

Report of the Director of Governance and Monitoring Officer

Portfolio of the Executive Members for Finance, Performance, Major Projects, Human Rights, Equality, and Inclusion

Yorwaste Limited – Resignation and Appointment of new Director**Summary**

1. This report sets out the proposal to appoint a new Council representation on the board of directors of Yorwaste Limited following the resignation of the current City of York Council Officer nominated as Director.

Background

2. The Company was established as a Local Authority Waste Disposal Company owned fully by North Yorkshire Council in 1991 to manage the Council's landfill sites.
3. In 1996, as part of a Local Government Review, the Council became a 22.27% shareholder of the company. The Company provides services to York relating to transfer stations, processing recycling, garden waste and management and transport of waste at the two Household Waste Sites. The Company also provides similar services within North Yorkshire Council.
4. The Company's board of directors is made up of representatives of the two member authorities and also independent board members. The representatives from the Council are currently:
 - a. Cllr R. Melly; and
 - b. the Director of Environment, Planning and Transport – James Gilchrist
5. The company was set up originally as a *Teckal* company under Reg 12(1) of the Public Contract Regulations 2015 (the "**Procurement Regs**") and is now subject to Schedule 2, Part 1, Para. 2 of the Procurement Act 2023 (also called "**Vertical**

Arrangements”). These provisions under both the Procurement Regs and the Act allow the Council to award Yorwaste long term waste management service agreements on the basis that over 80% of the Company’s revenues come from its local authority owners.

Proposal

6. James Gilchrist has tendered his resignation from Yorwaste with effect from 2nd June 2025, which coincides with his leaving date from City of York Council.
7. It is proposed that Debbie Mitchell – the Council’s Director of Finance is the new Director and Council Officer representative for the Yorwaste Board.
8. Arrangements will be made for Debbie Mitchell to be formally appointed to the Board following approval of this Committee.
9. In order, however, to expedite such changes in the future, it is proposed that the Committee delegates authority, to appoint any member and/or officer to the role of director of Yorwaste, to the Chief Operating Officer and the Monitoring Officer.

Recommendations

10. Staffing Matters and Urgency Committee is requested to:
 - a. approve the appointment of Debbie Mitchell, the Council’s Director of Finance, to represent the Council on the board of directors for Yorwaste from 2nd June, following the resignation of James Gilchrist, the Council’s Director of Environment, Transport and Planning.

Reason

To ensure that Yorwaste continues to meet the requirements of the Control Test under Schedule 2, Part 1, Para. 2 of the Procurement Act 2023.

- b. Delegate authority to the Chief Operating Officer and the Monitoring Officer to select and appoint any member and/or officer to represent the Council on the board of directors of Yorwaste Limited, and where necessary in the future remove and / or replace said individuals from the board, pursuant to the Staffing Matters and Urgency Committee’s delegated

authority under Article 11 of paragraph 5.2 of Article 12 of the Council's constitution and in line with company laws, the Company's articles of association and any agreement between the Company's members from time to time.

Reason –

To expedite such necessary changes to the Council's representation on the Yorwaste Board of Directors in the future.

Implications and risks

HR Implications

11. There are no HR implications arising from this report, however, should a conflict of interest arise between the Council and Yorwaste then any appointee of the Council's would need to declare this. Further, any appointee would need to declare their directorship on the Declaration of Interest form.

Financial Implications

12. There are no financial implications associated with this proposal, the officer assigned will not receive any financial payment in addition to the salary to undertake the role of nominated Director for Yorwaste Limited.

Legal Implications

13. Paragraph 5.2 of Article 12 (**Shareholder Committee**) of the Council's Constitution delegates authority to Staffing and Urgency Committee to approve the appointment, dismissal, and terms and conditions of Council Directors, and to recommend such matters to the board of the relevant company.
14. Any decision to appoint, or not to appoint, any particular individual to the board of Yorwaste must be taken with regard to matters set out under (**Guidance to Councillors and Officers Appointed to Outside Bodies**) of the Council's Constitution (in particular, but not limited to, paragraph 2.1 of Appendix 18), with any particular concerns referred to Monitoring Officer before any decision is taken.

15. The appointment by the Council of directors to Yorwaste's board of directors will help to enable Yorwaste meet the requirements of the Vertical Company under Schedule 2, Part 1, Para. 2 of the Procurement Act 2023. Schedule 2, Part 1, Para 2(b) and 2 (d) of the Act requires (inter-alia) that:
- a. No person other than the authority, or authorities, exerts a decisive influence on the activities of the person (either directly or indirectly); and
 - b. In the case of joint control, each of the contracting authorities is represented on the person's board, or equivalent decision-making body.

Contact Details

Author:

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**Chief Officer Responsible for the
report:**

**Bryn Roberts
Director of Governance and
Monitoring Officer**

**Report
Approved**

Yes

Date

8 May 2025

Specialist Implications Officer(s):

Dan Moynihan – Senior Lawyer (Contracts and Commercial)

Patrick Looker – Assistant Director of Finance

Wards Affected: *List wards or tick box to indicate all*

All

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For further information please contact the author of the report

Background Papers

None.

Annexes

None.