

**Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council**

**Joint Waste Committee  
Constitution**

This Constitution has been approved by Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council as the Constitution of the Joint Waste Committee.

**1. Establishment of the Joint Waste Committee**

- 1.1 The Joint Waste Committee shall be the “Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council Joint Waste Committee”.
- 1.2 The Joint Waste Committee is established under Sections 101(5) and 102 of the Local Government Act 1972, Section 20 of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 by the Executives of Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council.

**2. Objectives of the Joint Waste Committee**

- 2.1 The Authorities have established the Joint Waste Committee with the intention of facilitating the Authorities in working together to improve the quality and effectiveness of the discharge of their waste collection functions under the relevant provisions of the Environmental Protection Act 1990.
- 2.2 To work in partnership with East Sussex County Council as the Waste Disposal Authority to maximise integration opportunities.

**3. Powers Delegated to and matters reserved from the Joint Waste Committee**

- 3.1 The Joint Waste Committee and Officers reporting thereto shall have such powers as are delegated and set out in appendices 1 and 2 and such further powers as may from time to time be delegated to the Joint Waste Committee by the Leader or Executives of the constituent Authorities or of any of the constituent Authorities.
- 3.2 In so far as any powers may from time to time be delegated to the Joint Waste Committee, the following functions (the Reserved Matters) are matters reserved to each of the Authorities making such delegation and shall not be within the powers of the Joint Waste Committee:
  - 3.2.1 All non-executive functions of any of the Authorities.
  - 3.2.2 Any decision which is contrary to or not wholly in accordance with the budget approved by each Authority for the Joint Waste Committee, or is contrary to an approved policy or strategy which has been approved as part of the Policy and Budget Framework of that Authority.
  - 3.2.3 Any decision in respect of which a scrutiny committee of any of the appointing authorities has notified the Secretary to the Joint Waste Committee in writing of the Authority’s formal objection to the proposed decision in accordance with Paragraph 10.1 (below).
  - 3.2.3 Approval or amendment of any Joint Working Agreement between the appointing Authorities in respect of the discharge of the appointing Authorities’ waste disposal functions.
  - 3.2.4 Any decision by an Authority to withdraw its Membership from the Joint

Waste Committee.

3.2.5 Approval of the final award of any Contract for the collection of waste.

#### **4. Membership and Appointment of the Joint Waste Committee**

- 4.1 The Joint Waste Committee shall comprise nine Members, being two Members appointed from the Executive of each of the Authorities with at least one such member for each Authority being the member with responsibility for waste, recycling and street and beach cleaning services together with one Member appointed by East Sussex County Council.
- 4.2 The Joint Waste Committee shall also have power to permit additional membership of the Committee, in particular Members appointed from Lewes District Council, in either a co-opted role without voting rights, or as a Full Member of the Committee with equal status and rights as the other District and Borough Members of the Committee.
- 4.3 Each Member of the Joint Waste Committee shall be appointed for the term of office, or the balance of the term of office, of the Executive of the appointing Authority.
- 4.4 The appointment of Members of the Joint Waste Committee to fill any vacancy for such Members shall be made by the Executives of each Authority –
  - 4.4.1 as soon as practicable following the adoption of this Constitution by the Executive of that Authority;
  - 4.4.2 as soon as practicable after the appointment of the Executive of that Authority in accordance with that Authority's Constitution; and
  - 4.4.3 as soon as practicable after a vacancy arises in respect of a seat on the Joint Waste Committee to which the Executive of that Authority has the power to make an appointment.
- 4.5 A Member of the Joint Waste Committee shall cease to be a member of the Joint Waste Committee, and a vacancy shall automatically arise, where –
  - 4.5.1 The Member resigns from the Joint Waste Committee by giving notice in writing to the Secretary to the Joint Waste Committee;
  - 4.5.2 The Member ceases to be, or is suspended under Part III of the Local Government Act 2000 from acting as, a Member of the appointing Authority, or a Member of the Executive of the appointing Authority;
  - 4.5.3 The Member is removed from membership of the Joint Waste Committee by notification in writing from the Leader of the appointing Authority to the Secretary of the Joint Waste Committee;
- 4.6 All appointments to membership of the Joint Waste Committee shall be made by notification in writing from the Leader or the Chief Executive of the appointing Authority to the Secretary of the Joint Waste Committee.
- 4.7 Upon being made aware of any Member ceasing to be a Member of the Joint Waste Committee, the Secretary of the Committee shall write to that Member confirming that he/she has ceased to be a Member of the Joint Waste Committee, and notifying the appointing Authority and the other Members of the Joint Waste Committee accordingly.
- 4.8 Each Authority will appoint a substitute Executive Member of the Joint Waste Committee on the same terms as the Authority's appointed Member of the Joint Waste Committee. The substitute Executive Member will attend any meeting of the Joint Waste Committee with all the powers of the Authority's appointed Member in the event that an appointed Member is unable to attend a particular meeting.

## **5. Chairman and Vice-Chairman of the Joint Waste Committee**

- 5.1 At the first meeting of the Joint Waste Committee after the annual meetings of each Authority in any year, the Joint Waste Committee shall elect a Chairman of the Joint Waste Committee and a Vice-Chairman of the Joint Waste Committee for the following year from among the Members of the Joint Waste Committee, save that any co-opted Members shall not be entitled to election as Chairman or Vice-Chairman of the Joint Waste Committee.
- 5.2 By convention, if the Chairman of the Joint Waste Committee in any year is a Member of one of the Authorities, the Chairman of the Joint Waste Committee for the next year would normally be a Member of another of the Authorities.
- 5.3 The Chairman and the Vice-Chairman of the Joint Waste Committee shall each hold office until:
- 5.3.1 A new Chairman or Vice-Chairman of the Joint Waste Committee is elected in accordance with Paragraph 5.1 above,
- 5.3.2 He/she ceases to be a member of the Joint Waste Committee, or
- 5.3.3 He/she resigns from the office of Chairman or Vice-Chairman by notification in writing to the Secretary of the Joint Waste Committee.
- 5.4 Where a casual vacancy arises in the office of Chairman or Vice-Chairman of the Joint Waste Committee, the Joint Waste Committee shall at its next meeting elect a Chairman or Vice-Chairman, as the case may be, for the balance of the term of office of the previous Chairman or Vice-Chairman.
- 5.5 Where, at any meeting or part of a meeting of the Joint Waste Committee, both the Chairman and the Vice-Chairman of the Joint Waste Committee are either absent or unable to act as Chairman or Vice-Chairman, the Joint Waste Committee shall elect one of the members of the Joint Waste Committee present at the meeting to preside for the balance of that meeting or part of the meeting, as appropriate.

## **6. Secretary to the Joint Waste Committee**

- 6.1 The Joint Waste Committee shall be supported by the Chief Executive or nominated officer of the Administering Authority in his/her capacity as Secretary to the Joint Waste Committee.
- 6.2 The functions of the Secretary of the Joint Waste Committee shall be:
- To maintain a record of membership of the Joint Waste Committee.
  - To notify the Chief Executive of each appointing Authority of any anticipated decisions to be taken by the Joint Waste Committee over the year (whether or not key decisions) and updated on a monthly basis, to enable such decisions to be included in the Forward Plans of each appointing Authority as required by the Local Authorities (Access to Information) (England) Regulations 2001 and in accordance with their respective constitutions.
  - To carry out such notification to and consultation with Members of the appointing Authorities as may be necessary to enable the Joint Waste Committee to take urgent decisions which have not been included in the Forward Plans of appointing Authorities.
  - To notify the Chief Executives of the Authorities of the dates, times and venues of meetings and to publish the dates times and venues.
  - To summon meetings of the Joint Waste Committee in accordance with paragraph 7 below.
  - To prepare and send out the agenda for meetings of the Joint Waste Committee in consultation with the Chairman and the Vice-Chairman of the Committee and the Authority Lead Officers.

- To keep a record of the proceedings of the Joint Waste Committee.
- To take such administrative action as may be necessary to give effect to decisions of the Joint Waste Committee.
- To undertake such other functions as may be determined by the Joint Waste Committee.

## **7. Convening of Meetings of the Joint Waste Committee**

- 7.1 Meetings of the Joint Waste Committee shall be held at such times, dates and places as may be notified to the Members by the Secretary to the Joint Waste Committee, being such time, place and location as –
- 7.1.1 the Joint Waste Committee shall from time to time resolve;
- 7.1.2 the Chairman of the Joint Waste Committee, or if he/she is unable to act, the Vice-Chairman of the Joint Waste Committee, shall notify to the Secretary of the Joint Waste Committee; or
- 7.1.3 the Secretary of the Joint Waste Committee, in consultation where practicable with the Chairman and Vice Chairman of the Joint Waste Committee, shall determine in response to receipt of a request in writing addressed to the Secretary of the Joint Waste Committee:
- From and signed by two Members of the Joint Waste Committee, or
  - From the Chief Executive of an Authority
  - From the Leader of an Authority
- which request sets out an item of business within the functions of the Joint Waste Committee that needs to be considered prior to the next scheduled meeting of the Joint Waste Committee.
- 7.2 The Secretary of the Joint Waste Committee shall formulate the agenda for any meeting of the Joint Waste Committee after consulting, where practicable:
- 7.2.1 the Project Manager, Senior Waste Officer of the Administering Authority and Waste Authority Lead Officers;
- 7.2.2 the Chairman and the Vice-Chairman of the Joint Waste Committee;
- 7.2.3 And shall incorporate in the agenda any items of business and any reports submitted by
- any two Members of the Joint Waste Committee in accordance with Paragraph 7.1.3 above
  - the Leader of any of the Authorities
  - The Chief Executive of any of the Authorities (or their nominated officers)
- Senior Waste Officer of the Administering Authority and Waste Authority Lead Officers
- the Chief Finance Officer / Section 151 Officer to any of the Authorities
  - the Monitoring Officer to any of the Authorities
  - such other officers as the Joint Waste Committee may determine for this purpose

## **8. Procedure at Meetings of the Joint Waste Committee**

- 8.1 The Joint Waste Committee shall, unless the Member of the Joint Waste Committee presiding at a meeting or the Joint Waste Committee determines otherwise, conduct its

business in accordance with the Executive Decision-Making Procedure Rules of the Administering Authority, as set out in the Appendix 3 to this Constitution and as set out below.

- 8.2 A meeting of the Joint Waste Committee shall be inquorate and shall not be able to discharge any business unless there are at least four Members present, with such members representing at least three of the four District and Borough Council members of the Authorities.
- 8.3 The Chairman of the Joint Waste Committee, or in his/her absence the Vice-Chairman of the Joint Waste Committee, or in his/her absence the Member of the Joint Waste Committee elected for this purpose, shall preside at meetings of the Joint Waste Committee.
- 8.4 Whilst the Joint Waste Committee shall seek, wherever possible, to work on a principle of consensus, decisions of the Joint Waste Committee shall be determined by a majority of the Members of the Joint Waste Committee present and voting. In the event of an equality of votes, the person presiding shall have a second or casting vote.
- 8.5 Where the Joint Waste Committee are unable to support any motion on a matter, or any individual Full Member of the Joint Waste Committee is unable to support any motion on a matter, the decision will be held in abeyance until the next meeting of the Committee where a decision shall be taken in relation to that matter. In such circumstances, the Secretary of the Joint Waste Committee will notify the matter to the Leaders of the constituent authorities.
- 8.6 Any decision of the Joint Waste Committee is subject to the scrutiny arrangements as set out 10 below.

## **9. Attendance at Meetings of the Joint Waste Committee**

- 9.1 Notwithstanding that, in accordance with the provisions of the Local Government Act 1972, a meeting or part of a meeting of the Joint Waste Committee may not be open to the press and public the Members and officers specified in Clause 9.2 below of each Authority shall be entitled, in person or by another officer nominated by that officer, to attend all, and all parts, of such meetings, unless the particular Member or officer has a conflict of interest as a result of a personal and prejudicial interest in the matter under consideration.
- 9.2 The following are the elected Members and officers who shall have a right of attendance in accordance with clause 9.1 above:
  - all elected Members of the constituent Authorities
  - the Chief Executive of any of the constituent Authorities or nominated officers
  - the Directors and officers responsible for waste and street cleansing of the constituent Authorities
  - the Chief Finance Officer / Section 151 officer to any of the constituent Authorities
  - the Monitoring Officer to any of the constituent Authorities
  - any person appointed by the Joint Waste Committee to manage particular projects
  - any other officer of the Authorities at the request of any member of the Joint Waste Committee.

## **10. Call In by Scrutiny Committees**

- 10.1 The delegation of powers from each Authority to the Joint Waste Committee is subject to the limitation that all decisions taken by the Joint Waste Committee in accordance with delegations from each Authority shall only take effect five clear Working Days

after publication of the decisions following a relevant meeting of the Joint Waste Committee and shall be ineffective if a relevant scrutiny committee of one or more of the Authorities has given notice in writing to the Chief Executives of the other Authorities and to the Secretary to the Joint Waste Committee within such period of five clear Working Days.

- 10.2 The authority seeking call in need to identify which part or parts of the decision are called in and to give the reasons for call in and must have support of the relevant number of members as set out in the Constitution of that Member authority.
- 10.3 If a decision of the Joint Waste Committee is called in, it shall not be implemented save where the decision on the call in
- is to support or take no further action, in which case the decision shall take effect at the conclusion of that call-in meeting, or
  - where the meeting of the Authority's Overview and Scrutiny Committee does not take place within ten clear working days of the valid submission of a notice triggering a call-in under 10.2 above, the decision shall take effect on the date of the expiry of the ten working day period.
- 10.4 Such matters shall within a further ten clear working days be referred and considered by a meeting of the relevant Scrutiny Committee(s) with the Senior Waste Officer attending the meeting (or deputy). The relevant Scrutiny Committee(s) may make such recommendations to the next meeting of the Joint Waste Committee on the matter as they think fit.
- 10.5 Where an Authority or Authorities have made such objection in respect of a matter, the Joint Waste Committee shall then reconsider the matter within a further ten clear working days and come to a decision. That second decision shall take effect immediately and no Authority can then call-in that second decision.

## **11. Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules**

The Joint Waste Committee shall operate under the Standing Orders for Executive Decision Making, Contracts, Financial Regulations and Officer Employment Procedure Rules of the Administering Authority.

## **12. Amendment of this Constitution**

This constitution can only be amended by agreement of all the Authorities.

## **13. Definitions**

In this Constitution, the following words and phrases shall have the meanings set out below:

“the Administering Authority” means Rother District Council

“The Authorities” means Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council.

“Policy and Budget Framework” means the plans and strategies approved by the Council of each of the Authorities for the purpose of Regulation 4 and Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as may be amended or replaced from time to time

“Project Manager”: Responsible person for the project management of the delivery of a joint waste contract.

“Senior Waste Officer”: Responsible for the preparation of the specification and all documentation in relation to the procurement of the Joint Waste Contract.

“Waste Authority Lead Officers”: Directors responsible for Waste, recycling and beach and street cleaning

## **Appendix 1**

### **Joint Waste Committee Delegation**

1. Save as may be limited by the Reserved Matters set out in the Constitution, to exercise the executive functions of the parties in order to commission, co-ordinate, provide, procure and/or manage any shared waste collection services, recycling services, street cleaning services and beach cleaning services.
2. To provide strategic direction to the officers advising the Joint Waste Committee
3. To develop work programmes and projects in relation to the functions which are delegated to the Joint Waste Committee
4. To regularly report to each of the Authorities on its activities
5. To facilitate constructive partnership working
6. To respond to reports and recommendations made by the relevant Scrutiny Committee of any of the Authorities
7. To monitor the operation of the Joint Waste Committee and of any contracts procured thereunder
8. To propose a budget for the operation of the Joint Waste Committee to the Authorities and to monitor and manage any such budget once approved by the Authorities
9. To review these arrangements from time to time and make recommendations to the Authorities for amendment, improvement and /or alteration of these arrangements.
10. To arrange for the discharge of any of its functions, powers or duties by an Officer or Officers of any of the Authorities.



## **Appendix 2**

### **Officer Delegation**

The Director of Services for Rother District Council and/ or such other officer(s) of the Authorities as may be nominated by the Joint Waste Committee may:

1. give effect to decisions by or on behalf of the Joint Waste Committee;
2. procure the completion of all documents etc., to give effect to decisions by or on behalf of the Joint Waste Committee for the purpose of implementing the powers and duties of the Joint Waste Committee;
3. authorise any action which is calculated to facilitate, or is conducive or incidental to the discharge of any of the Joint Waste Committee's functions.
4. place orders and enter into contracts for the supply of goods and services as authorised by the Joint Waste Committee and authorise or incur expenditure for which provision has been made in the appropriate revenue or capital budget by the Joint Waste Committee.
5. undertake any necessary consultation internally or externally on behalf of the Joint Waste Committee
6. carry out administrative, professional or technical work to implement the decisions of the Joint Waste Committee
7. authorise other staff to act in their name and on their behalf in the discharge of these delegations

## **Additional information in relation to the setting up of the Joint Waste Committee and procurement and management of the single waste collection contract.**

### **1. Joint Waste Committee and Constitution**

- 1.1 The draft Constitution for the Joint Waste Committee has been developed through guidance from IESE (Improvement and Efficiency South East) on constitutional arrangements at other Joint Waste Partnerships and in consultation with the legal teams from each of the authorities.

### **2. Scrutiny**

- 2.1 It is important to recognise the role of Scrutiny at each of the authorities. If 'call-in' was applied at every opportunity across every authority this could 'in effect' derail the process. In order to mitigate against this it is proposed that in October 2011 a report to each partner authority's relevant Scrutiny Committee is undertaken by the Project Team and Joint Waste Committee Members, to update each Council on progress and to encourage/ elicit issues that may rise from the evolving business case and specification. The Joint Waste Committee can then take back any issues raised by the Scrutiny Committee of each authority to finalise the specification and tender documents.

### **3. Involvement of Lewes District Council**

- 3.1 Within the Constitution is the ability to invite Lewes District Council onto the Committee if at some point in the future this is desirable.

### **4. Budget and Resources**

- 4.1 For the Administering Authority to support the procurement process and, thereafter, the contract there will need to be resources committed and shared across the four Waste Collection Authorities (WCAs).
- 4.2 The Joint Waste Committee will be expected to fulfil two specific tasks. The first is to guide and facilitate the procurement process. The second is to oversee the contract performance during the period of the contract.
- 4.3 The procurement method will be determined by the Joint Waste Committee and facilitated by the Administering Authority with support services. This will naturally incur costs but will be shared equally across all four WCAs up until appointment of the contractor.
- 4.4 The costs associated with on-going management have yet to be decided but this will be developed and resolved as part of the business case before procurement commences and an inter-authority agreement signed. Because this is a waste collection contract, it is not anticipated that the County Council would contribute towards these costs. However, the business case may identify net benefits for the County Council if some investment or contribution towards costs were made. This would be written into the inter-authority agreement and would be the subject of final approval by the County Council.
- 4.5 At this juncture the full costs of procurement are not known but historically these procurements can cost a Local Authority up to £100,000. It is therefore being requested that each WCA commits £60,000 into this process, passed to the Administering Authority to administer and to appoint the Project Manager and Senior Waste Officer. The Joint Waste Committee will receive regular financial reports on the budget commitments. Any underspend at the end of the process will be either passed back to each authority or used to support other work identified by the Joint Waste Committee.
- 4.6 With regards staffing, the Administering Authority will be appointing a Project Manager (on a fixed-term contract), a "seconded" Senior Waste Officer and support from the Central Services. If detailed consultancy for specific pieces of work is required this will be approved by the Joint Waste Committee. These costs will be met from the £60k initial procurement costs.

4.7 These costs do not include any marketing/communication strategies for the launch of a new contract and service, and from experience this requires a detailed and costed plan. Neither do the costs include this on-going management and contract monitoring.

## **5. Timescale**

5.1 There is a very tight time in which to deliver this new single waste collection contract:

- i. There are only 22 months for commencement of new contract;
- ii. 16 months to appointing the contractor;
- iii. 12 months in which to receive contractors' tenders;
- iv. 7 months before tender documents are sent out.

5.2 Any delays in meeting the milestones could put in jeopardy the procurement of a single waste collection contract.

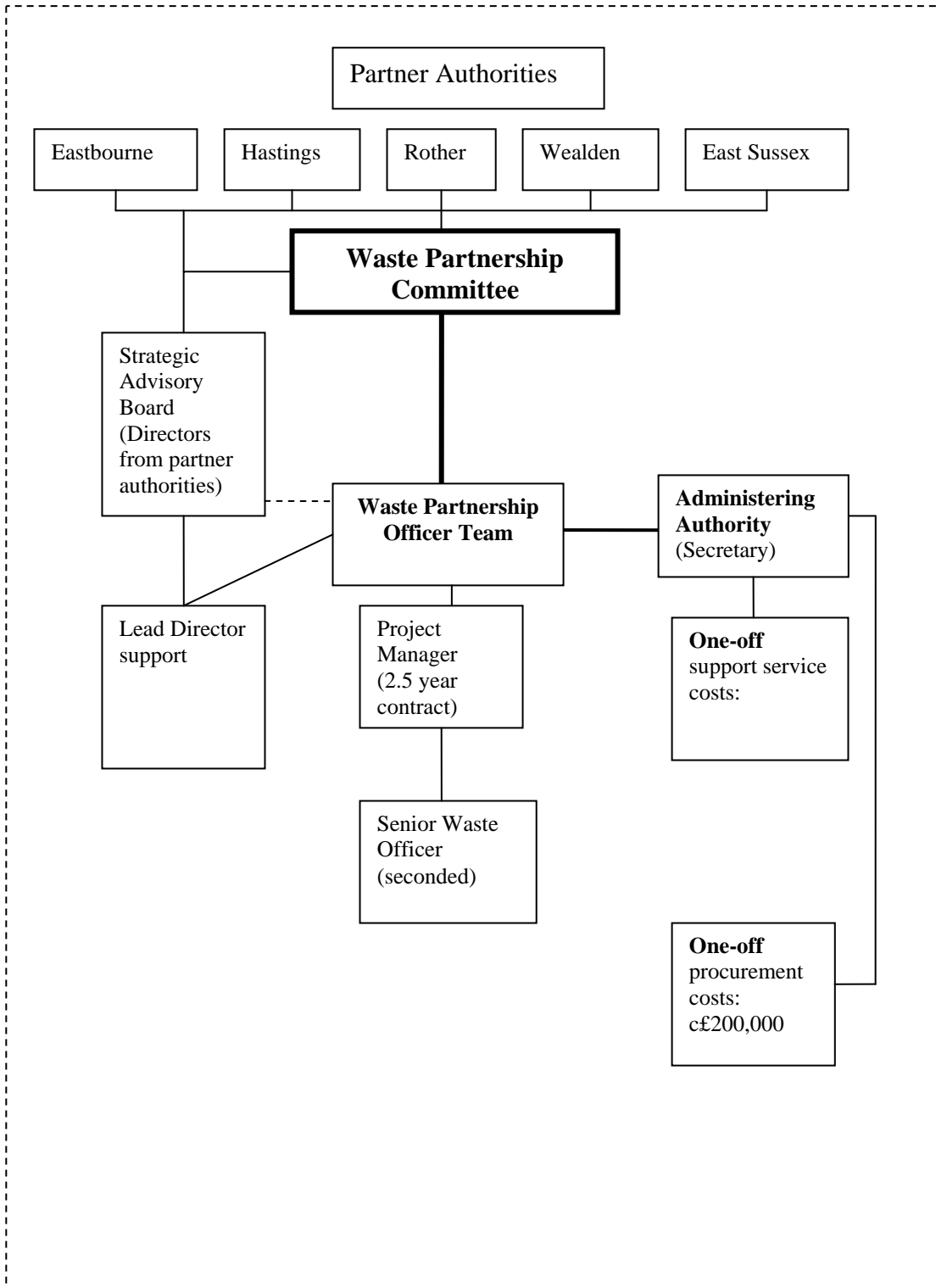
## **6. Other Issues**

6.1 To assist in visualising how the Joint Waste Committee will be operating a diagrammatic view is shown below. The staff structure is for procurement purposes only at this time. This will include a fixed-term Project Manager with project management skills and an understanding of procurement, waste and local government matters. The Senior Waste Officer will be a seconded post for the duration of the procurement or until such time as the management structure is agreed by the Joint Waste Committee. The business case will evolve to show the management structure required for implementing and overseeing the contract in the future.

6.2 There is a high expectation that a single waste contract will bring to the WCAs authorities significant financial savings but this should be viewed with some caution. Waste, Beach and Street Cleaning contract costs are rising significantly (due to fuel costs, operational targets, and inflation): therefore, whilst financial savings will be a key factor, it is important to bear in mind this is equally about costs avoidance. As such the business case will be identifying all areas of costs reductions ranging from depot facilities, unifying services as much as possible, simplifying and amalgamating management costs, and use of IT. All these, and more, will be shaped by the Joint Waste Committee and passed back to each authority's Overview and Scrutiny Committee for consideration before the procurement commences.

6.3 On guidance from IESE, a number of contractors are advising they are unlikely to bid for these joint contracts unless there is clear evidence the authorities are united in the process and will not 'opt out' at the last minute. Therefore, it is likely an inter-authority agreement committing to the process will be required prior to the procurement commencing giving not only confidence to the contractors but clarity of purpose between the authorities.

**Draft - Structure Chart for the East Sussex Waste Partnership for Procurement process**



### Role of the Administering Authority

1. The Administering Authority role will be to administer and support the Joint Committee. The Administering Authority will:
  - appoint a Project Manager (on a fixed-term contract) and Senior Waste Officer (seconded from one of the authorities) to manage the procurement process;
  - provide the support services to the procurement process; legal, finance, printing, HR, etc;
  - appoint the staff to manage the contract once the contractor is appointed and continue to support the Joint Waste Committee in the role of 'overseeing' the contract. The staff structure will be approved by the Joint Waste Committee;
2. Through the business case such issues as to which staff reside within the Administering Authority and which staff reside with each Council will be determined - for instance, contract compliance officers, recycling officers, communications and website management. No decisions will be taken on this until the Joint Waste Committee agree the business case. These points are not the decision of the Administering Authority but of the Joint Waste Committee.
3. In brief it is important to emphasise what the Administering Authority is not:
  - It is not the deciding body on the business case;
  - It is not the deciding body on the waste specification;
  - It does not determine which contractor is appointed.

These issues are all determined by the Joint Waste Committee.