

Agenda Item 10

NORTH LONDON WASTE AUTHORITY	
REPORT TITLE: APPOINTMENT OF MEMBERS TO COMMITTEES AND OTHER APPOINTMENTS	
REPORT OF: DEPUTY CLERK	
FOR SUBMISSION TO: THE NORTH LONDON WASTE AUTHORITY	DATE: 28 th JUNE 2006
SUMMARY OF REPORT: Outlines matters that must be taken into account when establishing committees, details procedures relating to attendance at meetings and seeks appointments to the following bodies: <ul style="list-style-type: none">• The North London Waste Authority Urgency Committee• The Board of LondonWaste Ltd• The LondonWaste Ltd Pensions Trustees.• The Joint Waste Strategy Implementation Board• The LATS Member Working Group Local Government Act 1972 – Access to Information: No documents required to be listed. Contact Officer: Thomas Ribbits, Deputy Clerk, NLWA, Camden Town Hall Judd Street, London WC1H 9JE (020 7974 1915) Email: thomas.ribbits@camden.gov.uk	
RECOMMENDATIONS: The North London Waste Authority is RECOMMENDED to: <ul style="list-style-type: none">i) Note the political balance requirements as they affect the Authority for the ensuing municipal year.ii) Establish and appoint an Urgency Committee as set out in paragraph 3.3.iii) Make A Director appointments to LondonWaste Ltd for the period until the Annual General Meeting of the Authority in 2007.iv) Make appointments of Trustees to the LondonWaste Ltd Pensions Scheme.v) Appoint a representative and a substitute representative to the Joint Waste Strategy Implementation Boardvi) Make appointments to the LATS Member Working Groupvii) Note the position regarding attendance at meetings.	

Signed by:

Date

APPOINTMENT OF MEMBERS TO COMMITTEES AND OTHER APPOINTMENTS

1. Introduction

- 1.1 This report sets out the proposed Committee structure for the Authority for the next municipal year; asks Members to make A Director appointments to the LondonWaste Ltd Board, and asks Members to deal with certain other appointments. It also deals with the issue of attendance at Authority and Committee meetings.

2. Political Balance

- 2.1 The Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 deal with the requirement that an Authority allocates places on its Committees, Sub Committees and other Bodies to each political group. The allocation must be in the same proportion as the number of Members of the Group bears to the Authority as a whole. Statutory Joint Waste Disposal Authorities are included in the bodies to be subject to these arrangements, and this Authority has a duty to review its political balance at its Annual Meeting (or as reasonably practical thereafter).

- 2.2 The Authority has a duty when allocating seats on a particular body or reviewing the allocation of seats to give effect, *so far as reasonably practicable*, to four principles:

- (a) All the seats are not allocated to the same political group;
- (b) The majority of the seats go to the political group in the majority on the Authority;
- (c) Subject to (a) and (b) above, that the number of seats on the total of all the ordinary Committees of the Authority allocated to each political group bears the same proportion to all the seats on the full Authority; and
- (d) Subject to (a), (b) and (c) above, that the number of seats on the body allocated to each political group bears the same proportion to all the seats on that body as is borne by the number of members of that group to the membership of the Authority.

- 2.3 With the nominations made by constituent Councils for 2006/7, the Authority has the following number of members divided by party lines as follows:

- 5 Conservative Members
- 5 Labour Members
- 4 Liberal Democrat Members

The percentages for each party are therefore 35.7% Labour, 35.7% Conservative and 28.6% Liberal Democrat.

3. Committee Structure

Urgency Committee

- 3.1 The Authority has operated in the past year with an Urgency Committee to deal with any matters of urgent business which occur between Authority meetings. Its terms of reference (as quoted from the NLWA Standing Orders) are as follows:

“To act on behalf of the Authority on any matters within the functions of the Authority as referred to in A.2.1 of these Standing Orders that will not admit of delay”

- 3.2 It is proposed that the Urgency Committee should comprise five members: Proportionality would result in distribution of seats as 1.7:1.7:1.4 which in practice means a membership of five divided 2:2:1 between the parties. This would also allow all parties some representation on the Committee. The quorum should remain unchanged at two. Each party may also appoint a substitute member.
- 3.3 It should be noted that the Urgency Committee, whilst a necessity, has not met since June 2003 and it is therefore not expected that its workload would be very great.

4. LondonWaste Ltd Board

- 4.1 The Board structure for LondonWaste Ltd (LWL) has eight Directors, divided as follows:

- Three A Directors nominated by the Authority
- Three B Directors nominated by SITA
- Two C Directors - the Managing Director and Finance Director of LondonWaste Ltd.
- One substitute (or alternate) Director is allowed for the A and B Directors.

- 4.2 Board meetings are held normally monthly on Fridays, with extra meetings sometimes required at short notice. In addition to the position of Chair of the Board, there is also a post of Deputy Chair. Non Executive

A Directors of LondonWaste Limited receive £7,043 pa. This increases to £ 8,665 for the Chair and £7,853 for the Deputy Chair. Substitute Directors receive £3,522 pa. The Chair and Deputy of LondonWaste Limited are also Chair and Deputy Chair of Polkacrest (wholly owned subsidiary of LondonWaste Limited) for which additional payments of £2,167 pa and £1,625 pa respectively are also paid. These fees are all paid by LWL.

- 4.3 Since vesting, appointments of “A” Directors have always been from members of the North London Waste Authority. However, there is no requirement that “A” Directors to be appointed solely from members of the NLWA but simply that they are appointed by the NLWA.
- 4.4 A member of the NLWA who is appointed as an A Director will have a personal interest under the Code of Conduct. This is because the Directorship is an interest which must be declared on the register of member Interests.
- 4.5 A member has a prejudicial interest if the personal 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. Where this is the case, those members who are A Directors will not be able to participate in the decision. Members need to take this into account when deciding on appointments to A Directorships for this municipal year.
- 4.6 The Chair of the LWL Board Meetings has mostly fallen to NLWA appointed A Directors. However, the election to the Chair is formally supposed to rotate annually between the Authority and SITA, the joint venture partner, the other shareholders in the company; In 2002/3 SITA assumed the Chair, and in 2003/2004, the NLWA’s representative, Councillor Haley, held this position for the NLWA. With the agreement of both partners, Councillor Haley was again Chair in 2004/5 and 2005/6. In April 2006 the election of Chair again rested with SITA who decided that Councillor Haley should continue in that role. If Members decide not to

re-appoint Councillor Haley to the LWL Board the appointment of Chair will once again rest with SITA.

- 4.7 The policy of the Authority since the Joint Venture was established in 1994 has been to have serving Councillors filling the A Director positions. This is not a requirement of the Joint Venture agreement. It would, therefore, be open to the Authority to agree non-Councillor nominations. This would be subject to persons nominated being prepared to serve in this capacity and to the Authority being satisfied that any nominations would have the requisite experience and ability to undertake this role.
- 4.8 In the past, A Directors have received particular advice as to their duties and responsibilities. For Members' information, material prepared by the Legal Adviser to advise its Members as to their position when serving as Directors, and guidance on Declaration of interests, together with advice from the Local Ombudsman's office on good practice in this area, is available on request. The Advisers are also available to brief the A Directors before Board meetings, should advice on matters coming before the Board be required, in addition to the briefings given by the Finance Officer and the Head of Waste Strategy and Contracts immediately before each meeting of the LWL Board.
- 4.9 Members are, accordingly, asked to agree nominations for three A Directors and one substitute to serve until the AGM of the Authority in 2007. Members are asked to note that this will be after the next Council election. There is no requirement for political proportionality for these appointments.

5. LondonWaste Ltd Pensions Scheme

- 5.1 The Authority and SITA UK agreed a pensions scheme for former NLWA employees who transferred to the Joint Venture Company at Vesting. The Authority is entitled to appoint two Trustees to the scheme.
- 5.2 Historically, these two positions have been taken by the Finance Adviser of the NLWA (the Authority's standing orders provide for the Financial Adviser to undertake this role), and a Councillor. The Authority may wish to continue with this practice and, if so, to confirm Mr Mike O'Donnell, the Authority's Finance Adviser, as trustee and appoint a Councillor to the other trustee position.
- 5.3 Members are asked to note that there is no requirement for political proportionality for these appointments

6. Joint Waste Strategy Implementation Board

- 6.1 The Government published guidance in March 2001 indicating that it expected a Joint Municipal Waste Management Strategy to be developed between waste disposal authorities and their constituent waste collection authorities. The London Mayor's Municipal Waste Management Strategy of September 2003 stated that each London waste disposal authority and its constituent boroughs should produce their joint strategy within a year of the publishing of the Mayor's own strategy. The Waste and Emissions Trading Act 2003 finally made it a statutory duty to prepare a joint waste strategy (with limited exceptions).
- 6.2 The NLWA and its Partners in 2004 set up a Joint Waste Strategy Implementation Board of elected Members from each Partner Authority with responsibility for developing, monitoring, reviewing and co-ordinating the implementation of the Strategy once agreed. Due to the delay in securing final agreement of all Partners to the Strategy, the work of the Strategy Implementation Board has been less than expected during 2005/06. It is served by a team of senior officers. The Board also monitors developments in legislation, changing public and political priorities and opportunities for new initiatives, and will recommend modifications to the Strategy at regular planned reviews once it is agreed.
- 6.4 Members are, accordingly, asked to elect a Representative and Substitute Representative to the Board until the AGM of the Authority in 2007.

7. LATS Member Working Group

- 7.1 The Authority has a cross-party working group of Members who give special attention to the Landfill Allowance Trading Scheme (LATS). On the recommendation of this group the Authority has introduced a premium to its non-household waste charges to constituent borough councils and an incentive payment to constituent borough councils in relation to the diversion of biodegradable municipal waste.
- 7.2 As the future accounting regime for LATS is made certain (so that the Authority knows, for example, when it can spend income from forward sales of allowances), this group will have to consider a trading strategy on behalf of the Authority.

8. Attendance at meetings

- 8.1 Under Section 85 of the Local Government Act 1972, if a Member fails to attend meetings throughout a period of six consecutive months from the date of the last attendance, they are disqualified from membership.
- 8.2 In 2000/2001 a mechanism was established to provide prior warning for Councillors at risk from disqualification. The process is for Members and

Constituent Councils to be sent an advisory letter if they risk disqualification from the Authority. This also gives the Member the opportunity to correct issues of non-attendance prior to disqualification coming into effect (e.g. attendance at a related meeting or other event not being taken into account.) This system has worked effectively and in the last year there have been no disqualifications.

8.3 The Standing Orders for the Authority state:

“A.3.3 Non-Attendance

(a) Members who do not attend any meeting of the Authority for a period of six months are disqualified from membership of the Authority, unless the reason for their non-attendance was approved by the Authority before the end of the six month period.

(b) Where the Deputy Clerk becomes aware that a Member has failed to attend a meeting of the Authority, its committees and/or its other subsidiary bodies for a period approaching six months, the Deputy Clerk will advise the member concerned and their constituent authority of their risk of disqualification.

(c) In the event of the Member concerned failing to attend a meeting of the Authority, the Authority will invite the constituent Council to appoint a replacement representative.”

9. Financial Adviser Comments

9.1 The Financial Adviser was consulted on this report and has no comments to make.

10. Legal Comments

10.1 The Legal Adviser's comments are incorporated in the Report.

Report Ends

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