

Leader Decision-Making Session

Agenda

Friday 25 June 2010

The Leader Decision Making Session will be held at Shire Hall, Warwick **on Friday 25 June 2010 at 9.00 a.m.**

The agenda will be:

1. General

(1) Members' Disclosures of Personal and Prejudicial Interests.

Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the item (or as soon as the interest becomes apparent). If that interest is a prejudicial interest the Member must withdraw from the room unless one of the exceptions applies.

Membership of a district or borough council is classed as a personal interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.

(2) Minutes of Decision Making sessions held on 28 January 2010, 9 April and 18 May 2010

2. Appointments and Delegations required to proceed with the Inter Authority Agreement for the W2R Energy from Waste Programme led by Staffordshire County Council

3. Any Other Items

Any other items the Leader considers are urgent.

JIM GRAHAM
Chief Executive
Shire Hall
Warwick
June 2010

Councillor Alan Farnell (Leader of the Council and Chair of Cabinet)
cllrarnell@warwickshire.gov.uk

General Enquiries: Please contact Jane Pollard, Democratic Services Manager,
Tel 01926 412565 or email: janepollard@warwickshire.gov.uk

Minutes of Leader Decision Making Session held on 28 January 2010

Present:

Councillor Alan Farnell (Decision maker)

Councillors in attendance: John Appleton, Sarah Boad, Richard Chattaway, Alan Cockburn, Ron Cockings, Jose Compton, Julie Jackson, Peter Fowler, Carol Fox, Colin Hayfield, Martin Heatley, Richard Hobbs, Barry Longden, Frank McCarney, Brian Moss, Tim Naylor, Jerry Roodhouse, Chris Saint, Izzi Seccombe, Martin Shaw, Bob Stevens, Ray Sweet, June Tandy, Heather Timms, Sid Tooth, John Whitehouse and Chris Williams.

Officers: David Carter, Strategic Director of Customers, Workforce & Governance
Janet Purcell, Executive and Member Support Manager

1. General

(1) Members Declarations of Personal and Prejudicial Interests

None.

(2) Minutes of the meeting held on 16 October 2009

Resolved

That the minutes of the meeting held on 16 October 2009 be approved as a correct record

2 Review of Appointments to ESPO Management Committee

The Leader considered a report of the Strategic Director of Customers, Workforce and Governance explaining that the constitution of the ESPO Management Committee now allowed each authority in its membership to appoint three councillors with one vote each. Voting substitutes were also allowed. The Leader considered the appointment and agreed that membership be one from each of the political groups.

Resolved

That the following appointments be made to the ESPO Management Committee:

Three voting members: Councillors Martin Heatley, Tim Naylor and John Whitehouse.

Three substitute members: to be advised

Draft

3. Any other items

None.

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Leader

The meeting rose at 14: 52

Minutes of Leader Decision Making Session held on 9 April 2010

Present:

Councillor Alan Farnell (Decision maker)

Councillors in attendance: Richard Chattaway

Officers: Jane Pollard, Democratic Services Manager

1 Members Declarations of Personal and Prejudicial Interests

None.

2 Changes to Delegations Officers

Urgent Decision –this decision takes immediate effect.

The Leader considered a report of the Strategic Director of Customers, Workforce and Governance asking the Leader to revise the delegations to officers to reflect the new officer structure. Jane Pollard explained that with the departure of Graeme Betts the former Strategic Director of Adults Health and Community Services, revised officer management arrangements had been made. The purpose of the report was to revise the delegations in accordance with the new arrangements and to ensure there was no break in delegation, particularly as the Director of Adult Social Care Services was a statutory post.

Councillor Chattaway commented that this decision appeared to be somewhat late having been advised that the arrangements were to take place from 1 April 2010, and there had been no opportunity for member scrutiny of the proposed new management arrangements. He wished to know whether there was any intention to remove the Adult Social Care Directorate and when members might be informed of the proposals for Library transformation.

Councillor Farnell in response clarified that the revised management arrangements had taken effect from 1 April 2010. This decision was to revise the delegations to accord with those changes. David Carter Strategic Director of Customers, Workforce and Governance was now responsible for Library Transformation and it was expected there would be a report to members before the end of the year. Councillor Farnell considered that it was important that the Library Service was located with the work being done by that directorate in relation to 'one front door'. In respect of adult social care there was no intention to remove the directorate, an interim director had been appointed to review our current way of working and the interface with joint working. Councillor Farnell considered that was better done with the Libraries, Heritage and Museum Services located under separate management arrangements. He considered that the new arrangements were an appropriate and sensible solution.

Resolved

That the revised officer delegations set out in the Appendices A to C are approved

3. Any other items

None.

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Leader

The meeting rose at 10: 05am

Minutes of Leader Decision Making Session held on 18 May 2010

Present:

Councillor Alan Farnell (Decision maker)

Officers: Jane Pollard, Democratic Services Manager

1 Members Declarations of Personal and Prejudicial Interests

None.

2 Changes to Executive Arrangements

Resolved

That the executive arrangements are amended as set out in the attached Appendix

3. Any other items

None.

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Leader

The meeting rose at 2: 06pm

Appendix

Changes to Executive arrangements

- (a) That the executive delegations to Area Committees and officers remain unchanged and
- (b) That subject to the following amendments the delegations of executive powers set out in Part 2 section 4 remain unchanged:
- (1) In addition to those matters already identified the Leader reserves to himself responsibility for Corporate Policy and Planning and Performance.
- (2) That the specific responsibilities of Portfolio Holders set out in Part 2 Section 4.2 and the appointments to those portfolios are as follows:

Lead Portfolio Holder- Children Young People and Families

Councillor Heather Timms

All services to children and young people from 0-19 years, including Primary and Secondary Schools, pre school children, 16-19 years education, Connexions and the Learning and Skills Council. Also those responsibilities prescribed in the Children Act 2004 including child protection, family support and social care, children with specific needs, and the Youth Service.

Lead Portfolio Holder- Adult Social Care

Councillor Izzi Seccombe

The development of social care services to adults including the delivery of social care to older people and people with disabilities, policies and services for safeguarding adults and community education.

Lead Portfolio Holder- Environment and Economy

Councillor Alan Cockburn

Environment, transport and highways, waste management, tourism and sustainability, general oversight of the Environment and Economy directorate and overall responsibility for those areas overseen by the Support Portfolio Holder Economy and Housing.

Support Portfolio Holder- Economy and Housing

Councillor John Appleton

Providing support to the Lead Portfolio Holder Environment and Economy particularly focussing on economic regeneration, narrowing the gaps, employment and skills, strategic housing and planning and any matter referred by the Lead Portfolio Holder.

Lead Portfolio Holder- Resources

Councillor Martin Heatley

Effective use of resources including strategic finance, property and facilities management, information technology, and building schools for the future.

Lead Portfolio Holder Customers, Workforce and Partnerships

Councillor Colin Hayfield

Customer services, Libraries, Heritage services, Shared services, Partnerships and general oversight of the Customers Workforce and Governance Directorate and the Performance and Partnerships Unit. Overall responsibility for those areas overseen by the Support Portfolio Holder Workforce and Governance.

Support Portfolio Holder Workforce and Governance

Councillor Peter Butlin

Providing support for the Lead Portfolio Holder Customers, Workforce and Partnerships focussing on Workforce and Governance including communications, human resources, legal, governance, including school governance, Locality Services including the voluntary and community sectors, and equalities and any matter referred by the Lead Portfolio Holder.

Lead Portfolio Holder – Community Safety

Councillor Richard Hobbs

Community safety, including, road safety, fire and rescue services, emergency planning, trading standards, crime and disorder reduction, drugs and alcohol, policing and criminal justice.

Lead Portfolio Holder – Health (Deputy Leader)

Councillor Bob Stevens

Relationships and service delivery with Health Commissioning agencies and providers so as to ensure delivery of social care services. Joint commissioning of health and social care. Support to the Leader.

(3) That the general powers previously delegated to Portfolio Holders are now delegated to Lead Portfolio Holders (does not include Support Portfolio Holders) with the following amendment

- To approve proposals for consultation

(4) The delegation of powers to Support Portfolio Holders shall be as follows

A Support Portfolio Holder has the following powers in so far as it falls within the terms of reference of his/her specific support portfolio and subject always to the right of his/her Lead Portfolio Holder or the Leader to decide to take a particular decision his/herself

- To approve bids for external funding.
- To write off irrecoverable sums in excess of £2000 and below £50,000
- To agree responses to consultation papers
- To approve proposals for consultation

(5) The specific powers delegated in Part 2 section 4.4 remain the same except that the specific powers previously delegated to the Portfolio Holder Environment and Portfolio Holder Economic Development shall be delegated to the Lead Portfolio Holder Environment and Economy.

AGENDA MANAGEMENT SHEET

Name of Committee	Leader
Date of Committee	25 June 2010
Report Title	Appointments and Delegations Required to Proceed with the Inter Authority Agreement for the W2R Energy from Waste Programme led by Staffordshire County Council
Summary	This report outlines the various appointments and delegations required to proceed with the Inter Authority Agreement, which the Council is required to enter into in order to proceed to the next stage of PFI procurement process, i.e. commercial and financial close. Approval to enter into the Inter Authority Agreement was given by Cabinet on 27 May 2010.
For further information please contact	David Whitehouse Project Manager Tel. 01926 412961 Davidwhitehouse@warwickshire.gov.uk
Would the recommended decision be contrary to the Budget and Policy Framework?	Yes/No
Background Papers	Inter Authority Agreement (IAA) Schedule 2 and Schedule 3.

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

Other Committees

- Report to Cabinet of 31 July 2008 entitled "Partnership Working with Staffordshire County Council Project W2R – Affordability and Procurement"
- Report to Cabinet of 30 July 2009 entitled "Review of Affordability Position of W2R Energy from Waste Programme led by Staffordshire County Council"
- Report to Cabinet of 28 January 2010 entitled "Approval to proceed with an Inter Authority Agreement for the W2R Energy from Waste Programme led by Staffordshire County Council"
- Report to Cabinet of 27 May 2010 entitled "W2R Energy from Waste PFI Project – project affordability, and arrangements for contract closure and execution".

Local Member(s)
(With brief comments, if appropriate)

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Other Elected Members

- Councillor M Doody } for information
- Councillor R Sweet }
- Councillor J Whitehouse }

Cabinet Member
(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

- Councillor A Cockburn
- Councillor A Farnell

Chief Executive

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Legal

- S Burrell } comments incorporated
- M Meeraus }
- J Pollard }

Finance

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Other Chief Officers

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District Councils

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Health Authority

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Police

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Other Bodies/Individuals

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FINAL DECISION

YES/NO (If 'No' complete Suggested Next Steps)

SUGGESTED NEXT STEPS :

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

Leader – 25 June 2010

**Appointments and Delegations Required to Proceed with the
Inter Authority Agreement for the W2R Energy from Waste
Programme led by Staffordshire County Council**

**Report of the Strategic Director for
Environment and Economy**

Recommendation

That the Leader: -

1. Delegates to Staffordshire County Council the power to appoint an Authority Representative to take the decisions detailed in Schedule 3 of the Inter Authority Agreement on behalf of Warwickshire County Council.
2. Appoints the Lead Portfolio Holder Environment and Economy as Warwickshire's Elected Member on the Contract Management Board and from time to time any other Lead/Support Portfolio Holder to act as his deputy in the event the Lead Portfolio Holder Environment and Economy is unavailable.
3. Appoints the Strategic Director of Environment & Economy or his nominee to act as Warwickshire's Officer Representative on the Contract Management Board and delegates to the Strategic Director Environment or his nominee to appoint an Officer to act as his deputy in the event the Strategic Director of Environment and Economy or his nominee is unavailable.
4. Delegates to the Lead Portfolio Holder Environment and Economy and any other Lead/Support Portfolio Holder who may from time to time act as his deputy, Strategic Director of Environment & Economy and Officers appointed to the Contract Management Board the powers to take the decisions detailed in Schedule 3 of the Inter Authority Agreement on behalf of Warwickshire.

1. Introduction

- 1.1 On 31 July 2009, Cabinet noted the updated affordability position and reaffirmed Warwickshire County Council's commitment to the W2R Energy from Waste Programme (Project W2R) led by Staffordshire County Council (SCC).
- 1.2 A 28 January 2010 report to Cabinet outlines the Inter Authority Agreement (IAA) between SCC and its partners: Warwickshire County Council, Sandwell Metropolitan Borough Council and Walsall Metropolitan Borough Council to be agreed in order to proceed to the next stage of the PFI procurement process i.e. final affordability approval (for Full Business Case).

- 1.3 On 27 May 2010, Cabinet approved the final affordability of the Project W2R Full Business Case and Warwickshire County Council's entry into the Inter Authority Agreement (IAA).
- 1.4 Finalisation and signing of the IAA is now imminent, hence this report to the Leader, referred to in both the 28 January and 27 May 2010 as a future requirement.

2. The Inter Authority Agreement

- 2.1 The IAA is based on a Defra model and takes into account the constitutional requirements of all partner authorities. It is a legally binding agreement, in which the partners' cost and risk allocations, general liability and contract management arrangements are set out.
- 2.2 The IAA is drafted to mirror the Project Agreement, to be entered into by SCC with the contractor. It requires all partners to adhere to stated key principles and objectives, such as acting in the best interests of the project, knowledge sharing, co-operation and mutual assistance. The IAA will remain in force until the expiry or earlier termination of the Project Agreement.
- 2.3 The IAA provides for certainty in relation to decision-making and specifies who may take what decisions. For example, certain decisions are reserved to the partner authorities to take, whilst others are reserved to those appointed to the Contract Management Board established by the IAA, or to SCC or to the Authority Representative, who is to be appointed by SCC to liaise with the contractor on behalf of the partner authorities in regards to general contract management and monitoring.
- 2.4 As indicated above, the IAA establishes a Contract Management Board (CMB) with the purpose of overseeing and implementing the delivery of Project W2R. Schedule 2 of the IAA sets out the CMB's constitution, detailing its terms of references and functions.
- 2.5 Schedule 2 of the IAA provides that each partner authority shall appoint one Officer and one Elected Member to represent it on the CMB. Schedule 2 further provides that the Elected Member to be appointed should be the relevant portfolio holder, in this case Portfolio Holder Environment. The term of appointment is the term of office. Each partner authority is further entitled to appoint a Deputy to attend CMB meetings in the absence of his her corresponding principal. Schedule 2 requires the deputy Elected Member to be another Portfolio Holder.
- 2.6 This report does not explain how costs and risks are allocated between the partners pursuant to the IAA as these areas are explained in more detail in the reports to Cabinet of 28 January and 27 May 2010.
- 2.7 Staffordshire County Council is hoping to sign and seal the Project Agreement with the Project W2R preferred bidder, Veolia on 21 July. The IAA will need to be signed simultaneously or on the same date.

3. Required Appointments Approvals Delegations

- 3.1 The following appointments approvals and delegations are required in relation to the IAA:
- 3.2 Delegation to Staffordshire County Council the power to appoint an Authority Representative to take the decisions detailed in Schedule 3 of the Inter Authority Agreement on behalf of Warwickshire (see Schedule 3 attached).
- 3.3 Appointment of the Lead Portfolio Holder Environment and Economy as Warwickshire's Elected Member on the Contract Management Board and from time to time any other Lead/Support Portfolio Holder to act as his deputy in the event the Lead Portfolio Holder Environment and Economy is unavailable.
- 3.4 Appointment of the Strategic Director of Environment and Economy or his nominee to act as Warwickshire's Officer Representative on the Contract Management Board and delegation to the Strategic Director Environment and Economy or his nominee the power to appoint an Officer to act as his deputy in the event the Strategic Director of Environment and Economy or his nominee is unavailable.
- 3.5 Delegates to the Lead Portfolio Holder Environment and Economy and any other Lead/Support Portfolio Holder who may from time to time act as his deputy, Strategic Director of Environment and Economy and Officers appointed to the Contract Management Board the powers to take the decisions detailed in Schedule 3 of the Inter Authority Agreement on behalf of Warwickshire.
- 3.6 The Contract Management Board can take decisions in relation to the following:-
 - (i) Issue of an Authority Change Notice (under Project Agreement).
 - (ii) Approval of a Contractor Change Notice (under Project Agreement).
 - (iii) Agreeing the consequences of a Qualifying Change in Law.
 - (iv) Any waiver of any breach by the Contractor of the Project Agreement.

4. Conclusions

- 4.1 As outlined in the Cabinet report of 30 July 2009, Defra and the Treasury's Projects Review Group (PRG) require partner authorities to demonstrate their commitment to the Project W2R operationally and financially by agreeing an IAA. All partner authorities have sought and obtained approval by their respective Cabinets to enter into the IAA. Given Warwickshire's constitutional arrangements, in addition to the reports to Cabinet of 28 January and 27 May of this year, we have dealt with the appointments and delegations required from the Leader in this report.

PAUL GALLAND
Strategic Director for Environment and Economy
Shire Hall
Warwick

17 June 2010

PROJECT W2R – INTER AUTHORITY AGREEMENT

SCHEDULE 3

REQUIRED APPROVALS

Nature of action / decision required	Category (as referred to in clause Error! Reference source not found.)
Appointment of the Authority's Representative	Staffordshire Matter
General contract management, assessment and implementation of KPIs, daily contract monitoring	Authority's Representative
Review and commenting on/approval of Submitted Items pursuant to the Review Procedure	Staffordshire Matter
Agreeing extensions of time, relief from obligations and/or compensation as a result of Compensation/Relief Events	<p>Staffordshire Matter, save that:</p> <p>(a) Staffordshire shall notify the Partners as soon as reasonably practicable upon becoming aware of any such matter; and</p> <p>(b) where one or more of the Partners considers that the matter in question should be referred to either the Contract Management Board or the Authorities, that Partner or those Partners shall notify the remaining Authorities within 10 Business Days of receipt of notification from Staffordshire and the matter shall be referred to the Contract Management Board or the Authorities (as appropriate) and the decision shall be taken as a Contract Management Board Matter or a Matter Reserved to the Authorities (as appropriate);</p>
Issue of an Authority Change Notice	Contract Management Board Matter

Nature of action / decision required	Category (as referred to in clause Error! Reference source not found.)
Approval of a Contractor Change Notice	Contract Management Board Matter
Agreeing the consequences of a Qualifying Change in Law	Contract Management Board Matter
Approval of insurers	Staffordshire Matter
Approval of any Reinstatement Plan	Staffordshire Matter
Uninsurability	Staffordshire Matter
Termination for Contractor Default pursuant to clause 62 of the Project Agreement	Matter reserved to the Authorities
Termination for Force Majeure pursuant to clause 64 of the Project Agreement	Matter reserved to the Authorities
Termination for Corrupt Gifts and Fraud pursuant to clause 69 of the Project Agreement	Matter reserved to the Authorities
Voluntary Termination pursuant to clause 70 of the Project Agreement	Matter reserved to the Authorities
Termination for breach of the Refinancing Provisions pursuant to clause 72 of the Project Agreement	Matter reserved to the Authorities
Step-in pursuant to clause 33 of the Project Agreement	Staffordshire Matter
Consent to assignment of the Project Agreement by the Contractor	Staffordshire Matter save that: Staffordshire shall notify the Partners as soon as reasonably practicable upon becoming aware of any such matter.
Consent to sub-contract the Project Agreement by the Contractor	Staffordshire Matter save that: Staffordshire shall notify the Partners as soon as reasonably practicable upon becoming aware of any such matter.

Nature of action / decision required	Category (as referred to in clause Error! Reference source not found.)
All actions and decisions relating to the Dispute Resolution Procedure under the Project Agreement	Staffordshire Matter
Any waiver of any breach by the Contractor of the Project Agreement	Contract Management Board Matter