

RESPONSE TO GOVERNMENT CONSULTATION PAPER ON CHANGES TO THE RECYCLING CREDIT SCHEME

This response is made jointly by CSS and National Association of Waste Disposal Officers (NAWDO). The CSS and NAWDO welcome the opportunity to comment on the proposals for changing the recycling credits system. Although CSS and NAWDO have a different membership base and have different constitutional objectives, both organisations seek to represent the interests of the majority of waste disposal authorities in the UK. The proposals put forward in the Government's consultation on recycling credits are therefore, of common interest to CSS and NAWDO. This response is representative of the views of the majority of members of both organisations.

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1. Overall, Government's analysis of the recycling credit system is a fair one although there are a few issues which need further consideration.
2. Paragraph 3.7 of the introduction comments that the Government has introduced targets for businesses to drive up recycling of packaging waste. Whilst the packaging waste regulations are having a clear impact on recycling activity within the business and industrial sectors, there is a lack of cohesion, and often conflict, between initiatives aimed at Local Government and those aimed at industry. It is therefore important to recognise that any continuing obligation for Waste Disposal Authorities to pay recycling credits has the potential to provide a perverse incentive on producers and others with obligations under the Packaging Waste legislation. Specifically, producers have an incentive to promote post consumer collections of recyclables by waste collection authorities, even if this is not the most efficient option as collection of materials in this way will be at least partially funded by the Waste Disposal Authorities.
3. It is also important to point out that the Government's analysis of Option 1 Payment of Credits by WDAs to WCAs potentially places undue reliance on information taken from LARAC's 2004 Survey. Whilst the results of the Survey are not in question, it should be remembered that the sizeable majority of LARAC members work in Waste Collection Authorities and should therefore, not be considered as uninterested parties.

Recycling Credit Payments by WDAs to WCAs

4. In paragraph 4.5 Government acknowledge that recycling credits promote independent recycling by WCAs regardless of its suitability in the area. It is further acknowledged that fully effective joint working does yet not exist in all two tier areas. It is therefore difficult to conclude that the disapplication of a WDA's duty to pay credits as suggested in option 2 will take matters any further forward.
5. There is evidence that robust partnerships have already reached agreements akin to Option 2 and Option 3, and that one of the main barriers for progress in other partnerships remains the obligation to pay credits. Options 2 will therefore not in itself drive improved partnership working in two tier areas. However, a complete removal of the obligation to pay credits to WCAs in two tier areas (option 1) will require the authorities to work together to ensure materials are separated in the most appropriate way for that area. It is recognised that this will create significant funding difficulties for WCAs in the short term therefore a system based on that proposed in Option 3 would help to offset some of these concerns. In such circumstances the duty to pay recycling credits to a WCA should be time limited.

Calculation of Financial Value of Recycling Credits to WCAs

6. Paragraph 4.12 identifies that the value of a recycling credit must be equal to the net saving to the WDA made through not having to collect or dispose of the recycled material. However, this saving must be based on the cost of the most expensive form of disposal and is therefore, by definition, not equivalent to the actual saving made by the WDA. The principle applied to calculate the existing level of credit is therefore, flawed.
7. Paragraph 4.13 identifies that in some circumstances the actual cost of recycling can now be lower than the most expensive costs of disposal. In reality, it can often be significantly lower than any disposal cost incurred in that area, such as for composting. This can result in WCAs actively targeting the collection of green waste for composting regardless of the alternative and often more cost effective services available, such as through the CA sites or home composting. Recycling carried out by District Councils is often being rolled out on a business case that secures profit from the difference between the recycling credit and the cost of the recycling scheme. Paragraph 4.13 sets out the issues well.
8. Change is clearly needed to limit the impact of recycling credits on WDA budgets however, this issue cannot be completely divorced from the debate on the obligation to pay a recycling credit by WDAs to WCAs. If WDAs are to be obliged to make a credit payment to WCAs in their area then it is important that the value of that credit be based in future on other than the most expensive disposal method. However, if the duty to pay a credit is removed then the value of any credit paid can be a matter for negotiation between the authorities in the two tier area.
9. If it is proposed that some baseline payment or transitional period exist where the credit payment is made by reference to recycling performance in previous years (prior to the landfill tax escalator for example) then it is important that a mechanism be developed that limits the total cash liability of the Waste Disposal Authority. In practical terms, this could mean that a WDA's liability is capped at that incurred in 2004/5.
10. Given the above comments, the proposals put forward under Option 1 and Option 2 have greatest relevance where the obligation to pay a recycling credit is maintained. In such circumstances, Option 1 has advantages over the existing system but still

provides the potential for WCAs to profit from the recycling activity. Alternatively, Option 2 provides greater equity although it is unclear what the basis for including the cost of collecting recyclables in the calculation is.

11. It has been previously established in the consultation document that the initial intention of the recycling credits payment was not to include the costs of collection. The maximum value of recycling credit should therefore be the lower of the actual saving to the Waste Disposal Authority or cost incurred by the Waste Collection Authority in processing and marketing the recyclables (excluding collection costs). The basis for this proposal is that collection costs can be mitigated by, for instance, by offering an alternate weekly collection for residual waste and recyclables. Including the costs of collection and the recycling credit payment removes the incentive for the Waste Collection Authority to provide efficient collection services.
12. On a similar basis, it is important that the obligation to pay recycling credit is amended to provide the WDA with the opportunity to refuse the payment where the recycling activity by the Collection Authority is not in accordance with the strategic objectives of the Waste Disposal Authority in respect of compliance with its obligation to divert biodegradable municipal waste from landfill. This removes the potential for recycling credit payments to conflict with the intentions contained within the Waste Emissions Trading Act where WDAs are given the power of direction over WCAs. The retention of a right to refuse to make a credit under these circumstances would remove the potential for the recycling activity of one collection authority to disadvantage opportunities for others in the area.

Recycling Credit Payments to Third Parties

13. In responding to the questions raised in the Consultation it is presumed that Government have satisfied themselves that payment of recycling credit to third parties, especially private sector organisations, does not constitute State Aid.
14. Proposals to update the criteria in the guidance for payment of recycling credits in respect of third parties is supported. Option 2 provides for a sensible response to the issue provided that Local Authorities retain the discretion to refuse a payment on reasonable grounds. The revised guidance should include a presumption against the payment of a credit to third party organisation but should set out proposed criteria where a payment would be supported.
15. Government have sought to draw a distinction between private sector organisations and non-profit making third parties. In principle, this is to be supported however, the distinction is often a difficult one to make. The revised guidance should be explicit on this matter.

The Scope of the Scheme

16. Proposals to extend the scope of the recycling credit scheme to include reused materials cannot be supported. The objectives are laudable however, the impact of extending the scheme to include reuse would be significant and potentially counter-productive.
17. A significant amount of household waste is already reused. It should not be the intention of any revision to the recycling credit scheme to direct funding into this existing service. Re-use currently operates within its own micro-economy and any obligation to make a credit payment in respect of Reuse will significantly adjust these economics. Schemes which are currently profitable will receive ongoing windfall payments with little evidence that there will be a corresponding increase in activity that

is not currently profitable. However, Local Authorities should be provided with the power to make a credit payment for reuse activities where deemed appropriate. In reality, this is already happening in a number of Authority areas.

18. The Consultation specifically asks if there is a need for a financial incentive for waste minimisation. The answer to this question is that there already is a significant financial incentive to Local Authorities in that any waste minimised avoids the collection and disposal cost. No further financial incentive is necessary.
19. However, if Government are minded to introduce a statutory reuse credit it is assumed that this would constitute a 'new burden' and that any additional cost to Local Authorities resulting from payment of windfall profits to reuse schemes already established will be reimbursed.