

HMT Landfill Tax review: call for evidence

Wildlife and Countryside Link response

February 2022

Wildlife and Countryside Link is a coalition of 65 organisations working for the protection of nature. Together we have the support of over eight million people in the UK and directly protect over 750,000 hectares of land and 800 miles of coastline. This response is supported by:

- A Rocha UK
- Environmental Investigation Agency
- Marine Conservation Society
- Whale and Dolphin Conservation
- WWF-UK

Summary:

- The Landfill Tax should be an important policy tool for promoting the waste hierarchy; incentivising reduction, reuse, remanufacturing and recycling of materials. However, at present too many materials are undertaxed, leading to stalled progress on annual landfill reductions.
- The landfill tax should be reformed to charge more materials at a higher rate, ensuring that construction waste and incinerator bottom ash particularly are taxed to reflect their wider environmental harm.
- In addition, HMRC must do more to prevent avoidance and evasion of the tax, given the shockingly high tax gap of 22.7%. More funding is required across Government for monitoring and enforcement to ensure that the landfill tax doesn't result in higher instances of fly tipping.
- Alongside this response, we fully support the Green Alliance submission to this call for evidence.

Q1: In the context of the government's overall response to waste crime being led by Defra, what more could HMRC do, together with Defra and the Environment Agency, to tackle waste crime?

Action to tackle waste crime is in need of greater resourcing, with both HMRC and the Environment Agency (EA) requiring more funding for monitoring, investigation and the enforcement of rules relating to waste exports, flytipping and other forms of waste crime and Landfill Tax evasion.

Q2: Are there any other areas where you think HMRC could work collaboratively with environmental regulators to prevent Landfill Tax avoidance and evasion?

The tax gap for the landfill tax is unacceptably high. We note that HMRC figures on the tax gap for different taxes shows that the gap for landfill tax is the second highest across all taxes listed, exceeded only by Tobacco duty.¹ The total UK tax gap is 5.3%, putting the 22.7% tax gap on landfill tax into context. There is a clear case for increasing investment in enforcement and compliance, given the £200m which could be reclaimed for the Government.

We note that when investigations have been previously launched, the National Audit Office has found weaknesses in investigations stemming from the challenges HMRC and the EA faced "in discharging their different responsibilities for landfill tax".² Better coordination is therefore essential.

We also note the EA's National waste crime survey report³ which states; "The waste industry perceives waste crime to be endemic, they believe it is on the rise, and that the deterrents for active and would-be waste criminals are not strong enough." The Environment Agency has highlighted threats to its enforcement budget: "As the scale and cost of criminality within the waste sector rapidly increases, the Environment Agency continues to see threats to its enforcement budget. Without appropriate funding, the challenge of fighting waste crime will grow, the impacts will increase, and those trying to operate within the regulations will find it increasingly difficult to do so."⁴

The Wildlife and Countryside Link submission to the Comprehensive Spending Review last year called for an additional £60m per annum for the EA to carry out its basic duties of advice and enforcement.⁵

Q3: How do the current criteria for the lower rate of Landfill Tax align with the government's evolving environmental goals?

- **Need to consider whole life cycle impacts**

We are concerned that lower rates of landfill tax may incentivise negative environmental outcomes, particularly in relation to incinerator bottom ash and construction materials.

We note that the consultation document explains that "the level of Landfill Tax due (is) broadly based on the pollutant effect of the waste disposed of; inert materials are

¹ <https://www.gov.uk/government/statistics/measuring-tax-gaps/measuring-tax-gaps-2021-edition-tax-gap-estimates-for-2019-to-2020>

² <https://www.bbc.co.uk/news/uk-england-tees-58977517>

³ <https://www.gov.uk/government/publications/national-waste-crime-survey-report-2021-findings-and-analysis>

⁴ <https://www.gov.uk/government/publications/national-waste-crime-survey-report-2021-findings-and-analysis>

⁵ <https://www.wcl.org.uk/docs/BRIEFING%20-%20A%20CSR%20for%20Nature%20and%20People%2030.09.21.pdf>

broadly subject to the lower rate of Landfill Tax and active materials are broadly subject to the standard rate.” However, in order to support the waste hierarchy, the development of a circular economy and net zero goals, the criteria for the lower rate of Landfill Tax should not just reflect the impacts of materials once they are in landfill. A more comprehensive assessment of environmental harm would seek to capture the embedded whole life cycle impacts of materials i.e. through extraction, processing and production stages which often occur outside of the UK, and determine how landfill tax may incentivise or disincentivise different outcomes.

Action to tackle waste at source is in line with the Environment Act 2021’s identification of waste reduction as a priority area and the Government goal to eliminate avoidable waste of all kinds by 2050.⁶

In particular, we are concerned that lower rates of Landfill Tax incentivise the demolition of buildings over refurbishment. The environmental impact of the construction sector is highlighted in the Waste Prevention Programme, noting that it is “the largest generator of waste, producing over 60 million tonnes of nonhazardous waste each year in England, with up to 15% of materials being wasted during the construction process, and around 50,000 buildings demolished annually.” In addition, the manufacture of construction materials is responsible for 11% of global CO₂ emissions and adopting greater waste prevention measures in this sector has the highest carbon abatement potential.⁷

We note the goal in the Waste Prevention Programme to “reduce construction waste and increase the reuse of construction materials at their highest value. This means designing buildings for adaptability and deconstruction, increased reuse of components, use of materials that can be reused and recycled, and improved demolition systems.”

These goals would be well served with a higher rate of landfill tax. Charging these waste streams at a higher rate would incentivise adoption of more sustainable building practices. These changes would impact decisions on whether to refurbish or demolish existing buildings, changing the financial costs/benefits of each option.⁸ To ensure that higher rates of landfill tax do not incentivise fly tipping (with reference to the chair of the public accounts committee having stated that landfill tax “has

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765914/resources-waste-strategy-dec-2018.pdf and <https://www.legislation.gov.uk/ukpga/2021/30/part/1/chapter/1/crossheading/environmental-targets/enacted>

⁷ https://www.worldgbc.org/sites/default/files/UNEP%20188_GABC_en%20%28web%29.pdf

⁸ Decisions over refurbishment versus demolition are currently being debated in Sheffield, for example, where the future of the old John Lewis building is being consulted on by the City Council. Research has identified large carbon and material savings from retaining the existing building: <https://urbanflows.ac.uk/the-former-john-lewis-building-in-sheffield/>

resulted in more illegal dumping of waste”⁹), greater funding for monitoring and enforcement is essential.

- **Need to consider potential for reuse and recycling**

Consideration should be given to adding an eligibility requirement for the lower rate such as: “Materials that are not currently targeted for recycling, remanufacturing or reuse”, to support the waste hierarchy and evolving Defra targets.

- **Need to review evidence on biostabilisation of waste**

The ideal scenario would be to eliminate the need for biostabilisation of residual waste through waste prevention measures and improved source-separation of waste, for example through the accelerated introduction of consistent recycling collections which include mandatory food and green waste collections. However, while we await the introduction of this much-needed system improvement, the evidence on effective biostabilisation of waste should be regularly reviewed to ensure that an increased volume of materials arising from this process are properly certified for use in secondary applications e.g. as sub-surface landscaping, thereby moving them up the waste hierarchy. In such cases, biostabilisation would be more environmentally beneficial overall than incineration or landfill so it is critical that the Landfill Tax incentivises this approach.

Q4: Would considering the potential for materials to be moved up the waste hierarchy as a criteria for the lower rate help to align the tax with environmental goals?

Yes, this should be considered both in the case of waste materials which are recyclable or reusable, and in the case of incinerator bottom ash produced from burning recyclable or reusable materials. For example, incineration facilities could be required to produce verifiable data showing that their feedstock doesn't exceed certain defined thresholds of recyclable plastics or food waste.

There needs to be clarity on the waste prevention/circular economy opportunities for the materials currently on the lower rate and it must be demonstrated that these opportunities have been exhausted.

Any action on the lower rate would need to be accompanied by robust monitoring and enforcement of waste exports and waste crimes, to avoid unintended consequences. There is also a need for cross-Government action on priority waste areas, particularly construction, to achieve the goals of the Waste Prevention Programme.

⁹ <https://www.theguardian.com/environment/2021/feb/12/uk-landfill-tax-seems-to-have-incentivised-fly-tipping-says-watchdog>

Q5: Are there any other considerations which the government should take into account when setting the criteria for considering whether materials should be included in the lower rate?

As well as setting criteria for the materials included, the landfill tax rates should be constantly reviewed, with frequent assessment of whether it is effectively incentivising the behaviour change needed from high waste sectors. For instance, we would expect a performance indicator that measures progress towards a per annum total waste-to-landfill decrease year on year, and if total landfill waste exceeds the previous year (even if within a lower rate) rates should be adjusted, with an increase in price to drive better outcomes.

Q6: For each group of materials in the QMO; • Is there scope for materials to be moved up the waste hierarchy? • Is eligibility for the lower rate acting as a barrier to these materials being moved up the waste hierarchy?

Yes. We would highlight the cases of construction and demolition waste, and incinerator bottom ash:

Group 1: includes stone from the demolition of buildings or structures

Group 2: includes concrete, including reinforced concrete, concrete blocks, breeze blocks and aircrete blocks

The low cost of disposal means that the very high embodied carbon in construction materials, like cement and steel, remains unaccounted for. If the cost of disposal were raised, demand for circular construction and demolition methods would rise, and there would be more incentive to refurbish the existing housing stock.

Group 4: slag from waste incineration

Group 5: Bottom ash from waste combustion

Yes, this is one of several contributing factors to the cost competitiveness of incineration, which undermines the waste hierarchy. The low rate of the landfill tax is also incentivising incinerator bottom ash to landfill, rather than industries such as aluminium reprocessors recovering valuable materials from this ash. Indeed, Green Alliance has outlined how in 2017, 26% of the UK's aluminium recycling rate came from material recovered after incineration.¹⁰

So, we must seek to minimise material losses from the system with action to promote the capture of incinerator bottom ash (IBA).

¹⁰ https://green-alliance.org.uk/resources/Closing_the_loop.pdf

Q16: Unless already covered in your responses to other questions within this document, is there anything else you would like us to note about the current impact of the tax or any changes to it?

The lower rate of the landfill tax has consistently fallen below inflation.¹¹ Future rises should at a minimum be indexed to inflation.

Q17: Unless already covered in your responses to other questions within this document, is there any other information the government should consider as part of its wider evaluation and monitoring of the impacts of the tax?

In determining the rate for the landfill tax, the Government must ensure that exports of waste aren't incentivised. We do not want to see a situation where construction waste, for example, is exported and Government policy should seek to mitigate against this risk. In addition, incineration should not become a relatively cheaper option, given the well-documented environmental and health impacts of this method. Reduction of waste should be the primary goal.

There must be a cross-government approach to this issue, so that the tax can seek to achieve positive impacts across society which are supported by a wider policy framework. Policy must consider impacts including greenhouse gas emissions, environmental and health conditions in and around landfill sites, the UK's material footprint, targets in the Environment Act, and impacts on employment.

Furthermore, impacts could be improved with the opportunity to ensure landfill operations are optimised where possible with necessary upgrades to minimise the impacts of poor operating conditions on local communities and the environment. In September 2021, a family in Staffordshire won a court case over regulation of a local landfill site which was emitting noxious gases and having a detrimental impact on their son's health. The ruling meant that Walley's Quarry was required to bring hydrogen sulphide emissions under control, following failed action by the Environment Agency.¹²

The Government has a vital role to play in developing a mix of policies which mandate as well as enable a shift to greater reuse and use of recycled materials. Creating a level playing field through mandatory requirements will likely deliver the most meaningful improvements. As a priority, the Government must end the perverse incentive of VAT relief on new build projects and instead, apply the tax relief to construction projects which involve the renovation of existing buildings.

¹¹ £2.10 in 1996 and just £3.10 in 2021

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037307/LfT_review_CfE.pdf

¹² <https://www.bbc.co.uk/news/uk-england-stoke-staffordshire-58577136>

Q18: Are there any potentially adverse impacts on groups with protected characteristics?

Higher rates of incineration are likely to cause adverse health impacts on marginalised communities. Incinerators in the UK have been found to be three times more likely to be located in poorer areas, for example.¹³ Nearly half of new incinerators are on track to be built in the UK's 25% most deprived neighbourhoods. Research by Zero Waste Europe has found that even state-of-the-art incinerators emit dangerous pollutants.¹⁴ This can have health consequences for people living nearby and is thought to lead to a number of avoidable deaths every year.

¹³ <https://unearthed.greenpeace.org/2020/07/31/waste-incinerators-deprivation-map-recycling/>

¹⁴ https://zerowasteurope.eu/wp-content/uploads/2018/11/NetherlandsCS-FNL.pdf?utm_source=Press+Release+ZWE&utm_campaign=ecbc94492b-EMAIL_CAMPAIGN_2018_11_28_11_27&utm_medium=email&utm_term=0_a7b3972a6a-ecbc94492b-226957025&mc_cid=ecbc94492b&mc_eid=4afdc1c1d3