



**Report to:** South London Waste Partnership (SLWP)  
Joint Waste Committee

**Date:** September 2018

**Report of:** SLWP Management Group

**Chair of the Meeting:**

Councilor Brunt, Chair SLWP Joint Waste Committee

**Report title:**

**Governance Review**

**Summary:**

At its meeting in December 2017 the Joint Waste Committee (JWC) agreed to commission a review of its governance arrangements to consider whether its remit should be expanded to include the waste collection contract. The review has involved an examination of the reports and recommendations leading to the creation of the JWC in 2007 together with all relevant subsequent documents. The Strategic Partnership Manager and each borough officer on the Partnership's Management Group has been interviewed, together with the Partnership's legal advisers.

Other waste partnerships in the England have similar Joint Committee arrangements, in particular for procuring contracts, but they vary as to their scope - some include waste collection, some do not - and they also vary as to the extent to which the operational control of waste services is vested in their Joint Committees or retained by their participating councils.

The review has identified arguments that could justify including waste collection in the scope of the Joint Committee, not least to give the Strategic Partnership Manager a line of accountability to members in relation to her high-level clienting functions. However the review has also identified arguments to justify deferring consideration of the matter until 2020 or 2021, by which time each of the boroughs must indicate to each other borough whether they wish to consider extending the current environmental services contract. If any borough does not wish to do so, a decision would have to be taken about whether the boroughs wished to re-procure a new contract jointly, or go their own way. That decision point may be the optimal moment to reconsider whether to expand the remit of the Committee.

In the meantime there are opportunities under the current terms of the Joint Committee's Constitution to consider a wide range of waste management matters, and to provide advice and support to the boroughs in discharging their waste collection and other functions.

**Recommendations:****The Joint Committee is recommended to agree:**

- to work both informally and formally within the existing remit of the Committee to assist the boroughs by offering non-binding guidance on waste management as a whole, and by commissioning comprehensive annual reports analysing the overall performance of the Partnership's various contracts; and
- to defer consideration of the expansion of the remit of the Joint Committee until 2020 at the earliest so that it would be ancillary to borough decisions about the extension or otherwise of the current waste collection and street cleansing contract

**Annexes:**

Annex 1: The remit of the Joint Waste Committee as set out in its Constitution

Annex 2: Arrangements made by other waste partnerships

## **Introduction**

1. At its meeting in December 2017 the Joint Waste Committee (JWC) agreed to commission a review of its governance arrangements to consider whether its remit should be expanded to include the waste collection contract.
2. No consideration has been given at this stage to the inclusion of grounds maintenance services within the remit of the Joint Committee.

## **The review**

3. The review has involved an examination of the reports and recommendations leading to the creation of the JWC in 2007 together with all relevant subsequent documents, including the various Inter Authority Agreements and the JWC's recommendations to the participating councils about the procurement of waste contracts. The Strategic Partnership Manager and each borough officer on the Partnership's Management Group has been interviewed, together with the Partnership's legal lead.

## **The creation and scope of the Joint Waste Committee**

4. The Councils of Croydon, Merton, Sutton, and Kingston voluntarily formed the South London Waste Partnership in 2003 to explore the options for procuring waste disposal contracts jointly. By 2008 existing contracts to provide transfer, transport, and disposal to landfill, Household Reuse and Recycling Centres (HRRCs), and recycle marketing and green waste management were due to expire in Croydon, Merton, and Kingston. Briefing documents circulated to members in 2007 indicate that the Partnership boroughs were advised that formalising their governance arrangements might increase confidence among potential bidders for these contracts that the partnership was robust and sustainable.
5. Accordingly, the Partnership boroughs formed a joint Shadow Board, and by the end of 2007 each borough had decided through its own Executive or Committee structures to participate in a Joint Waste Committee (JWC) created under the provisions of sections 101(5), 101(5B), and 102 of the Local Government Act 1972 and subsequent related legislation. By agreement with each borough the JWC was endowed with a Constitution, including a defined remit, Standing Orders, and Rules of Procedure.
6. In drafting and agreeing the Constitution the boroughs delegated powers to the Joint Committee "to make arrangements for the disposal of waste", but reserved to each borough the power to agree the award and management of any contract relating to waste disposal.
7. In 2008 the formal governance structure of the JWC was complemented by an Inter-Authority Agreement (IAA 2008) that set out the rights and obligations of the participating councils in relation to the procurement and term of the initial waste disposal contracts, together with arrangements for funding the JWC's activities. The IAA 2008 included a clause as follows:

"7.2 For the avoidance of doubt, it is agreed by the Authorities that nothing in this Agreement shall interfere with or restrict the discharge by any of the Authorities of its functions as Waste Collection Authority for its own area."

8. IAA 2008 made provision for the appointment of a Joint Waste Management Officer to exercise powers that had not been explicitly reserved to the JWC itself and to prepare a proposal for staffing for approval by the JWC. Provision was also made for a Management Group of lead officers from each borough to support and be consulted by the Joint Waste Management Officer.

### **A Joint Waste Authority**

9. One of the original functions of the JWC was to "consider and recommend to the Participating Councils a strategy in relation to the creation of a Statutory Joint Waste Authority" (Schedule D 1.2.21), and "if agreed by the participating Councils to make an application for the creation of a Statutory Joint Waste Authority for the area" (1.2.22).
10. The matter featured on JWC agendas over the subsequent years. But the option to form a Statutory Joint Waste Authority was finally closed down by the revocation of the relevant statutory provisions by Schedule 13 Part 3 clause 4 of the Deregulation Act 2015. It is no longer open to the JWC to recommend this form of governance to the boroughs.

### **Decision-making by the Joint Waste Committee: the initial waste disposal and HRRC contracts and the Energy Recovery Facility (ERF) contract**

11. The initial waste disposal and HRRC contracts were originally awarded by the Royal Borough of Kingston as the lead authority acting for the Partnership. Kingston's role as lead authority was later taken by LB Croydon, and it was Croydon who awarded the re-let HRRC contract and the contract relating to the ERF.
12. For all these contracts the JWC managed the procurement process, approved a preferred bidder, and recommended to the boroughs that they too should approve the preferred bidder. Borough officers then prepared their own separate reports to their member decision-makers setting out details of the JWC's findings and recommendations, and each borough Executive or Committee then took its own decision on whether to authorise the Partnership's lead authority to make the contract award.

### **Decision-making by the Joint Waste Committee: the environmental services contracts**

13. Waste collection and other environmental services are not explicitly in the remit of the JWC, but the boroughs decided to work together to jointly procure new environmental service contracts. Following the decision to pursue the joint procurement in each borough, the arrangements for the joint procurement were agreed first by way of exchange of letters between their Chief Executives, and then by way of a further Inter Authority Agreement (IAA 2016). The details of the decision-making process were specified in IAA 2016:

"6.2 The Strategic Steering Group is made up of the Directors/Executive Directors with responsibility for Environment within each Authority. ....the Strategic Steering Group's role is to ensure that senior officers in the Authorities oversee

the deselection process and the specification as it develops at each stage of the competitive dialogue procedure up to and including the invitation to submit a final tender.

6.3 The Authorities' Executive or Committee have each respectively delegated authority to the Chair of Management Group in consultation with the Management Group, Strategic Steering Group, the SLWP Legal Lead and members of the Joint Waste Committee to deselect bidders and agree the specification at each stage of the competitive dialogue procedure up to and including the invitation to submit a final tender.

6.4 The Chair of the Management Group in consulting under Clause 6.2 with the Strategic Steering Group will be bound by the decision and recommendation of the Strategic Steering Group."

14. The JWC received a report on the outcome of the environmental services contracts procurement process and agreed to "endorse" a recommendation to the relevant borough decision making bodies. Subsequently each borough then took its own separate decision to authorise LB Croydon to make the contract award.
15. The decision-making process for the environmental services contracts was, therefore, not dissimilar to that used for the earlier waste disposal contracts. There was a difference in the language used in the JWC reports (the preferred bidders for the waste disposal contracts were "approved"; for the environmental services contracts they were "endorsed") and also a difference in the precise mechanics of the subsequent implementation of the decision. But the differences are less striking than the similarities in the underlying process.

#### **Arrangements made by other waste partnerships**

16. Other voluntary waste partnerships have formed across England before and since the SLWP was founded. Annex 2 sets out brief sketches of the arrangements agreed by some of these partnerships, which may be relevant when the JWC considers the options for its own future.
17. At a high level, the current arrangements of the SLWP are entirely consistent with those adopted in other waste partnerships, comprising a Joint Committee with a Constitution, complemented by Inter Authority Agreements that set out in detail the rights and responsibilities of participating councils. However there is considerable variation between waste partnerships in the scope of the services they include within their remit and in the way they conduct their business. Local authorities across the UK have made a variety of arrangements that suit their political and operational preferences in dealing jointly with waste disposal and collection. There is no single model or template to follow. But other partnerships have adopted constitutional provisions and methods of working that may be of interest to the SLWP when considering whether to change its remit.

## OPTIONS

18. A number of options present themselves; they are not all mutually exclusive and some combination of the options below may offer the optimal way forward for the Partnership.

### **Option 1: Do nothing**

19. During this review it was acknowledged by several borough lead officers that the exclusion of waste collection from the remit of the Joint Committee was anomalous, and that it would be neater if waste collection were to be included. On the other hand, 'do nothing' is a viable option. The current Constitution of the JWC did not prevent the Partnership from jointly procuring a waste collection and street cleansing contract together with a grounds maintenance contract. Furthermore, as noted above, the joint decision-making process used by the boroughs in relation to the environmental services contracts was similar to that adopted in relation to the earlier waste disposal contracts. This suggests that including waste collection in the remit of the Joint Committee would not necessarily make a significant difference to the way waste collection services are jointly procured in future.
20. However there is one other relevant consideration. The arrangements for clienting the environmental services contracts were agreed through IAA 2017, which specified that high-level issues were to be dealt with by the Strategic Partnership Manager and her team, and local service issues were to be dealt with by the boroughs, which retain full responsibility for monitoring borough performance indicators and for street cleansing and waste quality assurance. The lead officers can make use of their existing reporting lines to their own members on borough-level environmental services contract performance monitoring. However the Strategic Partnership Manager does not have an equivalent reporting line to members in relation to her high-level clienting responsibilities for the waste collection and cleansing contract. Adding waste collection to the remit of the Joint Committee would make it easier to establish that reporting line.

### **Option 2: Examine the opportunities for change offered by the SLWP's Constitution in its current form**

21. The text of the remit of the Joint Committee, and the provisions of IAA 2008 quoted in paragraph 7 above, make it clear that the participating boroughs did not intend to delegate operational control of waste collection to the JWC. On the other hand there are many matters included within the scope of the Committee that at the very least touch on waste collection. These must be read in context; the remit of the Committee is headed "Waste disposal functions delegated to the Joint Committee". But it is hard to make sense of the following provisions included in the Committee's remit if they are interpreted as applying to waste disposal alone (see Annex 1 for the full list of delegated functions):

"1.1.4 To advise and give guidance to participating Councils on how waste is to be separated (taking account of existing waste disposal arrangements)

1.1.5 To advise and give guidance to participating Councils on how and where waste collected by them is to be delivered (taking account of existing waste disposal arrangements)

- 1.1.6 To advise participating Councils on how to expedite the minimisation of controlled waste in the area of participating Councils.
- 1.1.14 To devise a joint waste strategy designed to reduce biodegradable municipal waste going to Landfill and recommend to participating councils
- 1.2.1 Provide the forum and mechanisms for ensuring that there is a coherent programme and organisational structure for waste management and for joint working;
- 1.2.17 To comment on any proposed planning application to be made by one of the Participating Councils for waste management facilities in the area
- 1.2.20 Develop proposals for the future development of waste management through the Draft Rolling Business Plan, such proposals to include the possible creation of separate entities to undertake particular lines of activity, the delivery and ongoing management of a particular service or activity, the commissioning of research, public awareness campaigns, and the provision of training and consultancy services;
- 1.2.23 Develop proposals on how the Participating Councils can discharge their functions generally in the field of waste disposal to promote and/or improve the economic, social and environmental well-being in the Area of Participating Councils and contribute to the achievement of sustainable development, including in particular:-
- a) waste minimisation generally
  - b) the reduction of waste going to landfill on a year by year basis
  - c) the development of alternative methods of disposal
  - d) an increase in the proportion of waste being recycled on a year by year basis"
22. These delegated functions define the Committee's strategic and advisory role in relation to waste management generally, not just to waste disposal. In the words of IAA 2008 they do not "interfere with or restrict" the way the boroughs discharge their responsibilities as waste collection authorities. But they do enable the Joint Committee to assist the boroughs by offering non-binding guidance on waste management as a whole, and by developing proposals on waste reduction and recycling for the boroughs to consider.
23. In this sense, elements of the management of the waste collection services are arguably already within the remit of the Joint Committee, and without making any change in its Constitution the Committee could if it wished commission work to discharge the functions listed above - always subject to the limits specified in IAA 2008.

**Option 3: Defer consideration of any change in the Constitution until the current waste collection and cleansing contract is fully stabilised**

24. The mobilisation of the joint waste collection and street cleansing contract has not been without its difficulties. Currently borough officers in Sutton, Merton, and Croydon are focused on working with the contractor to fine-tune and improve local

operations, and it will not be until 2019 that Kingston joins fully in the shared service arrangement.

25. Furthermore, under the provisions of IAA 2017 (clause 6.5), each borough must inform each other borough no later than 54 months before the termination of the contract (i.e. by 30 September 2020) whether they wish to consider the extension of the waste collection and street cleansing contract. They must also inform each other borough no later than 42 months before termination (i.e. by 30 September 2021) whether in fact they do wish to be party to such an extension. These deadlines are not far away. The analysis and discussion within each borough that will be necessary before these decisions can be taken will need to start by April 2020 at the latest.
26. These issues taken together mean that the Joint Committee may wish to defer its consideration of any change in its remit to include waste collection and cleansing until a decision has been taken by each of the boroughs - in the light of its local experience and preferences - on whether or not to extend the current contract. In the event of an agreement to extend, the Joint Committee would know that the current contract would not terminate for over 11 years. This would be a substantial period of time in which the Committee could, if the boroughs agree, develop its strategic oversight of the contract and perhaps even its operational oversight. However, in the event that one or more boroughs decides not to extend the contract, the boroughs would then have to make alternative arrangements. These could include the joint procurement of another contract by a Joint Committee that was explicitly empowered to do so by a change in its remit agreed by the boroughs. Alternatively - if there were no agreement between all four boroughs to pursue a further joint procurement - there would be a strong argument for not including waste collection explicitly in the remit of the Joint Committee. Two or three boroughs could then pursue a joint procurement simply by agreeing a new IAA between themselves.

#### **Option 4: Include waste collection and street cleansing explicitly within the remit of the Joint Committee, and do so now**

27. The only change required would be to Schedule 1 of the Constitution as set out in Annex 1. The word 'Disposal' could be deleted and replaced by 'Management' in the heading and in clause 1.2.23. Clauses 1.2.13 and 14 could be amended to read:

##### **"In relation to contract issues**

- 1.2.13 Undertake the procurement of all new waste management and street cleansing contracts in the area
  - 1.2.14 If specifically agreed by all the Participating Councils award and manage waste management and street cleansing contract(s) in the area"
28. This change would mean that in future the Joint Committee could handle the procurement of all types of waste contract in exactly the same way, without needing in the case of waste collection to work around the restrictions on its remit imposed by the current Constitution. It would reserve to the boroughs the power at some future date to delegate more of the operational management of the contracts to the Partnership, something that would also require a modification of the borough clienting arrangements set out in IAA 2017.
  29. However there is a difficulty with Option 4. If in either 2020 or 2021 there were no agreement between all four boroughs to pursue a further joint procurement, the



Joint Committee would have to change its Constitution again, reversing out of the decision to include waste collection in its remit, or it would have to draft new arrangements to deal with the voting rights, and access to confidential papers, of any borough that had decided to pursue its own local solutions for waste collection outside the Joint Committee. Those changes are not impossible to draft, so this would not be an insuperable obstacle. But members may prefer to avoid the risk of creating such difficulties this side of the decision on whether or not to extend the environmental services contracts.

## **A REVIEW OF THE OPTIONS**

30. A case can be made for any of these options, but some are stronger than others.
31. Members may take the view that the negative considerations set out in relation to Option 4 mean that it should not be pursued at present. Members may also be reluctant to take Option 1 - 'do nothing' - preferring the view that at some point in the foreseeable future the Strategic Partnership Manager should have a clearer reporting line to members on her high-level clienting responsibilities. These two options are not recommended.
32. On the other hand Option 2 looks promising, and this review recommends that the Joint Committee should consider making fuller use of its existing remit to assist the boroughs in managing waste collection by providing co-ordinated strategic advice and guidance on issues of common concern. The clauses from the Constitution quoted under Option 2 show what could be done in general terms. By way of example, the issues that could be considered by the Joint Committee under its existing terms of reference could include:
  - further consideration of the circular economy, building on the workshop members have already attended on the issue
  - the implications for recycling markets of China's tightening quality controls on imports of recyclates
  - the implications of Brexit, and the risks and opportunities involved in any long-term shift away from our current dependence on EU waste legislation
  - current best practice and policy advice to boroughs on 'preventable plastics'
  - the implications for recycling targets of deposit/return schemes for containers
  - the implications for residual waste disposal of plans to construct a third runway at Heathrow, thus demolishing Viridor's ERF at Lakeside
  - the scope for further promoting re-use and waste minimisation across the Partnership
  - the implications of changing demographics or patterns of land use across the Partnership area
  - opportunities to improve waste services arising from new technologies

- the risks and opportunities involved in any attempt to make relevant IT systems converge across the boroughs
  - optimising cross-boundary services and collection routes
  - common standards of waste enforcement, and the prevention of fly-tipping
33. Some of these topics will be commercially sensitive, or will involve a 'free and frank' discussion of policy options and risks. It may well be preferable to conduct such discussions in informal workshops to enable members freely to explore all the issues at stake before giving a steer to officers on developing more formal proposals to go to the Joint Committee itself. In particular, if members decide - now or later - to include waste collection in the remit of the Committee, they are likely to want to consider the following issues, first informally and then formally, and in both cases with a view to making recommendations to the boroughs:
- oversight of any revisions to the current waste collection specification as part of any negotiation around contract extension
  - oversight of the development of a new specification for waste collection and cleansing before any reprocurement of services
34. It lies outside the scope of this review to make recommendations about how the discussion of such topics by members of the Joint Committee could best be facilitated. There would be various options which are not mutually exclusive - borough officers could take it in turns to make presentations to members; waste industry speakers could be invited to attend workshops, and in particular the contractors' policy specialists could be invited to share their companies' research findings; the Partnership's client team could be augmented by appointing a waste strategist. More important than how it is done, though, is whether the Joint Committee agrees in principle that the type of strategic issues listed above ought to be prominent on its agendas. And whether, in consequence, the routine presentation of detailed performance data to the Committee would be better condensed into a comprehensive annual report analysing the overall performance of the contracts. It is for members to decide what they want to see on their agendas, but it seems likely that this approach would be significantly more interesting for members and more useful to the boroughs.
35. Option 3 follows logically from any rejection of Options 1 and 4. It implies an acceptance of the desirability in principle, at some point in future, of expanding the remit of the Joint Committee to include waste collection. However Option 3 proposes deferring that decision for two or at most three years until the environmental services contract is stabilised and until the boroughs know whether or not they all intend to extend the existing contract, or jointly procure another one.

## RECOMMENDATIONS

36. The Joint Committee is recommended to approve:
- **Option 2** - working both informally and formally within the existing remit of the Joint Committee to assist the boroughs by offering non-binding guidance on waste management as a whole, and by commissioning comprehensive annual reports analysing the overall performance of the Partnership's various contracts, and
  - **Option 3** - defer consideration of the expansion of the remit of the Joint Committee until 2020 at the earliest so that it would be ancillary to borough decisions about the extension of the current waste collection and street cleansing contract

## IMPACTS AND IMPLICATIONS

### Legal

There are no legal considerations arising directly out of the recommendation beyond those already contained in the body of this report. However, it is worth noting that should the Partnership boroughs wish at any point to expand the remit of the South London Waste Partnership's Joint Waste Committee, it will be important to follow the appropriate governance processes for each Council under their individual constitutions and to ensure compliance with Section 101 of the Local Government Act 1972. Detailed legal advice on those processes should be sought at the appropriate time.

### Finance

There are no financial considerations arising directly out of the recommendation in this report

## ANNEXES

Annex 1: The remit of the Joint Waste Committee as set out in its Constitution

Annex 2: Arrangements made by other waste partnerships

**The remit of the Joint Waste Committee as set out in its Constitution (2007 text)**

**SCHEDULE 1**

**WASTE DISPOSAL FUNCTIONS DELEGATED TO THE JOINT COMMITTEE**

1. The **FOLLOWING** functions (together with any additional functions delegated to it by the Participating Councils from time to time) are delegated to the joint committee.

1.1 To make arrangements for the disposal of waste, provide places for the deposit and disposal of waste and to advise participating councils on the delivery and separation of waste. In this regard the following functions are delegated within the terms of reference set out in paragraph 1. 2 of this schedule 1.

**Environmental Protection Act 1990**

- 1.1.1 Arrange for the disposal of waste collected by the participating Councils
- 1.1.2 Make arrangements of providing places where residents of the participating Councils may deposit waste (Civil Amenity Sites)
- 1.1.3 Make arrangements for disposing of waste delivered to civil amenity sites by residents of participating Councils
- 1.1.4 To advise and give guidance to participating Councils on how waste is to be separated (taking account of existing waste disposal arrangements)
- 1.1.5 To advise and give guidance to participating Councils on how and where waste collected by them is to be delivered (taking account of existing waste disposal arrangements)
- 1.1.6 To advise participating Councils on how to expedite the minimisation of controlled waste in the area of participating Councils.
- 1.1.7 To use waste for the production of heat and/or electricity
- 1.1.8 To buy waste for purposes of recycling
- 1.1.9 To use or sell waste or anything produced from such waste.
- 1.1.10 To sell or otherwise dispose or residual waste
- 1.1.11 To keep records of waste, transfer notes received and transferred.

**Waste and Emissions Trading Act 2003**

- 1.1.12 To devise and recommend a strategy for trading in LATS to the participating Councils.

**WEE Regulations 2006/3315**

- 1.1.13 To recommend for participating Councils which sites and facilities within the area of the participating Councils are to be Designated Collection Facilities

**Landfill Regulations 2002/1559**

- 1.1.14 To devise a joint waste strategy designed to reduce biodegradable municipal waste going to Landfill and recommend to participating councils

1.2 In support of, and to achieve the statutory functions listed in this schedule, the joint committee will operate within the following terms of reference.

## **Generally**

- 1.2.1 Provide the forum and mechanisms for ensuring that there is a coherent programme and organisational structure for waste management and for joint working;
- 1.2.2 Create sufficient critical mass to ensure that the rolling Business Plan and Annual Action Plan represent a commercially attractive proposition to the private sector;
- 1.2.3 Make recommendations to the Participating Councils to secure resources as required to meet the Objectives;
- 1.2.4 Keep under review the way the Joint Committee works with the private sector, whether through a formal partnership with a private sector body(ies), or through a preferred supplier mechanism or by a tendering process for each activity;
- 1.2.5 Ensure that the Joint Committee and the Participating Councils keep abreast of legislative changes and/ or direction of statutory and non statutory guidance, and to ensure that sufficient flexibility is incorporated into the terms of any contract let on its behalf to ensure compliance with new or changed statutory duties of the Participating Councils
- 1.2.6 Produce, for consideration of the Participating Councils, the Draft Rolling Business Plan and Annual Action Plan, and to implement the Approved Business and Action Plans;
- 1.2.7 Ensure that an appropriate exit strategy is in place for each project or activity for which there are contractual obligations, and that appropriate post implementation reviews are conducted;
- 1.2.8 Influence, advise and lobby Central Government and other agencies (whether locally, nationally and internationally) where this is felt to be consistent with the Objectives, and respond to Consultation on relevant proposed legislation
- 1.2.9 Apply for any external funding required to achieve the Objectives of the Joint Committee including PFI credits where applicable.
- 1.2.10 Commission research and public opinion surveys into matters relevant to the Objectives;
- 1.2.11 Do anything which is calculated to facilitate or is conducive or incidental to any of the functions set out in this Schedule
- 1.2.12 Make decisions within the confines of current policies of Participating Councils.

## **In relation to contract issues**

- 1.2.13 Undertake the procurement of all new waste disposal contracts in the area
- 1.2.14 If specifically agreed by all the Participating Councils award and manage waste disposal contract(s) relating to the exercise for the delivery of waste disposal in the area
- 1.2.15 Contribute to the production of the Joint Waste Development Plan Document for the area and to any documents that contain waste land use planning policies issued by the Participating Councils

## **In relation to planning issues**

- 1.2.16 Recommend to any of the Participating Councils to make a planning application on land within its area to facilitate the objectives of the Joint Committee
- 1.2.17 To comment on any proposed planning application to be made by one of the Participating Councils for waste management facilities in the area
- 1.2.18 To consider and if necessary respond to all planning applications that are submitted for the development of waste facilities in the area

## **In relation to land issues**

- 1.2.19 To prepare and maintain a register of "key waste disposal sites" which each of the Participating Councils has identified as a site which, in accordance with this

Agreement, will be held for the purposes of the achievement of the objectives of the Joint Committee.

**In relation to future arrangements**

- 1.2.20 Develop proposals for the future development of waste management through the Draft Rolling Business Plan, such proposals to include the possible creation of separate entities to undertake particular lines of activity, the delivery and ongoing management of a particular service or activity, the commissioning of research, public awareness campaigns, and the provision of training and consultancy services;
- 1.2.21 Consider and recommend to the Participating Councils a strategy in relation to the creation of a Statutory Joint Waste Authority including criteria for making an application for the creation of such an Authority.
- 1.2.22 If agreed by the participating Councils to make an application for the creation of a Statutory Joint Waste Authority for the area and to oversee its implementation.
- 1.2.23 Develop proposals on how the Participating Councils can discharge their functions generally in the field of waste disposal to promote and/ or improve the economic, social and environmental well-being in the Area of Participating Councils and contribute to the achievement of sustainable development, including in particular:-
  - a) waste minimisation generally
  - b) the reduction of waste going to landfill on a year by year basis
  - c) the development of alternative methods of disposal
  - d) an increase in the proportion of waste being recycled on a year by year basis

## Arrangements made by other waste partnerships

### Surrey Waste Partnership

The Surrey Waste Partnership comprises Surrey County Council as the disposal authority and 11 district or borough councils which are waste collection authorities. In 2013 five of those district or borough councils together with Surrey County Council agreed that they would establish a Joint Waste Collection Services Committee under the provisions of the Local Government Act 1972. The Constitution of the Joint Committee states that its purpose is "to improve the quality and effectiveness of the discharge of their waste management functions..., in particular the joint procurement of a contract to deliver associated waste services.... This working together shall also include working in partnership with Surrey County Council as the Waste Disposal Authority to maximise integration opportunities". The Constitution limits the Joint Committee's powers, reserving strategic and budget decisions to the Executives or Committees of the participating councils.

The six participating councils signed an Inter Authority Agreement to procure jointly a single waste collection, recycling, and street cleansing contract. This contract was ultimately signed in 2017. Other Surrey collection authorities can choose to join in the contract as their current contracts expire, subject to the agreement of the founding members of the Joint Committee.

The joint contract is managed by the new company Joint Waste Solutions plc, whose Director is the Executive Head - Community at Surrey Heath DC. The company is governed by the Joint Committee and hosted by Surrey Heath. Joint Waste Solutions also runs education and outreach functions across the County as a whole.

### Somerset Waste Partnership

The six authorities comprising the Somerset Waste Partnership have established a Joint Committee, whose Constitution is supplemented by Inter Authority Agreements. The Partnership comprises the County Council as the disposal authority and five district or borough councils which are waste collection authorities. Contracts are let by the County Council as the 'Administering Authority', which is also responsible for establishing a 'Single Client Group' of officers. The Joint Committee is empowered to discharge each authority's statutory functions "with respect to waste disposal, waste collection and recycling of waste". There is a strong emphasis in the Constitution on the production each year of a five-year Business Plan, which must be endorsed by each of the boroughs' Executives or Committees before it can be implemented.

One interesting feature of the Somerset IAA is that it makes provision for any partner borough to serve a 'Partner Notice of Change' upon the Administering Authority, through which an estimate of the costs, or savings, arising from an adjustment to the scope of the services provided to the partner borough shall be obtained from the contractor. Broadly speaking, subject to consultation and the requirement to compensate other partners for any losses consequent on the change, the borough proposing the change may require that it shall be implemented. That said, a borough may not propose a change that would "substantially alter" the scope of the services.

### Dorset Waste Partnership

The seven local authorities in the Dorset Waste Partnership have also established a Joint Committee with a Constitution supplemented by an Inter Authority Agreement. As with

Somerset, 6 district councils and waste collection authorities have formed a partnership with Dorset County Council which is the disposal authority. The County Council acts as the 'Host Authority', providing administrative, technical, and legal services to the partnership.

The partner boroughs have delegated to the Joint Committee their functions "in relation to waste disposal or waste collection, the recycling of waste and street cleansing". The Constitution delegates full operational authority to the senior management team, but specifies that "the Joint Committee shall provide strategic oversight and [the] policy framework within which the Director and Senior Management Team will operate".

As in Somerset the annual Business Plan is the guiding document, and each participating authority has the right to vary service levels and resource inputs up or down provided that other partners are not affected adversely.

### **Hampshire - Project Integra**

Fourteen different councils, together with a representative of their contractor (currently Veolia), participate in Hampshire's 'Project Integra Strategic Board'. The County Council is a member, together with 11 waste collection authorities and two unitary authorities with responsibility for both disposal and collection. The partnership began in 1995, and in 2001 the councils agreed to set up a Joint Committee ('the Board') "in order to increase clarity, accountability and respond in a more effective and coordinated way to new challenges".

The Board's function is "to develop a strategic policy framework within which the Partner Authorities can each discharge their functions as waste disposal authority or waste collection authority (as the case may be) and as set out in the Joint Municipal Waste Management Strategy..." The Board may:

"...discharge, on behalf of the Partner Authorities, their functions in respect of the making of arrangements for the recycling of waste, where such arrangements:

- (a) Affect two or more of the Partner Authorities; and
- (b) Have been authorised by all of the Partner Authorities by being specifically referred to in the Approved Action Plan."

In an interesting formulation, one of the purposes of the Board is to "maximise value for money by considering the system as a whole through delivery of an integrated waste management process". However in practice the core function of Project Integra is to deliver waste disposal functions. Each collection authority has made its own contractual or in house arrangements for waste collection.

### **The Barnsley Doncaster Rotheram (BDR) Partnership**

Barnsley, Doncaster, and Rotheram Councils have established a Joint Waste Board, to "jointly manage" waste generated in the three boroughs. The Partnership obtained PFI funding to build new waste treatment and disposal facilities which became operational in 2015. The relationship between the partners is governed by Inter Authority Agreements. Through one of the IAAs the partners agreed to establish a Joint Committee under the Local Government Act 1972 to oversee the partnership's disposal contract. No provision is made by the Partnership for the management of other functions.