchy.
11. This DPS will be live prior to the existing contracts expiring, to enable continuity of service, and will be open for a period of 10 years with the option to extend for a further period of up to 10 years. We will have the option to close the DPS at any point by providing a short notice period. This will provide the Council the opportunity to implement actions following the enactment of the Environment Act 2021 and either modify the DPS to comply with any changes the Act may bring into effect or close the DPS and procure the services in a manner which will provide the best outcomes for the Council whilst ensuring compliance.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

A separate Equality Impact Assessment has not been undertaken. However, the procurement supports the Council to enable front line HWRC Staff to be more responsive to support individuals who may have a protected characteristic such as people with a disability and younger and older people with the disposal of their household waste.

#### Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

The DPS allows greater flexibility to meet operational emergencies. This allows material to be disposed of at recycling facilities without diversion to landfill when disruption occurs. Landfill is more environmentally damaging than recycling, so the DPS is better for the environment. The DPS also allows recycling off-takers to be used which are closer to each HWRC thus reducing the carbon miles generated by haulage which also benefits the environment.

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

The decision is not considered to have any implications for the section 17 matters.

### 3. Conclusion

A Dynamic Purchasing System will provide the Council with a flexible solution which may be changed as and when required by the Council to reflect changing requirements. It also enables Suppliers to apply for a place on the DPS at any time during the life of the DPS. Modifications to the evaluation mechanism will allow for shorter journey times with resultant benefits to local traffic, the environmental impact of haulage of materials and operational improvement at the HWRC sites.

#### 4. Legal Comments:

The Council has the power to procure the contracts referred to and the use of a Dynamic Purchasing System is compliant with the Council's obligations under procurement law.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor.

#### 5. Resource Comments:

Funding for this provision is available within the service budget.

### 6. Consultation

#### a) Has Local Member Been Consulted?

N/A

#### b) Has Executive Councillor Been Consulted?

Yes

#### c) Scrutiny Comments

The decision will be considered by the Environment and Economy Scrutiny Committee at its meeting on 14 September 2022 and the comments of the Committee will be reported to the Executive Councillor.

#### d) Risks and Impact Analysis

See the body of the Report.

### 7. Background Papers

No Background Papers within section 100D of the Local Government Act 1972 were used in the preparation of this Report

This report was written by Leanne Fotherby, Senior Commercial and Procurement Officer and Mike Reed, Head of Waste Service who can be contacted on [leanne.fotherby@lincolnshire.gov.uk](mailto:leanne.fotherby@lincolnshire.gov.uk) and [mike.reed@lincolnshire.gov.uk](mailto:mike.reed@lincolnshire.gov.uk).