

Agenda Item 13

NORTH LONDON WASTE AUTHORITY	
<u>REPORT TITLE:</u> APPOINTMENT OF "A" DIRECTORS	
<u>REPORT OF:</u> The Legal Adviser	
<u>FOR SUBMISSION TO:</u> NLWA MEETING	<u>DATE:</u> 8 th February 2006
<u>SUMMARY OF REPORT:</u> This report sets out alternative means of recruiting to and appointing "A" Directors to LondonWaste Limited ("LWL")	

<u>LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION</u> No documents which are required to be listed were material to the preparation of this report CONTACT OFFICER: Alison Lowton Director of Law and Administration Town Hall Judd Street London WC1H 9LP Tel: 020 7974 5668 Fax: 020 7974 5837
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<u>RECOMMENDATIONS:</u> That members agree to the recruitment process for A Directors set out in paragraph 3 of this report.
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Signed by the Director of Law and Administration

Date:

1. INTRODUCTION

- 1.1 The last meeting of the Authority received a report on the range of procurements needed to implement the Joint Wastes Management Strategy up to and including the main waste contract which expires in 2014. In the course of that report, the legal adviser indicated that there may well be a conflict of interest in future for those NLWA members who were also 'A' directors for LondonWaste. She advised that the Authority should consider appointing directors who were not members of the Authority.
- 1.2 The Authority asked for a further report and considered alternatives to be brought to the next meeting.

2. CURRENT SITUATION

- 2.1 Since vesting, appointments of "A" Directors have always been from members of the North London Waste Authority ("NLWA"). However, the joint venture agreement does not require "A" Directors to be appointed solely from members of the NLWA but simply that they are appointed by the NLWA.
- 2.2 The legal adviser has given specific advice over the potential for conflicts of interest and for personal prejudicial interests for those members who are also "A" Directors.
- 2.3 A member has a personal interest in a matter if the matter relates to an interest which is declarable on the Register of Member Interests. The Code requires members to register their membership of a body to which they have been appointed or nominated by the Authority as its representative. This means that membership of the NLWA is a personal interest for members in relation to their constituent Borough. The "A" Directors are appointed by the NLWA and this is therefore also a registrable interest under the Code if the "A" Directors are Councillors. "A" Directors consequently have a personal interest when matters relating to the company are discussed by the North London Waste Authority. This interest is declared as a matter of course by "A" Directors when matters relating to LondonWaste are discussed at an NLWA meeting. However, this is not usually a prejudicial interest.
- 2.4 A member has a prejudicial interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest. However, a member may regard him or herself as not having a prejudicial interest in the matter if amongst other things the matter relates to a body to which he or she has been appointed or nominated by the Authority as its representative. As "A" Directors are appointed to the Board of LondonWaste by the NLWA they may regard themselves as not having a prejudicial interest. However, the legal advice has always been that there may be times when

members of the Authority who are also “A” Directors do need to consider their position as it is likely to be the case that the personal interest of members who are also “A” Directors will become prejudicial particularly when the Authority takes decisions relating to the procurement of contracts currently or potentially held by LondonWaste Limited.

3. WAY FORWARD

3.1 If members of the NLWA wish to appoint “A” Directors from outside their membership it would be helpful to have some criteria against which a selection could be made. There are a number of factors which could be used including:-

- Understanding/knowledge of waste management issues;
- Understanding or involvement in local government
- Understanding/experience of running a similar sized (or larger) company; and
- Ability to undertake effective liaison arrangements between LondonWaste and the NLWA Members and officers.

3.2 Officers would suggest that these four criteria are used in order to assess for any individuals. Serving officers of the NLWA and the constituent boroughs would not be eligible but members from the constituent boroughs who were not also on the NLWA could be.

3.3 Clearly a process needs to be agreed for identifying those individuals. In the first instance, officers would suggest that names are provided by officers and members of the North London Waste Authority. If this fails to generate sufficient names, a request could also be made through the Technical Officers Group and the Strategy Implementation Board. Approaches could also be made to organisations like SOLACE. Officers propose that the names are given to and held by the Legal Adviser who undertakes an informal canvass of members of the Authority as to their suitability. The final names would be decided upon by the annual meeting of the Authority in July this year.

3.4 It is not suggested at this stage that the Authority undertakes any public advertisement to recruit the “A” Directors but if there is insufficient interest from the initial informal approach this would be considered. Public advertisement is a relatively expensive and resource intensive process and officers would prefer to wait and see if this was necessary.

3.4 In addition, a mechanism would need to be developed to allow for effective liaison and communication between the Authority and the “A” Directors. We would have to ensure that the “A” Directors were aware of issues from the North London Waste Authority’s perspective and could also report back effectively to the Authority. It is suggested that anyone appointed as an “A” Director would also have to attend NLWA meetings. There would be an agenda item to discuss London Waste matters (probably on the Part 2 Agenda) and “A” Directors would be expected to

write that Report through the Financial Adviser. Because of this, members are asked to give consideration to the payment of a small allowance for attendance at NLWA meetings and for preparing a report. It is not envisaged that this would amount to more than £500 per year each.

Comments for the Legal Adviser

Legal Adviser drafted this Report and has nothing further to add.

Comments for the Financial Adviser

Currently, Non Executive "A" Directors of LondonWaste Ltd receive a payment of £6,878 per annum. This increases to £8,462 for the Chair and £7,669 for the Deputy Chair. Substitute Directors receive £3,439 per annum. The Chair and Deputy Chair of LondonWaste Ltd are also Chair and Deputy Chair of Polkacrest (wholly owned Subsidiary of LondonWaste Ltd) for which additional payments of £2,116 and £1,587 per annum are also paid. LondonWaste Ltd pays these fees. A decision, to engage "A" Directors who are not also members of the NLWA may, however, require the payment of a supplementary fee paid by the Authority that would recognise their attendance at NLWA meetings etc.

REPORT ENDS