
APPENDIX ONE

LEGISLATIVE FRAMEWORK FOR MANAGING LONDON'S MUNICIPAL WASTE

The legislative context and drivers for change

This chapter sets out the legislative framework and policy drivers for delivering the Mayor's Municipal Waste Management Strategy.

The European Union

The European Commission's 6th Environmental Action Plan and the Framework Directive on Waste¹ provide the general strategy for waste management. They establish several principles:

- The precautionary principle: where there is reasonable grounds for concern that an activity is causing, or could cause, environmental damage then it is acceptable for policy makers to accept a lower level of evidence as to the risk of harm when the consequences of that harm may be very costly or irreversible
- The prevention principle: the production of waste must be minimised and avoided where possible to limit the potential for harm
- The 'polluter pays' principle: places the responsibility for the management and disposal of waste on the person or organisation that first produced it
- The proximity principle: waste disposal should take place as close to the point of production as possible, using the best practicable environmental option (BPEO).

There are a wide range of legislative controls affecting waste management that have flowed from these principles. The 1999 EU Landfill Directive² is a primary example of this. To comply with the Landfill Directive the UK must meet stringent targets on the reduction of the amount of biodegradable municipal waste (BMW) that can be landfilled of:

- 75 per cent of that produced in 1995 by 2010
- 50 per cent of that produced in 1995 by 2013
- 35 per cent of that produced in 1995 by 2020

The Landfill Allowance Trading Scheme (LATS) provides the statutory mechanism for UK local

authorities to achieve the European Directive landfill diversion targets. The LATS has been designed to provide a way for England to make its contribution to UK targets for reducing the amount of biodegradable municipal waste going into landfill, as set by the 1999 EU Landfill Directive. Under LATS, each waste disposal authority is given a landfill allowance, which decreases annually up to 2020, setting out how many tonnes of biodegradable municipal waste it can send to landfill. These allowances are tradable, and can be banked or sold by a waste disposal authority if it does not need all of its allowance. Allowances can also be borrowed.

There are, however, restrictions on how allowances can be sold, banked or borrowed, designed to ensure England does not fail to meet the targets set by the Landfill Directive. Borrowing may not be used to supplement allowances in the target years – 2009/10, 2012/13 and 2019/20 – or in the years immediately preceding target years. Similarly, the banking of allowances may not be used to supplement allowances in either the target years or the years immediately following target years. Any waste disposal authority that disposes of waste to landfill in excess of its allowance is liable to a financial penalty of £150 per tonne.

Government Review of Waste Policy in England 2011

In June 2011 the government released a full review of waste policy in England³. In the review the government announced it would abolish the LATS at the end of its scheme year in April 2013. Whilst the LATS provided the initial mechanism to help UK waste authorities to achieve the European Directive landfill diversion targets, the government considers the rising level of landfill tax to be the primary driver for waste authorities to achieve these targets. The main principles of the government's review of waste policy in England are as follows:

- To prioritise efforts to manage waste in line with the waste hierarchy and to reduce the carbon impact of waste.
- To develop a national waste prevention programme
- To promote the use of lifecycle thinking in all waste policy and waste management decisions, and the reporting of waste management in carbon terms, as an alternative to weight-based measures;
- To ensure waste authorities consult with local communities and individual households on providing high quality and consistent waste and recycling collection services, and incentivising residents to use these services
- To draw up plans to consult on a landfill ban of certain waste materials
- To draw up plans to consult on increased recycling targets on packaging producers from 2013-2017
- To maximise the contribution of the waste and recycling industries to the benefit of the UK economically and environmentally
- To consider how best the UK can work towards the 'zero waste economy' by drastically reducing the amount of waste created and the valuable resources sent to landfill, and looking at the entire process from source to end of life
- To consider new approaches to dealing with commercial waste and promoting 'voluntary responsibility deals', reducing the amount of waste generated by commercial production and retail sales
- To abolish the LATS scheme at the end of its 2012/13 scheme year. Defra considers the rising level of Landfill Tax is the primary driver for waste authorities to divert waste from landfill
- To get the most energy out of genuinely residual waste, rather than getting the most waste into energy generation

Revised Waste Framework Directive (WFD) 2008.

Member States were required to bring into force by 12 December 2010 the laws, regulations and administrative provisions necessary to comply with the revised Waste Framework Directive (WFD). The revised WFD re-enacts, repeals or revises three existing Directives: (i) the existing WFD; (ii) the Waste Oils Directive; and (iii) the Hazardous Waste Directive.

The main changes introduced by the revised WFD may be summarised as follows:

- Greater emphasis on resource efficiency and waste prevention as an objective of waste policy set alongside protection of the environment and human health.
- The waste hierarchy is now a priority order (prevention; preparing for re-use; recycling; recovery (e.g. energy recovery); and disposal), but Member States may depart from the hierarchy if doing so results in a better environmental outcome.
- Member States must put in place waste prevention programmes by the end of 2013. The Commission will report on progress in waste prevention by 2011 and by the end of 2014, it will set waste prevention and decoupling objectives for 2020.
- Member States must achieve a target of re-using or recycling 50 per cent of household waste (including paper, metal, plastic and glass) by 2020; and achieve a target of re-using, recycling or recovering 70 per cent of construction and demolition waste by the same date. The government is currently seeking clarification on how this target applies across the different material streams, and clarification on how performance in meeting the target is to be measured.
- Member States must set up separate collections at least for paper, metal, plastic and glass by 2015, where it is technically, environmentally and economically practicable and appropriate

to do so. (The UK has clarified that co-mingled collection can continue after 2015 where this is the best means of increasing recycling rates in the local circumstances).

Explanatory information on the Revised Framework Directive can be found at www.defra.gov.uk.

Planning Policy Statement 10: Planning for Sustainable Waste Management

Planning Policy Statement 10 (PPS10) sets out the Government's policy to be taken into account by waste planning authorities and forms part of the national waste management plan for the UK. It requires that a strategy for municipal waste management is produced as a key component of regional spatial strategies, but which also takes account of other spatial planning concerns including transport, economic growth, natural resources, regeneration and sustainable development. The main principles of PPS10 are as follows:

- To deliver sustainable development by driving waste management up the waste hierarchy.
- To enable sufficient and timely provision of waste management facilities to meet the needs of communities.
- To help to implement the objectives of the Waste Strategy for England, and its supporting targets, consistent with meeting obligations imposed by the European legislation.
- To help to secure the recovery and disposal of waste without endangering human health, or harming the environment, and ensuring waste is disposed of as near as possible to its place of production.
- To achieve self-sufficiency in local and regional waste management that is reflective of the types and quantities of waste generated.
- To ensure that the layout and design of new developments support sustainable waste management.

Waste Strategy for England 2007

The government set out its vision for sustainable waste management in Waste Strategy for England in May 2007 (the National Waste Strategy 2007). The Mayor's Municipal Waste Management Strategy must have regard to and be generally consistent with National Waste Strategy 2007. The government's main objectives are to:

- Decouple waste growth (in all sectors) from economic growth and put more emphasis on waste prevention and reuse
- Meet and exceed the Landfill Directive diversion targets for biodegradable municipal waste in 2010, 2013 and 2020
- Increase diversion from landfill of non-municipal waste and secure better integration of treatment for municipal and non-municipal waste
- Secure the investment in infrastructure needed to divert waste from landfill and for the management of hazardous waste
- Get the most environmental benefit from that investment, through increased recycling of resources and recovery of energy from residual waste using a mix of technologies.

The National Waste Strategy 2007 sets the following waste targets:

- A reduction in the amount of household waste not reused, recycled or composted in 2000 by 29 per cent by 2010 with an aspiration for a 45 per cent reduction by 2020. This is equivalent to a fall of 50 per cent household waste to landfill per person (from 450kg per person in 2000 to 225kg in 2020).
 - Recycling and composting of household waste – at least 45 per cent by 2015, and 50 per cent by 2020.
 - Recovery of municipal waste – 53 per cent by 2010, 67 per cent by 2015 and 75 per cent by 2020.
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The government has decided against setting individual borough targets, preferring to set an overall national target, the progress to achievement of which will be monitored. This is because there are already in place statutory local authority targets for landfill diversion under the LATS in addition to the rising level in landfill tax. The government also believes it is not appropriate to set recycling targets for municipal and non-municipal waste due to different waste streams requiring different target and monitoring measures. The Mayor's Municipal Waste Management Strategy is consistent with the National Waste Strategy 2007 but the Mayor believes municipal waste targets are also necessary for London to dramatically improve London's municipal waste recycling and composting performance.

Climate change

Since the publication of the first Mayor's Municipal Waste Management Strategy (September 2003), the importance of mitigating the effects of climate change has become a key policy priority.

The Climate Change Act 2008 was enacted requiring the government to reduce net UK greenhouse gas emissions by 80 per cent by 2050 against a 1990 baseline. The Climate Change Act also requires the government to set five year climate change budgets to meet statutory emission reduction targets for 2025 and 2050.

The Mayor is required under section 361B of the GLA Act 1999 (as amended) to publish a strategy containing policies and proposals relating to the following:

- Minimising emissions of carbon dioxide and other significant greenhouse substances from the use of energy in Greater London for the purposes of surface transport
- minimising emissions of carbon dioxide and other significant greenhouse substances from the use of energy in Greater London for purposes other than those of transportation and
- supporting innovation, and encouraging investment, in energy technologies in Greater London promoting the efficient production and use of energy in Greater London.

The Mayor published this strategy, known as the Climate Change Mitigation and Energy Strategy, in October 2011.

Under the GLA Act, the Mayor is also subject to broader climate change duties as below.

361A Duties of Mayor and Assembly with respect to climate change

- 1 The Mayor and the Assembly are each under a duty to address climate change, in relation to London.
- 2 In the case of the Mayor, the duty consists of each of the following:
 - a to take action with a view to mitigation of, or adaptation to, climate change,
 - b in exercising any of his functions under this Act or any other Act (whenever passed), to take into account any policies announced by Her Majesty's government with respect to climate change or the consequences of climate change,
 - c to have regard to any guidance, and comply with any directions, issued to the Authority by the Secretary of State with respect to the means by which, or manner in which, the Mayor is to perform the duties imposed on him by paragraph (a) or (b) above.

In keeping with these duties the policies and proposals in this revised Mayor's Municipal Waste Management Strategy seeks to promote the reduction of municipal waste, the use of

resources more wisely and the production of efficient energy from municipal waste to reduce greenhouse gas emissions. It is therefore an important tool in London's response to climate change.

The Greater London Authority Act 1999 and 2007

The Greater London Authority Act 1999 as amended by the Greater London Act 2007 (the GLA Act (as amended)) requires the Mayor to produce and keep under review a Municipal Waste Management Strategy. His first strategy, published in September 2003, contained policies to manage London's municipal waste (household waste and business waste collected by local authorities) through to 2020. The proposals (actions to implement the policies) were generally for the period through to 2006 and therefore now require updating.

Section 353(3A) of the GLA Act (as amended) requires that where the Mayor revises his Municipal Waste Management Strategy he shall have regard to any joint waste management strategies which authorities in Greater London have for areas where the disposal authority is not also a collection authority, through authorities having a capacity to comment and alert the Mayor to the strategies in place and their effect. In revising his strategy the Mayor has had regard to these joint strategies and the representations of the relevant authorities.

The GLA Act (as amended) now requires waste authorities to notify the Mayor of new waste contracts before they are advertised and requires waste authorities to act in general conformity with the Mayor's Municipal Waste Management Strategy when undertaking their waste functions. The Mayor also has a power of direction under section 356 of the GLA Act (as amended), that he may exercise for the purposes of implementing his Municipal Waste

Management Strategy. The Act as amended also made the Mayor the planning authority, subject to a policy test, for waste facilities that treat over 50,000 tonnes of waste per annum, that affect more than one borough and that are of strategic interest.

In revising his Municipal Waste Management Strategy, the Mayor has had regard to the GLA's principal purposes⁴ of:

Promoting economic development and wealth creation in Greater London

The implementation of the following policies will directly improve economic development and wealth creation in Greater London:

- Policy 1 and the proposals therein;
- Policy 3 and the proposals therein; and
- Policy 5 and the proposals therein.

In the Policy chapters there is a full explanation of the expected results of each of the policies.

A key aim of the revised Municipal Waste Management Strategy is to manage municipal waste to enable the creation of wealth and economic development in London and this has been a material consideration in the setting of targets in the revised strategy.

Promoting social development in Greater London

The policies and proposals of the revised Municipal Waste Management Strategy have regard to the promotion of social development in Greater London. The following policies and proposals apply

- Policy 1 and the proposals therein; and
- Policy 6 and the proposals therein.

A primary purpose of the revised Municipal Waste Management Strategy is to improve the management of municipal waste in London to enable, among other outcomes, cost savings, job creation and sustainable development, all of which will assist in promoting social development in Greater London.

Promoting the improvement of the environment in Greater London

Primary objectives of the revised Municipal Waste Management Strategy are to secure a reduction in and the improved management of, municipal waste in London in the interests of creating a better environment for Londoners. The implementation of all the policies and proposals in the revised strategy including meeting the targets set, will contribute towards the achievement of that goal.

In revising his strategy the Mayor has had regard to the effect his policies and proposals would have on each of the following four statutory cross-cutting themes in section 41(4)(b) of the Greater London Authority Act (as amended) of:

Promoting improvements in the health of persons living in Greater London and the reduction of health inequalities between persons living in Greater London

A primary objective of the revised Municipal Waste Management Strategy is to improve the management of London's municipal waste in the interests of creating a better environment for Londoners, an aspect of which would be to create conditions conducive to improvements in their health and a reduction of health inequalities across the capital.

Contributing towards the achievement of sustainable development in the UK

The four aims of sustainable development are set out in the government's Planning Policy Statement 1: Delivering Sustainable Development. They are:

- Social progress which recognises the needs of everyone
- Effective protection of the environment;
- The prudent use of natural resources; and
- The maintenance of high and stable levels of economic growth and employment.

The revised strategy by promoting the management of municipal waste in accordance with the waste hierarchy contributes to the achievement of all the four aims of sustainable development

Contributing towards the mitigation of, or adaptation to, climate change and its consequences

A primary purpose of the revised Municipal Waste Management Strategy is to reduce London's carbon emissions that are attributable to or consequential upon the management of London's municipal waste. The achievement of the Mayor's waste targets will contribute to the mitigation of the effects of climate change and their consequences in London. Policies that, in particular, address this issue are:

- Policy 2 and
- Policy 4: Achieving high municipal waste recycling and composting rates

Achieving the emissions performance standard (EPS) set out in Policy 2 will ensure that the management of London's municipal waste, by reusing, recycling, composting or generating renewable energy from as much waste as possible, will reduce the emissions associated with manufacturing articles using natural

resources and generating energy from fossil fuels. It is estimated that achieving 60 per cent recycling or composting of municipal waste could save approximately one million tonnes of CO₂eq emissions each year.

In revising and implementing the Mayor's Municipal Waste Management Strategy, the Mayor has had regard under section 41(5) of the GLA Act (as amended) to:

The need to ensure the strategy is consistent with national policies and such international obligations as the Secretary of State may notify to the Mayor

This Appendix 1 and the 'Legislative and policy context' section in the strategy list the relevant national and international policies and obligations; and Appendix 3 outlines how the implementation of the policies and proposals of the revised strategy will contribute to meeting their aims and objectives.

In revising the Municipal Waste Management Strategy and in accordance with his duty under section 41(9) of the GLA Act (as amended), the Mayor, in setting London-based targets for the management of municipal waste has had regard to national waste targets and objectives and performance indicators set by the Secretary of State. The Mayor has set targets that are not less demanding than any related targets or objectives set nationally.

Ensure that the strategy is consistent with each of his 11 other statutory strategies

See text below regarding the Mayor's other strategies.

The resources available for the strategy's implementation

The revised Municipal Waste Management Strategy has been drafted with regard given to the resources available or likely to become available for the implementation of its policies and proposals. Many of the proposals will require implementation by the capital's waste stakeholders including the London boroughs, the waste industry, the third sector and the London Waste and Recycling Board.

Detailed economic modelling of the strategy and its deliverability has been undertaken, the final report of which is contained in Appendix 4a.

A detailed implementation plan setting out the actions required to implement the individual proposals, who will deliver them and dates by which actions are to be implemented, is set out in Appendix 2.

The desirability of promoting and encouraging the use of the River Thames safely, in particular for the provision of passenger transport services and for the transportation of freight

The Mayor, when reviewing municipal waste management contracts, will work with waste authorities to promote the most sustainable forms of transporting waste, maximising the potential use of rail and water transport wherever possible (e.g. see last proposal in Policy 5).

The effect on crime and disorder in areas within Greater London and the misuse of drugs, alcohol and other substances in those areas

Policy 6 Achieving a high level of street cleanliness is likely to have an indirect positive effect of reducing crime and disorder.

Promoting improvements in public sector equality and equal opportunities

Policy 1 and Policy 4 promote greater consistency in the provision of waste, reuse, recycling and composting collection services across London, improving access to these services and providing incentive for all Londoners to use these services. More consistent and easily accessible waste management services for all Londoners to use will create conditions conducive to improvements in equality of opportunity, and encourage people from protected groups and protected characteristics to participate in public life.

The London Waste and Recycling Board

Section 356A of the GLA Act (as amended) provided for the establishment of the London Waste and Recycling Board (the 'Board') with objectives to promote and encourage the production of less waste and its sustainable management. The Board brings together the Mayor, London Boroughs, and other stakeholders involved in managing London's waste.

The Board was established in September 2008 and comprises eight members under the chairmanship of the Mayor. It has an investment fund of £73.4 million from 2008 - 2015. The Board's objectives are to promote and encourage, in relation to Greater London:

- The production of less waste;
- an increase in the proportion of waste that is reused or recycled;
- the use of methods of collection, treatment and disposal of waste that is more beneficial to the environment.

In pursuing its objectives the Board is required to act in accordance with the Mayor's Municipal Waste Management Strategy and in general conformity with the London Plan. The Board published its first Business Plan in February 2009 describing the steps it will take to deliver its objectives in line with the current waste strategy for London. The Business Plan will be reviewed annually in order to take into account any changes the Mayor may make to his municipal management waste strategy or its implementation.

The Mayor's other strategies

The London Plan 2011⁵ sets London's planning framework including planning policies for waste. The Mayor's statutory powers of direction for waste (under section 356 of the Greater London Authority Act) are limited to municipal waste, leaving the majority of London's waste outside the Mayor's policies and control. However, to deliver the London Plan the Mayor needs to provide a comprehensive strategic framework for all waste produced in London.

The London Plan key waste policies are:

- Manage as much of London's waste within London as practicable, moving towards managing 100 per cent of London's waste within London by 2031
- working towards zero biodegradable and recyclable waste to landfill by 2031
- Setting recycling/composting targets of:
 - 50 per cent for municipal waste by 2020, increasing to 60 per cent by 2031
 - 70 per cent commercial waste by 2020

- 95 per cent reuse and recycling for construction, demolition, and excavation waste by 2020
- Promoting waste management activities achieving the greatest possible climate change mitigation and energy saving benefits and
- Borough level projections of London's waste arisings

The Mayor has developed a non-statutory Business Waste Strategy that sets ambitious targets for business re-use and recycling, and energy generation from waste. It accords with the policies and proposals of his revised Municipal Waste Management Strategy.

In revising his Municipal Waste Management Strategy, the Mayor has had regard to the achievement of its consistency with his other strategies both adopted and emerging.

Other European Directives and legislative drivers

There are a wide range of other European Directives and legislative controls affecting the production and management of waste in London include:

- Environmental Protection
 - Environmental Protection Act 1990
 - Environmental Protection (Duty of Care) Regulations (1991) (as amended)
 - Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 (as amended)
 - Controlled Waste Regulations (1992) (as amended)
 - Clean Neighbourhoods and Environment Act 2005
 - Site Waste Management Plan Regulations 2005
 - Environmental Permitting
 - Integrated Pollution Prevention & Control Directive 2008/1/EC
 - Waste Incineration Directive 2008/1/EC
 - Environmental Permitting (England and Wales) Regulations 2007 (as amended)
 - Recycling and Landfill
 - Household Waste Recycling Act 2003
 - Landfill (England and Wales) Regulations 2002 (as amended)
 - Waste and Emissions Trading Act 2003
 - Landfill Allowance Trading Scheme (England) Regulations 2004 (as amended)
 - Hazardous Waste
 - Hazardous Waste Directive 91/689/EEC [until 12 December 2010]
 - Hazardous Waste (England and Wales) Regulations 2005 (as amended)
 - List of Wastes (England) Regulations 2005 (as amended)
 - Animal By-Products
 - Animal By-Products Regulation (EC) No. 1774/2002
 - Animal By-Products Regulation 2005 (as amended)
 - Producer Responsibility: Packaging
 - Packaging and Packaging Waste Directive 94/62/EC
 - Packaging (Essential Requirements) Regulations 2003 (as amended)
 - Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended)
 - Producer Responsibility: End-of-Life Vehicles
 - End-of-Life Vehicles Directive 2000/53/EC
 - End-of-Life Vehicles Regulations 2003
 - End of Life Vehicles (Producer Responsibility) Regulations 2005
 - Producer Responsibility: Waste Electrical and Electronic Equipment (WEEE)
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- Restriction on the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Directive 2002/95/EC
 - Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008 (as amended)
 - Waste Electrical and Electronic Equipment Directive 2002/96/EC and Amendment Directive 2003/108/EC
 - Waste Electrical and Electronic Equipment Regulations 2007 (as amended)
- Producer Responsibility: Batteries and Accumulators
 - Directive (2006/66/EC) on Batteries and Accumulators and Waste Batteries and Accumulators
 - Batteries and Accumulators (Placing on the Market) Regulations 2008
 - Waste Batteries and Accumulators Regulations 2009

The revised strategy, in promoting the management of municipal waste in Greater London in accordance with the waste hierarchy, is in general conformity with the aims and objectives of these legislative and policy provisions.

Endnotes

- 1 EU Directive on Waste 75/442/EEC as amended by Council Directive 91/156/EEC and adapted by Council Directive 96/350/EC
- 2 Council Directive 1999/31/EC on the Landfill of Waste
- 3 Government policy review of waste management in England, Defra 2011
- 4 GLA Act (as amended) s41(4)(a)
- 5 The London Plan: Spatial Development Strategy for Greater London 2011

