



Knowsley Council

Carl Beer
Chief Executive
Merseyside Recycling and Waste Authority
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17 January 2014

Dear Carl

Joint Recycling and Waste Management Strategy (JRWMS) - Joint Working Consultation

Thank you for your letter dated 7 January 2014. Having considered this alongside the Eversheds legal advice and the Merseyside Recycling and Waste Authority proposed Memorandum of Understanding it appears you are seeking to release the Sinking Fund ("the Fund") back to the MRWA's constituent Waste Collection Authorities whilst securing wider joint working collaboration and as such I have set out Knowsley's views on the points you are seeking clarification on.

One overriding caveat is that we await confirmation of the new Council Tax Referendum rules. This confirmation, expected in the coming weeks from the Government, will clarify the treatment of levies in the calculation of Council Tax increases for Referendum purposes. This may allow the option of releasing the sinking fund through the current levy mechanism which, in our view, would be preferable and reduce any inherent risks and bureaucracy in the proposed Waste Development Fund.

Release of the Sinking Fund

This Council fully supports and welcomes the prompt release of the Fund back to constituent WCAs via a Waste Development Fund which should avoid any implications of the Local Audit and Accountability Bill on the Council's requirement to hold a referendum on its future rates of Council Tax. I understand that the Fund amounts to £28.98m and releasing the Fund on the basis of population means Knowsley will receive £3.209m. I can confirm that this Council would utilise this

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funding for the purpose of delivering its obligations under the JRMWS which it approved on 29 February 2012. Its performance against these, and the use of the fund for this purpose, will be audited and reported in a transparent manner through the Council's established accountability and governance arrangements. Thus, this Council is in support of the establishment of a WDF but does have a number of clarification points which I seek your response to before formal agreement can be given as follows:

- 1) Paragraph 4.14 of the Eversheds advice identifies that MRWA would retain an 'appropriate proportion' of the fund after which the rest would be divided between constituent WCAs. Please advise what is the purpose and financial value of MRWA retaining any of the Fund?
- 2) This Council recognises the contribution that Halton Council brings to the Merseyside and Halton Waste Partnership. Paragraph 4.14 of the Eversheds advice indicates that Halton may share in the distribution of the Fund but this is unclear as in the same sentence it refers to "the proportions with which they have contributed to the fund" and Halton has not contributed to the Fund. As Halton is not a constituent WCA of MRWA and has not contributed to the Sinking Fund I assume that it will not receive any financial benefit from your proposals but please confirm.
- 3) It would be worthwhile for me to understand the implications of basing the Fund release on the total amount of Levy paid by each constituent WCA to the MRWA over the period 2007/08 to 2011/12 to see how this differs to the proposed population apportionment approach. Please provide this information alongside confirmation of the population approach's funding distribution so that my officers can compare the two?
- 4) Following release of the Fund via the WDF please can you confirm your rationale for continuing with the existence of the WDF. It is proposed in the MOU that savings generated within MRWA budgets will be invested in the fund rather than reducing the overall levy costs; what scale would you envisage the fund to be? On what basis would this be released to the constituent WCA's in terms of what it could be used for and the amount? For example, would this also be based on amount of levy paid, population or some other means?
- 5) Paragraph 3.6 of the Eversheds advice refers to the requirement for MRWA to hold a General Fund from which liabilities can be discharged; I understand that the balance of the General Fund stands at £16m. Please can you confirm if this value is necessary to cover the MRWA's liability requirements and what if anything

MRWA intends to do to reduce this balance? Indeed will MRWA consider if part of the General Fund can be released to the WCAs too?

- 6) Paragraph 4.14 of the advice also highlights that a MOU between the MRWA and constituent WCAs and Halton Council would be established as part of the release of the Fund via the proposed WDF. I am unclear as to why there is any need for the MOU to underpin the establishment of a WDF as the MOU has no legal force (as the paragraph headed "Status of Memorandum" refers) and does not appear to have served any real purpose since it was originally drafted in 2005. Indeed, I am not sure that it was ever completed; perhaps you could clarify this point. In contrast the Partnership does have a well established governance and reporting structure aligned to the delivery of the JRWMS and is a sufficiently robust foundation against which I assume the WDF could be established. I would therefore welcome your further thoughts on this issue.

Joint Working and Collaboration

Your legal advice from Eversheds and accompanying letter both refer to joint working and collaboration – in particular the Eversheds advice is largely directed to this issue. This is clearly a key component of the release of the Fund given the need to ensure that this money is used to deliver the JRWMS. However, the focus on this element of joint working seems to be the headline component of the MWRA proposals but also encompasses a much wider consideration of future joint working arrangements between MRWA, its constituent WCAs and their respective future roles in the delivery of the JRWMS.

These issues are not referred to in your letter but are articulated at length in your legal advice at "Section 5: Models for Collaborative Working". Whilst this Council is certainly not opposed to considering such matters and welcomes closer working between public bodies in the Liverpool City Region, and indeed has sought to champion them within the Partnership, options for establishing a company or joint board to facilitate a new model of partnership working spanning waste disposal and collection functions should be considered fully by the constituent WCAs and reported as a standalone matter with appropriate and agreed recommendations. This issue should not be linked to the immediate need to release the Fund, which in turn should not be seen as a precursor to any such arrangement should the constituent WCAs endorse the MRWA proposal to establish a WDF.

Waste Development Fund

In response to the four points from your letter that you seek clarification I respond as follows:

- 1) *That your Authority is best placed to determine the precise nature and timing of investment in Waste Collection systems in order to maximise your Authority's contribution to JRWMS targets.*

This Council agrees that it is best placed to make this judgement and will continue to work collaboratively within the Partnership to ensure its full contribution to delivering the JRWMS.

- 2) *That having considered the legal advice and proposals for the creation and distribution of the development fund that your Authority has no objections to the proposal, should it be implemented.*

This Council fully supports the release of the Fund in a timely manner via a WDF, subject to a satisfactory response to the issues I have raised regarding the Fund and my comments on any joint working proposals. There is the overriding caveat discussed above that we currently await confirmation of the new Council Tax Referendum rules. This confirmation, expected in the coming weeks from the Government, will clarify the treatment of levies in the calculation of Council Tax increases for Referendum purposes. This may allow the option of releasing the sinking fund through the current levy mechanism which, in our view, would be preferable and reduce any inherent risks and bureaucracy in the proposed Waste Development Fund.

- 3) *That it is a matter for your Authority to determine the immediate and on-going impact and risks of the distribution of the WDF on your District's funding arrangements.*

This Council confirms that this is for the Council to determine

- 4) *That as part of MRWA's on-going accountability for the use of the WDF that your Authority would be prepared to commit to the revised MOU attached which represents an updated version of the existing MOU with the additional mutual reporting requirements.*

The MOU is not something that this Council regards as necessary for the release of the Fund given the existing governance and reporting mechanisms in place.

Thank you for presenting these proposals for consultation and I look forward to your response in due course. In the meantime if you would like to discuss this letter or require further information please contact John Flaherty, Director of Neighbourhood Delivery or James Duncan, Director of Finance and Information Technology.

Yours sincerely

A handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above the printed name.

SHEENA RAMSEY
Chief Executive