

# **Lancashire County Council**

## **Executive Scrutiny Committee**

**Friday, 19th February, 2016 at 2.00 pm in Cabinet Room 'C' - The Duke of Lancaster Room, County Hall, Preston**

### **Agenda**

#### **Part I (Open to Press and Public)**

<b>No.</b>	<b>Item</b>
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<b>1.</b>	<b>Apologies</b>
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<b>2.</b>	<b>Disclosure of Pecuniary and Non-pecuniary Interests</b>
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Members are asked to consider any Pecuniary or Non-pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.

<b>3.</b>	<b>Minutes of the meeting held on 2 February 2016</b>	(Pages 1 - 8)
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<b>4.</b>	<b>Forthcoming Individual Cabinet Member Key Decisions</b>
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<b>(a)</b>	<b>Proposed waste processing requirements and specification for services delivered by Global Renewables Lancashire Operations Limited</b>	(Pages 9 - 64)
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<b>5.</b>	<b>Urgent Business</b>
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An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

<b>6.</b>	<b>Date of Next Meeting</b>
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The next meeting of the Executive Scrutiny Committee will be held on Tuesday 8 March 2016 at 2pm at the County Hall, Preston

I Young  
Director of Governance, Finance  
and Public Services

County Hall  
Preston



## Lancashire County Council

### Executive Scrutiny Committee

**Minutes of the Meeting held on Tuesday, 2nd February, 2016 at 2.00 pm in Cabinet Room 'C' - The Duke of Lancaster Room, County Hall, Preston**

#### **Present:**

County Councillor Bill Winlow (Chair)

#### **County Councillors**

A Atkinson	M Green
Mrs S Charles	S Holgate
D Clifford	J Oakes
B Dawson	D O'Toole
G Dowding	N Penney
G Driver	L Beavers

County Councillor Lorraine Beavers replaced County Councillor Alyson Barnes for this meeting.

#### **1. Apologies**

None.

#### **2. Disclosure of Pecuniary and Non-pecuniary Interests**

None declared.

#### **3. Minutes of the meeting held on 19 January 2016**

**Resolved:** - That the minutes of the meeting held on 19 January 2016 be confirmed and signed by the Chair.

#### **4. Reports for decision by Cabinet**

The Committee considered the following reports on decisions due to be taken by Cabinet.

##### **a. The Annual Audit Letter for Lancashire County Council - Year Ended 31 March 2015**

The Committee considered a report setting out the External Auditor's Annual Audit Letter for Lancashire County Council for the year ended 31 March 2015.

The report summarised the key findings arising from the work that the County Council's External Auditor, Grant Thornton, had undertaken for that year and which had been undertaken in accordance with the Audit Plan of April 2015.

It was noted that the Annual Audit Letter had been considered by the County Council's Audit and Governance Committee on 25 January 2016.

**Resolved:** - That the recommendation set out in the report to Cabinet be noted, and that no additional comments or alternative recommendations be made.

b. **Lancashire County Council Treasury Management Policy and Strategy 2016/17**

The Committee considered a report setting out details of the proposed Treasury Management Policy and Strategy for 2016/17 and which included the County Council's borrowing and investment strategies, the updated strategy on the use of financial derivatives and the new proposed minimum revenue provision policy, together with the treasury management prudential indicators.

It was noted that approval of the Treasury Management Policy and Strategy was a matter reserved to Full Council.

**Resolved:** - That the recommendations set out in the report to Cabinet be noted, and that no additional comments or alternative recommendations be made.

c. **Property Strategy - Consultation Process**

The Committee considered a report setting out details of the proposed timescale for completion of a property review. It was noted that the review was being undertaken to achieve a sustainable long term reduction in the County Council's corporate property portfolio to align with the aspirations of the draft Corporate Strategy and to enable the future delivery of public facing services through a range of multi-functional Neighbourhood Centres.

It was confirmed that a letter had been sent to public sector partners, and that extensive engagement with County Councillors would continue.

**Resolved:** - That the recommendation set out in the report to Cabinet be noted, and that no additional comments or alternative recommendations be made.

d. **Libraries (Stage 1) - Consultation Responses**

The Committee considered a report setting out details of the responses received following the first stage of the Library Service consultation, considering service

design, need and use. It was confirmed that the responses would be used to inform the service design for the future. It was also noted that the Council's "Have Your Say" internet pages invited interested parties to express an interest in taking over the management of specific buildings or services, and that this offer was currently open until 27 March 2016.

**Resolved:** - That the recommendations set out in the report to Cabinet be noted, and that no additional comments or alternative recommendations be made.

e. **Regulation of Investigatory Powers Act 2000: Annual Report to Cabinet**

The Committee considered a report setting out details of the requirement for Cabinet to review, on an annual basis, the use of the Regulation of Investigatory Powers Act 2000 (RIPA) and set the policy.

It was noted that RIPA provided a framework for certain public bodies, including local authorities, to use covert surveillance to gather information about individuals without their knowledge for the purposes of undertaking statutory functions in connection with the prevention or detection of crime.

It was noted that local authorities were subject to regular inspections on their use of RIPA from the Office for Surveillance Commissioners (OSC) and that local authorities were also subject to a reporting requirement to an appropriate Overview and Scrutiny Committee.

It was further noted that in Lancashire, covert surveillance was used infrequently and only in connection with Trading Standards activities.

**Resolved:** - That the recommendation set out in the report to Cabinet be noted, and that no additional comments or alternative recommendations be made.

5. **Forthcoming Individual Cabinet Member Key Decisions**

The Committee considered the following reports on Key Decisions due to be taken by individual Cabinet Members as indicated.

a. **Social Value Policy and Framework**

The Committee considered a report setting out details of a draft Social Value Policy and Framework which set out the legal context for social value and the proposed approach for the County Council to deliver social value through its commissioning and procurement activities. It was noted that the aim of the policy was not to alter the commissioning and procurement processes, but to ensure that the County Council gives consideration to the wider impact of the service's

delivery in line with the requirements of the Public Services (Social Value) Act 2012. The policy would enable the County Council to demonstrate more effectively how the choice of a supplier through a tendering process not only provided the most economically advantageous service, but one which also secured wider benefits for the community.

It was noted that the implications for suppliers column under the objectives in the report were examples, and that other factors, such as tackling aggressive tax avoidance, could be included.

**Resolved:** - That the recommendation set out in the report to the Leader of the County Council be noted, and that no additional comments or suggested alternative recommendations be made.

b. **Determination of Relevant Area for Consultation on Admission Arrangements for Lancashire Maintained Schools and Academies for 2017/18, 2018/19 and 2019/20**

The Committee considered a report setting out details of the consultation within the County of Lancashire, representatives of the local Diocesan Church Education Authorities and the governing bodies of all Lancashire maintained schools, Free Schools and Academies on the establishment of the relevant area for consultation on admission arrangements.

**Resolved:** - That the recommendation set out in the report to the Cabinet Member for Children, Young People and Schools be noted, and that no additional comments or suggested alternative recommendations be made.

c. **Determination of Admission Arrangements for Community and Voluntary Controlled Primary and Secondary Schools and Sixth Forms for the School Year 2017/18**

The Committee considered a report setting out proposals to determine the admission arrangements for community and voluntary controlled schools for the school year 2017/18.

**Resolved:** - That the recommendations set out in the report to the Cabinet Member for Children, Young People and Schools, be noted, and that no additional comments or suggested alternative recommendations be made.

d. **Co-ordinated Admission Scheme 2017-18 - Determination of the Qualifying Scheme**

The Committee considered a report regarding the determination of the statutory scheme for co-ordinating admissions for Lancashire's primary and secondary schools and academies for 2017/2018.

It was noted that references in this report and the previous report were unclear on the number of associated infant and junior schools with close links, and that this would be rectified in the final documentation.

**Resolved:** - That the recommendations set out in the report to the Cabinet Member for Children, Young People and Schools, be noted, and that no additional comments or suggested alternative recommendations be made.

**e. Fee Uplift - Home Care Framework**

The Committee considered a report which detailed that providers appointed to the County Council's home care framework had not received a rate increase since April 2014, due to the intention to undertake a procurement exercise to establish a new framework with effect from 2016. It was reported that a review of budgetary constraints and market conditions indicated that rate increases should be applied in accordance with existing contract terms and conditions, taking into account the requirements of the Care Act 2014 and the statutory guidance issued thereunder. It was therefore proposed that a rate increase should be implemented as set out in the report.

**Resolved:** - That the recommendation set out in the report to the Cabinet Member for Adult and Community Services be noted, and that no additional comments or suggested alternative recommendations be made.

**f. Resident Parking Schemes - Administration and Charges**

The Committee considered a report setting out details of the administration process and charges relating to resident parking schemes in Lancashire. It was reported that, following a review of the administration and charges relating to residents parking schemes, a number of changes were proposed to establish a more integrated and uniform management and charging regime, initially in the 7 areas administered by the County Council.

It was noted that it was intended that discussion would take place with district councils where schemes were administered by them, although there had been no firm outcomes from this at this stage. It was recognised that local elected members would need to be informed of any proposals affecting their areas.

**Resolved:** - That the recommendations set out in the report to the Cabinet Member for Highways and Transport be noted, and that no additional comments or suggested alternative recommendations be made.

**g. Proposed Cycle Tracks, Ringway, Corporation Street and Fleet Street, Preston**

The Committee considered a report setting out details of proposals, and the results of public consultation, to develop off-carriageway cycle facilities around the junction of Ringway, Corporation Street and Fleet Street, Preston. It was reported that the provision of such facilities at this major junction would assist in

encouraging cycling within Preston city centre. The total cost of the proposals was £12,900. The proposals would be funded jointly from the County Council's 2014/15 Road Safety Allocation at a cost of £2,900 and Section 106 funding from Preston City Council totalling £10,000.

It was confirmed that full consideration had been given to both pedestrians and cyclists in designing the scheme.

**Resolved:** - That the recommendations set out in the report to the Cabinet Member for Highways and Transport be noted, and that no additional comments or suggested alternative recommendations be made.

#### **h. Proposed Preston Bus Station and On-Street Parking Charges**

The Committee considered a report setting out details of a review of the Preston bus station car park pay and display charges and permit charges, Preston on-street pay and display charges and Lancaster on-street pay and display charges, as a result of which, a number of recommendations were being made.

**Resolved:** - That the recommendations set out in the report to the Cabinet Member for Highways and Transport be noted, and that no additional comments or suggested alternative recommendations be made.

### **6. Urgent Business**

There was no urgent business to be considered.

### **7. Date of Next Meeting**

It was noted that the next meeting of the Committee would take place on Tuesday 8 March 2016 at 2pm in Cabinet Room 'C' - The Duke of Lancaster Room, County Hall, Preston.

### **8. Exclusion of Press and Public**

**Resolved:** - That under Section 100A(4) of the Local Government Act, 1972, the press and public should be excluded from the meeting during consideration of the following items of business on the grounds that there would be a likely disclosure of exempt information as defined in the appropriate paragraphs of Part 1 of Schedule 12A to the Local Government Act, 1972 and that in all circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **9. Forthcoming Individual Cabinet Member Key Decisions**

The Committee considered the following reports on Key Decisions due to be taken by individual Cabinet Members as indicated.



a. **Amendment to the Award of Framework Contracts for the Servicing, Repair and Maintenance of Mechanical and Electrical Equipment**

(Not for Publication - Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.)

The Committee considered a report on the proposed amendment to the Award of Framework Contracts for the Servicing, Repair and Maintenance of Mechanical and Electrical Equipment

**Resolved:** - That the recommendation set out in the report to the Leader of the County Council be noted, and that no additional comments or suggested alternative recommendations be made.

b. **Approval to Award Contracts for Advocacy Services (Countywide)**

(Not for Publication - Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.)

The Committee considered a report on the proposed award of contracts for Advocacy Services (Countywide).

**Resolved:** - That the recommendation set out in the report to the Cabinet Member for Adult and Community Services be noted, and that no additional comments or suggested alternative recommendations be made.

c. **Proposal to Charge for Membership of Trading Standards Safe Trader Scheme**

(Not for Publication - Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.)

The Committee considered a report on the proposal to charge for membership of Trading Standards Safe Trader Scheme.

**Resolved:** - That the recommendation set out in the report to the Cabinet Member for Health and Wellbeing be noted, and that no additional comments or suggested alternative recommendations be made.

d. **Children's Social Care Referral and Assessment Service Framework**

(Not for Publication - Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.)

The Committee considered a report on a proposed Children's Social Care Referral and Assessment Service Framework.

**Resolved:** - That the recommendation set out in the report to the Cabinet Member for Children, Young People and Schools be noted, and that no additional comments or suggested alternative recommendations be made.

I Young  
Director of Governance, Finance  
and Public Services

County Hall  
Preston

**Report to the Cabinet Member for Environment, Planning and Cultural Services**  
**Report submitted by: Head of Service - Waste Management**  
**Date: 19 February 2016**

<b>Part I - Item No</b>
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Electoral Division affected: South Ribble Wyre
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**Proposed waste processing requirements and specification for services delivered by Global Renewables Lancashire Operations Limited**  
(Appendices 'A' and 'B' refer)

Contact for further information:  
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## **Executive Summary**

As part of its budget strategy Lancashire County Council, in November 2015, adopted a number of policies in relation to the processing of waste through its waste recovery parks at Farington and Thornton, and the County Council owned company that operates them, Global Renewables Lancashire Operations Ltd (GRLOL).

The waste management service has reviewed options and made recommendations in relation to delivery of these policies, which are provided in detail in Appendix 'A'. In line with the budget policies already approved, the proposals detailed within the report will result in significant changes to the waste processing operations conducted at the waste recovery parks and reductions in the services provided to the County Council by GRLOL.

The service changes will provide the lowest cost, lowest risk operation to the County Council which it is considered can be delivered within the prescribed revenue budget; delivering a revenue saving of £8.5m per annum on current operations.

Early delivery of the service changes is likely to save £5m - £8m of allocated transitional reserve over the financial years 2016-17 and 2017-18.

The nature of the proposed service changes are such that there will be the requirement for GRLOL to significantly transform the Company resulting in what is anticipated to be in excess of 250 job losses.

The services provided by GRLOL are done so under a Service Level Agreement. A revised Service Level Agreement, reflecting the revised services detailed in this report is attached for approval at Appendix 'B'.

Given the complexity of the changes required to be delivered to both operational processes and in transformation of the Company, and to provide flexibility and efficiency in adapting to any circumstances that may occur during these changes, it is recommended that authority to make minor amendments to the SLA be delegated to the Head of Service - Waste Management; subject always to the premise that any amendments do not fundamentally alter the basis of the SLA.

It should be noted that the service changes proposed do not impact on the County Council's ability to process recyclables or compost garden waste collected from households.

This is deemed to be a Key Decision and they provisions of Standing Order 27(1) have been complied with.

### **Recommendation**

The Cabinet Member for Environment, Planning and Cultural Services is asked to approve:

1. The proposed waste processing requirements and specification for services to be provided by GRLOL as set out in the report and Appendix 'A', and the associated Service Level Agreement attached at Appendix 'B'.
2. That authority to make minor amendments to the Service Level Agreement is delegated to the Head of Service – Waste Management.

### **Background and Advice**

As part of its consideration of budget options Lancashire County Council, on the 26 November 2015, adopted the following policy position in relation to the Council's waste company, Global Renewables Lancashire Operations Limited (GRLOL) and processing operations delivered at the Farington and Thornton Waste Recovery Parks ("the WRPs"):

- 1. To reduce processing activities and associated costs within the Farington and Thornton waste recovery parks, where these processes are uneconomic relative to available alternative disposal options.*
- 2. In ceasing processing activities any related plant and equipment will be 'mothballed' and maintained to take advantage of future market opportunities.*
- 3. Cease composting of co-mingled food and garden waste. Advise waste collection authorities that in future the council will only provide facilities for composting green waste that does not include food.*

*4. Downsize the council's waste company through a transformation and restructuring exercise.*

*5. Cease the Environmental Education service (including adult and community programme) provided by the company.*

*6. Cease the waste minimisation and communications services provided by the waste company.*

*7. Undertake market testing and procurement activity to determine potential market opportunities for reconfiguring the entirety of the council's waste services. This will include exploring the release of value from assets including the council's waste recovery parks, transfer stations and long term landfill contracts.*

*To reduce the revenue budget from 1st April 2016 by £8.500m and to use £7.750m reserves in 16/17 and £4.500m reserves in 17/18 to fund the 'transition period' to enable service reconfiguration by 1st April 2018.*

Subsequently, the waste management service has reviewed potential options for the delivery of the policy and its recommendations are reported at Appendix 'A'.

A summary of the recommendations is as follows:

1. That waste transfer operations are established for residual waste at Farington and Thornton waste recovery parks (to also accommodate the transfer of other waste types).
2. To note that IVC composting processes are to cease with immediate effect at Thornton WRP and from 1 April 2016 at Farington WRP.
3. That separate windrow facilities are procured for garden waste composting.
4. That the Materials Recovery Facility (MRF) operations are continued subject to ongoing review.
5. That redundant processing equipment and other assets be protected and preserved whilst market options are assessed and such that they could be re-introduced into service should future opportunity present itself.
6. That GRLOL be requested to agree a new operating structure with the County Council based on the proposed service requirements; and appoint to that structure at the earliest opportunity.
7. The Company be requested to deliver its transformation as soon as possible.
8. That all 'soft' services provided by the Company are ceased from 31 March 2016 or as soon after as practicable.

GRLOL ("the Company") operates the two WRPs and provides services to the County Council under the terms of a Service Level Agreement (SLA). The SLA details the service requirements of the County Council and service specifications required of the Company.

The policy decision and subsequent recommendations have a significant impact on the Company and the services it provides for the County Council. The key changes in this respect can be summarised as follows:

#### Residual waste

Residual waste will no longer be treated at the WRPs but instead the WRPs will act as waste transfer facilities, transferring residual waste to third party facilities for processing, treatment and/or disposal. It should be noted that transfer facilities will also be provided for garden waste and recyclables at the WRPs as required.

The base financial position for this operation has been calculated using the worst case scenario; which would involve additional landfilling of residual waste. However, it is intended that alternative processing and treatment options be procured, thus reducing the need to landfill residual waste and potentially increasing the financial saving achieved.

There will be no impact on the recycling of recyclables collected at doorstep as a result of this residual waste proposal.

#### Garden Waste

The WRPs currently compost co-mingled garden and food waste through a complex in-vessel composting (IVC) process; which is required as result of the food content. The IVC process is significantly more expensive than traditional garden waste composting yet the food content is extremely low; less than 1%. On this basis the budget policy is to cease composting of co-mingled garden and food waste.

As a result it is intended that the IVC facilities at the WRPs will be closed and third party open windrow contracts procured in order to provide the most cost effective means of treating garden waste.

All of the processing equipment made redundant as part of the changes to residual waste and garden waste treatment will be protected and preserved by the Company as part of its service to the County Council.

#### Co-mingled and source separated dry recyclables

Co-mingled and source separated dry recyclables are the recyclables (i.e. glass, cans, plastic, cardboard etc.) collected from households. These are processed through the Materials Recovery Facility (MRF) at Farington WRP.

Recycling at home provides the most significant contribution to recycling in Lancashire and it is critical that adequate facilities are provided to maintain this service to householders. Whilst there is an ongoing need to ensure that the existing

MRF operation remains cost effective by comparison to other processing options, it is not intended that any changes be made to the existing MRF operation.

### Soft Services

Under the existing SLA the Company carries out additional 'soft' services on behalf of the County Council which include an environmental education service, adult and community programme, waste minimisation programme, community sector development programme and communications and community liaison programme which will be ceased under the new service arrangements.

The nature of the changes to treatment processes and the soft services provided by the Company will require a major transformation of the Company and its operating structure. The Company will be required to make in excess of 250 redundancies in order to deliver this transformation. Once informed of the service the County Council requires it to deliver, the Company will agree a costed structure with the County Council to establish a budget which will form the basis of its operating charge to the County Council for the forthcoming financial year.

In order to facilitate these proposals and instruct the Company of the service changes, a revised SLA, to apply from 1 April 2016, is included at Appendix 'B'. The Cabinet Member for Environment, Planning and Cultural Services is requested to approve the proposed SLA and associated service requirements.

Given the complexity of the changes required to be delivered to both operational processes and in transformation of the Company, and to provide flexibility and efficiency in adapting to any circumstances that may occur during these changes, it is recommended that authority to make minor amendments to the SLA be delegated to the Head of Service - Waste Management; subject always to the premise that any amendments do not fundamentally alter the basis of the SLA or the proposals for delivery of the policy decision detailed in Appendix 'A'.

### **Consultations**

GRLOL has been consulted in the development of options for delivery of services and in relation to its transformation and restructuring.

As the Council Council's partner in delivery of waste services, Blackpool Council has been consulted on these recommendations.

### **Implications:**

This item has the following implications, as indicated:

### **Financial**

The review, analysis and recommendations detailed in Appendix 'A' represent the lowest cost option for the County Council.

The actual saving that will be achieved as a result of these service changes will be dependent upon a number of factors, not least of which will be a revised company

structure and operating cost. However, the analysis indicates that the £8.5m annual revenue budget reduction required to be delivered as part of the County Council's budget policy will be achieved as a result of these changes.

In adopting this recommendation the County Council will also reduce its reliance on reserves during the budgeted period. It is anticipated that the service changes and Company transformation will take several months to complete in full and the saving achieved will increase progressively during the period. For example, it is anticipated that the service changes and transformation could be completed by the autumn of 2016 and in such circumstances the County Council will have reduced its allocated spend from the transitional reserve by between £5m - £8m.

The 'one-off' Company transformation costs incurred, which will include redundancy costs, decommissioning costs and contract breakage costs are estimated to cost up to £4.5m. Some of these costs (circa. £2.3m) may be capitalised, the others will be funded from the overall savings made.

### GRLOL

The recommended service will have significant implications in terms of redundancies at the Company, as has been highlighted. Whilst the actual number of redundancies will be dependent upon formulation of a revised Company structure it is anticipated this will be in excess of 250 posts.

### **Risk management**

As identified in Appendix 'A', the proposed services present the lowest cost option for the County Council, but also the lowest risk option in operational and environmental terms; offering a significantly reduced risk profile in comparison to the existing service.

There is some uncertainty with regards to the final Company operating costs which also provides some financial uncertainty insofar as achieving the budgeted revenue reduction is concerned. However, it is considered that the service being recommended is the lowest base position for the County Council. In the event that it cannot be delivered within budget, the County Council would need to seek further efficiencies in operations or from elsewhere within the waste service budget.

The financial position adopted in relation to offtake and disposal costs for residual waste is based on utilising guaranteed and contracted landfill airspace and as such this presents no risk. It is intended to source alternatives to landfill which it is believed can be secured at the same or less cost than landfill. Should this not be the case, the County Council would either take greater advantage of contracted landfill capacity or reduce the savings it achieves by sourcing more expensive alternatives.

As both client and shareholder of GRLOL, the Company transformation provides risk to the County Council in both financial and operational areas; and there are key personnel issues associated with a transformation of this scale and nature. It is intended to mitigate these risks by ensuring that the transformation and operational changes are dealt with expeditiously by the Company and delivered at the earliest opportunity.



## Human Resources

County Council officers have been working with the Company to support its transition, including providing HR and legal support. With the County Council's assistance, the Company has also put in place an employee support programme which was launched at the beginning of January. Services include practical workshops, careers service, technical support centres and emotional support. Emotional support can be accessed via the Company's occupational health team or from the employee support service delivered by the County Council.

## Equality Analysis

An Equality Analysis in relation to Waste PFI was undertaken and presented to the Cabinet on 26 November 2015 as part of its consideration of the budget proposals.

The Equality Analysis can be viewed at:

<http://council.lancashire.gov.uk/ecSDDisplay.aspx?ID=1428&RPID=8214378&sch=doc&cat=13868&path=13868>

## List of Background Papers

Paper	Date	Contact/Tel
N/A	N/A	N/A

Reason for inclusion in Part II, if appropriate

N/A



# Waste Management

**Recommendations in relation to the delivery of budget policy decision (046 Waste PFI)**

**Report to the Cabinet Member for Environment, Planning and Cultural Services - February 2016**

## Executive Summary

Having conducted a financial review of its statutory requirements in respect of waste treatment and disposal operations Lancashire County Council, at its cabinet meeting of 26 November 2015, adopted a number of policies in order to reduce the cost of the provision of waste services. This report provides the recommendations of the waste management service in relation to the delivery of the approved policies. The recommendations are summarised at Section 7.0.

The recommendation in relation to residual waste is to cease the treatment processes employed at Farington and Thornton Waste Recovery Parks (WRPs) and provide transfer arrangements for residual waste instead. Alternative processing arrangements will be sought through a formal procurement exercise with the intention of finding a cost effective third party outlet for unprocessed waste and maximising diversion from landfill.

In accordance with the approved policy the in-vessel composting facility for co-mingled garden and food waste at Thornton WRP is to close with immediate effect and that the composting facility at Farington WRP is to close on 31<sup>st</sup> March 2016. A separate windrow contract will be procured to compost 'garden only' waste. Facilities will be provided to waste collection authorities for the processing of garden waste only which will require engagement with seven district councils in respect of their collection options.

It is recommended that the operation of the Materials Recovery Facility at Farington WRP be continued.

Redundant processing equipment and other assets will be protected and preserved whilst market options are assessed and such that they could be re-introduced into service should future opportunity present itself.

In order to maintain efficient operations, protect the Council's interests as both client and shareholder of the company, and to maximise the financial benefit of the proposals, it is recommended that Council requests that the Company appoints a new structure agreed with the Council, based on the revised service requirements, at the earliest opportunity; and delivers the transformation of the Company as soon as possible.

All of the 'soft' services carried out by the Company are to be ceased on 31<sup>st</sup> March 2016 or as soon thereafter as is practicable, giving consideration to any formal processes that the Company must follow and allowing suitable time for the planned cessation of services so to minimise impacts on service users. These comprise the Environmental Education Service, Adult and Community Programme, Waste Minimisation Programme, Community Sector Development Programme and Communications and Community Liaison Programme.

These proposals will bring forward the Council's waste service budget reduction timescale and reduce reliance on allocated reserves during the forthcoming two financial years. Whilst delivery of savings in 2016-17 will be dependent upon when elements of the service transition are completed, it is anticipated that a reduction in spend of allocated transitional reserve in the region of £5m - £8m can be achieved over the two year period. The proposals will also provide a reliable cost base against which to assess other options and short term opportunities.

A separate exercise has been identified to assess the marketability of the Council's assets and a longer term strategy for the provision of waste services which can run alongside the delivery of these operational and company changes.

It is considered that the implementation of the policies adopted in November 2015 and the recommendations in this report will secure waste operations at the lowest guaranteed cost and with least risk to the Council. The resulting operations will also provide a catalyst for establishing a new long term strategy for dealing with Lancashire's rubbish which is likely to include further changes at the waste recovery parks at some future time.

## **1.0 Background**

Lancashire County Council ("the Council") has delivered a reduction in its revenue spending of over £300m over the past five years. As a consequence of continuing Government cuts in funding, and increasing demand for many of its services, the Council is currently forecasting a need to deliver a further spending reduction of more than £300m by 2020.

With many services already having been severely cut back the Council has to consider radical changes to what it delivers in order achieve the additional spending reduction. It is anticipated that the available revenue spend will only be sufficient to support the minimum statutory requirements that the Council must deliver, and at their most basic level.

In order to understand what services would be provided at this level the Council conducted a 'Base Budget Review' (BBR) to assess what services are statutory, what is the minimum cost of providing statutory services and what the risks and implications are of doing so.

In the case of the waste management service there is a clear statutory requirement in its role as waste disposal authority to deal with the household waste collected by district councils. However, largely as a result of the Council's former waste PFI contract the current service model for dealing with a large proportion of the waste collected is significantly more expensive than could otherwise be achieved.

The BBR highlighted the fact that the Council could potentially reduce its revenue spend on waste services by £8.5m. To achieve this, it suggested the closure of a large proportion of the council's waste recovery park processes and, most notably, the landfill disposal of all residual waste.

Against the backdrop of the BBR the Waste Management Group developed budget proposals for the period 2016 – 2018 and in this respect, on the 26 November 2015, the Council's Cabinet adopted the following policy position in relation to the Council's waste company and processing operations:

- 1. To reduce processing activities and associated costs within the Farington and Thornton waste recovery parks, where these processes are uneconomic relative to available alternative disposal options.*
- 2. In ceasing processing activities any related plant and equipment will be 'mothballed' and maintained to take advantage of future market opportunities.*
- 3. Cease composting of co-mingled food and garden waste. Advise waste collection authorities that in future the council will only provide facilities for composting green waste that does not include food.*
- 4. Downsize the council's waste company through a transformation and restructuring exercise.*
- 5. Cease the Environmental Education service (including adult and community programme) provided by the company.*

*6. Cease the waste minimisation and communications services provided by the waste company.*

*7. Undertake market testing and procurement activity to determine potential market opportunities for reconfiguring the entirety of the council's waste services. This will include exploring the release of value from assets including the council's waste recovery parks, transfer stations and long term landfill contracts.*

*To reduce the revenue budget from 1st April 2016 by £8.500m and to use £7.750m reserves in 16/17 and £4.500m reserves in 17/18 to fund the 'transition period' to enable service reconfiguration by 1st April 2018.*

On this basis this report provides recommendations for delivery of the Council's new policies with regards to waste processing and associated requirements in respect of the Council's waste company.

## **2.0 Legislative and policy position**

An important consideration in the strategy for changing processing operations is the current European and national legislative and policy framework.

Article 11 of the Waste Framework Directive 2008 ("the Directive") requires EU member states to achieve a reuse/recycling target of 50% of waste from households by 2020. Due to the way in which EU legislation operates, the Directive sets out the particular objective that a member state is required to achieve, but allows the member state a discretion as to how it achieves the specified aims.

In 2014/15 the Council achieved a municipal waste re-use/recycling rate of 47.3%. The majority of this (33.6%) was achieved through doorstep collections, 11.35% through Household Waste Recycling Centres and 2.37% from the Waste Recovery Parks. The ability to improve this rate is severely restricted by the financial position both of the Council and the Waste Collection Authorities given the lack of resources available to improve or incentivise collection services; or persuade householders to recycle more.

In the event that the UK does not meet the 50% target the EU has the ability to impose financial penalties. These can be passed down to local authorities by Government through the provisions of the Localism Act 2011. To date the Government has refused to confirm how it would intend to apportion fines in the event of infraction of EU law, maintaining the position that it expects the UK to meet the target; a view which is not shared across the rest of the waste industry.

Whilst we grapple with meeting the 2020 target, on the 2<sup>nd</sup> December 2015 the European Commission published its 'Circular Economy Package' for consultation. Among the headline figures within the package are a 60% and 65% municipal waste recycling target (by 2025 and 2030 respectively) as well as a restriction on waste to landfill of 10% (by 2030). Measures are also put forward to mandate the separate collection of bio-waste where it is technically, environmentally and economically practicable.

As part of the package Member States will be "encouraged to adopt measures including landfill taxes or incineration levies"; although there is not likely to be one single measure that the EU will dictate that Member States must adopt.

Whilst we have an indication of the direction of travel of the EU circular economy strategy, we are still some way from understanding exactly what will find its way through the various EU processes or indeed how the strategy will be transposed into UK legislation or national policy. However, what can be certain is that in planning any short, medium or long term strategies for the delivery of waste services the Council must be mindful of the potential implications of the wider EU and national position.

### **3.0 Base budget review position**

The Council's BBR concluded that the minimum statutory requirement which is immediately available to the Council in delivering waste processing and treatment options is to landfill residual waste, windrow compost garden waste and send co-mingled and source separated dry recyclables direct to market.

The BBR estimates that the minimum service level could be provided for £8.5m less than the existing waste service as a result of changes to processing and treatment operations and additional services carried out by the Council's waste company.

The following processing/disposal assumptions were included:

*Residual waste:* Residual waste treatment processes would cease and the facilities would be operated as basic waste transfer stations.

*Garden waste:* The in vessel composting facilities at the waste recovery parks would be closed and garden waste processed at third party windrow facilities following procurement of appropriate arrangements.

*Co-mingled and source separated recyclables:* The Materials Recovery Facility (MRF) would close and co-mingled and source separated dry recyclables would be sourced directly into recycling markets.

On the basis of these processing operations being deliverable, the BBR savings were adopted as the basis for the budget option put forward to cabinet. However, the policy decision taken was more flexible in how the savings should be delivered in respect of the residual waste process and the MRF, in order to allow the waste service to consider further options in respect of these operations.



## **4.0 Delivery of policy in relation to waste processing and disposal operations**

The BBR and the subsequent adopted policy decision are aimed at establishing the lowest cost base and to deliver savings. However, the need to meet the statutory targets and potential future changes in strategy and policy, are such that the immediate delivery of savings, and subsequent operational changes that will follow, will provide a stable base position from which a longer term strategy needs to be developed.

The Council needs to plan a long term solution for how it intends to treat and dispose of waste in Lancashire. In delivering the budget policy it is therefore important that the Council does not make short or medium term decisions that may ultimately prejudice its long term aims. But a fundamental reduction in the cost base of Council processing and treatment operations, along with significant reduction in risk profile for unseen or additional costs, is imperative.

### ***4.1 Residual waste:***

The facilities currently employ a mechanical and biological treatment (MBT) process to treat residual waste (general household rubbish). The mechanical element separates recyclables (mainly glass/metal) and the organic content. The biological treatment is the composting of the organic content, which produces compost like material known as organic growth media (OGM).

In Lancashire we have witnessed significant changes in the composition of our residual waste over the last 10 years. These include reductions in organic waste brought about by recession, changes in attitudes towards recycling and food waste; and significant improvements in the amount of recyclable waste collected at doorstep. As a result, whilst the MBT process employed in Lancashire achieves what it is designed to, the greater majority of output from the process still need further processing. Where capacity cannot be sourced for this the output has to be landfilled.

Changes in national legislation have significantly affected the business case upon which selection of the MBT process was based. Many other authorities who have adopted MBT processes are in the same position as Lancashire and it is commonly accepted in the waste industry that MBT is not a cost effective treatment option in the current market. Furthermore, the process is complex, has high operational and lifecycle costs and is the major source of odour at the facilities; which in turn requires complex and expensive air management and treatment processes.

In respect of the budget policy decision taken officers have reviewed potential alternative options and consulted with the Council's waste company (GRLOL) and it is considered that there are three options available to achieve a lower cost operation for residual waste; (1) continue existing process and seek efficiencies, (2) implement a reduced treatment process, and (3) cease treatment processes.

#### *4.1.1 Option 1: Continue existing process and seek efficiencies*

The MBT process gives very little performance benefit to the Council in terms of statutory targets. In addition, the core diversion of residual waste through the facilities has, on average, been around 27% of the waste received. As such, of the circa 240,000 tonnes delivered the process only guarantees to divert around 64,000 tonnes from landfill. In addition, a further 10,000 tonnes of Organic Growth Media is produced which can be applied to land if facilities are available, but there is additional cost in doing so. The remaining 166,000 tonnes then either needs secondary processing or is landfilled.

The major benefit in terms of this option is that it would reduce the number of redundancies that would be encountered as a result of the changes.

However, there are a number of key risks in relation to this option which also need to be considered:

- Delivery of any saving is reliant upon the company achieving efficiencies.
- The complexity of the operation carries a relatively high risk of increased or unforeseen operating or lifecycle costs.
- The existing offtake arrangement for residues from Farington is without obligation and could be ended by the off-taker at any time.
- There are no formal offtake arrangements in place for residues from Thornton.
- Procurement of formal offtake arrangements risks increasing costs.
- This option would require installation of fire suppression equipment at both facilities (an insurance requirement) at a cost of circa £2m - £4m which may otherwise be unnecessary.
- The existing process provides a continued risk of odour problems.

The option is readily deliverable and requires no additional capital expenditure at this time.

#### *4.1.2 Option 2: Implement a reduced treatment process*

There is potential to modify or amend the existing residual waste treatment process in order to reduce its complexity and some of the associated risks.

The process change would essentially involve partial treatment to produce an RDF (fuel for waste to energy) or SRF (fuel for cement kilns) material, without the biological treatment of the organics. There are a number of variations on this theme but the actual process adopted would be dependent upon what market could be secured – which in turn would require procurement and is therefore a key risk of this option.

With existing offtake arrangements this option could only currently be delivered from Farington. The existing arrangement is without any formal obligation on either party and would therefore either have to be renegotiated or re-procured.

Whilst of the options currently available, this one has the potential to incur the lowest revenue cost, there would be a need for capital investment on new infrastructure and modifications to the facilities estimated by GRLOL to be in the region of £760,000. For budget purposes it would be appropriate to add an optimism bias factor of 40% to 50% to this estimate at this stage. The works cannot be conducted until an end market is secured; and the infrastructure and modifications themselves would require procurement activities. The option would require the closure of each facility for a period in order to complete the modifications. There would also be the requirement to conduct the fire suppression works at a cost of £2m - £4m in order to maintain existing insurances. Both the modifications and sprinkler works could prove redundant in the context of any long term strategy for the facilities; and it is therefore premature to progress this option in advance of the proposed market testing exercise. A further concern is in relation to its delivery as it is anticipated that due to the procurement and modification requirements the partial treatment process could take up to 12-18 months to deliver.

#### *4.1.3 Option 3: Cease treatment processes*

This option is simply not to process residual waste but transfer it for treatment or disposal by third parties. This option would effectively result in the Farington and Thornton facilities operating as waste transfer stations. In doing so the amount of residual waste received at the facilities would reduce to only that delivered directly by the waste collection authorities; as waste would not be transferred in from other transfer stations but go direct to the third party.

This option provides the most certainty now of annual revenue saving and is the lowest operating cost by some margin.

The off take costs, at least initially, are the highest; but unlike the other two options the cost of offtake arrangements can be based on the worst case scenario – the cost of landfilling residual waste; which is a guaranteed cost position and there is no risk therefore of increased offtake costs. There is the potential that offtake arrangements could be procured at a cost less than landfill and thereby increase the savings achieved.

However, the main risk associated with this option is that should alternative offtake facilities not be available, or secured at a cost less than landfill, then either the saving would be reduced or increased amounts of residual waste would be disposed of to landfill. It is possible that increased quantities of waste could need to be landfilled whilst any procurement takes place.

There are no other operational, financial or environmental risks associated with this option and one additional key benefit is that it establishes a definitive lowest cost and risk position against which to assess any alternative options in the future.

The option is readily deliverable and requires no additional capital expenditure.

#### *4.1.4 Summary and recommendations in respect of residual waste*

As indicated earlier, whilst a reduced treatment process (option 2) is viable, and could ultimately yield the lowest revenue position, the timetable required for delivery of this alternative is such that it cannot be considered immediately available. Also, given the need for capital investment and physical modifications to the facilities this option lends itself best to review as a potential longer term option to be considered as part of the proposed market testing exercise.

Assessment of potential savings for the residual process alone, in isolation, is complicated by the fact that company overheads and staff costs are spread across all current processes. However, when combined with the wider savings (including cessation of garden waste processing and other services), the overall saving that could be realised utilising existing operations and seeking efficiencies (option 1) is estimated to be in the region of £6m; and subject to those efficiencies being achieved. It is estimated that the combined saving for an operation where residual waste treatment processes cease (option 3) will be in excess of £8m, with a demonstrable potential for additional operational savings. Whilst there are a number of factors that could influence these estimates, it is clear that option 3 is the lowest revenue cost option.

The degree of risk in achieving savings is markedly different for the two options. There is no certainty that option 1 could be fully realised and it is reliant on a number of current unknowns. It also carries both financial and environmental risks. By contrast, option 3 is based on fixed contract prices and there is certainty over its delivery.

The MBT process itself would cost an estimated £20m a year more to operate than a transfer facility. In terms of performance it provides little guarantee of diversion from landfill considering its high operating cost. Over 70% of the outputs require further handling, processing or disposal - all of which incurs additional cost. As a result of option 3 more waste may initially be disposed of to landfill than is currently but the current MBT process is, and former PFI contract was, predicated upon outputs going to landfill. This is prevented by securing offtake arrangements which would be the same for either option; and as such the degree of risk of waste being landfilled is similar for both.

To continue a high cost, high liability, complex treatment operation, with ongoing financial and environmental risks, and little guarantee in terms of environmental performance, cannot be justified. Whilst it would bring the benefit of continued employment for a much greater number of employees at GRLOL it would not be deliverable within the available budget. Additional action would be required which would inevitably mean further ongoing reductions within the waste company and a call upon savings from elsewhere.

The option to cease residual waste treatment processes results identifiably in the lowest revenue cost for the Council and is by far the lowest risk operation. There is certainty in its delivery and it is considered that it can be delivered within the available budget. The actual cost of operating, once established will provide a very clear baseline against which to evaluate alternative options.

On this basis the recommendation of the waste management service is that the Council ceases treatment processes at Farington and Thornton waste recovery parks and establishes a waste transfer operation at the two facilities instead.

It is recommended that the existing processing equipment at both sites be protected and preserved in order to fully assess the marketability of the assets, both for short and longer term solutions to residual waste processing.

In taking this decision the Council would have to be mindful of the inherent risk in operating complex treatment processes at the two facilities whilst in a state of transformation and with reducing numbers of personnel. To minimise this risk it is recommended that the receipt of residual waste for processing at the two facilities be ceased on 31<sup>st</sup> March 2016 with a view to having completed all processing by 1<sup>st</sup> July 2016 and transfer operations commencing from 1<sup>st</sup> April 2016.

In order to seek alternative processing or disposal facilities, and to maximise diversion from landfill, it is recommended that a formal procurement exercise be conducted to establish short term alternative processing arrangements; whilst the proposed market testing exercise is conducted and a long term strategy for treatment of residual waste developed.

#### **4.2 Garden Waste:**

The policy decision in respect of the required action for the composting of food and garden waste is more straightforward. The in-vessel composting facilities (IVCs) employed at Farington and Thornton are designed specifically to meet the legislative requirements that surround composting of food waste, particularly Animal By-Products Regulations. As a result, the processes are much more complex, and significantly costlier than simple traditional windrow composting of garden waste without food.

The amount of food waste received within the garden waste is extremely low. On average the food waste within the garden waste is less than 1%. As such, out of the circa 65,000 tonnes a year of co-mingled garden and food waste dealt with at the waste recovery parks less than 650 tonnes will be food.

The policy decision taken was to cease composting of food and garden waste and only provide facilities for garden waste without food. To achieve this at the lowest cost the IVCs at Farington and Thornton will close and the equipment protected and preserved.

To deliver the policy the procurement of alternative windrow facilities will be required which it would be intended to do on a 3 year basis with up to 2 years extension. It is anticipated that the necessary windrow contracts can be in place by September 2016.

In order to prevent the need for usual comprehensive annual winter maintenance costs for the IVCs (circa £200,000) and to reduce the risk of operating IVCs in the interim period, it is anticipated that the Council's existing windrow contract with Sita at Darwen and Pendle be utilised for windrow composting whilst alternative, more localised, facilities are procured.

On this basis, the Thornton IVC can be closed with immediate effect with any food and garden waste directed to Farington (tonnages are seasonally low and can be accommodated at just one facility until the end of March). The Farington IVC can be closed on 31<sup>st</sup> March 2016, or as soon after as is practicable to accommodate district collection changes.

There are currently seven district councils which collect food and garden waste co-mingled. These authorities will need to adopt garden waste only collections if they intend to utilise the Council's facilities. It is intended to engage with each district council individually to discuss potential options in this respect.

#### **4.3 Co-mingled recyclables:**

Doorstep collected co-mingled waste (glass, cans, plastic) is processed at Farington waste recovery park through the Materials Recovery Facility (MRF). The MRF separates out the co-mingled materials into different material types and grades in order to obtain best value for the material in the market. There is no MRF at Thornton.

Recycling markets in the UK are currently at a 7 year low. Low oil prices have depressed the demand for recovered plastics forcing some re-processors out of business and generally causing a reduction in price for plastics. There is low market demand for steel caused by recession in China. A change in packaging compliance schemes on glass recovered via aggregate has resulted in a reduction in glass value to the point that we currently have to pay to get it processed. The demand for recycled paper has also dropped over the last 12 months with 2 paper mills in Britain going into administration with the loss of 650,000 tonnes of capacity and a third operator closing 800,000 tonnes of processing capacity across Europe.

The current revenue cost of operating the MRF is in the region of £1.5m per annum. The net annual income received for recyclables which are processed through the MRF is £914,000 giving an overall net cost of MRF operation of £586,000. On the basis of a cost of £20 per tonne, currently being paid for co-mingled recyclate in East Lancashire, the cost of sourcing the same material directly to market would be £954,000.

Aside from this net cost benefit, the market downturn has meant that there is very little processing capacity available locally. MRF operators can pick and choose the material they wish to take, generally choosing the better quality material from consistent commercial sources which have less contamination than that of household waste. Where co-mingled household materials are accepted by processors they now charge a premium. For example, in 2014 unprocessed co-mingled recyclables had an income value of £27 per tonne; now, as mentioned, we are currently paying £20 per tonne for it to be taken off our hands.

As such the operation of the MRF does add value to the material and carries operational and financial risks that would otherwise not be encountered. But whilst current market values for materials are at an all-time low level, with little sign of recovery, global markets are volatile. It was only a matter of three years ago that materials were realising £3m more than the income being achieved now. In this



context, continuing to operate the MRF has the potential to be much more profitable in the longer term.

Notwithstanding that collected recyclables are critical in meeting the re-use and recycling target, the Council has a statutory duty to manage household waste collected by the district councils. The biggest concern in the event of the closure of the MRF would be the availability of alternative processing capacity. It is not considered that this could be procured locally at this time. The worst case scenarios could be the need to transfer co-mingled recyclables long distance or overseas; or possibly even landfill them.

Of the current processes at the facilities, the MRF is the one that has the greatest potential to add value in the future and is therefore a commodity to both the Council and in the market place. On this basis, and given the capacity risks, it is recommended that the MRF operation is continued, subject to ongoing monitoring and review of its economic viability; and further consideration in respect of the marketability of the assets.

## **5.0 Delivery of policy in relation to Global Renewables Lancashire Operations Ltd**

The Council terminated its waste PFI contract in July 2014; and in doing so took ownership of the Waste Recovery Parks at Farington and Thornton along with the company which operates them, Global Renewables Lancashire Operations Ltd ("GRLOL"). Despite having realised a reduction in annual cost in excess of £12m in doing so, GRLOL (the "Company"), its operation of the facilities, and the additional services it provides to the Council, is the single biggest cost to the Council's waste service budget.

A decision to scale back processing operations will have a major impact on the Company structure and staffing; and this is recognised in the budget policy decisions taken which included downsizing the waste company *'through a restructuring and transformation exercise'* and ceasing some of the additional services which it provides.

### **5.1 Company transformation and restructuring exercise**

The Company employs in the region of 330 staff; and as a result of the budget policy decision and the recommendations of this report, a significant number of posts will become redundant. Managing the transformation of the company, whilst also ceasing or modifying operations, has significant HR, information systems, financial, legal and health and safety implications.

The nature and scale of the company transformation requires sufficient skilled resources to be deployed by the Council to support the Company and ensure that the Council's interests as both client and shareholder are protected during the transformation, restructuring and modification of operations. The Council has identified dedicated resources to achieve this.

There is an evidenced risk of management and operational staff leaving the company during the transformation process. With such complex, high risk processes within the facilities, this could heighten health and safety risks for the Company and the Council. Informing staff of operational proposals at the earliest opportunity, and the establishment of the proposed revised operating structure, is considered to be the best way of maintaining a motivated workforce during the transition period.

On this basis it is recommended that the Company is requested to agree with the Council a new operating structure based on the proposed service requirements; and appoint to that structure as soon as is feasibly possible, thus securing those staff that will be part of future operations to help deliver the operational changes. The Council will be required to assist the Company in ensuring that all relevant formal processes and procedures are followed and these will dictate any potential timeline for the transformation exercise.

## **5.2 Cessation of soft services**

Under the terms of the service level agreement the Company also provides the following 'soft' services which will cease as a result of the budget policy decision:

- Environmental education service
- Adult and community programme
- Waste minimisation, waste reduction and resource recovery programme
- Communications and community liaison programme

The Company will formally cease to provide these services as of 31<sup>st</sup> March 2016 although in reality cessation of the services will be dependent upon any formal processes that the Company must follow and the need to allow suitable time for the planned cessation of the services in order to minimise impacts on service users.

At the time of the budget policy decision a separate service under the soft services, the 'Community Sector Development Programme', had been considered a function that could potentially continue.

However, as a result of the Company operations now proposed, and cessation of the other soft services, the Company structure will be predominantly based around the delivery of operations at a very basic level. The potential line management provision for the function will also be lost as part of the transformation. On this basis, and in recognition of the financial position of the Council since the establishment of the budget options, it is now recommended that this service also be ceased in line with the other soft services provided by the Company.



## 6.0 Long term strategy and market testing

As mentioned previously the proposals recommended within this report will provide a cost effective base position from which a longer term strategy can be developed.

The Lancashire Waste Partnership's Municipal Waste Management Strategy is out of date; the need for all member authorities to make financial savings has 'ridden roughshod' over the best intentions of the ageing document. The waste PFI contract, which was the cornerstone of the Council's waste treatment strategy has been terminated; and the budget policy decisions are to further reduce operations.

However, unlike many other authorities who have invested in PFI projects the Council has the flexibility to manage operations how it wishes and respond to future legislative and policy changes as well as the prevailing financial concerns. Owning the assets outright gives the Council a secure footing in planning a long term strategy and being able to test whether the market can deliver a better position at an acceptable cost.

The purpose of protecting and preserving the process equipment and any redundant assets is that it may ultimately be of benefit in acquiring a long term solution and in marketing the facilities.

A separate project team has been established to investigate the market testing and procurement options and the waste management group is working with the team to explore potential opportunities.

## 7.0 Summary and recommendations

It is imperative that the Council reduces the cost of managing the waste generated in Lancashire. The budget policy decision taken seeks to reduce the Council's spend on waste services by £8.5m as a result of changes to operations and processes employed at the two waste recovery parks, and by transformation of the Council's waste company, GRLOL.

It is considered that the recommendations within this report are the only viable way of achieving the prescribed cost reduction. It is anticipated that the service changes can be delivered with minimal environmental impact although it should be recognised that there is the possibility of some increased landfilling of residual waste, at least in the short term. However, as already happens for outputs from the MBT process, officers will seek to establish alternative arrangements for treatment and processing of residual waste in order to maximise its diversion from landfill.

Early delivery of the budget savings will reduce the Council's reliance on allocated transitional reserves in the 2016-17 and 2017-18 financial years. Whilst delivery of savings in 2016-17 will be dependent upon when elements of the service transition are completed, it is anticipated that a reduction in spend of allocated transitional reserve in the region of £5m - £8m can be achieved over the two year period.

The waste operations that will result from these recommendations will provide an important building block to establishing a long term strategy for dealing with Lancashire's rubbish; which is likely to involve further changes to operations at the waste recovery parks at some future date. It could take a number of years to fully investigate, establish and procure what the best long term strategy is for Lancashire. In that time it is imperative that we implement the lowest cost, least risk, operation, in order that we can manage Lancashire's rubbish effectively and efficiently within the means we have available to us.

Significant redundancies will be encountered at GRLOL; the order of magnitude is likely to exceed 250. An employee support package has been put in place and voluntary redundancy will be made available to staff leaving in April 2016 and beyond.

The redundancy and other one-off transitional costs encountered as a result of the changes will be offset against early delivery of the savings in 2016-17 and on this basis, and in order to reduce operational risk during the transition period, it would be prudent that transformation of the company and the services it provides is delivered expeditiously.

The recommendations of this report are thereby summarised as follows:

1. That waste transfer operations are established for residual waste at Farington and Thornton waste recovery parks (to also accommodate the transfer of other waste types).
2. To note that IVC composting processes are ceasing with immediate effect at Thornton WRP and from 1<sup>st</sup> April 2016 at Farington WRP.
3. Separate windrow facilities are procured for garden waste composting.
4. MRF operations are continued subject to ongoing review.
5. That redundant processing equipment and other assets be protected and preserved whilst market options are assessed and such that they could be re-introduced into service should future opportunity present itself.
6. The Company be requested to agree a new operating structure with the Council based on the proposed service requirements; and appoint to that structure at the earliest opportunity.
7. The Company be requested to deliver its transformation as soon as possible.
8. That all of the soft services provided by the Company are ceased from 31<sup>st</sup> March 2016 or as soon after as practicable.

Report submitted by:

Steve Scott  
Head of Service – Waste Management  
February 2016



## Service Level Agreement

**THIS AGREEMENT** is made on the [ ] day of [ ] 20[ ]

**BETWEEN**

- (1) LANCASHIRE COUNTY COUNCIL of County Hall, Preston, Lancashire, Preston PR1 8XJ (“the County Council”) and
- (2) [ ] (Company Number 05881147) whose registered office is at County Hall, Preston, PR1 8XJ (“the Company”).

## INTRODUCTION

This Service Level Agreement (the "Agreement") is made between the County Council and the Company.

The County Council wishes to engage the Company to provide certain services in relation to the operation of the County Council's waste processing facilities at Thornton Cleveleys and Farington ("the Services").

The purpose of the Agreement is to clarify the responsibilities of the parties to it, ensure effective joint working between them and to outline the terms and conditions under which the Services shall be delivered by the Company.

It is the intention of the parties that the Agreement will develop over time in response to any changing needs of the parties and to ensure that the best service possible is delivered for the benefit of the County Council and the people of Lancashire.

**1. Definitions and Interpretation**

- 1.1 In this Agreement references to a clause or a schedule is a reference to a clause of or a schedule to this Agreement and reference to persons shall include individuals, bodies corporate, unincorporated associations and partnerships.
- 1.2 The headings are inserted for convenience only and shall not affect the construction of the Agreement.
- 1.3 The masculine gender shall include the feminine gender and the singular number shall include the plural and vice versa.
- 1.4 The schedules form part of this Agreement and have the same force and effect as if expressly set out in the body of this Agreement and any reference to this Agreement shall include reference to the schedules.
- 1.5 In this Agreement the following expressions except where the context otherwise requires, shall have the following meanings ascribed to them:

**"Board of Directors"** shall mean the directors of the Company appointed from time to time in accordance with the Company's articles of association.

**"Business Day"** shall mean any day (excluding Saturday, Sunday and any day on which clearing banks are not open for business in the City of London).

**"Company"** means the operating company engaged by the County Council to operate the Facilities on its behalf.

**"Effective Date"** means [ ] day of [ ] 20[ ].

**"Environmental Permit"** means any authorisation, certificate, appraisal, exemption, transfer note, consignment note, permit, licence or consent (including, without limitation, any planning consent and all conditions attaching thereto) relating to the operations of the Company and/or provision of the Services and/or the occupation, development or use of the Sites

**"Facilities"** means the Farington and Thornton Waste Recovery Parks.

**"Fees"** mean the fees payable by the County Council to the Company in accordance with Schedule 2.

**"Services"** means those services to be provided by the Company under the terms of this Agreement as set out in Schedule 1 and any other services ancillary to the operation of the Facilities that the County Council may from time to time require the Company to provide.

**"Sites"** means the property at Fleetwood Road North, Thornton Cleveleys registered at HM Land Registry under the title number LAN24490 and the property at Farington Waste Recovery Park, Sustainability Way Leyland registered at HM Land Registry under the title number [ ].

**"Term"** means the duration of this Agreement as provided for in clause 5.

## **2. Obligations of the Company**

- 2.1 The **Company** shall deliver the Services in accordance with Schedule 1.
- 2.2 The **Company** shall keep records for the purposes of monitoring the delivery of the Services.
- 2.3 The Company must not under any circumstances provide services to a party other than the County Council or Blackpool Council without first obtaining the written consent of the County Council

## **3. Fees**

- 3.1 In consideration of the Company performing its obligations under this Agreement, the County Council will pay the Company the Fees.
- 3.2 All payments due under this Agreement are expressed in pounds sterling and are exclusive of VAT or other applicable tax or duty which will be payable by the County Council in addition to the charges set out above.



- 3.3 Unless otherwise stated the Fees are inclusive of all costs and expenses which may be incurred by the Company in carrying out its obligations hereunder and no additional charges will be payable by the County Council unless agreed in advance by the parties.
- 3.4 Any payments due in respect of the Services (or otherwise pursuant to this Agreement) shall be made within 30 days of receipt by the County Council of a valid invoice; or as otherwise agreed by with Company.
- 3.5 The Company shall not cease the provision of any of the Services in the event that any sum owed by the County Council is overdue for payment.

#### **4. Warranties**

- 4.1 The Company warrants, represents and undertakes that during the Term:-
- (i) the Services shall be supplied and rendered by appropriately experienced, qualified and trained personnel with all reasonable skill, care and diligence in a timely and professional manner and otherwise in accordance with Schedule 1; and
  - (ii) its obligations hereunder shall be performed in accordance with all applicable laws, enactments, orders, regulations and other similar instruments in force from time to time.

**5. Duration**

- 5.1 This Agreement will commence on the Effective Date and shall subject to the provisions of clauses 14, 17, 21 and 26, remain in full force and effect for a period of twelve months from the Effective Date; but shall renew automatically if not specifically terminated in accordance with the terms of this Agreement.

**6. Review of the Agreement**

- 6.1 The operation of the Agreement and delivery of the Services shall be kept under review by the parties and either party may request a variation to the Agreement at any time by submitting a formal request to the other.
- 6.2 The County Council shall formally review the provisions of Schedule 1 at least annually with any required variations to be implemented by the Company within such reasonable time as the County Council may specify.

**7. Property Issues**

- 7.1 From the Effective Date, the County Council shall permit and grant to the Company, any subcontractor and all others authorised by the Company access to and the non-exclusive right to enter upon or remain upon the Sites as and when necessary to perform the Services and/or any of its obligations in connection with this Agreement.
- 7.2 The right granted under clause 7.1 shall subsist for the purposes of carrying out the Services and all purposes ancillary or related thereto, but for no other purpose and shall be by way of a licence and such licence shall not grant or be deemed to grant any legal right or other interest in land.

- 7.3 On termination or expiry of this Agreement the licence granted pursuant to this clause 7 shall determine.

**8. Confidentiality**

- 8.1 Neither party to this Agreement shall (except if required by law) either before or after the termination of this Agreement disclose to any person not authorised by the party to which it pertains any confidential information relating to such party or to the affairs of such party of which the party disclosing the same shall have become possessed during the period of the Agreement and each party shall use all reasonable endeavours to prevent any such disclosure as aforesaid.

**9. Freedom of Information Act/Environmental Information Regulations**

- 9.1 Each party to this Agreement understands and acknowledges that both parties are public authorities to which the Freedom of Information Act 2000 ("the Act") and the Environmental Information Regulations ("the EIRs") apply. The parties shall, as appropriate, co-operate with each other and provide assistance to each other (at their own cost) to enable the other party to comply with its obligations under the Act and the EIRs in respect of information arising from the operation of this Agreement and/or the delivery of the Services.
- 9.2 The Company agrees to delegate responsibility to the County Council for managing and responding to all requests for information to which the Act or the EIRs apply.

- 9.3 The Company shall ensure that all information relating to the Agreement and the Services is retained for disclosure and shall permit the County Council to inspect such records as the County Council may request.
- 9.4 On receipt of a request for information to which the Act or the EIRs apply, the Company shall forward such request to the County Council as soon as practicable and in any event within two (2) Business Days of receiving it.
- 9.5 Notwithstanding the provisions of clause 9.1, in no event shall the Company respond to a request for information unless expressly authorised to do so by the County Council.

## **10. Insurance**

- 10.1 The Company shall insure against claims by third parties in respect of the following:
- (i) those risks normally insured against by persons carrying on the same class of business as that carried on by it and in particular Public Liability to the sum of [£ ] million per event or series of events and Employers Liability insurance to the sum of [ ] million per event or series of events.
  - (ii) Any other risks which the County Council may reasonably require.
- 10.2 The Company shall not do or permit anything to be done which makes void or voidable any insurance in connection with clause 10.1 (i) to (ii) above.

10.3 The Company shall promptly pay all premiums and do all other things necessary to keep all of its insurances in force.

10.4 The Company shall upon demand by the County Council provide the policy, certificate or cover note relating to any insurance and the receipt for the payment of any premium for an insurance as the County Council may reasonably request.

**11. Limitation of Liability**

11.1 The liability of either party to the other under or in connection with this Agreement whether arising from contract, tort, including negligence or otherwise shall be limited as follows:-

- (i) In the case of liability arising from death or personal injury to persons resulting from negligence there shall be no limit;
- (ii) In the case of liability for loss of or damage to physical property, the limit in respect of any one or series of connected events shall be [£            million];
- (iii) In respect of any other liability not covered above, the liability shall in all cases be limited to the amount payable by the County Council in any one year under the terms of this Agreement as provided for in clause 3.

11.2 The County Council shall not be liable for any special, indirect or consequential loss of any nature whatsoever.

**12. Title and Risk**

12.1 Title and risk in all waste to which this Agreement applies shall pass to the Company:

(a) in respect of a Site, once it is accepted by the Company or one of its subcontractors over a weighbridge at a Site;

(b) in respect of any waste collected by the Company or one of its subcontractors from a location designated by the County Council which has a weighbridge, once a vehicle containing such waste has exited over the weighbridge; and

(c) in respect of any waste collected by the Company or one of its subcontractors from a location designated by the County Council which has no weighbridge, once the vehicle containing such waste has exited over the boundary of the premises from which the waste has been collected.

12.2 In the event of any waste being delivered to a Site or collected by the Company or one of its subcontractors the processing of which would cause the Company to be in breach of an Environmental Permit the provisions of clause 12.1 shall apply to that waste but the County Council shall be responsible for any costs reasonably and properly incurred by the Company in dealing with that waste PROVIDED ALWAYS that the Company shall take such steps as are reasonable to minimise the costs incurred.

**13. Indemnity**

13.1 Subject to clause 11, the Company shall indemnify and keep indemnified the County Council from and against all loss or damage or liability (whether criminal or civil) suffered together with any legal costs incurred by the County Council resulting from a breach of this Agreement by the Company, its employees, agents or sub-contractors.

13.2 The indemnities contained in this clause shall be continuing indemnities and shall be without prejudice to any other right or remedy of the County Council whether arising under the terms of this Agreement or otherwise.

**14. Termination**

14.1 The County Council shall be entitled to terminate this Agreement with immediate effect by giving written notice to the Company:

14.1.1 in the event that the Company commits a material breach of any provision of this Agreement which is incapable of remedy or which, being capable of remedy, is not remedied within thirty (30) days after receipt of notice from the County Council specifying the nature of the breach; or

14.1.2 the Company enters into any composition or arrangement with its creditors or enters into liquidation whether compulsory or voluntary (other than for the purposes of a reconstruction or amalgamation) or has a receiver or administrator appointed over all or any part of its assets or undertaking or an administration order is made in relation to it.

- 14.2 Without affecting any other right or remedy available to it, the County Council may terminate this Agreement at any time by giving three (3) months' written notice to the Company.

**15. Arrangements on Termination**

- 15.1 Upon termination of this Agreement:-

- (i) The Company shall give assistance and information as is reasonable and necessary to ensure as far as is reasonably possible the ongoing provision of the Services.
- (ii) Each party undertakes to return to the other any equipment, documentation, information or other materials belonging to the other party in respect of which it has no legal right to retain.
- (iii) Subject to any other rights or remedies available to it under this Agreement, the County Council shall pay to the Company any sums properly due and payable.

**16. Disputes**

- 16.1 If a dispute arises between the parties either party may refer the matter for determination in accordance with the procedure set out in this clause 16.

- 16.2 A dispute referred for determination under this clause shall be resolved as follows:

- 16.2.1 by referral in the first instance to the Interim Executive Director for the Environment of the County Council and the Chief Executive of the Company;



16.2.2 if a dispute is not resolved within twenty one (21) Business Days of its referral pursuant to clause 16.2.1, such dispute shall be referred to the Chartered Institute of Waste Management who shall be entitled to appoint a person or persons to resolve the dispute. The decision of the appointed person or persons will be legally binding.

## **17. Corruption**

17.1 If the Company in relation to this or any other agreement with the County Council shall do or have done any act:

- (i) which amounts to inducement or reward to any person for doing or omitting to do any act in relation to the obtaining of the Agreement; or
- (ii) which is an offence under the Bribery Act 2010 or the Prevention of Corruption Acts 1889 to 1916; or
- (iii) which amounts to the giving of a fee or reward the receipt of which is an offence under Section 117 of the Local Government Act 1972

the County Council shall be entitled to terminate the Agreement forthwith with immediate effect and recover from the Company all losses, costs, damages and expenses incurred in connection with such termination.

- 17.2 The Company undertakes to inform the County Council of any improper conduct by any of the Company's employees agents or subcontractors relating to the Agreement or any other arrangements with the County Council.

**18. Set Off**

- 18.1 The County Council may claim or exercise any right of set off, counter claim or deduction in respect of any amount payable by the County Council to the Company pursuant to the terms of this Agreement in respect of any claim of the County Council against the Company.

**19. Assignment**

- 19.1 Neither party shall assign, transfer, novate or dispose of any interest in this Agreement without the prior written consent of the other party.

**20. Sub-Contractors**

- 20.1 The Company may not subcontract any part of its obligations under this Agreement without the written consent given in advance by the County Council. In the event that such consent is given and sought, the Company shall at all times remain liable to the County Council in full for the performance of all obligations hereunder.

**21. Force Majeure**

- 21.1 If either party is prevented from fulfilling its obligations under this Agreement by reason of any supervening event beyond its control including but not by way of limitation, war, national emergency, flood, earthquake, strike or lock out, the party unable to fulfil its obligations shall immediately give notice of this to the other party and shall do everything in its power to resume full performance.

21.2 If an event occurs and is subject to clause 21.1 above neither party shall be deemed to be in breach of its obligations under the Agreement.

21.3 If and when the period of such incapacity exceeds three months then either party shall have the right to terminate the Agreement forthwith.

## **22. No Joint Venture**

22.1 For all purposes of this Agreement the Company is an independent service provider and shall have no authority to make any contract or do any act whatsoever as the agent of or for or on behalf of the County Council. The Company shall not in any circumstances represent itself to any person as having such authority.

22.2 The County Council and the Company are not partners or joint venturers with each other and nothing herein shall be construed so as to make them such partners or joint venturers or impose any liability as such upon them.

## **23. Waiver**

23.1 No failure on the part of either party to exercise and no delay on its part in exercising any right or remedy under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any or further exercise thereof or the exercise of any right or remedy. The rights and remedies provided in this Agreement are in addition to and not exclusive of any rights and remedies provided by law.

- 23.2 Any express waiver by the County Council of any breach of any of the obligations of the Company under this Agreement shall not be a waiver of any continuing breach or of any other breach of any of these obligations.

**24. Entire Agreement**

- 24.1 This Agreement constitutes the entire agreement and understanding between the parties in respect of the matters referred to herein and supersedes any previous agreement whether written or oral between the parties and the parties confirm that they have not entered into this Agreement on the basis of any representations that are not expressly incorporated in this Agreement.

**25. Variation**

- 25.1 Save as is provided for herein no purported variation of this Agreement shall be effective unless the same is made in writing and is signed by each party.

**26. Severance**

- 26.1 Each provision of this Agreement is severable and distinct from the others and, if any provision is or at any time becomes to any extent or in any circumstances invalid, illegal, or unenforceable for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Agreement but (except to that extent or in those circumstances in the case of that provision) the validity, legality and enforceability of that and all other provisions of the Agreement shall not be affected or impaired, it being the parties' intention that every provision of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

**27. Notices**

27.1 Any notice or other document to be given under this Agreement shall be in writing and shall be deemed duly given if left or sent by prepaid post to the address stated at the beginning of this Agreement.

27.2 In proving the notice it shall be sufficient to prove that the notice was left or that the envelope containing such notice was properly addressed and posted (as the case may be).

27.3 Any demand, notice or communication shall be deemed to have been duly served:

27.3.1 if delivered by hand, when left at the proper address for service;

27.3.2 if given or made by correctly addressed recorded delivery, at the time at which it would have been delivered in the normal course of the post;

provided that where in the case of delivery by hand such delivery occurs either after 4.00 pm on a Business Day or on a day other than a Business Day service shall be deemed to occur at 10.00 am on the next following Business Day (such times being local time at the address of the recipient).

27.4 The Company shall notify the County Council in writing in the event that it changes its address and shall provide such notice within fourteen (14) days of any such change.

**28. Law and Jurisdiction**

28.1 The provisions of this Agreement shall be governed by and construed in accordance with English law.

28.2 In respect of all matters arising under this Agreement the parties hereby submit to the non-exclusive jurisdiction of the Courts of England.

This agreement has been entered into on the date stated at the beginning of it.

Signed for and on behalf of  
LANCASHIRE COUNTY COUNCIL

.....

.....

Signed by [NAME OF DIRECTOR] for and on behalf of  
[NAME OF COMPANY]

.....

Director

## **SCHEDULE 1 - SERVICES**

### **1. Introduction**

- 1.1 The Services to be provided under this Agreement are procured by Lancashire County Council ("County Council") acting on its own behalf and on behalf of Blackpool Council. The Services provided under this Agreement (including the Facilities, employees and other similar resources) shall be for the exclusive benefit of the two councils. The Company, its subcontractors, employees and agents shall therefore at all times represent themselves as service providers of the two councils. The conduct of the Company its subcontractors, employees and agents shall be consistent with general public service standards and the public service standards of the two councils in particular.
- 1.2 The Company will be bound by and act in accordance with any policies, procedures and practices specified by the County Council from time to time.
- 1.3 The Company its subcontractors and agents shall be under a general obligation in providing the Services to do so in a way that contributes to the corporate objectives of the two councils.
- 1.4 Subject to the Company's articles of association, the Company will have responsibility for all employment and staffing matters relating to the delivery of the Services.



## **2. Overall Service Objective**

2.1 The fundamental objective of the Services is the management and operation of the Facilities and delivery of the Services in an environmentally and economically sustainable manner. In general terms the Services should:

2.1.1 enable the County Council and Blackpool Council to fulfil their statutory obligations under Section 51(1)(a) of the Environmental Protection Act 1990 and any other legislation governing the collection, transportation, handling, processing and disposal of waste;

2.1.2 minimise waste arisings;

2.1.3 maximise levels of recycling;

2.1.4 minimise landfill disposal;

2.1.5 assist the County Council in achieving local and national performance requirements and standards;

2.1.6 assist the County Council in achieving the aims and objectives of the Lancashire Municipal Waste Management Strategy;

2.1.7 assist the County Council in all areas of its services with the aim of reducing the unit cost per tonne of dealing with municipal waste arisings in Lancashire;

2.1.8 prioritise the health, welfare and safety of staff and protection of assets;

2.1.9 minimise operating costs through efficiency and best practice without compromising other objectives; or the priorities, practices or policies of the County Council; and

2.1.10 be affordable and offer value for money.

### **3. Scope of Services**

The scope of the Services shall comprise the following:

3.1 The receipt and processing of all waste delivered by waste collection authorities, agents of the County Council, or other parties who the County Council may direct to deliver waste to the Facilities; along with the onward transportation of waste and residues as required. Processing to include the following specific arrangements which include management of processing equipment:

- (i) The transfer of residual, garden and co-mingled or source separated wastes at the Thornton facility to onward destinations.
- (ii) The transfer of residual, garden and co-mingled or source separated wastes at the Farington facility to onward destinations.
- (iii) The operation of the Materials Recovery Facility (MRF) at the Farington facility.
- (iv) Preparation of redundant processing equipment and/or other assets for a state of preservation.
- (v) The protection and preservation of unused processing equipment and/or other assets to enable such equipment or assets to be re-introduced into service.

3.2 A general obligation on the Company to endeavour to process as much of the waste delivered to each facility within the agreed limits of

the Facilities and equipment therein.

- 3.3 The operation of the Facilities in accordance with an agreed Quality Management System (as detailed in paragraph 4), good industry practice and in a manner which maximises reliability and performance of the Facilities and protects the integrity and value of all assets.
- 3.4 The management and operation of the Facilities in accordance with all environmental permits and any other regulatory requirements in force for the time being and from time to time.
- 3.5 The monitoring, control and reporting of all environmental emissions including, but not limited to, noise, dust, NMVOC, ammonia, odour and bio-aerosols.
- 3.6 Maintenance of the Facilities, buildings and grounds.
- 3.7 Provision of suitable data management and reporting systems and assisting the County Council in all of its waste management related data monitoring and reporting requirements.
- 3.8 Actively engaging with local communities and assist the County Council in its waste related promotional activities in the county.
- 3.9 Agreement with the County Council of a joint contingency plan and the maintenance of robust contingency arrangements to be implemented in the event of any interruption to the Services or the operation of the Facilities.
- 3.10 Production of a Business Continuity Plan for agreement with the County Council by no later than three (3) months following the

Effective Date to be updated annually by no later than the anniversary of the Effective Date.

#### **4. Quality Management System**

4.1 The Company will operate the Facilities in accordance with a Quality Management System ("QMS") to be agreed with the County Council within three months of the Effective Date of this Agreement.

4.2 As a minimum, the QMS will include all policies and procedures for the following areas of the Company's operations:

- daily operations and reporting
- technical and environmental systems
- maintenance
- health and safety
- human resources
- finance

4.3 The Company will inform the County Council on a quarterly basis of any changes made to the QMS and issue a consolidated revised QMS on an annual basis.

4.4 The County Council reserves the right to object to any changes made to the QMS by the Company. In the event of such objection, details of the change, and the County Council's objection to the change, will be referred to the Board of Directors for a decision as to whether the change to the QMS shall be implemented, revised or removed.

## **5. Annual Business Plan**

- 5.1 The Company shall produce an Annual Business Plan ("ABP") for approval by the Board of Directors by no later than 1<sup>st</sup> March each year.
- 5.2 The ABP will detail key operational and performance targets along with operational, environmental, facility management and financial strategies.
- 5.3 As a minimum the ABP shall include:
- Key performance targets
  - Key financial targets
  - Annual budget proposal (the Fees)
  - Business development and commissioning strategy
  - Operations plan (to incorporate environmental, technical and transport)
  - Maintenance Plan
  - Annual Lifecycle Plan
  - Offtake plan
  - Health and Safety plan
  - Fire prevention plan
- 5.4 The Company will consult with the County Council in the production of its ABP in order to incorporate the County Council's waste service objectives and corporate budget strategy.

## **6. Reporting Requirements**

6.1 Along with any statutory reporting requirements the Company will produce the following reports for the Board of Directors and the County Council:

- (i) Annual report against ABP
- (ii) Annual asset condition and lifecycle review
- (iii) Annual fire risk review
- (iv) Annual value for money assessment

and any other reports that the Board of Directors shall request.

6.2 The Company shall produce the following report for the County Council:

- (i) Monthly performance assessment split by spend type, department and full year projection against budget

and any other reports that the County Council shall reasonably request.

## **7. Lifecycle Provisions**

7.1 The County Council will make an annual provision within its reserves based on the agreed Annual Lifecycle Plan. Lifecycle payments to the Company will be made subject to the approval of the Board of Directors. Any lifecycle provision required not included within the Annual Lifecycle Plan will require the additional approval of the relevant County Council Cabinet Member.

## **SCHEDULE 2 - FEES**

### **1. The Fees**

- 1.1 Payment of the fees shall be by quarterly payment in advance, or other such schedule of payments agreed by the parties to accommodate seasonality or anticipated costs.
- 1.2 Payment of the Fees shall be by quarterly payment in advance, or other such schedule of payments agreed by the parties to accommodate seasonality or anticipated costs.
- 1.3 Each payment shall be based on the budget proposal as agreed in the Annual Business Plan.
- 1.4 The Company shall proactively monitor spend against budget throughout the course of the year and shall report any variance (actual or anticipated) to the County Council on a monthly basis, split by type of spend and department in accordance with the County Council budget monitoring timescales.
- 1.5 No later than three (3) months following the end of each financial year the Company will refund the County Council any overpayment against the actual annual operating costs by means of credit note against the next scheduled payment to the Company.
- 1.6 The County Council may request refund of any overpayment 'in year', if it is clear that such overpayment is likely to occur. It shall be for the Board of Directors to decide in its absolute discretion whether to agree to any 'in year' refund of an overpayment.

- 1.7 The parties accept and understand that the Fees may vary each year based on the level of service required by the County Council and influenced by, inter alia, tonnage throughput levels, staffing levels, offtake arrangements, maintenance requirements etc.
- 1.8 Should the Company consider that a deficit may occur in any financial year a request must be presented to the Board of Directors for an adjustment of the Fees, detailing the reasons for the anticipated overspend and the implications should the Fees not be adjusted. The Board of Directors will need to submit an application for an increase in the Fees to the relevant County Council Cabinet Member who may, or may not, agree to adjust the Fees.

## **2. Pass-through Costs and Income**

- 2.1 Any routine costs incurred by the Company in the normal course of delivering the Services in addition to the Fees will be met by the County Council ("Pass-through Costs"). Such costs may include:
- Transport
  - Utilities
  - Process Residue Offtake
  - Hazardous Waste
  - Rates and Taxes
- 2.2 The Company shall agree the nature of all Pass-through Costs with the County Council. For the avoidance of doubt the Company shall not incur additional Pass-through Costs to those agreed nor enter into any third party contracts that may result in Pass-through Costs; without the approval of the County Council.



- 2.3 Income for products produced by the Facilities such as recyclable materials and green waste compost, or any other income not otherwise accounted for in the agreed annual operating cost, shall be re-paid to the County Council as such income is received by the Company.
- 2.4 Pass-through Costs payment and income repayment shall be made through a combined monthly invoice.

