

To: City Executive Board

Date: 21st April 2010

Item No: 4

Report of: Value and Performance Scrutiny Committee

Title of Report: Outcome of Recycling and Waste Collection Market Testing.

Summary and Recommendations

Purpose of report: To advise the City Executive Board, of the recommendations made by the Value & Performance Scrutiny Committee, on the outcome of Recycling and Waste Collection Market Testing.

Key decision - Yes

Executive lead member: Councillor Tanner

**Report approved by:
Councillor Goddard – Chair of Value and Performance Scrutiny Committee
James Pownall – Law and Governance**

Policy Framework: Transform Oxford City Council by improving value for money and service performance. Improve the local environment, economy and quality of life. Cleaner Greener Oxford.

Recommendation(s): To consider the Scrutiny Committee's recommendations on the Outcome of Recycling and Waste Collection Market Testing. The City Executive Board is asked to respond to the Scrutiny Committee:

If it agrees or disagrees with the recommendations as outlined.

If it agrees what actions will be taken and when.

If it disagrees why.

If more information is required from officers when will that be considered.

Recommendations are contained within the body of the report but are listed below

Recommendation 1

That the financial advantage shown in the market test is not so large as to be a decisive factor so other risks, advantages and disadvantages need to be weighed carefully and transparently in deciding the outcome.

Recommendation 2

That a 7 year period is too long to bind the Council to no further tendering, whether the service remains in house or is awarded commercially. If work remains in house then future decisions should be made within the delivery of a reviewable service plan aimed at delivering value for money rather than a presumption of a period of time. If an outside tender is accepted there should be a break clause in the 7 year period.

Recommendation 3

In the interest of transparency of value for money all opportunities should be taken to express costs clearly and within a trading account where this might prove advantageous. In particular the maintenance of vehicles should be shown within a separate trading account within these proposals.

Recommendation 4

That the presumption within the report that the new Head of Service will be appointed using the Chief Executives delegated powers is not constitutionally sound. The constitution clearly states that the appointment of a Head of Service is a matter for the Appointments Panel. The only circumstances where it is obvious that this would not apply is if a straight job match between staff in post and the new Head of Service position existed. This would seem unlikely given the nature of change.

Recommendation 5

That the scrutiny committee and CEB (and Council if this proves necessary) see more and clear details on the nature of change to the overall management structure and operation change both for this proposal and future proposals before they are implemented

Introduction

1. At its meeting on 14th April 2010, the Value and Performance Scrutiny Committee considered the report on the Outcome of Recycling and Waste Collection Market Testing. Tim Sadler (Executive Director for City Services) and Jane Lubbock (Procurement and Shared Services Manager) also attended to answer the committees questions

Findings and Recommendations of the Scrutiny Committee:

2. CEB recommendation a) To note the Market Testing exercise for the collection and recycling of waste

The committee considered both the process and outcome from the market testing exercise and was clear that it had been conducted transparently and rigorously. It was accepted that the potential conflicts of interest for the Council had been managed well and was pleased to see that this had been independently verified

3. CEB recommendation b) That on the basis of the evaluation of the external bids and fully recognising the Council's best value obligations it shall exercise its right to make no award to either tenderer in regard to a waste and recycling service

In considering responses to questions on the offers and outcomes from commercial providers matched against the internal offer of service it was clear that conclusions on price were not to be a deciding factor. The wider arguments expressed in the report and responses to questions for the internal verses commercial operation cover a range of balanced advantages, disadvantages and risks. The committee was not able to see the detail of all of these but was given some insight by the Executive Director.

Recommendation 1

That the financial advantage shown in the market test is not so large as to be a decisive factor so other risks, advantages and disadvantages need to be weighed carefully and transparently in deciding the outcome.

Comment from the Executive Director

The recommendation to CEB is based on what is the most advantageous solution to the Council which is a judgement factoring in price and the other issues identified in the report.

4. CEB recommendation c) Note that subject to the agreement of the Trade Unions being maintained, the delivery of the in house plan, the adherence to the Trading Account provisions and any unforeseen matters which significantly affects the value for money position, the presumption be that the in-house service provision continues for a period of not less than 7 years without further Market Test

The committee asked a number of questions to ascertain why a period of 7 years had been chosen for the length of contract or in house running. This was expressed by committee members as being a long period of time to bind a Council. The driver for this period was the

significant investment in the fleet on day 1 of the contract and the need to recover this over a longer period of time. This was the common model in the industry. The committee also heard that this would not be the case for the in-house provider.

Given the outcome of the evaluation process is to remain with the in-house team the committee was not convinced by this argument and wished to see criteria for challenge to be around much more flexible criteria.

The committee also considered proposals for the operation of Trading Accounts and in particular considered elements of the proposed operation that may be services in themselves e.g. vehicle maintenance. The committee wished to see as much opportunity taken as possible to identify individual elements of the service so that costs could be expressed transparently and challenged to achieve value for money

Recommendation 2

That a 7 year period is too long to bind the Council to no further tendering, whether the service remains in house or is awarded commercially. If work remains in house then future decisions should be made within the delivery of a reviewable service plan aimed at delivering value for money rather than a presumption of a period of time. If an outside tender is accepted there should be a break clause in the 7 year period.

Comments from the Executive

The recommendation in the CEB report is carefully constructed to set a presumption against which investment and service planning decisions can be made. That presumption is subject to caveats. I do not believe that it binds this or any successor Council.

The period of seven years is quoted as this is the industry standard period for investment and business decisions regarding waste collection reflecting the life expectancy of the collection fleet.

Recommendation 3

In the interest of transparency of value for money all opportunities should be taken to express costs clearly and within a trading account where this might prove advantageous. In particular the maintenance of vehicles should be shown within a separate trading account within these proposals.

Comments from the Executive Director

It is our intention to move as much as possible of the operations of the new direct service team onto a trading account basis. It seems sensible to apply this to the fleet and motor transport areas.

5. **CEB recommendations:**

d) To instruct officers to develop a plan to apply the lessons from the Fundamental service Review and Market Testing across the direct service provision areas;

e) To instruct the Chief Executive to implement, in accordance with the existing delegation from Council, all necessary structural changes to the management structure, including those set out in paragraph 10.5 (9.5) in order to ensure that the in-house service set out in the report are delivered effectively and that all savings are realised and that further efficiencies are driven out from service realignment

The committee could not see the detail of the structural changes proposed either now or in the future. The report did not contain a structure chart outlining the overall management structure or controls. In response to questions the committee understood that the proposal before them contained:

- The reduction of 1 Service Area by combining and reorganising the work of City Works, Oxford City Homes and Community Housing and Community Development
- This process leading to a Direct Services Area and the remainder of the landlord function within Oxford City Homes transferring to Community Housing and Community Development.
- The creation of a new Head of Service post to lead Direct Services
- The creation of a Commercial Operations Board to oversee the delivery of Direct Services.

The potential for change within other services not clear at this stage but the potential for the future was.

It was difficult for the committee to comment adequately on proposals in the absence of details and they wished to see these structural and operational details as soon as possible for comment, certainly before implementation.

The committee did have immediate reservations about the delegation sighted (recommendation e) to Chief Executive to implement these changes, both now and in the future, without reference back to members or the involvement of the Appointments Panel. Investigation found this delegation from Council to be applicable only to a specific restructure implemented in 2007 and not beyond this. The Chair of the Scrutiny Committee is therefore of the opinion that the current constitution applies to this decision.

Recommendation 4

That the presumption within the report that the new Head of Service will be appointed using the Chief Executives delegated powers is not constitutionally sound. The constitution clearly states that the appointment of a Head of Service is a matter for the

Appointments Panel. The only circumstances where it is obvious that this would not apply is if a straight job match between staff in post and the new Head of Service position existed. This would seem unlikely given the nature of change.

Comments from the Executive Director

In respect of appointments the Council's Organisation Change Policy would be applied. If the case that there was an assimilation or redeployment there would be not be an appointment as the individual's employment rights under that policy would prevail. In the case that there was no assimilation or redeployment an appointment would be required and an Appointments Panel would be required.

Recommendation 5

That the scrutiny committee and CEB (and Council if this proves necessary) see more and clear details on the nature of change to the overall management structure and operation change both for this proposal and future proposals before they are implemented

Comments from the Executive Director

The report seeks to set out the principles of change that the Corporate Management Team believe are necessary to mitigate the risks associated with the in-house comparator and desirable to maintain momentum in the transformation of the Council. Stakeholders will be involved and consulted about the detail that is to follow. Where formal approval is required it will be sought.

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