

SHEFFIELD CITY COUNCIL

EXECUTIVE FUNCTIONS DECISION RECORD

The following decisions were taken on Wednesday 18 January 2017 by the Cabinet.

Date notified to all members: Monday 23 January 2017

The end of the call-in period is 4:00 pm on Friday 27 January 2017

The decision can be implemented from Saturday 28 January 2017

Item No

8. SHEFFIELD CITY CENTRE WI-FI

8.1 The Executive Director, Place submitted a report seeking approval to undertake a competitive procurement for a concession contract, for up to 10 years, for the provision of a Sheffield city centre public access Wi-Fi service and to enter into contract with the bidder that provides the most economically advantageous tender.

8.2 **RESOLVED:** That authority be delegated to the Director of Creative Sheffield:-

- (a) In consultation with the Cabinet Member for Business & Economy, the Executive Management Team, the Director of Finance and Commercial Services and the Director of Legal and Governance to approve the final procurement strategy;
- (b) in consultation with the Director of Finance and Commercial Services and the Director of Legal and Governance to agree contract terms and enter into contracts at the conclusion of the procurement; and
- (c) in consultation with the Director of Finance and Commercial Services and the Director of Legal and Governance to take such steps as deemed necessary to meet the Fundamental Principles and achieve the Outcomes outlined in the report.

8.3 Reasons for Decision

8.3.1 It is recommended that SCC undertakes a competitive procurement for a concession contract for the provision of a city centre Wi-Fi service and, subject to the required objectives described in this report being met to the satisfaction of the Director of Legal & Governance and Monitoring Officer and the Director of Finance & Commercial Services, to enter into a concession contract for the provision of those services.

8.3.2 This is the preferred option because it enables the Sheffield BID and SCC to achieve its fundamental principles and outcomes sought without having to make a significant investment.

8.3.3 The Fundamental Principles that bids must comply with are:

- There should be no net cost to the Council, in deployment, operation or exit;
- There should be no or minimal legal, financial or reputational risk to the Council throughout the contract life;
- The bid should contribute a revenue stream to the Council; and,
- The bid should not prevent or limit the Council from being able to implement wireless communications services for its own administrative or service delivery purposes or future city centre vibrancy initiatives.

8.3.4 The Outcomes Sought from the Wi-Fi service are:

- Free of charge to the user;
- A high quality customer experience for access, registration and use;
- A family friendly experience;
- Good city centre coverage ideally including council owned public buildings such as the winter gardens;
- Good performance that keeps pace with technology; and,
- A reliable communications platform that can be used by the BID and others to increase footfall and to help local business thrive and grow.

8.4 **Alternatives Considered and Rejected**

8.4.1 A Sheffield BID and/or SCC funded public access Wi-Fi service has been considered as an option. However, the opportunity to provide a Wi-Fi service through a concession contract which requires no investment from SCC is preferable to a model requiring investment. This approach enables Sheffield BID and SCC to provide a public access Wi-Fi service and to use their limited budgets elsewhere.

8.4.2 An externally funded public access Wi-Fi service has been considered as an option. However, the funding source used to provide such services in Leeds, York and Edinburgh (the BDUK Super Connected Cities Scheme) is no longer available.

8.4.3 The European Commission has recently proposed funding community Wi-Fi schemes, which if approved by the EU Parliament, would enable the Council to apply for funding of up to 20,000 Euros in Spring/Summer 2017. Officers have evaluated this proposed scheme and have identified that this will not meet the Fundamental Principles for Sheffield City Centre Wi-Fi and that it is highly unlikely to meet the Outcomes Sought for Sheffield City Centre Wi-Fi.

8.5 **Any Interest Declared or Dispensation Granted**

None

8.6 **Reason for Exemption if Public/Press Excluded During Consideration**

None

8.7 Respective Director Responsible for Implementation

Simon Green, Executive Director, Place

8.8 Relevant Scrutiny and Policy Development Committee If Decision Called In

Economic and Environmental Wellbeing

9. HOUSING REVENUE ACCOUNT (HRA) BUSINESS PLAN AND HRA BUDGET 2017/18

9.1 The Executive Director, Communities submitted a report providing the 2017/18 update of the Housing Revenue Account (HRA) Business Plan.

9.2 **RESOLVED:** That Cabinet recommends to the meeting of the City Council on 1 February 2017 that:-

- (a) The HRA Business Plan report for 2017/18 as set out in appendix A to the report is approved;
- (b) the HRA Revenue Budget 2017/18 as set out in appendix B to the report is approved;
- (c) Rents for council dwellings including temporary accommodation are reduced by 1% from April 2017 in line with the requirements in the Welfare Reform and Work Act 2016;
- (d) from 2017/18, garage rents will change to a single rate for garage plots and a single rate for garage sites. Once implemented this will apply to new garage tenants immediately and to existing garage tenants once improvements have been made to existing sites and plots;
- (e) the community heating unit charge for tenants who receive metered heating is reduced by 10% from April 2017. Community heating charges for those tenants receiving unmetered heating will remain unchanged from April 2017;
- (f) following the review of sheltered housing service charges in 2015, as approved by the Cabinet Member for Housing, and work undertaken on future charging for communal heating in sheltered schemes as reported to the Cabinet Member, the existing weekly charge of £14.89 will be amended to £15.54 to recover the cost for communal heating in sheltered schemes;
- (g) burglar alarm charges are to remain unchanged from April 2017;
- (h) charges for furnished accommodation are to remain unchanged from April 2017; and

9.3 Reasons for Decision

- 9.3.1 To optimise the number of good quality affordable council homes in the city.
- 9.3.2 To maximise the financial resources to deliver key outcomes for tenants and the city in the context of a self-financing funding regime.
- 9.3.3 To ensure that tenants' homes continue to be well maintained and to optimise investment in estates.
- 9.3.4 To assure the long term sustainability of council housing in Sheffield.

9.4 **Alternatives Considered and Rejected**

- 9.4.1 The stock increase programme as agreed in last year's business plan is a combination of new/replacement council housing with an emphasis on acquisitions. The option to continue with a profile geared towards acquisitions was considered but rejected as it no longer provides the mix of housing that we need.

9.5 **Any Interest Declared or Dispensation Granted**

None

9.6 **Reason for Exemption if Public/Press Excluded During Consideration**

None

9.7 **Respective Director Responsible for Implementation**

Laraine Manley, Executive Director, Communities

9.8 **Relevant Scrutiny and Policy Development Committee If Decision Called In**

Safer and Stronger Communities

10. REVENUE BUDGET AND CAPITAL PROGRAMME MONITORING 2016/17 MONTH 7 AS AT 14 DECEMBER 2016

- 10.1 The Acting Executive Director, Resources, submitted a report providing the Month 7 monitoring statement on the City Council's Revenue Budget and Capital Programme for October 2016 .

10.2 **RESOLVED:** That Cabinet:-

- (a) Notes the updated information and management actions provided by this report on the 2016/17 Revenue Budget position;
- (b) approves the revenue expenditure request detailed in Appendix 7 of the report;
- (c) in relation to the Capital Programme:-

- (i) Approves the proposed additions to the Capital Programme listed in Appendix 6.1 of the report, including the procurement strategies and delegations of authority to the Interim Director of Finance and Commercial Services or nominated officer, as appropriate, to award the necessary contracts following stage approval by Capital Programme Group;
- (ii) approves the proposed additions to the Capital Programme relating to the Growth Investment Fund listed in Appendix 6.1 of the report;
- (iii) approves the proposed variations, deletions and slippage in Appendix 6.1;
- (iv) notes the variations authorised by Directors under the delegated authority provisions; and
- (v) notes the latest position on the Capital Programme.

10.3 Reasons for Decision

- 10.3.1 To record formally changes to the Revenue Budget and the Capital Programme and gain Member approval for changes in line with Financial Regulations and to reset the capital programme in line with latest information.

10.4 Alternatives Considered and Rejected

- 10.4.1 A number of alternative courses of action are considered as part of the process undertaken by Officers before decisions are recommended to Members. The recommendations made to Members represent what Officers believe to be the best options available to the Council, in line with Council priorities, given the constraints on funding and the use to which funding is put within the Revenue Budget and the Capital Programme.

10.5 Any Interest Declared or Dispensation Granted

None

10.6 Reason for Exemption if Public/Press Excluded During Consideration

None

10.7 Respective Director Responsible for Implementation

Eugene Walker, Acting Executive Director, Resources

10.8 Relevant Scrutiny and Policy Development Committee If Decision Called In

Overview and Scrutiny Management Committee

11. WASTE MANAGEMENT POLICIES

11.1 The Executive Director, Place submitted a report recommending changes be made to how the front line service could be delivered to realise a saving on the costs of providing waste services in the City.

11.2 **RESOLVED:** That Cabinet approves:-

(a) the implementation of new polices as set out in the report, and accompanying appendices, so as to provide clear parameters to residents as well as the service provider on how Waste services will be delivered to residents in the City; and

(b) the delegation of authority to the Director of Business Strategy and Regulation, in consultation with the Director of Finance and Commercial Services and the Director of Legal and Governance and the Cabinet Member for Environment to take such steps appropriate to implement the polices outlined in the report.

11.3 **Reasons for Decision**

11.3.1 To provide the opportunity to introduce new ways of working in the Collection Service to increase efficiency and reduce costs, while allowing an income to be generated where allowed, benefiting both the Council and residents.

11.3.2 To provide clear parameters to residents as well as the future service provider on how Waste services will be delivered.

11.4 **Alternatives Considered and Rejected**

11.4.1 The Council could continue to provide the current services in the current manner; however this would restrict the service provider to ability to create a more cost effective, more responsive, flexible and sustainable service in the future.

11.5 **Any Interest Declared or Dispensation Granted**

None

11.6 **Reason for Exemption if Public/Press Excluded During Consideration**

None

11.7 **Respective Director Responsible for Implementation**

Simon Green, Executive Director, Place

11.8 **Relevant Scrutiny and Policy Development Committee If Decision Called In**

Economic and Environmental Wellbeing

12. **WASTE SERVICES REVIEW: CONSIDERATION OF DELIVERY SOLUTIONS**

FOR WASTE SERVICES

12.1 The Executive Director, Place submitted a report recommending alternative service delivery solutions for each service area and, where appropriate, to procure contractor(s) to deliver the services post April 2018. The report also seeks approval for project costs.

12.2 **RESOLVED:** That Cabinet:-

- (a) Approves the strategy for the alternative service arrangements for waste services being:-
 - (i) Waste and Recycling Collection Service(s)
A seven-year contract (with extensions of up to three years) with a requirement for bidders to set out how they will introduce new ways of working to deliver greater efficiencies and continued safe working practices,
 - (ii) Energy Recovery Facility
A five-year (with extensions of up to five years) operation and maintenance contract including the sale of electricity and supply of heat to the District Energy Network,
 - (iii) District Energy Network
A two-year (with extensions of up to two years) operation and maintenance contract,
 - (iv) Call centre
Insourcing the Call-centre and Communications Service and Management Systems,
 - (v) Disposals
Procure a number of disposal contracts depending on which material streams and what can be aggregated.
- (b) approves and budget the project costs as described in section 4.2.12 of the report;
- (c) delegates authority to the Director of Business Strategy and Regulation:
 - (i) in consultation with the Director of Finance and Commercial Services and the Director of Legal and Governance and the Cabinet Member for Environment to approve the final procurement strategy;
 - (ii) in consultation with the Director of Finance and Commercial Services and the Director of Legal and Governance to agree contract terms and enter into contracts at the conclusion of the procurement, and
 - (iii) in consultation with the Director of Finance and Commercial

Services and the Director of Legal and Governance and the Cabinet Member for Environment to take such steps not already delegated as he deems necessary to achieve the outcomes outlined in the report.

12.3 **Reasons for Decision**

12.3.1 The option of a fully integrated contract (as now) was discarded as this option did not allow the Council to best meet its objectives, in particular:

- the opportunity to put in place contracts that match the requirements of specific service areas.
- procuring separate services is likely to attract more market interest (specialist providers) and competition, and dependence on a single contractor is reduced.
- services are not tied into a fixed contract cycle and benefit from flexibility of different contract lengths and differing service requirements.

12.3.2 The preferred option is to make separate arrangements for each service, reflecting their specific nature, the Council's requirements for each service and enabling it to deliver a lower-cost, more flexible service overall.

Collection Service: It is recommended that a seven year contract (with an option to extend by up to three years) provides the best opportunity to meet the Council's objectives, in particular the opportunity to maximise savings, to put in place a contract that is likely to attract more market interest and service specific requirements focusing on the collection service. This also provides a contract length that reflects the life cycle of vehicles. However, the contract will include a requirement for bidders to set out how they will introduce new ways of working which should bring greater efficiencies and safer working practices. It will also seek from bidders a commitment to ensure all components of pay and the staff working arrangement results staff being reasonably remunerated only for work actually undertaken giving regard to the good pay practices in the public sector.

Energy Recovery Facility: To be procured separately from the DEN because the Council has fundamentally different objectives and there are very different risks. There is a specific commercial and technical risk of filling the ERF capacity from third party waste, and specialist technical expertise required to manage the ERF. However the ERF is a well-understood technology and there are a number of potential bidders for a contract. Based on advice from the Council's Technical Advisers, the recommendation is to let a five year (with an extension of up to five years) operation and maintenance contract including the sale of electricity, and supply of heat to the DEN.

District Energy Network: There is the opportunity for the Council to strategically develop the DEN. This combined with the uncertainty over the condition and customer base of the DEN and the risk that this poses to a procurement, leads to a recommendation to let a short-term operating and maintenance contract for the day to day management of the DEN for two years

(with an extension of two years). The Council can then retain ownership and strategic control of the DEN as well as life-cycle development and maintenance costs. It may be necessary to establish a project within the Council to develop a business plan for the future growth and expansion of the DEN. This would include the opportunity to:

- invest to improve efficiency and performance of DEN, expand the customer base and introduce low-carbon heat sources.
- allow the Council to take a long-term investment view that is appropriate for DENs, and match that with low cost financing.
- use DEN expansion to tackle fuel poverty and reduce carbon footprint.
- generate heat sales income, and
- assess the true condition and commercial viability of the DEN.

Call centre and communications service – An insourced solution brings the opportunity to regain control of management information and influence the delivery and efficiency of the service, which is considered to be a key benefit and outcome of this project. There will however be a need to ensure the necessary interfaces with the various service providers so that service requests can be transferred to and from the relevant parties following customer contacts. Insourcing this element of the service will also enable the Council to provide an improved service to customers and residents.

Disposals – procure a number of disposal arrangements. The number of contracts will depend on which material streams can be aggregated together and the condition of the market when procurement is due to commence.

12.4 **Alternatives Considered and Rejected**

12.4.1 The key strategic objective established for the options review is to significantly reduce the cost of Waste Services and to allow for a more responsive, flexible and sustainable service in the future. The four key project drivers established to assess the options are:

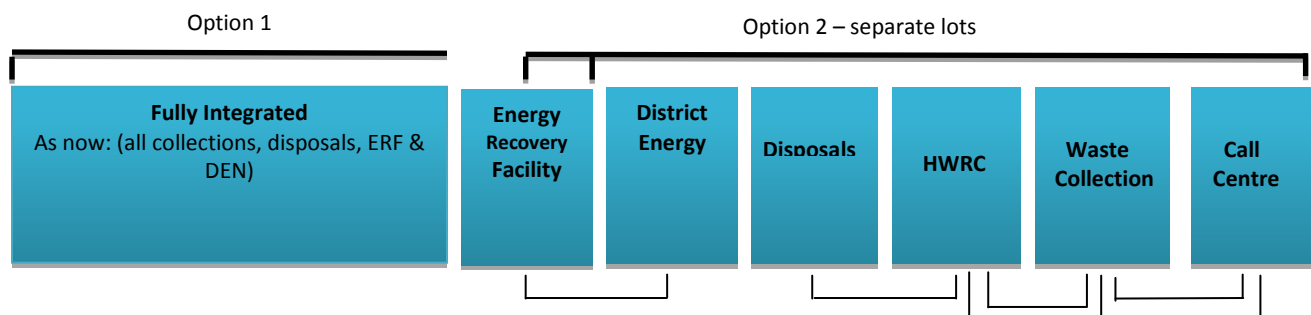
1. **SAVINGS**: Provides best opportunity to reduce costs and enhance income
2. **SIMPLER**: Provides best opportunity to focus on outcomes, performance, good working relationships, and not be 'bogged down' by contractual disputes and complex mechanisms to make improvements
3. **BETTER**: Best able to provide a service that is responsive and flexible to meet Council requirements and changing policy initiatives, such as delivery of the waste strategy, employment and skills, environmental considerations and budget pressures
4. **TIME**: Is best able to ensure commencement of new arrangements by January 2018

The OBC describes in detail the alternative options considered and the reasons for the recommended options.

12.4.2 **Option One:** The first option was to review the advantages and disadvantages

of an integrated contract compared to disaggregating the individual functions and contracting on an individual basis.

12.4.2.1 The table below shows the component parts of IWMC which could be procured/delivered separately.



Example: Possible combinations of service delivery/procurements

12.4.2.2 The key advantages and disadvantages of an integrated approach are shown in the table below

Key advantages of the alternative approaches.	
Advantages of integrated approach.	Advantages of service specific solutions.
<ul style="list-style-type: none"> • Maximise efficiencies through economies of scale. • Reduces the Council's procurement and contract management costs. • Large contract generates significant market interest from leading contractors. 	<ul style="list-style-type: none"> • Reduces reliance on single provider, • Separate contracts generate market interest from specialist providers. • Integrated contract is large and unwieldy. • Contract terms can match differing service requirements. • Greater flexibility.

12.4.2.3 The option of a fully integrated contract (as now) was discarded as this option did not allow the Council to best meet its objectives, in particular:

- the opportunity to put in place contracts that match the requirements of specific service areas.
- procuring separate services is likely to attract more market interest (specialist providers) and competition, and reliance on a single contractor is reduced.
- Services are not tied into a fixed contract cycle and benefit from flexibility of different contract length

12.4.3 **Option 2 – Review for each Service Area**

- Energy Recovery Facility

- District Energy Network
- Waste Collection

These three service areas were reviewed in more detail using a SWOT analysis for each option. The main options included consideration of insourcing, Teckal (company owned 100% by the Council) and an external procurement route. The option review set out the costs, benefits, opportunities, risks for each option, these were then evaluated against the four key project drivers as set out above in section 5.1.

12.4.3.1 **Energy Recovery Facility**

The ERF is essentially a 'static' asset, which needs to be operated at maximum capacity and as efficiently as possible but with no scope for expansion. The business drivers are to minimise risk and maximise income over the life of the asset. Income is from a very limited number of 'customers', from gate fees for waste processed, and from sales of electricity, heat and associated ROCs (a government subsidy for generating renewable energy). The ERF is capable of generating significant profits, but there is a high risk associated with filling the capacity and the technical expertise to operate the facility.

The commercial and technical risk of filling the ERF capacity with third party waste, together with the technical expertise required to manage the ERF and the ability to secure long term electricity and heat sales contracts, means the option of insourcing this service would result in too much risk for the Council. It therefore would not meet the Council's prime objective of securing savings. The Teckal option does not significantly reduce these risks to the Council and so the recommended option is to procure a contract for the operation of the ERF. However, it is recommended that the new contract is for a shorter term than the current IWMC in order to provide flexibility to the Council. The new contract will also seek a significantly higher share of the income that the ERF generates.

12.4.3.2 **District Energy Network**

The DEN is a more 'organic' and strategic asset that is capable of expansion (or contraction) with a very long-term potential operating life. The DEN has the capacity to grow in length and number of customers supplied, to accept heat from other sources in addition to the ERF, and to deliver strategic benefits including low-carbon heat, energy security, and contributing to tackling fuel poverty. The business drivers are the need for long-term, low cost capital, delivering a low but secure return on investment.

The Sheffield DEN is the largest, and one of the longest-established heat networks in the UK. Due to its age, the condition of the pipework of the network is uncertain. This uncertainty is exacerbated because of the lack of transparency in the IWMC with Veolia. To be able to realise the potential of the DEN as a strategic asset, the Council would need to take ownership, strategic control, and responsibility for the life-cycle development and maintenance costs of the DEN, however it should be noted that this presents significant risk to the Council. In addition there is uncertainty about the level of investment required to

develop the DEN.

Principally because of the opportunity that the Council may wish to strategically develop the DEN, together with uncertainty over the condition and customer base of the DEN and the risk this poses to procurement, the option of selling off the asset or entering into a long-term strategic partnership was discarded and the recommendation is that the Council retains strategic ownership and direction but lets a short-term operation and maintenance contract (which may include billing) to manage the day-to-day functioning of the DEN.

12.4.3.3 **Collection Service**

There are a number of risks and issues that would arise from insourcing the Collection Service.

An insourced solution would require significant operational and management change in order to drive through service improvements and efficiency savings. The Teckal (Wholly Owned Company) option was dismissed as the Council could still be considered as an associated employer (determined by the level of control imposed by the Council on the direct employer) and therefore the risk of equal pay claims still exists. The main financial and human resources implications are explained in the table below

Risk	Insource/ Teckal or Both	Impact
Pension	Insource £0.3m (min) Annual	The incremental cost of bringing the waste collection service in house is estimated to be circa £284k. This is calculated at the future service cost of 12.9%. In addition, like all employees on payroll, payroll costs would attract a further 6.1% for the Councils overall past service deficit of £332k. This will increase with call centre insource plus other overhead posts (currently SCC does not have salary details for these to be able to include in forecast estimate). SCC will also be fully liable for any future pension deficit
TUPE Transfer	In-source & Teckal	The TUPE process, will transfer into SCC or the Teckal any existing employee liabilities that Veolia has in respect of affected employees, for example outstanding legal claims, actions against Veolia prior to transfer.

<p>TUPE Terms and Conditions</p>	<p>In-source & Teckal</p>	<p>Breach of TUPE regulations –The incoming employer will require reasonable and sufficient time to establish whether TUPE applies and to which employees. That employer will have to undertake a full due diligence assessment and consider employee liability information. Where TUPE applies, the Council will need to undertake meaningful consultation with affected staff via their representatives in line with the legislation and the Council’s agreed policies in this area. Failure to do so would leave the Council open to challenge at Employment Tribunal and possible compensation of up to 13 weeks pay.</p> <p>If the process results in the successful claims for unfair dismissal the financial exposure based on compensation of up to 1year’s employee pay could cost the Council circa £4.8 million</p>
<p>Equal Pay Risk</p>	<p>In-source</p>	<p>Veolia employees and some employees of sub-contractors that may be eligible to TUPE transfer into the Council or the Teckal will not be all on the same terms and conditions and would be subject to different collective agreements depending on where they were previously employed. Some staff that initially TUPE transferred from the Council to Veolia will have transferred on historic Council T&Cs. However, it is not known whether these terms have been altered since. As TUPE protects whatever terms and conditions and collective agreements apply at the point of transfer, insourcing would increase the number of different arrangements within the Council. the Council would be required to maintain and apply multiple pay structures and HR Policies which could re-introduce equal pay risks. This would add complexity to, and increase the risks arising from the TUPE transfer process.</p> <p>Detailed comparisons of relevant T&Cs and collective agreements are required to establish potential risks to the Council. However, information for this comparison would not be available until formal consultation commenced and employee liability information is received.</p> <p>The TUPE regulations provide the Council with some protection from an equal pay challenge in the short term. Early engagement with the Trade Unions would be key to explore whether an agreement can be obtained in relation to any measures that may mitigate this risk.</p>

Organisational Infrastructure	In-source & Teckal	The Council has not delivered a frontline service of this nature for a number of years. The Council would need to ensure that it has leadership expertise, learning and development provision, health and safety processes and employment policies in place relevant to this workforce..
Overhead	Insource & Teckal	There could be an impact on Council resources should services be in-sourced, for example Legal, Commercial, Finance and HR (increased Health, Wellbeing and Safety; Occupational Health and HR systems in particular).
Reputational Risk	In-source & Teckal	With a front line service of this nature there would be high reputation risk to the Council should there be a serious accident, fatality or industrial action as a result of the Council delivering this service.

Based on the analysis, the option to insource this service at this stage was discarded as this would result in too much risk for the Council and would not meet our prime objective of securing savings.

However, the recommendation is that the contract will include a requirement for bidders to set out how they will introduce new ways of working to bring greater efficiencies and safer working practices and at the same time enable the Council to consider insourcing this service following expiry of the contract.

12.4.3.4 **Customer Service Centre & Communications**

A key driver for the Council is the opportunity to regain control of management information and influence the delivery and efficiency of the service, which is considered to be a key benefit and outcome of this project. Although a procurement option can provide these support services, the weakness is that the Council would not directly control the management information and be less able to influence the delivery and efficiency of the service. A procurement option is therefore not the preferred route, however, there is a risk that additional costs could be incurred through an insourced option. The Teckal option was rejected because the Council already has the infrastructure to provide the required customer service function.

12.4.3.5 **Disposals**

Under the IWMC Veolia is responsible for the onward disposal or processing of materials collected from Sheffield's households, bring sites, HWRC's and residues from the incineration process. A number of disposal sub-contracts are in place and are market tested every 5 years.

Processing and onward transfer of recyclates and residues requires specialist providers with the necessary technologies and infrastructure, which the Council does not not have. In addition it is not envisaged that TUPE will apply to these elements of the service. The options of insourcing and a Teckal arrangement have there not been considered and the only viable option is to conduct a

procurement(s) for disposal contracts

12.5 **Any Interest Declared or Dispensation Granted**

None

12.6 **Reason for Exemption if Public/Press Excluded During Consideration**

None

12.7 **Respective Director Responsible for Implementation**

Simon Green, Executive Director, Place

12.8 **Relevant Scrutiny and Policy Development Committee If Decision Called In**

Economic and Environmental Wellbeing