



<b>Report for:</b>	Leader of the Council (Cabinet Member Signing) 16 <sup>th</sup> August 2012	<b>Item Number:</b>	
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<b>Title:</b>	Inter Authority Agreement (in relation to North London Waste Authority procurement of waste disposal services)
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<b>Report Authorised by:</b>	Lyn Garner, Director of Place & Sustainability
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<b>Lead Officer:</b>	Tom Hemming, Waste & Communications Manager Email: tom.hemming@haringey.gov.uk    Tel: x. 5625
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<b>Ward(s) affected:</b> All	<b>Report for Key/Non Key Decisions:</b> Key Decision
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## **1. Describe the issue under consideration**

- 1.1 On July 19<sup>th</sup> 2011 Cabinet agreed in principle to enter into an Inter Authority Agreement (IAA) between the North London Waste Authority (NLWA) and the six other north London Constituent Borough Councils.
- 1.2 The July 2011 Cabinet report did not seek approval to formally execute the IAA as the document was subject to the negotiation of final terms between the signatory authorities. Cabinet resolved that following the agreement of the final terms by the parties the Leader of the Council will consider the decision to execute the IAA on behalf of the Council.
- 1.3 As per the agreed recommendations in the July 2011 Cabinet report, several key decisions are to be made by the Leader as part of the execution of the IAA, as noted below. This report considers the key issues and risks associated with these decisions.
  - Amendments to the draft IAA agreed in-principle, notably the finalisation of the Cost Recovery Mechanism (Schedule 4);
  - Commitments to collection systems and binding tonnage forecasts over the duration of the NLWA contracts;



- The decision on the transfer of the Council's two Household Waste Recycling Centres (HWRCs) to NLWA.

- 1.4 The July 2011 Cabinet report provides full details of the rationale for and main principles of the IAA that each party has signed up to in-principle. These are also summarised in section 5 of this report.
- 1.5 The IAA will govern the interface between the signatory authorities with regards waste management over the life of the NLWA's future waste disposal and treatment contracts. The contracts, which are expected to last around 30 years with a combined value of between £3-4 billion, are the subject of a current procurement process, due to reach financial close in mid-2013.
- 1.6 Following a process of negotiation between the parties and subject to individual authorities' approval processes, the IAA is expected to be executed by each party within the coming weeks, upon completion of which the IAA will come into effect and become legally binding.

## **2. Leader introduction**

- 2.1 Cabinet agreed in-principle that Haringey would enter the Inter Authority Agreement on July 19<sup>th</sup> 2011 subject to agreement to the final terms. This report now recommends execution of the IAA and provides the details of the areas of development since the in-principle agreement. The version of the IAA attached at Appendix A to the report is the final form of the IAA subject to some minor changes that may be needed and may be agreed by the Director of Place and Sustainability.

## **3. Recommendations**

- 3.1. The Leader of the Council is recommended:

- (a) To agree the final form of the IAA executed by the Council be in terms substantially the same as the form of IAA attached to this report at Appendix A and in accordance with Section 4 of the Report, with any final minor changes to the version of the IAA attached at Appendix A to be agreed by the Director of Place & Sustainability following consultation with the Leader; and accordingly
- (b) To approve execution of the IAA by the Director of Place & Sustainability as the Authorised Representative.

- 3.2. The Leader of the Council is recommended to approve Schedule 1 Part A2 and Schedule 2 Part B of the IAA (contained within the draft IAA at Appendix A) providing details of the waste collection system and tonnage forecasts, to reflect anticipated increases in recycling rates and changes to waste levels over the duration of the NLWA contracts.



3.3. The Leader of the Council is recommended to agree the transfer of the Council's Household Waste & Recycling Centres (HWRCs) to the NLWA, proposed to be from 1st November 2012, on the following basis:

- i. For Park View Road, to grant a lease to the NLWA from 1st November 2012 that is excluded from the protection of sections 24-28 of the Landlord and Tenant Act 1954 and on a peppercorn basis, the detailed terms to be agreed by the Director of Place and Sustainability in consultation with the Head of Legal Services;
- ii. For Hornsey High Street, to grant a short term lease to the NLWA from 1st November 2012 that is excluded from the protection of sections 24-28 of the Landlord and Tenant Act 1954 and on a peppercorn basis, to be terminated by the Council when required so as to allow the Council to give vacant possession of the site to the buyer in accordance with its contractual obligations. The terms of the lease to be agreed by the Director of Place and Sustainability in consultation with the Head of Legal Services.

#### **4. Other options considered**

4.1. Cabinet on July 19<sup>th</sup> 2011 agreed to an in-principle IAA option. This section of the report provides detailed information to support the rationale for the recommendations at 3.1 to 3.3. It also demonstrates how risks to the Council have been mitigated following negotiations that have taken place between NLWA and the Constituent Boroughs in determining the final form of the IAA. The details of the three key areas covered by the report are set out under the following headings:

- i. Key changes to the final IAA and approval for execution (recommendations at 3.1);
- ii. Waste Collection System and Tonnage Forecast Commitments (Schedule 1 Part A2 and Schedule 2 Part B of the IAA) (recommendation at 3.2);
- iii. Transfer of the Council's Household Waste & Recycling Centres (HWRCs) to the NLWA (recommendation at 3.3).

#### **4.2. Key changes to the final IAA and approval for execution (recommendation at paragraph 3.1)**

4.3. The July 19<sup>th</sup> 2011 Cabinet Report established that an IAA signed by all eight authorities is essential to the NLWA procurement to maximise the prospects of achieving the most beneficial solution in terms of both value for money and environmental outcomes, and minimise the risk of additional costs, which would ultimately fall to the Constituent Boroughs.



- 4.4. Since in-principle agreement by boroughs the IAA has been subject to a number of changes agreed multilaterally. These changes fall into three broad categories:
1. Changes to provide the Boroughs with greater flexibilities to make decisions and/or exercise more control over the NLWA's procurement/contract management process that have been requested by Boroughs. Many of the more significant changes fall into this category.
  2. Clarifications and amendments to make the IAA clearer and more 'fit-for – purpose' – notably there have been a number of changes of this type to Schedule 4 which sets out how the constituent Boroughs will pay for NLWA's costs.
  3. Additional obligations or changes to previously existing obligations on the part of either NLWA, the Boroughs or all parties. All of these changes are minor in scope and effect.
- 4.5. Council legal, finance, property and technical officers have been closely involved with the ongoing negotiation of the terms of the IAA and are satisfied that the amendments made since in-principle agreement by Cabinet reflect the interests of the Council, in the context of a multi-authority agreement, and given that the NLWA contracts that the IAA is designed to mirror are still evolving as the procurement progresses.
- 4.6. A key function of the IAA remains to provide certainty to NLWA's bidders on the types and quantities of waste that will be delivered over the duration of the contract. In addition, terms which give effect to other key principles of the IAA that were agreed as part of the July 19<sup>th</sup> 2011 Cabinet report have been subject to development. The key areas that have undergone development are summarised below:
- (a) Confirmation of the Cost Recovery Mechanism (IAA Clause 16/Schedule 4) between NLWA and the Boroughs, without which the default statutory levying system would continue. The mechanism will put into effect the principles already agreed by Boroughs, namely the more equitable distribution of financial obligations (ensuring Boroughs are directly responsible for the costs of their activities), and incentivising recycling over more expensive residual waste disposal;
  - (b) Clarification of the system for apportioning liabilities as a result of Boroughs under or over delivering against tonnage forecasts (IAA Clause 10);
  - (c) Establishment of an approach to the NLWA procurement which will effectively deliver Boroughs' preferred waste delivery points (IAA Clause 8);



- (d) Establishment of an approach to enable Boroughs to make HWRC transfer decisions on the basis of bid information and assessment of VfM, and ensure consistent terms of transfer (IAA Clause 11/Schedule 5).

- 4.7. On the basis of the above there is no reason to consider that any other option should be considered in relation to the recommendations at paragraph 3.1.
- 4.8. A full description of these key developments and other, minor changes made since the draft of the IAA upon which the July 19<sup>th</sup> 2011 Cabinet report was based, is contained in Appendix B. The IAA document is provided as Appendix A. As noted this version is the final form of the IAA subject to some minor changes that may be needed, which the report recommends be agreed by the Director of Place and Sustainability.
- 4.9. Waste Collection System and Tonnage Forecast Commitments (recommendation at 3.2)**
- 4.10. The July 19<sup>th</sup> 2011 Cabinet Report set out the requirement for Boroughs to provide tonnage forecasts reflective of collection systems and projected recycling performance over the contract period, which upon execution of the IAA will become binding. The Boroughs' combined forecasts will provide certainty to NLWA's bidders in terms of the type and size of facilities that will need to be provided, in turn maximising the prospects of optimised solutions in terms of value for money and environmental performance.
- 4.11. If the quantities of specific types of waste that Boroughs deliver vary from what is forecast, there may be financial consequences for NLWA, and in turn Boroughs, as set out in the IAA, and detailed further below.
- 4.12. By signing the IAA with the proposed Schedule 1 Part A2 and Schedule 2 Part B (contained within the IAA document at Appendix A), the Council is confirming the following aspects of its waste collection systems, recycling performance and tonnage projections between 2013 and 2041:

- Recycling from households being delivered to NLWA in commingled (mixed) form;
- Compostable waste from households being delivered to the NLWA in the form of mixed food and green waste (noting that if green waste is delivered separately from time to time for operational reasons, separate green waste treatment arrangements will be available);
- Levels of residual waste and recycling that correspond to the achievement of a household recycling and composting rate of 42% by 2020, in line with the contractual targets attached to the Council's waste collection contract, and taking account of projected housing growth and changes to waste patterns;



- Projections of waste and recycling from non-household sources (such as street cleansing and fly-tipping) and the Borough's trade waste services will reflect the strategic objectives agreed as part of the Council's waste collection contract.

- 4.13. The proposed collection systems are based on decisions taken in the course of procuring the Council's waste collection contract (which runs until 2025, with an extension option to 2032), which assessed a range of proposals for dry and organic recycling in cost and environmental terms; in conjunction with indicative waste disposal/treatment costs made available by NLWA, based on bidder proposals at the detailed solutions stage of its procurement.
- 4.14. The tonnage forecasts are underpinned by detailed waste flow modelling undertaken by the Council's collection contractor covering the term of the Council's contract, and the associated contractual recycling targets set for each year of the contract. These include 40% in 2015 and 42% in 2020.
- 4.15. It should be noted that the projected recycling rates indicated by Schedule 2B differ to these because the scope of Haringey's tonnage forecasts under the IAA is limited to waste and recycling which (a) will be committed to the NLWA contract (i.e. the forecast excludes recycling from the Council's third party arrangements which is not in the scope of NLWA's contract, eg. reusable furniture provided to third sector partners, textiles banks); and (b) is from the borough's own direct collection arrangements, i.e. excluding tonnages from functions that NLWA delivers - waste and recycling from HWRCs (as these are expected to be under NLWA management) and the recovery of recyclable materials from bulky waste by NLWA (eg. wood, metal; which gets allocated back to Boroughs to contribute to their total recycling rates) - as tonnages from both of these sources are captured elsewhere in NLWA's wasteflow modelling and for the purposes of modelling progress towards the overall North London 50% recycling target by 2020. For this reason the IAA Schedule 2B forecast tonnages for Haringey indicate a recycling rate of 35% in 2015 and 40% in 2020, but for the avoidance of doubt the tonnages excluded from Schedule 2B will nevertheless continue to be counted towards Haringey's individual formal recycling rate calculation.
- 4.16. As detailed in the July 2011 Cabinet report, changes to Schedules 1 and 2 may be permitted over the term of the NLWA contract subject to the IAA Change Procedure (Schedule 7). Any resultant costs or savings will be the responsibility of the Borough that requested the change except where they have a wider impact in which case they will be shared fairly and equitably.
- 4.17. Notwithstanding the provisions of the Change Procedure, there are, as with any forecasts, potential risks in relation to Boroughs' tonnage projections, especially over the time period involved, principally:



- The amount and type of waste, and associated recycling rates, could be affected by a range of factors over which local authorities have little or no control, including economic changes, waste composition (eg. decreases in food waste or newspapers), the number and type of both households and businesses, and in relation to business waste, issues such as price competitiveness with the private sector;
- A range of potential factors could favour different waste collection systems over time (such as the markets for materials or technological change).

4.18. The chief consequence of such risks relate to the Guaranteed Minimum Tonnage (GMT) mechanism in NLWA's contracts and in not diverting the anticipated amount of waste from residual waste to recycling.

4.19. In relation to the first risk, as set out in the July 2011 Cabinet report, if the tonnage of waste in a particular waste stream delivered to NLWA's contractors falls below a tonnage threshold termed the GMT, then, subject to some defined means of mitigation, NLWA could be required under its contracts to pay for the tonnage shortfall, even though this waste was not actually delivered. The streams which GMT will apply to are residual waste, commingled (mixed) recycling and mixed organic (food and green) waste. The IAA reflects confirmation from NLWA that the GMT level will be set at 70% of the Boroughs' combined forecasts. Appendix B details the GMT mechanism and how liabilities would be apportioned between Boroughs under the IAA, but in short, a borough cannot be held liable for any breach for a particular stream if it delivers tonnages above the GMT level for its own individual forecast. If it is below its own GMT it will only be liable in a scenario where the combined tonnages of the Boroughs fall below the NLWA-level GMT.

4.20. The potential effects of Haringey delivering tonnages that fall below 70% of our forecast tonnages for either commingled recycling or organic waste, in a scenario in which the overall NLWA-wide GMT is breached (i.e. other boroughs' tonnages do not compensate for our shortfall) has been modelled. The liability to Haringey in an extreme scenario in which the Council's collection contract does not lead to any improvement on current recycling tonnages (representing delivering only 65% of forecast tonnages) is limited to around £10,000 per annum in the case of commingled recycling and £40,000 per annum for organic waste, although in either case the total cost of recycling treatment to the Council will be lower by virtue of lower than forecast tonnages being delivered.

4.21. The greater risk associated with a shortfall in commingled or organic tonnages is the financial impact if waste that is not collected for recycling is consequently collected and treated as residual waste, at a higher per tonne cost. However, this is an inherent risk regardless of the IAA tonnage forecasts, that is contingent on overall recycling and waste minimisation performance as well as wider trends that drive waste arisings including packaging and consumer behaviour.



4.22. Having said this, the Council is afforded a level of protection against this and the GMT risk under our own waste contract, which contains a performance management framework that places contractual requirements on the contractor to achieve recycling performance improvements.

4.23. For residual waste, the impact of GMT is more pronounced because of the larger tonnages involved and the higher unit costs. However, it should be noted that if tonnage levels dropped to approaching 70% of forecast there would be a major saving in budgeted disposal costs (even if the tonnage reduction is diverted to recycling facilities). Even below 70% of the forecast tonnage, this could continue to deliver savings provided that the Boroughs are not collectively breaching the 70% GMT. In a scenario in which there is a collective breach, the Boroughs below their individual GMT will pay for the corresponding shortfall as though the tonnage had been delivered, at the prevailing unit cost.

**4.24. Transfer of the Council's Household Waste & Recycling Centres (HWRCs) to the NLWA (recommendation at 3.3)**

4.25. The Council currently provides two Household Waste and Recycling Centres (HWRCs), located at Park View Road, N17 and Hornsey High Street, N8, operated by our waste collection contractor. The Hornsey site is due to close in 2013 and a replacement site has been purchased by the Council at Cranford Way, N8, which will require capital investment to develop. Longer term ambitions to re-locate the Park View Road site are currently on-hold.

4.26. The report to Cabinet on July 19<sup>th</sup> 2011 set out the in-principle benefits of HWRC transfer to NLWA, including the statutory driver behind this (in the form of the repeal of legislation - the Refuse Disposal (Amenities) Act 1972 - that formerly required Boroughs to provide such sites, whereas it is now the case that NLWA has the sole duty to ensure provision of such sites). Whilst this does not completely preclude a Borough from continuing to operate sites it does remove a firm statutory footing for doing so, and upon consideration of this and a range of factors considered below, including value for money, future recycling performance, and agreement of acceptable terms as part of the negotiation of the IAA, transfer is viewed as being in the best interests of the Council. It is proposed that Schedule 5C of the IAA is populated accordingly; the proposed date of transfer is 1<sup>st</sup> November 2012.

**4.27. Case for Transfer – Value for Money**

4.28. The original report noted the key risk related to confirming HWRC transfer is the costs of NLWA management of the sites through its contract, including the capital costs for development of Cranford Way. These costs are subject to the outcomes of the procurement (and as agreed by Cabinet on July 19<sup>th</sup> 2011, will be apportioned to Boroughs on the basis of Visitor Surveys).





- 4.29. However, since in-principle agreement to the IAA in July 2011 NLWA has agreed that the Constituent Boroughs need an indication of future costs to enable an evaluation of the value for money implications of transfer.
- 4.30. Indicative prices from NLWA's bidders (that cannot be cited here due to commercial confidentiality) indicate that the HWRC network can be operated at a lower cost than is presently the case whilst achieving higher recycling rates. NLWA's specification also requires bidders to maintain or improve on current service standards such as opening hours and the range of materials recycled, as well as develop measures to control trade waste abuse and enhance marketing of the service across North London.
- 4.31. In terms of the capital costs for refurbishment of sites and the development of new HWRCs (including at Cranford Way), NLWA will be charged an annual revenue cost through its contract reflective of the financing required for capital works. This will be apportioned to Boroughs via the Visitor Survey system agreed. The indicative bid prices would appear to suggest the costs of capital works to develop a HWRC at Cranford Way will be lower than the cost estimates obtained by the Council.
- 4.32. The establishment of a new HWRC at Cranford Way will also require repairs to the jointly used access road which NLWA's bidders will price for in their final tenders. The Council will seek updates on this element of the tenders in the course of the final stage of competitive dialogue prior to submission of final tenders.
- 4.33. The finalised IAA retains the commitment outlined in the draft IAA agreed for NLWA to consult with and give appropriate weight to the views of the host Borough in which a HWRC is situated if any capital development, new site or site closure is proposed by NLWA. Additionally, in the process of finalising the IAA, the relevant clause has been extended to cover any proposals for formally accepting trade waste at HWRCs.
- 4.34. Leasing Arrangements
- 4.35. The July 2011 Cabinet report indicated that in line with the draft IAA, transfers will be on the basis of a lease to NLWA excluded from the protection of the Landlord and Tenant Act 1954 and on a peppercorn basis (given the charging of a market rent to NLWA would result in a pass-back of costs to Boroughs through NLWA's apportionment system and unnecessary additional administration costs).
- 4.36. The finalised IAA requires that leases "treat WCAs equally subject to individual site constraints...for a term that will facilitate the delivery of the Waste Services Contract (including any extensions thereto)" (where it previously referred to a standard lease). This allows for the form of individual leases to be resolved after the execution of the IAA if necessary, but ensures that terms are consistent. If



there is a dispute around the form of the lease then this is determined through the Disputes Resolution Procedure of the IAA.

- 4.37. Notwithstanding the above, the negotiation of leasing terms for Haringey's sites has been progressed to near-completion with the input of Council Property and Legal Services, in parallel to the finalisation of the IAA.
- 4.38. The lease applying to Park View Road will have a break clause to allow for relocation of the existing site. In such a circumstance the lease obliges Boroughs to provide a suitable replacement site for NLWA to meet its agreed coverage policy (95% of residents within 2 miles of a site), and for replacement leasing arrangements to take effect before the lease for an existing site can be terminated. This ensures the provision of the service to local residents is maintained and that NLWA fulfils its statutory duty. The lease will formally note that NLWA regards Marsh Lane as a suitable site for a replacement HWRC in the event that the Ashley Road Depot is re-located to this site. Under the yield-up provisions NLWA will be obliged to yield up the premises in no worse condition than when leased.
- 4.39. In the case of the Hornsey site, short term leasing arrangements will be put in place to cover the period until site closure, expected to be in early 2013. It will stipulate a notice period in which time NLWA will have to provide vacant possession of the site, in line with the anticipated timescales for the disposal of Hornsey depot.
- 4.40. In terms of the replacement of the Hornsey site with a new site at Cranford Way, a Cabinet decision on July 19<sup>th</sup> 2011 granted authority to the Head of Corporate Property Services to dispose of the Council's freehold interest in the office/storage units at 20 and 21 Cranford Way for the best consideration reasonably obtainable, noting the linkage to the NLWA procurement. NLWA has since resolved to purchase both these units and the main plot at Cranford Way from the Council at their meeting of December 9<sup>th</sup> 2011 (subject to planning permission). In addition, each Constituent Borough has formally agreed (in Haringey's case, via a Leader signing, January 19<sup>th</sup> 2012) that the means of apportioning NLWA's borrowing costs in regard to the purchase will be apportioned in accordance with the visitor survey results from the existing Hornsey site (usage by Haringey residents being 97.9%). Corporate Property Services are currently negotiating the sale of both the main plot and Units 20 and 21 at Cranford Way with NLWA.
- 4.41. The July 2011 Cabinet report on the IAA noted that, subject to planning permission and a period of development following contract award by NLWA in 2013, a new HWRC at Cranford Way would be unlikely to open until mid-2014 at the earliest, and that depending on when the Hornsey site has to be vacated by the Council there could be a gap in the provision of a site. Given estimated dates for closure of the Hornsey site in the first half of 2013 it appears that there will be some gap in the provision of a HWRC of around one to one and a half years.



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4.42. A range of alternative services will be available to residents during this period, including the Park View Road site and other north London HWRCs, and a range of collection or bring bank services covering almost all items that are accepted at the HWRCs, including the current bulky waste collection service operated through the Council's collection contract, which provides free collections for reusable and recyclable items like furniture and domestic appliances. Smaller electrical items and textiles can be taken to the network of on-street banks across the borough. Green waste is collected weekly from the kerbside with no restrictions on the amount that can be put out by residents. The possibility of alternative services for the limited range of materials only collected at HWRCs will be considered. Additional publicity of services would be undertaken prior to site closure.

### 4.43. Employment Arrangements

4.44. The workforce at the Council's HWRCs is currently employed by the Council's waste collection contractor. These staff transferred from the Council under the Transfer of Undertakings Protection of Employment Regulations 2006 ("TUPE") with effect from the start of the new contract in April 2011.

4.45. At the point of transfer to NLWA the workforce will be transferred from the employment of the Council's contractor to the employment of NLWA's current contractor, London Waste Ltd. The IAA reflects that TUPE Regulations will apply to this transfer. This will ensure that the employment contract of transferring employees is protected and that transferring employees are offered a matched pension contribution scheme of 6% or more.

4.46. It is envisaged that NLWA's new contractor will acquire London Waste Ltd through a share sale upon the start of NLWA's new contract. It is understood that this will not constitute a further transfer of the staff as the employer will remain London Waste Ltd.

## 5. Background information

5.1. The IAA document provides a formal legally enforceable framework that covers the entire scope of the interface between the NLWA and its Constituent Boroughs, as it relates to the NLWA's proposed contracts.

5.2. The report to Cabinet of July 19<sup>th</sup> 2011 provides full details of the rationale for the IAA. These are summarised below:

- Provide certainty to bidders during the procurement process on the type and quantities of waste to be delivered to NLWA by the Constituent Boroughs over the duration of the contracts, in order to ensure the type and size of facilities built will deliver the best VfM and environmental solution and minimise the level of risk that could be priced into bids;



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- Ensure there are the means for NLWA as a single purpose authority that relies exclusively upon the levying of its Constituent Boroughs to finance it, to apportion the costs, risks, guarantees, benefits and deductions associated with the NLWA contract to the Constituent Boroughs in an equitable way, namely be means of a 'Menu Pricing' mechanism under which Boroughs pay directly for the services they use;
- Incentivise activity on the part of the Constituent Boroughs that benefits the wider partnership in achieving its strategic aims and reducing overall costs, including increasing recycling rates (towards a joint target of 50% by 2020) and pooling recyclable materials to maximise income, and set out the responsibilities of the signatory parties to each other to reduce the potential for an individual party to, by its actions, incur costs or risks for others.
- Set out how designated Household Waste & Recycling Centres (HWRCs) may be transferred to NLWA, some of the terms of transfer and how future decisions around the development of the HWRC network would be made;

### 5.3. The high level principles which all eight authorities committed to in agreeing to the IAA in principle are:

- That each Borough shall be responsible for its activities, in terms of the type and amount of waste and recycling it requires to be managed and the associated costs, and shall bear the cost of any losses caused by them.
- In turn NLWA shall use reasonable endeavours to minimise costs to Boroughs;
- All parties and contractors shall use reasonable endeavours to minimise waste and maximise the amount that is reused, recycled or otherwise recovered in pursuit of the North London Waste Strategy target of 50% recycling by 2020.

### 5.4. The Cabinet report also sets out the previous commitments entered into by the Council in relation to the IAA and the NLWA procurement, prior to the in-principle agreement to the draft IAA in July 2011. These were developed to underpin the NLWA procurement Outline Business Case (OBC) to Government for PFI credits, at the time evaluated as the minimum cost option for council taxpayers (since which time the award of credits was withdrawn by central government in 2010), and include:

- A letter accepting and acknowledging a Borough's share of the NLWA's future waste management costs (an affordability envelope, agreed by Cabinet in October 2008), subsequently revised and approved in January 2010.



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- o A Memorandum of Understanding (not legally binding), signed by the Leader after delegation by Cabinet, June 2008; and
  - o A Statement of Principles (also non-binding) containing more specific principles to be included in a future IAA (agreed by Cabinet in October 2008).
- 5.5. A further IAA-related decision was agreed by the Leader on January 19<sup>th</sup> 2012, specifically to change the system by which HWRC costs are to be levied by NLWA to the Constituent Boroughs between 2012/13 and 2016/17, in advance of the proposed charging provisions in the IAA coming into effect. This decision was taken separately due to a statutory deadline in place in order for the change to come into effect from April 2012. It essentially put in place arrangements to allow the phased transfer of HWRCs from Boroughs without causing inequitable distortions to the distribution of extra costs that will be borne by NLWA as a result of the sites transferring.

## 6. Comments of the Chief Finance Officer and financial implications

- 6.1 The Inter Authority Agreement (IAA) will effectively determine how costs of waste disposal are calculated for the 30 year period covered by the new contract that NLWA is currently procuring. The position is fundamentally the same as agreed at Cabinet on July 19<sup>th</sup> 2011, with the changes since then largely relating to the detail of the agreement rather than the core principles. The underlying reason for the IAA is to improve the final cost of the new contract by giving bidders greater certainty about waste levels they will be expected to deal with in future.
- 6.2. In finance terms the most significant implication of the IAA will mean that the Boroughs will pay an amount for waste disposal based on different prices for the different types of waste presented to NLWA, rather than the same rate for all waste as at present. This is logically a fairer apportionment method as the charge will now more closely relate to the cost to NLWA of dealing with that waste. In turn, this will provide an incentive to increase the amount of recycling as recyclates are cheaper to deal with than residual waste. Haringey is well placed in respect to this change as the Council's existing waste collection contract heavily incentivises increases in the recycling rate.
- 6.3. Although the different prices for the different types of waste in future are not confirmed at this point as the procurement is not complete, officers have seen initial bid prices on a confidential basis and have modelled these into the future with expected waste tonnages and concluded that the switch in charging methodology is likely to result in a small reduction in the levy payable than would have been the case if the existing methodology remained in place.
- 6.4. It is important to understand this in the overall context that waste disposal costs to Local Authorities are expected to increase sharply in the years to come. The NLWA levy is projected to increase as follows in the next few years:



Year	Forecast Levy (£000s)
2012-13	6,419
2013-14	8,989
2014-15	9,340
2015-16	9,613

- 6.5. These projections are included in the Medium Term Financial Plan (up to 2014-15) although it should be noted that most increases here are due to increasing Landfill Tax and there is likely to be a further steep increase beyond this date as the new contract begins and the cost of the new facilities is incorporated into the levy cost. Hence the provisions of the IAA will not remove this increase but will ensure that it does not increase more than it would have otherwise.
- 6.6. The IAA also allows for NLWA to charge Boroughs if certain minimum tonnages are not received, however the risk of this occurring is considered to be very low and in any case would be more than mitigated by the savings received due to reduced waste disposal charges.
- 6.7. Additionally, the revised charging arrangements will increase the accuracy of the waste charges by removing the time lag in the current system and ensuring charges more closely relate to that year's activity. This will create more certainty in the financial monitoring arrangements.
- 6.8. This report also confirms the decision to transfer the Household Waste Recycling Centres to the NLWA. These are currently run by the Council's collection contractor on behalf of the Council and provision has been made in this contract for a future transfer. The indicative costs provided by NLWA show that the Council will make a small revenue saving due to this transfer in addition to receiving a capital receipt for the sale of the Cranford Way site. The longer-term costs are subject to the outcome of the procurement but based on indicative bids this saving is likely to be sustained.

## **7. Head of Legal Services and legal implications**

- 7.1. The Head of Legal Services notes the contents of the report.
- 7.2. The NLWA is the statutory body established pursuant to the Waste Regulation and Disposal (Authorities) Order 1985 and has responsibility for its seven constituent Boroughs which includes the London Borough of Haringey.
- 7.3. Legal representatives from each of the constituent Boroughs have been kept up to date on progress of the procurement of the new waste disposal contract, and have been negotiating the terms of the IAA with NLWA.
- 7.4. The Council has the power under section 1 of the Localism Act 2011 (general power of competence) to enter into the IAA. The earlier report to Cabinet



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purported to refer to the power under Section 2 of the Local Government Act 2000 (the wellbeing powers). This power has now been superseded and replaced by the general power of competence under the Localism Act 2011. The power to enter into the IAA is being exercised for the environmental wellbeing of the area.

- 7.5. The Council has the power under section 123 of the Local Government Act 1972 to grant the leases mentioned in this report and at a peppercorn rent under the General Disposals Consent 2003 as it will help secure the promotion or improvement of the economic, social or environmental well-being of its area.
- 7.6. The Leader has the power under the Council's Constitution (Article 7.1) to approve the recommendations set out in paragraph 3.
- 7.7. This is a key decision and the Directorate has confirmed it has been included on the Forward Plan.
- 7.8. The Head of Legal Services sees no legal reasons preventing the Leader from approving the recommendations set out in the report.

## **8. Equalities and Community Cohesion Comments**

- 8.1 The July 19<sup>th</sup> 2011 Cabinet report considered the key equalities/community cohesion implications as part of in-principle agreement to the IAA, and indicated that further assessment would be undertaken if necessary, should the finalised IAA present particular issues, eg. changes to the waste collection services provided to residents and businesses. No such issues have arisen in the course of finalising the IAA – the core services residents currently receive will not change as a result of the execution of the IAA.
- 8.2 This includes the provision of HWRC services following transfer to NLWA. As part of the NLWA's contract specification, the contractor will be required to at least maintain current service standards, in terms of opening hours and the range of materials able to be recycled at the sites, and to take account of the diversity of HWRC users across North London.

## **9. Head of Procurement Comments**

Not applicable

## **10. Policy Implication**

- 10.1 Key policy implications are:
- 10.2 Commitment to delivering waste in specified forms and quantities which will influence the collection system in Haringey over the term of the NLWA contract.
- 10.3 Transfer of the Council's HWRCs to NLWA.



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## **11. Use of Appendices**

Appendix A – Inter Authority Agreement (legal document)

Appendix B – Changes to the North London IAA from Draft Version at Point of In-Principle Agreement (July 19<sup>th</sup> 2011)

## **12. Local Government (Access to Information) Act 1985**