

NORTH LONDON WASTE AUTHORITY

REPORT TITLE: DECISION MAKING CONTINGENCY

REPORT OF: MANAGING DIRECTOR

FOR SUBMISSION TO: MEMBERS FOR CONSULTATION AND DECISION BY CLERK OR MANAGING DIRECTOR

DATE: 2 APRIL 2020

SUMMARY OF REPORT:

This report advises Members of the proposed approach to decision making if restrictions are put in place as a result of the Coronavirus which mean that public meetings cannot be held.

RECOMMENDATIONS:

The Clerk and Managing Director will take decisions to allow the ongoing work of the Authority on the basis set out in this report. Members have been consulted in advance of this being implemented. Where comments were made, a separate note has been circulated to set out the notes and how they were covered.

SIGNED:  Managing Director

DATE: 23 March 2020

1. INTRODUCTION

- 1.1. North London Waste Authority (NLWA) decisions are taken by Members in meetings set up formally, in compliance with the provisions of the Local Government Act 1972. In addition, as a joint waste authority, any meeting of the Authority requires Members and supporting officers to travel around the area to get to the meeting place.
- 1.2. The Authority has constraints on how it can take formal decisions: it does not have the option of Executive Member decision making, as the constituent boroughs do, and formal meetings are not permitted to be held by telephone.
- 1.3. The implication of these legal issues is that if Members are not able to meet in formal, public meetings, then all decisions of the Authority must be taken by an officer. Under Standing Orders, decisions on the day to day working of the Authority are delegated to officers as set out there. The senior officers are the Clerk, the Managing Director, the Programme Director, the Legal Adviser, and the Financial Adviser. The Heads of Finance, Legal and Governance and Strategy and Services also have functions through standing orders.
- 1.4. While at the time of preparing this report there are no restrictions on public meetings or travel within London, it is prudent to be prepared for the possibility of needing to take decisions if formal meetings are not possible or are discouraged. The work of the Authority will continue during this period, and except where necessary for operational reasons, officers are working remotely, to comply with Government requirements.
- 1.5. This report therefore proposes use of the urgency provisions in Standing Orders for decisions required during such period. The detail of how this is proposed to work, which is an extension of the provisions for this specific period, is set out below.

2. DECISION MAKING

- 2.1. Under Standing Orders A.27.3, the Clerk to the Authority has authority to act in respect of any functions of the NLWA on any matter which, in his/her opinion, does not admit of delay. This delegated authority is to be exercised in consultation with the Chair or (if unavailable) the Vice-Chairs. Under Section B: Appendix 2, Delegated Authority to Officers, at 2.18 the Managing Director has power to exercise all of the powers and delegations to the Clerk if she is absent.
- 2.2. Decisions which will need to be taken in the coming months include for the North London Heat and Power Project (NLHPP):
 - 2.2.1. Registration of the Authority for NAECI. This was discussed at the Programme Committee on 2 March, but in the absence of a quorum no decision was taken, and therefore it was proposed to present this again at the meeting on 2 April.
 - 2.2.2. Start of the procurement for the Energy Recovery Facility works commencement decision (planned for 24 June Authority meeting)

- 2.2.3. EcoPark South contract award decision (planned for 29 July Programme Committee)
- 2.3. Decisions on Authority business include:
 - 2.3.1. Approval of the 2019/20 accounts for publication (the planned date for Audit Committee was 29 July but the Local Government Secretary announced on 16 March that the date for approval of the accounts has been moved back to 30 September. A new date will be set shortly);
 - 2.3.2. Approval of the new gate fees payable to LondonEnergy Ltd (planned for 24 June);
 - 2.3.3. Operational decisions relating to destination of recyclates, receipt of charity waste and other contracts matters
 - 2.3.4. Decisions in response to the current situation, including relating to the position of LondonEnergy and use of the EcoPark, which cannot currently be accurately assessed.
- 2.4. In exercising this delegated authority, the Clerk, acting through the Managing Director, will consult all Members. The provision of information for consultation will include a timeframe within which comments should be made. If Members wish for a telephone conference on the paper during that period, it will be arranged. This is an extension of the consultation requirements in Standing Orders, which state that the Chair must be consulted or, if the Chair is unable to act, with the Vice Chairs, or one of them if both are not available and (where a different person) the leader of the opposition party.
- 2.5. For this to give rise to practical decision making, a date would be fixed before which comments could be made, after which the officer would make the decision. This is likely to be in line with the current timeframe for availability of reports, so for example if the reports for the 2 April Authority meeting are published on Wednesday 25 March, the consultation period would run till the end of 2 April. It may be appropriate to set up a call at the time of the Authority meeting, when it is likely that most Members will be available, so that there is the opportunity for Members to comment and to hear responses. In this example, it is likely that the officer decision would be taken on the following day (3 April) after taking account of comments.
- 2.6. In recommending this approach, officers propose to take decisions, following consultation as set out in this paper, in order to allow the business of the Authority, including the progress of the NLHPP, to be carried out in a timely manner. In connection with the NLHPP, ongoing engagement with potential contractors of the ERF is important to allow them to prepare for the procurement when it is set in motion. Liaison with the expected tenderers for the EcoPark South contract has made clear that they are wanting to continue to make progress now, so that there is no delay to their business as we move out of this current crisis.
- 2.7. Information for noting will be supplied by email during this period.

3. UPDATES

- 3.1. It is proposed that the monthly updates for the NLHPP should be supplied to all Members by email in the event of any suspension of meetings. This will reflect the pattern of supply of update reports to Authority Meetings and Programme Committee. In addition, there are planned specific updates on the Energy Recovery Facility (ERF) procurement, including an update on ERF risk and contract progress, and an update on the EcoPark South procurement progress.
- 3.2. The Strategy and Services update paper will be prepared and supplied to Members in line with any planned Authority meetings. This will ensure that Members have ongoing visibility of operations issues and any policy development which relates to service delivery.
- 3.3. The quarterly LondonEnergy report to the Authority will be supplied together with any supporting commentary.

4. EQUALITIES IMPLICATIONS

- 4.1. There are no equalities implications arising from this report.

5. COMMENTS OF THE LEGAL ADVISER

- 5.1. The Legal Adviser has been consulted in the preparation of this report and comments have been incorporated.

6. COMMENTS OF THE FINANCIAL ADVISER

- 6.1. The Financial Adviser has been consulted in the preparation of this report and comments have been incorporated.

7. CONCLUSION

- 7.1. If there are restrictions whether on holding public meetings, on transport or on both, which would lead to suspension of formal meetings of the Authority, officers propose to use the existing powers in Standing Orders for the Clerk or, in her absence, the Managing Director, to make urgent decisions. The likely scope of these decisions in the short term is set out in section 2 above.

List of documents used:

Standing Orders

Contact officer:

Ursula Taylor
Unit 1b Berol House
25 Ashley Road
London N17 9LJ
020 8489 4306