

NORTH LONDON WASTE AUTHORITY

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| REPORT TITLE | |
| LANDFILL ALLOWANCE TRADING SCHEME - TRADING STRATEGY | |
| REPORT OF | |
| FINANCIAL ADVISER | |
| FOR SUBMISSION TO | DATE |
| AUTHORITY MEETING | 20 SEPTEMBER 2006 |
| 1. SUMMARY OF REPORT | |
| <p>This report provides an overview of the Landfill Allowance Trading Scheme and the need for the Authority to develop a trading strategy.</p> | |
| 2. RECOMMENDATIONS | |
| <p>The Authority is requested to:-</p> | |
| <p>(i) Note the contents of this report.</p> | |
| <p>(ii) Agree to convene a meeting of the LATS Member Working Group.</p> | |
| Signed by the Financial Adviser: | |
| Date: | |

3. **Background**

- 3.1 The Landfill Allowance Trading Scheme (LATS) is one of the Government's key measures to reduce the amount of biodegradable waste going to landfill (Waste and Emissions Trading Act 2003 – WET Act), and in so doing, to meet the requirements of the European Landfill Directive. The scheme came into effect on 1st April 2005.
- 3.2 In total about 68% of municipal waste is biodegradable and only this waste is counted for LATS.
- 3.3 The United Kingdom is required to reduce the amount of biodegradable municipal waste (BMW) sent to landfill to:
- 75% of 1995 levels by 2009/10
 - 50% of 1995 levels by 2012/13
 - 35% of 1995 levels by 2019/20.

As a consequence the amount of biodegradable waste that can be landfilled in England (there are separate arrangements for Scotland and Wales) for these target years is limited to:

- 11.2m tonnes in 2009/10
 - 7.46m tonnes in 2012/13
 - 5.22m tonnes in 2019/20.
- 3.4 For the period to 2019/20 the Government has announced an allocation of landfill allowances that match the limit of waste that can be landfilled in the target years. The allowances have been allocated to waste disposal authority's (WDAs) based upon their share of the biodegradable municipal waste generated by all WDAs in 2001/02. Again using 2001/02 data the Government has calculated a base year entitlement for each WDA. In the early years of the scheme and up to the first target year annual allowances have been 'back-end loaded' to recognise that authorities need time to bring waste management facilities online. After 2009/10 allowance allocations between target years are calculated by making equal year-on-year reductions from one target year to the next. As a result of these calculations the NLWA has been allocated landfill allowances of 312,933 in 2005/06 (year one), rising to 358,996 in 2009/10, and then reducing to 239,117 in 2012/13 and to 167,318 in 2019/20. The Government's chosen method of allocating allowances and the NLWAs existing relatively high level of landfill avoidance has meant that the Authority enjoys a rising allocation up to and including the first target year. Full details of the NLWA allocation of allowances over the 15-year period of the initial scheme can be found at Appendix A.
- 3.5 WDAs that have insufficient landfill allowances for the amount of waste that they landfill are at risk of incurring a fine of £150 for every tonne landfilled above the total of allowances they hold. In addition, the Government has reserved the right to pass on any European fine imposed on the UK for missing the Landfill Directive targets. This could mean that failing WDAs could be responsible for their share of fines reaching £180m a year, or £0.5m a day, until the Directive's demands are met.

- 3.6 WDAs are able to trade their allowances. This means that a WDA that needs to landfill more waste than its allocation can buy extra allowances from WDAs that landfill less than their allocation. Alternatively, a WDA can also borrow up to 5% of its future allowances from future years, and also bank unused allowances in one year for use in a future year. However, no trading – including both ‘banking’ and ‘borrowing’ – is permitted across target years, i.e. 2009/10, 2012/13 and 2019/20. This means that landfill allowances unused at the end of 2008/09, 2011/12 and 2018/19 would become worthless if not used.
- 3.7 Previous reports have advised that the Authority expects to be in a favourable trading position, at least up to and including the first target year in 2009/10. Current forecasts suggest that the Authority could have in the region of 178,347 surplus allowances over this period:

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| 2005/06 | 6,869 * | (actual - subject to audit) |
| 2006/07 | 42,825 * | |
| 2007/08 | 49,825 * | |
| 2008/09 | 57,458 * | |
| 2009/10 | 71,195 | |

* These surpluses have to be used before 2009/10.

- 3.8 It should be noted, however, that the availability of surplus allowances is dependant upon a number of factors working together. In particular, that there is a continuous stepped change in borough recycling and composting activity and a timely and continuous availability of treatment facilities.
- 3.9 Income from the sale of surplus allowances can only be used in the year that the surplus arises, or some future year if the net cash proceeds from a sale are carried forward to a future year, i.e. it is not possible to use the income from the sale of a future year’s allowance until the surplus has been recognised in that year’s accounts.

4. **Developing a LATS Trading Strategy**

- 4.1 LATS has been designed to enable WDAs to meet the requirement to reduce the amount of BMW sent to landfill in the most cost-effective way. DEFRA guidance advises that strategic long-term planning is vital if authorities are to make the most effective use of the scheme and authorities are encouraged to recognise the flexibilities provided by LATS as a potential element of a comprehensive waste strategy. As a consequence it will be necessary for the Authority to demonstrate that it is making best use of LATS to achieve Best Value in the way it meets its obligations under the Landfill Directive and in managing the treatment and final disposal of its municipal waste. It is therefore envisaged that the Authority will challenge whether, and to what extent, it should use LATS to trade, bank or borrow allowances in order to meet its obligations under the WET Act and to achieve the most cost effective solution for the delivery of its services.

4.2 Development of a LATS trading strategy is therefore inextricably linked to the achievement of the North London Joint Waste Strategy and determination of the preferred procurement strategy. Work on the later is near to completion and is due to be reported to the Authority in the next cycle of meetings or at a Special meeting in January 2007. As a consequence it would be premature at this time to pre-empt the findings and future decisions that will be made on this matter. It is therefore recommended that the Authority's LATS trading strategy be finalised in the light of agreement on the preferred procurement strategy. In the interim, however, and in view of the wide-ranging issues that need to be examined, officers are of the view that it would be beneficial to begin to examine these issues by convening a meeting of the LATS Member Working Group.

5. **Comments of the Legal Adviser**

5.1 The Legal Adviser has been consulted in the preparation of this report and has no comments to add.

Local Government Act 1972 - Section 100 as amended

Documents used in the preparation of this report:-

Landfill Allowance Trading Scheme: Final Allocation of Allowances – 3rd February 2005

LATS Guidance – DEFRA

LAAP Bulletin 64 – Accounting for the Landfill Allowance Trading Scheme (CIPFA).

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