



APSE: Commercialisation Network meeting

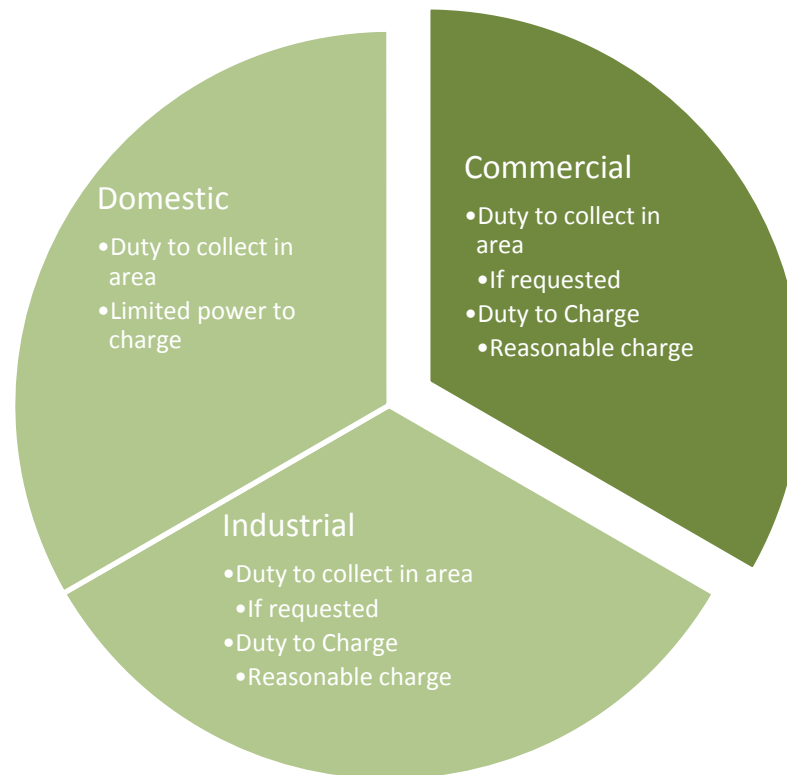
# **Commercial Waste: Do you need a company?**

4<sup>th</sup> February 2016

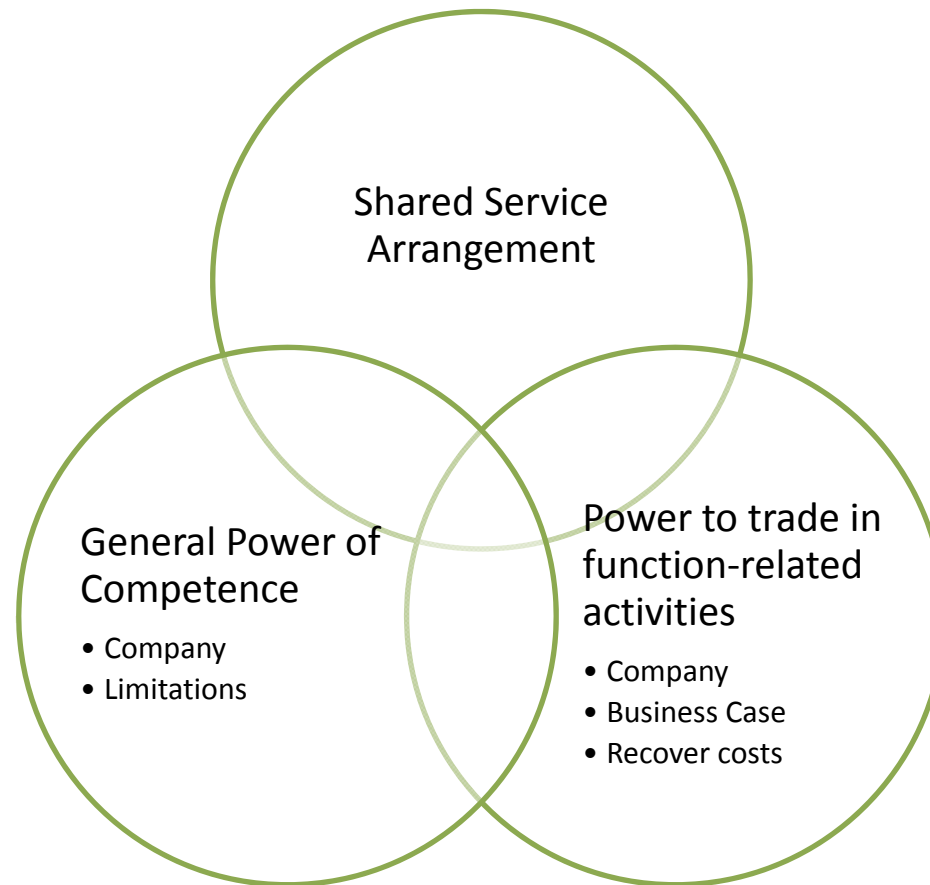
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# In Area



# Out of Area?



# Shared Service



# General Power of Competence (Localism Act)

- Power to do anything that individuals may generally do
  - Even though in nature extent or otherwise
    - Unlike anything the authority may otherwise do
    - Unlike anything that other public bodies may do
  - Individual with full capacity
- Anywhere in the UK or anywhere else
- For a commercial purpose or for a charge or without a charge
- For or otherwise than for the benefit of the Authority or its area or residents

# Power to Trade

## Local Government Act 2003

- Authorised to do for a commercial purpose anything which authorised to do for the purpose of carrying on any of its ordinary functions.
  - Not where required or authorised under ordinary functions
- Power only exercisable through a company
  - part 5 of the Local Government and Housing Act 1989.
  - Prepare business case
  - Recover costs

## General Power of Competence

- Limits on doing things for commercial purpose under the General Power
  - Only through Company
  - Not if activity is a duty
  - Subject to
    - pre-commencement limitations
    - post commencement limitations

# Teckal Exemption

In-house award exempt



Not a contract if not a separate entity

Extended to wholly owned  
“Subsidiaries” if meet the “Teckal  
Test”

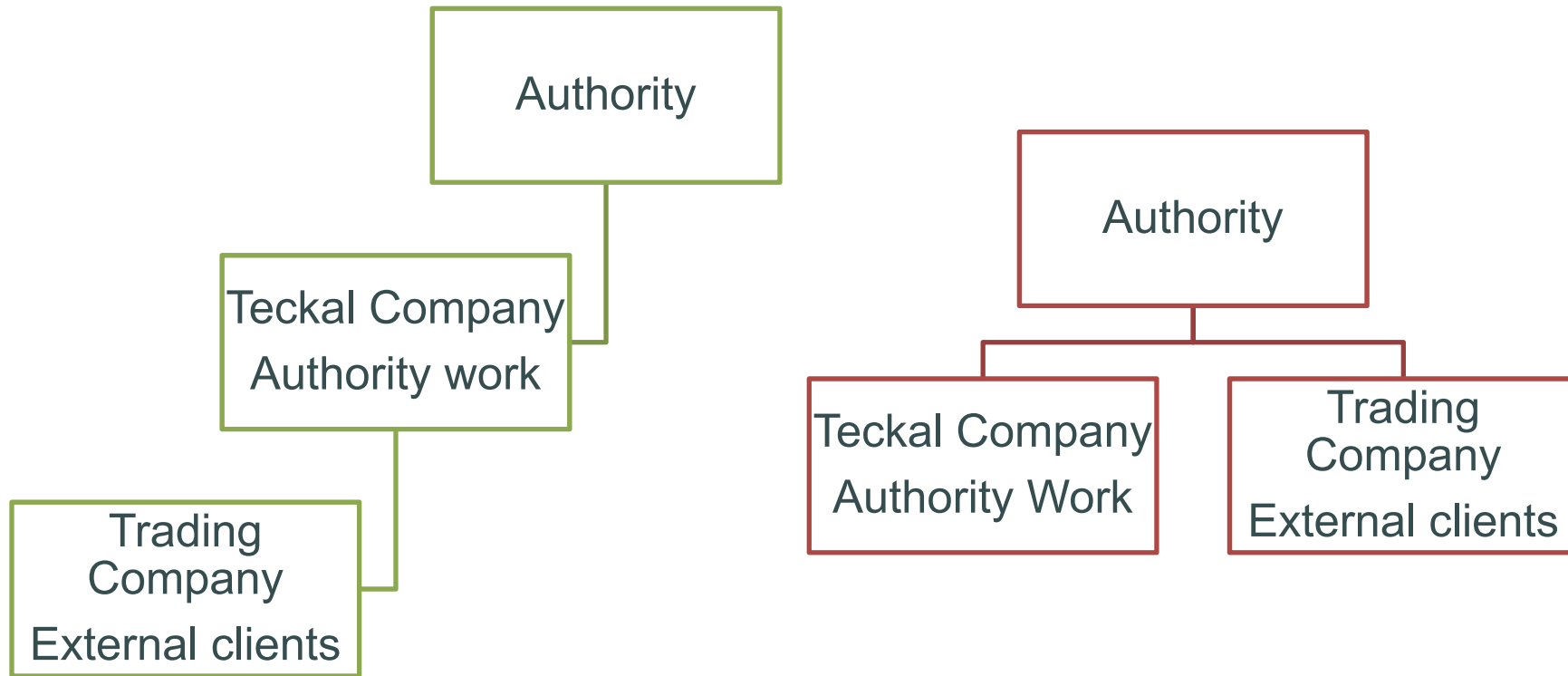


Contracting Authority able to exercise control  
over the company comparable to that they  
could exercise over their own departments ; and



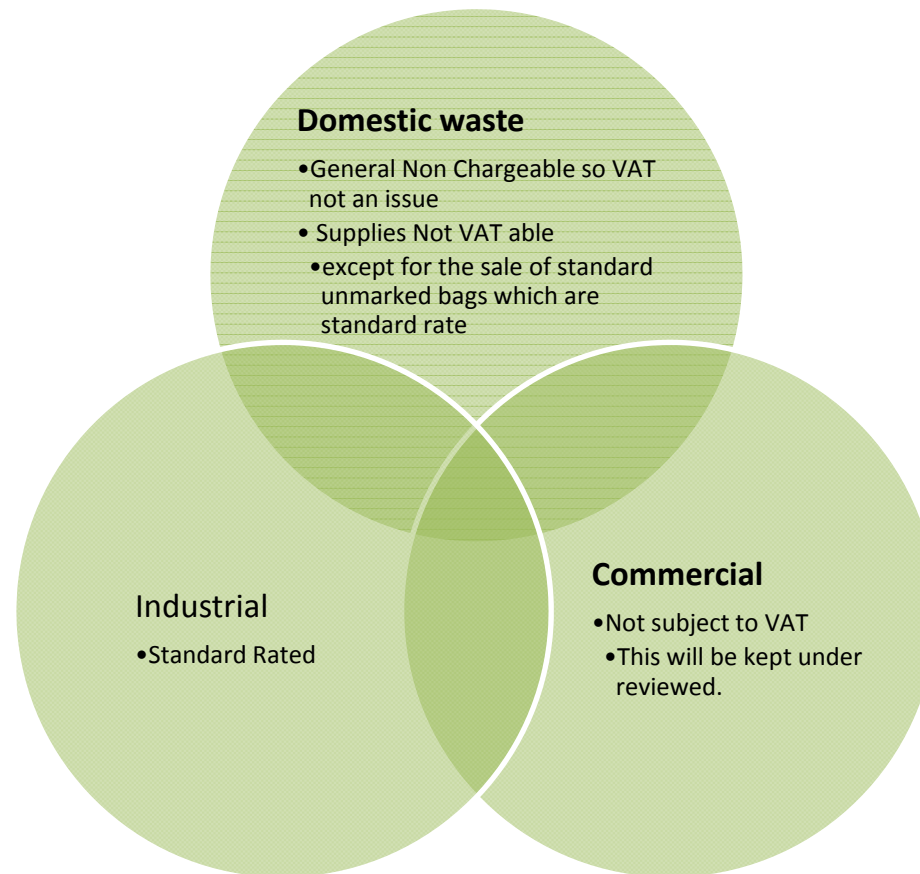
Must carry out the essential part of its activities  
with the Contracting Authority

# Will a group structure help?

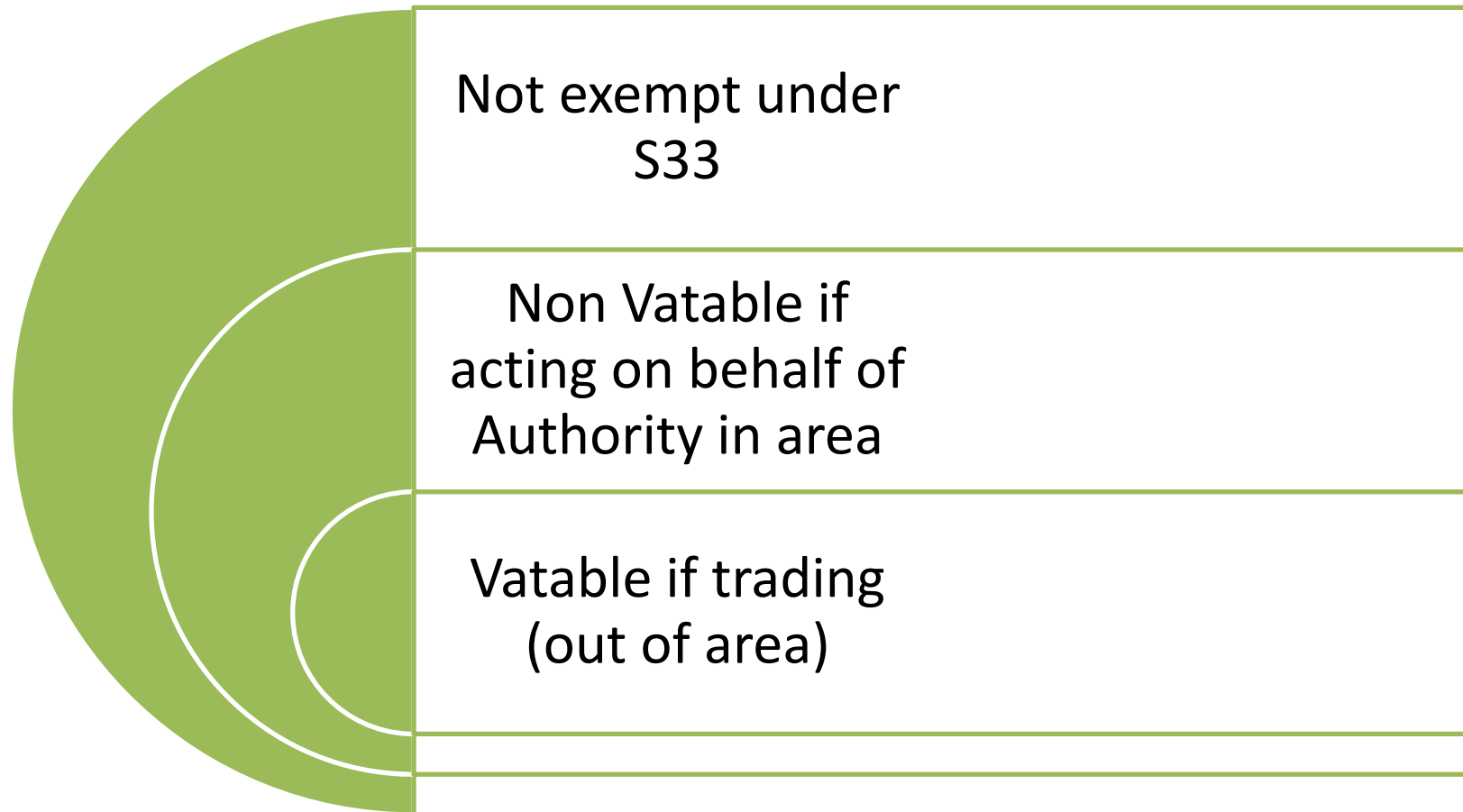




# VAT on Waste Collection by Authority



# VAT- Collection by LA Company





## Disclaimer

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