
WARWICKSHIRE WASTE – OPTIONS APPRAISAL WORKING GROUP

The Warwickshire Waste – Options Appraisal Working Group will meet at the **SHIRE HALL, WARWICK** on **TUESDAY, the 25TH SEPTEMBER, 2007** at **10:00 a.m.**

AGENDA

- 1. Apologies**
- 2. Disclosures of Personal and Prejudicial Interests**
- 3. Waste Options Appraisal Report**
- 4. Date of next meeting**
- 5. Any other business**

JIM GRAHAM
Secretary of the Warwickshire Waste
Partnership.

Shire Hall,
Warwick.

Membership of the Warwickshire Waste Management Forum – Options Appraisal Working Group

North Warwickshire Borough Council – Councillor Peter Fowler

Nuneaton and Bedworth Borough Council – Councillor Geoff. Ashford (for information).

Rugby Borough Council – Councillor Heather Timms

Stratford-on-Avon District Council – Councillor Simon Jackson

Warwick District Council – Councillor Michael Kinson

Warwickshire County Council - Councillors Ken Browne, Eithne Goode and Martin Heatley

General Enquiries on these agenda papers should be made to Jean Hardwick, Performance and Development Directorate, Shire Hall, Warwick CV34 4RR. Telephone 01926 412476 E-mail jeanhardwick@warwickshire.gov.uk

Enquiries relating to specific reports should be made to the officer mentioned in the report

Warwickshire Waste Partnership - 25 September 2007

Joint Waste Committee

Report of the Strategic Directors of Performance and Development and for Environment and Economy

Summary

This report asks the Partnership to agree the key features of a joint committee arrangement with a view to seeking in principle approval from member authorities.

Recommendation

That members of the Partnership be asked to:

- (i) seek the approval of their authorities to the key features of a waste management joint committee; and
- (ii) ask the officers to draft a constitution and related arrangements in consultation with the Partnership Options Working Group for further consideration by the Partnership.

1. Introduction

1.1 At the Warwickshire Waste Partnership in February 2007, Members from five of the six partner authorities agreed to carry out an appraisal of the options for future joint working. The Members agreed to nominate representatives to a working group with the aim that it would report back with proposals in July. However, due mainly to the May Elections, the working group did not meet to consider the options until 16th July.

1.2 Draft minutes of the meeting on 16th July are attached as Appendix A. In brief, the majority of the Working Group expressed a preference for a joint committee but Councillor Jackson, representing Stratford, argued successfully that the option of continuing with the present non-statutory partnership should not be dismissed at this stage. The Working Group asked that a "multiple choice" style paper be prepared to help Members consider the key features of a possible joint committee but agreed that no further development work needed to be carried out for the time being on the option of continuing with a non-statutory partnership. The requested Key Features Paper is attached as Appendix B.

1.3 The Working Group asked their officers to prepare a summary of the Options Paper which they had considered on 16th July. A summary was prepared and

circulated to the Working Group and will be circulated with this report to all members of the Partnership.

1.4 The Working Group agreed to meet again on the morning of 25th September to consider the key features of a joint committee in order to make recommendations to the full Partnership at its meeting in the afternoon. It is intended that the Key Features Paper will be revised over lunch to incorporate the preferences recommended by the Working Group.

1.5 Nuneaton and Bedworth Borough Council chose not to support or participate in the option appraisal. However, at the request of the Working Group, officers wrote to the Borough Council inviting them to join the Working Group now that its direction of travel is clearer. In response, it has been indicated that Councillor Ashford will attend the Working Group on the morning of 25th September with officer support.

2. The Key Features

2.1 There is a large number of possible permutations and an algorithm which attempted to map all possible variations would become impossibly complex. In order to keep decision-making as simple as possible, the Key Features Paper assumes certain features as a given and does not set out all the possible interactions between one decision and another. This means that a degree of “workshop” improvisation may be necessary on 25th September. Similarly, governance arrangements will contain much “boilerplate” about procedures for meetings based on provisions commonly found in local authority standing orders, confidentiality, indemnities, etc. and these are not detailed in the Key Features Paper. In essence, a short and more digestible document has been preferred to a comprehensive but unwieldy one.

2.2 An important assumption made by the Key Features Paper is that the Partnership will want to adopt a process of annual preparation of a Business Plan and Budget for the Joint Committee. The general decision-making powers and associated budgets devolved to the Joint Committee would initially be modest but additional projects and activities and associated funds could be allocated to the Joint Committee by the Business Plan and Budget. The Constitution of the Joint Committee would facilitate this process by including a provision authorising the Joint Committee to exercise any functions of its member authorities necessary to carry out the work allocated to it by the Business Plan.

2.3 This arrangement makes it important to consider carefully the process for approval of a Business Plan and Budget. Any proposal in a Business Plan that calls for additional expenditure or some legal commitment on the part of member authorities will almost inevitably need to be approved by the individual member authorities or at least those affected by the proposal. However, proposals which could be carried out as part of “core” functions, without additional expenditure or legal commitments, might be approved by the Joint Committee alone.

2.4 If approvals are given, the detailed arrangements will comprise a contractually binding agreement between the member authorities dealing with “partnership” matters like funding and lead authority roles and a statutory constitution setting out “governance” matters like the powers and composition of the joint committee and the rules governing the conduct of its business.

2.4 It is hoped to reach a point on 25th September where there is a sufficient consensus on enough key features to seek in principle approvals from the executives of member authorities. If so, the officers will prepare a model report to be used as a basis for seeking such approvals and, in anticipation of approvals being given, start work on drafting a detailed constitution for further consideration by the Working Group and the Partnership and, subsequently, member executives. A suggested timetable is attached as Appendix C.

Enquiries about this report should be made to Ian Marriott, Community and Environment Legal Service Manager, on 01926 412018 and at ianmarriott@warwickshire.gov.uk.

Background Papers

Joint Committee Constitutions for Hampshire, Shropshire, Somerset, Buckinghamshire, Lancashire and Oxfordshire.

DAVID CARTER
Strategic Director of Performance and Development

JOHN DEEGAN
Strategic Director for Environment and Economy

5th September 2007

Appendix A

Extract from Draft Minutes of Options Appraisal Working Group 16th July 2007

Ian Marriott, with the aid of a power point presentation (attached) outlined the partnership options.

Councillor Ken Browne proposed that Option 2, the Joint Committee, should be supported, in principle, as this had many benefits and that approval should be sought from the district/borough councils' Executives on this option. Additionally he suggested that an item by item "multiple choice" style paper be prepared to help Members focus on the key features of detailed arrangements that would need to be adopted to enable this proposal to be moved forward.

Councillor Peter Fowler seconded the proposal.

During discussion the following comments were noted -

- (1) That efforts should be made to encourage Nuneaton and Bedworth Borough Council (NBBC) to join the Working Group and to become part of any future proposal.
- (2) That meanwhile, NBBC should be kept informed of the Working Group's progress and that papers for the meeting should be sent to Alan Farnell (Leader of the County Council), Councillor Dennis Harvey (Leader of Nuneaton and Bedworth BC) and Christine Kerr (Chief Executive, Nuneaton and Bedworth BC)
- (3) That the correct process for agreeing the way forward would be for the Working Group to seek the Warwickshire Waste Partnership (WWP) agreement before seeking borough/district council approval.
- (4) That the majority of Member support was for Option 2, followed by Option 1.
- (5) A Member expressed reservations about Option 2 and suggested that Option 1, a Collaborative partnership, might be more appropriate as this could be accommodated within the Local Area Agreement proposals and would have no set up costs. The same Member asked for an executive summary of the report to brief his Council's Executive.

In reply to questions Glenn Fleet confirmed that Nuneaton and Bedworth Borough Council Members and officers had been sent copies of the options appraisal report.

Further discussion ensued about Options 1 and 2 and it was agreed that no further work should take place on Option 1 at present but that more work was required on Option 2, as a way forward for the setting up of a Waste Partnership Committee. Options 3 and 4 were not discussed further based on the officers' recommendations contained in the report.

Following which it was agreed that –

- (1) the preferred option was Option 2 and that the officers should prepare a "multiple choice" style paper on this option, for the next meeting (to include a check list of key issues similar to those listed under "Guidance" in the presentation notes);
- (2) Option 1 would remain in abeyance for the time being;
- (3) the Working Group would meet next at 10:00 a.m. on 25 September 2007 (prior to the WWP meeting which was scheduled to meet at 2:00 p.m. that day) in order to make a formal recommendation to the WWP;

- (4) the officers be asked to circulate a summary of all the options contained in the report to enable Members to brief their Executives;
- (5) Nuneaton and Bedworth BC be invited to attend the next meeting of the Working Group;
- (6) Alan Farnell (Leader of the County Council), Councillor Dennis Harvey (Leader of Nuneaton and Bedworth BC) and Christine Kerr (Chief Executive, Nuneaton and Bedworth BC) be included in the circulation list for Working Party papers.

Appendix B

Key Features Paper

In this Paper:

- where an assumption has been made about what Members will want, or if there is in the circumstances only one viable choice, a statement is made in *italics*
- “the partnership” means the joint committee.

NAME

Any name can be chosen. Some examples are given.

Name	Choice (√)
Warwickshire Waste Partnership Joint Committee	
Warwickshire Waste Partnership	
Warwickshire Waste Board	
Warwickshire Waste Joint Committee	
Warwickshire Waste Management Committee	
Warwickshire Strategic Committee for Waste	
Something else	

FUNCTIONS AND SAFEGUARDS

The table below contains a list of the functions that might (realistically) be delegated to the partnership. It is not exhaustive and Members may propose others.

Any addition to general delegations would require the agreement of all the member authorities and any additional delegation specific to a project would require the agreement of all participating authorities. *Approval of a Business Plan by member authorities would be deemed to provide additional delegations to the extent required to deliver any action allocated to the partnership by the Plan.* The effect of refusing to delegate a function is, therefore, to require that any collective project be specifically approved by all the member authorities affected by it either on an ad hoc basis or through approval of the Business Plan.

A Budget would be approved alongside the Business Plan.

Decisions within the delegated authority of the partnership will normally be made by a simple majority of those present and voting with each voting member having one equal vote.

However, certain decisions may be safeguarded by requiring:

- (1) positive unanimity (i.e. all members who are present vote in favour and any absent members have indicated support)
- (2) negative unanimity (i.e. no member who is present votes against and no absent member has indicated opposition)
- (3) positive unanimity on the part of each authority affected by it
- (4) 75% of votes of those present and voting

- (5) that no member or member authority requires deferral of a decision on the first occasion that it is due to be considered
- (6) some other safeguard.

With respect to changes to the constitution, some authorities have given their joint committee the power to change the constitution unless a member authority serves notice to say that the change proposed is a fundamental change. If an authority serves such a notice, the change cannot go ahead unless the authority concerned indicates that it does not object to the change. However, when considering the constitution, and the levels of safeguard appropriate, it is useful to distinguish between the procedural (standing order style) rules that govern meetings, etc. and more fundamental matters like the powers and composition of the partnership.

The inter-authority contractual agreement would not be open to change by the partnership; this would have been negotiated and agreed between the member authorities.

Function	Delegated (Y/N)	Safeguards (1 - 6 or None)
Co-ordinate, monitor and review the delivery of the framework and achievement of LAA and other relevant targets.		
Alter or replace the framework.		
Identify and deliver promotional activity (including public engagement, education, research and the provision of guidance and advice) in support of the framework.		
Develop proposals for waste management including recommendations as to which waste streams should be collected and as to the siting of household waste recycling centres, re-use schemes and transfer stations.		
Propose and lead on the development of framework contracts and other initiatives to achieve procurement efficiencies.		
Award framework contracts.		
Guide and direct the Waste Minimisation Team (on a two year secondment).		
Control the use of a portion of the PSA2 Fund to be used for marketing recycling.		
Manage a Waste Partnership Manager.		
Act as consultee on significant procurement proposals by member authorities.		
Formulate and annually review a business plan and budget (a three year rolling period is suggested) identifying resource contributions from member authorities and allocating responsibilities for delivery.		
Propose the business plan and budget.		
Hold and manage a pooled budget to pay for support services, the performance of delegated functions and any other actions allocated by the business plan for delivery by the partnership.		
Award consultancy contracts.		
Deliver any actions allocated by the business plan for delivery by the partnership.		
Co-ordinate, monitor and annually review the delivery of the business plan and budget.		

Speak on behalf of the member authorities in response to consultation from other bodies and generally to promote the interests of the partnership, its member authorities and sustainable waste management.		
Bid for new sources of grant funding.		
Approve agreements for new sources of grant funding.		
Formulate arrangements to incentivise and reward landfill reduction and oversee their operation if not as prescribed by statute.		
Co-option of non-voting members.		
Creation of sub-committees.		
Appointment of working groups.		
Amending procedural (meeting) rules in the Constitution.		
Proposing any other amendment of the Constitution.		
Making any other amendment of the Constitution.		
Delegation to officers.		
Change a lead authority.		

Delegation of a function would not prevent an individual member authority from carrying out the same or a similar function. *However, it is assumed that member authorities would make a commitment not to undertake unilateral activities which duplicated or detracted from the activities of the partnership.*

SUPPORT ROLES FOR AUTHORITIES

The general professional and administrative support which might be required by the partnership is broken down into categories below. In principle, these roles could be distributed between member authorities. However, in practice, this kind of fragmentation might not be viable given the nature and scale of the partnership's functions at this stage. In addition, it would be unwise, and potentially unsafe, to separate closely related functions like host, legal and audit.

The roles of authorities in relation to individual projects which are additional to these general roles will have to be agreed by the partnership on a case by case basis.

The relevant lead authority would be accountable to the partnership and any scrutiny mechanism for the performance of its role. *Each authority carrying out a role would be indemnified against claims and liabilities and necessary disbursements by the others unless it was guilty of gross negligence or wrongdoing.*

It needs to be decided whether the responsible authority would meet all of its own in-house costs in performing the role or whether the costs would be met in whole or in part by contributions from all the authorities. If the costs will be met by contributions from all the authorities, a standard formula for contributions can be agreed in the next section.

With respect to the Waste Minimisation Unit, the County Council will remain the employing authority and it will not be open to the partnership to change that.

Following initial appointment, any role could rotate automatically amongst members (e.g. alphabetically every two years). Alternatively, and again this is probably more realistic, roles could be fixed unless and until the lead authority resigned from it or the partnership decided to change the lead authority. It would be possible to provide that a role could not re-allocated by the partnership unless there had been some failure to perform satisfactorily and/or to build in a requirement for a minimum number or proportion of votes.

It is proposed that a responsible authority could resign with effect from the next 31st March provided it gives not less than six months' notice.

- Host:** Monitor the operation and performance of the partnership, prepare reports, provide secretarial and administrative support to Member and Officer bodies and organise partnership events.
- Audit:** Provide auditing services and any external audit arrangements.
- Legal:** Act as solicitor and Monitoring Officer to the joint committee and provide such legal services as are required by other authorities to perform their roles.
- Core Functions:** Deliver or lead in delivering the functions agreed to comprise standing core functions of the partnership (including public relations). **[Note the overlap with Core Budget issues below.]**
- Procurement:** Negotiate, award and manage contracts with providers of goods, services or works on behalf of the partnership.
- Assets:** Hold and maintain assets belonging to the partnership.
- Employer:** Employ and manage any employee under the control of the partnership.
- Grants:** Bid for grants and enter and administer grant agreements as a lead authority.
- Finance:** Provide banking, accounting, insurance and other financial services including budget preparation and management.

Role	Authority	Rotation (Y/N)	Jointly Funded (Y/N)
Host			
Procurement			
Assets			
Employer			
Grants			
Finance			
Audit			
Legal			

BUDGET

This would be divided into a Core Budget to cover the general operating costs of the partnership and a Project Budget.

The Core Budget will include as a minimum:

- *the Waste Minimisation Team funded by the County Council*
- *the marketing of recycling funded from PSA2*
- *any joint funding of Support Roles*
- *any foreseeable and unavoidable core function disbursements (e.g. expenses of co-opted members).*

The Project Budget will identify funding for any initiative outside the Core Budget to be undertaken by the partnership and specify what contributions will be required from the member authorities.

It would be possible, although not easy, to prescribe in a constitution how the Core Budget would be calculated and allocated amongst member authorities. Alternatively, it could be subject to annual member authority agreement.

Each proposal in the Project Budget would have to be approved by the member authorities, or at least those authorities who would contribute to the cost.

The Core Budget provides the partnership with its administrative machinery, funding for marketing recycling and a resource for waste minimisation. However, if the partnership wished to carry out other work in exercise of its delegated functions, e.g. to commission a piece of research, it would need to either have a specific project approved by the funding authorities as part of the Project Budget or rely on a lead or volunteer authority to provide or secure the resources.

It is an option to provide the partnership with an additional amount of funding as part of its Core Budget that it can use at its discretion in exercise of its delegated functions. **There is an overlap between this issue and the question of how the lead authority for Core Functions will be funded and what the extent of the services expected of that authority will be.**

It may also be useful to have a standard formula for allocating costs between the authorities, which can be used where it is agreed that there should be joint funding of expenditure which is of benefit to all members of the partnership. This formula would be used where a Support Role is jointly funded and where unavoidable disbursements have to be met. It could also be used where a lead authority has to call upon an indemnity, e.g. because it has to defend legal proceedings. It would also be available to be adopted when proposals are made for inclusion in the Project Budget.

Question	Decision (Y/N)	Amount
Should there be a discretionary amount in the Core Budget?		

Question	Decision (Y/N)
Should the Core Budget be fixed by a formula in the constitution or agreed annually by member authorities?	

Question	Decision (Y/N)
Should there be a standard formula for allocating common benefit costs between member authorities?	

Authority	WCC	NWBC	WDC	SDC	RBC	NBBC
Standard %						

MEMBERSHIP OF JOINT COMMITTEE

The partnership will exercise executive functions and our interpretation of the law is that any voting member of the partnership must, therefore, be a member of the executive of the authority appointing him or her. (At least one other authority has taken a different view and the basis for this is being investigated. If there is more flexibility available to member authorities,

further advice will be offered at your meeting.) It is an option to require that the voting member(s) appointed by each authority be or include the portfolioholder with responsibility for waste.

Non-executive members might be appointed as “observer” or non-voting members, although this might compromise their role in any Scrutiny function.

The more Members that are appointed, the better the prospect of some political balance (and statutory balance requirements come into play if three or more are appointed by an authority). However, a greater number of members could make decision-making more unwieldy and raise running costs.

Non-voting members can also be co-opted from organisations other than the local authority members of the partnership. Qualifying organisations could be written into the Constitution but it would enable the partnership to be more flexible and responsive if it was given the power to appoint co-optees of its choosing (a requirement for unanimity could be included as a safeguard).

It is assumed that elected Members should be able to nominate substitutes.

Authority	Number of Elected Voting Members	Qualification to be a voting member	Number of Elected Non-voting Members	Power to Co-opt (Y/N)	Co-optees Specified in Constitution (Y/N)
County Council					
District/Borough					

If there is a requirement that each member authority appoint its waste portfolioholder, it is assumed that he or she will have a term co-terminous with holding that portfolio. In the case of other members of the partnership, suggested options are as follows.

Term	Choice (√)
Whatever term is chosen by the appointing authority	
No fixed term (i.e. until removed or ceasing to qualify)	
One municipal year	
Two municipal years	
One municipal term of office	

CHAIR AND VICE CHAIR

Selection Method	Choice (√)	Term of Office
Both chosen by simple majority of partnership at start of term of office		
Both nominated by County Council		
Both nominated by District Councils		
Chair nominated by County Council and Vice-Chair nominated by District Council		
Chair nominated by District Councils and Vice-Chair nominated by County Council		
Alternation of the previous two options		
Both nominated by a member authority identified by alphabetical rota		

Some other method		
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MEETINGS

Power	Decision
Will the Chair have a casting vote	
Will substitute members be allowed	
How frequent will ordinary meetings be (e.g. quarterly)	
Who will have the right to put items on the agenda	
Who can call extraordinary meetings	
Will meetings be preceded by a wider forum of stakeholders	
Will "deferral" votes be allowed	

QUORUM

Option	Choice (✓)
At least one voting member from each authority	
A percentage of voting members	
At least one "portfolioholder" voting member from each authority	
Some other option	

SCRUTINY

Option	Decision (Y/N)	Power of Call-in? (Y/N)	No. of WCC Members	No. of District or Borough Members
Create joint overview and scrutiny committee				

OFFICERS

Proposal	Decision
A Partnership Officer Group which meets without Members	
The POG chaired by the Host Authority	
Officers have delegated authority to implement any action in the Business Plan allocated to them	
Officers have delegated authority to implement any decision of the partnership	
Officers have delegated authority to take urgent action on a matter within the powers of the partnership	

RESIGNATION

Proposal	Decision
An authority may resign with effect from the next 31 st March provided it gives not less than six months' notice (i.e. before budget setting).	
An authority must continue to meet accrued liabilities in respect of the core budget.	

Resignation does not affect contractual arrangements for specific projects.	
A resigning authority may be required to compensate the partnership for costs/losses incurred as a result of resignation.	
A resigning authority has no right to compensation for its contributions to a partnership asset unless the partnership buy out the authority or the asset is realised.	

MISCELLANEOUS

Proposal	Decision (Y/N)
A dispute resolution procedure involving a joint meeting of the partnership, Chief Executives and Leaders in the event of a fundamental objection to a proposed decision.	
Mediation or arbitration in the event of disagreements as to the meaning or application of the constitution.	
A wider forum of stakeholders to meet, for example, immediately before meetings of the partnership.	
Public questions or right to speak at meetings of the partnership.	
An annual report and accounts to be sent to each member authority.	
Accountability through the Local Area Agreement mechanism for the delivery of relevant LAA targets.	
Business Plan to include a non-legally binding statement of the actions to be carried out by individual member authorities which contribute to the strategy framework.	

Appendix C

Proposed Timetable

Date(s)	Milestones	Action needed
25 th September 2007	Agree outline principles of governance arrangements for a Joint Committee.	Partnership Members agree the principles.
By 27 th November 2007	All partner authorities approve the outline principles of governance arrangements for Joint Committee.	Each authority have approval to progress toward a Joint Committee.
By 27 th November 2007	Draft governance arrangements prepared.	Officers prepare draft governance arrangements in line with Partners' wishes from 25 th September meeting.
27 th November 2007	Partnership approve the draft governance arrangements at the Waste Partnership meeting.	Partnership Members agree the draft governance arrangements and seek their own authorities' approval to sign up to the new committee structure.
15 th January 2008	Special Waste Partnership meeting formally to sign up to new Joint Committee arrangements.	New committee structure introduced April 2008.
16 th January 2008	Develop three year Business Plan.	Officers to prepare Plan and arrange first meeting of new Committee.