

EAST HERTS COUNCIL

EXECUTIVE – 22 MARCH 2011

REPORT BY EXECUTIVE MEMBER FOR  
COMMUNITY SAFETY AND PROTECTION

5. HERTFORDSHIRE WASTE  
PARTNERSHIP INTER-AUTHORITY AGREEMENT

WARD(S) AFFECTED: ALL

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**Purpose/Summary of Report**

- To request that the Executive recommend to Council to adopt the Hertfordshire Waste Partnership Inter-Authority Agreement.

**RECOMMENDATION FOR DECISION:**

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| <b><u>RECOMMENDATION FOR DECISION:</u></b> |  |
| <b>(A)</b>                                 | <b>The Draft Hertfordshire Waste Partnership Inter-Authority Agreement be recommended to Council for approval.</b> |
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1.0 Background

1.1 The Hertfordshire Waste Partnership (HWP) is set up as a Member Group comprising councillors from the 11 Hertfordshire Authorities. This is supported by an officer structure comprising a strategic 'Directors Group', currently chaired by the Director of Environment from Hertsmere Borough Council; a 'Heads of Waste Group' comprising the senior client officers, giving technical and professional advice to Members; and several operational groups dealing with 'Street Care', Waste collection and disposal issues and 'WasteAware' (waste and recycling promotion and publicity).

1.2 The Partnership has been one of the most successful local authority partnerships in the Country. It developed a County wide Hertfordshire Joint Municipal Waste Management Strategy in 2002 and partnership working has resulted in:

- a) Significant increases in recycling performance; County wide (46% of waste was recycled and composted in 2009/10).

- b) Joint procurement of a wide range of waste related contracts including, abandoned vehicles and re-processing of recyclables materials, generating significant savings for Hertfordshire and this Council.
- c) Successful bids for government funding, the most notable being the £5m received as part of the Waste Minimisation and Recycling Fund, from which all 11 authorities benefited and recycling performance was increased by 11% in two years. Partnership funding recently supported the provision of new recycling boxes and kitchen caddies for the East Herts ARC programme.
- d) High levels of openness and trust with member authorities working to share knowledge and best practice across Hertfordshire and elsewhere.

1.3 The Partnership has had an informal Memorandum of understanding in place since 2002 and a more formal 'Interim Inter-Authority Agreement', which was agreed by East Herts Executive in February 2009.

## 2.0 Report

2.1 Landfill space in the County is running out and it was recognised as part of the development of a new Hertfordshire Municipal Waste Strategy in 2007 that alternatives to landfill would need to be developed in order to make provision for the disposal of Hertfordshire's waste in the future.

2.2 The County Council as the Waste Disposal Authority, in consultation with District Councils, is tendering for a new waste processing facility. This project includes a bid for £115m of Government funding, under the Private Finance Initiative (PFI). The associated PFI contract is likely to have a life of at least 25 years. The project involves the design, build, finance, operation and management of one or more energy from waste treatment facilities. All partner authorities recognised that it would be necessary to demonstrate to DEFRA and potential contractors that there was a formal written commitment to the Partnership and the Joint Waste Strategy, which endorsed the management of shared risks.

2.3 Partner authorities also felt that the development of a full Inter-Authority Agreement provided an opportunity to enhance and

evolve long term working relationships in the delivery of waste services and related arrangements such as consortia contracts.

- 2.4 As partners work more closely together to deliver services efficiently, there is a potential increase in the risk that the action of one authority could have a negative impact upon another. Under the IAA each local authority will continue to have full discretion to provide services as it sees fit but will be required to consult meaningfully with partners about any material changes it is considering. The purpose of this consultation is to ensure that one or more partners fully understand the potential impacts of any decisions they take on the other partners and that there are net benefits to the tax payer overall.
- 2.5 The IAA is also a mechanism by which the Partnership intends to manage the risks inherent in coordinating operational activities between 11 separate authorities. For example, It will give the County Council's waste disposal contractor a degree of certainty about the levels of waste that will be delivered to its plant in the future. It will also put the payment streams between authorities on a more formal basis and thus provide the participating authorities with some confidence of continuity of income streams.
- 2.6 This is particularly important for this Council, which receives significant contributions towards the provision of its services in the form of payments for the amount of waste diverted from landfill (known as the 'Alternative Financial Model'). The IAA therefore acts as a guarantee over the certainty of this funding stream, which makes a significant contribution to the Council's services.
- 2.7 The IAA is intended as a legally binding agreement which confirms previous agreements reached between the County Council and the District Councils regarding funding, collection services, and long term disposal arrangements. By agreeing the IAA the partner authorities will be reaffirming their commitment to strengthening the HWP in delivering value for money waste services for Hertfordshire's residents.
- 2.8 In summary the IAA will:
- provide a detailed framework for the authorities to work in partnership, allowing partners to agree matters not covered by existing provisions;
  - allow the districts to have an input into all waste management related decisions across the two tiers;

- ensure that the partners work together on waste management issues to achieve collective ambitions whilst at the same time making sure the waste treatment facility is able to deliver best value for Hertfordshire's residents;
- formalise coordination and so discourage possible unilateral behaviour which may not be in the interest of the council tax payers of Hertfordshire overall.
- demonstrate to external service providers and DEFRA / HM Treasury that there is a co-ordinated approach to support the final business case underlining the 'deliverability' of the new waste disposal facility. This is an important issue as central government is required to ensure that the PFI Contract is affordable and ultimately that the Partnership is able to offer waste services to the residents of Hertfordshire that are value for money.
- guarantee the 'discretionary' reward payments made to district councils under the Alternative Financial Model.
- give the successful contractor providing the new waste disposal plant some certainty about the future levels of waste it can expect and to plan for any changes. This will help to reduce the risks to the contractor that might otherwise be reflected in higher premiums being priced into the charges paid by the County Council on behalf of Council Tax payers.

2.9 Officers and Members from across the county have worked closely together, on what are complex and challenging issues, to reach agreement on the draft IAA document shown at Essential Reference Paper 'B'. Small adjustments may be required as it is considered through each council's formal approval processes and it is therefore recommended that the Executive Member be given delegated authority to agree minor changes on behalf of the Council.

### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers:

Hertfordshire Waste Partnership – Intermediate Inter-Authority Agreement - Report to Executive (10 February 2009).

Contact Member: Councillor Malcolm Alexander, Executive Member for Community Safety and Protection.

Contact Officer: Cliff Cardoza, Head of Environmental Services, Extn: 1527.

Report Author: Cliff Cardoza, Head of Environmental Services, Extn: 1527.

## ESSENTIAL REFERENCE PAPER 'A'

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| <p>Contribution to the Council's Corporate Priorities/ Objectives<br/><i>(delete as appropriate):</i></p> | <p><b>Fit for purpose, services fit for you</b><br/><i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p><b>Pride in East Herts</b><br/><i>Improve standards of the neighbourhood and environmental management in our towns and villages.</i></p> <p><b>Caring about what's built and where</b><br/><i>Care for and improve our natural and built environment.</i></p> <p><b>Leading the way, working together</b><br/><i>Deliver responsible community leadership that engages with our partners and the public.</i></p>  |
| <p>Consultation:</p>  | <p>There has been extensive consultation between the 11 authorities at both senior officer and Executive Member level.</p>  |
| <p>Legal:</p>   | <p>The Legal Service Manager has been fully involved in the development of the IAA and is satisfied that its content is balanced and reasonable.</p>  |
| <p>Financial:</p>   | <p>There are no additional costs or income to the Council arising from this report. However, the continued receipt of payments under the Alternative Financial Model is conditional upon signing the Agreement. Failure to approve the Agreement would therefore jeopardise this significant income to the Council.</p>   |
| <p>Human Resource:</p>  | <p>There none for this report.</p>  |
| <p>Risk Management:</p>   | <p>The IAA is a legally binding agreement between this Council, Hertfordshire County Council and the other 9 district councils in Hertfordshire. A key requirement of the agreement is to consult with partners when considering significant changes to waste services. This is to ensure that the changes do not disadvantage partners and are in the overall best interest of the Council Tax payer. This requirement could result in additional time needing to be allowed before implementing a decision by this Council on significant changes to waste services. However, Partners meet on a regular basis and this is not expected to present a problem for this Council in practice.</p> <p>While all partners are free to act in the best interests of</p> |

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|  | <p>their residents, a unilateral action by one authority, without consultation, which was demonstrably financially disadvantageous to partners and Council Tax payers overall and could result in the termination of the IAA for that authority, potentially resulting in the loss of AFM funding.</p> <p>The IAA does provide a number of benefits to the Council in the form of protection from loss of recycling income and excessive additional costs from having to travel longer distances to dispose of waste. In this context it represents an important step forward in managing the significant risks associated with operating waste management services.</p> |
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