

# Impact Assessment



Assessment of: Future Delivery Model for Highway Maintenance Service  
Service: Climate Change, Environment and Transport

Head of Service: Meg Booth

Version / date of sign off by Head of Service: 10 September 2024

Assessment carried out by (job title): Tony Matthews, Group Manager

## 1. Description of project / service / activity / policy under review

The project considers how the County Council's Highway Maintenance Service could be delivered beyond March 2027

Over the last few months, a range of business models used by highway authorities for the delivery of highway maintenance works have been assessed. Discussions have also taken place with other highway authorities on their future plans and recent procurement experiences, and a market engagement exercise was arranged to identify the extent, duration, and form of contract the supply chain would prefer.

A clear short list of 5 business model options has been identified, and a report was considered by Corporate Infrastructure and Regulatory Services Scrutiny Committee on 27 June explaining the work that has been undertaken and considering the short list of options.

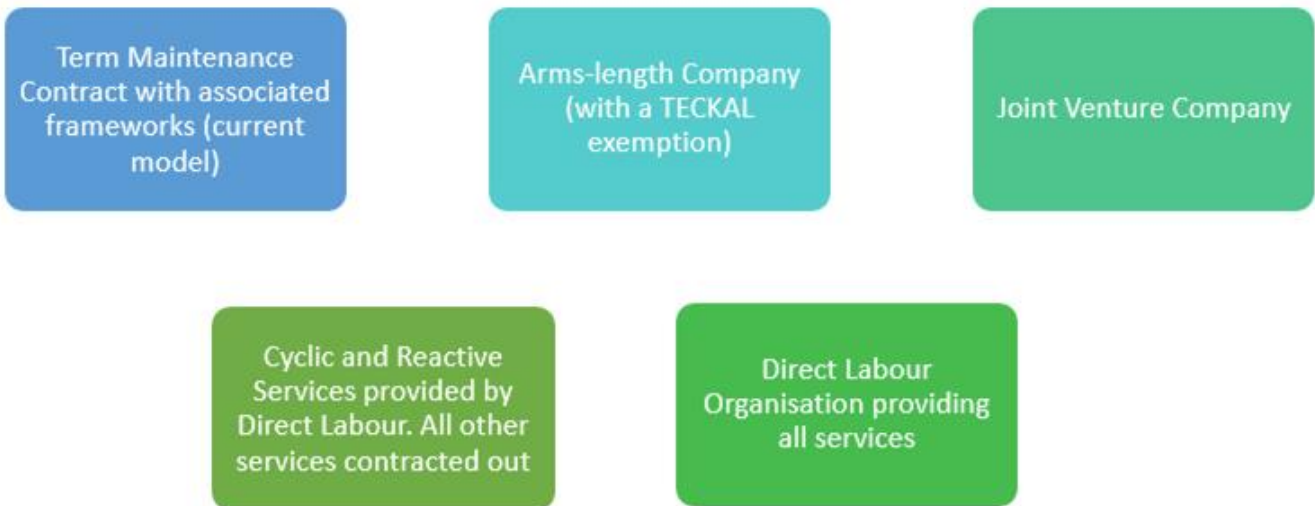
<https://democracy.devon.gov.uk/documents/s49032/240627%20Scrutiny%20Report%20Future%20Delivery%20Model.pdf>

## 2. Proposal, aims and objectives, and reason for change or review

The County Council's Highway Term Maintenance Contract with Milestone Infrastructure terminates in March 2027 with no options to further extend the contract.

The current contract through which the Council commissions routine, reactive, emergency, and some planned highway maintenance work, started in April 2017. In that period much has changed in the construction market including new technology and innovation, and with County Council priorities on environment, climate change and social value.

The short list of business model options being considered is:-



### 3. Risk assessment, limitations and options explored (summary)

In choosing the future business model to deliver the Highway Maintenance Service, it is not proposed to alter service levels, policies, or levels of funding.

The impact assessment has therefore focussed on the level of influence the County Council would have over the following impacts for each shortlisted business model option.

**Equality** - discrimination against staff delivering the Highway Maintenance Service

**Environmental** – reuse and recycling of materials, minimising greenhouse gas emissions and pollution, reducing water consumption.

**Economic** – impact on local businesses.

The tables in sections 8,10 and 11 detail the issues.

The County Council would have most influence over these impacts with the Direct Labour Organisation or Arms- Length Company options and least control with the Term Maintenance Contract option where it would be relying on contractual requirements and conditions.

The impacts identified in this assessment will be considered in making a recommendation to Cabinet on the preferred future business model for delivery of the Highway Maintenance Service.

Equality, environmental and economic indicators will be considered for inclusion in the performance management system for the future model.

## 4. People affected, diversity profile and analysis of needs.

The project considers the future business model to deliver the Highway Maintenance Service. It is not proposed to alter service levels or policies, and levels of funding for Highway Maintenance works would not be affected by any decision on the business model. Therefore, the users of the public highway network should not be materially affected whichever option is chosen.

The main group of people affected by a decision would be the staff delivering the Highway Maintenance Service. The existing Milestone Infrastructure employees would have the opportunity to be transferred to the chosen future contractor or organisation under TUPE regulations. It is estimated that over 300 existing employees would be eligible. Depending on the option chosen some groups of County Council staff may be affected by transferring to the chosen delivery organisation.

## 5. Stakeholders, their interest and potential impacts

County Councillors – depending on the option chosen may be involved in strategic management of the delivery organisation.

Highway Contractors and Supply Chain – the option chosen will determine the extent they have the opportunity to compete for work / business.

## 6. Additional relevant research used to inform this assessment

None

## 7. Description of consultation process and outcomes

Initial discussion with Equality Diversity and Inclusion Team to agree scope of assessment  
29/05/24.

Agree draft with Equality Diversity and Inclusion Team, and seek approval of Project Board.  
June 24

Seek Director / SLT Approval alongside report to September 24 meeting of Scrutiny Committee. Planned August 24

## Background information

### 8. Equality analysis

Under the Equality Act 2010, the local authority must consider how people will be affected by a service, policy or practice. In so doing we must give due regard to the need to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations across protected characteristics of age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (for work), sex, sexual orientation, race, and religion and belief. The Equality Act 2010 and other relevant legislation does not prevent the Council from taking difficult decisions which result in service reductions or closures for example, it does however require the Council to ensure that such decisions are: informed and properly considered with a rigorous, conscious approach and open mind, taking due regard of the effects on the protected characteristics and the general duty to eliminate discrimination, advance equality and foster good relations; proportionate (negative impacts are proportionate to the aims of the policy decision); fair, necessary, reasonable, and those affected have been adequately consulted.

No specific equality issues have been identified in the assessment of model options, as it is not proposed to alter service levels or policies.

Any contractor or organisation delivering the County Council's Highway Maintenance Service would be bound by standard equality clauses in their contract or agreement to ensure they do not discriminate against staff or service users unlawfully.

The main group of people affected by a decision on business model option would be the staff delivering the Highway Maintenance Service. The extent to which the County Council is able to eliminate unlawful discrimination, harassment and victimisation of the staff is dependent on the business model chosen as below.

<b>Business Model</b>	<b>Equality issues</b>
Term Maintenance Contract with Associated Frameworks Contracts	Staff would be employees of the relevant contracting company and governed by the company's equality, diversity and inclusion policies and guidance. The County Council would ensure that standard equality clauses are included in the contracts with the providers to ensure they do not discriminate against staff or service users unlawfully.
Arms-Length Company	Staff would be employees of a County Council owned company. The Council

	would be responsible for equality, diversity and inclusion requirements and guidance.
Joint Venture Company	Staff would be employees of a company owned jointly by the County Council and a partner contracting company. The County Council would have significant input into the company's equality, diversity and inclusion requirements and guidance.
Direct Labour Organisation providing all services	Staff would be employees of the County Council and the Council would be responsible for equality, diversity and inclusion requirements and guidance.
Cyclic and Reactive Services provided by Direct Labour. All other services contracted out.	Direct Labour staff would be employees of the County Council and the Council would be responsible for equality, diversity and inclusion requirements and guidance. Other staff would be employees of the relevant contracting company and issues would be similar to the Term Maintenance Contract model above.

If the Arms- Length Company or Joint Venture Company option is chosen there is potential for some teams of existing County Council Highways staff to be seconded or transferred under TUPE regulations to the company. The staff would retain their existing employment terms and conditions, and the extent to which the County Council is able to eliminate unlawful discrimination, harassment and victimisation is reflected in the table above.

A secondary issue would be any interaction between staff delivering the Service and users of the public highway, and the extent to which the County Council is able to eliminate unlawful discrimination, harassment and victimisation of the users by the staff, and foster good relations. The extent to which the County Council is able to specify requirements and guidance for staff dependant on business model chosen is also reflected in the table above.

## 9. Human rights considerations:

We need to ensure that human rights are protected. In particular, that people have:

- A reasonable level of choice in where and how they live their life and interact with others (this is an aspect of the human right to 'private and family life').

- An appropriate level of care which results in dignity and respect (the protection to a private and family life, protection from torture and the freedom of thought, belief and religion within the Human Rights Act and elimination of discrimination and the promotion of good relations under the Equality Act 2010).
- A right to life (ensuring that nothing we do results in unlawful or unnecessary/avoidable death).

The extent to which the County Council is able to ensure human rights are protected for staff delivering the Highway Maintenance Service dependant on the business model chosen is reflected in the table above in Section 8.

Any highway maintenance work undertaken on the public highway whatever business model is chosen will be required to comply with national law, regulation and guidance including Highways Act 1980, Construction Design and Management Regulations 2015, and Health and Safety at Work Act 1974, to protect users of the public highway human right to life.

## 10. Environmental analysis

An impact assessment should give due regard to the following activities in order to ensure we meet a range of environmental legal duties. The policy or practice does not require the identification of environmental impacts using this Impact Assessment process because it is subject to (please mark X in the relevant box below and proceed to the 11, otherwise complete the environmental analysis information below):

<b>Devon County Council’s Environmental Review Process</b>	
<b>Planning Permission</b>	
<b>Environmental Impact Assessment</b>	
<b>Strategic Environmental Assessment</b>	

No specific environmental considerations have been identified in assessing the model options, as any decision does not alter service levels or policies.

The impact of highway maintenance work on the following areas will be covered by the regulations, guidance and works specification irrespective of the business model option chosen.

### Conserve and enhance wildlife

## Safeguard the distinctive characteristics, features and special qualities of Devon's landscape

### Conserve and enhance Devon's cultural and historic heritage

The extent that the County Council is able influence the impact of highway maintenance operations on the following areas is dependent on the business model option chosen as shown in table below.

### Reduce, reuse, recycle and compost

### Minimise greenhouse gas emissions

### Minimise pollution

### Contribute to reducing water consumption

### Ensure resilience to the future effects of climate change

<b>Business Model</b>	<b>Environmental impact</b>
Term Maintenance Contract with Associated Frameworks Contracts	The County Council would have the opportunity to include in the contract requirements or targets to contribute towards reducing the environmental impact.
Arms-Length Company	The works would be undertaken by a County Council owned company. The Council would be responsible for the extent to which the environmental impact of undertaking highway maintenance work is reduced.
Joint Venture Company	The works would be undertaken by a company owned jointly by the County Council and a partner contracting company. The County Council would have significant input into measures to reduce environmental impact when undertaking highway maintenance work.
Direct Labour Organisation providing all services	The works would be undertaken by the County Council. The Council would be responsible for the extent to which the environmental impact of undertaking highway maintenance work is reduced.

<p>Cyclic and Reactive Services provided by Direct Labour. All other services contracted out.</p>	<p>Cyclic and Reactive works would be undertaken by the County Council. The Council would be responsible for the extent to which the environmental impact of undertaking this work is reduced. Other works would be undertaken by contracting companies and issues would be similar to the Term Maintenance Contract model above.</p>
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## 11. Economic analysis

### Impact on knowledge and skills

The choice of business model to continue delivery of the Highway Maintenance Service is unlikely to impact on the need for new skills or qualifications or change the demand for existing local skills.

### Impact on employment levels

The choice of business model will not specifically result in the generation of new jobs. Staff currently delivering the service would have the opportunity to be transferred to the chosen future contractor or organisation under TUPE regulations.

### Impact on local business

<b>Business Model</b>	<b>Impact on local businesses</b>
<p>Term Maintenance Contract with Associated Frameworks Contracts</p>	<p>There would be no change to the current situation. For larger contracts there would be a requirement to provide information on the amount of work undertaken by locally based SMEs. Smaller and local businesses would have the opportunity to tender for Framework Contracts.</p>
<p>Arms-Length Company</p>	<p>As a County Council owned company, the Council would be responsible for the extent of use of local companies in the supply chain for goods and services.</p>
<p>Joint Venture Company</p>	<p>As a company owned jointly by the County</p>



	<p>Council and a partner contracting company, the Council would have significant input into the extent of use of local companies in the supply chain for goods and services.</p>
<p>Direct Labour Organisation providing all services</p>	<p>The Council would be responsible for the extent of use of local companies in the supply chain for goods and services.</p>
<p>Cyclic and Reactive Services provided by Direct Labour. All other services contracted out.</p>	<p>The Council would be responsible for the extent of use of local companies in the supply chain for goods and services to undertake Cyclic and Reactive works. Other works would be undertaken by contracting companies and the impact would be similar to the Term Maintenance Contract model above.</p>