

The East London Waste Authority

Tuesday 29 September 2009

REPORT OF THE MANAGING DIRECTOR

<p>Title: Review of ELWA's Constitution</p>	<p>For Decision</p>
<p>Summary: This report completes the review of ELWA's organisation arrangements and makes recommendations about the future governance and management of the Authority.</p> <p>Members have previously agreed to review the arrangements for appointing the Chair and Vice Chair of the Authority together with the role of the Managing Director. The attached report from Stanton Marris sets out the options which are summarised below in the recommendations.</p>	
<p>Staffing Implications: Decisions on the future management structure may have implications for some of ELWA's senior staff. These implications will be set out in a further report following Members decisions.</p>	
<p>Financial: There are no financial considerations associated with changes to the appointment of the Chair and Vice Chair.</p> <p>Should Members decide to appoint a full time Managing Director it is expected that the financial implications would be minimal as the role of the Executive Director would be deleted. There is however a need to strengthen the policy and strategy role of ELWA at an estimated cost of £55,000.</p> <p>At present ELWA pays £10,000 to £15,000 each to constituent borough for the notional services of its Environment Director as an appointed officer of ELWA. It is recommended that these payments cease with effect from 31 March 2010 with the exception of payments to the London Borough of Redbridge in respect of the role of Financial Director.</p> <p>This would make the proposal broadly cost neutral and reflect the changing roles of the Environment Directors i.e. as advisors rather than functional managers of ELWA.</p> <p>There is the possibility of redundancy costs arising from these proposals. These will be assessed and included in a future report if appropriate.</p>	

Legal:

Any changes to the appointment of the Chair and Vice Chair, the role of the Managing Director, the Environment Director (as appointed officers) and the Executive Director will require amendment to the Constitution.

Member's views are sought on the timing of the change to allow for adequate consultation within the boroughs.

An amended Constitution reflecting the changes approved by Members will in due course be presented for approval by the Authority.

Recommendation(s)

Members are asked to decide

1. Whether they wish the arrangements for appointing the Chair and Vice Chair of the Authority to change and, if so, whether
 - a. The Chair and Vice Chair should be from the same or different boroughs
 - b. The appointment of Chair and Vice Chair should be for one year as at present or for a longer period i.e. two, three or four years
 - c. The Chair and Vice Chair appointment should be staggered to ensure that both do not change at the same time in future
 - d. Whether the appointments mentioned above should be by rotation
2. Whether the role of Managing Director should
 - a. Continue as at present to vest in the London Borough of Barking & Dagenham or rotate around the constituent boroughs for fixed periods
 - b. Be established as a full time salaried position in the employ of the Authority
3. Environment Directors should become members of the Management Board of ELWA without specific operational or functional roles. Board members would be expected to chair and lead working groups and support the strategic activities of ELWA with the Managing Director. The Managing Director would continue to chair the Board

Conclusion

Members had previously agreed to make changes to the Constitution of ELWA in order to facilitate a more strategic and engaging approach to the Authority's future work.

Members decisions will be translated into a revised Constitution; organisational and governance structure and, if appropriate, arrangements for appointing the future Managing Director.

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ELWA Governance Review Next Steps

Background

The recent review of governance and management structures and processes of the East London Waste Authority underlined a need for change.

Since the ELWA/Shanks Waste Services Ltd contract was agreed in 2002, the priorities for waste management have changed, especially with respect to the increased need for improved recycling performance.

The existing governance and management structure, though serving ELWA and the Boroughs well in the past, has been recognised as needing to change. The review recommended a number of key changes:

- o Rotating roles of Chair, Vice Chair and 'A' Director
- o Managing Director role to be redefined and, with larger scope, options for filling the role set out
- o Appointment of all four Borough 'Environment' officers to the Board
- o Leaders and Chief Executives of the four Boroughs to be engaged in regular partnership forum
- o Project Team remit to be tightened create in a more effective operational management group
- o Establishing a high level Strategic Negotiating Group across the Borough and ELWA to review IWMS contract.

At the Authority meeting on 22 June, a short term recommendation was agreed, namely to appoint all four Chief Officers with accountability for waste matters in their Boroughs to the Board, to appoint the London Borough of Barking and Dagenham (LBBD) Director of Environment as interim Managing Director and the Chief Executive of LBBD stepped down from the Board.

Outstanding key issues remain, and this short paper sets out the different options for the ELWA Management Board and, in particular, how options for the Managing Director role could work

Options for Managing Director role

The Managing Director role is critical to advising and supporting members, driving ELWA's strategic performance and working closely with the four Boroughs. Three options were explored.

1. Managing Director role rotates around the Borough Chief Officers (who all sit on the Board)
2. Managing Director role is a remunerated 'independent' appointment
3. Managing Director role rotates around the Chief Executives of the four Boroughs

The third option has been rejected, not least by the Chief Executives, as not viable. The two remaining options (options 1 and 2) are being carried forward for exploration:

The key questions to address include:

- o Should the Managing Director be one of the Chief Officers, or should he/she be someone who does not have a role as one of the strategic Directors of one of the Boroughs but is perceived to be independent?
- o What are the implications on the Executive Director role of the above options?
- o Should the MD be from the same Borough as the Chair and/or Vice Chair?
- o How should the rotation work, e.g. should the Chair, Vice Chair and MD to rotate at the same time?

Options, Job Descriptions and key success criteria

Management Board Options

Option 1	Rotating MD 'Environment' Directors from 3 remaining Boroughs Executive Director Finance Director
Option 2	'Independent' remunerated MD 'Environment' Directors from 4 Boroughs Executive Director Finance Director

Headline cost implications:

It is recognised that there are implications for both these options.

Option 1. There would be opportunity costs in option 1 as each Borough is giving up around half a Chief Office / Director of Environment for the rotation period.

Option 2. The cost implications for option 2 would be the cost of a full or part time MD and, the possible cost of the employment status of the Executive Director.

We recommend that Option 2 is run initially for two years on a fixed term full time contract, beyond which the options should be reconsidered.

Key assumptions:

- o If Option 1, with the rotating MD is chosen, then the MD and Chair should be from the same Borough in order to facilitate working together. The Vice Chair should be from a different Borough in order to maintain balance across the Boroughs
- o Terms and Conditions for all the officer roles in ELWA to be aligned with at least one Borough for simplicity
- o Regardless of the Option chosen, ELWA Management Board members are accountable for working collectively and corporately in the interests of ELWA
- o Regardless of the Option chosen, consideration must be given to the strategic, technical and operational capabilities required by ELWA
- o The Finance Director role is expected to remain as is.

Job Descriptions Option 1

Position title:	Managing Director (Rotating)
<p>It is essential that the post holder will:</p> <ul style="list-style-type: none"> o Commit sufficient time to the role of MD of ELWA o Prioritise their effort to where they will add most value 	
Purpose:	
	<ul style="list-style-type: none"> o Providing good advice and support to the Authority o Driving ELWA's success, working with the members and ELWA staff
Main accountabilities:	
Strategic	<ul style="list-style-type: none"> o Developing a medium and long-term strategy for ELWA which is aligned with the medium and long-term strategy for waste management in the 4 Boroughs o Connecting the development of ELWA, and its external focus, with the development of the London-wide and national waste management strategy o Leading a review of the performance and targets under the contract o Delivering a strategy and business plan for the Authority o Sustaining the effective governance of the Authority o Providing a clear sense of purpose and direction which motivates employees and stakeholders to achieve high performance for ELWA o With the Authority, setting parameters for the commercial management of the contract o Contributing to a process of swift and effective decision making

<p>Organisational</p>	<ul style="list-style-type: none"> o Acting as Clerk, Secretary and Head of Paid Service to the Authority o Assembling the right capabilities and skills within the ELWA team to undertake the tasks required for excellence in delivery o Acting as the 'Authority Representative' for the purposes of the IWMS Contract o Exercising authority on all matters relating to the overall administrative and legal arrangements of the Authority other than those reserved to Authority meetings o Exercising legal responsibility and duty of care to employees o Signing on behalf of the Authority orders, letters, licences, notices, certificates or any other documents unless authority is specifically reserved, or delegated to, to other Officers o Agreeing minor changes to this Constitution and any of its Parts (e.g. the correction of typographical errors, minor amendments required by new legislation and other matters of a purely administrative nature)
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Operational	<ul style="list-style-type: none"> o Driving the commercial management of the contract to create an exemplar of relationship management, performance and public value o Exercising accountability for monitoring performance against targets and reporting to the Authority o Driving improvement to ELWA's recycling performance o Enabling the transfer of learning and good practice across the 5 Authorities
Key relationships:	
	<ul style="list-style-type: none"> o Establishing strong working relationships across the Boroughs at the top level including engaging the Leaders and Chief Executives of the 4 Boroughs in regular partnership fora o Establishing corporate and collective working in the ELWA Board o Establishing strong working relationships with the key functional and technical officers in the Boroughs o Building effective relationships with the Chair, Vice Chair and Members o Providing effective support to Members

Position title:	Board Director
It is essential that the post holders will:	
<ul style="list-style-type: none"> o Demonstrate commitment to their ELWA Board role by preparation, attendance at meetings and contribution to ELWA o Develop good and open working relationships with Management Board colleagues 	
Purpose:	
	<ul style="list-style-type: none"> o Supporting the MD and other ELWA Officers and providing advice for the Members of the Authority o Exercising corporate leadership for ELWA
Main accountabilities:	
Strategic	<ul style="list-style-type: none"> o Contributing to the successful development of ELWA's strategy o Contributing to the collective development of opportunities and resolution of problems for ELWA o Contributing to a process of swift and effective decision making
Organisational	<ul style="list-style-type: none"> o Bringing experience and expertise as senior managers to drive success for ELWA o Taking on corporate and internal responsibilities as agreed with the MD

Operational	<ul style="list-style-type: none"> o Helping ELWA to attain the necessary technical, strategic and operational expertise o Actively supporting the development of strong working relationships between relevant officers in their Borough and ELWA e.g. encouraging participation at the right level in joint ELWA/Borough working groups o Exercising collective responsibility for the successful monitoring and delivery of ELWA's strategy and plans
Key relationships:	
	<ul style="list-style-type: none"> o Supporting strong and effective working relationships and communications between ELWA and the 4 Boroughs o Representing ELWA's case to Borough peers, Chief Executive and Members and helping ELWA collectively to understand their Borough perspective o Managing tensions, where they arise, between ELWA and their Boroughs' interests and to work towards a resolution

Position title:	Executive Director
Purpose:	
	<ul style="list-style-type: none"> o Supporting the MD and Management Board, as agreed with them, to ensure the success of ELWA (it is envisaged that the key focus of this role will be on commercial management of the contract and management of the ELWA establishment)
Main accountabilities:	
Strategic	<ul style="list-style-type: none"> o Supporting the development of policy and strategy o Delivering strategic and business plans o Providing intelligence and advice from a commercial and operational perspective
Organisational	<ul style="list-style-type: none"> o Leading on the internal management responsibilities that are agreed with the MD, for example: <ul style="list-style-type: none"> • Corporate management • Office and Personnel administration • Financial administration • Democratic services and governance

Operational	<ul style="list-style-type: none"> o Leading on the operational management responsibilities that are agreed with the MD, including: <ul style="list-style-type: none"> • Commercial management of the contract • Performance management of the contract • Operational management (including Aveley 1 and other closed landfill sites) • Developing environmental and regeneration services for the four constituent Boroughs that make up ELWA • Securing good working and contribution from the ELWA/Borough working groups such as the re-focused Project Team
Key relationships:	
	<ul style="list-style-type: none"> o Having good relationships with the MD, Finance Director and other Board Directors o Fostering good relationships with Heads of Service and technical and operational officers within the Boroughs

Job Descriptions Option 2

'Independent' remunerated MD

Option 2 for this role will include all matters listed above in Option 1, however the expectation is that the post holder will take on more of the strategic development and commercial management role and will have more time for the internal management of ELWA.

The Board Directors of the 4 Boroughs

Option 2 for these roles will include all matters listed above in Option 1.

Executive Director

The post holder will be accountable to the MD and for supporting him/her in the successful delivery of those aspects of the role which will be determined between the MD and the Executive Director.

Under option 2 the MD will take more direct personal responsibility for aspects of the strategy, operations and organisation of ELWA. This may mean that some aspects of the Executive Director role, as currently understood, may be undertaken by the MD. In our view, however, a new MD role particularly under option 2 is an expanded role taking on more work that will be required to move ELWA and its working relationships with the Boroughs on. The role of the MD in this new world will be larger than it currently is.

Options consideration

Summarising the pros and cons for the Options

Option	Pro	Con
<p>Option 1</p> <p>Rotating MD</p>	<p>MD with existing experience and functional responsibility for waste matters</p> <p>Creates strong mutual interest in cooperation between the Boroughs</p> <p>Low cash cost</p>	<p>Risk that post holder cannot give sufficient time to the role</p> <p>Risk that post holder does not have sufficient interest/commitment to the role</p> <p>Changes take longer to institute</p> <p>High opportunity cost to one Borough (even more so to Redbridge if, as envisaged, they continue to provide the FD)</p>
<p>Option 2</p> <p>Independent MD</p>	<p>MD with time and energy to make things happen</p> <p>Perceived independence of MD</p> <p>Better 'balance; of commitment across 4 Boroughs and puts ELWA on more equal footing as authority in own right</p> <p>Lower opportunity cost of senior Borough officer time</p>	<p>Risk of recruitment (lower in current economic climate)</p> <p>Weaker mechanism for mutual cooperation between Boroughs</p> <p>Cash cost</p>

After taking account of these considerations, we still recommend that Option 2 is run initially for two years on a fixed term full time contract, beyond which the options should be reconsidered.