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Wales

## **Guidance on reporting and notices for Landfill Allowances Scheme and Recycling, Preparation for Re-use and Composting Targets - February 2016**

### **Guidance for Local Authorities (LAs)**

#### **Protocol for the Landfill Allowances Scheme (Wales) Regulations 2004 & The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011**

##### **Summary of Key points:**

- a) Local authorities are required to provide prompt and accurate data under the Landfill Allowances Scheme and Recycling, Preparation for Re-use and Composting Targets Regulations in Wales within the deadlines specified in this protocol, in order that Natural Resources Wales can reconcile performance against allowances and targets by the end of each scheme year.
- b) Local authorities must request a data roll down from level 35 and provide an adequate explanation to support the roll down request. We will monitor all roll downs to ensure that local authorities are fulfilling their statutory obligations to provide prompt and accurate data.
- c) A draft LAS annual figure will be provided by Natural Resources Wales to each local authority for comment before reconciliation of final annual performance figures. StatsWales publish provisional quarterly performance against local authority recovery targets throughout a scheme year. Local authorities can obtain an indication of their performance whenever required via reporting tools in WasteDataFlow.
- d) The last date for submitting a roll back request is the 31<sup>st</sup> July each scheme year.
- e) There is no provision within the LAS or LART regulations for a local authority to dispute or appeal the reconciliation figures.
- f) Local authorities can be penalised, as detailed in the LAS and LART Regulations for failing to report promptly and accurately and for non-compliance with a formal notice.

## Introduction

The Natural Resources Body for Wales (Functions) Order 2013 transferred the Welsh devolved functions of the Environment Agency to the Natural Resources Body for Wales. This protocol replaces the previous protocol produced by Environment Agency Wales entitled “LAS Guidance on reporting and notices May 2008”.

For the purposes of this guidance the Landfill Allowances Scheme (Wales) Regulations 2004 may be referred to as LAS, and the Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) 2011 may be referred to as Local Authority Recovery Targets (LART).

This protocol covers the reporting of both LAS and LART, which place reporting obligations on local authorities<sup>1</sup> and monitoring obligations on Natural Resources Wales.

The protocol has been updated by Natural Resources Wales in liaison with Welsh Government to provide a more structured timetable and procedure for the provision of timely and accurate data needed for LAS and LART in Wales.

Local authorities are required to provide quarterly returns to Natural Resources Wales within one month of the end of each quarter. This provides local authorities with time to collect data from contractors and submit returns to Natural Resources Wales.

Natural Resources Wales relies on the receipt of prompt and accurate data to reconcile landfill allowances and recycling, preparation for re-use and composting rates at the end of each scheme year to report to Welsh Government. This is also required to provide quarterly results to the local authorities in Wales on their performance throughout the year in relation to their landfill allowance allocations. In addition, StatsWales publish quarterly results on local authority LART performance throughout the year.

## Reporting – Local Authorities

Welsh Government and Natural Resources Wales require all local authorities to use Wastedataflow (WDF) ([www.wastedataflow.org](http://www.wastedataflow.org)) for reporting under regulation 6(4) of the Landfill Allowances Scheme (Wales) Regulations 2004 and regulation 5(2) of the Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011.

The reporting requirements for local authorities are set out in both sets of Regulations.

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<sup>1</sup> ‘Local authorities’ means ‘Waste Disposal Authorities’ in relation to the Landfill Allowances Scheme (Wales) Regulations 2004.

Local authorities must submit returns containing the information set out in regulation 6(1) of the LAS Regulations and 5(1) of the LART Regulations for each 3 month period, within one calendar month of the end of the relevant 3 month period. These returns must include information about the amount of collected municipal waste and the amount of municipal waste sent to landfill and each and every waste facility, including the amount and fate of material rejected at each successive stage of sorting at all waste facilities. The returns must also contain details of the description of the waste in terms of material type and how each material was collected.

Natural Resources Wales expects local authorities to:

- Submit data to level 30 in WDF by the deadlines set out in Table 1 to achieve a level that can be considered as prompt reporting;
- Liaise with Natural Resources Wales to ensure that data reaches level 35 in WDF by the deadlines in Table 1 to achieve a level that can be considered as accurate reporting for LAS purposes; and
- Liaise with Natural Resources Wales to provide data and information as evidence waste has been recycled, prepared for re-use or composted as described in The Recycling, Preparation for Reuse and Composting Targets (Definitions) (Wales) Order 2011, throughout the scheme year, to achieve a level that can be considered as accurate for LART purposes.

Table 1 shows the deadlines for when the data should reach levels 30 and 35, this is the period for LAS data validation by Natural Resources Wales. LART queries are sent once LAS validation is complete.

The data quality control process for LAS and LART requires senior managers within each local 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. Natural Resources Wales considers this to be prompt reporting.

The next step in the quality control of the data is LAS validation by Natural Resources Wales. During this process checks are made on the data submitted and errors should be resolved by local authorities to the validation deadlines as set out in Table 1.

After the LAS validation deadlines, Natural Resources Wales will send the data each quarter to local authorities to have an opportunity to comment. Natural Resources Wales will roll up the data to level 35 on the accuracy deadline dates and send the quarterly spreadsheet to local authorities and the WLGA. Natural Resources Wales considers this to be accurate reporting by local authorities for LAS purposes. However it should be noted that LAS data is not considered to be final for a scheme year until Natural Resources Wales has completed final reconciliation checks.

LART validation begins after level 35 roll up. During this period local authorities will be asked to provide evidence that waste reported to WDF has been recycled, prepared for re-use or composted as described in The Recycling, Preparation for Reuse and Composting

Targets (Definitions) (Wales) Order 2011. StatsWales will release provisional quarterly LART performance data bulletins throughout the scheme year.

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

**Table 1 Deadlines for local authority data submission and Natural Resources Wales validation**

<b>Scheme year</b>	<b>Data Period</b>	<b>Local authority reporting deadline (LAS/LART) (Level 30)</b>	<b>Natural Resources Wales validation deadline</b>	<b>LAS draft reconciliation deadline</b>	<b>LART validation period end</b>
Quarter 1	1 Apr- 30 Jun	31 Jul	31 Aug	17 Sept	31 Oct
Quarter 2	1 Jul – 30 Sept	31 Oct	30 Nov	17 Dec	31 Jan
Quarter 3	1 Oct – 31 Dec	31 Jan	28 Feb	18 Mar	30 Apr
Quarter 4	1 Jan – 31 Mar	30 Apr	31 May	17 Jun	31 Jul
<b>Notes</b>					
All deadlines will occur on the dates listed unless they fall on a weekend. Where they fall at the weekend the deadline will be the first Monday following these dates.					

## Level 35 roll-downs

### An Authority:

- Must request a data roll down from level 35 and provide an adequate explanation to support the roll down request. We will monitor all roll downs to ensure that local authorities are fulfilling their statutory obligations to provide prompt and accurate data.
- Must make a formal request to change Level 35 data using the standard request form provided and supply all relevant information on the form. The form should be submitted to Natural Resources Wales for consideration.
- May be requested by Natural Resources Wales to change data if errors are identified during LART validation. A request form should still be completed in these circumstances.
- May make data changes at any time during the scheme year, as long as this is agreed by Natural Resources Wales. However Natural Resources Wales may recommend adjustments to subsequent quarter's data to offset discrepancies depending on the circumstances.
- Is unable to submit a request for any further data changes to a scheme year after the 31<sup>st</sup> July, when data will be finalised for the scheme year. Future scheme years may be subject to adjustments if discrepancies are discovered that are applicable to a scheme year that has been finalised.

## Reconciling LAS allowances and LART performance

Each LAS/LART scheme year ends on 31 March, and no later than 5 months after this date, Natural Resources Wales must:

- determine the amount of biodegradable municipal waste (BMW) sent to landfill in relation to each local authority; and
- complete its assessment of local authority compliance with LART for submission to Welsh Government.

Where prompt and accurate data is available, a draft LAS reconciliation figure will be provided for each local authority for comment prior to annual reconciliation of final LAS figures. The draft reconciliation figure compares the actual BMW landfilled for each authority against its allowance allocations. StatsWales publish provisional LART data quarterly, within a month of the end of each Natural Resources Wales LART validation period (Table 1). Final annual LART data is published in the autumn each year.

It should be noted that for each year after the 31<sup>st</sup> July<sup>2</sup> there will be no opportunity to request a change to reported data.

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<sup>2</sup> If the 31<sup>st</sup> July occurs on a weekend then the next Monday following this date will be annual cut-off date.

Any local authority that does not have a complete set of quarterly data at level 30 by 30 April and level 35 by 5 August will not receive a reconciliation figure. Any local authority that fails to maintain records or submit a return is liable to a penalty from the Welsh Government<sup>3</sup>.

It is in a 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 or LART 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. In addition, local authorities are able to access their individual provisional LAS and LART performance data online (in WasteDataFlow reports) whenever required.

## Serving Notices – Local Authorities

Natural Resources Wales requires prompt and accurate data from local authorities on the amount of collected municipal waste and how it is managed in order to complete its audit role. If a local authority fails to report promptly and/or accurately, such as data being incomplete, Natural Resources Wales will consider serving a notice under regulation 6(5) of the LAS Regulations and/or 6(1) of LART Regulations, requiring the local authority to produce the necessary records or supply certain information to the monitoring authority. This includes local authorities supplying information about matters connected with the sending of biodegradable municipal waste to landfills (in relations to LAS) and matters connected with the local authority's obligation to meet the recycling, preparation for re-use and composting targets (in relation to LART).

- Natural Resources Wales will serve a formal notice if data is not submitted within 5 working days of the LAS/LART reporting deadlines given in Table 1.
- Natural Resources Wales may serve a formal notice on a local authority if it fails to cooperate in providing sufficient information connected with the LAS or LART Regulations 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 Government<sup>4</sup>.

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, Natural Resources Wales will also provide a copy to Welsh Government.

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<sup>3</sup> Regulation 11 (a) and (b) of The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011 and Regulation 14 of The Landfill Allowances Scheme (Wales) Regulations 2004.

<sup>4</sup> Regulation 11 (c) of The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011

## Penalties – Local Authorities

One month before the reporting deadlines, local authorities will be reminded by Natural Resources Wales of their statutory requirements to report data in accordance with regulation 6(4) of the LAS Regulations and regulation 5 of The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011.

### **Failure to comply with reporting requirements**

If a local authority fails to report prompt accurate data, Natural Resources Wales will consider issuing a Notice and will notify the Welsh Government. The Welsh Government will act accordingly, which includes the option of issuing a penalty to the local authority in question<sup>5</sup>.

### **Failure to comply with a Notice served by Natural Resources Wales to obtain prompt or accurate data**

If a local authority fails to comply with a notice served by Natural Resources Wales to obtain prompt or accurate data, such as data being incomplete then the Welsh Government will be notified. Appropriate action will be taken, which may include the option of issuing a penalty to the local authority in question<sup>6</sup>.

### **Exceeding allowances (LAS)**

Natural Resources Wales determines the amount of biodegradable municipal waste sent to landfills in relation to each local authority at the end of the reconciliation period for each scheme year. If a local authority exceeds its total allowance for the scheme year, it is liable to a penalty. Welsh Government will assess the amount due and notify the local authority accordingly<sup>7</sup>.

### **Failure to meet a target (LART)**

Natural Resources Wales completes its assessment of local authority compliance with LART for submission to Welsh Government at the end of the reconciliation period for each scheme year. This assessment includes information on the difference between the target amount for recycling, preparation for re-use and composting rates and the actual rate achieved by each local authority. If a local authority falls short of the target amount, it is liable to a penalty. Welsh Government may either waive the penalty or assess the amount due by way of penalty and notify the local authority accordingly<sup>8</sup>.

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<sup>5</sup> Regulation 11 (b) of The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011 and Regulation 14 of The Landfill Allowances Scheme (Wales) Regulations 2004.

<sup>6</sup> Regulation 11 (c) of The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011

<sup>7</sup> Regulations 9, 13 & 15 of The Landfill Allowances Scheme (Wales) Regulations 2004

<sup>8</sup> Regulations 8, 9 & 10 of The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011