



Local Authority Recycling Advisory Committee

Local Authority Waste Funding & Governance Team  
Defra  
Area 6C, Ergon House  
Horseferry Road  
London  
SW1P 2AL

06<sup>th</sup> June 2008

Dear Sir or Madam,

**Consultation on proposals for joint waste authorities in England**

I am writing to present the LARAC response to the Joint Waste Authority Consultation, and I thank you for the opportunity to respond.

The comments below are sent on behalf of the Local Authority Recycling Advisory Committee (LARAC). LARAC is an association of well over 400 local authorities across England, Scotland Wales and Northern Ireland whose waste management and recycling professionals' co-ordinate and operate waste management services. Membership is drawn from all types of authority including statutory Waste Collection (WCA), Waste Disposal (WDA) and Unitary.

Below is set out LARAC's comments to the questions as requested in the consultation.

If you have any queries on this response or would like to discuss the matter further then please contact me on 01743 210712 or [mark.foxall@shropshire.gov.uk](mailto:mark.foxall@shropshire.gov.uk)

Yours faithfully,

Mark Foxall  
LARAC Policy Team



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## **LARAC Response to the Consultation on Proposals for Joint Waste Authorities in England**

Draft Joint Waste Authority (Proposals) Regulations 2008  
Draft Guidance on Proposals for Joint Waste Authorities in England

### **Question 1: do you think there are additional aims that a proposal for a JWA should seek to achieve?**

Yes

Whilst not a mandatory requirement as a consequence of forming a JWA, commonality of service across JWA areas should be encouraged. Wording could be added within the guidance to encourage this.

Additionally, the formation of a JWA should aim to not inhibit community/SME sector involvement in the provision of waste services.

### **Question 2: are there statutory duties and responsibilities associated with the waste functions above (paragraphs 26-28) which you think need to be expanded on, or included, in the guidance?**

Larac is not aware of statutory duties or responsibilities that are not already included.

However, LARAC regrets the decision not to provide JWAs with precepting powers. Waste collection is a high profile service often the most valued by residents, but with the least awareness of the true costs of collection and disposal. Precepting would enable the true costs of this function to be identified and understood.

Other duties and responsibilities which need further clarification or detail relate to:

- Powers and responsibilities relating to enforcement – Councils may have established enforcement teams covering a wider range of duties than Parts 2 and 4 of the Environmental Protection Act 1990, including aspects of Clean Neighbourhoods and Environment Act 2005. The extent and range of enforcement powers needs to be clarified including Fixed Penalty powers etc.
- Responsibilities and liabilities for historic landfill operations and subsequent contaminated land obligations for sites previously owned/operated by local authorities.
- Where accepting Litter Authority responsibilities, the monitoring of performance and local environmental quality (i.e. NI 195/196).



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Clarification as to the extent of all related responsibilities (i.e. hazardous waste collection, Household Waste and Recycling Centres

- (Civic Amenity Sites), abandoned vehicles, agency agreements) – a definitive list of all consequential obligations.
- Financial management and audit issues, Monitoring Officer and Section 151 obligations, Standards, Constitution, contract rules etc.

However Larac also suggests the inclusion of a catch all sentence to cover further potential duties and responsibilities that are not prescribed.

**Question 3: what is your preferred option for voting arrangements in JWAs taking on the waste collection function? Why?**

Option 3 preferred – constituent authorities are the best placed to decide upon what they key issues are according to their local circumstances. It is however foreseeable that the constituent authorities might not agree upon what the key issues are and what the voting arrangements should be. Some central guidance/framework would be helpful, provided it is not too prescriptive, some guidance upon arbitration might also be beneficial.

**Question 4: if you prefer option 1 what key issues do you think should be subject to unanimity voting?**

Not applicable

**Question 5: do you agree with the information that must be included in a proposal? Is anything missing?**

Larac's opinion is that the list of details that must be included within the proposal is reasonably sufficient with the below exceptions. Suggested additional information could include:

- Proposed management organogram outlining the Authority's likely structure.
- Identification of cost liabilities as may relate to redundancies salary protection etc. and who will be liable, the existing authorities, new unitaries or the JWA.
- An assessment of the impact on each constituent authority of removal of the waste management related functions – loss of critical mass and how this will affect the remaining entity.



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- An outline 'transfer strategy' to ensure business continuity and retention of skills.
- A summary joint waste management plan.

Additionally, Larac would prefer a tightening to the wording, for instance, the words estimation and indication should be deleted. The eventuality of forming a JWA might mean that staff numbers do not match exactly that proposed for a variety of reasons. However at the proposal stage it should be necessary to be specific regarding the number of posts and redundancies foreseen for day 1 of operation of the JWA.

**Question 6: do you have non-complex contracts above this threshold or only exceed the threshold due to cumulation, e.g. framework contracts?**

This question is not applicable to Larac.

**Question 7: do you agree with the proposed threshold of £139,893 per annum? If not, what alternative threshold, if any, do you suggest and why?**

If the proposed threshold of £139,893 per annum complies with the Public Contracts Regulation, Larac agrees that this figure should be used at the proposal submission stage.

**Question 8: does the draft guidance need to include any additional detail on PFI credits in relation to JWAs?**

Yes - the guidance for this aspect seems brief compared to the complexity of the PFI process and potential value of PFI credit funded contracts. What should also be expressed within the guidance is; what the likely outcome would be, should a JWA apply jointly for PFI credits if one of the constituent authorities has previously been granted PFI funding.

**Question 9: what other issues would you like to see addressed in the financing section of the draft guidance?**

Larac has concern over the content of paragraph 55 within the draft guidance. Revenue support grant previously allocated for waste management could be diverted away from the waste function under the guidance proposed. This would be to the detriment of the constituent WCA's.



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**Question 10: are there any LATS-related issues that local authorities developing a proposal for a JWA need further guidance on?**

Financial consequences arising from LATS liabilities could be quite devastating to a WCA bearing in mind their relatively smaller budget in comparison to that of a WDA.

Whilst the example of Somerset is used in the draft guidance it is not stated whether or not this is a preferred approach. Defra should establish what its preferred method is for apportionment of LATS liabilities within JWA's and include this within the guidance.

**Question 11: is further detail needed on waste reporting in the draft guidance? If so, on what issues in particular?**

It is recognised that the new reporting regime has reduced the number of indicators recorded and therefore one would assume that the process has been simplified. However, the new reporting regime only became operational from 1<sup>st</sup> April 2008 and so it is difficult at this stage to determine whether the detail provided is sufficient.

Within a county area, a JWA might comprise of only some of the WCA's, therefore Waste Data Flow may need adjusting to record this information accurately.

Currently the legal requirement to provide waste data through Waste Data Flow rests upon the WDA with potential penalties for non reporting placed upon WDA's. With the formation of JWA's, one would assume that waste data collection should be facilitated. However, what is proposed for apportionment of any penalties within JWA's in the event of non compliance?

**Question 12: do you agree with the proposal to align the ethical regime of joint waste authorities with that of other local authorities and similar bodies as indicated above (paragraph 64)?**

Yes – Larac agrees

**Question 13: in the guidance on proposals for joint waste authorities do you want information on:**

**a. LAAs, MAAs and the CAA**



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**b. Any combination of the above (please specify)**

**c. None of the above**

**d. Other (please specify)**

This question is not particularly relevant to Larac. However if further information can be provided on all of these aspects then it would be beneficial to those authorities considering becoming a JWA.

**Question 14: do you agree that provisions to this effect are included in the final Regulations or statutory guidance?**

Yes - Larac agrees

**Question 15: do you agree that proposals for JWAs should be accompanied by a letter from the Leader of the Councils party to the proposal?**

Yes – Larac agrees and this should be for each of the constituent authorities in the proposed JWA.