



OVERVIEW AND SCRUTINY COMMITTEE

MEETING : Monday, 2nd November 2020

PRESENT : Cllrs. Bowkett, Coole (Chair), Dee, Finnegan, Haigh, Hilton, Hyman, Lewis, Organ, Pullen, Stephens, Taylor, Toleman and Wilson

Others in Attendance

Leader of the Council and Cabinet Member for Environment
Deputy Leader of the Council and Cabinet Member for Performance
& Resources

Len Attrill, Project Director at WYG

Corporate Director (Partnerships)

Corporate Director

Waste, Recycling and Streetscene Manager

Policy & Governance Manager

Archaeologist

Democratic & Electoral Services Team Leader

Democratic & Electoral Services Officer

APOLOGIES : Cllrs. Ryall, Tracey and Walford

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. DECLARATION OF PARTY WHIPPING

There were no declarations of party whipping.

4. MINUTES

RESOLVED: - that the minutes of the meetings held on the 5th of October 2020 were approved and signed as a correct record by the Chair.

5. PUBLIC QUESTION TIME (15 MINUTES)

There were no public questions.

6. PETITIONS AND DEPUTATIONS (15 MINUTES)

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There were no petitions and deputations.

7. OVERVIEW AND SCRUTINY COMMITTEE WORK PROGRAMME AND COUNCIL FORWARD PLAN

7.1 Councillor Haigh asked for an update on the Public Art Principles and when this would be brought before the Committee. The Chair outlined that this would be considered at the Committee 's 30th of November meeting alongside the Cultural Strategy Update and the Gloucester (Covid-19) Recovery Plan Visitors and Cultural Recovery.

7.2 **RESOLVED:** - That the Overview & Scrutiny Committee **NOTE** the forward plan and work programme.

8. WASTE STREET SCENE AND GROUNDS MAINTENANCE OPTIONS

8.1 The Leader of the Council and Cabinet Member for Environment, Councillor Cook, introduced the item and highlighted key elements. He outlined that the report set out the next steps for the delivery of Waste, Street Scene and Grounds Maintenance Services beyond the current contract end date of 31 March 2022. Councillor Cook then thanked WYG for the work undertaken as part of the options appraisal and Best Value Review. Lastly, he invited questions from Committee Members.

8.2 Responding to Councillor Wilson's first query regarding paragraph 2.0.18 of Appendix 1, the Corporate Director clarified that what was being recommended at a minimum was to narrow down the four options which were considered in Phase 1 to two options. This would mean not proceeding with both the in-house option and commencement of a formal procurement on the open market, given their relative drawbacks in comparison to the Amey extension and the Ubico options. The Corporate Director added that whilst he would have liked to have presented the Committee with options which could be accepted straight away, the potential sale of Amey meant that there were no assurances that the potential new owners would stand behind the proposals put forward by Amey, thus presenting a potential risk to the Amey proposal. As such, if Members were hesitant to proceed with Amey due to a lack of experience with the potential new owners, it was being recommended that they proceed with UBICO as a preferred option. However, the Council would need to go into further discussions with Ubico as a potential owner and member of the company regarding the final model and costs.

8.3 In answer to Councillor Wilson's second query, the Corporate Director added that the Council was in a good position to take on the responsibility for the sale of dry recyclables if Members chose the option which required this. Moreover, it was unlikely that this would be entirely without the support of the service partner, although the responsibility for the contracts and the risk would sit with the City Council. In answer to both questions, Len Attrill added that since the report had been written there was now greater clarity on a number of points in relation to Ubico which had been unclear at the time that the report had been written. This was outlined in a letter sent to the Council

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from WYG (page 91 of the agenda). Furthermore, he agreed with the Corporate Director that Gloucester City Council was in a good position to sell its own dry recyclables if the option chosen required this and noted that other neighboring district Councils currently sold their own recyclables.

- 8.4 Councillor Cook responded to Councillor Stephens' comments as follows. Firstly, he thanked Councillor Stephens for recognising the work which had been carried out in improving the delivery of services with Amey over the past 18 months. His view was that the delivery of service had improved markedly. In particular, he commended the level of work which had been carried out by Amey during the first national lockdown, for which he had thanked them extensively. Notwithstanding this, he was cognisant of the reputational issues associated with Amey especially prior to the Deed of Settlement, Release and Variation being agreed in December 2019. Secondly, in relation to Ubico, he stated that the general consensus amongst other neighbouring District Councils who worked with them was that they provided a good service. Hence, Councillor Cook was happy to move forward with Ubico as an option. Thirdly, Councillor Cook advised that the report suggested that it would not be prudent to proceed with the in-house option for several reasons, such as the fact there were additional costs associated with this.
- 8.5 Len Attrill added that whilst it was for Members to make a decision on which option/s to proceed with, the report outlined that running an in-house service would require meeting regulatory and legal requirements as well as an upfront investment of money and resources. Overall, it would carry more risk.
- 8.6 Councillor Cook replied to questions raised by Councillor Hilton as follows. He advised that splitting grounds maintenance contracts could be done with any of the options. With regard to commercial waste, Len Attrill explained that there was the potential to develop a commercial waste service with the in-house and Ubico options, however there was no guarantee that this would generate a meaningful surplus. Furthermore, on the topic of whether the contract with Ubico could be less than a 10-year contract, he outlined that this was an aspect which still needed clarification. In terms of improving street cleansing standards, he stated that Ubico had indicated that this would come with marginal costs. He noted that Ubico was experienced in grounds maintenance, and this was evidenced in the level of grounds maintenance standards in the local authorities where Ubico operated. Although this was not the only determining factor in choosing the options, achieving this same standard could be more difficult with an in-house service.
- 8.7 In reference to points raised by Councillor Haigh, Councillor Cook responded as follows. Firstly, he agreed that there were reputational issues with Amey in the past, however, the Council and Amey had worked hard to resolve these issues resulting in the Deed of Settlement, Release and Variation being agreed in December 2019. Additionally, he indicated that the Council's waste and Streetcare contract permitted the contract to be transferred to another party, with the Council's consent (which could not be unreasonably withheld) if the other party was a fit and proper organisation to undertake the obligations of the contract. Therefore, beyond discussing whether the

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potential new owner satisfied these requirements, it was a discussion which was beyond the remit of the meeting. Secondly, Councillor Cook outlined that Gloucester City Council owned the recycling fleet which would likely be transferred over if the Ubico or in-house options were chosen. The issue to consider would be regarding new equipment which would be purchased under the Ubico or in-house options either by the Council or the company. Councillor Cook explained that for this reason a 10-year contract was being considered to allow the vehicles to be amortised.

- 8.8 The Corporate Director stated that there was a distinction between the novation of the existing contract from Amey to any potential new owner and the potential extension of that contract by a period of up to 5 years. The contract currently in place between the Council and Amey until March 2022 stated that the Council should not unreasonably withhold consent to the transfer of the contract to another party, unless it was deemed that the party did not satisfy certain conditions which he outlined. As such, the Council was carrying out due diligence to ensure that it was satisfied that the company fulfilled these conditions. If satisfied, the Council had a contractual obligation to consent to the sale for the remainder of the remaining contract. The Corporate Director emphasised that it was important that this issue was not tied up with the separate question of whether the Council wished to extend the existing contract for a further 4 years.
- 8.9 Councillor Bowkett raised two questions which Councillor Cook, and Len Attrill responded to turn. Firstly, with regard to staff remuneration under the different options, Len Attrill advised that it was made clear to bidders that they would be required to pay the living wage as a minimum. Moreover, the current wages paid to Amey staff were comparable to what they would be paid under the City Council 's grading structure. Under the Ubico option, staff would also be paid similar rates. Overall, the employee terms and conditions would likely be the same across the different options. Secondly, with regard to extending the Amey contract, Councillor Cook outlined that any extension would be to the existing contract, and the Council would not be able to make material changes to this unless by way of an extension as this would render the contract vulnerable to legal challenge. Len Attrill added that WYG and Council Officers had worked hard to develop a specification for the works which would form the basis of any arrangements with the Ubico option and a re-procurement options, although the latter was not being recommended in the report.
- 8.10 Councillor Pullen submitted that any decision as to which option to proceed with should not only consider costs, but also the credibility of the various options. As such, he was against extending the contract with Amey due to the reputational issues associated with the company and was in favour of proceeding with an in-house option. In response, Councillor Cook stated that whilst he acknowledged the reputational issues associated with Amey, he was disappointed that the progress made with Amey was not being recognised. Likewise, he agreed that quality in any future service delivery was paramount. However, there would be significant costs and risks attached to achieving a quality service with an in-house option for the reasons set out in the WYG report. Len Attrill echoed this adding that the

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Council would have more flexibility and control under this option, however, there were also significant risks such as legal and compliance risks associated with it. He outlined that examples from other Councils highlighted that an in-house option could also lead to substantial overspends.

- 8.11 In response to Councillor Hyman's query on the potential Transfer of Undertakings (Protection of Employment) Regulations 2006 implications with regard to the Head of Operations post, the Corporate Director explained that the answer to this was based on a number of hypotheticals. In essence, there may be a number of circumstances under an in-house option by which an individual may be transferred into the Council with the seniority and experience to carry out the role. In this situation, the Council would be under an obligation to deal with that individual fairly and appropriately under the TUPE regulation.
- 8.12 Councillor Stephens stated that the improvements made by Amey were being acknowledged by Members, however the concern was that the company's performance was still average.
- 8.13 Committee members discussed and voted on possible recommendations.
- 8.14 **RESOLVED** that the Overview & Scrutiny Committee **RECOMMENDS** that:
- 1.) Cabinet no longer consider the option of extending the existing Waste, Streetscene Grounds Maintenance services contract with Amey.
 - 2.) In the event that the above recommendation is not accepted, Cabinet should only consider an extension to the existing contract with Amey in the context of a competed model on the open market.
 - 3.) The option of bringing services in-house should be retained at this stage.
 - 4.) Cabinet examines and learns from examples of Local Authorities who have brought Waste, Streetscene Grounds Maintenance services in-house.

9. IMPLEMENTATION OF THE COUNCIL MOTION ON 'BLACK LIVES MATTER'

- 9.1 The Leader of the Council, Councillor Cook, introduced the report and highlighted key elements. The Chair stated that the report was excellent, and commended Officers for the quick progression in the work carried out since the Council motion was passed in July 2020. The Chair then invited questions from Committee Members.
- 9.2 The Corporate Director (Partnerships) responded to questions raised by Committee Members as follows. Firstly, the Commission would indeed be open and transparent, and this would begin with the Council publishing a press release outlining the establishment of the Commission in the coming days. Moreover, the Corporate Director (Partnerships) outlined that the names of the Commissioners would be announced once all the

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Commissioner posts had been filled to include community representatives, rather than announcing the names in a piecemeal fashion. Secondly, she stated that she took on board the comment around including young people in the Commission 's work. She added that Officers would work with Commissioners to widen participation from young people. Thirdly, the Corporate Director (Partnerships) outlined that the Chair had been recruited through conversations and canvassing with different individuals. He had been chosen as someone with credibility across the City as well as having strong cross-sector relationships and would act in the interest of the City as a whole.

- 9.3 In terms of the Community Representatives who would sit on the Commission, the Corporate Director (Partnerships) outlined that a more formal recruitment process could be carried out to open the opportunity to participate to everyone across the City. In answer to Councillor Hilton 's question about the £5,000 budget for the work, she explained that this was to provide a cushion in case money was required, for example for outside expertise. However, she added if the money was not required, it would not be used. Indeed, everyone who was working on the project was doing so on a voluntary basis.
- 9.4 Councillor Wilson outlined that the report was a positive end to the meeting, and provided a good template for how to progress a motion. The Chair echoed this, adding that the Council had embraced the issue of tackling racism.
- 9.5 **RESOLVED:** That the Overview and Scrutiny Committee **NOTE** the report.

10. GLOUCESTER (COVID-19) RECOVERY PLAN - DEMOCRATIC GOVERNANCE

- 10.1 The Cabinet Member for Performance & Resources Councillor Norman introduced the item and highlighted key elements. She expressed her thanks to the IT and Democratic & Electoral Services teams for the work they had carried out in implementing virtual meetings following the restrictions which had been put in place as a result of the COVID-19 pandemic. She added that the steps which had been taken regarding IT as part of the Transformation Programme including rolling out laptops and Office 365 for both staff members and Members had been an advantage, and meant that the Council had been able to use Microsoft Teams for Virtual Council and Committee Meetings amongst other things. Councillor Norman then explained that taking into account the second national lockdown which was due to come into place on Thursday 5th of November, the Council did not have the ability to move forward with any proposals for hybrid meetings at the time being. The Policy & Governance Manager echoed her thanks to the IT and Democratic & Electoral Services teams and particularly the CIVICA IT Service Manager, and the Democratic & Electoral Services Team Leader.
- 10.2 The Chair stated that the guidance on hybrid meetings was unclear. Moreover, they added that the experience amongst some local authorities and organisations who had implemented hybrid meetings was that they were difficult to manage.

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- 10.3 Councillor Stephens also thanked the IT and Democratic and Electoral Services teams. Further, he also expressed his concerns about hybrid meetings, suggesting that they were a disadvantage for those attending the meetings virtually. On the other hand, Councillor Stephens outlined that he wished to see remote working and the webcasting of Committee and Council meetings made a permanent feature at the City Council beyond the pandemic. He added that he had received positive comments from people who had watched the virtual meetings, and overall, the view was that the meetings had increased democratic participation. Councillor Coole agreed with the ongoing role of remote working and virtual meetings, noting that virtual meetings had made Council meetings more accessible to members of the public who may ordinarily not be able to attend the meetings.
- 10.4 On the topic of hybrid meetings, Councillor Norman advised that there were uncertainties within the legislation, and, at this moment in time the Council would not be implementing hybrid meetings. Furthermore, Councillor Norman responded to Councillor Stephens and Councillor Haigh 's comments as follows. Firstly, regarding webcasting she advised that the potential benefits of webcasting were being weighed up against the financial investment required, particularly at a time when Gloucester City Council like other local authorities faced added financial pressures as a result of the COVID-19 pandemic. Secondly, responding to Councillor Haigh 's comments around the potential limitations of Microsoft Teams, Councillor Norman explained that Microsoft Teams had been selected as the best option for delivering virtual meetings at the time as a system that was already available due to the existing Office 365 license. She added that if working from home was extended into the future, the Council would perhaps look at other options for delivering virtual meetings, however, as previously outlined the Council was mindful of budget pressures. Thirdly, Councillor Norman agreed that certain types of meetings particularly smaller Group meetings were better suited to meeting in-person, however, this was not currently possible.
- 10.5 In response to Councillor Hilton 's submission on implementing webcasting , Councillor Norman reiterated that Cabinet was looking into this and taking into account budget pressures. Responding to Councillor Pullen, she echoed her earlier comments on hybrid meetings outlining that it was not known what would happen to the legislation, and thus, the position was not clear. For the time being, the Council would not be implementing hybrid meetings. However, if the legislation permitted hybrid meetings, the Council would need to undertake a detailed analysis. Lastly, she noted that there were potential positives and negatives to hybrid meetings, and they were not being ruled out completely
- 10.6 **RESOLVED that:** - the Overview & Scrutiny Committee **RECOMMEND** that Cabinet implement the technology to allow webcasting once Council returns to physical meetings.

11. DATE OF NEXT MEETING

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Monday 30th of November 2020.

Time of commencement: 6:30pm

Time of conclusion: 8:30pm

Chair