

Somerset Waste Board

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Report for decision

Inter-Authority Agreement Revisions

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Forward Plan Reference:	SWB/19/07/04
Summary:	This report sets out proposed revisions to the Waste Partnership's Inter-Authority Agreement necessary to align it with the new collection contract and the approach to the roll-out of Recycle More, as agreed in principle by the Board in September 2019.
Recommendations:	It is recommended that the Board agree the draft amended Inter-Authority Agreement (IAA) for partner consultation
Reasons for recommendations:	There are a number of changes resulting from the new collection contract that require minor amendment to the IAA. Rolling out Recycle More requires considerable up-front costs, and the Somerset Waste Board (SWB) agreed the principles of how this should be managed in September – this paper reflects these principles in a revised draft inter-authority agreement. Only those changes that are necessary to reflect the new collection contract and roll-out of Recycle More have been made.
Links to Priorities and Impact on Annual Business Plan:	These changes are necessary to deliver action 1.1. in the Business Plan 2019-24 (transition to a new collection contractor and service model).
Financial, Legal and HR Implications:	Financial implications: The proposed changes to the IAA ensure that partners are not penalised or rewarded for when Recycle More rolls out in there area, and that no savings are taken out until the roll-out has been fully funded.

	<p>Legal: SWP commissioned legal advice from the administering authority's legal services team to ensure that changes to the IAA are commissioned by SWP (and hence in the interests of all partners).</p> <p>HR: The IAA reflects changes in the way costs are managed in relation to the small number of contractor staff who are members of the Local Government Pensions scheme – in line with the approach endorsed by SWB in September 2019.</p>
Equalities Implications:	No equalities impacts have been identified.
Risk Assessment:	Failure to have an IAA in place ahead of the 2020/21 financial year will mean that costs are not shared fairly and equitably or in line with the principles agreed by the Board. There is a technical risk that through the consultation process partners could seek additional changes to the IAA that are not in the interests of the partnership overall, but this is considered unlikely as it would be contrary to the core principle that the Board cannot make a decision that has an adverse financial implication on any partner without that partner's agreement.

1. Background

- 1.1.** The overall savings from Recycle More are anticipated to be over £2 million per annum once it is fully rolled out. The Board have previously agreed that the roll out will be funded from the Recycle More Project Fund (and where appropriate from capital), and that no savings as a result of the new collection contract will be taken until all roll out costs have been fully funded. Roll out is due to complete in February 2022. Savings will start to be seen in 2022/23 once roll out has been fully funded.
- 1.2.** The following principles were agreed by SWB in September 2019, following agreement to these principles by the Strategic Management Group (SMG) and all partner Section 151 Officers All revenue costs will be funded from the Recycle More Project Fund. These principles have informed the revisions required to the IAA (Appendix 1):
- District collection partners should not be penalised or rewarded for when they roll out within the programme. No savings will be taken from the Somerset Waste Partnership until roll out has been fully funded.
 - As a significant proportion of Recycle More savings will be from disposal costs, the disposal partner Somerset County Council (SCC) will also contribute its savings from Recycle More until the break-even point has

been reached (2022/23). Should there be extraordinary circumstances beyond what we have forecast that have a significant impact on disposal costs or savings, then we would need to take a view at the time on how any additional savings or costs should be fairly apportioned.

- Somerset Waste Partnership hold the Recycle More Project Fund and any deficits will be funded through contract savings before they then become attributable to partners.
- Once breakeven point is reached, contract savings will be shared on the basis currently stated in the IAA.

The IAA has also been changed to reflect the fact that under our new collection contract, SUEZ will not be liable for the costs of secondary contributions for the small number of employees who are eligible for the Local Government Pension Scheme. As has been agreed by SMG and all partner s151 officers, passing this liability on would simply result in risk pricing from SUEZ, meaning that we would in effect pay more to achieve the same aim. These costs will be shared by District Council partners in accordance with household numbers. It should be noted that there will be no deficit on day 1 of the contract and future payments will be made in accordance with future actuarial assessments.

1.3. As the Board are aware, SWP and SUEZ will share recycling revenue risk. Recyclate revenue can fluctuate according to the tonnages of each materials collected and due to market prices. Once roll-out of Recycle More has been completed all partner section 151 Officers (endorsed by SMG) agreed that an equalisation reserve should be put in place in order to smooth out the risk of fluctuations in the level of recyclate income received by District Council partners. The following principles were agreed by the Board in September:

- The equalisation reserve should only be commenced after roll-out is complete but similar prudent forecasts should be used during the roll-out period (without building up a reserve)
- The fund should be built up from 20% of SWP's recyclate revenue as this value was considered prudent.
- The level of the reserve will be reviewed annually as part of the budget setting process.
- District Partners will pay Somerset Waste Partnership the gross monthly costs and will then receive a quarterly payment in arrears for their share of recyclate income.

1.4. All partners have agreed capital borrowing to purchase the vehicles, fund depot works and equipment, and purchase the new containers. Each district partner is borrowing £5.0m on behalf of the Somerset Waste Partnership at a return of PWLB plus 1%. and Section 151 officers have agreed the borrowing principles and schedule and to capitalise the new container costs within this. Loan agreements have been set up between SCC and the District Partners for this, and a number of minor amendments to the IAA are necessary to ensure consistency between the IAA and these loan agreements.

2. Changes to the IAA

2.1. A draft amended IAA is appended to this paper (Appendix 1). To aid board members in identifying the changes to the IAA, the following bullet points highlight what has changed in relation to the new contract and why:

- Definitions in schedule 3 paragraph 1.2 have been changed to make reference to the funding agreements being put in place between the administering authority and other partner authorities in relation to borrowing to fund new assets required by the new collection contractor (also updated in paragraph 20 of schedule 5).
- Paragraph 3.3.1 of section 3 has been amended to ensure that should there ever be a change in administering authority that everything transfers correctly.
- Paragraph 1.2 of schedule 5 has had additional content added in to embed the key principles related to recycle more roll-out funding into the IAA, namely that:
 - No partner authority should be penalised or rewarded for when they roll out
 - No partner authority can take savings until all the roll-out costs have been covered
 - Once we get to breakeven then normal IAA cost sharing rules apply
- Paragraph 1.5A of schedule 5 reflects the approach agreed to managing the risk of fluctuation in recycle revenue.
- Clarifies how LGPS pension costs will be shared going forward (paragraph 4 of schedule 5).
- Clause 13.3 reflects the fact that SWP receives income on behalf of partners (e.g. bulky waste) and therefore arrangements for transferring that income back to partners need to be clearer.
- Section 16 reflects changes to the requirements for how SWP is audited, as previously agreed by the board.
- Removing reference, such as in paragraph 13.8 to the Landfill Allowances Trading Scheme (LATS) which is long defunct.
- Updating Schedule 4 (form of annual budget) to align it with our new collection and disposal contracts e.g. inserting references to energy from waste reflecting this new disposal route for SWP's waste.

2.2. It is proposed that partner authorities will be consulted upon changes to the IAA as part of the usual budget/business plan consultation process. A further report will then be brought to the Board in February 2020 reflecting the outcome of that consultation process and seeking the Board's final approval to the revised IAA. It is proposed to consult with monitoring officers collectively as part of this process, as has been the case when previous changes to the IAA have been made.

2.3. The Business Plan reflects our intention to undertake a wider review of the IAA in 2020/21, as this may be necessary following national legislative change and how

this informs SWP's long term strategy. This will also enable us to reflect the findings of the GDPR Internal Audit review that SWP requested and is currently being undertaken.

Attachments: Draft revised IAA (Appendix 1)