

REPORT TO: Executive Board Sub Committee
DATE: 15th October 2009
REPORTING OFFICER: Strategic Director Environment
SUBJECT: Landfill Allowance Trading Scheme
WARD(S): Borough-wide

1. PURPOSE OF REPORT

1.1 This report sets out an updated position on landfill allowances for Halton Borough Council and makes recommendations for the purchase of further landfill allowances under the Landfill Allowances and Trading Scheme (England) Regulations 2004.

2. RECOMMENDED: That:

2.1 For the purposes of LATS, the Operational Director - Financial Services, in consultation with the Strategic Director - Environment and the Portfolio Holders for Environment, Leisure and Sport and Corporate Services, be authorised to;

2.1.1 Secure contractual agreements with other local authorities for the purchasing of permits to enable Halton to meet its LATS targets; and

2.1.2 Trade up to the value of £250,000 per annum, subject to budgetary provision.

2.2 Procurement Standing Order 3.1 be waived for the purposes of the exercise of the delegated power.

2.3 Further reports are received on LATS as necessary.

3. BACKGROUND

3.1 All Waste Disposal Authorities have been allocated a diminishing tonnage allocation of biodegradable municipal waste (BMW) that they may landfill each year. The trading scheme is controlled under the Landfill Allowances and Trading Scheme (England) Regulations 2004, including potential penalties for non-compliance. This has a significant impact on disposal options as Government guidance indicates that 68% of the waste stream is biodegradable. Key materials include paper, card, textiles, garden and kitchen waste and furniture. A mass balance calculation for each waste disposal authority takes into account the amount of BMW recovered, and then determines the

percentage of BMW in residual waste, which is directly landfilled. It is this figure that is compared to the allocated LATS allowances to produce a surplus or deficit.

- 3.2 At its meeting on 16th November 2006 the Executive Board Sub Committee resolved that delegated powers to trade for Landfill Allowances were given to the Operational Director Financial Services in consultation with the Strategic Director, Environment and the Portfolio holders for Environment, Leisure and Sport and Corporate Services, and that authority be granted to purchase or sell LATS permits, provided that the cumulative face value of all such transactions (disregarding whether purchases or sales) in any financial year does not exceed £100,000 and subject to adequate budgetary provision having been made (minute ES54/2006).
- 3.3 Estimates indicate that the financial requirement for future years exceeds the values in the previous resolution. Therefore, additional approvals are now required for future purchases, as outlined in his report.
- 3.4 The allocated allowances for each year, and current predictions, are shown in Table 1 below. The estimated shortfalls take into account additional recycling and the assumption that Halton will achieve the LAA recycling targets of 31% for 02009/10 and 34% for 2010/11.
- 3.5 Landfill allowances are calculated for biodegradable municipal waste (BMW) and not total waste. Biodegradable municipal waste consists of materials such as card, paper, garden waste etc. Total residual waste therefore contains both BMW and non BMW (e.g. glass, cans, plastics)

Table 1. Halton's Permitted and Estimated Landfill Allowance Levels

Year	Biodegradable Municipal Waste (BMW) Tonnage Allowed to landfill	Estimated BMW Tonnage to be sent to landfill	Estimated Shortfall in Allowances
2009/10	27759	33183	5423
2010/11	24669	33105	8436
2011/12	21579	33105	11526
2012/13	18490	33105	14615
2013/14	17696	33105	15409
2014/15	16903	Not available	Not available
2015/16	16110	Not available	Not available
2016/17	15317	Not available	Not available
2017/18	14524	Not available	Not available
2018/19	13731	Not available	Not available
2019/20	12938	Not available	Not available

4. SUPPORTING INFORMATION

- 4.1 Table 2 below shows the current estimates in more detail. Predictions are made up until 2013/14, after which, waste treatment facilities could be in place for the treatment and diversion of biodegradable waste from landfill to sufficient levels to meet landfill allowance targets beyond that date. Procurement of residual waste treatment capacity for Halton is, however, complex and if waste treatment facilities are not in place by 2013/14 there will be consequences, and result in the need to obtain additional allowances.

Table 2. Halton Landfill Allowances

	2009-10	2010-11	2011-2012	2012-13	2013-14
4.2 Halton Landfill Allowance Allocation	27759	24669	21579	18490	17696
Forecasted Landfill Levels	33182	33105	33105	33105	33105
Difference (deficit)	-5423	-8436	-11526	-14615	-15409
Estimated Balance (Surplus/deficit)	-5,423	-8,436	-11,526	-14,615	-15,409

Landfill allowances have already been purchased for 2009/10 to cover the estimated shortfall in the current year. Following negotiations with several Authorities a price of £13.50 was agreed.

- 4.3 To avoid future potential fines, Halton can now purchase landfill allowances to cover predicted shortfalls for the years 2010/11 onwards. Based upon current market offers following a request for three written quotations, allowances are currently available @ £9.00 per tonne for 2010/11 and 2011/12 and £10.80 for 2012/13 if purchased in advance. Alternatively, payment can be made each April at these prices plus an RPI increase for each year.
- 4.4 Currently, allowances are not available from the above local authority for 2013/14 due to internal approvals not being available until 2010; therefore the figures shown for 2013/14 in table 3 are estimates. This offer also provides flexibility, with the options of immediate purchase or spreading costs over several years.
- 4.5 Members are advised that only one other quotation was received from another authority that were working to an indicative price level of £13.50 for 2010/11 and 2011/12 rising to £17.50 for 2012/13 and 2013/14.

- 4.6 The costs of meeting the anticipated shortfalls by purchasing additional permits as detailed in para 4.3 are therefore shown below in table 3;

Table 3. Costs of meeting the anticipated shortfalls

	2010-11	2011-12	2012-13	2013-14
Forecast shortfall	8436	11526	14615	15409
Unit Costs – Immediate purchase	£9	£9	£10.80	£12.60
Total – immediate purchase	£75,924	£103,734	£157,842	£194,153
Unit Costs – purchase in April each year (*assumed +3% per year for RPI)	£9	£9.27*	£11.45*	£13.77
Total – purchase in April each year	£75,924	£106,846	£167,342	£212,182

- 4.7 For information, Members are advised that recent forward transactions by other Waste Disposal Authorities for the years 2010/11 onwards are detailed in Table 4 below.

Table 4. Recent LATS Transactions by Other Authorities

Date	LATS Year	Number	Price per tonne	Total
26/03/2009	2012/13	226	£15.00	£3,390.00
26/03/2009	2011/12	1,432	£11.25	£16,110.00
26/03/2009	2010/11	2,365	£11.25	£26,606.00
24/01/2008	2011/12	6,400	£35	£224,000.00
24/01/2008	2010/11	11,000	£35	£385,000.00

- 4.8 It is Defra's view that if landfill allowances are traded for cash, the public procurement rules are not engaged because there is no acquisition of supplies or services; what is being traded is the means to landfill in a scheme year more BMW than would otherwise be authorised by the allowances available to a Waste Disposal Authorities (WDA) for that year. Similarly, state aid rules are not engaged as LATS only applies to WDAs exercising their public functions and there is no potential for the Scheme itself to affect trade between undertakings in the EU.
- 4.9 Whilst it is Defra's view that it would not be necessary for the Council to go out to tender for the purchase of allowances, in order to deal with the implications of the Council's Standing Orders, the recommendations include the waiver of Standing Order 3.1, which requires that three competitive tenders be sought for contracts between £50k and £1M. Members are advised that this recommendation is made on the basis that;

- 4.9.1 Although only received two, officers actively sought three written quotations.
 - 4.9.2 The current offer is believed to be the best available and was made following a recent major quotations exercise with prospective sellers by another authority.
 - 4.9.3 The Council is not likely to receive any better offers from undertaking a tendering exercise.
 - 4.9.4 There is a risk that the time taken to undertake a tendering exercise may see the opportunity to purchase from the preferred selling authority disappear
- 4.10 Whilst there is no certainty about future prices, which might go up or down, it is believed that the current offer represents good value for money and it is recommended that the Council now secure contractual arrangements for the purchase LATS permits for the period 2010/11 to 2013/14.

5. FINANCIAL IMPLICATIONS

- 5.1 Purchasing permits for LATS shortfalls avoids potential penalties of £150 per tonne and therefore represents a potential 'investment to save' of between £1.2m in 2010-11 and £2.1m 2013-14. The financial consequence of purchasing LATS permits has been included in the medium term financial forecast for the authority and are proposed to be provided for in the revenue budgets of the Council during the period covered by this report.

6. POLICY IMPLICATIONS

- 6.1 There are no policy implications as a result of this report.

7. OTHER IMPLICATIONS

- 7.1 There are no other implications arising from this report.

8. IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

8.1 Children and Young People in Halton

No direct impact

8.2 Employment, Learning and Skills in Halton

No direct impact

8.3 A Healthy Halton

No direct impact

8.4 A Safer Halton

No direct impact

8.5 Halton's Urban Renewal

No direct impact

9.0 RISK ANALYSIS

9.1 There is a risk that, failure to secure sufficient landfill allowances will leave the authority vulnerable to the significant financial risks associated with failing to meet waste diversion targets.

10.0 EQUALITY AND DIVERSITY ISSUES

10.1 There are no equality and diversity issues as a result of this report.

11.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

11.1 There are no background papers within the meaning of the Act