

Report to Cabinet

Wednesday 25 September 2024

By the Cabinet Member for Environmental Health,
Recycling & Waste

DECISION REQUIRED

Not Exempt



**Horsham
District
Council**

Clinical Waste Collection and Support Services

Executive Summary:

The purpose of this report is to seek authority to award a contract for clinical waste collection and support services. This contract is to be awarded following the procurement process which West Sussex County Council is operating as the lead procuring authority.

Recommendations:

That the Cabinet is recommended:

- i) To approve the direct award of a contract for clinical waste collection and support services via the West Sussex County Council (WSSC) framework agreement, following the procurement process; and
- ii) To delegate authority to the Director of Communities in consultation with the Head of Legal & Democratic Services to finalise the terms and conditions of and enter into the contract through the WSSC framework agreement.

Reasons for Recommendations:

Under section 45 of the Environmental Protection Act 1990 ('the EPA'), Waste Collection Authorities have a duty to arrange for the collection of household waste. Household waste includes clinical waste produced at domestic properties. Waste Disposal Authorities are required by section 51 of the EPA to dispose of such waste.

In April 2019, WSSC entered into an agreement with a supplier to provide both the collection and support services for clinical waste as well as the treatment and disposal of the waste and this contract is due to expire on 31 March 2025. There are currently 2,885 customers utilising the clinical waste service in the Horsham district.

Background Papers: None

Wards Affected: All wards

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1. Proposal:

- 1.1 WSCC, as the lead procuring authority, are currently in the process of re-procuring a framework agreement for the treatment and disposal of clinical waste and the collection and support services for clinical waste. To support the procurement process, a working group has been established comprising of representatives from each of the district and borough authorities which wish to call off on the framework agreement. This working group has agreed the evaluation and methodology within the procurement process.
- 1.2 It is proposed that, once the procurement exercise is completed in December 2024, Horsham District Council call-off on the framework and direct award to the nominated supplier for an initial three year period, with the option to extend for a further three years. The proposed contract commencement date is 1 April 2025.

2. Council Policy Alignment:

- 2.1 Clinical waste collection is a statutory service which Waste Collection Authorities are legally obliged to undertake under the EPA.

3. Next Steps:

- 3.1 Following the finalisation of the procurement process in December 2024, the contract is to be awarded to the preferred supplier for commencement on 1 April 2025.

4. Consultation and Engagement:

- 4.1 No external consultation on this contract award is planned as this is a statutory service requirement.
- 4.2 This item was taken to the Policy Development Advisory Group (Environmental Health, Recycling and Waste & Housing, Communities & Wellbeing) on 4 September 2024.
- 4.3 The Monitoring Officer and the Director of Resources were both consulted to ensure legal and financial probity.

5. Other Courses of Action Considered but Rejected:

- 5.1 Extending the existing contract is not possible as the existing framework agreement does not provide an option to extend beyond 31 March 2025.
- 5.2 It was considered for Horsham District Council to procure its own services to fulfil its legal duty, however by using one shared service provider, the Council achieves higher efficiencies and savings.
- 5.3 Another course of action considered is to provide the service in-house. This option does not achieve the efficiencies and savings of which six of the districts and boroughs within West Sussex currently benefit. This shared service means that the resources for support and collection are shared and costs are reduced, to provide this in-house would represent a higher cost to the Council.

6. Resource Consequences:

Financial:

- 6.1 The current contract expenditure in the budget is approximately £87,000 per annum. Any change in cost as a result of the procurement of the new contract will be set during the budget setting process for 2025/26 and it is understood that the initial contract term of three years will allow price certainty for this period, subject to flexibility for market conditions and regulations. We do not expect the costs to change significantly.

Other:

- 6.2 Staffing: Should the incumbent supplier not be awarded the new contract, there will be consequences for staff assigned under the current contract to provide the services within the Horsham district. These staff are employed by the incumbent supplier and are not Horsham District Council employees. However, under the contract, the current contractor, Medisort will be responsible for transferring staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

7. Legal Considerations:

- 7.1 Section 45 of the Environmental Protection Act 1990 imposes a duty on waste collection authorities to arrange for the collection of household waste in their areas. Horsham District Council is a waste collection authority as defined by section 30(3)(a) of the Environmental Protection Act 1990.
- 7.2 Paragraph 3 of Schedule 1 to the Controlled Waste (England and Wales) Regulations 2012 provides that clinical waste produced at domestic property is to be treated as household waste.
- 7.3 Section 1(1) of the Local Government (Contracts) Act 1997 provides that every statutory provision conferring or imposing a function on a local authority confers a power to enter into a contract for the provision of services in connection with the discharge of the function by the local authority.
- 7.4 Section 135 of the Local Government Act 1972 allows the Council to make standing orders about contracts.
- 7.5 The Council's Constitution and Procurement Code make provision for the (i) making of contracts, and, (ii) the procurement regime.
- 7.6 Otherwise, in-house legal resources will be used to complete the legal documentation to facilitate the award of the clinical waste collection and support services contract.

8. Risk Analysis and Mitigation:

- 8.1 Procuring a new contract for the collection of clinical waste within the Horsham district ensures the Council's compliance with its duty under the EPA and eliminates the risk of not discharging this duty. It also safeguards the protection of the health and safety of residents producing clinical waste.
- 8.2 Any delays to procurement or mobilisation pose a risk to the above not being met. The established working group will ensure mitigation against such delays through joint working.

- 8.3 The procurement process is set up to achieve best value to reduce the risk of the contract value exceeding budget. The ongoing costs are determined by the number of customers. Monthly contract monitoring will track performance as well as identifying small amounts of offensive waste which can be diverted to the household waste stream to reduce costs.

9. Procurement Implications:

- 9.1 West Sussex County Council are the lead procuring authority and are currently undertaking the procurement process with influence from the joint working group of districts and boroughs. The process will seek to achieve a joint contract for the provision of collection, support, treatment and disposal services via a framework agreement.
- 9.2 Lead officers have consulted with procurement officers to ensure that the process is fully compliant with the Council's Procurement Code and acceptable legislation.

10. Equalities, Human Rights & Public Sector Equality Duty Considerations:

- 10.1 Provision of clinical waste collection services, as well as support services, will provide security for the producers of such waste, some of which are considered vulnerable. There are no direct implications or considerations arising from the proposal contained within this report.

11. Environmental Implications:

- 11.1 The provision of clinical waste collection services has an impact on the Council's indirect emissions. The contract specification requires that the awarded supplier seeks to reduce its emissions through viable means including optimising routes to reduce miles travelled.
- 11.2 The awarded supplier is required to report on emissions for the contract manager to monitor. This reporting will allow the Council to understand its indirect emissions in support of becoming carbon neutral by 2050.

12. Other Considerations:

- 12.1 GDPR will be considered as part of the contract call off terms. No further considerations are required.