

Meeting:	Combined Executive Member Decision Session
Meeting date:	01/07/2025
Report of:	Pauline Stuchfield, Director of Housing & Communities
Portfolio of:	Cllr M Pavlovic, Executive Member for Housing, Planning & Safer Communities

Decision Report: Re-Procurement of the Stray Dog Service Contract

Subject of Report

1. Following pre-tender market testing, in compliance with Contract Procedure Rules and in advance of a formal re-procurement exercise, to seek Executive Member approval for officers to tender and award the 3-year Stray Dog Service contract which following assessment could be over £250k in value.
2. Pre-tender market testing has identified a potential increase in the 3-year contract value to over £250k.

Benefits and Challenges

3. The Stray Dog service is a statutory service under s149 Environmental Protection Act 1990.
4. Pre-tender market testing anticipates an increase in the 3-year contract value to over £250k.

Policy Basis for Decision

5. In compliance with s149 Environmental Protection Act 1990 Local Authorities must appoint an officer for the purpose of discharging functions relating to stray dogs found in the authority area.

6. The council may delegate and discharge these functions but remains responsible for ensuring that the functions are properly discharged.
7. If it is determined that a dog is a stray, it can be seized and detained.
8. Where the dog is wearing an identification collar, the owner will be contacted and informed that the dog has been seized, where it is being kept and that it will be liable to be disposed of if not reclaimed within 7 days and after the relevant fees and charges have been paid.
9. The person claiming to be the owner of the dog is not entitled to have it returned until he/she has paid all expenses incurred relating to its detention.
10. Where a dog is seized and detained for 7 clear days and the owner has not claimed the dog, the council may dispose of the dog by: selling or giving it to a person who it is felt will properly care for it, sell or give it to an establishment for the reception of stray dogs or euthanise the dog.
11. The council is required to keep a register containing the prescribed particulars of dogs seized and the register must be available, at all reasonable times, for inspection by the public free of charge.
12. Any kennel should be within a reasonable distance for the contractor to pick-up strays, the owner to collect their dog and for reasons of dog welfare.
13. Any kennel must be licensed under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and the Animal Boarding Establishments Act 1963.
14. The service contributes to the council's core manifesto pledges of Environment and Health. Stray dogs, can cause fear and alarm to those who encounter them, can bite, create traffic hazards and foul.

Financial Strategy Implications

15. Pre-tender market testing has identified that the 3-year contract value could increase to over £250k. This would be an increase of over 60% on the cost of the existing contract.

16. A full competitive tendering exercise will be undertaken in order to achieve Best Value.

Recommendation and Reasons

17. To give approval for officers to tender and award the 3-year Stray Dog Service contract which pre-tender market testing has assessed could increase to be over £250k in value. This is to ensure compliance with the council's statutory responsibilities and Contract Procurement Rules.

Background

18. The council's Stray Dog service specification (Annex A) sets out local service requirements to comply with the statutory duty under s149 EPA 1990 (paragraphs 6-12).
19. The contractor must respond to all reports of stray dogs. This may include picking up dogs found on the street and either reuniting them with their owner if they can be found at the time or returning with the dog to the kennels awaiting contact by the owner. The public can also drop-off any found strays at the kennels.
20. Dog owners are able to retrieve their dog from the contractor from kennels after paying a Reclaim fee and kennelling costs. This income is transferred back to the council.
21. The Reclaim fee is currently £80.00 and kennelling costs are £14 per day or part day.
22. A payment plan arrangement can be made to spread costs for those who are in receipt of means-tested benefits.
23. The service specification requires the provision of 3 dedicated kennels for sole use by the council plus access to an isolation kennel at all times. The number of kennels is based upon regular monitoring of the maximum number of dogs the contractor has detained at any one time. The number of kennels has been reduced from 7 to 3 over the past 10 years. The contractor would charge the council a one-off fee for any additional kennelling requirements should this capacity ever be exceeded. To date additional kennelling has not been required, although the 3 council kennels have been filled on occasion.

24. Kennels are required to be within a 30-minute car journey from York in order to comply with the Environmental Protection Act 1990 requirement that any kennel should be within a reasonable distance for the contractor to pick-up strays, the owner to collect their dog and for reasons of dog welfare.
25. The contractor is also responsible for welfare, routine record keeping, the provision of data and information to the council on request, scanning for micro-chips, and for rehoming the dog wherever possible if it is unclaimed after 7 days.
26. 169 stray dogs were managed by the existing contractor over the 2-year period from January 2023 to December 2024.
 - The average kennelling stay was 1.5 days.
 - 124 dogs were reunited with their owner
 - 34 were rehomed.
 - 11 were euthanised. (of these, 6 were of a banned type under the Dangerous Dogs Act 1991 and the remainder assessed as unsuitable for rehoming due to health or behavioural issues).

Consultation Analysis

27. No consultation requirement.

Options Analysis and Evidential Basis

28. OPTION 1

To give approval for officers to tender and award the 3-year Stray Dog service at an anticipated value of over £250k.

OPTION 2

To not approve the above on the understanding that this is a statutory service and must be provided with no break in provision. An alternative means of delivery would therefore need to be identified. The current contract expires on 30th September 2025.

Organisational Impact and Implications

29. Financial

This is a statutory service and must be provided with no break in provision. There is a £83k yearly budget available for this service. This budget is more than previous years spend. Depending on the tender, we will determine the ongoing pressure on the budget that will need to be considered by the service.

Human Resources (HR)

There are no HR implications in relation to option 1 presented. There may be resource and or legal implications if option 2 is taken forward depending upon what alternative means of delivery is introduced

Legal

1. Statutory Duties

According to section 149 of the Environmental Protection Act 1990, every local authority is required to appoint an officer for the purpose of discharging functions conferred under section 149 for dealing with stray dogs found in the local authority's area. The officer may delegate the discharge of these functions to another person, but shall remain responsible for ensuring that such functions are properly discharged.

2. Contract and Procurement Law Implications

All options will require advice from Legal Services and Commercial Procurement on the different routes and the associated advantages and risks of each route to ensure compliance with relevant legislation and our Constitution.

(a) Option 1 – Reprocuring the Services

This first option carries the least amount of risk from a procurement law perspective.

Any new contract will need to be commissioned via a compliant procurement route under (where applicable) the Council's CPRs and the Procurement Act, with advice from the Commercial Procurement team (see **Procurement Implications** below).

An appropriate form of contract will need to be drafted and completed with support from Legal Services.

Further advice will need to be obtained from legal Services with regards to any relevant provisions under the current contract that will apply once this contract comes to an end; if, following completion of the re-procurement the contract is awarded to someone other than the incumbent provider, then advice from other relevant departments may be required (e.g., HR and Finance in respect of any TUPE/Pension related issues).

Under Rule 8.10 of the Council CPRs, the Executive or the relevant Executive Member may agree, or authorise another Officer to enter a contract under their delegated powers where the aggregate contract value (including any extensions) is worth more than £250,000 but less than £500,000, unless the Chief Finance Officer and Monitoring Officer have approved the Procurement as Routine.

Given that this procurement is to fulfil the statutory duty section 149 of the Environmental Protection Act 1990, this is not a Routine Procurement.

(b) Option 2 – No Service or In-House Delivery

If the intention is not to reprocure the service, or to bring the service in-house, then any alternative delivery models proposed will need to be reviewed by Legal Services and Commercial Procurement to ensure compliance with the Procurement Act 2023. There will also need to be sufficient budget.

Further advice on any requirements upon termination/expiry within the Contract must be obtained from Legal Services before proceeding with this option, as well as advice from other relevant departments (e.g., HR and Finance in respect of any TUPE/Pension related issues).

Legal Services already note that the Client has discussed and confirmed with the current Provider that the Provider's employees will not need to be transferred (either to any new Provider or the Council) should this contract be awarded elsewhere or be brought back in-house.

Option 2 would have no procurement law implications.

Procurement

All works and/or services must be procured via a compliant, open, transparent, and fair process in accordance with the council's Contract Procedure Rules and where applicable, the Procurement Act 2023. Further advice regarding the procurement process and development of procurement strategies must be sought from the Commercial Procurement team. Option 1 will allow the council to test the market, and evidence value for money whilst achieving a quality service. As noted in the Legal implications above, a contract will need to be created and produced as part of the tender of which will require involvement from both Legal Services and Commercial Procurement.

Health and Wellbeing

Public Health support the re-tender process for the Stray Dog service.

Environment and Climate action

No service implications.

Affordability

Anyone on a lower income may not be able to recover their dogs due to the fees to be paid. However, payment plan arrangements can be introduced for those on means-tested benefits.

Equalities and Human Rights

No service implications

Data Protection and Privacy

The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.

Communications

There are no direct communication implications from the proposed procurement. The council will continue to publicise the service, as appropriate, through its corporately own channels.

Economy

No service implications.

Risks and Mitigations

30. No known risks.

Wards Impacted

31. All wards

Contact details

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Background papers

No background papers.

Annexes

Annex A – Contract Specification

Annex B – Equalities Impact Assessment (EIA)