



**Landfill Team**

DETR, 7/F9, Ashdown House  
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London  
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Dear Sirs,

**SUBJECT: TRADABLE LANDFILL PERMITS CONSULTATION PAPER**

Thank you for the opportunity to comment on the proposals to implement a tradable permit system for achieving compliance with the requirements of the EU Landfill Directive. The comments below come on behalf of the Local Authority Recycling Advisory Committee (LARAC) for whom I am Policy Officer. LARAC is an association of 300+ local authority professionals who co-ordinate and operate waste management services for their respective authorities. Membership is drawn from all types of authority including statutory Waste Collection (WCA), Waste Disposal (WDA) and Unitary Authorities.

As a means of establishing the views of LARAC members on some of the issues raised in the consultation a small member questionnaire was circulated. This questionnaire also included some of the specific questions included within the consultation document. Any statistics quoted in this correspondence are based on this survey. LARAC would like note that many members feel that any tradable permits system will be an unnecessary (and costly) system that could potentially distract the focus from the real objective of the Landfill Directive, which is the reduction of biodegradable waste disposed of to Landfill. LARAC feels that Government should be minded to implement the most cost effective and efficient compliance system possible thereby enabling more finances to channelled directly into the very waste management systems needed to achieve a step change in UK disposal practices.

**Chapter 3: Design and Nature of the Permits:**

Government suggested that permits should be dealt with electronically (Q1) which was a view supported by 86% of the LARAC members responding to our survey. Such an approach is consistent with the general move toward e-services within local government. However, care will be needed to ensure the security of information contained therein, as it may be sensitive to an individual authority

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and/or contracting company.

Additionally any targets set should be mandatory to have any effect in achieving compliance. 72% of the respondents to the LARAC survey felt that interim targets are essential (Q2) to ensure the take up of the permit system, but there was a divergence of views as to how frequent these interim targets should be. Several authorities thought that interim targets should be annual for the first 5 years to ensure that progress was made nationally, however a number of other authorities felt that the interim targets should be restricted to only one interim target leading to 2010 and one between 2013 and 2020. This limited approach to interim targets would allow any waste management schemes implemented to have effect between target years. Should Government be minded not to impose mandatory interim targets an alternative approach could be adopted by bringing forward legislation for the preparation of Municipal Waste Management Strategies (which are required to reduce reliance on landfill supported by the Best Value regime of targets and intervention.

There was no clear majority of LARAC members in favour of banking and borrowing permits (Q3) with 50% in favour and 50% either opposed or without a firm view. Many authorities felt that banking and borrowing permits would create an unnecessary additional complication to the scheme. It was felt unlikely that a WDA would bank permits since a financial reward is likely to be involved when trading. Therefore the reason to bank permits might be to wait for a more demanding market. If this were to happen it would obscure the relationship between the permit and compliance cost. It was felt that borrowing permits from future years should not be permitted since many factors may alter the predicted performance of limiting BMW disposal and WDAs would be likely to use a borrowing option in the first instance, creating a disproportional amount of non-compliance leading up to Directive target years (Q4). Therefore, overall it was felt that banking and borrowing of permits should not be allowed.

#### **Chapter 4: Allocation of Permits:**

LARAC supports the annual issuing of permits to landfill (Q5). However, we recommend that the whole system be reviewed after, say, 3 or 4 years (Q6) and in the year after each national target. In the event of the nation failing to achieve a Directive target, such a review could constitute part of the remedial action that Government would be required to take. However, the allocation method should not be changed once it has been adopted to avoid possible complications arising from any such changes. The EU Landfill Directive has a clear timescale with fixed targets, and the method of allocating permits should reflect this approach, perhaps allowing only minor adjustments to be made.

As for the specific options for target allocation (Q7) none of the proposed methods is capable of accommodating the diverse backgrounds of LARAC members' authorities. **Therefore, LARAC does not feel able to support the introduction of any single method, as this would inevitably comprise the position of some of the LARAC membership.** In taking such a stance LARAC accepts that Government will be forced to decide on a specific option. Therefore, we offer the following views on the options proposed to assist in the debate.

Option A1 was favoured by 57% of the LARAC membership responding to our survey (Q8). In this Option, it appears that a WDA that has already reduced BMW to landfill since 1995 will be given targets based on the current levels, not on those in 1995. Therefore it would seem that the WDA, having already diverted significant quantities of BMW from landfill since 1995, would have to invest more heavily to achieve more stringent targets than authorities that had not hitherto made an effort to reduce landfilling of BMW. This would seem unfair on those authorities that have made an effort so far. In a WDA, if the current level of BMW is greater than the 1995 level (as would be expected for non-diverting WDAs), then even if the WDA meets the targets based on current levels, it will not have reached the targets as based on 1995 levels.

Option A2, which was favoured by only 7% of LARAC members, would use 1995 levels to allocate permits at the start. This would cause problems for WDAs with higher current BMW than in 1995 and mean that they would immediately be in permit deficit. Although this does allow for reward to WDAs that had already made moves toward diversion.

Option A3, which was again only supported by 7% of LARAC members, as their preferred option would appear to allow for both the over and under performers. Allocation by current levels ensures that WDAs are not put straight into deficit. It would also allow for WDAs that have already met the targets by using 1995 figures to calculate targets.

29% of the respondents to the LARAC survey preferred one of the allocation methods listed in Annex C, with 21% in favour of allocation on the basis of numbers of households as being the fairest of the options presented.

One LARAC member suggested a specific "fall back" position which would reduce the inherent unfairness of allocation method (A1) should Government decide to push ahead with its implementation. This method would band authorities as follows:

- authorities that landfill a greater proportion of BMW (as tonnes/household) than required to achieve the next national Directive target would be given targets on the basis of Option A1; but

- Authorities that landfill a smaller proportion of BMW than required to achieve the next national Directive target would be given a standstill target compared with the quantity of waste currently landfilled. The potential availability of surplus permits to sell would then be a strong incentive for these authorities to reduce further their reliance on landfill. This measure would also introduce an element of flexibility into the system by creating a small amount of slack.

On a point of detail there appears to be a potential inequity in the description of municipal waste as used in compiling the 1995 figures and new calculations based on the description of municipal waste as set out in the Waste Strategy 2000. Put simply the 2000 description includes a far wider range of wastes than used in 1995 increasing the volume of 'eligible' waste and hence the difficulty of reaching BMW reduction targets. Additionally many of the wastes are not within the control of the WCA or WDA sections of local authorities. This discrepancy should be examined as a matter of urgency.

#### **Chapter 5: Trading systems:**

LARAC suggest that permits must be registered and verified by a capable authority such as the Environment Agency (EA) and that the EA could assist trading (Q11) by maintaining a database of sellers and buyers. This does place a significant workload on the EA and sufficient resources must be made available to them to conduct the task. However, all the proposed methods of facilitating trades have merit and all should be made available to WDAs (Q9). To force all authorities to use a national system of direct brokerage would be unduly prescriptive. It is possible that WDAs may agree to collaborate regionally, for example by agreeing that an element of the funds exchanging hands in trades be used towards the cost of regional initiatives for waste minimisation. On the other hand, for the system to work as intended, the "going rate" for permits being traded must be made freely available and advertised at all times.

The information that an authority should have to provide to the Agency concerning each individual transaction (Q10) should include: opening permit balance, details of proposals to transfer, number of permits involved, recipient authorities of any permits transferred and details of closing permit balance after transaction. In order to safeguard individual authorities trading accounts there should be no requirement to disclose details of the receipts from individual transactions, but there should be a requirement to disclose annual trading account totals (sales/purchases).

46% of LARAC members felt that there should be no price restrictions (Q12/13), as to impose them would be to artificially inflate or deflate a market. It is felt that if the scheme is to work permits must be allowed to find their own value relative to availability and location.

#### **Chapter 6: Monitoring:**

The effective monitoring of the scheme is essential (Q14) if the scheme is to work and authorities are not to trade permits to which they do not have access or that have already been used for landfill operations. The requirement for landfill operators to submit independent returns of WDA deliveries will allow some element of audit and the maintenance of a central register with appropriate security control will also assist in the objective of avoiding the double counting of permits. LARAC would like to restate that the Environment Agency must have the appropriate staffing resource in place to administer and monitor this process.

It is recognised that there may be significant variations in the quality of data sent to the EA regarding composition of municipal waste (Q15). Therefore, a standard assessment method is required and investigation into the costs of waste analysis is needed. The House of Commons Environment Select Committee 5<sup>th</sup> report (2001) also identified a severe lack of national waste composition and arising data generally. LARAC feels that the considerable requirements of the Landfill Directive warrant extensive national research and analysis into household waste composition as was previously undertaken by the Government's National Household Waste Analysis Programme.

53% of the LARAC member survey felt that direct intervention through the Best Value regime would help to implement the system of tradable permits (Q16). However, LARAC believes that intervention would only work at a very small number of authorities and therefore would be unlikely to determine whether the nation meets the Directive targets.. It is unlikely that criminal fines would be practical to use due to the cost and time required to pursue WDAs through the courts and the process would undoubtedly be slow and involve appeals. Civil financial penalties could be more flexible than criminal fines and would remain in the control of the Secretary of State, whereby they may be suspended / waived if sufficient reason were given (e.g. an unexpected process failure). However, on balance LARAC feels that sanctions implemented through the Best Value regime would appear the most appropriate mechanism. Government should however bear in mind the fact that although charged with compliance WDAs cannot achieve the targets on their own. Waste Planning and Waste Collection Authorities all have significant contributions to make to the ability of the WDA to meet the target. Should consensus of action not be achieved in a specific area

Government may need to consider some alternative mechanism or power to ensure that agreed strategies can be delivered to meet BMW diversion targets.

The proposals for tradable permits represent exciting challenges for the waste management sector and local government sector in particular. It is hoped that the views of LARAC members contained within this correspondence will be noted and the potential pitfalls of similar 'market-based' schemes like the PRN system avoided. Whilst the requirements of an efficient and effective scheme are important, it is also crucial that in meeting the challenges of BMW diversion local authorities are seen to be adhering to the overarching policies of the "*proximity principle*" and *Best Practical Environmental Option (BPEO)* as set out in the Waste Strategy 2000.

Thank you for the opportunity to comment and we look forward to seeing the outcome of this consultation in due course.

Yours Sincerely,

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