

MEETING:	GENERAL OVERVIEW AND SCRUTINY COMMITTEE
MEETING DATE:	3 SEPTEMBER 2013
TITLE OF REPORT:	WASTE MANAGEMENT CONTRACT
REPORT BY:	HEAD OF SPECIAL PROJECTS

1. Classification

Open.

2. Key Decision

This is not an executive decision.

3. Wards Affected

County-wide.

4. Purpose

To outline the current position with regard to the negotiations over the variation to the Integrated Waste Management Contract and the processes that will be followed to enable Cabinet to make a decision on the 4th October 2013.

5. Recommendation(s)

THAT:

- (a) **The Committee notes the report**

6. Alternative Options

- 6.1 The work on verifying the options is not complete.

7. Reasons for Recommendations

- 7.1 The work to complete the options is extensive and it will be necessary to take a report to Cabinet that provides a comprehensive explanation of any recommended option. The work to finalise that is not yet complete which is why the Cabinet decision has moved back to October.

8. Key Considerations

- 8.1 The Cabinets of Herefordshire Council and Worcestershire County Council (WCC) are due to consider the Variation to the Integrated Waste Management Contract on the 4th October 2013, as outlined in the Cabinet Report of the 13th December 2012. Both Cabinets will be asked to confirm a preferred option and costings within which a Variation can be concluded. This preferred option will be required to meet the parameters identified in the Cabinet Reports of the 13th December 2012 and the 16th February 2012.
- 8.2 The Contract was signed between Herefordshire and Worcestershire Councils and Mercia Waste Management in December 1998. MWM's Planning Application for the Energy from Waste plant in Kidderminster was refused by WCC. MWM duly appealed that decision and lost that appeal in 2002. The loss of a facility to divert waste from landfill meant the landfill site at Hill and Moor was filling considerably more quickly than anticipated and meant that some means of diverting waste from landfill needed to be developed.
- 8.3 The Joint Municipal Waste Management Strategy for Herefordshire and Worcestershire 2004-2034 (JMWMS) identified autoclaving a new process for treating residual waste as the preferred technology alongside the facilities developed by MWM and the Comingled Materials Recycling Facility at Worcester. Despite securing planning permissions in Worcestershire and Herefordshire it became evident that the subcontractor would be unable to deliver a process that would adequately divert waste from landfill. Having failed to deliver a new approach to treating residual waste the Councils reviewed the JMWMS which contained a revised Residual Waste Options Appraisal.
- 8.4 In response to the revised JMWMS, MWM submitted a Planning Application in 2010 to build an Energy from Waste Facility at Hartlebury. In 2012 MWM were granted Planning Permission. MWM went out to competitive tender to secure an engineering, procurement and construction (EPC) contract for the EfW plant. MWM have identified their preferred contractor but as of yet the EPC Contract has not been signed.
- 8.5 Following the Cabinet meeting of the 13th December 2012 which noted the progress in negotiations on the contract variation to deliver the EfW it was agreed that the Councils would develop an option for alternative methods of financing for the EfW.
- 8.6 Work continues to identify the costs associated within the options as at the time of writing this report; negotiations with the Contractor are continuing and the finalised options will be available for Cabinet's meeting on the 4th October 2013. Several options will be presented to Cabinet and will include the termination of the current contract, "doing nothing" as well as a number of different approaches to financing the EfW. In accordance with the Cabinet decision of the 13th December 2013, the Councils have been in discussion with DEFRA who have considered the options proposed by the Council and have asked for a further option to be developed this work is currently being undertaken.
- 8.7 These options will be presented to Cabinet on the 4th October and will be costed.
- 8.8 The Councils are being advised as a partnership by Deloitte on the financial aspects of the proposal, Eversheds on the legal aspects of the proposal and AMEC on the technical elements of the proposal. These advisors will be present at a joint presentation to the Cabinets on the 4th October 2013.
- 8.9 Herefordshire Council has sought independent advice through KPMG to advise on Value for Money of the options for Herefordshire alone. As the options have not been fully

completed this work will not be finished by the 3rd September 2013. KPMG will provide advice at the Cabinet meeting on the 4th October 2013.

- 8.10 In addition further advice will be presented to Cabinet on the issue of procurement, as outlined in the “parameters” paper presented to Cabinet on the 13th December 2012 as well as other legal advice in relation to the options presented to Cabinet. As this advice will only be available once the detail of the Options is finalised.

9. Community Impact

- 9.1 The report to Cabinet on the 4th October 2013 will identify if any community impact needs to be assessed.

10. Equality and Human Rights

- 10.1 The report to Cabinet on the 4th October 2013 will identify if any equality and human rights issues needs to be assessed.

11. Financial Implications

- 11.1 At this stage because the full costings of the options to be presented to the two Cabinets has not been completed it is not yet possible to provide definitive view of the financial implications.

12. Legal Implications

- 12.1 At this stage there are a number of outstanding legal issues to be resolved before the options are presented to the two Cabinets and it is not yet possible to provide definitive view of the legal implications.

13. Risk Management

- 13.1 The risks associated with the variation will be assessed and reported on to Cabinet on the 4th October 2013. As the full financial and legal implications are yet to be finalised it is not possible to provide a detailed assessment of the risks until that work is complete.

14. Consultees

- 14.1 None.

15. Appendices

- 15.1 None.

16. Background Papers

- 16.1 None identified.