



Haringey Council

Report for:	Leader of the Council 19 th January 2012	Item Number:	
Title:	Inter Authority Agreement (in relation to North London Waste Authority procurement of waste disposal services) Part 1 of 2: Variation to NLWA levying system for Household Waste Recycling Centres		
Report Authorised by:	Director of Corporate Resources <i>J. Pawley 11/1/12</i>		
Lead Officer:	Matthew Gaynor, Head Of Finance - Place & Sustainability Email: Matthew.Gaynor@haringey.gov.uk Tel: x. 4503		
Ward(s) affected: All	Report for Key/Non Key Decisions: Key Decision		

1. Describe the issue under consideration

- 1.1 On July 19th 2011 Cabinet agreed in principle to signing a legally binding Inter Authority Agreement (IAA) with the North London Waste Authority (NLWA) and the other six Constituent Borough Councils.
- 1.2 In line with the recommendations of the Cabinet report, the Leader will take final decisions related to the execution of the IAA following the agreement of final terms and associated decisions, which is expected to take place in early 2012 (as Part 2 of this report, in effect). This will include deciding whether to transfer the Council's two Household Waste Recycling Centres (HWRCs) to NLWA.
- 1.3 This report specifically considers the system by which HWRC costs will be levied by NLWA to the Constituent Boroughs and recommends a change to the current system for the period 2012/13 to 2016/17. This decision is being considered in advance of a decision on execution of the IAA because there is a statutory deadline of 31st January by which time each Constituent Borough must have



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passed the proposed change in order for new levying arrangements to come into place for the following financial year.

- 1.4 The NLWA levy can be apportioned between its seven Constituent Boroughs in any way the Boroughs can unanimously agree. In the absence of such agreement, a statutory default mechanism applies.
- 1.5 The recommended variation allow the costs of HWRCs operated by the NLWA to be levied broadly in line with how the costs currently fall whilst the sites are in Borough control, and for any land purchased for the development of new HWRCs to be apportioned based on the anticipated and surveyed number of visitors to that site from each Borough.

2. Cabinet Member introduction

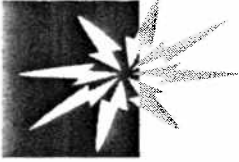
Not applicable

3. Recommendations

- 3.1. The Leader of the Council in consultation with the Director of Corporate Resources is recommended to approve the below resolution in order to vary the NLWA levy from the 2012/13 financial year:
 - (a) To agree that the proposed amendments/changes to the default levy by the North London Waste Authority (NLWA) as detailed in Appendix 1 shall apply, subject to the agreement of all seven constituent boroughs, with effect from 1 April 2012 and thereafter until such time as a further resolution is agreed by the seven constituent authorities of the NLWA (including Haringey) further amending the agreement.

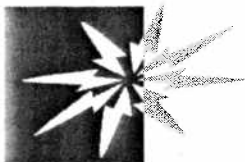
4. Other options considered

- 4.1. A meeting of Directors of Environment and Finance from the NLWA's Constituent Boroughs on 13/10/11 formed an officer consensus to vary the levy for the interim period from 2012/13 until 2016/17 (when the provisions of the IAA Charging Mechanism are expected to come into force), to reflect the same pattern of cost apportionment as if the HWRCs were continuing to be operated by the Constituent Boroughs, in order to ensure the minimal budgetary impact and the maximum budget certainty for each Borough.
- 4.2. The details of this approach are set out in section 4.5. In summary it allows boroughs to transfer their sites to the NLWA at different times, if that suits local circumstances, without there being a range of interim positions for individual Boroughs where some are financially better off and others financially worse off in ways that are unpredictable from an individual Borough perspective.



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- 4.3. Furthermore, the proposed change protects the position of the Council should the final decision be not to transfer HWRCs, ensuring we will not be subject to both the direct costs of continuing to operate our sites and a proportion of NLWA's costs for operating transferred sites in other Boroughs. If the Council's HWRCs are transferred to NLWA it means we will have certainty that the cost to Haringey will remain broadly in line with our current costs during the interim period to 2016/17.
- 4.4. The Council could opt not to approve the levy change and in doing so prevent its implementation across the NLWA area, given the need for unanimous Constituent Borough agreement. However, for the reasons outlined in sections 4.2 and 4.3, it is regarded as essential that the change is approved by the statutory deadline of 31st January 2012, in order to be in place from 1st April 2012 when most Boroughs' HWRCs are expected to be transferred.
- 4.5. The recommended variation to the levy is set out in full in Appendix 1, in the form of a mark-up of the statutory instrument, the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006, which provides for the amount to be levied from Constituent Boroughs to be apportioned in such proportions as all the Constituent Boroughs may agree. This mark-up is for illustration purposes only, as a means of highlighting the changes to the default system that each Constituent Borough is consenting to. There is no intention that the statutory instrument is to be changed.
- 4.6. The variation will mean the levy operates as follows:
- All costs in relation to the transport and disposal of residual waste to be apportioned based upon the proportion of Council Tax Band D equivalent properties (both for sites in the NLWA's control and those that continue to be operated by constituent Boroughs) – this represents no change to the default system;
 - All other costs in relation to existing sites (including planning, construction, equipping and operation of HWRCs, including staffing, utilities, premises, reuse, recycling, composting (costs and/or income)) are apportioned in accordance with the Constituent Borough within which each HWRC is situated – this is a variation to the default system; and
 - That the costs of the NLWA's proposed freehold purchase of land at Cranford Way from LB Haringey to construct a replacement for the existing HWRC at Hornsey High Street are apportioned based upon the results of a recent visitor survey at the latter site that the Cranford Way HWRC is proposed to replace (detailed in Appendix 1) – this is a variation to the default system. From 2016/17 the costs of land at Cranford Way will be apportioned in line with the IAA Charging Mechanism as set out in paragraph 4.6 below, subject to execution of the IAA.



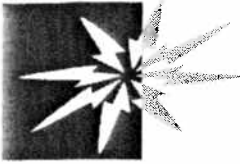
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4.7. The following changes were also agreed to apply both during the interim period as set out above, and after the introduction of the IAA Charging Mechanism. They will be reflected as such in the IAA:

- With the exception of the land at Cranford Way (as set out above) all of the costs (including the freehold or leasehold purchase of land) in relation to any new HWRCs are levied based upon the proportion of the total households from each NLWA Borough within a two mile radius of that site. After the site is operational a new visitor survey will be undertaken and the above costs will be apportioned in accordance with it for the next financial year. The visitor survey will in any case be updated periodically by the NLWA. The proportion of costs relating to visitors from outside of the NLWA area will be borne by the Borough in which the HWRC is situated as it can reasonably be expected those boroughs will have some residents using sites outside the NLWA area at no cost to the NLWA. This is broadly reflected at present in the draft IAA, but amendments are now being made in order that the final IAA document reflects this more defined approach.
- The IAA reflects that existing sites will be transferred to the NLWA on a leasehold basis at peppercorn rent. This is likely to be subject to approval by the Secretary of State (or under the General Consent issued by the same). This approval has yet to be obtained by most Boroughs and may theoretically be withheld, although this is considered very unlikely. It is nevertheless proposed, so that the IAA can be promptly executed, that the levy is varied to reflect that any premises costs such as rent that are charged by any Borough are in turn levied in full from that Borough by the NLWA. This will effectively render this transaction cost-neutral from the point of view of the Borough in question and therefore ensure there is no impact on other Boroughs.

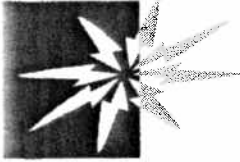
5. Background information

- 5.1. Since in-principal approval by Cabinet in July 2011, the draft Inter Authority Agreement (IAA) has been subject to minor amendments based on discussions between the seven Constituent Boroughs and the NLWA, and is expected to be executed by all parties in early 2012.
- 5.2. The IAA commits the signatory parties to changes in relation to the levy by which the costs of the NLWA's activities are recovered from its Constituent Boroughs (The IAA Charging Mechanism). In relation to Household Waste Recycling Centres (HWRCs) that will in future be controlled by the NLWA the IAA Charging Mechanism requires that the costs of these will be apportioned based on a periodic visitor survey, and the costs of transporting and disposing of residual waste from those Boroughs that do not transfer their sites is apportioned on the same basis.



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- 5.2. The IAA requires that the Charging Mechanism will apply from 2016/17 (in which the first new waste facility is expected to be commissioned under the NLWA's new contract). The IAA reflects that the current default levy arrangements would apply prior to this date with a mechanism available for this to be varied in the interim if the required unanimous agreement among all seven Boroughs required by statute can be reached. Any such changes will then be superseded by the IAA Charging Mechanism around 2016 as set out above.
- 5.3. As all HWRCs are currently operated by Constituent Boroughs in line with their obligations under Section 1 of the Refuse Disposal (Amenity) Act 1978 (RDA), those Boroughs currently pay for the operation and maintenance of those sites. The costs of transporting and disposing of the residual waste from HWRCs is currently borne by the NLWA and levied to all Boroughs based on their number of Council Tax band D equivalent properties (which is the default statutory position). The Environmental Protection Act 1990 also gave the duty to ensure provision of HWRCs to the NLWA and provided for s.1 RDA to be repealed by a statutory instrument.
- 5.4. As s.1 RDA is expected to be repealed with effect from 01/04/12 (leaving the duty for the provision of HWRCs solely with the NLWA) and the operation of HWRCs currently in Borough control is currently included within the scope of the NLWA's proposed contract, the IAA makes provision for the transfer of sites in Borough control to the NLWA.
- 5.5. The Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 provides the statutory framework with regards the levying arrangements of Joint Waste Disposal Authorities such as the NLWA. The Regulations set out the statutory default position, whilst allowing this to be varied by unanimous agreement of the Constituent Boroughs. It should be noted that Government could theoretically legislate for a change to the default but there is currently no indication of this.
- 5.6. The statutory default position in relation to the levying of HWRC costs in NLWA control is that all costs would be levied in relation to the proportion of Council Tax Band D equivalent properties, including those Boroughs that do not transfer HWRCs to the NLWA in that year. The costs in relation to any sites still under the control of a Constituent Borough would continue to be borne by that Borough as they are currently. Therefore, under these arrangements there will not only be considerable shifts in the amount that each Borough pays for the service against the current pattern but any Boroughs that do not transfer their HWRCs will not only solely bear the operating costs of any such sites but also a proportion of the operating costs of any sites that do transfer based on their proportion of Council Tax Band D properties.



6. Comments of the Chief Finance Officer and financial implications

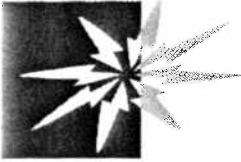
- 6.1. This report is necessary to ensure the cost to the Council related to Household Waste Recycling Centres does not significantly increase if sites do not transfer to the North London Waste Authority or if transfer is delayed, which would be the case under the current default levy system.
- 6.2. At present the cost of running the HWRC sites is contained within the Veolia contract. Provision exists to amend the contract so that these can be transferred to NLWA. If sites do transfer the cost will then form part of the levy from NLWA.
- 6.3. It is expected that the costs of NLWA running the sites will be broadly in line with the existing costs and thus the financial position will be broadly neutral if the sites are transferred. Provision has been made in the draft budget for 2012-13 for the costs to be included within the NLWA levy.
- 6.4. As the Cranford Way site is not operational at this point, it is expected that NLWA will purchase the site from the Council and costs of purchase and development will be treated as capital costs by NLWA and hence spread over the asset life. The running costs of the new site once operational will be apportioned as per the new levy arrangements up to 2016, and in line with the IAA Charging Mechanism thereafter (subject to execution of the IAA).

7. Head of Legal Services and legal implications

- 7.1. The Head of Legal Services notes the contents of the report.
- 7.2. The report seeks the Leader of the Council's approval for the proposed changes to the default levy by NLWA as detailed in paragraph 3 of the report.
- 7.3. In accordance with Part 3 of the Council's Constitution the Leader has the power to approve the recommendations set out in paragraph 3 of the report
- 7.4. This is a key decision and the Directorate has confirmed that this has been included in the Forward Plan.
- 7.5. The Head of Legal Services confirms there are no legal reasons preventing the Leader from approving the recommendations set out in the report.

8. Equalities and Community Cohesion Comments

- 8.1 The change to the levy system will not influence the service provision that residents receive at the sites, being purely concerned with the apportionment of costs between NLWA and Constituent Boroughs and maintaining a status quo in budgetary terms. There are therefore no equalities or community cohesion implications.



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9. Head of Procurement Comments

Not applicable

10. Policy Implication

10.1 The change to the levy system does not in itself have policy implications beyond ensuring that individual Boroughs' costs remain in line with their current expenditure during the interim period to 2016/17, regardless of the pattern and timing of site transfer across the Boroughs. This will enable the final decision on whether to transfer HWRCs or not to be made with the certainty that, either way, there will be no significant cost impact in the interim period.

11. Use of Appendices

Appendix 1 – Alternative Form of Levy Regulations to be adopted by NLWA Constituent Authorities

12. Local Government (Access to Information) Act 1985

Cabinet Report, July 19th 2011: Inter Authority Agreement In Relation To North London Waste Authority Procurement Of Waste Disposal/ Treatment Services

Cabinet Report, December 21st 2010: Inter Authority Agreement In Relation To North London Waste Authority Procurement Of Waste Disposal/ Treatment Services (Key Principles)

