



LINCOLNSHIRE WASTE PARTNERSHIP

A MEETING OF THE LINCOLNSHIRE WASTE PARTNERSHIP
WILL BE HELD ON THURSDAY, 10 SEPTEMBER 2015 AT 10.30 AM
IN COMMITTEE ROOM ONE, COUNTY OFFICES, NEWLAND, LINCOLN LN1
1YL

AGENDA

1	PARTNERSHIP MANAGEMENT ISSUES	LEAD
1a	Apologies for Absence	
1b	Declaration of Interests	
1c	Minutes of the meeting held on 10 July 2015 (Pages 3 - 8)	LCC
1d	Partner Updates	ALL
2	STRATEGIC ISSUES	
2a	Duty of Care Regulations - Waste (To Follow)	ELDC
2b	Update on the Waste Collaboration Project (To Follow)	NKDC
2c	County Campaign (Verbal Report)	LCC
2d	Glasgow Refuse Vehicle Fatal Collision December 2014 - Briefing Note (Pages 9 - 12)	NKDC
3	Contamination in Recycling (Verbal Report)	LCC
4	OPERATIONAL ISSUES	
4a	Overview of Officer Working Group Workload (Verbal Report)	LCC
4b	Energy from Waste Update (Verbal Report)	LCC

2 September 2015

Rachel Wilson
Democratic Services Officer
Lincolnshire County Council
County Offices, Newland, Lincoln LN1 1YL
Tel: 01522 552107
Email: rachel.wilson@lincolnshire.gov.uk



**LINCOLNSHIRE WASTE
PARTNERSHIP
10 JULY 2015**

**PRESENT: COUNCILLOR R A SHORE (LINCOLNSHIRE COUNTY COUNCIL)
(CHAIRMAN)**

Sean Kent	(Lincolnshire County Council)
Councillor A H Turner MBE JP	(Lincolnshire County Council)
Ian Taylor	(Lincolnshire County Council)
George Bernard	(Boston Borough Council)
Councillor Fay Smith	(City of Lincoln Council)
Steve Bird	City of Lincoln Council
Councillor Mrs S Harrison	(East Lindsey District Council)
Victoria Burgess	(East Lindsey District Council)
Mark Taylor	(North Kesteven District Council)
Councillor Roger Gambba-Jones	(South Holland District Council)
Emily Spicer	South Holland District Council
Councillor N Craft	(South Kesteven District Council)
Ian Yates	(South Kesteven District Council)
Ady Selby	(West Lindsey District Council)
Rachel Wilson	(Lincolnshire County Council - Democratic Services)

55 PARTNERSHIP MANAGEMENT ISSUES

55a Election of Vice-Chairman

It was proposed and seconded that Councillor D Cotton (West Lindsey District Council) be elected as Vice Chairman of the Lincolnshire Waste Partnership.

RESOLVED

That Councillor D Cotton be elected as Vice-Chairman of the Lincolnshire Waste Partnership for the ensuing year.

55b Apologies for Absence

Apologies for absence were received from Councillors M Brookes (Boston Borough Council), R Wright (North Kesteven District Council) and D Cotton (West Lindsey District Council).

An apology for absence was also received from Simon Mitchel (Environment Agency) and Steve Willis (Lincolnshire County Council).

55c Declarations of Interest

There were no declarations of interest at this point of the meeting.

55d Minutes of the meeting held on 13 April 2015

RESOLVED

That the minutes of the meeting held on 13 April 2015 be signed by the Chairman as a correct record.

Members of the Partnership were updated on progress since the last meeting and the following was noted:

Minute 52a – District Heating

It was reported that the first meeting had taken place and a consultant had been appointed. An £18,000 grant had been received from the Department for Energy and Climate Change had been received to start work on the first phase of mapping the heat requirements for the whole of greater Lincoln. It was hoped that results would be reported back by Christmas 2015.

It was confirmed that the electricity being produced by the Energy from Waste facility was being fed back into the grid, enough to power about 26,000 houses. It was important that there was a balance between the amount of heat and electricity which was used.

Minute 52b – Joint Municipal Waste Management Strategy (JMWMS)

The last strategy was produced in 2008, and they should be refreshed every 5 years, but there were currently resourcing implications..

Minute 52c – Mixed Dry Recycling Contract

The contract had now been awarded to Mid-UK for a period of 2 years and 9 months.

In response to a query, it was reported that as each authority presented a different mix of waste, with a different value, there were currently different gate fees for different authorities.

It was noted that the quality of recyclables was something which needed to be dealt with as a partnership, as there was a need to improve the quality of the materials. However, it was also noted that there were other external factors which affected the gate fee and caused it to increase.

For the benefit of the new members to the Partnership, officers explained the meaning of TEEP (Technically, Environmentally, Economically Practicable).

55e Partner Updates

Members of the Partnership were provided with the opportunity to update the rest of the Partners on any developments within their individual Districts which may be of interest, and the following was reported:

East Lindsey District Council – there were no changes to the service to report. However, it was noted that the authority was facing additional pressures due to the removal of Cranberry Composting. The additional costs could be in the region of £6,000. The Partnership was advised that the County Council would cover this cost, as it was an operational issue.

City of Lincoln Council – there were no operational changes to report. It was noted that the green waste scheme had been relaunched and had already exceeded last year's figures. This was the third year of charging for collection of green waste and each year the number of people using the service had been tracked. It was thought that these figures were encouraging.

West Lindsey District Council – recycling was being delivered to both Louth and Gainsborough Waste Transfer Stations, and this had freed up some capacity and so a re-routing exercise was being carried out.

It was also noted that the rental period on two depots was coming to an end, a review of all sites was currently underway.

It was also reported that there had been a lot of positive feedback regarding the new HWRC in Gainsborough.

Boston Borough Council – there were no changes to report, but it was noted that the Waste Transfer Station was going well.

North Kesteven District Council – a formal ban on green waste in residual waste would be introduced, due to the numbers of bins that had been rejected.

A waste policy document was due to go before the Executive for approval the following week, but it was noted that this document was made up of a number of different documents which had been pulled together including waste policy and service guarantees. It was commented that this was being well received by councillors. It was queried whether this could be brought to a future meeting of the Partnership.

It was also reported that officers would be attending a National Health and Safety working group with the Health and Safety Executive (HSE), and some of the documentation to be used had been developed in Lincolnshire, and this could be used to form a national approach. It was also suggested that this documentation be brought to a future meeting of the Partnership.

South Kesteven District Council – it was reported that finance continued to be an issue following the loss of recycling credits, but there were transition payments left in the budget.

Contamination in recycling was becoming a bigger issue, and it was thought that recycling performance could drop by 5-6% if the levels of contamination continued.

South Holland District Council – the Green Bag Lottery Scheme had worked extremely well, and a 20% rise in material collected had been seen. However, due to cost pressures it would not be continued and the last draw had taken place the previous week. It was noted that the authority was still looking at operating a green waste collection service.

Lincolnshire County Council – income had been received for last year from the textiles collected at recycling centres by the Salvation Army.

Bourne Household Waste Recycling Centre Business Case had been approved, and Councillor Shore had signed off the decision. It would be going to the Planning and Regulation Committee on 7 September 2015. Work was progressing with the aim for work to commence on site by the end of October 2015.

It was reported that the Saturday service in Stamford would continue for 2015/16.

A discussion took place regarding the potential for other HWRC's around the county, as it had been reported that there were still plans for a HWRC in Long Sutton, however problems had been encountered in finding a suitable site. There were also similar issues in Mablethorpe, as a suitable site could not be found. In terms of funding, it was reported that the County Council had a sum of money set aside for capital projects (£15m), which could be bid for through the submission of a business case, and if approved, the funds would be allocated. If a suitable site could be found by ELDC, then its suitability would be assessed and a business case put forward to this fund if it was found to be suitable. It was queried whether the information that had been collated for the last site which had proved unsuitable could be provided as it would be useful to know what to look for when searching for a site. It was also suggested that the report for Bourne would be useful as well, and could this be shared with the whole partnership. The Group Manager for Environmental Services also agreed to look for any correspondence in relation to why a previous site identified in Mablethorpe had been deemed unsuitable.

55f Terms of Reference

The Terms of Reference were presented to the Partnership and members were advised to contact the Democratic Services Officer with any proposed changes.

RESOLVED

That the Terms of Reference be noted.

56 STRATEGIC ISSUES

56a Proposal for the Exploration of Joint Working on Waste

The Lincolnshire Waste Partnership received a presentation from Mark Taylor, North Kesteven District Council which set out the advantages and disadvantages and the proposal for closer working on waste between the Waste Disposal Authority (LCC) and the Waste Collection Authorities (District Councils).

Members of the Partnership discussed the presentation and some of the points noted included the following:

- If the LWP was a business, the Partnership would instead be a Board and would have executive powers. It was queried whether there was a desire to move towards becoming a decision making body.
- If things were to change it would be a political issue.
- It was commented that it would be the Chief Executives and Leaders who would make the final decision, the Partnership could only advise.
- It was commented that anything that makes things more efficient and reduced the cost to the Lincolnshire tax payer should be encouraged.
- There would still be a need for managers who would deal with day to day operational issues.
- There was a need for greater understanding about what was meant by efficiencies, particularly in relation to finances.
- It was hoped that there would be openness and transparency throughout this process, and members were informed that this was a key objective of the proposal.
- One of the risks would be if there were savings made from the collections, would there be an issue regarding how they would be identified and shared?

RESOLVED

That the presentation and points made during discussion be noted.

57 OPERATIONAL ISSUES

57a Energy from Waste Update

The Lincolnshire Waste Partnership received an update in relation to the Energy from Waste Facility and it was noted that members of the Partnership would receive a tour of the facility following the close of the meeting. Members were informed that if they would like to return at a later date a more detailed tour could be arranged, which would require full PPE and an induction.

The Partnership was advised that there were a lot of visits from schools, as well as scout groups etc. as education was a major part of this project.

It was reported that the authority was working with FCC, the operator, in relation to increasing the capacity of the plant to take an extra 20,000 tonnes of waste per year. It was hoped that this would go to the meeting of the Planning and Regulation Committee either at the end of July 2015 or on 7 September 2015.

The facility had been designed so it could link directly into a district heating scheme.

FCC had agreed to release the gate fees to the District Councils, but only under a signed confidentiality agreement which was still to be drafted. Districts would be formally asked if they would like to enter into this agreement.

6
LINCOLNSHIRE WASTE PARTNERSHIP
10 JULY 2015

RESOLVED

That the update be noted.

57b Overview of Officer Working Group Workload

The Lincolnshire Waste Partnership received an update which provided them with an overview of the work of the Officer Working Group. It was reported that this group met approximately every 6 weeks and discussed a range of issues. The work of this Group would drive the agenda for the Partnership and it was suggested it may be useful if the minutes of the Officer Working Group were shared with the Partnership.

It was reported that there were two main issues to be brought to the attention of the Partnership as follows:

1 – Clinical Waste

This related to the collection of sharps, which were items which could not be placed in conventional waste. It had been noted that all Districts had a different way of providing this service. However, now Public Health was within the County Council, the relevant officer had been found in order to try and progress a definitive approach with Public Health and the PCT's. A meeting would be taking place on 23 July 2015 with Public Health and the PCT's to discuss this issue. A report would be brought back to the next meeting of the Partnership.

2 – Road Traffic Accidents (RTA)

This was another issue where all Districts had a different approach and related to who was responsible for clearing the road following an accident. Partners were advised that legal advice was being sought on this, as the legislation had been shared with the Officer Working Group, but it could be interpreted in different ways. Once the advice had been received from Counsel it would be shared with the Partnership.

The meeting closed at 11.20 am

Lincolnshire Health and Safety (Waste and Streets) Group

Briefing Note

Glasgow Refuse Vehicle Fatal Collision December 2014

Introduction

Following the fatal crash of a refuse vehicle in Glasgow December 2014 The Lincolnshire Health and Safety (Waste and Streets) Group have been following proceedings to try and identify learnings.

At this time neither the Council nor the driver have been charged under criminal law such as death by dangerous driving however this is still open to civil claims.

The Legal Position

Scotland has different methods of legal enforcement to England and in this case, the matter has been dealt with by the Crown Court - Lord Advocate Frank Mulholland QC through a Fatal Accident Inquiry. As the incident was road traffic accident HSE handed over proceedings to the Police very soon after the incident.

The case is focused on the negligence of the Council as employer and the driver as employee.

In order to bring a successful criminal case, prosecutors would have to prove that Mr. Clarke the driver was in control of the vehicle at the time of the incident but, because he was unconscious, he was not in control, so The Lord Advocate has determined that "the necessary criminal intention" is not present."

Furthermore, there appears to be insufficient evidence to establish "foreseeability" and prove that the driver knew he was unsafe to drive that day, for the following reasons:

- There was no evidence from Mr. Clarke's work colleagues that he was unfit on the day of the crash and no indication that he would faint at the wheel.
- After a blackout in 2010, a doctor for First Bus (Mr. Clarke's employers at the time) advised him he was fit to resume his employment as a driver and that he did not require to notify the DVLA of what happened.
- Mr. Clarke was seen by other doctors, including his GP following the 2010 incident. No doctor has ever told Mr. Clarke he was unfit to drive. No doctor has ever told Mr. Clarke that he had to notify DVLA of the 2010 episode.
- Even if the DVLA had been notified of the 2010 event, the "worst-case scenario" would have been for Mr. Clarke's license to be suspended for 12 months. "If during that period there was no recurrence, no cause for concern, his license would have been returned to him."
- When Mr. Clarke moved from First Bus to Glasgow City Council, there was "no concern" raised in the reference from the bus company surrounding his fitness to drive.
- Crucially, between April 2010 and the Glasgow tragedy, Mr. Clarke had no further fainting episodes.

Mr Mullholland QC said "when you put all of that evidence together it is quite clear that I have no doubt that you cannot establish, cannot prove that Mr Clarke knew that he was unfit

to drive that day as a result of an ongoing medical condition. If you can't prove that then you cannot prove criminal intention".

Similar considerations applied to other allegations, such as obtaining the council job by fraud.

Mr. Mulholland said: "The same evidence in general terms applies - namely Mr. Clarke is given a reference by First Bus to Glasgow City Council, he's not told he's unfit, he's not told he needs to notify DVLA, there's no evidence that he must have known he was unfit to drive. So, you cannot prove the necessary criminal intention for that common law fraud."

Interim Learning

There are a number of issues which have been raised by the court and Sherriff Becket has been tasked with determining what recommendations should be made to help reduce the risk of similar accidents in the future. It is widely anticipated that the recommendations will be forthcoming before the New Year.

We know that the driver of the vehicle did not inform his employers that he had a history of blackouts, fainting, dizziness, vertigo or depression however, at no point had a medical practitioner recommended that his licence be removed.

None of the medical records were sent to Mr. Clarke's GP to be checked and Dr. Willox, a Bupa occupational health doctor who conducted one of Mr. Clarke's medicals said she would have stopped him driving had she known about his previous episode.

Although the type of vehicle and cab is not one commonly used in Lincolnshire it is worth noting the technical findings of the experts brought in to examine the cab of the lorry after the crash.

They were asked to determine if either of the crew in the rear could have reached the handbrake lever on the dashboard from behind the metal safety bar and concluded that while the vehicle was moving, this possibility was "remote".

And another expert said the two other crew men had as little as five seconds in which to react, and had acted the way most people would have in the "intense environment" of the crash.

The inquiry also heard:

- Pulling the brake could have caused the bin lorry to skid down the pavement, potentially causing even more casualties - although North Lanarkshire Council did tests in a similar lorry and found it stopped within five metres.
- An emergency stop button or even an automated braking system could be added to such vehicles in future.
- Having a driver's GP check over applications for bus and lorry licences and renewals would help make sure unfit drivers could not "slip through the net".

Until the determination the following learning points should be considered;

1. The importance of medical tests and records cannot be overestimated. Employers of drivers of HGV's should ensure all steps are in place to ensure drivers undergo routine medicals in accordance with UK legislation and these records are retained with any advice contained in them acted on.
2. Communication with employees who are engaged in safety critical jobs should ensure they are fully aware that that all medical conditions which may affect their ability to work safely should be notified to their line manager or supervisor.

The first stage of this exercise will be to identify safety critical jobs through the risk assessment process and clear examples of what may affect safety (sensory reduction or impairment, mobility or neurological conditions as well as diagnosed medical conditions) and then to provide training/briefing sessions and record that these have taken place.

3. There are already legal requirements on employers with regard to the provision of health screening for some jobs which present a foreseeable risk of harm e.g. work with asbestos or work in a noisy environment.

Lincolnshire local authorities may wish to re-visit the effectiveness of pre-employment medicals questionnaires and routine health screening for jobs which present a reasonable and foreseeable risk of significant harm not already covered by specific legislation.

For local authority waste collection services this is likely to involve working more closely with occupational health providers and quite possibly referring the pre-employment self-declaration/questionnaire to an employee's GP for checking.

Future Activity

Until we receive the final determination from Sherriff Beckett hopefully before the New Year we can only make assumptions on what the recommendations will be. Proactively, a special meeting is being held on 16th October of both private and public sector partners and colleagues to determine a sensible and coordinated approach to how we can move forward with the learning points identified.

North Kesteven DC will also engage with other private sector organisations (Shanks, FCC, and Veolia) to gauge national opinion and will have the opportunity to question HSE directly at a meeting on 15th September 2015.

North Kesteven DC are also actively monitoring the road haulage trade associations to take a country and industrywide view and will share findings with the group at the October meeting.

Moving forward, care must be taken to avoid setting an unsustainable precedent for the industry which goes over and above the legal requirement.

This page is intentionally left blank