Report to: Cabinet

Date of Meeting 1 October 2025

Document classification: Part A Public Document With Part B appendices

Exemption applied: None

Review date for release 2 years with financial data redacted

Recycling & Waste LATCo Funding Mechanism and Governance update

Report summary:

Cabinet received a report in July 2025 which reviewed the updated Business Case for Future Service Provision for Recycling and Waste. Cabinet resolved to proceed with creation of a Local Authority Trading Company (LATCo) and to receive a future report outlining financing options and detailed governance arrangements. This report addresses these issues and recommends appropriate actions.

Structure and governance arrangements have been developed by legal firm Bevan Brittan, in consultation with the Recycling and Waste Portfolio Holder Group and Officers. Options for the funding mechanism have been assessed and a flexible loan arrangement has been identified as the preferred option.

Is the proposed decision in accordance with:

Budget Yes ☐ No ☒

Policy Framework Yes ☒ No ☐

Recommendation:

(1) Recommend to Council
  a. Approval of the updated Business Case at Appendix E
  b. Approval of a loan of no more than £2.8 million to the LATCo

(2) Subject to 1 above that Cabinet approve the following recommendations: -
  a. To continue to progress the creation of a LATCo to take over provision of recycling & waste kerbside collections and associated services from 1st July 2026
  b. That operational activities of the LATCo are funded through a revolving credit facility with the Council.
  c. That delegated authority is granted to the Director of Place in consultation with the Section 151 Officer and Portfolio Holders for Finance and Environment Operations to make suitable arrangements and to enter into a formal loan agreement with the LATCo.
  d. That the maximum value of the loan agreement is no more than £2.8 million and that the Shareholder Committee receives a regular report on the status of the loan, to be provided by the LATCo Company Board.

(3) That a Cabinet Sub-Committee is formed to undertake the Council's role as owner of the LATCo, being the Shareholder Committee, following structure outlined in this report and the recommendations agreed within the Structure and Governance proposal agreed by Cabinet in July 2025.

(4) That Bevan Brittan are instructed to produce the following documents for approval by the Shareholder Committee
    a. Articles of Association
    b. Shareholder Agreement
    c. Governance arrangements for the structure of the Company Board
    d. Terms of Reference for the Company Board
    e. Advice on the necessary actions to ensure compliance with Subsidy Control legal requirements including a submission to the UK Subsidy Register

(5) That Bevan Brittan are instructed to develop changes to the Council's Constitution to set out
    a. The scope, powers and limitations of the Shareholder Committee, reflecting principles agreed by Cabinet in July.
    b. The purpose, scope and limitations of the Recycling and Waste Partnership Board, following the recommendations within this report.

(6) Cabinet (1) delegates responsibility to the Chief Executive to appoint two to three staff to act as temporary Company Directors during the formation stage of the Company, until the selection process for Non-Executive Directors is completed and (2) also delegates all future Company Board appointments and dismissals to the Shareholder Committee.

Reason for recommendation:

To enable the legal and effective establishment of the LATCo to be ready to take over provision of recycling & waste kerbside collections and associated services from 1st July 2026. Items in this report will ensure effective and complaint governance and financial arrangements such that the company can operate.

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Portfolio(s) (check which apply)**:**
☐ Assets and Economy
☐ Communications and Democracy
☐ Council, Corporate and External Engagement
☐ Culture, Leisure, Sport and Tourism
☐ Environment - Nature and Climate
☒ Environment - Operational
☒ Finance
☐ Place, Infrastructure and Strategic Planning
☐ Sustainable Homes and Communities

Equalities impact Medium Impact

This proposal does not change the scope of services delivered to households, so has no direct equalities impacts. There are indirect benefits of operating a LATCo as it gives the Council greater control over how services are delivered, enabling equalities issues to be prioritised in strategic planning and performance monitoring. This includes creating employment and opportunities for disadvantaged groups and ensuring that services are delivered in ways which promotes equality of access. Transferring staff from both Suez and the Council's client unit is subject to strict legal controls to ensure that their employment rights are protected. The implementation plan includes the provision of dedicated HR support throughout the process to ensure that this is delivered effectively. An Equalities Impact Assessment will be carried out to evaluate the potential impact, consider impact and look to put measures in place where negative impact is identified. This will be a live document considered throughout implementation.

Climate change Low Impact

The climate change impacts of the LATCo were considered in the Cabinet Report July 2025; this report does not have any further impacts for consideration. Activities to improve the environmental and carbon impact of the LATCo are captured within the Strategic Objectives and will be delivered through the Company's Business Plan.

Risk: High Risk;
The risks associated with the LATCo project are being actively managed through the Project Implementation Plan. The recommendations within this report do not change the risks or control measures. The Business Case includes detailed consideration of risks and includes a risk register, shown in Appendix E.

Links to background information

Appendixes (Part B items)

Appendix A: Bevan Brittan Governance Advice Note (confidential)

Appendix B: Bevan Brittan Funding Advice Note (confidential)

Appendix C: Structure and Governance Proposal (not confidential)

Appendix D: Bevan Brittan Advice note 6th December 24 (confidential)

Appendix E: Global City Futures Business Case (confidential)

Appendix F: Equalities Impact Assessment (not confidential)

Link to Council Plan

Priorities (check which apply)

☒ A supported and engaged community
☐ Carbon neutrality and ecological recovery
☒ Resilient economy that supports local business
☒ Financially secure and improving quality of services

Report in full

1. Introduction

1.1 In February 2025 Council supported the option of setting up a LATCo to operate recycling and waste services when the current contract with SUEZ UK Ltd expires on 30 June 2026 and a further report setting out the full business case was requested to be presented to Members. In July 2025 that business case was presented to Cabinet and Cabinet approved the proposals for governance and delivery of the project of the LATCo and requested that a further report be presented back to Members before December 2025 regarding the proposed funding arrangements and further governance information.

1.2 This report outlines further detail of the structure and governance arrangements, making recommendations for a suitable funding arrangement and creating the governance structures necessary for the company to be created and controlled.

1.3 The report again includes the updated Business Case received and approved by Cabinet in July 2025, enabling Council to review the contents and gain assurance that the decision to set up a Local Authority Trading Company is the appropriate delivery model for the service when the current contract with Suez expires. Council is invited to approve that business case.

1.4 Recommendations in this report reflect legal advice provided by Bevan Brittan, best practice guidance published by Local Partnerships, and consultation with the Portfolio Holder group for Recycling and Waste (PHG).

2. Business Case

An outline business case (OBC) was presented to Cabinet in February 2025. This was produced by Global City Futures, a specialist consultancy with relevant experience in advising local authorities. The business case follows the 'five case model', produced by HM Treasury and considered best practice for evaluating options for public expenditure. The model evaluates the strategic, economic, commercial, financial and management aspects of the available options, resulting in a robust assessment of the available options. The OBC was based on best available information in December 2024, however Local Government Reform (LGR) and changes to operating costs have some impact on the business case. Therefore Members requested an updated version of the business case, which takes into account these changes.

2.1 Global City Futures have now updated the Business Case, which is linked under Background Information. The revised Business Case incorporates latest available information and reaches the same conclusion, that delivering the service through a LATCo is the best available option. Key changes in the updated Business Case are outlined below.

2.2 The Strategic Case for change remains broadly the same and has been refined, along with consideration of Local Government Reorganisation (LGR), which is outlined in section 3 below. Another key factor in the strategic case is continued uncertainty around national policy and legislation for recycling and waste. Changes such as the Deposit Return Scheme and producer responsibility for packaging will inevitably change the volume and type of material collected, leading to changes in collection infrastructure, but the impact of these changes cannot be predicted at this stage. Operating a LATCo. gives the greatest capability to adapt resources to meet the changing needs of the operating environment.

2.3 The Economic Case has been updated to reflect additional information on the likely costs of each of the options appraised. The table below shows the projected net present social value of each option, showing that the LATCo delivers the highest benefit cost ratio, reflecting the more favourable social and environmental benefits it can deliver. A detailed risk analysis has also been carried out (contained within the Business Case at Appendix E), indicating that the LATCo option has the lowest risk rating of the shortlisted options.

2.3.1 Projected net present social value:

	Option 1 Reprocure	Option 2 LATCo	Option 3 In-source
Incremental costs – total	-£100,580,889	-£96,476,430	-£98,281,416
Incremental benefits – total	£98,165,610	£100,259,664	£99,907,717
Net Present Social Value (NPSV)	**-£2,415,279**	**£3,783,234**	**£1,626,301**
Benefit Cost Ratio (BCR)	**0.98**	**1.04**	**1.02**

2.4 The Commercial Case sets out the proposed arrangements for the structure of the company and how it will be governed. This has been refined through support from Bevan Brittan and discussions with the Portfolio Holder Group. These arrangements are set out in the LATCo Structure and Governance Proposal. The Commercial Case has not been significantly changed since the proposals within the Outline Business Case.

2.5 The Financial Case has also been updated to reflect revised figures for operating costs of the shortlisted options. The income from material sales and trading activities is assumed to be the same across all options, however LATCo option delivers a lower operating cost, resulting in a lower overall cost over the appraisal period of 10 years. This is primarily due to the profit margin which would be applied to a contract awarded on commercial terms, and risk premiums which would be applied by all bidders. It is also worth noting that soft market testing has indicated that there are very few potential bidders for contracts of this nature, so offers on commercial terms could be worse than assumed in the modelling. The table below evaluates the costs over a 10 year period, concluding that the option to set up a LATCo is likely to be around £1.5 million cheaper.

2.5.1 Projected net operating costs over 10 years

Option		**Total Cost**	**Income**	**EDDC Cost**
Option 1:	**New Contract**	110,767,750	(42,226,349)	68,541,402
Option 2:	**LATCo**	109,228,416	(42,226,349)	67,002,067

2.6 The Management Case considers the deliverability of the project and the resourcing and risks involved in implementation and ongoing management. This was reviewed by Cabinet in July 2025 and arrangements were set in place to provide effective project management, project governance and adequate funding.

3. Funding arrangements

3.1 The company will require significant financial resources to fund its operations, including paying staff wages, purchasing goods and services, and maintaining vehicles. This report evaluates various potential funding structures and recommends that a revolving credit facility is used as the primary funding mechanism for costs incurred prior to invoicing. Alternative options considered are a share subscription and pre-payment under the contract to supply services. All three options require funds to be provided by the Council, so the impact on budgets is broadly similar.

3.2 An alternative is for the company to obtain funds from other sources, either through capital investment in a joint ownership model, or loans from third parties. Following detailed analysis these options have been rejected prior to detailed evaluation as they are not viable.

3.2.1 If the Company raised money through capital investment from third parties (e.g. issuing shares), then the Council would not be exempted from requirements for competitive procurement processes for services that the Company supplies. This ‘vertical or ‘Teckal’ exemption only applies where the company is fully in public ownership. Although it would be possible for other local authorities to jointly own the Company, this would only be appropriate where it was also providing services to them. For example, Strata is jointly owned by the local authorities that it supplies. If other local authorities wish to source services from the Company in the future then the ownership model could be adapted to accommodate this.

3.2.2 If the company attempted to borrow money from third parties, such as bank loans, then these would require financial guarantees from the Council and would attract less favourable borrowing costs; the company would pay a higher rate of interest on loans than the Council can achieve, and it would still have to act as a guarantor on these loans, resulting in the same risk profile.

3.3 Legal firm Bevan Brittan have conducted an evaluation of the three options and provided their analysis in the Appendix B Funding Advice Note. This is a confidential advice not for Members only. It focuses on the legal aspects of the option and is augmented by an analysis of wider factors conducted by Officers. The Portfolio Holder Group met in August 2025 to consider these options, with analysis presented by a Partner from Bevan Brittan. The Portfolio Holder Group’s feedback and views have been incorporated into the drafting of this report. A summary of the analysis is in Table 1 at the end of this section.

3.4 The Company will commence delivery of recycling and waste services on 1st July 2026, resulting in expenditure on operational activities from this date. There will however need to be expenditure before this date, such as pre-payment to suppliers and operating expenses which are not covered within the project budget. It is therefore recommended that funds can be made available to the company from 1st January 2026, enabling it cover pre-trading expenditure and to enter contracts for supply of goods and services.

3.5 **Option 1: Revolving credit facility (preferred option)**

3.5.1 The most suitable arrangement for the Council to loan money to the Company is through a flexible credit facility with an appropriate rate in interest applied. The company could draw on funds as required, up to an agreed maximum value. This arrangement would be flexible, enabling the company to draw more money or to repay some of the debt as required to remain solvent and secure. It is anticipated that the Company will invoice monthly in arrears, reflecting normal commercial terms. The funds would meet operational costs incurred during the lag between invoice and payment. This reflects the trading environment typically experienced by commercial organisations, aligned with the Council’s aim to run the organisation on commercial principles.

3.5.2 The Council would source funds from internal cash balances. The Council would then be free to charge interest at a rate appropriate to recover its own borrowing costs, or lost investment income or consider a market rate. Initially, interest charges to the company will be covered by applying charges under the services contract, resulting in a financially neutral position. If however, the Company builds profitable commercial trading activities, then higher interest rates offer a way for the Council to benefit financially in a way which is both legal and tax efficient.

3.5.3 If this option is chosen, then officers will be delegated authority to create a suitable lending arrangement and to provide regular reports to the Shareholder Committee which set out the funding provided, future forecasts, and an analysis of the financial health of the Company.

3.6 **Option 2: Share subscription (Equity)**

3.6.1 The Council can fund (or part fund) the company through purchasing shares, which has the effect of providing the company with money it can use for either investment or trading activities. The Council's ownership of the company can be through share capital from as little as £1, creating only a nominal value, or through a higher value which would avoid the need for money to be loaned to the company. Generally, share capital is not repayable, it is not secured, and interest is not payable.

3.6.2 The Council would need to source funds for this arrangement; there would be a loss to the Council – either in lost investment interest or interest paid on loans.

3.7 **Option 3: Pre-payment**

3.7.1 The Council can provide funds by agreeing that the company can charge the council in advance for the services it provides (rather than regular invoicing in-arrears), thus ensuring that it has sufficient money available to fund operating activity. In practical terms, the Company would invoice the Council for its services in advance, most likely at either three monthly or six-monthly intervals.

3.7.2 This option also requires a source of funding – again there would be loss to the Council – either in lost investment interest or interest paid on loans. This could be complicated by uneven cash flows for the company having to be reflected in advance charges with reconciliations back to proper invoice sums.

3.8 **Preferred option - revolving credit facility**

3.8.1 All three options offer a legal and workable mechanism to provide the Company with operational funding, however a revolving credit facility (i.e. flexible loan) provides the best approach due to several advantages:

- It is the most flexible option, allowing the value of the loan to be varied at short notice.
- It provides greatest potential to be tax efficient, allowing the council to apply commercial rates of interest on the loan, resulting in lower corporation tax liabilities.
- It provides greatest transparency, enabling the Council to monitor the financial health of the company.
- It is best aligned with subsidy control duties and requirements to operate commercially, due to incorporating borrowing costs into operating budgets.

3.9 **Value of loan**

3.9.1 It is not possible to accurately forecast the value of the loan required as this is impacted by a wide range of factors which effect the operation of the Company, such as the credit terms offered by suppliers. However, when first formed, the company will have poor credit rating and suppliers are likely to insist on unfavourable credit terms or even prepayment, therefore the company is likely to need a higher loan in its first year of trading, which will reduce as it becomes financially secure.

3.9.2 The company is likely to need a loan facility of up to three months of operating costs and it is anticipated that it will draw on at least one month to cover the period between invoicing the Council and receiving funds, plus one month of trading costs. A further contingency of 20 percent should be applied to this, for unanticipated circumstances. Based on an annual operating cost of £9.4 million, the maximum value of loan should be set at £2.8 million.

3.10 **Process for loan to be provided**

3.10.1 The loan facility will be provided to the Company through a written agreement which will set out the arrangements for it to be requested, provided, managed and monitored. The agreement will be produced by the Council's Director of Finance, in consultation with the Assistant Director of Streetscene.

3.10.2 Day to day management of the loan facility will be undertaken by the Council Finance Directorate, with no involvement by the Streetscene Team. It is important that the loan facility is managed within the Council's 'owner' function and not within the 'customer' function which is led by the Assistant Director for Streetscene. This arrangement ensures a healthy separation of functions which will support effective management controls.

Table 1: Evaluation of funding options

	Revolving Credit	Share Subscription	Pre-Payment
Flexibility *Can the funding be easily varied?*	**Fully Flexible** The parties can agree the value as required to maintain solvency and good credit rating	**Very Inflexible** Share capital can only be changed through a complex procedure	**Semi-flexible** The time period of pre-payment can be varied by agreement of parties
Loan interest arrangements *Can borrowing costs be recovered by the Council?*	**Recovered**	**Not recovered**	**Not recovered**
Financial transparency *Can the Council monitor changes in the financial health of the company?*	**Fully Transparent** Company solvency is inherently visible to Council through value of loan called upon	**Poor** Funds are supplied upfront and company relies on reports from Company	**Moderate** Changes in pre-payment period indicate solvency
Commerciality Is the arrangement consistent with need for company to operate commercially	**Fully Commercial** the Company pays interest on loans and is incentivised to reduce reliance on borrowing	**Poor** The company is relying on share capital to fund operational activity, so money invested can never be recovered	**Poor** Reliance on pre-payment is not a healthy way to run a business
Tax benefit *Is the arrangement tax efficient and legal?*	**Tax efficient** Borrowing costs can be offset to reduce corporation tax and varied to enhance position	**Inefficient** losses could be hidden by drawing on share capital to fund operations, or tax could be paid on false profit	**Inefficient** losses could be hidden by extending the payment period, or tax could be paid on false profit
Subsidy control status Is the arrangement consistent with subsidy control duties	**Strong** Borrowing costs are included in operating budgets, giving effective visibility	**Weak** Costs are hidden and could be excluded from commercial pricing calculations	**Weak**
Shareholder Committee Influence	**Stronger**	**Weaker**	**Weaker**

4. Shareholder Committee

4.1 Cabinet agreed in July 2025 that a Shareholder Committee (SHC) will be formed to undertake control of the Company. This body will be a Cabinet Sub-Committee, reflecting the constitutional requirement for control to be a function of the Executive.

4.2 The purpose of the SHC was outlined in the documentation supporting the July Cabinet Report and is set out in more detail in the Governance Advice Note prepared by Bevan Brittan which accompanies this report. Bevan Brittan will be commissioned to produce the detailed scope, powers and limitations of the SHC, reflecting the principles agreed by Cabinet. They will also draft proposed changes to the Constitution necessary to create and direct the SHC. The Council's Monitoring Officer will review these changes and arrange for them to be incorporated into the Constitution at the next scheduled review.

4.3 It is proposed that the SHC comprises up to five members of Cabinet to be determined from time to time by the Leader of Council, with a quorum of 3.

4.4 The SHC will also require professional and legal advice, therefore officers will be required to attend as necessary, to participate in discussions and to provide guidance. Standing invitations to receive papers and attend will be given to:
- Chief Executive
- Section 151 Officer
- Monitoring Officer
- Director of Place *(who will also attend Company Board meetings, ensuring a 'golden thread' between the Company Board and SHC)*

5. Board of Directors

5.1 Cabinet agreed arrangements for the Company's Board of Directors in July 2025. Details of the proposed arrangements are within the Structure and Governance Proposal which accompanied the Cabinet Report and is also attached to this Report at Appendix C. Bevan Brittan have been instructed to develop the detailed arrangements for operation of the Company Board of Directors, working in conjunction with the LATCo implementation project team and Monitoring Officer. Proposals for the scope and powers of the Board will be presented to the Shareholder Committee, who will have power to appoint/remove Directors and to create and amend the Company's Constitution.

5.2 Arrangements for selecting the three Non-Executive Directors and Finance Director will be proposed by the LATCo Project Team and approved by the SHC. A panel comprised of Officers including the Chief Executive and 2 Directors, 3 members of the SHC (a Cabinet sub-committee) and 2 members of the Recycling and Waste Portfolio Holder Group (PHG) will be formed to evaluate potential candidates, providing recommendations for consideration and appointment by SHC.

5.3 A selection process for the Company Managing Director commenced in September 2025, ensuring that an appointment can be made and commence work early in 2026, as requested by Council. This closely follows the process for appointments to senior officer posts at the Council, but is outside the scope of this process and therefore the Personnel Committee does not have a role. The selection process includes members of Cabinet, representatives from PHG, senior officers, staff from the Council and Suez, and is supported by specialist recruitment agent Tile Hill. The primary panel assessing candidates consist of The Leader and Deputy Leader, Portfolio Holder for Environment Operations, Chief Executive and Director of Place. This process will produce preferred candidates, for consideration and appointment by the Shareholder Committee or by Cabinet on 29th October. The Managing Director will undertake dual roles of leading the Company and being a Company Director.

5.4 It is necessary for the Company to be created in late October so that it can appoint the Managing Director. The process for appointing Directors will not be completed by this time, therefore alternative arrangements must be made to appoint interim company Directors to the Company Board so that it can function in the short term. It is proposed that up to three members of the Council's Senior Leadership Team will be appointed as Directors, with a delegation to the Chief Executive to make these short-term appointments as a temporary measure until selection for permanent directors is completed. The SHC will have responsibility for these future permanent appointments and all subsequent ones. The Council's Executive Leadership Team have considered options for suitable candidates and propose The Director of Housing & Health be appointed to 1 position, with the Deputy s151 Officer appointed to another. This maintains the most pragmatic separation of customer and client functions for the interim period aligning with best practice as advised by Bevan Brittan. One other interim Director could be appointed if deemed necessary, however the MD will be a director once they are in post (anticipated to be Jan-March subject to notice and successful recruitment).

6. Recycling and Waste Partnership Board

6.1 The Recycling and Waste Partnership Board meets regularly and has been an effective forum to monitor performance by Suez, along with carrying out a wide role to support development of improvements in recycling waste services. It has developed experience and expertise which supports service delivery and enables the Council to have confidence that there is an effective route for constructive challenge, which also engages on a cross-party basis for this important frontline service.

6.2 When services transfer from Suez to the LATCo, the RWPB can continue its role in a very similar way to the current arrangements, acting as part of the 'customer' aspect of governance arrangements. It also plays a significant role beyond the customer/supplier relationship, actively contributing to the wider recycling and waste function of the council. This includes the council's relationship with the County Council in its capacity as Waste Disposal Authority, influencing policy decisions, and supporting the development of service improvement, innovations and improved environmental performance.

6.3 The RWPB has formal status recognised by the Council's Constitution and its membership is decided by Council, ensuring that it is politically balanced and outside the control of the Executive. The RWPB has a set of terms which were approved at the start of the Suez contract and are included within the contract; However, the Constitution does not currently set out the purpose, scope, powers, limitations, or structure of the Board. It is therefore helpful for this to be addressed within the wider work on governance arrangements, leading to a clearer role. Bevan Brittan will be instructed to review the arrangements within the constitution and existing terms of reference and propose improvements, which will regularise the current situation. This will include a review of the existing terms of reference and clarifying the group's structure, powers and the role of Council in appointing its members. These proposals will be reviewed by the Portfolio Holder Group and submitted to the Monitoring Officer for inclusion in the next review of the Constitution.

7. Company Constitution

7.1 The Company constitution will be split between the Articles of Association and Shareholder Agreement, reflecting advice from Bevan Brittan. These documents provide the means for the Council to exercise control over the Company, primarily through the SHC.

7.2 The Articles of Association define the rules that govern the internal management of a company. These rules set out the roles and responsibilities of directors, the rights of the shareholder(s) and procedures for meetings and decision-making. This document is filed at Company's House and can be amended by Cabinet.

7.3 The Shareholder Agreement sets out further details of how the company must operate and how the owner can exert power over it. This is key to the Council exerting control over the company and ensuring that it achieves its purposes. Changes to the Shareholder Agreement will be a Cabinet decision.

7.4 Bevan Brittan are developing the Articles of Association and Shareholder Agreement, in consultation with Officers. The Articles of Association must be submitted when the company is created in late October, so the first version will follow standard conventions. It will then be taken to the PHG for consultation and to the Shareholder Committee, which can make amendments and approve a new version. Likewise, the Shareholder Agreement will be reviewed by the PHG and approved by the SHC but will not need to be submitted to Company's House.

8. Subsidy control

8.1 A subsidy arises where a public authority provides support to an enterprise that gives them an economic advantage, meaning equivalent support could not have been obtained on commercial terms. The Council has duties and obligations under the Subsidy Control Act 2022 which need to be considered with respect to the operation of the LATCo. These considerations apply to all of its operations including the primary contract for supply of services to the Council, even though this contract will be awarded under the horizontal 'Teckal' exemption under procurement legislation (as now contained in Schedule 2, Part 1 of the Procurement Act 2023).

8.2 It is recommended that Bevan Brittan are commissioned to produce a guidance note which evaluates the risks and appropriate actions, based on the specific circumstances faced. This would enable the Council to report its position with the LATCo through the UK Government's formal Subsidy Database (where it is determined a subsidy decision has been made), ensuring that all reasonable steps have been taken to manage and control risks.

9. Company Name

9.1 The July Cabinet Report paper proposed that the company's name would be discussed by stakeholders at a workshop in September 2025. This process has been postponed due to focus on legal framework and governance issues essential for the creation of the company. The company will be registered with a neutral name, which can be changed when the trading name is agreed.

9.2 Councillors and wider stakeholders will be consulted during October on options for the name and branding. A preferred option will be submitted to the Shareholder committee, which will make the final decision on both name and branding identity.

10. Conclusion

10.1 This report sets out a range of practical actions and decisions which are necessary to set up the Company and makes arrangements for its control by the Council. The Shareholder Committee will undertake the primary role in controlling the Company, reporting to Cabinet in the first instance and Council where appropriate. The recommendations outlined in this report will enable the legal and effective establishment of the Company, positioning it to deliver sustainable and efficient recycling and waste services for the community.

Financial implications:

The report has one new financial ask for the Council to consider in relation to this project and that is to approve a flexible loan agreement with ability for the Company to borrow up to £2.8m as a maximum from the Council. This will be on terms that are cost neutral or better for the Council.

Legal implications:

This is an important project for this Council which brings with it significant risk and opportunities. For this reason, external advice has been taken from Bevan Brittan on both the contents of this report and the structure and governance proposals for the company. The report and the proposals set out in detail the proposed structure of the company and the legal and governance arrangements that will sit behind it. As with any Company, it is a separate legal entity with its own legal responsibilities under the Companies Act 2006. The governance arrangements are there to ensure that the Council is able to hold the Company to account in the delivery of services. Members are advised to have careful regard to the contents of the various documents before making a decision on the recommendations outlined in this report.

As far as the MD recruitment is concerned, the Council (namely the Cabinet or SHC) has the power to undertake the recruitment for the MD on behalf of the company pursuant to its primary waste powers under the Environmental Protection Act 1990, powers to trade in function related activities through a company as set out in the Local Government Act 2003 (and the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009), and s.111 Local Government Act 1972, which provides that a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money) which is calculated to facilitate, or is conductive or incidental to, the discharge of any of their functions.

Human Resources implications:

Human resources implications of the changes were considered in the July Cabinet report, there are no further implications resulting from the recommendations within this report.