

Agenda Item No:

NORTH LONDON WASTE AUTHORITY

REPORT TITLE:

**ADDITIONAL COMMINGLED DRY RECYCLABLES AND
PROPOSED ALTERNATIVE LEVY ARRANGEMENTS**

REPORT OF:

HEAD OF WASTE STRATEGY & CONTRACTS

FOR SUBMISSION TO:

AUTHORITY MEETING

DATE:

26th SEPTEMBER 2013

SUMMARY OF REPORT:

LB Barnet has advised the Authority that it would like to deliver its commingled dry recyclables to the Authority for treatment under the Authority's MRF Services contract. This report sets out issues arising and how they can be provided for.

RECOMMENDATION:

The Authority is recommended to note the report and the expected levy apportionment change, and to delegate authority to the Head of Waste Strategy & Contracts, in consultation with the Legal Adviser, to negotiate and approve the necessary contract variations and take any other necessary steps to facilitate the receipt by the Authority of additional commingled materials from the constituent borough councils to be processed under the Authority's MRF Services contracts.

**Signed by: Head of Waste Strategy &
Contracts**

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Date: ...17th September 2013

1. BACKGROUND

- 1.1. For 2012/13 the levy was apportioned on an alternative basis as unanimously agreed by all seven constituent borough councils in order to facilitate the transfer of their Household Waste Recycling Centres (HWRCs) to the Authority on various dates from 1 April 2012 in such a way as to ensure that constituent borough councils only bore the costs associated with the running of HWRCs that reside within their borough boundary, i.e. costs would be broadly in line with the borough's prevailing cost profile.
- 1.2. Recently LB Barnet has indicated its desire for the Authority to arrange for the processing of its commingled dry recyclables under the Authority's MRF Services contract. The relevant tonnages are set out in Table 1 below, and are of sufficient magnitude to substantially affect the apportionment of the Authority's levy between the seven constituent borough councils, as under the current levy arrangements LB Barnet's share of the levy will not increase to reflect these new costs to the Authority until 2016/17.

Table 1

Year:	Tonnes:
2013/14	10,864
2014/15	24,225
2015/16	26,575

- 1.3. Whilst at one level it may be argued that this levy delay for LB Barnet is in principle the same as the more gradual growth in commingled dry recyclable tonnages that other boroughs have delivered to the Authority in the past (in that it is true for all increases in tonnages delivered to the Authority that an individual borough's share of the levy does not increase until two years later), there is the significant difference in the newly proposed circumstances in that the change to 'menu pricing' from 2016/17 envisaged in the draft Inter Authority Agreement would mean that the current levy's two-year time lag will not continue long enough to capture the additional costs of LB Barnet's commingled dry recyclables.
- 1.4. The currently projected tonnages of commingled dry recyclables tonnages from all constituent borough councils for 2014/15 are shown at Table 2 below. Under the current levy arrangements, all boroughs other than LB Barnet will bear a share of the levy for 2014/15 that reflects their tonnages delivered in 2012/13, but without the proposed amendment to the levy, LB Barnet would make no contribution to the Authority's costs of its MRF Services contracts in 2014/15 and 2015/16. This is also true for the unbudgeted expenditure in 2013/14 that the Authority will incur in relation to LB Barnet's commingled dry recyclables from October this year.

Table2

Borough	2014/15
	(tnes)
Barnet	24,225
Camden	19,000
Enfield	0
Hackney	15,195
Haringey	20,500
Islington	14,559
Waltham Forest	21,500
Total	114,979

2. AUTHORITY ACTIONS

- 2.1. In response to LB Barnet's request, Authority officers have prepared a further alternative to the statutory default levy apportionment arrangements that will retrospectively adjust LB Barnet's (or any other borough that subsequently delivers to the Authority other wastes that it previously retained for recycling) such that the apportionment of the levy for 2014/15 will be undertaken as if LB Barnet had been previously delivering its dry recyclables to the Authority. This will put LB Barnet immediately in the same position as all other constituent borough councils that have been delivering their commingled dry recyclables to the Authority for treatment in recent years. The proposed alternative levy apportionment arrangements are attached as Appendix 1. It has been drafted by Authority officers so that the seven constituent borough councils have a form of words that the Authority believes is workable, which the boroughs can then take through their individual decision-making processes.
- 2.2. The effect of these, subject to other changes that may arise in relation to the Authority's budget and levy for 2014/15, are set out in Table 3 below in such a way that illustrates the financial impact on the constituent borough councils in 2014/15 of firstly the Authority having incurred some £0.474m in 2013/14 that would otherwise have been available as balances to assist the funding of the 2014/15 levy; and secondly the Authority budgeting to incur some £1.083m in 2014/15 for LB Barnet's commingled dry recyclables.

Table 3

	Forecast Allocation of Costs Through the Levy – <u>Without</u> the Change at Appendix 1	Forecast Allocation of Costs Through the Levy – <u>With</u> the Change at Appendix 1	Variance
Barnet	£295,241	£1,341,712	£1,046,471
Camden	£175,475	£29,898	-£145,577
Enfield	£181,397	£30,908	-£150,489
Hackney	£223,105	£38,014	-£185,091
Haringey	£242,816	£41,373	-£201,443
Islington	£186,316	£31,746	-£154,570
Waltham Forest	£252,288	£42,987	-£209,301
Total	£1,556,638	£1,556,638	£0

- 2.3. Members should further note that increases and decreases in other components of the waste stream delivered by each borough also affect the final amount each borough is levied by the Authority in any given year, so although indicative levy impacts are shown above, the final levy set and apportioned next February will be determined by a wide range of other factors as well.
- 2.4. The principles of the attached have already been discussed and agreed with officer representatives of all constituent borough councils, but the actual apportionment of the levy will remain unchanged unless all seven constituent borough councils unanimously approve an alternative.
- 2.5. Borough officers have been requested to ensure that all necessary decisions in relation to changes to the levy are taken by mid-November if at all possible so that the Authority can provide appropriate budget forecasts to the constituent borough councils from its December meeting.
- 2.6. Authority officers have also confirmed with the MRF Services contractors that they are able to receive and treat these additional tonnages from LB Barnet that clearly are greater than the annual rate of increase in recycling that would ordinarily be expected.
- 2.7. As a consequence it is proposed to bring forward by up to fourteen months the point at which the lot sizes in the MRF Services contracts can be increased from up to 10,000 tonnes per annum each to up to 15,000 tonnes per annum each. There are seven such lots, so the Authority will be able to receive up to an additional 35,000 tonnes per annum in total at the contracted prices per tonne.

- 2.8. Commingled income payments (CIPs) will be payable in-year in relation to all tonnages delivered to the Authority for processing through its MRF Services contracts. These payments are cost-neutral to the Authority as they are set at a level that is based upon the income the Authority receives from the MRF Services contractors.
- 2.9. It is therefore recommended that authority is delegated to the Head of Waste Strategy & Contracts, in consultation with the Legal Adviser, to negotiate and approve the necessary contract variations, and take any other necessary steps to facilitate the receipt by the Authority of LB Barnet's commingled dry recyclable wastes as set out in this report.

3. RECOMMENDATION

- 3.1. The Authority is recommended to note the report and the expected levy apportionment change, and to delegate authority to the Head of Waste Strategy & Contracts, in consultation with the Legal Adviser, to negotiate and approve the necessary contract variations and take any other necessary steps to facilitate the receipt by the Authority of additional commingled materials from the constituent borough councils to be processed under the Authority's MRF Services contracts.

4. COMMENTS OF THE FINANCIAL ADVISER

- 4.1. The financial impact on the Authority's budget in 2013/14 is estimated to add unbudgeted costs in the region of £0.474m, plus a further £1.083m in 2014/15. The additional cost in 2013/14 will have the effect of reducing potential balances that could otherwise arise and be used to assist the funding of the 2014/15 budget.
- 4.2. The report sets out the potential levy impacts for the constituent borough councils and the action proposed by LB Barnet to amend the levy apportionment arrangements in order to mitigate the financial impacts on the other six constituent borough councils.

5. COMMENTS OF THE LEGAL ADVISER

- 5.1. The Legal Adviser has been consulted during the preparation of this report and comments are incorporated in the report.

APPENDIX 1

PROPOSED AMENDMENT

Apportionment of levies

4.—(1) Subject to regulation 5, the amount to be levied by a joint waste disposal authority in respect of any financial year from each of its constituent councils shall be determined by apportioning the total amount to be levied by that authority in that year between those councils as follows—

- (a) in such proportions as all the constituent councils may agree; or
- (b) in the absence of such agreement, by a combination of the following proportions—

- (i) the costs incurred by the joint waste disposal authority in the disposal or treatment of household waste delivered to it by its constituent councils shall be apportioned between the constituent councils in proportion to the tonnage of household waste delivered by each of these councils to the joint waste disposal authority within the last complete financial year for which data are available except for when a constituent council will start to deliver to the joint waste disposal authority types of waste that the constituent council had previously retained for recycling in which case the constituent council shall provide to the joint waste disposal authority records of the tonnage of such household waste it delivered elsewhere for recycling in the last complete financial year for which data are available and the joint waste disposal authority shall apportion its levy as if the constituent councils had also delivered such household waste to the joint waste disposal authority;

- (ii) the costs incurred by the joint waste disposal authority in the disposal or treatment of business refuse that is deposited at places provided by the constituent councils under section 1 of the Refuse Disposal (Amenity) Act 1978(a) shall be apportioned between the constituent councils in proportion to the tonnage of business refuse deposited at such places within the area of each of these councils within the last complete financial year for which data are available;

- (iii) The costs incurred by the joint waste disposal authority in the planning, construction, equipping and operation of sites provided under section 51(1)(b) of the Environmental Protection Act 1990 (HWRCs), including contract payments, staffing, utilities, premises, reuse, recycling, composting (costs and/or income) and relevant management costs, but excluding the cost of removing residual waste and its disposal (the authority's duty under the Refuse Disposal (Amenity) Act 1978), shall be apportioned between those constituent councils in whose area an HWRC is situated proportionate to the authority's relative costs applicable to each HWRC, such that the authority's above costs of each HWRC are paid in full by the constituent council in which it is situated.

- (iv) The costs incurred by the joint waste disposal authority in the purchasing of Cranford Way^[1] HWRC shall be apportioned between the constituent councils in the following proportions:

Barnet	0.613%
Camden	0.038%
Enfield	0.383%
Hackney	0.191%
Haringey	97.894%
Islington	0.804%
Waltham Forest	0.077%

- (v) The costs incurred by the joint waste disposal authority in the purchasing of any further HWRCs shall be apportioned between the constituent councils in proportion to the number of households in each constituent council that exist within a two-mile radius of the entrance to the HWRC until a visitor survey has

been undertaken by the Authority. Once a visitor survey has been undertaken by the Authority for any such HWRC the costs as at clause (iii) above shall be recovered from the constituent councils from the next financial year onwards in proportion to such visitor survey; visitors from outside the Authority's area shall be treated as visitors from the borough in which the HWRC is situated. Further visitor surveys may be undertaken by the Authority in future years, which shall be used in place of previous visitor surveys from the financial year after they are undertaken, including for the avoidance of doubt Cranford Way; and (vi) all other costs not falling within paragraphs (i)-(ii) (iii) (iv) or (v), shall be apportioned between the constituent councils by reference to the relevant proportion.

[1] A further expected change to the levy is noted elsewhere on this agenda in relation to provisions for the Cranford Way HWRC site being changed to apply to the proposed Western Road HWRC site instead.

Report Ends