

Report to the Cabinet Member for Public Protection and Waste
Report submitted by: Interim Executive Director for Environment
Date: 6 March 2015

Part I

Electoral Division affected:
Garstang

Provision of additional household waste services in Wyre (Community Recycling and Re-use Centre)
(Appendices 'A' to 'C' refer)

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Executive Summary

The County Council's Cabinet approved the provision of additional services for the receipt of household waste in Wyre in January 2014. Such services to be provided on an 'open ended' trial basis in order to be used as a vehicle for exploring alternative models of service delivery.

To meet this objective the Environment Directorate is proposing to provide a new service in the form of a Community Recycling and Re-use Centre (CRRC).

The primary focus of the service will be the acceptance of good quality waste items that can be sold, re-used or refurbished; or wastes that have some market value and thus can offset operating costs. In addition, as a specific need identified by a Cabinet Working Group, the facility will accept garden waste.

It will involve partnership with a Third Sector Organisation (TSO) in order to utilise the benefits of the re-use and refurbishment experience that these organisations already have. A key part of the partnership will be to develop links with the local community, providing training and employment, and maximise the social benefit of the waste received across the whole of Wyre.

The key principles of the service model, and the importance of its provision on an evolving trial basis, is to establish what level and range of household waste services can be provided through partnerships and community involvement, and also at what cost such services can be delivered. The ultimate aim would be to be able to accept the widest range of waste types possible at an operating cost that is not only affordable but could be replicated in other areas of the County.

This is deemed to be a Key Decision and the provisions of Standing Order No 25

have been complied with.

Recommendations

The Cabinet Member for Public Protection and Waste is recommended to approve:

- (i) that the additional services for receipt of household waste in Wyre are provided in the form of a Community Recycling and Re-use Centre based on the operating model detailed in the report; and
- (ii) that the County Council enter into a partnership agreement, substantially in the form of the draft Agreement provided at Appendix 'B', with an appropriate Third Sector Organisation and that the Cabinet Member establish a steering group to develop and govern the partnership arrangement.

Background and information

In January 2014 in response to a report from a Cabinet Working Group on Household Waste Recycling Centres (HWRCs), the Council's Cabinet approved a number of recommendations in relation to waste services; which included the following:

- *That the Environment Directorate implements additional services for the receipt of household waste in Wyre [and Pendle] at the earliest opportunity.*
- *That such additional services be provided on an 'open ended' trial basis in order to be used as a vehicle for exploring alternative models of service delivery.*
- *That, by providing the additional facilities/services outside of the scope of the HWRC service, consideration be given to charging for the acceptance of waste (including household waste) at the additional facilities, irrespective of any proposal to introduce policies with regards to non-household waste across the wider HWRC network.*

The Cabinet Working Group had suggested that the former HWRC site on Brockholes Way, Cloughton on Brock, near Garstang was a suitable location for additional services. Having established the availability of the site, and examined a number of potential service options, the Environment Directorate recommends the introduction of a new service model to be termed a 'Community Recycling and Re-use Centre' (CRRC) on an open ended trial basis. It is considered that the proposed service model provides the most extensive range of services for the public as possible whilst allowing for the requirement to keep operating costs to a minimum and providing flexibility for the development and adaptation of the service model as may be required. If successful, the model has the potential to be replicated in other areas of the County.

Principles of the proposed Community Recycling and Re-use Centre

The primary focus of the service will be the acceptance of good quality waste items that can be sold, re-used or refurbished; or wastes that have some market value and thus can offset operating costs. In addition, as a specific need identified by the Cabinet Working Group, the facility will accept garden waste.

It will involve partnership with a Third Sector Organisation (TSO) in order to utilise the benefits of the re-use and refurbishment experience that these organisations already have. A key part of the partnership will be to develop links with the local community, providing training and employment, and maximise the social benefit of the waste received across the whole of Wyre.

The key principles of the service model, and the importance of its provision on an evolving trial basis, is to establish what level and range of household waste services can be provided through partnerships and community involvement, and also at what cost such services can be delivered. The ultimate aim would be to be able to accept the widest range of waste types possible at an operating cost that is not only affordable but could be replicated in other areas of the County.

It must be stressed that the CRRC is not intended to be a 'mini' or replacement HWRC. In particular, the facility will not accept general rubbish or many of the waste streams accepted at HWRCs. However, there is the potential that if the model is successful it could be incorporated into future HWRC contracts to reduce service delivery costs and improve social and community value across the HWRC service.

Whilst the decision of Cabinet allowed for the consideration of making charges for the acceptance of waste as part of the additional service, in the first instance the proposed service will be provided without any form of charges being implemented. As part of the trial of the service, should it be identified that additional waste types could be accepted at a charge for the convenience of the community then this may be considered. Similarly, if acceptance of any waste type proves to be fundamentally ineffective in terms of cost, it may be necessary to consider the introduction of a charge, should it be deemed important by the community that the facility continue to accept that particular waste type.

Key operational elements of the service proposal

The facility will be operated and managed by the Council with the assistance of the Council's waste company and it is intended, at this stage, to accept the waste types detailed in Appendix 'A'.

The facility will be open 4 days a week Friday through to Monday. Following consultation with local Parish Councils the following opening times are proposed:

- | | | |
|-----------|-------------------------|----------------|
| a) Summer | 1 April to 31 September | |
| | Friday – | 10:00 to 17:00 |
| | Saturday & Sunday – | 09:00 to 18:00 |
| | Monday - | 10:00 to 17:00 |

Bank Holidays - 09:00 to 18:00

b) Winter 1 October to 31 March
10:00 to 17:00 throughout (4 day operation as above)

The 'recycle' element of the service will be organised directly by the Waste Management Group who will develop the service and its facilities through engagement of partner organisations to provide containers for, and collection of, recyclable waste streams.

The 're-use' element of the service will be provided at the facility by the TSO through a partnership agreement. The full service that the TSO will provide and the manner of delivery will be dependant upon the particular organisation appointed; but will include the receipt of good quality items for re-use or re-sale and refurbishment of items, including electrical testing of white goods and other equipment.

In order to ensure safe manoeuvrability of vehicles on site, particularly in respect of the receipt of garden waste, it is intended that the following vehicles will be prohibited from using the facility.

- Vehicles with more than 4 wheels
- Vehicles with tipping mechanisms
- Vehicles towing trailers greater than 3m in length

Such prohibition is in keeping with the HWRC access policy.

Partnering arrangement (TSO)

Three TSO's who are based in and/or are already working in Wyre, Furniture Matters, Helping Hand and Refurb, have been identified and an exercise will be conducted to appoint one as our partner for the duration of the trial. The arrangements will be governed by a partnership agreement substantially in the form of the draft Agreement set out in Appendix 'B'.

The TSO will be responsible for the employment provision and remuneration of their staff and volunteers, equipment, training, health and safety and all other such matters relevant to the TSO's activities at the facility; whilst being under general responsibility to the Council, the Site Manager and all of the facility operational policies.

It is proposed that a steering group with Member and officer/TSO representatives be set up to govern the relationship, work with the parties to develop services at a community level and help to increase social value from the project.

Staffing and Transport

A member of staff (in addition to any staff provided by the TSO) will be provided during all opening times by the Council's waste company to carry out general day to day management of the facility such as customer service, tidiness, container servicing and ensure any policies or practices are adhered to by staff and visitors.

The Council and the waste company will provide all necessary training and guidance for a number of members of the company's internal staff in order to ensure that sufficient cover is available at all times. This will also provide development and training opportunities for staff within the company.

The Waste Management Group will manage the service as a whole along with the arrangements with the company and the TSO. The Waste Management Group will provide Technically Competent Management (a site permit requirement) support for the site.

Transport services (where not provided by partners) will be provided by the waste company.

Garden Waste

As part of its review on HWRCs the Cabinet Working Group considered the impact that the closure of the Garstang HWRC had had on residents of Wyre. It noted that alternative HWRC facilities for residents of Garstang and surrounding areas were either in Preston or Lancaster, some distance away and on routes prone to congestion.

Whilst the working group accepted that in most cases the majority of wastes delivered to HWRCs are not produced on a regular basis, and as such the need for these residents to make such a journey would only be infrequent, it felt that this was not always the case for garden waste, particularly over spring and summer; and for those disposing of shrubs and branches that cannot be accommodated in the collection bin.

As such, in order to try to reduce vehicle journeys for those residents who regularly need to use the HWRC service with garden waste, the trial will include the provision of garden waste facilities. The cost of provision of this facility, as the waste stream is not income generating, will be monitored against the overall service cost.

Additional uses

Within the planning consent is approval for up to five vehicles to be parked at the site overnight. Wyre Council have expressed an interest in parking a road sweeper on site to facilitate their work in the local area, and also a small van. It is also possible that the TSO may wish to park a vehicle on site overnight.

Facilitating Wyre Council in this regard stimulates partnership working between the two authorities, and it is intended that they will assist the site operation under a flexible 'quid pro quo' type arrangement, by sweeping the yard for example. They may also be able to assist in transporting materials from time to time and contribute in other areas of the service.

Implications

Financial

It is estimated that the initial set up costs of the service will be in the region of £58,950 and will be accommodated within the 2014-15 waste budget. This cost includes container purchase offices, lighting and other ancillary services. Whilst this is a one off set up cost in 2014-15 it is anticipated that the life of the items purchased will span many years and/or add property value. Should the service be discontinued at any stage the items will have re-sale value or can be utilised by the HWRC service.

Annual operating costs are estimated to be £50,399 per annum with income from sale of recyclables estimated at £26,098 per annum; resulting in a present net cost of £24,301 per annum. Any annual net cost of the service will be managed within the financial envelope for Waste Management as stated in the recently approved service offer.

It should be noted that income is based on January 2015 market rates which are notably lower than could be anticipated generally due to the low oil prices currently being encountered. In a normal year we anticipate that the expenditure and income for the service would broadly be similar and so require little, if any, financial subsidy from the County Council.

A breakdown of the cost profile of the service is provided in Appendix C'.

It is important to be aware that income is variable based on the quantity and quality of waste delivered and is subject to market values. As such there is an element of volatility around the income projections and income could increase or decrease on this basis. The importance of providing the service on a trial basis is to ensure that individual elements of service costs can be monitored and changes made should operating conditions different to those anticipated be encountered.

The intention is for the reuse element of the service is for it to be largely self-sustaining through re-use, sales and the TSO's general business. There is the potential that the TSO will be able to access to grant funding or other similar revenue streams to support and develop the re-use service although this is not essential for the service model as envisaged.

Property

Following closure of the former HWRC, the site was declared surplus to the requirements of the Environment Directorate. Since then the site has been held by Corporate Property Group as 'Land not in Operational Use'. The site has remained vacant and has not been actively marketed.

Corporate Property Group has confirmed its availability for use by the service and subject to approval the facility will be transferred back to the Environment Directorate.

Risk Management

Financial

Income revenues and expenditure forecasts are based on the best information available. However, as a new service model there is no benchmark data nor can potential market fluctuations be predicted. As such the financial risks will be continuously monitored during the trial and actions taken to mitigate these should forecasts be inaccurate or market values for material fall.

Legal

The TSO agreement will provide guidance and a basis upon which the operational relationships of the partnership will be governed. Delivery and success of the partnership arrangement will be monitored by the steering group and contingency plans will be in place to continue the service should the agreement be terminated by either party.

Reputational

The unique nature of the trial may mean that changes are required to the service being provided during the trial period. The reputational risk to the Council of such changes will be mitigated by good communications and community engagement.

Consultation

The following organisations were consulted and their views accommodated where practicable:

- Garstang Town Council
- Wyre Borough Council
- Catterall Parish Council
- Claughton on Brock Parish Council

List of Background Papers

Paper	Date	Contact/Directorate/Tel
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Nil

Reason for inclusion in Part II, if appropriate

N/A

APPENDIX A

WASTE TYPES ACCEPTED

- Glass
- Paper
- Cardboard
- Books
- Plastic bottles
- Textiles & shoes
- Scrap metal
 - Non Ferrous Metals
 - Ferrous Metals
- Mixed cans
- WEEE
 - Large Domestic
 - Small Domestic
 - Cooling
 - Lighting
 - TVs & Monitors
- Portable batteries
- Engine oil
- Car batteries
- Cooking oil
- *Bric-a-Brac (to TSO)

APPENDIX B

DRAFT PARTNERSHIP AGREEMENT

THIS AGREEMENT is made on

201[]

BETWEEN

(1) **LANCASHIRE COUNTY COUNCIL** of P.O. Box 78 County Hall Preston Lancashire PR1 8XJ ("the Council"); and

(2) [] (Company Number []) whose registered office is at [] ("the Provider").

BACKGROUND

(A) The Council is a waste disposal authority and is the freehold owner of the Garstang Household Waste Recycling Centre ("the Site").

(B) The Council intends to operate s to arrange for the reception, recycling and reuse of certain categories of household waste at the Site and to appoint the Provider to deliver certain services on a short term trial basis in accordance with the terms of this Agreement ("the Agreement").

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 In this Agreement the following expressions have the following meanings unless inconsistent with the context:

"Agreement"	this agreement between the Council and the Provider and any amendments variations and extensions thereto agreed between the Parties
"Business Day"	any day (excluding Saturday, Sunday and any day on which clearing banks are not open for business in the City of

	London)
"Confidential Information"	<p>all information of a confidential nature which has been disclosed by one party to the other in connection with this Agreement and/or the matters underlying this Agreement, but does not include information:</p> <ul style="list-style-type: none"> • which is public knowledge; • already known to the party receiving the information at the time of disclosure; • which subsequently becomes public knowledge other than by breach of this Agreement; • which subsequently comes lawfully into the possession of a Party from a third party; • which must be disclosed due to the responsibilities of the Council under any Applicable Law ; or • which is disclosed by the Council to any other department, office or agency of the UK Government.
"Data Processor"	Shall have the same meaning as in section 1 of the Data Protection Act 1998
"Designated Reuse Area"	the area of the Site identified by the Council from which the Provider shall deliver the Services.
"Effective Date"	[] 2015

"Open Book Policy"	Means transparency in respect of the Provider's accounts and financial arrangements insofar as they relate to the Services.
"Operating Hours"	means the hours during which the Provider is required to deliver the Services as set out in Schedule 1
"Partnership"	The partnership between the Council and the Provider established for the purposes of delivering the Services.
"Personal Data"	Shall have the same meaning as in section 1 of the Data Protection Act 1998
"Provider's Personnel"	All employees, staff, other workers, volunteers, agents and subcontractors of the Provider who are engaged in the provision of the Services from time to time.
"Reuse Credits"	payments made by a waste disposal authority in accordance with section 52(3) of the Environmental Protection Act 1990
"Services"	the receipt, preparation and sale of reusable goods at the Site as detailed in Schedule 1
"Site"	Garstang Household Waste Recycling Centre
"Specification"	the specification set out at Schedule 1 setting out the manner in which the Services are to be delivered by the Provider
"Term"	the period of twelve months commencing on the Effective Date and

2. TERM

2.1 The Agreement shall commence on the Effective Date and, subject to earlier termination, shall continue for the Term.

3. TERMINATION

3.1 Either party may terminate the Agreement by giving to the other no less than three months' written notice.

3.2 The Council may terminate the Agreement forthwith should any of the following occur:

3.2.1 the Provider commits a breach of the Agreement which the Council considers to be irremediable;

3.2.2 the Provider is in repeated breach of any provision of the Agreement;

3.2.3 the Provider in the case of a breach which can be remedied has failed to remedy the breach within one calendar month of written notice of the breach given by the Purchaser; or

3.2.4 the Provider has had or is to have a receiver appointed over all or a substantial part of its assets or (if an individual) be declared bankrupt or (if a Company) enters into insolvency, bankruptcy any arrangement with its creditors or any other arrangement or situation which has a like effect.

3.3 Both parties undertake to act in good faith and to comply with their respective obligations under the Agreement during any period of notice to terminate the Agreement.

4. PROVIDER'S OBLIGATIONS

4.1 With effect from the Effective Date and for the duration of the Term, the Provider shall provide the Services to the Council during the Operating Hours in accordance with the provisions of the Agreement.

4.2 The Provider warrants that it is suitably skilled and experienced to provide the Services and shall during the Term perform the Services diligently and with all care and skill reasonably expected of an appropriately qualified and competent provider experienced in performing similar services.

- 4.3 The Provider shall at all times ensure that it and any of the Provider's Personnel comply with the reasonable instructions of the Council along with any applicable legislation and such of the Council's policies and requirements as may be notified to the Provider's from time to time including for the avoidance of doubt the requirements set out in any of the documents specified at Schedule 3.
- 4.4 The Provider shall ensure that any goods offered for sale at the Site comply in all respects with all applicable legal requirements and the Specification.
- 4.5 The Provider shall maintain such appropriate up to date policies and operational procedures as the Council may reasonably require from time to time and as a minimum shall ensure that the documentation specified in Schedule 4 is in place and available for inspection by the Council on request.
- 4.6 The Provider shall not offer any service at the Site other than the Services set out in the Specification without the prior written consent of the Council.
- 4.7 Prior to the expiry of the Term or during any period of notice to terminate this Agreement, the Provider shall co-operate fully in the transfer of responsibility for the Services to any new provider, including complying with the requirements of clause 13.
- 4.8 The Provider shall use all reasonable endeavours to ensure that it and any of the Provider's Personnel acts in the best interests of the Partnership at all times.
- 4.9 The Provider shall operate an Open Book Policy in relation to its financial arrangements concerning the Services and shall permit the Council on reasonable notice to inspect its accounts and provide the Council with such information concerning its financial arrangements and accounts as the Council may reasonably request.
- 4.10 The Provider shall be responsible for engaging an adequate number of suitably experienced individuals to ensure that the Services are at all times provided effectively and efficiently.
- 4.11 The Provider shall be responsible for all matters concerning the employment of its staff, including arrangements for the payment of wages, pension contributions, income tax and national insurance and the working conditions of any person engaged in the provision of the Services.

- 4.12 The Provider shall be responsible for all aspects of the routine management and operation of the Services, including the collection of payments from customers for any goods offered for resale.
- 4.13 The Provider shall develop and implement a programme of training and support to be approved by the Council, to be supplemented with any specific training requirements that may be identified from time to time by the Council.
- 4.14 The Provider shall take all reasonable steps to minimise the amount of residual waste delivered to the Site by only accepting goods that meet the requirements set out in the Specification.
- 4.15 The Provider shall ensure that it maintains an appropriate level of stock in storage and for sale in the Designated Reuse Facility shop; and where necessary shall arrange for goods that meet the minimum standards set out in the Specification to be transported from other facilities to which it has access for sale at the Site.
- 4.16 The Provider shall only use the equipment and facilities provided to it by the Council under the terms of this Agreement for the purpose of delivering the Services.
- 4.17 The Provider shall take all reasonable steps to safeguard any property belonging to the Council and shall report any damage to the Council immediately.
- 4.18 The Provider shall take all reasonable steps to minimise its use of energy and the consumption of any of the utilities provided by the Council under the terms of this Agreement.
- 4.19 The Provider shall use its best endeavours to maximise the income generated through the Designated Reuse Area shop, including maintaining an attractive well stocked shop with a wide variety of goods and engaging in promotional activity in respect of the Services.

5. THE COUNCIL'S OBLIGATIONS

- 5.1 In consideration of the Provider delivering the Services, the Council shall identify and make available to the Provider rent free a suitable area within the Site from which the Provider shall deliver the Services ("the Designated Reuse Area"), incorporating welfare facilities for use by the Provider's Personnel, facilities for the storage and refurbishment of items deposited at the Site and a sales area.

- 5.2 The County Council shall ensure that with effect from the Effective Date and throughout the Term the Site and the Designated Reuse Area are fit for purpose and suitable for the provision of the Services.
- 5.3 Within the Designated Reuse Area, the Council shall ensure that all required utilities are made available to the Provider at the Council's expense, including water, electricity, telephone and internet access
- 5.4 Subject to Provider complying and procuring that the Provider's Personnel comply with the Council's policies concerning the use of computers and the internet the Council shall provide the Provider with a telephone and computer along with technical support services in respect of the same for use by the Provider in delivering the services at no cost to the Provider.
- 5.5 The Council shall be responsible for the provision of all containers for waste at the Site.
- 5.6 The Council shall assume overall responsibility for the management and operation of the Site including securing the Environmental Permit for the Site and obtaining any consents or permissions necessary to enable the Services to be delivered by the Provider.
- 5.7 The Council shall assume responsibility for making the arrangements for any meetings between the parties, including the provision of a suitable venue, and the preparation of agendas and minutes.
- 5.8 Subject to clause 4.14 the Council shall be responsible for the disposal of any residual waste deposited at the Site.

6. PARTIES' REPRESENTATIVES

- 6.1 Each Party shall nominate and appoint a person who will be named as in the case of the Council, the "Council's Operational Representative" and, in the case of the Provider, the "Provider's Operational Representative".
- 6.2 The Provider's Operational Representative shall be a permanent full-time employee of the Provider and his appointment shall be subject to the approval of the Council, which shall not be unreasonably withheld.
- 6.3 The Council's Operational Representative will be responsible for:

- 6.3.1 providing a single point of communication with the Provider's Operational Representative in respect of this Agreement and the Services; and
 - 6.3.2 in the first instance, attempting to resolve any disputes concerning the Agreement and performance issues or failures by the Provider.
- 6.4 The Provider's Operational Representative will be responsible for:
- 6.4.1 co-ordinating the activities of the Provider under this Agreement;
 - 6.4.2 providing a single point of communication with the Council's Operational Representative in respect of this Agreement;
 - 6.4.3 managing and ensuring the discharge of the Provider's obligations under this Agreement; and
 - 6.4.4 in the first instance, attempting to resolve any disputes concerning the Agreement and performance issues or failures by the Provider.
- 6.5 The Council's Operational Representative shall have authority to represent the Council for the purposes of this Agreement and the Provider shall accept the statements, decisions, instructions and directions of the Council's Operational Representative pursuant to the provisions of this Agreement as statements and decisions made by the Council (except to the extent that the Council notifies the Provider in writing that the authority of the Council's Operational Representative has been limited or revoked).
- 6.6 The Provider's Operational Representative shall be deemed to have been properly appointed by the Provider for the purposes of this Agreement and the Council shall not be required to determine whether, in fact or in law, such authority has been revoked and the Council shall be entitled to treat any act of the Provider's Operational Representative as expressly authorised by it (save for acts undertaken after the relevant Party has been notified in writing that the Provider's Operational Representative's authority has been revoked).

7. MONITORING AND REPORTING

- 7.1 The Provider shall maintain comprehensive records of all items deposited at and/or offered for sale through the Designated Reuse Facility, including the following:
- 7.1.1 item description;

- 7.1.2 FRN (Furniture Re-use Network) Average Weight;
 - 7.1.3 date of deposit;
 - 7.1.4 place of deposit;
 - 7.1.5 details of any refurbishment undertaken;
 - 7.1.6 date of sale;
 - 7.1.7 price realised; and
 - 7.1.8 purchaser's details (where provided)
- 7.2 The Provider shall proactively monitor the delivery of the Services and provide a monthly report to the Council by no later than the [] day of the month following the month to which the report relates.
- 7.2 As a minimum, the Provider's monthly report should contain the information specified in Schedule 2.
- 7.3 In addition to the required monthly reports, the Provider shall provide the Council with such information concerning the delivery of the Services as the Council may reasonably require from time to time.
- 7.4 The Provider shall submit an annual report to the Council summarising the information included in the monthly reports and containing detailed accounts by no later than [] weeks following the expiry of the Term.
- 7.5 For the avoidance of doubt, clause 7.4 shall survive the expiry or termination of the Agreement howsoever arising.
- 7.5 The Provider shall provide any reports required under this Agreement in such format as the Council may reasonably require.

8. **PROJECT BOARD**

- 8.1 From the Effective Date, the parties shall establish a Project Board to oversee the management and operation of the Partnership.
- 8.2 The Provider and the County Council will each be represented on the Project Board by a nominated senior representative who has sufficient authority to make decisions on behalf of his organisation. If the Council does not notify the Provider to the contrary, the Council's representative on the Project Board will be the Council's Head of Waste Management or equivalent from time to time.
- 8.3 The Provider's shall be a permanent full-time employee of the Provider and his appointment shall be subject to the approval of the Council, which shall not be unreasonably withheld.
- 8.4 The Project Board's remit will be to:
 - 8.4.1 provide overall guidance and direction to the Provider; and
 - 8.4.2 monitor the effectiveness of the arrangement.
- 8.5 The Project Board shall meet on a quarterly basis and at such other times as may be required throughout the Term; and each party shall ensure that its nominated representative or a suitable substitute is available to attend.

9. FUNDING ARRANGEMENTS

- 9.1 The Provider shall use its best endeavours to ensure that the Services are funded to the maximum extent possible through the income generated by the sale of goods deposited for reuse at the Site and/or sold through the Designated Reuse Area shop.
- 9.2 The Provider will be entitled to retain income generated from the sale of goods through the Designated Reuse Area shop and income generated from the sale of goods elsewhere where such goods have been deposited at the Site and shall apply such income in meeting any costs incurred by it in delivering the Services.
- 9.3 The Provider shall not be entitled to the payment of Reuse Credits in respect of any items deposited at the Site.
- 9.4 In the event that the income generated through the sale of goods [when supplemented by any income from other sources] is insufficient to meet the Provider's costs of providing the Services, any shortfall will be met by the

Council and paid to the Provider following the expiry of the Term within twenty eight Business Days of receipt of a valid VAT invoice, provided always that the Provider has complied throughout the Term with its obligation to maintain an Open Book Policy and is able to evidence the amount of any shortfall to the satisfaction of the Council.

- 9.5 In the event that at the expiry of the Term or the termination of the Agreement after the deduction of all costs and expenses incurred in providing the Services the income generated exceeds the costs incurred by the Provider, the Provider shall retain the first 10% of any profit generated with any remaining profits to be distributed equally between the parties with any payments due to the Council to be made within twenty eight Business Days of the Provider receiving the Council's request for payment.

10. **INSURANCE**

- 10.1 The Provider shall effect and maintain in force with a reputable insurance company a policy or policies of insurance which is or are adequate to enable it to meet its liabilities under this Agreement including but not limited to public liability, product liability and employer's liability, with minimum cover levels of:

FIVE MILLION POUNDS in respect of public liability;

TWO MILLION POUNDS in respect of product liability; and

TEN MILLION POUNDS in respect of employer's liability;

for any one incident and unlimited in total claim.

- 10.2 For the avoidance of doubt the terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under this Agreement.
- 10.3 The Provider warrants and represents that the insurance policies referred to in clause 10.1 are in place and that it is unaware of any matter affecting their validity.
- 10.4 The Provider shall not do anything that would render any policy of insurance it is required to have in place under the Agreement void or voidable and shall notify the Council immediately in the event that it becomes aware of any matter that may affect the validity of any insurance cover carried.

10.5 As soon as is reasonably practicable after being requested by the Council to do so, the Provider shall produce evidence satisfactory to the Council that it holds the required insurance cover in respect of the risks identified in clause 10.1.

11. INDEMNITY

11.1 Without prejudice to any specific indemnities set out in this Agreement, the Provider shall indemnify and keep indemnified the Council from and against all and any losses, damages, costs, expenses and liabilities suffered, including legal costs incurred by the Council and any claimant as a consequence of a direct or indirect breach of the Agreement or negligent performance or failure in performance by the Provider, its employees, volunteers, agents, subcontractors and any other person engaged by the Provider in the provision of the Services.

12 HEALTH AND SAFETY/SECURITY

12.1 Prior to commencing the Services and during the Term the Provider shall if requested by the Council ensure that the Provider's Personnel attend any briefing session or training arranged by the Council relating to health and safety, fire evacuation procedures and security arrangements in respect of the Site and the Services.

12.2 The Provider shall ensure that the Provider's Personnel are familiar with the Council's policies and procedures relating to health and safety, fire evacuation and security.

12.3 The Provider shall and shall procure that the Provider's Personnel comply with any reasonable request made by the County Council in relation to health and safety, fire prevention or evacuation and/or security.

12.4 The Provider shall remain at all times responsible for the security and safety of its possessions and equipment and those of the Provider's Personnel; and shall take reasonable steps to ensure that they are secure. The Council shall not be liable for any loss of or damage to the Provider's possessions or equipment or those of the Provider's Personnel howsoever caused.

12.5 The Provider shall complete and make available to the Council on request risk assessments for all tasks undertaken on the Site.

12.6 The Provider shall ensure that its risk assessments are brought to the attention of the Provider's Personnel, kept under review and updated as required.

13. PROVISION OF EMPLOYEE INFORMATION (TUPE)

13.1 Prior to the expiry or termination of the Agreement, the Council shall have the following rights and the Provider the following obligations:

13.1.1 The Council may at any time request from the Provider such details relating to the Provider's method of service delivery and its employees and of their terms and conditions of employment as the Council may reasonably require as being necessary to disclose to other potential providers to enable them to prepare and make any bids. The Provider shall comply with such a request as soon reasonably practicable and, in any event within twenty-one Business Days of being so requested and at no cost to the Council. The Provider covenants with the Council that the information provided shall be complete and accurate and up to date and that it shall notify the Council promptly of any changes occurring between the date of submission of the information and the end of the Term.

13.1.2 The Provider shall enable and assist the Council and any such persons as the Council may determine to communicate with and meet its employees engaged in the performance of the Services and any relevant trade unions and/or elected employee representative.

13.1.3 Without prejudice to the generality of clause 11 and for the avoidance of doubt it is hereby specifically provided that the Provider shall fully promptly and effectively indemnify and keep so indemnified the Council from and against all and any actions, charges, claims, reasonable costs, damages, demands, reasonable expenses (including legal and administrative expenses), liabilities losses and proceedings whatsoever arising from the provision of information or the failure to provide information under this clause 13.

13.2 Any information provided pursuant to this clause shall be at no cost to the Council.

14. PUBLICITY

14.1 The Council may publicise the Services through various media, including the Council website waste management pages.

14.2 The Provider shall obtain written approval from the Council prior to making any publicity release or announcement including advertisements or communications regarding this Agreement or the Services.

15. COMPLAINTS AND COMPLIMENTS

- 15.1 The Provider must maintain a comprehensive record of all complaints and compliments received regarding the Services and the Site and shall assist the Council in discharging its obligations concerning the investigation and resolution of any complaints.
- 15.2 On receipt of a complaint, the Provider must not reply to the complainant but must notify the Council's Operational Representative by email immediately to enable the Council to investigate the circumstances giving rise to the complaint.
- 15.3 The Provider shall co-operate with the Council in the investigation of any complaint and shall provide the Council with any information and access to any of the Provider's Personnel that the Council requires for the purposes of conducting its investigation.
- 15.4 Where a complaint concerns the Provider, the Council shall not reply to the complaint without first affording the Provider the opportunity to address any allegations and set out its version of events.
- 15.5 Following the conclusion of its investigations the Council will respond to the complaint and shall notify the Provider of its conclusions and the action (if any) that it requires the Provider to take.

16. DATA PROTECTION

- 16.1 Both parties shall and the Provider shall procure that any of the Provider's Personnel comply with their obligations under the Data Protection Act 1998 (the "Act") which arise in connection with the Agreement.
- 16.2 Notwithstanding the general obligation in clause 16.1, where the Provider is processing Personal Data as a Data Processor for the Council, the Provider shall ensure that it acts only in accordance with the instructions of the Council and has in place appropriate technical and organisational measures to ensure the security of the Personal Data and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data, as required under the seventh data protection principle in schedule 1 to the Act.
- 16.3 The Provider shall provide the Council with such information as the Council may reasonably require to satisfy itself that the Provider is complying with its obligations under the Act.
- 16.4 The Provider shall promptly notify the Council of any breach of the security measures required to be put in place pursuant to clause 16.2.

16.5 Both parties shall use all reasonable endeavours to ensure that they neither knowingly nor negligently do nor omit to do anything that would place the other party in breach of its obligations under the Act.

16.6 The provisions of this clause 16 shall apply during the Term and indefinitely after the expiry or termination of the Agreement.

17. CONFIDENTIALITY

17.1 All Confidential Information shall be kept by the Party receiving it in the strictest confidence. Save for the purposes of fulfilling its obligations under this Agreement, neither Party shall without the prior written consent of the other disclose, divulge or grant access to the Confidential Information and shall not permit any of its employees, agents or officers to disclose, divulge or grant access to such Confidential Information.

17.2 Notwithstanding clause 17.1 either Party may disclose Confidential Information if required to do so by any government, local government or regulatory authority or by law and either Party may disclose Confidential Information for the purpose of obtaining professional advice in relation to this Agreement.

17.3 The provisions of this clause 17 shall apply during the Term and indefinitely after the expiry or termination of the Agreement.

18. FREEDOM OF INFORMATION

18.1 The Provider acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations ("EIRs") and shall assist and co-operate with the Council to enable it to comply with its information disclosure obligations.

18.2 The Provider shall:

18.2.1 transfer to the Council all requests for information that it receives as soon as practicable and in any event within two [2] Business Days of receiving a request for information;

18.2.2 provide the Council with a copy of all information in its possession, or control in the form that the Council requires within five [5] Business Days (or such other period as the Council may specify) of the Council's request; and

18.2.3 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to the request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIRs.

18.3 The Council shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA or the EIRs.

18.4 In no event shall the Provider respond directly to a request for information unless expressly authorised to do so by the Council.

18.5 The Provider acknowledges that the Council may be obliged to disclose information without consulting or obtaining consent from the Provider, or despite having taken the Provider's views into account.

19. **PREVENTION OF CORRUPTION AND BRIBERY**

19.1 If the Provider in relation to this or any other agreement with the Council shall do or have done any act:

19.1.1 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

19.1.2 which is an offence under the Bribery Act 2010 or the Prevention of Corruption Acts 1889 to 1916; or

19.1.3 which amounts to the giving of a fee or reward the receipt of which is an offence under Section 117 the Local Government Act 1972;

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

20. **ASSIGNMENT**

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

21. DISPUTE RESOLUTION

- 21.1 The parties undertake and agree to pursue a positive approach to dispute resolution which seeks to identify a solution at the lowest operational level that is appropriate to the subject of the dispute and avoids legal proceedings.
- 21.2 In the event that the Council's Operational Representative and the Provider's Operational Representative are unable to resolve a dispute, it shall be referred to the Project Board who shall meet within [] days of a dispute being referred for consideration.
- 21.3 In the event that the dispute is not resolved by the Parties within one month of the meeting referred to at clause 21.2 above the dispute shall be escalated to a meeting of the chief officers of both parties, who shall enter into good faith negotiations to resolve the matter.
- 21.4 In the event that the individuals referred to in clause 19.3 above fail to resolve the dispute then it shall be referred to mediation.
- 21.5 To initiate mediation, a party must give notice in writing (the "Mediation Notice") to the other party to the dispute. Where mediation is initiated, the parties will attempt to settle the dispute by mediation in accordance with the Model Mediation Procedures (the "Procedures") published by the Centre for Effective Dispute Resolution, CEDR Solve ("CEDR").
- 21.6 The parties shall seek to agree the appointment of a mediator, but failing agreement within twenty eight days of the service of the Mediation Notice, either party may ask CEDR to nominate a mediator.
- 21.7 In the event that there are no such Procedures available for nominating a Mediator and CEDR is unable or unwilling to nominate a mediator, either party may ask the President of the Law Society of England and Wales (or its successor body) to nominate a mediator and to recommend a mediation procedure. The parties will accept such nomination under either this or the preceding sub-clause and also the recommended mediation procedure.
- 21.8 If either party refuses at any time to participate in the mediation procedure and in any event if the dispute is not resolved within 60 days of the service of the Mediation Notice, then either party may commence proceedings in accordance with English Law.

- 21.9 Neither Party shall be prevented from or delayed in seeking orders for specific performance or interlocutory or final injunctive relief on an ex parte basis or otherwise as a result of the terms of this clause 19.
- 21.10 Both parties agree to continue in good faith with the performance of their obligations under this Agreement during any dispute process.

22. ENTIRE AGREEMENT AND VARIATION

- 22.1 This Agreement constitutes the entire agreement and understanding between the parties in relation to the matters referred to herein and may not be varied otherwise than in writing and signed by the parties.

23. WAIVER

- 23.1 Any failure or delay in exercising any right or remedy under this Agreement shall not preclude any future or further exercise of any right or remedy nor be taken as a waiver of any breach of this Agreement.

24. NOTICES

- 24.1 Any notice to be given under this Agreement shall be in writing and shall be deemed to be sufficiently served if delivered by hand or sent by prepaid post to the addresses of the parties stated at the beginning of this Agreement (unless a party notifies the others in writing of a different address for service) and shall be deemed to have been given or made:

24.1.1 if delivered by hand upon delivery at the address unless such delivery occurs on a day which is not a Business Day or after 4pm on a Business Day in which case it will be deemed to have been given at 10am on the next Business Day; or

24.1.2 if sent by prepaid post at the time at which it would have been delivered in the normal course of the post.

- 24.2 For the avoidance of doubt, no notices under this Agreement will be accepted by either fax or email.

25. RIGHTS OF THIRD PARTIES

- 25.1 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

26. **LAW AND JURISDICTION**

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

SCHEDULE 1
SPECIFICATION

1. SERVICES

The Provider shall be responsible for providing the following services during the Term:

- 1.1 Receipt of reusable goods (including waste electrical and electronic equipment) from members of the public visiting the Site during the operating hours set out in paragraph 2.
- 1.2 Assessing the suitability of all items offered for reuse by members of the public attending the Site.
- 1.3 Assisting visitors to the Site to identify alternative means of disposing of items that are unsuitable to be offered for reuse.
- 1.4 Storage and preparation for sale of any goods received from members of the public attending the Site.
- 1.5 Management and operation of a suitably stocked a retail facility at the Site for the sale of items received by the Provider either at the Site or elsewhere.
- 1.6 Providing cover for the Council's staff employed at the Site during breaks and periods of temporary absence of no more than two hours duration. In providing such cover, the duties to be undertaken by the Provider will include, but not be limited to, the following:
 - i. Providing information to the public;
 - ii. Making safe any health and safety issue that may arise during periods of cover
 - iii. Ensuring that waste is deposited in the appropriate container; and

- iv. Ensuring that full containers are made unavailable for the deposit of waste;
- v. Arranging for full skips to be emptied

2. OPERATING HOURS

Day	Opening Times
Monday	10:00 – 17:00
Tuesday	CLOSED
Wednesday	CLOSED
Thursday	CLOSED
Friday	10:00 – 17:00
Saturday	09:00 – 18:00
Sunday	09:00 – 18:00
Bank Holidays (Except Christmas Day, Boxing Day and New Year's Day)	09:00 – 18:00

For the avoidance of doubt, the Site will be closed on Tuesday, Wednesday and Thursday of each week and on Christmas Day, Boxing Day and New Year's Day.

3. Reuse Shop

- 3.1 The Provider shall only accept items offered for reuse by members of the public where such items comply with the minimum standards set out in this Specification or where such items are capable of being brought up to such minimum standards by the Provider.
- 3.2 Only items meeting the minimum standards set out in this specification shall be offered for sale by the Provider at the Site.
- 3.3 The Provider shall ensure that the Provider's Personnel are fully aware of the criteria for accepting goods set out in this Specification

and shall take steps to actively communicate these criteria to visitors to the Site.

3.3 Electrical Items

3.3.1 All electrical items offered for sale must:

- a) comply with the requirements of any applicable legislation, including the Electrical Equipment (Safety) Regulations 1994 and the General Product Safety Regulations 2005
- b) be of good serviceable condition;
- c) be free from rust, mould and other major blemishes;
- d) be safety tested; and
- e) be offered for sale with a warranty of at least three months.

3.4 Soft Furnishings and Furniture

3.4.1 All soft furnishings and upholstered furniture offered for sale must:

- a) be in good clean condition with no stains or odours
- b) be free from damage other than minor imperfections
- c) be free from tears, cigarette burns, fraying and any damage caused by animals
- d) comply with the requirements of any applicable legislation, including the Furniture and Furnishings (Fire) (Safety) Regulations 1988 and the General Product Safety Regulations 2005.

3.4.2 All other furniture must comply with the requirements of any applicable legislation including the General Product Safety Regulations 2005.

- 3.4.3 Furniture incorporating glass must not be offered for sale unless the glass is free from imperfections, and meets the requirements of the appropriate British Standard and is marked accordingly.
- 3.4.4 Any furniture incorporating springs must be checked to ensure that all springs are intact and not protruding from the item.

SCHEDULE 2

REPORTS

1. Monthly Reports

Monthly reports provided in accordance with clause 7 must include the following information:

- i. Total tonnage reused, including itemised list of goods with FRN weights.
- ii. Total tonnage sold at the onsite shop and total revenue received from sales.
- iii. Where goods donated at the site have been sold elsewhere, supply an itemised list of items sold with associated weights and sales data.
- iv. Any training provided
- v. Number of volunteers active on the site
- vi. Number of complaints/compliments recorded as in clause 16
- vii. Measures taken and progress made toward the operation becoming financially self-sustaining.

2. Annual Report

The annual report provided in accordance with clause [] must include the following information:

A detailed summary of the information provided in the monthly reports.

Full financial accounts in relation to the provision of the Services, clearly showing all income and expenditure, including, but not limited to:

- i. details of the revenue generated through the sale of goods received at the Site, whether sold through the reuse shop at the Site or elsewhere
- ii. details of any costs and expenses incurred in providing the Services, including staffing costs, transportation, and costs incurred in the preparation of goods for sale
- iii. details of any grant funding received
- iv. details of any surplus and how such sums have been reinvested

SCHEDULE 3

COUNCIL DOCUMENTS

In delivering the services, the Provider shall at all times comply with any relevant requirements set out in the following documents which shall be made available to the Provider by the Council:

- i. Site specific risk assessments
- ii. Standard operational/administrative procedures and safe working procedures
- iii. Planning permission conditions
- iv. Environmental Permit conditions
- v. Quality Management and Environmental Quality Management requirements
- vi. No smoking policy
- vii. Computer Use/Internet Access policy

SCHEDULE 4

PROVIDER DOCUMENTATION

1. Insurance Policies:

Public liability - £5 million)

Product liability - £2 million

Employer's liability - £10 million

2. Equal Opportunities Policy

3. Health and Safety Policy

4. Data Protection Policy

5. Complaints Policy and Procedure

6. Customer Service Policy

7. Risk Assessments covering collection, storage and delivery of furniture and similar items; and quality standards for reusable items

8. Necessary licences (or exemptions) for undertaking furniture reuse activity and white goods refurbishment (as appropriate) – with expiry date

9. Current paid Lancashire CRN membership

10. Safe Trader registration completed, agreeing to comply with the Council's Trading Standards policy; with group and services listed on the Help Direct website.

APPENDIX C
PROJECT COSTINGS

Set up costs

Item	Cost per unit	Requirement	Total cost
20 ft ISO's	£2,500	3	£7,500
Cages	£1,000	1	£1,000
Engine oil tank	£1,500	1	£1,500
Cooking oil tank	£0	1	£0
Car Batt boxes	£150	1	£150
Portable Batt boxes	£0	1	£0
Salt bins	£100	3	£300
Office	£26,000	1	£26,000
Office furniture	£500	1	£500
Lights in ISOs	£500	1	£500
Connect utilities & phone	£1,500	1	£1,500
<i>*Re-Use shop & workshop</i>	<i>£20,000</i>	<i>1</i>	<i>£20,000</i>
	Total		£58,950
*Subject to outcome of discussions with TSO (may not be needed, may be replaced by additional ISO's etc.)			

Operating costs per annum

ITEM	COST/INCOME
Personnel (1 attendant 4 days per week)	£20,720.00
Health & Safety, PPE, Training	£850.00
Water, Electricity, Telephone	£3,000.00
Administration	£0.00
Insurance	£3,884.00
Licences & Monitoring	£2,770.00
Life Cycle Maintenance - Mobile Equipment	£0.00
Mobile & Fixed Plant Maintenance	£0.00
Rates	£6,000.00
Site Maintenance	£1,500.00
Rock Salt	£475.00
Textile & shoe bags	£200.00
Misc (fire ext, pest control, spillsorb, etc.)	£2,000.00
Green waste transport and processing (150 tonnes)	£9,000.00
	£50,399.00

Projected income

Waste category	Estimated Tonnes	Revenue/cost per tonne	Anticipated Income	Provided By
Glass	31.8	-£10.00	-£318	Offtaker
Paper	29.2	£15.00	£438	Offtaker
Cardboard	107.5	£12.00	£1290	Offtaker
Books	4.1	£5.00	£20.50	LCC
Plastic bottles	17.5	£5.00	£87.50	Offtaker
Textiles & shoes	19.5	£240.00	£4680	LCC
Scrap metal	133.4			Offtaker
Non Ferrous Metals	13.3	£400.00	£5320	LCC
Ferrous Metals	120.0	£100.00	£12,000	Offtaker
Mixed cans	2.9	£110.00	£319	Offtaker
WEEE	154.2			PCS
Large Domestic	15.4	£60.00	£924	PCS
Engine oil	5.2	£35.00	£182	LCC
Car batteries	3.0	£380.00	£1140	LCC
Cooking oil	0.5	£30.00	£15	LCC
<i>Bric-a-Brac (to TSO)</i>	<i>36.4</i>	<i>£175.00</i>	<i>£6370</i>	<i>LCC/TSO</i>
		Estimated total revenue	£26,098	

Notes:

Estimated tonnage based on 70% of that received at Garstang HWRC in 2011-12

Anticipated income at market rates January 2015

Scrap metal and Weee income retained by provider

Bric a brac assumed to be retained by TSO and not included in estimated total revenue