

Report for: Cabinet, 19th January 2016

Item number: 14

Title: Inter Authority Agreement between the North London Waste Authority and its Constituent Boroughs to underpin future disposal and treatment arrangements and give effect to a change in the levying regime.

Report authorised by : Tracie Evans, Chief Operating Officer

Lead Officer: Tom Hemming, Waste Strategy Manager

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Key

1. Describe the issue under consideration

- 1.1 The development of an Inter Authority Agreement (IAA) between the North London Waste Authority (NLWA) and its seven constituent boroughs has been the subject of negotiation dating back to 2008, with the purpose of establishing a legally binding agreement to underpin future long term waste disposal/treatment arrangements and to ensure that costs and risks are minimised and apportioned on an equitable basis.
- 1.2 Haringey has approved the direction of the emerging IAA at various stages in its development via Cabinet (2008, 2010, 2011). A subsequent Cabinet Member Signing by the Leader (2012) resolved that the legal agreement could be executed by the relevant Director at the appropriate point with regard to NLWA's major PFI-type procurement exercise, which was a key objective for which the IAA had been devised. All other constituent boroughs took similar decisions around this time, but the agreement has never been executed, which was in large part due to the abandonment of the NLWA's procurement in late 2013.
- 1.3 Since the end of the procurement the IAA has been revised to take account of the changing circumstances (eg. certain obligations on the boroughs have been removed given the proposed contracts were not entered into, thereby de-risking the agreement in key areas, as detailed in Appendix B). The current IAA will serve as a framework for future partnership working, strategy and service provision. It's primary function is as the means of gaining unanimous agreement from all seven boroughs to a new levying system – menu pricing – that will ensure a more equitable allocation of the costs of waste disposal/ treatment than under the prevailing statute-based levying system, by charging boroughs directly for the amount and type of waste/recycling they each deliver.

- 1.4 It is currently proposed that the IAA is formally agreed by all parties so that it can be entered into before the end of January 2016. This would allow menu pricing to begin from April 2016 as per the previous Cabinet and Cabinet Member Signing decisions.

2. Cabinet Member Introduction

This agreement will strengthen partnership working in north London to keep the costs of waste management to a minimum and at the same time put in place a strong financial driver to incentivise recycling and waste reduction.

3. Recommendations

- 3.1. It is recommended that Cabinet:

- 3.1.1 Approve the appended IAA and grant approval for the legal document to be signed by the Chief Operating Officer, such signing to be upon confirmation that all parties have made like resolutions;

- 3.1.2 Agree to apportion the levy from 2016/17 onwards until the parties unanimously agree otherwise in accordance with the menu pricing mechanism (which forms part of the attached IAA);

- 3.1.3 Agree delegated authority for the Chief Operating Officer to approve any minor amendments to the finalised legal document before signing.

4. Reasons for decision

- 4.1 The IAA will formalise the existing governance arrangements and procedures for considering matters as they relate to the NLWA/borough interface. The detailed case for entering into the IAA is contained in the previous Cabinet and Cabinet Member Signing reports that have been approved up to 2012.

- 4.2 It is worth noting that where the revised IAA differs from the previously agreed document, this is predominantly in respect to the removal of certain obligations on the boroughs that had been deemed necessary to mirror the proposed NLWA contracts. Their removal serves to de-risk the agreement in key areas, in particular the commitment to guaranteed minimum tonnages for specific waste streams, against which any contractual liabilities would have been allocated to boroughs.

- 4.3 Further details of the key changes since the IAA was agreed in-principle in 2011, as well as the main responsibilities placed on the parties to the IAA under the revised text, and a summary of the rationale for the menu pricing system are contained in Appendix B.

5. Alternative options considered

- 5.1 The Council is not obligated to sign up to an IAA. In the absence of an IAA the constituent boroughs and NLWA would remain subject to the non-binding and less formal arrangements that currently govern the NLWA/borough interface, other than where specified by statute (i.e. the levy, NLWA power of direction).

- 5.2 The case for formalising the NLWA/borough interface has been outlined in detail in the previous Cabinet reports. Most significantly, not agreeing an IAA will mean retaining the current levying system, which is based on the statutory default (with limited agreed changes) and is recognised by all parties as being unfit for purpose.

6. Background information

- 6.1 An IAA was previously agreed between NLWA and all constituent boroughs in 2011 but not entered into. It was intended to govern relations between the parties under NLWA's previously proposed procurement and was structured in that context. A simpler document has subsequently been developed to reflect the current context. A key component of the IAA is a change to a menu pricing system to apportion NLWA's costs more fairly than at present.
- 6.2 The current NLWA/Borough interface is broadly that prescribed by statute but the default levy/charging arrangements result in a degree of cross-subsidisation of some boroughs' costs by others, do not incentivise boroughs to pool their materials for recycling and do not serve as a substantial incentive to increasing their recycling rates. There are a range of other areas where the default apportionment arrangements do not reflect actual costs to individual boroughs, which menu pricing will address, notably that some boroughs subsidise the use of Reuse & Recycling Centres by the residents of other boroughs.

7. Contribution to strategic outcomes

- 7.1 Effective arrangements for the disposal and processing of waste and recycling are an essential component of the council's waste and street cleansing services, which play a key role in delivery of Priority 3 of the Corporate Plan - creating a clean and safe borough where people are proud to live, with stronger communities and partnerships.
- 7.2 As an agreement that will guide partnership working, the IAA represents the Plan's cross cutting theme of working in partnership (delivering with others). The menu pricing system that the IAA enshrines delivers against the value for money theme, ensuring as it does a financial driver is in place to incentivise waste minimisation, and lower cost recycling over residual waste disposal.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

- 8.1 The impact of moving to menu pricing has been modelled and is likely to lead to an increase in the levy costs to Haringey in the short-term, estimated to be around £320k per annum (against total costs of c. £7.8m in 2015/16). However, actual costs will be dependent on the exact volume of different types of waste collected during the year.
- 8.2 Any agreed change in the methodology for calculating the levy will be reflected in the February 2016 budget report from NLWA. However, as the December report is projecting a reduction in the levy for 2016-17 compared to 2015/16, the

increased levy associated with a move to menu pricing can be contained within existing budget assumptions without any adverse impact on the Medium Term Financial Strategy. The position is expected to be broadly neutral in the medium term.

Legal

- 8.3 The Assistant Director of Corporate Governance notes the contents of the report.
- 8.4 Legal Services have been involved in reviewing the IAA throughout its development.
- 8.5 The Assistant Director of Corporate Governance confirms there are no legal reasons preventing Cabinet from approving the recommendations in the report.

Equality

- 8.6 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:
 - a) tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
 - b) advance equality of opportunity between people who share those protected characteristics and people who do not;
 - c) foster good relations between people who share those characteristics and people who do not.

The July 19th 2011 Cabinet report and 2012 Cabinet Member Signing considered the key equalities/community cohesion implications as part of an 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.

The IAA is not expected to have any adverse implications in respect to equalities. The core services residents currently receive will not change as a result of the execution of the IAA, including household waste and recycling collections and provision of Reuse & Recycling Centres, and the provision of services will remain universally provided to all groups.

9. Use of Appendices

Appendix A – Inter Authority Agreement (legal document)
Appendix B – Further detail on IAA

10. Local Government (Access to Information) Act 1985