

OXFORDSHIRE WASTE PARTNERSHIP JOINT COMMITTEE

11 JULY 2008

JOINT WASTE AUTHORITIES – EXPRESSIONS OF INTEREST

1 Purpose of Report

- 1.1 To consider an invitation from the Parliamentary Under Secretary (Climate Change, Biodiversity and Waste) to submit an expression of interest to form a Joint Waste Authority (JWA).

2 Background

- 2.1 The Local Government and Public Involvement in Health Act 2007 set out powers to allow for the establishment of JWAs in England. Two or more local authorities may submit proposals to the Secretary of State, to transfer waste collection, disposal and/or street cleansing functions to be discharged by a JWA.
- 2.2 Draft Regulations and draft guidance on proposals for JWAs were recently issued for consultation by DEFRA. These have now been followed by a letter to council chief executives inviting expressions of interest to form a JWA. The letter is attached at appendix 1.
- 2.3 Government recognises that partnership working is one of the ways local authorities can realise efficiency savings, but also accepts that the separation of decision-making powers and funding streams in two-tier areas can “significantly inhibit the efficiency of the waste management function”.
- 2.4 The limited legal basis for joint working arrangements restricts partnership working in waste management. Currently a single authority within the partnership is required to take responsibility for employing staff and signing contracts. Each authority within a partnership also has to continue to report performance information, even where integrated contracts are in place.
- 2.5 The power to form a JWA has been created to allow waste partnerships to enter into contracts directly and also to employ their own staff. The main focus of the powers is to facilitate the integration of waste collection and disposal functions particularly in two-tier areas (which is believed to offer greatest potential for efficiencies and improved performance). Government envisage that most JWAs would take on waste collection and/or disposal functions, but authorities may also wish to discharge their street cleansing functions to a JWA.
- 2.6 JWAs will differ from other partnership models in that they will be directly responsible for the delivery of waste collection, waste disposal and street cleaning services, either through contracts with private sector providers or through their own workforce. On the formation of a JWA, existing contracts and staff would transfer from partner councils to the new JWA. A JWA must take on all the duties and responsibilities associated with the waste function transferred to it (e.g. it cannot just have a strategic or commissioning role).
- 2.7 Local authorities have to take reasonable steps to consult local residents and other interested parties on any draft proposals for JWAs before submitting them to the Secretary

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of State.

- 2.8 DEFRA has allocated £500,000 for 2008/09 to support the development of proposals for JWAs. It is anticipated that further funding will be allocated for the following two years. Precise details of how the funding will be distributed are still being developed.

3 Financial, Risk and Staff Implications

- 3.1 Forming a JWA is a legally binding commitment. JWAs can only be dissolved where all the constituent authorities agree to do so.
- 3.2 Local authorities' statutory obligations under the Landfill Allowances Trading Scheme (LATS) will automatically transfer to a JWA when the waste disposal function under the Environmental Protection Act 1990 is transferred. The JWA will therefore be liable for any financial penalties or fines as a result of non-compliance with LATS. Within the OWP, only Oxfordshire County Council currently has statutory obligations under LATS.
- 3.3 When transferring contracts from partner councils to a JWA, the partnership will need to consider any costs associated with the assignment of contracts (and associated assets and liabilities), as well as the implications for the number of major procurements already underway within Oxfordshire.
- 3.4 When transferring staff from partner councils to a JWA, the partnership will need to consider duties under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (often referred to as TUPE). These regulations are designed to protect the rights of employees in a transfer situation enabling them to enjoy the same terms and conditions, with continuity of employment. The Best Value Authorities Staff Transfers (Pension) Direction 2007 will also apply. This ensures that members of staff transferring from Best Value Authorities (which includes local authorities) secure broadly comparable pension rights.
- 3.5 Joint waste authorities will not have precepting powers. Revenue Support Grant will continue to be paid to authorities within a JWA. Therefore, the partnership will need to consider and determine how a JWA will be financed and how costs will be apportioned to the partner authorities.
- 3.6 If the OWP decides to develop a JWA, the issues outlined above, together with a number of other issues (such as membership, accountability and scrutiny), would need to be considered in much more detail. This would entail the development of a detailed business case and the submission of a full proposal to government.
- 3.7 The invitation to form a JWA was recently considered by the Officer Strategy Group (OSG). Whilst acknowledging the potential efficiencies that might accrue over time, OSG concluded that now was not the right time for the OWP to form a JWA. Considerable time and effort has been spent developing governance and financial arrangements. It was felt that these arrangements currently meet our needs and that the focus of the partnership's attention should now be on the delivery of our Joint Municipal Waste Management Strategy and Local Area Agreement targets (rather than on further "organisational" issues).

4 Areas Affected

- 4.1 The formation of a JWA would affect all partner councils.

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5 Effect on Strategic Policies

- 5.1 The development of a JWA may support policy 14 of the Joint Municipal Waste Management Strategy, which states that “The Oxfordshire Waste Partnership will develop methods of working together to improve the level of service through effective and efficient use of resources within Oxfordshire.”

6 Options or Alternatives

- 6.1 A JWA is one of a number of partnership models, which vary according to the desired level of integration. The OWP currently operates as a “joint committee” and may choose to remain as such.

7 Recommendations

- 7.1 That the committee decides whether to submit an expression of interest to form a JWA. This would need to be submitted by 23 July and would be non-binding at this stage.

8 Reasons for Recommendations

- 8.1 To continually seek more efficient and cost effective ways of delivering the waste objectives including opportunities for joint procurement and shared services.

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Background Papers: