

Report to the Cabinet

Report reference: C-104-2009/10

Date of meeting: 19 April 2010



**Epping Forest
District Council**

Portfolio: Environment

Subject: Dissolution of the West Essex Waste Management Joint Committee

Responsible Officer: John Gilbert (01992 564062).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To agree to the dissolution of the West Essex Waste Management Joint Committee;**
- (2) To agree to the proposal to create a Waste Partnership Member Board and Inter Authority Member Working Group;**
- (3) That the Council's representative on the new Board and Member Group be the Cabinet Portfolio Holder with responsibility for waste management;**
- (4) To consider an appointment of a Deputy; and**
- (5) To amend the Council's Constitution accordingly**

Executive Summary:

The West Essex Waste Management Joint Committee was established a number of years ago with a remit of overseeing the Essex Municipal Waste Management Strategy and the procurement of waste management facilities. It was one of three such committees in Essex, the others being Thames Gateway and East Essex. The Committee is fully constituted and is able to take executive decisions on behalf of member councils, subject to their internal scrutiny processes.

Since their inception the waste strategy has been successfully adopted and a successful PFI funding bid made to government. However, the nature of the procurement exercise has changed significantly, with there no longer being any reference to waste collection arrangements nor the treatment of organic waste. It has therefore been concluded that these committees have served their purpose and should be replaced by alternative structures which are fit for the current circumstances. The proposed new Board and Working Group will not have executive powers, all decisions being referred to member councils for their local consideration.

This is a key decision.

Reasons for Proposed Decision:

To provide Member structures for the oversight of waste management issues within Essex which is fit for purpose and aligns with the PFI procurement process.

Other Options for Action:

The only options available are:

- (i) to retain the existing West Essex Waste Management Joint Committee;
- (ii) to put forwards alternatives to the proposed Member Board and IAA Group; or
- (iii) to have no Member arrangements in place for oversight of waste management issues within Essex.

Option (i) cannot be recommended since its terms of reference are now obsolete and do not reflect current circumstances. Furthermore, the other Joint Committees have resolved to dissolve themselves and it would not be practical for West Essex to continue in a different manner to the remainder of Essex.

Option (ii) cannot be recommended because the proposed structures have been carefully considered by all Portfolio Holders in Essex (bar Thurrock) and the Waste Management Advisory Board, and have been agreed by all as a sensible way forward. It would require all other Essex Authorities to agree any alternative arrangements, and given the unanimous support for the proposals, this is unlikely.

Option (iii) cannot be recommended since this would effectively leave this Council isolated from the countywide waste management process. Furthermore, the Council has signed the Inter Authority Agreement which is predicated on joint working and the maintenance of effective liaison between all the Essex partner authorities.

Report:

1. The West Essex Waste Management Joint Committee was established a number of years ago with a remit of overseeing the Essex Municipal Waste Management Strategy and the procurement of waste management facilities. It was one of three such committees in Essex, the others being Thames gateway and East Essex. The Committee is fully constituted and is able take executive decisions on behalf of member councils, subject to their internal scrutiny processes

2. Since their inception the municipal waste strategy has been successfully adopted and a successful PFI funding bid made to government. However, the nature of the procurement exercise has changed significantly, with there no longer being any reference to waste collection arrangements nor the treatment of organic waste. It has therefore been concluded that these committees have served their purpose and should be replaced by alternative structures which are fit for the current circumstances.

3. The Council, along with all the districts save Colchester, have entered into the Waste Inter Authority Agreement (IAA) (Cabinet minute ref: 159: 9 March 2009). The IAA covers a wide range of issues but essentially provides a mechanism whereby:

- (i) there are clear liaison arrangements between the County as waste disposal authority and the districts as waste collection authorities;
- (ii) the County provides support revenue and capital funding to districts in support of their waste collection operations;

- (iii) the districts agree to deliver household waste to the County in a prescribed manner; and
- (iv) prospective contractors seeking to provide the waste infrastructure for the next 25 years can be provided with sufficient certainty as to partnership working, weights of different waste streams and quality of material delivered to new plants etc.

The signing of an IAA was a pre-requisite to the obtaining of PFI funding for the new facilities, and the partnership was successful in obtaining PFI credits of £100 million pounds

4. At the outset of the process it had been intended for the procurement to include waste collection as well as waste disposal, possibly procured in three tranches, west, east and Thames Gateway. This would have afforded the districts the ability to procure their collection arrangements through a major contract with potential economies of scale. However, this was controversial, both with districts who were reluctant to cede sovereignty of waste collection, and with prospective contractors who considered that in up to three tranches, this would make for an overly complex procurement exercise. Therefore, this option was eventually discarded leaving just the procurement of disposal facilities.

5. The current member arrangements mirror that original intent, with a countywide Waste Management Partnership Board and three Waste Management Joint Committees. Although they have continued to meet on a regular basis and have maintained a watching brief on the procurement exercise, once the decision was made to restrict the PFI bid and procurement to waste disposal only, their primary reason for existence changed significantly, with there being very little need for actual decisions to be made.

6. However, under the new procurement arrangements and the IAA the need for sound and effective member relations between the County and the districts remains as important as ever. Indeed, the IAA requires that such arrangements be put into place. Therefore the following arrangements are being proposed:

Proposed new Member structure	Responsibilities/tasks
(a) Waste Partnership Member Board (effectively replacing the Waste Management Advisory Board)	<ul style="list-style-type: none"> • meets in public at least twice per year • high level delivery of waste strategy • reporting against the strategy action plan • monitoring performance • monitoring of procurement projects
(b) IAA Member Working Group (effectively replacing three Joint Waste Committees)	<ul style="list-style-type: none"> • meets in private as required but at least one a year (in reality meetings are likely 3 to 4 times per year) • act as a conduit between Partner Authorities and the IAA Officer Working Group • review the IAA • review contract monitoring • review funding • consider further joint working opportunities • delivery of efficiencies within the waste management system

7. The Board and Working Group do not hold any executive powers and therefore will not be required to be constituted under the Local Government Act. All recommendations

and/or decisions made will need to be referred for consideration to the constituent partner authorities. The terms of reference and aims and objectives of the Board and Working Group are appended to this report as appendices.

8. Currently the lead Member for the Waste Management Partnership Board and the West Essex Joint Committee is the Portfolio Holder for Environment. The deputy is the Leader of Council. The proposal relating to the new structures is the same in that the Council's representative must be the lead Member with responsibility for waste matters, currently the Environment Portfolio Holder. In order to ensure representation at the new Board and Working Group it is suggested that Cabinet also appoint a deputy to attend when necessary.

9. If the recommendations are accepted the Council's Constitution will have to be amended to reflect the demise of the Joint Waste Committee and the Advisory Board.

Resource Implications:

There are no additional resourcing implications since if the recommendations are accepted the Council will continue to be represented by the Environment Portfolio Holder and officer support will remain as present through the Director of Environment & Street Scene and the Assistant Director (Technical).

Legal and Governance Implications:

The Council's Constitution will need to be amended to reflect the recommended changes in Member structures. The new structures will not be constituted under the Local Government Act and will therefore have no executive decision making powers. All recommendations/decisions will stand referred to the member partner authorities for local consideration. However it should be noted that the Inter Authority Agreement, which the Council has signed, does require the Council to act in the spirit of partnership and participates openly in the waste partnership process.

Safer, Cleaner and Greener Implications:

The Inter Authority Agreement and its proposed revised member structures is key to the delivery of the waste management process in Essex for the next 25 years. The disposal of the waste collected by the waste collection authorities will be managed through the PFI procurement process and the role of the waste collection authorities in delivering waste in the prescribed form and manner is critical to the overall success of the process. This will only be successful if the IAA is properly managed and member structures are fit for purpose. The financial consequences for local tax payers and adverse environmental impacts of not achieving this will be potentially very significant.

Consultation Undertaken:

None.

Background Papers:

Previous Cabinet reports on the adoption of the Inter Authority Agreement.
Reports on the Joint Committees to the safer Cleaner Greener Scrutiny Committee.

Impact Assessments:

Risk Management

The successful delivery of the Inter Authority Agreement and PFI procurement exercise are key to ensuring that the Essex Joint Municipal Waste Strategy is effectively and successfully delivered. Failure to do so is likely to have significant environmental and financial impacts on a countywide basis which will also impact locally.

Appropriate member structures are required to achieve this, and this will be particularly important when the Council commences its procurement of the next waste management contract in the next year or so

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?
N/A.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
N/A.