

CABINET – 4TH APRIL 2006

TRADING OF LANDFILL ALLOWANCES

**REPORT OF THE DIRECTOR OF HIGHWAYS, TRANSPORTATION AND
WASTE MANAGEMENT AND THE DIRECTOR OF RESOURCES**

PART A

Purpose of Report

1. To seek Cabinet approval for a Trading Protocol for buying and selling allowances issued under the Landfill Allowance Trading Scheme (LATS). Including delegated powers to the Director of Highways, Transportation and Waste Management and to the Director of Resources jointly to authorise trades, in consultation with the Lead Member for Waste.

Recommendation

2. It is recommended that:
 - i) Decisions regarding the trading of allowances be delegated to the Director of Highways, Transportation and Waste Management jointly with the Director of Resources, in consultation with the Lead Member for Waste.
 - ii) Trades be registered by nominated trading Officers in the Waste Management Team
 - iii) Any trading that has taken place in each year is reported to Cabinet at the end of the reconciliation period for each Allowance year (i.e. by the following September).

Reasons for recommendations

3. To enable trading to take place as required at the most appropriate time and at the best rate achievable.

Timetable for decisions

4. A decision prior to the end of April 2006 would allow trading to take place for the 2005/06 allowance year if necessary.

Existing Policy

5. The draft Leicestershire Municipal Waste Management Strategy establishes the principle of self sufficiency in LATS allowances but there is no current policy on LATS trading.

Resource Implications

6. The 2006/7 budget has no provision for purchasing or selling allowances. Any significant purchases would need further funding, but as this paper describes, the need to trade is not expected for this year. Investment to improve waste infrastructure to avoid LATS penalties will be the subject of further reports once options have been fully appraised as part of the development of the waste strategy.

The Director of Resources has been consulted on the contents of this report.

Circulation under Sensitive Issues Procedure

None

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PART B.

Landfill Allowance Trading Scheme - Background

7. The Landfill Directive sets out the quantities of biodegradable waste that can be landfilled. These are as follows.
- By 2010, to landfill no more than 75% of the total biodegradable municipal wastes that were landfilled in 1995;
 - By 2013, to landfill no more than 50% of biodegradable municipal wastes landfilled in 1995; and
 - By 2020, to landfill no more than 35% of biodegradable municipal wastes landfilled in 1995.

Biodegradable waste comprises 68% of municipal solid wastes.

8. Implementation of the Landfill Directive has been enacted through the Waste and Emissions Trading Act 2003 and subsequent regulations. The Government has applied the required reductions to each Waste Disposal Authority and has set specific reducing allowances for each WDA, including Leicestershire, for each year from 2005/06 up to 2019/20. The Act allows WDAs to bank, borrow (up to 5% per annum), buy or sell allowances in order to comply with a duty not to landfill more biodegradable waste than they have allowances for. However, no movement of allowances is allowed between the period before and after the target years, and no banked allowances can be used in the target years themselves.
9. Failure to comply with the allowances will mean automatic penalties of £150 per tonne, plus in the “target years” of 2010, 2013 and 2020, a proportion of any fine set down by European Courts should the UK as a whole fail to meet its targets.

Implications for Leicestershire

10. A draft Joint Municipal Waste Management Strategy for Leicestershire is presently the subject of a public consultation; it is accompanied by a draft Action Plan showing what actions the Leicestershire authorities should take to meet targets and ensure compliance with the LATS regime. It is based on the principle that overall, the authority will achieve self sufficiency in landfill allowances over the whole period i.e. neither relying on the purchase of allowances nor on income from the sale of surplus allowances.
11. The final allowances for the County Council have been set up to 2020 and are shown in Appendix A.
12. From the allocations made by Defra, calculations suggest that the following surpluses / (deficits) will occur:
- | | | |
|---------|---|-----------------|
| 2005/6 | - | 22,300 tonnes |
| 2006/7 | - | 13,400 tonnes |
| 2007/8 | - | 1,700 tonnes |
| 2008/9 | - | (12,600 tonnes) |
| 2009/10 | - | (29,700 tonnes) |

These estimates assume a 2% annual growth rate in waste arising and do not take account of any new services which might be introduced in this period. Variations in waste or population growth would alter these forecasts.

13. These estimates show a net deficit for the period of 4900 tonnes; but if the 24,800 allowances 'in hand' in 2008/9 were not sold by the end of that year, they would lapse, as they cannot be used in the target year or carried forward beyond the target year. This indicates a need to sell in one year and buy the next. The measures proposed in the draft Waste Strategy would create a surplus at the end of the trading period, but if there were any delay in implementing the strategy Action Plan, then the Council would again need to buy allowances. Therefore, whilst the overall aim is for self sufficiency in allowances, the Council will need to trade at some point in the next few years.
14. The value/cost of allowances is difficult to predict; early trades have almost all seen prices around £20, but on a low volume of trades. A survey by the County Surveyors Society (CSS) suggested that in the early years of trading there would be a surplus of allowances, with more sellers than buyers. However by 2008/9 and certainly in the target year of 2009/10, allowances are more likely to be in demand, with rising prices.
15. The penalty regime, outlined in paragraph 9 above, will influence prices in these later years and prices approaching the 'fine' level of £150 / tonne are possible in the target year of 2009/10 (because of the threat of an EU fine surcharge).
16. In addition to trading, compliance can be achieved by the following means, described more fully in the draft Waste Strategy:
- By banking surplus allowances early in a trading period for use later in that period (e.g. banking unused 2005/6 allowances for use in 2008/9)
 - By working in partnership with Leicestershire's 7 waste collection authorities to increase recycling of organic materials, and to reduce the overall level of waste arising.
 - By commissioning new treatment plants to treat sufficient residual waste materials so that the targets are met; the County Council would pay the contract fees as it would with landfill disposal.
17. There are three trading periods within the LATS regime; for Leicestershire they imply the following pattern of activity linked to the target years:
Short term: 2005/06 to 2009/10.
In the early part of this period the County Council should have allowances to bank or trade; but to achieve self sufficiency by 2009/10 new collection and treatment facilities for kitchen waste are proposed.
Medium term: 2010/11 to 2012/13
The number of allowances issued to each WDA declines sharply in this period. Leicestershire will need to commission new capacity to treat 75,000 tonnes of residual waste per annum, during this period
Long term: 2013/14 to 2020.
The strategy consultants calculate that treatment capacity for at least a further 35,000 tonnes of residual waste per year will be needed, over and above that required in the medium term. Earlier investment in waste reduction measures should have a significant effect on total waste arising during this period

Trading arrangements.

18. Whilst the strategic aim of overall self sufficiency is built into the draft waste strategy, there is currently no process in place to enable the County to trade allowances. Nationally, trading will be carried out on a web based system where authorities can “post” their surpluses and needs. It is likely that opportunities will occur throughout the year to sell or buy allowances and the authority needs to be able to create and react to opportunities.
19. Defra have notified all Waste Disposal Authorities that as all suppliers of allowances will themselves be local authorities, normal procurement regulations will not apply to Landfill Allowance trading. Thus there will be no statutory need to seek competitive offers for allowances.
20. A process for authorising the marketing or purchase of allowances needs to be established, with appropriate delegations. It is suggested that this responsibility should lie with the Director of Highways, Transportation and Waste Management and the Director of Resources acting jointly, in consultation with the Lead Member for Waste.
21. A key element of LATS is the electronic registering of landfill allowances. This national register, managed by Defra, forms a record of allowances held, facilitates trading and borrowing and will make it very simple to demonstrate compliance. Access is through a nominated “LATS Trading Officer”; as an interim step the Wastes Project Officer has been registered with Defra and it is recommended that this nomination together with that of the Head of Waste Management is confirmed. It is emphasised that the decision to trade would be made at Director level, but the actual completion of trades and monitoring of the market place would be at the “Trading Officer” level.
22. At the end of each financial year there will be a reconciliation period totalling 6 months in which the each authority’s allowances and actual tonnes landfilled are reconciled by the Environment Agency, and ‘closing’ trades can be made to enable compliance. The final position for each year will therefore be known in September.

Equal Opportunities Implications

23. None.

Background Papers

- None.

APPENDIX A

Allocation of LATS Allowances to Leicestershire County Council

Scheme Year	Target years	LATS Allowance Tonnes
2005/06		185075
2006/07		177250
2007/08		166816
2008/09		153773
2009/10	TARGET	138123
2010/11		122748
2011/12		107374
2012/13	TARGET	92000
2013/14		88053
2014/15		84107
2015/16		80160
2016/17		76214
2017/18		72268
2018/19		68321
2019/20	TARGET	64375