

JOINT WORKING CONSULTATION RESULTS**WDA/02/14****Recommendation**

That:

1. Members note the outcome of the consultation with Districts; and
2. Members delegate Authority to the Chief Executive to conclude minor drafting changes to the Memorandum of Understanding (MOU) and sign following signing by all Districts; and
3. Subject to signing of the MOU by all constituent Districts and MWDA, Members delegate authority to the Treasurer to re-designate the Sinking Fund as the "Waste Development Fund" (WDF) and make arrangements with District Treasurers for distribution of the fund as proposed in Appendix 4 early in the municipal year 2014-15.

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JOINT WORKING CONSULTATION RESULTS**WDA/02/14****Report of the Chief Executive****1. Purpose of the Report**

- 1.1 To inform Members of the outcome of the formal consultation with the Districts regarding Joint Working agreed by Members (WDA49/13) (Appendix 1.)
- 1.2 To draw Members attention to the Legal advice received in respect of Joint Working (Appendix 2).
- 1.3 To seek Members approval to enter into the revised Memorandum of Understanding (MOU) (Appendix 3).
- 1.4 To seek Members approval to re-designate the Authority sinking fund of £28.9 million as a Waste Development Fund.
- 1.5 To seek Members approval for the distribution of the Waste Development Fund in accordance with the proposal detailed at Appendix 4.

2. Background

- 2.1 Members agreed that, subject to the signing of the Resource Recovery Contract (RRC), District Councils would be formally consulted on Joint Working Proposals and the consequential re-designation and release of the Authority's sinking fund. (WDA 49/13).
- 2.2 The RRC was signed on the 23rd of December 2013 thereby substantively completing the Authority's procurement strategy. The principal contracts that are now in place are:
 - The RRC - 30 years with a 5 year extension expires December 2048
 - The WMRC - 20 years with a 5 Year extension expires June 2034
 - The MWHL Landfill Contract - Expires April 2021
 - The Interim Contract - FCC 1 year Expires Sept 2014
 - The Interim Delegation to GMWDA - 2 years Expires April 2015 plus extension by agreement for 12 months

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- 2.3 As part of the informal consultation process that led to MWDA officers developing the joint working proposal, the Chief Executive worked with constituent District Chief Executives led by Sefton's Chief Executive and Legal Advice on behalf of all Districts was procured (Appendix 2).
- 2.4 When the Authority commenced its procurement programme several years ago, there was a real risk that the costs of future waste solutions would be significantly higher than hoped for. The impact of this would be a 'cliff face' increase in the Authority's Levy. To alleviate the potential impact of the Levy, and with the agreement of Districts, a Sinking Fund was established to provide a means for the Authority to mitigate the impact of the Levy increases. That "Sinking Fund" now stands at £28.9 million and Members agreed in November 2013 WDA 49/13 that these funds would no longer be required for their original purpose, subject to entering into the RRC.

3. Consultation Outcome

- 3.1 Following the signing of the RRC, the Chief Executive formally consulted with the constituent Districts regarding the proposals for Joint Working and the consultation letter and individual responses are detailed at Appendix 1. All but one District had responded prior to the publication of this report and this will be tabled at the meeting should it be received.
- 3.2 A number of clarifications were requested and the Authority response is also included at Appendix 1.
- 3.3 Two Districts whilst not objecting to signing the MOU have suggested that an MOU is not necessary, that existing governance arrangements are sufficient and that an annual letter of assurance would suffice. As detailed in the response, the investment proposed by MWDA is significant and MWDA members need to satisfy themselves with the commitment that Districts are making to each other and MWDA to warrant the investment. The suggestion that the letter of assurance alone should replace the MOU is not recommended as this leaves the Authority with an obsolete MOU and with no collective reaffirmation of commitment to the JRWMS objectives in which MWDA are investing. However, the MOU can be usefully strengthened by also including an annual letter of assurance.

4. Delivery of Joint Recycling and Waste Management Strategy (JRMWS) Targets and MWDA Objectives

- 4.1 Having now procured the contractual arrangements detailed at 2.2 above, MWDA has to consider, as part of its “Best Value “ approach, how the Contracts , Facilities, Programmes and financial resources of the Authority can be best used to achieve the Authority’s objectives.
- 4.2 MWDA also needs to consider how it can best ensure that the use of its facilities and resources makes the maximum contribution to the JRWMS.
- 4.3 The Authority considered in WDA49/13 that one option to utilise its financial resources would be best achieved if the whole Partnership recognised the expertise and competencies that every Partner District uniquely contributes to the JRWMS. MWDA recognises that local accountability, expertise and the statutory division of responsibilities puts constituent Districts in the best position to deliver this investment.
- 4.4 Therefore, Members agreed to consult on MWDA funding of Joint Working (WDA/49/13) in order to exploit every opportunity towards achieving the challenging JRWMS targets in what are difficult financial times.
- 4.5 The consultation with Districts on the Joint Working proposals has not received any objections. Districts were asked to consider the following: recognising District expertise in Waste Collection, the terms of the MOU, the legal basis of the funding, and the impact on District funding arrangements.
- 4.6 MWDA Members must satisfy themselves that this proposal is an appropriate use of the £28.9 Million fund.
- 4.7 Part of the rationale for Members making the decision to invest is that it is a precondition of the funding that the MOU is signed between the partner authorities. District Councils will be committing to use their best efforts to support the objectives and targets of the Joint Recycling and Waste Management Strategy once the funding is given. In addition, MWDA members will be able to keep abreast of the impact of the joint working funding over time, as the MOU will require annual performance reporting and a letter of assurance back to MWDA on progress towards JRWMS targets.

4.8 Authority Members also have to consider the Authority’s ability to meet its objectives and its contribution to the JRWMS targets. In this regard officers consider that even with the cost pressures of Landfill Tax and maintaining a Levy of an average of zero percentage increase over the next three years, MWDA will exceed its forecast contribution to the JRWMS targets and will be able to continue its award winning Waste Minimisation programme.

5. Risk Implications

5.1

Identified Risk	Likelihood Rating	Consequence Rating	Risk Value	Mitigation
Failure to meet MWDA objectives	1	5	5	Significant investment in contracts and infrastructure, agreed three year levy strategy and the Authority’s other financial reserves
Failure to contribute to achievement of JRWMS Targets	1	5	5	Significant investment in contracts and infrastructure, agreed three year levy strategy and the Authority’s other financial reserves
Failure of Districts to invest in achieving JRWMS targets	2	5	10	Districts have made public commitments to the JRWMS targets; MOU will be signed requiring reporting to MWDA, Statutory obligations on District act as a

				backstop to performance.
Legality of proposal Failure	1	5	5	Legal Advice obtained and all Districts have reviewed and not raised concerns

6. HR Implications

6.1 There are no HR implications associated with this report.

7. Environmental Implications

7.1 The achievement of JRWMS targets and investment in sustainable waste management are the principal mechanisms by which MWDA can impact positively on the environment. This proposal makes a significant financial investment in both these areas.

8. Financial Implications

8.1 The Authority decided at its November 2013 meeting that the “sinking fund” was no longer required for its original purpose subject to achieving financial close and the signing of the RRC. Financial Close was achieved on 23rd December 2013 and the RRC has now been signed.

8.2 The Treasurer has confirmed that with the current proposed increases in landfill tax and reserves other than the “sinking fund”, the Authority can deliver a three year average of zero percentage increase in the Levy, in terms of the medium term levy strategy.

8.3 MWDA objectives and contribution to JRWMS targets can be met within this proposed funding envelope.

8.4 Subject to Members agreement, the “sinking fund” will be re-designated as the Waste Development Fund and, by agreement with District Treasurers, the MWDA Treasurer will be able to make arrangements for the distribution of the £28.9 million early in the new financial year.

8.5 Recognising the public accountability and expertise of Districts, it is not proposed that MWDA places unnecessary restrictions on Districts in respect of the investments they may make under the Waste

Development Fund. However, the use of the Waste Development Fund is a significant strategic move. Therefore, it is recommended that the funding is divided in proportion to population as this best reflects the scale of the waste challenge faced by Districts. It is also recommended that an MOU is signed by all partners, and includes a requirement to provide an annual letter of assurance and report back to MWDA as to investment in waste management arrangements and progress towards the JRWMS targets.

9. Conclusion

- 9.1 The Authority no longer needs to hold a sinking fund and has taken appropriate legal advice (jointly commissioned advice on which all parties can rely) and consulted constituent Districts on the use of the funding to further the objectives of the JRWMS. There is unanimous District Support for the proposal.
- 9.2 The Authority can distribute a Waste Development Fund to Districts to support the delivery of the JRWMS.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.