

## APPENDIX A

### Delivering Differently - Future Service Delivery of Operational Services at Havant Borough Council

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#### 1. Background

Balancing the budget by the beginning of 2016-17 will require significant reductions in public spending, savings which can then be used to support both deficit reduction targets and programmes to stimulate badly needed economic growth. Central departmental budgets will be on average 8% below their current levels in real terms in 2014-15. The situation in local government is tough too: Councils face a cut of 28% in the central government grant.

The challenge of bringing public finances into balance, coupled with the impact of major demographic change over the next 20 years, means there is an urgent need to re-think how we approach public services. Business as usual is not an option. We simply cannot afford to continue to run them in the same way if we are to deliver the services needed and demanded by the public.

*Source: CBI report 'Open access – Delivering quality and value in our public services: September 2012*

In line with Havant Borough Council's Business Plans (2014/15 and 2015/16) various options for future delivery of operational services have been considered.

#### Scope of this Report

- A review of existing service provision
- Estimated Cost of current services (2014/15 & 2015/16) - Appendix B
- Research into each option
- To make a recommendation based on findings

The following services are within the scope of this report:

- Household Waste
- Garden Waste Collection
- Street Cleansing
- Public Convenience Cleansing
- Open Space Maintenance (incl. Beachlands)
- Allotments
- Beach Huts
- Cemeteries
- Vehicle Maintenance Workshop
- Engineering Works Team

### **The Current Market**

A key part of the core services is the waste and recycling collection service. This particular market area has a history of price volatility, and reacts to regional, national and even international issues, including market outlets for dry recyclables, competition on available collection and disposal contracts, and also the general economic situation at that time. Around 5 years ago, tender returns were extremely competitive due to the prevailing market conditions at that time, and current competition may still be as high, but only a soft market test would give us an indication of the current situation, but cannot predict future trends.

Other core service areas, including Grounds Maintenance and Street Cleansing services, could also be part of a soft market testing process.

A soft market testing of recently let waste & associated environmental service (OJEU) let tenders has been carried out by the Business Improvement Team in order to compare our cost threshold for these services in Havant against current market trends, and also to verify the potential 11%\* savings that could possibly be achieved by letting these functions out to a private contractor. Based on 2015/16 estimates this could result in savings of £350k on core services (i.e. 11% of £3.2M) or up to £400k if the associated services were in scope as well. On the basis of this soft market test, the potential savings target appears to be reasonable and potentially achievable.

***\*Source: CBI report 'Open access – Delivering quality and value in our public services'***

An alternative outsourcing option to the traditional externally let contract to a private contractor would be a Joint Venture Company (JVC), which could also potentially deliver a similar level of savings for Havant; 11%\*, whilst maintaining or even improving service levels.

***\*Source - Norse Commercial Services Ltd.***

### **Service "AS - IS"**

Operational Services covers a wide range of frontline services based at Southmoor Offices / Depot and at Beachlands including:

Household Waste	Street Cleansing	Public Convenience Cleaning	Open Space Maintenance	Vehicle Maintenance	Engineering Works
Residential collections	Manual	Cleansing	*Allotments	Repairs	Rapid response
Recycling	Mechanical	Minor Maintenance	*Cemeteries	Maintenance/servicing	Out of hours
Garden waste	Fly tipping	Opening and Closing	Beach lands	Out of hours	Street name plates
Clinical waste	Rapid response		Playgrounds	Procurement	Minor civil works
Bulky waste	Out of hours		*Beach Huts		
Bring sites: Glass & Textiles			Play equipment	Taxi checks	
			Sports Facilities	Non- HBC vehicles (other LA's, schools etc.)	
			Grounds Maintenance		
			Arboriculture		
			Recreation Grounds		

*\* These service areas form part of the Business Plan for 2015/16*

Operational Services uses a wide range of IT systems and products including:

Product	Purpose/used for
ActiveSync	Downloading refuse cart PDAs
Remedy	Recording/reporting of service issues
Woisme	Looking up missed bins, contaminated waste
Epitaph	Cemeteries
SKOOP	Intranet
Meridio	EDRMS – document and records storage
Kofax	Scanning software
Kahootz	Enables data sharing for projects and groups
GIS	Graphical information system – map layering
Waste database	Bin ordering
Cedar	Financial systems
Cadcorp	Map editor
Pitch bookings	Pitch bookings and Allotment bookings (On old tower PC systems not on Winterm)
DVLA	Direct link to the DVLA to check vehicle ownership (stand alone PC)

## **2. Identified Options**

**Option 1-** In- House

**Option 2-** Outsource to a Private Contractor

**Option 3-** Local Authority Partnership/Contracting Option

**Option 4-** Outsource to a JVC

a) Public/Public

b) Public/Private

The options in this study have been built upon information gathered via workshops, site visits and meetings with relevant groups and individuals.

In the creation of this document (and associated appendices) the following have contributed:

- Cabinet Lead - Cllr Tony Briggs
- Corporate Director
- Executive Head - Marketing & Development - Delivering Differently Lead
- Executive Head - Environmental Services
- Service Manager – Operational Services
- Service Manager Joint - Waste Contract (Option 2 & 3)
- Service Manager- Marketing and Customer Relations (Option 2 & 4)
- Corporate Programme Office (All Options)
- HR (All Options)
- Legal HBC (All options)
- Legal Counsel (Option 4a)
- Procurement (All Options)
- Finance Business Partner (All Options)
- Norse Commercial Services Group (Option 4a)
- Suffolk Coastal Norse (Option 4a)
- TOR2- (Option 4b)

### **Option 1- In-house:**

Description
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The Council will continue to operate the services.

As part of the 2015/16 business plan a number of projects were identified which could increase income and/or reduce costs as part of the on-going drive to reduce net costs to the council of the in-house option:

- Cemeteries-Identify a private sector operator to run HBC cemeteries by advertising a 'concessions contract' and also develop a new cemetery at West of Waterlooville MDA at nil cost to the Council.
- Pursue self management options for allotments sites and sports facilities- Transfer of services to user groups resulting in a reduced reliance on Council resources
- Beach Huts ~ a site for an additional 36 Beach huts has been identified, subject to planning and ecology advice as part of this project which will generate an estimated additional income of £28,000 per annum. The project is also looking at options for increasing income from existing licences which may result in a further £60,000 per annum from 2017/18. This would involve transferring from existing arrangements of licences for plots to leases for plots and huts.
- Review of open spaces management including grass cutting regime ~ initial estimates suggest we could save approximately £25,000 per annum by reducing the frequency of grass cuts and creating a more natural environment in some areas of our parks & open spaces. More detailed analysis is required to verify this.

#### Commercial opportunities

To explore the options for creating commercial opportunities within the service ie: Vehicle Maintenance workshop, grounds maintenance, trade waste/recycling etc. A robust business case would be required in order to identify as to whether any of these opportunities are worth pursuing and is there enough interest to warrant investment by the council.

It should be noted that in considering the commercial options outlined above, if a local authority wishes to trade to the private sector it must do so through a company (S 93-95 of the Local Government Act 2003)

HR features
Remain as-is

Legal features
As noted above
Timescale and achievability
N/A
Governance
Remain as-is

Advantages	Disadvantages
Flexible service with ability to respond to local issues / service changes	Budget savings unlikely to be significant following previous savings of £750K over the past few years.
Local response to councillors/customer enquiries	High maintenance approach to managing sickness and performance, and cost to the Council through sickness absence.
No procurement costs	Lack of commercial acumen
Ability to review services if required as part of budget setting process	Local Authorities are restricted in their ability to trade commercially. If public body wishes to trade with private sector must do so via a company.
Retention of vehicle workshop and ability to generate income	Support Service Costs
Retention of local knowledge	
Ability to respond to emergency situations	

### **Option 2- Outsource to a Private Contractor**

Description
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This would involve the Council contracting the delivery of the services to a private contractor whilst the council would retain overall responsibility for the services. The contractor would deliver services on behalf of the Council in accordance with appropriate specifications identified within a commercial contract. A contractor would use its combined extensive resources, experience and expertise to increase cost efficiency and raise standards where possible.

Given the value and nature of the contract, the contract would need to be OJEU tendered

### HR features

**TUPE-** Transfer of Undertakings (Protection of Employment) regulations.

The principles are common to all options involving staff transfer to an external body:

- Where services are transferred to an external body, staff will normally transfer to that body under TUPE
- Where the transfer is to a commercial organisation TUPE requirements need to be met
- Demonstrate the ability to provide conditions of service, which are not less favourable than those provided by the Council, which may include any Organisational, Economic and Technical changes.

TUPE regulations apply to those staff directly delivering the services to be transferred. A lot of detailed work would be required including the creation of a transfer plan detailing:

- What work/services to be transferred
- Staff numbers
- Personal contract details
- Liabilities
- Collective agreements
- Trade union recognition
- Continuous employment
- Legal guidance

This information would have to be provided within one month of mobilisation.

### **Pensions**

Where staff transfer to a new employer under TUPE, the new employer must apply to join the Local Government Pension Scheme (LGPS) as an “Admitted Body”. A pass-through agreement would be required whereby the contractor would only be responsible for current contribution levels at the point of transfer.

### Legal features

An EU procurement exercise would need to be undertaken and any arrangement entered into with a contractor would be subject to the Council's terms and conditions of contract, including a specification setting out the services included, financial arrangements, and standards required.

### **Timescale and achievability**

- Preparing services of this value for transfer to a Private Contractor would involve a full EU procurement exercise. This will be very time consuming, up to 18 months from commencement, due to strict time guidelines, and costly due to the amount of officer/specialist time involved i.e. producing detailed specifications (these have not been produced since the days of Compulsory Competitive Tendering – CCT in the 1980's & 1990's), evaluation of bids and the provision of TUPE information. This could cost an estimated £100,000 (one-off) as it may need a Consultant to undertake and complete this work.
- It is imperative that the contract contains a robust specification relating to the delivery of existing services and also includes a mechanism for future service changes and/or enhancements. At present no formal specification exists
- The transfer of services to the commercial sector is an accepted procedure and there is expertise available to ensure that the transfer happens within the required rules and regulations.
- Market research has indicated that there are likely to be commercial providers interested in tendering for HBC services.

### **Governance**

- The contract would be governed through effective contract management arrangements, which would include KPI's and regular contract review meetings. The Council would carry out the aforementioned through a contract monitoring team; this would be a direct annual cost to the council of £200,000 (estimated).
- The Council would have less flexibility in making changes to the contract specification without incurring additional costs

<b>Advantages</b>	<b>Disadvantages</b>
Potential budget savings	Interpretation of service specifications may result in uncertainties
Service provision guaranteed for length of contract	Potentially reduced ability to respond to emergencies unless covered and priced for in the contract
Service costs fixed, apart from population and inflation growth, for length of contract	Potential reduction of vehicle maintenance work might affect viability of Vehicle Workshop unless other markets are developed or this facility is included in the contract packaging.
Less management time involved in	Cost of setting up and then managing



managing sickness / performance	contract.
Potential to reduce Support Services	Long timescale to set up & start contract – likely to be in late 2016/17.
Potential income from lease of Southmoor site to contractor.	Reduced flexibility
Potentially a wide choice of contractor	
Sustaining local community and keeping jobs and profits in the local area	
Potential Day one savings  <u>Savings profile:</u> <ol style="list-style-type: none"> <li>1. Reshaping service delivery to agreeable Council outcomes</li> <li>2. Reorganisation of resources</li> <li>3. Benefits released from transferring in or aligning additional services</li> <li>4. Introduction of 2 tier working</li> <li>5. Purchasing savings</li> <li>6. Bringing subcontracted services ‘in house’</li> <li>7. IT system improvements</li> <li>8. Reduction in bureaucracy and more agile working</li> <li>9. Investment in more efficient equipment and vehicles</li> </ol>	
Possible Business/Commercial growth i.e. Vehicle Maintenance Workshop, Trade waste/recycling, Grounds maintenance etc	
Robust specification (you only get what you ask for)	
Access to wider markets	
Private Sector expertise / commercial acumen	
Economies of scale	

### **Option 3- Local Authority Partnership/Contracting Option**

Description
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Savings are often increased where two or more councils collaborate and let a shared contract with a joint contract team.

There are a number of examples of local authority partnerships across the country with contracted core services, and in the local area as follows:

- East Hampshire / Winchester (expires 2019/20)
- Basingstoke / Hart (expires 2017/18)
- Wealden / Eastbourne / Rother / Hastings (expire 2023/24)

The approach for this option would either be:

- Outsource to a Private contractor with a framework in place so that others can join
- Join an existing contract (Legal implications below)

#### HR features

As option 2

#### Legal features

The legal advice on contracts was as follows:

If a public body has set up a framework agreement for the provision of operational services and that framework agreement was procured in-line with the Public Contracts Regulations, then a local authority can (subject to the terms of that particular framework agreement) “call off” under that framework for the provision of services from a Private operator already procured under the framework.

In terms of joining an existing contract between a private operator and a local authority/ies, most public sector contracts above the public procurement thresholds will have been procured under a regulated procurement procedure. It follows that no substantial change should be made unless regard has been had to the EU's procurement rules. If a contract is changed to a material degree, it may be held that there is, in fact, a new contract, which should have been advertised accordingly and the resultant contract may be ineffective. Counsel's opinion on whether adding in a new party and significantly increasing the value of the contract.

Counsel's opinion in conference was as follows:-

*“There are circumstances where it may be possible to add 10% additional work to the contract without the need to re advertise in the OJEU, however it would require a ‘Notification of modifications of a contract during its term’.*

*The new EU rules which came into force in Spring 2015 extend the above by allowing additional works that have become necessary or involve substantial inconvenience/duplication of costs limited to 50% of the price of the original contract. This change needs to have been unforeseeable and will require further testing by asking Counsel to advise on the validity of our actions before proceeding.*

*Extending the contract by 10% does not pose any issues, over and above that will require further legal analysis.”*

### **Timescale and achievability**

The timescale would depend on which approach is taken:

- Outsource to a Private contractor with a framework in place so that other Local Authorities can join – similar to that of option 2
- Join an existing contract- unless the contract is as per the legal implications we would have to wait until contract expiry of selected Local Authority.

### **Governance**

As option 2

<b>Advantages</b>	<b>Disadvantages</b>
Potential budget savings of greater magnitude than single authority approach (Option 2)	May be costly to add / change services once contract let
Service provision guaranteed for length of contract	Interpretation of service specifications may result in uncertainties
Service costs fixed, apart from population and inflation growth, for length of contract	Potentially reduced ability to respond to emergencies unless covered in contract
Less management time involved in managing sickness / performance	Loss of vehicle maintenance work might affect viability of Vehicle Workshop unless other markets are developed or this facility is included in the contract packaging.
Potential to reduce Support Services	Cost of setting up and then managing contract.
Potential income from lease of Southmoor site to contractor.	Long timescale to set up & start contract – not likely to be until at least 2017/18 or even 2019/20.
Wide choice of contractor	Changes in service dependant on Partner(s)
Sustaining local community and keeping jobs and profits in the local area	Finding a potential Partner Authority with aligned objectives and similar timescales to Havant Borough Council.

Day one savings	
<u>Savings profile</u> <ol style="list-style-type: none"> <li>1. Reshaping service delivery to agreeable Council outcomes</li> <li>2. Reorganisation of resources</li> <li>3. Benefits released from transferring in or aligning additional services</li> <li>4. Introduction of 2 tier working</li> <li>5. Purchasing savings</li> <li>6. Bringing subcontracted services 'in house'</li> <li>7. IT system improvements</li> <li>8. Reduction in bureaucracy and more agile working</li> <li>9. Investment in more efficient equipment and vehicles</li> </ol>	
Possible Business/Commercial growth i.e. Vehicle Maintenance Workshop, Trade waste/recycling, Grounds maintenance	
Robust specification (you only get what you ask for)	
Access to wider markets	
Private Sector expertise	
Economies of scale	

### **Option 4a- Public/Public Joint Venture Company**

Description
<p>This option involves forming a Joint Venture Company (JVC) with another Local Authority.</p> <p>The Council retains a direct influence over the business operation, its governance and performance standards, as the Council and appropriate stakeholders would have equitable representation on the JVC Board and would therefore have the ability to change and respond to changing events and issues.</p> <p>This approach reflects the culture change required by the local authority partner to take a collaborative approach rather than a 'command and control' approach which is a necessary feature in traditional contractual relationships.</p> <p>Entering into a Joint Venture (JVC) with a suitable partner would enable the Council to access and share external expertise with the objective of addressing its budget challenges.</p> <p>Public/Public Joint Ventures can deliver public services subject to the 'Teckal' criteria being satisfied. The Council, as one of the public partners, can then 'passport' its services to the JV company for delivery. The JV company would also undertake trading activities with the objective of providing a 'dividend' or profit share back to the JV partners.</p> <p>A joint venture company would use its combined extensive resources, experience and expertise to increase cost efficiency and raise standards. As well as operational benefits, Havant Borough Council would enjoy increased profit-share and the prospect of long term growth via the development of external revenue.</p> <p>At a time of unprecedented pressure on public finances, a joint venture company can generate external revenue streams in both public and private sectors leading to revenue streams for the Council and its stakeholders, ensuring value for money for the residents of Havant.</p> <p>An example of this type of venture is:</p> <ul style="list-style-type: none"><li>• <b><u>NORSE Commercial Services</u></b> (part of the Norse Group), which is wholly owned by Norfolk County Council) - For 24 years Norse Group has been pioneering a radical and cost-saving approach to delivering public services – from asset management to front-line services – by joining forces with the public sector to form Joint Venture Companies (JVCs).</li></ul> <p>Working in harmony with local councils and other public sector organisations through dynamic partnerships, Norse has increased cost efficiency, raised standards of delivery and added social value: from more efficient design, management and maintenance of public buildings to healthier school meals, cleaner premises, improved school transport, tidier streets and integrated waste and recycling.</p>

Jointly owned operating companies replace traditional client/contractor relationships, resulting in strategic partnerships which generate operating surpluses for the benefit of both Norse and the partner authority.

Faced with unprecedented pressure on public sector finances, more and more local authorities are working closely with Norse to launch such cost-efficient joint ventures.

With performance monitored closely, the partnerships create bonds of trust and financial transparency, delivering the highest standards and achieving targeted service levels.

Examples of Council's that Norse has formed joint ventures with include:

- Wellingborough Borough Council
- Devon County Council
- Waveney and Suffolk Coastal Councils

These examples have been in place for several years, and have produced year on year savings and profit sharing for the partner authorities.

## HR features

### TUPE

The HR principles are common to all options involving staff transfer to an external body:

- Where services are transferred to an external body, staff will normally transfer to that body under TUPE - Transfer of Undertakings (Protection of Employment) regulations.
- Where the transfer is to a commercial organisation TUPE requirements need to be met
- Demonstrate the ability to provide conditions of service, which are not less favourable than those provided by the Council, which may include any Organisational, Economic and Technical changes.

TUPE regulations apply to those staff directly delivering the services to be transferred. A lot of work would be required including the creation of a transfer plan detailing:

- What work/services to be transferred
- Staff numbers
- Personal contract details
- Liabilities
- Collective agreements
- Trade union recognition
- Continuous employment
- Legal guidance

This information would have to be provided within one month of mobilisation.

### **Pensions**

Where staff transfer to a new employer under TUPE, the new employer must apply to join the Local Government Pension Scheme (LGPS) as an “Admitted Body”. A pass-through agreement would be required whereby Havant Norse would only be responsible for current contribution levels at the point of transfer.

The new employer also has a duty to provide a pension scheme for transferred employees. This needs further investigation as there could be cost implications for a JV.

### **Legal features**

The ‘Teckal exemption’ applies where a local authority contracts with a Company which is in Local Authority ownership (whether with one or more Local Authority Members) and which provides services to the hosting local authority.

For the company to benefit from the “Teckal exemption”, the following criteria must be satisfied:

- a) the trading company must be wholly owned by the local authorities, and there can be no private ownership or interest in the company;
- b) the local authority exercises a control which is similar to that which it exercises over its own departments, and
- c) the trading activity of the company must not exceed **20%** of the turnover of the company, that is, 80% or more of the activity of the company must be for its public sector owners.

Where these conditions are met it will not be necessary for the arrangement to be advertised in accordance with EU Procurement requirements and the contract can be awarded to the JVC directly

We took advice from leading Counsel, in February 2015 who opined that the Teckal case law has not changed and that the proposal is “Teckal compliant” Further, Counsel does not regard the JV contract itself as being a public services contract and therefore, the selection of Norse as a joint venture partner does not, need to be exposed to competition.

This means that if HBC make the decision that entering into the JV with Norse on the basis that this represents best value in terms of its provision of operational services, it can do so without having to put the opportunity out to competition.

### **Timescale and achievability**

Preparing services of this value for transfer to a JVC would not involve a full EU procurement exercise. It is anticipated that the full mobilisation could take as little as 6 months. Officer time would be required to provide a workable specification, ‘Due

Diligence' information which would include TUPE
<b>Governance</b>
<p>The joint venture option would involve senior Members and Officers as members of the Board of Directors. It may be possible to negotiate the exact make up of the Board.</p> <p>In addition to the Board of Directors, a Strategic Liaison Board is formed (reporting to the main Board.) This comprises of officers from the local authority, representatives of the partner and other stakeholders. i.e. End users, Members. This Strategic Liaison Board sets standards and provides direction for service outputs, and also deals with budget setting / savings targets etc. for the Partnership, which is locally managed.</p> <p>This means that the Council would have a strong influence on the company's governance and operations, ensuring compliance with Council strategy (including Fees and charges), vision and change programme principles.</p>

<b>Advantages</b>	<b>Disadvantages</b>
Greater Council control than in a traditional outsourced arrangement	Potential lack of commercial acumen within existing staff
Flexibility in responding to Council priorities via the Partnership Board including scrutiny process	Potential savings would be based on projections rather than contract price
Sustaining local community and keeping jobs and profits in the local area	
Opportunity to collaborate with other Hampshire districts who are also looking at this option	
Streamlined management and commercial culture	
Management fee including reduced support costs	
No upfront and on-going capital investment from the council	
Commercial Financial risk taken by JVC Partner	
Agreed minimum profit level guaranteed with surplus paid if above that level	
Reduced procurement time—no need for a fully detailed specification or OJEU process, potential delivery early 2016.	
Reduced technical client requirement	
Opportunity to develop external revenue streams eg: <ul style="list-style-type: none"> <li>Vehicle Workshop development</li> </ul>	



<p>opportunities</p> <ul style="list-style-type: none"> <li>• Bus Shelters</li> <li>• Engineering Works Team and the work that could be completed on behalf of Coastal</li> <li>• Trade Waste</li> <li>• Cemeteries</li> <li>• Open Spaces</li> <li>• Regeneration opportunities</li> <li>• Allotments</li> </ul>	
Profit share on commercial income and potential budget savings on direct and support service costs	
Public service ethos with commercial flair with the ability to trade commercially	
No major change in uniform, livery and facilities	
<p>Day one savings</p> <p><u>Savings profile</u></p> <ol style="list-style-type: none"> <li>1. Reshaping service delivery to agreeable Council outcomes</li> <li>2. Reorganisation of resources</li> <li>3. Benefits released from transferring in or aligning additional services</li> <li>4. Introduction of 2 tier working</li> <li>5. Purchasing savings</li> <li>6. Bringing subcontracted services 'in house'</li> <li>7. IT system improvements</li> <li>8. Reduction in bureaucracy and more agile working</li> <li>9. Investment in more efficient equipment and vehicles</li> </ol>	

## **Option 4b – Public /Private Joint Venture Company**

<b>Description</b>
<p>This option involves forming a Joint Venture Company (JVC) with a Private Company with profits</p> <p>The Council retains a direct influence over the business operation, its governance and performance standards, as the Council and appropriate stakeholders would have equitable representation on the JVC Board, and would therefore have the ability to change and respond to changing events and issues.</p> <p>This approach reflects the culture change required by the local authority partner to take a collaborative approach rather than a 'command and control' approach which is a necessary feature in traditional contractual relationships.</p> <p>Entering into a JV with a suitable partner would enable the Council to access and share commercial expertise with the objective of addressing its budget challenges.</p> <p>Unlike the public sector JV referred to above where the 'Teckal' exemption applies, a formal procurement process would need to be undertaken prior to establishing a private JV partnership. Assuming the competitive dialogue procurement process is followed; the procurement is likely to take 12-18 months and could be relatively expensive compared to the Teckal example. (With the Council being responsible for these costs).</p> <ul style="list-style-type: none"><li>• May Gurney (now Kier) are working with Torbay Council to deliver various services including: Waste and recycling collections, maintenance of highways, grounds and parks, buildings and the Council's vehicle fleet, street and beach cleansing and out of hours support.</li></ul>

<b>HR features</b>
<p><b>TUPE</b></p> <p>The HR principles are common to all options involving staff transfer to an external body:</p> <ul style="list-style-type: none"><li>• Where services are transferred to an external body, staff will normally transfer to that body under TUPE - Transfer of Undertakings (Protection of Employment) regulations.</li><li>• Where the transfer is to a commercial organisation TUPE requirements need to be met</li><li>• Demonstrate the ability to provide conditions of service, which are not less favourable than those provided by the Council, which may include any Organisational, Economic and Technical changes.</li></ul> <p>TUPE regulations apply to those staff directly delivering the services to be transferred.</p>

A lot of work would be required including the creation of a transfer plan detailing:

- What work/services to be transferred
- Staff numbers
- Personal contract details
- Liabilities
- Collective agreements
- Trade union recognition
- Continuous employment
- Legal guidance

This information would have to be provided within one month of mobilisation.

### **Pensions**

Where staff transfer to a new employer under TUPE, the new employer must apply to join the Local Government Pension Scheme (LGPS) as an “Admitted Body”. A pass-through agreement would be required whereby Havant Norse would only be responsible for current contribution levels at the point of transfer.

The new employer also has a duty to provide a pension scheme for transferred employees. This needs further investigation as there could be cost implications for a JV.

### **Legal features**

The ‘Teckal exemption’ does not apply where a local authority contracts with a Company which is not in Local Authority ownership.

An EU procurement exercise would need to be undertaken, compliant with the Public Contracts Regulations 2015 and Council’s tendering rules, and any arrangement entered into with a contractor would be subject to the Councils terms and conditions of contract, including a specification setting out the services included, financial arrangements, and standards required.

### **Timescale and achievability**

Preparing services of this value for transfer to a Public/Private JV would involve a full EU procurement exercise. This will be time consuming, 12 to 18 months from commencement, due to strict time guidelines, and costly due to the amount of officer/specialist time involved i.e. producing specifications (these have not been produced since CCT), evaluation of bids and the provision of TUPE information. Timescale would be similar to Option 2, however, this could be slightly shorter as the specification process will reflect that of option 4a.

### **Governance**

The joint venture option would involve senior Members and Officers as members of the Board of Directors. It may be possible to negotiate the exact make up of the Board.

In addition to the Board of Directors, a Strategic Liaison Board is formed (reporting to

the main Board.) This comprises of officers from the local authority, representatives of the partner and other stakeholders. i.e. End users, Members. This Strategic Liaison Board sets standards and provides direction for service outputs, and also deals with budget setting / savings targets etc. for the Partnership, which is locally managed.

This means that the Council would have a strong influence on the company's governance and operations, ensuring compliance with Council strategy, vision and change programme principles.

<b>Advantages</b>	<b>Disadvantages</b>
Greater Council control than in a traditional outsourced arrangement	Long timescale to set up & start contract – likely to be in late 2016/17.
Flexibility in responding to Council priorities	Likely to be a greater Contractor profit motivated approach, with openness and transparency a critical requirement.
Sustaining local community and keeping jobs and profits in the local area	Potential lack of commercial acumen within existing staff
Opportunity to collaborate with other Hampshire districts who are also looking at this option	Potential savings would be based on projections rather than contract price
Streamlined management and commercial culture	
Opportunity to develop external revenue streams eg: Trade Waste Recycling, Vehicle Maintenance Workshop, Grounds Maintenance.	
Profit share on commercial income and potential budget savings	
Public service ethos with commercial flair with the ability to trade commercially	
Day one savings	
<u>Savings profile</u> <ol style="list-style-type: none"> <li>1. Reshaping service delivery to agreeable Council outcomes</li> <li>2. Reorganisation of resources</li> <li>3. Benefits released from transferring in or aligning additional services</li> <li>4. Introduction of 2 tier working</li> <li>5. Purchasing savings</li> <li>6. Bringing subcontracted services 'in house'</li> <li>7. IT system improvements</li> <li>8. Reduction in bureaucracy and more agile working</li> <li>9. Investment in more efficient equipment and vehicles</li> </ol>	

## **On-going service efficiencies 2015-16**

The following are to be undertaken during 2015:

- Waste Service development opportunities which are currently being explored by the Waste Services Project Officer, together with all other core and associated services, including Streetscene and Grounds Maintenance.
- Capture as-is processes of the service and streamline to ensure its activities are as lean as possible.
- Following this- a capacity analysis will be undertaken by the Corporate Programme Office to identify any spare capacity.

## **Risks**

Risks are captured in the Risk Register. Appendix C

## **Recommendations**

### **Option 1- (Service AS - IS)**

This option is discounted due to the fact that:

- Unlikely to provide further major savings without significantly affecting the level of service delivery.
- Lack of commercial knowledge, acumen and resources within the service to develop into new business areas that would complement the core services.
- Local Authorities are restricted in their ability to trade commercially. If public body wishes to trade with private sector must do so via a company.

### **Option 2- (Outsource to a Private Contractor)**

This option is discounted due to the fact that:

- Prolonged timescales not compatible with corporate objectives
- No profit share income
- Significant set up cost (One off)
- Higher Client Cost (On-going)
- Reduced flexibility and influence (Council and Members)

### **Option 3- (Local Authority Partnership/Contracting)**

This option is discounted due to the fact that:

- Prolonged timescales not compatible with corporate objectives
- No profit share income
- Significant set up cost (One off)
- Higher Client Cost (On-going)
- Reduced flexibility and influence (Council and Members)
- No Partner Authority with aligned objectives and similar timescales to Havant Borough Council.

#### Option 4b- (Public/Private JVC)

This option is discounted due to the fact that:

- Prolonged timescales not compatible with corporate objectives
- Significant set up cost (One off)
- Higher Client Cost (On-going)
- Reduced flexibility and influence (Council and Members)

Therefore, the recommendation for approval is as follows:

- a) Officers continue to explore options for increasing the efficiency and driving down costs of the current in-house core services to ensure that Operational Services are fit for commissioning, taking on board issues within the Business Plan for 2015/16.
- b) That Havant Borough Council formally pursue a Joint Venture Company with Norse Commercial Services Ltd, as that they have:
  - i. A proven track record of working with Local Authorities to develop public sector Joint Venture Companies.
  - ii. Significant experience across the range of front line service areas proposed within the scope of the joint venture.
  - iii. A proven track record in expanding commercial opportunities with a 50/50 profit share with the Council
  - iv. Good staff and Trade Union relationships, with a track record of maintaining terms and conditions for transferred staff for the entire term of the contract
  - v. The Teckal process is a relatively short timeframe compared to an OJEU procurement process.