

CONTRACT PROCUREMENT **WDA/10/23**

Recommendation

That Members:

- Agree that officers draw up plans for a dedicated in-house procurement team to deliver an effective procurement; and
- Agree that officers should identify the most appropriate way to obtain specialist consultancy advice so that the procurement achieves the best outcome for MRWA and its partners.
- Agree that officers work with District Council partners to identify the most appropriate outcome for services going forwards.

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CONTRACT PROCUREMENT**WDA/10/23****Report of the Treasurer****1. Purpose of the Report**

- 1.1 This report sets out some of the key challenges facing the Authority as it starts to prepare for the conclusion of one of the key contracts for dealing with waste for Merseyside and Halton and the future of MRWA's waste services provision. The initial term of the Waste Management and Recycling Contract (WMRC) comes to an end in just over six years and the Authority needs to start to plan for what should be in place at the end of that term. As a significant part of the procurement process the Authority are asked to consider the arrangements in place both at the Authority and in terms of access to external expert advisers to ensure that the procurement outcomes provide the best solution going forward.

2. Background

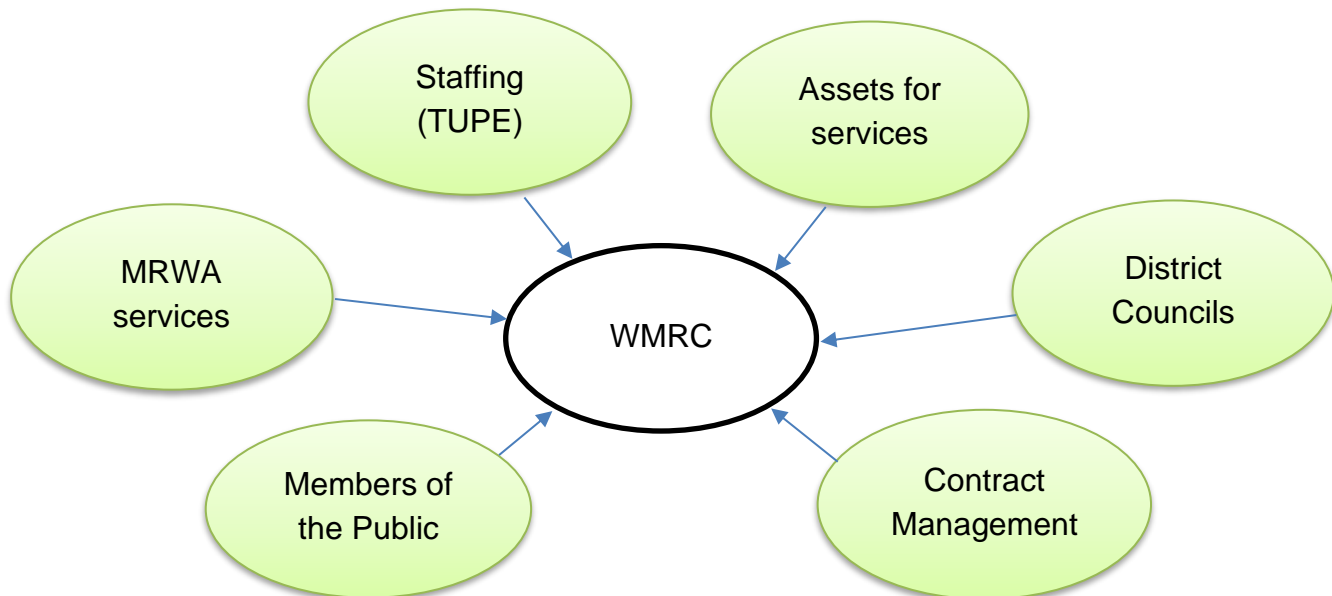
- 2.1 The Authority entered into the WMRC with Veolia ES Merseyside and Halton Ltd (Veolia) in June 2009. The initial term of the contract was for 20 years which means that the contract will be in place until 2029; subject to a potential five year extension at the Authority's discretion. The contract involves a range of waste services being provided for Merseyside and its constituent Districts as well as for Halton Borough Council who delegated the function to MRWA for this contract.

- 2.2 Key services provided under this contract include:

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| <p>16 Household Waste Recycling Centres</p> | <p>2 Materials Recycling Facilities</p> | <p>4 Waste Transfer Stations</p> | <p>Waste Transport <i>(moving waste between facilities to treatment or disposal points)</i></p> |
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Merseyside Waste Disposal Authority**21st April 2023**

- 2.3 When the original contract was let it was a complex arrangement as it involved detailed agreements to be in place over many interlinked components including (but not limited to):



- 2.4 The details underpinning each of the elements outlined above are challenging and required a huge investment of time and resource to enable the Authority to move forward with an effective contract procurement. That procurement ensured that the service specification was clear and agreed by all parties to the contract, including the waste collection authorities and the subsequent arrangements for how the contractor was to provide those services were laid out unequivocally in detailed contractual arrangements.
- 2.5 The Authority now faces the medium term prospect that the normal period of the WMRC will come to an end in just over six years and a number of decisions will need to be made to determine what the Authority wants to put in place thereafter.
- 2.6 One of the key prospects for Members to consider is that there are provisions in the contract for extending the term of the current arrangements for a further five years. A decision to extend the contract would be made by the Authority working alongside it's current contractor, Veolia ES Merseyside and it must be stated that this remains a realistic prospect and may be the Authority's preferred option. However, at the

same time and until a decision can be made either way it is incumbent upon the Authority to begin preparations for a procurement in the event that a decision is taken not to extend the current arrangements.

- 2.7 Neither the prospect an extension of the end of the contract, nor ending the existing arrangement and preparing for any new contract will be simple and the Authority will be asked to consider the arrangements that it will need to put in place if it is to address the challenges successfully.

3. Contract procurement challenges outline

- 3.1 It will be important for Members of the Authority to be involved in all stages of the next contract procurement, so that the contract reflects and represents the services that Members want to provide for Merseyside into the longer term. This is likely to be the first of a number of papers that Members will be asked to consider, to enable them to be engaged with and direct the process.

Procurement strategy

- 3.2 One of the key things for Members over the early part of the procurement process will be to be involved in the development of a procurement strategy. The strategy will need to take into account a very wide range of considerations, both in terms of what the Authority would like to include in the new arrangements and how best to also reflect what constituent District Councils want to include.
- 3.3 At the same time there are any number of existing legal obligations on the Authority in terms of the services it provides as well as a higher than usual number of new and proposed legislative requirements in terms of waste collection, management and disposal that will have to be taken fully into account.
- 3.4 The consultation with Districts, MRWA Member requirements and the changing landscape around the waste agenda mean that it is highly unlikely that the Authority will simply replace the current WMRC contract with one that is almost the same, some of the new arrangements will potentially be significantly different.

Service standards

- 3.5 In developing the procurement strategy and approach for the new contract the Authority will be asked to reflect on the need to develop new service standards for each part of the contract.

- 3.6 Under the current WMRC the contractor was asked to agree to meeting a series of performance objectives across various aspects of the service. These included, for example, targets for HWRC recycling rates as well as targets for Materials Recycling Facilities (MRFs) recycling. There are a significant number of other performance targets included throughout the contract. The key thing for the HWRC and MRF targets, for example, is that the contractor was able to achieve them from a relatively early stage of the existing contract. The targets may not have included sufficient incentives to continue to increase and improve performances over the life of the contract.
- 3.7 In looking at new arrangements it is very likely that the service standard requirements will be more stretching and will be subject to regular in-contract review and change. The development of a new suite of Key Performance Indicators that have contractual teeth (i.e they are challenging and may carry contractual/financial penalties for significant failures) will involve review with MRWA, District Partners and comparison with industry standards outside of Merseyside. Identifying challenging targets that continue to stretch any contractor will be an important part of the procurement process.

Social Value Indicators

- 3.8 At the time that the current WMRC was developed there was no emphasis on the inclusion of Social Value Indicators. These kinds of indicators are legally required as part of modern public sector contract procurements. They ensure that whilst the key service provision is embedded in the procurement that the public sector and their private sector partners remain committed to ensuring social value can be added at as many stages as possible. High level examples may include.
- Helping local communities
 - Supporting local businesses, jobs and skills
 - Contributing to economic equality
 - Fighting climate change
 - Equal opportunities
 - Wellbeing
- 3.9 This is far from being a complete list and under each of these headlines there are a larger number of more detailed social value indicators that may be developed. In the case of a neighbouring waste disposal organisation we understand, for example, that their latest waste disposal contract procurement included over 50 social value indicators for the contractor to

manage. They were developed with a view to bringing continuous improvement to its area and people.

- 3.10 Change and improvement can be brought about and maintained through the effective employment of social value improvements. In that environment it will be important to allow for the time and resource to work with partners and the community to develop an effective suite of social value indicators, so that continuous improvements can be realised.

Resources and Waste Strategy

- 3.11 One of the many issues facing the Authority and its partners in this procurement is the challenge of the Government's Resources and Waste Strategy, the demands arising from the Environment Act 2021 and the subsequent scale of change in the field of waste. Changes that we are aware of and that any new contract will include:

- the current provisions for Persistent Organic Pollutants (POPs) in soft furniture
- compulsory collection and disposal of food waste from households
- consistent collections of dry recyclables
- deposit return scheme
- extended producer responsibility
- potential UK Emissions Trading System; and
- waste prevention and minimisation

- 3.12 In the case of each of these new provisions there will need to be a commitment to achieving all the requirements on the Authority from agreements with the contractor within the current contract. For a new contract specification, providing mechanisms to deal with these issues will need to be built in from the start, alongside all the existing statutory requirements.

- 3.13 For some of the challenges the Authority is facing there is provision within the existing contract framework, for example the transfer and treatment of food waste, but the scale of the issue may present a test. For other issues, for example consistent collections, there will need to be significant infrastructure changes and changes in working practices that will need to be reflected in both the existing and any new contract (the operation of the MRFs may need to be reviewed and technical and physical changes made to the recycling infrastructure to ensure that it delivers against the expectations of the District Councils).

- 3.14 The challenge of POPs is with us now and we are working with both current contractors to ensure the requirements of the legislation are met fully. This contract change will need to be included in any new contract drafting going forwards.
- 3.15 The details of the responses to the Government's consultation proposed deposit return scheme (DRS) have been published and the scheme is currently planned to be introduced from October 2025. It is likely that drinks containers, whether plastic or cans will be included. The public will be incentivised to return these items, but not via the local authority recycling schemes. There is likely to be an impact both on the tonnes and the balance of the remaining materials recycled through the scheme. The DRS is also likely to impact on the contract income streams. Currently for plastics and cans there are ready markets for recycle to be sold and the WMRC contract derives a certain level of income; that can offset the contract costs and hence go to mitigating the Levy for Districts.
- 3.16 The costs of sorting and recycling the remaining drinks containers within the system may reduce but the subsequent income from them will also be lost with a significant impact on the infrastructure at the MRFs required to deal with those waste streams. Again these changes will need to be reflected in the required infrastructure and contract specification going forward so that potential bidders can understand the potential tonnage flows and make their own cost and income projections.
- 3.17 The impacts, costs and benefits of the Government's extended producer responsibility scheme are yet to become clear, but what is likely is that there will be an impact on the amounts of packaging used by producers, and hence a change in the amount of waste deposited for recycling and disposal. The Authority is working with District Council colleagues in the City Region to establish the impacts on current and future arrangements.
- 3.18 For many of these changes, within the current contract arrangements there are 'Change in Law' conditions. The effect of this is that whilst the contractor will be required to implement changes to the contract to comply with the new regulations the costs may, in certain circumstances fall on the Authority, as the contractor could not have foreseen the changes at contract signing. That the Authority could not foresee the changes either is a moot point but is reflective of the typical risk profiles of such large waste management contracts. This is an issue where practically it will be difficult to include any different clause in the prospective contract, but it may be worth consideration of whether more consideration should be given to a more equal risk share between the contractor and the Authority.

Authority policy

3.19 The Authority has several policies that will need to be embedded in the procurement process, this will also include the Zero Waste Strategy when it is agreed. These policies are linked to the Corporate Plan and its current goals as set out in the Mission Statement and goals:

“To ensure that we reduce the impact of our actions on climate change and improve the sustainable management of waste and resources.”

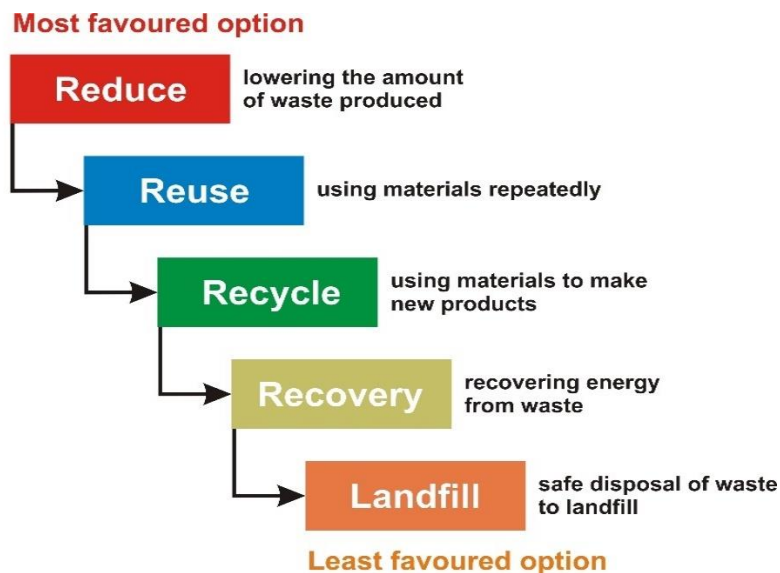
- Improve the sustainable management of waste and resources
- Deliver effective waste services
- Co-operate to improve working arrangements
- Measure and report on climate change impacts and sustainability improvements

3.20 The combination of the statement and the goals continues to commit the Authority to contributing to a number of the UN Sustainable Development Goals. At the same time the Authority’s continued commitments to Zero Waste and Carbon reduction remain challenging goals. These are just an illustration of the Authority’s high-level objectives and goals and it will be important that the procurement ensures that achievement of these is facilitated through any new contract arrangements.

3.21 At the same time it may be important for the contract procurement to reflect that the environment and the wider world that the Authority inhabits is rarely static; policy develops and changes and if there is potential within the new arrangements to allow scope for future changes to be enabled it may be a prospect the Authority should consider (although that will carry likely cost considerations, for example via Change in Law provisions).

What services to provide

3.22 In considering a proposed procurement it will be crucial to consider the services that may be needed in the next contract. Any number of the matters considered above will be likely to impact on the services that are included in the procurement. The Authority will want it to reflect the priorities of the Waste Hierarchy (a version of which is set out below):



- 3.23 The Authority has already started to explore options around a Re-use Hub and any new contract will need to emphasise this element of the Waste Hierarchy.
- 3.24 In looking at and reviewing existing services, the Household Waste Recycling Centre (HWRC) network and the services provided from those facilities are likely to be a focus of any review. The HWRCs, especially the larger and more modern sites, provide opportunities for the public to put a wide range of materials into the recycling process. However, reflecting on the waste hierarchy, there are limited opportunities for the public to bring items from their homes that are then made available for potential re-use. If an HWRC network is maintained under the new contract it will be important that the services provided are re-imagined to ensure that the public are encouraged to take advantage of new and better opportunities to make items available for re-use as well as to increase recycling.
- 3.25 Should this approach be brought into the new procurement then it may be an opportunity to fully develop a 're-use hub', where items made available for re-use are assessed, mended or upcycled where required and then made available for re-use via a re-use shop(s) and/or website. The Authority is already developing the models for this kind of approach, but it may be that to move forward with a whole system approach the proposal can also be included as part of the new contract specification.
- 3.26 Elsewhere within the current WMRC there are provisions for Dry Recyclable waste to be delivered to and separated for recycling at Materials Recovery Facilities. One of the facilities was established before

the WMRC was introduced and the second (at Gilmoor) was provided as part of the contract.

- 3.27 Under the Government's proposals for consistent collections there will be changes and the introduction of additional requirements to separate a wider range of materials including 'pots, tubs and trays', Tetrapak, aerosol cans and eventually plastic film/bags. There is already pressure on the Authority and the current contractor to consider investments in the MRFs to enable the current and the new requirements to be catered for.
- 3.28 The Authority and the existing contractor may have to work alongside each other to enable such investment in changes to the MRF's operations and processing as are required to enable the recycling facilities to meet the new standards and the requirements of the District Council partners. If such investment is required, it will be likely that the lifecycle will extend beyond the current contract (or it will become prohibitively expensive) and may carry into any future arrangements.
- 3.29 The Authority's current contractor operates 4 waste transfer stations, where waste collected by Councils from households may be delivered before being bulked up for transporting for disposal or treatment. These transfer stations take advantage of the Authority's existing sites and while geographically located across Merseyside may not always provide an optimum solution for the District Councils and potentially for the contractor. They may also not be seen as fit for purpose given the emerging legislative demands being placed in them.
- 3.30 A review of the potential for waste transfer stations to be maintained in their current location and for there to be changes and potentially a number of different sites providing better access to services will need to be taken into account. In the case of food waste for example, where there is a requirement for weekly collections for District Councils, and using a fleet that is likely to consist of smaller vehicles than the current Refuse Collection Vehicles (RCVs) there will potentially be a growing call for more local transfer stations to receive food waste for onward transfer to the contractor for treatment. This will be subject to availability of sites, the costs and the needs of District Councils.
- 3.31 The transport of waste from transfer stations to the next stage of the disposal/treatment process is a part of the WMRC as it stands. It is likely that this requirement will continue to be part of any new arrangements, but the Authority will have to review what it needs, particularly in light of the

need for the new contract and the existing Resource Recovery Contract (RRC) to overlap and to work in harmony. At times under the current arrangements the contracts have not automatically worked together and both the Authority's officers and the contractors' teams have needed to work hard to ensure waste flows keep moving effectively. Making this more automatic is likely to be a priority of the new contract but will be a challenge.

- 3.32 The review of the WMRC and the services it provides may not stop with looking at and improving existing provisions. There may be different and new waste services that the Authority wishes to consider in any contractual arrangement as it looks to continuously improve what is available for the public in Merseyside. These opportunities may form a key part of the preparations for a new contract procurement.

Procurement scale / size

- 3.33 The services provided under the current WMRC have been set out in headlines after paragraph 2.2. In the initial procurement there was an estimate that this would cost the Authority over £417M in nominal terms over the life of the contract (assuming inflation at 2.5%). Whilst this assumption may have been the most accurate at the time it is likely that these costs will have grown over the course of the contract as assumptions about services, costs, waste tonnages, inflation and income will all have changed. However, it does provide some idea of the potential scale of the procurement. Given the passage of time and the very likely additional burdens faced by the Authority letting a new contract over a similar period would be likely to see a significant increase in this estimate of the nominal cost. The likely scale of the potential procurement is considerable, and it will be particularly important to ensure that these potential costs are estimated and managed properly.
- 3.34 At the same time as considering the potential financial scale of the new procurement the physical attributes required will also need to be factored into any procurement decisions.
- 3.35 In considering the proposed approach to renewing the provision of local services for local people the question of the location, size and scope of the HWRC network will need to be considered. In letting the current contract, the existing locations of the then HWRCs were utilised as the land was available, had appropriate planning consents and the public were used to using them. During the course of the contract 3 new sites have been commissioned (two replacing former sites and one additional new facility).

- 3.36 Once the shape of services that an HWRC network may be called upon to provide has been fully considered there will be an opportunity to assess whether those services may be provided by the existing network or indeed whether there is a need to make changes.
- 3.37 In terms of the potential for changes there may be more than one approach. It may be that the Authority wishes to provide so called 'super-sites' within each of the constituent local authorities, and potentially more than one in some areas. It is also equally feasible that the Authority may also want to provide a network of much smaller, more local sites that would cater to a community use and potentially rely less on car journeys to bring materials to the sites. These kinds of considerations should be fully considered in advance of the procurement process being started and will require a comprehensive review and response.
- 3.38 Elsewhere the MRFs will need to be reviewed and amendments to the internal plant and the external scale of the buildings and surrounding infrastructure may need further consideration as a wider range of materials are likely to pass through the facilities.
- 3.39 Again, for transfer stations their locations are based around those locations that were available at the time and now while they may be appropriate, they also may no longer be optimal. The opportunity to review locations and sites for transfer stations, including potentially those dealing with food waste may need to be considered.
- 3.40 In developing a procurement approach and considering the locations and sites of facilities going forward, it may be important not only to focus on existing service provision, and that which can be easily anticipated (i.e. food waste) but also to have an eye on the future and to consider whether further change and improvement opportunities need to be taken into account when considering the Authority's Estate.
- 3.41 As with all of these issues connected to scale and locations of facilities there will always be a balance between providing a high-quality service for Merseyside and the short, medium-term and long-term costs of improvements. The pragmatic use of existing facilities is always likely to have some place in the new arrangements.

Partners

- 3.42 The development of a procurement strategy for MRWA cannot be completed in isolation. The Authority is a statutory Waste Disposal Authority for Merseyside and works closely with the constituent District

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Councils that are the Collection Authorities. Even when there is a stable environment it is always important to work closely alongside our District Council partners to ensure that our services are aligned and that what the Authority provides remains relevant to those Councils.

- 3.43 In the rapidly changing and evolving waste world where the demands on Collection Authorities are changing and growing at a fast pace it is important that we remain alongside them so that we can understand their needs and where necessary develop our services to support their requirements.
- 3.44 Between MRWA and the District Council Partners there is a working arrangement, the LCR Strategic Waste Partnership, that provides opportunity at both very senior and operational levels to ensure that service demand and requirements are well understood on both sides. In order to ensure that the procurement strategy that the Authority will need to establish is more likely to be successful it will be important for the work of this partnership to be maintained and enhanced. If the strategy is to work for all, then the involvement of the District Councils in developing the approach will remain important. This message applies not just to developing a procurement strategy but is also likely to be important during the procurement process.
- 3.45 The involvement of key representatives from the Districts will contribute to a more effective procurement, especially as the contract will be dependent upon the Districts collection arrangements (and vice-versa). It is very likely that to achieve the best outcome an Inter Authority Agreement will need to be made with each of the District Council partners who are party to the procurement.
- 3.46 At this stage it will also be important for the Authority and Halton Council to consider the Council's position in respect of the procurement. For the previous procurement of the WMRC, and subsequently the RRC, Halton Council agreed to delegate that part of its function that deals with Waste Disposal to the Authority. In simple terms the Authority was then able to include Halton Council in its previous procurement exercises and to include Halton Council as a partner in the eventual contracts.
- 3.47 Determining whether Halton Council wishes to participate in the next Waste Disposal Contract is not immediately a decision for the Authority, that depends upon Halton Council's view and Halton Council's decision. Should the Council decide that it wanted to be a party to the procurement and to the next contract that would then also become a matter for the

Waste Disposal Authority to consider and agree to ensure that both parties would be satisfied that another collaboration would be advantageous. This may also involve the tacit agreement of the constituent District Councils.

Risk transfer and contract length

- 3.48 Commonly under PFI and PPP (Public Private Partnership) contracts there is an element of so called 'risk transfer'. In other words, some key risks associated with providing services are transferred from the public sector to the private sector. The private sector takes a risk that by offering certain services for an agreed price that they will not lose out. On the other side of the coin, in order to avoid the risk remaining with the public sector, the public sector pays a higher price for the contract than they might if they kept the service in-house (and had the capacity to fulfil the contract), but also keeping with it all the service and associated cost risks.
- 3.49 Apart from the financial cost of risk transfer the likely length of the service contract is also a factor. The greater the risk taken on by the private sector the longer the period of the contract over which they plan to make a financial return. This is especially so where the contractor is required to provide a significant asset or assets (in the WMRC the contractor was engaged to build a MRF at Gilmoor for example).
- 3.50 Where the risk transfer is greater the costs are higher, and the likely contract timeframe is longer. In the case of the WMRC the initial period of the contract was over a 20-year timeframe, in part because the need for the contractor to recover the costs of the Gilmoor MRF project.
- 3.51 If the Authority wishes to consider a shorter term for the next contract, then it will also need to consider the scale of the risks it wishes to retain. Whilst the annual costs may be lower, the subsequent costs of any further service developments and changes will fall squarely upon the local authority. In a contract that deals with recycling the risks of the often-significant market shifts in the costs and income from recycle sales have been largely borne by the contractor under the WMRC, with agreements within the contract over income guaranteed to offset the contract costs. Under a shorter-term contract, where the Authority retained more risk, it would be more likely that the Authority would be exposed to the vagaries of the recycling markets. For some periods this may be an advantage and for others it may be a disadvantage. Under the current arrangements the risk appetite has brought a degree of certainty over the amounts of income in the contract that mitigate costs and therefore enable the Levy projections to be consistent.

3.52 These kinds of arrangements will be part of the Authority's (and likely its partners') risk appetite. Certainty will have a price and longer contracts whilst there will be a different price and a shorter term for less certainty. This may also be an area where the Authority needs to seek external expert advice over the waste contractors' and their likely appetite for risk and shorter- or longer-term contracts.

Current contract arrangements

3.53 Whilst most of this paper considers the likely new contract and some of the matters that may need to be considered as the Authority moves through a procurement, the ongoing matter of the current WMRC will need to be kept at the forefront. The current WMRC still has some six years to run and will need a continued strong client management to ensure it continues to deliver up until the final day of the term. This client management will be essential to continue to deliver value for money for the Authority and its partners.

3.54 At the same time several the initiatives and statutory changes that have been considered in outline in the paragraphs above will apply to the current contract and the current provider. Again, it will be an important function of the Authority to agree with the contractor how these changes are to be introduced and over what timeframe. An example will be where consistent collections mean that different materials are delivered to the MRFs, which will need to be significantly reconfigured. The physical changes to these key assets and any basis of payments and asset ownership/transfer lifecycle etc will need detailed negotiation and agreement to ensure effective services continue to be delivered.

3.55 Whilst the current contract is being considered the Authority will have to invest in understanding what will need to happen at the end of the contract and how to move from one arrangement with a contractor to another. Matters that may need to be considered will include (but not be restricted to):

- Assets, both the buildings and land
- Large scale plant and equipment (for example the MRF technology)
- Portable plant and equipment (and whether it needs to be retained)
- People – in particular TUPE if there is a new contractor.
- Management of continued service up to handover

3.56 These are significant challenges that each require detailed consideration as the Authority moves away from its current arrangements and into the new services.

- 3.57 Each of the challenges in managing the existing contract will also need to be considered in decisions over whether to procure new arrangements or whether the Authority may benefit from continuing with those existing arrangements for a further period of up to five years via a contract extension.

Public and Private Partnerships (PF2)

- 3.58 Under the approach in the previous contract the Authority was guided at all times by the Treasury guidance 'Standardisation of PFI Contracts (SoPC) Version 4'. This guidance from Treasury has been updated and replaced by 'A New Approach to Public and Private Partnerships' or PF2, that sets out the very detailed considerations that public authorities should consider when both embarking on and proceeding with this kind of procurement. It is almost certain that the PF2 approach (or any future iteration) will need to be followed again to ensure the Authority achieves Best Value in its procurement.

4. Procurement approaches

In-house considerations

- 4.1 In the previous section a number of issues and challenges have been outlined. These are unlikely to represent the whole story and for each of them there are significant details and highly technical work programmes that will need to be developed to ensure that the Authority is in a place to proceed with both the procurement and delivery of the new contract. Here we will begin to consider whether the Authority is likely to be able to successfully define the services it will need going forwards in order to either deliver the procurement within its existing arrangements or whether, indeed those arrangements will need to be supplemented with additional resources and expertise.
- 4.2 The Authority's existing staffing arrangements were recently reviewed by North West Employers and as a consequence, following a report to Members in November 2022, their recommendations were implemented. This review took into account the Authority operating with its current establishment and with its current workloads. One of the key recommendations was the establishment of a new Assistant Director post to consider service developments and to take a lead on procurement for the Authority (among other things). It was not envisaged at the time that the prospective procurement was covered by the review.

- 4.3 In addition, during the summer of 2020 the whole authority undertook a full Functional Analysis review which identified the workloads of staff at all levels across the organisation. The Functional Analysis did not identify significant capacity among the Authority's staff for taking on substantial additional duties.
- 4.4 In the paragraphs that precede this section a number of significant challenges have been laid out in outline. These outlines present an overview of some of the matters that the Authority is likely to have to consider in some detail over the next few months and years. Although six years seems a long way off, time is short and there is much to do.
- 4.5 In an environment where there is an almost unprecedented scale of work and where the scope for utilising current staffing to address all of the tasks fully may be limited by existing workloads, it is likely to be important that Members are asked to consider how to meet up to the challenges.
- 4.6 In the years prior to the previous procurements (WMRC first followed by RRC) the Authority established an in-house procurement team, on a temporary basis, led on a consultancy basis by a temporary Procurement Director. This team of up to four, led by the Director, successfully guided the Authority through the detailed procurement processes and challenges.
- 4.7 Members are asked to consider the challenges of the prospective procurement and the prospect of once again developing a temporary Procurement Team within the Authority to take a lead on the arrangements. Such a team would be likely to call on the in-house expertise of the Authority's permanent staff, but such calls would be managed to enable the permanent staff to continue to manage their 'day job'. This combination of a dedicated procurement team supported by permanent staff would enable the Authority to successfully manage the procurement process.
- 4.8 Whilst the prospective role of the Assistant Director has not been set out here, it may be a possibility that they take on some of the leadership role within the proposed procurement team, possibly supplemented by calling on an expert procurement consultant, rather than having an additional, albeit temporary, Director.
- 4.9 Members are asked to support the development of a further paper that considers in more detail the potential role, posts and costs of establishing a temporary procurement team to support the procurement challenge going forwards.

4.10 At the same time when considering the way that the Authority may put management arrangements in place to enable it to manage the procurement process the Authority should also consider the role of partners in the procurement process. In the previous large procurements, the Authority has welcomed the involvement of nominated officer(s) from its local authority partners. If the contract is to deliver services that are effective for the Merseyside and the City Region, it is likely that it will be important once again to involve nominated District Council officer(s). Their Collection Authority based perspective is likely to ensure the services procured are more likely to provide what both the Collection Authorities and MRWA need going forward.

Specialist appointments

4.11 The Authority has a relatively small number of staff each of whom has specialist knowledge and skills which are applied to the delivery of the Waste Disposal Authority's day to day functions. In a procurement of this scale, it is very probable that the Authority's staff do not have the full range of specialist expertise, or indeed the operational capacity required to manage the processes involved in delivering a PF2 contract. Even with the potential for a specialist procurement team to manage the project and allocate tasks there are likely to be a number of areas where external specialist expertise is required.

4.12 In the previous two major procurements the Authority appointed specialist advisers to take a lead on particular areas of the contract procurement. These advisers are generally from the larger private sector consultancy firms and their advice and support proved invaluable in the previous procurements. The expertise included:

- Legal advisers – to guide the Authority through the complexities of the standard contracts and to ensure the procurement processes were followed with precision.
- Financial advisers – to ensure that key financial models were in place and that third party financial institutions could have confidence in the procurement and its affordability.
- Technical advisers – to ensure that solutions proposed by the Authority and responses provided by the contractor were practical and achievable; and
- Planning advisers to help the Authority ensure that solutions proposed were deliverable practically

- 4.13 Their input was invaluable but came at not insignificant costs. Over the course of two major contract procurements the costs of the professional advisers over a period of several years ran up to £20M. Whilst it is not expected that the costs of consultancy support for the procurement of a single contract would be in that ballpark, the appointment of advisers will not be inexpensive.
- 4.14 In considering whether specialist advisers are likely to be required Members are reminded that their role is important for the Authority to be able to:
- Specify clearly the complex service and contractual requirements of the new contract.
 - Identify the criteria by which tenders would be evaluated, in advance of the tenders being called for, so that tenderers are clear how their submission is to be judged.
 - Clarify queries over financial, legal and technical aspects of tenders received, prior to the evaluation process.
 - Evaluate tenders (ensuring consistency of approach for example);
 - Advise on contract drafting and risk balance positions; and
 - Tender award and contract completion.
- 4.15 Whilst a number of the Authority's officers have been involved in similar processes and will need to work alongside specialist advisers as the procurement approach develops it is less certain that they have sufficient expertise, experience and personal capacity to run this as an in-house exercise.
- 4.16 At the same time Members attention is drawn to a recent review provided by Local Partnerships (LP) of the Authority's preparations for the potential expiry of the existing contract. LP have carried out a high-level review based on their standard approach and have been able to identify a number of areas where the Authority needs to take action over the next 6 to 24 months to ensure it is prepared in the event that the contract is not extended.
- 4.17 Members will be asked to consider establishing a review to consider the need for and potential requirements of specialist support for the procurement. Should the review assess that specialist support will be likely to be needed Members will be asked to begin to set aside a reserve, possibly taken from the General Fund, to begin to meet the likely costs of such a group of procurement specialists.

4.18 If the review concludes that specialists are required, and that this view is supported by Members, it is also likely that the Authority will need to consider employing an additional specialist to help it specify the contracts and make these appointments, as that in itself can be a very complex process. At the outset of the previous procurement a specialist appointment was made to enable the Authority to navigate the appointment of specialist advisers who enabled the Authority to procure successful contracts.

5. Risk implications

5.1 The contract extension or the procurement of the future arrangements carries a high level of risk, and it will be important that a separate risk register is developed as part of the procurement process so that officers and Members have a good understanding of the risks facing the Authority and the mitigations that may be put in place.

5.2 High level risk Implications include:

| Identified Risk | Likelihood Rating | Consequence Rating | Risk Value | Mitigation |
|---|-------------------|--------------------|------------|---|
| Failure to proceed in a timely way. Delay in procurement and provision of continued and new services. | 2 | 4 | 8 | The development of a procurement strategy and approach together with decisions on officer and specialist support. |
| Failure to consult partners over the requirements for the next procurement | 2 | 4 | 8 | Recommendations to include District Councils from the outset and throughout the procurement process. |
| Failure to specify a service that meets the requirements of MRWA, partners, | 2 | 4 | 8 | Working alongside partners in the Joint Partnership to develop a procurement strategy |

| | | | | |
|---|---|---|---|---|
| legislation and best practice | | | | and then with specialist officers and advisers to respond by specifying a service that meets those demands. |
| Failure to manage the procurement process | 3 | 3 | 9 | Appointment of a specialist procurement team to deliver the procurement, supported by specialist advisers, both of whom will guide the Authority through the procurement process |
| Failure to deliver an effective procurement | 2 | 3 | 6 | Effective decisions by Members early in the process will enable the Authority to ensure it has appropriate arrangements in place to deliver an effective outcome for all parties. |

6. HR Implications

- 6.1 None directly associated with this report, although there are likely to be implications in the near future should a procurement team approach be developed and as capacity is demanded within the Authority for the design and development of the new services

7. Environmental Implications

- 7.1 The extension of the existing contract arrangements or the procurement of a new contract will need to ensure it meets all the current, planned and prospective environmental challenges so that the contract promotes the

Authority's support for Climate change, Carbon reduction, Zero Waste and making effective contributions to the UN SDGs.

8. Financial Implications

- 8.1 None directly associated with this report, although Members will be asked to commit to medium term financial costs associated with developing both a temporary in-house procurement team and the costs of engaging specialist advisers to guide the procurement approach. Eventually the overall potential costs of the proposed contract will need to be identified in outline so that Members have a good understanding of the likely costs to Merseyside over the course of the contract (this is likely to put the costs of advisers et al into context).

9. Legal Implications

- 9.1 None directly associated with this report.

10. Conclusion

- 10.1 The current arrangements under the WMRC will come to the end of their normal term in just over six years. The WMRC contains provision for extending the current arrangements by up to five years, at the Authority's discretion.
- 10.2 The Authority will be required to commission services that provide a modern alternative to those arrangements and meet all the environmental and performance standards that MRWA and its partners need.
- 10.3 The procurement and the processes that underpin the procurement are very extensive and will require both dedicated and specialist support if the Authority is to achieve an effective outcome.
- 10.4 Whilst the future services are being designed in collaboration with District partners, a decision will be required in a timely manner as to whether to provide those services beyond the WMRC's 'normal' term by way of an extension of that contract or to allow its natural expiry and to reprocure new arrangements. However, work to prepare for a potential new procurement process will need to be undertaken in parallel with those processes.
- 10.5 It is recommended that Members:

- Agree that officers draw up plans for a dedicated in-house procurement team to deliver an effective procurement; and
 - Agree that officers should identify the most appropriate way to obtain specialist consultancy advice so that the procurement achieves the best outcome for MRWA and its partners.
 - Agree that officers work with District Council partners to identify the most appropriate outcome for services going forwards
- 10.6 Officers will bring further reports on these processes for Members consideration and approval on a regular basis as the situation develops rapidly.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.