

CABINET

DATE OF MEETING: 1 APRIL 2021

TITLE OF REPORT: FUTURE ARRANGEMENTS FOR THE JOINT WASTE CLIENT TEAM AND INTER AUTHORITY AGREEMENT.

Report of: Head of Environment & Technical

Cabinet Portfolio: Environment

Key Decision Yes

Confidentiality Non Exempt

1 PURPOSE OF REPORT

- 1.1 To seek approval to transfer the Administration Authority function for the Joint Waste Service and employment of the Joint Waste Client Team from Hart District Council to Basingstoke and Deane Borough Council.

2 OFFICER RECOMMENDATION

That Cabinet:

- 2.1 Agrees to the transfer of the Joint Waste Client team, and to delegate authority to the Joint Chief Executive, in consultation with the Portfolio Holder for Environment, to seek any minor changes to the client team arrangements as necessary.
- 2.2 Authorises the Joint Chief Executive in consultation with the Portfolio Holder for Environment, to finalise and enter into an amended contract that transfers the Administrating Authority function for the Joint Waste Service from Hart District Council to Basingstoke and Deane Borough Council
- 2.3 Agrees to enter into an updated Inter Authority Agreement (IAA) and new Service Level Agreement (SLA) with Basingstoke and Deane Borough Council, substantially in the form attached at appendices A and B, and delegates to the Joint Chief Executive, in consultation with the Portfolio Holder for Environment, authority to finalise the terms and complete both agreements on behalf of the Council.

3 BACKGROUND

- 3.1 Hart District Council (HDC) has been in a strategic partnership with Basingstoke and Deane Borough Council (BDBC) for the provision and delivery of waste collection and recycling services since October 2011.

- 3.2 Initially the contract for kerb-side collections was provided by Veolia, until following a competitive procurement process it was awarded to Serco who have operated the contract since October 2018.
- 3.3 When the Joint Waste Service was initially set up it was agreed that HDC would be the Administering Authority for the Joint Contract and that a Joint Waste Client Team (JWCT) would be set up to manage and monitor the contract and they would be employed by Hart.
- 3.4 Governance of the joint waste service is controlled through the precepts and principles held within an inter-authority agreement (IAA) between the respective Councils. This established a Joint Governance Group (JGG), which meets regularly and includes Portfolio Holders and Senior Officers at each authority, to consider and agree such matters as forward strategy, service improvements, contract performance and costs.
- 3.5 This approach has worked well for both parties up until recent times, providing a forum to raise concerns, highlight opportunities and resolve misunderstandings.

4 CONSIDERATIONS

- 4.1 During the final months of the Veolia contract and the mobilisation of the new contract with Serco, there were a range of service performance issues which impacted on residents. In particular the impact was most felt in Basingstoke, due in part to the larger number of properties in the BDBC area but also because they receive a greater number of collections per household, as their residual waste is collected weekly, rather than fortnightly as in Hart.
- 4.2 As a result of these concerns in the Spring of 2019 BDBC commissioned external consultants White Young Green (WYG) to consider the journey we had been on, and the management arrangements for the Joint Waste Service and make recommendations on improvements.
- 4.3 A copy of this report was shared with Hart District Council in September 2019 and a summary of this can be seen in appendix C. The report highlighted some learning points but in particular it noted that:
- 4.3.1 The team should not be held responsible for the poor performance of the contractor.
- 4.3.2 The team were under-resourced and that further skills around data management and integration with IT systems were required to improve systems, processes and workflows.
- 4.4 Whilst the report was not discussed in detail at a subsequent JGG meeting, in December 2019, HDC received formal notification from BDBC of their stated wish to take over management of the JWCT. The Cabinet at BDBC subsequently made a formal resolution on this issue on 10 March 2020, with Hart being provided with a copy of this in June 2020.

- 4.5 In the months that followed, there were regular discussions between the respective Councils with regard to this issue with a short cessation of discussions during the first wave of the Covid pandemic. During this time Hart obtained independent legal advice on BDBC's proposed transfer of the service and it was confirmed that this required that agreement of both parties.
- 4.6 In the summer of 2020, it was agreed (without making any commitment on which authority would be designated as the administering authority and employing authority for the JWCT) that HDC and BDBC would jointly commission WYG to consider and comment on a structure and operating model proposed by the JGG that would increase capacity whilst providing each authority with a level of autonomy that was being delivered on their behalf. The resulting structure proposed by WYG and approved by the JGG for consultation with the JWCT is shown at appendix D.
- 4.7 During this period, it must be noted that the team themselves were stretched beyond anything that could have been anticipated; over the summer the JWCT had to manage the cessation and re-establishment of the garden waste service across both councils and the imposition of alternative weekly collections in Basingstoke, with a return to normal service in late summer. The incredible commitment and professionalism of the team, during this time should be recognised.
- 4.8 At its meeting on 13 October 2020 having considered the structure proposed by WYG and each authority's costs for hosting the JWCT, the JGG agreed that the principle of transferring staff to BDBC should be investigated, subject to:
- agreement of financial matters
 - Cabinet agreement
 - Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) consultation
- 4.9 On 20 October, the Joint Chief Executive alongside the Head of Technical and Environmental Services and Unison representatives, met face to face (in a Covid Secure office) to informally consult the JWCT on the principle of transferring the team to Basingstoke.
- 4.10 There were two key themes that evolved from that meeting:
- 5.5.1 A genuine concern that the structure as proposed would provide insufficient resources to BDBC, that it lacked administrative support and for these reasons the team would not be effective and
- 5.5.2 Practical concerns around a transfer to Basingstoke and whether it would improve services.
- 4.11 Further to this, the JWCT put forward a counter proposal in November 2020. Having considered the costed counter proposal the JGG agreed (subject to agreement of a minor adjustment that the administration role would be created as a fixed term position) that this had much merit and that it would be adopted as the preferred solution. A copy of the final structure approved by the JGG for staff consultation is provided at appendix D.

- 4.12 The recommended structure provides an increase in resourcing within the overarching team specific to those areas identified as a concern by the WYG report, whilst retaining clearly identifiable resources for each Council and enabling a delineation between strategic and operational issues.
- 4.13 On 10 December senior officers from both HDC and BDBC met with the JWCT and briefed them on the JGG agreement to their counter proposal and the proposed timeline for transfer of the team to BDBC. A copy of the proposed timeline is attached at appendix F.
- 4.14 On 17 December Hart's Staffing Committee considered the proposal and agreed that TUPE consultation with the team could commence.
- 4.15 Staff consultation commenced on the 12 January when an initial meeting was held with the team to brief them on the consultation process. The team were asked to provide their initial responses to this consultation by 12 March so this feedback could be included within this report.
- 4.16 A summary of feedback provided by the JWCT to the consultation, together with a list of the posts which will be subject to TUPE transfer to BDBC is provided at confidential appendix G.

5 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1 The following options were considered but rejected during the JGG discussions:
1. For the role of administration authority and employment of the JWCT to retained by HDC.
Reason Rejected: For the same service delivery, the service would cost more (due to overhead recharges being split over a smaller organisation).
 2. For each authority to employ its own client team.
Reason Rejected: Contract with Serco is predicated on a JWCT and would not be compliant with the current contract. The contract could be amended but would give rise to a risk of duplication of activity, potential divergence of approaches and cost increases from Serco.

6 RELEVANCE TO THE CORPORATE PLAN AND/OR THE HART VISION 2040

- 6.1 The recommendations of this report support delivery of the following priorities in the council's Corporate Plan:
- **Promote a clean environment** - Finalising and implementing a new joint waste contract.
 - **An Efficient and Effective Council** - Continuing to work closely with partners to deliver joint services.

7 SERVICE PLAN

Is the proposal identified in the Service Plan?	Yes
Is the proposal being funded from current budgets?	Yes
Have staffing resources already been identified and set aside for this proposal?	Yes

8 FINANCIAL AND RESOURCE IMPLICATIONS

8.1 A key 'red line' with regard to any potential transfer of the Joint Waste Client Team to Basingstoke, was that the residents of Hart should not be asked to pay for a change in service delivery that was not at their behest. As part of this, through the Joint Governance Group, it has been agreed that Basingstoke and Deane will pay up to £35K in project costs for the safe transition of the Joint Waste Client team. This will cover such expenses as;

- Specific HR support for the TUPE transfer consultation process
- Specific IT support for transfer of data
- Specific Legal advice on the TUPE transfer or resultant changes to the Inter Authority Agreement.
- Analysis of the TUPE transfer consultation outcomes and creation of a report to Cabinet

8.2 The budgeted cost to Hart District Council of the waste contract is provided in the tables below for 2020-21 and 2021-22. The proposed budget in the 2021-22 table includes two additional staff as recommended in the WYG report.

2020-21	£
Staff Costs Hart	185,201
Supplies and Services	11,128
Other costs	4,810
Hart Recharges	119,371
Total Cost to Hart	£320,510

2021-22	£
Staff Costs Hart	33,098
BDBC Recharges	311,900
Supplies and Services	12,000
Hart Recharges	119,371
Contribution to recharges*	(101,667)
Total Cost to Hart	£374,702

* Contribution to recharges is time limited - £200K will be paid over the next three years with an additional £35K in 2021/22 to cover consultancy fees.

This represents an increase in costs for 2021-22 of £54,192.

- 8.3 The additional £54K for the Joint Waste Client Team is included in the Hart annual budget. The increase includes the provision of new posts in the proposed team structure as shown at appendix E.
- 8.4 Regardless of which authority hosts the team, one matter that was unanimously agreed by the JGG was that the existing team structure was under resourced and that additional posts would need to be created in the team. Whilst the salaries for these new posts have yet to be confirmed the estimated cost of funding these posts is included in the 21/22 budget. With regard to the existing posts it is anticipated that all current staff members will continue in their existing roles and hence their salary costs will remain unchanged.
- 8.5 Transfer of the JWCT to BDBC will require amendment of the existing IAA which it is proposed should be supported by a new SLA. External legal advice is currently being sought on both these documents but draft copies of the agreements is attached at appendices A and B. One of this reports recommendations is that the Joint Chief Executive, in consultation with the Portfolio Holder for Environment, is delegated authority to finalise the terms and complete both agreements.
- 8.6 Transfer of the role of administering authority from HDC to BDBC will require a novation (transfer) of the Joint Waste Contract. Subject to Cabinet approval, Serco will be informed of the required novation.

9 EQUALITIES

- 9.1 An equalities impact assessment has been completed for the proposed transfer of the client team the outcome of which was that there would be no major change for the team and that there is no potential for discrimination or adverse impact. All opportunities to promote equality have been taken.

10 CLIMATE CHANGE IMPLICATIONS

- 10.1 Delivery of an effective waste and recycling service and maximising the amount residual waste that residents recycle forms an important part of Harts climate change action plan. Whilst the transfer of the JWCT to BDBC will not increase the amount of recycling, the provision of two new posts within the team will allow the council to provide a more resilience for the team, and provide greater capacity for the delivery of recycling initiatives.

11 ACTION

- 11.1 Approval of this reports recommendations will result in the following actions be taken:

- 1.The staff in the JWCT will be informed that Hart Cabinet have agreed to the transfer the team to BDBC, with a view to the transfer being completed at the earliest opportunity.
2. Serco will be informed of the required contract novation.
3. An updated inter authority agreement with BDBC will be finalised and signed.

4. Work will commence on recruitment to the two new posts in the new team structure.

Contact Details: John Elson Head of Environment and Technical Services / john.elson@hart.gov.uk

Appendices

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule of the Local Government Act 1972 by ticking the relevant</i>						
		1	2	3	4	5	6	7
A	Draft Inter Authority Agreement.							
B	Draft Service Level Agreement							
C	Summary of White Young Green							
D	Current Structure and Original Proposed Structure created by Joint Governance Group							
E	Adopted Structure for TUPE Consultation (based on Joint Waste Client Team Counter Proposal)							
F	Project Plan for transfer of the team.							
G	A summary of feedback provided by the JWCT in response to the initial consultation and a list of the posts which will be subject to TUPE transfer to BDBC.	X	X					

Background papers:

Title of any background paper(s)	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
	1	2	3	4	5	6	7
Future Management of Joint Waste Client Team – Staffing Implications – Staffing Committee Report - 17 December 2020.							
Waste & Recycling Services: Review of Management Structure Waste & Recycling Services: Review of Management Structure – WHITE YOUNG GREEN REPORT - August 2019.							