

WIRRAL COUNCIL

CABINET

27TH SEPTEMBER 2012

SUBJECT:	HIGHWAY & ENGINEERING SERVICES CONTRACT – VALUE FOR MONEY AND ANNUAL REVIEW
WARD/S AFFECTED:	ALL
REPORT OF:	INTERIM DIRECTOR OF TECHNICAL SERVICES
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR HARRY SMITH, STREETSCENE & TRANSPORT SERVICES
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 As requested at the meeting of the Audit and Risk Management Committee on 28 September 2011 [minute 24(4) refers], this report is to provide an overview of the Highway & Engineering Services Contract which commenced in April 2009 and provide evidence to confirm that the proposed benefits to be realised from the new contract, including value for money, are being achieved.
- 1.2 In addition, the report provides an update for Cabinet regarding that contract at the end of its third year of operation and the financial changes that have taken place to the contract in accordance with Contract Procedure Rule 16A.
- 1.3 The maintenance of all aspects of the highway infrastructure; carried out through this contract; are statutory duties imposed on the Council as Highway Authority.
- 1.4 Part of the report relates to financial aspects of the contract and comparison with other authorities' contracts which are exempt from public disclosure in accordance with paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and this information is separately contained in **Appendices 4 and 5** to the report.
- 1.5 The report also notes that the current contractor has now formally advised that it does not wish to extend the contract past its current end date of 31 March 2014 on the present terms.

2.0 THIRD ANNUAL REVIEW OF THE CONTRACT

- 2.1 At its meeting on 26th June 2012, the Sustainable Communities Overview and Scrutiny Committee received a report concerning the 3rd Annual Review of the

Contract with Colas Ltd, for Highways and Engineering Services [Minute 5 refers].

2.2 The Committee resolved:

- (1) *That this Committee notes the progress of the contract during the past year, and notes officers' views in the report but registers its serious concerns regarding co-ordination, quality and communication issues.*
- (2) *That it be recommended to Cabinet that the existing contract not be extended beyond its current 5 year term, and that the Director of Technical Services be requested to prepare an options appraisal for the delivery of highway and engineering services from 1 April 2014 in a report to Cabinet at the earliest opportunity.*
- (3) *That the Director of Technical Services report on progress on preparation and delivery of a comprehensive exit and handover strategy relating to the satisfactory completion of the current contract, and effective and efficient transition to the new service delivery arrangements, in his future annual reports on the contract.*
- (4) *That this Committee notes that officers will be undertaking actions, to be agreed by Council, in response to the External Auditors' Report in the Public Interest; specifically in relation to the management of the contract; and asks that the Director of Technical Services reports on progress in delivering those specific actions relating to the management of this contract in his annual report to the Committee in 2013.*

2.3 In relation to (2) and (3) above Members are asked to note that that the current contractor has now formally advised that it does not wish to extend the contract past its current end date of 31 March 2014 on the present terms.

2.4 A report on options for the future delivery of the highways maintenance service is now needed be presented to Cabinet at the earliest opportunity.

2.5 In addressing the remainder of those resolutions, Cabinet are asked to note the following actions by Technical Services:

2.5.1 A report on materials used in modern highway maintenance practice is to be prepared for Sustainable Communities Overview and Scrutiny Committee for its meeting in November 2012, to seek to address the real and perceived concerns regarding surface treatments, highlighted by the Committee and gathered from customer feedback surveys.

2.5.2 The development of a risk review of all aspects of the completion and handover of the existing contract is underway.

2.5.3 The four items specific to Technical Services within the Council's Action Plan in response to the HESPE PIDA report are set out in Table 1 below:

Recommendation	Proposed Action
5. Quantify and report to elected members the additional cost of using the electrical subcontractor during the period April 2009 to October 2010.	Report to Cabinet in November 2011.
8. Undertake an option appraisal to evaluate the risks and benefits of HES contract form migration, and evaluate and consider the findings, in advance of any such migration. 9. If migration of the contract is considered, determine whether this represents a material change which would result in a breach of procurement regulations before making a decision.	Evaluation Report approved by the Interim Director of Technical Services.
11. Provide a clear summary to elected members of variations and new rates, the reason for these and the financial impact (quantifying it against the original tender or the latest activity information) in order to inform the value for money assessment and ensure compliance with Contract Procedure Rules.	Contained in this report at Section 3.2, in accordance with CPR16A.

Table 1 – Audit Commission Recommendations specific to the HES contract and proposed actions.

3.0 VALUE FOR MONEY REVIEW

3.1 Key Principles

3.1.1 The majority of the Council's spending on highway maintenance has always been outsourced, since it relies on specialist road surfacing contractors. Approximately 60 percent of the service provided (by value) was carried out under contracts with private sector suppliers prior to the HESPE contract. The Business Case for outsourcing allowed Members to decide that improved value for money would be achieved by bringing all of the works and service components into one single contract with a single supplier (except for traffic signals), including the elements then carried out in-house.

3.1.2 The rationale for value for money; building on that Business Case; comprised a number of aspects:

- Market testing of prices;

- Pre-determined financial efficiency savings;
- The Government's industry standards and specifications for highway works and services, to set safety and quality levels;
- The chosen contractor is an industry leader in road maintenance;
- Independent Gateway Review of the process;
- Contractor's tender "Method Statements" signposting the way forward and opportunities for innovation;
- Economies of scale and integrated delivery over previous arrangements;
- Objective monitoring of performance and the realisation of tangible benefits; and
- Technical Services Department continuing to deliver supporting client functions in-house; with reduced resources; ensuring overall Council control for service delivery.

3.1.3 The tender assessment for the HESPE contract was based on a 70% Price, 30% Quality split, recognising that while the cost of the services was very important, the Council wished to ensure that wider value for money was secured by balancing the submitted prices with the quality of the services provided.

3.1.4 Measuring value on the delivery of highway works has never proved straightforward since Councils, including Wirral, do not re-surface the same roads each year, and the highway network is a complex mix of engineered roads in good condition and life-expired surfaces on uncertain foundations, of varying lengths, widths and traffic loading. This is compounded by ever increasing traffic volumes, public demand, the compensation claim culture, increasingly extreme weather and the damage caused by utility excavations.

3.1.5 Achieving an acceptable balance between responding to day to day requests for repairs to potholes, uneven footway flags and the like and a strategic approach to managing, and investment in, a complex asset through condition performance data is a challenge faced by all authorities, particularly given budgetary pressures, and it is this aspect which poses the toughest questions to the service, and how that service will be provided beyond the current contract.

3.2 Effect of Financial Changes (Variations) To Date

3.2.1 Cabinet will recall the recent changes to the Contract Procedure Rules (CPR) governing variations to contracts, and in particular the improvement in reporting to Cabinet on variations within Term Contracts such as the Colas contract as set out in CPR Section 16A. In accordance with CPR 16A.2 and 16A.3, Table 2 below identifies all those variations to the contract with Colas which have a value greater than £50,000 over the whole of the contract term.

Variation	Estimated cost over the contract term	Comment
Shared cost of a depot clerk for the purpose of extracting utility plans to meet health and safety requirements prior to	£75,000	Offset by client cost savings

works being undertaken		
New item for filling of grit bins with salt from Council salt stocks	£92,000	Not included in the contract as this was paid for on a time-charge basis (dayworks) prior to the contract. The new item was subsequently introduced to reduce the costs incurred as the time charge arrangements were more costly.
Resolving an ambiguity in rates for the cold milling (Planing) of road pavements	£118,000	Offset by reduced use of other rate items
Resolving an ambiguity in the contract to allow the contestable works on street lighting to be achieved through a tripartite agreement.	£855,000	Offset by overall reduction in service cost by approximately £75,000 per year, through reduced payments to electricity companies.

Table 2: Variations greater than £50,000 in value

3.2.2 Changes to the contract are managed in accordance with principles laid down in the Form of Contract, utilising a system of 'Early Warnings' which both parties are required to give in writing as soon as any matter which might have a bearing on cost, programme or quality comes to their attention, and 'Compensation Events' which address any changes to the contract information, including prices, which might result from an 'Early Warning' or if the Council simply requires a quotation for some specialist work which is not covered by the Schedule of Rates (prices) in the Contract. To date there have been 337 'Early Warnings' issued by either the contractor or the Council, of which 11 are still 'open' and being investigated, and 118 'Compensation Events' which range in value from an increase of £54.00 for a new rate for a belisha beacon flasher unit through to the larger items described in Table 2 above. 219 'Early Warnings' have been issued which have not required a 'Compensation Event'.

3.2.3 The number of 'Compensation Events' which are a routine requirement in the management of the contract, should be considered in the context of there being 2,080 item rates in the contract and the Council having issued approximately 58,000 works orders through the contract to date.

3.3 Benchmarking Exercise - Comparison with Other Authorities

3.3.1 Benchmarking of the highways contract costs against other authorities has recently been carried out, through engagement with a long-established group of authorities. The Audit Commission has published its report on achieving better value for money in road maintenance "Going the distance" in May 2011, and in that report it cites the Midlands Service Improvement Group (MSIG) as having overcome the difficult

challenges of comparing different services provided by different authorities and the Group have developed useful benchmarks, covered in Case Study 7 of the Audit Commission's report.

3.3.2 MSIG has re-run their benchmarking exercise, which comprises the pricing of a set of seven common maintenance works, in 2010. The price data for the Wirral Colas contract has been evaluated using MSIG's model for the following situations:

- the tender award year of 2009/10;
- year two of the contract 2010/11, which equates to the MSIG exercise year; and
- the latest full year 2011/12.

The price data used has taken into account the impact of variations to the contract, including those referred to in section 3.2 above and any inflationary and efficiency changes to prices required under the contract.

3.3.3 The benchmarking calculation has also been carried out for the Wirral Colas rates with the appropriate annualised value of risk, identified in the 'macro' Risk Register, added to provide a further comparison.

3.3.4 As an example of example of the national scale benchmarking that has taken place, an exercise in benchmarking the cost of gully emptying across the Merseyside Authorities, and through Liverpool City Council's involvement with a number of the English Core Cities, has been completed in September 2011.

3.3.5 Cabinet will be aware that the results of these exercises, and the data provided by MSIG members, Merseyside and Core Cities authorities, are commercially sensitive, and the results are considered exempt from public disclosure in accordance with paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and this information is separately contained in **Appendix 4** to the report.

3.3.6 The Audit Commission report "Going the distance" also highlights the diverse variation in prices experienced by authorities for certain work types; namely the cost of emptying of road gullies and patching treatment to road surfaces. The comparison of the prices paid by the Council against the ranges of prices quoted by the Audit Commission is of interest to Cabinet, and the results are considered exempt from public disclosure in accordance with paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and this information, too, is separately contained in **Appendix 4** to the report.

3.3.7 Further benchmarking work through routine collaboration between the Merseyside authorities, and through greater engagement with MSIG, is proposed. Benchmarking of the carriageway and footway maintenance activities across the Merseyside Authorities has commenced in November 2011, with Liverpool City Council taking the lead in the evaluation of service model and cost data.

3.4 Benefits Realised

3.4.1 The performance management framework reported to Sustainable Communities Overview and Scrutiny Committee on 26th June 2012 has demonstrated that service levels have largely been maintained or improved. It has been necessary to develop

new indicators as the contract has matured to ensure that areas of improvement are addressed that are relevant now.

3.4.2 The Benefits Realisation Strategy, and performance in achieving the planned targets, is a mechanism which measures whether the aims and aspirations for the contract are on track. This approach was commended in the independent Gateway 5 Review carried out in May 2010.

3.4.3 In managing the contract to date, the Council has established a number of mechanisms which, now that the contractor has indicated that it will not seek an extension beyond March 2014, will need management review to ensure that maximum value is achieved from the remaining period of the contract. The current mechanisms in place are:

- A joint Partnering Board;
- Joint Innovation Groups to explore and develop areas for improvement and address external issues such as emerging new materials or construction methods, and to focus engagement with other parties such as the Council's Contact Centre;
- The "Early Warning" risk management forums;
- Joint Commercial Meetings to provide effective and timely management of Early Warnings and changes to the contract information and prices through Compensation Events; in accordance with the requirements of the contract; and
- The shared On-line Portal for contract information.

3.4.4 During the lifecycle of the procurement process from 2007 through to 2009, the original subjective benefits identified emerged into a clear set of measurable aspirations, shaped through consideration by the Project Board and in Cabinet. This work identified stakeholders' views as to what was needed from the HESPE contract arrangements, and it is these which are measured in the Benefits Realisation Plan, and summarised in **Appendix 1**.

3.4.5 For the overall service, the condition of the network is also monitored through annual condition surveys. These condition survey indicators are contained in the Corporate Plan, and baseline measurements for this year show two of the indicators to be ahead of target and the third expected to improve to be on target through specifically targeted investment in the current year. Progress against the Corporate Plan targets was reported to Sustainable Communities Overview and Scrutiny Committee on 26 September 2011, and a summary table of the condition data is provided in **Appendix 2**.

3.4.6 The continued provision of highway inspections by the Council's Inspectors and delivery of maintenance operations through the HESPE Contract, in accordance with Council policy, has allowed the Council to maintain a strong position in challenging claims against the Council in respect of alleged slips, trips and falls. Despite the changes to the current contracted arrangement and a reduction in client resources, the trend continues to show an improving repudiation rate. The latest full year data is presented at **Appendix 3**.

4.0 VALUE FOR MONEY – CONCLUSIONS

- 4.1 The HESPE procurement was carried out cognisant of the need to identify and measure the benefits to be achieved including the significant cost savings. The contract awarded has been managed to ensure that those benefits are realised and are reported; including the annual reports to both Sustainable Communities Overview and Scrutiny Committee and Cabinet. The wish to develop an integrated asset management facility for highways proved unaffordable, but work is in progress to deliver an alternative strategy to ensure asset data is recorded and kept up to date, maintenance decisions are based on sound information and priorities and asset valuation requirements are being achieved.
- 4.2 The performance management framework for the contract was developed early in the contract, and is monitored regularly by contract managers for both parties, with quarterly reports to the Contract Partnering Board, chaired by the Director of Technical Services. It has been recognised by both parties that performance measurement needs have changed over the contract period, and new indicators have been developed. This is common practice in the industry. Some measures which were fundamental at the outset are now routine, with 100% compliance, and no longer promote service improvement. It is accepted that changes to performance indicators means that measuring ongoing continuous improvement can be hindered, but in this case any indicators which have been removed from the performance framework were continually at 100% compliance.
- 4.3 Benchmarking of the service against other authorities is an important factor, and whilst it is important to recognise the variations in service models and priorities, cost comparisons can be made. The Council benefits from very competitive prices secured during the HESPE procurement and whilst there have been increased costs, including some individual increases which are quite large, these are not unexpected on such a large and complex contract, and in many cases are offset by reductions in costs elsewhere in the service, as described in Table 2 above.
- 4.4 Anticipated budgetary and efficiency savings have been achieved, including the planned reduction in the resources required for the client elements of the service.
- 4.5 The volume and quality of work carried out and the attention to programming have largely been successful, and with good but inconsistent customer feedback scores. The customer service dimension remains an active work-in-progress issue.
- 4.6 Nonetheless, ensuring continued value for money will require further development of the service:
- Robust and affordable asset management for the highway network, with a strategy adopted by the Cabinet at its meeting on 15 March 2012 [Minute 341 refers], and the completion of a Highways Asset Management Plan (HAMP).
 - Planning from 2012/13 for post-2014 contract requirements.
 - Increasing use and improvement of customer feedback and the CRM system, and addressing the quality concerns highlighted by the Sustainable Communities Overview and Scrutiny Committee and from comments by Ward Members and the public...
 - Further development of external benchmarking.

- A stronger reporting arrangement to Committee to ensure value for money is evident.
- Involvement in national initiatives to develop and share best practice and in particular the government sponsored Highway Maintenance Efficiency Programme (HMEP).

5.0 RELEVANT RISKS

- 5.1 Failure to report on, and demonstrate that, value for money is being achieved would justify criticism in the Annual Governance Statement, risking the Council's reputation.
- 5.2 Highway maintenance is a statutory requirement and failure to deliver the service effectively might impact on the Council's reputation, the condition of the network and increase claims against the Council for slips, trips and falls.
- 5.3 Cabinet should also refer to the matters contained in the exempt **Appendix 5**.

6.0 OTHER OPTIONS CONSIDERED

- 6.1 No other options considered appropriate.

7.0 CONSULTATION

- 7.1 Residents affected by a sample of schemes are invited to provide numerical feedback and comments on the works carried out through the contract.
- 7.2 Benchmarking is carried out in collaboration with highway service managers in other authorities and from appropriate data and intelligence generated by national bodies and agencies.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 8.1 There are none arising directly from this report.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 9.1 Monitoring and reporting on Value for Money aspects of the contracted service are carried out using existing resources, in collaboration with other authorities.

10.0 LEGAL IMPLICATIONS

- 10.1 Highway maintenance and the clearance of ice and snow are both duties placed on the Council by statute.

11.0 EQUALITIES IMPLICATIONS

- 11.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) Yes and impact review is attached.

12.0 CARBON REDUCTION IMPLICATIONS

- 12.1 There are none arising directly from this report.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 There are none arising directly from this report

14.0 RECOMMENDATIONS

14.1 Cabinet is requested to:

- (i) Note the progress of the contract during the past year, including the concerns recorded by the Sustainable Communities Overview and Scrutiny Committee regarding the performance of the contract, and invite that Committee to seek such assurance from officers and the contractor that their concerns are being satisfactorily addressed.
- (ii) Note that the existing contractor has formally notified the Council that it does not wish to extend the contract past its current end date of 31 March 2014 on the present terms.
- (iii) Request that the Interim Director of Technical Service prepare a report appraising future options for the delivery of highway and engineering services from 1st April 2014, at the earliest opportunity.
- (iv) Note that the Sustainable Communities Overview and Scrutiny Committee has asked the Director of Technical Services to report on progress on preparation and delivery of a comprehensive exit and handover strategy relating to the satisfactory completion of the current contract, and effective and efficient transition to the new service delivery arrangements, in his future annual reports on the contract.
- (iv) Note that officers will be undertaking actions, in response to the External Auditors' Report in the Public Interest; specifically in relation to the management of the highway and engineering services contract, and that progress in delivering these actions will be monitored through the Corporate Improvement Board.

16.0 REASON/S FOR RECOMMENDATION/S

- 16.1 Responsibility for scrutiny of the contracted service, and informing Cabinet of their findings, rests with the Sustainable Communities Overview and Scrutiny Committee.
- 16.2 The Highway & Engineering Services 2009-2014 Contract was procured via the Highway & Engineering Services Procurement Exercise (HESPE) project using the OGC (Office of Government Commerce) 'Gateway' process. A key objective of the project and the 'Gateway' process was to ensure that there was a robust business case for the new contract arrangement with clear service objectives and benefits to be realised. Bearing in mind the significant financial challenges facing the Council already identified at that time, the primary objective of the project was to achieve a new contract arrangement that would give improved value for money, with a particular focus on reducing cost (economy) and improving efficiency.
- 16.3 Delivering value for money in terms of economy, efficiency and effectiveness (the three Es) is a key aspect of the external audit judgement which is used to inform the Council's Annual Governance Report.

- 16.4 Financial changes to the contract, mostly resulting from variations in prices for new types of work or changes to the way work is delivered, can affect the extent to which value for money is being achieved and must also be reported to Cabinet in accordance with new Contract Procedure Rule 16A relating to term contracts.
- 16.5 The notification from the existing contractor that it does not wish to extend the contract past March 2014 on the current terms is material for the Council to now request that studies be commenced of options for the procurement of a successor contract.

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APPENDICES

Appendix 1 – Benefits Realisation Plan Summary

Appendix 2 – Highway Condition Data

Appendix 3 – Highway Public Liability Claims data

Appendix 4 EXEMPT – Benchmarking HESPE Contract prices against other Authorities

Appendix 5 EXEMPT – Financial Aspects of the Contract

REFERENCE MATERIAL

Audit Commission, Local Government Report (May 2011), *Going the Distance: Achieving better value for money in road maintenance*.

Midlands Service Improvement Group benchmarking data (Exempt)

Merseyside and Core Cities benchmarking data (Exempt)

Audit Commission, Report in the Public Interest (8 June 2012) *Highways and engineering services contract award and management*.

Highways Maintenance Efficiency Programme (HMEP) <http://www.dft.gov.uk/hmep>

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Sustainable Communities Overview & Scrutiny Committee – Highway & Engineering Services Contract – Six Month Update	19 November 2009
Sustainable Communities Overview & Scrutiny Committee – Highway & Engineering Services Contract – Revenue Implications	8 March 2010
Sustainable Communities Overview & Scrutiny Committee – First Annual Review	21 June 2010
Cabinet – Revision of Contract Procedure Rule 16	23 June 2011
Sustainable Communities Overview & Scrutiny Committee – Second Annual Review	26 September 2011
Sustainable Communities Overview and Scrutiny Committee – Third Annual Review	26 June 2012