

Supplement to the agenda for

Cabinet

Thursday 25 January 2024

2.30 pm

**Herefordshire Council Offices, Plough Lane, Hereford, HR4
OLE**

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2024-25 Budget Recommendations from Scrutiny Management Board

Meeting: Cabinet

Meeting date: 25 January 2024

Report by: Democratic Services

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose

The purpose of this report is to notify Cabinet of the recommendations from Scrutiny Management Board's scrutiny of:

- 2024-25 Draft Budget
- 2024-25 Capital Investment Budget
- Medium Term Financial Strategy
- Treasury Management Strategy
- Earmarked Reserves and General Fund Balance

Recommendations

- a) That the recommendations from the Scrutiny Management Board at its meeting 16 January 2024 be noted, and
- b) Cabinet set out their responses to those recommendations ahead of the full Council budget meeting

Alternative options

None proposed; it is a statutory requirement for the Cabinet to be notified and consider reports and recommendations made by a scrutiny committee.

Key considerations

1. Scrutiny committees have statutory powers to make recommendations to the Executive, and the Executive (Cabinet) has a statutory duty to respond. They may also make reports and recommendations to external decision making bodies.
2. Scrutiny recommendations are addressed to the Cabinet, as the main Executive decision making body of the council (or, where appropriate, an external agency).
3. Cabinet is being asked to note the scrutiny report / recommendations and that an Executive Response to the scrutiny recommendations be prepared for consideration by the Cabinet within two months.
4. The minutes of the meeting of the scrutiny committee provide the record of the scrutiny committee's consideration of the issue and the scrutiny recommendations made during the meeting.
5. The scrutiny committee will be notified of the Executive Response made in respect to the scrutiny recommendations and may track the implementation of the Cabinet decisions and any actions agreed. This enables the scrutiny committee to track whether their recommendations have been agreed, what actually was agreed (if different) and review any outcomes arising.

Procedure for Recommendations from scrutiny committees

6. Where scrutiny committees make reports or recommendations to the Cabinet, as soon as this has been confirmed, these will be referred to the Cabinet requesting an executive response. This will instigate the preparation of a report to Cabinet and the necessary consideration of the response, the technical feasibility, financial implications, legal implications and equalities implications etc.
7. Where scrutiny committees make reports or recommendations to full Council (e.g. in the case of policy and budgetary decisions), the same process will be followed, with a report to Cabinet to agree its executive response, and thereafter, a report will be prepared for Council for consideration of the scrutiny report and recommendations along with the Cabinet's response.
8. Where scrutiny committees have powers under their terms of reference to make reports or recommendations to external decision makers (e.g. NHS bodies), where they do this, the relevant external decision maker shall be notified in writing, providing them with a copy of the committee's report and recommendations, and requesting a response.
9. Once the executive response has been agreed, the scrutiny committee shall receive a report to receive the response and the committee may review implementation of the executive's decisions after such a period as these may reasonably be implemented (review date).

Community Impact

10. In accordance with the adopted code of corporate governance, the council is committed to promoting a positive working culture that accepts, and encourages constructive challenge, and recognises that a culture and structure for scrutiny are key elements for accountable decision making, policy development and review. Topics selected for scrutiny should have regard to what matters to residents.

Environmental Impact

11. There are no direct environmental impacts connected with this report or the outcomes it seeks to deliver. However any executive response to the recommendations are likely to the recommendations, which should be considered by Cabinet when they consider the executive responses to the recommendations.

Equality Duty

12. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
13. A public authority must, in the exercise of its functions, have due regard to the need to
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
14. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services
15. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.
16. As a request to consider recommendations, this will not have an impact on our equality duty.

Resource Implications

17. This report provides notification to Cabinet on the scrutiny report and recommendations, which have been referred to the Executive (Cabinet) for an Executive Response.
18. The Cabinet is requested to provide an Executive Response within two months, at which stage, in considering its response, a full assessment of resource implications should be undertaken.

Legal Implications

19. Section 9F (2) (b) of the Local Government Act 2000 provides that a scrutiny committee can make reports and recommendation to the Executive with respect to the discharge of any functions which are the responsibility of the Executive.

20. Section 9F (2) (e) of the Local Government Act 2000 provides that a scrutiny committee can make reports or recommendations to the Executive on matters which affect the authority's area or the inhabitants of that area.
21. The scrutiny report provides the scrutiny recommendations of the committee to be made to the Executive (Cabinet).
22. The Cabinet is requested to provide an Executive Response within two months, at which stage, in considering its response, a full assessment of legal implications should be undertaken.

Risk management

Risk / opportunity	Mitigation
There is a reputational risk to the council if the scrutiny function does not operate effectively.	The arrangements for the notification of recommendations from the scrutiny committees and agreement of an Executive Response should help mitigate this risk.

23. Cabinet is requested to provide an executive response within two months, at which stage, in considering its response, a full assessment of risk implications should be undertaken.
24. The executive will then need to assess the risks arising from any executive decisions made in respect of the scrutiny committee's recommendations.
- 25.

Appendices

Appendix A: Recommendations of Scrutiny Management Board 16 January 2024

Background papers

- [2024-25 Draft Budget](#)
- [2024-25 Capital Investment Budget](#)
- [Medium Term Financial Strategy](#)
- [Treasury Management Strategy](#)
- [Earmarked Reserves and General Fund Balance](#)

Summary of recommendations to the executive and executive responses – 2024/25 budget, recommendations from Scrutiny Management Board

Recommendation 1	Income and charging detail is provided for services in each directorate				
Executive Response					
Action –	Owner	By When	Target/Success Criteria	Progress	

Recommendation 2	Investment in and level of targeted support is made clear in the budget				
Executive Response					
Action	Owner	By When	Target/Success Criteria	Progress	

Recommendation 3	Evidence is provided justifying income targets within the planning service				
Response					
Action	Owner	By When	Target/Success Criteria	Progress	

Recommendation 4	There is ongoing monitoring of performance in areas where MERS savings were taken for the 2024-25 financial year			
Executive Response				
Action	Owner	By When	Target/Success Criteria	Progress

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Recommendation 5	Council to be provided with more detail on the proposed savings with regard to the BBLP contract			
Executive Response				
Action	Owner	By When	Target/Success Criteria	Progress

Recommendation 6	For the administration to provide a forecast of where they are minded to adjust earmarked and general reserve lines to deliver the required £13.8 million to cover the overspend forecast at quarter 2 in children's services			
Executive Response				
Action	Owner	By When	Target/Success Criteria	Progress

Recommendation 7	To provide further evidence to give confidence that the savings of £2.5 million in Children and Young People directorate are deliverable, from Q3 and Q4 2023-24			
Executive Response				
Action	Owner	By When	Target/Success Criteria	Progress



Title of report: Procurement of new waste collection service - update

Meeting:	Cabinet
Meeting date:	Thursday 25 January 2024
Cabinet member:	Cabinet member community services and assets;
Report by:	Corporate Director, Economy and Environment
Report author:	Waste Transformation Lead / Head of Environment Climate Emergency and Waste Services, Economy and Environment

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose

Further to the approved Cabinet report on the 5th October this report seeks approval to award the new waste collection contract.

Recommendation(s) –

That:

- a) **Authority is delegated to the Corporate Director for Economy and Environment in consultation with the Cabinet Member Community Services and Assets, Cabinet Member for Environment and the Director of Resources and Assurance to award the contract to the preferred bidder for the new waste collection service under the existing collection model, within the proposed 2024/25 annual revenue budget, for an initial term of 8 years, including options to extend by up to a further 12 years (following budget approval and conclusion of the procurement process);**
- b) **Authority is delegated to the Corporate Director for Economy and Environment in consultation with the Cabinet Member Community Services and Assets, Cabinet Member for Environment and the Director of Resources and Assurance to authorise expenditure for the essential depot improvements, service enhancement and new receptacles essential for the standard service, within the approved £5.8m capital budget for the standard collection service within the new contract;**
- c) **To delegate authority to the Corporate Director for Economy and Environment to place the order with the preferred bidder for the new vehicle fleet prior to the contract award with the preferred bidder in order to meet the vehicle lead in times and ensure the new vehicles are available for the new Contract Commencement Date;**
- d) **To authorise the expenditure up to the value of £250,000 from the Waste Revenue Reserve to fund mobilisation;**
- e) **Cabinet approves the extension of the existing Waste Collection contract with FCC Environment from 2 June 2024 to 31 August 2024 to ensure alignment with the start of the new waste collection contract on 1 September 2024; and**
- f) **Delegate all operational decisions in order to implement the above recommendations to the Corporate Director for Economy and Environment.**

Alternative options

1. Do nothing - This is not an option as the current waste collection contract cannot be extended beyond 1 September 2024 and waste collection and disposal services are statutory services that the council has to provide.
2. Terminating the current procurement process and seeking a further long-term extension to the current collection arrangements. This is contrary to the Public Contract Regulations 2015 and the Council's contract procedure rules.
3. Terminating the procurement process and bringing the waste collection service in house; this option has been rejected based on specialist external technical consultancy advice.

Key considerations

4. The current waste collection contract expires on 2 June 2024, with an option to extend until 31 August 2024. This extension option is on the same contractual terms and the above recommendation is to enacting the extension option to ensure alignment with the commencement of the new collection service.
5. On 25 November 2021, Cabinet approved the adoption of the three weekly residual collections with twin stream recycling service in line with the outcome of a public consultation.

6. In November 2022 the Council commenced a Competitive Dialogue procurement exercise for the new contract. The new contract duration is for an initial 8 years term with an option to extend by up to a further 12 years.
7. Initial submissions highlighted significant cost escalation due to a number of compounding market factors and Government delays to implementing and resourcing the new obligations within the Environment Act 2021. In order to mitigate the significant cost escalation the proposed solution was to phase the introduction of the new service.
8. On 5 October 2023, Cabinet approved the continuation of the procurement process for the new waste collection contract under the existing collection model and for a phased introduction of the new collection model to be introduced at the appropriate time, subject to funding, legal responsibilities and approved business case(s).
9. On 21 October 2023 Central Government announced “Simpler Recycling” which sets out the direction of travel for future waste and recycling / disposal. These proposed changes, summarised below, are still subject to consultation and further formal guidance.

Government Proposal	Commercial waste	Domestic waste
Encouragement for fortnightly residual collections	TBC	TBC
Weekly food waste collections	March 2025	March 2026
Recycling collections to include plastic film	March 2027	March 2027

10. The government has however confirmed that local authorities:
 - a. Will receive payments from packaging producers under the Extended Producer Responsibility (EPR)
 - b. Will receive new burdens funding for providing food waste collections.
 - c. Can charge for garden waste collections.
11. As part of the public consultation held in 2021, 49% of residents who replied to the survey indicated the willingness to use an optional, chargeable garden waste service. This is illustrated in Table 1 below and is a higher percentage than the average take up of 44% nationally.
12. A specific public consultation is currently underway until February 2024 and will inform the business case for the proposed new garden waste collection service. A further report will be presented to Cabinet in early 2024 to consider this.
13. The phased approach is deliverable through the procured solution, which includes a robust change mechanism, and will enable the Council to meet any new requirements as they are introduced.
14. The introduction the future services and any changes will be subject to approved business cases, supported by the award of new burdens funding when confirmed, and subject to Cabinet approval.
15. A comprehensive communications campaign is in development prior to the new service and further campaigns will be undertaken to support the commencement of each subsequent phase.

16. This report seeks approval to award the contract to the preferred bidder on the basis of the most economically advantageous tender following conclusion of the procurement process.
17. In order to de-risk vehicle lead in times and to ensure that the required new collection vehicles are available for the new service commencement date the order for the new vehicles need to be placed at the preferred bidder stage.
18. Additional resource has been included within the budget to strengthen contract management for the new service.

Community impact

19. Whenever changes are made to a universal waste collection service residents will need clear information and time to prepare and adapt to the change. A comprehensive communications strategy is being developed to continue to support residents in making good reduce, reuse and recycle choices to drive recycling to even higher levels, and to support the mobilisation of the new service.
20. The new waste collection service will have a positive impact on contributing towards local and regional strategy priorities, targets and legislation. These all are complementary to The County Plan 2020 – 2024 objectives to:
 - a. Minimise waste and increase reuse, repair and recycling
 - b. Invest in low carbon projects
 - c. Identify climate change action in all aspects of council operation
 - d. Seek strong stewardship of the county's natural resources
21. The proposed solution includes numerous social value commitments to support volunteering within the County, to support care leavers into employment and to support local employment.

Environmental Impact

22. The council seeks to treat waste as a resource, supporting a more circular economy for Herefordshire reducing, reusing and recycling materials so that they stay in use for longer, offsetting use of raw materials and reducing carbon emissions.
23. The environmental impact of this proposal has been integral to the service specification and includes appropriate requirements on the contractor/delivery partner to minimise waste, reduce energy and carbon emissions and to consider opportunities to enhance biodiversity. This will be managed and reported through the management of the contract
24. The modelling undertaken by Frith Resource Management (FRM) indicates that the additional recycling options and reduced residual waste capacity through the enhanced service will
 - a. significantly increase recycling levels
 - b. significantly increase recycling quality
 - c. have a strong focus on re-use to ensure items are in use for longer, reducing waste and offsetting the use of raw materials and reducing carbon emissions

25. The procurement process includes requirements for bidders to set out their approach to deliver the Waste Strategy objectives and environmental improvements which will be evaluated as part of the procurement process.

Equality duty

Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
26. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services.
27. Previous cabinet decisions on the future collection model were considered in line with the council’s Equality Act 2010 duties and an extensive public consultation exercise was undertaken.
28. The service specification incorporated the learning from the waste pilot schemes.
29. No new impacts have been identified beyond those identified in the 25 November 2021 Cabinet report and Equalities Impact Assessment.
- a. <https://councillors.herefordshire.gov.uk/ielIssueDetails.aspx?IId=50039497&PlanId=0&Otp=3#AI59562>

Resource implications

30. The below table indicates the estimated waste collection service costs for 24/25, which inform the 24/25 budget, however the actuals will not be confirmed until completion of the procurement process and the selection of a preferred bidder. All mobilisation costs for the preferred bidder will be included within contract costs and are included below.

Revenue costs	24/25
Base budget	£4.2m
Total estimated contract costs – 24/25	£5.9m
Current contract until 31st August 2024 + New contract until 31st March 2025 (The final costs will be confirmed when the procurement process is concluded.)	
Commercial waste income	-£1.7m

Revenue contributions to capital outlay (To commence in 25/26)	£0
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31. The above table includes the total estimated contract cost for the current and new contract in 2024/25. This represents an equivalent full year budget for the new service, before commercial waste income, of £7.1m which includes the annual contract cost and capital repayment costs. The final costs will be confirmed when the procurement process is concluded.
32. The preferred bidder will be selected following a robust and competitive procurement process, which was informed by our external specialist procurement and legal advisors and in line with the Council's contract procedure rules to ensure value for money.
33. On 10 February 2023 Full Council approved the inclusion of £18.09m within the Council's capital programme for the provision of new vehicles, new receptacles, depot enhancement and service improvement.
34. As the recommendation is to award the new contract on the standard service, this will not include the capital expenditure for the collection vehicles and bins required for either the food or garden waste collection services which will be subject to a further decision. The capital expenditure for the standard service which begin on the 1 September 2024 will be confirmed when the procurement moderation is completed and the preferred bidder identified.
35. To ensure an effective delivery of the new contract the recommendation is to utilise up to £250k from the dedicated waste revenue reserve to cover mobilisation costs for the Council.
36. The future revenue implications and additional capital expenditure for the phased introduction and transition to the enhanced services will be revenue and capital neutral and subject to an approved business case and future decision.
37. On 9 January 2024 DEFRA wrote to all local authorities providing indicative capital transitional costs for the introduction of weekly food waste collections. This indicative allocation is £1,847,132 for Herefordshire as detailed below.

Kitchen caddies (inc spares)	£186,276
Kerbside caddies (inc spares)	£405,609
Commercial wheeled bins (inc spares)	£27,647
Vehicles (inc spares)	£1,227,600
Total	£1,847,132

38. Further confirmation on the revenue contributions for a food waste collection service through new burdens are still to be confirmed and the introduction of this service will be subject to a future decision report supported by a detail business case.

Legal implications

39. The council has statutory duties in relation to collection of waste as set out in section 45 of the Environmental Protection Act 1990 and as amended by the Environment Act 2021(not yet in force), which amongst other matters will impose a new duty in relation to separate receptacles for recyclable and non-recyclable household waste from households and non-domestic premises or relevant waste collected from industrial or commercial premises. The Government is in the process of finalising the details around the amendments to the legislation and the council has built the flexibility in to the contract to be able to comply with these requirements when the legislation comes into force.
40. The council has engaged specialist legal support in drafting the revised waste collection contract and to advise on the procurement of the new waste collection service. The contract has been procured in accordance with the Council's Procurement Rules and the Public Contract Regulations 2015.

Risk management

41. Key risks and mitigation are kept under regular review by the project board and are summarised below.

Risk / opportunity	Mitigation
Procurement Challenge	Specialist legal consultants have confirmed that the proposed inclusion of a phased introduction to the new collection service is in line with the Public Contract Regulations.
Public engagement and successful roll out of the new service	<p>Public consultation exercise from a survey identified that:</p> <ul style="list-style-type: none"> • 86% of residents agreed that more needs to be done to reduce waste and to increase recycling • 60% of residents accept the need for the council to change the current service • The new collection model was the public's preferred option from the consultation exercise. • Successful launch of pilot schemes • Communication and Engagement campaigns are in place and will continue to run to support residents with ongoing information and changes.
Not Achieving Value for Money	The procurement process and contract management process has been developed with support from specialist technical and legal consultants who will support the procurement to ensure value for money is achieved.
Compliance with the requirements of the Environment Act 2021.	The recommended approach is consistent with the requirements within the Environment Act 2021 and includes a robust change mechanism to enable the Council to meet any new requirements as they are introduced.

Consultees

42. The following consultation has taken place:

Consultation	Date	Feedback
Waste Management Services Review Project Board	Monthly	Lead the development of the recommendations through the process.
Cabinet Subgroup	Fortnightly July – Oct 2023	Lead the development of the recommendations through the process.
Corporate Leadership Team	09/01/24	Support for the proposal
Cabinet Feeder	11/01/24	Support for the proposal
Political groups consultation on a key decision	w/c 22 nd Jan 2024	A member briefing session is scheduled for week commencing 22 nd Jan 2024 and feedback will be included in a supplementary paper.

Appendices

- None

Background papers

- Waste Management Review – Waste Collection (Cabinet Report – 25th November 2021)
 - <https://councillors.herefordshire.gov.uk/ielIssueDetails.aspx?IId=50039497&PlanId=0&O pt=3#AI59562>
- Waste Management Review – Waste Disposal (Cabinet Report – 25th November 2021)
 - <https://councillors.herefordshire.gov.uk/ielIssueDetails.aspx?IId=50039499&PlanId=0&O pt=3#AI59564>
- Procurement of new waste collection service (Cabinet Report – 21st July 2022)
 - <https://councillors.herefordshire.gov.uk/ielIssueDetails.aspx?IId=50041294&PlanId=0&O pt=3#AI60738>
- Procurement of new waste collection service - update (Cabinet Report 5th October 2023)
 - <https://councillors.herefordshire.gov.uk/ielIssueDetails.aspx?IId=50045945&PlanId=0&O pt=3#AI65161>

Report Reviewers Used for appraising this report:

Governance	Simon Cann	Date 05/01/2024
Finance	Rachael Hart	Date 17/01/2024

Legal	Emma-Jane Brewerton	Date 17/01/2024
Communications	Luenne Featherstone	Date 02/01/2024
Equality Duty	Harriet Yellin	Date 03/01/2024
Procurement	Carrie Deeley	Date 05/01/2024
Risk	Kevin Lloyd	Date 03/01/2024

Approved by	Ross Cook	Date 19/01/2024
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Please include a glossary of terms, abbreviations and acronyms used in this report.

