

MEETING**CABINET RESOURCES COMMITTEE****DATE AND TIME****TUESDAY 24TH SEPTEMBER, 2013****AT 8.00 PM (OR DIRECTLY FOLLOWING THE PRECEDING CABINET MEETING)****VENUE****HENDON TOWN HALL, THE BURROUGHS, NW4 4BG**

Dear Councillors,

Please find enclosed additional papers relating to the following items for the above mentioned meeting which were not available at the time of collation of the agenda.

Item No	Title of Report	Pages
11.	RECYCLING REPROCESSING ARRANGEMENTS AT NLWA	1 - 8

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Meeting	Cabinet Resources Committee
Date	24 September 2013
Subject	Recycling reprocessing arrangements
Report of	Cabinet Member for Environment
Summary	Agreement is required on proposed arrangements for the reprocessing of recyclable material to be collected as part of the council's new waste services from October 2013. It is proposed that such arrangements are made through the North London Waste Authority and May Gurney Ltd.

Officer Contributors	Lynn Bishop – Street Scene Director Michael Lai – Group Manager, Waste & Recycling Team
Status (public or exempt)	Public
Wards Affected	All wards
Key Decision	Yes
Reason for urgency / exemption from call-in	Requirement to have recycling outlet in place for 7 October 2013.
Function of	Executive
Enclosures	
Contact for Further Information:	Michael Lai, Group Manager, Waste and Recycling Team. Email: Michael.lai@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That Cabinet Resources Committee agrees to consign recyclable materials collected from households and recycling banks to the North London Waste Authority for reprocessing by its contractors from 7 October 2013.**
- 1.2 That Cabinet Resources Committee agrees that changes are made to the alternative levy apportionment arrangements previously agreed by all North London Waste Authority constituent boroughs in January 2012.**
- 1.3 That Cabinet Resources Committee agrees to authorise the Cabinet Member for Environment to agree minor changes to the proposed amendments by the North London Waste Authority and the constituent boroughs to the provisions of the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006, in consultation with the Chief Finance Officer and Street Scene Director.**
- 1.4 That Cabinet Resources Committee authorise the waiver of the council's contract procedure rules and delegate the authorisation to extend the council's contract with May Gurney Ltd for a period of up to one year for the service associated with removal and disposal of materials from the Household Waste and Recycling Centre to the Cabinet Member for Environment.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet 4 April 2012 – Waste Collection Options (Agenda Item 11), Cabinet agreed the implementation of Step 2 which is; the provision of 240 litre wheeled bins to households for the collection of mixed dry recycling on a weekly basis, to replace the current black and blue boxes. The provision of internal and external kitchen caddies to households for the separate collection of kitchen waste on a weekly basis and the provision of a fortnightly garden waste collection using the current green 240 litre wheeled bins, with the changes to take place from the end of the May Gurney Recycling Contract on or after 4 October 2013.**
- 2.2 Cabinet 4 April 2012 – Waste Collection Options (Agenda Item 11), Cabinet agreed that mixed dry recycling will be:**

Consigned to the North London Waste Authority for processing from the end of the May Gurney Recycling Contract on or after 4 October 2013, provided that menu pricing is in place.
- 2.3 Cabinet Resources Committee 7 November 2012 – Cabinet agreed that the Outline Business Case for the future delivery of the Waste and Street Scene Services through in-house development of services with the option of support from external specialists and the incoming provider for support and customers services be approved.**

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 The council's Corporate Plan 2013-2016 includes the following aims:

Increase the percentage of household waste sent for reuse, recycling and composting to 40 per cent.

Maintain overall satisfaction levels for the recycling and refuse service (80 percent).

3.2 The changes to the council's waste and recycling services from October 2013 are integral to the achievement of the above aims. A key element of the new service is the change of recycling collection method to a comingled approach. The use of a comingled recycling method requires a reprocessing outlet to be in place.

4. RISK MANAGEMENT ISSUES

4.1 The council must have in place arrangements for the reprocessing of recyclable materials collected from households, the household waste and recycling centre and recycling banks in good time for the launch of the new waste and recycling services, at which point the council becomes responsible for having reprocessing outlets in place. If the council does not have such arrangements in place it would need to delay the start of new services and collections, or make temporary arrangements to store a large quantity of collected materials while arrangements are made.

4.2 Therefore the risks include the financial cost of such storage and the reputational risk of not having reprocessing arrangements in place for the start of the new service. These risks are considered to be high and are not considered to be acceptable.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 It is not envisaged that the proposal will result in a detrimental effect on any resident(s) with 'protected characteristics', over and above the effect on those without 'protected characteristics', due to the universal nature of the service being provided. The proposal does not compromise the council in its compliance of the statutory equality duty.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 A procurement exercise was undertaken for the provision of a reprocessing outlet for comingled recycling to commence 7 October 2013. Two bids were received and evaluated however the evaluation outcome did not provide value for money and a recommendation for contract award was not made.

6.2 In view of the outcome of the procurement exercise which resulted in no recommendation to award contract it was necessary to identify a suitable arrangement to ensure provision for 7 October 2013. In accordance with Environmental Protection Act 1990 Section 51, the service provided by North London Waste Authority has been identified.

- 6.3 To comply with Contract Procedure Rules the identification of North London Waste Authority reflects a single tender action. In accordance with the Contract Procedure Rule and the Procurement Code of Practice, Single Tender Action 15.7.1 the justification for single tender action is that:
- for technical reasons North London Waste Authority is the only enterprise accessible to the Authority with expertise to do the work; and
 - for exclusive rights North London Waste Authority is the provider of service for the Authority in accordance with Environmental Protection Act 1990 Section 51
- 6.4 The council is seeking to consign its comingled recyclable materials and recycling bank materials to the North London Waste Authority, which has in place a contract with Materials Recovery Facility operators for the reprocessing of comingled recycling from its other constituent councils (this contract was tendered by the Authority through open competition in 2009). It has always been the council's intention that all our recycling will go to the North London Waste Authority in two years, as a Plan B the council looked at whether it was possible to get a better financial outcome for the next two years while significant changes are made to the recycling service. The council carried out a procurement exercise to assess options from the market but the costs of the bids received could not be considered value for money. Therefore the council is proposing to bring forward the arrangement available through the North London Waste Authority which represents better value for money than the previous bids.
- 6.5 The relevant tonnages of comingled and recycling bank materials are set out in Table 1 below, and are of sufficient magnitude to substantially affect the apportionment of the North London Waste 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 North London Waste Authority until 2016/17. This is due to a two-year time lag in the levy mechanism, and it is the case that for all increases in tonnage delivered to the North London Waste Authority, that individual borough's share of the levy does not increase until two years later.
- 6.6 From 2012/13 the levy was apportioned on an alternative basis as unanimously agreed by all seven constituent boroughs in order to facilitate the transfer of their Household Waste Recycling Centres (HWRCs) to the North London Waste 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.

Table 1 LB Barnet anticipated tonnage

Year:	LB Barnet Anticipated Recycling Tonnage:
2013/14	10,864
2014/15	24,225
2015/16	26,575
TOTAL	61,664

6.7 In response to LB Barnet's request, North London Waste Authority officers have assisted in drafting a further amendment to alternative levy apportionment arrangements that will retrospectively adjust LB Barnet's (or any other borough that subsequently delivers to the North London Waste Authority other wastes that it previously retained for recycling) apportionment 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 North London Waste Authority. There will be a budgetary impact to LB Barnet in 2013/14 (part year) and 2014/15 (full year) in relation to the increased North London Waste Authority levy, Table 2 below details the estimated impact to the levy in relation to Barnet's increased recycling tonnage. It should be noted that these are indicative figures to illustrate the potential scale of change only, and are not provided as finalised levy costs, because other changes in the North London Waste Authority cost base will also affect its final budget and levy in February 2014.

Table 2 Financial Impact of increased NLWA levy 2013/14 – 2015/16

Year	Additional NLWA costs - impact on MTFs
	£'000s
2013-14	-
2014-15	1,342
2015-16	-32

- 6.8 The increase in the levy as a result of the increased cost of disposal of recyclable waste is expected to be offset by a combination of savings as a result of the in-sourcing of the recycling contract with May Gurney, and a reduction in waste disposal costs as a result of the increase in recycling rates expected as a result of the new waste offer.
- 6.9 The principles set out in this report have already been discussed with officer representatives of all constituent borough councils, but the actual apportionment of the levy will remain unchanged until or unless all seven constituent boroughs unanimously approve an alternative.
- 6.10 If the other constituent councils do not agree to this approach the statutory default levy would apply resulting in increased costs to constituent councils.
- 6.11 A procurement exercise was undertaken for the provision of a reprocessing outlet for household waste and recycling materials to commence 9 October 2013. No bids were received.
- 6.12 The council is in negotiations with May Gurney Ltd to extend elements of the council's contract for management of the council's household waste and recycling centre. The contract ends on 8 October 2013. This contract extension, subject to the outcome of negotiations is anticipated to provide the council with an income of approximately £75,000 per annum.

7. LEGAL ISSUES

- 7.1 Section 51 of the Environmental Protection Act 1990 (EPA) makes it the function of waste disposal authorities to arrange for the disposal of the controlled waste collected in its area by its constituent waste collection authorities. The North London Waste Authority is the waste disposal authority for Barnet and the council is a constituent waste collection authority of the North London Waste Authority and under section 75 of the EPA 'controlled waste' includes domestic and trade mixed recyclables. So the disposal of mixed recyclables collected by the council is the statutory function of the North London Waste Authority.
- 7.2 The council undertook a procurement exercise to award a service concession contract to a private sector company but did not award a contract. Service concession contracts, (i.e. contracts under which the consideration given by the council consists of or includes the right to exploit the service or services to be provided under the contract) do not need to be competitively tendered under the Public Contracts Regulations 2006 (as amended) (PCR) and so the council can lawfully award this contract directly to the North London Waste Authority under both the PCR and the EPA statutory scheme without further competition. The North London Waste Authority Materials Recovery Facility Service contract was tendered by the Authority through open competition in 2009.
- 7.3 The seven constituent boroughs, through unanimous agreement, can agree alternative levy arrangements under section 51 of the EPA and the Waste Regulation and Disposal (Authorities) Order 1985.
- 7.4 The contract with May Gurney contains an option to extend the contract for up to two years so a one year extension of part only of the contract is lawful provided that the original tender exercise gave notice that the contract could be extended in this way.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution, Part 3, Paragraph 3.6, Cabinet Resources Committee has responsibility for:
- (i) Capital and revenue finance, forecasting, monitoring, borrowing and taxation
 - (ii) Approval of schemes not in performance management plans but not outside the Council's budget or policy framework.
- 8.2 Constitution – Contract Procedure Rules – Section 17 – Appendix 1 – Table A requires Cabinet Resources Committee to authorise the requests for quotations or tenders for supplies above £500,000. The Cabinet Resources Committee meeting of 7 November 2012 approved the Outline Business Case and Options Appraisal for Waste and Street Scene Services. The recommendation to consign recyclable materials to the North London Waste Authority (recommendation 1.1) involves expenditure or savings in excess of £500,000 and is a variation not covered by the Decisions of the 7 November

2012 meeting. This recommendation is therefore being brought to Cabinet Resources Committee for a decision.

- 8.3 Constitution – Contract Procedure Rules – Section 14.3 – requires Cabinet Resources Committee to authorise the waiver of the contract procedure rules to extend contracts where any of the conditions under section 14.2 have not been met. In the case of the Council’s contract with May Gurney Ltd all of the conditions in section 14.2 have been met, except that the contract has previously been extended (by a total of four days). This waiver is therefore being brought before Cabinet Resources Committee for a decision to allow the council’s contract with May Gurney Ltd, in line with the contract’s provisions, to be further extended.

9. BACKGROUND INFORMATION

- 9.1 Following the decisions of Cabinet on 4 April 2012 regarding future waste collection methods, the council is changing from ‘kerbside sort’ recycling method whereby materials are sorted into separate compartments on the collection vehicles to a ‘comingled’ collection method whereby materials are collected mixed together and are then sorted mechanically and by hand at a Materials Recovery Facility (MRF).
- 9.2 Following the decisions of Cabinet Resources Committee on 7 November 2012 the council’s Street Scene service will be responsible for the collections of recycling from households from the end of the May Gurney Recycling Services contract on 5 October 2013. The Street Scene service will collect comingled recycling from 7 October 2013 from flats, and will collect these materials from all properties from 14 October. The service will also collect separated recyclable materials from the council’s recycling banks from the end of the May Gurney contract.
- 9.3 Street Scene officers have worked with the council’s Procurement Team to procure a reprocessing outlet for comingled recycling from 7 October 2013. A specification for a Service Concession for Bulking, Haulage and Sorting of Recyclate was issued on 21 June 2013 and the competition closed on 22 July 2013. The procurement exercise enabled the council to assess the market options. There were only two bids received. The costs of both of these bids could not be considered value for money as on examination they were highly unfavourable and well above expectations, and it was considered that neither bidder could be selected by the council.
- 9.4 The council is therefore seeking to consign its comingled and recycling bank materials to the North London Waste Authority as provided for under the Environmental Protection Act 1990 Section 51. The North London Waste Authority has in place contracts with a number of Materials Recovery Facility operators for the reprocessing of comingled recycling from its other constituent councils. The North London Waste Authority would seek to include Barnet’s additional tonnage of recycling within its existing arrangements with its contractors.

10. LIST OF BACKGROUND PAPERS

- 10.1 None

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	SD