



Councils working together

Dorset Waste Partnership Joint Committee

Date of Meeting	12 September 2016
Officer	Legal Advisor to the Dorset Waste Partnership
Subject of Report	Inter Authority Agreement (Scheme of Delegation and Scrutiny Arrangements)
Executive Summary	This report recommends a scheme of delegation to the Joint Committee for adoption.
Impact Assessment:	Equalities Impact Assessment: There are no equalities issues arising from the recommended approval of the proposed Scheme of Delegation.
	Use of Evidence: The recommended scheme draws upon the arrangements for delegated decision making within each of the Partner Authorities.
	Budget/ Risk Assessment: There is no immediate budget impact arising from this report.
	Risk Assessment: It is important for the successful delivery of services and for accountability that there is a clear scheme identifying those matters that are reserved for decision by the Joint Committee, those delegated to the Director of the Waste Partnership with any sub-delegation to appropriate members of staff and those that may be

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	<p>taken by members of staff. Without a clear scheme of delegation there is a risk that decisions might be challenged on the basis that the decision maker had no authority to act.</p> <p>Having considered the risks associated with this decision using the County Council's approved risk management methodology, the level of risk has been identified as:</p> <p>Current Risk: LOW Residual Risk LOW</p>
	<p>Other Implications:</p> <p>No other implications have been identified.</p>
Recommendation	<p>That the Joint Committee, in anticipation of the execution of the new Inter Authority Agreement:</p> <ul style="list-style-type: none"> • adopts the Scheme of Delegation; • establishes a Joint Scrutiny Group with a recommendation for the Joint Scrutiny Group to adopt the proposed schedule of meetings and terms of reference; • recommends that Partner Authorities appoint elected members to the Group, details to be provided to the Clerk to the Joint Committee.
Reason for Recommendation	<p>To support the delivery of effective public services through the Dorset Waste Partnership.</p>
Appendices	<p>Appendix 1 – Dorset Waste Partnership Scheme of Delegation Appendix 2 – Joint Scrutiny Group draft Terms of Reference</p>
Background Papers	<p>Dorset Waste Partnership Inter Authority Agreement</p>
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1. Inter Authority Agreement

- 1.1 The terms of the new Inter Authority Agreement have been agreed by officer representatives of the Partner Authorities and is in the process of formal approval and signature. The final Partner Authority approval is expected on 5 October 2016, following which it is anticipated the new Inter Authority Agreement will be fully signed and executed.
- 1.2 Once executed the terms of the new Inter Authority Agreement will take effect retrospectively from 1 April 2016. The proposed use of the Dorset County Council Scheme of Delegation at Appendix 1 and description of arrangements for Joint Scrutiny below have been prepared in anticipation of the execution of the new Inter Authority Agreement, to take effect from the date of execution.

2 Scheme of Delegation

- 2.1 Through the current and proposed revised Dorset Waste Partnership (“DWP”) Inter Authority Agreements the Partner Authorities have delegated their functions in relation to waste disposal, waste collection, treatment and recycling of household and commercial waste and street cleansing to the Joint Committee.
- 2.2 In addition to the core delegated functions the Joint Committee also undertakes the following activities on behalf of the Partner Authorities:
- a. hold the Director to account for the management the Contracts for the delivery of an integrated waste management service across the County of Dorset in so far as such service relates to all or any of the areas of the Partner Authorities through the Senior Management Team and in accordance with legislation and the terms of the IAA;
 - b. approve and implement the Business Plan;
 - c. ensure that the legal and statutory functions delegated to it by the Partner Authorities are being discharged effectively within a risk management framework;
 - d. assist the Partner Authorities in meeting their respective responsibilities such as, but limited to, emergency planning and responding to civil emergencies and elections;
 - e. monitor, review, agree and recommend to each Partner Authority the Waste Strategy, Business Plan and Medium Term Financial Plan in accordance with the terms of the IAA;
 - f. monitor performance of the DWP including customer satisfaction;
 - g. agree the Capital Programme, to allow the DWP Treasurer to take it through the Host Authority’s capital programme approval process;
 - h. approve Key Decisions, defined in the Dorset Waste Partnership Scheme of delegation as “decisions where the financial implications for the Joint Committee exceed £500,000.”;
 - i. appoint the Director;
 - j. approve the calculation of revenue and financial costs in accordance with the IAA.
- 2.3 The Partner Authorities and Host Authority each have different schemes of delegation.
- 2.4 In 2013 Dorset County Council adopted a new approach to its internal scheme of delegation; a new legal framework to enable the County Council to move away from a very detailed scheme of delegations to one which is much more flexible and gives staff greater freedom to make decisions.

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- 2.5 The Standing Orders and Rules of Procedure (which include financial regulations and contract procedure rules) of the Joint Committee are those of the County Council as Host Authority. In its role as Host Authority, the County Council is also employer of Dorset Waste Partnership staff, and so the County Council's scheme of delegation for people management applies to the DWP and has been adopted by the Joint Committee.
- 2.6 In line with those other arrangements it is proposed that the Joint Committee adopt the Scheme of Delegation of the County Council ("the Scheme"), with modifications to reflect the function, governance and status of the DWP. The Scheme is attached at Appendix 1.
- 2.7 The Scheme makes reference to Senior Managers and for the DWP this is the Director.
- 2.8 In place of the previous scheme of delegation for the DWP, which listed very specific things that the Director was permitted to do and authorise others to do on their behalf, this new Scheme takes as its starting point:
- A presumption that the Director has delegated authority to exercise functions and make decisions about the service areas for which they are responsible, including financial and other resources within the agreed budgets.
 - That the Director will delegate functions and decision making to the most appropriate levels within their services so that staff are free to do their jobs without having to needlessly refer questions through tiers of management.
 - A requirement that all staff will operate within the overall policies approved by the Joint Committee, County Council as Host and Partner Authorities, and the limitations described in the Scheme.
- 2.9 There are a number of other important safeguards in relation to the exercise of delegated authority. Delegation of a function to the Director does not preclude the Joint Committee from requiring a particular issue (which would otherwise have been dealt with under delegated powers) to be referred back to them. Most importantly delegated decisions made by officers must not involve the adoption of any new policy or a major extension of an existing policy of the Joint Committee or a Partner Authority.
- 2.10 Specific modifications to the Scheme for the Joint Committee include:
- 2.10.1 Section 2 of the Scheme describes decision making within the County Council. The Joint Committee has delegated functions and so it is envisaged that, as now, section 2 will only apply to matters reserved to the County Council outside of those Joint Committee functions.
- 2.10.2 Where the Scheme of Delegation refers to provision of information or registers held by the Democratic Services Manager, for the DWP this is the Clerk to the Joint Committee;
- 2.10.3 Where the Scheme refers to delegated decisions being exercised in accordance with policies, for the purposes of DWP these mean the overall policies approved by the Joint Committee and Partner Authorities (including the County Council as Host Authority);
- 2.10.4 If authority to act has been reserved to the Joint Committee or a Partner Authority(ies) then no member of staff may exercise delegated authority in relation to that matter without the approval of the decision making body.
- 2.10.5 In addition, and in line with the County Council's Standing Orders and Rules of Procedure "key decisions" are reserved to the Joint Committee. For the County Council, key decisions are those where the financial

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- implications exceed £500,000 [or which are likely to have a significant effect on a division or divisions represented by at least two Joint Committee Members]. It is proposed the Joint Committee adopt the first part of this definition of “key decision”. The second part would result in most decisions becoming “key” and would be counter-productive.
- 2.10.6 Before exercising any delegated power staff must consider whether the decision to be made is of such a nature that it ought to be referred for a collective decision by the Joint Committee or Partner Authority(ies).
- 2.10.7 Through the Director clear communication must be maintained with the Chairman and Joint Committee Members who may require significant or sensitive issues to be referred to the Joint Committee or Partner Authority(ies) for decision.
- 2.10.8 There may be instances where time pressures are such that decisions which might otherwise be referred to the Joint Committee have to be made by the Director after consulting Joint Committee Members. Such decisions must be reported to the next available Joint Committee meeting.
- 2.10.9 Where the Scheme refers to consultation with a Cabinet Member for the DWP the reference is to the Chairman and Vice-Chairman of the Joint Committee.
- 2.10.10 The Scheme refers to communication and consultation with local members, and for the avoidance of doubt that is a reference to both County and District Councillors as local members and so is in the spirit of DWP and partnership working.

3. Specific Delegations

- 3.1 The Director’s duties are set out within s.27 of the Inter Authority Agreement, which include but are not limited to responsibility:
- 3.1.1 to lead the DWP in the delivery of the Functions. Act as principal advisor to the Joint Committee on all issues relating to the services provided by the DWP. Be accountable for the effective, efficient and economic delivery of all aspects of DWP;
- 3.1.2 for delivery of decisions of the Joint Committee;
- 3.1.3 for preparation of reports and recommendations for consideration by the Joint Committee;
- 3.1.4 to support of the setting of the strategic direction of the Joint Committee and the context within which waste services are developed, managed and operated;
- 3.1.5 for monitoring and management of the performance of collection, recycling and disposal of household waste; beach, street, resort, highways cleansing; commercial and garden waste services; vehicle management and maintenance; enforcement and any Contracts;
- 3.1.6 for referral of any requests from contractors for a consent or approval to appropriate officers or the Joint Committee as appropriate and then communicate any decision back to the contractors under the Contracts. Such communications shall be within a timescale which is compatible with any time provisions detailed in the Contracts and in any event as soon as reasonably practicable;
- 3.1.7 for provision of a full assessment of the short, medium and long term financial, resource, service, legal and contractual implications of waste management services for the Joint Committee, the Host Authority and each Partner Authority;

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- 3.1.8 for preparation and submission for approval by the Joint Committee of an annual internal audit plan.
- 3.1.9 to regularly report on the findings of any audits undertaken to the Joint Committee and to the section 151 officers of all of the Partner Authorities;
- 3.1.10 for preparation of a strategic risk register relating to the functions of the Joint Committee and regularly submit this, together with details of any mitigation actions implemented, to the Joint Committee;
- 3.1.11 for making such arrangements as necessary for the support of Senior Management Team and employees of the Host Authority directly engaged in the delivery of DWP services.
- 3.2 The Director is responsible to the Host Authority for compliance with Host Authority procedures, and any relevant codes of practice, legislation, mandatory guidance and regulation.
- 3.3 The Director is responsible to both the Host Authority and the Joint Committee for carrying out the role and duties of the Director in accordance with this Agreement, the Job Description, Person Specification and Context Statement for the role of the Director.
- 3.4 Dorset Waste Partnership staff when considering the exercise of delegated authority must be alert to this accountability and consult with their Director where decisions are likely to be sensitive or significant, such that the Director needs to consult with relevant Joint Committee Members.
- 3.5 For the avoidance of doubt, delegations to the Director of the Dorset Waste Partnership and officers authorised by him include, but are not limited to:
 - 3.5.1 to take appropriate action under Parts II and IV of the Environmental Protection Act 1990 and Parts 2, 3, 4 and 5 of the Clean Neighbourhoods and Environment Act 2005 Anti-Social Behaviour, Crime and Policing Act 2014 and any Regulations and Orders made thereunder;
 - 3.5.2 to take all statutory action connected with the removal, storage and disposal of abandoned vehicles and other matters under the Refuse Disposal (Amenity) Act 1978;
 - 3.5.3 to undertake all action (including any determinations necessary in respect thereof) in connection with applications in respect of commercial waste (including waste of mixed hereditaments including a private dwelling).

4 Joint Scrutiny arrangements

- 4.1 The new Inter Authority Agreement provides for any decision of the Joint Committee, except those agreed as urgent, to be subject to the formal scrutiny arrangements of each Partner Authority, including call in.
- 4.2 The Inter Authority Agreement also provides for the establishment of an informal Joint Scrutiny Group to support the Joint Committee by providing informal pre-decision scrutiny together with scrutiny of the performance of the DWP including financial performance and risk management.
- 4.3 Each Partner Authority is entitled to appoint an elected member, not being a Joint Committee Member, to be its representative on the Joint Scrutiny Group. Details of the appointed member and any substitute are to be given to the Clerk to the Joint Committee.

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- 4.4 The quorum for a meeting of the Joint Scrutiny Group shall be five Members, which shall include at least one Member appointed by each of five different Partner Authorities.
- 4.5 The Director, members of the Senior Management Team, together with the Treasurer, Legal Advisor and the Clerk, shall be entitled to attend meetings of the Joint Scrutiny Group to advise on relevant matters.
- 4.6 At the first meeting of the Joint Scrutiny Group, and annually, the Joint Scrutiny Group shall:
 - 4.6.1 elect from among the Joint Scrutiny Group Members the Chairman and Vice-Chairman;
 - 4.6.2 adopt Terms of Reference; and
 - 4.6.3 approve the schedule of meetings for the remainder of the year.
- 4.7 The Joint Committee are invited to propose a schedule of meetings for the Joint Scrutiny Group. The Joint Committee may feel that quarterly meetings to follow a Joint Committee meeting may be appropriate, with the first meeting to be arranged as soon as possible following the Joint Committee meeting of 7 November 2016.
- 4.8 Suggested terms of reference for the Joint Scrutiny Group are attached for review and comment by the Joint Committee.
- 4.9 The proposed Joint Scrutiny Group arrangements, including schedule of meetings and terms of reference are to be recommended to the Joint Scrutiny Group, for adoption at their first meeting, with Partner Authorities to appoint elected members to the Group, details to be provided to the Clerk to the Joint Committee.

Grace Evans
Legal Advisor to the Joint Committee