

22 April 2012

Part 2 Policy Statement Consultation Team  
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**Re: Proposed policy statement for Part 2 of the Localism Act 2011- Consultation**

Dear Sir/Madam,

Thank you for providing the North London Waste Authority with the opportunity to respond to the proposed policy statement for Part 2 of the Localism Act 2011 Consultation.

The North London Waste Authority (NLWA) is the statutory joint waste disposal authority for the London Boroughs of Barnet, Camden, Enfield, Hackney, Haringey, Islington and Waltham Forest. The Authority is made up of 14 councillors with each constituent borough nominating two Members from among their elected Councillors. It is funded through a levy on the 7 constituent boroughs.

The Authority is disappointed that local authorities will be required to contribute to any EU fines passed down by Government. The Authority considers that such a power is inequitable and inappropriate as it does not appear to recognise that the UK's success or failure in meeting EU targets, for example on waste diversion from landfill, is significantly impacted by Government's action in identifying the required diversion capacity and in creating the circumstances for delivery. The introduction of imposing such fines on waste management activities comes at a time when achieving planning permission is becoming increasingly difficult due to the additional requirements imposed by the Localism Act and National Planning Policy Framework. In addition the proposed reduction in financial subsidies, including ROCs, RHI and FiTs reduces the financial viability of the development of new waste treatment technologies. These issues will further increase local authorities' risk exposure to meeting EU targets. The power to pass down EU fines represents a real threat to local council taxpayers in North London as London faces the greatest challenge of all the UK regions in delivering greater recycling and in delivering other new infrastructure to divert waste from landfill. Based

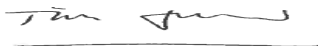
on the information set out above, the Authority believes that fines associated with waste management performance should not be passed down to local authorities.

If EU fines are passed down to local authorities, our detailed comments relating to the consultation are summarised below:

- The Authority welcomes the Government's position to implement an independent appeals process. The Authority recommends that the local authority in connection with the fine is able to provide comment on the panel selected for the appeal.
- Any financial sanctions against local authorities must be heavily scrutinised. The Authority agrees with key principles proposed in Chapter 3 and believes that any fines against local authorities must be assessed in a manner that is reasonable, transparent and proportionate and that any decisions are based on an ability to pay.
- The Authority has concerns that the *"legal obligation in relation to that function remains with the original authority"*. This will mean that any fines incurred cannot be passed down to the contractor unless it is already written within contracts between the authority and contractor, further increasing the risk to the local authority.
- In addition, it will be increasingly important that EU laws and requirements are fully understood by local authorities and that this knowledge is passed down to any relevant contractors. It should be considered how the transfer of knowledge from Government to local authorities will be undertaken. It is also imperative that any new EU law requirements and targets are clearly communicated to local authorities at the earliest opportunity.

If you have any queries on our response, please do not hesitate to contact me ([Tim.Judson@nlwa.gov.uk](mailto:Tim.Judson@nlwa.gov.uk)).

Yours sincerely,



Tim Judson

**Director of Procurement**