



Councils working together

Dorset Waste Partnership Joint Committee

Date of Meeting	12 June 2017
Officer	Legal Advisor to the Dorset Waste Partnership
Subject of Report	Scheme of Delegation and 2017/18 Schedule of Meetings
Executive Summary	This report recommends a scheme of delegation and a schedule of meetings 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 and Schedule of Meetings.
	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-

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	<p>delegation to appropriate members of staff and those that may be 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>The Inter Authority Agreement requires the approval of the Joint Committee to the yearly schedule of meetings which is important to support effective and efficient decision making.</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:</p> <ul style="list-style-type: none"> • Re-adopts the Scheme of Delegation; • approves the proposed Schedule of Meetings.
Reason for Recommendation	<p>To support the delivery of effective public services through the Dorset Waste Partnership.</p>
Appendices	<p>Appendix 1 – Dorset County Council Scheme of Delegation Appendix 2 – Scheme of Delegation for people management functions within the Host Authority</p>
Background Papers	<p>Dorset Waste Partnership Inter Authority Agreement</p>
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1 Scheme of Delegation

- 1.1 Through the Dorset Waste Partnership (“DWP”) Inter Authority Agreements (“IAA”) 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.
- 1.2 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.
- 1.3 The Partner Authorities and Host Authority each have different schemes of delegation.
- 1.4 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.
- 1.5 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 (attached at Appendix 2).
- 1.6 In line with those other arrangements at its meeting of 12 September 2016 the Joint Committee adopted 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.
- 1.7 The Scheme makes reference to Senior Managers and for the DWP this is the Director.
- 1.8 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 Scheme takes as its starting point:

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- 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.

1.9 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.

1.10 Specific modifications to the Scheme for the Joint Committee include:

- 1.10.1 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.
- 1.10.2 Where the Scheme of Delegation refers to provision of information or registers held by the Democratic Services Manager, for the DWP this is to be held by the Director;
- 1.10.3 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);
- 1.10.4 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.
- 1.10.5 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 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.
- 1.10.6 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).
- 1.10.7 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.
- 1.10.8 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.

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- 1.10.9 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.
- 1.10.10 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.

2. Specific Delegations

- 2.1 The Director's duties are set out within s.27 of the Inter Authority Agreement, which include but are not limited to responsibility:
 - 2.1.1 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;
 - 2.1.2 for delivery of decisions of the Joint Committee;
 - 2.1.3 for preparation of reports and recommendations for consideration by the Joint Committee;
 - 2.1.4 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;
 - 2.1.5 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;
 - 2.1.6 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;
 - 2.1.7 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;
 - 2.1.8 for preparation and submission for approval by the Joint Committee of an annual internal audit plan.
 - 2.1.9 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;
 - 2.1.10 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;
 - 2.1.11 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.
- 2.2 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.

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- 2.3 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.
- 2.4 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.
- 2.5 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:
- 2.5.1 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;
- 2.5.2 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;
- 2.5.3 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).

3. People Management

3.1 As the County Council is employer of DWP staff (as Host Authority), its Scheme of Delegation for people management applies to DWP. This reflects that whilst operational delegations might vary from service to service, people management delegations needed to be consistent across the County Council for all staff groups.

3.2 The County Council's Scheme of Delegation for People Management is attached at Appendix 2. The Scheme delegates *all* people management decisions to the lowest possible officer level, usually the line manager. Under the scheme all people management decisions, including those relating to formal action such as written warnings, suspension and dismissal may be made by managers at any tier of the management structure (provided they have received the appropriate training).

4. Schedule of Meetings

4.1 The Inter Authority Agreement requires the Joint Committee to set the number and schedule of meetings for the year, although there must be at least one for budget setting purposes.

4.2 The Joint Committee is recommended to agree a schedule of 5 meetings, which includes budget meetings as follows:

- June
- September
- Mid November – draft budget meeting
- Mid January – budget approval
- March.