

Notice of Meeting

EAST LONDON WASTE AUTHORITY

Thursday, 12 February 2009
Council Chamber, Civic Centre, Dagenham, 1:00 pm

Members: Councillor M E McKenzie (Chair); Councillor S Kelly (Deputy Chair); Councillor M Aaron, Councillor P Murphy, Councillor P Sheekey, Councillor B Tebbutt, Councillor Mrs P A Twomey and Councillor A Weinberg

Declaration of Members' Interests: In accordance with the Constitution, Members are asked to declare any personal or prejudicial interest they may have in any matter which is to be considered at this meeting.

26.01.09

R. A. Whiteman
Managing Director

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AGENDA

1. **Apologies for Absence**
2. **Minutes - To confirm as correct the minutes of the meeting held on 24 November 2008 (Pages 1 - 5)**
3. **Revenue and Capital Estimates and Levy 2009/10 (Pages 7 - 27)**
4. **Treasury Management Strategy 2008/09 and Prudential Code Indicators 2009/10 to 2011/12 (Pages 29 - 48)**
5. **Risk Strategy - Update for 2009/10 (Pages 49 - 64)**
6. **Contract Monitoring to December 2008 (Pages 65 - 74)**
7. **Waste Management to December 2008 (Pages 75 - 81)**
8. **IWMS Contract - ABSDP 2009/10 (Pages 83 - 91)**

Appendix D to this item is included in the private section as Agenda Item 16.
9. **IWMS Contract - Service Delivery Plan 2010/11 to 2014/15 (Pages 93 - 98)**

- 10. ELWA Limited Board (Pages 99 - 107)**
- 11. Closed Landfill Sites - Aveley Methane Limited (Pages 109 - 111)**
- 12. Governance Arrangements - Review (Pages 113 - 115)**
- 13. Any other public items which the Chair decides are urgent**
- 14. To consider whether it would be appropriate to pass a resolution pursuant to Section 100A(4) of the Local Government Act 1972**

Private Business

The public and press have a legal right to attend ELWA meetings except where business is confidential or certain other sensitive information is to be discussed. The items below relate to the business affairs of third parties and are therefore exempt under paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended.

- 15. Closed Landfill Strategy - Option Agreement with Thurrock TGDC (Pages 117 - 132)**
- 16. IWMS Contract - ABSDP 2009/10 (Appendix D) (Pages 133 - 134)**
- 17. Any other confidential or exempt items which the Chair decides are urgent**

EAST LONDON WASTE AUTHORITY

Monday, 24 November 2008
(1:15 - 3:38 pm)

Present: Councillor M E McKenzie (Chair), Councillor S Kelly (Deputy Chair), Councillor P Murphy, Councillor P Sheekey, Councillor B Tebbutt, Councillor Mrs P A Twomey and Councillor A Weinberg

1615 Apologies for Absence

An apology for absence was received on behalf of Councillor M Aaron.

Officers: Rob Whiteman, Cynthia Griffin and Shirley Clark.

1616 Welcome and Introductions

Councillor McKenzie welcomed attendees to the meeting.

1617 Minutes (29 September 2008)

We have agreed the Minutes of our meeting held on 29 September 2008.

1618 Annual Audit Letter 2007/08 and Notice of Certification of Completion of Audit

Noted.

1619 Programme of Meetings 2009/10

We have approved the following programme of meetings for the forthcoming municipal year, all to be held at the Civic Centre, Dagenham, starting at 1.00 pm.

Monday, 22 June 2009	(Annual General Meeting) Approval of draft Statement of Accounts
Tuesday, 29 September 2009	Approval of Annual Governance Report (required by 30.09.09)
Monday, 23 November 2009	Approval of IWMS Contract Annual Budget & Service Delivery Plan (required by 30/11/09)
Monday, 01 February 2010	Approval of annual Levy (required by 15/02/10)
Monday, 12 April 2010	

and noted the wording of the Constitution relating to attendance.

1620 ELWA Limited Board

We have received the Executive Director's report and appendices, together with commentary on the meeting of 15 October and on the Accounts. We have noted the main points discussed at that meeting as being related to the nuisance of flies,

recycling and composting outturn figures, poor performance and rejection of orange bag recyclates by third party Mrfs. Additionally, input came from ELWA Officers on how the results of a recent Members' workshop would feed into future service planning, the significance of current collection trials on future service planning and concerns related to refinancing.

We have discussed the possible need to have a better understanding of the products' end values and contamination.

1621 Budgetary Control and Treasury Management Report to October 2008

The Finance Director presented his report and explained that there was an under spend on budget of £550,000 mainly caused by lower than expected payments to the Contractor, interest receipts exceeding budget, unutilised contingency sums, together with some other minor variances.

We have received a tabled copy of the Investment Portfolio as at 20 November 2008 and have been reminded by the Finance Director that we agreed the investment strategy in 2008 and that the policies had been adhered to. He told us that in November 2007 a loan of £1m had been made for 364 days to a British bank that was ultimately owned in Iceland. This bank was now in administration. He confirmed that a claim had been registered.

The Finance Director advised that the Managing Director and Chair had been briefed immediately, Directors had been briefed at the Board or by email. Members asked that in future notification should be sent as early as possible direct to all Members.

1622 Financial Projection and Budget Strategy 2009/10 to 2011/12

We have considered the report from the Finance Director on ELWA's Financial Projection and Budget Strategy for 2009/10 to 2011/12 that contained particular detail in respect of the forthcoming financial year and have noted the Strategy as submitted.

The Finance Director reported that he had spoken with all four Borough Treasurers and had received the same message that the Levy that should be prudent and stable. He confirmed that the information in this Strategy will be conveyed to Constituent Councils' Finance Directors to assist in their budget preparations for next year and beyond.

Our attention was drawn to three key elements of the three year plan. These were the reduced level of levy increase from a projected 11.9% to 7% for 2009/10 and from 10.9% to 7% for 2010/11 for the reasons set out in the report.

Following a discussion about the level of resources and the other issues, we have agreed the recommendations and noted that the final proposals in respect of the ELWA levy for 2009/10 will be presented to our next meeting in February.

1623 Waste Management - September 2008

We have received the Assistant Executive Director's report and Appendix together with commentary on the performance of Joint Waste Management Strategy and

development of waste and recycling improvement initiatives and trials related to it for the period to September 2008.

He reported that recycling performance for September fell short of ABSDP projections but diversion from landfill continued to be good and LATS allowances continued to be banked.

We have received specific commentary that Newham Council were performing in line with expectations in respect of NI 191, Havering were marginally above expectations, although tonnage was on a downward trend and expected to perform in line at year end and ELWA was continuing to perform well against NI193.

There were short to medium term legislation changes or consultations that may impact on ELWA operations for example he warned of the possible impact of the Defra/Environmental Agency consultation outcomes on the Aveley composting operation in respect of revised waste exemptions from environmental permitting and possible future cost. Officers will continue to monitor this and advise us accordingly.

His report and commentary covered clinical waste, schools' and hospitals' household waste and changes in the UK and overseas markets regarding the value and acceptance criteria of recyclable materials.

We have agreed to:

- (i) note the performances against the new National Indicator targets as set out in Appendix A;
- (ii) note the revisions outlined regarding the waste framework directive;
- (iii) note the potential impacts of the consultation on licence exemptions and the potential impact on Aveley 1 operations;
- (iv) note the current position with regards to the orange bags that are being issued by the health authorities to households for clinical waste and the position of household hospital waste;
- (v) note that there are other reports on the Agenda concerning the volatile market situation regarding recyclates;
- (vi) note the commissioning and cumulative stocks at Jenkins Lane will contribute to a low contract recycling performance in October;
- (vii) note the continued trials and initiatives to increase recycling performance.

1624 IWMS Contract – Annual Budget and Service Delivery Plan (ABSDP) 2009/10

We have received the Executive Director's report, together with the appendices entitled Background to the Service Delivery Plans and the Works Delivery Plan, Operational Summary, Waste Flow Summary - First Draft, Best Value Performance Indicators/National Indicator Performance chart, Estimated Recycling Performance figures, and Summary of ABSDP 2009 – Financial Information.

We have received the explanation that 2009/10 is the last year of the current 5 year Service Delivery Plan and been given details of the contractual timetable for approval of the ABSDP by the Authority. The Executive Director highlighted the headlines for 2009/10 as being estimated tonnage levels would be less than 2008/09, there would be higher levels of diversion from landfill and 22% recycling

is forecast. The unavoidable extra costs to ELWA and the Boroughs were an £8 increase per tonne in landfill tax and extra inflation cost. Savings would be made from the reduction in overall tonnages. No new requirements had arisen from the Government's review of the National Waste Strategy. He reported that closer consultation had taken place with the Constituent Councils to identify their objectives.

Following discussion over the areas of risk identified in the report and the possibility of replacing the penalty system with a reward scheme, we have agreed the following:

- (i) to note the main risks and uncertainties concerning the 2009/10 ABSDP;
- (ii) to approve the 2009/10 ABSDP in principle but delay final approval until February, by which time the level of uncertainty concerning waste growth and some new operations should have been reduced; and
- (iii) to approve an interim increase for 2009/10 in the supplement payable to the Contractor for recycling and composting performance in excess of the contractual target of 22%.

(Part of this item was considered after the resolution had been passed to exclude the public and press from the remainder of the meeting as the information included the detailed financial proposals of Shanks.east London in respect of the IWMS Contract.)

1625 IWMS Contract – Service Delivery Plan 2010/11 to 2014/15 (5 Year)

We have received and discussed at length the Executive Director's report requesting policy direction on the preparation of the 5 year Service Delivery Plan and about requesting waste plans from the Constituent Councils for the 5 year period, starting 1st April 2010.

In commentary the Executive Director referred us to the fundamental policy issues set out in the report which reflected the outcomes of the recent Borough Workshop and to the reasons behind the need to change from the original assumption in 2002.

In response to a comment from one of our Members, we have asked the Executive Director to check whether Councils could limit the amount of residual waste collected from householders and also to specify the container in which it is collected.

We have considered at length the impact of the proposals on each of the Constituent Councils and have decided not to adopt Policy 1 but provide guidance on the issue of waste minimisation.

We have agreed, however, to adopt Policy 2 that the co-mingled collection of dry recyclates and residual waste from the doorstep should cease in the period April 2010 to March 2015. The preferred collection service would be the separate collection of recyclable materials together with a system of quality control to reduce the contamination within the material collection.

We have authorised Officers to prepare a letter to the Boroughs in order to seek

their co-operation in the preparation of medium term waste plans and to state that the Authority is specifically recommending to them that the co-mingled collection of recyclates and residual waste comes to an end during the period of the new plans.

We have also agreed that Officers would, in conjunction with the Contractor, review overall waste volumes again in December 2008.

1626 Government Grants

The Vice Chair commented that he would like to see some further information on the possibility of applying for financial support from the London Waste and Recycling Fund.

1627 Private Business

We have resolved to exclude the public and press from the remainder of the meeting by reason of the nature of the business to be discussed which included information exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).

1628 Contract Monitoring to October 2008

We have received the Assistant Executive Director's report and appendices providing us with details on the monitoring, outcomes and actions taken with regards to the management of the IWMS contract for the period of September 2008.

We have noted the results of the ongoing monitoring set out in the report and appendices, that all parties are engaged in trials and initiatives to increase recycling performance and the impact of the global economic situation on recycle markets.

We have discussed the format of the report and possibility of showing cumulative penalties for the contractor not meeting recycling targets and agreed to receive the report in this amended format by e-mail on a monthly basis.

There being no other business, the Chair wished everyone a very happy Christmas and prosperous and healthy New Year.

Chair:
Dated:

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(Contact Officer: Geoff Pearce – Tel 020 8708 3588/Tony Jarvis - Tel. 020 8270 4965)

EAST LONDON WASTE AUTHORITY

02 FEBRUARY 2009

FINANCE DIRECTOR'S REPORT

REVENUE & CAPITAL ESTIMATES AND LEVY 2009/10	FOR APPROVAL
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1 Executive Summary

- 1.1 This report sets out the projected outturn for 2008/09, and the proposed budget and levy for 2009/10. The proposals set out in this report have been prepared in accordance with the ELWA financial strategy for the next three years as agreed at the November 08 Authority meeting.
- 1.2 The revised revenue estimate for 2008/09 is £43,979,000. This compares to the original revenue estimate of £45,450,000 and thus represents a projected underspend for the year of £1,471,000. This is primarily due to a fall in tonnages and has been used to help reduce the levy in 2009/10.
- 1.3 It is proposed that ELWA agree a 2009/10 budget of £47,888,000. This increase in relation to the 2008/09 projected out-turn arises primarily from an increase of £8 per tonne in landfill tax and additional inflation.
- 1.4 A levy requirement of £38,660,000 is recommended, an increase compared with 2008/09 of 6.5%, of which 5% relates to the increase in landfill tax. This compares with the Finance Director's Financial Projection and Budget Strategy report agreed by Members on 24th November 2008, which highlighted a projected increase in the 2009/10 levy in the region of 7%. This reduction in the projected levy is primarily due to a fall in estimated tonnage.
- 1.5 The 2009/10 ELWA estimates are based upon the submitted Annual Budget & Service Delivery Plan (ABS DP) It is recommended that provision is made in the contingency for IWMS contract negotiations £150,000, unforeseen circumstances £100,000 and waste regulation £50,000. (Section 11 of this report has further details on the contingency).
- 1.6 ELWA Members will understand the impact of its levy on the budgets and Council Taxes of its constituent boroughs. Therefore, as in previous years, a balance has been sought between prudent financial management that secures the long-term operational viability of ELWA and keeping annual increases in the levy requirement to a minimum. It is likely that ELWA will face further volatility and uncertainty in the future and given the economic recession, new financial pressures cannot be ruled out.
- 1.7 A prudent level of reserves is recommended to ensure levy stability in future years because of the uncertainties faced by the Authority. These include uncertainties connected with the overall level of waste tonnages, the introduction of new technologies, and new European Union (EU) / Government regulations.

1.8 The ELWA Management Board supports the contents and recommendations, and the Finance Service of each constituent Council has been briefed on the issues in this report.

2 Introduction

2.1 This report presents the revised revenue estimates for 2008/09 and the revenue estimates for 2009/10. Members are asked to consider the estimates and determine the levy for 2009/10.

2.2 The key strategic themes of this report were set out in the Financial Projection and Budget Strategy 2009/10 to 2011/12 report as agreed at the November 08 Authority meeting.

3 Legal Background to Levy

3.1 ELWA is required to inform the constituent Councils as to the amount of its levy requirement by the 15th February each year. The levy is made by issuing a demand to each Council, specifying the dates on which payment is to be made and the amounts involved.

3.2 There is no specific power enabling ELWA to make a supplementary levy during the course of the year should it require additional resources due to unforeseen circumstances.

3.3 The levy requirement is made up of the ELWA budget plus any contingency provisions, and drawings from or contributions to reserves including the PFI reserve.

4 Levy Apportionment

4.1 ELWA recommended and its constituent Councils unanimously agreed to the following levy apportionment arrangements with effect from 2002/03:

- A levy based on waste tonnage for costs attributable to Household Waste;
- A levy based on Council Tax Band D to apportion other costs attributable to, for example, Reuse and Recycling Centres, Aveley I landfill site.

4.2 This levy report is prepared on the basis set out in paragraph above.

5 2008/09 Revised Revenue Estimate

5.1 The revised revenue estimate for 2008/09 is £43,979,000. This compares to the original revenue estimate of £45,450,000 and thus represents a potential underspend for the year of £1,471,000. This is primarily due to a fall in projected tonnage. Appendix A shows a summary of these estimates.

5.2 The main budget variations for 2008/09 have been referred to in the regular budget monitoring reports and financial position update reports during the year.

5.3 These are a lower total tonnage of waste handled than anticipated (£1.1m), improved investment income (£0.1 million) and under utilisation of contingency (£0.2m). Tonnes are now expected to be in the region of 486,000 tonnes compared to the original estimate for 2008/09 of 509,000 tonnes. The additional investment income

arises from more favourable cash balances and interest rates in the early part of the year.

5.4 In 2008/09 a contingency of £550,000 was set. It is anticipated that £200,000 of this will not be required during the rest of this year. This under utilisation will be added to the resources available for setting the 2009/10 Levy. Appendix B1 contains further details regarding the utilisation of the 2008/09 Contingency.

6 Underlying Cost Pressures 2009/10

6.1 The basic elements of the ELWA budget are:

- Shanks.east london's proposed ABSDP for 2008/09. Contractual costs are the key item of expenditure as the estimated annual contractual cost accounts for nearly 95% of ELWA's total gross expenditure;
- The cost of services not subject to the IWMS Contract, for example, management of Aveley I site, strategy, support and administration costs;
- Offsetting income, for example, generated by commercial waste charges to the Boroughs, investment and bank interest receipts.

6.2 The key financial pressures in the preparation of the ELWA budget for 2009/10 are as follows:

- A general rise in the cost of waste disposal including higher taxation (e.g. a further increase in landfill tax of £8 per tonne in each of the next two years);
- The need to hold a reasonable level of reserves against foreseeable contract cost increases and against operational risks; and
- Inflation increase of 3.66% as detailed in Para 8.1.

6.3 Also, ELWA and its Constituent Boroughs benefit directly from significant additional revenue funding in the form of Private Finance Initiative (PFI) credits. Constituent Boroughs may also directly receive extra funding from Government for waste initiatives.

7 2009/10 Net Revenue Estimate

7.1 The net revenue estimate for 2009/10 is £47,888,000, an increase of £2,438,000 (5.4%) over the 2008/09 original net revenue estimates. A summary of the detailed net revenue estimate for 2009/10 is contained in Appendix A. A detailed commentary is shown below.

7.2 The table below highlights the key expenditure movements from the original budget of 2008/09.

Narrative	£m
Original Budget 2008/09	£45.5
Shanks contract - Increase in Landfill Tax	£1.7
Shanks Contract - Increase in Inflation	£1.7

Reduction in Tonnage and increased Landfill Diversion (From 509,000 to 486,000)	(£1.3)
Increase in Commercial waste income as a result of additional Landfill tax	(£0.6)
Reduction in Bank Interest	£0.9
Proposed Budget for 2009/10	47.9

<u>Financed By</u>	£m
Transfer from PFI Reserve	(£6.9)
Transfer from General Reserve	(£2.3)
Proposed 2009/10 Levy	(£38.7)
Total Financing	(£47.9)

- The government has announced that Landfill Tax is due to rise by £8 per tonne from 1st April 2009, giving rise to an additional cost of £1.7m.
- Increase in inflation on the Shanks contract has resulted in an additional increase of £1.7m.
- Estimates of tonnage disposed are lower than the ABSDP forecast as at the February 08 Authority meeting. The drop is from 509,000 tonnes to 486,000 which has resulted in a financial saving of £0.9m. An improvement on the diversion rate from landfill has also generated a saving of £0.4m.
- Increased tonnage and the price rise per tonne as a result of Landfill tax for commercial waste disposal has also resulted in a favourable variance of £0.6m.
- There have been significant reductions in bank interest rates from the projected 5.20% down to 2.79% as a result of the Bank of England actions to stimulate the economy. The loss of interest receivable as a result of the interest rate fall is £0.9m.

8 Assumption on Net Revenue Estimate 2009/10

8.1 Inflation

The 2009/10 detailed Revenue Estimates include provision for:

- Increases in general costs, including pay, of between 2.5% and 4.5%;
- An inflationary rise of 3.66% (80% of 4.6%) in IWMS contract cost from 1st April 2009 in line with the indexation provisions within the contract.

8.2 IWMS Contract Costs

The financial year 2009/10 will be the seventh full year of ELWA's IWMS Contract with Shanks.east London. This is the single largest element (approx. 95%) of ELWA's budget. The delivery of the service is controlled by Service Delivery Plans and each year there is an Annual Budget and Service Delivery Plan (ABSDP).

The revised data in the 2009/10 ABSDP underpins the 2009/10 estimate and levy report. The ABSDP was the subject of a report at the November ELWA Authority meeting and that report included the main operational and financial summaries relating to 2009/10.

It is estimated that the annual contractual costs will be £49,907,000 in 2009/10. This represents an increase of £2,206,000 (4.6%) compared to 2008/09. This increase primarily reflects the further increases in landfill tax and inflation, offset against tonnage reductions. This increase was part of the original IWMS Contract and had been anticipated and factored into ELWA's financial projections and is one of the main reasons that ELWA has built up and held reserves over recent years to ensure a smoother levy increase profile.

The ABSDP now assumes a total contract waste figure of 486,000 tonnes. This is based on recent patterns and is the advice of Technical officers. This reduction compared to the past projection reflects technical officers advise on the slowdown in the economy and residents spending powers. For the purposes of setting the levy for 2009/10 a projection of 486,000 tonnes has been used. Further details are within the ABSDP presented to members.

Boroughs will continue to benefit from the annual net revenue savings following the transfer of the operation and management of their Civic Amenity and Recycling sites to Shanks.east London. These costs are included in the ELWA levy via the contractual payments to Shanks.east london. ELWA pays a market rent to the Councils for the lease of these sites, which is also included in the levy. The market rent is reviewed every five years and the outcome of the first review was included in the IWMS Contract in 2008/09.

8.3 Landfill Allowances Trading Scheme

Under the Landfill Allowances Trading Scheme (LATS) if an Authority landfills more than a set allowance it will incur financial penalties, and there is a potential market for surplus allowances. It now appears unlikely that there will be any LATS costs or penalties for ELWA in 2008/09 or 2009/10. The current value of any surplus allowances is unclear but is again likely to be minimal, if anything at all, as most waste authorities expect to have annual surpluses.

Consequently, this report assumes no income for any anticipated surplus Landfill Allowances accruing to the Authority for 2008/09 or 2009/10. Officers will continue to monitor the situation very closely and seek to sell surplus allowances if a suitable opportunity arises. Members will be kept briefed on this issue.

8.4 Landfill Tax

For 2009/10 and beyond, the rate of landfill tax for 'active' waste is to increase by at least £8 per year on the way to a medium to long-term rate of £56 per tonne. There are expectations that this maximum figure will rise further in the future.

From 1 April 2009 the new level of landfill tax for 'active' waste will be £40 per tonne. This is an increase of £8 per tonne from the 2008/09 rate. It is reflected in the IWMS contract pricing structure and effectively increases the ELWA levy by approximately £1.7 million (5%).

Under the IWMS contract, landfill tax is met by Shanks.east london up to £15 per tonne. ELWA bears the excess over £15 on the levels of landfilled waste within national waste strategy targets. If waste is landfilled in excess of waste strategy targets, the contract requires Shanks.east london to bear all the landfill tax for the excess tonnage.

8.5 Service Level Agreements

Costs charged by constituent Councils for legal, financial, technical and administrative services including contract monitoring carried out on ELWA's behalf are the subject of Service Level Agreements. These services will be reviewed during 2009/10 to reflect any changes in ELWA's requirements.

8.6 Waste Minimisation & Recycling Initiatives

ELWA officers will continue to discuss with the constituent councils and Shanks.east london opportunities to encourage participation in new and financially beneficial local recycling initiatives. A continuous budget provision of £210,000 is included in the detailed 2009/10 Estimates. In addition a further £150,000 is also included to support a co-ordinated partnership communications campaign (WRAP) across the ELWA area to reduce contamination and increase participation and set-out rates for recyclates.

8.7 Commercial & Industrial Waste Charges

ELWA makes charges to Boroughs for commercial and industrial waste disposal based upon the tonnage disposed of. Under the IWMS Contract, Shanks.east london must accept and deal with this Council waste.

This stream of waste will count against the ELWA LATS allocation if it is landfilled. ELWA therefore needs to keep under consideration the impact of this waste stream, including the impact on LATS, when setting its commercial and industrial waste charges in the future. To reflect the increased cost of landfill tax within the IWMS contract it is proposed that the normal charge for 2009/10 is increased from £80 to £88 per tonne.

To incentivise Councils to recycle, a lower rate of £70 per tonne in respect of specific commercial waste that has been recycled is recommended. The lower rate charge should encourage boroughs to recycle more commercial waste. The proposed charges of £88 and £70 as set out above have been the subject of full consultation with Borough Officers.

The estimated income to ELWA for 2009/10 based on the latest forecast waste figures charged at the proposed new rates for 2009/10 (assuming all waste is charged at £88 per tonne) is shown below.

	<u>Estimate</u> <u>2008/09</u> <u>(tonnes)</u>	<u>Estimate</u> <u>Income</u> <u>2008/09</u> <u>(£'000)</u>	<u>Estimate</u> <u>2009/10</u> <u>(tonnes)</u>	<u>Estimate</u> <u>Income</u> <u>2009/10</u> <u>(£'000)</u>
Barking & Dagenham	8,800	704	8,969	789
Havering	11,700	936	12,237	1,077
Newham	14,900	1,192	16,117	1,418
Redbridge	14,450	1,156	13,856	1,219
	<u>49,850</u>	<u>3,988</u>	<u>51,171</u>	<u>4,503</u>

This assumes current trends are extrapolated to 2009/10.

9 Capital Expenditure

- 9.1 Through the IWMS contract Shanks.east london has had a major capital programme for the provision of new waste disposal facilities and the refurbishment of existing ones in the ELWA area. The costs of this are reflected within the contract charges.
- 9.2 In addition, consideration will be given by ELWA officers to making bids for additional funding in appropriate circumstances including recycling and composting initiatives.
- 9.3 ELWA has had reports on developing its closed landfill sites and some capital works on these may be necessary in the next few years. If such work is required a report will be brought to Members.

10 PFI Credits and PFI Contract Reserve

- 10.1 As previously agreed by Members, ELWA's future financial planning must take account of both the continually reducing value of the PFI credit in cash terms and the increases in contract costs particularly in 2008/09 and 2009/10. It is prudent to seek to smooth the impact on the levy over this period and over the term of the contract to give greater financial stability to the Boroughs.
- 10.2 ELWA's policy is therefore that it pays Special PFI Grant into a PFI Contract Reserve account with a priority of withdrawal as follows:
 - (i) To meet additional costs, over and above normal operational increases, arising from the IWMS contract in the relevant year;
 - (ii) To be set aside to meet stepped increases in the IWMS contract (e.g. when higher recycling targets are achieved) to ensure a smoother levy profile by avoiding exceptional levy increases in those years;
 - (iii) To supplement ordinary revenue reserves, particularly in the early years of the implementation of the IWMS contract when the level of uncertainty is at its greatest.
- 10.3 It should be appreciated that 2006/07 was the peak year in terms of the PFI Contract Reserve as the PFI grant has been built up since 2002/03 specifically for application in 2008/09 and beyond. These step price increases have ceased; however new

pressures outside ELWA control, in particular the annual increases on landfill taxes, require financing with the PFI grant as an option. It is proposed that a large portion of grant is utilised in the next three years to cover these abnormal cost increases.

10.4 The table below shows the figures in respect of the PFI Contract Reserve account for 2008/09 and 2009/10. The PFI Contract Reserve had been built up in accordance with paragraph 10.2 above and is to be released to partially offset and smooth the expected IWMS Contract cost increases in 2008/09, 2009/10 and future years. It is recommended in this report that £6,949,000 of these reserves be used to fund the increase in the IWMS contract cost for 2009/10, leaving a projected level of £10,767,000 as at 31 March 2010. Further drawings are planned in subsequent years.

	£'000
Balance at 31.3.08	16,580
PFI credit to be received in 2008/09	4,355
Utilisation in 2008/09	(7,400)
PFI Contract Reserve balance at 31.3.09	13,535
PFI credit to be received in 2009/10	4,181
Utilisation in 2009/10	(6,949)
PFI Contract Reserve balance at 31.3.09	10,767

11 The 2009/10 Contingency Reserve

11.1 In order to deliver a sustainable budget that is able to adapt to uncertainty, it is prudent for the Authority to set aside a provision or contingency for uncertain events.

11.2 The 2009/10 detailed Revenue Estimates include provision for pay and price rises where appropriate and, therefore, no separate provision for general inflation is required in the contingency.

11.3 IWMS Contract

A provision of £150,000 is recommended for potential costs related to the IWMS contract negotiations including arrangements and legal costs should a dispute arise during the course of the year. Further resources to maintain or improve performance could also be considered within this contingency.

11.4 EU and UK developments in Waste Management

There has been a lively debate during 2008 at a national level, about the definitions of waste, particularly household waste. In October 2007 the Department of Environment, Food and Rural Affairs (Defra) issued a letter to English Waste Authorities on the classification and reporting of waste. The Defra interpretation of the definition of household waste was no surprise to ELWA Officers but some organisations are reviewing their current practices and procedures. This could result in the Boroughs being requested to collect more waste defined as household waste in the future for ELWA to dispose of. It is recommended that a contingency of £50,000 be earmarked for this.

11.5 Unforeseen Circumstances

A further £100,000 is required to support any potential cost pressures unforeseen in accordance with ELWA's normal practice.

11.6 Appendix B2 sets out the relevant details and indicates a total Contingency Reserve of £300,000 for 2009/10 (£550,000 in 2007/08). The release of the Contingency will be subject to further detailed reports during the course of the year as required.

11.7 The issue of ELWA's deposit with Heritable Bank, a subsidiary of the Icelandic bank Landesbanki, is on going. Early indicators suggest that a material proportion of the £1m deposit is likely to be reimbursed to ELWA.

The direction from the government of the treatment of this potential loss is either deferral through capitalisation or the use of reserves. There is a test to pass with regards deferral which ELWA are unlikely to succeed and therefore any potential loss will require funding from existing reserves.

As clarity of the outcome of negotiations is not fully known for certain, no specific provision has been made, however any loss would be met by the overall revenue reserve and there is adequate provision for this within the reserves.

12 **2009/10 Revenue Reserves**

12.1 ELWA must hold adequate balances to allow sufficient scope to cope with the strategic, operational and financial risks facing the Authority (in particular overspends), and also to allow flexibility to implement new developments.

12.2 The Local Government Act 2003 includes provisions that require Authorities to maintain an adequate level of balances. There are potential intervention powers if Government believes balances are at too low a level. In addition, under this Act the Finance Director must give his opinion on the adequacy of reserves and the robustness of the estimates.

12.3 There are a number of reasons for holding working balances and these include:

- A fund to cushion the impact of unexpected events – these can include potential overspends, which have been the main pressure on balances over recent years. In particular they can include changing service demand or changes in government regulations, but can also include changes in inflation from projections, e.g. a 1% change in tonnages would have a £0.5 million impact on ELWA budgets.
- To help fund transitional pressures
- To help cushion the impact of uneven cash flows and avoid unnecessary borrowing

12.4 ELWA's revenue balances at the end of 2008/09 are expected to be £9,937,000. It was recommended in last year's levy report that in total £1,750,000 of these reserves be used to fund the £550,000 contingency with the balance of £1,200,000 being used to support the levy for 2008/09.

12.5 It is recommended to further draw down the revenue reserve by £2,279,000 to fund the contingency of £300,000 with the balance being used to support the levy for 2009/10.

- 12.6 The Finance Director, in conjunction with other ELWA Directors, has undertaken the annual detailed exercise to review the risks faced by ELWA in 2008/09 and beyond (see Appendix C). In the light of this and recent years' experiences of financial volatility and uncertainty, the balances of £7.3 million are recommended by all the Directors.
- 12.7 It is important to stress again that ELWA cannot make a supplementary levy. Any net deficit must be managed via contingency and reserves.
- 12.8 The effect of the levy and expenditure on Revenue Reserves in 2007/08 and 2008/09 is shown below:

	£'000
Working Balance at 31.3.2008	9,937
Transfer to fund Contingency for 2008/09	(550)
Transfer to support Levy for 2008/09	(1,200)
Revenue savings in year 2008/09	1,471
Estimated Working Balance at 31.3.2009	9,658
Transfer to fund Contingency for 2009/10	(300)
Transfer to support Levy for 2009/10	(1,979)
Projected Working Balance at 1.4.2010	7,379

13 Capital Reserve

- 13.1 It is to be noted that there is a £400,000 Capital Reserve earmarked for future costs at the Aveley I site. In the opinion of ELWA officers there continues to be the potential need for significant works e.g. concerning the proper environmental protection of the site and the continuation of existing operations on the site.

14 2009/10 Levy

- 14.1 The levy requirement is made up of the ELWA net revenue estimate plus / minus any contingency provisions, and drawings from or contributions to reserves including the PFI reserve.
- 14.2 The levy for 2009/10 is recommended to be £38,660,000 including the contingency of £300,000 and after applying £6,949,000 from the PFI reserve and £2,279,000 of Revenue reserves.
- 14.3 The Finance Director's Financial Projection and Budget Strategy report agreed by Members on 24th November 2008 highlighted a potential increase in the 2009/10 levy in the region of 7%. This has been reduced to 6.5% largely as a result of a downward revision by Technical Officers on the projected level of tonnages.

14.4 The apportionment of the proposed levy between individual boroughs is as follows:

<u>Actual Levy</u> <u>2008/09</u> <u>£'000</u>		<u>Tonnages</u>	<u>Apportion Tonnages</u> <u>£'000</u>	<u>Band D Basis</u>	<u>Apportion Band D</u> <u>£'000</u>	<u>Proposed Levy</u> <u>2009/10</u> <u>£'000</u>
6,704	Barking & Dagenham	67,641	5,213	51,527	1,915	7,128
9,461	Havering	88,005	6,782	88,683	3,296	10,078
10,637	Newham	111,216	8,571	74,852	2,782	11,353
9,498	Redbridge	88,093	6,789	89,111	3,312	10,101
<u>36,300</u>	Total	<u>354,955</u>	<u>27,355</u>	<u>304,173</u>	<u>11,305</u>	<u>38,660</u>

15 Levy Projections for 2010/11 and 2011/12

15.1 The table below highlights a potential levy in the region of £41.4 million for 2010/11 and £45.4 million for 2011/12 levies. The reserves position at the end of 2011/12 is projected to be £6.1 million for revenue reserves and £2.4 million for the PFI Contract reserve.

15.2 The levy forecasts for 2010/11 to 2011/12 clearly can only be taken as an attempt to provide an indication for planning purposes. However, a change in any of a number of uncertain factors, for example changes in landfill tax, waste growth and inflation assumptions and any new legislation could impact on the overall projections.

15.3 The indicative levy position and reserve figures for the next three years based on the data used for the 2009/10 levy is summarised in the table below:

Summary Budget	2009/10 £'000	2010/11 £'000	2011/12 £'000
Revenue Budget	47,588	50,455	53,428
Annual PFI Grant	(4,181)	(4,014)	(3,854)
Transfer to PFI Reserve	4,181	4,014	3,854
Contingency	300	300	300
Sub Total	47,888	50,755	53,728
<u>Financed By</u>			
Transfer from PFI Reserve	(6,949)	(8,195)	(8,087)
Transfer from General Reserve	(2,279)	(1,194)	
Levy	(38,660)	(41,366)	(45,428)
Levy Increase over previous year	6.5%	7.0%	9.82%
<u>Year End Reserves</u>			
PFI Reserve	10,767	6,586	2,353
Capital Reserve	400	400	400
General Reserve	7,379	6,059	6,059

15.4 With the lower tonnage costs offset by reduced interest receivable it is unlikely that the levy projections for future years are going to change from the estimates provided in the recent 3-year plan. Any changes are to be reflected in the next 3-year strategy due in November 2009.

16 Funding and monitoring arrangements

16.1 In the past ELWA has agreed that each year's levy should be sought in four equal instalments payable in the middle of each quarter i.e. 15 May, 15 August, 15 November and 15 February or the nearest banking day thereto. It is recommended that the Levy be paid in the same way in 2009/10.

16.2 PFI Credit is currently paid quarterly and this will be taken into account in the above.

16.3 It is recommended that commercial and industrial waste charges and other expenditure and income continue to be sought in accordance with the existing arrangements i.e. based on quarterly claims and invoices. Current arrangements have generally worked well and it is recommended that these be continued, subject to further review as necessary.

17 Prudential Indicators

17.1 At this meeting Members need to consider the Prudential Indicators in respect of Treasury Management and Capital Expenditure, as set out in a separate report on this agenda, as part of the formulation of the 2009/10 levy.

18 Value For Money

18.1 ELWA has previously tendered and secured its IWMS Contract, which accounts for nearly 95% of its gross total expenditure. This Contract has resulted in significant service improvements.

18.2 ELWA officers have taken into account the need to provide continuing value for money in the preparation and formulation of the 2009/10 levy and will continue to seek further improvements in the future in the area of the IWMS Contract and in other areas.

19 Robustness of estimates and adequacy of reserves

19.1 The Local Government Act (LGA) 2003 placed duties on local authorities to reinforce good financial practice. In respect of the setting of ELWA's annual estimates and levy, I am required to provide professional advice on the robustness of the estimates and the adequacy of reserves. The Secretary of State has back up powers to impose a minimum level of reserves on any authority that fails to make adequate provision.

19.2 The framework for the preparation of estimates is ELWA's three year financial strategy. Monthly budget statements are prepared throughout the year for monitoring and control purposes. These anticipate cost pressures and take a prudent view on income estimates. The advice of the External Auditor and the experience of other Waste Disposal Authorities are also taken into account.

- 19.3 The major component of the estimates is the IWMS contract cost which is formally agreed between ELWA and Shanks.east London via the ABSDP. ELWA's other costs are as advised by ELWA officers and Constituent Councils who are responsible for and carry out certain functions on ELWA's behalf. These costs are based on the advice of Council Technical Officers with appropriate support from Council Finance Officers.
- 19.4 The view of ELWA Directors is that the proposed estimates are robust and the proposed levels of reserves are adequate. These provide a reasonable and sound basis for the operation of ELWA next year and in the medium term.
- 19.5 In my view, following an analysis of the strategic, operational and financial risks and uncertainties facing ELWA, which are set out in this report, these risks and uncertainties are adequately addressed in the setting of the levy and the proposed level of reserves. A continued prudent level of reserves is again recommended to ensure levy stability in future years because of the uncertainties faced by the Authority.
- 19.6 The details and balances of ELWA's proposed reserves are contained in this report. The levels of these reserves are deemed appropriate based on my professional judgement and ELWA's previous experience. Appendix C sets out the results of an initial robust, risk-based assessment, of the major financial risks facing the Authority, undertaken by ELWA officers to justify the level of ELWA proposed revenue reserves.
- 19.7 In my opinion, if ELWA follows the advice contained in this report then the relevant requirements of the LGA 2003 are met.

20 Recommendations

20.1 Members are asked to agree:

- (i) the revised estimates for 2008/09, totalling £43,979,000 (paragraph 5.1);
- (ii) the revenue estimates for 2009/10, totalling £47,888,000 excluding contributions from reserves (paragraph 7.1);
- (iii) the charges for commercial and industrial waste for 2009/10:

Commercial & Industrial Waste – recycled	£70.00 per tonne	(paragraph 8.7)
Commercial & Industrial Waste – other	£88.00 per tonne	(paragraph 8.7)
- (iv) the utilisation of the PFI Contract Reserve of £6,949,000 for 2009/10 (paragraph 10.4);
- (v) a Contingency Reserve of £300,000 for 2009/10 (paragraph 11.3 – 11.6);
- (vi) A contribution from Revenue Reserves of £2,279,000 (paragraph 12.5);
- (vii) that on the basis of (ii) to (vi) above, ELWA determines its levy for 2009/10 in the sum of £38,660,000 (paragraph 14.2 – 14.4);

- (viii) the policy on Reserves and associated criteria for use (paragraphs 10 to 13);
and
- (ix) the continuation of existing arrangements for the payment of the levy and funding of Constituent Councils in 2009/10 (paragraph 16).

Geoff Pearce
FINANCE DIRECTOR

Appendices	
A	Summary of Original and Revised Revenue Estimates for 2008/09 and Forward Estimates for 2009/10
B1	Contingency and Claims on Contingency for 2008/09
B2	Proposed Contingency for 2009/10
C	Financial Risk Analysis 2009/10
Background Papers	
1	Returns from the Constituent Councils
2	Budget Working papers

EAST LONDON WASTE AUTHORITY - SUMMARY OF REVENUE ESTIMATES

	Note Reference	<u>Original Estimate</u> 2008/09 £'000	<u>Revised Estimate</u> 2008/09 £'000	<u>Forward Estimate</u> 2009/10 £'000
EXPENDITURE				
Employees	1	436	436	467
Premises Related Expenditure	2	151	130	125
Transport Related Expenditure		14	7	7
Supplies and Services				
IWMS Contract payments	3	47,701	46,660	49,907
Other (inc cost of Support Services)	4	608	556	806
Third Party Payments				
Tonne Mileage Payments	5	600	525	525
Recycling/Disposal Credits		100	113	116
Recycling Initiatives		205	205	210
Rents Payable - Land Leases		267	267	267
Capital Financing Costs		256	256	244
Total Gross Expenditure		50,338	49,155	52,674
Income				
Commercial Waste Charges	6	-3,988	-3,988	-4,503
Interest on Cash/Bank Balances	7	-1,430	-1,518	-562
Other Income		-20	-20	-21
Total Income		-5,438	-5,526	-5,086
NET COST OF SERVICES		44,900	43,629	47,588
PFI Grant Received		-4,355	-4,355	-4,181
Transfer to PFI Contract Reserve		4,355	4,355	4,181
Contingency		550	350	300
Budget Estimates		45,450	43,979	47,888
Transfer from PFI Contract Reserve		-7,400	-7,400	-6,949
Transfer from Revenue Reserve		-1,750	-1,750	-2,279
		36,300	34,829	38,660
Levy Receivable		-36,300	-36,300	-38,660
REVENUE SURPLUS FOR YEAR		0	-1,471	0

Notes

- 1 The additional budget requirements for 2009/10 in comparison to Original estimate reflects the increases in pay inflation and increased employer pension contributions.
- 2 The reduction in Premises related expenditure estimates for 2009/10 is due to lower Trade Effluent charges
- 3 This variance is discussed under Para 8.2.
- 4 The increase in estimate for 2009/10 is due to the inclusion of WRAP (150k) and Insurance benchmark (£72k), costs of which are now baselined.
- 5 Tonne mileage charges requirements for 2009/10 is lower as a result of fewer journeys undertaken
- 6 This variance is discussed under Para 8.7.
- 7 This variance is discussed under Para 7.2.

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CONTINGENCY AND CLAIMS ON CONTINGENCY FOR 2008/09

An overall contingency of £550,000 was set for the current financial year 2008/09 and to date there are actual and potential claims of £350,000 against this contingency.

	Contingency	Claims in-year
	£'000	£'000
Provision for IWMS Contract negotiations including Insurance benchmarking or other unforeseen circumstances	200	200
Waste Regulation including Hazardous Waste, definitions of Household Waste and Disposal Credits to 3 rd Parties	100	-
Specific provision for an increased Communications Campaign	250	150
Total	550	350

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EAST LONDON WASTE AUTHORITY
PROPOSED CONTINGENCY RESERVE FOR 2009/10

	<u>£'000</u>
A. Provision for IWMS Contract negotiations	150
B. Unforeseen circumstances	100
B. Waste Regulation including Hazardous Waste, definitions of Household Waste and Disposal Credits to 3 rd Parties	50
TOTAL	<hr/> 300 <hr/>

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EAST LONDON WASTE AUTHORITY

FINANCIAL RISK ANALYSIS FOR 2009/10 (as at January 2009)

Risk	Likelihood	Worst Case	Value of Risk
	%	£m	£m
Discriminatory law changes i.e. concerning waste management, definition, or regulation	60	0.6	0.4
General change in law – impact on IWMS contract - share of capital expenditure	10	5.0	0.5
Urgent revenue and/or capital expenditure arising from unforeseen event (e.g. local disaster, strikes, extreme weather)	10	5.0	0.5
Landfill sites – pollution & costs –gradual events	5	10.0	0.5
Aveley Methane contingency plan for gas extraction	40	0.5	0.2
IWMS contract – termination payments (e.g. compensation for a Force Majeure event)	10	30.0	3.0
Waste increases above service plan assumptions	60	0.5	0.3
Resources to invest in improved performance – arising from national and local waste strategies	50	3.0	1.5
Authority Insurances (excluding IWMS Contract) - liability for uninsured losses and deductibles	10	2.0	0.2
IWMS Contract Operational Insurances – liability for uninsured losses and deductibles	40	0.5	0.2
TOTAL			£7.3m

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*(Contact Officers: Prakash Mistry - Tel. 020 8708 3735)***EAST LONDON WASTE AUTHORITY****02 FEBRUARY 2009****FINANCE DIRECTOR'S REPORT**

TREASURY MANAGEMENT STRATEGY 2008/09 AND PRUDENTIAL CODE INDICATORS 2009/10 TO 2011/12	FOR DECISION
---	---------------------

1 Introduction

- 1.1 This reports sets out the Treasury Management strategy for 2009/10. The report details arrangements for the management of debt and investment of cash balances over the next three years together with Prudential Indicators for Treasury Management
- 1.2 The report includes the review of controls and investment processes following the extreme volatility in the banking sector and the collapse of Icelandic Banks, and details the cautious and prudent approach taken to maintain the security of investment balances in light of the continued uncertainty and provides an update in relation to Heritable Bank.
- 1.3 The Prudential capital finance regime requires consideration of the Authority's borrowing and investment strategies within the decision making process for setting the Authority's spending plans.
- 1.4 It is a statutory requirement under Section 33 of the Local Government Act 1992. for the Authority to produce a balanced budget. In particular, a local authority is required to calculate its budget requirement for each financial year to include the revenue costs that flow from capital financing decisions. This therefore means that increases in capital expenditure must be limited to a level which is affordable within the projected income of the Authority for the foreseeable future. In addition it requires the Authority to set a number of Prudential Indicators for three years.

2 Treasury Management Strategy 2009/10

- 2.1 ELWA's present borrowing dates to before 2002 and no further borrowing is currently projected for 2009/10. Provision has been made in ELWA's detailed Revenue Estimates for the revenue cost in terms of interest and capital repayments.
- 2.2 Historically, ELWA has had sufficient cash balances to cover expenditure flows during each year and hence there has been no need for any short-term borrowings. However, such borrowing may be required to fund timing differences between payment and receipt of cash/maturity of investments or the temporary financing of urgent, major capital schemes.
- 2.3 By ELWA's Standing Orders, the Finance Director is responsible for all of the Authority's banking, borrowing and investment activities. Under the Authority's existing service level arrangements, the London Borough of Redbridge administers the treasury management function on behalf of ELWA.

- 2.4 ELWA's Treasury Management Strategy covers the estimated funding requirements, the need for long and short-term borrowing, the management of the debt portfolio, and the investment of surplus cash. The proposed Strategy should ensure that a stable cash position is maintained.
- 2.5 ELWA'S Treasury Management Policy Statement (attached at Appendix A) has been prepared by officers and is based on current best practice.

3 Borrowing Requirements For 2009/10

- 3.1 In February 2008, the Authority set Prudential Indicators for limits on external debt and upper limits on fixed rate and variable rate interest rate exposures for 2008/09. These have not been exceeded during the year.
- 3.2 ELWA's estimated total borrowing of £1,610,000 at 31 March 2009 consists entirely of Public Works Loan Board (PWLB) loans. All the loans are on a fixed rate basis.
- 3.3 The options available to ELWA to finance any future capital requirements include the temporary use of internal cash balances and to raise loans via the PWLB and capital markets
- 3.4 The Authority may need to make arrangements to finance expenditure during 2009/10 in respect of any possible capital works identified as a result of the ongoing review of landfill sites. Indicative estimates, for the production of Prudential Indicators are shown for 2009/10 and 2010/11:

Borrowing Requirement	2009/10 £'000	2010/11 £'000	2011/12 £'000
Capital Spending	400	-	-
Loan Redemptions	-	-	-
Less – Minimum Revenue Provision	-	-	-
Estimated Borrowing Requirement	400	-	-

- 3.5 The capital spending figures in the above table exclude any capital expenditure, which will be financed from capital grants and receipts, revenue contributions and external funding.
- 3.6 It is recommended that to retain maximum flexibility for 2009/10 that the above borrowing requirement limit is set.

4 Prudential Indicators For Treasury Management

- 4.1 The Authorised Limit for External Debt represents total external debt, gross of investments, separately identifying borrowing from other long-term liabilities such as finance leases.

4.2 In order to determine the authorised limit a number of assumptions have needed to be made on the possible future use of borrowing. The following limits represent the maximum amount of gross debt:

	2009/10 £'000	2010/11 £'000	2011/12 £'000
External Debt b/f	1,610	1,610	1,448
Borrowing requirement	400	400	400
	2,010	2,010	1,848
Short term/cash flow needs and contingency provision	10,000	11,000	11,000
Authorised External Debt Limit	12,010	13,010	12,848

4.3 The Authority is also required to set a limit on its mostly likely estimate of debt, this is known as the operational boundary for external debt. It is based initially on the authorised limit and has been adjusted by £5m, as the amount included in the authorised external debt limit. This is based on the a worst case scenario, as required by the Prudential Code.

4.4 Based on the information contained in this report it is recommended that the Prudential Indicators as shown on Appendix B be set for treasury management purposes.

5 Authority's Capital Programme

5.1 Under the Prudential regime, the Government no longer imposes any limit on borrowing for capital purposes as it is left to each local authority to determine its own limit in line with what it can afford.

5.2 At this meeting Members need to consider the Prudential Indicators as part of the formulation of the 2009/10 levy which is set out in a separate report on this agenda.

5.3 There is currently no planned Capital Programme for 2009/10 to 2011/12 except potentially in relation to the need to undertake any work following the outcome of the current landfill site surveys.

5.4 Based on the current available guidance together with work undertaken by officers, a set of Prudential Indicators has been formulated and is set out in Appendix C.

6 Annual Investment Strategy 2009/10

6.1 The Government requires the Authority to approve an Annual Investment Strategy for the forthcoming financial year.

- 6.2 The main objectives of the investment strategy are
- The security of the investments it makes; and
 - The liquidity of its investments to meet known liabilities.
- 6.3 As members are aware following the rapid collapse of Icelandic banks, Heritable Bank went into administration. At the time, ELWA had a loan of £1m with this bank. ELWA is represented on the creditors committee and officers will represent the authority's interest robustly.
- 6.4 The latest position in relation to Heritable Bank is that the first meeting of the statutory creditor committee took place shortly before Christmas. The administrators, Ernst and Young, have undertaken a substantial amount of detailed work and the proposed approach to the administration to pursue a managed run off business rather than a sale of businesses. The creditor committee unanimously approved this approach. A further meeting with the committee will take place in January. Ernst and Young have indicated that effected creditors may receive a material dividend.
- 6.5 Members will be kept abreast of any outcomes from current negotiations with administrators.
- 6.6 The direction from the government of the treatment of this potential loss is either deferral through capitalisation or the use of reserves. There is a test to pass with regards to deferral which ELWA are unlikely to succeed and therefore any potential loss will require funding from existing reserves.
- 6.7 Following the recent global developments, all investment controls and processes have been subject to rigorous review and found to be robust. Given the continued uncertainty in the banking sector, a cautious and prudent approach to placing investments continues to be taken. This has resulted in tightening investment activity to a restricted lending list of Banks and Building Societies within the overall agreed treasury management strategy.
- 6.8 ELWA has carried out the following work in order to establish the appropriateness of the investment strategy and the effectiveness of its implementation.
- An internal audit has been carried out to review compliance of the internal systems with the agreed investment strategy.
 - ELWA's external treasury management consultants have helped review the investment strategy.
- 6.9 This list currently comprises UK banks and rated building societies including those that have access to the Government's rescue package, Triple A rated sterling Money Market Funds, Local Authorities and the UK Government via the debt management account deposit facility. Investment periods also have been restricted to short term. Security of cash balances remains the main priority and this strategy will therefore be at the expense of yield. A restricted lending policy continues to operate whilst there is still a high level of uncertainty surrounding the banking system.
- 6.10 ELWA'S Investment Strategy (attached at Appendices D and E) has been prepared by officers and is based on current best practice.

7 Recommendations

7.1 Members are asked to agree:

- (a) The Treasury Management Strategy and Policy Statement as set out in Appendix A;
- (b) The Prudential Indicators for Treasury Management as set out in Appendix B;
- (c) The Prudential Indicators for capital expenditure as set out in Appendix C; and
- (d) The Annual Investment Strategy as set out in Appendices D and E

G Pearce
FINANCE DIRECTOR

Appendix

- A Treasury Management Policy Statement
- B Treasury Management Prudential Indicators
- C Prudential Indicators for capital expenditure
- D Annual Investment Strategy 2009/10
- E Investment Criteria

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TREASURY MANAGEMENT POLICY STATEMENT

- 1 The Authority defines the policies and objectives of its treasury management activities as:
 - The management of the organisation's cash flows, its banking, money market and capital market transactions;
 - The effective control of the risks associated with those activities;
 - The pursuit of optimum performance consistent with those risks.
- 2 The Authority regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation.
- 3 The Authority acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employing suitable performance measurement techniques, within the context of effective risk management.

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TREASURY MANAGEMENT PRUDENTIAL INDICATORS

Authorised Limit for External Debt	2009/10 £'000	2010/11 £'000	2011/12 £'000
Borrowing	12,533	13,533	13,533
Other Long Term Liabilities	-	-	-
TOTAL	12,533	13,533	13,533

Operational Boundary for External Debt	2009/10 £'000	2010/11 £'000	2011/12 £'000
Borrowing	7,033	7,110	7,110
Other Long Term Liabilities	-	-	-
TOTAL	7,033	7,110	7,110

Adopt the CIPFA Code of Treasury Management
ELWA has adopted the CIPFA Code of Practice in Treasury Management in the Public Services as part of its Financial Standing Orders.

Upper Limits on Interest Rate Exposures (based on net principle outstanding)	2009/10 £m	2010/11 £m	2011/12 £m
Fixed Rate	12.5	13.5	13.5
Variable Rate	(27.0)	(24.0)	(18.0)

Projected borrowing at fixed rates maturing in each period as a percentage of total projected borrowing at fixed rates		
	Upper Limit	Lower Limit
Under 12 months	20%	0%
12 Months and within 24 months	20%	0%
24 Months and within 5 years	60%	0%
5 Years and within 10 Years	80%	0%
10 Years and above	100%	0%

Upper Limit for Total Principal sums invested for more than 364 days	2009/10 £m	2010/11 £m	2011/12 £m
Total	3.0	3.0	3.0

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PRUDENTIAL INDICATORS (relating to Capital Expenditure)

1. Capital expenditure

	2009/10 estimate £'000	2010/11 estimate £'000	2011/12 estimate £'000
Total	400	400	400

2. Ratio of financing costs to net revenue stream

	2009/10 estimate	2010/11 estimate	2011/12 estimate
	%	%	%
Ratio	0.7	0.6	0.6

3. Capital Financing Requirement

Measurement of the underlying need to borrow for capital purposes.

	2009/10 estimate	2010/11 estimate	2011/12 estimate
	£'000	£'000	£'000
Total	1,384	1,307	1,232

4. Estimate of the incremental impact of capital investment decisions proposed in the Capital Programme report, over and above capital investment decisions taken in previous years

	2008/09 estimate	2009/10 estimate	2010/11 estimate
	£'000	£'000	£'000
On Total Levy	-	-	-

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ANNUAL INVESTMENT STRATEGY 2009/10

1. Introduction

- 1.1. This Authority has regard to the Department for Communities and Local Government (DCLG) Guidance on Local Government Investments and the Chartered Institute of Public Finance and Accountancy's Treasury Management in Public Services: Code of Practice and Cross Sectoral Guidance Notes ("CIPFA TM Code").
- 1.2. "Guidance on Local Government Investments" requires the Authority to set out the investments in which it is prepared to invest under the headings of Specified Investments and Non-Specified Investments.

Specified Investments are those investments that offer high security and liquidity. They must have a maturity of no longer than 364 days.

Non-Specified Investments are those investments deemed to have a greater potential of risk, such as investments for longer than one year or with institutions that do not have credit ratings, like some Building Societies. Limits must be set on the amounts that may be held in such investments at any one time during the year. The Authority's approved Specified and Non Specified Investments are detailed at Appendix E.

- 1.3 ELWA's strategy also sets out: -

- The procedures for determining the use of each asset class, particularly if the investment falls under the category of "non-specified investments";
- The maximum periods for which funds may be prudently committed in each asset class;
- The minimum amount to be held in short-term investments (i.e. one which the Authority may require to be repaid or redeemed within 12 months of making the investment);
- The amount or percentage limit to be invested in each asset class;
- What rating criteria is used and how they will be defined and monitored;
- The classification of each investment instrument for use by either the Authority's in-house officers and/or external fund managers, and the circumstances where prior professional advice is to be sought from the Authority's treasury advisers.
- Provision for a more restrictive investment strategy based on a restricted list including UK banks and the Debt Management Deposit Account Facility.

2. Investment Objectives

- 2.1. The Authority's investment strategy gives priority to:
 - the security of the investments it makes; and
 - the liquidity of its investments to meet known liabilities.
- 2.2. The Authority will seek to obtain the optimum return on its investments commensurate with the appropriate levels of security and liquidity.

- 2.3. Within the prudent management of its financial affairs, the Authority may temporarily invest funds, borrowed for the purpose of expenditure expected to incur in the reasonably near future. Borrowing purely to invest or on-lend for speculative purposes remains unlawful and the Authority will not engage in such activity.

3. Investment Balances and the Liquidity of Investments

- 3.1. Based on cash flow forecasts the Authority's cash balances are estimated to range between £18.5 million - £27.0 million in 2009/10.
- 3.2. The minimum amount of its overall investments that the Authority will hold in short-term investments is £10 million to ensure sufficient liquidity to meet timing differences in payments, especially in respect of the monthly IWMS contract invoices.
- 3.3. Giving due consideration to the level of balances over the next three years, the need for liquidity, its spending commitments and provisioning for contingencies, it is determined that up to £3 million of total fund balances could be invested for longer than one year. This remains subject to the overriding objective of ensuring the security of investments. The authority currently holds no investments with a maturity of more than one year.
- 3.4. The creditworthiness criteria for choosing counterparties set out in this report provides a sound approach to investment in "normal" market circumstances. Following the severe volatility in the banking sector, the failure of the Icelandic banking system and collapse of a number of banks, the Authority has reviewed all investment management controls and processes. It has taken a more cautious and prudent approach to investing by placing deposits with a more restricted lending list of Banks and Building Society within the overall agreed policy. This list currently comprises UK banks and rated building societies, including those that have access to the Government's rescue package, Triple A rated sterling Money Market Funds, Local Authorities and the UK Government via the debt management account deposit facility. Investment periods also have been restricted to short term.
- 3.5. Security of the Authority's money remains the main priority and this strategy will therefore be at the expense of yield. A restricted lending policy continues to operate whilst there is still a high level of uncertainty surrounding the banking system.

4. Investments defined as Capital Expenditure

- 4.1. The Authority will not make any investments that may be defined as capital expenditure under the Local Government Act 2003.

5. Provision for Credit-related losses

- 5.1. If there is a default on any of the Authority's investments, revenue provision will need to be made for the appropriate amount. Where recovery is uncertain, an appropriate level of general reserves are held within the accounts.

6. Asset class limits

6.1. In accordance with current practice and the investment limits contained within the Authority's Treasury Management Practices, the maximum percentages of the portfolio which may be invested in each asset class are as follows:

UK Government	100%
Local Authorities	50%
Banks- Specified	100%
Money market Funds - Specified	75%
Building Societies - Specified	100%
Unspecified Investments – including un-rated Building Societies	75%
Non UK Government and Supranational Bonds	15%

7. End of Year Investment Report

A report on the Authority's investment activity will continue to be included as part of the annual Treasury Management report.

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CREDITWORTHINESS

Credit Ratings - The Authority adopts a range of credit rating criteria. Creditworthiness is based on the credit ratings of all three credit rating agencies (Fitch, Moody's, and Standard & Poors). Credit ratings are provided for long-term and short-term creditworthiness. Fitch also provide individual and support ratings for Banks. Credit ratings are internationally comparable.

Traditionally Building Societies were un-rated as their primary business is one of savings and mortgage lending. In recent years however, a number of the larger Building Societies have sought credit ratings. Investment in a credit rated Building Society for less than one year is therefore a specified investment. Building Societies who do not have a credit rating will need to continue to meet the Council's existing approved criteria and investments will be unspecified investments.

Following advice on suitable credit rating criteria received from the Authority's treasury advisers, the Authority has previously determined the minimum long-term, short-term and other credit ratings it deems to be "high" for each category of investment as complies with the Authority's Treasury Management Practices document. Where appropriate, the rating criteria applied will be the "lowest common denominator" method for selecting banks and building societies and applying limits. This means that the application of the Council's minimum criteria will apply to the lowest available rating for any institution. For instance if a bank is rated by two agencies and one meets the Authority's criteria, while the other does not, the bank will fall outside the lending criteria.

Short Term

For short term lending (less than one year) the following minimum credit criteria for Banks and Rated Building Societies will apply:

	Fitch	Fitch	Moody's	Moody's	S&P's	S&P's
	Highest	Lowest	Highest	Lowest	Highest	Lowest
Long term credit	AAA	A	Aaa	A2	AAA	A
Short term credit	F1+	F1	P-1	P-2	A-1+	A-1
Individual standing	A	C	*	*	*	*
Financial Strength	*	*	A	C	*	*
Support	1	3	*	*	*	*

* no equivalent / comparable rating criteria

- In addition, the Authority will use banks whose ratings fall below the criteria specified above if all of the following conditions are met (a) wholesale deposits in the bank are covered by a government guarantee; (b) the government providing the guarantee is rated "AAA" by all three major rating agencies (Fitch, Moody's and Standard & Poors); and (c) the Council's investments with the bank are limited to amounts and maturities within the terms of the stipulated guarantee.

- Building Societies – the Authority will use all Building Societies with assets in excess of one billion, and ranked within the top 20 building Societies, for lending up to 3 months.
- Money Market Funds – AAA
- UK Government (including gilts and the DMADF)
- Local Authorities,

Long Term

For Long Term lending (more than one year), the following minimum credit criteria will apply using the lowest common denominator method:

	Fitch	Fitch	Moody's	Moody's	S&P's	S&P's
	Highest	Lowest	Highest	Lowest	Highest	Lowest
Long term credit	AAA	AA-	Aaa	P1	AAA	AA-
Short term credit	F1+	F1+	P-1	P-1	A-1+	A-1+
Individual standing	A	C	*	*	*	*
Financial Strength	*	*	A	C	*	*
Support	1	2	*	*	*	*

* no equivalent / comparable rating criteria

Long Term – relates to long-term credit quality;

Short Term – relates to short-term credit quality;

Individual / Financial Strength – Strength of the organisation;

Support – Fitch's assessment of whether the bank would receive support if necessary.

The creditworthiness criteria for choosing counterparties set out in this report provides a sound approach to investment in "normal" market circumstances. Whilst Members are asked to approve the base criteria set out in this report, under the exceptional current market conditions, the Director of Finance temporarily restrict further investment activity to those banks and building societies considered of higher credit quality than the minimum sent out for approval. These restrictions will remain in place until the banking system returns to more "normal" conditions. Similarly the time periods for investments will be temporarily restricted.

Examples of these restrictions would be the greater use of the Debt Management Deposit Account Facility (DMADF - a government body which accepts local authority deposits), Money Market Funds, guaranteed deposit facilities and strongly rated institutions offered support by the UK Government.

APPROVED LIST OF SPECIFIED INVESTMENTS, CREDITWORTHINESS AND USAGE FOR UNDERTAKING THE AUTHORITY'S INVESTMENT MANAGEMENT STRATEGY
Investments for less than 1 year

All investments must be sterling-denominated.

Investment	Security / Credit criteria	Use
Term deposits with the UK government or with English local authorities	High security	In-house
Term deposits with other LA's	High security	In-house
Term deposits with credit-rated banks, including callable deposits	Short term lowest common denominator credit matrix AAA sovereign rated – government guarantee	In-house
Term deposits with credit-rated building societies	Short term lowest common denominator credit matrix Market capitalisation over £1bn	In-house
Money Market Funds	AAA rated and assets of at least £100m.	In-house
UK Government Gilts : up to 1 year	Government backed	To be used in-house after consultation/ advice from Treasury Advisor or use an external fund manager.
Forward deals with credit rated banks < 1 year (i.e. negotiated deal period plus period of deposit)	Short term lowest common denominator credit matrix AAA sovereign rated – government guarantee	In-house
Certificates of Deposit issued by banks and building societies.	Short term lowest common denominator credit matrix AAA sovereign rated – government guarantee	External Fund Manager
Gilt Funds and Bond Funds	Long Term A	External Fund Manager
Treasury bills [Government debt security with a maturity less than one year and issued through a competitive bidding process at a discount to par value]	Government Backed	In-house or use external fund manager.

APPROVED LIST OF NON SPECIFIED INVESTMENTS, CREDITWORTHINESS AND USAGE FOR UNDERTAKING THE AUTHORITY'S INVESTMENT MANAGEMENT STRATEGY

Investment	Credit Criteria	Maximum maturity Period	Use
Term deposits with the UK government or with English local authorities	High security	5 years	In-house
Term deposits with credit rated banks	Long Term lowest common denominator credit matrix	5 years	In-house
Callable deposits with credit rated bank	Long Term lowest common denominator credit matrix	5 years	In-house after consultation/ advice from Treasury Advisor
Forward deposits with credit rated banks	Long Term lowest common denominator credit matrix	5 years	To be used in-house after consultation/ advice from Treasury Advisor
Term deposits with credit-rated building societies	Long Term lowest common denominator credit matrix	5 years	In-house
Term deposits with unrated banks	AAA Government sovereign rated. Government Guarantee	3 months	In-house
Deposit with un-rated building society	Market Capitalisation over £1b, rank in top 20 building societies.	3 months	In-house
Sovereign issues ex UK govt gilts : any maturity	AAA	5 years	advice from Treasury Advisor. Use external fund manager
Bonds issued by multilateral development banks	AAA	5 years	In house and External Fund Manager
Certificates of Deposit issued by banks and building societies.	Long Term lowest common denominator credit matrix	5 years	External Fund Manager
Bonds issued by a financial institution guaranteed by the UK Government	AAA	5 years	In house and External Fund Manager

(Contact Officer: Tony Jarvis - Tel. 020 8270 4965)

EAST LONDON WASTE AUTHORITY

2 FEBRUARY 2009

EXECUTIVE DIRECTOR'S REPORT

RISK STRATEGY – UPDATE FOR 2009/10	FOR APPROVAL
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1 Purpose

1.1 To update the Risk Register approved last year (Minute 1544).

2 Background

2.1 A Risk Management Strategy was approved in 2006 (Minute 1405)

2.2 The Risk Registers and a Risk Matrix were further developed in 2008 with the support of a risks management consultant from the JLT Group (who are also the Authority's insurance advisers) and the Insurance and Risk Manager at the London Borough of Redbridge.

2.3 This report reviews and updates the Risk Registers in the light of current information.

2.4 The Authority had taken a number of significant steps in risk management over the years, including the risk transfer in the Integrated Waste Management Strategy (IWMS) Contract and the Closed Landfill Site Strategy.

3 The Risk Register

3.1 The Registers of Strategic Risks and Operational Risks have been set out in Appendix B1 and B2. These Registers have been subject to further development and have been reviewed with a further year's experience as described below in paragraph 3.2.

3.2 The following have been added to the risk registers;

a) Strategic Risk Register :

- Number 14 - The continuing viability of Aveley Methane Ltd ;
- Number 15 - The medium and long term strategy for improved performance and reduced dependence on third parties for recycling and diversion outlets.

b) Operational Risk Register

- Number 20 – Ability to place recycle materials to markets.

3.3 The following risks have been subject to a change in ratings after review;

- a) Strategic Risk Register
 - i) Increased Risks – No increased risks identified.
 - ii) Decreased Risks –
 - Number 1 – The risk of the Abolition of the Authority;
 - Number 9 – Gradual pollution event on a closed landfill site. The likelihood of this occurring has not decreased however there is now Environmental Impairment Liability insurance cover in place which mitigates the costs against the gradual pollution event.
- b) Operational Risk Register
 - iii) Increased Risks –
 - Number 3 – Trespass on closed landfill site leading to death / serious injury;
 - Number 6 – Major failure of technology;
 - Number 11 – Increased risk of enforcement notice due to failure to comply with regulations.
 - iv) Decreased Risks –
 - Number 7. – High level of customer complaints.

3.4 Although not impacting on the Risk Registers for 2009/10 some other issues have arisen that may have an impact in future years;

- a) The insurance and re insurance markets are reported to be under significant financial pressures during 2009 and this is likely to have an adverse impact on risks and pressures at the next renewal date in December 2009.
- b) The statutory obligations on ELWA have not been specifically changed but the interpretation of certain matters (for example the definition of household waste) is currently under review and the result may have an impact in future years.
- c) The proposed option to sell a closed landfill site in Thurrock would reduce ELWA's exposure to some risks if and when the option is exercised.

3.5 The Risk Registers assess the 'Gross' position and the 'Net' position. The 'Net' position assesses the Net Likelihood and Net Impact of a Risk after account is taken of the High Level Controls and Mitigation Controls set out and described in the Table. In order to simplify this report only the Net position is displayed in Appendix C1.

4 The Risk Matrix

- 4.1 Appendix C sets out a Risk Matrix.
- 4.2 Taking account of the high level controls in place and the mitigation arrangements, the Net Risk Matrix is presented in Appendix C1.
- 4.3 Risk items placed in the top right (heavily shaded) of the Risk Matrix need to be considered as a priority in terms of further controls and mitigation (as far as that is possible).
- 4.4 There are still two Strategic Risks (items 6 and 10) in this category, even after the application of High Level Controls and Mitigation Measures. (Item 6 would be in this position in the Risk Matrix of most Local Authorities where the service is outsourced and Item 10 would be in this position in the Risk Matrix of most Waste Disposal Authorities because of the amount of environmental regulation and legislation at the present time).
- 4.5 There are no Operational Risks currently in the top right of the Risk Matrix Table, ie. needing priority consideration at this time. However, there are two Operational Risks (8 and 9) in the middle (shaded) area where the contingency plans need to be regularly reviewed.
- 4.6 The Risk Matrix Definitions in Appendix C3 sets out the categories of Likelihood (1 to 4) and categories of Impact (1 to 4) used to compile the Matrix from the Risk Registers. The values attributed to each category of risk have been reviewed to reflect the current circumstances, and the Authority's higher level of turnover and resources.

5 Financial Implications

- 5.1 The review of the Register and Matrix this year has been carried out by Arden House staff and no external costs have been incurred.
- 5.2 The development of Action Plans to minimise exposure to risks could require additional resources for implementation if financial provision has not been made as a result of the current ELWA Strategies.
- 5.3 The Authority must consider the level of reserves that are appropriate to cover the exposure to costs incurred if identified (and unidentified) risks actually occur. This assessment is included in the Levy Report elsewhere on the Agenda.

6 Conclusion and Recommendations

6.1 This Report and Appendices represent a further step forward in meeting best practice in a corporate performance management and financial management by the identification, evaluation and management of risk.

6.2 Members are recommended to:-

- i) note the Risk Strategy in Appendix A;
- ii) approve the updated Strategic Risks Register and the Operational Risks Register at Appendices B1 and B2;
- iii) note the Net Risk Matrix in Appendix C1;
- iv) review the position on an annual basis.

Tony Jarvis
EXECUTIVE DIRECTOR

Appendices		
A	The Risk Management Strategy	
B1	The Strategic Risks Register	
B2	The Operational Risks Register	
C1	The Risk Matrix – Net	
C2	The Risk Matrix - Definitions	
Background Papers		
06/02/06	Authority Report and Minute 1405	Risk Strategy
05/02/07	Authority Report and Minute 1476	Development of Risk Registers
04/02/08	Authority Report and Minute 1544	Risk Strategy – Update for 2008/09
23/12/02	IWMS Contract	Risk Matrix

RISK MANAGEMENT STRATEGY



ELWA's Vision and Objectives

"TO PROVIDE AN EFFECTIVE AND EFFICIENT WASTE MANAGEMENT SERVICE THAT IS ENVIRONMENTALLY ACCEPTABLE AND DELIVERS SERVICES THAT LOCAL PEOPLE VALUE"

The objectives of the Integrated Waste Management Services (IWMS) were as follows:

- The services should be both reliable and achievable in terms of managing and disposing of the waste.
- The services shall be environmentally and economically sustainable in terms of both encouraging waste minimisation and maximisation of waste recycling and composting opportunities, as well as contributing to local economic development.
- The most cost effective delivery of the services

1 What is Risk Management

1.1 A Risk can be defined as:

"The probability of an event and its consequences" (ISO / IEC Guide 73)

1.2 Risk Management can be defined as:

"The process whereby organizations methodically address the risks attaching to their activities..."

(Risk Management Standard, AIRMIC / ALARM / IRM, 2002)

2 Purpose of the Risk Management Strategy

2.2 The strategy recognises that effective management of risk enhances the Authority's ability to:

- Deliver strategic and operational objectives successfully
- Safeguard the Authority's assets
- Protect the Authority's reputation
- Allows Risk Management to be accepted as part of the culture (i.e. embed in Service Plans)
- Adhere to best practice guidance
- Supports Boroughs in meeting their CPA requirements.

2.3 The strategy also recognises that effective risk management requires widespread understanding of and commitment to risk management principles. Members and Officers need to be familiar with the strategy and all staff need to be aware of it.

3 Benefits of Risk Management:

- Increased likelihood of achieving strategic and operational objectives
- Better planning and prioritisation of resources
- Early warning of problems before they occur
- Relevant staff having the skills to identify and manage risk within their services
- Proactive approach to uncertainty that avoids knee-jerk reactions
- Increased stakeholder confidence
- Ability to identify and take advantage of opportunities

4 How will we deliver the benefits:

- The Risk Management Strategy and Risk Registers will be reviewed on an annual basis to ensure it remains effective.
- Additional reviews of both the strategy and registers will take place as appropriate upon new significant risks arising.
- Operational risks will continue to be identified and monitored by officers on a day to day basis
- Identify training requirements of both members and officers.

5 Types of Risk

5.1 Risk can be categorised in many different ways. The Authority intends to use the following 2 categories, Strategic and Operational. The categories should lead to a sufficiently broad set of issues being considered but on the other hand will not impose too great an administrative burden.

- **Strategic risk** - risks affecting the medium to long term Aims and Objectives of the Authority (including political, financial, technological, legislative, performance, partnership and environmental factors)

- **Operational risk** - risks encountered in the course of the day to day running of services (including professional, legal, financial and contractual matters)

5.2 It should be noted that these categories are not mutually exclusive. The purpose of categorising risk is to ensure that risk is considered across a broad range of issues.

6 The Risk Management Process

Identifying the Risks

6.1 Risks should be identified against the categories set out above. The main focus when identifying Strategic risks should be on the Authority's Aims and Objectives. Risk Management will be an integral part of the Authority's existing service planning. When identifying Operational risks consideration should be given to risks that will impact upon service delivery.

Prioritising the Risks

6.2 Once analysed the risk needs to be prioritised according to the likelihood and impact. In order to do this a commonly used methodology will be used which is explained in Appendix A.

Mitigation Strategies

6.3 Having identified the risks, each one needs to be assessed to determine the appropriate action required to mitigate the risk, this could include:

- Acceptance
- Transfer (Insurance)
- Reduction of either likelihood/impact or both
- Avoidance

6.4 Members will periodically review the strategic risk register and corresponding mitigation strategies to determine that the correct course of action is being followed, within specified timescales.

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Agenda Item 5 - Appendix B1

ID Number	Risk Description	Consequences	Category	Likelihood		Impact		High Level Controls	Mitigation Controls	Risk Holder
				Gross	Net	Gross	Net			
1	Abolition of the Authority	<ol style="list-style-type: none"> Higher precept costs Disruption to waste disposal planning Adverse media attention Four Boroughs more remote from service. 	Corporate	1	1	2	2	Legislation required Political opposition / London Councils	Compatible strategic goals with GLA	Managing Director
2	Corporate divisions and disagreements	<ol style="list-style-type: none"> Delayed decision making Uncertainty over way forward 	Corporate	2	2	3	2	Joint Waste Management Strategy. Open dialogue at all levels within Boroughs.	IWMS Service Delivery Plans	Board
3	Withdrawal of cooperation of Borough(s)	<ol style="list-style-type: none"> Long term future of partnership in doubt Relationship with contractor suffers. Performance falls 	Partnership	2	2	3	2	Joint Waste Management Strategy. Open dialogue at all levels with Boroughs.	IWMS Service Delivery Plans	Board
4	Breakdown of relationship with Shanks Waste Management Ltd	<ol style="list-style-type: none"> Non co-operation by Contractor Problems not resolved. Performance suffers. Eventual failure of PFI contract 	Partnership	3	2	3	3	Contractual Provisions & Penalties. Role of ELWA Ltd to resolve. Dispute Resolution Procedures in Contract.	Partnership interfaces at all levels. IWMS Service Delivery Plans.	Executive Director
5	Major Service failure by ELWA Ltd	<ol style="list-style-type: none"> Re-tender costs for ELWA. Adverse media attention. Massive threat to services 	Performance	2	2	3	3	Representation on ELWA Ltd Board. Contract Monitoring by ELWA, Boroughs and London Remade. Intervention by the Banks.	Service Delivery Plans include contingency arrangements. Penalty regime for service failures. Parent Co. guarantee	Operations Director
6	Termination of IWMS Contract e.g. on Force Majeure event or insolvency of Shanks Waste Management Ltd	<ol style="list-style-type: none"> Re-tender costs for ELWA Ltd Adverse media attention Disruption of services 	Financial	2	2	4	4	Provisions in IWMS Contract Monitor press reports. Review financial results and accounts.	ELWA Ltd contingency plans. Parent Co. guarantees. ELWA files of licences and operation manuals. External advisers fully prepared.	Executive Director
7	Failure to effectively manage waste in accordance to regulations	<ol style="list-style-type: none"> Site closures Waste not dealt with Fines Adverse media attention 	Environmental	1	1	3	3	Contractual requirements. Contract Monitoring arrangements. Maintain high level of national involvement and expertise.	Penalty regime. Contractor contingency plans. Change of law provisions in IWMS Contract.	Executive Director
8	Instantaneous pollution event on a closed landfill site e.g. explosion	<ol style="list-style-type: none"> Clear-up costs Scrutiny of techniques used Adverse media attention Local resident concerns H&S Event Financial penalties by EA Prosecution On-site remediation 	Environmental	2	2	3	2	Site engineering pre 1990 Risk assessments in 2005 Inspection by on-site staff.	Insurance cover is in place for rapid or instant event.	Technical Director

ID Number	Risk Description	Consequences	Category	Likelihood		Impact		High Level Controls	Mitigation Controls	Risk Holder
				Gross	Net	Gross	Net			
9	Gradual pollution event on a closed landfill site	<ol style="list-style-type: none"> 1. Clear-up costs 2. Scrutiny of techniques used 3. Adverse media attention 4. Local resident concerns 5. Financial penalties eg EA 6. Prosecution 7. On and off site remediation 	Environmental	3	2	3	2	<p>Site engineering pre 1990 Risk assessments in 2005</p> <p>Bi Annual testing since 2005</p>	Environmental impairment liability insurance is now in place.	Technical Director
10	New statutory requirements	<ol style="list-style-type: none"> 1. New investment required. 2. Change in contract negotiated. 	Legislative	3	2	3	3	Maintain high level of national involvement and expertise.	Contingency plans. Change of law provisions in IWMS Contract.	Executive Director
11	Financial reserves are too low to meet unforeseen circumstances	<ol style="list-style-type: none"> 1. Progress is limited by lack of resources 2. Subsequent levy increases are unpredictable 	Finance	2	1	2	2	Medium Term financial strategy. Risk Management strategy. Joint strategies with Borough and Contractor.	Maintain risk register. Maintain reserves at adequate level. Keep insurances under review. Awareness of potential new regulations.	Financial Director
12	Performance of ELWA adversely impacts upon the four Borough's CPA scores	<ol style="list-style-type: none"> 1. Failure in joint working and joint planning 2. Disputes hamper progress 3. Pressure on future ELWA strategies 4. Impact on contractor 	Performance	3	2	2	2	Joint Waste Management Strategy. Open dialogue at all levels with Boroughs.	IWMS Service Delivery Plans. ELWA staff support CPA process in Boroughs.	Board
13	Loss of key staff / lack of succession planning	<ol style="list-style-type: none"> 1. Authority fails to meet statutory requirements. 2. Lack of knowledge and experience in monitoring the PFI contract. 3. Loss of strategic direction. 	Performance	3	2	2	2	Review structure. Additional members of staff. Succession planning	Use of advisors. Arrangements with London Remade. Involvement of Borough Officers.	Managing Director
14	Viability of Aveley Methane Ltd within next 3 year period	<ol style="list-style-type: none"> 1. AML ceases trading. 2. Landfill gas requires managing. 3. Additional management responsibilities. 	Environmental	3	3	2	2	AML Board meetings. Review financial results and accounts.	Contingency plans Use of advisors	Executive Director
15	Definite plans for medium and long term strategy for improved performance and reduced dependence on third parties	<ol style="list-style-type: none"> 1. Failure to meet Borough recycling targets. 2. Poor perception of Authority. 3. Increased landfill costs. 	Performance	3	2	3	3	Medium and long term strategy planning with contractor.	IWMS Service Delivery Plans	Board

KEY TO GROSS/NET LIKELIHOOD AND IMPACT

Gross Likelihood - Risk of occurrence on a scale of 1 to 4 (see Risk Matrix Definitions in attached table.)

Net Likelihood - Risk of occurrence on a scale of 1 to 4 after the application of High Level Controls and Mitigation Controls (see Risk Matrix Definitions in attached table.)

Gross Impact - Cost (financial and non financial) of occurrence on a scale of 1 to 4 (see Risk Matrix Definitions in attached table.)

Net Impact - Cost (financial and non financial) of occurrence on a scale of 1 to 4 after the application of High Level Controls and Mitigation Controls.

KEY TO HIGH LEVEL CONTROL AND MITIGATION CONTROL COLUMNS IN TABLE ABOVE
BACKGROUND INFORMATION FOR THE COMPILATION OF THE RISK REGISTERS

- A Reports to ELWA on Closed Landfill Sites in 2004 to 2007
- B Annual review of Insurance Arrangements
- C Work Plan Monitoring ELWA Management Board 2007
- D IWMS Contract Provisions 2002
- E ELWA Constitution
- F Joint Waste Management Strategy 2005
- G Medium Term Financial Forecasts and Levy Reports annually
- H Annual External and Internal Audit Reports
- J Contingency Reviews in Service Delivery Plans

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Agenda Item 5- Appendix B2

East London Waste Authority (ELWA) Ltd – Operational Risk Register January 2009

ID	Risk Description	Consequences	Likelihood		Impact		High Level Controls	Mitigation Controls	Risk Holder
			Gross	Net	Gross	Net			
1	Loss of Arden House and documents contained within	<ul style="list-style-type: none"> 1. Unable to access important documents 2. Loss of critical data 3. Monitoring and reporting are weakened 	2	2	2	1	Landlord responsibilities for accommodation. Daily IT backup by LBBD	Key contractual documents held elsewhere (Wragge & Redbridge). IT link up for home-working or hot desking within LBBD. Insurance	Office Manager
2	Closure of public waste disposal site	<ul style="list-style-type: none"> 1. Unable to receive waste from public 2. Potential for fly tipping near the site 3. Adverse local media attention 4. Poor perception of the Authority 	2	1	2	2	Contractual performance requirements. Alternative sites if one closes	Penalty regime on contractor.	Assistance Executive Director
3	Trespass on closed landfill site leading to death / serious injury	<ul style="list-style-type: none"> 1. HSE / Police investigation 2. Adverse national media attention 3. ELWA security provisions called into question 	3	3	3	2	Quarterly review of site security. Appropriate signage	Insurance cover.	Assistance Executive Director
4	Closure of a key waste facility	<ul style="list-style-type: none"> 1. Service to Boroughs disrupted 2. Significant costs if a long period. 	2	1	3	2	Contractor contingency plans.	Penalty regime on contractor. ELWA Ltd Insurances	Assistance Executive Director
5	Major Health & Safety event at a waste site or at office	<ul style="list-style-type: none"> 1. HSE / Police investigation 2. Adverse national media attention 3. ELWA Ltd safety provisions called into question 4. Disruption to admin 	2	2	2	1	Contractual requirements. Contract Monitoring Landlord requirements.	Penalty regime on contractor. Contractor Health and Safety procedures monitored.	Assistance Executive Director / Office Manager
6	Major failure of technology e.g. shakers / pushers / Screens / Conveyors	<ul style="list-style-type: none"> 1. Performance is poor 2. Viability of contract is in doubt 	3	3	3	2	Contractual performance requirements receive waste.	Penalty regime on contractor. ELWA Ltd insurance cover.	Assistance Executive Director
7	High level of customer complaints	<ul style="list-style-type: none"> 1. Poor perception of the Authority 2. Adverse media attention 3. Indicator of contractor failure? 	2	1	2	2	Contractual service requirements. Complaints monitoring systems.	Penalty regime on Contractor. Contract monitoring by ELWA, Boroughs and London Remade	Contracts Manager
8	Extreme weather conditions e.g. Heavy snow, flood	<ul style="list-style-type: none"> 1. Failure to transfer waste to landfill sites 2. Backlog of waste 3. High cost of clearance 	3	3	2	2	Contractual service requirements.	Contractor contingency plans. Thames Barrier. Borough diversions.	Assistance Executive Director
9	Discovery of hazardous substances	<ul style="list-style-type: none"> 1. Suspension of activities 2. Cost of removal and treatment of substances 	3	3	2	2	Contractual service requirements.	Specific contractor arrangements for hazardous waste. Contingency plans.	Assistance Executive Director
10	Failure to meet stakeholder expectations	<ul style="list-style-type: none"> 1. Criticism of ELWA and ELWA Ltd 2. Reputations damaged 	3	2	2	2	Maintain dialogue with stakeholders. Consultation on strategies.	Proactive public relations. Further review strategies and service delivery plans.	Executive Director
11	Increased risk of enforcement notice due to failure to comply with Regulations	<ul style="list-style-type: none"> 1. Contractor's costs increase 2. Indicator of that viability of contract is in doubt 	3	3	3	2	Contractual performance requirements. Contract monitoring	Penalty regime on contractor.	Executive Director
12	Lone working (both office and site)	<ul style="list-style-type: none"> 1. Personal attack on a member of staff 2. Personal injury/incapacity not discovered 	2	2	1	1	Risk assessments.	Security arrangements with Arden House. Working practices and communication equipment on sites. Insurance	Executive Director
13	Operational incidents on landfill site e.g. leachate overflow	<ul style="list-style-type: none"> 1. High cost of remediation and correction 2. Adverse media attention 	2	2	2	2	Site engineering pre 1990. Risk assessments in 2005 Bi-annual testing of gas equipment. Inspection by on-site staff.	Insurance re: sudden events	Assistance Executive Director

ID No.	Risk Description	Consequences	Likelihood		Impact		High Level Controls	Mitigation Controls	Risk Holder
			Gross	Net	Gross	Net			
14	Fraudulent activity (both in terms of the contract and internal)	1. Termination of contract if contractor 2. Criticism by Government / District Audit 3. Service performance jeopardised	2	1	2	1	Authority's anti fraud and corruption strategy. Contractual provisions on corrupt gifts and fraud.	Insurance. Internal and external audit.	Financial Director
15	Poor performance of collecting authorities	1. Failure to meet Borough recycling targets. 2. Failure to meet ELWA Pooled/Contractual Targets	2	1	2	2	Requirements upon collection authorities in IWMS Contract. Annual Service Delivery Planning by partners. Monthly provision of information by contractor.	Meetings of Board and Directors of Environment. Public and stakeholder pressure on collection authorities for improvements.	Executive Director
16	Insufficient waste produced to meet contract minimums	1. Cost per tonne increases - inefficiencies arise	1	1	2	2	Specific arrangements IWMS Contract re minimum tonnages. Service Delivery Planning with Boroughs and Contractor.	Contractual requirements to mitigate costs.	Executive Director
17	Asset obsolescence over the term of the contract, or changed performance requirements	1. Contract renegotiation required if performance falls 2. Contract renegotiation if targets changed and assets do not meet new targets	2	2	2	2	Contractual provisions on Maintenance, Defects etc. Performance requirements in Contract. 'Change' provisions in Contract.	Penalty and Performance Regime. Contract Monitoring Regime.	Assistant Executive Director
18	Waste produced in excess of contract maximums	1. Contract renegotiation or tendering process for excess 2. Disruption to services.	1	1	2	2	Specific arrangements in IWMS Contract for re tendering excess. Service Delivery Planning with Boroughs and Contractor.	National and local waste minimisation initiatives.	Executive Director
19	Waste increases above budgetary assumptions	Costs increase pro rata to waste increase	2	2	2	2	Service Delivery Plans Budgetary Control	Waste minimisation National Legislation on producer responsibility	Assistant Executive Director
20	Ability to place materials to markets	1. Failure to meet Borough recycling targets. 2. Failure to meet ELWA Pooled/Contractual Targets 3. Increased disposal costs to landfill	3	3	2	2	Contractual performance requirements. Contract monitoring Monitoring of quality of materials	Contractor contingency plans. Borough enforcement policies. Communication and education programmes.	Executive Director

KEY TO GROSS/NET LIKELIHOOD AND IMPACT

Gross Likelihood - Risk of occurrence on a scale of 1 to 4 (see Risk Matrix Definitions in attached table.)
Net Likelihood - Risk of occurrence on a scale of 1 to 4 after the application of High Level Controls and Mitigation Controls (see Risk Matrix Definitions in attached table.)
Gross Impact - Cost (financial and non financial) of occurrence on a scale of 1 to 4 (see Risk Matrix Definitions in attached table.)
Net Impact - Cost (financial and non financial) of occurrence on a scale of 1 to 4 after the application of High Level Controls and Mitigation Controls.

KEY TO HIGH LEVEL CONTROL AND MITIGATION CONTROL COLUMNS IN TABLE ABOVE

- BACKGROUND INFORMATION FOR THE COMPILATION OF THE RISK REGISTERS**
- A Reports to ELWA on Closed Landfill Sites in 2004 to 2007
 - B Annual review of Insurance Arrangements
 - C Work Plan Monitoring ELWA Management Board 2007
 - D IWMS Contract Provisions 2002
 - E ELWA Constitution
 - F Joint Waste Management Strategy 2005
 - G Medium Term Financial Forecasts and Levy Reports annually
 - H Annual External and Internal Audit Reports
 - J Contingency Reviews in Service Delivery Plans

Net Strategic Risk items placed in a Matrix

Likelihood	Almost Certain (4)				
	Likely (3)		14	10	
	Unlikely (2)		2, 3, 8, 9, 12, 13	4, 5, 15	6
	Improbable (1)		1, 11	7	
		Minimal (1)	Moderate (2)	Critical (3)	Calamitous (4)
		Impact			

Net Operational Risk items placed in a Matrix

Likelihood	Almost Certain (4)				
	Likely (3)		3, 6, 8, 9, 11, 20		
	Unlikely (2)		1, 5, 12	13, 10, 17, 19	
	Improbable (1)			2, 4, 7, 14, 15, 16, 18	
		Minimal (1)	Moderate (2)	Critical (3)	Calamitous (4)
		Impact			

Likelihood	0% - 5%	6% - 35%	36% - 75%	76% - 100%
Likelihood Assessment for Risk Matrix	1	2	3	4

Impact	Minimal	Moderate	2, 3, 8, 9, 12, 13	4, 5, 15
Cost	Up to £50k	£50k to £2m	£2m to £5m	above £5m
Service	Minor disruption	Service disruption	Significant disruption	Total service loss
Reputation	Isolated complaints	Adverse local media coverage	Adverse national media coverage	Ministerial intervention
Impact Assessment for Risk Matrix	1	2	3	4

The table above illustrates likelihood assessment criteria and the impact definitions in terms of cost, service disruption and damage to reputation. This table of definitions has been applied to Appendices C1.

*(Contact Officer: Mark Ash - Tel. 020 8270 4997)***EAST LONDON WASTE AUTHORITY****2 FEBRUARY 2009****ASSISTANT EXECUTIVE DIRECTOR'S REPORT**

CONTRACT MONITORING – DECEMBER 2008	FOR INFORMATION
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1 Purpose

- 1.1. To provide an update on the monitoring, outcomes and actions taken with regards to the management of the IWMS contract for the period of December 2008.

2 Monitoring by ELWA and Borough staff

- 2.1 Appendix A shows that for December all Bring site audits were carried out as planned by ELWA officers for Bring sites, RRC sites and key facilities.
- 2.2 At the time of compiling this report the data had not been received from the Boroughs to confirm their monitoring activities for December.
- 2.3 Indicator 3 on Appendix A shows that there were six non conformances raised against the contractor in relation to non service of bring sites. This is an increase by two from the previous month. However the contractor responded to these non conformances and rectified the issues within the timeframe allowed under the contract specification and therefore no financial penalties in respect of Bring Sites was levied.
- 2.4 Key facilities and RRC sites were fully available during December.
- 2.5 Due to the revised collection arrangements over Christmas and New Year resulting in increased waste collected in Refuse Collection Vehicles (RCVs) a greater emphasis was placed on onsite monitoring at Frog Island and Jenkins Lane by ELWA officers over the extended holiday period.

3 Notifications received by Shanks

- 3.1 There were two significant notifications received by the contractor regarding occurrences that would have an adverse impact on operational delivery.
- 3.2 These notifications both concerned major electrical and mechanical breakdowns of the optical separation processes at both Jenkins Lane and Frog Island.
- 3.3 The implications of these breakdowns were a loss of recyclates in the orange bags, and a number of delays experienced by the Borough crews.
- 3.4 The remedial actions taken as a result of the above are outlined further in paragraph 4.4 below.

4 Issues arising out of monitoring

4.1 Positive outcomes

- a) All the RRC sites operated over the Christmas and New Year periods without any problems to note.
- b) The contractor continued to receive Borough wastes and remained flexible to the Boroughs changed working patterns for this period.

4.2 Other Monitoring Outcomes

4.2.1 The recycling performance for December was 17.1%, versus an ABSDP profile of 21%. This equates to a YTD performance of 18.5% against a reprofiled target of 21%. The reasons for the lower than expected performance can be attributed to five main areas:

- a) Market conditions resulting in loss of markets for poor quality recycling materials like mixed paper from orange bags and metals from the BioMRF;
- b) End of month stock levels of processed recycle materials waiting to be despatched from Jenkins Lane;
- c) Equipment breakdowns within optical separation process;
- d) Delays in infrastructure completion of orange bag MRF at Jenkins Lane;
- e) Underperformance of BioMRFs in relation to the lower levels of glass available for recovery.

Further details of these recycling losses are detailed in Appendix E.

4.4 Remedial actions following Monitoring.

4.3.1 Increased monitoring of maintenance - As part of the ABSDP the contractor is required to submit an Annual Maintenance Plan. ELWA officers will request that this is a detailed plan on the Orange bag separation equipment and will request the contractor to submit a variance report at the end of each month against this plan. ELWA officers will also place an increased importance in the monitoring of this process on site.

4.3.2 Increased analyses of Optical separation process failures - ELWA officers have particular concerns regarding the day to day operation of the optical separation systems. As such officers are in the process of accumulating data and compiling graphical analyses to substantiate the perceived concerns. Any areas that require addressing will be raised at the contract monitoring meetings with the contractor and / or escalated to a higher level.

4.3.3 Financial penalties for poor operational performance - Appendix D shows the penalties levied on the contractor as per the payment mechanism for contractual non conformances. The level of penalties levied this month has increased from November and reflects the difficulties caused by the breakdowns at the Bio Mrfs. The financial penalty levied for the month of December was approximately £10,500.

4.3.4 Withholding of financial supplements - The financial impact on the contractor should they fail to achieve 22% recycling at year end would be in the region of £50,000 for every 1% shortfall as a result of lost supplements. Therefore if the current recycling rate of 18.5% is maintained until the end of the year this would represent a loss in revenue to the contractor of approximately £175,000.

5 Conclusion

5.1 Planned monitoring and additional onsite monitoring was carried out by ELWA officers.

5.2 The contractor is continuing to experience difficulties due to the reliability of the orange bag separation system.

5.3 Market conditions are still not favourable and are preventing some materials being placed at re processors.

5.4 Financial penalties are being levied as per contractual mechanisms for operational non conformances.

6 Recommendations

6.1 Members are recommended to:-:

- i) note that ELWA officers increased the on site monitoring of the BioMRFs as a result of anticipated problems;
- ii) note that financial penalties are being used to the fullest extent where operational performance falls below expectations;
- iii) note the implications of the matters raised in this report, and set out in Appendix E, on the assessment of the proposed ABSDP for 2009/10, which is a later item on the agenda.

MARK ASH
ASSISTANT EXECUTIVE DIRECTOR

Appendices

	Description
A	Facility Monitoring Activities
B	Recycling, Composting and Diversion Indicators
C	Contract Monitoring Indicators
D	Performance Deductions
E	Factors affecting recycling performance

Background Papers

None

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Indicator Number	IWMS - Facility Monitoring Indicators <small>(arising from Borough and ELWA monitoring)</small>	Performance acceptable												Month on Month		
		Improvement Required														
		Quarter 2			Quarter 3			Quarter 4			KEY	✓				
Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Jan-09	Feb-09	Mar-09	✓	✗						
	Bring Sites															
1	% of completed audits against planned audits (ELWA)	170%	225%	130%	200%	140%	130%									✓
2	% of completed audits against planned audits (constituent councils)	100%	100%	50%	99%	100%	***									
3	Number of non conformances raised against contractor	5	13	6	6	4	6									✓
4	Number of non conformances raised against constituent councils	1	3	1	0	1	0									✓
	RRC Sites															
5	% of completed audits against planned audits (ELWA)	125%	100%	125%	100%	100%	125%									✓
6	% of completed audits against planned audits (constituent councils)	90%	100%	100%	125%	112%	***									
7	Number of incidences of weighbridge unavailable	0	0	0	0	0	0									✓
8	Number of other non conformances recorded on audits.	0	0	0	0	0	0									✓
	Key Facilities															
9	% of completed audits against planned audits (ELWA)	150%	133%	200%	100%	100%	133%									✓
10	Number of incidences of weighbridge unavailable	0	0	0	0	0	0									✓
11	Number of other non conformances recorded on audits.	0	0	0	0	0	0									✓

*** Information not available at time of writing report.

Indicator Number	IWMS - Contract Monitoring Indicators <small>(arising from self monitoring information from shanks and ELWA targeted monitoring)</small>	Quarter 2				Quarter 3			Comments
		Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08		
	Self monitoring information from Shanks								
1	Number of occurrences of non contract waste being prioritised over contract waste.	0	0	0	0	0	0	0	
2	Number of Environmental non conformances	0	0	0	0	0	0	0	
3	Number of Accidents involving Members of Public	2	5	1	0	0	0	0	
4	Number of Public complaints received	1	4	0	0	0	0	2	Complaint about not being able to pay for trade waste by cheque and complaint regarding signage at JL
5	Number of occurrences of unavailability of sites.	0	0	0	0	0	0	0	
6	Number of ad hoc / immediate notifications received from contractor.	0	1	0	0	0	1	2	Notification received regarding plant breakdowns at JL and FL.
	ELWA contract monitoring information								
7	Number of incidences of procedures not being followed during outages as per ABSDP.	Not Monitored	2	0	0	0	0	1	Protocol for notifications not followed.
8	Number of improvement issues raised	Not Monitored	3	2	0	0	0	0	
9	Number of improvement issues closed	Not Monitored	1	0	0	0	0	0	
10	Number of non conformances escalated	Not Monitored	2	2	0	0	0	0	
11	Number of complaints received from WCA.	1	0	0	0	0	0	0	
	Special contract performance targeted monitoring (2008/09)		Acceptable Y / N						
12	BioMRF composting output	N	N	N	N	N	N	Y	Despatches above projections for December
13	BioMRF glass output	N	N	Y	Y	N	N	N	Not up to levels of previous month and further below expectations
14	Optibag performance	N	N	Y	Y	N	N	N	Major breakdowns prevented this from being efficient.
15	BioMRF metals output	N	N	Y	Y	N	Y	N	Despatches lower than expectations due to market conditions.

Indicator Number	Performance Deduction Indicators <small>(arising from payment mechanism in contract)</small>	Rectification period	Quarter 2					Quarter 3					(YTD) 2008/09	Comment Number
			Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08						
A1	Failure to accept contract waste delivered by WCA	None	0	0	0	0	0	0	0	0	0	0	0	
A2	Failure to accept contract waste delivered by the public.	None	0	0	0	0	0	0	0	0	0	0	0	
A3	Failure to accurately distinguish, weigh and record waste.	None	0	0	0	0	0	0	0	0	0	0	0	
A4	Failure to achieve turnaround times for WCA vehicles.	None	23	43	39	39	51	141	472					
A6	Failure to weigh an authorised vehicle within 10 minutes of arrival.	None	0	0	0	0	0	0	0	0	0	0	0	
A7	Failure to achieve turnaround times for public vehicles at RRCs.	None	0	0	0	0	0	0	0	0	0	0	0	
A8	Failure to prevent a queue at entrance to RRC sites.	None	5	6	1	0	0	1	84					
A9	Failure to prevent tipping of commercial / industrial waste at RRCs.	None	0	0	0	0	0	0	0	0	0	0	0	
A10	Failure to prevent unauthorised tipping of waste at RRC sites.	None	0	0	0	0	0	0	0	0	0	0	0	
A11	Minor infringement of H&S procedures.	30 Mins	0	0	0	0	0	0	0	0	0	0	0	
A12	Material breach of H&S procedures.	None	0	0	0	0	0	0	0	0	0	0	0	
A15	Failure to empty or service a bring site in accordance with spec.	1 Day	5	6	0	1	6	0	27					
A16	Non provision of CELO (rectification period applies)	2-3 Months	0	0	0	0	0	0	0	0	0	0	0	
A18	Failure to provide a contractor representative.	None	0	0	0	0	0	0	0	0	0	0	0	
A19	Failure to deliver orange bags in accordance with the ABSDP.	2 Weeks	0	0	0	0	0	0	0	0	0	0	0	
A20	Failure to deliver orange bags to a household.	1 Week	0	0	0	0	0	0	0	0	0	0	0	
B1	Failure to transport contract waste in enclosed containers.	None	0	0	0	0	0	0	0	0	0	0	0	
B4	Failure to observe any H&S related procedures relating to transportation of waste.	5 Days	0	0	0	0	0	0	0	0	0	0	0	
C1	Failure to rectify breaches of planning or licencing conditions.	2 Weeks	0	0	0	0	0	0	0	0	0	0	0	
C3	Failure to take reasonable efforts to limit fugitive emissions.	None	0	0	0	0	0	0	0	0	0	0	0	
D	Failure to comply with any administrative requirement (D1-D9).	Various	0	1	0	0	0	0	0	0	0	0	1	

Table of estimated impact of factors affecting recycling performance for the month of December 2008

Factor	Estimated consequential loss of recyclates (t)	Estimated resultant effect on recycling achieved (%)	See Note
1. Inability to place materials to processors as a result of market conditions.			
a. BioMrf Metals	300 t	(0.8%)	1
b. Mixed Paper	220 t	(0.6%)	1
2. End of month stock levels of processed materials at Jenkins Lane	330 t	(0.9%)	2
3. Plant failure / machinery breakdowns and / or management decisions			
a. Jenkins Lane	120 t	(0.3%)	3
b. Frog Island	200 t	(0.5%)	3
4. Delays in infrastructure coming on line. (Orange Bag MRF)	210 t	(0.5%)	4
5. Underperformance of BioMRFs (Recyclates from back end Process)			
a. Glass	410	(1.1%)	5
Totals	1790	(4.7%)	

Notes to table

1. The relatively low quality of the mixed paper and the Bio MRF metals has resulted, in a very limited market, in these materials being replaced by higher quality materials from other organisations. It is anticipated that these markets will recover in due course. In the medium and long term the policies that the Authority agreed in the last meeting regarding ceasing co mingled collection of orange bags (minute 1625) and the ongoing communication and education programmes will ensure that the quality of materials contained within the orange bags are of a relatively

high quality and therefore giving a degree of protection in placing materials to markets.

2. The end of month stock levels at Jenkins Lane are relatively high as a result of the slow moving nature of these materials to markets. The stock is made up of relatively good quality materials and will eventually be despatched to reprocessors.
3. Plant failure and machinery breakdowns occur for a number of reasons. In general the new infrastructure installed by the contractor (such as the RRCMRF at Frog Island) achieves a high degree of reliability as does the refinement sections of the Bio MRFs (the rear end process of the Bio MRF that separates the recyclate and SRF fractions). However the front end process of the Bio MRF i.e. the Orange bag separation processes, have a very poor record in terms of reliability as indicated in the main body of the report.

Unfortunately this reliability issue has a fundamental impact on capacity and therefore affects the ability to recover the orange bags from co mingled collections. In the medium and long term the Authority has agreed a policy of ceasing co mingled collections and this will therefore remove the need for this front end process. In the short term ELWA officers will monitor the maintenance and cleaning of this process.

4. The delay in the completion of the Orange bag MRF has led to the Bulky materials collected by Newham to remain at London Waste for longer than anticipated. The contractor is due to begin processing this material in February at Jenkins Lane to extract the recyclates.
5. The underperformance of the refinement section in respect of glass requires a detailed composition analyses to gauge the percentage of glass contained within the residual waste. Barking and Dagenham separate Borough wide glass collection may have significantly reduced the amount of glass available for recovery at Frog Island.

*(Contact Officer: Mark Ash - Tel. 020 8270 4997)***EAST LONDON WASTE AUTHORITY****2 FEBRUARY 2009****ASSISTANT EXECUTIVE DIRECTOR'S REPORT**

WASTE MANAGEMENT – DECEMBER 2008	FOR INFORMATION
---	------------------------

1 Purpose

- 1.1. To report on the performance of the Joint Waste Management Strategy (JWMS) contract for the period to December.
- 1.2. To report on the development of waste and recycling improvement initiatives and trials related to the JWMS.

2 Performance against New National Performance Framework

- 2.1 Appendix A shows the four Boroughs' individual performance against NI 191 Residual Household waste per head, NI 192 Household waste composted and recycled and NI 193 Municipal waste landfilled up to December 2008.
- 2.2 Points to note are :
 - a) The table only shows performance up to and including November as data is not yet finalised for December.
 - b) Newham's performance on NI 191, although only a local target, is performing above expectations and is showing a 12% fall in residual household waste from October and is the lowest month to date.
 - c) As predicted on the last report Havering are now exceeding the target for NI191 despite being below expectations in previous months.
 - d) ELWA is continuing to perform well against indicator NI 193 (Municipal waste landfilled).

3 Background information

- 3.1 Waste arisings in December were 36,387 tonnes. This is in line with the tonnage profiled in the Annual Budget and Service and Delivery Plan (ABSDP) but tonnages for the whole third quarter 2008/09 were 7% lower than anticipated. This means that the year to date (YTD) waste arisings are 4.7% less than anticipated in the ABSDP.

4 Service Impacts**4.1 Climate Change Act 2008**

- 4.1.1 The Climate Change Bill (known as the Climate Change Act 2008) received Royal Assent on the 27th November 2008 providing changes to the power and duties of government in relation to climate change.

4.1.2 The key aspects of the legislation are

- a) the creation of a Committee on Climate Change to advise government on the level of carbon budgets (to be set by government 5 yearly);
- b) legally binding targets of greenhouse gas emissions of at least 26% by 2020, and 80% by 2050 against a 1990 base line;
- c) the power to establish domestic trading schemes to reduce emissions;

4.1.3 More closer to home, the government now has powers under this Act to require a minimum charge on single use carrier bags (a total ban was not accepted) and the powers to create waste reduction pilot schemes in England to reward residents who recycle and / or charge those that do not.

4.2 Batteries Directive

4.2.1 The Batteries Directive was published in the Official Journal on 26 September 2006. It aims to improve the environmental performance of batteries and the activities of producers, distributors and end users and those operators directly involved in the treatment and recycling of waste batteries.

4.2.2 In addition to the manufacturing aspects, such as materials and labelling, the key aspects of the Batteries Directive are

- a) the setting of a 100% collection and recycling rate by banning the landfilling and incineration of industrial batteries;
- b) a 25% collection rate by 2012 rising to 45% in 2016 of portable batteries;
- c) the introduction of producer responsibility obligations;

4.2.3 The government has been slow to define the approach for implementing provisions in the Directive relating to the collection, treatment, recycling and disposal of waste batteries. There has been a second consultation launched which is due to close in February and responses to this consultation will help Government finalise the legislation that is needed to transpose these provisions into UK law.

4.2.4 The proposals are that battery producers will have to join compliance schemes and retailers will have to take back used batteries.

4.2.5 There are no formal obligations within the Directive on Local Authorities.

4.3 Markets for recyclates

4.3.1 After the unprecedented decline in the demand for recyclate materials some signs of recovery are evident for some good quality materials. Plastics markets for bottles has slowly picked up as has source segregated cardboard.

- 4.3.2 Despite the reports in the national and local press the market for high quality paper is showing signs of recovery. However, there remains no market for low grade mixed paper. Unfortunately for the Authority the majority of the paper in the orange bags is of this mixed paper grade (approximately 30%). This material has been re circulated into the Bio Mrf thus avoiding landfill and providing a benefit to the Authority by an increased diversion from landfill performance.
- 4.3.3 The situation regarding metals is that there is a market for the metals coming from the RRC sites and the RRC Mrf but not from the Bio Mrfs because the latter is of lower quality. Shanks have tried hard to put this material to market and are currently working in conjunction with a re processor that has the ability to clean up this material before extracting the metal portion. Until this route is firmly established Shanks are undertaking to store this material short term at their site in Grantham
- 4.3.4 The volume of green waste reduces at this time of year and this has enabled Shanks to exploit the capacity at composters and increase the volume of Bio Mrf fines material despatched to them. A graph showing the increased despatches is shown in Appendix B. Whether these volumes will remain this high when the growing season begins again remains to be seen. However, the contractor is confident that with two contracts now in place, there are now secure outlets for at least some of this fines material produced from the Bio Mrfs.
- 4.3.5 The market for wood, including dirty wood, has remained stable throughout. Shanks have extended their dirty wood recycling operations across all RRC sites and the RRC Mrf at Frog Island.
- 4.3.6 The markets for glass from the Bio Mrfs appears to be holding up although the tonnages recovered via the Bio Mrf process are disappointingly lower than expected.
- 4.3.7 The effects and trends regarding market commodity values have not been considered in this report because the price fluctuations for recycled materials are a risk borne by the contractor.

5 LATS performance

- 5.1 ELWA's LATS allowance for December was 20,075 tonnes. So far for the year to date, as a result of Shanks continuing to exceed their contractual target of 40%, ELWA has banked an estimated 61,745 tonnes of surplus LATs.
- 5.2 Unfortunately, to date, there is still not a market for the sale of surplus LATS as the majority of the WDA's have sufficient allowances to meet their 2008/09 targets. Therefore although the banked credits have a potential value without a buyer this cannot be realised.
- 5.3 Any surplus LATS banked at the end of the 2008/09 year will be removed and the account set back to zero because the Government have specified that 2009/10 is a target year. This means that no transfers of unused allowances from previous years are allowed. ELWA's target for 2009/10 is 211,793 tonnes. If the proposed ABSDP for 2009/10 (elsewhere on the agenda) is approved ELWA will have a surplus LATS benefit in 2009/10 of 63,741 tonnes_which it could sell if there was a stronger market for them in 2009/10.

6 Trials and Initiatives

- 6.1 In addition to the trials instigated by the Boroughs, and following on from the successful development of the dirty wood market, Shanks are working to develop further markets for additional materials to increase recycling performance.
- 6.2 Firstly Shanks are trying to develop a market for carpet material that is deposited at the RRC sites. Trial loads have already been sent to a re processor for assessment. The difficulty here is that the off taker may want the carpets to be segregated, i.e. into synthetic and natural materials. However dialogue is ongoing and if this problem can be overcome then a feasibility study will be undertaken.
- 6.3 Secondly Shanks have found a potential off taker for the mattresses that they receive. The barrier for this outlet is that the processing facility is in the North of England and trials are yet to be undertaken.
- 6.4 ELWA officers will continue to monitor these trials and update the Authority via the Monthly Bulletin reports.

7 Conclusion

- 7.1 All Boroughs are improving in relation to NI191 and NI192.
- 7.2 Waste arisings continue to fall well below the projected figures.
- 7.3 LATS allowances continue to be banked due to the diversion achieved on the project although there remains no market for trading.
- 7.4 Trials are ongoing by each constituent council and Shanks to improve performance.

8 Recommendations

- 8.1 It is recommended that Members:
- i) note that the overall reduction in waste arisings is having a positive impact on NI191 for the Boroughs.
 - ii) note the general implications of the Climate Change Act and the Batteries Directive;
 - iii) note the current situation regarding commodity markets;

Mark Ash
ASSISTANT EXECUTIVE DIRECTOR

Appendices

- A National Indicator table
B Table showing increase in Bio Mrf fines off take

Background Papers

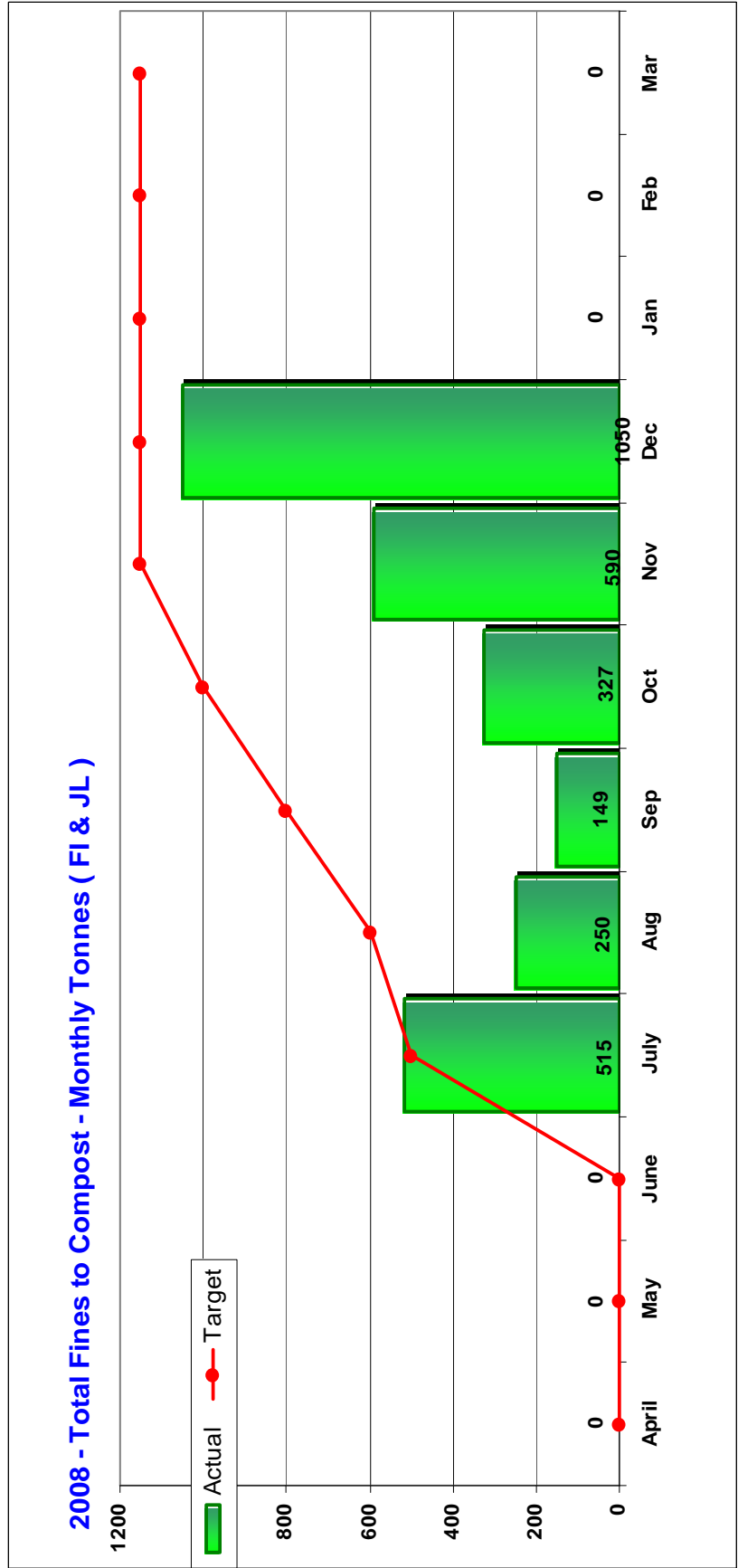
None

National Indicator Performance		KEY												YTD Performance			
		Quarter 1- 2008/09						Quarter 2- 2008/09								Quarter 3- 2008/09	
		April	May	June	July	August	September	October	November	Cumulative Planned	Cumulative Actual	Planned	Actual				
		Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual				
Indicator Number	Indicator	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual	YTD Performance	
1	NI 191 Residual Household waste per household (LBBD)	--	77	--	79	--	78	75	--	71	--	75	--	61	Not Set	606	--
2	NI 191 Residual Household waste per household (LBH)	73	77	73	70	72	74	68	72	67	67	71	67	58	568	566	✓
3	NI 191 Residual Household waste per household (LBN) (See Note 1 below)	91	82	91	89	89	95	84	89	82	82	84	82	74	705	656	✓
4	NI 191 Residual Household waste per household (LBR)	--	62	--	63	--	70	64	--	64	--	63	--	55	Not Set	513	--
5	NI 192 Household waste recycled and composted (LBBD)	23.5%	21.0%	23.5%	26.1%	23.5%	25.3%	23.6%	23.5%	26.2%	23.5%	22.3%	23.5%	24.7%	23.5%	24.1%	✓
6	NI 192 Household waste recycled and composted (LBH)	27%	23.1%	27%	30.7%	27%	26.5%	25.7%	27%	28.0%	27%	22.9%	27%	25.8%	27%	26.4%	✓
7	NI 192 Household waste recycled and composted (LBN)	20%	17.7%	20%	13.1%	20%	14.3%	13.6%	20%	15.2%	20%	15.8%	20%	14.7%	20%	15.4%	✗
8	NI 192 Household waste recycled and composted (LBR)	25%	25.3%	25%	28.9%	25%	26.1%	25.9%	25%	26.2%	25%	27.0%	25%	25.2%	25%	26.4%	✓
9	NI 193 Municipal waste landfilled (ELWA) See Note 2 below	60%	48%	60%	40%	60%	43%	42%	60%	44%	60%	40%	60%	35%	60%	42%	✓

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December Monthly - BioMRF Fines to Compost (FI & JL)

2008 / 09		
Month	Actual	Target
April	0	0
May	0	0
June	0	0
July	515	500
Aug	250	600
Sep	149	800
Oct	327	1000
Nov	590	1150
Dec	1050	1150
Jan	0	1150
Feb	0	1150
Mar	0	1150
YTD	2,881.0	



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*(Contact Officer: Tony Jarvis – Tel. 020 8270 4965)***EAST LONDON WASTE AUTHORITY****2 FEBRUARY 2009****EXECUTIVE DIRECTOR'S REPORT**

ANNUAL BUDGET & SERVICE DELIVERY PLAN 2009/10	FOR APPROVAL
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1 Purpose

- 1.1 To consider the approval of the revised Annual Budget and Service Delivery Plan (ABSDP) for 2009/10.

2 Background

- 2.1 At the November meeting of the Authority Members considered the ABSDP proposed by Shanks for 2009/10.
- 2.2 Members expressed concerns about the current level of recycling and questioned whether reliance could be placed upon next year's projected contract recycling and composting performance of 22%
- 2.3 The Authority decided in November that consideration and approval of the 2009/10 ABSDP should be deferred until the next meeting on 2nd February 2009.
- 2.4 Some of the current difficulty experienced by Shanks in achieving better performance continues to relate to the commissioning of the new orange bag Mrf at Jenkins Lane and more recently the difficulty in finding outlets for the lower quality recyclates in a dramatically reduced market. This is, of course, a problem being experienced by all local authorities and contractors across the country. The Contract Monitoring report, earlier in the agenda, contains more detailed information about these and related issues.

3 The Revised ABSDP 2009/10 submitted by Shanks in January 2009

- 3.1 Shanks have now proposed a revised ABSDP 2009/10 which reflects a significant reduction in the projected tonnages arising in 2009/10. This mirrors a trend experienced in London across the latter part of 2008. In most other operational aspects the revised ABSDP 2009/10 is very similar to the one proposed by Shanks in October.
- 3.2 Shanks' proposals in the 2009/10 ABSDP for meeting the 22% recycling and composting target appear, at face value, to be both reasonable and achievable.
- 3.3 Their projections for 2009/10 take account of the underperforming recycling waste streams and suggest reasonable improvements in others.

- 3.4 To justify this comment the table below sets out a comparison of 2008/09 (original estimates and revised estimates) and 2009/10 (as now projected in the ABSDP for 2009/10).
- 3.5 It should be noted that 2008/09 original estimates were based on higher overall tonnage of waste. It should also be noted that the orange bag recycling estimates for 2009/10 exclude the possible roll-out of separately collected orange bags.
- 3.6 Table to compare sources of recycling & composting in 2008/09 and 2009/10.

	Original Estimate 2008/09	Revised Estimates 2008/09	Proposed ABSDP 2009/10
	Tonnes	Tonnes	Tonnes
Bring Sites	8,870	7,922	7,844
Orange bags	16,940	10,258	14,607
Black box	10,300	10,137	9,528
Other Doorstep	4,600	7,414	4,137
RRC Sites	33,430	28,680	36,517
RRC Mrf	8,540	6,780	12,742
Bio Mrf - Metals }	21,060	13,230	14,361
- Glass }			
- Compost	8,450	5,881	7,181
Total	112,190	90,302	106,917

- 3.7 The Contract Monitoring report earlier on the agenda explains in detail why the Revised Estimates in 2008/09 are lower than the Original Estimates for that year. In December the primary reasons to explain an underperformance of approximately 3.5% were:-
- loss of recycling markets;
 - lower levels of glass;
 - equipment breakdowns;
 - delays in completion of orange bag MRF.
- 3.8 Further to the data in the table above and the detailed information in the Contract Monitoring report Shanks have been asked to provide, prior to this meeting, reassurances about their achievement of a 22% contract recycling and composting performance in 2009/10, together with some form of risks analysis in respect of the projected outcomes.
- 3.9 At the time of writing this report that further information from Shanks has not been received but will be circulated as soon as possible.

3.10 If the additional information does not provide sufficient reassurance that the projected recycling and composting are achievable it may not be possible for officers to recommend the approval of the ABSDP 2009/10 at this time. A further delay in the approval of the ABSDP 2009/10, however, has potentially serious implications including:-

- it could leave the authority without an updated Service Delivery Plan for 2009/10 against which actual performance can be monitored;
- Since ELWA would not have met the Contractual timetable for the approval of the ABSDP the contractor could attempt to resolve the matter by embarking upon the (contractual) Dispute Resolution Procedure, the outcome of which is unpredictable;
- there could be a breakdown of partnership working at a time when major steps are needed to jointly prepare medium term plans (as set out in the next report on the agenda);
- in most other aspects of the Contract performance is above expectations (i.e. diversion from landfill, waste minimisation, cost control).

3.11 If the additional information to be provided by Shanks does provide reassurance that their projected recycling and composting rate of 22% is reasonable and achievable officers will be recommending:-

- the approval of the revised ABSDP 2009/10 now submitted by Shanks;
- the continuation of the monthly bulletin to Members to keep Members apprised of the market situation;
- further discussions with Shanks about medium term infrastructure and performance improvements. There is another item on the agenda explaining this in more depth.

4 The proposed ABSDP 2009/10 in summary

4.1 In summary the operational headlines of the submitted ABSDP 2009/10 are as follows:-

- overall projected tonnage for 2009/10 has been reduced from 500,500 to 486,000 tonnes;
- overall projected recycling and composting performances is at the contractual level of 22%;
- overall projected diversion from landfill is 57.1% (17.1% above contracted requirements giving rise to a financial saving of £1.2m);
- there are a few detailed operational appendices that cannot be finalised until nearer the beginning of 2009/10. The contractual arrangements are that these additional detailed operational appendices are specified in the ABSDP but the detail is not completed until the end of February 2009.

4.2 As a result of the re-assessment of the ABSDP and other ongoing reviews in conjunction with Borough Officers, the detailed ABSDP for 2009/10 is set out in the appendices:-

Appendix A	–	Main commentary on the ABSDP 2009/10
Appendix B	–	Operational Summary for 2009/10 – revised since the November Report to take account of current information;
Appendix C	–	Waste flow summary for 2009/10 – revised since the November Report to include latest lower projections;
Appendix D	–	Financial Information for 2009/10 – revised downward since the November Report.

5 Financial Implications

5.1 Appropriate financial provision is made in the Budget for 2009/10 for the cost of the ABSDP 2009/10. The cost has been reduced from the figure reported in November and now is £49.9m for 2009/10.

5.2 As previously reported the rate of landfill tax will rise £8 per tonne in 2009/10 (from £32 in 2008/09 to £40 in 2009/10) and continue to rise at this rate for at least a further year. The additional landfill tax cost to ELWA in 2009/10 could have approached £2m but both Shanks' higher diversion from landfill performance in 2009/10 and the overall lower tonnages for disposal from the Boroughs have mitigated this. The total estimated landfill tax payments in 2009/10 are £5.2m, an increase of £0.6m over the estimated sum of £4.6m for 2008/09.

6 Recommendations

6.1 Members are recommended to:-

- (i) note
 - a) the Main Commentary on the ABSDP 2009/10 in Appendix A;
 - b) the revised Operational Summary in Appendix B;
 - c) the revised Waste Flow summary in Appendix C;
 - d) the reduced financial costs set out in Appendix D.
- (ii) consider approving the revised ABSDP 2009/10;
- (iii) note that other reports on the agenda deal with various related issues including longer term service delivery plans, and the levy implications for 2009/10

Tony Jarvis

EXECUTIVE DIRECTOR'S REPORT

Appendices

- A Main Commentary on the ABSDP 2009/10
- B Revised Operational Summary
- C Revised Waste Flow Summary
- D Changed financial information for 2009/10

Background Papers

24/11/08	Report	IWMS Contract – Annual Budget and Service Delivery Plan 2009/10
10/04/06	Report & Minute 1416	The Joint Waste Management Strategy

EAST LONDON WASTE AUTHORITY

1 Background To Service Delivery Plans and the Works Delivery Plan

1.1 The IWMS Contract contains specific requirements regarding Service Delivery Plans. These requirements are summarised below.

- The Overall Service Delivery Plan (OSDP) of ELWA Ltd is a Plan that covers the 25 years of the Contract. This large document is a schedule to the Contract and is essentially the operational and technical proposal by Shanks Waste Services (SWS) to meet ELWA's requirements.
- The 3 or 5 Year Service Delivery Plan (SDP) follows a similar format to the OSDP but provides a greater level of detail. The first 5 Year SDP is also a schedule to the Contract. The second and subsequent 3 or 5 Year SDPs will be submitted for approval by ELWA in the future but must be prepared so that they are consistent with the OSDP.
- The Annual Budget and Service Delivery Plan (ABSDP) follows a similar format to the other SDPs but provides a greater level of detail, particularly in respect of financial matters. The first ABSDP, relating to the period up until 31st March 2003, was finalised and incorporated as a schedule to the Contract. In subsequent years, the ABSDP is considered in the Autumn prior to the commencement of the relevant financial year to which it relates. This will ensure that the levy report in February can fully reflect the likely expenditure commitments arising from the Contract.

2 Background To The Works Delivery Plan

2.1 Another schedule to the Contract is the Works Delivery Plan (WDP) which sets out ELWA Ltd's proposals to develop the sites and construct new facilities. This is an important document and contains timetables for the completion of the works. These timetables have been slightly pushed backwards in time because of some delays in obtaining planning permissions in respect of the proposed developments.

2.2 The Works Delivery Plan reaches its conclusion in 2008/09 when all the new facilities are completed and in full operation.

3 Implications Of The Service Delivery & Works Delivery Plans

3.1 The OSDP, the first 5 Year SDP and the first ABSDP are all schedules to the Contract and are contractually binding.

3.2 The SDP for the period to 2009/10 was approved by the Authority on 16th October 2006 and is an additional schedule to the IWMS Contract.

3.3 Various penalties can be applied by the Authority if these Plans, once approved, are not adhered to and met. In extreme circumstances, the Authority could terminate the Contract.

- 3.4 The Plans and timetables are however subject to change in some circumstances which are beyond the Contractor's control. These circumstances would include, for example, force majeure events beyond the control of the Contractor
- 3.5 The financial aspects of the ABSDP are important in the preparation of the ELWA levy. The SDP and WDP are important operationally and set out the arrangements dealing with Borough waste collections and the periods of construction and improvements to Civic Amenity sites.

4 Conclusion

- 4.1 The contractual arrangements concerning Service Delivery Plans and the Works Delivery Plan are quite specific and provide a firm foundation for the achievement of contractual targets. They also provide the flexibility to review and update plans as necessary over the life of the Contract.

2009/10 ABSDP

Operational Summary

Waste Flows

Borough vehicles will generally continue to deliver to their current destinations. Some variations will result from the opening of the orange bag Mrf at Jenkins Lane and the freeing up of capacity at the Frog Island RRC Mrf.

ELWA Ltd intends to internalise the processing of ELWA's waste now that all the infrastructure planned to be built under the IWMS contract has been completed, thus placing less reliance on third party transfer stations and Mrfs than in previous years. ELWA Ltd will still retain the option of using third parties to ensure service continuity in case of service disruption or site unavailability

Bring Systems

The existing bring sites will continue to be operated and maintained by a number of subcontractors under the management of ELWA Ltd. In conjunction with the Constituent Boroughs, ELWA Ltd will attempt to find more locations for bring sites to be developed. The selection of bring sites will be in accordance with the Bring site protocol agreed by the project team. Focus will also be given to reviewing existing bring sites in relation to the productivity of the site and if need be the site will be relocated to another location.

Reuse and Recycling Centres

The RRC sites will continue to operate as at present. New recycling outlets for the different types of materials are continually being explored. Dirty wood is one such opportunity that is being exploited with the potential to deliver significant additional recycling performance. Subject to capacity, residual waste from the RRC sites will be taken to the RRC MRF at Frog Island for processing to extract additional recyclates from this material.

Frog Island RRC MRF

This facility will be mainly utilised to process residual wastes from the RRC sites. The available hours of this facility for waste receipt will be 24 hours 7 days a week, and this will allow some third party waste to be processed, for which ELWA receives a royalty. All Borough vehicles will be able to deliver all waste (except gully detritus) to this facility and not use third party sites. This should increase the recycling achieved by this facility to almost 9000 tonnes.

Frog Island and Jenkins Lane BioMRFs

No changes will be made to the operation of the BioMRFs. An increase is anticipated in the despatch of Solid Recovered Fuel (SRF) due to increased confidence in this material at the cement kilns. This will contribute 75,000t to the overall diversion figure.

Markets are developing for the materials being separated at the refinement section of the BioMRFs and accordingly approximately 4.4% is now being added to overall contract recycling and composting performance in respect of the metals, glass and fine materials being extracted from residual waste. However this has a dependence on the stability of the market situation as mentioned in 3.1 of the main body of this report.

Doorstep Collections

The ABSDP provides for the continuing system of co-mingled doorstep collections of orange bags and the continuation of the LBB pilot on separate collections. However SEL will remain committed to the ongoing trials of separate collection. SEL are not in favour of separate glass collections but will continue to receive this material, if separately collected, at the IRC. The commingled orange bags will continue to be separated from the mixed loads at Frog Island and Jenkins Lane and transferred to the new orange bag MRF at Jenkins lane for processing.

Jenkins Lane Orange Bag MRF

The new orange bag MRF at Jenkins Lane is assumed (in the draft ABSDP) to process 20,400 tonnes of orange bags collected by three of the Boroughs. The tonnage despatched to reprocessors will be less than this reflecting the assumption that the MRF will work at 93% efficiency and the assumption that there will be a deduction of 23% arising from the removal of contamination. In addition to the processing of orange bags the Jenkins Lane MRF building will have the ability to process bulky waste delivered in from the Boroughs. This material traditionally went to third parties or the RRC site where very minimal recycling of this material was carried out. This new facility aims to maximise the amount of recycling from this bulky material.

Summary of Performance Increase Activities

1. Increased despatches of Solid Recovered Fuel to cement kilns contributing to a 10% improvement in diversion from landfill performance over the 08/09 ABSDP.
2. More markets for materials separated at the refinement section;
3. Improved market for dirty wood composting;
4. Much reduced use of third party transfer stations and MRFs;
5. Return to the reprocessing of residual materials from the RRC sites in the RRC MRF;
6. increased recovery efficiency of orange bags from BioMRFs and specialised Orange Bag MRF at Jenkins Lane;
7. continued support for Borough initiatives and separated doorstep collections.

ABSDP 2009/10			
Waste Flow Summary - First Draft			
	<u>Tonnes</u>	<u>ABSDP %</u>	<u>Target %</u>
Total Contract Waste	486,056	100%	
Bring site Recyclates	7,844		
Havering Orange Bag Recyclates	5,551		
B&D Orange Bag Recycling	4,820		
Newham Orange Bag Recycling	4,236		
Other Recycling (inc Green collections)	4,137		
Redbridge Box Recyclates	9,528		
CA Waste Recyclates Processed	36,517		
Jenkins/Frog Is RRC Mrf Recyclates Processed	12,742		
BioMrf - Recyclates Processed	14,361		
BioMrf – Material composted	7,181		
TOTAL CONTRACT RECYCLING & COMPOSTING PERFORMANCE IN ABSDP 2009/10	106,917	22%	22%
RRC Mrf Secondary Recycling	9,817		
RRC Secondary Recycling	4,806		
Total Secondary Recycling	14,622		
OVERALL CONTRACT RECYCLING & COMPOSTING PERFORMANCE (INCLUDING SECONDARY RECYCLING)	121,540	25%	25%
Other Diversion From Landfill via Ecodeco Process	155,869		
Other Diversion From Landfill via London Waste (Clinical Waste)	456		
OVERALL DIVISION FROM LANDFILL INCLUDING RECYCLING & COMPOSTING IN ABSDP 2009/10	277,865	57%	40%

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*(Contact Officer: Tony Jarvis - Tel. 020 8270 4965)***EAST LONDON WASTE AUTHORITY****2 FEBRUARY 2009****EXECUTIVE DIRECTOR'S REPORT**

SERVICE DELIVERY PLAN 2010/11 TO 2014/15 (5 YEAR)	FOR CONSIDERATION
--	--------------------------

1. Purpose

- 1.1. To consider a number of strategic issues in respect to the medium term development of the IWMS Contract.

2. Background

- 2.1. The IWMS Contract provisions require a 5 year Service Delivery Plan to be prepared jointly, by ELWA and the contractor, for the next 5 year period commencing 1st April 2010. Work is commencing so that the Authority will be able to consider firm proposals in the Summer/Autumn of 2009.
- 2.2. The Authority has already considered the main policy issues at the last meeting and recommendations were made to the Boroughs on waste collection issues. The letter to the Boroughs, following the last Authority meeting, is attached at Appendix A. There have been no adverse reactions received to date to the Authority's recommendations.

3. Development of the Medium Term Service Delivery Plans with the Contractor

- 3.1. The position reached under the IWMS Contract is that the originally agreed operational infrastructure required to be completed by the Contractor is now completed.
- 3.2. The position reached with the Boroughs is that all Boroughs are now operating the collection arrangements anticipated under the original Service Delivery Plans agreed in 2002 when the Contract was signed.
- 3.3. It has been demonstrated in previous reports that, although generally operations are satisfactory, the co-mingled collection of orange bags and residual waste needs to be changed.
- 3.4. Therefore, the first priority in addressing improved recycling performances in the future is to agree a joint approach to ceasing these co-mingled collections and ceasing the optibag operations. Negotiations between ELWA and the Contractor have reached the position that the Contractor has offered to share with the Authority savings achieved in closing the optibag process, if and when that is agreed by the Boroughs.
- 3.5. It has been confirmed that a sum of between £1m and £1.25m will be available from the Contractor once both optibag operations are closed down. There is a one third split of the savings in relation to Jenkins Lane and two thirds in relation to Frog Island.

- 3.6. The operational implications and timescales for the introduction of full scale separate collection of orange bags and closure of the optibag units will need further work and the Directors of the Environment will take this work on if the recommendations in this report are approved.
- 3.7. After careful consideration of a number of complex points the Board considers that this sum should be used to reduce the levy in two years time but, if available before then, used to directly subsidise additional Borough waste collection costs.
- 3.8. During the proposed 2 year transitional period it may be appropriate to also consider some additional support to Redbridge to improve recycling performance, as LBR cannot benefit from the above distribution of savings. A sum of £100k to £150k p.a. during the transitional period to Redbridge would provide also for increased spending on recycling Services in that Borough alongside the improvements in the other three.
- 3.9. After the transitional period the support from the contractor would be used to reduce overall contract costs and therefore the levy.
- 3.10. The proposal in the paragraphs above would represent significant progress but would not provide a complete solution to meeting the medium term requirements for better performances. New infrastructure would also be required.
- 3.11. With this purpose in mind of considering new infrastructure a series of medium term strategy meetings are being arranged with Shanks which will inform the development of the 5 year Service Delivery Plan commencing 1st April 2010. The outcome of these meetings and the development of proposals for the development of new infrastructure to improve recycling performance and to reduce landfill are likely to have significant implications and further reports will follow in due course.

4. Development of the Medium Term Plans with the Boroughs

- 4.1. Alongside the negotiations with Shanks, ELWA must also ensure it is meeting the waste management aspirations of the Boroughs. Boroughs have been asked to prepare waste plans for the next 5 years and submit them to ELWA before the Easter break. This is included in the letter to the Chief Executives of the four Boroughs attached as an appendix to this report. To facilitate this joint planning process London Remade were asked to prepare an outline proposal of how they could assist in co-ordinating across the five Authorities a new 5 year plan.
- 4.2. London Remade have looked at the requirements for preparing a co-ordinated and joint waste plan for ELWA and the Boroughs and recommended the steps set out below:-
 - Phase 1: Agree plan template and timelines
 - Phase 2: Understand impacts and boundaries of Shanks' proposal
 - Phase 3: Develop and agree waste management schemes and projects for inclusion in plans.
 - Phase 4: Develop borough plans
 - Phase 5: Review borough plans
 - Phase 6: Ensure best fit between Shanks' and boroughs' plans
 - Phase 7: Agree plans

4.3. The cost of their initial input, to supplement the considerable input required of ELWA and Borough Officers, would be in the region of £14k plus the cost of developing and producing specific Borough Plans. It is suggested that an additional sum of £5k per Borough is provided for London Remade support in respect to the latter task. The estimated overall cost would therefore be £34k.

5. Financial Implications

5.1. The 5 year Service Delivery Plan commencing 1st April 2010 will in total cover expenditure of approximately £200m over the 5 years. It is the responsibility of the Authority to ensure that these sums are spent in achieving maximum certainty, reliability and performance.

5.2. The cost of not achieving a viable and effective waste plan which minimises landfill and optimises recycling performance could be very high.

5.3. The proposals in respect to the optibag operation represent a shift of cost from Shanks' operations at Frog Island and Jenkins Lane to expanded collection arrangements by three of the Boroughs. This report proposes that the savings passed back to ELWA from Shanks are used to directly support Borough activity during a transitional period of two years. The cash flows between the parties may be uneven and therefore the use of Authority contingency may be necessary in the transition.

5.4. The input of Officer time in preparing the 5 year plan will be significant during 2009 and this report proposes that additional support is provided by London Remade at a cost estimated at £34k.

5.5. There is specific provision of £100k for the development of the IWMS Contract in the contingency for 2009/10 and there is sufficient provision in the current contingency for proposed expenditure in 2008/09.

6. Conclusions

6.1. It is a Contract requirement upon ELWA and the Contractor that a 5 year Service Delivery Plan is agreed in the Autumn of 2009 in respect of the period 1st April 2010 to 31st March 2015.

6.2. This 5 year period will be significant because, during this period, the infrastructure completed under the contract, needs to be optimised and enhanced if future improvements in recycling and diversion from landfill performance are to be achieved.

6.3. Policy changes have been recommended to the four Boroughs and a joint planning process with the four Boroughs is proposed with some external support from London Remade.

6.4. Negotiations with the Contractor have already commenced, with the result that one particular financial proposal in respect to the closing down of the optibag processes is included in this report. Further negotiations with the contractor will continue over ensuing months in order to establish the basis of new infrastructure requirements for the next 5 year Service Delivery Plan.

7. Recommendations

7.1. It is recommended that:-

- a) In respect of the Optibag operation:-
 - i) a working group under the Directors of Environment of the four Boroughs consider the possible operational implications and timetabling of a strategic move to the separate collection of orange bags, and consequential closure of the optibag units at Frog Island and Jenkins Lane;
 - ii) subject to the outcome of i), that the contractor's proposal to transfer optibag closure savings to the Authority to be accepted in principle;
 - iii) also subject to the outcome of i), that the transitional financial arrangements proposed in this report are agreed in principle in respect of the application of the optibag savings to support additional Borough costs.

- b) In respect to the further infrastructure requirements:-
 - i) that further negotiations with the Contractor are approved during 2009 to inform the development of the 5 year Service Development Plan to be considered in the Autumn of 2009, subject to progress reports to each Authority Meeting;
 - ii) that expenditure of £34k is approved for the facilitation of a joint 5 year waste plan to build upon the conclusions of the Members Workshop in October 2008 facilitated by London Remade.

Tony Jarvis
EXECUTIVE DIRECTOR

Appendix			
A	01/12/08	Letter	ELWA to Chief Executives of the 4 Constituent Councils re Medium Term Plan
Background papers			
A	Minute 1625	24/11/2008	Service Delivery Plan 2010/11 to 2014/15

Agenda Item 9 – Appendix A

Letter sent to:

Rob Whiteman, Chief Executive, LBBD
Cheryl Coppell, Chief Executive, LBH
Joe Duckworth, Chief Executive, LBN
Roger Hampson, Chief Executive, LBR



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020 8270 4973

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1st December 2008

Dear Chief Executive,

East London Waste Authority – Medium Term Plan

The Authority has been giving consideration to medium term policy objectives and has concluded that the two main policy issues should be pursued. The report to the Authority on the 24th November contained the justification for these policy objectives and listed the background papers relevant to the conclusions. The two main policy issues are described below.

1. The Proposed Medium Term Plans

Constituent Councils are requested to prepare Medium Term Waste Plans for the 5 year period commencing 1st April 2010. This 5 year period coincides with the Service Plan that will be negotiated by ELWA with the waste disposal contractor,

The Authority's intention would be to join up Constituent Council and Contractor Plans in order to optimise performance but minimise costs.

The broad timetable for the proportion of the Medium Term Plan would be:-

- i) the submission of Contractor and Constituent Councils waste plans by Easter 2009;
- ii) negotiations between the parties during the Spring of 2009;
- iii) approval by ELWA of the 5 year Service Delivery Plan with the Contractor in the early Autumn of 2009 for the period April 2010 to March 2015.

In considering Medium Term Plans the Authority considered that it would be important to address national and local waste minimisation policies particularly in respect of the collection of residual (non-recyclable) waste.

East London Waste Authority

Arden House, 198 Longbridge Road, Barking, Essex, IG11 8SY
London Boroughs of Barking & Dagenham, Havering, Newham and Redbridge

2. The cessation of co-mingled collections of recycling and residual waste

The Authority adopted the policy that the co-mingled collection of dry recyclates and residual waste from the doorstep should cease in the period April 2010 to March 2015. The preferred collection service would be the separate collection of recyclable materials together with a system of quality control to reduce the contamination within the material collection.

In conclusion the Authority is seeking Constituent Council co-operation in the preparation of medium term waste plans and also the Authority is specifically recommending to Constituent Councils that the co-mingled collection of recyclates and residual waste comes to an end during the period of the new plans.

If your Council has concerns over the policy direction outlined above a response before Christmas would assist the Authority.

Yours sincerely,

Tony Jarvis
Executive Director

East London Waste Authority

Arden House, 198 Longbridge Road, Barking, Essex, IG11 8SY
London Boroughs of Barking & Dagenham, Havering, Newham and Redbridge

*(Contact Officer: Tony Jarvis - Tel. 020 8270 4965)***EAST LONDON WASTE AUTHORITY****2 FEBRUARY 2009****EXECUTIVE DIRECTOR'S REPORT**

ELWA LTD BOARD – 10 DECEMBER 2008	FOR APPROVAL
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1 Purpose

- 1.1 To report back to the Authority on the meeting of ELWA Ltd Board on the 10th December and to specifically approve that the ELWA Ltd Board can authorise conflicts of interest that may arise in respect of the directors of that Board.

2 Background

- 2.1 Previous reports to the Authority have described ELWA Ltd which is a special purpose company with whom ELWA contracts in order to deliver the Authority's Integrated Waste Management Strategy.
- 2.2 Councillor Alan Weinberg is a director on the Board of ELWA Ltd.
- 2.3 The Minutes of ELWA Ltd Board meeting on 15th October are attached at Appendix A.

3 The ELWA Ltd Board Meeting on 10 December

- 3.1 The main discussion points at the ELWA Ltd Board Meeting on 10 December were:
- a reportable safety incident following the failure of the braking system in the Frog Island Bio Mrf crane and some minor vehicle accidents at Frog Island following an increase in traffic movements on site;
 - the downturn in the global demand for recycling and particularly the impact on ferrous metals and lower grade paper.
 - the encouraging results from the trial rounds of separately collected orange bags;
 - the new policies and negotiation arrangements to be put in place for the agreement of the next 5 year Service Delivery Plan.
 - The new requirements in respect of conflicts of interest that arise in companies. This is set out in more detail below.

4 The Implications of Sections 175 to 177 of the Companies Act

- 4.1 Sections 175 to 177 came into effect on 1st October 2008. Appendix B sets out the remaining three statutory duties being placed on directors of companies. To some extent these extended requirements for directors of companies reflect the arrangements in Local Government i.e. potential conflicts of interest must be declared and approved. The legislation would allow a director to continue to act provided the relevant Board has been notified of the conflicts that might arise and provided the relevant Board has the power to approve the conflicts. This last point requires the Authority's approval because ELWA is one of the two shareholders in ELWA Ltd. It is the shareholders of a company that must enable the Board of the Company to approve potentially conflicting interests.

4.2 A written ordinary resolution of ELWA Ltd (the “Company”) has been received, relating to the Directors Conflicts of Interests in line with section 175(5)(a) of the Companies Act 2006. This resolution is attached at Appendix C.

4.3 The Company seeks authority for the Board of directors of ELWA Ltd to authorise either direct or indirect interests that conflict, or possibly may conflict, with the interests of the Company. A schedule of each of the directors’ interests and potential conflicts were produced to the Company board meeting on 10 December 2008.

5 Recommendations

5.1 It is recommended that the:-

- i) Minutes of the ELWA Ltd Board meeting on 15th October are noted;
- ii) the main points of discussion at the ELWA Ltd Board meeting on the 10th December are noted; and
- iii) the Clerk to the Authority, on behalf of the Authority, signs the attached resolution circulated by the Company which would enable the Board of ELWA Ltd to approve that the directors of that company could continue to act, provided any potential conflicts of interest had been declared and authorised.

Tony Jarvis
EXECUTIVE DIRECTOR

Appendices			
A	15/10/08	Minutes	ELWA Ltd Board meeting
B		Conflicts of interest	
C		Resolution	
Background Papers			
	None		

ELWA LIMITED
Minutes of a Board Meeting held at Frog Island,
Rainham, Essex on Wednesday 15 October, 2008 at 10.30 am

Present: A E Weinberg (Chairman)
I F Goodfellow
M Dunn

Attending: T Jarvis
M Ash
S Ray
R Tarrant
P Griffin-Smith (Secretary)

Apologies:
F Welham
D Stockley
R D Hilliard

01 Minutes

The minutes of the meeting held on 30 July 2008 were approved as an accurate record subject to clarification at minute 03 that the tonnage for the Greenview composting contract was 10,000 tonnes.

02 Matters Arising from the Previous Minutes

Matters arising from the previous meeting had either been completed or were being progressed.

03 Operation Director's Report

RT presented the report

Health and Safety

There had been one RIDDOR reported since the last meeting at Frizlands Lane as well as a number of minor incidents resulting in injured/cut fingers. It was also reported that a member of the public required first aid at Chigwell in July when another member of the public threw waste wood into the bay.

It was also noted that efforts continued to control fly levels with new chemical and biological based mitigation planned for next year.

Operations

It was reported that recycling performance had not achieved anticipated levels in the quarter although there had been significant developments which would assist, including the refurbishment of conveyors. 19.5% had been achieved in September and the full year forecast stood at 21%. It was agreed that the existing management information especially that concerning recycling be more regularly circulated amongst the Board and to the Authority in order to more closely track performance.

Action: RT

Dirty wood volumes would be assisted by a new 200 tonne per week contract and there were two likely outlets for the BioMrf fines materials which should take up to 1,400 tonnes per month.

Orange bag commissioning delay had resulted in material being sent to Jenkins Lane as access to all three usual outlets was temporally restricted.

Results of the MEL Research study into orange bag recycling undertaken in May 2008 were tabled for discussion during which it was observed that contamination levels had fallen pre separate collection to separate collection by 49.73% and 36.66% respectively. Further analysis of the additional vehicle and staff costs associated with the pilot was required although it was agreed that a combination of separate collection, vehicles and a communications programme would optimise results. Mr Tarrant reported that further trials were underway in the Boroughs.

Construction

Orange bag MRF facility trials continued with full operations expected once formally performance tested.

04 **ELWA Ltd matters**

Refinancing

It was noted that the global economic situation had created an understandable delay in progressing refinancing negotiations with the banks and that resolution before calendar year end was unlikely. Mr Tarrant undertook to ensure that KPMG kept Deloitte up to speed on progress.

Action: RT

The financial report for the quarter to 30 September 2008 was duly considered and noted.

05 **ELWA matters**

Mr Jarvis updated the Board on the last authority meeting, noting that Shanks' attendance/pro-active interest in the IWM Conference would be encouraged. The Authority has also approved a £150,000 communications contract with Wastewatch across the four Boroughs.

Mr Jarvis also tabled a number of slides from a recent workshop on waste strategy, national indicators and performance which included a 30% recycling and 45% recovery target for 2010/11. Actions arising from the workshop would be reviewed by Mr Jarvis.

With regard to service delivery it was noted that Shanks would submit formal plans by the end of October which the Authority would consider on 24 November 2008. In addition, Shanks would be required to submit formal 5 year plan (2010/11 – 2014/15) to the Authority in Summer 2009.

Action: RT

06 **Secretarial matters**

The Secretary reported that new provisions concerning Directors' conflicts of interest had now been enacted and that a summary paper setting out this and related issues would be presented to the next meeting.

Action: PGS

07 **Contract Performance**

Mr Tarrant tabled the latest graphs, noting that the recycling performance in the month was 19.5% and that in September the RRC Site recycles had hit 4,000 tonnes. It was agreed to investigate the potential for cardboard collection in Redbridge.

Action: RT

08 **Communications Strategy/Wastewatch**

Mr Ray updated the Board on the findings of a review into the operational delivery of communications into the community. As a result it was proposed to outsource communications to the specialist independent agency, Wastewatch, for a three year contract commencing April 2009 with two ELWA staff TUPE transferring to Wastewatch together with the existing communications budget. Following discussion the proposal was approved.

09 **Any Other Business**

Mr Jarvis requested that in light of the current global economic downturn, and in common with the Authority's other material business partners, Shanks Group provide the Authority with a note regarding its financial security/strength.

Actions: FW

10 **Date of next meeting**

It was agreed that the next meeting would be held at 10.30am at Jenkins Lane on Wednesday 10 December 2008.

The proposed meeting dates for 2009 were 29 April, 29 July, 14 October and 9 December with any additional meetings to be arranged as required

There being no further business the meeting was closed.

.....
(Chairman)

Date

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ELWA	
	Conflicts of Interest

Purpose

Sections 175 to 177 of the Companies Act 2006 came into effect on 1 October 2008. These set out the remaining three statutory duties for directors; to avoid conflicts, not to accept benefits from third parties and a duty to declare an interest in proposed transactions (the other four being; to act within powers, to promote the success of the company, to exercise independent judgement and to exercise reasonable care skill and diligence). The change in law will require ELWA Ltd to operate more formal procedures regarding conflicts of interest but provided a potential conflict has been authorised, the change should not result in directors having to behave in a different way than they would hitherto.

Summary

A director must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company. This could be a conflict of interest or of duty and it applies, in particular, to the exploitation of any property, information or opportunity whether or not the Company itself could take advantage of it.

Each director must determine his own situational conflicts and seek to avoid them. In some instances where avoidance of such conflicts is not possible or even beneficial to the Company, the director must immediately notify the Company and seek prior approval of the conflicting interest.

Apaced with any situational conflict, a director must declare any interest he has in a proposed or existing transaction or arrangement with the Company. The declaration must state the nature and extent of the director’s interests. The declaration may be specific or take the form of a “general notice” of interest in any transaction or arrangement with a body corporate, firm or person. Declaration by a director of a proposed transactional interest must be made prior to the Company entering into the transaction or arrangement. Declaration of an interest in an existing transaction or arrangement must be made as soon as practicable.

In all situations the conflict may arise through a direct or indirect interest held by the director, together with the interests of any “connected persons”.

Authorisation

As permitted by the Companies Act 2006 it is appropriate for the Company to seek the requisite authority of its shareholders by the passing of a resolution enabling the disinterested members of the Board to authorise a conflict of interest notified to it by a director.

Shanks Group is seeking similar shareholder authority for its other relevant UK subsidiaries and considers that it will enable its companies to continue with business in a timely fashion without the undue burden of having to seek formal shareholder approval at each potential occurrence of a director’s conflict.

In granting authorisation of any actual conflict, the disinterested directors must continue to act in accordance with their duties, such as the requirement to act in a way most likely to promote the success of the company and the duty to exercise care, skill and diligence. If disinterested directors do not authorise the conflict, the interested director would be excluded from participating in any decision relating to the matter at hand. If authorised the conflicted director remains subject to his duties and he will need to continue to consider whether he is acting in accordance with requirement to promote the success of the Company.

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Company Number: 02700386

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTIONS

OF

ELWA LIMITED
(the "Company")

Circulated on February 2009 (the "Circulation Date")

Pursuant to Chapter 2 of Part 10 of the Companies Act 2006, the directors of the Company propose that the resolution below is passed as an ordinary resolution (the "Resolution"):

ORDINARY RESOLUTION

"**THAT** any matter which constitutes a situation in which a director of the company has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company may be proposed to and authorised by the directors of the company in accordance with section 175(5)(a) of the Companies Act 2006."

AGREEMENT

The undersigned, persons entitled to vote on the above resolutions on the Circulation Date, hereby irrevocably agrees to the Resolution:

For and on behalf of
EAST LONDON WASTE AUTHORITY
19 "A" Shares of £0.01 each

For and on behalf of
SHANKS WASTE MANAGEMENT LTD
81 "B" Shares of £0.01 each

DATED: 2009

Notes:

1. Members may signify their agreement to the Resolution by returning a hard copy of the Resolution signed and dated by them (or on their behalf) to the Company at Dunedin House, Auckland Park, Mount Farm, Milton Keynes, Buckinghamshire, MK1 1BU. Agreement may also be signified by sending an e-mail to: philip.griffin-smith@shanks.co.uk attaching a scanned copy of the signed and dated document.
2. The proposed Resolution will lapse if not passed within the period of 28 days beginning with the circulation date shown above.

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*(Contact Officer: Mark Ash - Tel. 020 8270 4997)***EAST LONDON WASTE AUTHORITY****2 FEBRUARY 2009****ASSISTANT EXECUTIVE DIRECTOR'S REPORT**

CLOSED LANDFILL SITES - AVELEY METHANE LIMITED (AML)	FOR INFORMATION
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1. Purpose

1.1. To update Members on the current Financial and Operational position of AML.

2. Background

2.1. Aveley Methane Ltd, the joint venture company between ELWA and Novera Energy, operates the extraction of landfill gas and conversion to energy at ELWA's Aveley 1 Landfill Site.

3. Current Performance

3.1. Landfill gas is continuing to be generated from the site and will continue for many years. However, the rate at which the site is producing gas is diminishing and therefore the electricity generated is also on the decline.

3.2. The amount of energy generated year to date is 16% lower than that budgeted for this year. In addition to plant failure the site has experienced long stoppages, in excess of 500 hours, as a result of a number of break ins at the site. Cables had been ripped out together with the theft and damage to equipment. The financial impact on AML in 2008/09 has been to turn a budgeted £4,000 operating profit for the year to date into a projected loss of £22,000.

4. Security

4.1. There are two main issues to consider in relation to Security. Firstly is the need to minimise the danger that intruders are exposed to on site. Secondly there are consequential costs of business interruption. Police liaison officers they have recommended, amongst other things, the installation of CCTV cameras.

4.2. Security could also be improved by relocating some of the equipment to a newly constructed secure fenced area within the main compound. The estimated cost for these improvements is likely to be in the region of £30,000.

4.3. The viability of both these security improvements are currently being evaluated and further reports will be submitted. Current budget provisions will allow some modest improvements to be made in any event.

5. Medium term viability

5.1. As mentioned earlier in this report the site is continuing to produce gas albeit at a reducing rate. There will come a time when this volume will fall to a rate that will make electrical energy production unviable. Novera are predicting that this will be some time during or after 2010.

5.2. AML currently utilise the smallest engine available to them (because of low gas volumes) and there is doubt that economically and technically it would be viable to continue to run an engine such as this after 2010. 2010 is also the year that the current engine lease expires and a new lease (of 4 years) would have to be entered into.

6. Long term gas management

6.1. As the site will still be producing gas long after extraction for energy production has stopped, there will still be a requirement on ELWA to manage this gas.

6.2. Discussion with the Environment Agency will establish which method of control will be acceptable. This could depend on the level and concentrations of gases generated at the site. Enviro's have previously been consulted on the options available and their proposals will have to be revisited.

7. Financial Implications

7.1. The joint venture with Novera Energy has in the past made profits but currently is continuing on a break even basis. At the current time the assets of AML exceed its liabilities and if the company is wound up there may be a small distribution of capital. However, the costs of alternative measures to manage the gas from the Aveley 1 site are likely to be much more significant.

7.2. There is a capital reserve of £400k for the management of Aveley 1 site and the successor arrangements to AML, derived from earlier AML profits. There will need to be contingency provision for increased ongoing revenue costs when AML ceases its operations.

8. Conclusion

8.1. It seems likely that decisions will have to be taken in 2010 about the continuation of the (AML) joint venture with Novera Energy. It seems likely that those decisions could include the winding up of the company and the removal of the electricity generation equipment.

8.2. Further reports will be brought forward in 2009 on this matter. Those reports are likely to include reference to the general maintenance of Aveley I site and the separate composting operation on the Aveley site. The future of the latter (as explained in the waste management report to the last meeting) is also subject to some uncertainty.

9. Recommendation

9.1. Members are recommended:-

- i) to note the uncertainties concerning the future of AML and the management of the Aveley 1 site and receive further reports during 2009 on this subject.

Mark Ash
ASSISTANT EXECUTIVE DIRECTOR

Appendices			
	None		
Background papers			
A	Minute 1623	24/11/2008	Waste Management Report
B	Minute 1393	28/11/2005	Aveley Methane Limited.
C	Minute 1421	10/04/2006	Aveley Methane Limited
D	Minute 1519	08/10/2007	Aveley Methane Limited

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*(Contact Officer: Tony Jarvis - Tel. 020 8270 4965)***EAST LONDON WASTE AUTHORITY****2 FEBRUARY 2009****EXECUTIVE DIRECTOR'S REPORT**

GOVERNANCE ARRANGEMENTS - REVIEW	FOR APPROVAL
---	---------------------

1. Purpose

- 1.1. To outline the proposal arrangements for the governance review and to seek approval to consultants' fee proposals.

2. Background

- 2.1. The Managing Director wrote to Members in December describing the purpose of the governance review and seeking comments. No adverse comments have been received and therefore the review is now being organised.

3. Arrangements for the Review

- 3.1. The broad outline specification for the review has been attached at Appendix A. Following consultations with specialist consultants, written proposals were received from two organisations. The Partnerships UK proposal is predominantly directed towards a review of the governance of the "IWMS" project. The Stanton Marris proposal is predominantly directed at the governance of the authority.
- 3.2. Both proposals present vfm because of special arrangements that have been negotiated and both offer the very relevant and necessary experience to carry out the review. Partnerships UK who are 50% owned by the Treasury, offer subsidised "operational reviews" to PFI projects which have passed the construction stage. These reviews are carried out by experienced PFI professionals. Stanton Marris have worked on management structures in many local authorities and have previously worked in one of the Constituent Councils.
- 3.3. The work set out in the Specification (attached) has been divided between the two consultants in accordance with their specialist experience and this has been reflected in their proposals. The two consultants leading the joint review, David Kent of Partnerships UK and John Bruce-Jones of Stanton Marris, introduced themselves to the ELWA Management Board on the 19th January to discuss how the review will be conducted, including a range of interviews by the consultants with Members and ELWA Directors, Borough Officers and the Contractor.
- 3.4. The current timetable is that the consultants are to provide a draft report for consideration by the Board on the 23rd March.

4. Financial Implications

- 4.1. The turnover of the Authority now exceeds £50m p.a. with the payments to the Contractor of a similar sum. The governance arrangements within ELWA have not been subject to any significant review since the IWMS Contract was signed in 2002. The proposed payments for the review must be seen in that context and also in the context of the specialist nature of PFI Contracts and the unusual constitutional arrangements for Joint Waste Disposal Authorities, of which there are only 6 in the country.
- 4.2. The proposal from Partnerships UK was a gross figure of £30k, reflecting the complexity of PFI projects, but support by Defra and Partnerships UK to the review has reduced this figure to £10k. The proposal from Stanton Marris is £15k to £19k reflecting the complexity of governance within joint waste authorities.
- 4.3. There is a sufficient provision in 2008/09 contingency to meet these sums.

5. Recommendation

5.1. Members are recommended to:-

- i) approve the arrangements for the conducting of a governance review by specialist consultants;
- ii) make arrangements, via the ELWA office, for interviews with the consultants;
- iii) receive a further report at the next meeting.

Tony Jarvis
EXECUTIVE DIRECTOR

Appendix			
A	19/12/08	Outline Specification	Review of ELWA Management Board
Background papers			
	None		

**Outline Specification for Consultants:
Terms of Reference for the Review of the ELWA Management Board**

ELWA Management Board – Review of structure and participation

The output of this assignment will be a report to the ELWA Management Board, with an executive summary and recommendations at the beginning, with background research in appropriate appendices.

A draft of the report is required for review by the Managing Director by the end of February 2009, with the final report presented by consultants to the ELWA Management Board on the 23rd March and subsequently to the Members of the Authority on 6th April.

ELWA is proposing to appoint two consultants to work side by side on this short assignment: a specialist in improving contract performance of PFIs; and a specialist in improved governance arrangements for public bodies.

The report will briefly cover background:

- 1) the recent history leading up to the request for a review (papers to be provided);
- 2) the statutory position of Joint Waste disposal Authorities (there are only 6 in the country) including the levy, membership and relationship with constituent councils;
- 3) the particular position of ELWA, its constitution, the IWMS Contract, our Joint Waste Strategy, the (6) employees; and dependence on boroughs for support.

The report will briefly consider the key issues for the review including (but not exclusively):

- 1) leadership/co-ordination;
- 2) debate/decision;
- 3) corporate governance/individual roles;
- 4) the Member interface/twin-hatted responsibilities of Officers and Members;
- 5) scrutiny.

The report will concentrate on the assessment of whether:

- 1) the ELWA Management Board arrangements of the past during contract letting and investment best serve the Authority during the current and next period of improved contract management and performance;
- 2) the concerns by Members that better contract management is required by the Board, and whether this represents circumstance or that fundamental change is required;
- 3) the current structure and constitution is a strength or a weakness in relation to potential tensions between boroughs;
- 4) the current structure and participation is a robust framework of the future or a weakness in relation to boroughs' officers, board representatives, and ELWA officers jointly managing the contract with appropriate respective roles.

The report will include with recommendations and an assessment of the consequential implications, including those affecting better support to Members.

Rob Whiteman, Managing Director
Tony Jarvis, Executive Director
19th December 2008

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