



## Public Document Pack

**Jeff Hughes**  
*Head of Democratic and Legal  
Support Services*

**MEETING** : EXECUTIVE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : TUESDAY 22 MARCH 2011  
**TIME** : 5.30 PM

### **PLEASE NOTE TIME**

#### **MEMBERS OF THE EXECUTIVE**

- |                              |  |
|------------------------------|--|
| Councillor Tony Jackson      | - Leader of the Council  |
| Councillor Malcolm Alexander | - Deputy Leader and Executive Member for Community Safety and Protection |
| Councillor Mike Carver       | - Executive Member for Planning Policy and Transport                     |
| Councillor Linda Haysey      | - Executive Member for Community Development, Leisure and Culture        |
| Councillor Bob Parker        | - Executive Member for Housing and Health                                |
| Councillor Michael Tindale   | - Executive Member for Resources and Internal Support                    |

CONTACT OFFICER: MARTIN IBRAHIM  
01279 502173 (Officer Hours)

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## PERSONAL AND PREJUDICIAL INTERESTS

1. A Member with a personal interest in any business of the Council who attends a meeting of the Authority at which the business is considered must, with certain specified exemptions (see section 5 below), disclose to that meeting the existence and nature of that interest prior to the commencement of it being considered or when the interest becomes apparent.
2. Members should decide whether or not they have a personal interest in any matter under discussion at a meeting. If a Member decides they have a personal interest then they must also consider whether that personal interest is also prejudicial.
3. A personal interest is either an interest, as prescribed, that you must register under relevant regulations or it is an interest that is not registrable but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward(s) affected by the decision.
4. Members with personal interests, having declared the nature of that personal interest, can remain in the meeting, speak and vote on the matter unless the personal interest is also a prejudicial interest.
5. An exemption to declaring a personal interest applies when the interest arises solely from a Member's membership of or position of general control or management on:
  - any other body to which they have been appointed or nominated by the authority
  - any other body exercising functions of a public nature (e.g. another local authority)

In these exceptional cases, provided a Member does not have a prejudicial interest, they only need to declare their interest if they speak. If a Member does not want to speak to the meeting, they may still vote on the matter without making a declaration.

6. A personal interest will also be a prejudicial interest in a matter if all of the following conditions are met:
  - the matter does not fall within one of the exempt categories of decisions
  - the matter affects your financial interests or relates to a licensing or regulatory matter
  - a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.
  
7. Exempt categories of decisions are:
  - setting council tax
  - any ceremonial honour given to Members
  - an allowance, payment or indemnity for Members
  - statutory sick pay
  - school meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends
  - housing; if you hold a tenancy or lease with the Council, as long as the matter does not relate to your particular tenancy or lease.
  
8. If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that interest and its nature as soon as the interest becomes apparent to you.
  
9. If you have declared a personal and prejudicial interest, you must leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose. However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe proceedings.

## AGENDA

1. Apologies

To receive apologies for absence.

2. Minutes

To approve the Minutes of the meeting held on 8 March 2011  
(To Follow).

3. Leader's Announcements

4. Declarations of Interest

To receive any Member(s) declaration(s) of interest.

5. Hertfordshire Waste Partnership Inter-Authority Agreement (Pages 5 - 68).

6. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

## EAST HERTS COUNCIL

EXECUTIVE – 22 MARCH 2011

### REPORT BY EXECUTIVE MEMBER FOR COMMUNITY SAFETY AND PROTECTION

#### 5. HERTFORDSHIRE WASTE PARTNERSHIP INTER-AUTHORITY AGREEMENT

WARD(S) AFFECTED: ALL

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#### Purpose/Summary of Report

- To request that the Executive recommend to Council to adopt the Hertfordshire Waste Partnership Inter-Authority Agreement.

<b><u>RECOMMENDATION FOR DECISION:</u></b>	
<b>(A)</b>	<b>The Draft Hertfordshire Waste Partnership Inter-Authority Agreement be recommended to Council for approval.</b>

#### 1.0 Background

1.1 The Hertfordshire Waste Partnership (HWP) is set up as a Member Group comprising councillors from the 11 Hertfordshire Authorities. This is supported by an officer structure comprising a strategic 'Directors Group', currently chaired by the Director of Environment from Hertsmere Borough Council; a 'Heads of Waste Group' comprising the senior client officers, giving technical and professional advice to Members; and several operational groups dealing with 'Street Care', Waste collection and disposal issues and 'WasteAware' (waste and recycling promotion and publicity).

1.2 The Partnership has been one of the most successful local authority partnerships in the Country. It developed a County wide Hertfordshire Joint Municipal Waste Management Strategy in 2002 and partnership working has resulted in:

- a) Significant increases in recycling performance; County wide (46% of waste was recycled and composted in 2009/10).

- b) Joint procurement of a wide range of waste related contracts including, abandoned vehicles and re-processing of recyclables materials, generating significant savings for Hertfordshire and this Council.
- c) Successful bids for government funding, the most notable being the £5m received as part of the Waste Minimisation and Recycling Fund, from which all 11 authorities benefited and recycling performance was increased by 11% in two years. Partnership funding recently supported the provision of new recycling boxes and kitchen caddies for the East Herts ARC programme.
- d) High levels of openness and trust with member authorities working to share knowledge and best practice across Hertfordshire and elsewhere.

1.3 The Partnership has had an informal Memorandum of understanding in place since 2002 and a more formal 'Interim Inter-Authority Agreement', which was agreed by East Herts Executive in February 2009.

## 2.0 Report

2.1 Landfill space in the County is running out and it was recognised as part of the development of a new Hertfordshire Municipal Waste Strategy in 2007 that alternatives to landfill would need to be developed in order to make provision for the disposal of Hertfordshire's waste in the future.

2.2 The County Council as the Waste Disposal Authority, in consultation with District Councils, is tendering for a new waste processing facility. This project includes a bid for £115m of Government funding, under the Private Finance Initiative (PFI). The associated PFI contract is likely to have a life of at least 25 years. The project involves the design, build, finance, operation and management of one or more energy from waste treatment facilities. All partner authorities recognised that it would be necessary to demonstrate to DEFRA and potential contractors that there was a formal written commitment to the Partnership and the Joint Waste Strategy, which endorsed the management of shared risks.

2.3 Partner authorities also felt that the development of a full Inter-Authority Agreement provided an opportunity to enhance and

evolve long term working relationships in the delivery of waste services and related arrangements such as consortia contracts.

- 2.4 As partners work more closely together to deliver services efficiently, there is a potential increase in the risk that the action of one authority could have a negative impact upon another. Under the IAA each local authority will continue to have full discretion to provide services as it sees fit but will be required to consult meaningfully with partners about any material changes it is considering. The purpose of this consultation is to ensure that one or more partners fully understand the potential impacts of any decisions they take on the other partners and that there are net benefits to the tax payer overall.
- 2.5 The IAA is also a mechanism by which the Partnership intends to manage the risks inherent in coordinating operational activities between 11 separate authorities. For example, It will give the County Council's waste disposal contractor a degree of certainty about the levels of waste that will be delivered to its plant in the future. It will also put the payment streams between authorities on a more formal basis and thus provide the participating authorities with some confidence of continuity of income streams.
- 2.6 This is particularly important for this Council, which receives significant contributions towards the provision of its services in the form of payments for the amount of waste diverted from landfill (known as the 'Alternative Financial Model'). The IAA therefore acts as a guarantee over the certainty of this funding stream, which makes a significant contribution to the Council's services.
- 2.7 The IAA is intended as a legally binding agreement which confirms previous agreements reached between the County Council and the District Councils regarding funding, collection services, and long term disposal arrangements. By agreeing the IAA the partner authorities will be reaffirming their commitment to strengthening the HWP in delivering value for money waste services for Hertfordshire's residents.
- 2.8 In summary the IAA will:
- provide a detailed framework for the authorities to work in partnership, allowing partners to agree matters not covered by existing provisions;
  - allow the districts to have an input into all waste management related decisions across the two tiers;

- ensure that the partners work together on waste management issues to achieve collective ambitions whilst at the same time making sure the waste treatment facility is able to deliver best value for Hertfordshire's residents;
- formalise coordination and so discourage possible unilateral behaviour which may not be in the interest of the council tax payers of Hertfordshire overall.
- demonstrate to external service providers and DEFRA / HM Treasury that there is a co-ordinated approach to support the final business case underlining the 'deliverability' of the new waste disposal facility. This is an important issue as central government is required to ensure that the PFI Contract is affordable and ultimately that the Partnership is able to offer waste services to the residents of Hertfordshire that are value for money.
- guarantee the 'discretionary' reward payments made to district councils under the Alternative Financial Model.
- give the successful contractor providing the new waste disposal plant some certainty about the future levels of waste it can expect and to plan for any changes. This will help to reduce the risks to the contractor that might otherwise be reflected in higher premiums being priced into the charges paid by the County Council on behalf of Council Tax payers.

2.9 Officers and Members from across the county have worked closely together, on what are complex and challenging issues, to reach agreement on the draft IAA document shown at Essential Reference Paper 'B'. Small adjustments may be required as it is considered through each council's formal approval processes and it is therefore recommended that the Executive Member be given delegated authority to agree minor changes on behalf of the Council.

### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers:



Hertfordshire Waste Partnership – Intermediate Inter-Authority Agreement - Report to Executive (10 February 2009).

Contact Member: Councillor Malcolm Alexander, Executive Member for Community Safety and Protection.

Contact Officer: Cliff Cardoza, Head of Environmental Services, Extn: 1527.

Report Author: Cliff Cardoza, Head of Environmental Services, Extn: 1527.

## ESSENTIAL REFERENCE PAPER 'A'

<p>Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i></p>	<p><b>Fit for purpose, services fit for you</b> <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p><b>Pride in East Herts</b> <i>Improve standards of the neighbourhood and environmental management in our towns and villages.</i></p> <p><b>Caring about what's built and where</b> <i>Care for and improve our natural and built environment.</i></p> <p><b>Leading the way, working together</b> <i>Deliver responsible community leadership that engages with our partners and the public.</i></p>
<p>Consultation:</p>	<p>There has been extensive consultation between the 11 authorities at both senior officer and Executive Member level.</p>
<p>Legal:</p>	<p>The Legal Service Manager has been fully involved in the development of the IAA and is satisfied that its content is balanced and reasonable.</p>
<p>Financial:</p>	<p>There are no additional costs or income to the Council arising from this report. However, the continued receipt of payments under the Alternative Financial Model is conditional upon signing the Agreement. Failure to approve the Agreement would therefore jeopardise this significant income to the Council.</p>
<p>Human Resource:</p>	<p>There none for this report.</p>
<p>Risk Management:</p>	<p>The IAA is a legally binding agreement between this Council, Hertfordshire County Council and the other 9 district councils in Hertfordshire. A key requirement of the agreement is to consult with partners when considering significant changes to waste services. This is to ensure that the changes do not disadvantage partners and are in the overall best interest of the Council Tax payer. This requirement could result in additional time needing to be allowed before implementing a decision by this Council on significant changes to waste services. However, Partners meet on a regular basis and this is not expected to present a problem for this Council in practice.</p> <p>While all partners are free to act in the best interests of</p>

	<p>their residents, a unilateral action by one authority, without consultation, which was demonstrably financially disadvantageous to partners and Council Tax payers overall and could result in the termination of the IAA for that authority, potentially resulting in the loss of AFM funding.</p> <p>The IAA does provide a number of benefits to the Council in the form of protection from loss of recycling income and excessive additional costs from having to travel longer distances to dispose of waste. In this context it represents an important step forward in managing the significant risks associated with operating waste management services.</p>
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# **HERTFORDSHIRE WASTE PARTNERSHIP AGREEMENT**

**(Item 10a - Draft Version 1.0 – 10th February 2011)**

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**THIS AGREEMENT is made the [                      ] day of 2011.**

**BETWEEN**

1. Broxbourne Borough Council
2. Dacorum Borough Council
3. East Hertfordshire District Council
4. Hertsmere Borough Council
5. North Hertfordshire District Council
6. St Albans City & District Council
7. Stevenage Borough Council
8. Three Rivers District Council
9. Watford Borough Council
10. Welwyn Hatfield Borough Council
11. Hertfordshire County Council

**IT IS HERERBY AGREED AS FOLLOWS:-**

**1 DEFINITIONS AND INTERPRETATION**

- 1.1 The terms in the Hertfordshire Waste Partnership Agreement (HWPA) with a first capital letter shall have the meanings in SCHEDULE 1 (DEFINITIONS) to the HWPA.
- 1.2 References in the HWPA to words in the singular include the plural and vice versa.
- 1.3 A reference in the HWPA to any clause, sub clause, paragraph, SCHEDULE or annex is, except where it is expressly stated to the contrary, a reference to such clause, sub clause, paragraph, SCHEDULE or annex of the HWPA.
- 1.4 Clause headings are for ease of reference only and shall not affect the spirit or construction of the HWPA.
- 1.5 Reference to any Legislation or any particular instrument of Legislation by name shall be construed as a reference to the particular Legislation for the time being in force, or as amended or re-enacted by any subsequent Legislation.
- 1.6 The SCHEDULES to this HPWA form part of the HWPA.
- 1.7 In the case of any inconsistency between the provisions of these clauses and the SCHEDULES to the HWPA, the clauses of the HWPA shall prevail.

## 2 STATEMENT OF UNDERSTANDING AND PURPOSE

- 2.1 The Partners wish to enter into a legally binding arrangement in connection with a) the future development of waste management services across Hertfordshire; b) the Residual Waste Disposal Contract and c) the development of consortia contracts including the provision of in vessel composting Facilities by the Waste Disposal Authority on behalf of Waste Collection Authorities.
- 2.2 The Partners acknowledge that it is important to support the Residual Waste Disposal Contract by demonstrating via the HWP that the Partners have a comprehensive, thought through and joined up strategic approach to the management of waste in Hertfordshire.
- 2.3 The main purposes of the HWP are to :-
  - 2.3.1 Provide a clearly defined working relationship between the Partners in delivering the Joint Municipal Waste Management Strategy (JMWMS) based on the provision of co-ordinated waste management services provided by the Partners in pursuit of targets detailed in the JMWMS including any subsequent revisions formally adopted by the HWP.
  - 2.3.2 Provide a legally binding formalisation of the objectives powers constitution and arrangements for the administration of the HWP.
  - 2.3.3 Provide long term agreement with respect to how waste management services provided by the Partners are conducted and co-ordinated.
  - 2.3.4 Set in place processes, procedures and protocols for consultation and review of decisions which may impact on the level and coverage of waste management services provided by the Partners especially where these a) have or are likely to have a material impact on one or more of the Partners operations; b) have or are likely to have a material impact on the ability of the HWP to achieve targets detailed in the JMWMS including any formally adopted revisions; c) have or are likely to have a material impact on the efficient management by the WDA of its Residual Waste Disposal Contract.
- 2.4 It is the intention of the HWP to reflect the current working relationship of the Partners in delivering their respective waste management services including setting out key aspects of the agreement including the Alternative Financial Model; Delivery Points for residual waste disposal including specific commentary on transport mechanisms that recognise the relevant financial and environmental costs as well as the nature of wastes withheld by both the WCAs and WDA for recycling and composting services.
- 2.5 The Partners recognise that all of them have a responsibility for and commitment to the effective delivery of Hertfordshire's municipal waste management services. All Partners intend that the HWP will promote the effective planning and delivery of these services with a view to maximising potential value for money by establishing a lasting framework for consultation and cooperation in order to make the best use of resources.
- 2.6 Through such an approach the Partners agree to work together in pursuit of the Waste Hierarchy, which may be set out from time to time by the UK Government or as agreed between the Partners with respect to updates of the JMWMS.
- 2.7 The HWP is legally binding and intended to be enforceable between the Partners as provided in the HWP (for the avoidance of doubt, including but not limited to the provisions of clauses 17 (REMEDIES), 18 (DISPUTE RESOLUTION PROCEDURE) and 19 (TERMINATION)).



### **3 TERM**

- 3.1 The HWPA commences on the 1<sup>st</sup> [ ] 2011 and shall take effect from that date.
- 3.2 The HWPA shall terminate on the earlier of :
- 3.2.1 the date that any relevant provisions of the EPA and WET Act which amended or repealed comes into effect or any other enactment is made such that this arrangement is rendered ineffective, or unlawful;
- 3.2.2 an agreement pursuant to the Review Procedure that the HWPA is to end in respect of one or more WCAs (in which circumstance it shall continue for the other Partners (if any), one of which must be the WDA);
- 3.2.3 termination for WCA Default and / or WDA Default in accordance with clause 19 (in which circumstance the HWPA shall continue for the other Partners (if any)).

### **4 LEGAL CONTEXT AND PURPOSE**

- 4.1 The Partners have entered into the HWPA in their capacities as the Waste Disposal Authority, (WDA) and Waste Collection Authorities (WCAs) respectively and pursuant to their respective powers under the Environmental Protection Act 1990; the Waste and Emissions Trading Act 2003; Section 111 of the Local Government Act 1972; Section 2 of the Local Government Act 2000 (Wellbeing Powers); and all other powers enabling them in this regard.
- 4.2 The European Union and the UK Government are keen to reduce biodegradable municipal waste being landfilled by promoting and increasing waste prevention, re-use and recycling whilst at the same time recovering value from residual wastes which are not recycled. This is an approach supported by the Partners and is reflected in the current JMWMS.
- 4.3 The National Waste Strategy 2007 issued by the Secretary of State pursuant to the EPA requires local authorities to achieve certain targets for landfill diversion, recycling and recovery. The Landfill Directive (1999/31/EC) requires all Waste Disposal Authorities to divert prescribed amounts of biodegradable municipal waste from landfill as detailed in the WET Act.
- 4.4 The Partners recognise that nothing in the HWPA will prevent them from carrying out their individual statutory duties and responsibilities or restrict the decisions to be made with regard to their respective functions.
- 4.5 However, the Partners recognise, subject to the review procedures detailed in clause 16, that the service levels detailed in SCHEDULE 7 represent the minimum service levels that should be provided at the commencement of the HWPA. Further the Partners recognise that major changes to the baseline as detailed in SCHEDULE 7 should be managed according to the review procedures detailed in clause 16.

## 5 GOVERNANCE AND SPIRIT OF PARTNERSHIP

- 5.1. The Partners will work together in a spirit of partnering in connection with their dealings with each other in respect of the subject matter of the HWPAs so that wherever possible the activities of one complement and enhance the activities of the others for the benefit of all residents, businesses and visitors to Hertfordshire.
- 5.2. The Partners agree to work together to carry out their waste functions in accordance with principles of the Waste Hierarchy and in pursuit of the aims and objectives detailed in the JMWMS.
- 5.3. The Partners will act in accordance with the key principles, objectives and terms of reference set out at SCHEDULE 2 to the HWPAs.
- 5.4. The Partners recognise the importance of consultation and liaison on issues concerning waste services to include, without limitation, planning and implementing future proposals for the management of waste and in particular the Reduction, Reuse, Recycling, Composting, Recovery and Disposal of waste.
- 5.5. The Partners agree to commit themselves to the principle of consultation in the widest sense, with each other and with the community, on any issue which the Partners agree to be significant and which will impact upon those receiving waste related services within Hertfordshire.
- 5.6. For the purposes of the HWPAs, the spirit of partnering referred to in clause 5.1 above means that each Partner :-
  - 5.6.1. works in good faith with the other Partners in pursuit of overall benefits to the community, resolves problems together with the other Partners rather than taking an adversarial stance, acts reasonably and in so far as is reasonably possible shares information that could reasonably be expected to impact upon the HWPAs or the Partners to the HWPAs;
  - 5.6.2. takes all reasonable steps (without incurring excessive expenditure) to mitigate any losses arising from a Partner's actions under the HWPAs;
  - 5.6.3. works together with the other Partners to ameliorate any "detrimental impact" on the Residual Waste Disposal Contract arising from their activities (and the term detrimental impact shall include the application of any relief or remedy available to the Residual Waste Disposal Contractor, an increase to the unitary charge or other compensation payable by the WDA to the Residual Waste Disposal Contractor);
  - 5.6.4. works together with the other Partners to achieve statutory targets and as far as is reasonable or practicable works to ameliorate the detrimental impact on the Partners and the public in the event that any one of the Partners fails to carry out its obligations under the HWPAs;
  - 5.6.5. uses all reasonable endeavours working together with the other Partners to minimise waste and to increase the amount Recycled, Composted and Recovered from wastes collected by the Partners in line with the JMWMS, UK Government targets, Legislation and in particular the Landfill Directive (1999/31/EC);
  - 5.6.6. informs and works with the public, the community sector and the commercial sector in Hertfordshire in pursuit of the Waste Hierarchy to ensure that as much Municipal Waste as feasible is (in order of priority) Reduced, Re-used, Recycled or Recovered;

5.6.7. works with the other Partners to:

- 5.6.7.1. continue to promote and raise awareness of waste issues and to give people the knowledge and resources to take action at school, at work and in the community through waste related education, awareness raising and behavioural change programmes where possible; and
- 5.6.7.2. make the strategic planning and development of Hertfordshire's waste services as transparent as possible to each other and to the public as a whole; and
- 5.6.7.3. research, develop and implement detailed proposals to achieve the purposes referred to in clauses 5.6.4 and 5.6.7 above; and
- 5.5.7.4. implement the JMWMS and to develop, support and continue to enhance such schemes and services as are decided upon by the Partners; and
- 5.5.7.5. enhance economic development and employment opportunities as part of these proposals wherever possible; and
- 5.5.7.6. explore other appropriate partnering opportunities with both the private and public sectors in the pursuit of the aims and objectives of the HWPAs.

5.7. In addition to the changes brought about by the Residual Waste Disposal Contract the Partners will continue to discuss and agree ways to maximise diversion from Landfill thereby reducing costs associated with Landfill (including those associated with landfill tax and LATS) whilst maximising environmental benefit.

5.8. The Partners will discuss and agree ways in which they may respond to local needs, achieve value for money and in particular economies of scale through this partnering arrangement including where appropriate by sharing resources that achieve the best 'whole service cost' for tax payers with cost being defined as both financial and environmental.

## **6 WCA BASELINES AND INTERFACE WITH RESIDUAL WASTE DISPOSAL CONTRACT**

The purpose of the WCA Baselines and the review procedure is to provide long term confidence and stability to the WDA for the purpose of managing its Residual Waste Disposal Contracts and to avoid, as far as is possible, detrimental effect on the Residual Waste Disposal Contracts.

## **7 THE WDAs RESPONSIBILITIES AND COMMITMENTS**

7.1 With effect from the Commencement Date the WDA shall procure the provision of the Delivery Points in accordance with the Delivery Points Standards detailed in SCHEDULE 8 (Delivery Point Standards).

7.2 Where a WCA's designated Delivery Point is unavailable the WDA shall direct the WCA to an Alternative Delivery Point, subject to discussion between the affected Partners as laid down by SCHEDULE 6.

7.3 The WDA shall provide a network of user-friendly HWRCs and consult with WCAs on any future changes to the existing network in accordance with the review procedure.

- 7.4 The WDA shall make payments to WCAs in accordance with the provisions of SCHEDULE 4 (FUNDING), SCHEDULE 5 (ALTERNATIVE FINANCIAL MODEL) and SCHEDULE 6 (TRANSPORT SUBSIDY).
- 7.5 The WDA shall use its best endeavours to implement and thereafter operate and continue to operate the relevant action plans within the JMWMS unless the Partners agree otherwise in accordance with the Review Procedure.
- 7.6 The WDA agrees to actively and jointly promote Waste minimisation and Waste reduction activities with the WCAs and to ensure that the results of such activity is reflected within the WDA Baseline or as otherwise agreed in accordance with the Review Procedure.
- 7.7 The WDA agrees to actively and jointly pursue Recycling and Composting schemes and to maintain or increase Recycling and Composting performance levels supported by awareness raising / behavioural change campaigns delivered jointly with the other Partners.
- 7.8 The WDA will use its best endeavours to provide in consultation with the appropriate WCA(s) suitable waste transfer arrangements based on a 'whole system cost' analysis which seeks to minimise overall financial and environmental costs to the tax payer.

## **8 THE WCAs RESPONSIBILITIES AND COMMITMENTS**

- 8.1 The chosen collection system shall remain the sole responsibility and at the discretion of each WCA. However, the WCAs agree to work together as far as is reasonably practicable through the HWPA to deliver the current and any future JMWMS for Hertfordshire, in accordance with the WCA Baselines, and in a way that does not adversely affect the obligations of the WDA
- 8.2 The WCAs shall use their best endeavours to implement and thereafter operate and continue to operate their services in pursuit of targets detailed in the JMWMS unless the Partners agree otherwise in accordance with the Review Procedure.
- 8.3 The WCAs agree to actively and jointly promote Waste minimisation and Waste reduction activities with the WDA and to ensure that the result of such activities is reflected within the WCA Baselines or as otherwise agreed in accordance with the Review Procedure.
- 8.4 The HWPA places no restriction on any WCA wishing to pursue recycling targets in excess of those agreed as part of the JMWMS or any subsequent revisions adopted by the Partners.
- 8.5 The WCAs agree to actively and jointly pursue Recycling and Composting schemes and to maintain or increase Recycling and Composting performance levels supported by awareness raising / behavioural change campaigns delivered jointly with the other Partners.
- 8.6 The WCAs shall deliver Residual Waste to the Delivery Points and in compliance with the Delivery Points Standards detailed in SCHEDULE 8 (DELIVERY POINT STANDARD).
- 8.7 The WCAs shall comply and shall procure that their collection arrangements and collection contractors take all reasonable steps to comply with the Contamination Protocol set out in SCHEDULE 9 (CONTAMINATION PROTOCOL).

## **9 RESIDUAL WASTE DISPOSAL CONTRACT AND SUPPORTING INFRASTRUCTURE**

- 9.1 As soon as reasonably practicable after it is entered into, the WDA shall provide each of the WCAs with an electronic copy of the main body of the Project Agreement under the Residual Waste Disposal Contract and shall on request of any Partner provide that Partner with a copy of any of the SCHEDULES or ancillary documents to the Residual Waste Disposal Contract (subject to commercially sensitive information being omitted to the extent required by the Residual Waste Disposal Contract or by law).
- 9.2 The WDA shall notify the Partners of any relevant variations or amendments to the Residual Waste Disposal Contract agreed between the WDA and the Residual Waste Disposal Contractor. Where such variations or amendments have a material impact on a WCA the WDA shall first initiate a General Review in order to consult with the Partners acting at all times in accordance with clauses 2.4 and 2.5.
- 9.3 Each Partner shall perform any obligation arising under the HWPA in a timely manner so as to enable or facilitate obligations under any Residual Disposal Contract being completed as required.

## **10 WASTE DATA AND RECORDS**

- 10.1 Each Partner shall :
- 10.1.1 enter on WasteDataFlow such information as is required on a quarterly basis by the Wastedataflow regulator;
- 10.1.2 ensure that all information entered onto Wastedataflow pursuant to clause 10.1.1 is complete and accurate to the best of the Partners knowledge and belief;
- 10.1.3 comply with its obligation under clause 10.1.1 within the timescales specified by the Wastedataflow regulator whilst also having regard to any statutory or operational time constraints to which the WDA is subject to in respect of such data;
- 10.1.4 provide a copy of such information as soon as reasonably practicable following entry on Wastedataflow if and when requested.
- 10.2 The WCAs agreed to provide such information in such format as the WDA may reasonably require in connection with its performance and/or obligations under the IAA or Residual Waste Disposal Contract.
- 10.3 The Partners agreed to provide information necessary to monitor and measure any data collection relating to the HWPA.
- 10.4 Each Partner shall be responsible for providing accurate data and supporting evidence to demonstrate its performance under the HWPA and keep records of such matters for the monitoring purposes.
- 10.5 The Partners shall ensure that there is a regular reconciliation between any records kept by the WDA and WCAs.



## **11 TRADE WASTE**

- 11.1 Where the WDA and a WCA have agreed that the WCA will present Trade Waste for disposal, the provisions of this clause 11 shall apply.
- 11.2 The WDA shall arrange for the processing and / or disposal of Trade Waste collected by a WCA and delivered to the Delivery Points and the WCA shall in return pay the WDA a Trade Waste Recharge in accordance with the procedures detailed in SCHEDULE 3 (TRADE WASTE RECHARGE).
- 11.3 The WDA shall invoice each WCA on a quarterly basis for the payment of Trade Waste Recharges.
- 11.4 The Trade Waste Recharge projections will be subject to annual review in accordance with the procedures laid down in SCHEDULE 3 (TRADE WASTE RECHARGE). The annual review will also consider factors likely to affect the total tonnage of trade waste tonnages collected in the year of the review as well as the following year. Significant variances compared to previous projections will be communicated to the Residual Waste Disposal Contactor by the WDA.
- 11.5 For the avoidance of doubt reductions in Trade Waste tonnages delivered by a WCA as a result of market competition and/or any decision it may make in relation to its collection and delivery of Trade Waste as a consequence of such competition shall not be a Material Breach of the HWPA.

## **12 DELIVERY POINT STANDARDS**

- 12.1 The Partners will comply with the provisions of SCHEDULE 8 as it relates to the Delivery Points detailed in SCHEDULE 8 – Table 1.
- 12.2 The Partners shall ensure that all processing Facilities and Delivery Points to which waste is delivered have / will have the necessary permits and planning permissions in place.

## **13 COSTS**

- 13.1 Save as where otherwise provided by the HWPA, or by legislation, each Party shall bear its own expenses, costs, risks and liabilities arising out of, or pursuing to, the preparation and performance of the HWPA, and the preparation and performance of any proposals or contracts pursuant to it.

## **14 MANAGEMENT ARRANGEMENTS**

- 14.1 The Partners shall meet in accordance with the provisions detailed in SCHEDULE 2 (PARTNERSHIP PRINCIPLES, OBJECTIVES AND TERMS OF REFERENCE)
- 14.2 The provisions detailed in SCHEDULE 2 with respect to meetings, membership, voting and chairing shall continue to apply to the management of the HWPA.

## 15 ALTERNATIVE FINANCIAL MODEL

- 15.1 The principle of the Alternative Financial Model (AFM) is to recognise the long term investments being made in collection and processing infrastructure by each of the Partners. To this end the WDA shall pay each WCA in accordance with the Alternative Financial Model (AFM).
- 15.2 Payment under the AFM is conditional only on WCAs signing the IAA. Any WCA that does not sign the HWPA will not receive payments via the AFM and will instead receive recycling credit payments in line with the statutory position.
- 15.3 The WDA will provide quarterly updates with respect to the AFM in order that the WCAs are able to track the level of funding generated via this mechanism.
- 15.4 Recognising the need to maintain efficient financial transfers between the Partners, on or about 8<sup>th</sup> January each year the WCAs shall submit properly drawn invoices for 50% of the total funds projected to be earned under the AFM with the balance to be paid once final results are known.
- 15.5 The AFM will be reviewed according to the timing detailed in SCHEDULE 5 (ALTERNATIVE FINANCIAL MODEL)
- 15.6 The basic principles, agreed indexations and workings are detailed in SCHEDULE 5 (ALTERNATIVE FINANCIAL MODEL)

## 16 REVIEW PROCEDURES

- 16.1 Reviews will be carried out in accordance with the procedures and protocols detailed in SCHEDULE 10 (REVIEW PROCEDURES) as summarised below :-
- 16.1.1 NOTIFICATION OF CHANGES – sets out the circumstances in which changes to the baseline initiated by either the Partners or the Residual Waste Disposal Contractor should be the subject of a review and details the range of issues that need to be taken into account in initiating such a review.
- 16.1.2 GENERAL REVIEWS – confirms under what circumstances any of the Partners may call for a review of the HWPA at any time including timescales for notification and holding a general review.
- 16.1.3 ANNUAL REVIEWS – confirms that the Partners will conduct an annual review each year from September to November along with what issues should be considered as part of the annual review including if necessary the consideration of additional matters dependant on the subject matter detailed in the Review Notice.
- 16.1.4 PERIODIC REVIEWS – confirms that in addition to the review procedures summarised above that the Partners will meet every 5 years to consider the strengths, weaknesses and successes of the HWPA. The procedure also specifies the relevant minimum notice periods relevant to the periodic review and confirms how each Partner should set about informing the other Partners of the issues they wish to discuss.
- 16.1.5 PROVISION RELEVANT TO ALL REVIEWS – confirms when initiating reviews how notices should be served and what formats are acceptable. Also details the thresholds needed for decisions to be taken in circumstances where consensus cannot be reached.

- 16.2 For the avoidance of doubt no decision(s) taken as a result of a review will override or supersede clause 8.1 with collection arrangements remaining the sole responsibility and discretion of each WCA.
- 16.3 The Heads of Waste Group, as defined in SCHEDULE 2 (PARTNERSHIP PRINCIPLES, OBJECTIVES AND TERMS OF REFERENCE) will be the primary group charged with initiating and undertaking reviews as detailed above and reporting to the Directors Group who shall in turn report to the Partnership Board for consideration as to recommendations to be made to the Partners .
- 16.4 Both groups and the Board will be subject to the same voting procedures as detailed in SCHEDULE 2 (PARTNERSHIP PRINCIPLES, OBJECTIVES AND TERMS OF REFERENCE) principles 24 and 28.

## 17 REMEDIES

- 17.1 In the event that a payment under this agreement to a Partner remains unpaid after 30 calendar days from the date on which payment was due, as evidenced by the submission of a proper validated invoice issued in accordance with clauses 11.3 and 15.5, the relevant Partner shall be entitled to charge interest at a rate of 2% above Bank of England base rate from the end of the 30 calendar day period, and to recover any unpaid and properly due amount as a debt.
- 17.2 In the event that a WCA by its own negligence or default, and not that resulting from the act or omission of a third party, contractor or from external circumstances, commits a Material Breach under the HWPA the WDA shall be entitled at its discretion (acting reasonably and proportionately):
- 17.2.1 to reduce or terminate any discretionary funding provided to that WCA under the terms of the HWPA; and/or
  - 17.2.2 to terminate the HWPA in accordance with clause 19 in respect of that WCA;
  - 17.2.3 in respect of breaches of clause 6, to take action against the relevant WCA for breach of contract but any certifiable damages claimed shall be limited to the extent to which the WDA is liable to the Residual Waste Disposal Contractor for an increased unitary charge, compensation or relief arising out of the WCA's breach.
- 17.3 The remedies set out in this clause 17 and in clause 19 are agreed to be the Partners' sole and exclusive remedies for the failures described in those clauses and the Partners' rights shall be limited accordingly.
- 17.4 For the avoidance of doubt clause 17.3 shall not affect the rights that any WCA or the WDA in its waste collection capacity may have against each other in relation to any joint arrangements for the collection of waste save that in the case of the WDA such claims shall not extend to any increased costs rising from the Residual Waste Disposal Contract



## **18 DISPUTE RESOLUTION PROCEDURE**

### **CONSULTATION**

- 18.1 This Dispute Resolution Procedure shall be engaged and operated by the Partners in the spirit of partnering set out in the HWP A.
- 18.2 Any disagreement or dispute concerning the HWP A shall be first referred to a meeting of each of the Partners who is involved in the disagreement or dispute who shall enter into good faith negotiations to resolve the matter.
- 18.3 In the event that the disagreement or dispute is not resolved within a reasonable period, the disagreement or dispute shall be referred to the HWP who shall all enter into good faith negotiations to resolve the matter.

### **MEDIATION**

- 18.4 In the event that on the expiry of the period of 28 days from the date of the referral under clause 18.3 above or such longer period as the Partners may agree the dispute remains unresolved it shall be referred to a mediator appointed by the Centre for Effective Dispute Resolution (“the Mediator”).
- 18.5 The Mediator shall determine the rules and procedures by which the mediation shall be conducted save that:
- 18.5.1 each Partner shall be entitled to make a written statement of its case to the Mediator prior to the commencement of the mediation provided that such statement shall be provided to the Mediator not less than 14 days or such other period as may be agreed by the Mediator before the mediation is to commence; and
- 18.5.2 within 14 days of the conclusion of the mediation the Mediator shall provide a written report to the Partners which shall set out the nature of the dispute and the nature of its resolution if any.
- 18.6 The Mediator shall be entitled to be paid a reasonable fee which the Partners to the dispute shall pay in equal shares.
- 18.7 No Partner shall be entitled to commence litigation or arbitration proceedings until the completion of the mediation in accordance with this clause 18.

### **ADJUDICATION**

- 18.8 Without prejudice to clauses 18.1 - 18.3 (CONSULTATION), and clauses 18.4 – 18.7 (MEDIATION) any Disputing Partner may give the other notice of the intention to refer the dispute to adjudication and the Adjudicator shall be selected in accordance with clause 18.9.
- 18.9 The Adjudicator nominated to consider a dispute referred to him shall be agreed by the Disputing Partners or in default of agreement selected by the Centre for Effective Dispute Resolution.
- 18.10 Within 5 Business Days of appointment in relation to a particular dispute, the Adjudicator shall require the Disputing Partners to submit in writing their respective arguments. The

Adjudicator shall, in his absolute discretion, consider whether a hearing is necessary in order to resolve the dispute.

- 18.11 In any event, the Adjudicator shall provide to all Disputing Partners his written decision on the dispute, within 20 Business Days of appointment (or such other period as the Disputing Partners may agree after the reference, or 30 Business Days from the date of reference if the Disputing Party which referred the dispute agrees). Unless the Disputing Partners otherwise agree, the Adjudicator shall give reasons for his decision.
- 18.12 Nothing contained in the HWPA shall prevent a dispute being referred to the courts of England and Wales. Unless and until revised, cancelled or varied by the courts of England and Wales, the Adjudicator's decision shall be binding on both Disputing Partners who shall forthwith give effect to the decision.
- 18.13 The Adjudicator's costs of any reference shall be borne as the Adjudicator shall specify or, in default, equally by the Disputing Partners. Each Disputing Partner shall bear its own costs arising out of the reference, including legal costs and the costs and expenses of any witnesses.
- 18.14 The Adjudicator shall be deemed not to be an arbitrator but shall render his decision as an expert and the provisions of the Arbitration Act 1996 and the law relating to arbitration shall not apply to the Adjudicator or his determination or the procedure by which he reached his determination.
- 18.15 The Adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law. The Adjudicator shall have the power to open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made under this Agreement.
- 18.16 All information, data or documentation disclosed or delivered by a Disputing Party to the Adjudicator in consequence of or in connection with his appointment as Adjudicator shall be treated as confidential. The Adjudicator shall not, save as permitted by the provisions of the HWPA, disclose to any person or company any such information, data or documentation and all such information, data or documentation shall remain the property of the Disputing Party disclosing or delivering the same and all copies shall be returned to such Disputing Party on completion of the Adjudicator's work.
- 18.17 The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith. Any employee or agent of the Adjudicator is similarly protected from liability.
- 18.18 The Disputing Partners shall continue to comply with, observe and perform all their obligations under the HWPA regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution under this clause and shall give effect forthwith to every decision of the Adjudicator and the courts delivered under this clause 18.
- 18.19 Nothing in this clause 18 shall prevent either Disputing Partner from resisting enforcement of any decision on the grounds that the decision is invalid in law, whether through excess of jurisdiction by the Adjudicator or by breach of the rules of natural justice or in conflict of interest or in bad faith or otherwise.

## **19 TERMINATION**

### **19.1 TERMINATION FOR WDA DEFAULT**

- 19.1.1 If a WDA Default has occurred and a WCA wishes to terminate the HWP (the Terminating WCA), it must serve a termination notice on the WDA, copied to all other Partners (for information purposes only) within 30 Business Days of becoming aware of the WDA Default.
- 19.1.2 The termination notice must specify the type of WDA Default which has occurred entitling the WCA to terminate.
- 19.1.3 The IAA as between the WDA and the Terminating WCA shall terminate on the day falling 50 Business Days after the date the WDA receives the termination notice, unless the WDA rectifies the WDA Default within 30 Business Days of receipt of the termination notice.

### **19.2 TERMINATION FOR WCA DEFAULT**

- 19.2.1 If a WCA Default has occurred and the WDA wishes to terminate the HWP in respect of the defaulting WCA the WDA must first call a General Review to discuss the reasons for the default and to assess what options might be available to avoid termination.
- 19.2.2 Following the General Review if the WDA still wishes to terminate the HWP in respect of the defaulting WCA the WDA must serve a termination notice on the defaulting WCA, copied to all other Partners (for information purposes only) within 30 Business Days of becoming aware of the WCA Default.
- 19.2.3 The termination notice must specify the type of WCA Default which has occurred entitling the WDA to terminate.
- 19.2.4 The IAA shall terminate in respect of the defaulting WCA on the day falling 50 Business Days after the date the defaulting WCA receives the termination notice, unless the defaulting WCA(s) rectifies the WCA Default within 30 Business Days of receipt of the termination notice.

### **19.3 TERMINATION WITHOUT DEFAULT**

- 19.3.1 As a result of a Review the Partners may agree to terminate the HWP in whole or in part.

## **20 JOINT STATEMENTS AND PUBLICITY**

- 20.1 The Partners through the HWP shall adopt a press and public relations protocol from time to time. The Partners shall use reasonable endeavours to secure implementation of such protocol in so much as it relates to the services covered by the HWP.
- 20.2 The Partners shall consult with each other before making any public statement or issuing any press release or publishing any other public document concerning other Partners.

## **21 CONFIDENTIALITY AND FREEDOM OF INFORMATION**

- 21.1 The Partners agree as a general principle to the free exchange of information, but, subject to clause 21.3, to keep sensitive information confidential and to use it solely for the purpose of the HWPAs.
- 21.2 The Partners will respect each others' rights and obligations with respect to confidential or privileged information or expressions of opinion.
- 21.3 The Partners acknowledge that as public authorities they may receive requests for information relating to the HWPAs which, but for any right to claim exemption, they will be obliged to disclose under the Freedom of Information Act 2000 or Environmental Information Regulations 2004.
- 21.4 The Partners shall comply with the provisions of the Data Protection Act 1998.

## **22 NOTICES**

- 22.1 With the exception of notices under clause 16, no notice required to be served upon any of the Partners under the HWPAs shall be valid or effective unless it is in writing and shall be served either:
  - 22.1.1 by delivering the notice by hand to that Partner at the relevant address set out in SCHEDULE 11 (NOTICES) to the HWPAs; or to such other name and address as that Partner may notify the other Partners of in writing, and the notice shall be deemed to have been duly served at the time it is so delivered provided a receipt is obtained; or
  - 22.1.2 by posting the notice in a pre paid envelope delivered by recorded delivery and addressed to that Partner at the relevant address set out in SCHEDULE 11 (NOTICES) to the HWPAs or to such other name and address as that Partner may notify the other Partners in writing, and the notice shall be deemed to have been duly served at the time it is so delivered.
- 22.2 The Partners may from time to time agree electronic mail addresses to be used for the conduct of day to day matters, however formal notices relating to termination or any money claim under the HWPAs shall not be valid or effective unless sent in a hard copy and served in accordance with clauses 22.1.1 or 22.1.2 above.

## **23 ENTIRE AGREEMENT**

- 23.1 Except where expressly provided in the HWPAs, the HWPAs constitutes the entire agreement between the Partners in connection with its subject matter and, in the absence of fraud, supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of the HWPAs.
- 23.2 The Partners acknowledge that they have not entered into the HWPAs on the basis of any representation that is not expressly incorporated into the HWPAs.
- 23.3 Without limiting the generality of the foregoing, no Party shall have any remedy in respect of any untrue statement made to him upon which he may have relied in entering into the HWPAs, and a Party's only remedy is for breach of contract. Nothing in the HWPAs purports to exclude liability for any fraudulent statement or act.

## **24 AGENCY (ASSIGNMENT ETC)**

- 24.1 The HWPA does not create a legal partnership or agency between the Partners.
- 24.2 The HWPA is personal to the Partners and their successors in title and none of their rights or obligations under the HWPA may be assigned or transferred, save in respect of arrangements pursuant to section 19 Local Government Act 2000 or (as applicable) s101 of the Local Government Act 1972.

## **25 WAIVER**

- 25.1 Failure by one Partner to enforce the provisions of the HWPA or to require performance by any other Partner of any of the provisions contained in the HWPA shall not constitute or be construed as a waiver of or as creating an estoppel in connection with any such provision and shall not affect the validity of the HWPA or any part thereof or the right of the former Party to enforce any provision in accordance with its terms.

## **26 SEVERANCE**

- 26.1 If any clause or part thereof of the HWPA is deemed or determined unlawful, void or unenforceable by a Court of competent jurisdiction, the clause or relevant part thereof shall be severed without affecting the rest of the HWPA which shall remain in full force and effect.

## **27 RIGHTS OF THIRD PARTIES**

- 27.1 A person who is not a Party to the HWPA has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the HWPA.

## **28 LAW AND JURISDICTION**

- 28.1 The HWPA shall in all respects be governed and construed in accordance with the laws of England and Wales, and the Partners irrevocably submit to the exclusive jurisdiction of the English Courts.

## **29 GENERAL**

- 29.1 No amendment to the HWPA shall be binding unless it is in writing and signed by all the Partners.
- 29.2 The Partners shall comply with Guidance and Legislation.

## SCHEDULE 1 – DEFINITIONS

Action Plan(s)	Refers to the Action Plan published as part of the 2007 Joint Municipal Waste Management Strategy including any revisions formal agreed by the HWP.
Adjudicator	the person described in clause 18.
Alternative Delivery Point(s)	an alternative Delivery Point which is listed in the final column of Table 1 in SCHEDULE 8
Alternative Financial Model	means the alternative financial model to incentivise reduction of Residual Waste delivered for disposal to the WDA agreed by the HWP on 26th April 2010 as further described in SCHEDULE 5 (ALTERNATIVE FINANCIAL MODEL). The Alternative Financial Model is in the form of a Microsoft excel model;
Annual Review	the activity described at clauses 16.1.3 and SCHEDULE 10
Baseline	the baseline Waste and Recycling service to be delivered by each Partner as set out in SCHEDULE 7 as shall be amended from time to time in accordance with the Review Procedure;
Business Day	a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London;
Centre for Effective Dispute Resolution	means the alternative dispute resolution body known as CEDR located at Centre for Effective Dispute Resolution, International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU, United Kingdom
Commencement Date	the date set out in clause 3.1
Commercial Waste	shall have the meaning given to it in Section 75(7) of the EPA;
Composting	means a biological process in which biodegradable wastes, such as garden and kitchen wastes, are decomposed in the presence of air to produce a stable compost or soil conditioner;
Contract Waste	Means the waste that the WDA will be obliged to deliver to the Residual Waste Treatment Plant contractor which shall include all Municipal Waste less WCA and WDA Retained Waste
Delivery Point(s)	a facility, site or transfer station licensed to receive Waste, or an alternative thereto, which is notified by the WDA to the WCAs for this purpose, including the Delivery Points and Alternative Delivery Points set out in SCHEDULE 8 - Table 1;
Delivery Point Contractor(s)	the WDA's transfer station facility / delivery point contractor(s) from time to time including where applicable the Residual Waste Disposal Contractor;



Delivery Points Standards	those standards set out in SCHEDULE 8;
Disposal	is defined as any waste management operation serving or carrying out the final treatment and disposal of waste
Dispute Resolution Procedure	the mechanism set out at clause 18
Disputing Partners	the Partners described in clause 18
EPA	the Environmental Protection Act 1990;
Facilities	means Delivery Points or waste management treatment facilities procured by the WDA for the reception, handling or treatment of Waste and / or other facilities to which the WCAs may be directed to deliver Waste from time to time;
Food Waste	biodegradable waste derived from food materials typically consisting of cooked and uncooked fruit and vegetables, meat and fish scraps, excess or spoiled prepared food, and other discards from domestic kitchens;
General Review	the activity described in clauses 16.1.2 and SCHEDULE 10 (REVIEW PROCEDURES)
Green Waste	biodegradable waste such as green catering waste (i.e. raw fruit and vegetables), vegetation and plant matter (includes the yard trimmings, leaves, shrubs, plants, grass, street trees, or tree trunks, park trees or tree trunks etc) from household gardens, local authority parks and gardens, and commercial landscape gardens;
Guidance	any applicable guidance or directions with which the Partners are bound to comply with by law;
Household Waste	As defined in Controlled Waste Regulations 1992, and to include household collection rounds, waste from services such as street sweepings, bulky household waste collections, household hazardous waste, litter, clinical waste and separate garden waste collections;
HWP	means the Hertfordshire Waste Partnership which includes Hertfordshire County Council as the waste disposal authority and the 10 district and borough waste collection authorities;
HWPA	this agreement together with its SCHEDULES;
HWRCs	household waste recycling centres;
JMWMS	means the Joint Municipal Waste Management Strategy agreed by the Partners in 2007 from time to time or successor strategies of a similar nature;
Landfill	has the meaning attributed to it by section 65(1) of the Finance Act 1996 and “Landfilled”, “Landfilling” and “Landfill Site” shall be interpreted accordingly;

Landfill Tax	has the meaning set out in section 39(1) of the Finance Act 1996;
LATS	Landfill Allowance Trading Scheme set out in the WET Act and its attendant Regulations;
Legislation	any Act of Parliament or subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of section 2 of the European Communities Act 1972, in each case in the United Kingdom;
Material Breach	Any act committed by one of the Partners which results in a Material Change as defined in Schedule 1.
Material Change	means a change that has a substantial adverse effect on :- <ul style="list-style-type: none"> <li>a) the JMWMS 2007 (including any subsequent revisions); and / or</li> <li>b) the statutory or contractual obligations of any Partner to the HWP where the contractual obligations arise from contractual arrangements derived through arrangements sponsored by the HWP ;</li> <li>c) the Residual Waste Disposal Contract;</li> </ul> <p>For the avoidance of doubt, the Partners agree that any change that does not have such an effect will not be treated as a Material Change.</p>
Mediator	the person described in clauses 18.4 to 18.7;
Member	an elected Member from one of the HWP's Partner authorities;
Minor Changes	any change to a Partners baseline which is not specifically listed as a major change;
Municipal Waste	all waste which by virtue of Legislation a local authority has a statutory duty or power to collect, including (without limitation) Household Waste, commercial Waste, fly tips and street cleansing arisings;
Organic Waste	Food Waste and / or Green Waste collected by the WCAs pursuant to section 45 of the EPA;
Partner(s) or Party	means a party or partners to the HWP;
Periodic Review	the activity described in clause 16.1.4 and SCHEDULE 10 (REVIEW PROCEDURES);



Project Agreement	The agreement to be drawn up between the WDA and the Delivery Point Contractor;
Recovery	Means (i) the recovery of waste by means of recycling, re-use or reclamation or any other process with a view to extracting secondary raw materials; or (ii) the use of waste as a source of energy.
Recycling	means the collection and separation of materials from waste and subsequent processing to produce marketable products;
Recycling Credits	means section 52 of the Environmental Protection Act 1990 (EPA 1990) as amended by section 49 of the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) and the Environment Protection (Waste Recycling Payments) (England) Regulations 2006 (the 2006 Regulations);
Reduce	means the reduction of waste at source, by understanding and changing processes to reduce and prevent waste. This is also known as process or resource efficiency. Waste minimisation includes the substitution of less environmentally harmful materials in the production process.
Residual Waste	waste other than that collected for Re-use, Composting or Recycling and as directed by the WDA;
Residual Waste Disposal Contract	Hertfordshire County Council's long term private sector contract for the design, build, finance and operation of a major waste management and treatment facility for Residual Waste
Residual Waste Disposal Contractor	the contractor that has been appointed by the WDA to deliver the Residual Waste Disposal Contract (or, as the context dictates, during the procurement, the hypothetical contractor that the WDA intends to appoint subject to the outcome of the procurement);
Residual Waste Treatment Facility	means the facility or facilities procured through the Residual Waste Disposal Contract;
Re-Use	The use of waste items for their original or for another purpose without reprocessing;
Review	a General Review, Annual Review or Periodic Review ;
Review Meetings	the meetings described in clause 16;
Review Notice	the notice described in clause 16;
Review Procedure	the procedures for notifying Minor Changes, serving notifications and for carrying out Reviews, as set out in clause 16 and SCHEDULE 10 (REVIEW PROCEDURES);
Revised Waste Framework Directive	means EU Directive 2008/98/EC which sets a framework for waste management in the EU, promoting both reuse and recycling, including energy recovery as a recovery activity

within a revised waste management hierarchy;

Terminating WCA	the WCA described in clause 19
Trade Waste	the element of commercial waste that is collected from business premises by the WCAs pursuant to the WCAs' statutory obligations under section 45(1)(b) of the EPA;
Trade Waste Recharge/s	the amounts payable by the WCA to WDA in accordance with clause 11 and SCHEDULE 3 (TRADE WASTE RECHARGE)
Unitary Charge	Payments made to the Residual Waste Disposal Contractor for the provision of waste treatment and disposal services.
Waste	has the meaning ascribed to it in section 75 of the EPA and in the Waste Framework Directive 2006 together with the attendant subordinate legislation;
Waste Collection Authority or WCA	means a waste collection authority pursuant to section 30(3)(a) of the EPA, and for the purposes of the HWPA means Broxbourne Borough Council, Dacorum Borough Council, East Hertfordshire District Council, Hertsmere Borough Council, North Hertfordshire District Council, St Albans District Council, Stevenage Borough Council, Three Rivers District Council, Watford Borough Council, Welwyn Hatfield Borough Council.
WasteDataFlow	means the online "WasteDataFlow" system ( <a href="http://www.wastedataflow.org">www.wastedataflow.org</a> ) established by the Department for Environment Food & Rural Affairs for the collation of the information returns which Waste Disposal Authorities are obliged to make pursuant to Regulation 12 of the Landfill Allowances and Trading System (England) Regulations 2004, or such system of reporting as may from time to time replace it;
Waste Disposal Authority or WDA	means a waste disposal authority pursuant to section 30(2)(a) of the EPA and for the purposes of the HWPA means Hertfordshire County Council;
Waste Hierarchy	the concept that waste should be dealt with in the following order: prevention, preparing for reuse, recycling (including composting), other recovery and disposal and promulgated in the Revised Waste Management Directive;
Waste Strategy	means the Government's National Waste Strategy for England 2007 issued by the Secretary of State pursuant to the Environmental Protection Act 1990;
WCA Baseline	the baseline Waste and Recycling service to be delivered by each WCA as set out in SCHEDULE 7 as shall be amended from time to time in accordance with the Review Procedure;
WCA Default	a repudiatory breach by a WCA of the terms of the HWPA which, for example, shall include but not be limited to a breach of the WCA Baselines, and failure to comply with the

	Review Procedure;
WCA & WDA Retained Waste	means Waste identified in the WCA & WDA Baselines to be retained by the WCAs or WDA for their own Recycling pursuant to section 48(2) of the EPA;
WDA Baseline	the baseline Waste and Recycling service to be delivered by the WDA as set out in SCHEDULE 7 as may be amended from time to time in accordance with the Review Procedure;
WDA Default	a repudiatory breach by the WDA of the terms of the HWPA which, for example, shall include but not be limited to failure to make the payments detailed in clauses 7 and 15, breach of the WDA baselines and failure to comply with the Review Procedure;
WET Act	the Waste Emissions Trading Act 2003;
Whole System Cost	the total cost of waste collection, sorting / transfer, bulk haulage, processing and / or final disposal. In this context costs include both environmental impacts as well as financial considerations.

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## **SCHEDULE 2 – PARTNERSHIP PRINCIPLES, OBJECTIVES AND TERMS OF REFERENCE**

### **GENERAL :-**

1. To work towards the effective delivery of the Joint Municipal Waste Management Strategy (JMWMS) for Hertfordshire.
2. To make decisions as to what to recommend to individual Partners on the basis of what is in the best interests of all Council Tax payers and the implications for individual Partners within the geographical area of Hertfordshire, and take into account what is fair and equitable for each Partner
3. Work together on the development of waste disposal, waste collection and waste minimisation and reuse/recycling strategies in accordance with the JMWMS.
4. Collectively monitor the effectiveness of the strategies.
5. Collectively review the options for the future delivery of services to meet the aims and objectives of these strategies.
6. To work together in a spirit of mutual trust, support and respect, and to ensure that when difficulties or differences of opinion arise they are addressed quickly, honestly and openly, if necessary by holding a Joint Meeting with the HWP Members group.
7. To share in a fair and equitable manner the costs and work involved in achieving the key principles and objectives of SCHEDULE 2.

### **OBJECTIVES :-**

8. To enable the Partners to work together to manage municipal waste within Hertfordshire in the most efficient, effective, cost-effective and sustainable manner.
9. To research the options for a "Joint Decision Body" with executive decision-making powers. To recommend to the Partners a preferred option for such a body and the extent of the executive decision-making powers which will be incorporated into the proposed constitution of such a body.
10. To explore options for working with other bodies on waste management where there would be benefits to the Partnership.
11. To develop a long term vision and influence long term land-use planning for waste as a resource in Hertfordshire.
12. To keep under review the Joint Municipal Waste Management Strategy for Hertfordshire and individual implementation plans for consideration and adoption by the Partners and to monitor their implementation and effectiveness.
13. To investigate all options for the future procurement and delivery of municipal waste collection, recycling, minimisation and reuse services, including an examination of the opportunities for continued involvement of the existing in-house providers employed by any Partner.
14. To consider options for the joint funding of existing and future countywide initiatives, including budgetary provision and financial apportionment between Partners.

15. Through the WasteAware campaign, to increase awareness of waste as a resource and to interact with other stakeholders to promote waste minimisation and achieve an economically, environmentally and socially sustainable programme of gaining value from waste.
16. To work with, and support as appropriate, statutory agencies, non-governmental organisations (NGO's), commercial enterprises of all sizes, business, scientific, commercial and voluntary/not for profit organisations and other bodies who are in pursuit of developing, supporting and influencing the future direction of sustainable waste/resource management.
17. In all of its considerations and recommendations, to be bound by the principle of value for money and to maximise opportunities under the power to promote the environmental, social and economic well-being in all matters related to waste/resource management and to support the development of future proposals for inclusion in community strategies.
18. To consider and make recommendations in respect of any other activities in accordance with the general scope of responsibility which continues to promote, develop or secure the role of the Partnership and resource management to the benefit of all Hertfordshire residents. Due regard should be given to the long term effects of any such decisions upon the Council Tax payers as a whole and the impact upon the integrated waste management approach.

#### **MEETINGS, MEMBERSHIP & VOTING :-**

19. Four meetings a year will be held, one of which will be in July.
20. The Partnership will annually elect at its July meeting from its Partnership Members a Chairman and a Vice-Chairman.
21. The Chairman and Vice-Chairman will be elected from different Partners.
22. Meetings will be open to the general public. If the business includes confidential or exempt information as defined in Sections 100A(3) and 100(1) respectively of the Local Government Act 1972, the Chairman shall move a motion under Section 100A(2) or (4) of the Local Government act 1972.
23. A special meeting shall be held if called by either the Chairman or by a written request from at least 50% of The Partners.
24. The quorum for a meeting shall be Member representatives from at least 8 of the Partners one of which must be the WDA.
25. The agenda calling a meeting and accompanying reports shall be circulated to all Partnership Members (and the Directors' Group) at least five working days before that meeting. With the agreement of the Chairman (or in his/her absence the Vice-Chairman), agendas and papers may, in respect of an urgent item, be circulated later than five working days before the meeting but not less than two working days.
26. Each Partner will appoint one elected Member and one substitute elected Member to serve on The Partnership (called Partnership Members). Whilst appointments will be reviewed annually strong consistency of membership is encouraged.
27. The lead Members appointed by each Partner shall normally be the Member of that Council with Lead Member/Portfolio Holder/Committee Chair responsibility for waste issues (as appropriate to each Partner's political structure).

28. Each Partnership Member (or his/her substitute) shall have one vote. There will be no casting vote. No decision will be carried if 3 or more Partners vote against it.
29. Voting will normally be by a show of hands.

## **DIRECTORS' GROUP**

### **MEMBERSHIP & PURPOSE**

30. The Partnership shall be supported by the Directors' Group consisting of each Partner's Service Director responsible for waste.
31. The main purpose of the Directors' Group is to give direction and focus for the HWP. It should help reduce procrastination, propose options and solutions for the HWP to consider and agree, that will facilitate the outcomes necessary to deliver the JMWMS and Action Plan thereof.
32. Directors' group meetings shall take place 4-6 weeks prior to a HWP meeting. Dates for the year will be arranged as soon as the dates of the HWP meetings are known.
33. The Directors group will elect their Chairman on an annual basis at their March meeting.
34. The Chairman of the Heads of Waste Group will attend as technical advisor and report to the Group on the progress of the JMWMS and associated Action Plans.
35. For the avoidance of doubt membership of the Directors' Group may vary at the discretion of each Partner as appropriate to the topic or issue being considered.
36. Officers of each Partner shall be responsible for implementing Partnership decisions (once adopted by all Partners) and the Directors' Group shall monitor the implementation of those decisions.

### **ROLES AND RESPONSIBILITIES**

37. To advocate transparency and integrity between all eleven authorities and to be the catalyst for change.
38. To harmonise the various needs of the Partnership to ensure that the outcomes of the HWP are effective, efficient and meet the overall needs of our communities for which we serve.
39. To pursue joint projects and consider formal arrangements between authorities where appropriate.
40. To actively seek economies of scale through joint procurement, particularly relating to waste collection based on an overall cohesive and effective structure for the delivery of waste management services.
41. To consider agreements between the disposal and collection authorities for the future use of disposal facilities.
42. To give direction and support to the Heads of Waste Group who will be responsible for managing and delivering the Action Plan and for the Chair of the HoWG to report to the Directors Group, as required, on the performance of the Action Plan.
43. To consider any impacts, that delays or changes to any projects, may have on others and report to the HWP on options to be considered and agreed.
44. To review the JMWMS annually taking into consideration any changes to the Action Plan that have impacted on the JMWMS.



## **HEADS OF WASTE GROUP**

### **MEMBERSHIP & PURPOSE**

46. The focus of this group shall be the management and co-ordination of HWP action plans as may be agreed from time to time by the HWP and to seek support from the Directors' Group for assistance where changes to one project may adversely impact on another. The group shall also be directed and have their work programme agreed by the Directors' Group.
47. The Chairman will be elected annually by this group to commence on the 1<sup>st</sup> April.
48. The Partners shall provide a representative, who will normally be the Head of Waste and / or the senior manager for waste from each of the Partners and which together will form the Heads of Waste group.
49. The Heads of Waste group shall meet monthly and substitutes may be allowed.
50. Each year (normally at the April meeting) from within their own number the Heads of Waste group will elect a Chairman for each of the sub groups currently defined as :-
  - Operations
  - Streetscene
  - WasteAware
51. The Chairman of this group will attend as technical advisor and report to the Directors Group on progress of Action Plans as may be agreed time to time by the HWP along with regular reviews of progress towards achieving targets detailed in the JMWMS.

### **ROLES AND RESPONSIBILITIES**

52. To ensure transparency and integrity between each of the constituent authorities and to facilitate the change programme.
53. Review the performance of the constituent authorities in accordance with the JMWMS and associated action plan(s), and agree any remedial actions to bring back within programme or report to the Directors' Group on any exceptions with recommendations for action.
54. To investigate and report to the Directors' Group on joint initiatives and consider formal arrangements between authorities where appropriate, particularly relating to opportunities for the possible horizontal and vertical integration activities across the two-tier structure.
55. To give direction and support to the sub groups who will have specific responsibilities for managing and delivering certain aspects of the Action Plan(s) or monitoring and reporting on performance. This will include Chairman of each these groups to report to this group as required, but not less than twice per annum.
56. To annually approve work programmes for each of the Sub-Groups.
57. To consider any impacts that delays or changes to any projects may have on others and report to the Directors' Group on options to be considered and agreed.
58. To assist the Directors' Group in reviewing the JMWMS annually, taking into consideration any changes to the Action Plan(s) that have impacted on the JMWMS.

59. To be the primary group responsible for initiating reviews under the HWPA in accordance with the procedures and protocols detailed in clause 16 and SCHEDULE 10 (REVIEW PROCEDURES).

#### **DURATION**

60. The arrangements set out in SCHEDULE 2 will remain in operation until / unless a Joint Decision Body is established. They may, however, be varied by agreement of all the Partners.

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### SCHEDULE 3 – TRADE WASTE RECHARGE

1. From the beginning of the financial year 2011/12 the amount of Trade Waste Recharge to be paid by the the WCAs shall be calculated in accordance with clause 2 below except where specific trade rates apply / have been agreed.
2. The Trade Waste Recharge shall be calculated as follows:
  - a. From 1st April 2011 the WDA will base the Trade Waste Recharge on the specific costs associated with each disposal point as designated by the WDA including current disposal points as well as the Residual Waste Treatment facility once operational.
  - b. The costs will include :-
    - the current gate fee,
    - an administration charge (see 'c' below)
    - landfill tax for the year in question
  - c. The administration charge added by the WDA is based on a percentage determined by Hertfordshire County Council's corporate finance unit which may be revised from time to time.
  - d. Ad hoc waste (ie Trade Waste that can neither be processed nor sent to a regular landfill site) will be passed through at cost.
3. Tonnages used in the calculation and recharge of residual trade waste tonnages should fall into one of the two following categories:
  - a) Trade waste separately collected, i.e. without co-collected domestic waste should be recorded based on the weights taken directly from the weighbridge tickets.
  - b) In the case of Trade Waste co-collected with domestic waste, a record of all scheduled trade waste collections should be maintained, including the bin volume and frequency of collection. Using this information, plus a waste weight formulae (kg per litre) agreed by the HWP (which should be reviewed by the HWP on a regular basis), the total collected trade waste should be calculated by multiplying the bin volume by the kg per litre formulae by the number of collections within the quarter for each trade customer. This total trade weight should be deducted from the total weight of the co-collected weigh bridge tickets to leave the total domestic weight.
4. These calculations should be carried out on a quarterly basis for data entry into Waste Data Flow
5. In addition to the procedures outlined above the WDA agrees to provide a rolling 3 year forecast for predicted Trade Waste Recharges. The forecast should separately itemise all distinct elements which are incorporated into the Trade Waste Recharge. Each element should be projected forward for a rolling three period based on specific deflationary and inflationary pressures relevant to each element.

6. The specific methodology will need to be flexible to take into account different deflationary / pressures over time. However, for illustrative purposes the analysis would look something like :-

<b>Trade Waste Recharge – Rolling 3 Year Forecast</b>				
<b>Cost Element</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Explanation</b>
Gate fee				
Administration Charges				
Landfill Tax				
<b>Predicted Trade Waste Recharge</b>				

7. Specific Trade Waste Recharges will still be subject to an annual budget setting process each year. However, the intention of the forecast is to indicate an approximate level of charge across a rolling 3 year period. This should provide a better financial backdrop against which decisions with respect to the future provision of trade waste services can be taken.

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## **SCHEDULE 4 - FUNDING**

### **Part 1 – Statutory Funding**

1. As part of its statutory obligations pursuant to the EPA, the WDA shall be responsible for paying the unitary charge payments to the Residual Waste Disposal Contractor pursuant to the Residual Waste Disposal Contract.
2. The WDA will pay to the WCAs Recycling Credits at the statutory minimum level for all Household Waste that the WCAs separate for Recycling, retain and make their own arrangements for Recycling / reprocessing.
3. For the avoidance of doubt, the WDA shall not pay Recycling Credits where Household Waste is collected by the WCAs for Recycling but the WCA does not retain the Household Waste for Recycling / reprocessing but rather delivers it to the WDA to send for Recycling / reprocessing.

### **Part 2 – Discretionary Funding**

1. The WDA agrees to share any further waste capital infrastructure grant type funding (or its successors) provided by central Government to upper tier authorities based on a 50:50 split between the WDA and the WCAs or in other proportions as agreed by the HWP.
2. Funding will be distributed using the same criteria applied to the waste infrastructure capital grant programme that ran from 2008 – 2011 as detailed below :-

### **General Principles :-**

1. The Waste Infrastructure Capital Grant (herein referred to as 'the WICG) is to encourage the introduction and development of collection services and related infrastructure which enables high performance recycling and composting and also enables the partners to build on existing recycling programmes and partnerships.
2. The WICG seeks to make an impact by supporting projects that accrue benefits for all Partners and the communities they serve.
3. The WICG will be allocated in order to secure significant increases in Hertfordshire's household recycling performance, diversion of municipal waste from landfill and to enable the Partners to meet targets detailed in the JMWMS.
4. Whilst priority will be given to achieving 50% household recycling by 2012, the WICG will also look to support proposals linked to wider municipal waste management targets detailed in the JMWMS.
5. The WICG will be allocated by means of an evaluation process which requires provision of information necessary for a fair evaluation of proposals without placing an undue burden on those making applications. The level of detail required will be proportionate to the funding and complexity of the project being proposed

6. The WICG will aim to strike a balance between achieving maximum value for money, increased tonnages, supporting innovation and development and the timely implementation of new recycling services.
7. Bids will need to confirm that revenue funding is in place to support the deployment and operation of capital assets over their life expectancy.
8. The WICG will look to prioritise opportunities for joint working and joint procurement. However, the need to ensure the appropriate deployment of assets will override the need to jointly procure. Effective planning of HWP related procurement should minimise any such conflicts.

### **Specific Waste Infrastructure Capital Grant Principles :-**

1. Bids for replacement equipment will not normally be considered unless they result in some form of additionality, defined as projects that make meaningful progress towards 50% recycling by 2012 through provision of new collection services and / or related infrastructure.
2. Capital bids for assets such as MRFs will only be considered where they support the provision of new recycling services in 2 or more boroughs / districts.
3. Any installation, public relations or promotional costs linked to the deployment of new capital assets will not be paid for by the WICG.
4. Where possible bids for new services should look to adopt common approaches between different boroughs / districts. This does not override the principles stated in clauses 8.1 or 16.2 of the HWPA
5. Bids which 'step outside' of the agreed criteria will be considered if they have the potential to significantly increase performance in pursuit of the 50% recycling target.

### **Bid Evaluation :-**

These are the main considerations that will be taken into account when assessing capital bids :-

1. Bids must aid in the development of collection services and related infrastructure which deal with priority materials highlighting how their proposals will contribute to increasing municipal waste recycling rates in Hertfordshire.
2. Bids must include a method statement that includes the identification and management of risks associated with the bid.
3. Bids should highlight any match funding relevant to their proposals from internal sources, third party funding, external contractors or other stakeholders. Bids should specify the value, type and sources of any private sector investment being provided as part of the bid. This should be interpreted widely and should not be confined to financial investment.

4. Applicants should confirm that the necessary revenue funding is available to support the operation of their capital asset(s).
5. Bids must highlight the development of partnerships between waste authorities, other Borough departments and the private sector. Work with 'third sector' organisations such as voluntary groups may also be applicable.
6. Bids should describe the role and contribution of partners to the proposed project. Applications that support partnerships will compare more favourably than other bids everything else being equal.
7. Bids should describe the nature of any new capacity / infrastructure being provided together with the materials which will be handled and the type and tonnage of recycled "product" produced.
8. Bids should describe the estimated contribution to increasing levels of asset utilisation thereby ensuring that maximum potential output is being extracted from relevant existing investment and that proposed new investment will result in additional "added value".
9. The priority areas agreed for grant funding are shown below :-

**On-Street Recycling Bins** (to be funded at 100% of capital cost)

- Regardless of which design is chosen all bins should carry the HWP logo.
- Partners are to bear their costs of installation.

**Kerbside Collection Containers** (to be funded at 75% of capital cost)

- Partners will have to match fund the first 25% of any bid for containers.
- Options for joint procurement will be explored based on Partners agreeing common specifications.
- Regardless of which design is chosen all containers should carry the HWP logo.
- Partners can add their own logos at their own expense.

**Flats recycling facilities** (to be funded at 75% of capital cost)

- Greater flexibility will be given to bids for flats recycling due to the extensive variations in flat development throughout Hertfordshire.
- However, bids which look to use standardise collection approaches between different Partners will be given priority.
- Regardless of which design is chosen all containers should carry the HWP logo.
- Partners can add their own logos at their own expense.

### **Vehicles for providing services to 'harder to access' residents**

(to be funded at 50% of capital cost)

- It is recognised that Partners have hard to reach properties.
- Bids must be for new vehicles. Replacement vehicles will not normally be considered unless supported by a business case that demonstrates that significant additional recycling tonnages can be captured.
- All vehicles should be HWP branded.
- Partners can add their own logos at their own expense.

### **Funding for Residual Waste Containers** (to be funded at 50% of capital cost)

- Approvals for capital support for residual bins will only be granted if the application is made as part of wholesale changes that result in either alternate weekly collections or restricted weekly collections.
- For authorities implementing alternate weekly collections, funding approvals will be based on a residual waste bin capacity of no more than 240 litres.
- For authorities implementing restricted weekly collections funding approvals will be based on a residual waste bin capacity of no more than 140 litres.
- Funding approvals will be for no more than 50% of the total capital cost of the bin. Costs associated with the delivery and / or roll out of residual waste bins will not be funded.
- Partners migrating to either alternate weekly collections or restricted weekly collections should look where possible to align their specifications with similar models elsewhere in Hertfordshire. This does not override the principles stated in clauses 8.1 or 16.2 of the HWPAs.
- Partners looking to purchase residual waste receptacles should do so on a joint where possible.



## SCHEDULE 5 – ALTERNATIVE FINANCIAL MODEL

### GENERAL :-

1. In addition to the Recycling Credits payable in accordance with SCHEDULE 4, from April 2011 onwards the WDA shall also make additional discretionary payments to each WCA according to the Alternative Financial Model, (AFM). However, payments will be conditional on WCAs signing the HWPA.
2. The AFM is designed to reward WCA's for the achievement of continued reductions in residual waste levels as detailed in the AFM agreed by the HWP on the 26<sup>th</sup> April 2010.
3. Payments under the AFM will be payable by the WDA to WCAs who sign the HWPA for either the duration of the Residual Waste Disposal Contract or any agreement to replace the AFM with an alternative scheme.
4. Any WCA which for any reason decides to withdraw from the HWPA forfeits its right to reward payments under the AFM. In these circumstances payments will be solely at the discretion of the WDA.
5. Operation of the AFM is based on the changes agreed to the model approved by HWP Members on the 25<sup>th</sup> April 2010.
6. Based on the agreed changes the variables in any given year that impact on payments from the AFM are as follows :-
  - Rate per tonne – is made up of 2 distinct elements including recycling credits + landfill tax saving. As part of the agreed changes both elements will be indexed at 3% per annum. See paragraph 10 below.
  - Population - relevant to payments from 2008/09 – 2010/11. From 2011/12 onwards the model will be based on household numbers as part of agreed changes.
  - Residual waste tonnages – figures based on WasteDataFlow submissions.
  - Capping mechanism – introduced as part of the agreed changes and set at £7.49 per household for 2011/12 and subject to an annual indexation of 3% per annum.
  - WCAs will only be eligible for redistributed funds under the AFM if they achieve a minimum recycling rate of 40% during the year in question.
  - Total AFM rewards earned from 2011/12 onwards will be subject to a 1% deduction with diverted funding used to support additional HWP activities.

### RATE PER TONNE :-

7. As noted above payments available under the AFM are based on a rate per tonne which has 2 distinct parts.
8. These include a) the recycling credit as the statutory element; and b) the landfill element as a discretionary element paid by the WDA to the WCAs.
9. The reward element is paid as a means to share landfill savings generated through WCA recycling activity. As such the discretionary element is designed to contribute towards costs faced by the WCAs in achieving the higher recycling targets detailed in the JMWMS.

10. Based on the agreed changes the reward landfill tax element will be indexed at 3% per annum reflecting both the annual increase in landfill tax as well as wider inflationary pressures. The statutory recycling credit element will be indexed each year based on a percentage set by Central Government which is reviewed from time to time. The current indexation for this element is 3% per annum. Therefore the payment rate under the AFM is calculated as follows :-

<b>ALTERNATIVE FINANCIAL MODEL – RATE PER TONNE INDEXATION</b>				
<b>Year</b>	<b>Recycling Credit 'statutory element'</b>	<b>Landfill Tax 'discretionary element'</b>	<b>Indexation</b>	<b>Rate Per Tonne Payable to the WCAs</b>
<b>2010/11</b>	£37.16	£22.00	---	<b>£59.16</b>
<b>2011/12</b>	£38.27	£22.66	1.03	<b>£60.93</b>
<b>2012/13</b>	£39.42	£23.34	1.03	<b>£62.76</b>
<b>2013/14</b>	£40.61	£24.04	1.03	<b>£64.65</b>
<b>2014/15</b>	£41.82	£24.76	1.03	<b>£66.59</b>
<b>2015/16</b>	£43.08	£25.50	1.03	<b>£68.58</b>
<b>2016/17</b>	£44.37	£26.27	1.03	<b>£70.64</b>

11. Payment rates for 2013/14 – 2016/17 have been included for illustrative purposes only. However, these rates could be subject to further change subject to agreement of the HWP.

#### **CAPPING MECHANISM :-**

12. As noted above from 2011/12 the total payments to any single WCA will be expressed as a subsidy per household by dividing the total payment (before the 1% top slice is deducted) by the number of households in the WCA.
13. As part of the agreed changes a cap is being introduced during 2011/12 and will be initiated at £7.49 per household. As with the rate per tonne to reflect inflationary pressure the cap will be indexed at 3% per annum. Therefore the cap under the AFM is calculated as follows :-

<b>Year</b>	<b>Cap (maximum subsidy per household)</b>	<b>Indexation</b>	<b>Rate Per Tonne Payable to the WCAs</b>
<b>2011/12</b>	£7.49	---	£7.49
<b>2012/13</b>	£7.71	1.03	£7.71
<b>2013/14</b>	£7.94	1.03	2013/14
<b>2014/15</b>	£8.18	1.03	2014/15
<b>2015/16</b>	£8.42	1.03	2015/16
<b>2016/17</b>	£8.68	1.03	2016/17



14. Capping rates for 2013/14 – 2016/17 have been included for illustrative purposes only. However, these rates could be subject to further change subject to agreement of the HWP.

#### **DATA SOURCES**

15. The agreed data source for population numbers for use in the AFM will be mid year estimates published by the Office for National Statistics as detailed below :-
- 2009/10 – based on ONS mid year estimates for 2009.
  - 2010/11 – based on ONS mid year estimates for 2010.
  - 2011/12 – swapping from populations to households – see clause 16 below.
16. The agreed data source for household numbers for use in the AFM will be household numbers used by each constituent in setting Council Tax in any given year.

#### **REVIEW OF THE ALTERNATIVE FINANCIAL MODEL**

17. In addition to the general powers of review open to all Partners as part of the agreed changes the AFM will be reviewed during the course of 2012/13.
18. Any future changes to the AFM will need to be agreed by a majority vote as detailed in SCHEDULE 2 – Principle No. 28.

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## SCHEDULE 6 – TRANSPORT SUBSIDY

### Introduction

1. To compensate waste collection authorities who have to travel to Disposal Points greater than specified distances the WDA pays transport subsidies.
2. The relevant provision in law is detailed in the Environmental Protection Act 1990 as shown below :-

#### **Environmental Protection Act 1990 Section 52(10) –**

*“A waste disposal authority shall pay to a waste collection authority a reasonable contribution towards expenditure reasonably incurred by a waste collection authority in delivering waste, in pursuance of a direction under section 51 (4)(a) above, to a place which is unreasonably far from the waste collection authority’s area”.*

### Background

3. Whilst the payment of transport subsidies from WDAs to WCAs is a statutory requirement there is no prescribed method in law as to how the subsidy should be calculated. Instead following guidance originally issued by a working Party drawn from the Association of County Councils, the Association of District Councils and the Association of Metropolitan Councils since (parts of which have since merged into the Local Government Association) the working Party sought to clarify the underlying principles on which to base such payments.
4. Two possible methods of payment were identified based on powers available under Local Government Act 1972 as well as powers granted to County Councils by the Local Government Act 1958 (Section 56.1).
5. At the time the system was setup the Hertfordshire authorities were concerned that adoption of method 1 as defined in the Local Government Act 1972 had the potential to possibly create an inequitable situation for some Districts who could be faced with transporting refuse to distant disposal points within their own areas without compensation due to the fact that the disposal point was within their boundary.
6. For this reason Hertfordshire’s authorities opted to adopt the methodology available to them under the Local Government Act 1958 (Section 56.1) which would see a method of payment based on equitable financial contributions to districts who transport refuse to distant disposal points which disregard district council boundaries.

### Method of Payment

7. From each disposal point a circle of 5.8 miles (equivalent to 7 road miles) is drawn. For refuse collected within the area of the arc and transported to that disposal point no contribution towards transport costs is made.
8. For refuse collected outside the area of the circle and transported to the same disposal point a contribution, based on tonnage, miles travelled and rate per mile is made.

9. The formula is shown below :-

$$\text{Annual subsidy in £'s} = T \times D \times (R/100)$$

Where T = annual tonnage of refuse arising in the relevant area

D = shortest distance between the centroid of population of the area for contribution and the 5.8 mile arc.

R = rate of payment in pence per tonne / route mile

### Radius of the Circle

10. In determining the radius of the circle containing the area of unsubsidised task the assumption made at the time the calculation was conceived was that the authorities that made up Hertfordshire at the time had obtained the best possible refuse disposal arrangements available to them.
11. In turn the authorities in question provided information with respect to the mean route miles from their last collection to disposal. These calculations resulted in 7 miles coming out as the average. Consequently this distance was adopted as the maximum reasonable distance over which a district council should transport refuse to a disposal point without financial contribution from the County Council.
12. Finally to facilitate operation of the scheme 7 miles were converted into a straight line ('as the crow flies') radius of 5.8 miles using a ratio of 1.2:1.

### Enhanced Payments

13. To take into account the possibility of increased transport costs being faced by the WCAs following establishment of new disposal points under the Residual Waste Disposal Contract the WDA agrees that the formula detailed under clause 9 of this Schedule is to apply unless a WCA can demonstrate, to an external adjudicator, that the costs incurred in the amended operations would exceed the amount determined by the formula by more than 50%. In these circumstances, the WDA will agree to pay an additional sum, reasonably and verifiably ascertained (including provision of supporting evidence) equal to the actual additional cost incurred by the WCA.
14. However, in relation to payments sought under clause 13 of this Schedule a WCA making such a claim also agrees to a reasonable and verifiable examination of their collection practices to identify what changes they can make to ameliorate their increased costs before such a claim is made. The results of such examinations would also be given to the independent adjudicator appointed under clause 13 of this schedule to ensure a full consideration of the relevant facts.
15. In the event that the Residual Waste Disposal Facility becomes unavailable resulting in increased transport distances and costs linked to accessing Alternative Delivery Points the WDA agrees to pass on in full any rebates paid to it by the Residual Waste Disposal Contractor.
16. At all times claims made pursuant to clauses 13, 14 and 15 of this Schedule should be made on the basis that the Partners agree that the primary objective behind all such claims is to minimise overall costs to the tax payer as opposed to the simple transference of cost from one Partner to another.

## SCHEDULE 7 – WCA & WDA Baselines and Retained Wastes

### WCA & WDA Retained Waste

**Table 1 Material collected at recycling bring banks**

Number of sites	Broxbourne Borough Council	Dacorum Borough Council	East Herts Council	Hertsmere Borough Council	North Hertfordshire District Council	St Albans City and District Council	Stevenage Borough Council	Three Rivers District Council	Watford Borough Council	Welwyn Hatfield Borough Council	Herts County Council
Paper /Card	28	23	26	12	15	15 (inc Sainsburys)	19	6	7	21	18
Glass	26	30		13	21	18 (inc Sainsburys)	19	10	7	23	18
Cans	25	24		12	0	17 (inc Sainsburys)	22		3	19	18
Plastics, cans and tetra	<b>20</b>	22		0	49	6			0	16	18
Foil				0	0				0	0	18
Tetrapak				8	0	4			4	0	13
Textiles	20	9	22*	7	16	8	13	9	0	12	18
Other	2		14	Bra 6		7	4		1	0	See notes

*Notes :-* All 18 HWRCs recycle: metal, wood, WEEE, car batteries, tyres, and engine oil. All HWRCs also recycle domestic batteries as well as act as bulking points to support the HWP COBRA scheme. 16 HWRCs also collect cooking oil. Other materials recycled at the HWRCs include toner cartridges, mobile phones, chemicals and paints. Trials are now in place for recycling of rigid plastics at 13 HWRCs and cooking oil from 3 HWRCs.

**Table 2 Material collected by kerbside recycling schemes**

	Broxbourne Borough Council	Dacorum Borough Council	East Herts Council	Hertsmere Borough Council	North Hertfordshire District Council	St Albans City and District Council	Stevenage Borough Council	Three Rivers District Council	Watford Borough Council	Welwyn Hatfield Borough Council
Frequency	Fortnightly	Weekly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly
Container	Kerbside box > 50 litre plus clear sack for plastic bottles – 100 litre	Kerbside boxes 35-50 litre	2 Kerbside boxes 55 litre	240 litre bin & 38 litre box for paper	Kerbside boxes 35-50 litre	Kerbside box 55 litre	Kerbside box 55 litre	Kerbside box 44 litre	Kerbside box 55 litre	Kerbside box 55 litre
% coverage	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Materials collected	Glass, paper, cans, plastic bottles	Glass, paper, cans, plastic bottles	Glass, paper, cans, plastic bottles	Paper, cans, glass, cartons, plastic	Glass, paper, cans	Glass, paper, cans, plastic bottles	Glass, paper, cans, plastic bottles	Glass, paper, cans, mixed plastics, tetrapaks	Glass, paper, cans, mixed plastics, tetrapaks	Glass, paper Mixed cans

*Notes:*

**Broxbourne Borough Council:** now collect plastic bottles in clear sacks from kerbside.

**East Herts Council:** plan to collect plastic types 1 – 6 from kerbside from May 2010.

**Stevenage Borough Council:** see notes under table 3 – Contract Waste collection arrangements.

**Welwyn Hatfield Borough Council:** collect cans from kerbside as of June 2008.

**Contract Waste - key parameters****Table 3 Contract Waste collection arrangements**

	Broxbourne Borough Council	Dacorum Borough Council	East Herts Council	Hertsmere Borough Council	North Hertfordshire District Council	St Albans City and District Council	Stevenage Borough Council	Three Rivers District Council	Watford Borough Council	Welwyn Hatfield Borough Council
<b>RESIDUAL WASTE</b>										
Frequency	Weekly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Weekly	Weekly	Weekly
Container	Plastic sacks	240 litre wheeled bin	240 litre wheeled bin	240 litre wheeled bin	240 litre wheeled bin	140 / 240 wheeled bin  3000 properties on sacks	240 litre wheeled bin	140 litre wheeled bin	140 litre wheeled bin  240 litre bin for larger families	No specific receptacle required
% Coverage	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
<b>ORGANICS RECYCLING</b>										
Frequency	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly	Fortnightly
Container	Fortnightly	240 litre wheeled bin	240 litre wheeled bin	240 litre wheeled bin	240 litre wheeled bin	240/140 litre wheeled bin  3000 properties on re- usable bags	240 litre wheeled bin	240 litre wheeled bin	140/240 litre wheeled bin	240 litre wheeled bin

% Coverage	240 litre wheeled bin	100%	100%	100%	100%	100%	100%	100%	100%	100%
Garden Wastes	100%	Yes	Yes	Yes	Yes	Yes and cardboard (not flats)	Yes	Yes	Yes and cardboard	Yes
Food Wastes + cardboard	Yes	Yes	Yes	Yes	Yes	Yes (not flats)	Yes	Yes	Yes	Yes
<b>BULKY WASTE</b>										
Service	Paid for Service £28+	Paid for Service £20+	Paid for Service £22.50+	Paid for Service £33+	Paid for Service £18+	Paid for Service £24+	Paid for Service £30	Paid for Service £25+	Paid for Service £20+	Paid for Service £26.40
Frequency	On demand	On demand	On demand	On demand	On demand	On demand	On demand	On demand	On demand	On demand
<b>COMMERCIAL WASTE</b>										
No. of Rounds per day / frequency	Mixed with domestic rounds	Some dedicated rounds / some part of schools and flats round	Mixed with domestic rounds	Dedicated trade rounds	Dedicated trade rounds, except one on flats round	Collected twice per week to coincide with markets	Mostly collected separately from domestic	2 rounds – 1 dedicated round, 1 mixed with flats collections	2 rounds mixed with domestic rounds	Dedicated trade rounds
Tonnage 2009/10	2455	4600	1959	3077	3362	251	2891	3061	4314	3279

Notes: Commercial waste tonnages are for residual only. Trade recycling services are provided by North Hertfordshire District Council (glass); St Albans City & District Council (glass and card); Stevenage Borough Council (glass and paper); Three Rivers District Council



## SCHEDULE 8 - DELIVERY POINTS STANDARDS

1. It is acknowledged that the standards set out in this SCHEDULE are the minimum requirements relating to Delivery Points and that the Partners will work together to improve these standards throughout the life of the HWPA.
2. The WDA shall ensure that the Delivery Point(s) are available throughout the duration of the HWPA and shall ensure that all relevant Delivery Point Contractors have complied with the relevant permissions and legislation in respect of those facilities and all leases or licences or other rights to use them throughout the period of the Delivery Point contracts.
3. The WDA shall use its best endeavours to ensure Delivery Point contractors perform in accordance with the Delivery Point contract and terms of operation, and shall use its reasonable endeavours to procure that Delivery Point contractors operate the weighbridge properly and accurately and provide weighbridge tickets that are legible and accurate.
4. The Delivery Points are contracted to be open for the reception of waste as set out in Table 1 of this SCHEDULE 8. In addition, the WDA will use reasonable endeavours to accommodate extensions and other changes to those opening times to take account of public holidays, emergencies and other exceptional circumstances where Delivery Point permissions allow. It is acknowledged that the Partners' aspiration is to explore ways in which working hours, opening times and shifts could be made more efficient or economical and the WDA may explore flexibility or revised hours in any tendering processes for its Delivery Point Contractors.
5. The Delivery Points shall have properly constructed access roads with a suitable surface to the mechanised weighbridge and where required vehicle wheel washing facilities in accordance with the industry standard and relevant permissions.
6. Access routes from the weighbridge to the tipping areas and other areas within the Delivery Point shall be of suitable construction for the WCA vehicles to travel safely without incurring damage to vehicles when driven in accordance with the speed restrictions and conditions of use at the Delivery Point. WCAs shall notify the WDA of any access problems as soon as they occur.
7. The WDA shall require the Delivery Point Contractor to allow the WCA to unload its vehicles safely and promptly and that their movements in and out of the Delivery Points are expedited.
8. The WDA shall only accept Waste delivered in vehicles including the use of hire vehicles that have been notified by the WCA to the WDA in advance of the arrival at the Delivery Point (and updated from time to time). The WDA will not be liable for payment in respect of any Waste delivered in vehicles not so notified.
9. WCAs shall use their reasonable endeavours to procure collection vehicles that are suitable for use at designated Delivery Points, and the WDA shall assist the WCAs by providing sufficient information about the physical conditions of the Delivery Points.
10. Should the WDA need to direct a WCA to a Delivery Point other than one which has been allocated to the WCA and set out in Table 1 (whether as a Delivery Point or an Alternative Delivery Point), for example in emergencies and other exceptional circumstances, then the WDA shall use reasonable endeavours to ensure that such Delivery Point is compatible for use by the WCA's existing collection vehicles.



11. In addition should the WDA need to direct a WCA to a Delivery Point other than one which has been allocated to the WCA it will do so only after it has taken all reasonable steps to enter into consultation with the relevant WCA(s) subject to the direction.
12. The WCAs shall impose contractual obligations on their collection contractors not to negligently or wilfully damage any Delivery Points or parts thereof.
13. The WCAs shall ensure that full, accurate and complete information is provided on arrival at the point of delivery to comply with duty of care regulations and all relevant legislation.
14. The WCAs shall ensure that all Waste imported and exported from the Delivery Points passes across the weighbridge and that the information on the weighbridge ticket is correct and accurate.
15. The WDA shall not be liable for unsigned weighbridge tickets.
16. The WCAs shall abide by the conditions of use at the Delivery Points which will be notified to the WCAs by the WDA and which will be subject to discussion by the Partners in advance of usage.

**Table 1 – Hertfordshire Residual Waste Delivery Points**

<b>Name of Delivery Point</b>	<b>Days of Operation</b>	<b>Times for Receipt of Waste</b>	<b>WCA Delivery Point</b>	<b>WCA Alternative Delivery Point</b>
TBC	Mon–Fri Sat Sun	07:00 – 18:00 07:00 – 13:00 07:00 – 13:00	TBC	TBC
TBC	Mon–Fri Sat Sun	07:00 – 18:00 07:00 – 13:00 07:00 – 13:00	TBC	TBC
TBC	Mon–Fri Sat Sun	07:00 – 18:00 07:00 – 13:00 07:00 – 13:00	TBC	TBC
TBC	Mon–Fri Sat Sun	07:00 – 18:00 07:00 – 13:00 07:00 – 13:00	TBC	TBC
TBC	Mon–Fri Sat Sun	07:00 – 18:00 07:00 – 13:00 07:00 – 13:00	TBC	TBC

## SCHEDULE 9 – CONTAMINATION PROTOCOL

1. This Contamination Protocol takes into account the requirements of the Residual Waste Disposal Contract under which the WDA will be required to make compensation payments to the Contractor for delivering loads of mixed municipal waste containing material which cannot be either legally or practically treated at the Facility. Delivery of such contaminated waste loads could result in the whole load being rejected from the Residual Waste Disposal Facility and / or could result in the Facility being temporarily shut down.
2. The WCA shall ensure that either it, or its waste collection contractors use all reasonable endeavours to ensure that Waste delivered to a Delivery Point does not include any items described in the table overleaf.
3. Items or quantities of items outside the limits shown in the table overleaf should be delivered to the Delivery Point by way of a separate load as opposed to being part of a mixed load of residual waste. The WCA shall provide the WDA with 48 hours' notice in advance of delivering any of the items listed in the Contamination List to a Delivery Point.

## CONTAMINATION LIST

No.	Item	Maximum Accepted Quantity in a Mixed Load of Residual Waste at the Delivery Point
1	Vehicles.	Part(s) of a vehicle weighing 15kg.
2	Animals and animal by products.	Carcasses, or parts of carcasses more than 25 kg per Load.
3	Car Batteries.	None.
4	Car Tyres.	None.
5	Clinical waste specifically marked "for high temperature incineration only" or classed as EWC category 18 01 02 or EWC category 18 01 03.	None
6	Clinical wastes classed as EWC category 19 01 04, i.e. "wastes whose collection and disposal is not subject to special requirements in order to prevent infection (for example dressings, plaster casts, linen, disposable clothing, nappies)	None if in clinical waste collection sacks.
7	Highly flammable, incandescent or explosive materials. e.g. flares, fire works.	
8	Hazardous waste (including asbestos, poisons, drugs, pesticides, caustics, acids, hazardous paints, cutting oils, crankcase oils, cleaning fluids, garden chemicals and batteries).	None.
9	Industrial sludges e.g. sewage.	None.
10	Liquid wastes.	None.
11	Plasterboard.	None.
12	Pressurised containers (Including aerosols and fire extinguishers).	None if the container exceeds more than 1 kg.
13	Radioactive waste.	None with the exception of household related items normally found in Household Waste e.g. watches.
14	Refrigerators and freezers.	None.

## SCHEDULE 10 – REVIEW PROCEDURES

### NOTIFICATION OF CHANGES

- 1.1 The Partners acknowledge that the Residual Waste Disposal Contract will include a mechanism to deal with changes in Legislation and a mechanism to allow for changes by the Residual Waste Disposal Contractor or the WDA which if implemented under the Residual Waste Disposal Contract may have the effect of requiring a Review and change to the HWP.
- 1.2 Where a WCA proposes to make Minor Changes to its WCA Baseline it shall be entitled to carry out the changes without first calling for a Review, provided that such changes are notified to all Partners at the next Annual Review and the relevant WCA Baseline is updated accordingly.
- 1.3 Where a WCA proposes a change to its WCA Baseline which is not a Minor Change, it shall notify the WDA of its proposed change.
- 1.4 Where the WDA receives a notice from a WCA pursuant to clause 1.3, or where the WDA proposes a change to the WDA Baseline, the WDA shall consider if the proposed change is one that is significant and should be subject to a Review, and in doing so it shall take into account the following factors:
  - 1.4.1 Will the change significantly affect Hertfordshire's 50% Municipal Waste Recycling / Composting Target?
  - 1.4.2 Are the changes outside of the JMWMS?
  - 1.4.3 Are the changes in contravention of the revised Waste Framework Directive including application of the Waste Hierarchy as a priority order ?
  - 1.4.4 Does the scale of change potentially impact upon the Residual Waste Disposal Contractor:
- 1.5 Where the WDA concludes in accordance with clause 1.4 that a proposed change to a WCA or WDA Baseline is a Material Change and therefore subject to Review, it shall notify the WCA (if any) who requested the change of its conclusion and discuss its findings with that WCA if requested. The WDA shall also notify all the WCAs at the next appropriate HWP meeting of its conclusion, and shall call for a General Review in accordance with clause 1.8, or where appropriate include the change as a matter for discussion at the next Annual Review in accordance with clauses 1.9 to 1.12.
- 1.6 Where the WDA concludes in accordance with clause 1.4 that a proposed change to a WCA or WDA Baseline is not a Material Change and therefore not subject to a Review, it shall notify all the WCAs of its conclusion, and the relevant Party shall be entitled to implement its proposed change without first carrying out a Review, provided that the relevant WCA Baseline or WDA Baseline is updated accordingly at the next Annual Review.

## **GENERAL REVIEWS**

- 1.7 Any Partner shall be entitled to call for a review of the HWPA to consider:
  - 1.7.1 Material Changes to a Partners' Baseline;
  - 1.7.2 variations to the HWPA;
  - 1.7.3 termination in whole or in part and for one Partner or all of them ("a Review").
- 1.8 A Review shall be called by the Partners referred to in 1.1 on notice in writing ("a Review Notice") to the other Partners setting out in detail :-
  - 1.8.1 the nature of the Review;
  - 1.8.2 the reasons for it;
  - 1.8.3 the proposed action and / or solution;
  - 1.8.4 the Partner(s) potentially affected;
  - 1.8.5 how the proposed solution could or should be implemented.
- 1.9 The Partners shall meet to discuss and carry out a Review, agree actions (or to agree an action plan leading to a decision and subsequent action (if any) to implement the decision) within two months (or such other period as the Partners agree is appropriate in the circumstances) of the Review Notice having been served on all the other Partners. Following such Review meeting the Partners shall implement the action plan (or actions as the case may be) in accordance with the agreed timetable.
- 1.10 All Partners shall be issued with any Review Notice and shall be entitled to participate in any Review unless the relevant WCA and the WDA acting reasonably determine that the Review applies only to them; and
  - 1.10.1 will not affect any other Partner; and
  - 1.10.2 is not relevant to any other Partner; and
  - 1.10.3 the issues in question do not similarly apply to any other Partner.

## **ANNUAL REVIEWS**

- 1.11 The Partners shall carry out a Review each year throughout the duration of the HWPA to consider the matters described in clause 1.13 below ("an Annual Review"). The WDA shall be responsible for issuing the Review Notice.
- 1.12 Each Annual Review shall commence between September and November each year, and shall be completed by the end of November in that year.
- 1.13 The following are standing agenda items to be considered during each Annual Review, together with any issues set out in the Review Notice:
  - 1.13.1 The comparison of Partner's actual collection schemes compared to those set out in SCHEDULE 7 (WCA & WDA BASELINES AND RETAINED WASTES).
  - 1.13.2 Updating of the WCA and WDA Baselines in respect of the current year and the subsequent three years in light of any Minor Changes pursuant to clause 1.2 or changes deemed not to be significant pursuant to clause 1.4, and a discussion concerning the cumulative effect on the Partners of any changes implemented in the preceding year or changes proposed for the future year(s), any new information, such as the most recent year's performance, and any other changes in circumstances.

- 1.13.2.1 In addition to the items set out at clause 1.8, the Partners may consider other matters during an Annual Review provided that such matters are set out in a Review Notice issued by the Party calling for a Review of those matters.

#### **PERIODIC REVIEWS**

- 1.14 Notwithstanding the Review Procedure described above, every 5 years the Partners shall meet to discuss the issues arising from the HWPA including its strengths, weaknesses and successes (“the Periodic Review”).
- 1.15 At least three months prior to each Periodic Review each Party shall submit to the others a written review setting out any issues that that Party wishes to discuss at the Periodic Review, the reasons why and (where appropriate) suggested solutions. The written review should be in sufficient detail for the other Partners to give proper consideration and discuss the contents so that it is able to attend the Periodic Review fully conversant with the issues.

#### **PROVISION RELEVANT TO ALL REVIEWS**

- 1.16 Notices to be served pursuant to clause 16 shall be given in writing and may be served by electronic means.
- 1.17 The Partners shall use reasonable endeavours to attend any meetings called to carry out Reviews (“Review Meetings”) and participate in good faith, acting fairly, reasonably and in the spirit of partnering set out in clause 5 above and having regard to each others’ budgets and resources.
- 1.18 Subject to clause 1.20 below, where a decision is to be made pursuant to a Review, all the Partners shall reach agreement by consensus and if no consensus is reached, a decision shall be made in line with the voting procedures detailed in SCHEDULE 2 (PARTNERSHIP PRINCIPLES, OBJECTIVES AND TERMS OF REFERENCE) principles 24 and 28.
- 1.19 In the event that one or more Partners does not use reasonable endeavours to attend any meetings called to carry out Reviews (“Review Meetings”) and participate in good faith, acting fairly, reasonably and in the spirit of partnering set out in clause 5 above a decision shall be made by a majority vote carried out by a vote of those Partners present at a Review Meeting, provided that:
- 1.19.1 One of the Partners is the WDA;
- 1.19.2 If any Partner is not present at a Review Meeting it shall be deemed to have waived its entitlement to vote provided it received at least 20 working days’ notice of the meeting and of the matter to be decided. However all Partners shall act reasonably in considering whether to defer a decision or recall the meeting if a Party is not able to attend.
- 1.19.3 If an equal number of votes are cast, the decision shall be determined not to have been agreed but the Partner proposing the decision shall always be entitled to submit the proposal again at a subsequent Review.

1.19.4 If a delegate at a meeting is not duly authorised by the Partner's constitution, any decision shall be provisional and shall be subject to that Partner's constitutional and democratic authorisation and decision making process and to that extent shall stand as a recommendation.

1.20 The test of reasonableness shall be applied having regard to the WDA's obligation to consult any contractor it may have appointed in relation to its Residual Waste Disposal Contract on any matter which might affect the Residual Waste Disposal Contract.

1.21 No Party shall be required to agree to any amendment, termination, or variation to the HWPA as a result of a Review but shall always act reasonably and promptly.

1.22 As a result of a Review or a Periodic Review the Partners may agree to vary the HWPA by way of a Deed of Variation or to terminate it in whole or in part.

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**SCHEDULE 11 – NOTICES**

<b>PARTY</b>	<b>ADDRESS</b>
Broxbourne Borough Council	Head of Legal Services Broxbourne Borough Council Borough Offices Churchgate Cheshunt Hertfordshire EN8 9XJ
Dacorum Borough Council	Head of Environmental Services Dacorum Borough Council Civic Centre Marlowes Hemel Hempstead Hertfordshire HP1 1HH
East Herts District Council	Director of Customer and Community Services East Hertfordshire District Council Wallfields Pegs Lane Hertfordshire SG13 8EQ
Hertsmere Borough Council	Director of Environment Hertsmere Borough Council Civic Offices Elstree Way Borehamwood Hertfordshire WD6 1WA
Hertfordshire County Council	County Secretary Hertfordshire County Council Room 208a, First Floor County Hall Pegs Lane Hertford Hertfordshire SG13 8DN



North Herts District Council	Head of Legal Services North Hertfordshire District Council Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF
St Albans District Council	Head of Legal & Democratic Services St. Albans City & District Council District Council Offices Civic Centre St. Peter's Street St. Albans Hertfordshire AL1 3JE
Stevenage Borough Council	Strategic Director Stevenage Borough Council Daneshill House Danestrete Hertfordshire SG1 1HN
Three Rivers District Council	Director of Community & Environmental Services Three Rivers House Northway Rickmansworth WD3 1RL
Watford Borough Council	Head of Environmental Services Watford Borough Council Town Hall Watford WD17 3EX
Welwyn Hatfield Borough Council	Director (Governance) Council Offices The Campus Welwyn Garden City Hertfordshire AL8 6AE

**EXECUTED AS A DEED BY THE PARTNERS AS FOLLOWS:**

THE COMMON SEAL of  
Hertfordshire County Council  
was hereunto affixed by order

.....  
Authorised Signatory

THE COMMON SEAL OF  
THE COUNCIL OF THE  
BOROUGH OF BROXBOURNE  
was hereto affixed in the presence of

.....  
Authorised Signatory

COMMON SEAL of  
DACORUM BOROUGH COUNCIL  
was hereunto affixed in the presence of:-

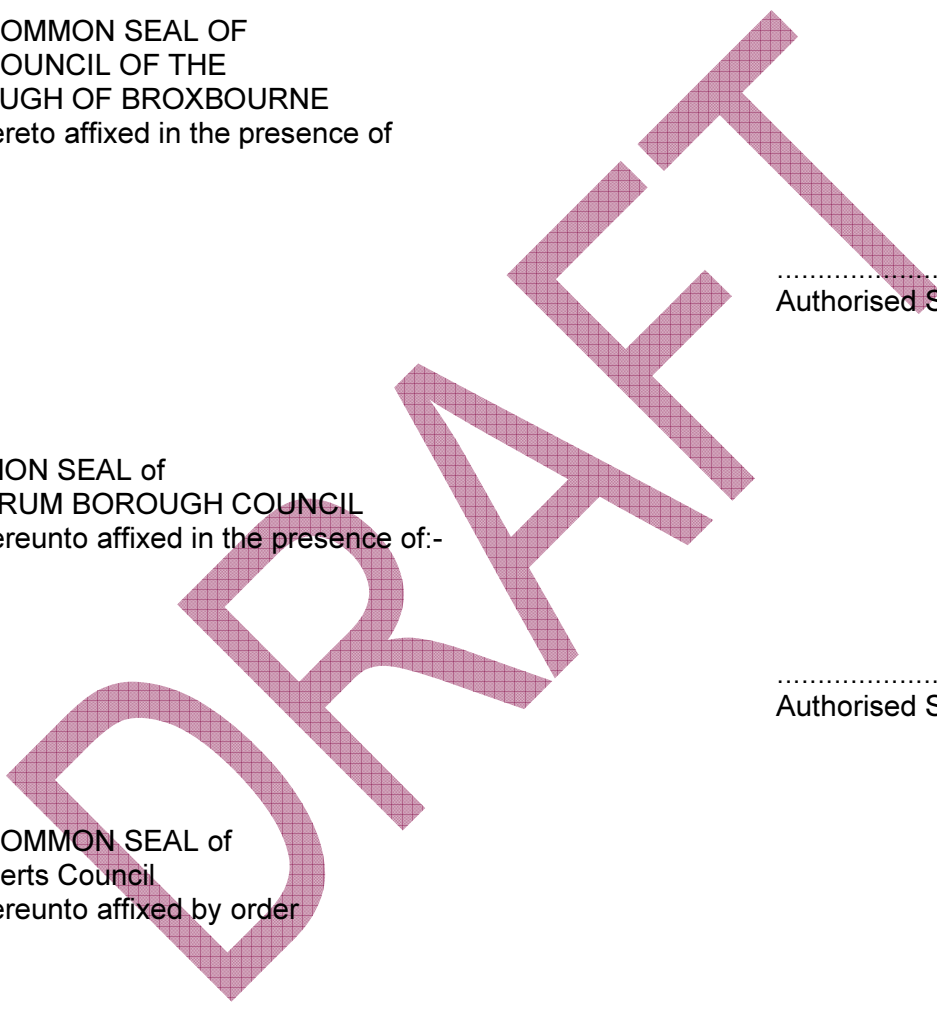
.....  
Authorised Signatory

THE COMMON SEAL of  
East Herts Council  
was hereunto affixed by order

.....  
Authorised Signatory

THE COMMON SEAL of  
Hertsme Borough Council  
was hereunto affixed by order

.....  
Authorised Signatory



THE COMMON SEAL of  
North Hertfordshire District Council  
was hereunto affixed by order

.....  
Authorised Signatory

THE COMMON SEAL of  
ST. ALBANS CITY AND DISTRICT COUNCIL  
In the presence of

.....  
Authorised Signatory

The COMMON SEAL of  
STEVENAGE BOROUGH COUNCIL  
hereunto in the presence of

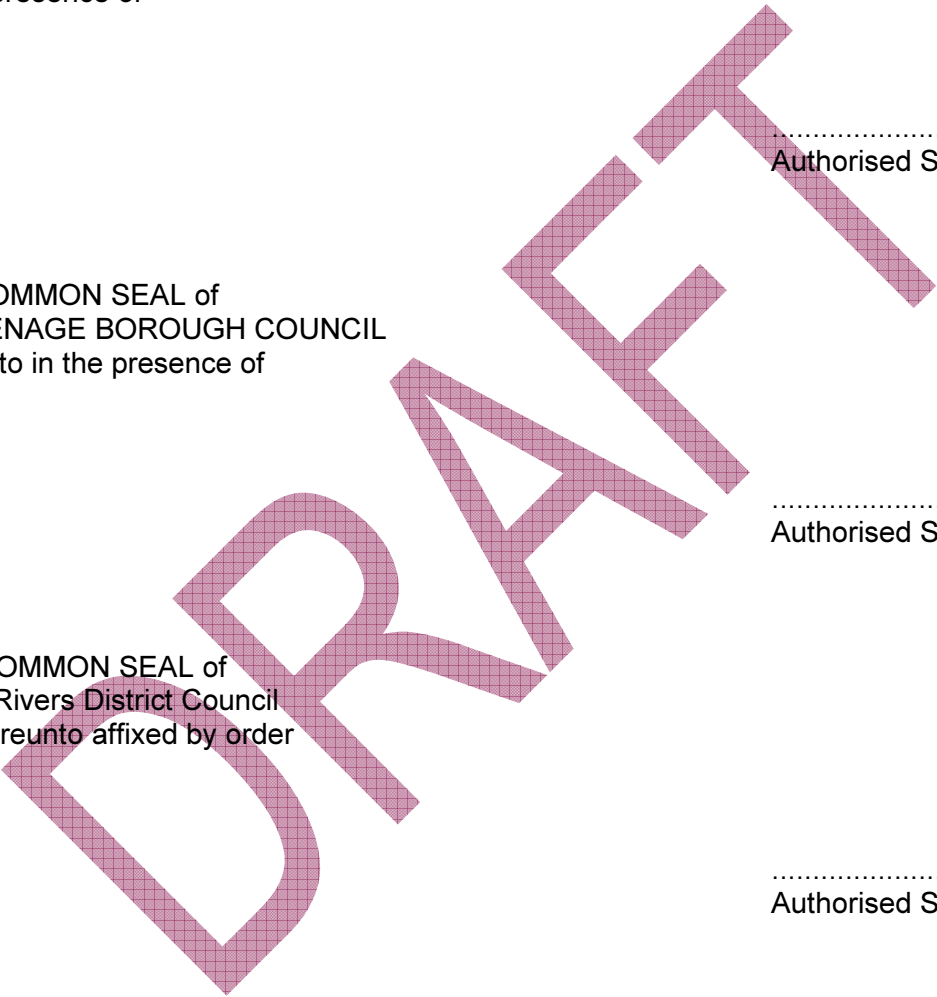
.....  
Authorised Signatory

THE COMMON SEAL of  
Three Rivers District Council  
was hereunto affixed by order

.....  
Authorised Signatory

THE COMMON SEAL of  
Watford Borough Council  
was hereunto affixed by order

.....  
Authorised Signatory



THE COMMON SEAL of  
Welwyn Hatfield Borough Council  
was hereunto affixed in the  
presence of

.....  
Authorised Signatory

DRAFT