

## LATE REPORT TO CABINET

<b>Open</b>		Would any decisions proposed :		
<b>Any especially affected Wards:</b> <b>All</b>	Operational	(a) Be entirely within Cabinet's powers to decide : YES		
		(b) Need to be recommendations to Council : NO		
		(c) Be partly for recommendations to Council and partly within Cabinet's powers : NO		
Lead Member: Cllr Nick Daubney E-mail: <a href="mailto:Cllr.Nick.Daubney@west-norfolk.gov.uk">Cllr Nick.Daubney@west-norfolk.gov.uk</a>		Other Cabinet Members consulted: Cllr N Daubney		
		Other Members consulted: Cllr B Long		
Lead Officer: Ray Harding E-mail: <a href="mailto:ray.harding@west-norfolk.gov.uk">ray.harding@west-norfolk.gov.uk</a> Direct Dial: 01553 616245		Other Officers consulted: Nicola Leader		
Financial Implications YES	Policy/Personnel Implications NO	Statutory Implications (incl S.17) NO	Equal Opportunities Implications YES	Risk Management Implications YES

**Cabinet Date:** 7 February 2012

### REQUEST TO WAIVE THE COUNCIL'S CONTRACT STANDING ORDERS

#### Summary

This report seeks authority to waive the Council's contract standing orders in order to facilitate the urgent appointment of a firm of solicitors to support the Council's Legal Services Manager. This is a requirement to pursue any legal action which may prove necessary to further the Council's policy of opposition to the incinerator proposal for King's Lynn being promoted by Norfolk County Council and their preferred contractors. This may include work in relation to the recent decision of the Secretary of State (DEFRA) to award PFI credits; the current planning and environmental permit applications, and to assist in presenting a strong case to the Secretary of State (DCLG) seeking a 'call-in' of any decision on the planning application made by the Norfolk County Council.

#### Recommendations:

**Cabinet is requested to agree that Contract Standing Orders are waived to enable the Legal Services Manager to engage one or more firms of solicitors with a specialism in public law and planning matters to assist her work in pursuing the Council's policy in respect of the incinerator proposal.**

#### Reason for Decision

To ensure that the Council has sufficient capacity available to deal with all areas of legal work related to the proposed incinerator.

## 1 Background

1.1 The Borough Council's policy of opposition to the proposed incinerator is well documented. This was reinforced at the Council meeting held on 26 January when officers were instructed to 'formally commence the essential and necessary steps to

apply for a judicial review of that (Secretary of State's decision to award Waste Incineration Credits) decision.'

1.2 In light of the workload associated with giving effect to this decision and the need to simultaneously carefully examine the procedures associated with both the planning application and the environmental permit, and should the necessity arise, to challenge either or both of these procedures, alongside the need to prepare the to support the Council's request to the Secretary of State for arguments to Communities and Local Government to 'call-in' the planning decision for determination, it is considered necessary to procure additional legal support with a specialism in public law and planning related matters to support the work of the Legal Services Manager in this regard.

1.3 In light of the timescales required to pursue any, or potentially all, of these areas of work, and the specialist expertise required, there will not be sufficient time available to go through a full procurement exercise in accordance with the Council's Contract Standing Orders. Members are therefore invited to agree that Contract Standing Orders be waived to enable the Legal Services Manager to urgently appoint suitable experienced solicitors.

## **2 Financial Implications**

2.1 Whilst it is extremely difficult to assess the likely cost involved until each strand of work identified above is undertaken, a conservative estimate of the likely cost is of the order of £50/60,000. This figure may be considerably higher dependent upon the work ultimately required, nevertheless, at the present time it is considered that this can be contained within the budget set aside to deal with issues arising from the proposed incinerator.

## **3 Policy and Personnel**

3.1 Since moving to a commissioning model for Legal Services the Council's capacity to take on additional and unforeseen legal work has been severely curtailed. Consequently when faced with high volumes of complex and contentious work of this nature it will always be necessary to procure additional support to supplement capacity of the Legal Services Manager.

## **4 Risk Management**

4.1 There is a risk that without additional support, in light of the fact that all of these matters are now progressing on overlapping timescales, that the Borough Council will have insufficient capacity to deal fully and comprehensively with each issue.

## **5 Statutory Implications**

5.1 None

## **6 Equal Opportunity Implications**

6.1 The nearest residents to the proposed Saddlebow Incinerator form part of a group with 'protected characteristics' as defined in the Equality Act 2010. The general equality duty requires public authorities, in the exercise of their functions, to have due regard to the needs of such communities.

## **7 Background Papers**

Incinerator file – Chief Executive

“ “ - Legal Services Manager