

2008 No. 2038

LONDON GOVERNMENT

The London Waste and Recycling Board Order 2008

Made - - - - *23rd July 2008*

Coming into force in accordance with article 1

CONTENTS

PART 1

Introduction

1. Title and commencement
2. Interpretation

PART 2

Membership of the Board

3. Members of the Board
4. Mayor's representative
5. Relevant experience and knowledge
6. Terms of appointment and tenure
7. Allowances and expenses

PART 3

Proceedings of the Board etc.

8. Committees
9. Procedure of the Board
10. Validity of proceedings
11. Registration and disclosure of members' interests
12. Delegation
13. Staffing

PART 4

Provision of information etc.

14. Annual report
15. Board priorities and provision of financial assistance
16. Provision of information to the Secretary of State
17. Provision of information to the public

18. Public access to meetings

PART 5 Funds and auditing

19. Fund
20. Financial administration
21. Amendment to the Audit Commission Act 1998 and Greater London Authority Act 1999

The Secretary of State makes the following Order in exercise of the powers conferred by sections 60A(5), 356B(1) and 405(1) of the Greater London Authority Act 1999(a).

In accordance with section 420(3) of that Act, a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament.

PART 1 Introduction

Title and commencement

1. This Order—
 - (a) may be cited as the London Waste and Recycling Board Order 2008; and
 - (b) comes into force the day after this Order is made.

Interpretation

2. In this Order—
 - “the Board” means the London Waste and Recycling Board;
 - “the London councils” means the London borough councils and the Common Council, acting jointly;
 - “council members” has the meaning given by article 3(1)(b);
 - “independent members” has the meaning given by article 3(1)(c);
 - “Mayor’s representative” has the meaning given by article 4(1).

PART 2 Membership of the Board

Members of the Board

- 3.—(1) The Board shall comprise the following members—
 - (a) the Mayor who shall be the chair of the Board;
 - (b) four elected members of any London borough council or the Common Council appointed by the London councils (“council members”);

(a) 1999 c. 29. Section 60A(5) was inserted by section 4(1) of the Greater London Authority Act 2007 (c. 24) and section 356B was inserted by section 38(1) of that Act.

- (c) two persons appointed by the London councils and one person appointed by the Mayor (“independent members”).

This is subject to paragraphs (2) and (3) and article 4.

(2) The London councils must ensure that, at any given time, no two or more council members are from the same London borough council or the Common Council.

(3) The London councils or the Mayor may not appoint any person as an independent member if that person is an elected member of any London borough council or the Common Council.

Mayor’s representative

4.—(1) The Mayor may appoint a person (“Mayor’s representative”) to be the chair of the Board on the Mayor’s behalf.

(2) But the Mayor may not appoint any person as the Mayor’s representative who is—

- (a) an existing member of the Board; or
- (b) an elected member of any London borough council or the Common Council.

(3) Where the Mayor appoints a representative under paragraph (1) that person shall replace the Mayor as a member of the Board.

(4) The Mayor’s representative shall hold and vacate office in accordance with such terms and conditions as are determined by the Mayor.

This is subject to paragraphs (5), (6) and (7).

(5) Where the Mayor’s representative becomes an elected member of a London borough council or the Common Council, that person ceases to be the Mayor’s representative.

(6) Where a person ceases to hold office as Mayor any person appointed as the Mayor’s representative ceases to hold that position unless their appointment is confirmed by the subsequent Mayor.

(7) The Mayor may remove any person appointed under paragraph (1) where that person—

- (a) has been absent from the meetings of the Board for more than 6 months without the permission of the Mayor;
- (b) becomes bankrupt or makes an arrangement with creditors or (in Scotland) that person’s estate has been sequestrated; or
- (c) in the opinion of the Mayor, has become unable, unfit or unsuitable to carry out that person’s duties.

(8) Article 6 does not apply in relation to the Mayor’s representative.

Relevant experience and knowledge

5. The Mayor and the London councils must, in appointing members of the Board (including the Mayor’s representative), have regard to the desirability of securing that they have, between them, experience in or knowledge of—

- (a) the prevention, minimization, recycling, treatment, disposal and transportation of waste;
- (b) the provision of waste collection and disposal services;
- (c) the town and country planning system;
- (d) quality assurance;
- (e) the requirements of different waste producers in respect of the treatment, collection and disposal of waste;
- (f) service and capital project procurement and delivery in the public and the private sector;
- (g) environmental protection.

Terms of appointment and tenure

6.—(1) The Board members shall hold and vacate office in accordance with such terms and conditions as are determined by the Mayor with the consent of the London councils (subject to this Order).

(2) The term of office of any Board member, other than the chair, must not exceed 4 years.

(3) A person who has held office as a council member or independent member may be re-appointed once only for a further period (whether consecutive or not) not exceeding 4 years.

(4) The London councils may remove any council member or independent member appointed by them from the Board if that member—

- (a) has been absent from the meetings of the Board for more than 6 months without the permission of the Board;
- (b) becomes bankrupt or makes an arrangement with creditors or (in Scotland) that member's estate has been sequestrated; or
- (c) in their opinion, has become unable, unfit or unsuitable to carry out that member's duties.

(5) The Mayor may remove any independent member appointed by the Mayor from the Board if that member—

- (a) has been absent from the meetings of the Board for more than 6 months without the permission of the Board;
- (b) becomes bankrupt or makes an arrangement with creditors or (in Scotland) that member's estate has been sequestrated; or
- (c) in the opinion of the Mayor, has become unable, unfit or unsuitable to carry out that member's duties.

(6) Where a council member ceases to be an elected member of a London borough council or the Common Council, that person ceases to be a member of the Board.

(7) Where an independent member becomes an elected member of a London borough council or the Common Council, that person ceases to be a member of the Board.

(8) Where a person ceases to hold office as Mayor—

- (a) that person ceases to be a member of the Board; and
- (b) any independent member appointed by that person ceases to be a member of the Board unless their appointment is confirmed by the subsequent Mayor.

Allowances and expenses

7. The Board may pay to its members and committee members—

- (a) such allowances as are determined by the Mayor with the consent of the London councils; and
- (b) any expenses properly incurred by them in carrying out the Board's business.

PART 3

Proceedings of the Board etc.

Committees

8.—(1) The Board may establish committees.

(2) Any such committee—

- (a) must not include the chair of the Board;
- (b) may include members who are not members of the Board.

Procedure of the Board

- 9.—(1) Subject to paragraph (2), the Board may—
- (a) determine its own procedure (including quorum); and
 - (b) determine the procedure (including quorum) of any of its committees.
- (2) On any vote by the Board the chair has an additional, casting vote in the event of a tie.

Validity of proceedings

- 10.—(1) The validity of any proceedings of the Board shall not be affected—
- (a) by a vacancy amongst the council members or independent members; or
 - (b) by a defect in the appointment or any disqualification of a person as a council member or independent member.
- (2) The validity of any proceedings of the Board shall not be affected—
- (a) by a vacancy in the office of chair, or
 - (b) by a defect in the appointment or any disqualification of a person as chair,
- if those proceedings are conducted with the consent of the Secretary of State.
- (3) The Secretary of State may, before granting such consent, require a chair to be appointed for the purposes of those proceedings from amongst either the council members or the independent members as the Secretary of State shall determine.

Registration and disclosure of members' interests

- 11.—(1) The Board must establish and maintain a system for the declaration and registration of private interests of its members.
- (2) A member of the Board must immediately disclose any direct or indirect interest in any matter proposed or discussed by the Board.
- (3) The disclosure must be recorded in the minutes of the Board.
- (4) A member who is directly interested in any matter may not take part in any discussions or decisions of the Board.
- (5) But if the Mayor and the London councils consider that the number of members directly interested in any matter is such as to impede the transaction of business, the Mayor and the London councils may agree to direct the Board that the restriction imposed by paragraph (4) does not apply; and the direction must be in writing and may be subject to such conditions as the Mayor and the London councils consider necessary.
- (6) Nothing in this article precludes a member from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Mayor and the London councils for the exercise of the power conferred by paragraph (5).
- (7) Any reference in this article to the Board includes any committee of the Board.

Delegation

12. The Board may authorise any of the following to exercise, on its behalf, such of its functions, in such circumstances, as it may determine—
- (a) the chair or any other member of the Board;
 - (b) a committee of the Board; or
 - (c) an employee appointed under article 13.

Staffing

13. The Board may appoint such employees as it determines, and may pay to them such remuneration and other allowances, and make such provision for pensions, as it determines.

PART 4

Provision of information etc.

Annual report

14.—(1) For each financial year, the Board must—

- (a) prepare an annual report on how it has discharged its functions during the year; and
- (b) send a copy of the report to the London borough councils, the Common Council and the Secretary of State.

(2) In this article, “financial year” means—

- (a) the period beginning with the day on which the Board is established and ending with the next 31st March; and
- (b) each subsequent period of 12 months ending with 31st March.

Board priorities and provision of financial assistance

15.—(1) The Board must, by 31st March each year, prepare and publish a document setting out how it will meet its objectives in the following 12 month period, including—

- (a) its priorities for that period; and
- (b) its strategy for the provision of financial assistance to any person during that period for the purposes of—
 - (i) the provision of facilities for or in connection with the collection, treatment or disposal of waste produced in Greater London;
 - (ii) conducting research into new technologies or techniques for the collection, treatment or disposal of waste; or
 - (iii) securing, or assisting in securing, the performance of any function of a London borough council or the Common Council relating to waste.

(2) If the Board wishes to provide financial assistance to any person for any of the purposes in paragraph (1)(b) before 1st April 2009, it must, before doing so, prepare and publish a document containing the information in paragraph (1) for the period to 1st April 2009.

Provision of information to the Secretary of State

16. The Board must provide the Secretary of State with such information as the Secretary of State requires relating to the discharge or proposed discharge of the Board’s functions.

Provision of information to the public

17.—(1) The Board must make the following available for inspection by the public, free of charge, at all reasonable times—

- (a) the document referred to in article 15;
- (b) annual reports of the Board;
- (c) approved minutes of Board and committee meetings;
- (d) details of the remuneration of Board members;
- (e) a list of Board and committee members;

- (f) the register of Board and committee members' interests;
- (g) the dates of Board meetings and the agendas for those meetings.

(2) Any person who requests it must be provided with a copy of, or extract from, any document in paragraph (1) on payment of a reasonable charge.

Public access to meetings

18.—(1) A meeting of the Board must be open to the public.

This is subject to paragraphs (2) and (3).

(2) The Board must exclude the public from a meeting during an item of business if, during that item, confidential information may be disclosed to the public in breach of the obligation of confidence.

(3) The Board may exclude the public from a meeting during an item of business if, during that item, any of the following information may be disclosed to the public and the Board considers that in all the circumstances of the case the public interest in preventing disclosure of the information outweighs the public interest in disclosure of the information—

- (a) information relating to any individual;
- (b) information which is likely to reveal the identity of an individual;
- (c) information relating to the financial or business affairs of any particular person;
- (d) commercially sensitive information;
- (e) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any employment matter arising between the Board and any employee; or
- (f) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(4) In this article, “confidential information” means—

- (a) information provided to the Board by a Government department upon terms that prohibit the disclosure of the information to the public, and
- (b) information that may not be disclosed to the public by virtue of any enactment, rule of law or order of the court,

and, in each case, the reference to the obligation of confidence is to be construed accordingly.

(5) This article is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

(6) Any reference in this article to the Board includes any committee of the Board.

PART 5

Funds and auditing

Fund

19. The Board must—

- (a) keep a fund (to be known as the general fund) to which all income of the Board must be carried, and from which all expenditure discharging liabilities must be met; and
- (b) keep accounts of income and expenditure of the general fund.

Financial administration

20. The Board must make arrangements for the proper administration of its financial affairs and appoint a person to be responsible for the administration of those affairs and keeping the accounts of the Board.

Amendment to the Audit Commission Act 1998 and the Greater London Authority Act 1999

21.—(1) In Schedule 2 to the Audit Commission Act 1998(a) (accounts subject to audit), in paragraph 1, after sub-paragraph (bd) add—

“(be) the London Waste and Recycling Board;”.

(2) In section 60A(3) of the Greater London Authority Act 1999 (confirmation hearings etc for certain appointments by the Mayor), immediately after the entry relating to the chairman of the London Fire and Emergency Planning Authority, add—

“Mayor’s representative as chair of the London Waste and Recycling Board (see section 356A below and article 4 of the London Waste and Recycling Board Order 2008);”.

23rd July 2008

Joan Ruddock
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) 1998 c. 18.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision as to the constitution and procedures of the London Waste and Recycling Board established under section 356A of the Greater London Authority Act 1999 (c. 29).

Articles 3 to 7 set out provisions relating to the members of the Board, including the Mayor's power to appoint a representative to take the Mayor's place as chair of the Board (article 4), the relevant experience and knowledge of Board members (article 5), terms of appointment and tenure of office (article 6) and the payment of allowances and expenses to Board members (article 7).

Articles 8 to 13 provide for proceedings of the Board and staffing, including the establishment of committees (article 8), validity of proceedings (article 10), disclosure of members' interests (article 11) and delegation of Board functions (article 12).

Articles 14 to 18 provide for the provision of information, including a requirement for the Board to prepare an annual report (article 14) and to publish a document each year setting out how it will meet its objectives (article 15). Article 18 requires Board meetings normally to be open to the public.

Article 19 requires the Board to keep a general fund and article 21 inserts the Board into Schedule 2 to the Audit Commission Act 1998 (c. 18) so that it becomes a body subject to audit under that Act. Article 21 also inserts the appointment by the Mayor of a person to chair the Board into section 60A(3) of the Greater London Authority Act 1999 so that the Mayor must undertake the confirmation process set out in Schedule 4A to that Act before making the appointment.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

2008 No. 2038

LONDON GOVERNMENT

The London Waste and Recycling Board Order 2008

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