



# MERSEYSIDE RECYCLING AND WASTE AUTHORITY

## FUTURE WASTE SERVICES

DYNAMIC OUTCOMES LTD

DECEMBER 2023



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## FUTURE WASTE SERVICES

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### FINAL REPORT

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Dynamic Outcomes Ltd  
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## 1. INTRODUCTION

This report was commissioned by Merseyside Recycling and Waste Authority (“**MRWA**”) which is the public facing name for the statutory body responsible for waste disposal in the Merseyside region including, by agreement, Halton Borough Council.

The legal name of the statutory body is the Merseyside Waste Disposal Authority (“**MWDA**”) and for its duties and obligations it is the MWDA which enters into contracts. The website is [www.MerseysideWDA.gov.uk](http://www.MerseysideWDA.gov.uk).

The report is structured as follows

1. Sections 1 to 3: Background, context, assumptions, and report requirements
2. Section 4: Resourcing and governance
3. Sections 5 to 6: Changes to policy and strategic considerations
4. Sections 7 to 10: Programme phases and costs
5. Section 11: Summary of recommendations
6. Annex 1 – Terms of reference for the Programme Board(s)
7. Annex 2 – Draft requirement briefs for external advisors

The report does not make legal or financial policy statements or recommendations outside of a general intention to support MRWA in the future planning of strategic change and related procurement(s).

## 2. CONTEXT AND ASSUMPTIONS

MRWA (“**the Authority**”) is the public facing name of the statutory Waste Disposal Authority for Merseyside. It serves five district Waste Collection Authorities (“**WCAs**”), and, through a separate Inter Authority Agreement, provides services for Halton Borough Council (“**Halton**”, a metropolitan unitary authority).

The five WCAs are:

- Knowsley Borough Council
- Liverpool City Council
- Sefton Borough Council
- St Helens Borough Council
- Wirral Metropolitan Borough Council

MRWA holds two large waste disposal contracts:

- a waste disposal contract for residual (‘black bag’) waste, referred to as the Resource Recovery Contract (“**RRC**”) held with Merseyside Energy Recovery Ltd., and operated by Suez, entered into in 2013 and which expires in 2043; and
- a waste disposal contract for recyclable waste, and the transfer and haulage of residual waste, referred to as the Waste Management and Recycling Contract (“**WMRC**”) held with Veolia, entered into in 2009 and which expires in 2029.

A paper considered by the Authority<sup>1</sup> in its April 2023 meeting set out the context which underpins this report:

*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.*

*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.*

*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 its 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.*

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<sup>1</sup> <https://www.merseysidewda.gov.uk/wp-content/uploads/2023/04/15-WDA-1023-Contract-procurement.pdf>

*Neither the prospect of 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.*

This report sets out how the MRWA might approach its strategic options leading to a decision on the future delivery route for its WMRC services.

To assist in framing the report, a number of assumptions have been made:

- Halton Borough Council will continue to use MRWA for services under the existing (and future) version of the WMRC. This will of course ultimately be a matter for Halton to decide;
- Based on the April 2023 WDA paper, the procurement of a new contract is one possible outcome of the recommended strategic review and options analysis (see Section 6 below), although an in-house solution or extension of the current contract is not ruled out; and
- In any event, future service options, taking into account new legislation, require consideration ahead of any final decision.

This report sets out a process by which the Authority might assess its options and then, depending on the outcomes, move into a Programme (the “**Programme**”) which may see the procurement of a new contract for waste management (predominantly non-residual waste) services.

### 3. REPORT REQUIREMENTS

To assist the Authority, this report was commissioned to provide advice to MRWA on a possible programme to deliver its objectives after 2029. A commission document was issued in September 2023 which set out the requirement of the MRWA in moving forward. The report was required to give advice on the following:

- a suitable team structure taking into account internal and external resources;
- a governance structure which both manages the Programme and takes into account MRWA processes and stakeholders (including WCAs);
- the potential phases of the Programme, from the initial strategy review, through procurement and into mobilisation, supported by;
- a high level Programme plan and timeline;
- key issues which should feed into the strategy review;
- procurement options which could be explored in more detail as part of the strategy review;
- potential costs of the Programme from start (anticipated to be January 2024) to completion (service commencement date); and
- the process by which external advisors would be procured and the outline briefs for their input, and how the Contractor<sup>2</sup> would assist MRWA in managing their input and costs.

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<sup>2</sup> This role has now evolved into the role of ‘Procurement Director’

The report is largely based on the authoring company’s credentials and experience. However, no situation is an exact replica of another, and so – to inform this report – a number of workshops were held to discuss key elements of the commission, culminating in a meeting with the MWDA and WCAs on 24 November 2023.

Planning workshops were held between 31 October and 21 November 2023, covering the following areas in discussion with officers of MRWA.

- Resourcing and Governance 31 October
- Strategy and Objectives 14 November
- Programme Plan and Timetable 21 November

Two final meetings took place on 24 November with the MRWA and with officers from the WCAs.

**Figure 1 - Planning Workshops**



The considered findings are presented below. It should be noted that no presumption is assumed in the eventual route which MRWA might take in meeting its objectives. The assumptions set out in Section 2 imply that a procurement of a new contract is one of the possible outcomes of the strategy review and options analysis, and – as procurements are complex and costly – this is the route assumed for this report in order to assist with resource planning and allocating a budgeting envelope to cover this period (to June 2029).

## 4. RESOURCING AND GOVERNANCE

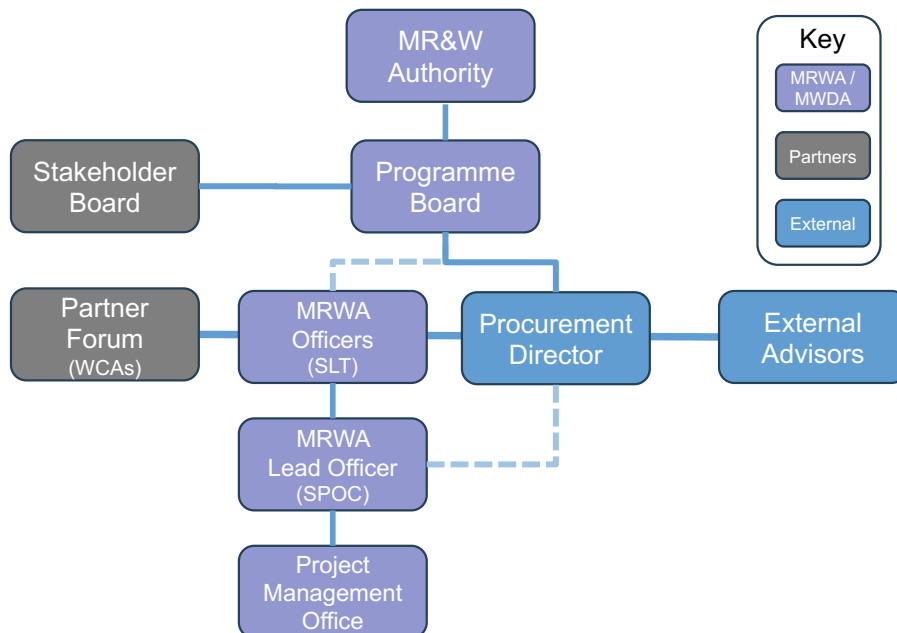
Programmes need good governance: as a matter of best practice, it is recommended that a Programme Structure is established which:

- Ensures accountability of the Programme to the MRWA (MWDA);
- Delegates sufficient strategic decision-making ability to a Programme Board;
- Delegates appropriate day-to-day decision-making ability to MRWA officers;
- Seeks input from partners (WCAs);
- Seeks input from relevant stakeholders and wider interested parties;
- Delegates appropriate day-to-day decision-making ability to an appointed Procurement Director in consultation with MRWA officers and in-line with accountability to the Authority (MRWA);
- Ensures the Programme is supported by a Project Management Office function (PMO); and
- Appoints external advisors which are experienced, focused and have clear objectives.

It is recommended that the Programme operates under standard Programme governance as set out in Figure 2.

*Figure 2 - Programme Governance Structure*

### Programme Governance Structure



This structure is standard for a programme of this size and scale, but the management of the components need to be tailored to the MRWA’s requirements, as suggested below.



## **Programme Board**

A Programme Board will be established to provide strategic direction, decision making and oversight of the Programme.

The Programme will be delivered through, and in accordance with, the terms of reference which formalise the role of the Programme Board, including its accountabilities, purpose, and objectives. Its membership could comprise of:

- Chairperson (or Delegate) from the Authority
- MRWA Senior Leadership Team (CEO, FD, others)
- MRWA member<sup>3</sup>
- Procurement Director (in attendance)
- Lead Officer (in attendance)
- PMO Support (Administration)

The Programme board will meet monthly (usually using remote communications) and report into, and be accountable to, the Authority. Draft Terms of Reference (“**TORs**”) are attached at Annex 1.

## **Stakeholder Board**

The Stakeholder Board will be the forum to communicate the Programme objectives and progress reports to the wider interest group for the MRWA. It should assist the Programme in design and contributions on best practice in waste minimisation, reuse, and recycling. Its membership should comprise of interested parties who will be affected by the outcomes of the Programme, or who could assist in its design and implementation, and could include the following:

- MRWA elected member representative
- Academic or best practice advisors
- Charities
- Community Representatives
- Liverpool City Region Combined Authority representative
- Input from a peer authority (e.g., Greater Manchester Combined Authority waste team)
- MRWA Chief Executive or delegate
- Procurement Director
- Lead Officer
- PMO Support (Administration)

The Stakeholder Board will meet quarterly and report into, and be accountable to, the Programme Board. It is consultative and has no decision making powers. Draft Terms of Reference are attached at Annex 1.

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<sup>3</sup> Possibly from a different WCA than the Chairperson

## **The Partner Forum**

The Partner Forum allows the WCAs and Halton to be directly engaged and have input to the Programme and to be updated and consulted on its progress. The Partner Forum should meet no more than quarterly.

## **External Advisors**

Specialist External Advisors will be appointed to provide advice on the legal, technical, and financial elements of the Programme and to provide the Programme Board with detailed analysis of Programme risks, issues, and options. Waste contracts are complex, high value and usually run to some 700 pages with extensive schedules complex financial arrangements and technical detail. It is important, therefore, that external advisors have relevant experience from other similar waste programmes. To ensure the Programme is coherent, it is recommended that external advisors are appointed in advance of Phase 1 of the Programme (see section 8).

## **Programme Management**

The Procurement Director will be responsible for steering the Programme within the parameters approved by the Programme Board and will be accountable to the board for Programme performance.

It is recommended that the MRWA Senior Leadership Team (“SLT”) assign the role of internal Lead Officer to an MRWA senior officer who would therefore be the single point of contact (“SPOC”) for the Procurement Director on a day-to-day basis.

The Lead Officer and Procurement Director will be further supported by the Chief Executive of MRWA who would hold the role of ‘Project Sponsor’ and would be a point of escalation for issues which did not require a Programme Board decision.

A Project Management Office (“PMO”) will be responsible for the day-to-day management of the Programme documentation, monitoring and supporting the delivery of work streams, management of allocated funding and monitoring progress against the Programme. The PMO will work closely with Procurement Director and Lead Officer and escalate decisions as required.

It is recommended that the PMO is established which may in due course consist of three roles, responsible for:

- Management of Programme documentation (Risk, Actions, Issues and Decisions Logs);
- Management of Programme governance including management of meetings and minutes;
- Management of the procurement process, including documentation, records, tenderer clarification questions and competitive dialogue meetings.

Of the three roles in the PMO, the role responsible for the procurement process can be appointed at the end of Phase 1, for the other two roles, it is preferable that the roles are filled before commencement of Phase 1.

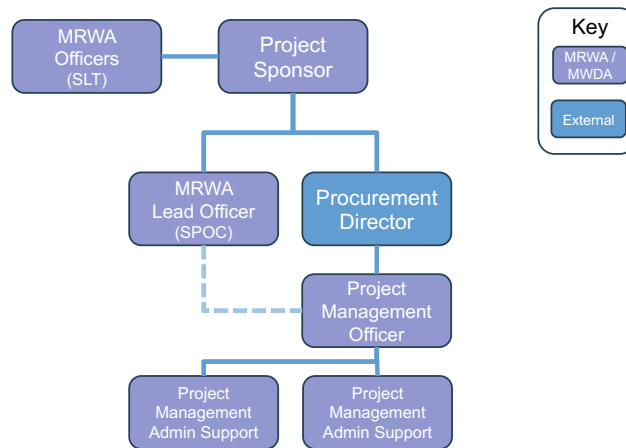
One of the three roles should be filled by an experienced project manager, familiar with all three areas set out above, and thus able to act in a more senior capacity within the PMO, line managing the other two roles.

The PMO could comprise of internal MRWA staff on fixed or temporary contracts to provide a dedicated project management function for this Programme.

The above structure is set out graphically in Figure 3.

Figure 3 - Internal day to day project management structure

## Internal (Day to Day) Programme Management Structure



The following table summarises the roles and responsibilities within the governance structure:

Role	Responsible for:	Accountable to:
Programme Board	<ul style="list-style-type: none"> <li>Providing strategic leadership of the Programme.</li> <li>Overseeing the delivery and implementation of the Programme and the longer term strategy for development.</li> <li>Overseeing the planning and alignment of resources for the Programme, including external and internal costs.</li> <li>Providing reports and information to the MRWA.</li> </ul>	MRWA
Stakeholder Board	<ul style="list-style-type: none"> <li>Providing stakeholder input into the Programme.</li> <li>Advising the Programme on ‘best practice’ elsewhere in order to support and challenge the Programme as a ‘critical friend’.</li> <li>Providing creative input to the Programme to assist future developments in reuse and recycling.</li> </ul>	Programme Board
MRWA Senior Leadership Team (“SLT”)	<ul style="list-style-type: none"> <li>Ensures the Programme is progressing in line with agreed waste management strategies.</li> <li>Ensures the Authority is informed and contributing to the Programme.</li> </ul>	Programme Board

Role	Responsible for:	Accountable to:
	<ul style="list-style-type: none"> <li>• Ensures that the Programme is within agreed budgets and compliant with MRWA policies.</li> <li>• Appoints a day to day Lead Officer who will be a single point of contact (“SPOC”) for the Procurement Director.</li> <li>• The MRWA Chief Executive to act as day-to-day project sponsor, providing a point of escalation for issues which do not need to be escalated to the Programme Board,</li> </ul>	
Procurement Director	<ul style="list-style-type: none"> <li>• Providing direction to the Programme team.</li> <li>• Working closely with MRWA SLT to ensure day to day Programme activities are within agreed budgets and are compliant with MRWA policies.</li> <li>• Monitoring Programme progress and escalating issues to the Programme Board.</li> <li>• Providing robust and independent assurance of Programme delivery against expected outcomes.</li> <li>• Ensuring the Programme is adequately resourced and effective risk management arrangements are in place.</li> <li>• Management of the external advisory team and ensuring Programme objectives are met.</li> </ul>	Programme Board
Programme Management Office (“PMO”)	<ul style="list-style-type: none"> <li>• Monitoring the delivery of work streams.</li> <li>• Maintaining all key Programme documentation and providing timely reports to the Procurement Director and Programme Board.</li> <li>• Providing advice and guidance to the Procurement Director to ensure adequate management controls are in place at all stages of the Programme.</li> <li>• Diary management of all Programme meetings</li> <li>• Management of Risk, Actions, Issues and Decisions Logs.</li> <li>• General administration support for Programme documentation, records and meeting minutes.</li> </ul>	Procurement Director
External Advisors	<ul style="list-style-type: none"> <li>• Providing specialist advice and documentation to the Programme (technical, legal, financial).</li> <li>• Supporting the Procurement Director through the phases of the Programme.</li> </ul>	Procurement Director

Role	Responsible for:	Accountable to:
	<ul style="list-style-type: none"> <li>Furnishing the Procurement Director and Programme Board with accurate and clear information to support them in their decision-making role.</li> </ul>	
Partner Forum	<ul style="list-style-type: none"> <li>Providing information for WCAs (and Halton) to allow them to respond and provide input to the Programme.</li> </ul>	Programme Board

## 5. UK WASTE POLICY CONSIDERATIONS

There are many policy changes and drivers for change in relation to this Programme. These include the broad policy aims of creating a more circular economy, significantly increasing recycling and reducing residual waste per capita. These can be viewed through the lens of broader attempts to minimise carbon emissions and mitigate climate change.

A number of specific policy measures towards these aims have been made including the enactment of the Environment Act 2020, however there remains some uncertainty regarding the ultimate implementation of this policy agenda and the full extent of its implications for waste management.

It is likely, during the course of this Programme, that significant changes to waste and recycling collection and treatment will take effect. These changes may include:

- Introduction of weekly separate food waste collections;
- Introduction of Extended Producer Responsibility (“EPR”) and associated changes to WCA/WDA funding arrangements;
- Introduction of Deposit Return Schemes (“DRS”) affecting material flows in waste;
- Movements towards greater standardisation and consistency in the collection of dry recyclables;
- Introduction of mandatory dense and soft plastic collection (‘pots, tubs and trays’ and plastic film);
- A review of the recycling credit scheme for incentivising greater levels of recycling and redistributing the financial benefits of higher recycling between WCAs and WDAs;
- Mandatory Digital Waste Tracking; and
- Introduction of an Emissions Trading Scheme (ETS) for Energy from Waste

These proposals, if implemented in full, could necessitate large scale operational changes and significant investment in transitioning from current practices.

In order to assess and prepare for the forthcoming (and still unclear) policy changes, the Programme has a pre-procurement phase as set out below.

## 6. STRATEGY REVIEW AND OPTIONS (PRE-PROCUREMENT PHASE)

In the pre-procurement phase, MRWA, along with its partners, needs to give consideration to the following strategic challenges:

- Policy implications (as set out in Section 5);
- Strategic review of future service design;
- Service delivery options analysis (extend, procure, in-house);
- Market analysis and likely response;
- Financial model (market comparator);
- Asset review and capital strategy;
- Management and allocation of risk;
- Role of the WCAs and any Inter-Authority Agreements;
- Procurement process and contract characteristics; and
- Relationship with RRC contract.

### **Policy Implications and Strategic Review of Future Service Design**

As set out in section 5, the UK is about to embark on dramatic changes in the way waste is collected, reused, recycled, and disposed of. There are both options and future obligations facing MRWA in how it and its partners respond to these policy objectives and changing habits in reuse and recycling. These strategic considerations (including an assessment of cost and complexity in their introduction) need to be determined as part of this pre-procurement phase.

### **Service Delivery Options Analysis**

The current contract can run until 2029 and has the option to be extended by five years. However, MRWA are of the view that the current contract is not likely to be able to fully address the expected changes and aspirations of itself and its partners, and therefore an extension without detailed consideration could leave the authority exposed. Even so, considerations need to be given to ensure that MRWA is making the right choice given its priorities, and this would therefore include a consideration of service delivery options to extend, procure or bring the services in house.

### **Market Analysis and Likely Response**

If a decision was taken to procure new services, it is critical to know that the market will respond with credible and cost-effective tenders. As part of the pre-procurement preparation, therefore, a review of market players and their likely position on MRWA's procurement will help inform the procurement strategy, including any lotting strategy and risk transfer models.

### **Financial Model**

To ensure value for money, once the strategic drivers are agreed, a high-level financial model will help demonstrate that the market can respond and the MRWA will get their required response within an expected cost envelope. As part of the pre-procurement phase, a shadow financial model will be created to give confidence to the MRWA that the procurement is deliverable and affordable.

### **Asset review and capital strategy**

Waste is asset rich as most waste assets are physical buildings and locations where waste is treated. MRWA is no exception, and it may be a requirement of the procurement that new and replacement assets are built into the plan.

### **Management and allocation of risk**

Good project management requires that risks are monitored and mitigating actions set out in a risk register. A regime for updating risk and issues logs will be in place from the start of the Programme. Risks to be monitored include both Programme risks and long term service risks (particularly future legislative change and how these are dealt with in the contract).

### **Partners and IAA(s)**

Because of the cost of a large-scale procurement, it is recommended that consideration is given to any required Inter-Authority Agreement with partners. Typically, IAAs cover apportionment of Programme costs, operational terms for the collection and supply of waste and a commitment to uphold the terms of a future contract once it is entered into (and the terms on which the procurement might be cancelled by IAA signatories).

### **Contract characteristics**

Given that the existing WMRC contract was entered into in 2009, it is likely that certain clauses which at the time suited the service now need updating or replacing. Key considerations in drafting a new contract will include:

- Continuous improvement over life of contract;
- Flexibility to allow for policy uncertainty and changes;
- New provisions for recycling or recovery, e.g., a new Materials Recovery Facility (“MRF”);
- New recycling streams, e.g., pots tubs and trays, plastic film;
- Risk share and transfer;
- Targets and performance management;
- Social value investment; and
- Interface with the RRC (Suez contract).

At the conclusion of this phase, MRWA will have a clear vision of both its requirements and route to fulfil them. In order to assist in the consideration of the wider Programme, it is assumed, for the remainder of this report, that a decision is made to procure a new contract to be in place by 2029.

It is recommended that in the pre-procurement phase (Phase 1), the workstreams set out in this section 6 are completed.

## 7. PROCUREMENT ROUTE

For this section, an assumption has been made that as a result of the Phase 1 Strategy Review and Options phase, a decision has been made to procure new services from 2029. This section therefore considers the procurement route under the new Procurement Act 2023 which will apply to all UK public sector procurements from October 2024.

Whilst the analysis below assumes a single contract, there may be advantages in terms of risk and/or price of disaggregating the services into lots, for example HWRCs as one lot and haulage and transfer stations as another lot.

Any such benefits would be weighed against the potential increase in contract management costs to MRWA.

In both cases a key output from pre-procurement soft market engagement will be a determination of the optimum aggregation or disaggregation of services to be put to the market.

The Contract Delivery Structure will be considered as part of the Strategy and Objectives Phase (Phase 1)

### **Route to Market**

Following the UK's exit from the European Union, the UK retained the Public Contracts Regulations 2015 (as amended) ("PCR"), and these remain in force until October 2024. The UK Government has now introduced a new Procurement Act which reforms the UK's public procurement regulations and introduces new simplified forms of procurement. It received Royal Assent in October 2023 and is effective on new procurements from October 2024.

MRWA's timescale will bring its procurement of a new contract into the new UK regime.

The new Act sets out four routes for procurement which are considered below:

- 1) **Open Award:** A single stage process without a separate selection stage where the contracting authority invites all interested bidders to submit tenders for the contract that are evaluated, and the contract is awarded without negotiation. This procedure (similar to the previous 'Open' procedure) is considered to be too simplistic for what is required for the MRWA as it requires a fix priced proposal from the tenderers without any negotiation.
- 2) **Competitive Flexible Procedure:** Where, after a selection stage, the contracting authority invites all shortlisted bidders to take part in a dialogue process with the aim of identifying the solution best suited to meet the contracting authority's needs. Bidders may be further shortlisted at various points following evaluation of tenders. When the dialogue process is complete, final tenders are invited from those bidders remaining in the process. Negotiation is permitted with the successful bidder in order to confirm and finalise its tender; provided this does not distort competition or cause discrimination and provided its tender is not materially modified. This procedure, similar to the previous 'Competitive Dialogue' process is recommended.
- 3) **Direct Award (Limited tendering procedure):** In a departure from the previous direct award regime under the PCR, new regulations for Direct Award have been introduced which allow much more flexibility for contracting authorities. However, given the scale of the MRWA procurement this route is not recommended.
- 4) **Frameworks:** Similarly, a number of frameworks are allowed for rapid procurements of goods and services. However, given the scale of the MRWA procurement this route is not recommended.



Because of the scale and complexity of the procurement, the optimum route is likely to be the Competitive Flexible Procedure (“CFP”) which allows for the following beneficial steps:

- An emphasis on pre-market (soft market) testing and engagement;
- Down-selection to a limited number of tenderers with whom the Councils can engage;
- Dialogue sessions where specific contractual elements can be discussed with tenderers (which can cover technical, financial, and legal issues); and
- More certainty about the detail of the tenderer’s final submission.

This procedure will allow the authority considerable discretion in how it conducts a procurement, provided that it always observes the underlying principles of fairness and transparency. It would be possible to conduct the procedure in a way similar to competitive dialogue if desired. However, the new route brings additional flexibility to contracting authorities which would allow them to depart from the strict rules of the current procedures. For example, the following could be embraced:

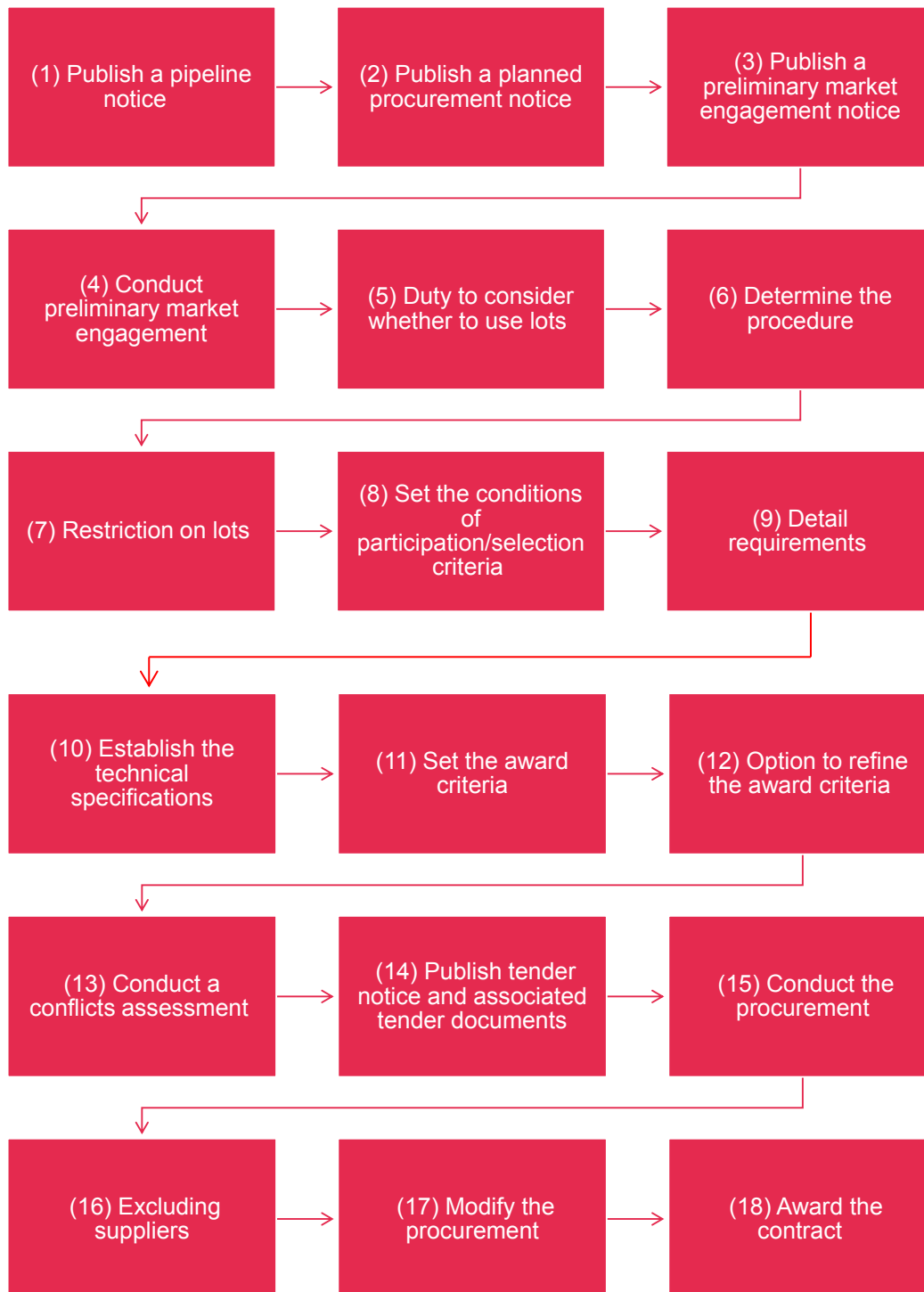
- for simple requirements where an initial selection stage is needed to limit the number of bidders, for example to meet specific technical requirements in order to bid;
- for complex requirements where negotiations with bidders would be beneficial in helping them understand the requirements and/or in delivering better value for money and innovation;
- for procurements where the contracting authority may not want to limit the field through an initial selection stage without first evaluating the product, technology or software being offered; this would be particularly useful where a prototype or other practical demonstration is required; and
- for procuring innovative products or services using a phased approach to develop the solution(s).

These additional flexibilities will bring additional benefits to the contractor selection process, removing some of the complexities inherent in the current procurement regulations.

It can be seen from the graphics in Figure 4 below, that the new CFP relies more heavily on the planning and preparation phase of the procurement lifecycle. This emphasis will assist MRWA in the following ways:

- More upfront consideration by the procuring authority of what is required;
- Ability to set evaluation criteria which emphasises and strengthens the desired benefits from the procurement;
- Ability to modify (subject to regulations) the procurement once started (a new feature which is not present in the existing PCR); and
- Greater transparency which, if properly followed will reduce the risk of procurement challenge.

Figure 4 - New Flexible Competitive Procedure



Graphic courtesy of DLA Piper 2023 ©

## 8. PROGRAMME PHASING & TIMING

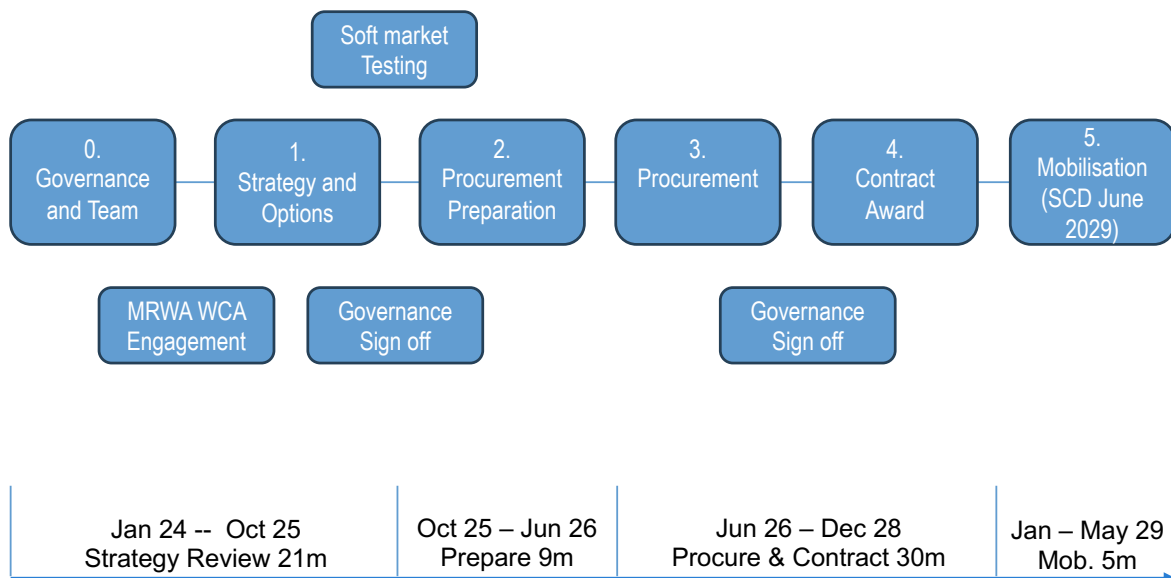
As set out above, a requirement of MRWA and the new Procurement Act is to ensure that public authorities have given proper consideration to what they are looking to secure through their procurements. For MRWA, and given the requirements set out in the April 2023 MRWA paper, a period of planning, options analysis and consideration of strategic changes is necessary.

Figure 5 therefore sets out a timetable for the Programme culminating in a new contract commencing in June 2029.

It is recommended that MRWA adopt the Programme phasing and timing set out in this Section 8.

*Figure 5 - Key stages and timetable*

### Key stages and timeline



Further detail is provided below.

Programme Phase	Duration	Key Activities
0. Preparation	Jan 24 – Jun 24	<p>Establishment of Programme governance arrangements.</p> <p>Engagement with MRWA and WCAs and Halton on Programme objectives.</p> <p>Development of Project Management Office.</p> <p>Recruitment of External Advisors.</p> <p>Development of Programme Documentation.</p>
1. Strategy Review and Options Appraisal	July 24 to Sep 25	<p>Service design review, taking into account legislative change, MRWA strategic objectives and behavioural change in reuse and recycling.</p> <p>Waste flow, financial and technical analysis leading to an appraisal of service delivery options.</p> <p>Pre-procurement will also include the development of commercial positions for a future delivery route (extend, procure, or in-house)</p> <p>Soft market testing to establish the risk appetite of the market with regard to the preferred option. This will help refine the broad structure of the future commercial deal</p> <p>Strategy</p> <ul style="list-style-type: none"> <li>• Options Analysis</li> <li>• Market Analysis</li> <li>• Finance reference model</li> <li>• Strategy Review</li> </ul> <p>Design</p> <ul style="list-style-type: none"> <li>• New service design and changes</li> <li>• Continuous improvement over life of contract</li> <li>• Consideration of policy uncertainty and changes</li> <li>• MRF requirements (Capex?)</li> <li>• Relationship with RRC contract</li> </ul> <p>Procurement (How you secure your requirements)</p> <ul style="list-style-type: none"> <li>• Market response: consolidation and other changes</li> <li>• Contract Terms and Commercial Principles</li> <li>• Lotting strategy</li> <li>• Social Value</li> <li>• Risk Share (new style of contract)</li> </ul> <p>Soft Market Testing</p> <ul style="list-style-type: none"> <li>• Procurement Notices</li> </ul>

Programme Phase	Duration	Key Activities
		<ul style="list-style-type: none"> <li>• Interact with Economic Operators to ensure interest and ‘on market’ proposals</li> </ul> <p>Partner engagement</p> <ul style="list-style-type: none"> <li>• Work with WCAs and stakeholders</li> <li>• Prepare IAA(s)</li> </ul> <p>Governance</p> <ul style="list-style-type: none"> <li>• Report to initiate procurement</li> </ul>
2. Procurement Documentation and Preparation	Oct 25 to Jun 26	<p>Documentation</p> <ul style="list-style-type: none"> <li>• Preparation of key procurement documents: <ul style="list-style-type: none"> <li>– Procurement notices</li> <li>– Supplier Questionnaire</li> <li>– Evaluation Criteria</li> <li>– Tender documentation</li> </ul> </li> <li>• Preparation of contract documents <ul style="list-style-type: none"> <li>– Key Commercial Principles</li> <li>– Specification and performance management</li> <li>– Payment mechanism</li> <li>– Procurement documentation</li> </ul> </li> <li>• Conclusion of inter-authority agreement documents <ul style="list-style-type: none"> <li>– IAA for procurement</li> <li>– IAA for waste supply / usage agreements</li> </ul> </li> </ul>
3. Procurement	Jul 26 to Apr 28	<p>Publication of MRWA’s requirements and evaluation criteria.</p> <p>Down selection of valid tenderers</p> <p>Negotiations and dialogue with participants.</p> <ul style="list-style-type: none"> <li>– Evaluation of final tenders and contract award.</li> <li>– Dialogue meetings</li> <li>– Evaluation of Tenderers interim responses;</li> <li>– Invitation to Participate in Dialogue</li> <li>– Down selection if required</li> <li>– Invitation to submit Final Tenders</li> </ul>

<b>Programme Phase</b>	<b>Duration</b>	<b>Key Activities</b>
		<p>Governance</p> <ul style="list-style-type: none"> <li>– Governance Reports to update on Preferred Bidder</li> <li>– Stakeholder management and levy implications</li> </ul>
4. Contract Award	May 28 - Dec 28	<p>Preferred Tenderer and Contract Award</p> <ul style="list-style-type: none"> <li>• Appoint Preferred Tenderer</li> <li>• Clarifications</li> <li>• Allowed negotiations</li> <li>• Complete Contract for MRF Capex (potential stand-alone contract, if required)</li> </ul> <p>Other</p> <ul style="list-style-type: none"> <li>• Governance Reports to enter into Contract(s)</li> <li>• Pre-Mobilisation Capital Works (if required)</li> </ul>
5. Mobilisation	Jan 29 – May 29	<p>Mobilisation</p> <ul style="list-style-type: none"> <li>• TUPE negotiations</li> <li>• Pension / Insurance issues</li> <li>• Post contract issues</li> <li>• Asset valuations</li> <li>• Handback considerations</li> <li>• Pre-Service Commencement Capital Works (if required)</li> </ul>
6. Service Commencement date	Jun 29	Contract(s) operational
Total Duration	66 months	Note: this allows some contingency within this timeframe.

## 9. PROGRAMME COSTS

The Programme costs as set out below are phased as in Section 8. The costs are estimates based on previous similar programmes but cannot be guaranteed as capped or fixed prices.

In summary the estimated costs for external advisors are £5.8m over the Programme, three internal PMO staff would incur a further £1.1m, leading to a full Programme cost of c.£7m (excluding VAT and not allowing for indexation). It is recommended that MRWA allocate sufficient resources to ensure completion of the Programme.

	Phase	Preparation	Strategy & Options	Pre-procurement	Procurement	Award	Mobilisation	Total
	Start Date	Jan-24	Jul-24	Oct-25	Jul-26	Apr-28	Jan-29	
	Phase	0	1	2	3	4	5	
	Phase	6	15	9	21	9	6	total = 66
	Duration (Months)							
Legal		-	225	700	1,300	440	100	2,765
Technical		-	150	300	400	220	100	1,170
Finance		-	150	350	400	200	100	1,200
Programme		40	150	100	200	140	100	730
External Total		40	675	1,450	2,300	1,000	400	5,865
Internal		-	375	125	375	125	125	1,125
GT		40	1,050	1,575	2,675	1,125	525	6,990

This report is written before technical, legal and financial advisors have been appointed, so more detail is provided below on Phases 0 (preparation) and Phase 1 (strategy review and option analysis).

### Phase 0: Procurement of External Advisors Jan 2024 to May 2024.

This phase is largely driven by the consultancy costs to appoint external advisors, including preparation of briefs, evaluations of tenders, and negotiation of contracts. It also includes establishing governance arrangements, as set out in Section 4.

### Phase 1: External Costs June 2024 to September 2025

The phase will cover the production of an options appraisal, supported by waste data flows, procurement advice and possibly financial modelling, as set out above.

Budget estimates (excluding VAT and indexation) for these are:

Legal	£225k
Technical	£150k
Financial	£150k
Programme management	£150k
	-----
TOTAL	£675k

The costs above exclude those relating to the preparation of an IAA, which, if created in Phase 1, would move around £200,000 from Phase 2 legal costs to Phase 1.

### Internal costs

Internal costs for three people to make up a Project Management office could be a budget of £200k per year to cover all costs (including ENI and Pensions).

## 10. RISK LOG

A high level risk log has been created which will be refined and maintained throughout the Programme. The initial risk log summary is presented in Figure 6 and demonstrates that most Programme risks result in delays in achieving the Programme objectives and increased Programme costs.

*Figure 6 - Initial Risk Log*

Risk Description	Risk Consequences	Opening Risk Score
Waste legislation remains unclear	Incorrect decisions made	12
Resourcing insufficient	Increased cost of programme	9
Future service provisions are not agreed	Programme Delays	9
IAA not agreed between partners	Programme Delays	8
Decisions are not made, or are delayed	Increased cost of programme	8
Insufficient bidders will tender	Less VFM, risk that service fails	8
New solution is unaffordable or not VFM	Levy Increases	8
External advisors not procured in time	Programme Delays	6
Procurement documentation not agreed	Increased cost, risk of failure	6



## 11. SUMMARY OF RECOMMENDATIONS

The following recommendations are made in this report:

1. Section 4:
  - 1.1. The Programme operates under a standard programme governance structure which includes stakeholders and partners as set out in Section 4;
  - 1.2. The programme structure is established in Phase 0 of the Programme (Jan to May 2024); this includes commissioning a Procurement Director;
  - 1.3. External advisors are appointed prior to Phase 1 for technical, legal and financial input to the Programme;
  - 1.4. The MRWA Senior Leadership Team assign the role of internal Lead Officer to an MRWA senior officer who would therefore be the single point of contact for the Procurement Director on a day-to-day basis;
  - 1.5. A Project Management Office, is established comprising of up to three roles to support the Procurement Director and the Lead Officer; and
  - 1.6. Consideration is given to the role of Inter Authority Agreements in ensuring clarity between the MRWA and WCAs (and Halton) on the procurement and future operation of the contract.
2. Section 5 and 6: It is recommended that in the pre-procurement phase (Phase 1), the workstreams set out in Section 6 are completed, taking into account the legislative changes foreseen in Section 5.
3. Section 7: Assuming a procurement route is required, MRWA will adopt the new Competitive Flexible Procedure.
4. Section 8: MRWA adopt the Programme phasing and timing set out in Section 8.
5. Section 9: MRWA allocate a budget of £7m (plus VAT and subject to indexation) to cover the entirety of the Programme which stretches over six financial years (2024 to 2029);

## 12. ANNEX 1 – BOARD TERMS OF REFERENCE

<b>Programme Board Terms of Reference</b>
<b>Chair of Programme Board</b> <ul style="list-style-type: none"><li>• NAME</li></ul>
<b>Board Members (Voting)</b> <ul style="list-style-type: none"><li>• 1</li><li>• 2</li><li>• 3</li><li>• 4</li><li>• 5</li><li>• .....</li></ul>
<b>Board Advisors (Non Voting)</b> <p><b>Procurement Director</b> [Name]</p> <p><b>Lead Officer</b> [Name]</p> <p><b>Externally Commissioned Advisors:</b> Members of the Programme Team may attend Programme Board meetings when requested by the Procurement Director or the Programme Board. These are currently:</p> <ul style="list-style-type: none"><li>• Technical</li><li>• Legal</li><li>• Financial Advisors</li><li>• Other, as required (e.g., Planning, specialist....)</li></ul>
<b>Accountabilities</b> <ol style="list-style-type: none"><li>1. Members of the Board will follow the Programme governance arrangements as set out in this document.</li><li>2. The Board will have delegated authority to contribute to the development of the Programme on behalf of the MRWA authority.</li><li>3. Members of the Board will be responsible for keeping the MWRA and their own organisations informed of Programme progress in line with their governance structures.</li></ol>

4. Members of the Board will be responsible for ensuring that any required decisions are taken in line with their respective political / governance arrangements, and in a timely manner to meet the timescales to deliver the Programme.

### **Purpose of the Board**

5. To lead a programme of strategic change ahead of the expiry of the MRWA Waste Management and Recycling Contract in 2029.
6. To inform the Authority (MRWA) on progress of the programme.
7. To agree and implement a course of action which will ensure continuity of services beyond 2029.
8. To ensure the programme takes into consideration of legislative change, best practice and innovation in the Waste and Resources sector.
9. To ensure that any new Contract(s) provides a sustainable and affordable solution for MRWA and its partners.
10. To ensure that the Programme contributes to local regeneration and development of the economy, social value and investment.

### **Key Objectives**

11. To determine the optimum delivery mechanism for waste disposal services beyond 2029, taking into account MRWA's strategic objectives and waste strategy.
12. If required by the MWRA and its partners, to develop and agree an Inter Authority Agreement (IAA) between MWRA, the regional WCAs and Halton Borough Council to deliver the Programme objectives.
13. To ensure participation of Stakeholders and Partners through the Stakeholder Board and Partner Forum.
14. To agree and authorise procurement documentation including the Notices, Supplier Questionnaire, Contract Specification, Evaluation Criteria and Weightings, Payment Mechanism, and any other supporting documentation.
15. To oversee the development of Programme management plans and implementation of robust processes to provide the required levels of quality assurance and timely information.
16. To oversee the mobilisation and operational implementation of the new contract.
17. To develop post 'contract live' governance arrangements.
18. To ensure the procurement is aligned to local Climate Change Plans, and particularly where local authorities have declared a 'Climate Change Emergency'.

### **Organisational Arrangements**

19. The Board will be held initially every other month, but this may increase or reduce depending on the programme timetable and workload.
20. Meetings will be organised by the Project Management Office (PMO).

21. Meetings will be held virtually through Microsoft Teams where this is possible.
22. Workshops (face to face meetings) will be set up as required, facilitated by the Procurement Director and Advisors.
23. Agenda items to be agreed by the Procurement Director, MRWA SLT and Chair no less than seven days before the meeting.
24. Board papers to be distributed 3 days before the meeting by email.
25. Confidential items will be marked as such and it is the responsibility of the Board Member to ensure papers are securely controlled.
26. Secretariat for the Board will be provided through the PMO.

<p><b>Stakeholder Board Terms of Reference</b></p>
<p><b>Chair of Stakeholder Board</b></p> <ul style="list-style-type: none"> <li>• NAME</li> </ul>
<p><b>Board Members (Voting)</b></p> <ul style="list-style-type: none"> <li>• 1</li> <li>• 2</li> <li>• 3</li> <li>• 4</li> <li>• 5</li> <li>• .....</li> </ul>
<p><b>Board Advisors (Non-Voting)</b></p> <p><b>Procurement Director</b> [Name]</p> <p><b>Lead Officer</b> [Name]</p> <p><b>Externally Commissioned Advisors:</b> As Members of the Programme Team may attend Programme Board meetings as required. These are currently:</p> <ul style="list-style-type: none"> <li>• Technical</li> <li>• Legal</li> <li>• Financial Advisors</li> <li>• Other, as required (e.g., Planning, specialist....)</li> </ul>
<p><b>Accountabilities</b></p> <ol style="list-style-type: none"> <li>1. Members of the Board will follow the Programme governance arrangements as set out in this document.</li> <li>2. Members of the Board will be responsible for keeping their own organisations informed of Programme progress in line with their governance structures.</li> <li>3. The Stakeholder Board can make recommendations to the Programme Board, but this is not a decision making body.</li> </ol>

### **Purpose of the Board**

4. To inform and contribute to the MRWA's programme of strategic change ahead of the expiry of the MRWA Waste Management and Recycling Contract in 2029.
5. To contribute to the programme to ensure it is able to take into consideration legislative change, best practice and innovation in the Waste and Resources sector.
6. To contribute to the programme to ensure it contributes to local regeneration and development of the economy, social value and investment.

### **Key Objectives**

7. To act as a 'Critical Friend' to the Programme Board to help determine the optimum delivery mechanism for waste disposal services beyond 2029, taking into account MRWA's strategic objectives and waste strategy.
8. To contribute to the programme to ensure it is able to take into consideration of legislative change, best practice and innovation in the Waste and Resources sector.
9. To contribute to the programme to ensure it is able to be aligned to Climate Change Plans, and particularly where local authorities have declared a 'Climate Change Emergency'.

### **Organisational Arrangements**

10. The Board will be held quarterly.
11. Meetings will be organised by the Project Management Office ("PMO").
12. Meetings will be held virtually through Microsoft Teams where this is possible.
13. Workshops (face to face meetings) will be set up as required, facilitated by the Procurement Director and Advisors.
14. Agenda items to be agreed by the Procurement Director, MRWA SLT and the Chair no less than seven days before the meeting.
15. Board papers to be distributed 3 days before the meeting by email.
16. Confidential items will be marked as such and it is the responsibility of the Board Member to ensure papers are securely controlled.
17. Secretariat for the Board will be provided through the PMO.

### 13. ANNEX 2 – EXTERNAL ADVISORS DRAFT BRIEFS

The following draft briefs start to set out the requirements of the legal, technical, and financial briefs. For the procurement process additional common information would be added in addition to submission requirements and evaluation metrics.

#### **Legal Advisor (Draft Service Requirements Brief)**

1. MRWA is seeking to engage a Legal Services Provider to work alongside the Programme Team to provide advice in relation to the procurement of future waste disposal services. This may include at a further stage the drafting and negotiation of potential new waste services contract(s) and advice including but not limited to waste services, property and land issues, assets and maintenance obligations drafting, TUPE and pensions advice, risk insurance, specification and hand-back conditions, and such additional related advice and services as might be required by MRWA in order to implement the Programme.
2. The legal services aspect of the Programme will run until satisfactory conclusion of all outstanding agreements. The appointed Legal Services Provider will need to have a high level of commercial experience and familiarity with the waste management services market generally, and in particular, the procurement of contract(s) for Household Waste Recycling Centres, disposal of Dry Mixed Recyclables, Haulage, and other Waste Treatment Facilities (excluding Energy from Waste).
3. The appointed Legal Services Provider will be a key advisor to the Programme Team and could be required to provide advice and assistance on the following indicative, but not exhaustive services, which will be split into strategic objectives, pre-procurement, procurement, and post-procurement activities:
  - The choice and methodology adopted to hold competitive processes to secure appropriate bids from waste management service suppliers and energy from waste service providers
  - Drafting and development of all relevant legal documentation in connection with relevant UK procurement processes selected
  - Drafting bespoke waste management services contract(s) and associated documentation (specifications, payment mechanisms and all other relevant documentation) to engage the market and for use during the competitive process and thereafter (largely based around a revised version of the WIDP SoPC4/PS2 contract template)
  - The conduct of any litigation in connection with the Programme and mitigating or defending the effects of any procurement challenge or risk of challenge
  - The consequences flowing from the potential exit and transition from an existing long-term services contract
  - Advice on MRWA statutory powers, local government finance and any relevant grant conditions
  - Advice on the final contracting structure prior to procurement
  - A range of other issues including but not limited to the following: TUPE, pensions and employment advice, risk allocation, Programme insurances, asset hand-back issues, land and waste licensing, stakeholder management issues

- Advice on required aspects of land and property law, including leasehold and freehold arrangements and title indemnities
- Advising the MRWA as to the progress of the work being undertaken including the provision of progress reports in an agreed standard form and/or attendance at meetings
- Legal leadership in Competitive dialogue meetings
- Legal evaluation of final tenders including assessment of commercial risk transfer
- Drafting and preparing contract reports and document summaries in such form as MRWA may require prior to document sign off
- Producing the final contractual agreements for sign off by MRWA and hard and soft copies of all completed documents once the same are exchanged



## Technical Advisor

1. MRWA is seeking to engage a Technical Services Advisor to work alongside the Programme Team to provide advice in relation to the procurement of future waste disposal services. This may include at a further stage the preparation of a strategic options review, market analysis report, drafting and negotiation of specifications and providing technical advice including but not limited to waste flow modelling, waste service best practice, performance management, evaluation criteria and evaluation processes, property and land issues, haulage, carbon footprint modelling, vehicle fleet advice, assets and maintenance obligations drafting, specification and hand-back conditions, and such additional related advice and services as might be required by MRWA in order to implement the Programme.
2. The technical services aspect of the Programme will run until satisfactory conclusion of all outstanding agreements. The appointed Technical Services Advisor will need to have a high level of commercial experience and familiarity with the waste management services market generally, and in particular, the procurement of contract(s) for Household Waste Recycling Centres, disposal of Dry Mixed Recyclables, Haulage, and other Waste Treatment Facilities (excluding Energy from Waste).
3. The appointed Technical Services Provider will be a key advisor to the Programme Team and could be required to provide advice and assistance on the following indicative, but not exhaustive services, which will be split into strategic objectives, pre-procurement, procurement, and post-procurement activities:
  - Provision of advice on technical issues relating to waste treatment/disposal including Household Waste Recycling Centres and Waste Treatment Facilities (such as MRFs)
  - Support and advice on future service design options for the Waste Disposal Authority
  - Any required waste flow modelling
  - Development of designs and associated documentation as required, ranging from conceptual designs through to construction ready detailed designs and as-builts
  - Preparation of documentation including input and/or output specifications, and performance management mechanism requirements associated with contracts
  - Provision of advice on technical issues relating to waste treatment/disposal processes
  - Input into any technical aspects of contractual documentation and other key documentation e.g., risk registers, programmes, timetables, etc
  - Advice on capital and operating expenditure, life cycle and other financial aspects relating to technical aspects of waste treatment/disposal processes as required
  - Health, safety, environmental, and sustainability advice as necessary
  - Attendance and participation in dialogue / negotiation meetings with Bidders
  - Drafting and input into the Authority's procurement documentation, in particular the documentation required for to support submission of Tenders
  - Input into the Authority's evaluation framework for the assessment of bid submissions
  - Evaluation of the technical elements of bids as submitted
  - Advice and support in relation to ongoing operations as necessary
  - Input into commissioning and testing regime for any capital Works

## Financial Advisor

1. MRWA is seeking to engage a Financial Services Advisor to work alongside the Programme Team to provide advice in relation to the procurement of future waste disposal services. This will include preparation of financial assessment and evaluation metrics for the procurement, preparation of a base financial model, capital expenditure modelling assistance with analysis of funding options and proposals, preparation of the payment mechanism and assistance with preliminary or indicative calculations for third party offtake income. Additional services could include tax advice, pensions, and such additional related advice and services as might be required in order to implement the Programme.
2. The Financial services aspect of the Programme will run until satisfactory conclusion of all outstanding agreements. The appointed Financial Services Advisor will need to have a high level of commercial experience and familiarity with the waste management services market generally, and in particular, the procurement of contract(s) for Household Waste Recycling Centres, disposal of Dry Mixed Recyclables, Haulage, and other Waste Treatment Facilities (excluding Energy from Waste)
3. The appointed Financial Services Provider will be a key advisor to the Programme Team and could be required to provide advice and assistance on the following indicative, but not exhaustive services, which will be split into strategic objectives, pre-procurement, procurement, and post-procurement activities:
  - Assist with general financial and commercial advice on the objectives, procurement strategy and related business case that have been formulated by the MRWA and their advisors
  - Prepare a base bid financial model using technical advisor inputs, to help with monitoring affordability of the Programme
  - Preparation of financial and commercial risk analysis/risk matrix
  - Preparation of financial components of procurement documents as required
  - Soft Market Testing (if required) – assist Authority with initial meetings with supplier and funding market to consider structure and appetite for Programme
  - Preparation of draft Payment Mechanism model and input into the Performance Mechanism
  - General financial and commercial advice as inputs to the procurement preparation including, but not limited, to tax advice, off take markets and generation of third party income
  - Assist with the evaluation of submissions considering the strength of each submission in terms of financial track record, financial capacity and applicability of examples supplied by bidders
  - Undertake any due diligence (using public domain information) to substantiate bidder's financial position and resilience and identify financial clarification questions
  - Develop the financial sections of the procurement route, including the financial evaluation criteria, scoring weighting and the creation of an initial evaluation scoring model
  - Review of commercial/financial proposals, assistance in establishing framework for comparison of bids.
  - Assist with briefing of short-listed bidders including documentation if required
  - Develop a 'base bid' financial evaluation model for all the bidders to complete, to ensure there is a baseline comparison
  - Provide advice into the advisor team on how best to manage variant bids and other queries arising from the procurement process

- Develop an efficient and practical payment mechanism and contribute to the risk allocation matrix
- Provide advice on any clarifications or actions as necessary throughout the dialogue period
- Advise on commercial and financial aspects of bids (e.g., funding terms, support requirements), both on their own merits and relative to wider market
- Evaluate bids at all stages including quality of submission within and robustness of financial models, the deliverability of the funding of the proposal and input into overall bid evaluation and marking through a summary of recommendations.
- Undertake financial due diligence and review of the financial bids and financial models on bids submitted including any sensitivity analysis or comments on value for money which may lead to further clarification questions.
- Review any funding issues raised by the bid structures and advise the Authority of the implications and risks involved.
- Contribute to any discussions among the client and adviser team relating to de-selection of bidders and in constructing appropriate feedback on finance issues to de-brief the de-selected parties.
- Review any taxation or funding issues raised by bidders and summarise the implications and risks involved, supported by Authority's tax advisors.
- Advise on the implications for the Authorities of any increased borrowing requirements for them and the related accounting treatment of the same.
- Advise on financial aspects of Programme agreement and payment mechanism.
- Assist the Authority with the final sign-offs at Financial Close.
- Up to and following selection of the preferred Tenderer, assistance with commercial discussions through to completion. This would include advice on the commercial documentation and seeking justification for any changes to the financial offer (both positive and negative) identified through interrogation of the financial model and identifying movements in key inputs and output.