

Cheltenham Borough Council
Cabinet 15 March 2011
Joint Working in Waste and Environmental Services

Accountable member	Councillor Roger Whyborn, Cabinet Member Sustainability
Accountable officer	Rob Bell, Assistant Director Operations
Accountable scrutiny committee	Environment Overview and Scrutiny Committee
Ward(s) affected	There are no service implications as a result of this report.
Key Decision	Yes
Executive summary	<p>The Gloucestershire Authorities have been looking at the case for joint working in waste to understand the value of potential savings and the implications of realising these savings. This report sets out the work undertaken by officers to implement joint working in Gloucestershire.</p> <p>Joint working may be divided into three interrelated work streams –</p> <ul style="list-style-type: none"> • Interim management arrangements between Cheltenham Borough Council (Cheltenham) and Tewkesbury Borough Council (Tewkesbury) • Shared collection and depot services between Cheltenham, Tewkesbury and Cotswold District Council (Cotswold) from August 2012. • Shared disposal / collection arrangements for Gloucestershire. <p>A joint committee option for shared disposal / collection arrangements, ideally combined with a local authority company for operational service delivery for waste collection and other environmental services, is considered the best overall option for meeting the strategic objectives of the joint waste programme within Gloucestershire and for this council.</p>
Recommendations	<p>I recommend that Cabinet:</p> <ol style="list-style-type: none"> 1. Approve the interim arrangements for joint depot services between Tewkesbury Borough Council and Cheltenham Borough Council as set out in the business case (Appendix 1), subject to Tewkesbury Borough Council passing an appropriate resolution confirming their commitment to the formation of a local authority company as set out in section 4 of this report or alternatively authorise the Executive Director to work with Tewkesbury Borough Council to develop another interim arrangement that may deliver the required savings such arrangement being time limited to 31st July 2012. 2. Authorise the Executive Director, in consultation with the Cabinet Member Sustainability, The Director of Resources and the Borough Solicitor to develop a detailed business case to form a local authority

owned company wholly owned by Cheltenham Borough Council and Cotswold District Council (and Tewkesbury Borough Council if it passes an appropriate resolution as set out in section 4 of this report) and to agree all necessary documentation in order to have finalised documentation in place by June 2011 subject to

- The detailed business case identifying a minimum saving of £50,000 per Council per annum.
- A further report being submitted to Cabinet in June 2011 for final decision on this matter.

3. Having considered the risks set out in the paper attached to this report at Appendix 4, to authorise the Executive Director to negotiate the terms of all the relevant documentation to implement the recommendations of the Joint Waste Partnership in consultation with the Cabinet Member Sustainability, the Director of Resources and the Borough Solicitor and to bring a further report to Cabinet in September 2011 for final decision on this matter.

<p>Financial implications</p>	<p>The additional costs and potential savings as identified in the report below represent the best estimates currently available. Further more detailed work will need to be undertaken by officers to verify the exact level of future costs and potential savings when partnership arrangements have been further resolved.</p> <p>Contact officer: Andrew.powers@cheltenham.gov.uk, 01242 264121</p>
<p>Legal implications</p>	<p>Legal powers to implement each stage of the joint waste project as follows:</p> <ol style="list-style-type: none"> 1. Interim arrangements – Section 113 Local Government Act 1972 allows local authorities to second staff to each other for the delivery of their functions. Secondments are only appropriate for short term/interim periods. 2. Local authority company - Section 2 of the Local Government Act 2000 ('well being' powers) gives local authorities powers to set up local authority companies. Key features of a local authority company are set out in Appendix 2 and full legal implications for the council will be set out in the further report to Cabinet in June 2011. 3. Joint Committees – Sections 101 and 102 Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 enables local authorities to set up joint committees. A joint committee does not have legal personality and so it is necessary to appoint an administering authority to enter into contracts and to employ staff on its behalf. Full implications for the council will be set out in the further report to Cabinet in September 2011. <p>Contact officer: Shirin Wotherspoon, shirin.wotherspoon@tewkesbury.gov.uk, 01684 272017</p>

<p>HR implications (including learning and organisational development)</p>	<p>Interim management arrangements for the shared depot service with Tewkesbury Borough Council have been agreed and a project initiation document drafted to outline the process to develop a detailed business case for a full integrated shared service arrangement. A HR Advisor will work the project team to help develop the full detailed business case for joint working. Any changes to Cheltenham Borough Councils employees terms and conditions of employment will require full consultation with representatives from the recognised trade unions. All proposed changes will be actioned in line with current employment legislation.</p> <p>Contact officer: Julie McCarthy, HR Operations Manager, julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
<p>Key risks</p>	<p>Risk management implications are contained within the business case.</p> <p>See risk template at end of this report and Appendix 4.</p>
<p>Corporate and community plan Implications</p>	<p>The corporate strategy 2010 – 2015 states that future commissioning arrangements for a clean and well maintained environment will include the potential for shared services. Partnership working also contributes to delivering cashable savings, improving customer satisfaction and better performance through the effective commissioning of services.</p>

1. Background

- 1.1** On 21st September 2010, Cabinet confirmed the council's participation in the development of the Gloucestershire Waste Partnership and approved the Project Initiation Document for the development of a business case for shared depot services with Tewkesbury Borough Council (Tewkesbury) as a first step, recognising that the project scope may be subsequently amended to accommodate other partners as and when conditions were favourable.
- 1.2** At the same time similar confirmations were approved by Gloucestershire County Council, Forest of Dean District Council and Cotswold District Council ('Cotswold').
- 1.3** This report sets out the work undertaken by officers to implement the above mentioned resolutions and to progress joint working in waste services in Gloucestershire.

2. Reasons for recommendations

- 2.1** The Joint waste services project may be divided into 3 interrelated work streams:
- (1) Interim arrangements for joint depot services between Tewkesbury and Cheltenham (from June 2011 to August 2012 at the latest).
 - (2) Shared collection/depot services between Cheltenham and Cotswold (and possibly Tewkesbury – see section 4 below) (from August 2012).
 - (3) Shared disposal and collection services for Gloucestershire, excluding Gloucester City Council and Stroud District Council (final decision required by September 2011).
- 2.2** The staged approach to the implementation of shared waste services within Gloucestershire enables Members to properly and carefully consider the implications for their council before important decisions are made about these key frontline services.

3. Interim arrangements for joint depot services between Tewkesbury and Cheltenham Borough Councils

- 3.1** Following the decision of Cabinet in September 2010 a project team was formed to deliver the interim joint depot service project in a timely manner. The business case for the interim joint working arrangements for depot services between Tewkesbury and Cheltenham is attached at Appendix 1.
- 3.2** The joint working arrangements include the management of the following services:
- Waste and Recycling
 - Street and other cleaning
 - Grounds maintenance
 - Bereavement Services (cemeteries and crematorium)
- 3.3** In view of the urgent need to find efficiency savings, it was essential that the joint working arrangement be implemented as soon as possible in the financial year 2011/2012. Having considered a number of options for the legal form of the joint working arrangement, officers concluded that the secondment of staff under section 113 Local Government Act 1972 together with a revised memorandum of understanding will achieve implementation of the joint working arrangements by June 2011 and was, therefore, the most appropriate option. All staff affected by the proposal have been consulted and are supportive of the arrangements.
- 3.4** The interim arrangement is predicated by either a local authority company with Tewkesbury or a section 101 delegated arrangement with Tewkesbury. If Tewkesbury are not able to pass an appropriate resolution as set out in paragraph 4 below to participate in the setting up of the local authority company, the interim arrangement cannot be implemented. The consequences of not implementing the interim arrangement are that the budget savings identified for 2011/12 would not be realised.

- 3.5 The key benefits are detailed in the business case and the financial benefit to both authorities in 2011/12 is £75,000.
- 3.6 The business case sets out the service monitoring arrangements. The Joint Services Management Team would be led by Cheltenham's Assistant Director of Operations, who is currently acting as Tewkesbury's interim Head of Direct Services. The postholder would become the Head of the Joint Service. A senior officer Board would be established comprising of Tewkesbury's Corporate Head of Community Development and Partnerships and Cheltenham's Executive Director. The Board would be supported by the Head of the Joint Service.
- 3.7 Cabinet are asked to approve the interim arrangements for joint depot services between Tewkesbury and Cheltenham as set out above and in the business case, subject to Tewkesbury passing an appropriate resolution confirming their commitment to the formation of a local authority company as set out in section 4.

4. The collection/depot services between Cheltenham, Tewkesbury and Cotswold (from August 2012).

- 4.1 Following the commencement of the project work for joint working between Tewkesbury and Cheltenham, Cotswold approached those councils expressing a desire to create a shared arrangement with Tewkesbury and Cheltenham in time for the expiry of their outsourced service in August 2012. The three councils then entered into a Memorandum of Understanding in which they committed to working together to see if an acceptable shared arrangement could be agreed.
- 4.2 By including Cotswold in the proposed joint depot services project the governance/legal form for the delivery unit in Cotswold had to be limited to a local authority owned company. Other delivery options were unacceptable because of the impact of pension costs. Detailed consideration of other factors such as equality claims need to be considered but as a general principle section 101 delegated arrangements are not an option for a joint depot shared service with Cotswold.
- 4.3 Cotswold further advised that because of the EU procurement rules and their contract procedure rules they required the local authority owned company to be established by June 2011. Tewkesbury and Cheltenham officers advised Cotswold that it would not be reasonably possible for the company to be operational by June 2011 but that they would consider whether all necessary documentation could be finalised by that date.
- 4.4 This report seeks authority to proceed to set up a company with Cotswold within the required timescales. Tewkesbury is due to report to their Executive Committee on 30th March and Council on 31st March 2011. If Tewkesbury passes a resolution similar to the recommendation set out in this report relating to the establishment of a local authority company with the required timescales then Cheltenham, Cotswold and Tewkesbury would set up a tri-partite company. If Tewkesbury do not pass the resolution as mentioned then Cheltenham will proceed to set up the local authority company with Cotswold only.
- 4.5 The key features of a local authority company are set out in the note attached as Appendix 2.
- 4.6 Cheltenham, Cotswold and Tewkesbury have considered the sharing of costs and savings for this tri-partite arrangement. Potential savings may be summarised as follows:

Depot infrastructure	£ 21,000
Operational management	£ 55,000
Productivity	£111,000
Procurement	£ 19,000
Vehicle procurement	£ 6,000

Total: £212,000

- 4.7** Work completed by the Section 151 officers of each authority has revealed that potential set up costs of £189,000 and ongoing running costs of £75,000 per annum for the Local Authority Company. These figures are seen by many to be at the higher end of any financial projection. Further detailed work is therefore to be done to verify these figures as certain assumptions still need to be challenged in greater depth. This further piece of work will also look to ascertain not only the accuracy of the financial projections but also to regulate and agree the interpretation that may have been placed on them in the past.
- 4.8** It is important to consider a potential fallback scenario. If the financial/business case is not made to set up a local authority company and Cotswold revert to the EU procurement option, then Cheltenham could still seek to set up a 101 delegated arrangement with Tewkesbury (if Tewkesbury agree).
- 4.9** In these circumstances, it is recommended that the Executive Director, in consultation with Cabinet Member of Sustainability the Director of Resources and the Borough Solicitor, develop a detailed business case to form a local authority owned company wholly owned by Cheltenham Borough Council and Cotswold District Council (and Tewkesbury Borough Council if it passes an appropriate resolution as set out in section 4 of this report) and to agree all necessary documentation subject to:
- The detailed business case identifying a minimum savings of £50,000 per Council per annum and
 - A further report being submitted to Cabinet in June 2011 for final decision on this matter.

5. The disposal / collection governance arrangements (final decision September 2011).

- 5.1** Following the decision in September 2010 confirming the Council's participation in the development of the waste partnership a formal and detailed analysis has been undertaken of the governance options and legal form for the Joint Waste Partnership (JWP). The governance paper is attached at Appendix 3. Members should note that this paper is provided in draft form to support decision making at this time. The JWP makes the following recommendations:
- (1) At strategic level the establishment of a joint committee. As the joint committee does not have any legal personality it is necessary to appoint an Administering / Host Authority to employ staff and to act as the contracting body. It is recognised that the most appropriate body to undertake this role is Gloucestershire County Council who have agreed in principle to do so.
- (2) A joint management unit. This unit would consist of officers who will act for the joint committee
- (3) At operational level a mix of local authority company and outsourced disposal and collection contracts.
- 5.2** The key benefit of a joint committee is the fact that responsibility for collection services (currently with district councils) and disposal services (currently with the county council) is delegated to one body which undertakes and takes responsibility for both disposal and collection services, thereby facilitating integration, service improvement and financial efficiencies. This means that individual councils will no longer have responsibility for those matters delegated to the joint committee. It should be stressed that it is intended that certain key decisions would be retained (i.e. not delegated) to the joint committee and these have been identified as the annual financial plan and collection service design matters. It is, however, important to recognise that it is not possible for individual councils to retain a general 'veto' over all decisions of the joint committee.
- 5.3** Further discussions, workshops and seminars will be held with Members to discuss these and any other issues prior to a final decision being made. With regard to the decision making process,

Gloucestershire County Council, the Forest of Dean District Council and Cotswold have indicated that they are ready to agree to the establishment of a joint committee and joint management unit at this stage so that implementation is not delayed. However, those Councils have recognised that Cheltenham (and Tewkesbury) require more time to consider the implications of such a decision. It has, therefore, been agreed by the JWP that although work will commence on implementing the recommended governance arrangements as set out in paragraph 5.1 above, Cheltenham (and Tewkesbury) will bring a further report to Cabinet in September for a final decision.

5.4 Cabinet is referred to the paper attached as Appendix 4 which sets out the consequences of this 'staggered' decision making process. Cabinet will note that the key risks associated with this proposal are significant (financial and reputation) if the JWP is aborted.

5.5 In view of the staggered decision making process it is recommended that Cabinet:

- note the recommendations of the JWP to establish a joint waste committee and to appoint Gloucestershire County Council as the administering authority and host of a joint management unit.
- having considered the risks set out in the paper attached to this report at Appendix 4, to authorise the Executive Director to negotiate the terms of all the relevant documentation to implement the recommendations of the JWP in consultation with the Cabinet Member Sustainability the Director of Resources and the Borough Solicitor and to bring a further report to Cabinet in September 2011 for final decision on this matter.

6. Alternative options considered

6.1 The status quo was considered but discounted as it does not deliver efficiencies and does not address capacity issues within the operations management team.

7. Consultation and feedback

7.1 The Gloucestershire Joint Municipal Waste Management Strategy, approved by Cheltenham Borough Council in October 2007, endorsed the development of service delivery partnerships between local authorities and the private sector and the delivery of efficiency savings through the integration of collection services. This followed full public consultation in 2006 including workshops, community panels and the "Great Gloucestershire Debate" which was facilitated by the local media.

7.2 The executive members and senior officers of all partner authorities have been fully consulted in the preparation of the updated business case. A Cheltenham Borough Council Member seminar was held on Thursday 2nd September 2010 to inform Members of the options and to seek feedback. Feedback from those Members present was generally positive.

8. Performance management –monitoring and review

8.1 Projects will be managed in accordance with Prince 2 methodology with progress against key milestones monitored via the corporate performance management system.

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Appendices	<ol style="list-style-type: none"> 1. Business Case for the Interim Arrangements between Tewkesbury and Cheltenham Borough Councils. 2. Key features of a local authority company. 3. Governance arrangements for the JWP 4. Risks associated with a staggered decision making process for the JWP
Background information	<ol style="list-style-type: none"> 1. Cabinet 21st September 2010, Joint Working in Waste Services. 2. Cabinet 21st July 2009, Joint Working in Waste Services. 3. Cabinet 15th January 2008, Joint Working in Waste and Environmental Services 4. Cabinet 30th October 2007, Gloucestershire Joint Municipal Waste Management Strategy

Cabinet Report risk template

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If cashable savings are not delivered through partnership and other service efficiencies it will impact on the council's ability to balance a challenging budget.	AD Ops	01/09/10	3	3	9	Reduce	Seek partnership efficiencies with other Glos partners. Implement the short term projects already underway.	30/11/10	AD Ops	
	If the financial projections in the business case prove to be inaccurate then target savings may not be achieved.	AD Ops	01/09/10	3	3	9	Reduce	Continuously scrutinise and challenge assumptions and projections and refresh business case.	Ongoing	AD Finance	