

**Report of: Executive Member for Environment and Transport and Executive Member for Finance and Performance**

<b>Executive</b>	<b>Date: 14 01 16</b>	<b>Ward(s): All</b>
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**SUBJECT: North London Waste Authority Menu Pricing and Inter Authority Agreement**

## **1. Synopsis**

- 1.1 This report provides an update on the Inter Authority Agreement (IAA) with the North London Waste Authority (NLWA) and its constituent Boroughs.
- 1.2 A previous form of the IAA was considered and approved by the Executive on 16 June 2011. However, this was in the context of the now terminated NLWA waste facilities procurement exercise. The IAA has been subsequently amended to reflect the changed context.
- 1.3 The Executive is asked to note the changes to the IAA and authorise relevant officers to agree its final form and enter into the IAA with the NLWA and constituent authorities.

## **2. Recommendations**

- 2.1 To note the revised form of the Inter Authority Agreement as set out at Appendix A.
- 2.2 To note the important principle of menu pricing as contained within the Inter Authority Agreement and to agree to support a move to menu pricing until such time as an alternative system for the apportionment of the NLWA's costs is unanimously agreed by all of the NLWA's constituent Boroughs independently of an agreement on the final form of the IAA.
- 2.3 To authorise the Corporate Director of Environment and Regeneration in consultation with the Corporate Director of Finance and Resources, Assistant Chief Executive - Governance and HR, and the Council's two Member representatives on the NLWA:
  - to negotiate and agree the final form of the IAA.
  - to agree any future amendments or decisions in relation to the agreement of a minor or urgent

nature after the IAA is executed.

- to negotiate and agree menu pricing in advance of the IAA should there be any delay in its agreement across the seven Boroughs.

- 2.4 Subject to agreement being reached on the final form of the IAA, to authorise the Assistant Chief Executive Governance and HR (or such other officer as may be authorised by the Assistant Chief Executive Governance and HR) to enter into the IAA on behalf of the Council.

### **3. Background**

- 3.1 At its meeting of 26th of September 2013, the NLWA agreed to end its procurement programme for long-term waste management services. The NLWA is instead relying upon the existing Energy from Waste (EfW) Facility at the Edmonton site in the medium term. The NLWA is pursuing a Development Consent Order (DCO) for a replacement facility that has the ability to both produce electricity and to supply heat to businesses and homes in the surrounding area. The NLWA and its constituent Boroughs are currently undertaking an options appraisal to determine the nature of any successor arrangements with the replacement facility set out in the draft DCO being one of the options under consideration.

It is intended that the agreed NLWA 50% combined reuse, recycling and composting rate target for 2020 will still be achieved.

- 3.2 At a meeting of the Executive on 16 June 2011, members agreed 'to authorise the Corporate Director of Environment and Regeneration, in consultation with the Corporate Director of Finance and Resources and the Executive Member for Environment to agree the final form of the IAA on the basis set out in this report.' Further recommendations delegated authority to the Corporate Director of Resources to enter into the IAA once agreed. The parties to the IAA are the NLWA and each of its constituent Boroughs. The IAA, as drafted in 2011, was expected to form the basis of an interface between the NLWA and its Boroughs that mirrored the interfaces between the NLWA and its proposed contractors.
- 3.3 As such, the previously agreed draft IAA, underlying principles and other documentation approved by Boroughs were set within the context of the NLWA's now ended procurement process. There is still a strong need for an IAA to better reflect the relationship between the NLWA and Boroughs (and the Boroughs and each other). It is also needed to ensure a higher degree of fairness in the flow of costs and liabilities than the current interface - broadly the statutory default - allows. The revised IAA retains a number of key aspects of the previous draft IAA, notably the proposed change from the existing agreed levy and charging arrangements to a 'menu pricing' system.

#### **3.4 General summary of changes to the IAA as previously agreed at the 16 June 2011 Executive Meeting**

The previous draft IAA considered by the Executive on 16 June 2011 contained numerous references to the now ended procurement and broadly mirrored the draft contracts relating to the NLWA's procurement. A number of individual amendments, many of which are minor, have been made to remove these references. Instead, specific provisions have been introduced to reflect the NLWA's current position that its future waste management arrangements have not been determined beyond medium-term reliance upon the existing EfW for residual waste treatment.

- 3.5 In summary the changes to the IAA are:

- Changes to or deletion of definitions and clauses previously drafted to mirror corresponding definitions within the NLWA's previously proposed Waste Management Contracts or referring to these contracts.
- Provisions have been removed relating to processes set out in the former IAA linked to the previous procurement process that are either now completed (notably the transfer of the Household Waste and Recycling Centres (HWRC's)) or are no longer relevant (notably the process specific to that procurement process for populating binding schedules that set out Borough waste collection arrangements and tonnage projections).
- The inclusion of more general provisions and language in some areas to reflect the fact that the

precise nature of the NLWA's contractual and other arrangements over the longer term are not currently known.

- Some changes to provisions and definitions and terminology driven by intervening changes to the policy and legislative landscape.
- A general simplification of some provisions and a greater emphasis upon transparency than would have been possible under the previous draft IAA.

3.6 The most significant provision of the IAA is the change to a menu pricing system from the apportionment of the NLWA's levy and charges upon its constituent Boroughs. The principles of menu pricing and the underlying mechanisms broadly remain unchanged from those reflected in the 2011 version of the IAA. However, there have been some minor amendments to reflect the ending of the previous procurement and provide flexibility to accommodate future arrangements. Broadly the move to a menu pricing system reflects the following changes:

- The reflection of the differential costs of treating for each type of waste within the Authority's levy arrangements as opposed to dividing such costs equally based on all delivered Borough tonnages, whether that waste is for recycling or residual waste.
- The apportionment of costs for Household Waste Recycling Centres (HWRC's) based on periodic surveys of the proportion of residents using each HWRC from each Borough.
- The introduction of broad cost parity between the per tonne rates charged by NLWA for waste such as trade waste and the levy rates applied to the mainly household waste subject to the NLWA's levy.
- The levying of a significant element of the NLWA costs relating to the running of the NLWA, procurement/development costs, and activities such as communications campaigns on a tonnage basis, rather than based on the proportion of Council Tax Band D properties in each Borough.
- Other costs, income and liabilities that arise through the activities of the NLWA will be apportioned between the Boroughs using the most appropriate and equitable basis, whereas currently they are apportioned across all Boroughs based on total tonnages delivered or the proportion of Council Tax Band D properties.

3.7 These changes provide a substantially fairer basis for apportioning the NLWA's costs than at present and incentivise individual Boroughs to reduce overall costs by, for example, increasing their recycling rates.

Islington is expected to be a net beneficiary of the change to menu pricing based on the NLWA's medium term financial projections.

3.8 It is currently intended that the IAA will be formally agreed and entered into by all parties before the NLWA sets its 2016/17 annual levy and budget in February 2016. Menu pricing would then apply from that year onwards until a successor arrangement is unanimously agreed by all of the NLWA's constituent Boroughs. However, negotiations around the precise terms of menu pricing and the wording of some provisions of the IAA still remain to be resolved and the timescale for all parties to achieve formal agreement by February is challenging. Any agreed changes to the IAA and menu pricing system will be minor in nature, relating for example to the phasing of the introduction of menu pricing.

It is conceivable that the other six constituent Boroughs agree to adopt menu pricing prior to agreeing the final form of the IAA. It is recommended that the Council agrees to move to menu pricing in this event.

## 4. Implications

### Financial implications:

4.1 The waste disposal and treatment costs from NLWA are currently paid for by a central levies budget and by the trading income from the commercial waste service. The main element of the NLWA's levy is currently apportioned based on all delivered tonnages, regardless of type of waste. The introduction of menu pricing (as part of the IAA) will change this and differential prices will exist for each waste stream,

residual waste being the most expensive with the various forms of recycling being cheaper.

The menu pricing should reduce Islington's costs overall but this will depend on how the prices are calculated, the changes in tonnages for each waste stream (both for Islington and the other Boroughs), future changes to the NLWA's costs and the transitional arrangements that are agreed. Therefore, no estimate of this change has been made at this stage.

#### **Legal Implications:**

- 4.2 As the waste collection authority for Islington, the Council is under a duty to collect household waste and deliver it as directed to the relevant joint waste disposal authority (NLWA) (sections 45 and 48 of the Environment Protection Act 1990). In the case of recyclables, they may be consigned to NLWA or disposed of by the Council itself. NLWA which comprises the seven constituent Boroughs (including Islington) is the waste disposal authority and, as such is responsible for arranging for the disposal of waste delivered to it by the waste collection authorities (section 51 of the 1990 Act).

The costs of the NLWA in discharging its statutory functions (including the treatment and disposal of waste) are recharged to the Constituent Boroughs through the NLWA levy made pursuant to the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006. Under those regulations, the levy may be apportioned between the boroughs as all the constituent Boroughs agree. Failing agreement, the NLWA levy has to be apportioned between the constituent Boroughs in the manner prescribed by the 2006 regulations that is on the basis of delivered tonnages of waste without regard to the type of waste and whether its residual or recyclable.

As a waste collection authority, it is in the interests of the Council to work in partnership with the NLWA and the other Boroughs regarding the arrangements for waste disposal and for that purpose to enter into the IAA. The IAA will be a legally binding agreement between the NLWA and the Constituent Boroughs which regulates the relationship between those parties in respect of their waste collection and disposal obligations and the method of apportionment of NLWA's costs between the constituent Boroughs.

#### **Environmental Implications**

- 4.3 An environmental impact scoping exercise has been carried out and it was identified that the proposals in this report would have no impacts on the following:
- Energy use and carbon emissions
  - Use of natural resources
  - Travel and transportation
  - Climate change adaptation
  - Biodiversity and Pollution

The scoping exercise identified that there would be positive impacts on waste and recycling, and climate change adaptation through improved, more carbon efficient waste management services and increased recycling rates.

#### **Resident Impact Assessment:**

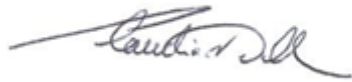
- 4.4 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

The initial screening for a Resident Impact Assessment did not identify any negative equality impacts for any protected characteristic or any human rights or safeguarding risks.

## 5. Reasons for the recommendations / decision:

- 5.1 The recommendations in this report will ensure an effective partnership between the NLWA and the seven constituent Boroughs, as well as a fair and equitable distribution of waste disposal costs among the constituent Boroughs of the NLWA which will incentivise recycling over other forms of waste treatment.

**Signed by:**



4 January 2016

**Executive Member for Environment and Transport**

Date



4 January 2016

**Executive Member for Finance and Performance**

Date

## Appendices

Appendix 1 - Inter Authority Agreement, Revised Draft

**Background papers:** none

Report Author: Steve Key  
Tel: X5636  
Email: [Steve.key@islington.gov.uk](mailto:Steve.key@islington.gov.uk)