

**BRISTOL CITY COUNCIL
CABINET
11 August 2016**

REPORT TITLE: Proposals for Future Waste Collection, Street Cleansing and Winter Maintenance Service

Ward(s) affected by this report: Citywide

Strategic Director: John Readman, People Directorate – Client and Shareholder function

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Purpose of the report:

Bristol Waste Company (BWC) was created in 2015 to deliver the waste collection, street cleansing and winter maintenance service across the city. At the time BWC was given a short term contract to enable the Council to review its options and consider how the service should be best delivered going forward. This report sets out the outcome of that review and provides information to enable the Mayor and Cabinet to make a decision on the future delivery of waste services for the city.

RECOMMENDATION for the Mayor's approval:

- 1. To award Bristol Waste Company the Integrated Waste Service from August 2016 to 31 July 2026 on the basis set out in this report and to ensure that appropriate legal agreements are put in place.**
- 2. That delegated authority is given to the Service Director – Strategic Commissioning & Commercial Relations to enter in to all the necessary legal agreements for this service with BWC.**

1. The Proposal:

1.1 Bristol Waste Company Limited (BWC) was established in 2015 in order to deliver the Council's waste collection, street cleansing and winter maintenance (e.g. gritting) services. This service transferred from Kier (the previous provider) in August 2015 to BWC. BWC is a limited company, wholly owned by Bristol Holding Company Limited, which is itself a company wholly owned by the Council.

- 1.2 The proposal outlined in this report is for BWC to be awarded an overarching agreement for the provision of an Integrated Waste Service to the Council. This integrated model covers a number of services, and the proposal is that during the course of the next 10 years BWC will be awarded or take over contracts for the following:
- waste collection, street cleansing and winter maintenance services
 - to take over the communication, marketing, education and customer engagement activities currently managed by the Council in relation to waste services
 - to deliver the complaints and issue resolution service in relation to waste services
 - recycle sales (from August 2016)
 - household waste recycling centres to transfer to BWC (November 2016)
 - waste treatment and disposal contract management function (contracts to be novated or managed by BWC from November 2016)
 - commercial waste and recycling material collection from Council premises (April 2017)
- 1.3 BWC's current business plan covers the period from 8th August 2015 until 31 July 2016, the end of the original twelve month agreement period following the commencement of the company. BWC has recently submitted a new business plan for consideration by this Cabinet on 11th August 2016. This new business plan proposes the inclusion of all of the above services, which officers support and is the key recommendation of this report.

2. Background & Waste Service Delivery

- 2.1 Appendix A (Waste & Resources Management in Bristol) provides detailed information regarding the waste service and what it delivers for the citizens across the city. In summary the waste service is a statutory service (a service which local authorities must deliver according to law) and the Council has a legal duty to collect and dispose of any municipal and household waste. As Bristol City Council is a unitary authority it also means we act as both a Waste Collection Authority and Waste Disposal Authority. The waste service is therefore the biggest citizen-facing service of the Council.
- 2.2 The waste service is the only service delivered to every property every week and achieves 17 million collections per year from 195,000 households. In addition to this the service also:
- keeps 396 km of adopted highways cleared through winter maintenance
 - cleans 1,126 km of adopted highways
 - takes 100,000 customer calls in the Customer Service Centre a year
 - deals with 175,000 tonnes of waste collected from households (equivalent to the weight of 90 SS Great Britain's)
 - recycles 75,000 tonnes of waste
- 2.3 Between 1994 and 2011 waste services were provided by SITA UK at a cost of £17m per annum (2010/11). The Council went out to tender in 2011 to re-procure these services with a budget envelope of £15m per annum as it was felt at the time that significant efficiencies could be made on how the services were commissioned.
- 2.4 In July 2011 the Council awarded a 7 year contract (with an option for a further 7 year

extension) to May Gurney (subsequently acquired by Kier) for waste and recycling collections, street cleansing and winter maintenance services. This contract was procured using a Competitive Dialogue procurement process that enabled the Council to specify its required outcomes. The fundamental aims of the contract included:

- the achievement of targets relating to the minimisation and diversion of residual waste
- increased recycling rates
- improved street cleansing
- ownership of recyclable material and all the associated market risk being transferred to the contractor.

2.5 May Gurney were awarded the contract and commenced service delivery in November 2011. At the start of the contract May Gurney changed the rounds, days of collection, and the size of the wheeled bins. These changes caused some disruption and the Council worked with May Gurney, as a new provider, to help bed in the service as quickly as possible.

2.6 In June 2013 Kier Services Ltd took over May Gurney (and became Kier MG) and in late 2014 (the third year of the contract) discussions commenced with Kier MG about a possible mutual termination. The Council's contractual arrangement with Kier MG formally ended in August 2015 and at that time the Council had to determine what the best solution was for delivering the services required. The following actions were taken in order to consider options:

- June 2015 - An exempt Cabinet report was presented (and shared with Scrutiny) resulting in the decision to mutually terminate the Kier contract. Bristol Waste Company was set up as a Teckal company
- August 2015 - Mutual termination of Kier contract and transfer to Bristol Waste Company
- August 2015 - Start-up of Bristol Waste Company operation and commencement of waste collection service.
- December 2015 - Extension agreed by Cabinet (and shared with Scrutiny) to keep the service with BWC until at least November 2018.

3. Market Review

3.1 As outlined above a report was considered by Cabinet in December 2015 which sought to extend the existing arrangements with BWC until November 2018, to allow for a full appraisal and service redesign to be undertaken on the future of waste services delivery.

3.2 The work undertaken has considered 3 main areas:

- a. A review of the cost and quality of BWC running the current service versus the estimated market cost and quality if the service was to be commissioned externally
- b. An assessment of the service BCC could get for the same budget as previously (£15m) if going out to the market
- c. An assessment of the Integrated Waste Service as proposed by BWC

3.3 Advice and guidance has been sought from a third party external waste consultancy (IESE) to assess the market cost of services and to help to compare the costs we

would incur if we were to go out to tender and commission the service from another third party.

Current Service Comparison – BWC versus the Current Market and Budget (a&b)

- 3.4 The previous contract was commissioned with an annual budget of £15m (with a further £2m recycling income – taking the total budget to £17m). However, from the work undertaken it is estimated that the cost of delivering a similar service today is in the region of £25m-£27m. There are a number reasons for this:
- 3.4.1 Information considered as part of this review has suggested that there may have been a significant under-estimation by previous bidders (back in the 2011 tender) of the actual cost of delivery.
 - 3.4.2 It is also the case that providers will be aware that we as a Council will manage the contractor's performance closely to ensure targets are achieved. This is likely to result in contractors adding cost to the contract in anticipation of financial penalties they will incur for missing targets.
 - 3.4.3 There are increased profit margin demands at this time, which is obviously subject to economic fluctuations.
 - 3.4.4 The new national minimum wage has increased some levels of pay in the industry.
 - 3.4.5 Income from sale of recyclates is significantly reduced due to the current market price being very low.
- 3.5 The price of the current service provided by BWC is £23.2m per annum. BWC have also made a commitment in their business plan that the 2016/17 price will be reduced to £20.6m to reflect the efficiencies they have achieved and the operational improvements made.
- 3.6 Considering the information and guidance received from IESE (the external independent consultant) it is officers' recommendation that if an external contract was procured for the same current service the estimated cost would be between £24.8m and £26.9m (full details of the advice from IESE are attached in Exempt Appendices B1 and B2. These are exempt on the basis of information relating to the financial or business affairs of any particular person, including the authority holding that information).
- 3.7 Officers have considered what service could be provided for the current £15-17m budget, based on current known market prices. As outlined above it is clear that no provider could deliver the entire current service for £15m.
- 3.8 The breakdown of the likely service costs is outlined below. These are based on average market costs but indicate the likely figures of recommissioning the service externally at this time.

Cost Area	Total
Waste Collection	£16,850,711
Street cleansing	£8,425,355
Winter maintenance (gritting etc)	£648,105
TOTAL	£25,924,171

Value for money of the Integrated Waste Service as proposed by BWC (c)

- 3.9 Officers have considered the full report produced by IESE, which is also attached in Appendix B3 (exempt report). Officers have also considered the 10 year proposal by BWC (the 2016 Business Plan) and whether their Integrated Waste Service for this period offers value for money.
- 3.10 It is the view of officers that BWC Integrated Waste Service does represent good value for money. A 10 year plan would offer better value than the current separate arrangements (where waste collection and waste disposal are separately procured). In addition, BWC would be responsible for the full end to end waste process. This will create opportunities for improvements in processes and efficiency, in particular in areas where the previously separate functions join up.
- 3.11 The pulling together of all waste functions under one management team will allow key waste management decisions to be made taking account of the impact on all elements of the service rather than just one. Outcomes are likely to be improved, and communication with citizens about every aspect of waste will be possible from one provider – BWC. This would help to improve customer satisfaction levels and ensure more resolution of issues at the first point of contact.
- 3.12 Through bringing together sites such as depots and Household Waste Recycling Centres (HWRC) there are increased opportunities to operate from more sites across the city. This would potentially allow for more efficient routing and use of depots than is currently the case.
- 3.13 Finally, the extended waste functions will allow greater career opportunities and progression through being able to offer staff transfers across different disciplines of waste. This would not only benefit staff but also improve business resilience for BWC. Outcomes are likely to be improved staff morale, better business planning and increased savings.

4. Additional Benefits of Appointing BWC

- 4.1 Section 3 above has considered the cost of keeping the existing service with BWC, and how their proposal of developing an Integrated Waste Service has many benefits. In addition to these benefits there is also another set of benefits regarding how we can operate with BWC differently than we could with a third party supplier or provider. These are outlined in detail below (A-E)

A. Control over Performance

- 4.2 Performance targets for the first year of delivery were agreed with BWC in 2015, and were set at the same level as the previous contractor was delivering at the point of termination. Current performance for BWC is shown at Appendix C.
- 4.3 BWC performance to date has been good with 11 of the 16 targets being delivered at a level higher than target.
- 4.4 The performance of BWC is discussed regularly at strategic and contract level meetings which allows detailed discussions and improvements to be suggested in a

regular and timely manner. In addition, BWC performance is regularly reported and discussed at Neighbourhoods Scrutiny Commission and any questions responded to as appropriate.

B. Control over company management and governance

4.5 BWC is a Teckal company, which exists to provide services directly for the Council and in December 2015 a Council Code of Practice was adopted which sets out how the Council will manage the companies it has interests in, in order to ensure the delivery of key objectives. This unique relationship between the Council and BWC would not be present if a third party was commissioned to undertake the service.

4.6 The Code of Practice provides a mechanism for the Council to ensure that the appropriate social and financial returns on investment can be obtained and that the benefits of having a service of this kind are realised. This governance is exercised in a number of key ways:

4.6.1 Reserved Matters and Governing Documents:

- The Executive of the Council, the Mayor, has responsibility to make decisions over the 'reserved matters' of BWC. Reserved matters include such things as approval of the Companies Annual Business Plan, the appointment of directors, and so forth.

4.6.2 The Company's Board:

- Bristol Waste Company is run by its board of directors, answerable to the shareholder. The Strategic Director for Neighbourhoods and the City Director both hold a position as Directors on BWC. The Council appointed directors, in their roles on the Bristol Waste Company Board, challenge and influence the Management of the Company around any performance issues.

4.6.3 The Shareholder:

- The Shareholder could refuse, or request a change to the company's business plan in line with the Council's priorities for waste.
- The Shareholder will know through quarterly monitoring reports the financial health of company, and high level performance against business plan.

C. Procurement costs

4.7 In 2010 a full Competitive Dialogue (CD) procurement process was carried out for the waste collection, street cleansing and winter maintenance contract. The process took around 14 months in total and included a full permanent project team of 6 people as well as external experts supporting the CD process.

4.8 The total cost of the full commissioning process was over £1m.

4.9 It is estimated that, were we to re-procure the same type of contract, the costs would be at least as high as 2010, if not higher. This cost needs to be considered in light of the overall value for money and quality assessment of continuing an arrangement with BWC or procuring a new contract for the same ten year term.

D. Improvement and innovation

4.10 The nature of the current arrangement allows for new ideas and innovation to be more easily tested and bought forward. Recently BWC trialled commingled collections from some flats where recycling had become regularly contaminated and there had been very low participation in recycling. It was mutually agreed that, after analysis of the initial trials, more should be progressed based on tailored solutions for difference

geographical areas. Such tailored solutions have in previous contracts been very difficult, as contractors have struggled with adapting to customer needs in this way.

E. Teckal Arrangements

4.11 Bristol Waste Company is a 'Teckal Company'. This means that Bristol City Council can exercise decisive influence over BWC's strategic objectives and significant decisions (e.g. appointment and termination of directors, approval of business plans, declarations and/or payment of dividends, issue of shares, approval of budgets, etc). A Teckal company, such as BWC, must carry out **more than 80% of its activity** in the performance of tasks entrusted to it by the Council.

4.12 There are a number of key advantages of BWC operating as a Teckal company:

4.12.1 BWC being a Teckal Company means that the Council is free to award a contract directly to the company without a competitive procurement process. This removes the considerable costs of a procurement exercise. In 2010/11 the previous procurement exercise cost the council over £1m in staff costs.

4.12.2 The benefits of improvements and service efficiencies are retained in full by the Teckal company and, therefore, the Council as shareholder, rather than by a private sector company

4.12.3 A Teckal company has greater freedoms and flexibilities in its options for service delivery than a Council in-house service. Subject to the requirements of the Council as ultimate shareholder, it is able to respond quickly to new business and delivery opportunities without the need to adhere to identical Council policies and procedures, for example HR policies.

4.13 There are a few important restrictions on Teckal companies, as follows:

4.13.1 There are limits on the commercial activities of the company, imposed by the 'activity test'. These are referred to in relation to the 20% limit on non-council business (e.g. commercial waste). This means that only 20% of BWC business can be non-Council functions, meaning there is a limit on the trading BWC can undertake.

4.13.2 The control the Council needs to have over the company means that BWC does not have the autonomy to operate as a fully independent company.

4.13.3 Unlike private sector operators, a Teckal company must comply with EU procurement obligations for its own purchasing and procurement requirements.

5. Response to BWC Business Plan and Proposals

5.1 BWC has presented an updated Business Plan which puts forward an Integrated Waste Service model. It is the recommendation of officers that this approach is supported and implemented as outlined in 1.2 above. Specific and detailed comments on each of the components of that model are considered below.

5.2 Commercial Waste

5.2.1 The proposal to carry out commercial waste collection and disposal together is one that the Council has previously considered. The current model means that several different providers are attending premises in the same street, so one provider being responsible for both services would be more commercially astute.

5.2.2 The delivery of commercial waste collection and disposal services for Bristol

businesses also provides opportunities to improve the street scene. This may be possible by working with commercial premises in the same street and agreeing clear 'put out' and collection times to avoid waste being visible for long periods.

5.2.3 As a Teckal Company however, care will need to be taken to ensure that its commercial activities do not breach the activity requirement of the Public Contract Regulations 2015.

5.2.4 There is scope for the Council to make a direct award of the council's commercial waste contracts to BWC which will, in turn, enhance its activities generally. It is recommended that this is done at the point of the existing contract arrangement ending.

5.3 Communication, Marketing, Education and Engagement

5.3.1 The Council currently performs this function in relation to waste services, having taken it in-house from the previous contractor, Kier, when the contract ended. Giving BWC this responsibility as well as the waste services allows more opportunity to increase awareness and participation in the collection services offered and in particular the recycling service.

5.3.2 With the proposal to have an Integrated Waste Service, the communication elements all become a pivotal part of the whole waste process and therefore success is more likely, as lead responsibility would be owned by BWC (working in partnership with the Council).

5.4 Waste Customer Service – Complaints and Issue Resolution

5.4.1 The proposal by BWC to take on the existing functions from the Council is welcome in ensuring that links with the customer are maintained and improved. This element of the waste function is key to residents in ensuring that they receive a swift and accurate response to any complaints and issues raised.

5.4.2 Whilst officers are supportive of moving this function into BWC, it is important to ensure that performance monitoring and contract management arrangements are in place in order to ensure compliance with the Council's statutory obligations concerning waste and environmental protection. Therefore the contract management and business relationship management with BWC will be delivered by the Client Function, within the People Directorate.

5.5 Recyclate Marketing

5.5.1 BWC are proposing in their Business Plan to take the risk on the recyclate income and disposal. The current arrangement is that BWC sell the recyclate on the Council's behalf and then return the money directly to the council. Through BWC taking full responsibility for the risk if the price goes up or down, this allows the Council's waste budgeting to be more predictable across the 10 year period and for this reason this proposal is strongly supported by officers.

5.6 Household Waste Recycling Centres & Transfer Station

5.6.1 BWC are proposing to run the two existing Household Waste Recycling Centres (HWRC) and to provide revenue funding for a third site (yet to be built) at Hartcliffe. The Council is keen to progress with the build of a third HWRC site at Hartcliffe however has not been able to progress this in the past due to the lack of revenue funding. Whilst there will still be a requirement for the Council to fund the design and building of the site the offer from BWC to run the third site at no extra cost means this is a significantly attractive proposition.

5.6.2 On 4th July 2012 the Council agreed to make a £2m capital investment to build a new HWRC in South Bristol. Subsequently designs were developed for a new centre at the Hartcliffe Way Depot site. The design proposals will need to be revisited and refined in partnership with BWC to ensure they are fit for purpose and the anticipated capital cost of the project will need to be confirmed. A full business case to confirm and support the Council's capital investment in the project will be developed predicated on the assumption that BWC will fund the revenue costs as outlined in their business plan.

5.7 Treatment and Disposal Contract Management

5.7.1 BWC's proposal to take full responsibility for all of the waste disposal and treatment contracts, both current and future is also supported by officers. There are currently several separate arrangements to dispose of waste including food, garden, clinical, and residual waste contracts. BWC will have responsibility for contract managing the existing arrangements as well as procuring new arrangements as and when needed.

5.7.2 In order to design the best 'whole' waste process from households and commercial properties (from collection through to disposal) having control of the disposal, treatment and location allows a true end to end process view. A whole system approach will enable BWC to identify the best options for Bristol and will ensure that all impacts have been considered when any changes are made.

5.7.3 The Council currently has a partnership arrangement with the West of England partners and this will be an area BWC will need to discuss further with them to shape the future structure for this partnership working.

5.8 Contract Award and Duration

5.8.1 The proposal for a 10 year contract duration in the context of BWC's Business Plan is in operational terms a sound proposition and is fully supported by officers. Given the requirement to invest in and procure new vehicles and the preparation to do this this makes good sense for both the council and BWC.

6. Summary of Benefits & Recommendations

- 6.1 It is the strong recommendation of officers that developing an Integrated Waste Service approach with BWC will provide a clearer view of the overall strategic targets and responsibilities, from which investment decisions and changes can be determined. In summary, the following benefits have been identified:
- Benefits are retained within the Council if BWC does better than expected in financial and performance terms
 - Better and more efficient routing and mapping (improved technology, including in-cab technology)
 - Potential to reduce residual waste and increase recycling tonnage

- Benefits from an additional third HWRC - more depots available to improve logistics of moving waste around the city
- Culture of employees - working more closely together for the same aim
- Achievable prudent targets as a minimum – with further ambition for future delivery
- One team responsible for all Waste related services
- BWC acting as the Council's 'subject matter expert'
- All recycling collected and sold is consolidated, therefore achieving a better price
- Better communication to the citizen about what can be recycled and where it's collected or can be taken
- Simpler and more accurate data
- Data held in one place leading to good decision making
- BWC are taking risks on disposal costs and recycle income which will help drive behaviour change campaigns and actions
- Taking whole system costs into account, allows the optimal system configuration for collection and onward disposal
- Significantly reduced duplication and clear messaging as a result of all staff being under one management team
- BWC as a Bristol brand that engages communities and drives behaviour change in partnership with citizens

6.2 It is also important to note the higher cost that would be incurred by a third party provider if the current service were commissioned externally. If a more complete whole system were commissioned externally (an integrated waste model) then it is assumed the costs would be substantially higher given the additional services included

7. Consultation and scrutiny input:

a. Internal consultation:

On 9th June 2016 a scrutiny workshop on Waste was held in order to brief Councillors on the waste system, waste services in Bristol, what a teckal company is and Bristol Waste Company's delivery. This was open to all Councillors. The programme is at appendix D.

On the 7th July 2016 the Neighbourhoods Scrutiny Commission considered the draft Cabinet report 'Proposals for Future Waste Collection, Street Cleansing and Winter Maintenance Service' together with a second Cabinet report 'Adoption of Bristol Waste Company Business Plan - August 2016'. Members of Overview and Scrutiny Management Board were also invited and attended the Commission meeting.

The Commission resolved to support the recommendation to award Bristol Waste Company the Integrated Waste Service from August 2016 to 31 July 2026 on the basis set out in this Cabinet report and that a referral from the Commission to that effect be made to Cabinet including a summary of the key points raised by the Commission. There was one vote against the resolution from Councillor Anthony Negus.

The key points raised were :

- (a) Financial Issues
- Discussion about how Bristol Waste Company Company would manage if it did not

achieve its commercial waste income targets, by looking at internal efficiencies and ensuring equipment was deployed across other functions.

- Discussion about the use of the surplus generated from this year's trading to help deliver the change programme necessary to develop the Company, including investments in systems and people, in HWRCs and the commercial waste service.
- It was confirmed there was resilience in the financial assumptions underlying the business plan including the recycling modelling which could fluctuate with potentially lower residual waste and disposal costs.

(b) Relationships: Citizen, Provider and Council

The Commission emphasised that the relationship between Citizen, Council and Provider would be key and the Company confirmed its commitment to being a 'customer service' business focussed on the residents and communities of Bristol and being accessible to councillors.

- Discussion about the need for the company to focus on supporting changes in citizen behaviour and requests that they look to work more closely with Neighbourhood Partnerships to help communities achieve positive change.
- Discussion about the need for greater sharing of intelligence between Bristol Waste Company and the Council's enforcement teams.
- The importance of the Company's input into future policy developments and how they would deliver against the Council's Waste and Resources Strategy as a key partner whilst at the same time offering its expertise and views on Council proposals going forward.

(c) Governance and Service Agreement

The Commission raised the issue of governance and accountability in relation to the Company's structure and Shareholder relationship. It was noted that the administration would be carrying out a review of membership on different bodies including Shareholder Group/Company Boards.

- Discussion about ensuring that as much information as possible on the Company is in the public domain and a refreshed set of performance management standards are developed, to be shared with Scrutiny as well as the Shareholder Group.
- Discussion about whether the Council should defer a decision about the delivery of waste services to allow a longer period of delivery of current services by Bristol Waste Company. Officers explained that a decision is required now because if the decision was to procure that process would take 2 years.
- Consideration was given to an alternative length of the contract i.e. was 10 years an appropriate term for the contract. Waste industry best practice showed that in order to invest in new fleet to deliver future ambitions the term of 8-10 years would be required.
- It was noted that a Cabinet report would be brought back in 2017 in relation to any changes in domestic waste collection methodology.

b. External consultation:

No external consultation has been carried out.

Other options considered:

To Procure an External Contract

7.1 The main alternative to offering BWC a 10 year contract would be to procure the

services through a contract externally as outlined throughout this report. This was considered at length, and in particular through reviewing the feedback from waste consultants (IESE) examining details of the current cost and specified BWC contract. They have estimated that if we were to tender the current specification in the market place we could expect to pay between £25m and £27m, which amounts to an estimated £4m-£6m greater than the price quoted to us by BWC for the year ahead.

7.2 External procurement would cost at least £1m in commissioning resources.

7.3 This, in combination with the views expressed by IESE in their report on the Integrated Waste Service, has led us to consider the external procurement as not affordable.

Shorter term contract with BWC

7.4 A further consideration was given to an alternative length of the contract. Waste industry best practice shows that in order to invest in new fleet to deliver future ambitions the term of 8-10 years is required. Given that BWC will need a lead in time to understand full requirements and specification for this, the term of 10 years appears appropriate and is recommended by officers.

Risk management / assessment:

FIGURE 1							
The risks associated with the implementation of this decision :							
N o.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (ie controls) and Evaluation (ie effectiveness of mitigation).	CURRENT RISK		RISK OWNER
		Impa ct	Prob abilit y		Imp act	Prob abilit y	
1	Business planning is inaccurate for BWC, leading to company failure and financial loss to the Council.	High	Low	Bristol Holding Company also considers financial situation of BWC as parent company .Regular Shareholder performance meetings and regular financial attention given by Shareholder. Dedicated specialist finance resource to consider the robustness of the plans.	Low	Low	Julie Oldale
2.	Council and company relations are unclear or leave company unable to work effectively in their respective market.	Med	Med	Clear Code of Practice developed, including a specific Client function to work on behalf of the Shareholder with the companies.	Low	Low	Netta Meadows

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FIGURE 2							
The risks associated with <u>not</u> implementing this decision:							
N o.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (ie controls) and Evaluation (ie effectiveness of mitigation)	CURRENT RISK		RISK OWNER
		Impa ct	Prob abilit y		Impa ct	Prob abilit y	
1	Commissioning exercise would need to begin resulting in circa £1m spend on resources	Med	High	Some capacity may be able to be identified but resource and cost will be incurred	Med	Med	Netta Meadows
2	Not implementing this recommendation would result in BWC ceasing business operations in Nov 2018. This would mean the company would have to be wound down.	High	High	Appropriate planning could be put in place, but signification HR and financial implications would be felt by the Council which would need to be considered. There could also be significant pension implications with regards to the TUPE transfer of staff to a third party provider	High	Med	Netta Meadows

Public sector equality duties:

7.5 Specific equality impact assessments will be carried out as part of any significant service changes being proposed in the future. An overview EQIA which encompasses the recommendation has been completed and is attached in Appendix E.

Eco impact assessment

7.6 There are no serious concerns with the proposal at this stage, assuming that the various commitments are implemented. The council would be keen to work with BWC to develop an environmental plan around the proposals, providing some more detail for the various commitments. (Full assessment attached in Appendix F)

**Advice given by Steve Ransom
Date 10 June 2016**

Resource and legal implications:

b. Resource

Financial (revenue) implications

- 7.7 The work undertaken by IESE (appendix B2 exempt report) provides context for the financial implications by concluding that based on the existing arrangements for waste collection, street cleansing and winter maintenance that the Council would likely be charged a greater amount than that proposed by BWC should it request a third party provider to undertake these services at this stage (not taking into account the high cost of procurement estimated in section 5.13).
- 7.8 The award of the contract for 10 years gives stability to resource planning and a long term planning horizon for the company. It should be noted that this arrangement would commit the council to a level of funding for the duration of the agreement. Therefore, as with all contracts, a review clause should be included into the Waste Services Agreement to enable the Council to consider service levels if an when required.
- 7.9 Appendix G (Exempt report) sets out the details of the financial resources that are currently available to the Council for waste services and compares them with the proposed charges of BWC as per its latest business plan. It identifies when an affordability gap emerges (i.e. where the proposed charge is greater than available financial resources) and quantifies this annually.
- 7.10 Appendix G also considers the affordability of the proposal from BWC to operate both waste collection and disposal services (integrated waste services model) relative to a continuation of current collection services only. Continuing with existing services only is neither BWC's preferred proposal nor the recommendation of this report but this relative assessment enables a better understanding of the financial implications of the integrated services proposal.
- 7.11 The integrated service proposed by BWC and recommended in this report is affordable for the Council in the current financial year (2016/17) requiring a lower draw on reserves than originally planned (now estimated at £0.756m compared with the planned £2m).
- 7.12 Table 3 from Appendix G is copied below setting out the affordability of the integrated service by comparing the financial resources available to the proposed charge of BWC. An adjustment is made to remove the recycling income which is to be retained by BWC in this proposal.

Table 3: Affordability of Integrated Services

	2016/17 £000	2017/18 £000	2018/19 £000	2019/20 £000	2020/21 £000	2025/26 £000
Financial Resources for Integrated Services	33,607	36,546	35,278	32,924	33,582	37,078
Less Recycling Income	(2,100)	(2,100)	(2,100)	(2,100)	(2,100)	(2,100)
Adjusted Financial Resources	31,057	34,446	33,178	30,824	31,482	34,978
BWC Charge for Integrated Services	30,263	34,501	36,011	36,613	37,330	40,834
Variance	1,244	(56)	(2,833)	(5,789)	(5,848)	(5,856)

7.13 A material budget gap arises from 2018/19 onwards, and this base budget structural pressure will need to be considered as part of the 2017/18 medium term financial planning process. Entering into a 10 year contract will mean a commitment to a level of funding for the remainder of the agreement, with the service levels and resultant funding subject to the contract review clauses. As has been outlined in the report, the waste collection service is a statutory service which the council must deliver and as outlined in the report BWC is a cheaper option (based on the market review undertaken) than offering it to the wider market.

7.14 As described in Appendix G (exempt) BWC is assuming responsibility for risk (e.g. household growth) but overall the BWC financial plan is prudent and has not forecast reductions in waste disposal costs or increases in recycling income from increased recycling or the investment being made in behavioural change.

Financial (capital) implications

7.15 The proposal for a third waste recycling centre will be subject to a separate business case and Cabinet decision later in 2016.

Advice given by Robin Poole Finance Business Partner

Date 21 June 2016

c. Legal implications:

7.16 The Council and BWC will need to ensure that BWC retains its Teckal Status throughout.

7.17 The proposal to have an overarching agreement is achievable to cover common terms of agreement although separate bespoke terms and specifications would be required for the different services, for example: waste collection, waste disposal, commercial waste collections, complaint handling, leases for occupation of council

properties/depots.

- 7.18 Where BWC is to fulfil the council's waste-related legal duties, including compliance with laws relating to, environment, recycling, graffiti removal, facilities for residents to deposit household waste without charge and household waste collection; these will need to be included in relevant contracts between BWC and the council.
- 7.19 Any complaints or litigation will be made against the council, as compliance obligations remain with the council. The terms of agreement should therefore contain relevant indemnities provided by BWC in the event of default.
- 7.20 The main reason previously for retaining and managing complaint-handling in-house has been because claims for breach of duties would be against the council. Complaints monitoring and scope to audit records are also terms that will need to be incorporated into a contract transferring the complaints handling to BWC. The Transfer of Undertakings (Protection of Employment) Regulations 2006 will apply to the transfer of the complaints service to BWC, and may apply to the transfer of other services currently provided by external contractors.
- 7.21 BWC will need to enter into leases for the depots it occupies and to incorporate scope for changing the use of the Hartcliffe depot. Agreement needs to be reached and documented on funding maintenance for the properties on site and for achieving the intended change of use and development of the Hartcliffe site. All necessary compliance with planning, environmental law and building regulations will need to be achieved.
- 7.22 To avoid risk of challenge on the grounds of state aid, all contracts and agreements between the council and BWC will need to be on fully commercial terms.

Advice given by Jane Johnson, Team Leader, Corporate Team, Legal Services

Date 21 June 2016

d. Land / property implications:

- 7.23 The proposals will result in the continued occupation of council owned land and buildings detailed in the appendices to this report subject to terms and conditions which would apply if the premises were offered for lease in the open market.

Advice given by Robert Orrett – Service Director, Property

Date 10 June 2016

e. Human resources implications:

- 7.24 The Transfer of Undertakings (Protection of Employment) Regulations 2015 (TUPE), entitles transferring employees to retain the same terms and conditions of employment after the transfer as they enjoyed immediately before the transfer. TUPE provides that changes to terms of employment will be void if the sole or principal reason for the change is the transfer itself, unless either the reason for the variation is either:

- an economic technical or organisation reason entailing changes to the workforce (“ETO reason”) or
- is the transfer, but the terms of the employment contract permit the employer to make such a variation.

(This situation would occur for example with the HWRC transfer in November)

7.25 BWC seconds an HR officer from the Council and the Council provides its HR support services and specialist HR skills and acumen in the provision of advice and guidance in relation to workforce matters

7.26 BCC provide guidance and advice in support of the vision to provide the social benefits of good quality jobs and training opportunities. This arrangement currently provides a direct influence and confidence in the standard and appropriate expenditure of public money.

Advice given by Sandra Farquharson – Human Resources Business Partner

Date 10 June 2016

8. Appendices:

The appendices marked EXEMPT are not for publication under Part 1 of Schedule 12(A) Local Government Act 1972 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Appendix A	Waste & Resources Management in Bristol
EXEMPT Appendix B1	IESE Interim Report
EXEMPT Appendix B2	IESE Report Current Cost and Quality
EXEMPT Appendix B3	IESE Report 10 year plan assessment
Appendix C	Performance BWC
Appendix D	Summary of Scrutiny Workshop
Appendix E	EQIA
Appendix F	Eco Impact Assessment
EXEMPT Appendix G	Financial Summary

Reference documents:

Waste and Resources Strategy 2016 -

<https://www.bristol.gov.uk/documents/20182/33395/Towards+a+Zero+Waste+Bristol+-+Waste+and+Resource+Management+Strategy/102e90cb-f503-48c2-9c54-689683df6903>