Contents

Introduction

Section 1 – Local Government and Public Involvement in Health Act 2007

Section 2 - Statutory guidance on what proposals should seek to achieve and the matters authorities should take into account in making proposals

Section 3 - Draft Joint Waste Authorities (Proposals) Regulations 2008

Section 4 – General issues relating to proposals for joint waste authorities
Introduction

1. This draft guidance consists of:
   a. an explanation of the relevant legislation (non-statutory guidance) including:
      i. the Local Government and Public Involvement in Health Act 2007\(^1\) (the Act), which sets out the powers to establish joint waste authorities (section 1);
      ii. the draft Joint Waste Authorities (Proposals) Regulations 2008 (section 3);
      iii. general issues relating to proposals for joint waste authorities (section 4);
   b. statutory guidance in accordance with section 205(7) of the Act 2007 (section 2).

2. This guidance applies to England only. Guidance on the consequential amendments relating to joint waste authorities (Schedule 13 of the Act) will be included in the final package of guidance.

Benefits of joint waste authorities

3. The key advantage of joint waste authorities over other partnership models is that they will have corporate body status. This allows them to employ their own staff and enter into contracts in their own right (on behalf of member authorities), thus removing the need for one constituent authority to act as an ‘administering’ or ‘contracting’ authority and taking responsibility for all the liabilities and legal risks associated with that.

4. Joint waste authorities will be statutory bodies, recognised by the Secretary of State. Established by Order they can only be dissolved in limited circumstances thus giving them a structural stability that will appeal to the waste management industry and potential investors. Joint waste authorities will also be ‘named partners’ in the local government performance framework giving them a statutory role in the negotiation and delivery of LAAs.

5. Joint waste authorities will take on the statutory reporting requirements associated with the waste function/s they discharge. Thus local authority boundaries will not need to be respected when delivering waste management services, for the purposes of data collection and reporting, thus providing opportunities for efficiencies.

Assessment of proposals for joint waste authorities

6. The assessment of proposals for a joint waste authority will primarily be based on whether they meet the requirements of the Regulations and the statutory guidance.

7. Government is particularly keen to encourage the integration of waste collection and disposal services in two-tier areas. While we would not wish waste collection authorities to miss out on opportunities to realise efficiencies proposals for collection-only JWAs in two-tier areas will need to justify why involvement of their waste disposal authority in the establishment of the JWA is not appropriate and demonstrate what engagement there has been with the waste disposal authority on the development of the proposals.

8. It is essential that the decision to establish a joint waste authority, and the work to develop and implement a proposal for one, has support from all the relevant areas (e.g. HR, finance, legal) within constituent authorities and that there is political endorsement at the highest level. Proposals to the Secretary of State should be accompanied by a letter of endorsement by the leaders of all the authorities that are party to a proposal.

Implementation of proposals for joint waste authorities

9. Successful proposals for joint waste authorities will be implemented by secondary legislation (Orders). These Orders will be subject to affirmative Parliamentary procedure. There may be a Parliamentary debate on the draft Order. Parliament can reject or approve an Order under these procedures but cannot make amendments.
Section 1 – Local Government and Public Involvement in Health Act 2007

10. Part 11 of the Act contains the provisions regarding joint waste authorities. Section 205 allows two or more local waste authorities to apply to the Secretary of State to establish a joint waste authority (JWA) to discharge some, or all, of their waste functions. It is up to local waste authorities to decide which of their waste functions (collection, disposal and/or street cleansing) they wish to transfer to a JWA. JWAs will be corporate bodies, governed by elected members from the constituent authorities.

11. Section 206 requires local waste authorities to take reasonable steps to consult local residents and other interested parties on any draft proposals for JWAs before submitting them to the Secretary of State.

12. Section 207 of the Act allows the Secretary of State to implement successful proposals by Order (secondary legislation) with or without modifications. The Secretary of State’s power to modify does not extend to including areas or functions that are not specified in a proposal.

13. In accordance with section 207(5) joint waste authorities can only be dissolved where all the constituent authorities agree to do so or where the Secretary of State considers it is necessary to do so. The Secretary of State also has the power to exclude functions from a JWA once it is operational.

14. Under section 205(5) Secretary of State may make Regulations to make provisions as to matters to be included in a proposal and information that must accompany a proposal. The Secretary of State may also issue guidance (this is set out in section 2) as to what a proposal should seek to achieve and matters that should be taken into account in formulating a proposal. Local authorities are obliged to have regard to any such guidance issued by the Secretary of State in making their proposals.

15. The Act also sets out, in sections 209 and Schedule 13, other legislative provisions that will apply to joint waste authorities. Part 1 of Schedule 13 sets out the legislative provisions for governance arrangements of JWAs while Part 2 aligns JWAs with other similar local government bodies for the purposes of auditing etc.

Who can make a proposal

16. Two or more local waste authorities can submit a proposal for a JWA. Only local authorities that are local waste authorities for the area specified in the proposal (i.e. they currently have one or more of the waste functions specified in the proposal) can make a proposal and a proposal may not be made if there is a local authority for the whole of the specified area which has all of the specified functions.
17. Applications for only a subset of authorities in a two-tier area will be considered on their own merits. Joint waste authorities could also be established across county boundaries, although this may be more complicated to achieve than other JWAs. However, while it is recognised that the division of responsibilities between the waste disposal and collection authorities in two-tier areas can make sustainable waste management more difficult integrated working is essential for effective and efficient services. Government expects authorities in two-tier areas to consider joint working initiatives that integrate collection and disposal functions and services as a priority.

**What functions can be transferred?**

18. Local waste authorities may choose which ‘waste functions’ will be transferred to a JWA. Proposals will need to specify which ‘waste functions’ each member authority wishes to transfer to the JWA. The three waste functions which may be transferred from the relevant authorities to a JWA are set out in section 205(8) of the Act, these are:

   a. Part 2 of the Environmental Protection Act 1990 (c.43) (waste on land)
   b. Part 4 of that Act (litter etc)

19. Authorities can transfer some or all of these functions to a JWA. However, it should be noted that the entire waste function is transferred to the JWA such that JWAs will be operational bodies. For example, waste collection and disposal functions cannot be transferred to a JWA for only limited activities, e.g. strategic and commissioning role. The JWA takes on the whole waste function, e.g. for waste collection this would include delivery of collection services. Authorities wishing to establish joint working arrangements for only limited aspects of waste functions should consider alternative partnership models.
Section 2 – Statutory guidance on what proposals should seek to achieve and the matters authorities should take into account in making proposals

20. This section is statutory guidance made under section 205(7) of the Act and local authorities must have regard to this guidance in making a proposal for a joint waste authority in England. This statutory guidance sets out:

   (a) what a proposal should seek to achieve;
   (b) matters that should be taken into account in formulating a proposal.

What proposals for a joint waste authority should seek to achieve

21. A proposal for a joint waste authority should seek to modernise and improve waste services through the integration of services across the area such that economies of scale allow efficiencies to be delivered to member authorities and improved services to residents. Local authorities should also consider how the establishment of a JWA can contribute to the wider sustainability/carbon agenda. Proposals should also ensure that a proposed JWA will maintain or improve:

   a. performance against local waste authority statutory obligations for that area, e.g. LATS;
   b. the quality of waste management services delivered to residents at affordable cost;
   c. responsiveness to local issues, e.g. litter.

Matters authorities must take into account when making a proposal for a joint waste authority

Landfill Allowance Trading Scheme

22. Under the Landfill Allowance Trading Scheme tradable landfill allowances have been allocated to waste disposal authorities. These allowances convey the right for a WDA to landfill a certain amount of biodegradable municipal waste (BMW) in a specified scheme year.

23. Where it is proposed to transfer waste disposal functions to the joint waste authority, the LATS allowances of the constituent authorities will be transferred to that JWA by virtue of section 209 of the Act. Where two or more waste disposal authorities propose to discharge their waste disposal functions to a JWA their LATS allowances will be pooled in the JWA.

24. The JWA will therefore be liable for any financial penalties or fines as a result of non-compliance with LATS. Constituent authorities of such a JWA
will therefore need to consider how they will ensure compliance and, in the event of non-compliance, how liability for any penalties and fines will be shared amongst themselves.

25. Waste collection authorities entering into a JWA combining disposal and collection functions may wish to ensure that such liability remains with the County Council. Contractual agreements between the constituent authorities could be used to set out the detail of liabilities in the event of financial penalties and/or fines.

26. Local authorities’ statutory obligations under LATS remain a priority for them. The development and implementation of proposals to establish a joint waste authority should not threaten progress or planned work to comply with LATS. As such the Secretary of State will not use his power to waive or suspend LATS penalties as a result of any non-compliance attributed to the establishment of a joint waste authority.

Consequential amendments

27. The Act outlines the majority of the governance arrangements for JWAs, aligning them with those of the six existing statutory joint waste disposal authorities. It also brings them into line with other similar bodies for other local governance issues, e.g. auditing. However, during the preparation of proposals for JWAs local authorities may identify further consequential amendments that may be needed to align joint waste authorities with other similar authorities and bodies.
Section 3 – Draft Joint Waste Authorities (Proposals) Regulations 2008

28. This section sets out guidance on the draft Joint Waste Authorities (Proposals) Regulations 2008 (‘the Regulations’), in particular on Schedules 1 and 2. The bracketed paragraph numbers below refer to the relevant paragraph of the Schedules of the draft Regulations.

Matters to be included in a proposal (Schedule 1)

Name of the joint waste authority (paragraph 1)

29. The proposal will need to include a name for the proposed joint waste authority. This will be used in the Order establishing the JWA. The name should best reflect the area that it represents, bearing in mind any other neighbouring waste authorities, and should be easily recognisable by the local residents it will serve. The name should also reflect the functions that the joint waste authority will be discharging where this does not include all the waste functions.

30. The name of the authority does not necessarily need to include the word ‘joint’, for example the Merseyside Waste Disposal Authority (one of the six statutory joint waste disposal authorities in England).

Date of establishment (paragraph 2)

31. A proposal will need to include an indicative date on which it is proposed that the prospective JWA will come into effect. This date should be a minimum of twelve months from the date of submission to allow time for the Secretary of State to consider proposals and, where successful, implement them. While all efforts will be made to implement successful proposals by the date specified it may not always be possible. Therefore, the commencement date for any JWA can only be indicative in proposals as it is difficult to predict how long any one proposal will take to assess, determine and, where successful, implement. Authorities should outline any risks associated with not establishing the JWA by the desired date, consider what mitigating actions they may need to take if it is not met, and identify a series of other possible operational dates in their proposal.

32. Regular dialogue will be maintained with relevant authorities on the progress and timing of any applications for JWAs, and where applications are successful, the date to be included in the Order.

Specified area (paragraph 3)

33. Local authorities should ensure that proposals set out the geographical area which the JWA will serve.

Waste functions (paragraph 4)
34. Local waste authorities may choose which ‘waste functions’ will be transferred to a JWA. Proposals will need to specify which ‘waste functions’ each constituent authority wishes to transfer to the JWA. Section 205(8) sets out the waste functions which may be transferred from the relevant authorities to a JWA. These are functions conferred on a local authority by or under:

   a. Part 2 of the Environmental Protection Act 1990 (c.43) (waste on land)
   b. Part 4 of that Act (litter etc)

35. Section 209 of the Act amends section 24 of the Waste and Emissions Trading (WET) Act 2003, to make joint waste authorities that have the waste disposal function waste disposal authorities for the purposes of the WET Act 2003. Thus local authorities’ statutory obligations under LATS will automatically transfer to a joint waste authority when the waste disposal function under the EPA 1990 is transferred.

36. The constituent authorities will need to confirm, in the proposal, that they hold the relevant functions in accordance with section 205(3) of the Act. Proposals for JWAs in two-tier areas that do not include all the local waste authorities should indicate the names of any waste authorities that are not included in the proposal and their functions.

**Members (paragraph 5-7)**

37. Joint waste authorities will be governed by a Board comprised of elected members from each of its constituent authorities. The total number of members on the Board will, in part, depend on how the constituent authorities wish to split membership between themselves.

38. Authorities will need to decide how many members each constituent authority should be represented by on the Board of the JWA.

39. The number may vary between authorities. For example, in the six existing Joint Waste Disposal Authorities the number of members that each constituent authority has on its respective Board was based on population sizes of the relevant authorities at the time they were established. However, authorities may wish to use other criteria to determine membership, e.g. the Somerset Waste Board is comprised of two members from each constituent authority giving them all equal representation and influence on the Board.

40. The Order establishing a JWA will contain a duty on constituent authorities to appoint members by a specified date, on which those appointments shall take effect, and to a specified authority.

41. Authorities will need to propose a date by which first appointments of members need to be made and identify where these appointments should be
notified to. In the case of the JWDAs first appointments had to be notified five
days after the JWDA came into effect (although this was over the new year
period). In two-tier areas it would seem practical for the nominations to be
sent to the County Council where they are a party to a proposal.

42. The date for first appointments is likely to be linked to the
commencement date for a JWA, e.g. first appointments to be made \([x]\)
number of days after the JWA comes into effect.

First meeting (paragraph 8)

43. The Order establishing a JWA will specify that the first meeting of that
JWA will need to take place a certain number of days after the date on which
the JWA comes into effect. For JWDAs the first meeting had to be held within
ten days of a JWDA becoming operational. Proposals for JWAs will need to
specify how many days after the JWAs becoming operational the first meeting
must be.

44. The establishing Order will also specify that the first meeting of the
JWA will be treated as the annual meeting for the purposes of appointment of
chair etc.

Voting (paragraph 9)

45. The provisions regarding voting, as set out in Schedule 12 of the Local
Government Act 1972, will apply to a JWA. Under these provisions all
questions coming or arising before a JWA shall be decided by a majority of
the members of the authority present and voting thereon at a meeting of the
authority. Where the number of votes is equal the person presiding at the
meeting would have a second or casting vote.

46. However, as set out in Waste Strategy 2007 it is generally expected
that where a JWA takes on collection functions decisions on key issues, such
as the introduction of alternate weekly collection schemes, will be subject to
unanimity.

47. The requirement on unanimity could be achieved by including this
provision in the rules of procedure / standing order for a JWA. Alternatively,
normal simple majority voting could apply to a JWA with an explicit provision
that any decisions on specific key issues, such as the introduction of AWC,
could not be implemented by a JWA until it had been endorsed by the full
Council of each of its constituent authorities. Proposals for joint waste
authorities will need to outline what voting arrangements they would like.

48. If any authorities wish to have different voting arrangements to those
proposed above then they will need to explain the alternative voting
arrangements that they seek and provide a justification for them.

Staffing of the proposed Joint Waste Authority (paragraph 10)
49. When deciding to form a JWA local authorities will need to consider the organisation and staffing of the JWA. It will be for constituent authorities to decide upon the shape, size and organisation of the new JWA.

50. A JWA is able to employ its own staff but the establishment of a JWA is likely to involve the transfer of staff from the constituent authorities to a JWA. The existing JWDAs are managed by a Director and have their own technical, legal, IT and administrative officers. However, authorities establishing a JWA may wish to consider arrangements for some administrative support with their constituent authorities.

51. In accordance with the TUPE Regulations 2006\(^2\) all staff working on the waste functions that will transfer to the JWA must transfer to the JWA with that function. The JWA will in effect become their new employer.

52. Authorities cannot make staff redundant on the basis of the creation of a joint waste authority. However, redundancies may be permissible where there are economic, technical or organisational reasons for doing so. Authorities making redundancies in light of the creation of a joint waste authority will need to act in accordance with the Local Government (Early Termination of Employment)(Discretionary Compensation) (England and Wales) Regulations 2006\(^3\).

53. Authorities will wish to involve their legal teams, and consult the relevant trade unions, at an early stage when developing their proposals on staffing for a JWA.

54. Proposals for a JWA must include:
- an estimation of the number of staff likely to be employed by the JWA;
- an indication of the staff that will transfer from constituent authorities;
- an indication of likely recruitment required; and
- an indication of any planned redundancies from each local authority as a consequence of the establishment of the JWA.

### Costs (paragraphs 11 and 12)

55. Joint waste authorities will not have precepting powers. Revenue support grant will continue to be paid to upper tier and unitary authorities even where a joint waste authority may be discharging waste functions of behalf of that authority. However, it is possible that the Waste Infrastructure Capital Grant could be allocated directly to a JWA where it was discharging waste disposal function and where the relevant upper-tier or unitary authority gave its consent for this to happen.

---


56. A proposal for a JWA must include detail on the funding arrangements for the proposed JWA. Therefore, authorities will need to consider and determine how a proposed JWA will be financed and how costs will be apportioned to the constituent authorities. As a first step authorities will need to examine and assess their key expenditure, income and assets. Expenditure is likely to include: staffing costs, operational costs, capital costs; income is likely to include revenue from chargeable collections schemes, recycling credits (see paragraphs 59-62) and grants; and assets are likely to include vehicles, infrastructure and bins/boxes etc. Servicing of any relevant debts (if any of the constituent authorities have debts relating to the waste functions they are transferring to the JWA) will also need to be factored in.

57. Where a joint waste authority is taking on the disposal function from two WDAs or more, then authorities may wish to consider the use of a statutory levy whereby the JWA levies funding from its constituent authorities on an annual basis, mirroring the approach used by the six statutory joint waste disposal authorities. Authorities would need to consider what criteria they would use as the basis for any such levy. The current levy for JWDAs is a tonnage-based one, i.e. the waste collection authorities payment to the JWDA is based on the tonnage of waste that they deliver to the JWDA.

58. A levy is unlikely to be suitable for JWAs taking on collection functions only or the collection and disposal functions in a two-tier area. In these situations authorities may wish to develop and use a cost-sharing agreement which uses a number of specific formulae to determine the share of costs between the constituent authorities. Any such agreement is likely to apportion the costs on the basis of tonnage or number of households per local area. This approach has been successfully used by the Shropshire Waste Partnership and the Somerset Waste Board.

Recycling Credit Scheme

59. Waste authorities entering into a JWA will need to consider how their respective obligations under the Recycling Credit Scheme will be discharged by/within the JWA. Two possible approaches are outlined below.

Example 1 - Somerset

60. In Somerset, the County Council now acts as administering authority for the single client group, the Somerset Waste Partnership. Unusually, it is the County Council that has let the single waste and recycling collection contract on behalf of the partners. The SWP therefore pays the contractor and recovers a sum monthly from each of the districts.

61. The element of recycling credit that would have been paid by the County to the Districts is now treated as a credit in lieu and deducted from the monthly invoice to the districts. The level of credit is still related to relative tonnages collected.

Example 2 - Hampshire
62. In Hampshire, the waste collection authorities have, under a Memorandum of Understanding, a long-standing agreement not to claim recycling credits on material processed through the MRFs and composting sites provided by the County Council. In return, the WCAs share the income generated from sale of recyclables with the WDA's contractor. The contractor consults with a Materials Marketing Group, traditionally chaired by an officer from a WCA, over where and how material is placed on the market.

Borrowing powers

63. Joint waste authorities will have the same prudent borrowing powers as normal local authorities. They will be able to borrow capital funding provided that they can demonstrate that they can service the debt.

First year of funding (paragraphs 13-14)

64. Joint waste authorities will need to prepare annual budgets for endorsement by the Board of JWA. The JWA cannot become operational in the absence of a budget so the constituent authorities will need to prepare a budget for the first year. Proposals will need to include details of this budget and how it will be funded by the constituent authorities.

Transfer of assets and liabilities (paragraph 15)

65. Proposals will need to outline whether any assets (including any property and/or land) or liabilities need to be transferred to the JWA and if so propose procedures and timing for any such transfer to occur.

Information to accompany a proposal (Schedule 2)

Local authorities (paragraph 1)

66. Section 205 of the Act provides that a proposal for a joint waste authority can only be made by local waste authorities in the area specified in the proposal. It also provides that local waste authorities can only establish a joint waste authority for the functions which they already have. Proposals will therefore need to be accompanied by information confirming (a) the area of each local waste authority party to the proposals; and (b) the waste functions conferred on each local authority party to the proposal.

Consultation (paragraph 2)

67. Proposals for a JWA will need to be accompanied by a summary of how the consultation requirements of section 206 of the Act have been met. Section 206 requires local authorities to take reasonable steps to consult ‘relevant electors’ and ‘any interested person in the authority’s areas’ on a draft of the proposal. The types of stakeholder captured by ‘any interested
person’ include waste management operators in that area and any neighbouring local waste authority that is not part of the proposal.

68. The summary of the consultation must also include the issues raised by respondents during the consultation and details of how those issues were addressed in finalisation of the proposal.

**Other joint working arrangements (paragraph 3)**

69. Proposals for joint waste authorities will need to be accompanied by information which demonstrates the joint working experience the authorities submitting the proposal. The types of information that should be included are: a description of the nature of the partnership, e.g. memorandum of understanding, joint committee; the types of activities undertaken through partnership working, e.g. development of joint municipal waste management strategy, procurement of good and services; and the duration of any joint working arrangements.

**Contracts (paragraph 4)**

70. A joint waste authority will have the ability to enter into contracts with third parties on behalf of its constituent members. However, it is recognised that authorities wishing to establish a joint waste authority are likely to have different arrangements for waste contracts (e.g. third party contracts or direct service organisations) and that contracts are likely to end at different times.

71. Authorities looking to establish a joint waste authority will need to consider how any existing waste collection and disposal contracts will be managed going into a joint waste authority.

72. Proposals will need to be accompanied by information on certain existing or planned waste contracts (above £139,893 per annum based on that in the Public (Contracts) Regulations 2006) to which a constituent authority is, or will be, a party to by the time the JWA is established. Information is required on which other parties the contract is with; the expiry date of the contract; and the arrangements for the contract once the proposed joint waste authority is established.

**Landfill obligations (paragraph 5)**

73. As outlined in paragraphs 30-31 of section 2 where it is proposed to transfer waste disposal functions to a joint waste authority that JWA will take on the responsibilities under LATS and the necessary changes will be made to the LATS Register to reflect any joint waste authority with disposal functions at the time the JWA is established. Where two or more waste disposal authorities propose to discharge their waste disposal functions to a JWA their LATS allowances will be pooled in the JWA.

---

74. The JWA will be liable for any financial penalties or fines as a result of non-compliance with the Landfill Allowance Trading Scheme. Proposals for a JWA taking on the disposal functions will need to include details about how liability for any penalties and fines will be shared amongst the constituent authorities, e.g. how payment would be made in the event of a penalty or fine being imposed.

75. The approach used by the Somerset Waste Partnership when establishing their s.101 Joint Committee (the Somerset Waste Board\(^5\)) provides a useful example. The powers, duties and functions of the waste disposal authority in respect of sections 6 to 8 of the Waste And Emissions Trading Act 2003 remain with Somerset County Council (SCC). This covers responsibilities for banking, borrowing and trading and liabilities for the purchase of allowances or payment of any penalties arising as a result of exceeding allowances. SCC retain any income received LATS trading.

76. Sections 9, 31 and 32, which cover the duty not to exceed allowances, powers of direction and municipal waste management strategies have been delegated to the Somerset Waste Board. Under the inter-authority agreement for the Somerset Waste Board it has been agreed, by all the constituent authorities, that the Board will work in close consultation with and support and advise SCC with regard to trading under LATS. SCC undertake to work in close consultation with and support and advise the Single Client Group\(^6\) and the Board with regard to the waste strategy implications of its trading activities and plans.

**Private Finance Initiative (PFI) credits (paragraphs 6 and 7)**

77. Proposals will need to be accompanied by information regarding any waste PFI credits gained by any of the constituent authorities; the partner authorities that may share those credits; the date of award; and an outline of what is proposed to happen to those credits in terms of the JWA.

78. PFI contracts do not generally allow a local authority to assign or transfer its rights or obligations under the contract without the consent of the contractor. However, a recognised exception is where the transfer takes place is to another local authority with sufficient financial standing or resources, or another public body whose obligations are guaranteed by the local authority. This would normally only be feasible where the whole of the contract is being transferred.

79. This should include:
   - the date of the award of the PFI credits;

---

\(^5\) Comprised of Mendip District Council, Sedgemoor District Council, South Somerset District Council, Taunton Deane District Council, West Somerset District Council and Somerset County Council.

\(^6\) A group of officers employed by SCC in their capacity as the Administering Authority for the Somerset Waste Board
• the local authorities that may share the benefit of those PFI credits;
• any conditions contained within any letter awarding PFI credits;
• whether any of the PFI credits are to be phased and, if so, the level of credit for each phase and when support for each phase will start;
• proposed arrangements for the transfer of the PFI credits to the proposed JWA;
• proposed arrangements for the payment of the revenue support grant to the proposed JWA.

Agreement concerning the payment of penalties (paragraph 8 and 9)

80. It is recognised that the negotiation arrangements for payment for any penalty imposed on the JWA for breach of obligations under the Landfill Allowance Trading Scheme may take considerable time to finalise. However, at proposal stage we will want to see evidence that the arrangements are well-developed. Proposals for JWAs will therefore need to be accompanied by a copy of the draft agreement for arrangements, or confirmation that such an agreement is being prepared and the timetable for finalisation of the agreement.

Cost savings (paragraph 10)

81. Proposals must be accompanied by information highlighting any anticipated cost savings to be made by the constituent authorities as a result of the establishment of the proposed JWA and an indication of where these savings will be made and over what time period.

Environmental benefits (paragraph 11)

82. Proposals must be accompanied by information highlighting any anticipated environmental benefits of establishing the proposed JWA (e.g. increased recycling.

Waste management services (paragraph 12)

83. Proposals from authorities will need to be accompanied by information to demonstrate how the current standard of waste management services to all local residents will be maintained or improved.

Communications strategy (paragraph 13)

84. Proposals from authorities will need to be accompanied by a communications strategy for engaging with local residents and other interested stakeholders – to include how the establishment of a JWA will be communicated.
Section 4 – General issues relating to the establishment of a joint waste authority

85. This section provides additional guidance on issues that authorities developing proposals for JWAs may find useful.

Municipal Waste Management Strategies

86. Joint waste authorities (JWAs) will be new statutory bodies, i.e. separate legal entities. This means that they will need to develop their own municipal waste management policies and strategies.

Enforcement

87. Joint waste authorities will take on any enforcement powers associated with the waste functions transferred to them.

Waste reporting

88. Joint waste authorities will take on responsibility for any of the reporting obligations associated with the waste function being transferred to them. Thus reporting in JWA will be on one set of data for the whole area, which in the long term could delivery efficiencies.

Disposal functions

89. Where a local authority transfers its waste disposal functions to a JWA the JWA will take on the reporting obligations under the LATS Regulations (i.e. to report using Waste Data Flow) as the ‘new’ waste disposal authority. Changes to the Waste Data Flow database will need to be made to reflect any such joint waste authorities.

90. Where two or more waste disposal authorities decide to discharge their waste disposal functions to a JWA then changes will also need to be made to the LATS Register.

91. From 1 April 2008 waste disposal authorities will be required to submit annual reports on national indicators NI 191\(^7\), NI 192\(^8\), and NI 193\(^9\). Where it has waste disposal functions a JWA will be responsible for this reporting requirement.

Waste collection functions

92. As from 1 April 2008 waste collection authorities will be required to submit annual reports on national indicators NI 191, NI 192, NI 193 and NI 197 - Kg/household of residual household waste

\(^7\) NI 191 - Kg/household of residual household waste

\(^8\) NI 192 - Percentage of household waste recycled and composted

\(^9\) NI 193 - Percentage of total municipal waste landfilled
196\textsuperscript{10}. Where two or more waste collection authorities are transferring their waste collection functions to a JWA the JWA will take on responsibility for this reporting requirement. A JWA may wish to realise efficiencies by employing integrated collection contracts which disregard district/Borough boundaries. In these circumstances a JWA would be able to submit an annual report on the relevant national indicators for the collective area, rather than individual Boroughs. Again, changes to Waste Data Flow database will be need to be made. More thought will need to be given to a JWA which operates across County or unitary boundaries.

Street cleansing functions

93. As from 1 April 2008 local authorities (single tier or districts/Boroughs) will be required to submit annual reports on the national indicator NI 195\textsuperscript{11}.

**Best Value Authorities**

94. Joint waste authorities will be best value authorities under the Local Government Act 1999. The Local Government and Public Involvement in Health Act 2007 simplified the best value regime and the new regime comes into effect on 1 April 2008.

**Duty to involve**

95. The Local Government and Public Involvement in Health Act 2007 introduced the duty to involve, which is due to come into effect 1 April 2009. The duty applies to all best value authorities in England, except police authorities. It will require authorities, where they consider it appropriate, to inform, consult and involve “representatives of local persons”, as appropriate, in the exercise of authority functions. It will be for authorities themselves to determine when and how representatives of local persons should be involved.

96. The phrase ‘representatives of local persons’ refers to a mix or selection of those individuals, groups or organisations considered by the authority likely to be affected by, or interested in, a particular authority function; in other words, a selection of the citizens and communities that the function has an impact on. This will vary depending on the type of authority, policy or service area, but could include those that live in an area, visit it, or use a particular service, as well as local voluntary and community groups and businesses. Further information on the duty to involve can be found in the recent consultation\textsuperscript{12}.

**Local Performance Framework**

\textsuperscript{10} NI 196 - Improved street and environmental cleanliness – fly tipping
\textsuperscript{11} NI 195 - Improved street and environmental cleanliness (levels of graffiti, litter, detritus and fly posting)
\textsuperscript{12} \url{http://www.communities.gov.uk/publications/localgovernment/statutoryguidance}
97. From 1 April 2008 the local performance framework will change, providing local government with further freedoms and flexibilities. Local area agreements (LAA), together with the sustainable community strategy and spatial development strategy, will set out the vision and delivery priorities for each place. Local Strategic Partnerships are the forum through which the vision and priorities will be agreed and they will then co-ordinate partner’s activities and drive service improvement. The comprehensive area assessment (CAA) will replace the comprehensive performance assessment (CPA), and inspections will be more targeted and based on risk. The new performance system will reduce the number of targets and indicators and allow authorities and their partners more freedom to tackle the key priorities.

98. Under the new performance framework authorities and their partners will report annually on a set of 198 national indicators, and will negotiate with central government to identify up to 35 indicators against which to set LAA targets. The current round of local area agreements will be signed in June 2008. They will be reviewed on an annual basis and will be renegotiated every three years.

Local Area Agreements

99. Under the new performance framework local authorities and their partners will report on 198 nationally agreed indicators, three of which are on waste and two on local environmental quality. Each LAA will include up to 35 local improvement targets drawn from the national indicator set, agreed between local authorities, their partners and central government. Local authorities and their partners can also agree to include additional targets in their LAAs if they wish, but these will not be monitored by central government.

100. Under section 104 of the Local Government and Public Involvement in Health Act 2007 joint waste authorities are defined as a ‘partner authority’. As a partner authority a joint waste authority must be consulted by the responsible local authority when it prepares its LAA and will be under a duty to co-operate with the responsible authority to determine designated targets in a LAA. Joint waste authorities will also have to have regard to any LAA targets it has agreed. Communities and Local Government are currently finalising statutory guidance on the duties of partner authorities.

101. Where the geographical scope of a JWA crosses county boundaries, e.g. a JWA between two waste disposal authorities or between neighbouring waste collection authorities in different counties, then it would be a ‘partner authority’ in the negotiation and delivery aspects of the LAAs in both areas. It will be up to the JWA to negotiate sensible targets in such a situation. A multi area agreement (see paragraphs 71-72) on waste might also offer an alternative approach for such situations.

---

13 Information on the consultation on draft statutory guidance can be found at: http://www.communities.gov.uk/publications/localgovernment/statutoryguidance
102. As noted earlier a JWA will take on reporting obligations for LAA indicators and targets for the waste functions which it has been established to discharge.

**Multi Area Agreements (MAAs)**

103. Multi area agreements are non-statutory agreements between top-tier or unitary authorities and their partners. It is not legally possible to include designated targets in an MAA without including them in the LAA.

104. There are three categories of target which could feature in an MAA:

- targets drawn from the National Indicator Set which the MAA partnership and Government have agreed through negotiation should be designated, and which will therefore feature in the constituent LAAs as well as in the MAA. As they are part of the LAA, these targets would automatically be subject to the statutory duties which apply to LAAs;
- targets drawn from the National Indicator Set which are not designated. These could either be purely voluntary, sub-regional targets as well as in the MAA, the first of which would not be subject to the statutory duties to co-operate and have regard; and
- targets which are not drawn from the National Indicator Set (e.g. population growth). These could also be purely voluntary, sub-regional targets that would only feature in the MAA, or could feature in the constituent LAAs as local targets as well as in the MAA. If they featured in the MAA only, they would therefore not be subject to the statutory duties to co-operate and have regard.

**Comprehensive Area Assessments**

105. Comprehensive Area Assessments will replace the Comprehensive Performance Assessments from 1 April 2009. The inspectorates (e.g. Audit Commission) have recently consulted jointly on the framework for the CAA\(^{14}\). A further, more detailed consultation on methodology, will take place in summer 2008. It is not yet clear how CAAs will affect JWAs.

\(^{14}\) Available at: [http://www.audit-commission.gov.uk/caa/index.asp](http://www.audit-commission.gov.uk/caa/index.asp)