



Report to the Joint Executive Committee

Meeting Date – 9th September 2024

Key Decision – **Yes**

Public/Private – **Public**

Portfolio – Sustainable, Resilient and Connected Places

Directorate – Place, Sustainable Growth and Transport

Lead Officer – Barry Elder, Waste Operational Manager (Waste Disposal)

Title – Delegated decision to Directors to award tender

Brief Summary:

The Joint Executive Committee are being asked to consider the delegation to award the contract for Acceptance of Municipal Solid Waste (MSW), Street Sweepings, Bulky Waste, Fly Tipped Waste and Waste Upholstered Domestic Seating (WUDS) waste in the Kendal area to Directors alongside consultation with the portfolio holders.

Recommendations:

That the Joint Executive Committee delegates the award of the contract for Acceptance of Municipal Solid Waste (MSW), Street Sweepings, Bulky Waste, Fly Tipped Waste and Waste Upholstered Domestic Seating (WUDS) waste in the Kendal area to the Director of Place, Sustainable Growth and Transport in Cumberland Council (as Host Council), such decision to be agreed with the Director of Thriving Places at Westmorland & Furness Council and in consultation with the relevant Portfolio Holders for each Council.

1. Background

1.1 The Council (formerly Cumbria County Council) entered into a 25-year PPP agreement with Renewi Cumbria Ltd on 4 June 2009 (the Contract) for the delivery of waste management services on behalf of the Council as a Waste Disposal Authority. The new contractor will be required to work with Renewi Cumbria Ltd to facilitate the transfer of waste in accordance with the long-term residual waste treatment contract.

- 1.2 Following Local Government Reorganisation (LGR), Cumberland (CC) and Westmorland & Furness Councils (W&FC) have entered into a Waste Inter Authority Agreement (WIAA) for the Cumbria wide management of waste disposal services and ancillary contracts. The agreement was entered into by both parties on 31st March 2023.
- 1.3 Cumberland Council as Host Council carries out duties on behalf of itself and Westmorland and Furness Council for the following:
- the Project Agreement (Contract);
 - **the Kendal Fell Contract;**
 - the Closed Landfill Site Contract; and
 - the administration of the Waste Inter-Authority Agreement
- 1.4 Municipal Solid Waste (MSW) and mixed recycling collected from kerbside from the former South Lakeland and Eden District areas have been delivered to Kendal Fell Waste Transfer Station operated by Suez for over 20 years.
- 1.5 The current contract terminates on Thursday 28th November 2024 which coincides with the end of the lease of the site to Suez. Following this date, the facility will be operated to FCC Environment UK Limited on a long term lease arrangement.
- 1.6 Procurement and management of the Kendal Fell Waste Transfer Facility Contract is within the scope of the WIAA as outlined under Clause 24:

24. COUNCILS' OBLIGATIONS FOLLOWING EXPIRY OR EARLIER TERMINATION OF THE KENDAL FELL CONTRACT AND THE CLOSED LANDFILL SITE CONTRACT

*24.1 The Councils acknowledge that the Kendal Fell Contract and the Closed Landfill Site Contract are both due to expire on 31 March 2024, and the Councils agree to work together to jointly procure replacement contracts on similar terms (the "**Replacement Contracts**").*

24.2 It is agreed that the Host Council shall enter into and manage the Replacement Contracts on behalf of the Councils.

2. Proposals

- 2.1 It is proposed that Cumberland Council's Director of Place, Sustainable Growth and Transport is delegated authority by the Joint Executive Committee to award the

contract for Acceptance of Municipal Solid Waste (MSW), Street Sweepings, Bulky Waste, Fly Tipped Waste and Waste Upholstered Domestic Seating (WUDS) waste in the Kendal area, in agreement with the W&FC Director of Thriving Places and in consultation with the relevant Portfolio Holders for each Council.

3. Alternative options considered

- 3.1 Call an extra meeting of Joint Executive Committee in October - - *Additional meetings can be called by the relevant Monitoring Officer by providing at least five clear days' notice to members of the Joint Executive Committee, for the purposes of resolving urgent matters arising between the bi-monthly meetings. Additional meetings may be called if either Leader requests it.*
- 3.2 Bring the award of tender to Joint Executive Committee on 22 November 2024, however as the contract starts on 29 November 2024 this would be too late.

4. Conclusion and reasons for recommendations

The decision to procure was taken by the Director of Place, Sustainable Growth and Transport in conjunction with the Westmorland and Furness' Director of Thriving Places on the basis the decision to award the contract to the successful provider was referred to the Joint Executive Committee. Following that decision, we are now requesting that the Joint Executive Committee delegate permission to award the contract to Cumberland Council's Director of Place, Sustainable Growth and Transport, such decision to be taken in agreement with the W&F Director of Thriving Places and in consultation with the relevant Portfolio Holders of each Council in order to enable timely award of the contract and consequently continued collection of kerbside waste.

Implications:

Contribution to the Council's Plan Priorities -

Contribution to the Cumberland Plan Priorities – in delivering excellent public services we want to be a high performing council. Our services have a direct and indirect impact on our residents' health and wellbeing. We want our residents to benefit from excellent, efficient, and enterprising public services. We will deliver what they need, when they need it with a focus on collaboration, dialogue and delivering strategic impact at a local level.

Contribution to the Westmorland and Furness Council Plan Priorities – the service contributes to the Westmorland and Furness Council Plan Westmorland and Furness - for the economy and culture -Sustainable, inclusive economic growth is essential to deliver high quality jobs.

Relevant Risks and explain how risks can be mitigated -

If permission for a delegated decision to award is not granted there is a risk that the Contract will not be able to be awarded in a timely manner and collection of Municipal Solid Waste (MSW) kerbside waste would be halted. Required new Contract start date is 29 November 2024.

By delegating the decision to the Director of Place Sustainable Growth and Transport alongside agreement with the Director of Thriving Places and in consultation with the Portfolio Holders, a timelier decision to ensure service continuity can be made.

Consultation / Engagement -

Legal –

In accordance with clause 24 of the Waste Inter Authority Agreement, the two Councils are required to work together to jointly procure a Replacement Contract for Kendal Fell on similar terms to the existing contract and Cumberland Council, as the Host Council, shall enter into and manage the Replacement Contract on behalf of the Councils.

Schedule 1 of the WIAA provides that “Agreement of Replacement Contracts in respect of the Kendal Fell Contract” is a matter for the Joint Executive Committee. The start date of the Replacement Contract is 29 November 2024. It is understood that tenders are due in 30 September 2024 and therefore, following identification of the successful tenderer, the next meeting of the Joint Executive Committee will be 22 November 2024 which gives rise to the risks identified in the report above.

The decision to award the contract is a key decision and a proper decision for the Joint Executive Committee under Paragraph 12.1.3(o) of its Terms of Reference in Part 2: Section 5 of Cumberland Council’s Constitution.

The Joint Executive Committee can delegate authority to award the contract to the Cumberland Council Director of Place, Sustainable Growth and Transport, in agreement with the Westmorland and Furness Director of Thriving Places and in consultation with the relevant Portfolio Holders for each Council, under Paragraph 12.1.3(m) of its Terms of Reference (Part 2: Section 5 of Cumberland Council’s Constitution).

Once the decision to award is made the decision will be circulated for call in by both Councils.
(LJ)

[FD 08.08.24]

Finance –

There are no Finance implications from the recommended decision within this paper to delegate to the decision to procure to the Director of Cumberland Council Place, Sustainable Growth & Transport and the Director of Westmorland and Furness Thriving Places alongside consultation with relevant Portfolio Holders.

(Mike Scott Group Accountant 07/08/2024)

The forecast cost based on the forecast price per tonne and forecast tonnage could be met from the existing WIAA budget. If it is agreed to proceed to open procurement and the recommend tender is priced at a higher rate per tonne than forecast, further consideration of the budgetary position may be needed. (NG 30/07/24)

Information Governance –

There are no Information Governance implications which arise from this report.

(Fiona Little, Acting Data Protection Officer 07/08/2024)

Impact Assessments –

An impact assessment is not required for this procurement.

Lead Officer Contact details:

Name: Barry Elder, Waste Operational Manager (Waste Disposal)

Email: Barry.Elder@cumberland.gov.uk

Phone Number: 07970 713206

Background papers:

Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:

Appendices attached to report:

-