

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

28 MARCH 2017

REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

WASTE SERVICES CONTRACT DEFERRED SERVICES COMMENCEMENT DATE

1. Purpose of Report

- 1.1 The purpose of this report is to seek Cabinet approval to enter into a Deed of Variation to the recently completed Waste Services Contract.
- 1.2 The purpose of this Deed of Variation is to defer the commencement of certain services from the 1st April 2017 to the 5th June 2017.
- 1.3 To grant to the Corporate Director Communities authority to develop an appropriate Deed of Variation and to agree its content prior to signature with the waste services contractor Kier Services Ltd.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 The provision of the Waste Services Contract supports the improvement priorities detailed in the Corporate Plan – Smarter Use of Resources.

3. Background

- 3.1 During and as part of the procurement exercise to secure a waste services partner to deliver Bridgend County Borough Council's waste, recycling and civic amenity site functions, it was a requirement of the procurement process, under the Public Contracts Regulations, to de-brief those bidding contractors that were considered to have fallen short of the competitive tender requirements, with regard to their submitted bids.
- 3.2 During this de-briefing process the Council was challenged by one of the tendering contractors on the level of detail supplied to unsuccessful bidders. Council officers having sought appropriate legal advice, decided to make available additional information and to extend the de-briefing period. This ensured that an appropriate opportunity was provided to the unsuccessful bidders to question the Council's decision in this matter. This course of action mitigated against the risk of a potential legal challenge in respect of any alleged failure to comply with the Public Contracts Regulations, albeit officers believed the Council would have been successful in defending any such legal challenge.

4. Current Situation

- 4.1 Having concluded the debriefing and advised the successful contractor that he had been chosen as the Council's preferred bidder it became apparent in the discussions that followed that the period now available to the contractor to

successfully mobilise and commence the services was insufficient. To mitigate the impact of the compressed mobilisation period Cabinet are asked to approve a variation to the commencement of certain services from the 1st April 2017 to the 5th June 2017. These deferred services include, but are not limited to, the collection of recycling and residual waste and the introduction of the residual waste restriction at the kerbside and civic amenity sites. This variation will be agreed with the waste services contractor Kier Services Ltd and executed as a Deed of Variation to the Contract.

- 4.2 While the Corporate Director - Communities has the relevant delegated authority to issue a Variation Order under the Contract, legal advice has supported the use of the more robust Deed of Variation in this instance due to the scope of the changes attached to deferring certain services from the 1st April 2017 to the 5th June 2017.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 There are no effects on the Policy Framework and Procedures Rules.

6. Equality Impact Assessment

- 6.1 The Council's Equalities Impact Assessment Toolkit has been utilised which indicates that the proposal would have no impact on specific equality groups.

7. Financial Implications

- 7.1 The deferment of certain services under the Deed of Variation is considered to be cost neutral to the contract.

8. Recommendation

- 8.1 That Cabinet authorises the Corporate Director – Communities in consultation with Corporate Director – Operational and Partnership Services and the Head of Finance and Section 151 Officer to conclude the negotiations as to the deferment of the commencement of certain services under the Contract, and finalise the Deed of Variation of the contractual terms with the successful bidder Kier Services Limited and for the Council to then formally enter into the Deed of Variation with Kier Services Limited.

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Background papers: None