

Record of operational decision

Decision title:	Continued Funding of Chair and Technical Lead of the West Midlands Resource Technical Advisory Body (WMRTAB)
Date of decision:	2 February 2023
Decision maker:	Interim Service Director Planning and Regulatory Services
Authority for delegated decision:	Directorate Scheme of Delegation Strategic Planning, paragraph 6: preparation of development plan documents
Ward:	Countywide
Consultation:	<p>At a WMRTAB meeting in November 2022, members met to discuss the performance of the current contract and to agree arrangements for the continuation of the WMRTAB following the end of the contract, in October 2023.</p> <p>It was agreed that the group's mineral planning authority members would each be asked to contribute £900 per annum, as a lump sum of £2,700 to fund a paid Chair and Technical Lead for the WMRTAB for a three-year period, following the end of the current contract.</p>
Decision made:	To approve the funding the role of WMRTAB Chair and Technical Lead for the period October 2023 to October 2026, at a contribution per waste planning authority of £900 per annum for 3 years, paid to as a lump sum of £2,700.

Reasons for decision:

What is the WMRTAB?

This group comprises representatives from waste planning authorities, the waste industry and the voluntary and community sectors. It provides a forum to assist waste planning authorities in gaining an understanding of waste management issues and performs an essential function in relation to the 'duty to cooperate' - a statutory requirement upon waste planning authorities to consider cross-boundary strategic waste issues.

WMRTAB's Key Priorities

- meet at least twice a year
- undertake technical work as necessary
- be a formal consultee on technical evidence base and policy documents and provide a high level response
- provide online discussion and information sharing groups
- provide online access to group members to evidence documents, meeting minutes, agendas etc.

Chair/Technical Lead of WMRTAB

Since October 2020, the WMRTAB's 14 member waste planning authorities have jointly funded the role of the group's Chair and Technical Lead. The current contract and funding arrangements end in October 2023.

Future Considerations

At the November meeting of the WMRTAB, there was a clear consensus that the work of the WMRTAB was much valued by its waste planning authority members. They were very satisfied with current arrangements and felt that the WMRTAB is a useful forum for discussion. It was also considered that the WMRTAB delivers efficiencies in relation to duty to cooperate discussions and statements of common ground. Having a Chair with technical expertise was also considered valuable in helping to upskill and support members with less experience in waste planning.

Two options were presented at the meeting:

- to continue to jointly fund the role of WMRTAB Chair and Technical Lead; or
- to identify a waste planning authority that could undertake this role on a voluntary basis.

There was a clear consensus in favour of funding and procuring a WMRTAB Chair and Technical Lead for the next three years. This reflects the WMRTAB's terms of reference, which state: *"Member WPAs will make a financial contribution to the organisation and running of the group. This will include the costs of employing an independent Chair."*

How to continue funding the Chair/Technical Lead

The following funding model has been agreed by WMRTAB members:

- a contribution per WPA of **£900 per annum** for 3 years, paid as a **lump sum of £2,700**.
This will provide a total project sum of £37,800 over the three-year period.
- Use of the funds would be split between:
 - role of WMRTAB Chair and Technical Lead in line with the existing service specification: up to £33,500; and
 - ring-fenced reserves to fund any additional technical work identified by WMRTAB between October 2023 and October 2026: at least £4,300, plus any additional funds if the WMRTAB

Chair and Technical Lead contract is awarded for less than £33,500.

- All funds to be ring-fenced for use by WMRTAB. Any unused funds to remain available for use by WMRTAB after October 2026.

Level of Funding

The level of funding requested is higher than that of the current contract period for a number of reasons:

- **Market intelligence:** The West Midlands RTAB Chair and Technical Lead contract was awarded in October 2020, following a competitive tender process. At the time, only one tender application was received. Two contractors said that they would be unable to undertake the work within the budget identified.
- **Inflationary pressures:** If current inflation rates continue it is estimated that value of the contract awarded in October 2020 (£21,000), plus the additional technical work funded from reserves (£4,240), will be equivalent to approximately £30,700 by October 2023 (the date at which the current contract ends). In reality, experiences of extensions/renewals of contracts for comparable professional services show significantly higher cost increases.
- **Reserves:** In October 2020, there were limited reserves from previous funding streams of £5,900. These reserves were used to fund the work on Landfill Opportunity/Constraint Project. This enabled the WMRTAB to respond to a strategic issue that arose from discussion. Members feel there is significant value in having the opportunity to undertake this type of project and that it is likely that a similar need will arise over the next three years. The remaining reserve of £1,600 would be inadequate to support this.

Administration

Worcestershire County Council has offered to remain as the budget holder and to lead the procurement/tender process, with representation on the procurement panel from two other member waste planning authorities. Monies to be transferred (by purchase order and invoice) to Worcestershire County Council in a one-off payment, with all funds in place before the contract is awarded.

Next Steps

Once all waste planning authorities have confirmed funding arrangements, Worcestershire County Council will request the transfer of funds and commence the procurement process.

Highlight any associated risks/finance/legal/equality considerations:

Legal Risks

The 'Duty to Cooperate' (DtC) is a legal duty placed on a number of public bodies (such as mineral planning authorities – MPAs) by section 110 of the Localism Act 2011. The DtC is intended to ensure that strategic cross-boundary planning issues are taken into account. Section 110 makes various amendments to the Planning & Compulsory Purchase Act 2004.

The DtC is a required part of the plan-making process, where sustainable development, or the use of land, would have significant impacts on at least two local planning areas, or on a planning matter that falls within the remit of a County Council (such as waste planning).

Councils and public bodies are required by the DtC to 'engage constructively, actively and on an ongoing basis' in the development of strategic policies, such as those in the MWLP.

The National Planning Policy Framework, paragraph 25, states that local planning authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly addressed in individual local plans.

The NPPF goes on to state that; effective and ongoing joint working should enable local planning authorities to work together to meet development requirements, which cannot wholly be met within their own areas. This is particularly relevant to waste planning in Herefordshire, as waste management is not constrained by local authority boundaries and a joint waste management contract is in place with Worcestershire County Council. Evidence also shows that there are imports and exports of waste across the West Midlands region.

West Midlands WPAs must continue to cooperate effectively through the RTAB to ensure that all these matters are considered as their waste planning policies are developed in accordance with the DtC.

Subsection 20(5c) of the Planning & Compulsory Purchase Act 2004 defined what should be tested as part of the independent examination of draft plans submitted to the Secretary of State: compliance with the DtC forms part of this examination process. If a Planning Inspector, appointed by the Secretary of State to conduct the examination, finds that DtC has not been met, the Plan will fail the legal compliance test and will not continue through the examination process.

The WMRTAB also provides essential technical advice to its constituent WPAs in the preparation of their waste local plans, including the statistical underpinning. Therefore, it is crucial that the WMRTAB continues to operate so that the DtC can continue to be met by West Midlands WPAs, including Herefordshire Council, and that they do not fail to meet the tests of soundness at examinations in public of their waste local plans.

The funding arrangement is based on all 14 WPAs within the former West Midlands region continuing to contribute equally to the funding of WMRTAB. In the event that WPAs do not make this commitment, they will not be able to benefit from regular activities of WMRTAB and will not routinely be invited to attend WMRTAB meetings as members. In addition they will not be included within Statements of Common Ground

	<p>or consultation responses prepared by WMRTAB.</p> <p>Financial Risks In the event that not all 14 waste planning authorities in the WMRTAB group do not agree to the proposed funding arrangements, this would have impacts on the funding model.</p> <p>If one WPA were to choose not to contribute, the funding gap would be met through a reduction in reserves available for technical work. If two WPAs were to choose not to contribute, the remaining members would meet to discuss the options and agree a way forward, before Worcestershire County Council requests any payment into the WMRTAB budget.</p> <p>Equality Considerations None</p> <p>Health and Safety Risks None</p>
<p>Details of any alternative options considered and rejected:</p>	<p>A: Not to continue to jointly fund the WMRTAB This option is rejected.</p> <p>If the WMRTAB cannot continue to operate due to lack of a Chair and Technical Lead, this would mean that the statutory requirement of DtC on strategic cross-boundary waste planning matters could not be met. Consequently, emerging development plan documents, such as the MWLP, would be found unsound at their examinations in public. It would also mean that useful regional waste planning technical work could not be undertaken.</p> <p>B: To offer less financial assistance to the WMRTAB than has been requested This option is rejected.</p> <p>All constituent mineral planning authorities of the WMRTAB are being asked to contribute the same amount, based on an assessment of how much is required. Should individual authorities not offer to provide the same amount of financial assistance, this inequality would be unfair and would jeopardise the future operation of the WMRTAB. Again, this would have consequences on the ability of member WPAs to have their waste plans found sound at examination.</p>
<p>Details of any declarations of interest made:</p>	<p>None</p>

Signed...Tracey Coleman (signature removed for publication)

Date: 02 February 2023