

East Herts Council Report

Overview and Scrutiny Committee

Date of Meeting: 22 March 2022

Report by: Councillor Graham McAndrew –Executive Member for Environmental Sustainability

Report title: Shared Waste Service Governance Report

Ward(s) affected: All

Summary

- The shared client team for waste services has been in operation with oversight from the Joint Partnership Board for waste since December 2017. This report identifies options around governance of the shared service to support future partnership working and service resilience.

RECOMMENDATIONS FOR OVERVIEW AND SCRUTINY

- (A)** To review and provide comments on the new overarching aim of the shared services and principles outlined in 3.10 and 3.12;
- (B)** To recommend that the Executive endorse the formation of a joint cross party working group. The terms of reference for the working group are outlined in **Appendix A** and the outline work programme is described in 3.19; and
- (C)** To support the proposal to explore the future options for governance of the Shared Waste Service, including consideration of a joint committee consisting of representation by both East Herts Council and North Herts Council.

1.0 Proposal(s)

- 1.1 A new overarching aim of the shared services and principles outlined in 3.10 and 3.12
- 1.2 The formation of a joint cross party working group. The terms of reference for which are outlined in **Appendix A** and the outline work programme described in 3.19
- 1.3 To explore the future options for governance of the Shared Waste Service, including consideration of a joint committee consisting of representation by both East Herts Council and North Herts Council

2.0 Background

- 2.1 East Herts Council (EHC) and North Herts Council (NHC) entered into a Shared Service arrangement in 2017 and a joint contract was let beginning in May 2018.
- 2.2 A Councillor led Joint Partnership Board for waste meets twice per year and monitors the performance of the contract.
- 2.3 The service comprises a 'client' management structure located at the Buntingford Depot and two operational hubs comprising separate management teams and separate workforces for East and North Herts Councils.
- 2.4 The Contractor is responsible for the collection of waste and recycling from approximately 124,000 households and over 1920 commercial customers.
- 2.5 In 2014 the Councils agreed to progress from a Strategic Outline Case to an outline Business Case for the shared service specifically exploring potential additional savings in joint contracts, savings in client overheads including depot

costs, governance and management proposals and jointly agreed policies to form the basis of a joint specification.

- 2.6 Prior to the formation of the shared service client team in December 2017, both Councils made unilateral decisions on the service offering to residents for waste, recycling and street cleansing services which formed the basis of the joint contract with Urbaser.
- 2.7 The independent decision making at each authority led to different decisions being made by North Herts Council and East Herts Council regarding the provision of services to residents, despite an original commitment to joint policies.
- 2.8 In some areas service differences are considered minimal, for example EHC do not permit collection staff to collect side recycling whereas NHC do. However, the most significant at the time was the decision by North Herts Council to charge for garden waste collections and the decision by East Herts Council not to.
- 2.9 In almost all cases differences have led to differing operations, differing administrative requirements and have contributed to differences in recycling performance and/or cost and will contribute to the culture and ethos surrounding the service for each authority.
- 2.10 During changes to services the clients focus will be on one authority where the change is not being made by both, this can mean that resources are unbalanced. Undertaking projects at differing times of the year, for example route optimisation means that no efficiencies were found across the contract and that the client was involved in a protracted project timeline taking away from day-to-day customer queries and proactive educational campaigns which help

manage recycling stream contamination and increase participation in services.

- 2.11 If we were to wholly align service efficiencies could be found in marketing and campaign work, planning consultations and customer enquiries all leading to an increased ability for the client to support the services and increase promotion of both domestic and commercial services.
- 2.12 Administrative efficiencies could be found in the financial management of services, procurement, data reporting, tonnage allocation, invoicing, variation processing, performance management, and complaint handling through standardisation of responses and policies.
- 2.13 As a short summary the list below identifies some examples of areas of the current services which are not aligned.

Public conveniences	EHC part of waste contract	NHC separate contract
Parish Litter picking grants	EHC only	
Commercial clinical waste services	EHC only	
Dual recycling litter bins		NHC only
Separate weekly food waste collection		NHC only
Residual waste collection	EHC 240l black bin	NHDC 180l purple bin
Services at flats		NHC separate weekly food waste
Recycling (Paper and Textiles) Bring Banks	EHC only	
Kerbside textile collections		NHC only

Kerbside battery collections		NHC only
Customer Service	EHC in house	NHC in contract
Garden Waste in sacks	EHC only	
Leaf fall collection		NHC only
Paper Box provision	EHC 45l inner caddy (55l option with optional lid)	NHC 55l box
Extra recycling collection	EHC larger bins policy	NHC collection of 'side' recycling

- 2.14 The lack of alignment in some areas has meant that some operational inefficiencies exist. It is hoped that with further alignment opportunities can be explored for cross boundary working, potentially reducing the carbon impact of the services.
- 2.15 At the moment our contractor has little choice but to run services independently for each authority and although some synergies can be found from a joint contract, such as the sharing of spare vehicle resources, it is not currently possible to fully optimise the collections or administrative processes.
- 2.16 The consistency agenda is a key topic in the government's resources and waste strategy and has so far been the subject of two government consultations. It is clear that there is a driving desire from central government to see consistency across service provision with the primary aim of ensuring that services provided to the public are simple to use.
- 2.17 In other areas the lack of alignment creates additional administrative burdens, which if reduced should ensure that

the client is able to more effectively manage the contract and deliver services.

- 2.18 For example, the client team are currently managing two separate garden waste portals, with two separate pricing structures and differing service delivery models.
- 2.19 Governance of waste services is wholly the responsibility of the individual authorities with the Waste Partnership Board set up to review the performance of the contract and services.
- 2.20 An Inter Authority Agreement (IAA) exists between East Herts Council and North Herts Council which outlines the responsibilities of each party.
- 2.21 This report explores the aim and principles of the shared waste service and how service design should be reviewed and agreed in the future, exploring opportunities related to a joint waste committee.

3.0 Reason(s)

Shared Service Aims and Principles

- 3.1 The shared waste service currently operates as one client team operating two separate service specifications. Although the overall performance of the contract for both authorities is good, operational and administrative efficiencies would exist should further alignment be agreed.
- 3.2 Although administrative efficiencies could be realised in the short and medium term, it is unlikely that genuine operational efficiencies (to the benefit of the Councils) could be realised prior to 2025 when the contract is due for renewal or extension.

- 3.3 Taking a long-term strategic look at where the services need to be in 10-20 years' time and reflecting back on the necessary changes which need to be implemented to ensure the Council reaches these goals will future proof the service, develop the workforce to respond accordingly and promote a culture that focusses on waste minimisation.
- 3.4 A further strategic consideration is the performance level for each strand of the service and whether the councils long-term aim would be to maintain standards or want to meet (or exceed) government targets or performance norms.
- 3.5 In 2020/21 Hertfordshire achieved its highest recycling rate to date with an overall recycling rate of 52.4% with EHC achieving 51.5% and NHC achieving 55.9%.
- 3.6 In terms of national performance NHC is currently ranked 28th and EHC is ranked 87th out of 338 Councils/waste partnerships.
- 3.7 As identified in 3.5 recycling rate performance for both authorities currently differs significantly. Much of this difference is as a consequence of EHC operating residual waste services with a 240L wheeled bin and NHC operating residual waste collections with a 180L wheeled bin, meaning residents are more likely to recycle everything they can. The shared service wishes to develop a mechanism to support services transitioning to alignment in the long term.
- 3.8 In June 2016 the Greater Cambridge Shared Waste Service agreed to the aggregation of recycling and waste performance for official reporting to the Government's national Waste Data Flow system, our current service differences mean this is not possible for EHC and NHC. This change came about after South Cambridgeshire District Council and Cambridge City Council agreed to align services, (South Cambs got rid of their

separate paper box) and this demonstrates how the alignment of services through shared services can lead to wider administrative efficiencies.

- 3.9 In consideration of the ability of EHC and NHDC to align services which differ significantly without significant additional Capital costs it will be necessary to determine the long-term vision, aims and service design rather than only consider immediate and restrictive options for change.
- 3.10 It is therefore proposed that the shared service should operate under the a new overarching aim of, ***'Delivering high quality and well performing services which are both financially and environmentally sustainable.'***
- 3.11 A set of principles is suggested, by which, the shared service should operate and decision making be based, to encompass both EHC's and NHDC's aspirations for the future of the shared service.
- 3.12 The principles proposed are:
- A. Maintain and/or improve service standards through efficient working.
 - B. Achieve service improvements, greater resilience, efficiencies, cost reductions or better performance through service alignment
 - C. Deliver service changes aligned with the government's Resources and Waste Strategy which demonstrate a net environmental benefit
 - D. Work in partnership with contractors to develop and evolve a carbon management plan identifying how operations can deliver year on year carbon savings and move towards services with net zero carbon emissions.

- E. Improve efficiencies and enhance the offering for chargeable waste and recycling services and explore commercial opportunities
- F. Work in partnership with contractors to explore new opportunities to reduce costs and ensure the delivery of financially sustainable services
- G. Providing residents and customers with improved and enhanced online self-serve opportunities delivering any service changes with this in mind
- H. Work in partnership with contractors to improve and modernise working practices and make our services an attractive place to work
- I. Work with the Herts Waste Partnership and other partners to share knowledge, best practice, reduce waste and embed circular economy principles in service delivery.

Resources and Waste Strategy – Service Design

- 3.13 In December 2018 the government released its Resources and Waste Strategy. There have subsequently been a number of government consultations linked to this strategy. The industry is currently waiting for the outcomes of these consultations and any subsequent policy or legislative updates.
- 3.14 Outcomes are expected shortly in relation to these recent government consultations on the Resources and Waste Strategy and it is anticipated that some outcomes will impact on the current services and change the way services will need to be delivered in the future.
- 3.15 The joint waste and street cleansing contract is due for extension or re-procurement for 2025 and it is therefore necessary for the shared client team to develop a new service design and specification for this in the coming months.

- 3.16 In order for the shared client team to develop a service design reflective of the principles set out in 3.12 and which meets the anticipated changes in legislation from the Resources and Waste Strategy, it is proposed to set up a joint cross party working group between EHC and NHC.
- 3.17 Each authority would nominate cross-party members to participate in the working group and help shape the proposals for service design going forward. The Portfolio holders for each authority would also be invited. A report with key recommendations will then either be presented to a potential joint waste committee or respective meetings of the councils' Executive.
- 3.18 A key aim of the joint cross party working group will be to secure further alignment of services which will in turn present operational and administrative efficiencies over the medium and longer term.
- 3.19 The key areas intended for consideration by the working group are proposed as:
- Customer Services
 - Street Cleansing Non-Core Services
 - Street Cleansing Core Services
 - Chargeable Garden Waste Collections
 - Waste and Recycling Non-Core Services, for example textiles collections
 - Waste and Recycling Core Services
 - Chargeable Waste and Recycling Services
- 3.20 Draft terms of reference for the joint cross party working group are attached in **Appendix A**.

Delegated Decision Making

- 3.21 For the 2021/22 financial year both Councils agreed to the alignment of commercial waste and bulky waste charging across the two authorities by discussion and liaison with Executive Members and Chief Finance Officers. This was ratified at Full Council at each authority.
- 3.22 In order to achieve swift aligned decision making in the future it may be necessary to explore opportunities to amend the delegations for Executive Members in some areas to ensure consistency between each Councils decision making processes. However, until wider consideration of opportunities around aligned decision making is explored this is not proposed.

Joint Committee

- 3.23 An alternative to further delegation of decision making to the Executive Members would be to form a joint committee between the two Councils with Members from each authority.
- 3.24 The purpose of the joint committee is to act as a combined decision-making body for a the two local authorities. However, as joint committees do not have separate legal personality, they are not capable of owning assets, employing staff or of being a party to a contract.
- 3.25 One partner authority (often called the 'administering' authority) employs staff, holds assets and enters into any contracts for and on behalf of all of the member authorities. The joint committee can, in effect, act as the client to any contracts with third parties or act as the governing body for a joint staff team, but it will be the administering authority that will enter into contracts or act as the employer.
- 3.26 As well as service design the joint committee could potentially make decisions into the necessary assets needed to operate

services for the benefit of the whole joint service, potentially achieving benefits from economies of scale and more sharing of resources.

- 3.27 It would still be necessary to have and maintain an Inter Authority Agreement (IAA) to ensure that the roles of the administrative authority, the partner authorities and key staff are defined.
- 3.28 In addition, an IAA would identify how risk is allocated to the partner authorities and the provision of indemnities.
- 3.29 The IAA would identify how arrangements for budget setting and adopting business/service plans are made and how costs are to be shared. At the moment this is done separately by each authority with separate financial management systems being administered by the shared client team.
- 3.30 Formal joint scrutiny of executive decisions delegated to a joint committee is not possible under current local government law. This means that the ultimate power of individual authority scrutiny committees to call-in decisions of the joint committee under the provisions of their own constitutions would continue.
- 3.31 In theory, this could lead to a convoluted decision-making process whereby a decision could be called in several times by different scrutiny committees before ultimately coming into force. A possible approach towards joint scrutiny would be for the partner authorities to form a separate joint committee with delegated authority to scrutinise the partnership's decisions and operation.
- 3.32 A less formal alternative would be for the chairs of the relevant scrutiny committees in each partner authority to meet regularly with the aim of keeping local committees up to

speed with the joint committees' activities and help to minimise risk of call-in.

- 3.33 It is common for partnerships to seek to limit the role of the administering authority (in a similar way to current limitations agreed under the current IAA) to strictly administrative duties in order to ensure that, on the substantive strategic, policy and operational service issues, all partner authorities have an influence commensurate with their relative membership of the joint committee. In practice, the administering authority will generally take day-to-day responsibility for HR, finance and legal issues, as well as acting as employer, contracting authority and holder of assets and liabilities on behalf of the partnership.
- 3.34 The membership of the joint committee would need to be agreed but would likely be a number of members appointed by each authority. Voting would normally be in accordance with usual local authority principles of simple majority with chair acting as casting vote.
- 3.35 A key advantage of a joint committee is quicker decision making under a tried and tested model. It ensures that 'key' decisions, as a consequence of them affecting all wards can be heard and decided to ensure the swift implementation operationally mid contract. It would also ensure joint decision making during times of service disruption (such as Covid) can be made jointly and residents across East and North Herts can see consistency in service delivery and resilient business continuity planning.
- 3.36 Almost all decisions regarding the Shared Waste Service could be key decisions as they will most often affect all wards. From time-to-time decisions regarding relatively small changes to service design may be required. For which a decision by the Executive may be considered overly onerous or unnecessary for example where a change does not adversely impact on the

provision of services but may be being made to improve operational performance, service delivery or reduce costs.

- 3.37 Decisions made jointly by committee regarding fundamental service design would ensure the most effective and financially sustainable model is agreed for the shared service and ensure the long-term aspirations of the service are not lost.
- 3.38 In a scenario where a joint committee is formed, this would also open up the opportunity for consideration of a new limited company or Limited Liability Partnership to act on its behalf, rather than establishing a lead/administering authority.

4.0 Alternative Options

- 4.1. To retain existing governance structures, without changes to decision making processes, however this has led to unilateral decisions being made which are contrary to the principles of the shared waste service as outlined in 2.5.
- 4.2. Existing arrangements for governance are informal but underpinned by a legally binding Inter Authority Agreement. The existing Waste Partnership Board has no decision making powers.
- 4.3. The setting up of a Joint Waste Authority would involve the creation of a new local authority concerned specifically with the delivery of prescribed waste functions of the partner authorities. A Joint Waste Authority is a statutory body in its own right and will require an establishment order by the Secretary of State for the Environment, Food and Rural Affairs and for this reason is currently excluded from consideration.

4.4. The current structure retains independent decision making for the Councils and is relatively inexpensive to operate as it fits within the existing committee framework for each authority.

5.0 Risks

5.1 Regardless of the decision making processes agreed; each authority will retain a level of control due to the contribution of the Executive and other elected Members in all scenarios. It is however likely that an element of compromise may be required when certain decisions are being taken and it is therefore necessary to ensure the risks of unfair or unsustainable decision making is mitigated in all options by robust principles set out in the Inter Authority Agreement.

5.2 There may be the risk of a decision being made which is on balance the most advantageous solution for the partnership but may not be the most advantageous solution for an individual authority.

5.3 Risks associated with business continuity should reduce as a consequence of more alignment and a combined workforce to deliver services.

6.0 Implications/Consultations

6.1 Members at the Joint Partnership Board identified concerns that the shared service is not wholly aligned in its operation and administration and requested officers explore mechanisms to facilitate the alignment of services

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

No

Financial

Yes

The revenue implications associated with this report predominantly sit with Committee Services at one of the authorities and the need for the resources and budget to manage an additional cycle of committees, this would be determined, and options discussed with both authorities, should the recommendations be agreed. Other short term revenue implications are considered negligible however in the medium-term alignment of services should see economies of scale in some areas of service provision.

The longer-term influence of changes to decision making may impact on the revenue position for each authority in the future. The principle of maintaining financially sustainable services is therefore paramount.

There are no capital implications associated with this report.

Health and Safety

No

Human Resources

Yes

Current governance arrangements require a level of duplication of work for the shared client team which could reduce in a joint committee scenario. The management of an additional cycle of committees will have resource implications for Committee Services at one authority

Human Rights

No

Legal

Yes

Any proposed changes to the constitution at each Council require approval by Council at NHC and the Executive at EHC. Changes to the constitution regarding charging policies require approval by Full Council.

The Executive may establish a joint committee with the other respective authority to exercise functions of the Executive, and currently only Executive Members may be appointed to the proposed joint committee. Under the Constitution either the Council or the Executive can set up a joint committee. The joint committee may then appoint subcommittees for purposes determined by it. The creation of a joint committee may require Council approval depending on what decision making powers/remit the proposed joint committee will have. Decisions relating to the budget are reserved to Council, therefore if the joint committee will have budgetary control the appointment may have to be made by Council. Meetings of the Committee will be conducted in accordance with the Council Procedure Rules. The Council or the Executive will set out the terms of reference of the joint committee (including any limitations on its powers) upon its establishment, which may be reviewed annually.

Section 101(5) of the Local Government Act 1972 and section 9EA, 9EB and to the extent necessary section 105 of the Local Government Act 2000 permit two or more local authorities to appoint a joint committee to discharge any of their functions jointly.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 **Appendix A** – Draft terms of reference – Cross Party Joint Working Group

7.2 [*2020/21 overall performance - letsrecycle.com*](#)

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