

## Supplementary Report 6: Legislation & Policy

This report provides a non technical summary of current and forthcoming legislation, regulation and policy relevant to waste management in England. The purpose of this report is to provide context and help understanding of the background to the joint municipal waste management strategy for York and North Yorkshire “Let’s Talk Less Rubbish”. This report should not be used other than for the purpose it is intended for. It should not be relied on as legal advice or opinion.

This report highlights significant Acts of Parliament, and some statutory instruments, policy and strategy documents. It is not intended to provide an analysis of all the pertinent statutory instruments, regulatory guidance documents and policy statements.

It is acknowledged that much of the environmental legislation in practice is influenced by case law. It is not the purpose of this section to review case law and interpretation issues for the delivery of the strategy. It is also acknowledged that the forthcoming legislation section is limited to key items currently going through the legislative process at European level or awaiting UK implementation.

Most UK legislation is now a result of European Directives and therefore future changes can be tracked by looking at proposed EU Directives and keeping track of strategic change at an EU level.

The UK legislative framework consists of Acts of Parliament which are primary legislation that set out the general legal requirements and Statutory Instruments that are secondary regulations that set out the detailed requirements of the respective Act of Parliament.

The prime national and European policy documents are also considered in this report.

### ***National & European Legislation***

#### **EC Waste Framework Directive 1975**

The original European legislative framework document for waste management is the Waste Framework Directive (75/442/EEC). It requires national competent authorities to draw up waste management plan that encourage the prevention and recovery of waste. Nation States are also required to provide suitable infrastructure for recovery and disposal, and the appropriate regulatory framework to protect the environment and public health. This sets out basic requirements for waste management licensing control and planning. It also includes the definition of waste and associated waste management terms. This is document has been extensively amended and a consolidated and updated version is currently under development. The new version is anticipated to include an updated interpretation of recycling and recovery and incorporate hazardous waste and other Directives within its scope. It is intended to adopt a Life Cycle Approach within the framework.

#### **Environmental Protection Act 1990**

The EPA 1990 sets out a wide range of environmental legislation and is the primary act that controls the management of waste. Part II of the Act deals with waste management, in particular

The key duties and powers of local authorities are set out in:-

- Section 33 – makes it an offence to treat, keep or dispose of controlled waste without a waste management licence

- Section 34 – relates to a statutory Duty of Care for all those who handle and produce waste to ensure that it is managed, recovered and disposed of safely and in accordance with the Duty of Care regulations
- Section 34-44 – details specific requirements in relation to the Waste Management Licensing system for waste treatment and disposal facilities
- Sections 41-61 – relates to the responsibilities of waste collection and disposal authorities. A duty for WDAs to pay recycling credits and provide for one or more places where residents can deposit their household waste free of charge were introduced in this section

### **Environmental Protection (Duty of Care) Regulations 1991 (SI 2839) (England and Wales & Scotland) (as amended)**

There is a Duty of Care in respect of waste, placing responsibility for that waste on any person who produces, imports, carries, keeps, treats or disposes of controlled waste, or as a broker has control of such waste. This includes Waste Collection and Waste Disposal Authorities and Unitary Authorities.

The Duty of Care is designed to be an essentially self-regulating system that is based on good business practice. It places a duty on anyone who in any way has a responsibility for controlled waste to ensure that it is managed properly and recovered or disposed of safely.

These regulations establish a mandatory system of transfer notes, which must be completed when waste is transferred. A Code of Practice recommends the following series of steps for holders (including producers) of waste, which should normally be enough to meet the duty:

- Prevent the escape of waste in their control
- Transfer it only to someone who is authorised to accept it
- Ensure that it is handled lawfully by others
- Upon transfer provide details of the waste including a written description

The Landfill Regulations in England and Scotland amended the Duty of Care regulations to require the transfer note to include a European Waste Catalogue code.

### **Controlled Waste Regulations 1992**

These regulations provide legal definitions of Controlled waste which encompasses household, industrial and commercial waste. Controlled wastes are so called because they are controlled by legislation and the storage, handling, transport and disposal must meet certain legal requirements. Other wastes including radioactive and mining and quarrying wastes, although not designated as controlled waste, do have their own restrictions. Some controlled wastes are further classified and subject to additional regulation because of the nature of the waste (e.g. if classified as hazardous) and the need to handle them differently.

According to the regulations:

- *Household waste* is that which arises from dwellings of various types including houses, caravans, houseboats, campsites, prisons and wastes from schools, colleges and universities
- *Commercial waste* comes from premises used wholly or mainly for trade, business, sport, recreation or entertainment; excludes household and industrial waste

- *Industrial waste* is waste from a factory or industrial process; it excludes wastes from mines and quarries and agricultural wastes

Examples of types of controlled waste for which additional legislation / regulatory controls apply include:

- *Clinical waste*: hospitals, nursing homes, dentists, surgeries etc. and some wastes from the household
- *Hazardous wastes*: hazardous for a variety of reasons including toxicity, explosiveness etc must be handled and dealt with differently to other wastes

## **Waste Management Licensing Regulations 1994**

These Regulations (SI 1056) set out all the requirements for obtaining a waste licence including details on exemptions, revocations, suspensions appeals etc. A licence granted under the Regulations will specify the type and quantity of waste that can be received by the licence owner and may contain special control conditions.

The Regulations also amend the definition of waste from the definition within Section 75 of the EPA 1990. Under this new regime waste is defined as 'any substance or object which the producer or the person in possession of it, discards or intends or is required to discard but with exception of anything excluded from the scope of the Waste Directive.'

Certain waste management activities are also transferred from the Waste Management Licensing regime to Integrated Pollution Prevention and Control (IPPC) regime (see below), these include:

- *All landfill sites* (except those closed before 31st October 1999);
- *Waste treatment plants* (excluding landfills and incinerators) disposing of hazardous waste or waste oils with a capacity exceeding 10 tonnes per day;
- *Biological or physico-chemical treatment plants* disposing on non-hazardous waste with capacity of more than 50 tonnes per day; and
- *Plants with a capacity exceeding 10 tonnes* recovering hazardous waste by means of use as fuel, oil refining, reclamation of inorganic materials or recovering components used for pollution abatement

The Environment Agency will regulate these installations and are responsible for issuing both waste management licences and PPC permits.

## **Pollution Prevention and Control Regulations 2000**

Pollution Prevention and Control is derived from the EC Directive 96/61/EC Integrated Pollution Prevention & Control, as amended. It is a regime for controlling pollution from certain industrial activities. It introduces the concept of Best Available Techniques ("BAT") to environmental regulations.

Operators must use the BAT to control pollution from their industrial activities. The aim of the Best Available Techniques is to prevent, and where that is not practicable, to reduce to acceptable levels, pollution to air, land and water from industrial activities. The Best Available Techniques also aim to balance the cost to the operator against benefits to the environment. There are EC reference documents and guidance from the Environment Agency as to what constitutes BAT for different technologies and processes.

The system of Pollution Prevention and Control is replacing that of Integrated Pollution Control (which was established by the Environmental Protection Act 1990) and is taking effect across different industrial sectors between 2000 and 2007.

The PPC Regulations introduce three separate, but linked, systems of pollution control:

- Integrated Pollution Prevention and Control (IPPC), which covers installations known as A(1) installations, which are regulated by the Environment Agency;
- Local authority Integrated Pollution Prevention and Control (LA-IPPC) which covers installations known as A(2) installations, which are regulated by local authorities; and
- Local authority Pollution Prevention and Control (LAPPC), which covers installations known as Part B installations, also regulated by local authorities.

All three systems require the operators of certain industrial and other installations to obtain a permit to operate. Once an operator has submitted a permit application, the regulator then decides whether to issue a permit. If one is issued, it will include conditions aimed at reducing and preventing pollution to acceptable levels.

### **Part A(1) and A(2) installations**

The IPPC and LA-IPPC systems apply an integrated environmental approach to the regulation of certain industrial activities and are the means by which the Government has implemented the European Community Directive on Integrated Pollution Prevention and Control (96/61/EC) (IPPC Directive).

The primary aim of the IPPC Directive is to ensure a high level of environmental protection and to prevent and where that is not practicable, to reduce emissions to acceptable levels. Separate legislative provisions are in place to implement the IPPC Directive in Scotland, Northern Ireland and the offshore oil and gas industries.

### **Part B installations**

Part B installations regulated under LAPPC, do not come under the scope of the IPPC directive. As with A(1) and A(2) installations, however, Regulators must set permit conditions which are based on the use of 'Best Available Techniques' (BAT). These conditions will only extend in this context to emissions to air. The transfer into the LAPPC regime from the previous regime (EPA 1990) will, in most cases, essentially be an administrative one.

### **Local Government Act (Best Value) 1999**

The 'Best value' regime was introduced under the Local Government Act 1999 and became compulsory for all waste collection and disposal authorities from April 2000. The former Department of Environment, Transport and the Regions (DETR) defined 'Best Value' as:

'A duty to deliver services to clear standards – covering both cost and quality – by the most effective, economic and efficient means available' (DETR, 1998).

The Act obliges local authorities to secure continuous improvement in a way that they exercise all their functions "having regard to a combination of economy, efficiency and effectiveness".

At its core, Best Value requires authorities to undertake 'fundamental performance reviews' across all services including collection and disposal contracts. In doing so, authorities are encouraged to take a corporate approach and to focus on cross-cutting issues such as

community regeneration, requiring review across service areas and organisations. Best Value includes the following four key features:

- 'Compare' - a continuous process of improving the quality and effectiveness of services, using comparisons and target-setting
- 'Consultation' - a regular review of all services to find out what the public value most and whether the new delivery systems are more cost-effective
- 'Competition' - an even-handed approach that doesn't favour either the council or external organisations as service providers
- 'Challenge' – a rigorous monitoring and audit system

Following the introduction of Best Value a set of Best Value Performance Indicators (BVPIs) was devised in 2000/01. These have been amended over time and the current BVPIs for waste management include those listed below.

- The percentage of total tonnage of household waste recycled (BV82a)
- The percentage of total tonnage of household waste composted (BV82b)
- The percentage of total tonnage of household waste used to recover heat, power and other energy sources (BV82c)
- The percentage of total tonnage of household waste landfilled (BV82d)
- Kg of household waste collected per head (BV84)
- Cost of waste collection per household (BV96)
- Cost of waste disposal per tonne of municipal waste (BV87)

### **Household Waste Recycling Act 2003**

The Household Waste Recycling Act (previously known as the Municipal Waste Recycling Bill) was a Private Members Bill introduced by Joan Ruddock MP. The Act makes provision regarding the collection, composting and recycling of household waste.

The Act requires English Waste Collection Authorities to collect at least two recyclable materials from households separate from residual waste by 2010. Councils with particular difficulties in meeting the demands of the legislation could be granted derogation. The provision of 'comparable' recycling facilities, such as a bring bank or civic amenity site within 100 metres of households, could satisfy the Act's requirements.

The key impact is the development of the first legislative requirement for local authorities to collect two streams of recyclable materials from the kerbside. It is anticipated that in many authorities this is already happening, however in areas where it is not, further action will be required or derogation sought whilst suitable infrastructure is developed.

### **Waste Minimisation Act 1998**

The Waste Minimisation Act 1998 enables local authorities throughout the UK (except Northern Ireland) to take steps to minimise the generation of household, commercial or industrial waste. The Act was initiated in 1998 by the Women's Environmental Network. It gives recognition to the fact that local authorities are not just waste collection and disposal authorities, but have duties to promote waste minimisation.

The Act was inserted after section 63 of the Environmental Protection Act 1990 and it allows a local authority to "do or arrange for the doing of, anything which in its opinion is necessary or expedient for the purpose of minimising the quantities of controlled waste, or controlled waste of any description, generated in its area".

The Act does not place any obligation on authorities to carry out such initiatives or set targets, nor does it allow councils to impose any requirements on businesses or householders in their area. The Act does not actually mean that local authorities are required to do anything about waste minimisation.

### **EC Landfill Directive 1999**

The Landfill Directive (99/31/EC) Objectives to improve waste management practices with regard to landfill disposal. The key provisions in the Directive are summarised below:

- Prohibition of the co-disposal of hazardous and non-hazardous waste in the same landfill site
- Categorisation of Landfill sites to accept 'inert', 'non hazardous' or 'hazardous' wastes only
- Requirement to reduce the quantity of biodegradable municipal waste (BMW) sent to landfill
- Ban on landfilling of tyres, hazardous liquids and flammable, corrosive, explosive, oxidising and infectious wastes
- Requirement for pre-treatment of landfilled waste

The major impact in terms of municipal waste management is the requirement to reduce the quantities of BMW to landfill by the following targets (using the UK derogation timetable):-

- Reduction in tonnage of BMW to landfill by 25% on 1995 levels by 2010
- Reduction in tonnage of BMW to landfill by 50% on 1995 levels by 2013
- Reduction in tonnage of BMW to landfill by 65% on 1995 levels by 2020

This targets are made more challenging by an annual increase in MSW arisings in the UK, year on year, from 1995 – 2002/3.

### **Landfill (England and Wales) Regulations 2002**

The Landfill Directive is implemented in England through the Landfill (England and Wales) Regulations 2002 (SI 1559). The Waste Acceptance Criteria determine the properties of a waste which are acceptable for landfilling. The criteria are set for inert, hazardous and non-hazardous wastes. In order to fulfil the Waste Acceptance Criteria, a waste must demonstrate that it does not contain substances which leach from the waste in breach of the leaching limit values. If the waste does breach the thresholds, it will require treatment prior to landfilling.

Other forms of treatment and disposal will be required for waste types which are banned from landfilling and it is likely that the costs of disposal and treatment will increase, as will the requirement for treatment capacity.

## **Waste & Emissions Trading Act 2003**

In order for the UK to meet its national targets for the diversion of Biodegradable Municipal Waste (BMW) from landfill as set out in the Landfill Directive, the Government has set targets for each Waste Disposal Authority (WDA). Through the Waste and Emissions Trading Act (WET Act), each WDA has been allocated a maximum allowance of BMW that it is permitted to dispose of to landfill in each year between 1st April 2005 and 2020. Failure to achieve these targets, either through landfilling within the allowance limit or through trading (and some banking / borrowing) mechanisms will lead to punitive financial penalties. The rate of financial penalty is currently set at £150 per tonne (see below).

The quantity of BMW within municipal waste has been set as 68% in England. This figure is used to calculate the tonnages going to landfill, as determined through the Environment Agency mass balance approach.

## **Landfill Allowance Trading Scheme (England) Regulations 2004, and amended 2005**

The Landfill Allowance Trading Regulations came into effect on the 1st April 2005. These regulations set out the detail for the operation of the Landfill Allowance Trading Scheme (LATS) and sets out allowances for English authorities up to the period 2020 to allow for long term planning.

LATS is a scheme allowing authorities that perform well by diverting more biodegradable waste from landfill than set out in their allowance can trade their excess allowances with authorities that would otherwise miss their targets. WDAs are able to bank unused allowances to a future year with the exception of the EU target years of 2009/10, 2012/13 and 2019/20.

The penalty for non-compliance with the LATS allowance was set at £150/tonne by the Landfill Allowances and Trading Scheme (England) (Amendment) Regulations 2005 that came into force in May 2005. The government has also reserved the right to pass on any European fine imposed by the European Court of Justice on the UK for missing the Landfill Directive targets onto the local authorities who have exceeded allowable levels.

## **Landfill Tax Regulations 1996**

The landfill tax came into effect on the 1st October 1996. It is a specifically targeted levy on the disposal of waste to landfill, introduced by the government to prompt change in UK waste management. The main Objectives of the tax are:

- To ensure that the cost of landfill properly reflects its environmental impact
- To help ensure that the UK national targets for more sustainable waste management are achieved

There are two rates of landfill tax:

- A lower rate of £2/tonne for specified inactive or inert wastes. These are wastes which do not give off methane or other gases after disposal and that do not have a potential to pollute groundwater
- A standard rate of £21/tonne is currently applied to all other wastes. In the 2003 budget the Chancellor announced that from 2005 the landfill tax will rise by at least £3/tonne per year up to a value of £35/tonne

## **Waste Incineration (England and Wales) Regulations 2002 (SI 2980)**

The Waste Incineration Regulations transpose the Waste Incineration Directive, 2000/76/EC (WID). The WID incorporates and extends the requirements of the 1989 Municipal Waste Incineration Directives (89/429/EEC and 89/369/EEC) and the Hazardous Waste Incineration Directive (94/67/EC), forming a single Directive on waste incineration.

The Regulations apply to incineration, advanced thermal treatment and co-incineration plants. Co-incineration includes facilities where waste is used as a fuel or is disposed of at a plant where energy generation or production is the main purpose. A plant will only be classed as an incineration or co-incineration plant if it burns waste as defined in the Waste Framework Directive. Such wastes will include municipal waste, clinical waste, hazardous waste, general waste and waste-derived fuels.

There are some important exclusions from the scope of the Directive, including plants burning only animal carcasses and in many circumstances, vegetable and wood waste. The regulations include the following definitions:

- incineration “an incinerator dedicated to the thermal treatment of wastes with or without recovery of the combustion heat generated”
- co-incineration is incineration in which the “main purpose is the generation of energy or production of material products and:
  - which uses wastes as a regular or additional fuel; or
  - in which waste is thermally treated for the purpose of disposal

## **Hazardous Waste Regulations 2005**

In July 2005, new controls on Hazardous Waste came into force in England, Northern Ireland and Wales. The regulations replace the previous Special Waste regime. This change in UK legislation brought into force the revised European Waste Catalogue (EWC). The EWC has been combined with the Hazardous Waste List (HWL) to provide an extended list of wastes. The list indicates which wastes are classified as hazardous. A waste may be classified as hazardous if it has an ‘absolute’ entry on the EWC, or if it has an asterisked entry or ‘mirror’ entry, meaning the waste is only hazardous if it meets certain threshold criteria relating to the nature of the waste.

The key impacts of the regulations include the replacement of the term ‘Special Waste’ with ‘Hazardous Waste’, and the likelihood of increased hazardous waste arisings, given that more waste is classified as ‘hazardous’ than was classified as ‘special’. Examples of ‘new’ hazardous wastes include fluorescent light tubes, televisions and dental amalgam.

## **Animal By-Products Regulations (ABPR) 2003**

The Animal By-Products Regulations (ABPR) came into force in England on 1 July 2003 and implements EU Regulation 1774/2002.

The ABPR divides animal by-products into three categories and sets rules for the collection, handling, transport and disposal of animal by-products which include catering waste, former foodstuffs and other animal waste, such as fallen stock.

Category 1 is the highest risk category - including carcasses and materials infected or suspected of being infected diseases such as scrapie in sheep or BSE in cattle, the carcasses of zoo and pet animals, Specified Risk Material (SRM) and catering waste from means of international transport.

Category 2 is also high-risk material, and includes diseased animals, animals that die on farms and which do not contain SRM at the point of disposal and animals which are not slaughtered for human consumption.

Category 3 is essentially material which is fit (but not intended) for human consumption and as such includes parts of slaughtered animals, blood, raw milk, fish caught in the open sea, and shells. Permitted disposal methods include treatment in a biogas or composting plant.

Catering wastes are only regulated by ABPR if they are going to composting or biogas production, are to be fed to animals or are derived from means of international transport. Otherwise they are not controlled by the ABPR and thus can be disposed of to landfill or other means.

### **EC Ozone Depleting Substances Regulations No.2037/2000**

European Council Regulation No. 2037/2000 on substances that deplete the ozone layer, which came into effect in October 2001, requires Member States to remove ozone depleting substances (ODS) (including CFCs and HCFCs) from refrigeration equipment prior to disposal. This recovery is in addition to the 'degassing' of cooling circuits that local authorities had carried out prior to this Regulation coming into force.

The requirement to undertake the additional treatment came into effect immediately (October 2001) for industrial and commercial appliances and applied to domestic appliances from 1 January 2002. The introduction of these regulations resulted in the development of significant treatment capacity being developed to remove ozone depleting substances from redundant refrigeration equipment.

### **Clean Neighbourhoods and Environment Act 2005**

This Act covers a range of neighbourhood and environmental elements and issues including:

- Transport of Waste
- Offences of unlawful deposits of waste and the power of seizure and local authority
- Site waste management plans
- Controls on dogs and subsequent penalties
- Stray Dogs
- Noise – including alarms, noise nuisances etc
- The built environment
- Miscellaneous issues including enforcement controls (fixed penalties), receipts, shopping and luggage trolleys, statutory nuisances and pollution issues

Two of the main impacts of the legislation for waste management operations are that the Act repeals the requirement to divest waste disposal functions to companies and it also amends the guidance on payment of recycling credits. The Act also extends the enforcement powers of Waste Collection Authorities (WCAs) in relation to illegal waste activities.

### **Renewable Obligations Order 2002, Amended in 2006**

This order is to incentivise the market for Renewable Energy and sets out which form of energy generation qualify for Renewable Obligation Certificates (ROCs).

The Obligation is enforced by an Order (Statutory Instrument) made under the terms of the Utilities Act 2000. The Order was introduced in April 2002.

The Obligation requires suppliers to source an annually increasing percentage of their sales from renewables. For each megawatt hour of renewable energy generated, a tradable certificate called a Renewables Obligation Certificate (ROC) is issued.

Suppliers can meet their obligation by:

- Acquiring ROCs
- Paying a buy-out price of £30/megawatt hour
- A combination of ROCs and paying a buy-out price.

When a supplier chooses to pay the buy-out price, the money they pay is put into the buy-out fund. At the end of the 12-month Obligation period, the buy-out fund is recycled to ROC holders.

Anaerobic Digestion and Advanced thermal treatment do qualify for ROCs under this scheme and should be taken into consideration with future waste facility plans. Recent revisions (2006) to the scheme have incorporated waste recovery operations combusting over 90% biomass and Energy from Waste plant combusting waste with 'good quality' Combined Heat and Power (CHP) schemes into the scheme.

## **Agricultural Waste Regulations 2006**

The Government has extended existing waste management controls to cover agriculture in 2006 under The Waste Management (England and Wales) Regulations 2006 (SI 937), The Agricultural Waste Regulations. These new regulations implement EU legislation, in particular the Waste Framework Directive and Landfill Directive and will ensure that farming is under the same controls that have applied to other sectors for many years.

Agricultural waste has been defined as "waste from premises used for agriculture within the meaning of the Agriculture Act 1947."

The Agriculture Act 1947 defines "agriculture" as including:-

"...horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agriculture' shall be construed accordingly."

Historically, the term "farm waste" has been used to describe livestock manure, slurry and effluent. These Regulations, mean that all substances or objects from premises used for agriculture, and which are discarded by the holder, are subject to control as waste. This will include many non-natural types of waste as well as substances regarded historically as "farm waste". The use of manure or slurry as a fertiliser will not be a waste operation.

The changes will mean that farmers will no longer be able to burn or bury many types of waste on farms, instead they will have to:

- Send or take their waste for disposal off-farm at licensed sites
- Register a licensing exemption with the Environment Agency to recycle waste on-farm

- Apply to the Environment Agency for a Licence to continue on-farm disposal

The main impact of these regulations is likely to be on the non-natural waste streams from farms such as plastic and cardboard packaging materials, tyres, oils, metals.

### **Producer Responsibility (Packaging Waste) Regulations 1997**

These regulations came into effect in March 1997 and implement the recovery and recycling targets in the EC Directive on Packaging and Packaging Waste 94/62/EC. They are enforced by the Environment Agency for England and Wales and the Scottish Environmental Protection Agency (SEPA) in Scotland. Their main aim is to increase reuse (where possible), recovery and recycling of packaging waste in the UK.

The Regulations are an example of 'Producer Responsibility' which is an extension of the polluter pays principle, and is aimed at ensuring that businesses take responsibility for the products they have placed on the market once those products have reached the end of their life. The packaging waste regulations directly affect most UK companies or groups of companies who have a turnover exceeding £2 million and who handle more than 50 tonnes of packaging. These companies must either register with the relevant agency or join a compliance scheme.

Once a company has registered or joined a compliance scheme they must recycle or reuse the required percentage of their packaging and provide evidence of compliance to the appropriate authority. Businesses whose main activity is "selling" must also carry out consumer information obligations.

The Regulatory agency is required to carry out and publish details of the monitoring they have carried out on companies that come under the scheme on a yearly basis. The regulator is also responsible for Non Registration/ Freeloader Monitoring which is carried out to detect those companies who may be obligated under the regulations but have not registered or complied.

### **End of Life Vehicles Directive (2000/53/EC)**

The End of Life Vehicles (ELV) Directive came into force in the EU on 21<sup>st</sup> October 2000 and member States should have transposed the Directive into national law by 21 April 2002. The Directive sets out measures aimed at the prevention of waste from vehicles and, in addition, at the reuse, recycling and other forms of recovery of end-of-life vehicles and their components so as to reduce the disposal of waste. In addition another aim of the Directive is the improvement in the environmental performance of all the economic operators involved in the life cycle of vehicles including the operators directly involved in the treatment of end of life vehicles.

Owners must be able to have their ELVs accepted by collection systems free of charge, even when they have a negative value, from 1st January 2007 at the latest (earlier in respect of vehicles put on the market on or after 1st July 2002). This has implications for the ELV recovery network which will need to have the capacity to accept, store and treat the ELVs. The legislation also contains targets for the recycling of certain materials from End of Life Vehicles and bans other substances from the use in manufacture of vehicles due to their environmental impact.

### **End of Life Vehicles Regulations 2003**

The first stage of implementing the ELV Directive occurred through the End of Life Vehicles Regulations 2003 which set out;

- The vehicles that are covered by the regulations

- The design requirements of vehicles put on the market after the regulations came into force
- Requires authorised treatment facilities to issue certificates of Destruction
- Sets standards for keeping, treating and de-pollution of motor vehicles
- Requires producers to use codes for materials and components to help identify components that can easily be recovered or re-used. Hazardous components must also be identified

### **End of Life Vehicles (Producer Responsibility) Regulations 2005**

The End of Life Vehicles (Producer Responsibility) Regulations 2005 came into force in March 2005. These regulations implement the Directive requirements making manufacturers and importers responsible for the collection and recycling of vehicles that they place on the market.

- Producers must declare responsibility for their vehicles by the end of April 2005
- Producers must submit proposals for their contracted system of Authorised Treatment Facilities (ATFs) by August 2005
- Vehicle owners must be able to have vehicles accepted by collection systems free of charge from the 1<sup>st</sup> January 2007.
- The first targets for ELV recycling and reuse are to be met by 2006, namely, to reuse or recycle at least 80% and recover at least 85% of ELVs.

### **EC Waste Electronic & Electrical Equipment Directive**

In February 2003, the European Waste Electrical and Electronic Equipment (WEEE) Directive became European law. The Directive includes:

- Setting collection
- Recycling and recovery targets for all types of electrical products.

The categories of WEEE included in the Directive are in Table 1.

**Table 1 WEEE Directive Categories**

| Category | Main Heading                     | Includes  |
|----------|----------------------------------|---|
| 1        | Large Household appliances       | Cookers, microwaves, machines, fridges, washing |
| 2        | Small Household Appliances       | Vacuum cleaners, irons, toasters                |
| 3        | IT & Telecommunications          | Computers, printers, faxes, telephones          |
| 4        | Consumer Equipment               | Radios, TVs, videos                             |
| 5        | Lighting Equipment               | Lamps   |
| 6        | Electrical and Electronic Tools  | Drills, saws                                    |
| 7        | Toys, leisure / sports equipment | Trains or car sets, video games                 |

|    |                                    |  |
|----|------------------------------------|--|
| 8  | Medical Devices                    | Radiotherapy and dialysis equipment    |
| 9  | Monitoring and control instruments | Smoke devices, heating regulators      |
| 10 | Automatic Dispensers               | Automatic dispensers for drinks, money |

The Directive was to be implemented in European Member states by August 2004. Collection, treatment and financing systems for WEEE must be in place by September 2005 and the first collection and treatment targets are to be attained by December 2006.

Key requirements of the WEEE Directive include:

- ◆ A compulsory household collection by the end of 2006 – a target of 4 kg per household is set and a new target will be set in 2008;
- ◆ A compulsory producer responsibility – this ensures that the producers finance the management of consumer electronic and electrical waste;
- ◆ Financing - producers are able to use collective or individual financing schemes;
- ◆ Measures to decrease the disposal of WEEE by consumers as unsorted municipal waste by the Member States;
- ◆ The banned of producers from preventing re-use or recycling of products with "clever chips".
- ◆ Treatment costs – the cost of treating historical waste to be shared proportionately between producers in the market when the costs arise.
- ◆ Financial guarantees - made by producers (up front) to guard against costs arising from orphan WEEE.

In August 2005, the UK Government announced further delays to the start of producer and retailer responsibility and has stated that the legislation will be transposed in UK law by means of the "WEEE Regulations" in June 2006.

Collection methods have not yet been confirmed, however it is understood that certain sites would be Designated Collections Facilities (DCF) and that the producer will bear the costs for these facilities as set out in the Directive.

One collection method being discussed is the use of Recycling Centres (RCs) as potential collection points for household WEEE. Due to the delay in the Regulations, the Department of Trade and Industry (Dti) has stated that local authorities would be paid for any costs associated with arranging the treatments required for any televisions and PC monitors containing CRTs and fluorescent lamps which they collect separately and send to a hazardous waste landfill in advance of the WEEE Regulations.

### **Control of Pollution (Amendment) Act 1989 & The Controlled Waste (Registration of Carriers & Seizure of Vehicles) Regulations 1991**

This legislation sets out the rules regarding waste carriers, and the powers of WCAs to investigate and take enforcement action against offenders.

## ***Forthcoming Legislation***

### **Proposed Directive on Batteries and Accumulators**

This Directive applies to batteries containing lead, mercury or cadmium, and it's primarily focus is controlling the disposal of spent batteries and accumulators (energy storage devices) containing potentially dangerous materials.

The Directive requires Member States to ensure that appropriate systems are in place for consumers to return used batteries. The Directive will also require the re-design of appliances to allow for the easy removal of spent batteries and ban the use of NiCad batteries from 2008. It is envisaged that a Directive will be introduced in the summer of 2006 which will require the labelling of batteries with environmental consumer information and also will set targets for the collection and recovery of consumer batteries, most of which are currently disposed of as waste. There will usually be a two year period for member states to implement the Directive, therefore an anticipated implementation timescale would be the summer of 2008.

### **Other Forthcoming Legislation**

The regulations implementing the Waste Electrical & Electronic Equipment Directive are anticipated in June 2006.

The revised EC Framework Directive is also anticipated to have its first reading in the European Parliament and Council in 2006. They will examine the proposed revised waste framework directive. See EC Waste Framework Directive.

## ***National Waste Strategy***

### **Waste Strategy 2000**

The Waste Strategy 2000 introduced the concept of household statutory recycling and composting targets, which were set at a level to achieve an average of 17% by 2003/4 and 25% by 2005/6. These were translated into targets for each local authority. A recent announcement (May 2006<sup>1</sup>) by Defra extended the existing 2005/6 targets to apply in 2007/8, with the exception of the authorities which had a target of 18% (the lowest target), which was increased to 20% for 2007/8. Furthermore there is no statutory requirement to achieve targets above 30%, but authorities with plans in place and those seeking higher levels are encouraged to achieve them.

Waste Strategy 2000 also included further national recycling targets of 30% by 2010 and 33% by 2015.

National targets for *recovery* are also included within the National Waste Strategy and are:

- To recover value from 40% of municipal waste by 2005
- To recover value from 45% of municipal waste by 2010
- To recover value from 67% of municipal waste by 2015

The Strategy also announced the formation of the Waste and Resources Action Programme (WRAP), designed to stimulate demand for recyclables, and there were a variety of other targets such as a reduction in commercial & industrial waste to landfill to 85% of previous levels by 2005.

### **National Waste Strategy Review 2006**

A review of the National Waste Strategy for England commenced in February 2006, the outcomes of this review are not available at the time of writing.

The review document did however include a revised forecast of municipal waste growth, down from the previous 3% a year to 1.5% a year using the latest data. It also suggested that higher levels of recycling and composting may be achieved than indicated in Waste Strategy 2000, with the following targets proposed for discussion:

- To recycle / compost 40% of household waste by 2010
- To recycle / compost 45% of household waste by 2015
- To recycle / compost 50% of household waste by 2020

Forecasts of the role of Energy from Waste as part of the national contribution to municipal waste management were shown to be around 25% by 2020.

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<sup>1</sup> Government response to the consultation on options for local authority statutory performance standards on recycling and composting in 2007/8, Defra, 2006

## ***Planning Policy***

### **PPS10**

The Planning Policy Statement 10 - Planning for Sustainable Waste Management (PPS10) was published in July 2005 and is an integral part of changes the government has put in motion to refine decision making with regard to waste planning and waste management. These alterations have also seen changes to the decision making principles in the waste strategy 2000 and new guidance on municipal waste management strategies. It replaces PPG Note 10: Planning and Waste Management (published 1999).

PPS10 provides a set of strategic decision-making principles that should be adhered to in the preparation of planning strategies. These principles are important for the delivery of the Key Planning Objectives for sustainable waste management set out in PPS10. PPS10 can also be used as a material consideration in determining planning applications and may supersede an authority's current policies where this is deemed appropriate by that authority. This is because many authorities are in a transitional period between the old and new systems of strategic planning.

The Principles require the following:

- Regional Planning Bodies (RPB) should prepare Regional Spatial Strategies (RSS), which aim to provide sufficient opportunities to meet the identified needs of their area for waste management for all waste streams. In turn, planning authorities should prepare Local Development Documents (LDD) that reflect their contribution to delivering the RSS.
- Waste management should be considered alongside other spatial planning concerns, such as transport, housing, economic growth, natural resources and regeneration, recognising the positive contribution that waste management can make to the development of sustainable communities, and should be integrated effectively with other strategies including Municipal Waste Management Strategies (MWMS.)
- The planned provision of new capacity and its spatial distribution should be based on clear policy objectives, robust analysis of data and information, and an appraisal of options. Policy objectives should be in line with the planning policies set out in the PPS and be linked to measurable indicators of change.
- Sustainability Appraisal (incorporating strategic environmental assessment) should be applied so as to shape planning strategies that support the Government's key planning objectives for waste management set out in the PPS.

Indicators should be monitored and reported on in the RPB's and the Waste Planning Authority's (WPA's) annual monitoring reports. Such monitoring should be the basis on which the RPB and the WPA periodically review and roll forward their waste planning strategies. Reviews should reflect any changes to the national waste strategy and occur at least every five years, or sooner if there are signs of under-provision of waste management capacity or over-provision of disposal options where these would undermine movement up the waste hierarchy.

There should be a clear link between:

- The approach of adhering to the decision-making principles through a robust appraisal of options, and
- The monitoring of performance against key indicators

The process of developing, implementing and reviewing local and regional planning strategies is a continuous one. Therefore the procedures for strategic decision-making, monitoring and review should be designed and aligned so as to facilitate their delivery as a single, seamless process.

## ***EA Guidance***

### **Guidance on Monitoring Mechanical Biological Treatment (MBT)**

The Environment Agency's role as the monitoring authority for The Landfill Allowances and Trading Scheme (LATS) and The Landfill Allowances Scheme (LAS) for Wales means they are responsible for monitoring the performance of all Waste Disposal Authorities in diverting biodegradable municipal waste (BMW) from landfill.

Any treatment of municipal waste to reduce its biodegradability needs to be taken into account when calculating how much BMW is landfilled. The EA puts a requirement on WDA to produce a monitoring plan for their MBT plants. Implementation of the monitoring plan will provide evidence of the reduction in biodegradability achieved by a plant.

The reports are compiled by the Waste Disposal or Unitary Authorities with assistance from the operators of the plant; the resulting reduction in BMW from the pre-treated MSW is calculated by the Environment Agency using a Mass Balance Approach. The guidance given by the EA covers the monitoring plan for the initial assessment and ongoing monitoring phases and sets out the reporting requirements. It includes 3 main sections.

- A list of tests, - with guidance on the numbers and types of tests required, and in certain cases, how to conduct the analysis;
- Frequency of testing – where the detail and frequency of reporting requirements is set out. MBT operators are advised to carry out a suite of tests on a quarterly basis. This timing is linked with Waste Disposal Authorities reporting for LATS and LAS and is frequent enough to take some account of seasonal changes; and
- A sampling plan – The direction given with respect to sampling plans are based on the draft European Standard on waste characterisation PrEN14899. They include guidance on how to show that samples taken are statistically representative of the MBT process.

## ***EU Thematic Strategies***

### **Thematic Strategy on Waste Prevention and Recycling**

The European Commission proposed on 21 December 2005 a new strategy on the prevention and recycling of waste. This strategy is one of the seven thematic strategies programmed by the 6th Environmental Action Plan.

This long-term strategy aims to help Europe become a recycling society that seeks to avoid waste and uses waste as a resource. It will draw on the knowledge that the thematic strategy on resources, also adopted on 21 December 2005, will generate.

As a first step, the Commission proposes revising the 1975 Waste Framework Directive to set recycling standards and to include an obligation for EU Member States to develop national waste prevention programmes. This revision will also merge, streamline and clarify legislation, contributing to better regulation.

The main actions of the Thematic Strategy are:

- ◆ A renewed emphasis on full implementation of existing legislation.
- ◆ Simplification and modernisation of existing legislation (E.g. Firstly, an amendment of the Waste Framework Directive merging it with the Hazardous Waste Directives and introducing life cycle thinking).
- ◆ Introduction of life-cycle thinking into waste policy.
- ◆ Promotion of more ambitious waste prevention policies by clarifying Member States' obligations to develop publicly available waste prevention programmes.
- ◆ Better knowledge and information which will underpin the continued development of waste prevention policy.
- ◆ Development of common reference standards for recycling.

### **Thematic Strategy on the Soil Protection**

The European Union has decided to adopt a Thematic Strategy on Soil Protection as part of its aim of protection and preservation of natural resources. In this context the Commission services are finalising a proposal for this Thematic Strategy on Soil Protection in early 2006. Building on the results of previous discussions with stakeholders, the Commission is now seeking to elicit relevant opinions from stakeholders on specific measures being considered for inclusion in the Thematic Strategy. The information will feed into the strategy which is to be adopted in the spring 2006.

The Strategy will comprise three elements:

- ◆ a Communication laying down the principles of Community Soil protection Policy
- ◆ a Legislative proposal for the protection of soil- A Soil Framework Directive that would aim to strike the right balance between EU action and subsidiary
- ◆ an analysis of the environmental, economic and social impacts of the proposals

The consultation closed on the 26th September 2005.