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**WARM UP NORTH – INTER AUTHORITY AGREEMENT**

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**Responsible Cabinet Member - Councillor Chris McEwan,  
Economy and Regeneration Portfolio**

**Responsible Director – Richard Alty, Director of Place**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To seek Members approval for the terms and conditions of the Inter Authority Agreement (IAA).
2. To seek Members approval for delegated authority for the Director of Resources to sign the IAA on the award of the Warm Up North contract.

**Summary**

3. The Inter Authority Agreement (IAA) sets the terms and conditions to be adopted by all local authority partners as part of a regional partnership called Warm Up North led by Newcastle City Council. The partnership represents the regional response to the Green Deal, an initiative to deliver energy efficiency and carbon reduction measures to domestic homes and non-domestic public buildings.
4. Initially the partnership had five members, namely, Newcastle City Council, Northumberland Council, Durham Council, South Tyneside Council, and Darlington Council. From inception of the partnership, there remained an opportunity for other regional local authorities to become partners in the Warm Up North programme. City of Sunderland Council subsequently became the sixth partner local authority to join the partnership with other local authorities in dialogue with Newcastle City Council.
5. On 3<sup>rd</sup> April 2012, Cabinet approved Darlington’s status as a partner in the Warm Up North programme for the period 2013 for a period of 3 years until 2016 and the terms of membership were set out in a “Memorandum of Understanding”. The Inter Authority Agreement (IAA) formalises the terms and conditions including roles, responsibilities and commitments of the partner authorities, whilst they participate in the Green Deal scheme, led and procured by Newcastle City Council for a delivery partner to provide Green Deal measures across the region.

6. The procurement process of the delivery partner was completed in May 2013 with the award of a contract to a preferred delivery partner by the end of June 2013, and, the commencement of the regional programme in July 2013. The IAA extends the period of the Warm Up North partnership to 5 years until 2018 with an option to extend for a further 3 years subject to funding and performance.

### **Recommendation**

7. It is recommended that
  - a) Members formally authorise the Council's entry into the IAA with the partner authorities as summarised in paragraph 18.
  - (a) The Director of Resources be granted delegated authority to enter into an Inter Agency Agreement within 6 months of the award of the Warm Up North contract between Newcastle City Council and the delivery partner.

### **Reasons**

8. The recommendations are supported by the following reasons :-
  - (a) The Inter Authority Agreement (IAA) follows the same principles as the Memorandum of Understanding approved by Cabinet on 3<sup>rd</sup> April 2012.
  - (b) Procurement through a consortium of local authority partners will deliver the best value for money, and, provide the most cost efficient way of procuring a preferred Green Deal delivery partner.
  - (c) The full procurement costs incurred by Newcastle City Council have yet to be confirmed. However, full procurement costs will be confirmed by Newcastle City Council and approved by the Project Steering Group, in advance of the signing of the IAA.

**Richard Alty, Director of Place**

### **Background Papers**

Cabinet Report dated 6<sup>th</sup> December 2011  
Cabinet Report dated 3<sup>rd</sup> April 2012  
Cabinet report dated 6<sup>th</sup> November 2012

Alan Glew: Extension 2202

S17 Crime and Disorder	Property surveys will be coordinated with an appropriate degree of security check and publicity, to avoid complaints of cold calling. There are no implications for crime and disorder in the delivery of the Warm Up North programme.
Health and Well Being	The Warm Up North programme will play a role in reducing the incidence of cold related illness and the property survey work will identify key areas in need of investment to reduce fuel poverty.
Carbon Impact	The successful delivery of the Warm Up North programme will reduce the carbon footprint of those properties identified for Green Deal improvement works.  The Warm Up North programme will make a significant positive contribution towards the Council's Carbon Management Plan and associated carbon reduction targets.
Diversity	The Warm Up North programme will reduce the impact of fuel poverty and disadvantage for vulnerable people. The Warm Up North programme is open to all eligible residents in Darlington regardless of housing circumstances and tenure.
Wards Affected	All wards are eligible for the Warm Up North programme due to commence in July 2013. All domestic and non-domestic public buildings are eligible for Green Deal measures.
Groups Affected	Domestic householders and owners of non-domestic public buildings.
Budget and Policy Framework	This decision does not affect the Budget and Policy Framework.
Key Decision	This is a key decision because the Warm Up North programme is available across every ward in Darlington and the scale of the works are potentially very significant.
Urgent Decision	This is a not an urgent decision.
One Darlington: Perfectly Placed	The proposed installation of Green Deal measures contributes to the delivery of the Sustainable Community Strategy through each of the theme areas.
Efficiency	Joint procurement of Green Deal benefits through the regional consortium led by Newcastle City Council has delivered considerable procurement and value for money advantages.

## MAIN REPORT

### Information and Analysis

9. The Warm Up North programme is a regional consortium of six local authority partners including Newcastle City Council, City of Sunderland, Northumberland Council, South Tyneside Council, Durham and Darlington. Newcastle City Council have been appointed as the lead local authority partner and have been charged with procuring a preferred delivery partner on behalf of the consortium to deliver Green Deal improvements to domestic and non-domestic public buildings. Green Deal investments include 34 different measures aimed at improving the energy efficiency rating of a building, reducing carbon waste and improving water conservation.
10. The Warm Up North programme as a consortium has an overall target of delivering energy efficiency / carbon reduction measures to at least 15,000 domestic and non-domestic public buildings in the period 2013-2016 to meet its obligations attached to the £1.1M of European funding secured to deliver the programme. Darlington's commitment and target from the programme is to deliver energy efficiency / carbon reduction measures to a minimum of 1500 domestic or non-domestic public buildings over the period 2013-2016.
11. The risk of not delivering against the 15,000 property consortium target, is a shared risk, with "clawback" liability of any European funding being capped at £110,000 (50% Newcastle Council and the remaining 50% shared between the other five partners). As and when further local authorities join the consortium, this clawback liability will be reduced proportionately. The consortium through the Project Steering Group, will manage the overall delivery of the 15,000 properties, with individual local authority partners able to address any slippage in any one local authority area by increasing their individual property numbers in their locality.
12. Newcastle City Council hosted a seminar event attended by over 100 organisations and consortia to bid for the regional Green Deal contract. After a robust procurement process and entering into competitive dialogue, two consortia have been invited to make final tender bid submissions for the contract. Newcastle City Council concluded the procurement process in May 2013 with an anticipated award of contract by the end of June 2013 to facilitate a commencement of Green Deal measures in July 2013.
13. The Inter Authority Agreement (IAA) together with the associated delivery partner agreement between Newcastle City Council, as lead authority and the Green Deal delivery partner sets out all of the terms and conditions applicable to the regional local authority partners in the Green Deal programme. The IAA also provides information in respect of the future governance arrangements with the programme being closely monitored and managed through a Project Steering Group whose membership will include each of the local authority partners and the appointed delivery partner.

14. The IAA will expire on the termination of the agreement between Newcastle City Council and the delivery partner, which has an initial term of 5 years commencing in July 2013 with the option of a further 3 year extension subject to available funding and delivery partner performance.
15. The IAA stipulates the basis on which the full procurement costs incurred by Newcastle City Council will be shared which are 50% by Newcastle City Council and the remaining 50% to be shared equally between the remaining five local authority partners (should further local authorities join the partnership the 50% contribution not payable by Newcastle City Council would be reduced proportionately). The full and final costs of the procurement process have yet to be confirmed (due to be confirmed and agreed in advance of the signing of the IAA), but, on 6<sup>th</sup> November 2011, Cabinet did approve an initial release of £50k towards these costs which may be recoverable from the Delivery partner depending upon the success of the programme. There are no further cost implications for the Council in respect of procurement costs for the overall programme.
16. On 3<sup>rd</sup> April 2012, Cabinet approved the release of up to £5M of prudential borrowing to finance Green Deal investment works. However, this was in advance of the establishment of the Green Deal Finance Company offering an alternative means of financing Green Deal investment. As the Green Deal Finance Company has now been established, it is anticipated that Green Deal investment works will be financed initially by both the Green Deal Finance Company and / or Energy Company Obligation (ECO) funding, with the Prudential borrowing only being utilised should no other finance be available and / or other vulnerable households do not qualify for assistance under the existing funding framework.
17. On 6<sup>th</sup> November 2012, Cabinet approved the release of £130k of Department of Energy and Climate Change (DECC) grant funding to deliver a pilot Green Deal investment programme for 22 local authority dwellings. On 6<sup>th</sup> November 2012, Cabinet also approved the release of £140k of residual Single Housing Investment Programme (SHIP3) funding to undertake Green Deal property surveys to identify the scale and scope of any Green Deal works required to prioritised properties in the Borough. These property surveys will help deliver an accelerated start for the delivery partner towards delivering Green Deal improvements to at least 1500 properties across the Borough in the first three years of the programme up to 2016.
18. In summary, the IAA sets out the terms and conditions of the partnership agreement which are outlined in brief below;
  - (a) In entering the IAA, the partner authorities, including Darlington Borough Council confirm agreement for Newcastle City Council, as lead authority to enter into an agreement with a Green Deal delivery partner for the provision of Green Deal measures on their behalf.

- (b) The costs associated with the procurement of the delivery partner (nett of any grants received) are shared on the basis of 50% Newcastle City Council, 50% shared equally between all other local authority partners. The cost liability for Darlington Borough Council is proportionately reduced by the inclusion of new partner local authorities under the terms of the IAA and will be subject to formal approval of the Project Steering Group before the IAA is signed.
- (c) The Warm Up North partnership will be operational for a period of five years from 2013 to 2018 with an option to extend for a further three years. This is subject to the availability of continuing funding from the Green Deal Finance Company or an alternative source of funding identified by the Project Steering Group.
- (d) The IAA provides exclusivity for the delivery partner for any Green Deal financed works across the local authority areas covered by the Warm Up North partnership unless it can be demonstrated that they do not provide the most competitive offer.
- (e) The IAA provides endorsement obligations on the parties. The Council will be obliged to exclusively endorse and support the delivery partner in the provision of the Green Deal services.
- (f) The IAA sets out the terms and conditions of individual or collective local authorities exiting the partnership and the role of the Project Steering Group in executing such an arrangement.
- (g) The IAA confirms Newcastle City Council as the lead local authority in the Warm Up North partnership and seeks the costs of this continuing role and the monitoring of the contract, from the delivery partner.
- (h) The IAA, together with the associated agreement between the lead authority and the delivery partner should protect against the miss-selling services by the preferred delivery partner, as this should constitute a breach of the agreement by the delivery partner.
- (i) The entering into the IAA is in accordance with the Council's contract procedure rules. Within the IAA, Newcastle City Council confirms that that the procurement of the Green Deal delivery partner is in accordance with the applicable law and their contract procedure rules, therefore protecting the Council from any potential procurement challenges.
- (j) Individual local authority partners will be required to meet their own associated costs in relation to any claim against the delivery partner which falls within their geographic area with Newcastle City Council acting as the conduit for such a claim.

## **Financial Implications**

19. The full costs of the procurement process will be agreed by the Project Steering Group in advance of the signing of the IAA. On 6<sup>th</sup> December 2011, Cabinet approved the release of £50k from Darlington towards the full procurement costs incurred by the lead authority, Newcastle City Council. These costs may be recovered from the Delivery partner depending upon the success of the programme. No additional procurement cost liabilities have been identified for Darlington, so, no further funding is sought from Darlington or any of the other consortium local authority partners.
20. On 3<sup>rd</sup> April 2012, Cabinet approved the release of up to £5m of Prudential borrowing to help finance Green Deal measures, subject to compliance with state aid requirements. Following the successful establishment of the Green Deal Finance Company and the existing availability of Energy Company Obligation (ECO) funding from utility providers, it is anticipated that the Prudential borrowing route of financing Green Deal works will only be explored in the absence of Green Deal Finance Company investment and / or ECO funding. Should Prudential borrowing be required, this will be subject to a separate Cabinet report and following consideration as to whether state aid rules allow the Council to fund the arrangements.

## **On going Eligible Expenditure**

21. Individual local authority partners will be required to meet their own associated costs in relation to any claim against the delivery partner which falls within their geographic area with Newcastle City Council acting as the conduit for such a claim.
22. Consideration within the IAA has been given in respect of the risk of miss-selling by the preferred delivery partner, any risk of procurement challenge following the award of the Warm Up North contract, and, any financial risks associated with a claim against the preferred delivery partner in respect of Green Deal works undertaken as part of the Warm Up North contract in Darlington.

## **Legal Implications**

23. Under the IAA, the Green Deal services are to be funded through the Green Deal Finance Company and Energy Company Obligation (ECO) funding. If the company ceases and/or funding becomes unavailable the delivery partner and the partner authorities are to meet to see if an agreement can be reached in respect of alternative finance arrangements. There is no obligation on the Council to make alternative finance arrangements. If the Council wishes to provide alternative finance, including that obtained by way of prudential borrowing, further consideration in respect of potential state aid implications should be given.

## **Corporate Landlord Advice**

24. The implications for the Corporate Landlord relate to the identification and prioritisation of any non-domestic public buildings that benefit from Green Deal measures through this contract. Any non-domestic public buildings identified will be

agreed with the Corporate Landlord and the impact on any existing lease arrangements will be collectively considered and evaluated.

### **Procurement Advice**

25. The Warm Up North preferred delivery partner will be procured in accordance with standard approved public sector procurement legislation. Newcastle City Council are the lead local authority partner and have consulted with the respective Procurement Teams in each of the partner authorities in concluding the procurement process.

### **Equalities Considerations**

26. The Warm Up North programme is available to all domestic householders and owners of non-domestic public buildings without prejudice.

### **Consultation**

27. Consultation has been undertaken with Registered Providers of social housing in Darlington through special forum events held by Newcastle City Council, and, the Tenants Board received a Green Deal presentation on September 2012.

### **Outcome of Consultation**

28. Registered Providers in Darlington have identified some properties for which they are seeking Green Deal investment. The Tenants Board advised that there was limited scope for Green Deal investment within Darlington Borough Council's retained housing stock because of the measures already delivered through the annual housing investment programme.