

**Report of:** Strategic Director, Physical Environment

**To:** Executive Board

**Date:** 19<sup>th</sup> February 2007

**Item No:**

**Title of Report :** Oxfordshire Waste Partnership

### Summary and Recommendations

**Purpose of report:** To recommend approval of the draft agreement for the Oxfordshire Waste Partnership ("OWP"), and of the establishment of the OWP Joint Committee, subject to the terms of this report.

**Key decision:** Yes

**Portfolio Holder:** Councillor Jean Fooks

**Scrutiny Responsibility:** Environment Scrutiny Committee

**Ward(s) affected:** All

#### Report Approved by

**Portfolio Holder:** Councillor Jean Fooks

**Legal:** Lindsay Cane

**Finance:** Andy Collett

**Strategic Director:** Sharon Cosgrove

**Policy Framework:** Section 3.2.5 of the Oxford Plan

#### **Recommendation(s):**

Executive Board is recommended to:-

Approve the terms of the draft OWP legal Agreement (circulated separately) to be entered into by all the Oxfordshire local authorities, subject to recommendation iv) below.

ii) Approve in principle the draft Constitution of the OWP Joint Committee, as attached as Schedule 1 to the OWP legal Agreement;

Approve the appointment of one member of the Executive Board to represent the authority on the Joint Committee and to agree who may substitute for that

- member;
- iv) Delegate authority to the Strategic Director for the Physical Environment in consultation with the Portfolio Holder for A Cleaner City to authorise the Council's entry into the OWP legal Agreement at such time, and in the event, that they are satisfied with all the remaining outstanding issues relating to the future financing of the OWP; and to finalise the terms of the draft Constitution of the Joint Committee;
  - v) Authorise the delegation of the executive functions set out in Annex 1 of the draft OWP legal Agreement to the OWP Joint Committee, such authorisation to take effect upon the commencement date of the OWP legal agreement.

1. On 11<sup>th</sup> September 2006 the Executive Board approved a new Waste Strategy for Oxfordshire entitled "No Time to Waste". This set out policies and targets for Waste Management in Oxfordshire over the next 20 years. Effective delivery of this strategy requires more accountable governance for the Oxfordshire Waste Partnership ("OWP") and financial arrangements which incentivise all 6 Councils in Oxfordshire to work together to achieve the targets.
2. On 24<sup>th</sup> October 2006 the Oxfordshire Leaders Group unanimously agreed that the OWP should become a formal Joint Committee underpinned by a Legal Agreement. A copy of a draft legal agreement intended to set out all relevant governance and other legal matters relating to the OWP is attached at Annex A. This report seeks the approval of the Executive Board to the draft OWP legal agreement and to authorise the City Council's entry into the agreement in accordance with the terms of this report. For information, the draft OWP agreement is also being put before the County Council Cabinet and the 4 other District/City Councils for approval during January/February 2007.

### **Reasons for Recommendation**

3. It is critical that the targets contained in the new Oxfordshire Waste Strategy are met if Oxfordshire is to avoid the major fines associated with landfill tax. Major investment in waste facilities is required and it is important that the OWP manages this process properly and that all partners are properly protected.

### **Further Supporting Information**

#### **Background Information**

4. The OWP was established in 2003 and more recently renewed its commitment to joint working through the signing of a Memorandum of Understanding (MOU) in August 2005. The Partnership is made up of Oxfordshire County Council and all the 5 district/City Councils in

Oxfordshire. Cherwell District Council is currently the host authority for the Partnership.

5. A recent report by the Audit Commission recommended that the governance of the OWP be strengthened and in October 2006 the Oxfordshire Leaders Group approved in principle the formation of a formal joint committee, underpinned by a Legal Agreement between the constituent Councils. Other similar waste partnerships e.g. Buckinghamshire and Hampshire have already gone down this route.

### **Proposed New OWP Arrangements**

6. Under the new arrangements, from 1 April 2007 certain strategic, financial and operational functions of each of the participating Oxfordshire authorities would be delegated to the OWP Joint Committee. These functions would be as set out in Annex 1 to the OWP legal Agreement attached. They are in large part strategic, overseeing delivery of the 'No Time to Waste' strategy which the Executive Board has already agreed. The OWP Joint Committee would have some operational responsibilities for research, campaigns and publicity, but not, of course, for collection and disposal of wastes. The latter responsibility would continue to lie with the partner authorities, but acting within the policies and targets in the strategy.
7. The Chairmanship of the Joint Committee would rotate every two years in alphabetical order of the constituent Councils. Decisions would be taken in accordance with one vote per authority, on a simple majority basis, but with an override vote by any Council which would be adversely affected financially or contractually by a particular matter. This voting arrangement, as with many of the other detailed arrangements, is taken from the Hampshire constitution. Decisions would be open to scrutiny by the relevant scrutiny committee.
8. The Council chairing the Committee would have a wider lead role as 'host authority' leading the Officers' Group and supervising the Partnership's own officer. In addition, Cherwell DC would always act as the formal employer of the Partnership Officer, and the County Council would always act as the 'Accounting Authority' managing the OWP's day to day finances.
9. The OWP's own direct budget would be agreed annually and funded 50% by the County Council and 10% by each district council, reflecting current arrangements. Given the limited direct responsibilities of the OWP, the budget would form a very small percentage of overall wastes spending by the partner authorities.
10. The OWP legal Agreement however also commits the partner authorities to new financial arrangements for their own operational responsibilities. A draft of these proposals are set out in Annex 4 to the OWP legal Agreement. They are to be developed in greater detail by the end of

February 2007 and would take effect from April 2009. Under these arrangements each District Council will be given an annual tonnage of wastes which would be disposed of free by the County Council. Rewards would be paid by the County Council for undershooting these tonnages with penalties due to them for any overshoot. The tonnages would be set so as to achieve the targets in the agreed OWP strategy including the LATS requirements falling on the County Council. The reward payments and penalties would replace recycling credits. Importantly they would reward reduction as well as recycling and provide districts with a direct incentive to avoid LATS penalties falling on the County.

11. The financial arrangements referred to in paragraph 10 above are complex, and there are a number of issues with implications for the City Council, and other authorities, that have yet to be fully clarified. It is important that these issues are fully explored and agreed. To a large extent, these financial arrangements form the heart of the agreement and are critical to successful partnership working and the achievement of the agreed objectives.
12. The arrangements also require all partner authorities to pay the reward grant that is due for achieving the PSA 1 stretch target on recycling (£1,075,600 in total) into a central fund. Similarly any reward grant that may be received for achieving the Local Area Agreement on recycling (£480,000 if the Public Service Board agreed to waive their 50% top slice) will also go to a central fund. This fund is intended to provide for start up capital funding for schemes that would reduce LATS liabilities.
13. The text of the OWP legal Agreement has been the subject of some discussion and negotiation between the Oxfordshire authorities over a number of weeks, and it is felt that the draft attached now represents a satisfactory resolution to the concerns raised by each of the authorities. It is recommended, therefore, that the Executive Board approve this agreement. However, some further work still needs to be done to ensure that the financial principles that will govern the OWP into the future (as set out in the various draft annexes to the OWP Agreement) properly protect the City Council's position, and represent the best way forward for the project overall. These negotiations will continue, and it is recommended, therefore, that the Executive Board now agree that upon the Strategic Director for the Physical Environment, in consultation with the Portfolio Holder for a Cleaner City, being satisfied that all outstanding concerns have been resolved, the City Council can at that time commit fully to the OWP legal Agreement. The Executive Board is therefore asked to delegate such authority to the Strategic Director, acting in consultation with the Portfolio Holder.

## **Recommendations**

14. The Executive Board is therefore recommended to:

- (i) Approve the terms of the draft OWP legal Agreement, as attached, to be entered into by all the Oxfordshire local authorities, subject to recommendation iv) below.
- (ii) Approve in principle the draft Constitution of the OWP Joint Committee, as attached as Schedule 1 to the OWP legal Agreement;
- (iii) Appoint one member of the Executive Board to represent the Council on the Joint Committee and to agree who may substitute for that member;
- (iv) Delegate authority to the Strategic Director for the Physical Environment in consultation with the Portfolio Holder for A Cleaner City to authorise the Council's entry into the OWP legal Agreement at such time, and in the event, that they are satisfied with all the remaining outstanding issues relating to the future financing of the OWP; and to finalise the terms of the draft Constitution of the Joint Committee;
- (v) Authorise the delegation of the executive functions set out in Annex 1 of the draft OWP legal Agreement to the OWP Joint Committee, such authorisation to take effect upon the commencement date of the OWP legal agreement.

Appendix 1 has been circulated separately to all Councillors and members of the Strategic Management Board. Copies are available on request from the Committee Secretary (Brenda Lammin, Tel: 01865 252219 or email [blammin@oxford.gov.uk](mailto:blammin@oxford.gov.uk)).

**Background Papers:**

- a) Oxfordshire Waste Strategy 'No Time to Waste'.

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