



OVERVIEW AND SCRUTINY COMMITTEE

Monday, 22nd April, 2013

7.00 pm

Town Hall, Watford

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CONTACT

If you require further information or you would like a copy of this agenda in another format, e.g. large print, please contact Sandra Hancock in Legal and Property Services on 01923 278377 or by email to legalanddemocratic@watford.gov.uk .

Welcome to this meeting. We hope you find these notes useful.

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COMMITTEE MEMBERSHIP

Councillor A Khan (Chair)

Councillors J Aron, N Bell, K Collett, S Greenslade, K Hastrick, M Hofman, R Martins and S Rackett

AGENDA

PART A - OPEN TO THE PUBLIC

1. **APOLOGIES FOR ABSENCE/COMMITTEE MEMBERSHIP**
2. **DISCLOSURE OF INTERESTS (IF ANY)**
3. **FINAL DECISION ON SERVICE RE-DESIGN OPTIONS FOR PARKS AND OPEN SPACES, STREET CLEANSING AND WASTE AND RE-CYCLING (PART A REPORT)** (Pages 1 - 26)

The following decision taken on 3 April 2013 by Cabinet has been called in:

Evaluation of final tenders to provide Parks and Open Spaces, Street Cleansing and Waste and Recycling

“To question why there was not a proper In-House bid along with the 2 private bidders

To ask who did the final evaluation and if the Council had someone to evaluate the figures?

If there is nothing to hide why can't we see the figures that justify the differences between the 2-private bidders and an In-House bid as if the savings can't be realised in the future this is important?

How many jobs would be lost by the proposals by the 2-private bidders and the Inhouse bid?

If 130 staff are to transfer how are all support services staff going to be affected?

As this is such a major privatisation of Council services, what powers to scrutinise and hold to account the private company would Councillors have?

How tough would the sanctions be on the private company if standards of service and quality declined for Watford residents?

Why should 1 - Company have responsibility for the whole service if another can provide a better quality and price for say Parks?

We call on the Cabinet to ensure that the contract includes not only a full TUPE of present staff but any future staff are guaranteed the LG Pension scheme, and that all those employed on providing services under the contract be paid at least the 'Living Wage'; and that the Council promotes the Living Wage and applies for 'Living Wage' accreditation.”

The following documents are attached –

- (A) Report of the Executive Director Services presented to Cabinet and its Appendix
- (B) Extract of the Cabinet minutes on 3 April 2013
- (C) Proforma requesting the call-in of the decision signed by Councillors Nigel Bell, Jagtar Singh Dhindsa and Mo Mills
- (D) Call-in procedure to be followed

4. EXCLUSION OF PRESS AND PUBLIC

The Chair to move: that, under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of the item there would be disclosure to them of exempt information as defined in Section 100(1) of the Act for the reasons stated below in terms of Schedule 12A.

NOTE: if approved, the Chair will ask members of the press and public to leave the meeting at this point.

5. FINAL DECISION ON SERVICE REDESIGN: OPTIONS FOR PARKS AND OPEN SPACES, STREET CLEANSING AND WASTE AND RE-CYCLING (PART B REPORT)

Paragraph 3 Schedule 12A.

(Report contains commercially sensitive information)

The reasons for this call-in are as set out in item 3 of this agenda.

Agenda Item 3

PART A

Document (A)

Report to: Cabinet
Date of meeting: 3 April 2013
Report of: Cate Hall, Executive Director Services
Title: Evaluation of final tenders to provide Parks and Open Spaces, Street Cleansing and Waste and Recycling

1.0 SUMMARY

This report sets out the evaluation process used to assess bids and recommends a company to be selected as Preferred Bidder for the provision of Parks and Open Spaces, Street Cleansing and Waste and Recycling services. Part B of this report covers the tender evaluation including financial information. In addition it seeks approval to commit some council resources to support the mobilisation period of the service redesign.

2.0 RECOMMENDATIONS

Cabinet is recommended to:

- 2.1 Award Veolia Environmental Services preferred bidder status with a start date of 1 July 2013 for the contract but to hold Enterprise in reserve until the contract is signed with Veolia.
- 2.2 Agree that the contract with V4 is extended to provide support to the Council during mobilisation to a maximum of £18,000 and to be funded from the Invest to Save Reserve.

Contact Officer:

For further information on this report please contact: Cate Hall, Executive Director Services.

Telephone extension: 8195 Email: cate.hall@watford.gov.uk

Report approved by: Manny Lewis, Managing Director

3.0 DETAILED PROPOSAL

3.1 Background

- 3.1.1 As part of the Council's programme to identify the significant savings needed to cover the reduction in grant funding from central government, it set a target in the Medium Term Financial Strategy (MTFS) of £2m of 'Road Map' savings in the three year period 2013 to 2015. As Parks and Open Spaces, Street Cleansing and Waste and Recycling account for a third of the

Council's Revenue Budget (£5m) and the service prioritisation process has largely delivered £2.6m of efficiencies in other areas, a significant proportion of this saving needs to come from the direct service delivery (and support costs) of these services.

3.1.2 In March 2012 Cabinet agreed, on the basis of an outline business case (OBC), to proceed to tender these services via the competitive dialogue route. The OBC showed that, by merging the management and administrative structures of the three services, thereby reducing the number of staff and changing the collection regime for waste and recycling, significant savings could be made in house but that outsourcing was likely to deliver greater savings. What was clear was whichever option the council chose it would mean large scale change.

3.1.3 At a subsequent meeting in July 2012 Cabinet agreed the service specifications on which bidders would make their proposals, the performance standards under which the contract would operate and the evaluation criteria for the submitted bids. In December 2012 Cabinet agreed to take two companies, Enterprise and Veolia, through to the Call for Final Tender.

3.1.4 At its December meeting Cabinet also agreed two further recommendations to the report:

- Agree that there would need to be significant savings and no reduction in the quality of service to substantiate a decision to outsource;
- Agree that the deliverability of the in house service benchmark needs to have been firmly established so that Cabinet has the full range of options in front of it.

3.1.5 During January and February 2013 there have been a series of further dialogue meetings with bidders; visits to other authorities where services are provided by the bidders; references requested and received and a presentation of the final offer made to the project team, mayor and portfolio holders. Final bids were submitted on time on Monday 25 February 2013.

3.2 **Evaluation of bidders' submissions**

3.2.1 Bidders were required to submit the same information as for the previous round of bidding (Invitation to Submit Detailed Solutions) indicating where there had been changes. This covers:

- Mark up of contract documentation
- Financial model and supporting commentary
- Cost proforma
- Technical Method Statements which set out in detail how they proposed to deliver the services.

3.2.2 The bidders' technical proposals, contract price and mark up of the contract were evaluated against the criteria listed in the table set out in 3.2.3 below. The bids were assessed by evaluation teams and then checked and modified, if necessary, by a moderation team. At this final stage the weighting has been adjusted from 60/40 to 50/50 between Quality and Commercial, Legal, Finance. The reason for this is that both companies selected to submit a final tender had demonstrated, to a satisfactory level, that they were able to provide the required level and quality of service. At the final stage, therefore, a higher percentage of the evaluation is based around the price.

3.2.3 Evaluation Criteria

Criterion	Definition	Weighting at Invitation to Submit Detailed Solutions	Weighting at Call for Final Tender
A – Quality		60	50
	A1 - Service Delivery	30	25
	A1.1 - Waste and recycling	9	7.5
	A1.2 - Street cleansing	9	7.5
	A1.3 - Parks and open spaces	9	7.5
	A1.4 - Fleet and depot management	3	2.5
	A2 - Service, monitoring, auditing and reporting arrangements	9	7.5
	A3 - Service growth and innovation	3	2.5
	A4 - Communication, engagement and interface management	6	5
	A4.1 - Communication, engagement and Interface with Authority and Hertfordshire County Council	1.2	1.2
	A4.2 - Communication, engagement and Interface with members	3	2.5
	A4.3 - Communication, engagement and Interface with other Key Stakeholders, neighbourhoods, public	1.8	1.5
	A5 - Mobilisation and transition	3	2.5
	A3.1 – Mobilisation and transition	3	2.5
	A6 - Contract Management Systems	9	7.5
	A4.1 - Maintenance & lifecycle arrangements	1.8	1.5

	A4.2 - Quality and Environmental Management systems	1.8	1.5
	A4.3 - HR and staff development	3.6	3
	A4.4 - Health & safety systems	1.8	1.5
B –Commercial Legal and Financial		40	50
	B1 - Legal/Contractual	10	10
	B2 - Affordability and Economic Cost	30	40

3.2.4 The evaluation showed that both bidders met or exceeded the technical requirements to deliver the service and the savings offered were very close. The financial, legal, technical and quality assessments are contained within Part B of this report for reasons of commercial confidentiality. The scoring matrix placed the bidders in the following order with the first scoring the highest:

Veolia

Enterprise

3.3 In house benchmark

3.3.1 As set out in the report to Cabinet in December 2012, the in house benchmark demonstrated that significant savings could be realised by a redesign and reorganisation of an in house service. It also highlighted the cost of support services should the services remain in house and the need to take in to account these costs when using the in house redesign as a benchmark against which to consider the external bids.

3.3.2 Members asked that the project team establish firmly that the in house service benchmark was deliverable so that Cabinet had the full range of options in front of it. Further work has been carried out on the deliverability of the in house benchmark. The project team has considered whether the proposed structure is robust enough to deliver the changes and maintain quality; the implementation timetable is achievable and whether retaining the services in house would bring the level of IT solutions offered in the private sector.

3.3.3 Meetings have been held with Unison to test out its response to the staffing reductions and the change to a four day week in Waste and Recycling which would be required to achieve the higher level of savings set out in the benchmark. Unison has approached the discussions constructively and realistically and they have also attended the visits to other authorities. Unison is opposed to any outsourcing but has indicated that it understands the financial pressures councils are under. We sought an agreement from the union officials that they would recommend to their members that they accept the reduction in staff numbers and the changes

to terms and condition to deliver the in house benchmark. Unison officials will not commit to recommending the changes to their members without full consultation. The response says that they would only be willing to recommend a temporary change of contract, subject to a majority agreement of Unison members, to trial a 4 day week. No specific comments were made about the acceptability of annualised hours or deletions in posts. Unison's conclusion is that the in house options are not extremely popular amongst Unison members but neither is outsourcing and that it is not possible to get Unison agreement to the in house option at this stage. This does not provide the reassurance we hoped would be forthcoming to give members more confidence that a 4 day week is achievable. The Unison response is attached as Appendix I.

- 3.3.4 The initial suggestion of a 4 day working week came from a team meeting with collection crews at the beginning of this process. The project team has discussed the 4 day week with staff and taken on board their concerns and comments whilst drawing up the proposals. Not all staff are on board, but there have been positive comments from many staff.
- The project team has carried out some research on other councils which operate a four day week. The main advantages are the savings over a five day week and less disruption caused by Monday bank holidays. There is nothing in the research to suggest that there are any additional risks of which we were unaware. The main issue seems to be making sure that staff understand that they are working the same number of hours but over a shorter number of days.

3.4 **Consideration of concerns expressed by Cabinet and other councillors of outsourcing these services**

- 3.4.1 During this process, members have posed a number of questions about different aspects of outsourcing these crucial front line services. The project team has used the dialogue process, visits and references from other councils to answer these questions. Set out below are the main areas of concern and responses.
- 3.4.2 Will a private provider constrain the flexibility the council needs to respond to urgent or localised issues?

No, both bidders are keenly aware of the need to respond to member requests and demonstrated this through dialogue, in their bids and at the presentation. Also the contract helps us to develop this kind of relationship. Both bidders expressed a realism that if Council income and expenditure requirements change there would be an acceptance that changes would have to be negotiated. Future price increases are linked to the Council's MTFS.

Can we be confident about the financial standing of a company should we outsource?

This is one of the main checks carried out at PQQ stage, which bidders must pass to go forward to the next stage. Independent checks were carried out on all bidders' financial standing at the

PQQ stage. Veolia Environmental Services passed the financial checks at PQQ stage with the highest score of 1 being rated as minimum risk.

Can we be confident about the Health and Safety record of a company should we outsource?

Again, this is one of the main checks carried out at PQQ stage, which bidders must pass to go forward to the next stage. Veolia Environmental Services has a good health and safety record and scored a high 8 on the evaluation. It has been approved by Lloyd's Register Quality assurance for Quality, Environmental and Safety Management Standards for all of its 350 sites and is externally audited every year to maintain the certification which covers Quality, Health, Safety and the Environment through ISO 9001, ISO 14001 and OHSAS 18001. Over the past five years there has been an average of 23 RIDDOR reported accidents per year across an average workforce of 13,352. This accounts for an average of one RIDDOR reported accident per 580 employees per year. There have also been two fatalities over the past five years. One resulted in improvements to training, supervision and systems of work. The second resulted in no definitive explanation as to the injury and no enforcement action by the HSE.

What is protected in a TUPE transfer of staff?

Contracts of employment including all the terms and conditions contained in them are protected (i. e annual leave entitlement, notice periods, sick pay entitlements, pay and allowances, overtime calculator rate, hours of work, national and local conditions of service, collective agreement up to their expiry date, trade union collective agreements.). In addition TUPE requires the transferee employer to provide broadly comparable pension provision. In this case both bidders have agreed to continue with the Local Government Pension Scheme.

What level of contract monitoring will be required and at what cost?

We have proposed a contract team of four full time staff with a cost of approx £200k. Two will have specialist knowledge in service areas and two will be more responsible for the monitoring, KPIs etc. The Head of Service will have overall responsibility for managing the relationship

How do we get the contract right so that it enables the service quality outcomes we seek at the right price?

The key to this is the specification which forms part of the contract documentation along with the bidders' method statements which set out how they will deliver the service. Both bidders have demonstrated through the dialogue and their final submissions that they can meet the service quality outcomes and have offered significant service development in Parks and Open Spaces in terms of tree management and green flag status.

How do we ensure specifications are outcome orientated?

We believe we have achieved this by being clear about the outcomes members want and translating these in to the service specification whilst still maintaining a level of required service delivery which is about outputs that will help ensure quality of outcomes.

How do we ensure we contract with organisations who share our values and culture?

We have explored this through dialogue with bidders, visiting other towns where they provide services, taking up references and through the bidders' presentation.

How do we avoid a lack of cohesiveness in a multiplicity of shared services, in house and

externalised services across several authorities/types of provider?

This is a wider question but fundamentally is about us having a clear vision for what we want to achieve overall and ensuring that all services, however delivered, contribute to that vision. In terms of management it is the responsibility of Leadership Team to ensure cohesiveness and that members have the right information at the right times to have confidence that all services are delivering well and, where there may be problems, that they are being addressed. As we know, having all services provided in house does not necessarily lead to cohesiveness but can lead to silo thinking and departmental rivalry.

It could be argued that not having as much responsibility for the day to day running of services frees up both staff and members to concentrate on the strategic objectives of the council and to concentrate on the possibilities that can be created in the future for the town rather than the operational demands of day to day service delivery. The Council's four corporate priorities (Making Watford a Better Place to Live in; Providing a Strategic Lead for Watford's sustainable economic growth; Promoting an Active, Cohesive and Well Informed Town; and Operating the Council efficiently & effectively) rightly focus on delivering outcomes for the town and taking more of a strategic role as council revenue budgets diminish.

How do we maintain a Watford Borough Council brand notwithstanding more externalised services?

In terms of physical branding of vehicles, uniforms etc we can have what we want. We can continue to promote our services in all the usual ways and there is no evidence we have found that suggests residents suddenly think the council is no longer responsible for a service if a third party delivers on our behalf. The fact that we are specifically looking for a partnership approach to this contract should make it easier for us to have good brand strength.

3.5 Mobilisation and mobilisation support for the council

- 3.5.1 Should Cabinet agree the recommendation to select Veolia as preferred bidder, there will be an intense period of activity between now and mobilisation on 1 July 2013. This date is the point at which the staff transfer and Veolia start to deliver the service, although the change to a co-mingled collection for recycling will not happen until the autumn. The autumn timeline gives time for a good level of communication with residents on the new, improved method for collecting recycling and to order any new vehicles required.
- 3.5.2 Veolia recognises the vital importance of a smooth TUPE transfer to the overall effectiveness of the contract's operational management and the importance of forming strong and positive relationships with staff early on in the mobilisation period. Veolia has a well-practised information and consultation procedure but is open to any variations suggested either by the council or Unison that will improve the TUPE process.
- 3.5.3 Veolia has a dedicated mobilisation team for the transition who will manage the detailed transfer process with council staff. The mobilisation plan proposed by Veolia will include the following:
- A comprehensive communication plan

- Day one engagement with WBC Human Resources team
- Consultation with Trade Union
- Consultation with employees
- Group presentations
- Planned meet and greet and knowledge sharing sessions with and for managers who will be involved in the transition and transformation of the business
- A series of welcome/induction sessions both on and off site
- One to one meetings with transferring employees
- Drop in sessions held weekly giving employees the opportunity to have an informal discussion with a member of the mobilisation team
- Weekly question and answer update documents published on intranet and staff notice boards
- Separate presentations to employees regarding their benefits and pensions which is often a concern for employees transferring over

3.5.4 The council appointed V4 Services to provide technical, financial and project management support during the procurement process to the point of selecting a preferred bidder. The project team has scoped out the work required to move from now to mobilisation on 1 July 2013. Whilst most of this can be accommodated within our existing resources, the project team believes it to be prudent and necessary to have additional project support during this three month period and to have access to a few days of financial support to ensure the payment mechanism is set up and firmly embedded within the council.

3.5.5 The maximum estimated cost of this support is £18,000. The support is required as a matter of urgency as it will need to be in place immediately following the decision of Cabinet. For this reason it is recommended that the contract with V4 is extended to provide these services.

3.6 **Conclusion**

3.6.1 The three service areas have understood the need for a major redesign and produced a credible in house benchmark through an imaginative rethink of both direct service design and delivery. Whilst the in house benchmark demonstrated what could be saved in house, when the cost of support services are included it cannot compete in overall price with the bidders.

3.6.2 The evaluation of the bids shows that both bidders meet or exceed the council's service specification and provide significant savings. The information covering this is set out in the Part

B section of this report. When compared to the in house benchmark, the bids provide approximately three times greater savings than can be achieved in house, some additional service improvements in Parks and Open Spaces which would not be achievable in house, better training and development opportunities for staff and no reduction in the quality of services.

- 3.6.3 The concerns staff would have about employment issues are addressed through TUPE protecting their terms & conditions including continuity of local government pension plus the fact that Veolia recognises Unison for collective bargaining purposes and Veolia's track record of good employment practice.
- 3.6.4 The staff from the service areas who have been part of the project team have worked incredibly hard to make sure that Cabinet has all the facts before them to make the best decision for the council. They have supported their staff throughout the process whilst dealing with the uncertainty that the process has also created for them and kept the services delivering to their usual high standards. They and their staff will be a major asset to Veolia who, indeed, has already commented on the high calibre and professionalism of our staff.
- 3.6.5 The conclusion, therefore, is to recommend the council to award Veolia Environmental Services preferred bidder status with a start date of 1 July 2013 for the contract but to hold Enterprise in reserve until the contract is signed with Veolia.

4.0 **IMPLICATIONS**

4.1 **Financial**

- 4.1.2 The Head of Strategic Finance comments that the financial evaluation within the Part B report indicates that an average annual saving of circa £730k can be achieved by adopting the recommendation to select Veolia as preferred bidder. This level of annual saving accords with assumptions within the council's Medium Term Financial Strategy.

4.2 **Legal Issues** (Monitoring Officer)

- 4.2.1 The Legal and Democratic Service Section Head comments that if the final decision is to outsource the services, the Council will need to ensure that it is complying with legislative requirements in a range of areas.

If staff are to be made redundant, the Council will have to undertake consultation with staff and Unison, as well as following appropriate redundancy procedures.

Also, a number of staff will transfer from the Council's employment to that of the successful bidder (as a result of the requirements of the Transfer of Undertaking Regulations 2006 ("TUPE"). The Council would be required to adhere to the TUPE regulations in conducting appropriate consultation and exchange of information with Unison and affected staff. Under the TUPE regulations and related case law, the successful bidder is also required to ensure that they comply with their TUPE obligations; additionally, the successful bidder will be contractually required to ensure that they comply and indemnify the Council in the event that they do not comply.

The Council needs to ensure that it continues to comply with the requirements of the relevant procurement regulations in conducting the procurement process.

Officers of the Council and members have received communications from the Watford Friends of Salfleet regarding Veolia (this issue was also raised by a member at the December Cabinet meeting and at Full Council on 20 March). Watford Friends of Salfleet assert that Veolia should be excluded from the procurement process.

The Council has obtained leading counsel's opinion on this issue and is satisfied that the Council has no grounds to exclude Veolia from the procurement.

4.3 Equalities

4.3.1 If the final decision is to outsource the services, the equality duty still applies to the Council when services are contracted out, and also applies to other organisations (including private companies) to the extent to which they provide public functions. This means that it will continue to be legally necessary for the Council to require commissioned services to supply diversity monitoring as part of the returns and to require them to collect diversity information from service users where appropriate, to provide the information needed to monitor compliance with equality objectives and targets in SLAs and in general to monitor a contractor's compliance with equality legislation.

4.4 Risk

4.4.1	Potential Risk	Likelihood	Impact	Overall score
	Service delivery standards fall between now and full mobilisation	2	3	6
	Client team not at full complement by	3	3	9

mobilisation			
Failure to meet implementation timetable	2	3	6

4.4.2 The mobilisation plan submitted by Veolia is extremely thorough and shows a detailed understanding of the need to engage staff right from the start of the process and deal with any fears and anxieties at the earliest possible stage which is followed through in their plan. Support will also be available for staff through their line managers and HR.

The proposal to continue with some support from V4 during the mobilisation phase will add additional resilience and support for the client team officers who are in post.

The mobilisation plan gives confidence that the implementation timetable will be achieved. In addition the dialogue process means that all major items are finalised, the contract terms are agreed and the leases agreed apart from some minor drafting.

4.5 **Staffing**

4.5.1 All staff in the three service areas are affected what ever decision the Council takes on the future delivery of these services. They have engaged in the process to date and have been keen to be part of the process of deciding the best outcome for the Council. A key element of how successfully the council delivers the changes it wants to make will be to continue to engage with and support staff through the next few months. Regular meetings have also been held with Unison throughout the process.

4.6 **Accommodation**

4.6.1 The council will lease the operational buildings needed to deliver the service to the successful bidder.

4.7 **Community Safety**

4.7.1 No implications.

4.8 **Sustainability**

4.8.1 The successful bidder has demonstrated a commitment to sustainability and plans to reduce the carbon footprint of the services.

Appendix I Comments from Unison on potential outsourcing

Background Papers: None

File Reference: None

UNISON WATFORD Council report to Senior Officers and all councillors regarding

Potential reorganisation or privatisation of Waste, Recycling, Cleansing and Grounds Maintenance services at Watford Council.

Please note that a national objective of UNISON as a trade union representing its members is to protect and secure decent employment, pay and pensions for all members.

UNISON believes that outsourcing is not a benefit to our members, and that direct employment within the public sector with nationally agreed terms and conditions remain the best option for UNISON members.

UNISON believes that there is no evidence that the private sector provides value for money, and by Privatising services to be run at a reduction in the service spending there will also be a reduction in the service delivered.

UNISON members in Watford also believe that as a public body employer Watford Borough Council should remain a sovereign employer and should keep all its employees on decent nationally agreed employment terms. It is UNISONs view that any private employer will be looking to make savings as part of already tight bids to run these services and that these savings will come by reducing staff numbers, reducing future staff terms and conditions and reducing the quality of the services so as to ensure that the private company shareholders / owners receive profit dividends.

UNISON feels that by privatising these services the staff in a private employer will become fragmented from the council and in time different services the council run will all be working differently and inequitably.

As part of the process to make council savings on 19.12.12 the cabinet resolved:-

1. To continue with the procurement process taking Enterprise and Veolia through to Best and Final Offer stage, noting that until Best and Final Offers have been received and evaluated no final decision will be taken on future delivery of the service.
2. To receive a final report on the procurement process in March 2013.
3. ***That at the report back in March 2013 there would need to be significant saving and no reduction in quality of service to substantiate a decision to outsource.***
4. That at the report back in March 2013 the deliverability of the in house service benchmark needs to have been firmly established so that cabinet has the full range of options in front of it.

In writing this report UNISON have consulted with:-

- other Trade Union reps working for Veolia and Enterprise,
- UNISON reps at Watford
- UNISON members

- Non UNISON member employees working in the services proposed to be reorganised or privatised.

UNISON working with Enterprise and Veolia –

UNISON welcomes the proposals that any Privatisation to Enterprise or Veolia would be transferred under TUPE and also welcomes the fact that both employers have stated they would continue to contribute to existing employees who are within the LGPs (Local Government Pension Scheme.)

Can Watford Council ensure that any contract agreed with Enterprise or Veolia ensures that any new staff working on the service are able to be a LGPS scheme members, and that a condition of the contract is to keep open the option of the LGPS for the duration of the contract?

From speaking to other UNISON members in other councils that have transferred over to Private employers they say that they feel that over time there is an introduction of a two tier workforce. This is because private employers introduce more staff on more casual employment contracts; (sometimes on zero or short hour contracts with reduced terms and conditions to those staff that transfer under Tupe.) If a decision is made to transfer can Watford Council ensure that any measures of conditions on changes to employee contracts are agreed pre any transfer?

Employees in the services looking to be privatised at Watford Council are very concerned that they are unaware of any measures related to any transfer, so when discussing in house options cannot compare these in relation to options that they might be facing if services were to be privatised.

Significant savings to be made with no reduction in the quality of service.

- From speaking to staff working in the services the majority of staff believes it is unrealistic to be able to work to cabinet point 3. (see above.)

Employees can't understand how significant savings will not lead to a reduction in the quality of service. Therefore UNISON believes that if significant savings are required to be made in the services then it should be clearly stated to the public of Watford that this may lead to a reduction in the quality of the services.

UNISONs view on the deliverability of the in house benchmark. –

Key Changes to Terms and Conditions.

4 day working week 3 days off. – While this working pattern is problematic for some staff it may suit others. There were a number of points that UNISON members wanted to question regarding this proposal.-

- Some collection staff felt that the additional time worked on the 4 days worked was not much more than is actually worked at present on 5 five day week. This needs to be checked against current start and finish times to ensure that the work required can actually be done in 4 days. (For both Waste and recycling.) The councillors and officers also need to show the number of overtime hours per month used in these services to ensure that the services can run over 4 days and actual savings are made.

- Staff wanted to know if the increase in the population and housing within Watford had been factored into the 5 year reorganisation plan or Privatisation options. i.e. Cassio College site has 500+ new properties plus the same for the proposed Watford Hospital site not currently on any collection round.
- UNISON has discovered that Peterborough City council moved over to a 4 day working week in the running of similar services run by Enterprise, but are now in the process of moving back to a 5 day working week. (Has Watford Council looked at the reasons why this was not a success?)
- The issue of how long people can drive for in a day needs to be considered if working days are to be increased for staff.
- The issue of (a 20% increase) more vehicles 'dumping off' over 4 days not 5 at the tip needs to be looked into as at present there are often long waits, and this will only increase as each lorry will be 'dumping off' at similar times if working 4 longer days.
- UNISON members suggested that the employer trial the 4 day working week for a period of time to see if it works rather than agreeing to a permanent change. (UNISON would support this as a recommendation to be put to UNISON members as a collective temporary change of contract, subject to a majority agreement of UNISON members.)

Annualised Hours for some staff working longer in the Summer and shorter in the Winter.

- Staff in this area believe they are already down to the bare bones and that the services they already have to do would just be done at different times.
- How can staff start outside work at 7am in the winter as it is still dark at this time?
- Work on sports pitches continues on the weekend and is paid with genuine enhancements paid for working on these days.
- Staff genuinely could not see where savings could be made by keeping the quality of the service.

Deletion of posts.

- Although it has been considered by Snr Officers that posts will be deleted via 'natural' wastage, Voluntary Redundancy or by not replacing current vacancies UNISON fear that due to the current unstable economy and job market and with the number of jobs at risk it may be inevitable that some posts may become compulsorily redundant.
- UNISON welcomes the fact that Watford Council are currently freezing posts to ensure that any savings initially come from vacant posts

SAVINGS

UNISON members and staff feel they have made recommendations to various senior officers to make other savings that have not been considered or acted on in the council. Some of the savings they suggested when I met staff were:-

- Reduced money spent on agency staff? (More agency staff had just been called upon in the week 25/02/13?)
- Weed training was given to staff, but then the council use a third party to carry out this service that staff could do themselves?
- In winter a leaf sweeper is hired that includes a driver? Why cant a sweeper without a driver be considered and the current driving staff use this equipment?
- Community clean can be done by existing staff but often the council are using Agency to do that work?

Summary

It seems that the in house options are not extremely popular amongst UNISON members however I have also worked with councils that have Privatised and seen the fragmentation and reductions made in the services, so if the decision is made to Privatised I suspect the measures will be as unpopular.

For Watford Council to ensure a collective agreement with UNISON on any changes to terms and conditions of staff *as part of an agreement* to keep services in house UNISON would need to formally consult those members of staff within the services affected with the options put to them to consider accepting any agreement. In my view and without staff knowing the measures of a private employer it may be difficult to achieve a positive agreement. I believe this would be the same process if any private employer were looking to seek agreement with UNISON to make changes to current contractual arrangements.

NOTES FROM MEETINGS WITH VEOLIA AND ENTERPRISE

From meeting with Veolia on Monday 28/01/13 Barry and myself found that we were talking with managers who were reading from a script just telling us how good they were and it appeared that they were selling themselves to us. We met a GMB union rep who again talked about how good they were. We received no real front line information like how staff were doing the job. Both Lambeth and Westminster have been outsourced for many years and we felt there was no comparison to Watford. Reading through booklets they gave us I noticed in one year 70 staff left (this was Westminster). I understand they have lot more staff but we do not know why staff left and it seems a lot in a year.

Regarding Enterprise on 31/1/13 from the start self Barry, Dave Clancy and myself felt a little more comfortable. We talked with 2 union reps who represented the front line staff and they were honest and frank about how the job is done. We also found out that 5 years down line since the contract

started a high proportion of staff on TUPE terms. We also by chance spoke with 2 workers who said they worked on waste since 1999 and confirmed they are on TUPE . The whole set up at depot showed me front line staff doing the job, there did not seem to be many office based staff, there seemed to be good opportunities of training for the workforce. Speaking with the HR officer at enterprise about dismissals over the years showed there had only been a handful and workers seemed to get on with management well.

Both companies have a two tier workforce. Going forward Watford Borough Council would be the best option but I believe there will be hard times for the workforce under the structure of the benchmark. As a union we have a chance to build good relationships with these companies as they recognise the union, and enterprise in Solihull let there rep do the TUC 36 days Health and Safety course that I am doing now, so that is positive that that builds on good health and safety practices and a good working environment.

Extract from the Cabinet minutes – 3 April 2013**83. EVALUATION OF FINAL TENDERS TO PROVIDE PARKS AND OPEN SPACES, STREET CLEANSING AND WASTE AND RECYCLING**

Cabinet received a report setting out the evaluation process used to assess bids and recommending a company to be selected as Preferred Bidder for the provision of Parks and Open Spaces, Street Cleansing and Waste and Recycling services. In addition, the report sought approval to commit some council resources to support the mobilisation period of the service redesign.

Cabinet also considered a Part B report covering the tender evaluation including financial information (minute number 85).

The Mayor introduced the item explaining that following a large amount of correspondence, many meetings and the need for further reassurance following the Cabinet meeting in December she now felt more comfortable with the recommendations being made. She asked Cabinet to note the two separate issues to consider; the outsourcing of the service and the awarding of the contract to Veolia in light of the petition put to the Council in March.

She invited the Executive Director, Services, to introduce the report and explain the process that had been followed.

The Executive Director said that, following the Cabinet meeting in December, further work had been done to ensure the in-house benchmark was deliverable. This included meetings with Unison on the staffing reductions and changes to working arrangements which would have been necessary to achieve the higher level of savings required. The level of savings achievable through outsourcing was, however, three times greater than those which could have been achieved in-house.

She took Members through the evaluation of the submissions and it was noted that both bidders had been very close in terms of costs and had exceeded the technical requirements to deliver the service. Other benefits included additional Green Flags, opportunities to enter Britain in Bloom, an apprenticeship scheme and improved training and development opportunities for staff.

She referred Members to paragraph 3.4 of the report which addressed the concerns expressed about outsourcing the service and included a series of questions and answers. She advised that the contract would be looked after by the Veolia London Team and that they currently ran over twenty contracts in and around London. Excellent references had been obtained in all areas including flexibility, health and safety and relationships with the public and staff. There had, in fact, been hardly any negative feedback.

She concluded by offering her personal thanks to the staff who had worked hard on the in-house benchmarking and had continued to deliver and support each other despite the uncertainty. She said that this was to their credit and both Veolia and Enterprise had expressed their confidence in the staff.

The Mayor then spoke about the petition to Council and the concerns expressed by the petitioners regarding the activities of one of the Veolia entities in the Occupied

Territories. A meeting had since taken place with the Lead Petitioner and she accepted that this was a matter on which it was very difficult to agree. She stressed the need to ensure that the Council operated correctly and legally and to this end Counsel's opinion had been sought to clarify the position. She invited the Legal & Democratic Section Head to read out a summary of the advice received. It was quite clear from the advice received that it would be illegal for the Council to exclude Veolia on these grounds.

Councillor Scudder spoke about the lengthy process which had been undertaken to ensure that this most difficult of decisions was right for the Council. It had included visits to other authorities with lots of information being gathered. He explained that the two main drivers for the decision were to save money because of reduced budgets and the need to change the recycling service to remove cardboard. He added that the Council had been fortunate in being awarded £2.5m from the DCLG towards collections.

He went to specifically address the key concerns which had been raised in respect of the outsourcing option:

Flexibility – A number of other authorities had been visited and all had said that both Enterprise and Veolia were very flexible and appreciated the pressures councils were currently under.

Costs – The costs savings offered by both Veolia and Enterprise were significantly higher than could be achieved in-house.

Quality – Having spoken to other councils there was no doubt that quality would be maintained and in some areas, enhanced.

Staff impact – Both companies had offered reassurance that the staff would have protection in terms of salary, pension etc. There were many examples of staff in other authorities who were still on their protected terms and conditions many years on.

Evaluation showed that the two companies – Veolia and Enterprise – had been very close and the final decision had been based on costs and the fact that Veolia's waste collection methodology had little risk and Veolia was well-prepared for mobilisation. The costs submitted by the two companies had been very close which was quite reassuring.

Councillor Bell (Labour) said that it was a difficult time for staff. He noted Councillor Scudder's responses to the concerns which had previously been expressed about the outsourcing option especially with regard to quality and flexibility. He added that he was concerned about quality being maintained and advised that in Lambeth satisfaction levels were lower than in Watford. He also referred to Three Rivers D.C. where the outsourced service had subsequently been brought back in-house incurring further costs and to a number of authorities where Veolia had pulled out of the bidding for no reason or had lost the contract.

In his view, staff were more committed to working for a local authority and there were also fewer opportunities to hold a private company to account. He asked whether there was ever really a chance for the in-house bid to be accepted. He also advised

that Enterprise was currently going through a buy-out which could make them a stronger proposition than Veolia.

Councillor Bell referred to the latest edition of "About Watford" which featured the bin collection service but made no mention of the fact that the service was likely to be outsourced. He commented that there did not appear to have been much public consultation on the option.

He did not consider that comparisons with Lambeth and Westminster were relevant as the contracts had been in operation for a very long time in these authorities. He concluded by saying that he hoped the Mayor would push for the "living wage" to be applied.

The Mayor referred the councillor back to the response she had given at the recent Council meeting regarding the living wage. No employees of the Council were paid below the London standard living wage. Staff would be transferred in accordance with TUPE thus maintaining their terms and conditions of employment.

With regard to the councillor's point about consultation, she said she was not aware of any council consulting local residents on this kind of issue. Her hope was that the transition would be seamless and residents would not notice the difference. She added, however, that the Citizens' Panel had been consulted and, as would be expected, the results had been split. The reality was that, in the 21st century, most councils outsourced some of their services.

The Executive Director responded to the councillor's point about the Lambeth satisfaction scores and said that London scores were likely to be lower but that the Lambeth scores were still 4% above the London average.

With regard to accountability, she stressed that the contract was very robust and included penalty points for non-compliance which translated into fines or ultimately the termination of the contract. It was not, however, an adversarial contract but did include the necessary checks and balances.

In terms of the in-house benchmark, she explained that the staff had done a lot of work on how savings could be made and many options had been considered. The fact was that economies of scale made it difficult to compete with large private companies in terms of savings.

She was aware of the Enterprise buy-out and whilst this could be an advantage there were also unknown risks.

She was also aware that Veolia had pulled out of some bidding and whilst she did not know why, she did know that the company was quite particular about which contracts it took on and if asked would probably only give a fairly anodyne response. Veolia was one of the largest providers and it was useful to look at places where they had been in operation for a long time to understand the way they developed their partnership approach.

The Mayor commented that it had always been made clear that status quo was not an option and re-iterated the process undertaken in respect of the in-house

benchmark including the work done since the Cabinet decision in December and the fact that the intention had always been to keep an open mind.

In response to questions from Councillor Turmaine (Labour) the Executive Director outlined the different penalty clauses (over 70) and also explained that, whilst additional services were an option under the contract, they were not being taken up at this stage.

The Managing Director added that, with regard to monitoring the contract, there would be a strategic overview through the Partnership Board to ensure a high quality service, standards were met and views fed in.

Councillor Khan (Labour) referred to the legal advice obtained regarding excluding Veolia and asked whether a different decision from the recommendation could still be taken. He also considered that the link with Parks and Open Spaces was quite a strange one and asked whether other options had been considered.

The Mayor disagreed and said that many authorities linked these particular services. With regard to the councillor's point about going against officers' recommendations, the Legal & Democratic Section Head advised that this was possible as long as there was good reason. Counsel had been quite clear that Veolia could not be legally excluded on the grounds referred to in the petition to Council.

Councillor Sharpe endorsed this view and said that if there were other grounds for excluding a particular company which were considered acceptable within the procurement process then a different decision could be made. That was not the case with Veolia.

The Mayor commented that it was a difficult issue and it was helpful to have the legal advice to ensure that the decision was being made on appropriate grounds.

Councillor Connal (Labour) asked for reassurance that the Veolia entity in the UK was not part of the entity operating in the occupied territories. The Legal & Democratic Section Head responded that a different legal entity did have a 5% interest and referred the councillor to his earlier statement. The Council had to operate within a legal framework and a bid submitted by a separate entity had to be treated separately.

Councillor Dhindsa (Labour) asked a number of questions relating to what would happen to the Council's assets if the contract did not work out; what would happen about the collection of bulky waste; the risk that the savings identified over the next few years would be at the expense of staff redundancies and concerns over financial, health and safety and ethical issues.

The Executive Director responded to the councillor's points:

Assets would remain the property of the Council and leased to the company on a full repair and maintenance lease following a survey at contract beginning and end; bulky waste collection would continue and any changes to charges would be subject to discussion; the situation with regard to savings and redundancies would have been much the same if the contract had been awarded in house and Unison had a national agreement with Veolia; financial, environmental and other issues were covered in

the report and in terms of health and safety, the percentage of incidents report by Veolia under RIDDOR was actually considerably lower than for Watford.

Councillor Crout referred back to Councillor Khan's point about the inclusion of Parks and Open Spaces. He spoke about Veolia's established track record including the prestigious Regent's Park in London. They were a company who wanted to work with the Council and understood its commitment. They also responded to emerging issues as demonstrated by the aim to obtain two more Green Flags, enter Britain in Bloom and their apprentice scheme. They offered technical and management courses which had been rated as exceptional. Whist he admitted to having had reservations in the first instance he was now confident that it was the right course of action and that it would provide an exciting opportunity for staff to develop.

Councillor Watkin added that he had visited Solihull where Enterprise operated and was struck by the feeling of camaraderie between the contractors and the council's staff which he understood was replicated at Lambeth.

Councillor Sharpe commented that the Council had been well-served in the past and that there had been step improvements year on year. It was necessary to balance costs with quality and consider what was the best way to provide a good service to the people of Watford. He could, however, understand the concern and trepidation being felt by staff at this point in time.

The Mayor concluded the debate by saying that it was now important to get Veolia to work with staff towards eliminating those fears and uncertainty. She understood the concerns of staff but they would be protected and it could ultimately be a good opportunity for them. She added that if it had not been possible to make savings using this route they would have had to have been made through cuts elsewhere. She had not been prepared to reduce the level of Council services just to keep the service in house.

She thanked the Executive Director and all the staff for the incredible amount of work that had gone into the process and reminded Members that there would be a quarterly Partnership Board meeting to oversee the contract and the usual scrutiny process would also apply.

RESOLVED

that, subject to consideration of the Part B report on the tender evaluation and the financial information (minute number 85) Cabinet agrees:

1. to award Veolia Environmental Services preferred bidder status with a start date of 1 July 2013 for the contract but to hold Enterprise in reserve until the contract is signed with Veolia.
2. that the contract with V4 is extended to provide support to the Council during mobilisation to a maximum of £18,000 and to be funded from the Invest to Save Reserve.

84. EXCLUSION OF PRESS AND PUBLIC

RESOLVED

that, under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of the item there would have been disclosure to them of exempt information as defined in Section 100(1) of the Act for the reasons stated in the report.

85. EVALUATION OF FINAL TENDERS TO PROVIDE PARKS AND OPEN SPACES, STREET CLEANSING AND WASTE AND RECYCLING

Cabinet received a report which accompanied the Part A report on the outsourcing of Parks and Open Spaces, Street Cleansing and Waste and Recycling Services. It provided details of the bids and the evaluation, which due to commercial sensitivity were required to be kept confidential at this point in the evaluation process.

The Executive Director introduced the report and answered a number of questions from Cabinet and non Cabinet Members present at the meeting.

RESOLVED

that the resolutions passed at minute no 83 be endorsed.

CALL-IN OF EXECUTIVE DECISIONS

To: Head of Legal and Property Services

We the undersigned call-in the following key decision:-

Title: AGENDA ITEMS 10 AND 12 OF THE CABINET REPORT _____

Date Decision taken 03/04/13

Reason for Call-In:

(e.g. cost/consultation/policy/lack of clarity/other options)

Please feel free to state reasons more fully on the back of this form

To question why there was not a proper In-House bid along with the 2 private bidders

To ask who did the final evaluation and if the Council had someone to evaluate the figures?

If there is nothing to hide why can't we see the figures that justify the differences between the 2-private bidders and an In-House bid as if the savings can't be realised in the future this is important?

How many jobs would be lost by the proposals by the 2-private bidders and the Inhouse bid?

If 130 staff are to transfer how are all support services staff going to be affected?

As this is such a major privatisation of Council services, what powers to scrutinise and hold to account the private company would Councillors have?

How tough would the sanctions be on the private company if standards of service and quality declined for Watford residents?

Why should 1-Company have responsibility for the whole service if another can provide a better quality and price for say Parks?

We call on the Cabinet to ensure that the contract includes not only a full TUPE of present staff but any future staff are guaranteed the LG Pension scheme, and that all those employed on providing services under the contract be paid at least the 'Living Wage'; and that the Council promotes the Living Wage and applies for 'Living Wage' accreditation.

NB: If no reasons are given the Overview and Scrutiny Committee WILL NOT consider your request for call-in

Signed: 1. Councillor Nigel Bell
 2. Councillor Jagtar Singh Dhindsa
 3. Councillor Mo Mills

Date: 10/04/13.

- Note:** Call-In does not include
- Urgent decisions of the Cabinet
 - Decisions referred by the Cabinet to Council
 - Decisions previously Called-In

**PROCEDURE FOR DEALING WITH CALL-IN BY THE
OVERVIEW AND SCRUTINY COMMITTEE**

The protocol for dealing with call-in was agreed by the Co-ordination & Call-in Committee at its meeting on 10 July 2002 and amended by Council at its meeting on 19 July 2006. Following Council's agreement to a revised scrutiny structure at Annual Council on 25 May 2011, call-ins are considered at Overview and Scrutiny Committee. It was agreed that as a convention the Vice-Chair, a member of the opposition, would chair this part of the meeting, or in his/her absence another member of the opposition on Overview and Scrutiny Committee.

The following procedure will be adopted at the meetings where a call-in decision is being considered.

- The Member who requested the call-in to present their case (including if they have already given advance notice any members of the public to speak if appropriate).
- The Scrutiny Committee and the Mayor/portfolio holder or officer whose decision is being questioned can ask questions of the Members requesting the call-in.
- The Mayor/portfolio holder/ officer to present the case for the Cabinet to explain the reason behind the decision.
- The Scrutiny Committee and the Member requesting the call-in can then question the Mayor/portfolio holder/ officer.
- The Scrutiny Committee will then deliberate and make its decision.
- If the Scrutiny Committee ratifies the Cabinet decision it can be implemented immediately.
- If the Scrutiny Committee decides to refer the decision back to Cabinet for re-consideration it will be required to send written notice of the reasons to the Head of Legal and Property Services within 3 working days of the meeting who will forward it to the original decision taker and the Mayor.
- Cabinet must give not less than 7 working days notice to the Head of Legal and Property Services and the Chair and Vice-Chair of Overview and Scrutiny Committee of the date and time it intends to re-consider its decision.
- Any member of the Overview and Scrutiny Committee is entitled to attend the meeting at which Cabinet re-considers the decision, unless they have a personal and prejudicial interest in the matter being discussed.
- Cabinet will be free to take whatever decision it sees fit on re-consideration and the decision will not be open for further call-in except as provided in the Overview and Scrutiny Procedure Rules, paragraphs 13.11 – 13.17 of the Constitution (page DVi7/8).
- A member who has a personal and prejudicial interest in the matter being called in will not be able to be a party to the call-in request, neither will they be able to participate in the call-in meeting.

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