

## **NOTICE OF MEETING**

---

# **Cabinet Member Signing**

---

THURSDAY, 19TH JANUARY, 2012 at 16:00 HRS - CIVIC CENTRE, HIGH ROAD, WOOD GREEN, N22 8LE.

**MEMBERS:** Councillors Claire Kober.

### **AGENDA**

#### **1. URGENT BUSINESS**

The Cabinet Member will advise if they have decided to accept any items of Urgent Business.

#### **2. DECLARATIONS OF INTEREST**

A Member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A Member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest **and** if this interest affects their financial position or the financial position of a person or body as described in paragraph 8 of the Code of Conduct **and/or** if it relates to the determining of any approval, consent, license, permission or registration in relation to them or any person or body described in paragraph 8 of the Code of Conduct.

#### **3. DEPUTATIONS/PETITIONS/PRESENTATIONS/QUESTIONS**

To consider any requests received in accordance with Standing Orders.

**4. INTER AUTHORITY AGREEMENT (IN RELATION TO NORTH LONDON WASTE AUTHORITY PROCUREMENT OF WASTE DISPOSAL SERVICES) PART 1 OF 2: VARIATION TO NLWA LEVYING SYSTEM FOR HOUSEHOLD WASTE RECYCLING CENTRES (PAGES 1 - 20)**

(Report of the Director of Corporate Resources) To approve the proposed amendments/changes to the default levy by the North London Waste Authority as detailed in the report.

David McNulty  
Head of Local Democracy  
and Member Services  
5<sup>th</sup> Floor  
River Park House  
225 High Road  
Wood Green  
London  
N22 8HQ

Xanthe Barker  
Principal Committee Coordinator  
Tel: 020 8489 2957  
Email: [xanthe.barker@haringey.gov.uk](mailto:xanthe.barker@haringey.gov.uk)

Published: 11 January 2012

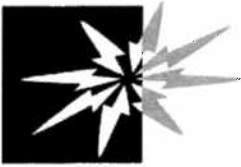


**Haringey** Council

<b>Report for:</b>	Leader of the Council 19 <sup>th</sup> January 2012	<b>Item Number:</b>	
<b>Title:</b>	Inter Authority Agreement (in relation to North London Waste Authority procurement of waste disposal services)  Part 1 of 2: Variation to NLWA levying system for Household Waste Recycling Centres		
<b>Report Authorised by:</b>	Director of Corporate Resources  <i>J. Pawley 11/1/12</i>		
<b>Lead Officer:</b>	Matthew Gaynor, Head Of Finance - Place & Sustainability Email: Matthew.Gaynor@haringey.gov.uk Tel: x. 4503		
<b>Ward(s) affected:</b> All	<b>Report for Key/Non Key Decisions:</b> Key Decision		

**1. Describe the issue under consideration**

- 1.1 On July 19th 2011 Cabinet agreed in principle to signing a legally binding Inter Authority Agreement (IAA) with the North London Waste Authority (NLWA) and the other six Constituent Borough Councils.
- 1.2 In line with the recommendations of the Cabinet report, the Leader will take final decisions related to the execution of the IAA following the agreement of final terms and associated decisions, which is expected to take place in early 2012 (as Part 2 of this report, in effect). This will include deciding whether to transfer the Council's two Household Waste Recycling Centres (HWRCs) to NLWA.
- 1.3 This report specifically considers the system by which HWRC costs will be levied by NLWA to the Constituent Boroughs and recommends a change to the current system for the period 2012/13 to 2016/17. This decision is being considered in advance of a decision on execution of the IAA because there is a statutory deadline of 31st January by which time each Constituent Borough must have



**Haringey Council**

passed the proposed change in order for new levying arrangements to come into place for the following financial year.

- 1.4 The NLWA levy can be apportioned between its seven Constituent Boroughs in any way the Boroughs can unanimously agree. In the absence of such agreement, a statutory default mechanism applies.
- 1.5 The recommended variation allow the costs of HWRCs operated by the NLWA to be levied broadly in line with how the costs currently fall whilst the sites are in Borough control, and for any land purchased for the development of new HWRCs to be apportioned based on the anticipated and surveyed number of visitors to that site from each Borough.

**2. Cabinet Member introduction**

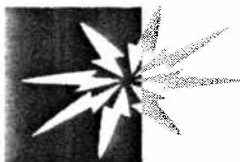
Not applicable

**3. Recommendations**

- 3.1. The Leader of the Council in consultation with the Director of Corporate Resources is recommended to approve the below resolution in order to vary the NLWA levy from the 2012/13 financial year:
  - (a) To agree that the proposed amendments/changes to the default levy by the North London Waste Authority (NLWA) as detailed in Appendix 1 shall apply, subject to the agreement of all seven constituent boroughs, with effect from 1 April 2012 and thereafter until such time as a further resolution is agreed by the seven constituent authorities of the NLWA (including Haringey) further amending the agreement.

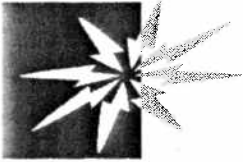
**4. Other options considered**

- 4.1. A meeting of Directors of Environment and Finance from the NLWA's Constituent Boroughs on 13/10/11 formed an officer consensus to vary the levy for the interim period from 2012/13 until 2016/17 (when the provisions of the IAA Charging Mechanism are expected to come into force), to reflect the same pattern of cost apportionment as if the HWRCs were continuing to be operated by the Constituent Boroughs, in order to ensure the minimal budgetary impact and the maximum budget certainty for each Borough.
- 4.2. The details of this approach are set out in section 4.5. In summary it allows boroughs to transfer their sites to the NLWA at different times, if that suits local circumstances, without there being a range of interim positions for individual Boroughs where some are financially better off and others financially worse off in ways that are unpredictable from an individual Borough perspective.



**Haringey Council**

- 4.3. Furthermore, the proposed change protects the position of the Council should the final decision be not to transfer HWRCs, ensuring we will not be subject to both the direct costs of continuing to operate our sites and a proportion of NLWA's costs for operating transferred sites in other Boroughs. If the Council's HWRCs are transferred to NLWA it means we will have certainty that the cost to Haringey will remain broadly in line with our current costs during the interim period to 2016/17.
- 4.4. The Council could opt not to approve the levy change and in doing so prevent its implementation across the NLWA area, given the need for unanimous Constituent Borough agreement. However, for the reasons outlined in sections 4.2 and 4.3, it is regarded as essential that the change is approved by the statutory deadline of 31st January 2012, in order to be in place from 1st April 2012 when most Boroughs' HWRCs are expected to be transferred.
- 4.5. The recommended variation to the levy is set out in full in Appendix 1, in the form of a mark-up of the statutory instrument, the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006, which provides for the amount to be levied from Constituent Boroughs to be apportioned in such proportions as all the Constituent Boroughs may agree. This mark-up is for illustration purposes only, as a means of highlighting the changes to the default system that each Constituent Borough is consenting to. There is no intention that the statutory instrument is to be changed.
- 4.6. The variation will mean the levy operates as follows:
- All costs in relation to the transport and disposal of residual waste to be apportioned based upon the proportion of Council Tax Band D equivalent properties (both for sites in the NLWA's control and those that continue to be operated by constituent Boroughs) – this represents no change to the default system;
  - All other costs in relation to existing sites (including planning, construction, equipping and operation of HWRCs, including staffing, utilities, premises, reuse, recycling, composting (costs and/or income)) are apportioned in accordance with the Constituent Borough within which each HWRC is situated – this is a variation to the default system; and
  - That the costs of the NLWA's proposed freehold purchase of land at Cranford Way from LB Haringey to construct a replacement for the existing HWRC at Hornsey High Street are apportioned based upon the results of a recent visitor survey at the latter site that the Cranford Way HWRC is proposed to replace (detailed in Appendix 1) – this is a variation to the default system. From 2016/17 the costs of land at Cranford Way will be apportioned in line with the IAA Charging Mechanism as set out in paragraph 4.6 below, subject to execution of the IAA.



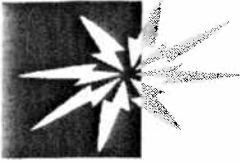
**Haringey Council**

4.7. The following changes were also agreed to apply both during the interim period as set out above, and after the introduction of the IAA Charging Mechanism. They will be reflected as such in the IAA:

- With the exception of the land at Cranford Way (as set out above) all of the costs (including the freehold or leasehold purchase of land) in relation to any new HWRCs are levied based upon the proportion of the total households from each NLWA Borough within a two mile radius of that site. After the site is operational a new visitor survey will be undertaken and the above costs will be apportioned in accordance with it for the next financial year. The visitor survey will in any case be updated periodically by the NLWA. The proportion of costs relating to visitors from outside of the NLWA area will be borne by the Borough in which the HWRC is situated as it can reasonably be expected those boroughs will have some residents using sites outside the NLWA area at no cost to the NLWA. This is broadly reflected at present in the draft IAA, but amendments are now being made in order that the final IAA document reflects this more defined approach.
- The IAA reflects that existing sites will be transferred to the NLWA on a leasehold basis at peppercorn rent. This is likely to be subject to approval by the Secretary of State (or under the General Consent issued by the same). This approval has yet to be obtained by most Boroughs and may theoretically be withheld, although this is considered very unlikely. It is nevertheless proposed, so that the IAA can be promptly executed, that the levy is varied to reflect that any premises costs such as rent that are charged by any Borough are in turn levied in full from that Borough by the NLWA. This will effectively render this transaction cost-neutral from the point of view of the Borough in question and therefore ensure there is no impact on other Boroughs.

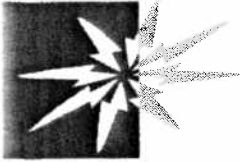
## **5. Background information**

- 5.1. Since in-principal approval by Cabinet in July 2011, the draft Inter Authority Agreement (IAA) has been subject to minor amendments based on discussions between the seven Constituent Boroughs and the NLWA, and is expected to be executed by all parties in early 2012.
- 5.2. The IAA commits the signatory parties to changes in relation to the levy by which the costs of the NLWA's activities are recovered from its Constituent Boroughs (The IAA Charging Mechanism). In relation to Household Waste Recycling Centres (HWRCs) that will in future be controlled by the NLWA the IAA Charging Mechanism requires that the costs of these will be apportioned based on a periodic visitor survey, and the costs of transporting and disposing of residual waste from those Boroughs that do not transfer their sites is apportioned on the same basis.



**Haringey Council**

- 5.2. The IAA requires that the Charging Mechanism will apply from 2016/17 (in which the first new waste facility is expected to be commissioned under the NLWA's new contract). The IAA reflects that the current default levy arrangements would apply prior to this date with a mechanism available for this to be varied in the interim if the required unanimous agreement among all seven Boroughs required by statute can be reached. Any such changes will then be superseded by the IAA Charging Mechanism around 2016 as set out above.
- 5.3. As all HWRCs are currently operated by Constituent Boroughs in line with their obligations under Section 1 of the Refuse Disposal (Amenity) Act 1978 (RDA), those Boroughs currently pay for the operation and maintenance of those sites. The costs of transporting and disposing of the residual waste from HWRCs is currently borne by the NLWA and levied to all Boroughs based on their number of Council Tax band D equivalent properties (which is the default statutory position). The Environmental Protection Act 1990 also gave the duty to ensure provision of HWRCs to the NLWA and provided for s.1 RDA to be repealed by a statutory instrument.
- 5.4. As s.1 RDA is expected to be repealed with effect from 01/04/12 (leaving the duty for the provision of HWRCs solely with the NLWA) and the operation of HWRCs currently in Borough control is currently included within the scope of the NLWA's proposed contract, the IAA makes provision for the transfer of sites in Borough control to the NLWA.
- 5.5. The Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 provides the statutory framework with regards the levying arrangements of Joint Waste Disposal Authorities such as the NLWA. The Regulations set out the statutory default position, whilst allowing this to be varied by unanimous agreement of the Constituent Boroughs. It should be noted that Government could theoretically legislate for a change to the default but there is currently no indication of this.
- 5.6. The statutory default position in relation to the levying of HWRC costs in NLWA control is that all costs would be levied in relation to the proportion of Council Tax Band D equivalent properties, including those Boroughs that do not transfer HWRCs to the NLWA in that year. The costs in relation to any sites still under the control of a Constituent Borough would continue to be borne by that Borough as they are currently. Therefore, under these arrangements there will not only be considerable shifts in the amount that each Borough pays for the service against the current pattern but any Boroughs that do not transfer their HWRCs will not only solely bear the operating costs of any such sites but also a proportion of the operating costs of any sites that do transfer based on their proportion of Council Tax Band D properties.



**Haringey Council**

## **6. Comments of the Chief Finance Officer and financial implications**

- 6.1. This report is necessary to ensure the cost to the Council related to Household Waste Recycling Centres does not significantly increase if sites do not transfer to the North London Waste Authority or if transfer is delayed, which would be the case under the current default levy system.
- 6.2. At present the cost of running the HWRC sites is contained within the Veolia contract. Provision exists to amend the contract so that these can be transferred to NLWA. If sites do transfer the cost will then form part of the levy from NLWA.
- 6.3. It is expected that the costs of NLWA running the sites will be broadly in line with the existing costs and thus the financial position will be broadly neutral if the sites are transferred. Provision has been made in the draft budget for 2012-13 for the costs to be included within the NLWA levy.
- 6.4. As the Cranford Way site is not operational at this point, it is expected that NLWA will purchase the site from the Council and costs of purchase and development will be treated as capital costs by NLWA and hence spread over the asset life. The running costs of the new site once operational will be apportioned as per the new levy arrangements up to 2016, and in line with the IAA Charging Mechanism thereafter (subject to execution of the IAA).

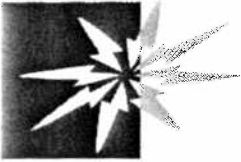
## **7. Head of Legal Services and legal implications**

- 7.1. The Head of Legal Services notes the contents of the report.
- 7.2. The report seeks the Leader of the Council's approval for the proposed changes to the default levy by NLWA as detailed in paragraph 3 of the report.
- 7.3. In accordance with Part 3 of the Council's Constitution the Leader has the power to approve the recommendations set out in paragraph 3 of the report
- 7.4. This is a key decision and the Directorate has confirmed that this has been included in the Forward Plan.
- 7.5. The Head of Legal Services confirms there are no legal reasons preventing the Leader from approving the recommendations set out in the report.

## **8. Equalities and Community Cohesion Comments**

- 8.1 The change to the levy system will not influence the service provision that residents receive at the sites, being purely concerned with the apportionment of costs between NLWA and Constituent Boroughs and maintaining a status quo in budgetary terms. There are therefore no equalities or community cohesion implications.





**Haringey** Council

## 9. Head of Procurement Comments

Not applicable

## 10. Policy Implication

10.1 The change to the levy system does not in itself have policy implications beyond ensuring that individual Boroughs' costs remain in line with their current expenditure during the interim period to 2016/17, regardless of the pattern and timing of site transfer across the Boroughs. This will enable the final decision on whether to transfer HWRCs or not to be made with the certainty that, either way, there will be no significant cost impact in the interim period.

## 11. Use of Appendices

Appendix 1 – Alternative Form of Levy Regulations to be adopted by NLWA Constituent Authorities

## 12. Local Government (Access to Information) Act 1985

Cabinet Report, July 19th 2011: Inter Authority Agreement In Relation To North London Waste Authority Procurement Of Waste Disposal/ Treatment Services

Cabinet Report, December 21st 2010: Inter Authority Agreement In Relation To North London Waste Authority Procurement Of Waste Disposal/ Treatment Services (Key Principles)



**Appendix 1 - Alternative Form of Levy Regulations to be adopted by NLWA constituent authorities**

---

STATUTORY INSTRUMENTS

---

**LOCAL GOVERNMENT, ENGLAND**

**FINANCE**

The Joint Waste Disposal Authorities (Levies) (England)

Regulations 2006 **No. 248**

***(as amended for the NLWA area)***

*Made - - - - 6th February 2006*

*Laid before Parliament 8th February 2006*

*Coming into force - - 1st March 2006*

The Secretary of State for the Environment, Food and Rural Affairs makes the following Regulations in exercise of the powers conferred by sections 74 and 143(1) and (2) of the Local Government Finance Act 1988(a).

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 and come into force on 1st March 2006.

(2) These Regulations apply to England only.

(3) In these Regulations—

“the 1985 Order” means the Waste Regulation and Disposal (Authorities) Order 1985(b);

“the 1992 Regulations” means the Levying Bodies (General) Regulations 1992(c);

“constituent council” means, in relation to a joint waste disposal authority, a council specified in relation to that authority in Schedule 1 to the 1985 Order;

“financial year” means any period of twelve months beginning with 1st April;

“joint waste disposal authority” means any of the authorities established under the 1985 Order and named in Schedule 1 to that Order.

---

(a) 1988 c. 41. Section 74 was amended by the Local Government Finance Act 1992 (1992 c. 14), sections 117(1) and Schedule 13 paragraph 72(1) and (2), the Local Government (Wales) Act 1994 (1994 c. 19), section 20(4) and Schedule 6, paragraph 21, the Environment Act 1995 (1995 c. 25), section 120 and Schedule 1, the Greater London Authority Act 1999 (1999 c. 29), section 105, the Criminal Justice and Court Services Act 2000 (2000 c. 43), section 74 and Schedule 7, Part II, paragraphs 84 and 85, the Courts Act 2003 (2003 c. 39), section 109(1), and Schedule 8, paragraph 305(a), the Regional Assemblies (Preparations) Act 2003 (2003 c. 10), section 17(6) and paragraphs 3(1) and (2) of the Schedule, and the Fire and Rescue Services Act 2004 (2004 c. 21), section 53(1) and Schedule 1, paragraph 68(1) and (2). The functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, article 2, Schedule 1.

(b) S.I. 1985/1884, amended by the Radioactive Substances Act 1993 (1993 c. 12), section 50 and Schedule 6, Part IV, S.I. 1986/564 and 2001/1149.

(c) S.I. 1992/2903 amended by S.I. 2001/3649.

## Scope

2. These Regulations apply in relation to levies—

- (a) issued by joint waste disposal authorities; or
- (b) anticipated by constituent councils of joint waste disposal authorities,

in respect of any financial year beginning on or after 1st April 2006.

## Levies

3.—(1) A joint waste disposal authority may, in accordance with these Regulations, issue levies on its constituent councils to meet all liabilities falling to be discharged by it for which no provision is otherwise made.

(2) A levy on a constituent council shall be issued by giving the council a demand stating the date or dates on or before which a payment or payments in respect of the levy are required to be made and the amount of that payment or each of those payments.

(3) Subject to paragraph (4) the demand shall be given before 15th February in the financial year preceding that to which the levy relates.

(4) In relation to a levy for the financial year beginning on 1st April 2006, the demand shall be given before 3rd March 2006.

(5) The failure by a joint waste disposal authority to give a demand before the dates specified in paragraphs (3) and (4) shall not render the demand invalid because it is issued on or after those dates.

## Apportionment of levies

4.—(1) Subject to regulation 5, the amount to be levied by a joint waste disposal authority in respect of any financial year from each of its constituent councils shall be determined by apportioning the total amount to be levied by that authority in that year between those councils as follows—

- (a) in such proportions as all the constituent councils may agree; or
- (b) in the absence of such agreement, by a combination of the following proportions—
  - (i) the costs incurred by the joint waste disposal authority in the disposal or treatment of household waste delivered to it by its constituent councils shall be apportioned between the constituent councils in proportion to the tonnage of household waste delivered by each of these councils to the joint waste disposal authority within the last complete financial year for which data are available;

(ii) the costs incurred by the joint waste disposal authority in the disposal or treatment of business refuse that is deposited at places provided by the constituent councils under section 1 of the Refuse Disposal (Amenity) Act 1978(a) shall be apportioned between the constituent councils in proportion to the tonnage of business refuse deposited at such places within the area of each of these councils within the last complete financial year for which data are available; ~~and~~

*(iii) the costs incurred by the joint waste disposal authority in the planning, construction, equipping and operation of sites provided under section 51(1)(b) of the Environmental Protection Act 1990 (HWRCs), including contract payments, staffing, utilities, premises, reuse, recycling, composting (costs and/or income) and relevant management costs, but excluding the cost of removing residual waste and its disposal (the authority's duty under the Refuse Disposal (Amenity) Act 1978), shall be apportioned between those constituent councils in whose area an HWRC is situated proportionate to the authority's relative costs applicable to each HWRC, such that the authority's above costs of each HWRC are paid in full by the constituent council in which it is situated.*

*(iv) the costs incurred by the joint waste disposal authority in the purchasing of Cranford Way HWRC shall be apportioned between the constituent councils in the following proportions:*

<i>Barnet</i>	<i>0.613%</i>
<i>Camden</i>	<i>0.038%</i>
<i>Enfield</i>	<i>0.383%</i>
<i>Hackney</i>	<i>0.191%</i>
<i>Haringey</i>	<i>97.894%</i>
<i>Islington</i>	<i>0.804%</i>
<i>Waltham Forest</i>	<i>0.077%</i>

*(v) the costs incurred by the joint waste disposal authority in the purchasing of any further HWRCs shall be apportioned between the constituent councils in proportion to the number of households in each constituent council that exist within a two-mile radius of the entrance to the HWRC until a visitor survey has been undertaken by the Authority. Once a visitor survey has been undertaken by the Authority for any such HWRC the costs as at clause (iii) above shall be recovered from the constituent councils from the next financial year onwards in proportion to such visitor survey; visitors from outside the Authority's area shall be treated as visitors from the borough in which the HWRC is situated. Further visitor surveys may be undertaken by the Authority in future years, which shall be used in place of previous visitor surveys from the financial year after they are undertaken ,including for the avoidance of doubt Cranford Way; and*

(vi)~~(iii)~~ all other costs not falling within paragraphs (i) ~~or (ii)~~ (iii) (iv) or (v), shall be apportioned between the constituent councils by reference to the relevant proportion.

(2) For the purposes of paragraph 1(b) (vi)~~(iii)~~, “the relevant proportion” is the relevant proportion determined in accordance with paragraphs (5) to (7) of regulation 6 of the 1992 Regulations but as if, in those paragraphs, the references to —

(a) “levying body” were references to a joint waste disposal authority; and

---

(a) 1978 c.3. Section 1 has been prospectively repealed, in relation to England and Wales, by the Environmental Protection Act 1990 (1990 c.43) section 162 and Schedule 16, Part II, as from a day to be appointed. Amended by the Environmental Protection Act 1990, section 162, Schedule 15, paragraphs 19(2) and (3) and S.I. 1985/1884. Modified, in relation to the area of a London waste disposal authority, by S.I. 1985/1884.



(b) “relevant authority” and “billing authority” were references to a constituent council.

(3) Where paragraph (1)(b) applies to the determination of a levy to be issued in respect of any financial year beginning on or after 1st April 2007, a constituent council shall, within the period beginning on 1st December and ending on 31st January in the financial year preceding the financial year in respect of which the levy is to be issued, inform the joint waste disposal authority of—

(a) the tonnage of household waste delivered to the joint waste disposal authority for disposal or treatment within the last complete financial year for which data are available;

(b) the tonnage of business refuse that was deposited at places provided by the constituent council under section 1 of the Refuse Disposal (Amenity) Act 1978 within the last complete financial year for which data are available; and

(c) the council tax base, determined in accordance with paragraphs (6) and (7) of regulation 6 of the 1992 Regulations, for its area, in respect of which a levy will be issued or it anticipates that a levy will be issued in the immediately following financial year.

(4) In this regulation—

“household waste”, has the same meaning as in section 75 of the Environmental Protection Act 1990(a);

“business refuse” means refuse falling to be disposed of in the course of a business, and

“refuse” has the same meaning as in section 1(7) of the Refuse Disposal (Amenity) Act 1978.

### **Special provisions relating to the Greater Manchester Waste Disposal Authority**

**5.—**(1) The amount to be levied by the Greater Manchester Waste Disposal Authority in respect of any year from the council of the metropolitan district of Wigan shall not include any amount relating to the Authority’s waste disposal functions and, accordingly, that amount shall be borne by the other constituent councils of the Authority in such proportions as they may agree or, in default of agreement, in the proportions specified in regulation 4(1)(b).

(2) In this regulation, “waste disposal functions” means functions vested in the Greater Manchester Waste Disposal Authority by virtue of regulation 5 of, and Schedule 2 to, the 1985 Order which are not exercisable by the Authority in the metropolitan district of Wigan.

### **Interest on unpaid levies**

**6.—**(1) Where any amount of a levy is not paid by the due date for payment specified in the demand issued under regulation 3, the constituent council shall be liable to pay to the joint waste

disposal authority interest, calculated in accordance with paragraph (2), on the amount of the levy issued under these Regulations which remains unpaid after the due date for payment.

(2) The interest payable under paragraph (1) shall be simple interest calculated from day to day on the unpaid amount from the due date for payment until the date when payment is made at a rate equivalent to 2 per cent. above the highest base rate quoted from time to time by any of the reference banks.

(3) For the purposes of paragraph (2) “reference banks” shall be interpreted in accordance with paragraphs (3) to (5) of regulation 10 of the 1992 Regulations (interest on unpaid levies).

---

(a) 1990 c.43, Section 75 was amended by the Environment Act 1995 (1995 c. 25) section 120(1) and (3), Schedule 22, paragraphs 88 (1) to (4) and Schedule 24. There is other amending legislation in relation to Scotland. Modified by S.I. 1994/1056, regulation 19, Schedule 4, Part I, paragraph 9, to include “Directive waste” as defined in regulation 1(3), Schedule 4, Part II of those Regulations.

### **Anticipation of levies**

7.—(1) A constituent council making calculations in accordance with section 32 or, as the case may be, section 43 of the Local Government Finance Act 1992(a) (“the calculations”) for a financial year (“the year”) may anticipate a levy to be issued on it in accordance with these Regulations for the year by a relevant joint authority in any case where—

(a) such a levy has not been issued by the relevant joint authority on the constituent council at the time the calculations are made; and

(b) the relevant joint authority issued a levy for the preceding financial year.

(2) Subject to paragraph (3), where pursuant to paragraph (1) a constituent council anticipates a levy to be issued by a relevant joint authority for the year, the amount of the levy so anticipated shall be equal to the constituent council’s estimate, at the time the calculations (or last calculations) are made, of the amount of the levy which it considers likely will be issued on it for the year by the relevant joint authority.

(3) Where a levy has previously been anticipated by a constituent council for the purposes of the calculations for the year, the amount of the levy which may be anticipated by the constituent council for the purposes of any substitute calculations for the year shall be equal to the amount previously anticipated.

(4) Notwithstanding that a constituent council making calculations for a financial year anticipated a levy to be issued on it in accordance with these Regulations by a relevant joint authority—

(a) where the relevant joint authority issues a levy on the constituent council in accordance with these Regulations, the constituent council shall pay to the relevant joint authority a sum equal to the amount of the levy; and

(b) where the relevant joint authority does not issue a levy on the constituent council in accordance with these Regulations, the constituent council shall not be liable to pay any sum to the relevant joint authority only by virtue of having anticipated a levy from the relevant joint authority.

(5) In this regulation, a “relevant joint authority”, in relation to a constituent council, means a joint waste disposal authority with power under these Regulations to issue a levy on that council.

### **Transitional provisions**

**8.—**(1) Save as provided in paragraph (2), the 1992 Regulations shall cease to apply to levies issued or anticipated in accordance with these Regulations in respect of any financial year beginning on or after 1st April 2006.

(2) In relation to levies issued or anticipated in respect of the financial years beginning on 1st April 2006 and on 1st April 2007—

- (a) regulation 4 of these Regulations (apportionment of levies) shall apply to the levies issued by the joint waste disposal authorities specified in the first column of the Schedule to these Regulations in the proportions specified in the second column of that Schedule for each of those financial years; and
- (b) regulation 6 of the 1992 Regulations (apportionment) shall continue to have effect in relation to the proportion of the levy not covered under sub-paragraph (a).

---

(a) 1992 c.14. Sections 32 and 43 were amended by the Police Act 1997 (1997 c. 50), section 134(1), Schedule 9, paragraphs 67 and 68(2) and (3), the Criminal Justice and Police Act 2001(2001 c. 16), section 137, Schedule 7, Part 5(1), the Local Government Act 2003 (2003 c. 26), section 127(2), Schedule 8, Part 1, the Serious Organised Crime and Police Act 2005, section 174(2), Schedule 17, Part 2 and S.I. 1994/246, 1995/234, 1996/56, 1999/296, 2000/717, 2005/190. There is other amending legislation in relation to Wales. Modified by S.I. 1993/22, 1995/161 and 1995/2889. Section 43 is disapplied by the Greater London Authority Act 1999 (1999 c. 29), section 85.

*Ben Bradshaw*

Parliamentary Under Secretary of State

6th February 2006

Department for Environment, Food and Rural Affairs

## SCHEDULE

Regulation 8(2)

## TRANSITIONAL ARRANGEMENTS

<i>JOINT WASTE DISPOSAL AUTHORITIES</i>	<i>PROPORTION OF THE TOTAL LEVY FOR 2006 AND 2007 TO WHICH REGULATION 4 APPLIES</i>
North London Waste Authority West London Waste Authority Western Riverside Waste Authority Merseyside Waste Disposal Authority	33.3% for the financial year beginning on 1st April 2006 66.6% for the financial year beginning on 1st April 2007
Greater Manchester Waste Disposal Authority	50% for the financial year beginning on 1st April 2006 75% for the financial year beginning on 1st April 2007

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations confer a power on joint waste disposal authorities established under the Waste Regulation and Disposal (Authorities) Order 1985 (S.I. 1985/1884) (the “1985 Order”) to issue levies on their constituent councils for the purpose of meeting their expenses in respect of financial years beginning on or after 1st April 2006 where, but for section 117 of the Local Government Finance Act 1988 (rates and precepts: abolition), they would have a power under article 7 of the 1985 Order (levies) to require the councils to pay those expenses. These Regulations apply to England only.

The Regulations include provisions as to when levies are to be issued (regulation 3), the apportionment of levies between authorities (regulation 4) as well as special provisions for the Greater Manchester Waste Disposal Authority (regulation 5). The Regulations also make provision for interest on unpaid levies (regulation 6) and the anticipation of levies (regulation 7).

Regulation 8 includes transitional provisions providing for the Levying Bodies (General) Regulations 1992 (S.I. 1992/2903) to cease to apply to levies issued or anticipated by joint waste disposal authorities in respect of any financial year commencing on or after 1st April 2006 except as specified in that regulation and the Schedule to the Regulations.

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of business.

---

STATUTORY INSTRUMENTS

---

**2006 No. 248**

**LOCAL GOVERNMENT, ENGLAND**

**FINANCE**

The Joint Waste Disposal Authorities (Levies) (England)  
Regulations 2006

***(as amended for the NLWA area)***