

TAUNTON DEANE BOROUGH COUNCIL

EXECUTIVE COMMITTEE **February 26TH 2007**

THE SOMERSET WASTE BOARD ADMINISTERING AUTHORITY

Report of Strategic Director - Joy Wishlade

This is the responsibility of Executive Councillor D Bradley

1. INTRODUCTION

Following the agreement of the Executive / Cabinet Committees of each of the Partner Authorities to adopt the Joint Committee, Administering Authority Model for the Somerset Waste Board, the Directors Implementation Group (DIG) at their meeting on 9th January agreed a process for the appointment of one of the Partner Authorities to act as Administering Authority on behalf of the Somerset Waste Board.

On 25th January DIG unanimously agreed that Somerset County Council should be recommended to become the Administering Authority, and this decision was subsequently endorsed, again unanimously, by The Somerset Chief Executives Group at their meeting on 26th January.

The purpose of this report is to seek the views of the Health and Leisure Review Panel and the endorsement of the Executive of the decision to appoint Somerset County Council as the Administering Authority to the Somerset Waste Board. As such it is a generic report that is being submitted to the Executive / Cabinet meetings of all the Partner Authorities during February and March.

2. BACKGROUND

An outline of the role of the Administering Authority is attached as Appendix A to this report.

Somerset County Council and Sedgemoor District Council formally submitted bids to become the Administering Authority. Their submissions were independently evaluated as to their capacity, experience and skills to undertake this role to the satisfaction of the other Partner Authorities and also to minimise any associated risks either to themselves or the partnership as a whole.

All the Partner Authorities have engaged positively and constructively in this process and Section 151 Officers were also involved because of the nature of the financial issues and responsibilities associated with becoming the Administering Authority.

The appointment of the Administering Authority is a major decision and therefore the collective confidence of both DIG and The Somerset Chief Executives Group in both the process and the choice of Somerset County Council to act in this role is particularly important.

The report on the draft Heads of Terms for the Constitution of the Joint Committee and the Inter Authority Agreement together with the appointment of the Administering Authority will formalise the future structure of the Somerset Waste Board.

3. RECOMMENDATIONS

1. That the Executive approves the recommendation of both the Directors Implementation Group, and the Somerset Chief Executives Group to appoint Somerset County Council to act as Administering Authority on behalf of the Somerset Waste Board
2. and agrees that this decision is considered to be in the best business interests of the Somerset Waste Board and the community of Somerset, and will be promoted as a partnership decision, which places responsibility on the Administering Authority to implement the decisions of the Board and not to use this role to promote its own individual interests.

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APPENDIX A ; THE ROLE OF THE ADMINISTERING AUTHORITY

As a starting point a suitable definition of an Administering Authority could be taken as follows; “The Partner Council which agrees to take on the role of accountable and responsible body for (inter alia) the letting of waste management contracts, the holding of all central funds on account of the Joint Committee and the employment of persons on behalf of the Somerset Waste Board (the Joint Committee)”. All costs incurred by the Administering Authority in carrying out this role will be reimbursed by the Partner Authorities.

The constitution agreement would require, as part of the guiding principles, that all Partner Authorities take all reasonable and necessary measures to ensure that the Administering Authority is able to perform its responsibilities (detailed below), including an obligation that they make payments to the Administering Authority of their respective share of the contract payments to third parties in accordance with the provisions of the inter authority agreement; and that they provide to the Administering Authority all notices, requests, or information that may be received from the contractor(s) as soon as reasonably practicable.

The Administering Authority would therefore be authorised to perform its obligations and functions as detailed, and all partners would agree to be bound by and comply with any outcomes of the exercise of such obligations and functions and each partner would indemnify the Administering Authority accordingly (to the intent that the Administering Authority and the Joint Committee shall be jointly and severally liable and or responsible for all such liabilities claims costs and or expenses).

Roles would include;

- Acting on behalf of the Joint Committee in the management and supervision of any contracts concerning waste management, primarily via the Single Client Group; **(A)**
- Responsibility for the payment of the Unitary Charge to the contractor(s) in accordance with the requirements of the principal contract(s); **(R)**
- The collection of each partners’ share of the contract payments to third parties in order to ensure that payment of the contract payments to third parties may be made in accordance with the provisions of the principal contracts; **(R)**
- Perform the role of accounting officer for all central funds held on account of the Joint Committee and to make and provide all appropriate banking and accounting arrangements and services required for the due and proper receipt holding and application of such funds; **(R)**

- Holding capital assets on behalf of the partner authorities; **(R)**
- Subject to indemnities act as the employing authority for any staff engaged in the discharge of the Joint Committee's functions (appointing, employing, or accepting the secondment of staff); **(R)** **NB The Managing Director of the Single Client Group would be responsible for identifying the type and numbers of staff necessary for carrying out the functions of the Single Client Group and selection of individual members of staff**
- To be the legal point of contact with the suppliers for all procurements undertaken by the Joint Committee; **(R)**
- Providing such additional administrative resources and office facilities that may reasonably be necessary to enable the new Single Client Group and the Joint Committee to discharge their respective roles duties and functions; **(A)**
- Carry out any functions delegated to it under the principal contracts; **(A)**
- Ensure that where any information is received from or requested by the contractor, the dissemination, collation and provision of information is effected within a timescale which is compatible with any time provisions detailed in the principal contract(s) and in any event as soon as reasonably practicable. **(A)**
- Refer any requests from the contractor(s) for a consent or approval to appropriate officers, the Joint Committee or Managing Director as appropriate and then communicate any decision back to the contractor. Such communications would need to be within a timescale which is compatible with any time provisions detailed in the Principal Contract(s) and in any event as soon as reasonably practicable. **(A)**
- Provide Senior Officers who will act as Secretary, Monitoring Officer and Treasurer (who would also be the Section 151 Officer) to the Joint Committee and who will therefore act as the primary legal and financial advisers to the Committee. (NB. These functions could be shared between the other partner authorities, but clearly there is a logical argument that would suggest that these officers are attached to the Administering Authority.) **(R)**

(Where **(A)** indicates is "accountable for" and **(R)** indicates is directly "responsible for".)

It is proposed that the auditing of the roles and activities of the Administering Authority (in addition to the Joint Committee and the Single Client Group) should be carried out by the Somerset Audit Partnership.

It is likely (but not an absolute requirement) that for the purpose of carrying out its functions and the administration of the Joint Committee the standing orders of the Administering Authority shall take precedence over the standing orders of the other partner authorities. Notwithstanding the generality of this statement each partner authority shall be entitled at any time to utilise their respective particular Overview and Scrutiny procedures, and this will be highlighted in the constitutional agreement and the Joint Committee and the Managing Director of the Single Client group will be required to fully co-operate.

It is also appropriate to identify situations in which the appointment of the Administering Authority could be terminated eg;

- Any substantial and persistent breach of the terms of any constitutional agreement by the Administering Authority, or
- Substantial or persistent failure on the part of the Administering Authority to redress performance of the duties of the Administering Authority which don't comply with the requirements or standards set by any agreement, or

Gross misconduct on the part of the Administering Authority which is contrary to proper Local Government practice or Local Government law.