LONDON BOROUGH OF CAMDEN	WARDS: All
REPORT TITLE Adoption of the North London Waste Authority Inter-Authority Agreement and Menu Pricing Mechanism (CENV/2015/06)	
REPORT OF Cabinet Member for Sustainability and Environment	
FOR SUBMISSION TO Cabinet	**DATE** 21 January 2014

SUMMARY OF REPORT

This report sets out details and implications to Camden of the Inter Authority Agreement (IAA) between the North London Waste Authority (NLWA) and its seven constituent Boroughs. The IAA governs the arrangements between NLWA and the boroughs with regards to waste management over the life of the NLWA's current and future waste management contracts.

The report also includes the proposed change in the NLWA's charging mechanism; from a levy approach to a menu pricing system.

Both the NLWA IAA and the potential move to menu pricing are in line with the Camden Plan, by enabling Camden to further deliver value for money recycling and waste services.

The report is coming to the Cabinet because as the IAA involves significant financial and strategic implications for the borough.

Local Government Act 1972 – Access to Information

The North London Waste Authority Inter Authority Agreement has been used in the preparation of this report.

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WHAT DECISIONS ARE BEING ASKED FOR?

That the Cabinet is asked to:

1. Agree in principle that the Council should enter into the IAA in accordance with the terms set out in Section 5 and Appendix 1 of the Report.

2. Delegate authority to the Director of Culture and Environment to (a)

negotiate and thereafter agree the detailed terms of the IAA in consultation with the Cabinet Member for Sustainability and Environment, Director of Finance and the Borough Solicitor (b) authorise signature and execution of the IAA.

3. Approve the principle of the North London Waste Authority moving to the menu pricing mechanism in April 2016 (subject to approval of other constituent boroughs) and delegate authority to the Director of Culture and Environment to in consultation with the Cabinet Member for Sustainability and Environment, Director of Finance and the Borough Solicitor and to agree the detail of the apportionment of North London Waste Authority's costs through the use of a menu pricing mechanism.

4. Note that the Director of Culture and Environment shall be nominated in the IAA as the Council's Representative for the purposes of the IAA and shall discharge that either personally or by nominated deputy as appropriate.

Signed:

Director of Culture and Environment

Date: 8th January 2015

1. WHAT IS THIS REPORT ABOUT?

1.1 This report sets out the principle and general obligations and the implications for the London Borough of Camden of the Inter Authority Agreement (IAA) between the North London Waste Authority (NLWA) and its seven constituent Boroughs.

1.2 The Cabinet is being asked to approve Camden's adoption of the IAA; to commit to the arrangements between NLWA and the boroughs with regards to waste management over the life of the NLWA's current and future waste management contracts.

2. WHY IS THIS REPORT NECESSARY?

2.1 The IAA is an eight way legally binding agreement between the NLWA and the seven north London waste collection boroughs. These boroughs are Barnet, Camden, Enfield, Hackney, Haringey, Islington and Waltham Forest.

2.2 The IAA is created to formalise and agree the relationship between NLWA and the boroughs in the long term management of waste, waste contracts and associated finances.

2.3 A key implication for Camden is the proposed move to a menu pricing system, which ensures that boroughs receive charges related to the quality and type of waste they produce. This system incentivises boroughs to take measures to increase the amount of recycling, reduce waste levels and reduce contamination of recycling in their areas.

2.4 Camden will be required to nominate a Director to be the point of contact, the representative and to have full authority to act on behalf of the London Borough of Camden for all purposes of the IAA. Section 4.2 of the IAA states that the representative "shall exercise the functions and powers of Camden as a waste collection authority in relation to the services and activities identified in the IAA".

3. OPTIONS

3.1 Cabinet is being asked to agree that the London Borough of Camden (i) authorise the NLWA IAA in principle and (ii) approve in principle the move to a menu pricing charging mechanism and delegate further authority to the Director of Culture and Environment.

3.2 The alternative 'do nothing' option would maintain the status quo. In order for the IAA to operate it requires unanimous agreement from all parties (seven boroughs and the NLWA). The adoption of any new pricing mechanism also required unanimous agreement from all seven boroughs. Therefore if the council choses to not adopt the IAA or the menu pricing approach all parties will revert to the statutory formula between waste collection and disposal authorities, including the inequitable current levy charging system.

4. WHAT ARE THE REASONS FOR THE RECOMMENDED DECISIONS?

4.1 As a constituent member of the NLWA, the London Borough of Camden aims to work in partnership with the NLWA and its other constituent boroughs. The IAA will form a significant part of this future partnership work.

4.2 The agreement inter alia seeks to introduce a more equitable charging mechanism for the NLWA's services, moving away from the current levy approach to a menu pricing system. This approach will incentivise recycling over residual waste disposal and so supports Camden's future ambitions to further drive up recycling tonnages across the borough.

5. WHAT ARE THE KEY IMPACTS / RISKS? HOW WILL THEY BE ADDRESSED?

5.1 Various impacts will arise from the Council entering into the IAA. The IAA in its current draft form sets out various requirements and obligations for the seven boroughs. The following section splits these proposed provisions into principal and general obligations and the implications for Camden.

5.2 It should be noted that if other constituent councils chose not to adopt the menu pricing approach all parties will revert to the statutory relationship, including current levy mechanism. This remains a risk until all Councils have agreed the IAA, but as each Council does so this risk reduces.

5.3 Principal proposed obligations (Menu pricing and Tonnage Guarantees)

5.4 Menu Pricing

5.4.1 The draft IAA agrees to move from the current levy charging system to a menu pricing system from 1st April 2016. Menu pricing does not significantly change the cost per tonne of waste, recycling or organic waste, but addresses the shortcomings in the existing levy and charging system. Menu pricing ensures that borough costs are allocated to reflect the quality and amount of waste and recycling they delivered to NLWA and the different costs associated with processing that waste type.

5.4.2 The menu pricing system like the levy system provides NLWA with its annual budget, which in 2014/15 is made up of three elements:

1) 83% of cost based on actual tonnage delivered – apportioned using a proportion of data from the last two years audited tonnage.
2) 13% of cost based on council tax – apportioned using the proportion of the total council tax band D equivalent properties in each borough for the levy year.
3) 4% based on Household Re-Use and Recycling Centres (HRRC) – operating costs

5.4.3 The NLWA budget covers:

- Contract payments -London Waste Limited contract (waste transfer and disposal / organic waste treatment) and Mixed Recycling contract (recyclable materials processing)
- Capital programme revenue costs (capital contributions, facility development)
- Overheads
- Contingency
- Recycling income from the processing of mixed recyclables

5.4.4 Menu pricing has positive and negative implications for different boroughs and the current information available illustrates a positive financial impact for the London Borough of Camden. This information illustrates that the full impact of menu pricing, against the current levy mechanism position, realises a positive financial impact for Camden of an estimated £620,000 per annum.

5.4.5 Due to the varied individual financial impact to all seven boroughs of this change to menu pricing, officers negotiated a phased introduction of the system. The current proposal is to phase the change over 2 years, beginning in 2016/17 (50% in 2016/17 moving to 100% in 2017/18). If it proves possible to do so (i.e. subject to agreement from all parties) then it is considered beneficial to bring this forward by one year, but this is not currently considered likely.

5.4.6 There are three main aspects to the introduction of menu pricing and these are:

1. Differential charging for waste and recycling streams (see section 5.5).
2. Reduced disposal costs for business waste (see section 5.6).
3. Charging of waste and recycling from household recycling and re-use centres (HRRC) based on visitor surveys rather than council tax band D properties (see section 5.7).

5.5 Differential charging

5.5.1 Under the current levy system the cost for each borough is based on the total tonnage delivered irrespective of waste type and does not recognise recycling, including waste and recycling generated at HRWCs. Recycling costs less to reprocess and treat than waste so the overall cost to NLWA is reduced by recycling. Currently this reduction (benefit) is distributed proportionally across all the seven boroughs. Menu pricing will recognise the split between material types (waste, recycling and organic) and ensure the reduced costs of recycling are passed directly to the borough, reducing costs directly to those who are performing well in delivering recycling. This is referred to as differential pricing; and makes recycling materials a financial as well as an environmental benefit.

5.5.2 Costs associated with contaminated commingled recycling will also be apportioned based on each borough's input.

5.5.3 Under the levy system Camden receives £25/tonne for recycling materials delivered to NLWA facilities; this is the 'comingled incentives payment' (CIPs). The menu pricing system will see CIPs payments stop and be incorporated into the differential pricing charge (income budgets will have to be adjusted accordingly).

5.5.4 The cost differential between levy and menu pricing is around £30 per tonne, but when the current CIPs payments are incorporated this reduces to around £5 per tonne difference. The details on the exact figures are currently being updated.

5.5.5 The incorporation of the CIPs payments and the low costs of residential waste incineration is why the impact of menu pricing does not have a significant impact on the price per tonne of residential waste and recycling. There is, however, a more significant impact on the cost per tonne of business waste, as discussed below.

5.6 Reduced disposal costs for business waste

5.6.1 Across Camden business waste and recycling is co-collected with residential waste and the business waste costs to Camden are calculated based on a quarterly tonnage declaration. The business waste service currently pays a higher rate for business waste disposal (including landfill) and prioritises the lower costs of incineration for residential waste. In effect this subsidises other boroughs that do not have a significant business waste portfolio.

5.6.2 Camden's business recycling and waste service provides a collection and disposal service to over 3,500 businesses in Camden (37% of market share) and the waste disposal costs have significantly increased expenditure over the last few years. These costs are passed onto customers, making it increasingly difficult to compete in the competitive market, making it difficult to achieve budgeted income and committed MTFS savings. Menu pricing will decrease the cost of business waste disposal by around £18 per tonne.

5.7 Visitor surveys

5.7.1 NLWA currently collects; transports and disposes of all waste from household recycling and reuse centres (HRRC), and the costs are apportioned by the number of council tax band D properties in each borough rather than the actual proportion of waste that has arisen from each site.

5.7.2 Residents are able to use any HRRC in London and visitor surveys show that some centres are used by a significant number of residents from outside the borough in which the HRRC is situated, representing a cross subsidy. In Camden the visitor survey showed that 93% of users are Camden residents. Latest figures show that Camden will benefit financially by £76,000 per year, from charging based on visitor surveys, but the change will, in itself, not alter recycling rates.

5.7.3 A new visitor survey is to be undertaken in 2015, but due to the position of the site in the borough and the previous visitor survey these figures are not expected to change significantly.

5.8 Tonnage Guarantees

5.8.1 Under the IAA as currently drafted, Camden will be required to agree and commit to maximum and minimum tonnage projections in the future in relation to the new facility and waste contract at Edmonton (this is relatively common in waste treatment and disposal contracts), and a mechanism to proportion any liabilities arising in exceeding maximum tonnages or failing to achieve minimum tonnages.

5.8.2 This is often called a take or pay arrangement. The IAA states that the NLWA will not enter into a guaranteed tonnage arrangement unless there is unanimous agreement from all seven boroughs. If a guaranteed tonnage arrangement is entered into NLWA will require tonnage projections from all the boroughs and then use them to apportion any penalties that might arise based on each boroughs deviation from its projections.

5.8.3 More general obligations that impact all boroughs equally are outlined in the section below.

5.9 Proposed obligations – general

5.9.1 The IAA outlines how the boroughs and NLWA should work in partnership within the defined governance structure to ensure all councils have an effective working relationship and consider the impact of their actions on other boroughs and work towards the agreed 50% recycling target for 2020.

5.9.2 This includes providing prompt and accurate data, managing services diligently, sustainably and in accordance with best value, and undertaking joint research and communication campaigns.

5.9.3 Camden will be required to nominate a director to be the point of contact, representative and full authority to act on behalf of Camden with regards to the IAA. The nominated officer will be able to agree to minor or urgent amendments under delegated authority after the IAA is executed. Written notice to all parties will be required to change a borough representative.

5.9.4 Review the IAA at least every three years with the prevailing IAA expiring only it is superseded by another more suitable agreement or if the legal context changes such that the IAA is no longer operable.

5.9.5 Treat all information considered confidential as such and not disclose it unless legally required to do so or under the express permission of the relevant parties to the agreement. Furthermore parties are only permitted to use confidential material for the purpose of appropriate use within the scope of the agreement.

5.9.6 Barnet and Enfield are the only boroughs who have not transferred their HRRCs to NLWA. The IAA requires that NLWA will endeavour to ensure that it treats Barnet and Enfield equally to those who have already transferred their HWRCs to NLWA.

5.9.7 All HRRC will be promoted as single network (even in the non-transferred sites).

5.9.8 The IAA has a dispute resolution process whereby, if a dispute emerges a meeting can be called. The parties shall use best endeavours to resolve the dispute. If it's not resolved then there is a binding mediation process. The process is binging but the outcome is not.

6. WHAT ACTIONS WILL BE TAKEN AND WHEN FOLLOWING THE DECISION AND HOW WILL THIS BE MONITORED?

6.1 The nominated director (see section 5.8.4) will be the point of contact, representative and have full authority to act on behalf of Camden with regards to the IAA.

6.2 Partnership working arrangements have also been set out in the IAA and include:

- A director level partnership board;
- A senior manager partnership group;
- A number of other discipline specific officers groups, and;
- An acknowledgement that partnership working is important and needs to be appropriately resources.

6.3 The implementation and day to day operations associated with the IAA will be managed through the scheduled meetings outlined in the partnership working arrangements.

7. LINKS TO THE CAMDEN PLAN OBJECTIVES

7.1 Working closer with the NLWA and, in particular, the adoption of menu pricing for waste and recycling enables Camden to delivering value for money recycling and waste services. It also aligns with the borough's long standing environmental policies as set out in Green Action for Change, which promotes reducing residual waste (high costs) and increasing recycling (low cost).

8. CONSULTATION

8.1 Consultation has been undertaken with the NLWA Partnership Board and Partnership Group with council directors and officers and the NLWA to develop the text and mechanisms within the IAA.

8.2 A previous version of NLWA's IAA and relevant approvals were included in London Borough of Camden Cabinet reports on the following dates:

- 1 December 2010
- 20 July 2011
- 18 April 2012

9.0 LEGAL IMPLICATIONS (comments from the Borough Solicitor)

9.1 Legal comments have been incorporated in the report

10. RESOURCE IMPLICATIONS (comments from the Director of Finance)

10.1 Camden currently pays a levy to the NLWA based mainly on its proportion of actual household tonnages (both waste and recycling) delivered and our Council Tax base. The latest estimate for this in 15/16 is £5.53m. It also pays unit rates for the amount of non-residential commercial waste it delivers to the NWLA. At current prices the latest forecast for 15/16 is £3.4m.

10.2 The proposals, which require agreement and approval from all eight member authorities by the end of January 2015, would recommend a phased implementation of menu pricing over two years, starting in 16/17. As the overall budget for the NWLA remains the same, the proportion paid by member boroughs can either increase or decrease.

10.3 The latest estimates we have for the impact for Camden would be a saving of over £(0.6)m per annum from 17/18. The non-household service would see the majority of the total saving although our recycling proportion in household and recycling centres tonnage will generate a benefit. Under the menu pricing method, future increases in the proportion of recycling in total tonnage will increase the benefit for Camden further as reduced processing costs are passed direct to boroughs for this element.

10.4 It is at present unknown how the phased implementation would be enacted or the actual benefit that would be generated for Camden and work will continue to fully assess the beneficial financial impact for future years.

11. APPENDICES

Appendix 1: NLWA Inter Authority Agreement

REPORT ENDS