

## Communities and Environment Scrutiny Select Committee

05 February 2025

### Part 1 - Public

### Matters for Cabinet - Non-key Decision



Cabinet Member	Martin Coffin Cabinet Member for Transformation and Infrastructure
Responsible Officer	Robert Styles, Director of Street Scene Leisure and Technical Services
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### Waste Services - Strategic Approach to Service Provision

#### 1 Summary and Purpose of Report

- 1.1 This report considers a number of commissioning options for the future delivery of the Councils Waste Services Contract. Information relating to the financial or business affairs of any particular person (including the authority holding that information) is included separately in the Annexes attached in private elsewhere on the agenda. The report recommends to Cabinet the contract be retendered, and subject to Cabinet's decision a further report be considered at the next meeting of this Board on the contract specification, preferred procurement route, length of contract, timescale and the evaluation criteria for the contract award.

#### 2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 The waste services contract is the largest contract commissioned by this authority providing a household waste and recycling collection service to approximately 57,000 homes in the borough. The contract also includes street cleansing services. The service is high profile, serving all our residents and is currently delivered in partnership with Tunbridge Wells Borough Council.

#### 3 Recommendations

- 3.1 Subject to consideration of the commissioning options evaluated in this report and taking into consideration the exempt information in the Part 2 Annexes, Members are requested to make the following recommendations to Cabinet:

- That the Council remains in partnership with Tonbridge Wells Borough Council for the delivery of the provision of the household waste and recycling collection and street cleansing service.
- That contracting out remains the Council's preferred commissioning model for the delivery of the provision of the household waste and recycling collection and street cleansing services.
- That a further report is presented to this Committee to allow for the consideration of key service specification issues and the proposed procurement process for the delivery of the provision of the household waste and recycling collection and street cleansing services.

#### **4 Introduction and Background**

- 4.1 In partnership with Tunbridge Wells Borough Council (TWBC) - together the Partnership Authorities - the Council's current Waste, Recycling and Street Cleaning Contract was entered into with Urbaser Ltd, with a commencement date of 1 March 2019, for an initial contract period of eight years - Members will be aware that Urbaser Ltd was brought out by FCC Environmental (Uk) Limited in 2024 with FCC now holding our current contract. The current contract terms do allow for a contract extension up to a period of a further 10 years subject to agreement by both Partnership Authorities and FCC as the incumbent Contractor. Such an extension can be requested at any time during the sixth year of the current contract – from 1 June 2025. With the current agreed contract term of eight years due to expire on 31 March 2027, consideration is now being given to the commissioning options beyond this date. This report sets out these options and seeks Members' consideration to the strategic approach to the future commissioning of waste services. The current annual contract cost across the Partnership is £8.8 million with this Council liable for a proportion of this, relative to respective property numbers, street lengths and other services, of £4.9 million per annum (2024/25 budget).
- 4.2 The Partnership Authorities have established a joint Waste Contract Officer Steering Group (Steering Group) to consider and guide the recommissioning process with representatives across both Partnership Authorities up to Director level. The Steering Group is attended by legal, financial and procurement representatives from both authorities alongside operational staff. This report is being brought forward with the support and endorsement of the Steering Group with a similar report being presented to Members at TWBC (Advisory Board on the 21 January and Cabinet on 6 February). The two reports have been tailored for each Authority though the principles, factual detail and proposals remain the same.

## 5 Proposal

5.1 A consensus between the Partnership Authorities will need to be achieved if it is considered to be desirable to continue to work together on the delivery of waste, recycling and street cleaning services. There will be a significant amount of work involved in adopting any of the commissioning options and it is therefore critical that a strategic direction is approved at the next meeting of Cabinet in order for Officers to successfully deliver an appropriate solution within the timeframe given and within resources available. Initially 4 commissioning options were identified including a negotiated extension with FCC, in house provision, establishing a Local Authority Trading Company and appointing an external contractor. At section 8 of this report, it can be noted that the option to negotiate an extension with FCC on revised terms from the existing contract has been determined by both in house and external legal advisors to not be legally permissible, leaving 3 options available.

5.2 With regard to the strategic approach consideration is sought on the following

- Should this Council continue to work in partnership with TWBC in the delivery of waste, recycling & street cleaning services from April 2027?
- What will be the commissioning model for services beyond March 2027 which could include in-house provision, establishment of a Local Authority Trading Company or procuring an external contractor?

5.3 The Steering Group has progressed three critical pieces of work in order to place Officers and Members in a more informed position when considering the strategic questions highlighted above. They are summarised below and outlined in further detail within the report:

- engaging in early discussions with FCC and legal advisors to assess the viability and potential for a compliant negotiated contract extension;
- updating of the previously commissioned Options Report. This was developed in 2021/22, by Waste Consulting LLP (WCL) to assess the potential benefits and costs of various service delivery models. The market, associated risks and benefits have moved on since then and WCL has updated the report, last updated in February 2023. This advises on potential tender costs, risks and benefits of the alternative options;
- carrying out Supplier Market Engagement. This process was recommended by the Partnership Authorities' procurement support team (Mid Kent Procurement Partnership) and looked to gain essential feedback from external contractors to assist and support the Councils' decision on future service provision.

5.4 The key outcomes of the work above are detailed further below.

## 6 Service Provision

- 6.1 It is recognised that the general levels of the waste, recycling and street cleaning services will need to be reviewed and agreed by Members at the next meeting of this Board. This review is required to highlight any potential savings to help mitigate against the predicted significant increase in costs of providing the service. The review will also take into account impending changes to government legislation. The current service provision is highlighted below, to give context to the services being considered within this report.
- 6.2 The current services generally consist of household waste and recycling collections, including from communal properties, and the provision of street cleansing services. With regard to the former the current methodology includes:
- Weekly collection of food waste – separate vehicles;
  - Fortnightly collection of residual waste;
  - Fortnightly collection of comingled dry recyclables in two separate streams/containers:
    - Stream/Container 1: paper & card; and
    - Stream/Container 2: plastics, metals & glass
  - Fortnightly collection of garden waste (subscription based);
  - Ancillary collection services on request including clinical and sharps box collections and bulky item collections.
- 6.3 Collection services are provided to approximately 107,000 domestic properties across the Partnership Authorities (57,000 in TMBC and 50,000 in TWBC).
- 6.4 Street cleansing services broadly consist of a schedule of litter picking, manual sweeping and mechanical sweeping at agreed frequencies of adopted highways, pavements, footpaths, grass verges and car parks. This includes appropriate traffic management of high-speed roads during cleansing operations, including some sections of dual carriageways and slip roads.
- 6.5 Cleansing services are provided on a range of highways across both Partnership Authorities' areas, including high speed roads, town centres, residential areas, rural roads and sections of the A21 and A20 trunk roads.
- 6.6 In terms of domestic waste the contract only relates to waste collection and reflects the Partnership Authorities' duties as Waste Collection Authorities with Waste Disposal being the responsibility of Kent County Council (KCC). The Partnership Authorities work closely with KCC with regular liaison meetings. A contractual agreement (Inter Authority Agreement) is also currently in place between the Partnership Authorities and KCC setting out payment terms

related to waste disposal. The current agreement is due for review following the current agreed contractual term with FCC.

## **7 Current Vehicle Provision/Lease Arrangements**

7.1 A summary of the current daily fleet provision is provided below (not including spares) to give Members context to the scale and level of service provision and in particular the current vehicle lease arrangements that are in place.

- Refuse 11\*
- Recycling 11\*
- Food Waste 8\*
- Garden Waste 8\*
- Street Cleansing 27\*\*

\* includes narrow access, communal & small van collections

\*\* includes ancillary services such as bulky collections, container deliveries, responsive 'hit squads', etc.

7.2 In specific regard to the vehicle fleet, the frontline collection vehicles (with the exception of the eight garden waste collection vehicles) were renewed within the last 6 to 12 months. These vehicles are leased by FCC until March 2031 and, the lease will transfer to the party that will deliver the services post-March 2027. These vehicles will, therefore, be available under lease for the first 4 years of any new contract agreement. To ensure quality of vehicle provision, FCC is bound by the lease to appropriately maintain the vehicles, being subject to inspections and sign off annually and at the end of the current contract period prior to any transfer.

## **8 Potential Contract Extension**

8.1 As highlighted above, an option exists within the contract to extend it beyond the current agreed term of eight years, subject to agreement between the Partnership Authorities and FCC, for a period of up to 10 years. This option in the existing contract is based on any extension being subject to the existing terms and conditions, including the current contract price, uplifted by indexation only, which FCC do not consider to be viable. FCC has confirmed "it is unwilling to extend based on the current contract price". Legal and procurement advice was subsequently sought on the potential of a negotiated extension on the existing contract enabling FCC to bring forward a revised contract sum. Based on the information and advice currently available, the increase requested by FCC cannot be justified contractually, pursuant to the

Public Contracts Regulation 2015, or either Partnership Authority's contract procedure rules.

8.2 Based on the position currently taken by FCC and the above advice both partner authorities agreed that this option should not be pursued any further.

## **9 Remaining in Partnership with Tunbridge Wells Borough Council**

9.1 Consideration needs to be given as to whether the Council remains in partnership with TWBC to deliver the services from April 2027. To remain in partnership, the two Partnership Authorities would clearly need to agree to one single strategic approach to recommissioning.

9.2 Consideration has been given at an Officer level to maintaining the provision of services through the current partnership with the following benefits being identified.

- Shared knowledge and experience, including in the areas of Finance, Procurement and Legal Services as well as Operational.
- Greater resilience due to expanded pool of experts.
- Critical friend to discuss and challenge decisions.
- Greater influence and a stronger voice in meetings with any contractor due to scale of contract and number of partners.
- Continuation of the existing lease arrangements.
- Option and ability to work cross boundary on aspects of contract delivery.
- Option to share partnership resources such as depots.
- Savings through economies of scale including any contractor's shared back-office systems and high-level support services.
- Ability to achieve the savings related to a larger amalgamated contract whilst retaining a level of identity of each individual Council in aspects of service delivery.
- Partnership working supports the Government's aims on consistency of collections.
- Provision of greater strength in discussions with third parties regarding performance payments and external income.
- Provision of greater resilience in contract resources.
- Offers a more attractive contract to the market, particularly related to scale and potential value.

9.3 A question regarding partnership working was also posed through the Supplier Engagement process outlined in Section 11 below. The Market feedback also supported partnership working highlighting benefits, both through any procurement process and the management of the contract.

- 9.4 Working in a partnership does, however, add an additional layer of administration and management with any significant contract amendments and decisions needing to be debated and agreed by both Partnership Authorities. Given experience to date, this has not proved to be a stumbling block nor hampered this Council or the provision of services. The Partnership has worked extremely well and together has successfully navigated some exceptionally difficult periods in service delivery including the challenges provided by Covid and the national HGV drivers shortage.
- 9.5 The management and administration of the Partnership also requires additional time, although is currently undertaken within existing Council resources. The only additional direct cost to this Council is the cost to us of hosting the Partnership Manager role at an annual additional cost of approximately £4K. In response, however, TWBC host and cover any additional costs in providing an operational Steering Group Chair and administrative support for Steering Group meetings.

## **10 Commissioning Options Report**

- 10.1 It is essential to agree the strategic route for recommissioning of the waste, recycling and street cleaning services post-March 2027 in order to maintain the service. This could include bringing services in-house, the establishment of a Local Authority Trading Company, or continuing with the external contracting of services.
- 10.2 In order to assist the Partnership Authorities in assessing these options, an external expert industry consultant was engaged to provide a detailed costed options report. The report has been produced by Waste Consulting LLP (WCL), a consultant very familiar with the current contract, through both supporting the development of the original contract specification and assisting the Partnership Authorities to successfully navigate the previous contractual issues with Urbaser/FCC. WCL also recently assisted this Council in assessing commissioning options for its Grounds Maintenance Contract. WCL has advised that in developing the report they have considered changes in interest rates, reduction in CPI, current market conditions and pay rates and have also used their first-hand experience of recent procurement exercises through which they have supported other Councils.

The report specifically looked at the anticipated annual operating costs of each commissioning option and their relative strengths and weaknesses. The report is based on current contract levels of service/specification and took into consideration FCC's current resources levels and detailed TUPE information to provide a detailed evaluation of anticipated option costs. The full report can be found at **Part 2 Annex 1**. For clarity, a LATCo allows authorities to establish their own trading company, operating outside some of the typical

DSO constraints, primarily the ability to offer different terms and conditions to employees, such as pensions at similar rates to the Private Sector (3-5% compared with the LGPS cost of c.19.7%/20.7%). That said, some LATCos still apply LGPS conditions, so the modelling again provides two LATCo views: 'LATCo 1' using a 3% pension contribution; and 'LATCo 2' using 19.7%/20.7%. These represent extremes and the authorities would be able to agree rates in between, if they wanted. It is worth noting that since completion of the previous WCL report, a number of LATCos have experienced industrial disputes with regard to single status applying to all staff in the Council (as may occur under a LATCo 1 model). While this risk could be negated by offering similar terms to all staff (as under the LATCo 2 model), the extra cost of operation combined with running as a 'company' (directors, governance, etc.) and our research indicating that there is a very limited availability of substantial additional work in the immediate area, all suggest the establishment of a LATCo 2 is unlikely to be financially viable. Nonetheless, WCL have included this option for completeness (and for comparison with previous WCL reports).

- 10.3 This is a major concern in relation to the LATCo 1 option as it leads to a two-tier structure of pay and conditions which is open for challenge by Unions and others. For this reason, it is suggested that Members may not wish to consider this option as being appropriate. The table within the executive summary of the WCL report shows a summary of the anticipated costs of each commissioning option (see **Part 2 Annex 1**).
- 10.4 The modelled costs referenced above and within the WCL report give figures for both the Partnership as a whole and the respective Councils as a share of those totals. Costs are based on current prices. If the Councils were to re-commission independently, it is expected that these costs would increase, such as through the removal of the advantage of shared overhead costs.
- 10.5 Whilst the modelling has been based on current contract specification, some assumptions have been made that differ from current contract arrangements and are highlighted below for transparency. Whilst these assumptions may impact on the modelling costs, it is perceived that these assumptions only serve to reduce any future costs.
- High Speed Roads – The modelling includes current contract costs (paid to FCC) for the maintenance of high-speed roads including Dual Carriageways. This is due to the difficulty in modelling costs associated to this specific contract aspect. It is, however, considered that the current payments made are very competitive, offer good value for money and were exceptionally lower than other bid prices received through the original contract tender.



- Vehicle Hire/Purchase – The modelling assumes purchase of vehicles and the annual cost is based on an 8-year lifespan. Whilst this differs from current arrangements, with vehicles on lease hire, purchase of vehicles is considered to be the lower cost option.

10.6 The WCL report also looked at the relative strengths and weaknesses of the commissioning options it reviewed, and Table 1 below summarises this work.

**Table 1 – WCL Summary of Commissioning Options Advantages and Disadvantages**

Commissioning Option	Advantages	Disadvantages
Contracting Out	<ul style="list-style-type: none"> <li>• Operational expertise with a regional, national and often international management support structure able to flex resources to respond to local/national/global emergencies;</li> <li>• Well-developed management systems for service delivery, fleet management, Health &amp; Safety and contingency planning;</li> <li>• Private Sector approach provides a robust HR framework for managing operational service delivery;</li> <li>• Substantial waste sector buying power for fleet, supplies and other support services;</li> <li>• Contractor can provide capital and take the risks on fleet and depot provision;</li> <li>• Contractor takes responsibility for service delivery, labour relations, Health &amp; Safety and waste management compliance; and</li> <li>• Costs set by a contract mechanism that provides 'relative' certainty for budget management.</li> </ul>	<ul style="list-style-type: none"> <li>• Costs contain provision for private sector risk, profit margin and corporate overhead, inflating the price of the 'direct' service;</li> <li>• Contracts tend to 'lock in' costs and resources resulting in a lack of flexibility to alter delivery in response to changes in Council budget, service priority and especially at times of policy/legislative change;</li> <li>• Local management resourcing can be 'mixed' and transient;</li> <li>• Potential for a lack of transparency in service provision as operational failures are not always admitted to, to avoid contract deductions;</li> <li>• Requires funding a Client Management Team to ensure contract compliance; and</li> <li>• Fleet cost, which are fully written down over contract term, may have useful life remaining at the end of the contract (which the Partners would not benefit from).</li> </ul>

DSO	<ul style="list-style-type: none"> <li>• Direct Council control offers more flexible resource allocation allowing Authorities to adjust resourcing to respond to budget pressures and service priorities especially at times of policy/legislative change;</li> <li>• Removes a potential 'one-size-fits-all' approach from some national waste contractors;</li> <li>• Cost of capital is cheaper than the Private Sector, allowing significant savings on borrowing costs for large capital item such as vehicles;</li> <li>• DSO being directly accountable for service delivery, removes need for client management function and costs;</li> <li>• Workforces returning to Council control are often appreciative of the</li> </ul>	<ul style="list-style-type: none"> <li>• Local Government Pension Scheme costs are substantially higher than Private Sector provision with Council pension on-costs typically being c. 20% compared with Private Sector employer contribution schemes frequently at the national minimum rate, currently 3%. As labour represents around half of a typical waste and street cleansing contract's service costs, this financial impact can be very significant;</li> <li>• DSO Management expertise may not exist where services have historically been subcontracted for some time;</li> </ul>
	<p>change and quality service improvements can be delivered (providing management systems are implemented appropriately); and</p> <ul style="list-style-type: none"> <li>• Local service knowledge developed and retained within the Council ensuring: <ul style="list-style-type: none"> <li>○ Management aware of service delivery challenges; and</li> <li>○ Fleet and equipment specification is best suited to local environment.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• HR processes within Local Authorities are often less 'agile' than their Private Sector equivalent;</li> <li>• Fleet costs can be slightly higher without the benefit of Private Sector buying power; and</li> <li>• Significant capital investment/borrowing will be required to fund initial set-up costs, fleet and provide a depot (if not already owned).</li> </ul>

LATCo	<ul style="list-style-type: none"> <li>• Councils being able to directly award services to a LATC through a Teckal Exemption which removes the need and expense of procurement;</li> <li>• Pension Costs are outside of Local Government Pension Scheme;</li> <li>• LATCs have the capacity to generate 'external' income (providing that at least 80% of its activities are for its Public Sector owners);</li> <li>• Council retains control over service delivery, changes in service delivery and priority can be implemented without the constraints of Private Sector contract negotiations;</li> <li>• Cost of capital is cheaper than the Private Sector, allowing significant savings on borrowing costs for large capital item such as vehicles (although consideration must be given to conforming within the Subsidy Control Act, previously EU State Aid);</li> <li>• The LATC can develop a more commercial culture and approach to areas such as staff terms and conditions, HR and financial management compared to a DSO; and</li> <li>• Retains local knowledge within the LATC.</li> </ul>	<ul style="list-style-type: none"> <li>• Council may not possess management expertise and will have to source new staff to operate and manage the LATC;</li> <li>• There are additional support service costs for HR and finance to aid establishment of competitive commercial culture;</li> <li>• LATCs require the establishment of a Company Board and Governance structure to oversee costs and performance;</li> <li>• LATCs are 'registered' companies under the Companies Act 2006. The company is responsible for its activities and its finances are separate to the finances of the council, including management of payroll;</li> <li>• Without considerable 'external' profit it is unlikely the additional management costs of the LATC would be covered;</li> <li>• They require the Council to fund capital investment for set-up costs, fleet and depot provision, and</li> <li>• In recent years a number of authorities have found having 'two-tiers' of employment pay and conditions challenged by Unions.</li> </ul>
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## 11 Contract/Market Engagement Feedback

11.1 As part of any significant recommissioning exercise, it is advantageous and appropriate to engage with and seek comments from the market. The Project Group agreed for such an exercise to be carried out, considering that it would allow the Partnership Authorities to assess a number of factors and risks when considering re-tendering for services, which is one of the commissioning models being considered. Alongside the other information within this report, the results of the exercise will assist Members in their debate and decision making on the strategic approach to recommissioning of waste, recycling and street cleaning services.

11.2 Comments sought from the Market included the following:

- Optimum contract length
- Comments on current vehicle lease arrangements
- Mobilisation lead-in times
- Contractor risk that may be factored into to any tender
- Sustainability and the Partnership Authorities' carbon neutrality targets

- Collection methodologies
  - Potential contract efficiencies
  - Scale of contract (Partnership with TWBC)
  - Benefits of contracting out as a commissioning model
  - Contract options
- 11.3 The Market was given three and a half weeks to respond, and the Partnership Authorities received five responses.
- 11.4 The full responses received were extensive, however, a summary is provided at **Part 2 Annex 2**.

In general, the feedback:

- Raised minimal concern regarding the Partnership's current vehicle leasing arrangements and noted positive aspects in this regard.
- Generally supported eight-year contract terms.
- Supported current contract indices [a combination of RPI and fuel] with the proposed inclusion of an additional labour-cost related indexation.
- Generally supported a 12-month mobilisation period.
- Identified a high number of significant risks that contractors will factor in when considering tenders.
- Environmental options are possible, with costs & feasibility varying significantly depending on how emissions are reduced, e.g. many councils have already switched to biofuels which are cheaper & easier to take up, while electric and/or hydrogen vehicles are still high cost and require infrastructure that poses greater risks & challenges.
- Limited efficiencies savings suggested on current service resources.
- Current collections seen as compliant with developing government legislation and guidance including Simpler Recycling.
- Current uncertainty with government position including Extended Producer Responsibility and Deposit Return Scheme and associated impacts on materials collected.
- Potentially busy period up to & around 2027 for the Market that could limit bids.
- Supported the two Council/Partnership approach and the benefits this brings through contract procurement and management.
- Supported contracting out as opposed to LATCo or DSO.
- Scope of specification to be limited and does not support

multiple contract options through the tendering process.

## **12 Comparison**

12.1 Members are requested to consider all information provided within this Report and the separate Part 2 Annexes and determine whether

- this Council should remain in partnership with TWBC on the delivery of waste, recycling and street cleaning services and
- what is this Council's preferred commissioning model

12.2 Table 2 below provides a summary of all options and their relative perceived benefits and risks. These benefits and risks have been given a weighting (3,2 and 1) that suggests their relative level of risk and potential impact, from higher to lower.

**Table 2 – Overall Perceived Relative Risks and Benefits for Commissioning Options**

Option	Perceived Benefits (Higher: 3 / Medium: 2 / Lower: 1) *	Perceived Risks (Higher: 3 / Medium: 2 / Lower: 1) *	Overall Risk/Impact Score
Contracting Out	<p>Contract would be subject to full market testing. (H)                      Support from expert external contractors. (H)                      Opportunity to introduce environmental technology though still restricted by current fleet agreements. (M)                      Client experience and expertise in procurement and management. (M)                      Risk sharing with contractors. (M)</p> <p><b>Overall Score (12)</b></p>	<p>Uncertainty of future cost implications. (H)                      Early contract service issues. (M)                      Uncertainty around current government legislation and guidance. (M)                      Industry not advanced in environmental technologies and comes at a current high cost. (M)</p> <p><b>Overall Score (13)</b></p>	- 1
DSO	<p>Direct Award of Service to DSO so no contract procurement process. (M)                      Control over service delivery (M)                      Opportunity to introduce environmental technology though still restricted by current fleet agreements. (M)                      Retains local knowledge (M)                      Cost of capital (borrowing) is cheaper. (M)                      Removes the need for separate client management function. (M)                      Potential development of more staff pride improving service delivery. (L)</p> <p><b>Overall Score (13)</b></p>	<p>Greater uncertainty of future cost implications though perceived higher cost. (H)                      Early contract service issues due to inexperience of DSOs. (H)                      Not subject to full market testing. (M)                      No current expertise or experience in establishing DSOs. (M)                      No risk sharing with contractors (M)                      Industry not advanced in environmental technologies and comes at a current high cost. (M)                      Implications for current HR, Finance, Procurement and Legal teams. (M)                      Less buying power in the market for vehicles. (M)                      Large capital setup costs. (M)                      Uncertainty around current government legislation and guidance. (M)</p> <p><b>Overall Score (22)</b></p>	- 9
LATCo 2	<p>Direct Award of Service to LATCo so no contract procurement process. (M)                      Control over service delivery (M)                      Opportunity to introduce environmental technology though still restricted by current fleet agreements. (M)                      Retains local knowledge. (M)                      Cost of capital (borrowing) is cheaper. (M)                      Ability to avoid Local Government Pension Scheme costs (M)                      Ability of develop other commercial activities (L)</p> <p><b>Overall Score (13)</b></p>	<p>Greater uncertainty of future cost implications - perceived higher costs. (H)                      Early contract service issues due to inexperience of LATCos (H)                      Not subject to full market testing. (M)                      No current expertise or experience in establishing LATCos. (M)                      No risk sharing with contractors (M)                      Industry not advanced in environmental technologies and comes at a current high cost. (M)                      Additional management costs, and governance costs for running a company (M)                      Implications for current HR, Finance, Procurement and Legal teams. (M)                      Less buying power in the market for vehicles. (M)                      Large capital set up cost. (M)                      Uncertainty around current government legislation and guidance. (M)</p> <p><b>Overall Score (24)</b></p>	- 11

LATCo 1	Direct Award of Service to LATCo so no contract procurement process. (M) Control over service delivery (M) Opportunity to introduce environmental technology though still restricted by current fleet agreements. (M) Retains local knowledge. (M) Cost of capital (borrowing) is cheaper. (M) Ability to avoid Local Government Pension Scheme costs (M) Ability of develop other commercial activities (L)  <b>Overall Score (13)</b>	Greater uncertainly of future cost implications - perceived higher costs. (H) Early contract service issues due to inexperience of LATCos (H) Not subject to full market testing. (M) No current expertise or experience in establishing LATCos. (M) No risk sharing with contractors (M) Industry not advanced in environmental technologies and comes at a current high cost. (M) Additional management costs, and governance costs for running a company (M) Implications for current HR, Finance, Procurement and Legal teams. (M) Less buying power in the market for vehicles. (M) Large capital set up cost. (M) Uncertainty around current government legislation and guidance. (M) Leads to a two-tier structure of pay and conditions which is open for challenge by Unison/others and potential industrial action (H)  <b>Overall Score (27)</b>	<b>-14</b>
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\*3, 2 or 1 point have been allocated to each perceived benefit and risk in regard to their relative risk and whether the impacts of these are considered relatively higher, medium or lower.

	Lower Perceived Risk
	Medium Perceived Risk
	Higher Perceived Risk

12.3 Whilst Table 2 does cover some financial aspects, the specific perceived costs associated to all options (including TMBC only) are shown in the table in the executive summary of the WCL Options Report (see **Part 2 Annex 1**).

12.4 Taking the above into account it is suggested that the preferred option is that the Council retenders the contract in partnership with TWBC.

### **13 Other Options**

13.1 All options considered are detailed and evaluated in this report.

### **14 Financial and Value for Money Considerations**

14.1 The DIRECTOR OF Street Scene, Leisure & Technical Services confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

14.2 It has been noted for many years that the current contract cost is providing the Council with exceptional value for money in comparison to the level of services provided.

14.3 It is clear from the modelled figures within the Executive Summary in Part 2 Annex 1 that contract costs, regardless of the commissioning model selected, will be significantly higher than current costs. Allocation for an increase in such costs has already been factored into the Council's Medium-Term Financial Strategy from 1 April 2027 onward with an increase of £2.4m. It will be noted that even the lowest costs highlighted exceed this allocation and this will need to be considered by Officers and Members through either contract savings, increased charges or an increase in the Council's savings target (or a combination of all three).

### **15 Risk Assessment**

15.1 Risk associated with all the commissioning options has been identified within the report. Risk mitigation has been undertaken as far as practical up to this point though it should still be recognised that a level of risk remains with all options identified and this is perhaps particularly the case with future financial risk and implications of the commissioning models identified within the WCL report.

### **16 Legal Implications**

16.1 Legal representatives from both the Council and TWBC have considered the options within this report and, on the current details given, where an option is recommended confirm the ability to achieve compliance with relevant legalisation, guidance and Partnership Authorities constitutions.

16.2 The two Partnership Authorities also share a specialist procurement support team who have been fully engaged in the work undertaken to develop this report and confirm compliance to relevant procurement regulations.



16.3 The Council is required to agree a number of Policy Framework documents that provide long-term direction for its revenue and capital resources, its property assets, investment strategies and priorities for services and projects. December 2024 saw the publication of an English Devolution White Paper which has set out the Government's clear intent to drive devolution through the establishment of Mayoral Strategic Authorities and an associated programme of local government reorganisation in two-tier areas. If Kent (including both the Council and TWBC) is included as part of any priority programme it could see the Council ceasing to exist within the term of these plans and strategies. It also may well be that the Council's ability to take decisions, acquire or dispose of assets, to let contracts or to deliver projects or services may be constrained by the terms of the Structural Change Order or any Direction issued under Section 24 of the Local Government and Public Involvement in Health Act 2007 or by the lack of capacity associated with the work involved in delivering any structural changes. Whilst no councils can foresee the effect that devolution may bring, the Council must proceed on its current course at the moment to ensure that there is no interruption to the Service. The Council is also currently bound by the Public Contracts Regulations 2015 until the Procurement Act 2023 comes into force.

## **17 Consultation and Communications**

17.1 Engagement has been undertaken with the market and advice has been sought from an external consultant.

## **18 Implementation**

18.1 An implementation programme will be reported to the next meeting of this Board based on the decision taken by Cabinet.

## **19 Cross Cutting Issues**

19.1 All cross cutting issues have been identified within the report.

19.2 Climate Change and Biodiversity

19.2.1 Climate change advice has been sought in the preparation of the options and recommendations in this report.

19.2.2 The environmental impact of the waste and recycling contract on both Partnership Authorities is recognised with specific reference to carbon emissions. In order for both Authorities to realise their ambitions to be carbon neutral by 2030, changes to the waste and recycling contract will be required. Whilst decisions taken in regard to this report refer to the high-level strategic direction on commissioning, this issue is dealt with separately alongside the review of the specification. This issue was given consideration when seeking feedback from the Market, see (**Part 2 Annex 2**), Question 6. Further consideration is also given in Table 3 highlighting the perceived benefits and risks associated with the commissioning options. With all commissioning options, the opportunity for change will be limited up until 2031

given current fleet lease commitments, although opportunities to reduce emissions by using alternative fuels is possible with the existing vehicles. It is also worth noting that route optimisation, round reconfiguration and re-fleeting has taken place on the contract within the last year resulting in more effective and efficient collections.

### 19.3 Equalities and Diversity

19.3.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## 20 Other If Relevant

- Human Resources
- Procurement

Background Papers	None
Part 2 Annexes	Part 2 Annex 1 – WCL Options Report Part 2 Annex 2 – Summary of Market Feedback