

## **Department for Environment, Food and Rural Affairs**

**November 2008**

### **Government Response to the Operational Review of the Landfill Allowances Trading Scheme**

The [EU Landfill Directive](#) aims "to prevent or reduce as far as possible negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, and on the global environment, including the greenhouse effect, as well as any resulting risk to human health, from the landfilling of waste, during the whole life-cycle of the landfill". The Directive sets challenging targets for Member States to reduce the amount of biodegradable municipal waste sent to landfill.

To meet these targets in England the Government implemented the Landfill Allowance Trading Scheme (LATS), an innovative tool to enable local authorities to reduce the amount of biodegradable municipal waste sent to landfill in the most cost effective way, whilst reassuring Government that necessary progress is being made. The scheme offers an alternative to the regulatory system of inflexible targets, by offering authorities the opportunity to tailor the required reductions to their specific strategy through the flexibilities of banking, borrowing and trading.

LATS has now been in operation for 3 years. In those 3 years local authorities have made considerable progress. Though we are not complacent, there is more to do, we are increasingly confident that England can meet its share of the first Landfill Directive target in 2010.

This review is the first study into the operation of the scheme. The review has found that overall LATS is functioning effectively to support and monitor WDAs efforts to divert BMW from landfill. This is no doubt due in part to the commitment and energy shown by all those involved. The report makes a number of recommendations to help improve the scheme. The Government is happy to accept the majority of these recommendations. A full action plan giving detailed responses to each of the 29 recommendations is attached below.

Defra would like to thank all those that contributed to the study.

## Action Plan

Recommendation	Proposed Actions	Lead	Target Date
<p>1. Defra could usefully review its guidance to</p> <ul style="list-style-type: none"> <li>• Move LATS guidance to a more easily identified location on the web-site so that it is no longer accessed through 'local authorities'</li> <li>• Ensure that it stays up to date in future by inserting links to relevant consultations in a timely manner</li> <li>• Keep news and announcements under review and post items as necessary.</li> </ul>	<p>Accept. Defra will review and revise the LATS pages and guidance available on the Defra website.</p>	<p>Defra</p>	<p>December 2008</p>
<p>2. Any decisions on revising guidance on trade waste must await the outcome of the consultation on the definition of municipal waste. However, it will also be necessary to address questions that are being raised related to the control and possession of waste though further guidance on FAQs. This should include clarification on WDA responsibility in relation to WEEE and outstanding questions about construction waste.</p>	<p>Accept. Defra will revise guidance on LATS in accordance with Recommendation 1 and in light of the consultation on the definition of municipal waste. Refer to published EA FAQs</p>	<p>Defra</p>	<p>December 2008</p>

<p>3. CIPFA to consider</p> <ul style="list-style-type: none"> <li>• updating its guidance, especially in relation to the valuation of allowances for accounting purposes, and</li> <li>• offering training on trading and accounting for allowances for finance officers.</li> </ul>	<p>Accept. Defra will consider with CIPFA the need for further guidance in this area.</p>	<p>Defra CIPFA</p>	<p>March2009</p>
<p>4. The Improvement &amp; Efficiency south East (IESE) to collaborate with Defra, the EA and others with a view to providing</p> <ul style="list-style-type: none"> <li>• the overview and structured way into the range of guidance for LAs</li> <li>• best practice examples that demonstrate how to support the Waste Strategy and LATS goals effectively</li> <li>• explain trading in a way that could be used to advise councillors and others less familiar with the issues</li> <li>• a longer term vision for LATS strategies.</li> </ul>	<p>Accept. Defra and EA will continue support IESE to ensure that WIN stays current and relevant with regard to LATS. The Improvement &amp; Efficiency South East provides the Waste Information Network as a valuable resource for local authorities, providing a wide range of guidance and support.</p>	<p>Defra EA IESE</p>	<p>Ongoing</p>
<p><b>Reporting and Validation</b></p>			
<p>5. Improve the communication role of the WDF User Group, possibly by reviewing membership through Government</p>	<p>Accept. Defra have formalised the role of the UG members by allocating specific local authorities to each member of the UG for</p>	<p>Defra</p>	<p>Feb 2008</p>

Offices.	representation at each meeting.		
<p>6. Communications should be considered on an on-going basis as an integral aspect of all LATS project development work. This involves exploring ways to improve communications through the development of a communications plan that</p> <ul style="list-style-type: none"> <li>• ensures that guidance is not only kept up to date but also systematically cross-referenced with links to other relevant sites</li> <li>• goes beyond passive electronic methods of communication (though these need to remain the chief reference source) to make learning and development a more interactive process.</li> </ul> <p>The WDF team at Defra and Defra's WDF contractor Enviros Consultants Ltd, should offer visits to Government Offices, initially on a trial basis that express an interest in establishing a continuing dialogue. These fora should allow LAs to stay up to date on the WDF development programme and to raise topical issues and concerns.</p>	<p>Accept. Defra and the EA will review the communication strategy for LATS and WDF, including consideration of the need for a regular LATS bulletin and the role of the LATS stakeholder group. Two LATS Newsletters have been published in May and July. Next one due in October.</p> <p>Defra and Enviros have set up a series of workshops at each Government Office for WDF users. These took place between December 2007 and April 2008. The workshops were well attended by local authorities and positively received.</p> <p>Development work on WDF during 2008 will improve the systems' ability to post news items to users as part of the log-on process. The details of this are currently being worked into a specification for implementation and it is hoped this will be delivered in early 2009.</p>	Defra	July 2008

<p>7. The effort to improve the timely reporting of waste information needs to continue. It may be helpful to offer regional training workshops for LA officers dealing with contractors to support the roll out of best practice guidance and allow authorities to share experiences and learning.</p> <p>If necessary, Defra could consider a charging mechanism for the longer term, (such as a sliding scale of charges for reports received in the last of the 3 months of the scheme year that could then be passed on to contractors where a delay in supplying critical information holds up an LA report).</p>	<p>Timely reporting of returns has continued to improve; overall all of 2007/8, 97% of returns meet the four Level 30 deadlines.</p> <p>The need for a charging mechanism or other ways to encourage timely reporting will be kept under review. The reporting requirements of the scheme are now well understood, penalties will be applied for late reporting.</p>	<p>Defra</p>	<p>Ongoing</p>
<p>8. Defra should seek additional funding to accelerate progress with WDF improvements, especially to improve the accessibility of reports and to allow LAs to upload their data automatically.</p> <p>Until the full potential of reporting has been explored it may be premature to begin to reduce the data collected. However, once the report mechanisms are fully operational and local authorities have had the opportunity to use them</p>	<p>The reporting functionality in WDF has been greatly enhanced, with key reports being generated in excel and available for unlimited benchmarking and for public access. Further development on this is continuing during 2008</p> <p>XML auto-upload development was completed in February 2008 for the fixed length questions and is due to be expanded for variable length questions shortly.</p>	<p>Defra</p>	<p>Ongoing.</p>

<p>more effectively, other options may merit further consideration and exploration with LAs. These could be discussed at regional meetings and views reported back to Defra via the Stakeholder Group.</p>			
<p>9. Defra to advise in guidance that two or three officers in each authority are trained to use WDF and ensure that succession planning and contingencies are appropriately covered. Government Offices can support this by encouraging LAs to book training, especially whenever they are aware of staff changes.</p>	<p>The WDF training programme is generally delivered through web-based seminars which are proving very effective training a greater number of authorities. The issue of coverage and succession planning is being addressed through the EA LATS audits. Defra have sought to provide training resource in order that each WDA have staff fully trained in the use of WDF</p>	<p>Defra/EA</p>	<p>2008</p>
<p>10. Introduce a duty on WCAs to return their data in a timely way.</p>	<p>Not accept. To date a large majority of waste collection authorities have reported data on time and to the required standard. Waste disposal authorities are generally working well in partnership with waste collection authorities to fulfil reporting publications. We are now moving in to the fourth year of operation for LATS and the Waste Data Flow system is now well-established. Local authorities can be expected to have developed an understanding of the reporting process and the Government therefore expects to see a continuing improvement in the timeliness and quality of</p>	<p>Defra</p>	<p>Ongoing</p>

	<p>data reporting.</p> <p>There is not a case at this time to increase regulation on local government. Defra will however continue to keep under review the need and justification for a duty requiring waste collection authorities to report data by specified deadlines.</p>		
<p>11. Defra may also like to consider</p> <ul style="list-style-type: none"> <li>the structure of the WDF website to identify ways of improving the hierarchy to encourage authorities to look for answers to their questions without having to call the Helpline</li> <li>ways in which its contractor could work more closely within the Helpdesk team to 'join up' when the same issue is coming up repeatedly in the same area.</li> </ul>	<p>The WDF Helpdesk software used by the contractor has been upgraded to facilitate joining up within that team.</p> <p>Developments to the WDF website are included in the items for consideration and prioritisation as part of the next development phase (work mainly taking place during 2008/9).</p>	Defra	2008/09
<p>12. Defra to make a clear commitment to the on-going provision of both induction training and more advanced and specialist training to keep staff up to date with WDF developments and encourage continuing professional development.</p>	<p>Training has moved to a series of web-based seminars, the programme for which has been advertised via the WDF website, helpdesk and news letter. We are seeking to support WDAs in establishing easy access to WDF training resource to cover contingencies such as annual leave and staff turnover.</p>	Defra	Ongoing

<p>13. WDF through its dialogue with authorities through the regions (Recommendation 6) could make sure all authorities are fully informed about the training available in all regions so that they do not have to wait for training to come to them.</p>	<p>See response to 12.</p>	<p>Defra</p>	<p>Ongoing</p>
<p>14. To bring WDF reporting facilities up to a high standard to ensure that all LAs can self validate:</p> <ul style="list-style-type: none"> <li>• Defra should explore the possibility of increasing resources available to the development programme to allow them to accelerate the process of implementing these improvements.</li> <li>• Enviro should offer training alongside this for senior authorising officers to help them self-validate their own data and become familiar with the range of ways they can use WDF to obtain reports for their own information and decision-making purposes.</li> <li>• Enviro should keep WDAs in the communication loop when raising queries on WCA data.</li> </ul>	<p>A new factsheet on validation has been compiled for WDF, and published on the WDF website. Ways to self-validate data prior to submission are covered in the on-line training sessions and highlighted in the GO workshops. Part of the WDF development programme is to include more pre-authorisation validation checks to facilitate LA validation prior to submission. A pre-submission data authorisation screen was introduced for 2008/09 reporting.</p> <p>Some additional monies for IT system development were identified for 2008/9.</p>	<p>Defra</p>	<p>2008</p>

<b>Reconciliation</b>			
<p>15. Consider extending current municipal waste reporting requirement on landfill operators to other waste management facilities to support more robust audit process.</p>	<p>Not accept. The Government does not consider that there is a need to extend reporting requirements to operators of waste management facilities other than landfill sites. LATS uses a mass balance approach to determine the quantities of biodegradable municipal waste sent to landfill. This is cross-checked against records from landfill operators and major discrepancies may be investigated. Further reporting requirements would be an additional burden on the waste management industry but would not improve the ability of the EA to monitor LATS. Use of landfill operator returns has limited value as municipal waste flows through number of facilities before arriving at landfill with changes in EWC classifications making it difficult to identify waste that is of municipal origin. Impementation of Generic Operator Returns (GOR) will place more emphasis on origin and destination reporting for all permitted facilities and should help support LATS audit process through more effective reporting of waste against relevant EWC code.</p>	<p>Defra</p>	

<p>16. EA to</p> <ul style="list-style-type: none"> <li>• provide the WDF contractor with a generic e-mail address accessed by regional LATS contacts within EA for queries relating to the reconciliation process and to the monitoring and auditing processes more generally.</li> <li>• increase engagement regionally at an earlier stage preferably through operations visits to regions in liaison with the WDF contractor and Government Offices.</li> </ul>	<p>An E Mail address is in place and provided to the WDF contractor and distributed through the WDF Newsletter.</p> <p>A round of visits has been conducted with GO and Wdf contractor. Will keep this engagement under review based on demand</p>	EA	2008
<p>17. Defra, EA and the WDF contractor together to agree and</p> <ul style="list-style-type: none"> <li>• provide guidance on WDF roll back (correction) time limits with criteria for when it is allowed or refused</li> <li>• develop a set of standard letters and notices of escalating severity and agree which should be sent</li> </ul>	<p>Accept. Defra and the EA agree that there is a need for a formalised and widely understood procedure for the monitoring and enforcing of data reporting through WasteDataFlow. We already have a procedure for late data reporting that has been used for the last two years. However, it may be the case that we have never made a general announcement about this so that LAs that have always</p>	Defra EA	October 2008

<p>by Enviro, the EA and Defra taking into account their respective responsibilities. Agree a procedure for logging communications from 1 July that can be viewed by all 3 parties.</p> <ul style="list-style-type: none"> <li>Consider how to systematically engage Government Offices (and in the case of WCA data difficulties) and WDAs so that they are able to keep abreast of developments with a view to intervening where this could help.</li> </ul>	<p>reported on time will not be aware of it. We will include it in revised guidance and could also include it in the next LATS newsletter due in October.</p> <p>The EA has produced guidance on level 35 roll backs along with deadlines.</p> <p>EA formally notify Defra of WDAs failing to report to time for each reporting deadline. Defra then issue provisional penalty letters inviting recipients to provide the data by a specified date and warning that failure to do so will result in a penalty letter. No authority has ever failed to supply data by the date specified so no penalty letters have been sent.</p>		
<p>18. Defra to</p> <ul style="list-style-type: none"> <li>amend the regulations to place a duty upon WDAs and WCAs to respond to queries raised by either the validating body or the monitoring authority after 1 July as soon as possible and in any event within 5 working days.</li> <li>amend the regulations to provide for any necessary penalties and a fallback process to enable the monitoring authority to complete the reconciliation process in the absence of complete and audited</li> </ul>	<p>Not accept. Local authorities are under a legal duty to report data by specified deadlines for the purposes of LATS. The Government is enforcing, and will continue to enforce, these rules and does not therefore consider that further legislation in this area is necessary.</p>	Defra	

data.			
<b>Mass Balance Calculation, Home Composting and M-BEAM</b>			
<p>19. a) Improve the WDF guidance on how the MBC formula works, including information on the implications for clean wood, books, nappies and waste taken to WEEE collection points.</p> <p>b) Provide guidance on how trading with authorities in Scotland will work.</p>	<p>a) There is a factsheet available on WDF regarding how the MBC is implemented within WDF. Any guidance on other materials or operation of the MBC is the remit of the EA.</p> <p>b) Not accept. Trading between local authorities in England and Scotland will take place through the online LATS Register as it does between authorities in England. The Government does not consider that there is a need for further guidance on this issue.</p>	Defra	2008
<p>20. a) Give priority to research needed to review the deemed biodegradable percentage of collected municipal waste.</p> <p>b) Consider the feasibility of structuring research with a view to introducing a simplification of the MBC formula whereby all separately collected and diverted waste could be excluded from the calculation of the biological content of landfilled waste. (It would still be necessary, as now, to add back rejected recyclates that enter landfill.)</p>	<p>a) Accept. The Government agrees that it is essential to keep the biodegradable content of municipal waste under scrutiny to ensure that LATS continues to be relevant and effective. Defra has commissioned research to analyse the composition of municipal waste in the UK.</p> <p>b) Not accept. Long-term stability and certainty is essential to ensure that LATS and the market in allowances can operate effectively. The Government does not therefore intend to make major changes to the scheme, including the way in which the Mass</p>	Defra	April 2008

	Balance Calculation operates.		
<p>21.To allow review of the deemed biodegradable content of collected waste at the lowest possible cost in future, develop a protocol for future municipal waste composition analysis work carried out for individual authorities, such as those currently funded through BREW/WIP, to inform their waste strategies and the PFI process. The aim of this protocol would be to ensure that the results from these studies can in future be taken into account by the EA and help to inform an on-going review. The EA will still need to ensure that they get a statistically valid sample that represents all the UK and all seasons by supplementing these studies as necessary. The compositional analysis studies by individual authorities and any necessary supplementary work commissioned by the EA should also be made available to other authorities and thereby potentially help to reduce the overall number of compositional analyses needed each year.</p>	<p>Accept. Defra is commissioning research in 2008 to analyse the composition of municipal waste in the UK. The first stage of this research will be a review of existing evidence. We will study the outputs from the research and consider whether Defra can produce a good practice guide to assist local authorities that wish to commission their own compositional analysis.</p>	Defra	December 2008

<p>22. EA and WRAP to collaborate with a view to bringing forward simplified proposals that could allow home composting to be factored into LATS with minimal resource impact on all stakeholders.</p>	<p>Accept. Defra, EA and WRAP are working together to consider whether a robust and accountable mechanism can be developed for home composting to be accounted for in LATS. Defra will then consider the status of home composting as technique for diverting biodegradable municipal waste from landfill.but a decision will not be made until after the first target year.</p>	<p>Defra EA WRAP</p>	<p>May 2008</p>
<p>23. EA to spell out issues in their proposed consultation on monitoring MBT more fully, especially around the protocols option. More policy reflection may be needed on green and food waste issues in relation to MBT.</p>	<p>The EA have consulted stakeholders on a revision of the MBT monitoring guidances and considered a number of options. The guidance will be revised based on the consultation exercise to give more flexibility to evidencing the reduction of MBT through sampling.</p>	<p>EA</p>	<p>2008</p>
<p>24. Defra to increase LA exposure to M-BEAM though offering regional sessions that address risk assessment and the use of M-BEAM to identify future strategic options.</p>	<p>Defra has updated the M-Beam model and contacted all waste disposal authorities to inform them that it is available. The model is distributed with comprehensive guidance notes. Defra will continue to make M-Beam available to local authorities and provide support and guidance on its use.</p>	<p>Defra</p>	<p>Ongoing</p>
<p><b>Trading</b></p>			

<p>25. RIEPs to consider</p> <ul style="list-style-type: none"> <li>• convening an advisory trading group to consider ways to prepare for a change in the trading market, and</li> <li>• in discussion with GOs, their LAs and CIPFA, what workshops and support LAs need to help them address trading obstacles.</li> </ul>	<p>The RIEPs have received funding that will enable them to set up a dedicated market trading resource that will enable LA's to have a more accurate forward look to the quantities of LATS that will arise.</p>	<p>IESE</p>	<p>Ongoing</p>
<p>26. Defra and the EA to collaborate to</p> <ul style="list-style-type: none"> <li>• agree steps necessary to allow the EA to take responsibility for the register subject to safeguards in the event of a malfunction at a critical time</li> <li>• identify ways to improve the presentation of the register</li> <li>• review the pass word system with a view to improving access for local authorities and consider how much information that is currently password protected can be brought into a public and more easily accessible web location</li> <li>• consider whether there is a role for the private sector or other organisations to run the bulletin board or whether the EA should</li> </ul>	<p>Accept. Defra and EA will continue to keep under review their respective roles and responsibilities in relation to LATS to ensure that the scheme continues to operate as effectively as possible.</p>	<p>Defra EA</p>	<p>Ongoing</p>

<p>take responsibility for</p> <ul style="list-style-type: none"> <li>○ improvements to the bulletin board to provide summaries and break down lists of posted notices.</li> <li>○ hosting a chat room for LAs to share experiences and communicate about trading and contracts</li> </ul> <ul style="list-style-type: none"> <li>● discuss with the RECs the potential for a role for brokers to help authorities build confidence and experience, find trading partners and agree terms.</li> </ul>			
<p>27. Defra to</p> <ul style="list-style-type: none"> <li>● update its guidance on LATS contracts to cover trading for future years.</li> <li>● provide more information about future infrastructure development plans and progress as this becomes available.</li> </ul>	<p>Information flow is essential to the development of a healthy market. Defra is committed to ensuring that relevant information about and relevant to the LATS market is made available to local authorities on a continuing basis.</p>	<p>Defra</p>	<p>Ongoing</p>
<p><b>Penalties and Other Issues</b></p>			
<p>28.</p> <ul style="list-style-type: none"> <li>● Amend the regulations to extend the reporting penalties to WCAs.</li> </ul>	<p>See response to Recommendation 10.</p> <p>The Government does not intend to review the</p>	<p>Defra</p>	

<p>(See Recommendation 10)</p> <ul style="list-style-type: none"> <li>• Postpone any decision on the level of fines until the scheme is reviewed again.</li> <li>• Strengthen guidance on the need to report waste destinations, clarifying the role of this information in the audit process and the necessity for addresses and permits.</li> <li>• Keep destination reporting under review with a view to considering the introduction of a more explicit requirement in the regulations if this proves necessary.</li> </ul>	<p>level of fines for failure to comply with LATS obligations.</p> <p>Defra does not consider there to be a need for further requirements on destination reporting under LATS. The existing requirement for waste disposal authorities to report data is sufficient for these purposes. Local authorities must enter data into waste data flow that is accurate and consistent with the way in which waste is managed, and be prepared to provide evidence to support their data during the audit process. This includes, for example, ensuring that figures for recycling show only that material which has been recycled, not material which was rejected and subsequently sent to landfill.</p>		
<p>29. There should be a second operational review immediately after reconciliation in the first Landfill Directive target year, i.e., starting October 2010.</p>	<p>The Government agrees that it is important that the operation of LATS is reviewed periodically to ensure that it is kept relevant and effective. Defra will commission an operational review following reconciliation after the first Landfill Directive target in 2010.</p>	<p>Defra</p>	<p>October 2010</p>