

Name of Committee:	Cabinet		
Committee Date:	6 September 2023		
Report Title:	Waste and Recycling Arrangements - Inter Authority Agreement		
Responsible Officer:	Chris Bradley, Executive Head of Commercial		
Cabinet Lead	Cllr Lulu Bowerman		
Status:	Non-Exempt		
Urgent Decision:	No	Key Decision:	No
Appendices:	None		
Background Papers:	A. HCC Decision Report, Waste Disposal Recycling Arrangements dated 18 July 2023		
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Report Number:	HBC/035/2023		

Corporate Priorities:

As the local Waste Collection Authority (WCA), the Council has ambitions to significantly increase its recycling and reduce waste which will support tackling the Climate Emergency and creating a greener Borough. Reviewing our recycling and waste collection and disposal offering, incorporating new requirements from the Environment Act, is an agreed initiative.

Negotiating and agreeing favourable terms with our Waste Disposal Authority (WDA), Hampshire County Council, will contribute to delivering these priorities and ensure recycling and waste from our Borough is managed efficiently and effectively.

Executive Summary:

Refuse and recycling collections are a universal service offered by the Council to every home in the Borough. It is important that an effective and efficient service is offered that reduces waste and encourages recycling.

As part of the Pride in Place strategic theme, the Council committed to reviewing its recycling and waste disposal offering, incorporating new requirements from the Environment Act 2021. Negotiating and agreeing favourable terms with Hampshire County Council will contribute to delivering these priorities and ensure waste from our borough is managed efficiently and effectively.

The Council has been working with Hampshire County Council our Waste Disposal Authority (WDA) and the other partners in the Project Integra partnership to drive the continuous improvement and performance.

The County Council is looking for reassurance that the local Waste Collection Authorities (WCA) in Hampshire, which this council is one, will utilise the new £20 million Materials Recovery Facility which it intends to build in Eastleigh. This is reasonable and understandable.

The County Council is therefore looking to local WCAs to enter an Inter Authority Agreement (IAA) to confirm this commitment and formalise current agreements by the end of October 2023 to enable work on the new facility to proceed.

The IAA sets out the financial and operational arrangements between the district, unitary and county councils in Hampshire for the processing, recycling, and disposal of household and municipal waste. The relationship is currently governed by a Memorandum of Understanding. It is proposed by the County Council that it is replaced with a more robust, legally binding commercial IAA.

HBC needs to fully understand the financial and operational consequences, which will not be fully known until the Government publishes further awaited details of how the new duties will work and what additional funding to cover these new burdens will be available.

Delays in Government regulations means this is a complex and dynamic environment. This paper therefore seeks the delegated powers for the Cabinet Lead for Environmental Services, with support from officers, to negotiate the IAA with the County Council to achieve a mutually affordable and sustainable solution so that the Council can respond to the offer by October 2023.

Recommendations:

That Cabinet resolves:

1. To note the Boroughs ambitions to significantly increase its recycling, reduce waste and improve its carbon performance, which will support tackling the Climate Emergency and creating a greener Borough.
2. To note that there will be a need to alter the current recycling collections to reflect national and regional requirements.
3. To note the current offer from Hampshire County Council of an Inter-Authority Agreement and the intention to work with Hampshire County Council to achieve a mutually affordable and sustainable solution so that the Council can respond to the offer by October 2023.
4. To delegate authority to the Executive Head of Commercial, in consultation with the Cabinet Lead for Environmental Services, the Section 151 and Monitoring Officers, to negotiate and agree the Inter Authority Agreement, in the best interests of Havant Borough Council.

1. Introduction

- 1.1. Refuse and recycling collections are a universal service offered by the Council to every home in the Borough. It is important that an effective and efficient service is offered that reduces waste and encourages recycling.
- 1.2. The recycling performance in Havant, Hampshire and the UK has stagnated in recent years and a renewed focus on climate change and circular economy goals is refocusing attention on improvement. The recycling rate in Havant has settled between 29-33% since 2010, standing at 33% in the last published year of 2020/21. The National figure has levelled out at 44%, far short of the 50% target which should have been achieved by 2020. The current National Resources and Waste Strategy commits England to recycling 65% of waste and sending less than 10% to landfill by 2035. This can only be achieved by significant improvements in household recycling, including food waste collections and extending the range of materials collected to include glass and all plastic packaging.
- 1.3. The Environment Act 2021 requires a minimum range of materials that can be recycled. This would increase the range of materials that could be recycled in Havant and would enable residents to reduce the amount of waste each household produces, which in turn will be better for the environment.
- 1.4. The Environment Act 2021 also requires a separate food collection service from households. In Havant, food is collected in the waste stream. By collecting it separately, material would be recycled instead of disposed of as waste, which could have significant environmental benefits around recycling and carbon performance.
- 1.5. As the local Waste Collection Authority (WCA), the Council has ambitions to significantly increase its recycling and reduce waste which will support tackling the Climate Emergency and creating a greener Borough.
- 1.6. Negotiating and agreeing favourable terms with our Waste Disposal Authority (WDA), Hampshire County Council, will contribute to delivering these priorities and ensure recycling and waste from our Borough is managed efficiently and effectively.
- 1.7. Established in 1995, Project Integra is the pan-Hampshire waste partnership which has enabled the Council to work with Hampshire

County Council, the two city unitary authorities and ten Hampshire district to promote best practice and improve the performance in the management of waste and recycling.

- 1.8. The County Council is now developing a new Material Recovery Facility (MRF) in Eastleigh, to take all of Hampshire's recycling, with an increased range of materials and improved waste and recycling treatment process, to meet the needs of the Environment Act 2021.
- 1.9. The County Council is therefore looking for reassurance that the eleven local WCAs in Hampshire will utilise the new MRF and is seeking a commitment by October 2023. This commitment will take the form of a legally binding Inter-Authority Agreement (IAA) to use the new MRF and adopting new processes and financial arrangements.
- 1.10. This is perfectly reasonable and understandable, but the Borough needs to fully understand the financial consequences which will not be fully known until the Government publishes further awaited details of how the scheme will work and what additional funding to cover this new burden will be provided.

2. Financial Implications

- 2.1. Havant Borough Council is awaiting details of funding from the Government, but the new collection systems, funding, and agreements between partners under the IAA are likely to have significant financial implications.
- 2.2. Current collection contract costs are in the region of c£4.1 million per annum. Introduction of a new food waste service and potential additional recycling collection service will need to consider:
 - a) The one-off costs of implementation such as the potential purchase of vehicles and containers. Details of what the food waste service will look like will be developed once government has provided its requirements on the service and following consultation.
 - b) Ongoing increased costs with the current waste and recycling contractor which should be covered by the 'New Burden Funding' for any changes specifically required by government or the WDA (HCC). Any other costs will be explored as part of the affordability assessment of the strategic development work.

- c) Specialist advice and support with the financial and operational modelling and contract variation.
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- 2.3. Funding is expected to be both one-off implementation costs through a grant claim and then ongoing funding through New Burdens. There is a risk that any New Burdens funding will only be short-term funding and no guarantee that all costs will be recovered (i.e. DEFRA are already exploring models based on 'efficient contracts' rather than our actual costs). Timeframe and details of funding is currently unknown but is expected with the release of the government's response to the consistency consultation and statutory guidance.
 - 2.4. The County Council will be asking the eleven local waste collection authorities, which includes HBC, to sign up to an IAA. This proposes to change the way the current payment mechanism works between HCC and the partners including HBC. The current indicative initial costs resulting from the proposed key changes of this new agreement include the potential to increase by c.£430k potential loss of material income, c.£150k for contamination cost and c£200k penalty for kerbside residual waste but this figure is particularly difficult to forecast, and costs could prove to be significantly more.
 - 2.5. HBC will be continuing to negotiate with HCC over the potential cost increases and issues such as income share. Further clarity is still required in relation to the IAA and it is believed that this will be forthcoming once Government publishes details and guidance on consistency and the Extended Producer Requirements (EPR) income streams.
 - 2.6. Additional resources will be required to support this project including, legal, finance, procurement, operations review and project management. Existing budgets will be used to fund the first phase of this project however, subsequent funding may be sought as part of future cabinet reports.

3. Options

- 3.1. Three Options have been considered; Accept HCC's proposed IAA, Make Alternative Arrangements and Negotiate with HCC.
- 3.2. **Option 1 - Accept HCC proposed IAA**

While this option is perfectly understandable, if the proposed IAA is accepted then the impact to HBC is currently estimated to be more than c£780k. Penalties for residual waste will commence in 2030, it is not possible to predict the additional impact.

HBC needs to fully understand the financial consequences which will not be fully known until the Government publishes further awaited details of how the scheme will work and what additional funding to cover this new burden will be provided.

3.3. **Option 2 - Make alternative arrangements for processing waste collected for recycling**

If the council chooses not to enter into the IAA then it must make its own arrangements for storing, transporting and reprocessing recycled materials; this includes dry mixed recycling, garden waste and food waste. At present these costs are borne by the County Council, who provide waste transfer stations, transport, and reprocessing infrastructure.

It is estimated that the likely net cost of alternative arrangements will be from £600k to £1,300k. This reflects the additional costs of transporting and processing material, less the likely revenue from recycling credits issued by HCC in lieu of their duty to process the material. This option carries with it significant risk in terms of access to facilities and market forces on costs and potential revenues.

This option would require the support of HCC who could, should they choose to, use their powers of direction and require HBC to use the HCC facilities.

3.4. **Option 3 - Negotiate an improved IAA**

HBC needs to fully understand the financial consequences which will not be fully known until the Government publishes further awaited details of how the scheme will work and what additional funding to cover this new burden will be provided.

By working collaboratively with its Project Integra partners to negotiate and agree an improved IAA, will allow HBC to manage the uncertainty to achieve a mutually affordable and sustainable solution. Enabling the council to remain committed to Project Integra and allow the Council to respond to the offer by October 2023.

3.5. **Recommended Option**

Option 3 – Negotiated an improved IAA is the recommended option.

4. **Relationship to Corporate Strategy**

- 4.1. Pride in Place: To create a great place to live, work and enjoy.
- 4.2. Reviewing our recycling and waste disposal offering, incorporating new requirements from the Environment Act and improving our garden waste collection service is an agreed initiative. Negotiating and agreeing favourable terms with Hampshire County Council shall contribute to delivering these priorities and ensure waste from our borough is managed efficiently and effectively.

5. **Conclusion**

- 5.1. There are significant proposed changes around waste and recycling as summarised in this report. This has resulted in a highly complex and time sensitive matter.
- 5.2. The County Council is looking for reassurance that the local WCA's in Hampshire will utilise the new Materials Recovery Facility which it intends to build in Eastleigh and is seeking a commitment by October 2023. This is perfectly reasonable and understandable, but the council needs to fully understand the financial and operational consequences which will not be fully known until the Government publishes further awaited details of how the scheme will work and what additional funding to cover this new burden will be provided.
- 5.3. The Council shall continue to work with the County Council and other Hampshire authorities in respect of an Inter-Authority Agreement and shall work with the County Council to achieve a mutually affordable and sustainable solution.

6. **Implications and Comments**

7. **S151 Officers Comments**

The Council's S151 Officer comments on the proposed IAA are as follows:

- 7.1. It is quite clear that the new IAA proposed by HCC cannot be accepted without further information. The total predicted additional

cost pressure of £780k represents ~5% of HBC's net budget and would require significant savings to be found elsewhere in the budget to accommodate any values not covered by new burdens funding.

- 7.2. Not understanding what will be covered by new burdens funding, or to what value, makes agreeing to the IAA in its current form, high risk.
- 7.3. I am happy to support committing in principle to HBC working with HCC and other partners on an IAA, but we cannot be drawn into any legally binding agreement without understand the costs and risks in detail.
- 7.4. There are risks to not signing the IAA in the requested timeframe. These risks will be shared between HCC and HBC, it is therefore in the interest of both parties to move forward with negotiating the IAA. It is my opinion that the financial risks of signing the IAA as it stands are greater than any risks associated with delaying and negotiating.
- 7.5. I am fully supportive of Option 3 to continue to negotiate the terms of the IAA before making any commitments.

8. Financial Implications

As per section 2 above.

9. Monitoring Officer Comments

- 9.1. The legal issues raised in this report have been carefully considered. The course of action proposed is regarded as a prudent and appropriate approach. Legal advice and support in respect of the IAA and legislative changes shall continue to be provided.

10. Legal Implications

- 10.1. The Council is a Waste Collection Authority (WCA) and is responsible for arranging the collection of household waste for disposal and recycling, along with waste from businesses if requested. Hampshire County Council is a Waste Disposal Authority (WDA) and is responsible for the disposal of waste collected by WCAs in its area.

- 10.2. Household waste collected for recycling may either be managed by the WCA or passed to the WDA. If the WCA makes its own arrangements for recycling waste then the WDA must contribute to these costs, either through Recycling Credits or through an alternative financial mechanism agreed by the parties. The WDA has a 'power of direction' which entitles it to instruct that material collected for recycling is delivered to it.
- 10.3. If material for recycling is passed to the WDA, and infrastructure has been provided to enable co-mingled collections then there is no duty to provide recycling credits. However, the parties are free to enter financial arrangements, such as the existing Memorandum of Understanding and proposed Inter Authority Agreement.
- 10.4. The IAA is a legally binding commercial agreement. The Council's legal advisers shall be involved in the negotiations.

11. Equality and Diversity

- 11.1. There are no adverse equality or diversity impacts which will result from this proposed course of action.

12. Human Resources

- 12.1. There are no human resources implications resulting from this proposed course of action. Future Human Resource implications will emerge from the negotiations on the nature and scale of additional services required. These will be brought forward for consideration under a separate paper.

13. Information Governance

- 13.1. There are no information governance implications resulting from this proposed course of action.

14. Climate and Environment

- 14.1. The Environment Act extends the existing duties on the Council to improve recycling, reduce waste and to eliminate residual waste being sent to landfill. This will reduce the carbon impacts and wider environmental impacts of resource use associated with domestic and municipal waste through applying the principles of waste hierarchy. Continued membership of Project Integra, through adopting the proposed IAA, will support and enhance these environmental outcomes.

15. Risk

15.1. The Executive Head of Commercial comments on the proposed arrangements as follows:

15.2. **Financial Exposure.** Government funding to support required changes such as introducing a separate food waste service will provide mitigation to the increased costs of new requirements. Any changes to the collection service may increase costs. These costs would need to be fully considered as part of the financial modelling to ensure the most cost-effective solution is achieved. As part of the IAA the financial arrangements are being reviewed and that more of the costs of recycling will be passed on to Districts. This is a key risk to the council and needs to be subject to further negotiation as recommended in this report. Mitigation of these issues will be achieved by delaying decisions on implementation until; confirmation of Government funding is received, better understanding of financial exposure is achieved before entering the IAA with HCC.

New Burdens Funding should be available to support the changes to recycling collections which are mandated by the Environment Act. However, if the Council implements changes such as food waste collections prior to the legal duty, then this funding may not be provided.

15.3. **Operational Exposure.** There is a high level of uncertainty over key provisions in the Environment Act 2021, therefore the scope of necessary changes to waste and recycling collections, and financial impacts, is not known. The delay in implementation of EPR has also triggered a delay in Consistency Regulations. The final scope of consistency duties has not yet been confirmed, and there is no timetable for this, therefore there is uncertainty about the scope and timing of these duties, including weekly food waste collections and the obligation to split dry recycling into to collection streams. The IAA and joint waste strategy (JMWMS) have not been updated to reflect this uncertainty, so there is a risk that Hampshire councils will be committing to collection and processing arrangements which are not legally necessary. HBC will work collaboratively with partners to consider these matters as part of the IAA negotiation process.

15.4. **Exposure to Challenge.** External legal advice has been commissioned to help steer the process to ensure a robust structure is undertaken. Consultation and engagement with residents will be

conducted at an early stage of developing the new waste strategy for household.

- 15.5. **Reputation.** Waste and recycling affect every resident therefore any change can be sensitive. Appropriate engagement with residents and members is being factored into the project timeline at an early stage to be considered in development of service delivery models.

Undertaking the process set out in the report to develop a waste strategy for the future will contribute towards compliance with national requirements.

16. Consultation

- 16.1. Consultation with the Leader of the Council, Portfolio Holder for Environmental Services and Senior Leadership team has been undertaken along with a planned wider member briefing on the requirements of the Environment Act 2021.
- 16.2. Consultation with external partners have included DEFRA, Norse South East Ltd and Norse Commercial Services, and our Project Integra partners including Hampshire County Council, the two city unitary authorities and ten district authorities.
- 16.3. Questions have been raised about; the timescales, cost implications, the need to have certainty of Government intentions before committing and the need to engage and consult with communities and households and ensure that the Council understands how it could make it easier for households to recycle.

17. Communications

A communications plan will be developed with Project Integra partners once the terms and scope of the IAA have been agreed.

Agreed and signed off by:		Date:
Executive Head:	Chris Bradley	29/08/2023
Monitoring Officer:	Jo McIntosh	29/08/2023
Section151 Officer:	Steven Pink	29/08/2023

SUPPORTING INFORMATION

1. Background

1.1. As a council, Havant has seen growth in recycling performance in the County since 2019. It is in the top half of best improving authorities in Hampshire in terms of waste and recycling and has ambitions to grow further.

1.2. The table below shows recycling growth and performance compared to other authorities in Hampshire:

Authority	2018-19 (%)	2020-21 (%)	diff
Winchester City Council	36.1%	40.5%	4.4%
Rushmoor Borough Council	29.0%	31.9%	2.9%
Gosport Borough Council	23.8%	26.6%	2.8%
Havant Borough Council	30.7%	33.0%	2.3%
Basingstoke and Deane Borough Council	28.3%	30.4%	2.1%
East Hampshire District Council	34.3%	36.2%	1.9%
Fareham Borough Council	33.7%	35.6%	1.9%
Test Valley Borough Council	36.0%	37.6%	1.6%
New Forest District Council	32.9%	34.1%	1.2%
Hart District Council	41.8%	41.7%	-0.1%
Eastleigh Borough Council	41.7%	40.2%	-1.5%

1.3. Havant currently provides households with the following services:

- Residual waste - 240 litre black lidded bin, collected fortnightly.
- Mixed recycling - 240 litre green lidded bin, collected fortnightly.
- Garden waste - 240 litre brown bin, collected fortnightly.

It is anticipated that new duties applied by the Environment Act will require changes to the services including new containers for food waste and potentially an additional recycling service.

2. Emerging National Requirements

- 2.1. The Environment Act 2021 sets out the framework for improving waste management, including a range of provisions which directly and indirectly impact Councils in England. Regulations will be enacted which will Extend Producer Responsibility for packaging (EPR), introduce a deposit return scheme for some drinks containers (DRS), and will require local authorities to collect a wider range of materials for recycling, along with tighter control on how recycling is collected to improve consistency in collection (Consistency Regulations).
- 2.2. EPR applies new duties on organisations which produce or import goods to contribute towards the costs of collecting and recycling the packaging. To achieve this, a scheme administrator will be appointed, who will collect revenues from producers and distribute it to councils who are responsible for the collection and processing of household waste and litter collection. Councils will receive funding to support collection and recycling of household recycling and collecting street litter. The financial mechanism to calculate payments is not yet known, so it is not possible to forecast the likely revenue that the Council will receive. The payments will not however cover all the costs of operating household recycling services as around half of material collected in bins is not packaging material, so it is not eligible to be funded.
- 2.3. EPR was intended to be implemented from Autumn 2023 with revenues distributed to councils from April 2024. Revenue to councils has recently been delayed by one year and will now commence from April 2025.
- 2.4. The Regulations which will implement the DRS have not yet been published, however they will apply a deposit on drinks containers intended for use mainly outside the home. i.e. drinks cans and plastic bottles. Glass bottles will not be included. The likely value of the deposit will be 20 pence per item, which will be paid at the point of purchase and can be redeemed by taking the items back to a collection point, most likely at a supermarket. Implementation of the scheme has been delayed several times and is currently scheduled to start in October 2025. There has been confusion over the scope of the scheme and how it will be implemented in England, an equivalent scheme in Scotland has been beset with problems and is now delayed until 2025. There is a risk that DRS may never be implemented.
- 2.5. Plastic bottles and drinks cans are the highest value items collected at the kerbside and are a significant proportion of the material collected. If the scheme is implemented, then most of this material will no longer be presented for collection by householders as this will prevent them from redeeming their deposits. This will reduce the amount of material

collected in the container element of twin-stream recycling, so smaller collection container may be appropriate. It will also change how the materials recycling facility is operated as it will need to be reconfigured for the change in feedstock material and there will be lower revenues for sale of processed material.

- 2.6. Initial proposals on Consistency Regulations were published in 2021 following extensive consultation. Government response to the consultation and updated proposals have not yet been published. The latest position is that the Consistency measures will be delayed until after implementation of EPR, ie after October 2025. No timetable has been set for the draft regulations to be published. Therefore, the scope and timescales of duties are unknown, adversely impacting the ability to plan for required service changes. Based on the proposals published in 2021, separate collection, wider range of dry recycling, and food waste collection are likely to be new duties on district councils and other waste collection authorities.
- 2.7. The Consistency Regulations will impose a new duty to collect each material separately, unless it can be proved that co-mingling will have no adverse effect. Some local authorities already collect dry recycling in boxes, so they will not be impacted. Some are planning to collect in two wheeled bins – one for paper and card, the other for mixed metals, plastics and sometimes glass. A smaller number are proposing to retain fully co-mingled collections which will only require one recycling bin.
- 2.8. The change to twin stream recycling will require an additional container for all households, and a change in recycling frequency to free up collection crews. A decision has not yet been made about how a new service might operate, but it is likely that the current two-weekly collection cycle will be changed to an alternating cycle where paper and card is collected in the first fortnight, followed by plastics, cans and glass on the following cycle. This will incur significant capital cost of up to £1.5 million to purchase the containers, with a marginal increase in operating cost.
- 2.9. The Consistency Regulations also include a duty to collect a wider range of materials from the kerbside, which will require changes to collections in Havant. This includes glass bottles and jars; the current system of bottle banks will not be compliant so glass must be added to kerbside collections. The range of plastics must also be expanded, initially to include pots tubs and trays, then to also include plastic film such as carrier bags and flexible food packaging.

2.10. The proposed Regulations will make it mandatory to provide weekly food waste collections for households. No details have been published, so it is not clear how this will apply to properties with shared bins, such as blocks of flats. It is likely that will need a new, separate collection system, which will use containers to store food which will then be collected by a dedicated fleet of vehicles.