

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 18th April 2017
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WARD(S): All
PORTFOLIO(S): Commissioner for Transport and Highways
Cllr Fiza Matloob

PART I **KEY DECISION**

INSOURCING UPDATE – ENVIRONMENTAL SERVICES

1. **Purpose of Report**

To update members that following a review of commercial considerations for the Council to insource services through the composition of a Local Authority Direct Service Organisation (DSO).

To request that following its consideration of this report, that Cabinet resolve and instruct officers to commence the set-up of the new DSO.

To request that following its consideration of this report that Cabinet approve the headline proposed governance arrangements and responsibilities for the mobilisation of the DSO as highlighted in Appendix A to ensure services are delivered from 1 December 2017.

2. **Proposed Action**

The Cabinet is requested to resolve:

- (a) That officers be instructed to commence the set-up of the new DSO.
- (b) That the proposed governance arrangements and responsibilities for mobilisation of the DSO and proposed organisational structure both for the Council client and DSO.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

3.1 **Slough Joint Wellbeing Strategy Priorities**

Slough Borough Council has stated through the Sustainable Community Strategy in the Environment and Regeneration section that it will pursue steps to:

- move up the waste hierarchy and increase the amount of waste recycled;
- reduce the overall amount of waste produced; and
- reduce dependency on landfill for final waste disposal.

The primary environmental commitment and statement made by the Council through the Slough Sustainable Community Strategy is that the council has set itself the target of recycling 60% of its waste by 2028. This is a core driver behind the Waste Strategy and defines the strategic horizon period.

3.2 **Five Year Plan Outcomes**

The Five Year Plan's outcomes the proposal will help to deliver are:

- ***Slough will be the premier location in the south east for businesses of all sizes to locate, start, grow, and stay***

Ensure that the gateways to the town, prominent places and green spaces are clean and well maintained

A fully functioning and dedicated public realm service is a key deliverable working towards keeping the gateways to the town, prominent places, parks, memorial gardens, cemeteries, roads and pavements clean. It improves the visual amenity of the town, prevents additional waste being fly-tipped and is a fundamental component of civic pride in the area.

The Highways infrastructure including maintenance of the asset and ongoing repairs together with winter maintenance is critical to ensure a fit for business transport infrastructure.

- ***The Council's income and the value of its assets will be maximised***

Ensure that a revolutionised approach to household waste collection is in place

The Environmental Services contract is key to the provision of collection of materials collected via a dedicated waste collection service that provides a residual waste, recycling and green waste kerbside service and to the provision of an ad hoc clinical waste disposal from the kerbside collection and the provision of the services from the Household Waste Recycling Centre.

4. **Other Implications**

(a) Financial

Direct Services Organisation for Environmental Services

Section 1 of the Localism Act 2011 (the 2011 Act) provides local authorities with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the general power of competence. A local authority may exercise the "general power of competence" for its own purpose, for a commercial purpose and/or for the benefit of others.

Section 2 of the 2011 Act limits the exercise of the general power of competence where it "overlaps" with a power which pre-dates it. This includes the Council's trading powers under Section 95 of the Local Government Act 2003 (the 2003 Act).

The Council confirms the sources of funding the Direct Services Organisation as the 'general fund' budget for Environmental Services.

The Council will ensure that any proposed funding for Direct Services Organisation for Environmental Services is within its strategic budgets. The development of Direct Services Organisation budgets for Environmental Services business plan will be co-ordinated with the Council's budget process.

An amendment to two of the scenarios presented in the September 2016 Cabinet Report has modelled lower income generation for the LACC and the inclusion of corporation tax and VAT as these costs were not factored in previously. £100,000 income as 'surplus' has been factored into the DSO 'trade' aspiration which it can generate from any surplus operational capacity it has.

(b) Risk Management

Risk	Mitigating action	Opportunities
Community Support	N/A	N/A
Community Safety	N/A	N/A
Communications – residents	Voice of the Customer work is being undertaken through the Head of Customer role.	The Voice of the Customer Plan could deliver sessions with residents to understand what their engagement and communication priorities are for services.
Communications – Unions	Dedicated Union engagement being led by the Interim Chief Executive.	Will be linked to Communications workstream.
Employment Issues - Status of TUPE as a result from full insourcing	Internal HR team to liaise with Berkshire Pensions Team and Financial Appraisal to consider pension stretch.	Ensures full disclosure from contractor to Council to demonstrate potential pension stretch implications.
Employment Issues - major gaps in skills and capacity.	Organisational Development & Human Resources will need to profile training and development programmes for any new staff.	To be led by Head of Mobilisation role as reinforced in Appendix A – Structures A & B. Early engagement with contractor to outline skills analysis, skills gap, training requirements and likely personnel loss rate.
Employment Issues – temporary workers & sickness absence – workforce flexibility	With an insourced provision sickness absence still needs to be covered at additional cost	

	whereas would normally be absorbed by outsourced contractors resource pool.	
Financial (insourcing of Environmental Services) - Market changes might mean that savings are made on some services but that increases are felt in other areas negating overall efficiencies.	Client team to have strategic overview and management of both commodity and supplier contracts.	
Equalities Issues	The Council will consider the equalities implications of the proposal to demonstrate that their obligations to have regard to the needs set out in s149 of the Equality Act 2010 have been fulfilled.	
Health and Safety – increased exposure to Council for management of systems and services linked to delivery of services.	Corporate Health and Safety team to lead integration of H&S commitments for the Authority.	Fully engage Health and Safety department to ensure full scale viability and support into DSO insource programme.
Legal – Under Best Value Duty under the 1999 Act there is a requirement to consult about major changes in service provision under the 1999 Act. Legal - consultation pursuant to its duty to consult about its best value arrangements under s3(2) of the Local Government Act 1999.	The Council will ensure and deliver required consultation as outlined under the Act using the following headings: (a) the proposal to transfer environmental functions/services to DSO; (b) establishing DSO as a Council department; (c) the services to be transferred to the DSO and any proposed reconfiguration of them. (d) the detail of any division of functions between the Council client and DSO.	Communications and mobilisation project team to coordinate. The proposal that the work should be carried out by an in-house DSO rather than a newly formed company does not affect the scope of the Council's obligations in relation to this requirement.
Legal - The Public Services (Social Value) Act 2012 places a duty upon the Council that it must demonstrate how it anticipates to undertake its 'duty to consider' for social value.	Since no contract is being let the Public Services (Social Value) Act 2012 will not apply.	

<p>Legal - The Public Services (Social Value) Act 2012 places a duty upon the Council that it must undertake consultation on its procurement proposals.</p>	<p>Since no contract is being let the Public Services (Social Value) Act 2012 will not apply.</p>	
<p>Legal – Must meet the statutory obligations as set out by virtue of Section 1(2) of the Highways Act 1980 and the Environmental Protection Act 1990.</p>	<p>The service specification will include details to ensure the following:</p> <p>Must arrange for the collection of household waste (and, if requested, of commercial waste) in its area</p> <p>May arrange for the collection of industrial waste in its area, if requested. This must be with the consent of the relevant waste disposal authority (WDA) (see Local authorities as waste disposal authorities below) in whose area the WCA is</p> <p>Must deliver the controlled waste collected to a place specified by a WDA in whose area the WCA is (unless the controlled waste is recycled)</p> <p>Must comply with any directions about separation of waste given by the WDA for its area.</p>	
<p>Section 112 of the Local Government Act 1972 provides that local authorities may appoint officers to enable them to discharge their own functions and any functions they carry out for another local authority.</p>	<p>Permitting a contract to expire and then the Council as WCA and Highways Authority employing staff to deliver those services is consistent with the provisions in section 112 of the Local Government Act 1972.</p>	
<p>Client Structure for managing DSO</p>	<p>Client structure will challenge the way in which it an internal DSO delivery</p>	<p>Use of refined 'Ethics wall' for DSO management of</p>

	vehicle provides its services and provide transparency of service performance.	Company through dedicated 'Highways and Transport' and 'Waste & Environment' client.
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(c) Human Rights Act Implications

It is not considered that there are any Human Rights Act Implications.

(d) Equalities Impact Assessment

As stated above the Council will need to consider the equalities implications of the proposal to demonstrate that their obligations to have regard to the needs set out in s149 of the Equality Act 2010 have been fulfilled.

5. **Supporting Information**

- 5.1 As a Unitary Council Slough Borough Council is responsible for collection, management and disposal of all municipal waste generated within the borough and all street cleaning, gully and channel sweeping, litter picking and detritus sweeping operations within the borough, grounds maintenance in public spaces including parks, cemeteries and open spaces and highway maintenance including winter maintenance. These statutory service functions are delivered by Amey under the Environmental Services contract which runs until 30 November 2017.
- 5.2 In September 2016, Cabinet approved the insourcing of the services currently undertaken via the Environmental Services Contract to deliver these statutory services through a Local Authority Controlled Company via a Teckal exemption from 1 December 2017. Progress on the development and delivery of the LACC is provided by the Project Manager in Appendix B.
- 5.3 Since this approval the Council has facilitated mobilisation and company formation. This has included a review of immediate commercial development opportunities for the LACC. As a result the income opportunities for the LACC have been scaled back by corporate finance from £1.2 million in the first year to £600,000 due to the non-proliferation of immediate commercial waste opportunities. This is as a result of the inclusion of corporation tax and from where the existing commercial waste portfolio will be retained by Amey. £100,000 income as 'surplus' for the DSO 'trade' aspiration has been included which it can generate from any surplus operational capacity it has.
- 5.4 The incumbent contractors have formally requested that the Managing Director of Slough Amey not to be involved in the LACC project and therefore is not covered within an 'Memorandum of Understanding' which could otherwise have enabled the existing Managing Director to work as part of the wider mobilisation project team. Linked to this, the departure of the Council lead client role held by the Environmental Strategy and Governance Manager position means a major risk on the Council's risk register have been realised. The only other position to hold the 'persons of key dependency' title besides the two aforementioned is the interim Chief Executive.

- 5.5 Therefore, in order to ensure the delivery of statutory services from the 1 December 2017 and mitigate both reliance on a contract extension with Amey and aforementioned staff the Council would like to request that based on the curtailing of the Councils initial commercial aspirations for the LACC and to mitigate corporate risk that Cabinet approve an insourced DSO for a defined period after which the Council can consider discharging the statutory duties into an LACC vehicle.
- 5.6 A restructuring of the project management for the insourcing as a DSO is proposed in Appendix A. Appendix A - Structure A shows the headline senior management team entitled 'Project Board' who are responsible for the delivery of the project. This comprises of the Head of Mobilisation, the Project Manager, interim Chief Executive, interim Head of Human Resources and Assistant Director S151 Finance. Structure B is the structure for the operational delivery and implementation of the DSO. Each work area is entitled a workstream and is headed up by a nominated lead. The Head of Mobilisation has accountability for the delivery of the insourced DSO operations and the Project Manager is responsible for coordination of all tasks and groups working in liaison with the Head of Mobilisation.
- 5.7 As with all Council department's, the DSO will be subject to dedicated operational performance indicators and key performance indicators to demonstrate that it can deliver the key services to the level expected by the Council and residents. A dedicated political workshop will be facilitated to ensure that these key performance indicators are reflective of political priorities.
- 5.8 Following the successful deployment and delivery of services through the DSO the Council will pursue commissioning through either a retained DSO or migration into an LACC via a Teckal exemption. Proposals for any LACC will follow the same governance structure as proposed in Cabinet papers from January 2017.
- 5.9 The insourcing as a DSO will enable more time to be spent on profiling the commercial opportunities for the Council and to consider its experiences from smaller scale commercial operations undertaken through the DSO (as reinforced in 5.3) to see if they can be amplified to an LACC scale. Future options will be considered against 'outsourcing' of services as per previous exercises.
- 5.10 Under section 3(2) of the Local Government Act 1999 Best Value places duties upon the Council that it must undertake consultation on its procurement proposals and there is a requirement to consult about major changes in service provision. Therefore, a single consultation will be undertaken and coordinated by the Council to ensure that these duties are covered.
- 5.11 A summary of the wider Health and Safety considerations that Cabinet and the Corporate Management Team will need to consider as a result of insourcing as a DSO and be aware of will be presented to Cabinet in advance of the implementation of the DSO.

6. **Comments of Other Committees**

None.

7. **Conclusion**

In order to prioritise the deployment of statutory services from 1 December 2017 the Cabinet is requested to resolve and instruct officers to commence the set-up of a DSO.

Marked progress has been made regarding the commercial composition and governance of the proposed Local Authority Controlled Company (LACC) and Cabinet is requested to note this in Appendix B.

The Cabinet is requested to approve the proposed arrangements and responsibilities for mobilisation of the DSO in Appendix A.

8. **Appendices Attached**

'A' - Proposed Mobilisation Structure

'B' - Environmental Services & Highways Delivery Mobilisation Progress

9. **Background Papers**

None.