

## MEMORANDUM OF UNDERSTANDING

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This agreement is dated [ ] [ ] 2018.

## **PARTIES**

- (1) Barnsley Metropolitan Borough Council whose principal office is at The Town Hall, Barnsley S70 2TA (**Barnsley**);
- (2) Doncaster Borough Council whose principal office is at Civic Office, Waterdale, Doncaster DN1 3EQ (**Doncaster**);
- (3) Rotherham Borough Council whose principal office is at Riverside House, Main Street, Rotherham S60 1AE (**Rotherham**); and
- (4) Sheffield City Council whose principal office is at The Town Hall, Pinstone Street, Sheffield S1 2HH (**Sheffield**),

(each a **Party** and together the **Parties**).

## **1. BACKGROUND**

- 1.1 The Parties have agreed to work together on each project detailed in Annex A (each and every project to be set out in a separate Part of Annex A being a **Project**).
- 1.2 The Parties wish to record the basis on which they will collaborate with each other on each Project.
- 1.3 This Memorandum of Understanding (the **MoU**) sets out:
  - (a) the key objectives for each Project;
  - (b) the principles of collaboration;
  - (c) the governance structures the Parties will put in place; and
  - (d) the respective roles and responsibilities the Parties will have during each Project.

## **2. KEY OBJECTIVES FOR EACH PROJECT**

- 2.1 The Parties shall undertake each Project to achieve the key objectives set out in the relevant Part of Annex A to this MoU (the **Key Objectives**).
- 2.2 The Parties acknowledge that the current position with regard to each Project and the contributions already made (financial and otherwise) are as detailed in Annex D (which provides overarching guidance on any financial allocation between the Parties) and the relevant Part of Annex A (which provides Project-specific financial allocation based on the principles of Annex D) to this MoU.
- 2.3 The outputs from the Project as detailed in Part 1 of Annex A to this MoU will be tendered on the basis of an output based specification. Each Party will need to identify required outputs for that specification.

## **3. PRINCIPLES OF COLLABORATION**

- 3.1 The Parties agree to adopt the following principles when carrying out each Project (**Principles**):
  - (a) **collaborate and co-operate**: establish and adhere to the governance structure set out in this MoU to ensure that activities are delivered and actions taken as required;

- (b) **be accountable:** take on, manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
- (c) **be open:** communicate openly about major concerns, issues or opportunities relating to the Project;
- (d) **learn, develop and seek to achieve full potential:** share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) **adopt a positive outlook:** behave in a positive, proactive manner;
- (f) **adhere to statutory requirements and best practice:** comply with applicable laws and standards including EU procurement rules (where relevant), data protection and freedom of information legislation. In particular the Parties agree to comply with the requirements of the Information Sharing Protocol attached to this MoU in Annex B;
- (g) **act in a timely manner:** recognise the time-critical nature of the outputs of the Project and respond accordingly to requests for support;
- (h) **manage stakeholders effectively:** engage with stakeholders (internal stakeholders within the Parties and any external stakeholders) to encourage regular and consistent participation in meetings and briefings, manage timetabling for each Project so that they are realistic and stakeholders are appraised of risks to such timetable and implement a communications system to ensure timely dissemination of Project information and to obtain stakeholder feedback;
- (i) **deploy appropriate resources:** ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU. In particular the Parties agree to make the contributions detailed in Annex D to this MoU; and
- (j) **act in good faith:** to support achievement of the Key Objectives and compliance with these Principles.

3.2 It is recognised that for implementation of a Project there may be a range of procurement routes and potential contract structures which will need to be evaluated jointly, together with an appreciation by all other Parties of a Party's current contracting arrangements, obligations, potential liabilities and opportunities concerning waste management services which are proposed to be procured by a Project. The Parties will work together to determine the appropriate procurement routes and contract structures for each Project. The Parties will work together closely irrespective of the resulting contract structure decided upon.

3.3 The Parties shall meet their own costs of preparing for and supporting the discussion of prospective Projects at Programme Board, Steering Group and Programme Team meetings (and where any feasibility studies are commissioned for any Project to be investigated for any of the Parties which will not have its financial apportionment based on tonnage then the costs of such feasibility studies shall be borne equally by the participating Parties unless otherwise agreed).

## 4. PROJECT GOVERNANCE

### 4.1 Overview

The governance structure defined below provides a structure for the development and delivery of each Project.

### 4.2 Guiding principles

The following guiding principles are agreed. Each Project's governance will:

- (a) provide strategic oversight and direction;

(b) be based on clearly defined roles and responsibilities at Party, directorate, group and, where necessary, individual level within each Party and in addition, where relevant, be based on existing joint working arrangements between some or all of the Parties;

(c) align decision-making authority with the criticality of the decisions required;

(d) be aligned with the Project scope (and each Project stage) (and may therefore require changes over time);

(e) leverage existing organisational, group and user relationships;

(f) provide coherent, timely and efficient decision-making; and

(g) correspond with the key features of the governance arrangements applicable to each Project as set out in this MoU.

#### **4.3 Programme Board: members – programme level for all Projects**

(a) The **Programme Board** provides overall strategic oversight and direction to all of the Projects. It has an overarching role to provide a programmed multi-Project governance regime which applies to each of the Projects.

At the date of this MoU this group will consist of one (1) member from each Party being each Party's portfolio holder for waste management (or equivalent role description):

**Barnsley:** Cabinet Spokesperson - Place

**Doncaster:** Portfolio Holder for Communities, Voluntary Sector and the Environment

**Rotherham:** Cabinet Member for Waste, Roads and Community Safety

**Sheffield:** Cabinet Member for Environment and Streetscene,

and each Party's strategic/executive director with responsibility for waste management service contracts:

**Barnsley:** Executive Director - Place

**Doncaster:** Director of Regeneration and Environment

**Rotherham:** Strategic Director - Regeneration and the Environment

**Sheffield:** Executive Director - Place.

(b) The Programme Board shall meet at least quarterly and be managed in accordance with the terms of reference set out in Annex C to this MoU.

#### **4.4 Steering Group: officers – programme level for all Projects**

The Parties have agreed a steering committee (the **Steering Group**) to provide Party senior officer strategic oversight and direction to oversee each Project. The group will consist of one (1) senior officer at assistant director level or equivalent as each Party's nominated senior responsible owner (the **Senior Responsible Owner**), (where a programme based project management approach is adopted to cater for multiple future Projects) a programme manager appointed by or behalf of one or more of the Parties to project manage the Projects (the **Programme Manager**) who will co-ordinate input from the technical, commercial and procurement leads for each Party who will lead their respective workstreams (the **Workstream Leads**).

At the date of this MoU this group will consist of the following officers from the Parties:

**Barnsley:** Service Director, Environment & Transport, Senior Responsible Owner

**Doncaster:** Assistant Director of Environment, Senior Responsible Owner

**Rotherham:** Assistant Director, Community Safety & Street Scene, Senior Responsible Owner

**Sheffield:** Head of Waste Management, Senior Responsible Owner

(Where applicable) Programme Manager: BDR Manager

Workstream Lead (Technical)

Workstream Lead (Commercial)

Workstream Lead (Procurement).

4.5 The Steering Group will:

- (a) determine each Project's plan with key milestone stages (the **Project Plan**); and
- (b) meet on a regular basis (at least once every six (6) weeks) to discuss each Project and its Project Plan.

The Steering Group shall be managed in accordance with the terms of reference set out in Annex C to this MoU.

**4.6 Programme Team: officers – Programme level for all Projects**

(a) The Programme Team will provide strategic management for each Project at both Project and Workstream Lead level. It will provide assurance to the Programme Board and the Steering Group that the Key Objectives are being met and that each Project is performing within the boundaries set by the Programme Board and the Steering Group.

(b) The Programme Team consists of representatives from each of the Parties. The Programme Team shall have responsibility for the creation and execution of each Project Plan and each Project's deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the Programme Team. The core Programme Team members are:

**Barnsley:** Principal Contracts and Commercial Officer

**Doncaster:** Waste & Recycling Manager

**Rotherham:** Waste Officer

**Sheffield:** Waste Strategy Officer.

The Programme Team shall meet on a regular basis (at least once every six (6) weeks).

**4.7 Reporting**

Project reporting shall be undertaken at potentially four (4) levels:

- (a) **Programme Board:** minutes and actions will be recorded for each Programme Board meeting. Any additional reporting requirement shall be at the discretion of the Programme Board;

- (b) **Steering Group:** minutes and actions will be recorded for each Steering Group meeting. Any additional reporting requirement shall be at the discretion of the Steering Group;
- (c) **Programme Team:** reporting shall be regular, based on the minutes from the Programme Team highlighting: progress this period; issues being managed; issues requiring help (that is, escalations to the Steering Group on its cycle of meetings every six (6) weeks, Programme Board on its cycle of meetings every quarter and/or the relevant Party or Parties) and progress planned for next period and/or aligned with the frequency of the Programme Team meetings; and
- (d) **Party:** the Programme Team members shall be responsible for drafting and reviewing reports which are agreed by the Programme Team before being issued as the basis for Party-specific format reports submitted by Programme Team members into their respective sponsoring Party as required.

#### 4.8 Approvals

It is acknowledged that each Party will need to obtain appropriate approvals before signature of any agreement and at key milestone stages of each Project Plan. This will include gateway assessments and board approvals for all Parties, Programme Board and Steering Group and any other required approvals. All approvals will be included in the Project Plan.

#### 4.9 Business cases

(Unless otherwise agreed by the Parties) the Parties must produce business cases which demonstrate a fair and equitable apportionment of Project costs (and Annex D to this MoU describes the assumptions for calculating Parties' costs contributions at a programme level whilst each Part of Annex A should set out the principles of apportionment as between the Parties for such Project) and it is assumed there will be no cross-subsidisation between the Parties in relation to the costs contribution by the Parties between Projects or as between the Parties for a particular Project awarded under any Project.

### 5. ROLES AND RESPONSIBILITIES

5.1 The Parties shall undertake the following roles and responsibilities to deliver each Project, with the Programme Board allocating the activities between the Parties on a Project by Project basis:

Activity	Lead	Assure
Educate and inspire	To be allocated	To be allocated
Reliable service	To be allocated	To be allocated
Working together	To be allocated	To be allocated
Exploring technology	To be allocated	To be allocated
Influencing decision making	To be allocated	To be allocated

5.2 For the purpose of appointing roles for Parties to complete each activity in the table above:

- (a) **Lead:** means the Party that has principal responsibility for preparing a draft project initiation document and/or business case for the particular task which will be submitted to Steering Group for review and where authorised by Steering Group will determine how to undertake the task. The Lead must act in compliance with the Key Objectives and Principles at all times, and consult with the other Parties in advance if they are identified as having a role to Assure the relevant activity; and

(b) **Assure:** means the Parties that will defer to the Lead on their preparation of a draft project initiation document and/or business case for the particular task, but will have the opportunity to review, challenge and provide input to the Lead before they submit documents to the Steering Group for review. All assurance must be provided in a timely manner. Any derogations raised must be limited to raising issues that relate to specific needs that have not been adequately addressed by the Lead and/or concerns regarding compliance with the Key Objectives and Principles.

5.3 Within three (3) months of the date of this MoU the Party with the Lead role for any aspect of each Project (or, where applicable, the Programme Manager) shall develop a delivery plan for that part of the Project which shall identify the following:

- (a) the key milestones for the delivery the Key Objectives;
- (b) what employees (other than employees identified in this MoU) will be required to work on the Project;
- (c) whether any staff will need to be seconded from one Party to another;
- (d) what staff will require access to the premises of another Party; and
- (e) approved allocated budgets for each Party in support of the Project, a Project resource plan, a cost model for the Project and the Parties' reporting and day to day governance arrangements for the Project.

Each delivery plan must be approved by the Programme Team prior to being implemented.

5.4 The Parties will require a number of advisors to support any or all of the Projects. The Parties will agree whether the appointment of such advisors will be carried out jointly or separately having regard to the nature of the scope of the work to be undertaken by the relevant advisors. These advisors will include but not be limited to:

- (a) project management;
- (b) building advice;
- (c) technical (including engineering) advisor support;
- (d) procurement advice; and
- (e) legal and commercial advice.

5.5 The Parties will agree a fair methodology for cost sharing in advance of any commitments made, with the proportion of cost sharing or level of independence agreed for each advisor determined by reference to the scope of work required by the Parties.

5.6 The Parties will appoint advisors using appropriate framework agreements where possible. Advisors will be managed by the Workstream Leads agreed by the Senior Responsible Owners (or, where applicable, the Programme Manager).

## **6. ESCALATION**

6.1 If a Party has any issues, concerns or complaints about any Project, or any matter in this MoU, that Party shall notify the other Parties and the Parties shall then seek to resolve the issue by a process of consultation with the relevant Workstream Lead or the Programme Team (or, where applicable, the Programme Manager). If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the Steering Group, which shall decide on the appropriate course of action to take. If the matter cannot be resolved by the Steering Group within twenty-eight (28) days, the matter may be escalated to the Programme Board for resolution.

6.2 If a Party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 (SI 2004/3391)) in relation to each Project, the matter shall be promptly referred to the Programme Team (or its nominated representatives). No action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Project, without the prior approval of the Programme Team (or its nominated representatives).

6.3 In the event that a Party receives a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 (SI 2004/3391) in relation to any Project, then such Party shall follow its internal processes and comply with the statutory obligations in relation to such requests.

## **7. INTELLECTUAL PROPERTY**

7.1 The Parties intend that (notwithstanding any secondment) any intellectual property rights created in the course of any Project shall vest in the Party whose employee created them (or in the case of any intellectual property rights created jointly by employees of Parties in the Party that is lead Party noted in clause 5 above for the part of the Project that the intellectual property right relates to).

7.2 Where any intellectual property right vests in a Party in accordance with the intention set out in clause 7.1 above, that Party shall grant an irrevocable licence to the other Parties to use that intellectual property for the purposes of the Project.

## **8. TERM AND TERMINATION**

8.1 This MoU shall commence on the date of signature by the last of the Parties, and shall (subject to clause 8.2) expire on completion of the Project with the latest expiry date provided that the Parties shall review this MoU arrangement at two (2) year intervals starting on the second anniversary of the date of this MoU.

8.2 A Party may terminate this MoU by giving at least three (3) months' notice in writing to the other Parties at any time. Termination of this MoU does not terminate any concluded Projects.

8.3 In the event of termination pursuant to clause 8.2 the provisions of clause 10.3 shall continue to apply.

## **9. VARIATION**

This MoU, including the Annexes, may only be varied by written agreement of the Programme Board.

## **10. CHARGES AND LIABILITIES**

10.1 Except as otherwise provided, the Parties shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.

10.2 The Parties agree to share the costs and expenses arising in respect of any Project between them in accordance with the guiding principles set out in Annex D to this MoU and the Project-specific arrangements set out in the relevant Part of Annex A.

10.3 The Parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and each Party intends that each other Party shall be liable for any loss it suffers as a result of this MoU.

## **11. STATUS**



11.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the Parties from this MoU. The Parties enter into the MoU intending to honour all their obligations.

11.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute a Party as the agent of another Party, nor authorise any of the Parties to make or enter into any commitments for or on behalf of any other Party.

11.3 This MoU supersedes any and all other memoranda of understanding and any other agreements entered into by the Parties, or their authorised representatives, in relation to any Project.

11.4 The Parties will review this document as required to reflect any changing requirements as each Project develops. Detailed decisions will be recorded in Project documentation.

## **12. GOVERNING LAW AND JURISDICTION**

This MoU shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 6, each Party agrees to submit to the exclusive jurisdiction of the courts of England.

Signed for and on behalf of **Barnsley Metropolitan Borough Council**



Signature: .....

Name:

Matthew Gladstone.....

Position:

Executive Director.....

Date:

.8<sup>th</sup> February 2018.....

Signed for and on behalf of **Doncaster Borough Council**



Signature: .....

Name:

GILL GILHES.....

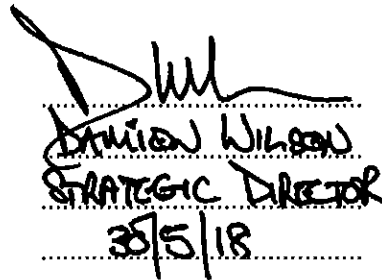
Position:

AD. ENVIRONMENT.....

Date:

15/3/18.....

Signed for and on behalf of **Rotherham Borough Council**



.....  
DAMIEN WILSON  
STRATEGIC DIRECTOR  
35/5/18.....

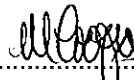
Signature: .....

Name:

Position:

Date:

Signed for and on behalf of **Sheffield City Council**



Signature: .....

Name:

MICK ERUPS.....

Position:

DIRECTOR.....

Date:

10/05/2018.....

CONTACT POINTS

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**Sheffield City Council**

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.....  
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**ANNEX A**

**Projects**

## **PART 1**

### **The Project: South Yorkshire Municipal Waste Strategy**

#### **SYMWS overview**

Our new South Yorkshire Municipal Waste Strategy (SYMWS) builds on initiatives already being delivered across the region by the Parties. It also supports the region's overall aim to make South Yorkshire a thriving, prosperous and attractive place to live and work. **By working with you we intend to reduce, re-use, recycle and recover energy from ninety-five per cent (95%) of South Yorkshire's waste by 2021.**

#### **The Key Objectives**

- **Educate and inspire:** *The vision is to encourage and inspire children and adults across South Yorkshire to make less waste by reducing, re-using and recycling more*
- **A reliable service:** *Our vision is to work hard to deliver and maintain a dependable and reliable service to all our customers*
- **Work together:** *Our vision is that all four councils will work together more closely to deliver value for money services*
- **Utilising technology:** *Our vision is to continue exploring how waste technology can be used to improve recycling and waste services*
- **Influence decision making:** *Our vision is to be proactive to influence decision-making on waste at an international, national and local level, to drive investment into infrastructure within South Yorkshire and the Sheffield City Region economy.*

## ANNEX B

### Information Sharing Protocol

#### Service Specific Protocol – South Yorkshire Waste Partnership (SYWP)

**1 Aim**

To provide clear guidance for partner organisations to help them share information safely, in compliance with the law while respecting confidentiality.

**2 Why do we need to share information?**

- To ensure the historical information can be obtained
- To ensure that all partners can access up to date information about the South Yorkshire Municipal Waste Strategy and associated Projects
- To support SYWP case if it is necessary to bring or defend legal proceedings or if SYWP is under investigation
- To ensure the information is consistent across all partners
- To promote transparency
- Ensure that all partners have all relevant information needed to inform the decision making process in relation to waste service matters.

**3 What information is to be shared?**

The following data flows have been identified:

- Historical waste flow information
- Contract documents
- Financial information regarding joint Projects
- Reports that are included in the decision making process.

**4 How and when will data be shared?**

Documentation will be stored online in compliance with the Rotherham Borough Council Retention Policy. Documents will be subject to version control.

**5 Retention of information**

The data received will be subject to the Rotherham Borough Council Security and Archiving Procedures.

**6 Quality Assurance.**

Barnsley, Doncaster, Rotherham and Sheffield waste management departments will be responsible for the quality of the information they provide to each other.

**7 Renewal of the service specific protocol**

The service specific protocol will be reviewed every twenty-four (24) months.

Please note this list is not exhaustive and is subject to change.

PROTOCOL APPROVED AT STEERING GROUP Minute number –
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## ANNEX C

### Programme Board and Steering Group terms of reference

#### Programme Board terms of reference

1.0	<b>Membership of the South Yorkshire Waste Programme Board (SYWPB)</b>
1.1	The SYWPB will consist of Portfolio Holders and Directors with responsibility for Waste Services (or their deputies) and will be chaired by a Portfolio Holder on an annually rotating basis.
1.2	Members will be identified at the annual general meeting in June each year.
1.3	The SYWPB Chairperson and Vice-Chairperson will be elected at the start of the first meeting of the SYWPB.
1.4	For the SYWPB to be quorate, a minimum of three (3) Portfolio Holders (or their deputies) must be present at the meeting.
2.0	<b>Objective</b>
2.1	The objective of the SYWPB is to "Work together towards efficiencies and the sharing of best practices and opportunities".
3.0	<b>Scope of the SYWPB</b>
3.1	<p>The scope of the SYWPB is to:</p> <ul style="list-style-type: none"> <li>➤ consider the progress of the South Yorkshire Municipal Waste Strategy and provide direction, challenge, feedback and comments to the South Yorkshire Municipal Waste Strategy lead</li> <li>➤ give due consideration to service reviews and recommend areas where Barnsley, Doncaster, Rotherham and Sheffield can work collaboratively to gain efficiencies in waste services</li> <li>➤ make recommendations on projects where Barnsley, Doncaster, Rotherham and Sheffield should collaborate and agree the resources to be allocated to these from the individual South Yorkshire local authorities</li> <li>➤ give due consideration to formalising joint working arrangements across South Yorkshire through an inter-authority agreement.</li> </ul>
3.2	<p>The members of the SYWPB will be asked to:</p> <ul style="list-style-type: none"> <li>➤ provide strategic direction to any Project</li> <li>➤ monitor the progress of agreed Projects against any Project plans</li> <li>➤ agree allocation of funds for the Projects subject to approval by the South Yorkshire local authorities</li> <li>➤ receive regular reports from the Project team and provide any comments and/feedback on these reports</li> <li>➤ act as "critical friends" throughout the process by providing challenge, feedback and comments</li> <li>➤ agree and assign resources to support any Projects and ensure sufficient priority is given to the Projects to allow them to progress</li> <li>➤ provide a responsive decision making group to the Project leads to ensure the Project timelines are achieved</li> <li>➤ make approvals at key stages, subject to delegation by their local authority</li> <li>➤ ensure that any Project is delivered on time and within budget</li> <li>➤ review and manage the risks associated with projects.</li> </ul>
3.3	Any procurement Project that is proposed as part of the actions for this SYWPB will

	be run in accordance with the lead authority's constitution, contract procedure rules and financial standing orders and will be conducted in accordance with the Public Contracts Regulations 2015 (SI 2015/102).
4.0	<b>Format of Meetings</b>
4.1	The SYWPB will be facilitated by either (a) a nominated Project team or (b) (where there is a programme approach to project management to cater for multiple future Projects) the Programme Manager and supported by the BDR Administrative Officer. The agenda and reports will be sent to Steering Group at least five (5) days in advance of the meeting.
4.2	The meetings will be held every quarter unless otherwise agreed at meetings. The venue for the meetings will be in the administrative area of the Chairperson.
4.3	Other officers and resources will be called upon and invited to attend as appropriate.
4.4	If SYWPB wish for specific issues to be considered these can be raised at the meeting and officers will research these issues and present them to a future meeting of the SYWPB.
5.0	<b>Working Manner</b>
5.1	The overriding principles for working together is that all Parties should: <ul style="list-style-type: none"> <li>➤ act in good faith</li> <li>➤ be open, honest and transparent</li> <li>➤ willing to contribute and commit</li> <li>➤ treat everyone with respect</li> <li>➤ mutually support and co-operate with each other</li> <li>➤ share learning and best practice</li> <li>➤ respect the mutual need for commercial confidentiality.</li> </ul>
6.0	<b>Review of the Terms of Reference</b>
6.1	These terms of reference to be reviewed as the SYWPB group see fit.



**Steering Group terms of reference**

1.0	<b>Membership of the South Yorkshire Waste Steering Group (SYWSG)</b>
1.1	The SYWSG will consist of Assistant Directors from each Party with responsibility for waste management services (or their deputy) and will be chaired by an Assistant Director on an annually rotating basis.
1.2	Members will be identified at the annual meeting in June each year.
1.3	The SYWSG Chairperson and Vice-Chairperson will be elected at the start of the first meeting of the SYWSG.
1.4	For the SYWSG to be quorate, a minimum of three (3) Assistant Directors (or their deputies) must be present at the meeting.
2.0	<b>Objective</b>
2.1	The objective of the SYWSG is to "Work together towards efficiencies and the sharing of best practices and opportunities".
3.0	<b>Scope of the SYWSG</b>
3.1	The scope of the SYWSG is to: <ul style="list-style-type: none"> <li>➤ consider the progress of the South Yorkshire Municipal Waste Strategy and provide direction, challenge, feedback and comments to the South Yorkshire Municipal Waste Strategy lead</li> <li>➤ give due consideration to service reviews and recommend areas where Barnsley, Doncaster, Rotherham and Sheffield can work collaboratively to gain efficiencies in waste services</li> <li>➤ make recommendations on projects where Barnsley, Doncaster, Rotherham and Sheffield should collaborate and agree the resources to be allocated to these from the individual South Yorkshire local authorities</li> <li>➤ give due consideration to formalising joint working arrangements across South Yorkshire through an inter-authority agreement.</li> </ul>
3.2	The members of the SYWSG will be asked to: <ul style="list-style-type: none"> <li>➤ provide strategic direction to any Project</li> <li>➤ monitor the progress of agreed Projects against any Project plans</li> <li>➤ agree allocation of funds for the Projects subject to approval by the South Yorkshire local authorities</li> <li>➤ receive regular reports from the Project team and provide any comments and/feedback on these reports</li> <li>➤ act as "critical friends" throughout the process by providing challenge, feedback and comments</li> <li>➤ agree and assign resources to support any Projects and ensure sufficient priority is given to the Projects to allow them to progress</li> <li>➤ undertake tasks and activities as agreed and directed by the discussions of the SYWSG</li> <li>➤ report back through their local authority's governance structure the activities of the SYWSG</li> <li>➤ provide a responsive decision making group to the Project leads to ensure the Project timelines are achieved</li> <li>➤ make approvals at key stages, subject to delegation by their local authority</li> <li>➤ ensure that any Project is delivered on time and within budget</li> <li>➤ review and manage the risks associated with Projects.</li> </ul>
3.3	Any procurement project that is proposed as part of the actions for this SYWSG will be run in accordance with the lead authority's constitution, contract procedure rules

	and financial standing orders and will be conducted in accordance with the Public Contracts Regulations 2015 (SI 2015/102).
<b>4.0</b>	<b>Format of Meetings</b>
4.1	The SYWSG will be facilitated by either (a) a nominated Project team or (b) where there is a programme approach to project management to cater for multiple future Projects) the BDR Manager and supported by the BDR Administrative Officer. The agenda and reports will be sent to SYWSG at least five (5) days in advance of the meeting.
4.2	The meetings will be held every six (6) weeks unless otherwise agreed at meetings. The venue for the meetings will be in the administrative area of the Chairperson.
4.3	Other officers and resources will be called upon and invited to attend as appropriate.
4.4	If SYWSG wish for specific issues to be considered these can be raised at the meeting and officers will research these issues and present them to a future meeting of the SYWSG.  The SYWSG will report key milestones during any Project, and any decision the SYWSG wishes their individual Parties to take, to their Director and Portfolio Holder. The internal approvals process that is necessary should be provided to the Project lead officer for inclusion in the overall Project plan.
<b>5.0</b>	<b>Working Manner</b>
5.1	The overriding principles for working together is that all Parties should: <ul style="list-style-type: none"> <li>➤ act in good faith</li> <li>➤ be open, honest and transparent</li> <li>➤ willing to contribute and commit</li> <li>➤ treat everyone with respect</li> <li>➤ mutually support and co-operate with each other</li> <li>➤ share learning and best practice</li> <li>➤ respect the mutual need for commercial confidentiality.</li> </ul>
<b>6.0</b>	<b>Review of the Terms of Reference</b>
6.1	These terms of reference to be reviewed as the SYWSG see fit.

## ANNEX D

### Contributions

1. This paragraph 1, paragraph 2, paragraph 3, paragraph 4 and the following Table titled "Apportionment" describes guiding principles for how costs incurred in the operation of each Project and associated benefits shall be calculated and shared by the Parties. The Parties' financial allocation for each Project shall be described in the relevant Project documents, informed by these Annex D guiding principles and only by agreement of the Parties.
2. Where a specific issue is not dealt with in the Table titled "Apportionment" below then the Parties will reach agreement regarding that particular cost or benefit having regard to the following principles:
  - 2.1 in this Annex D these defined terms shall apply:
    - 2.1.1 **Administering Authority** means the Party which will administer a Project contract on behalf of itself and the other Parties;
    - 2.1.2 **Customers** means Households and commercial waste customers;
    - 2.1.3 **Households** means the hereditaments from which municipal waste is collected by or on behalf of the Parties;
    - 2.1.4 **Service Fee** means the sum payable by the Parties to a private sector contractor providing services to the Parties under a Project contract; and
    - 2.1.5 **Tonnage** means (for the specific waste stream (or streams) which are the subject of the service delivered under the relevant Project) the tonnage delivered by or on behalf of the Parties;
  - 2.2 where costs or benefits are directly related to the obligations of the Project the principles of sharing shall apply by agreement of the Parties based on:
    - 2.2.1 Tonnage (by each Party's proportion of the overall Tonnage);
    - 2.2.2 where the principles of Tonnage are irrelevant, number of Customers/Households (by each Party's number of Customers/Households as a proportion of the total Customers/Households);
    - 2.2.3 where the principles of Tonnage or Customers/Households are irrelevant the costs or benefits shall be split equally between the Parties; or
    - 2.2.4 where the principles of Tonnage, Customers/Households or equal split are irrelevant the costs or benefits shall be split between the Parties as appropriate having regard to the relevant financial impact;
  - 2.3 where costs or benefits relate to the unilateral decisions made by or actions of a specific Party, that Party shall be responsible for costs and accept benefits provided that if a unilateral action of one (1) Party results in benefits for that Party (and not the Project overall) the following principles apply (unless otherwise agreed between the Parties):
    - 2.3.1 the Party acting in its own right takes one hundred per cent (100%) of the direct benefits; and
    - 2.3.2 the Parties share any benefit in respect of that unilateral action arising under the Project (including but not limited to third party revenue) based on

Tonnage or Customers/Households in accordance with paragraphs 3 and 4 of this Annex D below;

- 2.4 where the costs or benefits relate to decisions made by or actions of two (2) of the four (4) Parties the costs will be split between the two (2) Parties in the applicable proportions as described in paragraph 2.2 and the benefits will be shared between the Parties in the applicable proportions as described in paragraph 2.3; and
- 2.5 where the costs or benefits relate to decisions made by or actions of three (3) of the four (4) Parties the costs will be split between the three (3) Parties in the applicable proportions as described in paragraph 2.2 and the benefits will be shared between the Parties in the applicable proportions as described in paragraph 2.3.
3. Where a cost or benefit is to be shared by the Parties based on the principles of Tonnage or Customers/Households under this Agreement then it shall be apportioned by percentage calculated on the most recent relevant information for the Project as determined by its business case.
4. The order in which the issues appear within the Table titled "Apportionment" below are not meant to be in any particular order of importance. The Parties agree that each of the issues set out within the Table titled "Apportionment" below relating to the apportionment of benefits and/or costs between the Parties are of equal importance unless otherwise stated.

**Table - Apportionment**

	<b>Issue</b>	<b>Apportionment Mechanism</b>
1.	Service Fee - Base Tonnage payment	Apportioned according to each Party's share of the relevant Tonnage price band. Base Tonnage payment will be based on forecast Tonnage and reconciled monthly in arrears to take account of actual Tonnage.
2.	Service Fee - Performance deductions	Apportioned according to the Tonnage or Customers/Households proportions (as the case may be), unless Tonnage or Customers/Households is irrelevant and the impact on each of the Parties can be clearly determined in which case the performance deduction will be apportioned according to the relevant measure for the performance standard. Where performance deductions only affect one (1), two (2) or three (3) of the Parties the Performance Deductions will be awarded to the affected Parties consistent with the above approach.
3.	Service Fee - Third party revenue share	Apportioned according to Tonnage or Customers/Households (as the case may be).
4.	Service Fee - Landfill tax payment	Apportioned according to actual Tonnage.
5.	Service Fee - Non-conforming waste payment and waste in excess of Council maximum forecast tonnages	Charged to the Party from which the non-conforming waste came.
6.	Service Fee - Non-contract waste	Charged to the Party from which the non-contract

	<b>Issue</b>	<b>Apportionment Mechanism</b>
		waste came.
7.	Service Fee – Miscellaneous payments	Apportioned according to the general principles set out above in this Annex D of this Agreement.
8.	Service Fee – TUPE payment	TUPE costs arising in respect of waste management services at the Project facility at Project site will be apportioned by the Parties according to actual Tonnage of the Parties or Customer/Household numbers using the Project facility (as the case may be) using the relevant Project contract to which the TUPE applies.
9.	Base Tonnage payment price bands (Tonnage and other tonnage bands) (where a Project includes a take or pay guaranteed minimum Tonnage and price banded payment regime)	<p>Where the Parties breach their obligation to deliver Tonnage to the contractor under the Project contract then the Parties will still pay the contractor up to the guaranteed Tonnage level.</p> <p>Where any of the Parties breach their obligation to deliver Tonnage to the contractor under the Project contract but overall the waste delivered to the contractor exceeds Tonnage then the Parties will each pay up to Tonnage and any surplus in excess of Tonnage will be split between the Parties in the same proportion as the actual Tonnage for that year.</p> <p>Above the Tonnage, Parties will pay for actual Tonnage calculated at the relevant price band.</p> <p>Each Party is entitled to a proportional share of the other Tonnage bands.</p>
10.	General principle - future benefits arising from the Project facility	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
11.	General principle – Council specific costs or benefits	Where costs or benefits relate to the unilateral decisions made by or actions of a specific Party, that Party shall be responsible.
12.	General principle – Programme Team staff costs	Programme Team staff costs shall be split equally by the Parties for Projects they are working on together unless a specific Programme Team role relates to Tonnage or number of Customers/Households (as the case may be) in which case those costs will be apportioned by the Parties according to actual Tonnage or Customers/Households (as the case may be).
13.	Capital contribution	Apportioned by the Parties according to Tonnage or number of Customers/Households (as the case may be).
14.	Adjustment to the Service Fee for a Qualifying Change in Law affecting a specific waste stream	Apportionment will be based on the Parties' actual Tonnage of a specific waste stream at the point of change. The Parties will act reasonably and agree a basis for compensation if the other Parties benefit

	<b>Issue</b>	<b>Apportionment Mechanism</b>
		at a later date.
15.	Adjustment to the Service Fee for a Councils' change	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
16.	Adjustment to the Service Fee for a Councils' change to the Project contract if only required by one (1) or two (2) or three (3) of the four (4) Parties	<p>If required by one (1) Party then that Party would bear the cost.</p> <p>If required by two (2) Parties then those Parties would bear the cost in the same way as Tonnage and pro-rated between the two (2) Parties requiring the change.</p> <p>If required by three (3) Parties then those Parties would bear the cost in the same way as Tonnage and pro-rated between the three (3) Parties requiring the change.</p>
17.	Adjustment to the Service Fee for a Councils' change to the Project contract relating to a specific waste stream	Apportionment will be based on the Parties' actual Tonnage of a specific waste stream at the point of change. The Parties will act reasonably and agree a basis for compensation if the other Parties benefit at a later date.
18.	Third party revenue/super-profit above the guaranteed element	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
19.	Performance deduction caps	Performance deduction caps will be apportioned between the Parties as per Tonnage. Where a Party reaches its proportion of the cap but the overall cap has not been reached (perhaps due to the Party being specifically affected) performance deductions may continue to reduce their payment but that Party will have to compensate the other Parties if they are subsequently affected to the extent they are within their proportion of the cap.
20.	Apportionment of performance deductions where the impact only affects one (1) Party or where they relate to a service or facility that is only used by one (1) Party	Awarded to the Party affected.
21.	Indemnities under the Project contract	<p>Indemnity would reimburse the actual costs of the Party concerned.</p> <p>Each Party will take a proportional share of any sums up to the caps on indemnities based on the proportions of Tonnage. Where a Party reaches its proportion of the cap but the overall cap has not been reached (perhaps due to the Party being specifically affected) that Party will benefit from the maximum indemnity cap, however, that Party will have to compensate the other Parties if they are subsequently affected to the extent they are within their proportion of the cap.</p>

	<b>Issue</b>	<b>Apportionment Mechanism</b>
22.	Apportionment of losses arising from a breach of Project contract by a Party or Parties	Actual costs demonstrated by the contractor would be shared in the same proportions as Tonnage or Customers/Households (as the case may be) unless specifically caused by a particular Party in which case that Party would bear the cost.
23.	Apportionment of costs arising from a Project contract indemnity in favour of the contractor	Shared in same proportions as Tonnage or Customers/Households (as the case may be) unless specifically caused by a particular Party in which case that Party would bear the cost.
24.	On what basis is compensation on termination (Councils' default) apportioned?	<p>The Parties will act reasonably and agree a basis for apportioning compensation taking into account all the relevant factors including:</p> <ul style="list-style-type: none"> <li>• the cause of the Councils' default;</li> <li>• the consequences of the Councils' default;</li> <li>• the proportions of Tonnage or Customers/Households (as the case may be) for each Party;</li> <li>• the residual value of any Project site and any Project facility on a Project site; and</li> <li>• the need for a continued service.</li> </ul>
25.	Compensation on termination (contractor default)	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
26.	Compensation on termination (force majeure)	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
27.	Compensation on termination (corrupt gifts and fraud)	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
28.	Compensation on termination (voluntary termination by the Councils)	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
29.	Costs for the appointment of any independent expert or consultant during the Project	<p>Apportioned by the Parties in the same proportion of costs/benefits for a particular Party if they can be specifically quantified.</p> <p>Otherwise apportion equally.</p>
30.	Contamination	In respect of contamination costs arising in respect of a Project facility (or any replacement) they will be apportioned by the Parties by Tonnage, Customers/Households (as the case may be) or equally (except where a Party or Parties are responsible for the contamination costs in which case the Party or Parties will be liable in proportion to their degree of responsibility).

	<b>Issue</b>	<b>Apportionment Mechanism</b>
31.	Costs arising from the Parties' exercising their right of step-in	<p>The Parties will act reasonably and agree a basis for revising items in this table that comprise the calculation of the Service Fee taking into account all the relevant factors including:</p> <ul style="list-style-type: none"> <li>• the cause of the step-in;</li> <li>• the consequences of the step-in;</li> <li>• the proportions of Tonnage for each Party;</li> <li>• the residual value of the Project site and any Project facility on the Project site; and</li> <li>• the need for a continued service.</li> </ul>
32.	Payment of sums owed by one (1) Party to another	<p>The Parties will act reasonably and agree a basis for the payment of any sums owed and whether this should be paid in one (1) lump sum or in instalments.</p> <p>Where a payment is delayed or made in instalments then interest on the balance outstanding would be accounted for.</p>
33.	Interest	<p>Interest on balances due to the Administering Authority will be charged at the Administering Authority's average loan rate for the relevant year on a daily basis.</p> <p>Interest on balances held by the Administering Authority will be charged at the Administering Authority's average rate on investments for the relevant year on a daily basis.</p>
34.	VAT invoicing between the Parties	All invoices between the Parties will include VAT.
35.	CHAPS	The Parties will each bear their own costs of making any CHAPS payments in respect of any payments due or benefits accrued under the Project contract.
36.	Receipt of government grants by the Administering Authority	The interest calculation in respect of government grants received will be based on the Administering Authority's average rate on investments in the relevant year.
37.	Insurance costs	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
38.	Insurance proceeds and the impact of any shortfall in insurance proceeds	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be) unless otherwise agreed by the Parties (acting reasonably) where this disproportionately affects



	<b>Issue</b>	<b>Apportionment Mechanism</b>
		one (1) or more of the Parties.
39.	Land	In respect of costs arising in respect of a Project facility (or any replacement) they will be apportioned by the Parties equally.
40.	Apportionment of government grants	Apportioned by the Parties according to Tonnage or Customers/Households (as the case may be).
41.	Costs of identifying and purchasing a new site as a Project facility	Apportioned by the Parties equally or where not all of the Parties will use the Project facility apportioned by Parties' usage measured by Tonnage or Customers/Households (as the case may be).
42.	Claim arises following the appropriation of a Project site under section 237 of the Town and Country Planning Act 1990	Apportioned by the Parties equally or where not all of the Parties will use the Project facility apportioned by Parties' usage measured by Tonnage or Customers/Households (as the case may be).
43.	Parties' interests in the land and Project facilities on the expiry of the Project contract	The interest in the land will still be apportioned by the Parties equally and the equity interest in the facility will be apportioned by the Parties according to Tonnage or Customers/Households (as the case may be). The Parties will agree between them at such a time if they want to continue with the facilities and compensate a withdrawing Party accordingly.
44.	Land valuation at Project facilities on the expiry of the Project contract	Two (2) valuations will be conducted. One assuming a vacant site and another including the Project facility (with the financial impact of the Project facility (whether this is positive or negative) apportioned by the Parties according to Tonnage or Customers/Households (as the case may be)).
45.	Costs of Councils as landlord	In respect of costs arising in respect of the Project site (location of the Project facility) (or any replacement) they will be apportioned by the Parties equally or where not all of the Parties will use the Project facility apportioned by Parties' usage measured by Tonnage or Customers/Households (as the case may be).
46.	Title compensation event (property title effects on a Project site whose effect equates to Councils' breach)	In respect of costs arising in respect of the Project facility at Project site (or any replacement) they will be apportioned by the Parties equally or where not all of the Parties will use the Project facility apportioned by Parties' usage measured by Tonnage or Customers/Households (as the case may be).
47.	Decommissioning costs	In respect of costs arising in respect of the Project facility at Project site (or any replacement) they will be apportioned by the Parties according to Tonnage or number of Customers/Households (as

	<b>Issue</b>	<b>Apportionment Mechanism</b>
		the case may be) and in respect of the land they will be apportioned equally.
48.	Operational change external advisor and/or internal call off specialist advice	<p>Where specialist advice is required by a Party or Parties to evaluate the impact of an operational change proposed by another Party then costs are to be apportioned by the Parties in the same proportion of costs/benefits for a particular Party if they can be specifically quantified.</p> <p>Otherwise where all Parties propose to implement the same operational change then costs are to be apportioned equally.</p>