

NORTH LONDON WASTE AUTHORITY

REPORT TITLE:

COMMINGLED INCOME PAYMENT SCHEME

REPORT OF:

HEAD OF WASTE STRATEGY AND CONTRACTS

FOR SUBMISSION TO:

AUTHORITY MEETING

DATE:

10th February 2010

SUMMARY OF REPORT:

This report recommends the introduction of a new financial scheme under which the Authority makes contributions to the costs of constituent borough councils which deliver commingled dry recyclables to it, and that the level of such contributions will not exceed the income that the Authority receives under its MRF services contract thus ensuring that the contributions made by the Authority are equal to the income received.

This would have the net effect of the Authority passing its MRF contract income to the boroughs that deliver to it the commingled dry recyclables from which the Authority's income derives.

RECOMMENDATION:

The Authority is recommended to approve the introduction of the Commingled Income Payment Scheme as set out in this report with effect from 1st October 2009 until the proposed Inter Authority Agreement is in effect.

**Signed by Head of Waste Strategy
and Contracts**

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Date: 1st February 2010

1.0 OVERVIEW AND PRINCIPLES

- 1.1 At its meeting in June 2009 the Authority approved the award of contracts to Bywaters (three lots) and Greenstar (four lots) for the receipt of commingled dry recyclable wastes at their Materials Recycling Facilities (MRFs) and their separation and sale to reprocessors that will recycle them into new products. This contract commenced on 1st October 2009.
- 1.2 The MRF contract sets an index-linked gate fee to cover the contractors' basic operating costs and also provides for the Authority to receive half of the monies the contractors receive from the reprocessors for the recyclable wastes collected by our constituent borough councils and sorted under contract to the Authority.
- 1.3 The selected contractors' tenders suggested that the projected income due to the Authority might be some £17.15 per tonne, but this was only ever an indication of income at a particular point in time, and this income to the Authority will rise or fall as the contractors' actual income rises or falls.
- 1.4 This income can either be used by the Authority to offset its many and varied general costs, and thereby to minimise its levy on its seven constituent borough councils, or the Authority can effectively use it to make corresponding payments to the individual constituent borough councils that delivered the commingled dry recyclables for the MRF contract from which the income derives using its powers under s52A(2) of the Environmental Protection Act 1990.
- 1.5 Authority officers believe that the second option is the most equitable as those boroughs that deliver their dry recyclables (whether pre-sorted or commingled) under their own direct contracts will have made their own arrangements in relation to the materials' value such that it can be used to contribute towards their additional collection costs. It therefore appears reasonable that the Authority should make arrangements such that the income arising from the recyclable wastes collected by boroughs that have chosen to work with the Authority should effectively be paid to those boroughs to contribute to their actual collection costs incurred rather than pooled for the benefit of the other boroughs too. This is particularly so given that the boroughs' delivery of these wastes to the Authority means they will subsequently pay a correspondingly higher tonnage-based share of the levy.
- 1.6 Notwithstanding the fact that the payments can only be made as contributions to the costs of the relevant boroughs that are attributable to them delivering their dry recyclables to the Authority's contractors, the Authority would always make payments equal in total to the income it has actually received such that the total payments would always be neutral to the Authority's overall budget, subject to para. 2.4 below.
- 1.7 Moreover, as the payments will be a redistribution of currently unbudgeted income, there will be no effect on the budget and levy as hitherto forecast.

- 1.8 For the avoidance of doubt it may be useful to clarify that any income associated with Landfill Allowances will be managed entirely separately from this proposed payment scheme, as the effects on our constituent borough councils of Landfill Allowance values are already dealt with through the Authority's Biodegradable Incentive Payments and Non-Household Premium.

2.0 THE SCHEME IN PRACTICE

- 2.1 The Authority will receive quarterly payments from its MRF contractors in arrears that are 50% of the contractors' income pro-rata for the tonnage delivered contractually by the Authority. As the contracts started 1st October 2009, the first quarter ended 31st December 2009 and, at the time of writing, it appears that the level of income the contractors have achieved is higher than that projected at the time of contract award, but the value is not yet certain.
- 2.2 Under the proposed scheme the Authority would make Commingled Income Payments (CIPs)¹ that have the net effect of distributing such income (once received) pro-rata to the individual constituent borough councils that deliver commingled dry recyclables under these contracts. Most boroughs do so to the same specification, but two boroughs currently collect or plan to collect paper and card separately from some or all of their residents. This means that in determining the level of contributions it will make towards relevant boroughs' additional collection costs, the Authority will have regard to the lower level of income it receives for commingled dry recyclables as a result of the exclusion paper and card, as opposed to the higher level of income which will be received for commingled dry recyclables that do include paper and card, and the Authority will therefore make commingled income payments at a correspondingly lower level in such cases.
- 2.3 Figures have been prepared to illustrate the potential impact of the proposed scheme in 2009/10 and 2010/11. As above, the figures reflect the fact that from 2010/11 Camden plans to ask its residents to put paper and card out for a separate collection (which Camden will deliver elsewhere and for which it will obtain value directly). The figures do not yet reflect some variances at Hackney of the same nature in parts of the borough, as Authority officers are not able to quantify this at the time of writing; the matter will be resolved however before any CIPs are made. It is essential to note again however that these sums are entirely at risk as they are the result of changing global markets in secondary commodities.

1 The Authority will be using its power under s52A(2) of the Environmental Protection Act 1990.

Table 1 – 2009/10 (from 1/10/09)

	CIPs Potentially Payable	Average Payment / Tonne
Barnet	£0	n/a
Camden	£93,732	£17.15
Enfield	£0	n/a
Hackney	£34,382	£17.15
Haringey	£119,197	£17.15
Islington	£119,986	£17.15
Waltham Forest	£58,990	£17.15
Total	£426,287	

Table 2 – 2010/11

	CIPs Potentially Payable	Average Payment / Tonne
Barnet	£0	n/a
Camden	£50,617	£9.74
Enfield	£0	n/a
Hackney	£63,448	£17.15
Haringey	£262,058	£17.15
Islington	£252,970	£17.15
Waltham Forest	£128,611	£17.15
Total	£757,704	

- 2.4 Before making such payments, the Authority must establish with each relevant constituent borough council what their costs of delivering such wastes are², as the Authority can only make “contributions” to such costs; that is to say the Commingled Income Payments cannot lawfully exceed the boroughs’ costs attributable to the delivery of the commingled dry recyclables to the Authority’s contractors. This does mean that, notwithstanding the general principle at para. 1.6 above, it is possible that the Authority would not be able to make CIPs payments that equalled in totality the full income it received from the MRF contractors (i.e. if the Borough’s collection costs were less than the MRF contract income received), but officers do not believe there is any prospect of this happening in the foreseeable future.

² The Authority’s constituent borough councils are under a duty to supply this information to the Authority under s52A(6) of the Environmental Protection Act 1990.

- 2.5 The Authority must also reserve the right to adjust CIPs where there are persistent quality problems with individual constituent borough councils' commingled dry recyclables so that the value of other boroughs' materials is properly reflected back to them in the contributions the Authority makes towards their additional collection costs. Officers would have to resolve this on a case-by-case basis.

3.0 RECOMMENDATION

- 3.1 The Authority is recommended to approve the introduction of the Commingled Income Payment Scheme as set out in this report with effect from 1st October 2009 until the proposed Inter Authority Agreement is in effect.

4.0 COMMENTS OF THE LEGAL ADVISER

- 4.1 The Legal Adviser has reviewed this report and all comments are included within the report.

5.0 COMMENTS OF THE FINANCIAL ADVISER

- 5.1 The Authority became entitled to this new source of income on 1st October 2009 and, because of its uncertain nature, it has not been allowed for in the budget forecasts previously reported to the Authority. If the Authority did not decide to introduce the scheme, any income received would in due course be available to help with the funding of the Authority's general costs and thereby help reduce the levy impact on all constituent boroughs. However, given that boroughs voluntarily decide to use the Authority's recycling services it would perhaps be more equitable to ensure that boroughs benefited from the income in proportion to the amount of recyclate that the boroughs deliver to the Authority for treatment. The scheme is based upon this premise.
- 5.2 As a consequence, it is proposed that the cost of the scheme will be funded from the income share that the Authority receives from the sale of the dry recyclable waste to third party reprocessors. If the scheme is approved the impact on today's budget will be neutral. The income and costs of the scheme included in the 2009/10 fourth budget review and the 2010/11 draft budget are based upon the projected level of income anticipated at the time of contract award. Although early indications are that the income from this source may be greater, the proposed scheme provides that income and the cost of the scheme will always be equal and therefore, as previously indicated, will have a neutral budget impact.
- 5.3 The income and therefore payments made under the proposed scheme are by no means certain and are entirely at risk in the event of a downturn in the market for secondary commodities.

Local Government Act 1972 – Access to information

Documents used: Environmental Protection Act 1990 (as amended by the Waste and Emissions Trading Act 2003)

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Report Ends