

For General Release

REPORT TO:	Cabinet Member for Clean, Green Croydon
SUBJECT:	Household Reuse and Recycling Centre (HRRC) service delivery
LEAD OFFICER:	Steve Iles – Director of Public Realm
CABINET MEMBER:	Councillor Stuart Collins, Clean, Green Croydon Councillor Simon Hall, Finance and Resources
WARDS:	ALL

CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:

The project contributes to delivery of the Corporate Plan 2018-2022 in a number of ways as outlined below:

The South London Waste Partnership (SLWP), with London Borough of Croydon as the contracting authority, has in place a contract with Veolia ES (UK) Limited to manage the operation of the six Household Reuse and Recycling Centres (HRRCs) within the SLWP area. Of the six sites, Sutton, Merton and Kingston each has a single site and there are three sites located in Croydon.

- **P10. Outcome: “People Live Long, Healthy, Happy and Independent Lives” and in what success looks like ‘support the development of a culture of healthy living’-**.
- **P16. Outcome: “Everyone feels safer in their home, street and neighborhoods”-** .
- **P18. Outcome: “A cleaner and more sustainable environment.**

FINANCIAL IMPACT:

The recommendation achieves an avoided partnership cost of £610,000 over five years when compared with the option of exiting the contract at the end of the current Initial Term in September 2022 and re-procuring the services.

The immediate financial impact of the recommendation to Croydon Council is an annual increase of £330,000 from April 2020 for the operation of the three HRRC facilities. Across the five years extended initial term (2020 to 2025) this is an additional £1.65 million for Croydon. However the recommendation provides an avoided cost of £185,000 when compared with the option to procure a new contract to commence in 2022.

The financial impact of the recommendation to also introduce LLW from 1st April 2021 increases this to £2.387 million for Croydon across the 5 year extension period 2020 – 2025.

KEY DECISION REFERENCE NO.: 3920CGC

The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.

The Leader of the Council has delegated to the nominated Cabinet Member decision the power to make the decisions set out in the recommendations below.

1. RECOMMENDATIONS

The Cabinet Member for Clean, Green Croydon in consultation with the Cabinet Member for Finance and Resources is recommended by the Contracts and Commissioning Board to:

- 1.1 Approve an extension by way of variation (with effect from 1st April 2020) under regulation 30.3 of the Tender and Contract Regulations) of the initial term of a contract with Veolia ES (UK) Limited for management of Household Reuse and Recycling Centres to 31st March 2025 for the new maximum value stated in part B of this report across the full term of the contract. For Croydon Council the maximum value (inclusive of LLW) of the 5 year variation is £2,387,000 (a 30.3% increase in value) and over the full 14 year term is £20.7m (a 31.5% increase in value).
- 1.2 Agree that, subject to approval of the recommendation above by each of the SWLP boroughs' executive committees, the final discussions and formal agreement with the incumbent being completed to the satisfaction of the SLWP Management Group and there being no material changes to the proposed solution beyond the scope set out in this report, the Chair of the SLWP Management Group, acting in consultation with the Chair of the Joint Waste Committee, the SLWP Management Group and the Legal Lead of the SLWP, be given authority for Croydon to agree the final contract variation and agree all necessary documentation to give it legal effect.

2. EXECUTIVE SUMMARY

- 2.1. This report sets out options for consideration by Cabinet with respect to the delivery of the Household Reuse and Recycling Centre (HRRC) service and recommends a contract variation (to include a 30 month extension of the initial term) of the current HRRC contract with the incumbent contractor. Of the options considered in this report, a contract variation with extension offers the greatest operational and strategic benefit for the services as well as having the likely lowest cost, and consequently this is the recommended option.
- 2.2. If agreed, the contract variation will take effect from 1st April 2020 for a period of 5 years, concluding on the 31st March 2025, with the option for further extension periods up to the current contractual Long Stop date of 15th September 2030 by mutual agreement.
- 2.3. The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB ref. number	CCB Approval Date
CCB1603/20-21	25/08/2020

3. DETAIL

- 3.1. The SLWP, with London Borough of Croydon as the lead contracting authority, has in place a contract with Veolia ES (UK) Limited to manage the operation of the six Household Reuse and Recycling Centres (HRRCs) within the SLWP area. Of the six sites, Sutton, Merton and Kingston each has a single site and there are three sites located in Croydon.
- 3.2. Veolia commenced the HRRC services in October 2015 and the initial term of the contract runs until the 30th September 2022. There is an option to extend the contract by periods of up to 7 years by mutual consent, up to a Long Stop date of 15th September 2030.
- 3.3. Each borough pays a management fee for the operation of the six sites, and haulage costs for composting material, residual waste and rubble. The contractor is responsible for the recycling or disposal of all other materials collected and the contractor takes all the composition, volume and market pricing risks. The contractor may be subject to performance deductions if it fails to meet a 70% recycling target (calculated excluding rubble), in accordance with the payment mechanism.
- 3.4. In preparation for the natural expiry of the contract in September 2022, SLWP commenced a review of the HRRC contract in 2019 in order to plan for and recommend to boroughs how this service could be provided after 2022.
- 3.5. The current contract was procured at a time when recycling markets were performing well, a situation which has resulted in the boroughs securing a very competitive price for the services provided as well as protection from risks around price changes for recycling material. However, recycling markets have changed considerably in recent years, and the materials we collect typically have a much lower value now compared to at the time when the contract was let. This means that, looking ahead to the future delivery of the HRRC services, there is a significant risk of a much higher cost and risk needing to be borne by the partnership boroughs.
- 3.6. Following an appraisal of the four identified options for the future service provision, the recommendation is for the Cabinet to agree that the current contract should be varied so that Veolia continue with the management of the HRRCs until the 31st March 2025, with the terms outlined in this report.
- 3.7. Croydon Council are committed to introducing LLW at the earliest possible opportunity. This is an SLWP contract, and personnel employed through the contract are shared across six partnership sites in the four boroughs, meaning that all four boroughs need to be aligned in order for any decision regarding the introduction of LLW. Following a conversation across the Partnership boroughs to determine the earliest possible juncture that LLW could be applied. Subject to this variation with extension being agreed, boroughs have agreed that LLW will be applied from 1st April 2021 onwards. Officers have been tasked with producing a report by 30th November 2020 exploring options for mitigating the financial impacts associated with the introduction of LLW. This paper would be progressed via the SLWP Joint Waste Officer Board and the SLWP Strategic Management Group and if needed via Joint Waste Committee. The cost

mitigation paper will not alter the decision to implement of LLW on 1st April 2021. The LLW scenario modelled is a cautious forecast and so is likely to be lower when applied. SLWP have a number of operational initiatives with Veolia and these initiatives will result in further savings for boroughs and will help to mitigate these additional LLW costs.

- 3.8 The payment adjustment calculations have been completed on the basis that the variation with extension would commence on the 1st April 2020. Any resetting of this start date, reducing the length of the extension term, would increase the cost to the Partnership. As well as increasing the price, it is the view of the Partnership that delaying the proposed variation beyond the 1st April 2020 start date would also require the parties to repeat the payment adjustment calculation process. This further delay would mean that the partnership may have insufficient time to reprocure a replacement contract to be in place by 2022 if a new agreement could not be reached.

4. OPTIONS APPRAISAL

- 4.1. The review of the Household Reuse and Recycling Centre contract has considered the following four options:

Option 1 – Agree a variation of the contract, with extension, with the Incumbent,
Option 2 – Commence Re-procurement of the Service (spring 2020),
Option 3 – Bring the Service in-house at the current expiry date Sept 2022, or
Option 4 – Do Nothing

- 4.2. The SLWP has considered the operational, strategic and financial implications of each of these options and commissioned independent advice on this work. This work is set out in detail in Appendix 1, within the Part B section of this report.

- 4.3. Operational review - the operational review of the service has taken into account the current service performance, as well as wider SLWP borough assets (used to deliver other elements of the boroughs' waste services) and the potential future configuration of these assets, including the HRRC sites, depots, and waste transfer sites. There are also some key challenges associated with the boroughs' 'shared sites'. These are sites where multiple functions are in operation, e.g. a HRRC and a Waste Transfer Station operate at the same location.

- 4.4. Strategic - the strategic review of each option appraised considered the impact of the operational challenges and risks referred to above and some potential measures to manage these challenges and risks. The strategic review also considered the potential synergies and efficiencies that could be achieved by aligning all SLWP contract end dates. The strategic analysis highlighted that harmonising the contract dates could also be beneficial in allowing future flexibility in procurement options, designing optimum service packages, and a reduction in reprocurement costs.

- 4.5. Financial - the SLWP review considered the financial implications of each of the four options. The incumbent contractor was approached in order to establish the appetite for an extension, and the terms under which an extension might be possible for all parties. The new procurement option produced a 'shadow bid' (a

full and detailed market appraisal of the current cost of the service, as if a private sector bid, but without a formal procurement) and considered the current commercial appetite for HRRC services as well as the flux, uncertainty and downward trend in recycling markets. The option to bring the service in-house considered our relatively recent in-house operation of the service, the challenges and lessons learned. The option to 'do nothing' - essentially to wait and see if market conditions improve - would mean that SLWP would lose some of the existing opportunities explored in this report (ie re-procuring with enough time to mobilise a new service effectively by September 2022, or being able to provide the incumbent with improved terms for the remaining period in return for extension provisions that are acceptable to the SLWP) thereby losing a key negotiating mechanism for the extension. The option to 'do nothing' would mean we have to return to options 1 and 3, but with less time, and so is deemed to have the highest risk.

5. BENEFITS OF THE RECOMMENDED OPTION 1 - CONTRACT VARIATION WITH EXTENSION

- 5.1. The benefits identified by the analysis and which supports the recommendation for option 1 are summarised below.
- 5.2. Finance - Option 1 provides the best long term financial proposal. Whilst the extension initially increases the current annual cost from April 2020, it is important to analyse the potential impact of a new procurement and also the longer term financial impact. A 'shadow bid' was produced and returned a considerably higher cost when compared to the extension option. A further financial review then analysed a 5 year period for each option, the results of which demonstrate that the extension option provides the best long term financial proposal.
- 5.3. Strategic fit - Option 1 provides the best strategic fit. Harmonising the contract end dates between various SLWP services would be beneficial as it would allow the completion of the current review of borough assets and then, following the completion of this review, will allow the SLWP to align partnership assets, giving us maximum flexibility in planning for HRRC, garden and food waste receipt, bulking and recycling services.
- 5.4. The additional extension period up to the 31st March 2025 would mean that contracts relating to waste transfer stations and HRRCs belonging to the SLWP boroughs could be co-terminus and available for use and potential re-letting at the same time. This would enable maximum flexibility when reviewing how we deliver services and how we utilise our sites, ensuring that any resultant procurement is attractive to the market, creates the best possible competitive tension, and ensures we have a robust, cost effective, and future proof solution for these essential services.
- 5.5. Operationally - Option 1 avoids a number of transitional challenges and risks identified by the appraisal.
- 5.6. Added benefit and social value - the Fishers Farm Reuse shop included in the extension proposal will enable customers to purchase reuse items collected from all 6 SLWP HRRC sites. The shop will also sell reconditioned items such as bikes and scooters.

6. TIMESCALES & MOBILISATION

- 6.1. An Option 1 draft heads of terms and associated documentation has been agreed in principle by the respective parties subject to Joint Waste Board and Committee approval.
- 6.2. Subject to each partner borough executive's approval of the recommendations within this report, the contract variation will be applied from the date of 1st April 2020
- 6.3. The indicative timetable leading to formalising the contract variation is as follows:

Formalisation of documentation	Feb 2020
Borough Executive Approvals for extension	Jan – July 2020
Contract Signing	August 2020
Contract Variation in effect	The variation will be applied from 1 st April 2020

7. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 7.1. This report is for the variation of the initial term, with Veolia ES (UK) Limited to continue with the management of Household Reuse and Recycling Centres until the 31st March 2025
- 7.2. **Revenue and Capital consequences of report recommendations are detailed in Part B**
- 7.3. **The effect of the decision.** The contract award commits the Council to contract expenditure as detailed in Part B
- 7.4. **Risks**

Of the risks outlined in the SLWP strategy plan, those below still remain:

Risk	Mitigations
<p>The recycling market is currently in flux, meaning that the HRRC services will be risk priced.</p> <p>The recommended variation will extend the contract until 2025, but there is no certainty as to whether markets will be less volatile or would have improved by 2025.</p>	<p>The recommended variation maintains the ability to extend the contract again up until the Long Stop Date in 2030.</p>

7.5 Future savings/efficiencies

The variation with extension of the current HRRC contract until 2025 should provide strategic efficiencies. The variation with extension will allow the review of borough assets currently underway to be completed, providing clear direction on facilities and red boundaries available for any future procurement. The additional extension period up to the 31st March 2025 would also mean that contracts relating to waste transfer stations and HRRCs belonging to the SLWP boroughs could be co-terminus and available for use and potential re-letting at the same time. This would enable maximum flexibility when reviewing how we deliver collections, HRRC, green, food and recycling services and how we utilise our sites, ensuring that any resultant procurement is attractive to the market, creates the best possible competitive tension, and ensures we have a robust, cost effective, and future proof solution for these essential services.

Approved by Felicia Wright, Head of Finance - Place

8 LEGAL CONSIDERATIONS

- 8.1 The Director of Law and Governance comments that there is a possibility of legal challenge to the award of a variation if it does not fall within one of the permitted circumstances provided for in Regulation 72 of the Public Contracts Regulations 2015 (PCR). It is considered that Regulation 72(1) (c) provides for the circumstances of this variation:

'72(1) (c) where all of the following conditions are fulfilled:—

- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;*
- (ii) the modification does not alter the overall nature of the contract;*
- (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement'*

As stated in this report there have been significant unforeseen changes in the recycles market which have had a financial impact on service provision. Where regulation 72(1)(c) is relied upon to effect a variation, a notice is required to be published in accordance with Regulation 72(3).

Approved by: Sean Murphy, Director of Law and Governance

9 HUMAN RESOURCES IMPACT

- 9.1 There are no human resources impact from this report if the recommendation is approved, the requirements will stay under out sourced contract. If any HR issues arise these will be managed under the Council's Policies and Procedures.

Approved by Jennifer Sankar, Head of HR Place, for and on behalf of Sue Moorman, Director of Human Resources

10 EQUALITIES IMPACT

- 10.1 There are no equalities implications arising directly from the recommendation set out in this report.

Approved by Yvonne Okiyo, Equalities Manager

11 ENVIRONMENTAL IMPACT

- 11.1 The new services will continue to deliver environmental benefits by sustaining a high level of diversion from landfill through enforcement of an agreed recycling target, continued minimisation of rubble and hardcore (DIY) waste materials arriving at sites, and enhanced reuse initiatives at Fishers Farm which will result in more materials suitable for repair and potential being sold as reuse items and subsequently being diverted from landfill disposal.

12 CRIME AND DISORDER REDUCTION IMPACT

- 12.1 The Contractor will work with the Council on the impact of this from their designed proposals as part of the Contract.

13 REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 13.1 Option 1, variation (of the initial term) with Veolia ES (UK) Limited to continue with the management of Household Reuse and Recycling Centres until the 31st March 2025 is recommended based on the options appraisal analysis undertaken by the South London Waste Partnership and the financial, operational and strategic reasons outlined in the SLWP options appraisal, detailed above.

14 OPTIONS CONSIDERED AND REJECTED

- 14.1 As detailed above in part 4.

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BACKGROUND DOCUMENTS: None