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LAS Guidance on reporting and notices

May 2008

Protocol for the Landfill Allowances Scheme (Wales)

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Introduction – purpose of guidance for Landfill Allowances Scheme

This protocol is for local authorities and landfill operators and has been produced by the Environment Agency, in liaison with Welsh Assembly Government to provide a more structured timetable and procedure for the provision of timely and accurate data needed for the Landfill Allowances Scheme in Wales.

Local authorities¹ are required to provide quarterly returns to us within one month of the end of each quarter. This gives local authorities time to collect data from contractors and submit returns to us.

We rely on the receipt of prompt and accurate data to reconcile landfill allowances at the end of each scheme year and also to provide quarterly results to the local authorities in Wales on their performance throughout the year in relation to their allowance allocations.

Landfill operators receiving municipal waste are required to provide quarterly returns to us within one month of the end of each quarter. We need this data as part of our audit role to compare what local authorities report in WasteDataFlow (WDF) as being sent to landfill.

Reporting – Local Authorities

Welsh Assembly Government and the Environment Agency (EA) wish **all local authorities** to report under regulation 6 of the Landfill Allowances Scheme (Wales) Regulations 2004 (LAS Regulations) by using WDF, which is an online system (www.wastedataflow.org).

The reporting requirements for local authorities are set out in the LAS Regulations.

Local authorities must submit returns containing the information set out in regulation 6(1) of the LAS Regulations for each 3 month period, within one month of the end of the period. These returns from a local authority must include information about the amount of collected municipal waste and the amount of municipal waste sent to landfills and other waste facilities.

We expect local authorities to:

- Submit data to level 30 in WDF by the deadlines set out in Table 1 to achieve a level that we consider as **prompt** reporting; and
- Liaise with the EA to ensure that that data reaches level 35 in WDF by the deadlines in Table 1 to achieve a level that we consider as **accurate** reporting.

Table 1 shows the deadlines for when the data should reach levels 30 and 35, the period for data validation by the EA and the cut off dates for local authorities to roll down the data from level 35.

The data quality control process for LAS requires senior managers within each authority to authorise release of data. When released, it is termed level 30. Local authorities must authorise data to level 30 in WDF by each deadline set out in Table 1. We consider this to be **prompt** reporting.

¹ 'Local authorities' means 'Waste Disposal Authorities' in relation to the Landfill Allowances Scheme (Wales) Regulations 2004.

The next step in the quality control of the data is validation by the EA. During this process checks are made on the data submitted and errors are resolved by the EA validation deadlines set out in Table 1.

After the validation deadlines, the EA will send the data each quarter to the local authorities and the Welsh Local Government Association (WLGA) to have an opportunity to comment on the data. We will roll up the data to level 35 on the accuracy deadline dates and send the final quarterly spreadsheet to local authorities and the WLGA. We consider this to be **accurate** reporting by local authorities.

Reporting by local authorities must be both prompt and accurate in order to satisfy the reporting requirements in the LAS Regulations.

Table 1 (All Local Authorities need to read this table)

	Data period	Reporting deadline (Level 30)	EA Validation deadline	Accuracy deadline (data rolled up to Level 35) ¹	L35 roll down request deadline ²
Quarter 1	1 Apr – 30 Jun	31 Jul	31 Aug	17 Sept	15 Oct
Quarter 2	1 Jul – 30 Sep	31 Oct	30 Nov	17 Dec	15 Jan
Quarter 3	1 Oct – 31 Dec	31 Jan	28 Feb	18 Mar	15 Apr
Quarter 4	1 Jan – 31 Mar	30 Apr	31 May	17 Jun	19 Jun
Notes					
1. Accuracy deadline (data rolled up to level 35) will occur on the dates listed unless they fall at the weekend. If it falls at the weekend it will be the Monday following these dates.					
2. L35 roll down request deadline will occur on the dates listed unless they fall at the weekend. If it falls at the weekend it will be the Monday following these dates.					

Level 35 roll-downs

An Authority:

- Can only change data at level 35 on one occasion per quarter during any scheme year.
- Must contact Welsh Assembly Government to make a formal request to change level 35 data using the standard request form provided.
- Must complete all the relevant information on the form, which then goes to Welsh Assembly Government and the Environment Agency for consideration
- Must meet the strict deadlines to request changes for each of the quarterly data sets - Q1, Q2, Q3 or Q4 as given in Table 1 above.
- Cannot request any further data changes after the 19 June and will be finalised by 3 July.

Reporting - Landfill Operators

Reporting requirements for landfill operators are set out in regulation 7(3) of the LAS Regulations. Landfill operators are required to provide quarterly returns of municipal waste accepted at the landfill to EA within one month of each 3 month period as shown in Table 2. These returns are provided in conjunction with the requirement for their submission under the condition in the relevant landfill permits.

Table 2 (all landfill operators need to read this table)

	Data period	Reporting deadline
Quarter 1	1 April – 30 June	31 July
Quarter 2	1 July – 30 September	31 October
Quarter 3	1 October – 31 December	31 January
Quarter 4	1 January – 31 March	30 April

These returns must include information about all municipal waste landfilled at their site and any pre-treatment which took place on site before landfilling.

Each different type of municipal waste must be described and coded using the European Waste Catalogue (EWC). It also should include the County or County Borough in which the municipal waste originated.

Reconciling allowances

The LAS year ends on 31 March, and no later than 5 months after this date, the EA must reconcile the allowances for each local authority by determining the amount of biodegradable municipal waste (BMW) they have sent to landfills.

Where prompt and accurate data are available, a draft reconciliation figure will be provided for each local authority shortly after 31 May each year. The draft reconciliation figure compares the actual BMW landfilled for each authority against its allowance allocations. It should be noted that for each year after the 3 July² there will be no opportunity to change reported data.

Any local authority that does not have a complete set of quarterly data at level 30 by 30 April and level 35 by 3 July will not receive a reconciliation figure.

The **mass balance calculation** is available to local authorities online (in WasteDataFlow), so that authorities can get an indication of their performance whenever required.

It is in the local authorities' interests to make robust arrangements for reporting complete data for the relevant scheme year to avoid incurring penalties.

There is no provision within the LAS regulations for a local authority to dispute or appeal the reconciliation figure. However if accurate and prompt data is supplied throughout the scheme year, there are opportunities for local authorities to review and comment on quarterly data and the draft reconciliation figures.

² If the 3rd of July occurs on a weekend, then the Monday following this date will be the annual cut-off date.

Serving Notices – Local Authorities

So that we can complete our audit role, we require prompt and accurate data from local authorities on the amount of collected municipal waste and how it is managed. If a local authority fails to report promptly and/or accurately, such as data being incomplete, we will consider serving a notice under regulation 6(5) of the LAS Regulations, requiring the local authority to produce the necessary records or supply certain information to us. This includes local authorities supplying information about matters connected with the sending of biodegradable municipal waste to landfills.

We will serve a formal notice on a local authority if it fails to provide sufficient information connected with the sending of biodegradable municipal waste to landfill if data is not validated by the accuracy deadlines given in Table 1.

An authority that fails to comply with the requirements of a notice will be liable to a penalty from the Welsh Assembly Government.

Normally, the notice will request the local authority to provide the information within 10 working days. A local authority will be required to provide an evidence trail of where and how the information has been gathered. A formal notice may be served on a local authority even after data has reached level 35 within WDF. When a notice is served, we will also provide a copy to Welsh Assembly Government.

Penalties - Local Authorities

One month before the reporting deadlines, local authorities will be reminded by the EA of their statutory requirements to report data in accordance with regulation 6(4) of the LAS Regulations.

Failure to comply with prompt reporting requirements

If a local authority fails to report prompt data, the Welsh Assembly Government will send a letter warning the local authority of the possible consequences. This will be following the quarterly reporting deadline. The Welsh Assembly Government will act accordingly following this letter, which includes the option of issuing a penalty to the local authority in question.

Failure to comply with a Notice served by Environment Agency to obtain prompt or accurate data

If a local authority fails to comply with a notice served by the EA to obtain prompt or accurate data, such as data being incomplete then the Welsh Assembly Government will be notified. They will take action which includes the option of issuing a penalty to the local authority in question.

Exceeding allowances

Please see the following link which shows the Welsh Assembly Government's protocol for use of penalties under the Landfill Allowances Scheme:

http://new.wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/Landfill_allowances_scheme?lang=en

Serving Notices & Enforcement Action - Landfill Operators

So that we can complete our audit role, we require prompt and accurate data from landfill operators receiving municipal waste.

If a landfill operator fails to report promptly and/or accurately, such as non-submission of returns or incomplete data, we will consider serving a Notice. The notice will require the landfill operator to provide the necessary records within normally 10 working days. We also have powers of entry to find, inspect and copy records as set out in regulation 7(6) of the LAS Regulations.

Failure to report in accordance with the deadlines in the LAS Regulations and failure to comply with the requirements of a notice is a criminal offence. In these circumstances, we will consider taking enforcement action in line with our Enforcement and Prosecution Policy.

Summary of Key Points

- a) Local authorities and landfill operators are required to provide prompt and accurate data under the LAS Regulations in Wales, and within the deadlines specified in this protocol, in order that we can reconcile allowances by the end of each scheme year.
- b) Local authorities can only request a data roll down from level 35 on one occasion per quarter during any scheme year and no further changes can be requested after the 19 June.
- c) A draft annual reconciliation figure is provided shortly after the 31 May. There is no opportunity to change reported data after the 3 July each scheme year.
- d) The mass balance calculation is available to local authorities online (in WasteDataFlow), so that authorities can get an indication of their performance whenever required.
- e) There is no provision within the LAS regulations for a local authority to dispute or appeal the reconciliation figure.
- f) Local authorities and landfill operators can be penalised, as detailed in the WET Act and LAS Regulations for failing to report promptly and accurately and for non-compliance with a formal notice.

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