

**TO: JOINT WASTE DISPOSAL BOARD
23 JULY 2009**

**JOINT WASTE DISPOSAL BOARD – JOINT WASTE AUTHORITIES
Report by the Project Director**

1. INTRODUCTION

- 1.1 The Local Government and Public Involvement in Health Act 2007 sets out powers to allow for the establishment of Joint Waste Authorities (JWA).
- 1.2 The creation of a JWA brings with it some facilities or freedoms which can help the re3 councils to work effectively and achieve service improvements and to share common burdens. This report describes the likely characteristics of a JWA for waste disposal with specific reference to, and discussion of, the potential benefits for the re3 councils.
- 1.3 As agreed by the Joint Waste Disposal Board on the 25 June 2008, the re3 Authorities made a non binding expression of interest in applying to establish a JWA during the summer of 2008.
- 1.4 Early in May 2009, Officers in consultation with the Chairman and Vice Chairman agreed to postpone any application to form a Joint Waste Authority pending a decision by the Joint Waste Disposal Board.

2. RECOMMENDATIONS

- 2.1 **That Members agree to send a letter to DEFRA confirming the decision not to progress with an application to create a Joint Waste Authority for the re3 councils.**
- 2.2 **That Members also agree to note that, in the event that the situation changes, a further report will be brought back to allow this issue to be reconsidered.**

3. SUPPORTING INFORMATION

Background

- 3.1 Waste management is one of the most significant costs to the council budget and, largely through the collection element, has one of the highest service profiles. The pressure to provide a robust future for waste disposal, was the major driver to the establishment of re3 and the PFI bid.
- 3.2 Through the work leading to our joint PFI contract for waste management we have evidenced how partnerships can achieve results that may otherwise be beyond a single local authority. However, whilst we are acting as one, in legal terms we remain 3 waste organisations and have to act accordingly.
- 3.3 Realising, to the fullest extent possible, all the benefits afforded to the councils by the PFI contract and their own partnership will require closer working.

- 3.4 In May 2009, DEFRA requested and subsequently received some specific legal advice from their in-house lawyers on the consultation process required as part of any application to form a Joint Waste Authority.
- 3.5 Previously the councils had been planning a relatively broad consultation which, given the anticipated lack of understanding on the part of residents and many stakeholders about what a JWA is, would seek to inform and test opinion of the general principals of councils partnerships.
- 3.6 The DEFRA legal advice suggested that a far longer consultation process was necessary than had been apparent from the published Guidance, in discussions with DEFRA themselves or as a result of the re3 councils successful bid for DEFRA Seedcorn Funding to support the consultation process.
- 3.7 It requires that the full application be made available for consultation and requires the application to show how responses to the consultation have been addressed within it. On first consideration this appears to be a bit 'chicken and egg'.
- 3.8 What is being expected, however is an iterative process in which the application is available for comment so that those with a keen interest can learn about the proposed JWA, see how it would work and make an informed opinion. They would then be able to make suggestions, complaints or comments which the councils would need to address before finally concluding the application and putting it before the appropriate Minister.
- 3.9 The longer process is, in DEFRA's view, the most appropriate way of consulting on the JWA application process and would certainly be consistent with the re3 councils desire to take residents with them in any development towards a JWA.
- 3.10 The original council approach and the new advice are not incompatible and indeed we have been liaising with DEFRA to develop a two-stage model where both the less interested and the keenly interested residents in any prospective JWA area are captured by a consultation
- 3.11 The problem for the councils was in terms of the additional time and resource that this elongated and iterative process would have tied-up. This is particularly in respect of workload with, as one example, both Bracknell Forest and Wokingham Boroughs due to begin re-tendering their refuse collection services over the next year or so.
- 3.12 With that in mind, and soon after the legal advice from DEFRA was received, Officers agreed with the Chairman and Vice Chairman that it would be best to pull back from entering into the first stage of our planned consultation.
- 3.13 Officers have carried on a dialogue with DEFRA as to the decision of the councils but that should now be confirmed by the Joint Waste Disposal Board.

Next Steps

- 3.14 Without making any commitment at this time, Officers would like to explore other options for advanced partnership working where they can contribute to capacity building, robust management of the PFI or our other waste contracts and potential savings.

3.15 Officers will seek to draw-up proposals and where appropriate businesses cases for developments in the council partnership and bring them to future JWDB Meetings for consideration.

BACKGROUND PAPERS

Report to Joint Waste Disposal Board 18th June 2008

Progress Report to Joint Waste Disposal Board 30th September 2008 (specifically paragraphs 3.21 to 3.25)

Report to Joint Waste Disposal Board 17th December 2008

Report to Joint Waste Disposal Board 18th March 2009

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