

**TELFORD & WREKIN COUNCIL****CABINET – 13 OCTOBER 2016****WEST MERCIA ENERGY JOINT AGREEMENT****REPORT OF ASSISTANT DIRECTOR OF FINANCE AND HUMAN RESOURCES****LEAD CABINET MEMBER – CLLR LEE CARTER****PART A) – SUMMARY REPORT****1. SUMMARY OF MAIN PROPOSALS**

It is proposed to update the main agreement for West Mercia Energy (WME) between the constituent authorities, together with the related financial regulations, contract standing orders and scheme of delegation. A draft proposal has been agreed by Legal and Finance officers and is now being ratified through each authority's cabinet process. Details of the changes are provided in Part B. These suggested governance changes do not impact on the Council's Constitution.

**2. RECOMMENDATION**

- 2.1 That Cabinet note the discussions taking place between the owning Authorities; Telford & Wrekin, Shropshire Council, Herefordshire Council and Worcestershire Council;
- 2.2 agrees that the current governance arrangements for WME may be amended in line with the report; and
- 2.3 authorise the Assistant Director of Finance and Human Resources to finalise and execute amendments to the governance arrangements in Consultation with the Assistant Director of Governance, Procurement and Commissioning.

### 3. SUMMARY IMPACT ASSESSMENT

<b>COMMUNITY IMPACT</b>	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes/No	The Council currently purchases energy from WME for schools, Colleges and own properties and secures good value for money
	Will the proposals impact on specific groups of people?	
	No	
<b>TARGET COMPLETION/DELIVERY DATE</b>	Agreement to the extension is required by all 4 owning Authorities and is envisaged to be executed and agreed by October 2016	
<b>FINANCIAL/VALUE FOR MONEY IMPACT</b>	Yes/No	The Joint Agreement includes the provision that accumulated surpluses identified for distribution are allocated to Member Authorities each year partly based on the level of trading activity by each Member Authority and partly based on non-member trading activity. There are no proposals to change this methodology. The dividend received by Telford & Wrekin in 2015/16 was £519k although it is anticipated that this will fall in future due to current trading conditions and an allowance for this has been included in the budget strategy. The amendments to the agreement state that a Member Authority may terminate the agreement by giving 12 months written notice; It should be noted that at this point an assessment of liabilities will be determined to assess monies due or from the exiting authority. PH – 14/9/2016
<b>LEGAL ISSUES</b>	Yes/No	The Cabinet has delegated day to day decision-making to the West Mercia Energy Joint Committee where Telford & Wrekin Council are currently represented by Cllrs L Carter and A England. However as the proposals are significant and extend the agreement and propose significant amendments to the current joint agreement it is appropriate that this delegation is approved by Cabinet
<b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b>	Yes/No	Any decisions about the future development of the WME business are determined by a Joint Committee upon which Telford & Wrekin Council are represented by Cllr L Carter and Cllr A

		England, acting upon information from an advisory group comprising of senior officers.
<b>IMPACT ON SPECIFIC WARDS</b>	No	

## **PART B) – ADDITIONAL INFORMATION**

### **4. INFORMATION**

- 4.1 In 2012 Cabinet granted approval for the Council to enter into a Joint Agreement with Shropshire Herefordshire and Worcestershire Councils to form West Mercia Energy.
- 4.2 New governance arrangements be considered by the WME joint committee on 26 September 2016 with final ratification being end of October 2016 once all owners have agreement from their Cabinet. This report acknowledges that some of the details may change following the WME meeting.
- 4.3 It is proposed that Shropshire Council continues as the lead authority to employ staff and hold property on behalf of the constituent authorities of WME. The lead authority appoints the Secretary and Treasurer to the WME joint committee and it is proposed to clarify their specific responsibilities.
- 4.4 The main governance changes currently proposed to the main agreement are:
- to move from a fixed-term life (extendable by agreement) to an ongoing commitment, with a restricted ability for a constituent authority to terminate their participation and withdraw from WME
  - greater clarity on access to information provisions to ensure the due circulation of reports and minutes. Meetings of the WME joint committee will be open to the public unless it moves into private session to deal with exempt material as permitted by the legislation
  - the lead authority's Code of Conduct will apply in respect of declarations of interest at WME joint committee meetings
  - the WME joint committee will adopt Strategic Policies necessary for the proper operation of WME
  - decisions of the joint committee will be subject to scrutiny by the constituent authorities and its decisions can also be called-in within each constituent authority, using their own respective mechanisms. Any call-in must take be exercised by 5pm on the 5th working day after the decision is published, and can only be in relation to a decision or action affecting the constituent authority whose membership wishes to call it in. The call-in is then dealt with by the constituent authority following its own Scrutiny processes

- the constituent authorities may jointly and unanimously agree to discontinue WME and its assets shall be distributed fairly and reasonably between them
- no authority can withdraw from WME during the term of any Key Contract with a Utility Supplier
- otherwise, an authority can give at least 12 months' notice to withdraw but withdrawal will only take place on the expiry of any agreements with Utility Suppliers to which that authority is a party. At point of termination an assessment of liabilities will be determined to assess monies due or from the existing authority

- 4.5 WME continue to efficiently and effectively trade energy on behalf of the owners, keeping prices competitive and service levels good. In July WME recruited a Business Manager whose role is to increase new business for WME. This will strengthen the portfolio and any future dividend for owners whilst still offering a competitive value for money service to the public sector
- 4.6 A copy of the amended agreement complete with tracked changes is included in background papers

5. **IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

6. **PREVIOUS MINUTES**

7. **BACKGROUND PAPERS**

Annex A West Mercia Energy Joint Agreement Sept 16

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