

MEETING

GROUP LEADERS PANEL

DATE AND TIME

TUESDAY 11TH MARCH, 2014

AT 5.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, NW4 4BG

Please find enclosed the papers submitted to the Panel, which the Panel agreed should be considered in public.

Item No	Title of Report	Pages
6.	CASE 001/14	1 - 30

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London Borough of Barnet

Report of Monitoring Officer - Complaint by Councillor Coleman against Councillor Cohen AGENDA ITEM 6a

Introduction

1. This report is written in accordance with the council's process for complaints about the conduct of a Councillor or co-opted member.
2. According to the procedure the Monitoring Officer, after consulting with the Independent Person, will decide whether any complaint should go to a formal process. After that consultation process the Monitoring officer has determined that this complaint falls under the Code of Conduct.
3. If the Monitoring Officer decides that a complaint should go to a formal process, the Monitoring Officer will provide a written report to the Group Leaders Panel within three months of receiving the complaint. The report would comprise purely factual findings without any conclusion drawn as to whether or not a breach of the code is believed to have taken place.

The complaint

4. The complaint is made by Councillor Coleman. The complaint was originally made by email on 22nd January 2014 (see Appendix 1). On 27th January 2014, the Monitoring Officer, after consultation with the Independent Person (Stephen Ross), decided that the complaint should go to a formal process.

Complaint:

5. The complaint is as follows: *"This is a complaint under the Members Code of Conduct specifically paragraph 1 about openness and honesty. In Answer to Question 36 tabled by Cllr Alison Moore for answer at last night's Council meeting, Cllr Dean Cohen declined to answer how he had voted on the issue of the future of the procurement project citing part 2 commercial confidentiality reasons of the nature of the report.*
6. *Cllr Cohen retained that position when Cllr Moore asked a supplementary*
7. *Despite attempts to discuss the matter of how a Council appointee to an Outside Body had voted on a major issue of public policy Cllr Cohen still declined the opportunity to tell us when replying to the debate on the motion in my name on NLWA matters*
8. *I now understand from reading the NLWA public papers on their website covering the Sept 26th 2013 meeting of the Authority that in fact Cllr Cohen was absent entirely from the meeting . Indeed there is a report to members requesting that the 6 month rule be waved in the case of Cllr Cohen till 14th February 2014. It is noted in the report that Cllr Cohen had failed to attend any meetings of NLWA in the municipal year 2013/14*
9. *I believe that Councillor Cohen misled the full Council by failing to answer Cllr Moore's question honestly with a simple "I did not vote , I was not present",*

despite having 3 opportunities to do so , the question, the supplementary and the motion on NLWA in breach of the Code of Conduct and Nolan principles of openness and Honesty

10. *Cllr Cohen deliberately maintained a falsehood that the matter of how he voted at the meeting was part 2 in an attempt to hide from the Council that he had not attended this vital meeting (or indeed the previous one) knowing the future of the 3 billion pound procurement contract was to be discussed”.*

Members’ Code of Conduct

11. The complaint refers to the following section of the Code of Conduct being breached, however the Group Leaders Panel do not have to limit their review to these sections of the Code:

1(6) In accordance with the provisions of the Localism Act 2011, when acting in this capacity you must be committed to behaving in a manner that is consistent with the following principles to achieve best value for the borough’s residents and maintain public confidence in this authority,-

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

Questions to the Complainant

12. No questions were put to the complainant however the complainant further commented that he felt that the issue was of significance to the Council and therefore was important to Barnet’s public profile.

Cllr Cohen's response

13. Cllr Cohen responded on the complaint made to the Monitoring officer on the 18th February 2014 and stated the following:
14. *"The question that was asked by Cllr Moore was the following;*
15. *Would the relevant Cabinet Member advise how London Borough of Barnet's representative on North London Waste Authority voted on the issue of whether to cease their waste treatment procurement exercise and keep waste treatment at the Edmonton Plant?*
16. *The briefing received from officers for this question was the answer that was given, 'This vote was taken in a private session of the North London Waste Authority'.*
17. *Both the first question and the second question which was just put in a different way was purely in connection with the private meeting of which all aspects are private including who was present.*
18. *Full council has not been misled in anyway as another Barnet representative was at the meeting*
19. *If I had been asked directly how did I vote I would of course informed Council I was not present due to the Jewish festival which I have a duty to observe. I was not asked that I was asked 'How did the Barnet representative vote'.(singular)*
20. *I find it hard to believe that Cllr Moore had not looked at the minutes of this meeting prior to tabling such a question and would have therefore seen that I was not at the meeting. This appears to be the case as Cllr Moore refers to representative in the singular form in her question."*
21. I followed up with Councillor Cohen the following questions "What did you rely upon when making your decision around disclosing the way in which a council representative voted? Is there clear guidance provided by the NLWA in what information you can discuss once a decision has been made?"
22. Councillor Cohen verbally replied to the question posed and indicated that the officer briefing was relied upon and discussions took place with the Managing Director of the NLWA who made it clear that the contents and decisions of the meeting are considered private. Councillor Cohen also suggested that if he did attend the meeting the way he voted would remain private.

Questions to council Officers

23. I contacted the Council officer who attended the meeting on the council's behalf. I was informed by the officer that the meeting Councillor Moore refers to within her question to Full Council is the meeting held on the 26th

September, it appears on the agenda of items discussed in the private session of the meeting.

24. I inquired as to the briefing provided from officers in the Street Scene Delivery Unit to Councillor Dean Cohen, they confirmed that the briefing provided was exactly as written within the Full Council questions and answers. They elaborated and added "We do always discuss and agree any of these answers, briefings and comms with our contacts at NLWA." The reasons for confidentiality were noted on the front page of the confidential minutes as provided by the officer (Appendix 2).

Questions to Councillor Moore

25. Councillor Moore asked a supplementary question to Councillor Cohen, the transcript of which was as follows:

The answer to this puzzles me; you refuse to answer the question. The only rational explanation for this is that you and Councillor Thomas, the other Council representative voted for the process to go ahead and for Pinkham way to continue to be a site for a huge waste plant. Why you are not prepared to stand by his actions or do you agree with him?

Response - Councillor Dean Cohen

As I have said in my answer, the meeting was in private session and the information in that meeting is private.

Councillor Moore clarified when sent the transcript what she had meant by the last sentence "Why you are not prepared to stand by his actions or do you agree with him?" she confirmed that she had meant "why are you not prepared to stand by Councillor Thomas's actions - do you agree with him?".

Findings of fact

26. Council Questions from the January 2014 Council meeting, the relevant question is actually question 35, the extract is as follows:

Question 35 Councillor Alison Moore

Would the relevant Cabinet Member advise how London Borough of Barnet's representative on North London Waste Authority voted on the issue of whether to cease their waste treatment procurement exercise and keep waste treatment at the Edmonton Plant?

Answer by Councillor Dean Cohen

This vote was taken in a private session of the North London Waste Authority.

27. It was not put to the Cabinet Member how he personally voted at the meeting.
28. Papers from the NLWA are in the public domain for the 26th September meeting, the private meeting is not. It was confirmed with a council officer who attended the entire meeting that the decision referred to by Councillor Moore took place in private session on the 26th September.

29. There are two representatives appointed to NLWA from the Council - Councillor Cohen (who is Vice Chair of NLWA) and Councillor Thomas.
30. Appendix 3 notes the minutes from the public meeting whereby it is noted that Cllr Cohen was not present but Cllr Thomas was in attendance throughout the public and private meeting.
31. Appendix 4 notes a paper was prepared and approved for the dispensation for the attendance of Cllr Cohen for the September meeting as it fell on a Jewish Holiday. This was available on the public website.
32. The meeting held in December 2013 for the NLWA was attended by Councillor Dean Cohen according to the minutes of that meeting (Appendix 5).
33. An officer had provided the response as part of their briefing on questions to Full Council as it appeared in the published answers: "This vote was taken in a private session of the North London Waste Authority."
34. On the NLWA website the standing orders for the NLWA state under A18.1 that decisions are taken by simple majority who are present and under 18.3 by show of hands, the vote is only recorded (18.4) whereby 4 Members request it <http://www.nlwa.gov.uk/governance-and-accountability/standing-orders>
35. In relation to the supplementary question posed by Councillor Moore to Councillor Cohen on the evening of Full Council the following was available in the transcript:

The answer to this puzzles me; you refuse to answer the question. The only rational explanation for this is that you and Councillor Thomas, the other Council representative voted for the process to go ahead and for Pinkham way to continue to be a site for a huge waste plant. Why you are not prepared to stand by his actions or do you agree with him?

Response - Councillor Dean Cohen

As I have said in my answer, the meeting was in private session and the information in that meeting is private.

36. Councillor Moore confirmed that she had meant by the last sentence to her supplementary question "why are you not prepared to stand by Councillor Thomas's actions - do you agree with him?"

Action

37. The Panel is asked to consider whether any of the findings of fact amount to a breach of the Code of Conduct.

38. If a breach of the Code of Conduct has been found the Panel are asked to consider what the appropriate sanction would be.

Maryellen Salter
March 2014

Appendices

Appendix 1 – The complaint

Appendix 2 – Confidentiality extract from NLWA

Appendix 3 – Minutes from public meeting of NLWA September 2013

Appendix 4 – Dispensation of Councillor Cohen's attendance

Appendix 5 – NLWA minutes from December 2013 meeting

From: Coleman, Cllr Brian
Sent: 22 January 2014 13:27
To: Salter, Maryellen
Cc: Moore, Cllr Alison; Cornelius, Cllr Richard
Subject: Complaint under the Code of Conduct

This is a complaint under the Members Code of Conduct specifically para 1 about openness and honesty

In Answer to Question 36 tabled by Cllr Alison Moore for answer at last night's Council meeting, Cllr Dean Cohen declined to answer how he had voted on the issue of the future of the procurement project citing part 2 commercial confidentiality reasons of the nature of the report.

Cllr Cohen retained that position when Cllr Moore asked a supplementary

Despite attempts to discuss the matter of how a Council appointee to an Outside Body had voted on a major issue of public policy Cllr Cohen still declined the opportunity to tell us when replying to the debate on the motion in my name on NLWA matters

I now understand from reading the NLWA public papers on their website covering the Sept 26th 2013 meeting of the Authority that in fact Cllr Cohen was absent entirely from the meeting. Indeed there is a report to members requesting that the 6 month rule be waived in the case of Cllr Cohen till 14th February 2014. It is noted in the report that Cllr Cohen had failed to attend any meetings of NLWA in the municipal year 2013/14

I believe that Councillor Cohen misled the full Council by failing to answer Cllr Moore's question honestly with a simple "I did not vote, I was not present", despite having 3 opportunities to do so, the question, the supplementary and the motion on NLWA in breach of the Code of Conduct and Nolan principles of openness and Honesty

Cllr Cohen deliberately maintained a falsehood that the matter of how he voted at the meeting was part 2 in an attempt to hide from the Council that he had not attended this vital meeting (or indeed the previous one) knowing the future of the 3 billion pound procurement contract was to be discussed

As you have access to the transcript of last night's Council I am sure you can verify my statements

I assume the matter will be dealt with
In the appropriate way

Kind regards

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PUBLICATION
paragraph(s) 1, 3, 5 of Part 1 of Schedule 12A
Local Government Act 1972.

EXEMPT INFORMATION – NOT FOR PUBLICATION

North London Waste Authority - Thursday, 26th September, 2013

MINUTES PART II

The following minutes are 'not for publication' as they are considered to contain exempt information within the meaning of Category 1 of Schedule 12A to the Local Government Act 1972 (as amended), 'Information which relates to an individual', Category 3 of Schedule 12A to the Local Government Act 1972 (as amended), 'Information relating to the financial or business affairs of any particular person, including the authority holding that information, and not required to be registered under various statutes' and Category 5 of Schedule 12A to the Local Government Act 1972 (as amended) 'Information in respect of which there is a claim to legal professional privilege'.

The reasons why the public interest favours withholding the information are that: the release of such information could constitute or facilitate an unwarranted interference with individuals' privacy; the release of such information would prejudice the Authority's conduct of a commercial operation OR because the disclosure of the information is likely to prejudice the commercial interests of the Authority and organisations engaged in commercial activities as the information related to commercial activities that are conducted in a competitive environment, and the release of such information could prejudice the safeguarding of openness in all communications between client and lawyer and the Authority's ability to ensure access to full and frank legal advice."

The Proper Officer has considered all the circumstances and is of the view that on balance the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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NORTH LONDON WASTE AUTHORITY

At a meeting of the **NORTH LONDON WASTE AUTHORITY** held on **THURSDAY, 26TH SEPTEMBER, 2013** at 10.00 am in the Committee Room 1, Town Hall, Judd Street, London WC1H 9JE

MEMBERS OF THE AUTHORITY PRESENT

Councillors Loakes (Chair), Meehan (Vice-Chair), Blackwell, Bond, Demirci, Ismail, Jones, Lloyd, Stafford, Thomas and Watts

MEMBERS OF THE AUTHORITY ABSENT

Councillors Cohen (Vice-Chair), Bevan and Rusling

The minutes should be read in conjunction with the agenda for the meeting. They are subject to approval and signature at the next meeting of the North London Waste Authority.

MINUTES

1. APOLOGIES

Apologies were received from Councillors Bevan, Cohen and Rusling.

2. DECLARATIONS BY MEMBERS OF PECUNIARY, NON-PECUNIARY AND ANY OTHER INTERESTS IN RESPECT OF ITEMS ON THIS AGENDA

Councillor George Meehan a non-pecuniary interest in all relevant business as a Member of the London Borough of Haringey, which was the planning authority for the Pinkham Way site.

3. DEPUTATIONS (IF ANY)

There were none.

4. MINUTES

RESOLVED –

THAT the public minutes of the meeting held on 27 June 2013 be approved and signed by the Chair as a correct record.

5. COUNCILLOR ATTENDANCE

Consideration was given to the report of the Managing Director.

RESOLVED –

- (1) That it be agreed that Councillors Dean Cohen and Mark Rusling should not be disqualified due to non-attendance at Authority meetings for a period of 6 consecutive months, for the reasons outlined in paragraph 1.3 and 1.4 of the report.
- (2) THAT both Councillors be granted an extension to the attendance requirements until 14th February 2014.

6. 2012/13 STATEMENT OF ACCOUNTS

Consideration was given to the report of the Financial Adviser.

Mr Johnstone, from the Authority's auditors KPMG, stated that he would be issuing an unqualified opinion on the Council's accounts and that there had been no adjustments made. However, he stated that as matters raised by local government electors were still under consideration, he would not be able to formally conclude the audit and issue an audit certificate until these matters had been resolved. He further advised that there were no matters under discussion that he considers materially affect the audit opinion and value for money conclusion.

In response to a question, Mr Johnstone stated that he hoped to issue a provisional view regarding the matters raised by the middle of October 2013.

RESOLVED –

- (i) THAT the Report to those Charged with Governance (ISA 260) be noted and that the Authority's response to the recommendation concerning the earmarked reserve and to the uncorrected audit differences in the accounts of LondonWaste Ltd be agreed.
- (ii) THAT the Head of Finance be authorised to sign the 2012/13 management representation letter.
- (iii) THAT the Authority's 2012/13 Statement of Accounts and Annual Governance Statement be approved and that the Chair be authorised to sign these documents and to agree any changes that may subsequently arise.

7. 2013/14 SECOND BUDGET REVIEW

Consideration was given to the report of the Financial Adviser.

The Head of Finance introduced the report. He advised that although there had been a reduction in the residual waste stream in the early months of the year, the resulting financial saving was likely to be largely offset in the remainder of the year by a substantial increase in the amount of recyclable wastes that the boroughs intended to deliver to the Authority for processing. As a consequence, revenue balances at the end of the year were currently forecast to remain at about £5m.

RESOLVED –

- (i) THAT the second review of the 2013/14 revenue budget be noted.
- (ii) THAT the issues that will need to be addressed in the preparations for the 2014/15 budget be noted.
- (iii) THAT a third review of the 2013/14 budget be reported to the Authority meeting in December, together with an up-to-date assessment of the budget and resource requirements for 2014/15.

8. STRATEGY UPDATE

Consideration was given to the report of the Procurement Director.

The report was introduced by the Managing Director. In particular, he highlighted the Authority's response to the Government that European Union strategic regulation of waste management matters was helpful. He also highlighted the Authority's concerns that electricity market reform proposals by the Government weakened the support available for renewable generation, especially as energy generated and used on site would be excluded from the new Contracts for Difference.

RESOLVED –

THAT the following consultation responses be noted:

- (1) The Waste Management Plan for England;
- (2) Updated National Waste Planning Policy: Planning for Sustainable Waste Management;
- (3) DEFRA and DECC's Call for Evidence: Environment and Climate Change; and
- (4) The Electricity Market Reform – Delivery Plan Consultation.

9. ADDITIONAL COMMINGLED DRY RECYCLABLES AND PROPOSED ALTERNATIVE LEVY ARRANGEMENTS

Consideration was given to the report of the Head of Waste Strategy and Contracts.

The Head of Waste Strategy and Contracts introduced the report. He stated that the London Borough of Barnet had requested that the Authority handle its commingled dry recyclables, which was an in-year request that fell outside the Authority's agreed budget. The report set out a proposed change to the levy apportionment charge, which would ensure that Barnet was in the same position as other Boroughs that already sent their co-mingled dry recyclables to the Authority.

RESOLVED –

THAT the report and the expected levy apportionment change be noted and that authority be delegated to the Head of Waste Strategy and 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.

10. DEFRA CONSULTATION ON THE WASTE PREVENTION PROGRAMME FOR ENGLAND

Consideration was given to the report of the Head of Waste Strategy and Contracts.

RESOLVED –

THAT the response to the Department for the Environment, Food and Rural Affairs consultation on "The Waste Prevention Programme for England" be noted.

11. HOUSEHOLD WASTE AND RECYCLING CENTRE - WESTERN ROAD, HARINGEY

Consideration was given to the report of the Head of Waste Strategy and Contracts.

The Head of Waste Strategy and Contracts introduced the report. He stated that the Authority had previously been expecting to acquire a site from the London Borough of Haringey at Cranford Way to replace the Household Waste and Recycling Centre (HWRC) at High Street, Hornsey. However, circumstances meant that Haringey was now proposing to transfer Western Road in Wood Green to the Authority instead.

RESOLVED –

THAT it be agreed to delegate authority to:

- (1) The Head of Waste Strategy and Contracts to negotiate terms for the purchase of the Western Road HWRC from LB Haringey, such terms to be approved by the Managing Director and Legal Adviser in consultation with the Chair, and the site acquired by the Authority;
- (2) The Head of Waste Strategy and Contracts to commission LondonWaste Ltd to apply for an Environmental Permit and to operate the HWRC; and
- (3) The Director of Procurement to amend the Authority's requirements to provide for management of the site at Western Road to replace the development and management of the site at Cranford Way, such change to be incorporated at financial close of the Waste Services Contract.

12. LOCAL GOVERNMENT ACT 1972 - ACCESS TO INFORMATION

RESOLVED -

THAT the press and public be excluded from the proceedings of the North London Waste Authority on 26th September 2013 during consideration of the following items on Part II of the agenda, on the basis that, were Members of the public to be present, there would be disclosure of exempt information as defined in Schedule 12A to the Local Government Act 1972, as amended.

Specifically:

Exempt Information Category 1 - Information which relates to an individual: the reason why the public interest favours withholding the information are that the release of such information could constitute or facilitate an unwarranted interference with the individual's privacy.

Exempt Information Category 3 – Information relating to the financial or business affairs of any particular person, including the authority holding that information, and not required to be registered under various statutes: the reasons why the public interest favours withholding the information are that the release of such information would prejudice the Authority's conduct of a commercial operation OR because the disclosure of the information is likely to prejudice the commercial interests of the Authority and organisations engaged in commercial activities as the information related to commercial activities that are conducted in a competitive environment.

Exempt Information Category 5 - Information in respect of which there is a claim to legal professional privilege: the reasons why the public interest favours withholding the information are that the release of such information could prejudice the safeguarding of openness in all communications between client and lawyer and the Authority's ability to ensure access to full and frank legal advice.

13. PRIVATE MINUTES

RESOLVED –

THAT the private Minutes of the meeting held on 27th June 2013 be approved and signed by the Chair as a correct record.

14. GOVERNANCE OF LONDONWASTE LIMITED

Consideration was given to the report of the Managing Director.

RESOLVED –

THAT the report be noted.

15. PART 2 APPENDIX TO PART 1 REPORT “HOUSEHOLD WASTE AND RECYCLING CENTRE – WESTERN ROAD, HARINGEY

Consideration was given to a report of the Head of Waste Strategy and Contracts.

RESOLVED –

THAT the report be noted.

16. PROCUREMENT REPORT

Consideration was given to the report of the Clerk.

RESOLVED –

THAT the recommendations be agreed.

17. ANY OTHER ITEMS THE CHAIR DECIDES TO TAKE AS URGENT

There were none.

The meeting ended at 11.10 am

CHAIR

Contact Officer: Alastair Round

North London Waste Authority - Thursday, 26th September, 2013

Telephone No: 020 7974 5642

E-Mail: alastair.round@camden.gov.uk

MINUTES END

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NORTH LONDON WASTE AUTHORITY	
REPORT TITLE: COUNCILLOR ATTENDANCE	
REPORT OF: MANAGING DIRECTOR	
FOR SUBMISSION TO NORTH LONDON WASTE AUTHORITY	DATE: 26 September 2013
<p>SUMMARY OF REPORT</p> <p>This report seeks approval from the Authority to agree to the extension of councillor absence for Councillor Dean Cohen and Councillor Mark Rusling, in relation to the six month non-attendance requirement of the NLWA's Standing Orders.</p> <p>Local Government Act 1972 – Access to Information</p> <p>Documents used in the preparation of this report: None excepting minutes of previous meetings</p> <p>Contact Officer: Alastair Round Committee services, NLWA Camden Town Hall Judd Street London WC1H 9JE Telephone: 020 7974 1914 alastair.round@camden.gov.uk</p>	
<p>RECOMMENDATION:</p> <p>(1)The Authority is RECOMMENDED to approve that Councillors Dean Cohen and Mark Rusling not be disqualified due to non-attendance at Authority meetings for a period of 6 consecutive months for the reasons as outlined in paragraph 1.3 and 1.4 of this report.</p> <p>(2)The Authority is RECOMMENDED to approve an extension to the attendance requirements for both Councillors until 14th February 2014</p>	

Signed by the Managing Director:

Date:

1. Introduction

1.1 Members are asked to note the Authority's Standing Order's requirements in respect of Non- attendance as outlined below:

1.2 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.

1.3 Councillor Cohen, representing London Borough of Barnet, was unable to attend the first meeting of the Authority since his appointment at the start of the municipal year. He is also unable to attend the meeting on 26 September 2013, as it clashes with the Jewish Holiday of Shemini Atzeret. This clash was noted by the Authority as being unavoidable when setting the dates for meetings in 2013/14 given other scheduling clashes in the latter half of September.

1.4 Councillor Rusling , representing London Borough of Waltham Forest, was unable to attend the first meeting of the Authority since his appointment at the start of the municipal year. He is also unable to attend the meeting on 26 September 2013 due to another commitment in his role as a Cabinet Member at Waltham Forest.

1.5 As the Councillors cannot attend the meeting of the Authority on 26 September 2013 for the unavoidable reasons noted above and given the next meeting is not until 12 December 2013, failure to grant an extension would result in their absences going beyond the six month period and lead to them being disqualified.

2. Conclusion

2.1 That the North London Waste Authority is RECOMMENDED to agree an extension of Councillor Cohen's and Councillor Rusling's absences until 14th February 2014, the day after the Authority's February meeting. This extension would mean that both Councillors have a further two Authority meetings to meet the attendance requirements.

3. Financial Adviser's Comments

3.1 The Financial Adviser has been consulted in the preparation of this report and has no further comments to add.

4. Legal Adviser's Comments

4.1 The Legal Adviser has been consulted in the preparation of this report and has no further comments to add.

Report Ends

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NORTH LONDON WASTE AUTHORITY

At a meeting of the **NORTH LONDON WASTE AUTHORITY** held on **THURSDAY, 12TH DECEMBER, 2013** at 10.00 am in the Committee Room 1, Town Hall, Judd Street, London WC1H 9JE

MEMBERS OF THE AUTHORITY PRESENT

Councillors Meehan (Vice-Chair, in the Chair), Cohen (Vice-Chair), Demirci, Jones, Greening, Rusling, Stafford and Hull

MEMBERS OF THE AUTHORITY ABSENT

Councillors Loakes, Bevan, Blackwell, Bond, Lloyd and Thomas

The minutes should be read in conjunction with the agenda for the meeting. They are subject to approval and signature at the next meeting of the North London Waste Authority.

MINUTES

1. APOLOGIES

Apologies were received from Councillors Bevan, Blackwell, Bond, Loakes, Lloyd and Thomas.

2. DECLARATIONS BY MEMBERS OF PECUNIARY, NON-PECUNIARY AND ANY OTHER INTERESTS IN RESPECT OF ITEMS ON THIS AGENDA

Councillor Cohen declared a non-pecuniary interest in all relevant business as a Member of the London Borough of Barnet, which had sold part of the Pinkham Way site to the Authority.

Councillor George Meehan declared a non-pecuniary interest in all relevant business as a Member of the London Borough of Haringey, the planning authority for the Pinkham Way site.

3. DEPUTATIONS (IF ANY)

There were none.

4. MINUTES

It was agreed that Item 2 of the Minutes be amended to say "...which is the Planning Authority...", rather than "was".

RESOLVED –

THAT subject to the above amendment, the public minutes of the meeting held on 26 September 2013 be approved and signed by the Chair as a correct record.

5. MEMBERSHIP OF THE AUTHORITY, COMMITTEES AND WORKING GROUPS

Consideration was given to the report of the Managing Director.

The Managing Director reported that since the publication of the agenda, Councillor Andy Hull had been appointed by the London Borough of Islington to replace Councillor Richard Watts as one of its representatives on the Authority.

RESOLVED –

- (1) THAT Councillor Andy Hull be appointed to fill the vacancies for Islington Members on the Urgency Committee and the Finance Working Group.
- (2) THAT Councillor Greening be appointed to fill the vacancies for Islington Members on the Planning Working Group and the Recycling Working Group.
- (3) THAT Councillor Thomas be appointed to replace Councillor Cohen on the Finance Working Group.
- (4) THAT Councillor Bevan be appointed to fill the vacancy for a Haringey Member on the Recycling Working Group.

6. EXTERNAL AUDITOR'S ANNUAL AUDIT LETTER TO MEMBERS 2012/13

Consideration was given to the report of the Financial Adviser.

RESOLVED –

THAT the findings and recommendations of the 2012/13 Annual Audit Letter be noted.

7. 2013/14 THIRD BUDGET REVIEW AND 2014/15 BUDGET FORECAST

Consideration was given to the report of the Financial Adviser.

The Head of Finance stated that the Authority was forecast to have a revenue surplus of approximately £11.8m at the year end. This was approximately £6.5m better than forecast in September, with the majority of the improvement due to LondonWaste Ltd's decision to pay the Authority a £4m dividend in December. There had also been reductions in the waste stream and a £1.2m saving due to limited capital programme spending in the current year.

The Head of Finance highlighted that there were a number of contract renewals which would be taking place in 2014/15 as part of the Authority's new strategic direction. As decisions on these matters would be made during 2014 it would be necessary to ensure that the Authority had sufficient resources to fund the costs of these decisions in the coming year. In addition to the 2014/15 base budget assumptions, it was proposed that £5m of the forecast revenue surplus should be retained separately from the Authority's operational budget to be called upon only if required. He stated that any balances not utilised would be available to limit the 2015/16 levy increase.

The net budget requirement for 2014/15 was approximately £0.5m lower than for the previous year. However, due to the lower level of balances that would be available to assist with the funding of next year's budget the levy was forecast to increase by £4.895m (11.7%). In commenting on the scale of the levy increase the Head of Finance advised that in February 2013, assuming balances would not be available, the 2014/15 levy had been forecast to increase by 34.6%.

In response to a question regarding the uneven distribution of the levy between boroughs, the Head of Finance explained that this was mainly due to the year-on-year tonnage changes between boroughs. He undertook to write to Members setting out the reasons for the differences in greater detail.

ACTION BY – Head of Finance

RESOLVED –

- (i) THAT the third review of the 2013/14 revenue budget be noted.
- (ii) THAT the current assessment of the budget and resource requirements for 2014/15 and the proposal to retain revenue balances of £5m (the latter to be used only with the prior agreement of Members) be noted.
- (iii) THAT the proposal to return the earmarked reserve of £1m to revenue in order to support the 2014/15 levy be noted.
- (iv) THAT the levy apportionment arrangements for 2014/15 be noted.

- (v) THAT the issues that would need to be addressed at the 2014/15 budget and levy meeting on 13 February 2014 be noted.

8. CONTRACTS ACTIVITY AND ANNUAL MONITORING REPORT

Consideration was given to the report of the Head of Operations.

The Head of Operations introduced the report. He highlighted that Barnet's co-mingled recycling tonnages were now included within the Authority's Materials Recovery Facility contract and that this had increased tonnage levels. He also highlighted that recycling rates at the seven Authority-run Household Waste and Recycling Centres were now an average of 63%, compared to 59% before the Authority had taken responsibility for them. Finally, he informed Members that the Waste Electrical and Electronic Equipment (WEEE) contract had been extended until the end of 2014 although recent Government changes to the WEEE scheme meant that some of its benefits might be curtailed.

RESOLVED –

THAT the report be noted.

9. RISK REVIEW

Consideration was given to the report of the Managing Director.

The Managing Director stated that the review had updated the High Level risk register following the Authority's decision to end the procurement. A number of procurement risks had been removed and new risks had been added to reflect the extended usage of the Edmonton plant. He stated that the Finance Working Group would be reviewing the full risk register in greater detail at its next meeting.

In response to a question, the Managing Director replied that the Authority would be seeking agreement on a reformatted Inter-Authority Agreement, which would seek to introduce a menu pricing approach. It was envisaged that this would take effect from 2016-17. He stated that boroughs had agreed to the principles and officers hoped that a revised draft agreement would be made available to boroughs in the New Year.

RESOLVED –

THAT the report be noted.

10. NORTH LONDON WASTE PREVENTION PLAN 2014-15

Consideration was given to the report of the Head of Operations.

The Head of Operations briefly introduced the report and highlighted the proposal for the plan's budget to be at the same level as the previous plan.

In response to a question, the Head of Operations explained that the Authority had tried to discuss the issue of packaging with leading supermarkets. However, they often preferred engaging at a national level with organisations such as the Waste and Resources Action Programme (WRAP). However, officers would continue to try and engage with supermarkets on packaging issues.

RESOLVED –

- (1) THAT the proposed themes and resource requirements of the draft 2014-16 North London Waste Prevention Plan, which was currently being developed be approved.
- (2) THAT it be noted that a fully developed 2014-16 North London Waste Prevention Plan would be prepared for the February 2014 Authority meeting.

11. CONSULTATIONS AND POLICY UPDATE

Consideration was given to the report of the Head of Operations.

The Head of Operations explained that from January 2015, authorities would be required to collect waste separately where this was technically, environmentally and economically practicable (TEEP). The Department for the Environment, Food and Rural Affairs (DEFRA) had not yet published UK guidance on how this would be interpreted although this might be available in the New Year. The report also contained responses to consultations on changes to the WEEE system and DEFRA's call for evidence on charging for carrier bags.

The Head of Operations also reported that since the report had been published, there had been a further consultation on the National Significant Infrastructure Planning Scheme. This did not change any of the key thresholds but proposed a number of detailed changes. He sought a further delegation for officers to respond to this consultation if appropriate.

A Member stated that there did not seem to be any research to justify the Government's position on co-mingled recycling and asked what action was being taken nationally to challenge this. The Managing Director stated that this was a difficult area and the Government would not want to lay itself open to further legal challenge with its guidance. There was a risk that individual authorities could be challenged as test cases in this area. The Head of Operations stated that the European Waste Framework Directive did not ban co-mingled collections but stated that source separated would be the default unless it could be shown that co-mingled collections fulfilled the TEEP requirements.

RESOLVED –

1. THAT the updates in relation to the separate collection of waste and WEEE collections (Sections 2 and 3 of the report) be noted;
2. THAT the updates in relation to Haringey's Biodiversity and Open Space Plan (Section 4 of the report) be noted;
3. THAT the officer response to the WRAP Re-use Standard consultation (Section 5 of the report) be approved; and
4. THAT authority be delegated to the Head of Operations in consultation with the Chair to respond to DEFRA's "Call for Evidence: Plastic Bag Charge for England" (Section 6 of the report) and to the "Nationally Significant Infrastructure Planning Regime" consultation.

12. RESIDUAL WASTE STRATEGY

Consideration was given to the report of the Managing Director.

The Managing Director stated that this report provided an outline of the next steps in developing a future waste solution for North London. There would be a further report in 2014 which would set out options for arrangements to take over the existing contract with LondonWaste Ltd once it expired towards the end of 2014. A report would also be prepared for the June/ July 2014 meeting giving further information on the future waste solution.

He also reported that a process was underway to refresh the Authority's advisers and it was expected that this would be finished by February 2014.

RESOLVED –

THAT the report be noted.

13. FORWARD PLAN OF DECISIONS

Consideration was given to the report of the Managing Director.

The Managing Director stated that a report had been added to review standing orders, which would span two meetings as was currently required by the Authority's standing orders. He also reported that the Annual General Meeting might need to be moved to July, given the lateness of the local government elections in May 2014.

RESOLVED –

THAT the report be noted.

14. LOCAL GOVERNMENT ACT 1972 - ACCESS TO INFORMATION

RESOLVED -

THAT the press and public be excluded from the proceedings of the North London Waste Authority on 12TH December 2013 during consideration of the following items on Part II of the agenda, on the basis that, were Members of the public to be present, there would be disclosure of exempt information as defined in Schedule 12A to the Local Government Act 1972, as amended.

Specifically:

Exempt Information Category 1 - Information which relates to an individual: the reason why the public interest favours withholding the information are that the release of such information could constitute or facilitate an unwarranted interference with the individual's privacy.

Exempt Information Category 3 – Information relating to the financial or business affairs of any particular person, including the authority holding that information, and not required to be registered under various statutes: the reasons why the public interest favours withholding the information are that the release of such information would prejudice the Authority's conduct of a commercial operation OR because the disclosure of the information is likely to prejudice the commercial interests of the Authority and organisations engaged in commercial activities as the information related to commercial activities that are conducted in a competitive environment.

Exempt Information Category 5 - Information in respect of which there is a claim to legal professional privilege: the reasons why the public interest favours withholding the information are that the release of such information could prejudice the safeguarding of openness in all communications between client and lawyer and the Authority's ability to ensure access to full and frank legal advice.

15. PRIVATE MINUTES

RESOLVED –

THAT the private Minutes of the meeting held on 26 September 2013 be approved and signed by the Chair as a correct record.

16. GOVERNANCE OF LONDONWASTE LIMITED

Consideration was given to the report of the Managing Director.

RESOLVED -

THAT the recommendations be agreed and noted, as amended by the Authority.

17. RESIDUAL WASTE TREATMENT STRATEGY

Consideration was given to the report of the Managing Director.

RESOLVED –

THAT the recommendations be agreed.

18. POST LONG TERM PROCUREMENT - UPDATE

Consideration was given to the report of the Legal Adviser.

RESOLVED –

THAT the report be noted.

19. ANY OTHER ITEMS THE CHAIR DECIDES TO TAKE AS URGENT

There were none.

The meeting ended at 11.11 am

CHAIR

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MINUTES END