

## Legislation

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### 1.1 Background and current position

Waste management legislation has altered considerably in the last 20 years, it is set to continue altering with implications for all stakeholders. Originally legislation was based on end-of-pipe control. Increasingly legislation is based on the waste hierarchy and placing responsibility on producers.

In order to summarise legislation there are three levels to consider:

LEVEL 1: Legislation already affecting waste management

- Best Value
- Controlled Waste Regulations
- Environment Act
- Integrated Pollution Prevention Control
- Landfill Directive
- Ozone Depleting Substances Regulations
- planning regulations and legislation
- Producer Responsibility Obligations (Packaging Waste) Regulations
- Special Waste Regulations
- the Finance Act, and Landfill Tax Regulations.

LEVEL 2: Legislation passed at the European level but not on UK statute books

- aggregates levy
- End of Life Vehicle (ELV) directive
- revised Hazardous Waste Directive
- revised hazardous waste list
- Waste Incineration Directive.

LEVEL 3: Legislation under development at the EU level

- Batteries directive
- Restriction of Hazardous Substances (RoHS) directive
- Waste Electrical and Electronic Equipment (WEEE) directive.

These levels are blurred to some extent because of the time delay between European directives being passed and them becoming UK law. This is particularly true of the landfill directive that, as of March 2002, is still under consultation in the UK and is yet to become law.

Much of the legislation also has targets that will affect any strategy for the next 20 years. This excludes framework legislation such as best value and environment act as it is assumed readers will already have an in-depth knowledge of these.

In addition to the legislation included in this report there are a number of potential directives under discussion, such as the composting directive. However, these will be developed in the longer term and will be subject to a great deal of change and debate before as they are developed into directives. As such they are not included in this report.

Planning legislation and waste management legislation will impact on waste management and the strategy, but this document hopes to concentrate on legislation that will impact on strategic issues. Therefore legislation relating to day-to-day operations is not included, for example Duty of care.

## 1.2 Context

### **Tradable landfill permits**

It is likely that in order to meet targets laid down in the Landfill Directive a system of tradable permits will be introduced for biodegradable municipal waste, however, this is still under consultation. In order to produce a long-term strategy it is suggested that models are drawn up that indicate:

- deficit and surplus of permits among the local authorities in the region
- potential import and export of permits and implications for the authorities

A regional strategy and plan could then be drawn up to meet the Landfill Directive at the lowest cost and with a self sufficient context.

### **Other implications of the Landfill Directive**

The Landfill Directive will affect day-to-day operations of landfill throughout the region. In the short term hazardous, non-hazardous and inert site classification will affect the movement of waste. Landfill operators were required to designate their sites according to pre-determined classes (ie hazardous, non-hazardous) that prescribe what can be disposed at their sites.

### **Packaging targets**

The packaging legislation will directly affect any obligated companies who are involved in the packaging supply chain. Targets for recovering and recycling packaging waste have been set for 2002. Targets have been set for up to 2006 and these are:

- between 60-75% by weight of packaging to be recovered
- between 55-70% by weight of packaging to be recycled.

Minimum recycling targets will also be introduced into the 2006 target:

- 60% by weight of glass
- 55% by weight of paper and board
- 50% by weight metal packaging
- 20% by weight of plastics by mechanical and/or chemical recycling.

At present obligated companies need to recover 56% of their packaging waste and recycle 18% of each material. Many obligated companies use compliance schemes to help them meet their obligated targets. It is likely that compliance schemes and obligated companies will already have a strategy in place to meet their annual compliance targets. With the increase in the need for recovery and recycling of targets compliance schemes are increasingly looking to recover more

packaging waste from the household waste stream. This presents an ideal opportunity for public/private sector partnerships between the local authorities and compliance schemes to both meet their targets.

### **Special waste**

Legislation around special waste definitions and working practices is intended to bring special waste in line with European hazardous waste legislation. Part of the major strategy for this change in legislation needs to involve communicating the changes to all stakeholders in a simple-to-understand format.

### **Waste Electrical and Electronic Equipment/End of Life Vehicle Directives**

Although these directives impact on very different waste streams there are a number of characteristics that make the implementation of both directives similar:

- the directives propose to increase recovery and recycling of their respective waste streams
- there may be some form of producer responsibility built into the legislation
- targets for recovery and recycling will need to be achieved nationally, regionally and locally.

As yet these directives are still under development and detailed implications are not clear. The most obvious option strategically is to:

- assess the current potential for recovery/recycling of these waste streams
- assess the level of activity needed to meet the targets
- provide information to stakeholders through forums and information networks.

## **1.3 Recycling credits**

Recycling credits were introduced under the Environmental Protection Act (1990). The system was designed to pass on the savings made (by not collecting or disposing of waste) to third party recyclers to provide greater financial incentives to recycling.

Third party recyclers are generally community groups, businesses or other organisations that collect waste for recycling and reduce the amount of waste collected and disposed of by the W.C.A and the W.D.A or both if it is a unitary authority. Therefore recycling credits consist of a collection credit, based on the savings in collection, and a disposal credit based on the savings in disposal. The WCA and WDA (or unitary authority) has the power to pay these credits but are not obliged to do so.

Recycling credits may be organised through one authority who acts as an agent for the other to reduce administration. Therefore, the WCA may pay both collection and disposal credits and claim them back from the disposal authority.

Materials that are eligible for recycling credits are dry recyclables such as newspapers, plastic, glass and cans. Organic waste is also eligible. However, furniture and bulky goods are not included. Textiles can also be excluded since not all textiles collected will be recycled but are more likely to be used. However, many authorities have a formula for calculating the payment of a proportion of the credit for textiles (eg 25%-75% of total credit).

If an authority has existing infrastructure in place they may not pay credits in whole or in part. Two examples demonstrate this:

- An authority has a two wheeled bin system for residual and dry recyclable waste and feels it has existing infrastructure in place, therefore, does not pay any type of recycling credit to third parties.
- An authority has magnets that remove steel and aluminium cans from all residual waste that is supported by a limited kerbside scheme for newspaper and glass. In this case, the authority may pay recycling credits for dry recyclables but would exclude paying credits on cans.

To be eligible for recycling credits, evidence is needed that the goods have been passed on for recycling to an approved source in the form of weighbridge tickets from an approved merchant. Therefore, it can sometimes be difficult to claim recycling credits on certain community organic waste recycling projects. Waste must be collected from the area covered by the authority a third party claims from. Third parties need to register with their authority to receive credits.

Finally, a WCA may claim credits from its WDA if it collects waste for recycling (eg bring banks/kerbside administered by the WCA are eligible for recycling credit payments from a WDA) WDA's are obliged by law to pay WCA's.

#### 1.4 Other legislative impacts

- legislation will follow the waste hierarchy and any strategy that goes beyond the statutory minimum needs to reflect this trend
- to comply with legislation waste minimisation is the key
- reducing the hazardous nature of waste streams is vital
- segregation of the various fractions of waste will become more important
- an interface between local and regional stakeholders playing a pro-active part in legislation is essential
- information, guidance and best practice needs to be given to local stakeholders to help implementation.

#### 1.5 Recommendations

Legislation is becoming increasingly important from an operational and strategic point of view. It is important that the borough responds to any potential legislation and is proactive in any consultations regarding how European legislation is implemented in the UK.

On the simplest basis it will be important to:

- build on best practice for ensuring compliance with operational legislation
- ensure that the strategy fits in with the agreed model for tradable landfill permits
- provide models for how a tradable permit system would work within the region once final method is agreed
- provide transport implications and models for delivery of classified waste to correctly classified landfill sites
- assess options for private/public sector partnerships to recover and recycle packaging waste within the region

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- information, guidance and best practice needs to be given to regional stakeholders in order to help implementation..



Current Legislation	Summary
Batteries and Accumulators Directive 98/101/EC	The directive has not been enacted in the UK as yet. The directive prohibits the marketing of battery and accumulators containing more than 0.0005% of mercury by weight. This will also apply to appliances that incorporate batteries and accumulators. Excluded from the Directive are “button type” batteries or those composed of similar elements. Member States must encourage the separate collection of batteries and accumulators with a view to their upgrading or disposal. The directive also focuses on the reduction of the heavy metal content of batteries and accumulators through Member State programmes.
Control of Pollution (Oil Storage) (England) Regulations 2001	The regulations aim to reduce the number of oil pollution incidents occurring in England and cover s all types of oil except waste oil (waste oil is imposed under the Waste Management Licensing Regulations 1994). The regulations apply to anyone storing more than 200 litres of oil above ground at industrial, commercial or institutional sites, or more than 3500 litres at domestic sites.
Disposal of Waste Oil 91/692/EEC	The directive prohibits: Any discharge into inland surface water, ground water, territorial sea water and drainage systems. Any deposit and/or discharge harmful to the soil and any uncontrolled discharge of residues resulting from the processing of waste oils. Any processing causing air pollution which exceeds the level prescribed by existing provisions. No authorisation of the mixing of waste oils with PCBs and PCTs. As a result: Any undertaking which collects waste oils must be subject to registration and national supervision, possibly including a system of permits. Any undertaking which disposes of waste oils must obtain a permit. The Directive is implemented into the UK under the Waste Management Licensing Regulations 1994 (SI No. 1056)
Duty of Care Waste Transfer Licence (1992)	Under the Environmental Protection Act 1990, a Duty of Care licence is imposed on persons who produce, import, carry, keep, treat or dispose of controlled waste. The Duty of Care licence aims to: Prevent the escape of waste. Ensure that waste is only transferred to an authorised person or to a person for authorised transport purposes. Ensure that a written description of the waste is attached to the waste when transferred. Prevent persons disposing, treating or storing controlled waste that is likely to cause environmental pollution or affect human health.
Environmental Impact Assessment Directive 97/11/EC	The directive ensures that the environmental consequences of projects are identified and assessed before authorisation is given. Members of the public can give their opinion on the consequences of the project. This is taken into account through the authorisation procedure of the project. The outcome of the assessment is made public. Environmental Impact assessment - A Guide to Procedures can be viewed at <a href="http://www.planning.odpm.gov.uk/cia/guide">http://www.planning.odpm.gov.uk/cia/guide</a>
Environmental Protection Act 1990	The act covers a wide range of environmental topics. In regard to waste management, Part I of the act introduced the system of Integrated Pollution Control. Part II dealt specifically with the deposit of waste on land. Part II of the Act defines the circumstances where waste management licences are required, the time period for the determination of the different types of application and the criteria for the rejection of applications and appeals.
Hazardous Waste Directive 91/689/EEC amended by 94/31/EC	The purpose of the directive is to control the management of hazardous waste in EU member states. The directive defines and lists “waste” and “hazardous” waste. A system of permits and registration requirements are created for those handling and disposing of waste. Member states are required to produce management plans for hazardous waste, either as an individual plan or part of a framework. The hazardous waste management plans are made public. The amendment to the Directive (94/31/EC) updated the lists of hazardous wastes. The majority is currently enacted through Special Waste Regulations 1996 (SI 1996/972). The remainder will be enacted following a second DEFRA consultation on Revised Special Waste Regulations expected 2002/3.
Integrated Pollution Prevention and Control (IPPC) Directive 96/61/EC	The IPPC directive replaced the IPC (Integrated Pollution Control) system from the end of October 1999. The directive lays down measures designed to prevent, or where that is not practicable, reduce emissions to air land and water from these activities, including measures concerning waste.
Landfill Directive 1999/31/EC	The directive aims to reduce the quantity of waste entering landfill. The directive implements a complete ban on certain hazardous wastes, liquid wastes and tyres entering landfill. Landfill sites are to be classed into three categories: hazardous, non-hazardous and inert. Under the directive, waste entering the landfill will be treated and the co-disposal of waste to be phased out. The directive also sets reduction targets for the amount of biodegradable waste sent to landfill.
Landfill Tax (Finance Act 1996)	This is a tax on the disposal of waste whereby a levy is added to the cost of disposal to landfill. The costs are passed through the waste management chain and the landfill operator pays the levy to HM Custom and Exercise.
Packaging and Packaging Waste Directive 94/62/EC	The directive covers all packaging and packaging waste placed on the market regardless of its use and the material used. Member States will take measures to prevent the formation of packaging waste and encourage reuse. Member States must introduce systems for the collection and/or return of used packaging. Original targets were set at recovery 50% to 60%, recycling 25% to 45% with a minimum of 15% by weight for each packaging material. Under the packaging directive some 9,000 companies in England and Wales are obliged to obtain evidence of recovery equivalent to almost 60% of the packaging they import or supply.
Packaging Waste (Essential Requirements)	Under the Packaging and Packaging Waste Directive (94/62/EC), the regulations require that, “packaging shall be designed, produced and commercialised in such a way as to permit its reuse or

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Regulations (SI 1998/1165)	recovery, including recycling, and to minimise its impact on the environment, when packaging waste or residues from packaging waste management operations are disposed of.” Also all packaging put onto the market in the UK must fulfil certain essential requirements and heavy metal limits. Estimated to affect 25,000 packer/fillers in the UK. Packaging (Essential Requirements) Regulations - Government Guidance Notes - July 1999 can be viewed at <a href="http://www.dti.gov.uk/access/guidehh.htm">http://www.dti.gov.uk/access/guidehh.htm</a>
Pollution Prevention and Control Act 1999	Follows Waste Directive 96/350/EC and tightens the Environmental Protection Act 1990. The emphasis of the directive is on improving the environment by requiring industry to use ‘Best Available Techniques’ (BAT) for pollution prevention.
Special Waste (Amendment) (England and Wales) Regulations 2001	The regulations apply to any operator who collects, transports or recovers special waste. Special waste must not be mixed into different categories or mixed with non special waste. The regulations apply unless activities are authorised by a waste management licence or the waste management activity is exempt from licensing. Operators of waste management facilities who make a deposit of special waste in or on land must record the location of each deposit. Where liquid wastes are discharged directly into underground strata only a written statement of the quantity and composition of the waste and the date of its disposal is recorded.
The Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2000	The directive came into force on 1 April 2000 to implement a European Commission Directive on Integrated Pollution Prevention and Control (IPPC).
The Framework Directive on Waste 96/350/EEC	Provides a legal framework for the management, treatment and disposal of waste. Members States are to draw up a national waste management plan through designated national authorities. The waste management plan should identify the wastes to be recovered or disposed of, the technical requirements for recovery or disposal, the special arrangements for specific types of waste and suitable disposal sites or installations.
Waste Management Licensing Regulations 1994 (SI 1994/1056)	The regulations implement Waste Directive (91/56/EEC) and update the licensing and monitoring systems for waste disposal on land, under the Environmental Protection Act 1990. The main objective of the waste management licensing system is to ensure that waste management facilities do not pose a serious risk to the environment, human health or detriment to the amenities of the locality.



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***Legislative deadlines and targets for new legislation***

Date	Source	Deadlines/Targets
2002	Animal By-products Regulation (Amendment to Directive 90/667/EEC Animal waste) (Proposed)	<p>The proposed amendment to the directive is expected in September 2002 in the form of a regulation that would divide animal by-products into three categories:</p> <p>Category One: Animal by-products that present a risk of TSE (transmissible spongiform encephalopathy), residues of prohibited substances or residues of environmental contaminants. Category One material will be completely disposed of as waste by incineration, co-incineration or landfill.</p> <p>Category Two: Animal by-products that present a risk other than TSE or the presence of residues from veterinary drugs. Category Two material would either be disposed of waste or recycled for uses other than animal nutrition. Recycling methods include composting and biogas production, however the appropriate heat treatment is needed.</p> <p>Category Three: Animal by-products derived from healthy animals. Category Three material would be used for both human and animal consumption.</p>
	Regulation on Substances that Deplete the Ozone Layer	<p>From January 1<sup>st</sup> 2002:</p> <ul style="list-style-type: none"> <li>• ban on export of products for reuse containing CFCs</li> <li>• requirement to recover and treat CFCs from foam before recycling or disposal</li> <li>• ban on export of products which contain CFCs in foam</li> </ul>
	Landfill Directive	<p>Classification of landfill sites into inert, non-hazardous or hazardous:</p> <ul style="list-style-type: none"> <li>• existing sites</li> <li>• new sites (From July 2001)</li> </ul> <p>All landfill site operators to submit a Landfill Directive conditioning plan (July 2002)</p> <ul style="list-style-type: none"> <li>• ban on liquid, explosive, corrosive, oxidising, highly flammable and flammable wastes to landfill: (July 2002)</li> </ul> <p>To be enacted by landfill regulations (still in draft form) and tradable permit system.</p> <p>Co-disposal to end:</p> <ul style="list-style-type: none"> <li>• existing sites (July 2002)</li> <li>• new sites (July 2001)</li> </ul>
	Aggregates levy	<p>A levy will be placed on certain aggregates to encourage the use of secondary materials. It is expected to be around £1.60 per tonne for virgin aggregates.</p>
	Review of Special Waste Regulations 1996	<p>Changes to Special Waste Regulations to transpose the Hazardous Waste Directive 91/689/EC into UK law. This will include incorporating the hazardous waste list into the regulations, adhering to the European Waste Catalogue and harmonising the control of special waste in line with Europe</p>
	Waste Incineration Directive	<p>Stricter emission controls on the incineration of waste. This is enacted for new facilities in autumn 2002</p>
	End of Life Vehicles (ELV) Directive	<p>Authorised treatment facilities in place for vehicles sold after 2001. An abandoned vehicle is classed as special waste until it is decontaminated.</p>
2003	Landfill Directive	<p>Ban on whole tyres to landfill.</p>
	ELV Directive	<p>Ban use of mercury, hexavalent chromium, cadmium and lead in the manufacture of new vehicles. (There are some exemptions.)</p>
	Waste Electrical and Electronic Equipment (WEEE) Directive	<p>Should become UK law this year</p>
2004	Landfill Directive	<p>Co-disposal at existing hazardous sites to end (July 2004)</p>
	Batteries Directive proposed	<p>This could include:</p> <ul style="list-style-type: none"> <li>• immediate ban on mercury in batteries</li> <li>• collection targets for household and commercial batteries</li> <li>• possible take-back responsibility for retailers</li> </ul>

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2005	Landfill tax	Reaches £15 per tonne and full review is carried out
	Waste Incineration Directive	Stricter emission controls on the incineration of waste. This is enacted for existing facilities in autumn 2005.
2006	Producer responsibility obligations	New targets: <ul style="list-style-type: none"> <li>• 60-75% by weight of packaging to be recovered</li> <li>• 55-70% by weight of packaging to be recycled</li> </ul>
2006 (cont.)	Batteries Directive (if implemented)	Collection targets of up to 75% for household batteries and 95% industrial and automotive batteries. Voluntary producer responsibility introduced for collection and recycling of NiCd batteries All appliances containing batteries that cannot be removed are banned.
	Landfill Directive	Ban on shredded tyres to landfill
	WEEE Directive	Targets introduced likely to be between 60 – 80 % recovery depending on product type. (Has been suggested at 4kgs per household.)
	ELV Directive	85% of ELV's must be reused or recovered. 80% reuse/recycling targets
2007	Integrated Pollution Prevention Control (IPPC) Directive	IPPC permits fully introduced to replace old IPC permits by October 2007. Will include: <ul style="list-style-type: none"> <li>• installations for the disposal or recovery of hazardous waste with capacity exceeding 10 tonnes per day</li> <li>• installations for the incineration of municipal waste with a capacity exceeding 3 tonnes per hour</li> <li>• installations for the treatment of non-hazardous waste with a capacity exceeding 50 tonnes per day</li> <li>• landfills receiving more than 10 tonnes per day with a total capacity exceeding 25,000 tonnes, excluding landfills of inert waste</li> </ul>
	ELV Directive	Authorised Treatment Facilities in place for the treatment before reprocessing of all vehicles
2008	Restriction of Hazardous Substances (RoHS) Directive (proposed)	To compliment the WEEE Directive, will require the substitution of various heavy metals and brominated flame-retardants in new electrical and electronic equipment.
	Waste Incineration Directive	Adherence to stricter nitrogen oxide limits
2010	Landfill Directive	Reduction of biodegradable waste sent to landfill <ul style="list-style-type: none"> <li>• 75% of 1995 levels</li> </ul>
2013	Landfill Directive	Reduction of biodegradable waste sent to landfill <ul style="list-style-type: none"> <li>• 50% of 1995 levels</li> </ul>
2015	ELV Directive	95% of ELV's must be reused, recycled or recovered
2020	Landfill Directive	Reduction of biodegradable waste sent to landfill <ul style="list-style-type: none"> <li>• 35% of 1995 levels</li> </ul>

