

Agenda – Finance Committee

Meeting Venue:	For further information contact:
Committee Room 1 – Senedd	Bethan Davies
Meeting date: Thursday, 19 January 2017	Committee Clerk 0300 200 6372
Meeting time: 09.15	SeneddFinance@assembly.wales

1 Introductions, apologies, substitutions and declarations of interest

(09.15)

2 Paper(s) to note

(09.15)

(Pages 1 – 3)

Letter from the Presiding Officer to the Chair – Senedd@Newport – 13 January
2017

(Pages 4 – 5)

3 Public Health (Wales) Bill: Evidence session

(09.15)

(Pages 6 – 27)

Rebecca Evans AM, Minister for Social Services and Public Health
Chris Tudor-Smith – Senior Responsible Officer, Welsh Government
Rhodri Jones – Bill Manager, Welsh Government

[Public Health \(Wales\) Bill
Explanatory Memorandum](#)

4 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting for the following business:

(10.15)

Items 5 and 9–12.



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

5 Public Health (Wales) Bill: Consideration of evidence

(10.15)

10.30–10.45 Break

6 Landfill Disposals Tax (Wales) Bill: Evidence Session 3

(10.45)

(Pages 28 – 53)

Brian Mayne, Ricardo Energy & Environment, Regional Director Wales – Resource Efficiency & Waste Management, Chartered Institution of Wastes Management

Robert Little, Commercial Director, MSS Group Ltd, Chartered Institution of Wastes Management

Lee Marshall, Chief Executive Officer, Local Authority Recycling Advisory Committee

Paper 1 – Chartered Institution of Wastes Management – written evidence

Paper 2 – Local Authority Recycling Advisory Committee – written evidence

7 Landfill Disposals Tax (Wales) Bill: Evidence Session 4

(11.45)

(Pages 54 – 77)

Clare McCallan, Landfill Disposals Tax Project Manager, Natural Resources Wales

Becky Favager, Waste & Resources Manager – Evidence, Policy and Permitting directorate, Natural Resources Wales

Paper 3 – Natural Resources Wales – written evidence

12.45–13.45 Lunch

8 Landfill Disposals Tax (Wales) Bill: Evidence Session 5

(13.45)

(Pages 78 – 114)

Kim Gutteridge, Head of Grants, High Value Fundraising – Planning and Development, RSPB
Dr Stephen Marsh–Smith, Afonydd Cymru
Dr Patrick Bishop, Senior Lecturer, College of Law and Criminology, Swansea University, UK Environmental Law Association
James Byrne, Living Landscapes Manager, Wildlife Trusts Wales

Paper 4 – RSPB Cymru – written evidence

Paper 5 – Afonydd Cymru – written evidence

Paper 6 – UK Environmental Law Association – written evidence

Paper 7 – Wildlife Trusts Wales – written evidence

9 Landfill Disposals Tax (Wales) Bill: Consideration of evidence (14.45)

10 Correspondence with the Auditor General for Wales: Natural Resources Wales (15.00) (Pages 115 – 118)

Paper 8 – Letter from the Chair to the Auditor General for Wales – 16 December 2016

Paper 9 – Letter from the Auditor General for Wales to the Chair – 22 December 2016

11 Land Transaction Tax and Anti–avoidance of Devolved Taxes (Wales) Bill: Order of consideration (15.20) (Pages 119 – 121)

Paper 10 – Land Transaction Tax and Anti–avoidance of Devolved Taxes (Wales) Bill – Order of consideration

12 Financial implications of the Additional Learning Needs and Education Tribunal (Wales) Bill

(15.30)

(Pages 122 – 135)

Paper 11 – Financial Scrutiny of the Additional Learning and Educational Tribunal (Wales) Bill

Concise Minutes – Finance Committee

Meeting Venue:

Committee Room 4 – Tŷ Hywel

Meeting date: Wednesday, 11 January
2017

Meeting time: 09.01 – 12.31

This meeting can be viewed

on [Senedd TV](#) at:

<http://senedd.tv/en/3874>

Attendance

Category	Names
Assembly Members:	Simon Thomas AM (Chair) Mike Hedges AM David Rees AM Nick Ramsay AM Mark Reckless AM Daniel Greenberg
Witnesses:	Tara King, Cardiff Council Dr Tim Peppin, Welsh Local Government Association Mark Drakeford AM, Cabinet Secretary for Finance and Local Government Andrew Jeffreys, Welsh Government Ed Sherriff, Welsh Government
Committee Staff:	Bethan Davies (Clerk) Georgina Owen (Deputy Clerk) Gemma Gifford (Deputy Clerk) Martin Jennings (Researcher)



	Helen Jones (Researcher) Katie Wyatt (Legal Adviser)
--	---

1 Introductions, apologies, substitutions and declarations of interest

- 1.1 The Chair welcomed members to the meeting.
- 1.2 Apologies were received from Steffan Lewis AM and Eluned Morgan AM.

2 Paper(s) to note

- 2.1 The papers were noted

3 Fiscal Framework: Evidence Session with the Cabinet Secretary

- 3.1 The Committee took evidence from Mark Drakeford AM, Andrew Jeffreys and Ed Sherriff on the Fiscal Framework.

4 Landfill Disposals Tax (Wales) Bill: Evidence Session 2

- 4.1 The Committee took evidence from the Welsh Local Government Association and Cardiff Council.

5 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

- 5.1 The motion was agreed.

6 Landfill Disposals Tax (Wales) Bill: Informal Session

6.1 The Committee held an informal session with Daniel Greenberg, a barrister specialising in legislation.



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Committee Chairs
National Assembly for Wales
Cardiff Bay
CF99 1NA

Your ref:
Our ref: EJ/GH

13 January 2017

Dear Committee Chair

In 2015, we located a series of outreach events in Wrexham and Swansea, with the aim of taking the work of the Assembly to the people of Wales. We chose Wrexham and Swansea because voter turnout in both areas was particularly low in the 2011 Assembly election.

As part of the Senedd@Wrexham and Senedd@Swansea initiatives, staff delivered a comprehensive programme of events, visits and workshops which directly engaged over 5000 people in the Assembly's work. We also forged new working relationships with key local organisations and the local media who, in turn, covered the week's events.

In order to maintain the momentum generated by our visits to Wrexham and Swansea, and building on the lessons we learned, I am eager to deliver another Senedd@ event during the week commencing 20 March 2017. To continue our journey around the communities of Wales, we have chosen Newport for the location of the next Senedd@ initiative.

One of the key findings of the evaluations of previous Senedd@ initiatives was the need to enable committees to consider their potential involvement early in the planning process. Therefore, I am inviting any suggestions your committee may have about how you may wish to get involved in Senedd@Newport.

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

Cynulliad Cenedlaethol Cymru

Bae Caerdydd, Caerdydd, CF99 1NA

Llywydd@cynulliad.cymru

www.cynulliad.cymru

0300 200 7403

National Assembly for Wales

Cardiff Bay, Cardiff, CF99 1NA

Llywydd@assembly.wales

www.assembly.wales

0300 200 7403



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

During previous “Senedd@” initiatives, committees have held formal meetings in community locations and taken the opportunity to encourage people to participate in their work. Senedd@Newport will present a fantastic opportunity for your committee to raise its profile and engage with many local organisations and media.

Should you require any further information, please contact Geraint Huxtable on 0300 200 6277 or via email: Geraint.Huxtable@Assembly.Wales.

Thank you in advance for your co-operation.

Yours sincerely

Elin Jones AM
Llywydd

Agenda Item 3

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Consultation on the Landfill Disposals Tax (Wales) Bill

The Chartered Institution of Wastes Management (CIWM) is the professional body which represents over 6,000 waste and resources management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the waste and resources management industry and has various grades of membership determined by education, qualification and experience.

CIWM is recognised as the foremost professional body representing the complete spectrum of the waste and resources management industry. This gives the Institution the widest possible view and, perhaps more pertinently, an objective rather than partial view, given that our goal is for improvement in the management of all wastes and resources.

The Cymru Wales Centre Council of the Chartered Institution of Wastes Management welcomes the opportunity of contributing to the above Consultation and is supportive of the National Assembly devolving landfill tax to the country.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;

The bill appears to be comprehensive and takes account of the majority of any barriers to implementation with the following exceptions;

- The bill does not contain any detail in respect of the potential for double payment in respect of materials that have been deposited at a place that is not, and does not form part of, an authorised landfill site where the tax is paid by the relevant person and is subsequently removed for disposal at an authorised landfill site. The Explanatory Memorandum sets out that this is a deliberate effect

Whether there are any unintended consequences arising from the Bill

Unintended consequences are not immediately apparent but there does remain potential for this in respect of regulation under this bill.

The financial implications of the Bill (as set out in Chapter 6 of the Explanatory Memorandum);

The financial implications appear to have been fully accounted for within the RIA.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of the Explanatory Memorandum);

The powers set out appear appropriate.

Whether the Welsh Government's principles for the development of devolved tax policy and legislation have been followed:

Be fair to businesses and individuals who pay them;

Be simple, with clear rules which seek to minimise compliance and administration costs;

Support growth and jobs that in turn help tackle poverty; and

Provide stability and certainty for taxpayers.

In so far as the details within the bill provide these principles appear to have been complied with the exception of the impact of these proposals on landowners who have been subject to waste materials fly tipped on their land where they might be liable for landfill disposals tax even if they did not cause or knowingly permit the deposit. However, there will be further need for assessment of compliance with these principles in relation to the regulations under this bill.

The definition of a 'taxable disposal' and 'qualifying materials';

We previously stated in our consultation submission that 'If thresholds are to be specified then they need to be quantifiable and measurable. If this can't be achieved then there is little point in considering setting a threshold to define any level for small quantity' of non-qualifying waste in a load of qualifying material.

Non-homogeneous waste will be very difficult to sample and define whether the threshold has been exceeded or not. Introducing such a definition as 'a small quantity' will add costs to landfill operators and a further regulatory burden on both the operator and regulator. Therefore, any non-qualifying material in a load of material accepted for the lower rate should not be allowed and the higher rate applies, this would increase the incentive to properly sort wastes prior to disposal.'

There are situations where the requirement in section 16, requirement 3 which states that non-qualifying materials must not have been mixed deliberately for the purposes of disposal or in preparing the disposal may be difficult to achieve as a result of the processes within a waste transfer station. This is where fines result from the processes utilised which could be of an inert nature or could be of a biodegradable nature, but only chemical or biological analysis would determine the actual composition. These fines cause difficulties to regulators due to their ambiguous appearance and the desire of waste management facility operators for these materials to be regarded as lower tax rate and inert to enable a greater range of disposal opportunities and to reduce costs. This may be an issue with compliance with section 17 dependant on the content of the regulations provided for within this section, CIWM Cymru Wales is pleased that this issue will be resolved in forthcoming regulations. We also note that the definitions of qualifying materials and different rates of tax will be established through regulations with the need for Welsh Government to bear in mind the need for consistency across the Wales England boundary to avoid waste tourism and the community detriment that this would cause.

The provisions on how the tax will be calculated including the taxable weight of material and the discount in respect of water content;

These provisions appear comprehensive.

The implementation of tax rates and whether these retain the flexibility to deal with subsequent changes at a Wales and UK level;

The fact that the details in respect of these matters will be covered by regulations will provide the flexibility required.

The proposed exemptions;

The proposed exemptions are comprehensive in so far as they have been established; however, there may be scope to extend these in respect potential for double payment matter raised above.

The proposed reliefs;

The proposed reliefs are comprehensive; however, it is possible that the relief proposed for refilling former quarries might exclude many of the authorised landfill sites from payment of landfill disposal tax due to the fact that many of such sites were quarries and have conditions within the planning permission requiring the resultant void to be wholly or partially refilled. This matter should be examined to establish the impact of this issue.

The inclusion of unauthorised disposals of waste at places other than authorised landfill sites;

The inclusion of unauthorised deposits is supported; this will however require the Welsh Revenue Authority to work closely with Natural Resources Wales, it is noted that WRA will delegate compliance and enforcement functions to Natural Resources Wales. But the question remains on how this will work in practice and whether there will be any internal separation between the normal enforcement role of NRW with respect to unauthorised deposits and the WRA delegated role.

There is however an issue with respect of situations where the landowner did not knowingly cause or knowingly permit the deposit is to be treated as is to be treated as having knowingly permitted the disposal to be made for the purpose of the landfill disposals tax. This appears unfair and contrary to the Welsh Government's principles for the development of devolved tax policy.

The inspection of premises for the purposes of ascertaining a person's liability to Land Disposals Tax and the sharing of information between the Welsh Revenue Authority, Natural Resources Wales and local authorities;

There are significant powers proposed within this bill and the information sharing set out appears to be wholly to the benefit of the Welsh Revenue Authority there is no apparent sharing of information in respect of benefit to local authorities or Natural Resources Wales.

The duties on taxpayers to make payments and pay penalties and interest in certain circumstances;

These are clear in the bill.

How companies, partnerships and unincorporated bodies are treated in terms of the provisions and responsibility for compliance; and This section appears comprehensive.

Establishing the Landfill Communities Scheme as a grant scheme rather than a tax credit and developing it outside of the Bill.

We note that there is a paper published on Landfill Disposals Tax Communities Scheme and will respond on this in due course before the deadline of 7 February

.



Committee Clerk
Finance Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

9 January 2017

Dear Committee Members

Landfill Disposals Tax (Wales) Bill Consultation

Thank you for the opportunity to respond to this consultation. The LARAC response is contained below.

The responses below are sent on behalf of the Local Authority Recycling Advisory Committee (LARAC). LARAC is an association of around 75% of local authorities across England, Scotland, Wales and Northern Ireland. Members are waste management and recycling professionals who co-ordinate and operate waste management services. Membership is drawn from all types of authority including statutory Waste Collection (WCA), Waste Disposal (WDA) and Unitary Authorities.

Our response has been peer reviewed by members of LARAC's policy team and executive committee. LARAC members have also been invited to comment on the consultation through the members' discussion forum on our website. All contributions received have been considered in drafting the response below.

LARAC generally supports the proposal within the consultation. LARAC does however believe that the opportunity needs to be taken to reduce the tax burden on local authorities if Welsh local authorities are to have the economic resources to achieve their statutory recycling targets

If you have any queries on this response, then please contact me at lee.marshall@larac.org.uk or on 01982 382 650.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Lee Marshall', is written over a light grey horizontal line.

Lee Marshall
LARAC Policy Team

Responses to Consultation Questions

The general principles of the Bill and the need for legislation

LARAC agrees that there is a need to ensure that Wales has suitable tax instruments in place for April 2018 when the current system of Landfill Tax is 'switched off'.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them

LARAC does not believe there are any immediate barriers to the implementation of the Bill. As with most policy instruments, the success or otherwise, is often dependant on a suitable amount of resources being available to first implement and then deliver the desired outcomes of any Bill. LARAC believes that both the WRA and NRW will require additional and appropriately targeted resources in order that the desired environmental and financial outcomes of the Bill to be delivered.

Whether there are any unintended consequences arising from the Bill

LARAC does not see any unintended consequences of the Bill as such. A possible consequence that is already known is that of cross border waste movements and this will need to be considered throughout the whole process of planning, implementing and delivering the Bill. LARAC supports the aim of Wales as a resource efficient nation and dealing with waste and resources holistically, but this should not restrict valid and appropriate cross border waste movements where it is efficient and effective to do so.

An ongoing consequence of the Bill is that local authorities will continue to contribute significantly to LDT revenues in Wales. Give that a stated aim of the Bill is to preserve funds for public services in Wales LARAC is disappointed that the opportunity has not been taken within the Bill to address this. LARAC believes there is the potential for a mechanism that reduces the tax level for household waste disposed of by local authorities and their agents and allows the tax saved to be reinvested directly into local authority waste and recycling services.

In 2015 16 there were 288,840 tonnes of household waste landfilled in Wales which at the current LDT rate means over £24 million lost to local authority services. This level of funding would assist local authorities in meeting the aspirations and targets with Towards Zero Waste. LARAC believes that the statutory nature of recycling targets in Wales is now a much bigger policy driver for local authorities than the LDT and as such a reduced rate for household waste will not stifle the excellent progress local authorities have made in increasing recycling rates to European leading levels. Indeed, it is likely to assist them if the savings in tax are hypothecated back to local authority recycling services. This means the value is not lost to public funds overall.

The financial implications of the Bill (as set out in Chapter 6 of the Explanatory Memorandum)

LARAC believes that given the information available the financial implications that are contained within the Explanatory Memorandum are likely to be the best estimates that can be made. However, given that the estimated overall income from LDT revenues has recently

been revised downwards it would suggest that reviewing these estimates at regular intervals, perhaps smaller than would normally be expected, should be considered. At a time when the funds available for public services are decreasing LARAC would not want to see unrealistic estimates in relation to this Bill contribute to that position.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of the Explanatory Memorandum)

LARAC would want to see suitable consultation undertaken before subordinate legislation is made. Where Welsh Government believe that a matter does not warrant wide consultation this should be notified to relevant stakeholders to enable them to make suitable representations. This is suggested with the intention of ensuring unintended consequences are minimised and not to make the introduction of subordinate legislation a more drawn out process.

The powers as outlined in the documents appear appropriate.

Whether the Welsh Government's principles for the development of devolved tax policy and legislation have been followed

- **be fair to businesses and individuals who pay them;**
- **be simple, with clear rules which seek to minimise compliance and**
- **administration costs;**
- **support growth and jobs that in turn help tackle poverty; and**
- **provide stability and certainty for taxpayers.**

LARAC would agree that the principles outlined above have been applied to this Bill within the constraints that the complexity of the subject allows. LARAC would reiterate the earlier point regarding the cost of landfill tax to local authorities and the opportunity to use the LDT as a means of directing public funds away from supporting landfills to supporting recycling collection and treatment infrastructure instead.

The definition of a 'taxable disposal' and 'qualifying materials'

LARAC supports the devolution of powers to the Welsh Government but would want to see these applied with consideration to other parts of the UK where appropriate. Therefore, any definitions applied in the Bill should consider the consequences to those impacted where it is different from definitions used in other parts of the UK. Where a change supports progress in Welsh Government waste policy without undue burdens to business, local authorities and other organisations then LARAC would support this.

The provisions on how the tax will be calculated including the taxable weight of material and the discount in respect of water content

LARAC agrees with the method of calculations outlined.

The implementation of tax rates and whether these retain the flexibility to deal with subsequent changes at a Wales and UK level;

As highlighted above LARAC supports the use of devolved powers to assist in a more resource efficient Wales. Where rates different to other parts of the UK are proposed, these should

be clear, simple to understand and apply and sufficient notice given to ensure that organisations can comply within reasonable timescales.

The proposed exemptions;

LARAC support the proposed exemptions. However, LARAC believes there is merit in considering extended the exemption in relation to 'multi disposal of waste' linked to the proposal to instigate LDT on waste disposed of at illegal sites. This waste is likely to still end up at a landfill site once cleared away. There is danger of applying the tax twice if its applied at the authorised landfill site as well as the charge on the obligated person who initially disposed of the waste.

Given that local authorities have a large roll in removing waste from unauthorised sites LARAC would like to see local authorities given exemptions on this form of waste.

The proposed reliefs;

LARAC would question the relief that is given to mining and quarry wastes. In the UK household waste makes up approximately 8% of the total whereas mining and quarry waste is approximately 20% of the total. With the household waste stream now heavily regulated and subject to statutory targets and fines if these targets are missed, LDT is no longer a real policy driver in that area of waste. LDT could be a real policy driver for mining and quarry waste and so LARAC does not believe that the exemption in that instance is helping to deliver environmental benefits.

The inclusion of unauthorised disposals of waste at places other than authorised landfill sites

LARA supports the reduction in the use of illegal disposal and unauthorised sites. However, this proposal may deal with the effect of such activities rather than the cause. LARAC believes the bigger deterrent to such activities is getting caught, rather than the expense if caught. LARAC would therefore like to see more proposals on how resources are going to be made available to increase the capture and prosecution of illegal waste activities alongside the recovery of such costs and using that as one deterrent.

The inspection of premises for the purposes of ascertaining a person's liability to LDT and the sharing of information between the Welsh Revenue Authority, Natural Resources Wales and local authorities;

LARAC supports the intention to work across public bodies in efforts against waste crime. The issue of resources available to local authorities needs to be raised in relation to this. Local authorities will have limited resources to respond to information requests as they focus on achieving targets within Towards Zero waste. There needs to be a recognition of this within the Bill and the arrangements that are put in place subsequently.

The duties on taxpayers to make payments and pay penalties and interest in certain circumstances

LARAC supports this concept.



How companies, partnerships and unincorporated bodies are treated in terms of the provisions and responsibility for compliance; and

LARAC has no view on this aspect of the Bill

Establishing the Landfill Communities Scheme as a grant scheme rather than a tax credit and developing it outside of the Bill

LARAC supports the concept of a grant scheme instead of a credit scheme if that does mean that more funds will be made available to the projects bidding for them. Grant schemes require a certain amount of administration and this needs to be demonstrated as more costs effective than if a tax credit scheme were in place.

As part of this change LARAC would want to see a review of current criteria for eligible projects. Whilst it is obvious that those people closest to landfill sites will be most affected by them there is a point where limiting the geographical area around a site limits the amount, usefulness and relevance of projects that can come forward for funding.

In the past projects, have covered a wide range of environmental areas and issues but LARAC feels given this is funding derived from waste activities that more could be channelled back into the resource and recycling arena to help divert more waste away from landfill sites. LARAC would therefore welcome the ability to establish elements of the funds that groups and local authorities could bid for specially to introduce new and innovative recycling schemes.

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted



National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Email: SeneddFinance@Assembly.Wales

Natural Resources Wales response to: National Assembly Wales' call for Evidence on the Landfill Disposals Tax (Wales) Bill

Introduction

1. Natural Resources Wales works to make sure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used, now and in the future.
2. We are responsible for ensuring that the waste industry complies with the regulatory regime that has been put in place so that waste does not pollute the environment or harm human health. As well as determining applications for the environmental permits that specified waste activities need, we also inspect those sites to ensure compliance and take enforcement action when needed. We take a strategic overview of waste management including monitoring the wastes that Local Authorities produce and recycle. We use a range of investigatory tools and enforcement powers in the fight against waste crime.
3. Natural Resources Wales (NRW) welcomes the opportunity to provide evidence to the Finance Committee on the Landfill Disposals Tax (Wales) Bill (the Bill).
4. Mark Drakeford the Cabinet Secretary for Finance and Local Government has confirmed that we will have a role in compliance and enforcement on LDT and are actively working with Welsh Government (WG) and the soon to be formed Welsh Revenue Authority (WRA) on what that role will be. NRW has also assessed the Bill in terms of its impact on us as an independent environmental public body.

5. We support the introduction of the Bill and are committed to using our experience to fulfil our planned role in delivering a workable system. We welcome the recognition that NRW has skills and expertise to deliver compliance and enforcement for the tax. Our existing role in environmental regulation gives us an understanding of the waste sector and how avoidance of the tax has increasingly been a driver for criminality over the last decade.
6. NRW are looking forward to working with the WRA to provide a bespoke compliance and enforcement service on Landfill Disposals Tax (LDT) in Wales. We are committed to continuing to work constructively to deliver an effective operational framework. We recognise that this must be based on operators paying the right tax at the right time but also that powers are needed to deal with those who do not.
7. We agree with the waste industry that a well-informed ‘on the ground’ presence is required for effective delivery of the tax’s requirements. In future by working in partnership with the WRA our LDT team will have delegated access to tax related information about activities at permitted sites which we do not currently have. This pooling of information between NRW and the WRA will provide a picture that is currently not available to NRW or Her Majesty’s Revenue Collection (HMRC) who currently collect Landfill Tax in England and Wales. We understand that when this sharing was done in Scotland, the information on the environmental and tax aspects of the landfill sites provided significant scope for further investigation.
8. We welcome the application of the tax to Unauthorised Disposals (UD) as a deterrent to those operating without the right controls being in place. We are sharing our experience of the difficulty of identifying and prosecuting offenders under environmental legislation with the WRA. We are also working with Welsh Government’s Waste Regulation Branch to strengthen our existing powers.

The general principles of the Bill and the need for legislation

9. Landfill tax is a behavioural tax which over the last twenty years has successfully diverted waste from landfill and into being reused, recycled or recovered. Its success ultimately leads to decreasing input into landfill sites, so its aim is not to raise revenue. The consequences of this Bill not being approved are not confined to a loss of revenue for Wales – if the collection of the tax was switched off by HMRC and not collected in Wales, it would also remove a tool to continue on the trajectory to reach Zero waste in Wales in 2050 and deliver the objectives of Sustainable Management of Natural Resources. Wales could also see an influx of waste to be landfilled without tax from elsewhere, which would quickly fill available landfill space in Wales.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;

10. The operators of permitted landfills are used to the principle of landfill tax payments, and as the regulatory impact assessment states, the transitional costs to LDT will be relatively small. However if HMRC apply the changes to Landfill Tax they have planned in April 2017 to sites in Wales, there will be two sets of changes that would need to be made and there could be resistance or confusion. The RIA could usefully take account of this.
11. Over the last twenty years the Landfill Tax escalator has increased the tax for standard rated wastes from £7 per tonne to its current level of £82.60. As well as diverting the right wastes away from landfill, this has driven a related increase in illegal activity where wastes are mis-described to attract the lower rate (£2.60) or tipped illegally to avoid tax and landfill disposal charges altogether. We welcome the introduction of LDT to UD as this will be another tool in the fight against Waste Crime, but recognise that changing the behaviour of the criminal section of the waste industry is difficult.
12. The reduction in tax revenue from Authorised Disposals (AD) will continue but the level of revenue from UD is unknown. The effect of the change in regulatory intervention may be to drive more waste to AD or to increase income by reducing mis-description.
13. We are expecting that there will be a further consultation this year on whether WRA should be provided with criminal powers in addition to their civil powers. We will respond to this further consultation, but want to flag here that we fully support the application of criminal powers. There will be occasions when NRW's criminal powers cannot be applied, and there may be a risk that the WRA will not have the powers they need to effectively investigate. There will frequently be cases where LDT avoidance or evasion will happen at the same sites where there are also environmental offences – though there will also be cases where no environmental offences are taking place e.g. avoidance of tax at a permitted site by driving past the weighbridge. We will continue to advise on what powers are needed to ensure we have the right LDT regulatory interventions in those cases.

Whether there are any unintended consequences arising from the Bill

14. Having seen the reporting around the Bill's launch, it is clear that expectations about how the LDT will be applied to smaller unauthorised disposals (known as fly-tipping) need to be carefully handled. We and the Welsh Local Government Association are clear¹ about who deals with which type of UD and that we both have a role to play. The Cabinet Secretary Mark Drakeford has stated that NRW

¹ <http://gov.wales/topics/environmentcountryside/epq/cleanneighbour/flytipping/protocol/?lang=en>

and Local Authorities should receive a share of the additional revenue brought in from UD to fund resource on that work area. This is welcome, but again may raise expectations so we look forward to discussing how that incentivisation will work in practice.

The financial implications of the Bill (as set out in Chapter 6 of the Explanatory Memorandum);

15. There are fiscal pressures on all public services, and not having the right resources available would be a barrier to this being an effective regime.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of the Explanatory Memorandum);

16. There are numerous references to subordinate legislation within the Bill, both where additional provision or detail is to be provided at a future date, and the ability of Regulations to be made to amend the current provisions of the Bill. The ones that are of most relevance to NRW are around the provision of criminal tax powers, what qualifying material is, and the Loss on Ignition test criteria. We welcome the opportunity to work with WRA to deliver this within the constraints of resources provided.
17. It is important that the legislation can be amended to reflect changes in objectives or taxpayer behaviour and the Bill as drafted also provides for this. The cumulative effect of the potential for change on both taxpayers and regulators needs to be recognised. Looking forward it will be important that there is a commitment to maintain a consolidated version of the Act and Regulations so that the aim of achieving clarity is delivered.

Whether the Welsh Government's principles for the development of devolved tax policy and legislation have been followed

**Be fair to businesses and individuals who pay them;
Be simple, with clear rules which seek to minimise compliance and administration costs;
Support growth and jobs that in turn help tackle poverty; and
Provide stability and certainty for taxpayers.**

18. These principles appear to have been followed, and we are confident that they will be revisited throughout the development of the subordinate legislation, the related guidance and the transitional provisions.

The definition of a 'taxable disposal' and 'qualifying materials';

19. Environmental controls are needed for wastes that are not required for products. This is because wastes may have become contaminated, or no longer suitable for their original use so their value to the holder is reduced or removed. Deciding whether a substance or object is a waste or not, is often obvious (e.g. the contents of the bin a

householder puts out for collection), but sometimes it is not (e.g. soil from an excavation being used for landscaping).

20. This assessment of domestic and European case law and guidance to reach a decision is known as 'definition of waste'. It is relevant to LDT as our experience over the last decades tells us that a definition of waste challenge is likely to be one of the responses of the operator of an unauthorised site receiving a charging notice. In the same way, the operator of an authorised site may decide that a material being used to create a screening bund is not waste, and therefore want to avoid an LDT charge.
21. The Bill could be tested in law, which will inevitably be resource intensive. If there is an argument that a material is not waste, then that will probably need to be addressed through the judicial system before an LDT charging notice can be pursued. The prioritisation of LDT cases will need to be strategically reviewed and resourced. We will continue to work to ensure that expectation is managed about the delivery of revenue from UD.
22. The list of specified landfill activities in Section 8 of the Bill has been decoupled from the definition of a 'taxable disposal' in Section 3, but could reduce or remove the number of challenges at authorised sites when compared to those currently received by HMRC. We will need to monitor the effect of this to ensure that authorised sites are not disincentivised to reuse or recover waste in the operation of the site.
23. The list of qualifying materials is to be provided in subordinate legislation and so we will respond at that point.

The provisions on how the tax will be calculated including the taxable weight of material and the discount in respect of water content;

24. We currently have no information about what exemptions have been claimed or approved by HMRC, but see this being an early area of discussion with those currently claiming them.

The implementation of tax rates and whether these retain the flexibility to deal with subsequent changes at a Wales and UK level;

25. We agree that rates should initially be set in Regulations. To ensure that any changes are appropriately considered it would be useful to know in advance, the criteria that any proposed changes will be assessed against or subject to.

The proposed exemptions;

26. There is one new exemption 'multiple disposals of materials at the same site' which is required to address the changes made in section

8 on what landfill site activities are to be treated as taxable disposals. The other exemption on pet cemeteries is consistent with the existing exemption.

The proposed reliefs;

27. The majority of the existing exemptions have been recategorised as reliefs and this does not change the regulatory impact. We welcome the scrutiny being applied to the approval of the type and quantity of waste to be used in restoration.

The inclusion of unauthorised disposals of waste at places other than authorised landfill sites;

28. NRW welcome this inclusion. However our experience as a regulator is that we anticipate challenge here on whether the material disposed of is a waste.

The inspection of premises for the purposes of ascertaining a person's liability to Land Disposals Tax and the sharing of information between the Welsh Revenue Authority, Natural Resources Wales and local authorities;

29. We are working with WG on the powers that we believe are necessary for the successful delivery of the compliance and enforcement of LDT. We will be responding to the future consultation on the provision of criminal powers.
30. The provision for sharing information is contained in Section 59 and appears to be an option ('may disclose') rather than an obligation to do so. That said, NRW will have an information sharing agreement as part of its working arrangements with the WRA.

The duties on taxpayers to make payments and pay penalties and interest in certain circumstances;

31. These are civil powers which will be delivered by the WRA, who will monitor their effectiveness in practice.

How companies, partnerships and unincorporated bodies are treated in terms of the provisions and responsibility for compliance; and

32. NRW will need to monitor the effectiveness of these provisions in practice, as we review the detail of the information submitted.

Establishing the Landfill Communities Scheme as a grant scheme rather than a tax credit and developing it outside of the Bill.

33. The proposed scheme appears to deliver cost effectiveness. As the funding for the scheme will be top sliced from total LDT revenue (including tax from UD) then it seems to us to be appropriate for communities that meet the same criteria around UD sites to be eligible to bid. This may also encourage communities to report such activities to us. The inclusion of transfer stations is welcomed.

34. NRW's role will be limited to validating the data on the sites i.e. that transfer stations are sending more than 2,000TPA to landfill and we will do this using existing records.

NRW's role

35. NRW have a unique role in delivery of LDT in Wales as it is the only organisation to whom the WRA is proposing to delegate its powers under the TCMA. We are members of the Operational Policy Project Board and the Technical Experts Group, and there is a plan to have a senior representative on the Programme Board.
36. We will agree with WRA in an annual Memorandum of Understanding (MOU) how the LDT team's resources are targeted, which will be set out and monitored formally. The MOU will also set out how we will resolve issues. We are working closely with the Treasury Team and the WRA Programme to check that based on our experience, the operational outcomes can match their policy objectives.
37. NRW has an existing enforcement policy that targets resource based on environmental risk. To ensure that this role is not compromised, our intention is to confine our LDT duties, powers and resources to an entirely separate team within NRW.
38. We foresee the need for a strategic overview of how LDT investigations or Enquiries (within the meaning of sections 43 - 49 of the TCMA) are managed to ensure that our ability to deliver our roles is not compromised. The three roles are (i) NRW as an environmental regulator; (ii) WRA as the revenue authority and (iii) NRW as delivering LDT compliance and enforcement. We welcome the commitment to setting up a 'Governance' group.

I trust you will find these comments useful. If you have further queries relating to them, please contact Clare McCallan Landfill Disposals Tax Project Manager [REDACTED]

Yours faithfully

Ceri Davies
Executive Director for Evidence, Policy and Permitting

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted



yn rhoi giving
cartref i nature
fyd natur a home

Evidence submitted by RSPB Cymru to the Inquiry of the Finance Committee into the general principles of the Landfill Disposals Tax (Wales) Bill

January 2017

The RSPB is the country's largest nature conservation charity. The RSPB works together with our partners, to protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations. The RSPB has over 1 million members, including more than 51,000 living in Wales.

Specific responses to terms of reference for the inquiry

For the purposes of this call for evidence, we restrict our comments to Annexe 1 questions numbered: 1, 3, 4, 5, 12, 13 and 16.

Section numbering relates to annexe question numbers. Numbers in brackets refer to numbering in the Explanatory Memorandum November 2016 that accompanies the Landfill Disposals Tax (Wales) Bill.

Q1. The general principles of the Bill and the need for legislation;

1.1 Explanatory Memorandum to the Bill paragraphs (3.7) & (7.11). The RSPB welcomes the Landfill Disposals Tax (Wales) Bill and agrees that a replacement Landfill Tax is desirable to continue to drive good behaviour around waste recycling and re-use.

1.2 However, as it stands the Bill needs greater clarity before it can be read with confidence as a legal delivery mechanism for Landfill Disposals Tax especially in relation to how Landfill Disposals Tax revenues (LDT) are apportioned to the Landfill Disposals Tax Communities Scheme (LDT CS). We therefore welcome this opportunity to submit evidence to the Finance Committee stage 1 scrutiny of the legislation. We would welcome the opportunity to elaborate on the issues outlined in this paper in oral evidence sessions.

1.3 Whilst accepting the need for a coherent Bill, we are concerned that whilst there is provision for tax credits to be applied (Page 27 of the Draft Landfill Disposals Tax (Wales) Bill: Part 5, Supplementary Provision, Chapter 1, Tax Credits, Paragraph 53 - Power to make provision for tax credits) there is no specific reference or link between the entitlement to credit and the use of those credits as there is in the existing UK Landfill Tax regulations of 1996 (Part VII Credit: Bodies Concerned with the Environment).

1.4 We believe that if Landfill Disposals Tax is to fund this scheme, that it should be clearly referenced for transparency and to safeguard this funding mechanism. See response to Q.16 below for further points around this topic.

1.5 RSPB Cymru supports the intention behind Wales's Towards Zero Waste Strategy (2010) and the drive towards an environmentally sustainable Wales where waste use is minimised and everyone uses only their fair share of resources.

1.6 Such an approach is consistent with the principle of sustainable development as set out in the Well-being of Future Generations (Wales) Act 2015 (WFGA)¹. This principle includes working in a way which considers the Long Term, Prevention, Integration, Collaboration and Involvement. Goal 1 of the WFGA refers to a society which 'recognises the limits of the global environment and therefore uses resources efficiently and proportionately'. This is consistent with the overarching principles of the UK shared framework, which specifically requires policy to adhere to "living within environmental limits"².

1.7 'A biodiverse natural environment with healthy, functioning ecosystems' is one of the Wellbeing Goals that public bodies, including the Welsh Government, must contribute to achieving in line with their WFGA sustainable development duty. In addition, the Environment (Wales) Act 2016 places a duty on public bodies, including the Welsh Government, to maintain and enhance biodiversity³ and in so doing promote the resilience of ecosystems. This is intended to place biodiversity as a natural and integral part of policy and decision making (Environment (Wales) Bill Explanatory Memorandum).

1.8 Whilst the practice of landfill is in existence and taxation and other policies are securing its phasing out, we strongly support the existence of a Landfill Disposals Tax Communities Scheme, which hypothecates tax raised from an environmentally damaging activity for projects that benefit the environment, including biodiversity. Such a scheme would be in keeping with the purpose of the legislation, and help the Government to deliver on the legal obligations set out above.

1.9 The RSPB welcomes the intention to set tax rates to help deter waste tourism and reduce carbon footprint and emissions generated by unnecessary transportation of waste as noted in Explanatory Memorandum to the Bill paragraph (3.9). If Welsh Landfill Tax rates are not comparable when introduced this would become the cheapest option for waste disposal and would not result in the behavioural change desired in reducing waste to landfill. A lower rate of tax compared to England could result in 'waste tourism' and increased transportation of waste into Wales. This will cause an increase in the disamenity to local communities due to higher levels of noise and pollution and increase of carbon emissions.

Q3. Whether there are any unintended consequences arising from the Bill

3.1 We note that The Cabinet Secretary for Finance and Local Government has confirmed that for LDT the Landfill Communities (Environmental Bodies) Credit arrangements will not be delivered as a tax credit and therefore will not be required

¹ <http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/323193/Guiding_principles_for_SD.pdf

³ Biodiversity and resilience of ecosystems duty, section 6 of Environment (Wales) Act 2016.

to be made in legislation. We are concerned that this detachment will lead to less transparency regarding the grants scheme and levels of funding within it. See Q16.

Q.5 The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of the Explanatory Memorandum):

5.1 We note that Table 4: section 14(3) page 51 of the Explanatory Memorandum allows Welsh Government to vary tax rates to determine the amount of revenue to be raised to invest in public services. We are concerned that there is now no link between the Landfill Disposals Tax and the Landfill Disposals Tax Communities fund - how will funding levels for the new fund be determined and protected?

Q12. The inclusion of unauthorised disposals of waste at places other than authorised landfill sites:

12.1 RSPB Cymru welcomes the intention to introduce the charging of landfill tax on unauthorised disposals as outlined in Explanatory Memorandum to the Bill paragraph (3.8). We agree that charging tax on unauthorised disposals is desirable as this should help deter environmental pollution and reduce costs associated with managing waste crime.

Q13. The inspection of premises for the purposes of ascertaining a person's liability to LDT and the sharing of information between the Welsh Revenue Authority, Natural Resources Wales and local authorities:

13.1 We note at (3.92) in the Explanatory Memorandum there is an intention to keep a register of those persons responsible for paying tax on taxable disposals. If there is to be a continued correlation between the landfill site and eligible projects – full postcodes will be needed on any register of authorised sites (or grid references) so that proximity can be determined. We recommend that as well as a list, **eligible** Welsh landfill site locations are clearly identified online within the NRW mapping system. at: <http://naturalresources.wales/our-evidence-and-reports/maps/find-details-of-permitted-waste-sites-in-wales-1/?lang=en>

This will allow potential beneficiaries of the LDT CS to more easily check eligibility especially where distances are borderline.

Q.16 Establishing the Landfill Communities Scheme as a grant scheme rather than a tax credit and developing it outside of the Bill. (see Chapter 4 for more background).

16.1 The RSPB welcomes the confirmation at (3.45) in the Explanatory Memorandum that there will be arrangements for a Landfill Disposals Tax Communities Scheme to replace the current UK Landfill Communities Fund, as this is an important source of funding for community and biodiversity projects.

16.2 However, we are concerned that as the LDT CS will not be delivered as a voluntary tax credit and made into legislation within this Bill, that the link between the two will not be transparent. For example - how will the fund value be determined eg at present UK HMT set % rate at Budget as part of Finance Bill?

16.3 We agree that steps need to be taken to reduce administration costs and maximise the amount of funding reaching projects. We recommend that during the procurement of the single distributive body for the LDT CS levels of administrative costs are in line with similar schemes eg 5% for National Lottery bodies and 7.5% for LCF Distributive Environmental Bodies.

16.4 Distribution of funds must be fair and transparent. Currently applicants can apply to a number of funders at the same time (depending on where their priority projects occur) and we would like to see this principle continued – otherwise it will mean a reduction in funding for biodiversity projects across Wales.

16.5 The RSPB have a great deal of experience in this Fund and we look forward to being involved further in the development of the administrative model. We have been closely involved in the Scottish Government's approach and applaud their decision to increase the proportion of Scottish Landfill tax which can be given community funds to 10% to increase the funding available for environmentally sound projects.

16.6 RSPB Cymru is pleased to note that the new LDT CS will support biodiversity in line with concerns raised during the consultation for the Bill. Object DA of the current UK Landfill Communities Fund (LCF) is one of the few funding streams still currently available for 'pure' biodiversity projects. Reducing or removing the LDT CS would make it even more difficult for the Welsh Government to meet the international target to halt and reverse the loss of biodiversity and deliver against Wales' Nature Recovery Plan.

16.7 The UK LCF has supported practical conservation delivery on the ground through projects such as 'Magical Malltraeth', an RSPB Cymru initiative funded through WREN (Waste Recycling Environmental Ltd) to create the largest reedbed in North Wales, improving habitat for a range of species such as bittern and rare plants. Such funding not only supports nature, but helps to build healthy ecosystems, a central objective of the Environment (Wales) Act and a goal of the WFGA, which recognise the benefits our natural resources and ecosystems provide to people.

16.8 In addition to supporting healthy ecosystems and the benefits they provide, the current LCF has directly enabled the creation of green growth within the Welsh economy through projects such as the creation of the indoor learning and events space at RSPB Conwy nature reserve. In 2005/06 the creation of a new facility at RSPB Conwy not only safeguarded two full time and six part time posts, but in addition created two full time and three part time posts, as well as a wealth of new volunteer opportunities due to the expansion in activities and events on offer at the reserve. Visitor numbers to the site almost doubled within 2 years, encouraging indirect spend within the Welsh economy too. 69% of visitors in peak season and

63% in off peak visit to enjoy the landscape/countryside/beach⁴. LCF funding for biodiversity helps to maintain and improve this vital part of the Welsh tourism offer for this key Welsh industry.

16.9 As mentioned above, this fund has great potential as a means of the Welsh Government delivering on its sustainable development duty (under the WFGA) and its 'biodiversity and resilience of ecosystems duty' under the Environment (Wales) Act. The need to build the resilience of ecosystems for biodiversity and human benefit is clear within the current consultation to inform the development of Wales' Natural Resources Policy (required under the Environment Act). 'Green growth' is set out within this document as a key priority.

Summary

The RSPB strongly supports the principles of the Welsh Government's Towards Zero Waste Strategy and the continuation of a tax on landfill disposals is a welcome and positive contribution to achieving the aims of this strategy, when the power is devolved in 2018.

The RSPB also welcomes the confirmation of a Landfill Disposals Tax Communities Scheme, to replace the current UK Landfill Communities Fund, which hypothecates tax raised from an environmentally damaging activity for projects that benefit the environment, including biodiversity. Such a scheme would be in keeping with the purpose of the legislation, and help the Government to deliver on the legal obligations within the Wellbeing of Future Generations and Environment Acts.

However, we believe that if Landfill Disposals Tax is to fund this scheme, that it should be clearly referenced within the legislation, both for transparency and in order to safeguard this funding mechanism.

We are concerned that there is now no link between the Landfill Disposals Tax and the Landfill Disposals Tax Communities fund. Welsh Government will be able to vary tax rates to determine the amount of revenue to be raised to invest in public services, but it is not clear how funding levels for the new fund will be determined or protected. If not specifically referenced within this legislation the funding could quickly disappear.

Object DA of the current UK Landfill Communities Fund (LCF) is one of the few funding streams still currently available for 'pure' biodiversity projects. Reducing or removing the LDT CS would make it even more difficult for the Welsh Government to meet the international target to halt and reverse the loss of biodiversity and deliver against Wales' Nature Recovery Plan.

RSPB Cymru supports the need for simplification regarding the administration of the LDT CS but is concerned that the disconnection with this legislation could lead to less control over how funding levels for the new fund be determined and protected?

⁴ <http://gov.wales/docs/caecd/research/2014/140523-visit-wales-off-peak-visitor-survey-2013-14-staying-visitors-summary-en.pdf>

As a general concept, so-called 'green taxes' are welcome. The Welsh Government could make greater use of fiscal measures to achieve environmental policy objectives and this opportunity could be the exemplar to follow.

While landfill still exists, and the tax is 'driving down' quantities, the continued existence of a Landfill Disposals Tax Communities Scheme to give operators credits for dispersing funds to environmental projects is important.

All public finances must be transparent and well-regulated. However, with many recipients of these funds being charities, it should be possible to use existing regulatory/auditing functions, and ensure that the use of the funds is appropriately monitored and reported on.

It is right that the use of taxes on an environmental 'bad' should be used to deliver benefits, in the form of an environmental 'good', "in the vicinity of" the 'bad'. However, given Wales's geography and the distribution of its biodiversity, there is a need to be flexible about how eligibility is determined.

The LDT CS must continue to allow multiyear projects. Reducing the length of projects means increased administration costs for both applicants and the Distributive Environmental Body plus most environmental projects need several seasons to be implemented and to carry on effective monitoring.



5th January 2017

Landfill Disposal Tax (WALES) Bill: comments from Afonydd Cymru Cyfngedig

- 1.1 **Afonydd Cymru** is the umbrella body for the six Rivers Trusts of Wales¹. These trusts are all registered charities who actively work to restore our rivers and catchments. Their work is essentially hands on restoration, using a variety of funding sources including EU, governmental grants and of relevance here, the Landfill Community Tax. In respect of the latter some of our trusts have successfully bid for and used Landfill project funding both sides of the border. These projects will have gone towards ensuring compliance with the Water Framework and Habitats Directives and restoring rivers and fisheries with wide ranging public benefit.
- 1.2 The trusts' work brings them into daily contact with waste, litter, fly tipping and simply using our rivers as conduits for plastic sacks and anything that can be thrown down a bank or over a bridge.
- 1.3 The whole concept of taxing landfill and using the benefit for both common good and via the communities scheme is one that resonates with all the rivers trusts. The issues of having the correct legislation in place and ensuring landfill regulations are workable, ie neither too onerous nor costly are clearly important to us.
- 1.4 We have read the policy intent and the Terms of Reference of the Inquiry and the various downloadable documents. The area we are competent to comment on is the Landfill Communities Scheme (LDTCS). The other aspects of the scheme seem to our layman's view, eminently satisfactory.

2 Landfill Communities Scheme (LDTCS)

- 2.1 We think the proposal to deliver funding as a grant scheme with a single distributive body is good, as are the general principles (p6)
- 2.2 Likewise the project themes seem better aligned with both need and the overall objectives of the tax than hitherto. Our next comments focus on the Biodiversity section (2.12 p7).

¹ The Wye and Usk Foundation, Severn Rivers trust, The Dee trust, Conwy, Clwyd and Gwynedd trust, Southeast Wales Rivers trust, West Wales Rivers trust

- 2.3 Geographic coverage was always a difficulty with the ten mile radius and a reduction to five might seem to target those most affected by a landfill site. Incidentally, Entrust altered or reinterpreted the regulation in respect of work to restore rivers by allowing work on any river that ran through the 10 mile zone.
- 2.4 As the 'whole catchment management' concept becomes the norm for environmental management, might it be feasible to use the presence of a landfill in any given catchment as the proximal yardstick rather than the rather arbitrary 5 mile circle? Thus the presence of a landfill site in, say for example the Cynon catchment, would enable a project anywhere within that area? The problem for Biodiversity projects is that need is not a function of proximity to landfill sites
- 2.5 Currently one of our trusts is working on a project to restore the river Arrow which crosses the border near Kington with work taking place both sides while the project is funded from landfill on the welsh side. We recommend that the consideration of cross border issues is considered: the reverse situation holds in the forest of Dean for example.
- 2.6 There is another funding source akin to landfill in Wales. This is the Aggregate Levy fund [http://www.mineralproducts.org/documents/Aggregate Levy Fund Leaflet.pdf](http://www.mineralproducts.org/documents/Aggregate_Levy_Fund_Leaflet.pdf). We wonder if this could be combined with the Landfill tax communities scheme working under the same distributive body, simplifying procedures, directing more funding to the "sharp end"?

Dr Stephen Marsh-Smith OBE
CEO Afonydd Cymru
Advisory Director Wye and Usk Foundation



The UK Environmental Law Association's Wales Working Party

Evidence Submission on the Landfill Disposals Tax (Wales) Bill

to the

National Assembly for Wales's Finance Committee

Introduction

1. The UK Environmental Law Association (UKELA) is pleased to have the opportunity to submit its views and comments to the National Assembly for Wales's Finance Committee on the contents of the Landfill Disposals Tax (Wales) Bill (hereafter referred to as 'the Bill').
2. The UK Environmental Law Association aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.
3. UKELA prepares advice to UK Governments with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared by UKELA's Wales Working Party.

Overview

4. The landfill tax is a key policy lever in the Welsh Government's objective of less than 5 per cent of waste sent to landfill by 2025, with an ultimate ambition of zero waste by 2050. As highlighted in the *Towards Zero Waste 2010–2050 Progress Report July 2015* (<http://gov.wales/docs/desh/publications/150724-towards-zero-waste-progress-report-en.pdf>), Wales has made significant and commendable progress towards these goals and while a causal link is difficult to firmly establish, it is logical to assume that the landfill tax was a contributing factor to the progress already made. The current landfill tax has operated as a successful behavioural change mechanism and UKELA fully supports its continuation in the form of a landfill disposals tax from April 2018.
5. Given the disapplication of the existing landfill tax in Wales in the near future, a 'do-nothing' approach would lead to significant funding implications for Wales resulting from lost tax revenue. More significantly from an environmental perspective, the absence of a landfill tax in Wales where one exists in England is highly likely to lead to so-called 'waste tourism', i.e. would perversely incentivise the transportation of waste from England to Wales, something which could eventually lead to the need for more landfill sites in Wales – a development which would extensively undermine the Welsh Government's waste strategy and commitment to sustainability.
6. In terms of any potential barriers to the implementation of the provisions and any unintended consequences arising from the Bill, one can take confidence from the fact that the Bill does not represent a radical departure from the existing regime under the Finance Act 1996 and associated secondary legislation. Further, where the Bill does

introduce new provisions, e.g. the extension of landfill disposal tax to unauthorised disposals of waste at places other than authorised landfill sites, this has already occurred in Scotland (following the enactment of the Landfill Tax (Scotland) Act 2014). If unforeseen problems arise in the future, the Bill contains a number of provisions which enable regulations to be made to amend the landfill disposal tax regime. As such, the Bill pays sufficient regard to the need to future proof.

7. Given the nature of UKELA as an organisation, the comments provided below relate only to the environmental aspects of the Bill, i.e. no opinion is offered on the parts of the Bill relating to the technical and administrative provisions for tax collection and enforcement. However, the extent to which the Bill is able to achieve its environmental and sustainability objectives is dependent to a significant extent on the provision of robust enforcement and inspection mechanisms and sufficiently dissuasive penalties for non-compliance.

Specific Comments

8. Definition of taxable disposal: the definition provided by clause 3 of the Bill is clear and the use of four conditions in order to determine whether a taxable disposal is made should provide a clear checklist for enforcement officers and operators of landfill sites. Clause 3 can only be fully understood by reference to clauses 4, 5 and 6, which provide definitions of the conditions provided in clause 3. The definition of 'disposal of material as waste' (cl.6) utilises the familiar concept of "intention to discard" (utilised in the EU Waste Framework Directive); historically this concept has generated litigation but is now fairly settled as a legal concept. Clause 6(2) creates an inferred intention to discard from the fact that material is deposited in a landfill disposal area; this represents a common sense approach to the issue which should reduce the scope for protracted legal argument. However, there might be cases where it is argued that the inference has been rebutted by contrary evidence.

9. Definition of qualifying materials: the Bill adopts an identical approach to the current landfill tax regime in that qualifying materials will be listed in regulations. In the interests of certainty and consistency and in order to avoid waste tourism, it is sensible to maintain a broadly similar list to the remainder of the UK.

10. The omission of a specific threshold to define ‘small quantity’ for the purposes of clause 16 (qualifying mixtures of materials) is also worthy of comment. Natural Resources Wales has argued against the use of a threshold on the basis that it would encourage less efficient methods for segregating waste and might encourage some operators to deliberately mix wastes to achieve the limit set. While there is some force in this argument, it is contended that the issue is finely balanced; the argument advanced by NRW is premised on the assumption that the threshold will be relatively high (the example given is 10 per cent), a considerably lower threshold might not be problematic. Further, requirement 3 of clause 16 provides that a mixture will not qualify for the lower rate of tax where non-qualifying materials have been deliberately mixed with qualifying material. In theory, this provision would alleviate the problem of operators mixing wastes up to the threshold (although issues of evidence and proof would arise). Finally, a threshold approach would be more objective than the current use of the ambiguous test of ‘small quantity’. Ultimately, UKELA will support the approach which has the greatest potential to reduce landfill. As such before any future regulations designed to introduce a threshold (as provided for by clause 16(3)) are enacted, we would advocate the development of an evidence base to ascertain how the ‘small quantity’ test is administered in practice.

11. The inclusion of unauthorised disposals of waste at places other than authorised landfill sites: UKELA welcomes the extension of the landfill disposals tax regime to cover disposals of waste at non-landfill sites. The stated purpose of the extension is to deter those who attempt to

evade the landfill disposal tax by altering the balance of financial risks and rewards. The new provisions are only likely to produce an enhanced deterrent effect if backed up by meaningful enforcement activity, thereby increasing the likelihood of apprehension. In terms of the approach taken by clause 46, the use of presumptions in cases of persons who controlled a motor vehicle from which the disposal is made and owners, lessors etc of the land on which the disposal is made is a pragmatic solution to the problems which might otherwise arise in proving that a person has knowingly caused or knowingly permitted a disposal to be made.

12. The establishment of the Landfill Communities Scheme: the Welsh Government has stated that the new grant scheme is intended to maximise the amount of funding reaching projects. However, the extent to which funding levels to community and environmental projects is maintained (and hopefully increased) is dependent on the political will and funding priorities of the Welsh Government. In order to avoid funding levels changing in accordance with political vagaries, we would advocate a statutory duty to allocate a certain percentage of the revenue generated by the landfill disposals tax to the Landfill Communities Scheme. On practical level, the new proposed streamlined distribution process is welcomed as a means of reducing administrative burdens.

Dr Patrick Bishop

Finance Committee

Consultation: Landfill Disposals Tax (Wales) Bill

Email: seneddfinance@assembly.wales

Evidence Session: Thursday 19 January



Establishing the Landfill Communities Scheme as a grant scheme rather than a tax credit and developing it outside of the Bill.

SUMMARY

- Wildlife Trusts Wales support the development of a **Landfill Disposals Tax Communities Scheme** as a continuation of, replacement for, the Landfill Community Fund.
- We **strongly support** a scheme that hypothecates tax raised from an environmentally damaging activity for projects that benefit the environment, including biodiversity.
- As is widely reported, we are in a state of major and continuing decline in wildlife and ecosystem resilience.
- The current Landfill Community Fund is **excellent value for money** as wildlife projects deliver multiple benefits and thus the LCF **punches far above its weight**.
- **Landfill Disposals Tax Communities Scheme** like its predecessor is one of the only pure biodiversity funds as such it is an important mechanism for Wales to meet the its moral and legal obligations to halt the loss of biodiversity (i.e. Section 6 and 7 of the Environment (Wales) Act 2016).
- It is vital for the success of conservation projects to have funders who can commit to funding long term projects (3-5 years).
- The Bill requires greater clarity and transparency in relation to how LDT revenues are apportioned to the LDT CS in order to safeguard this important funding mechanism e.g. how will funding levels for the new fund be determined and protected?
- We recommend the Bill highlights that there should be an even spread of resources targeted at the three key areas to avoid being monopolized by one theme.
- There also should be expert advice given by the EDB to maximize the multiple benefits e.g. environmental enhancements must use volunteers and creation of biodiverse green spaces.
- Given the multiple benefits that the **Landfill Disposals Tax Communities Scheme** will achieve, and the current progressive agenda in Wales, **we would welcome a higher percentage of tax returns be diverted towards this scheme. We believe that at least 15-20% would be suitable.** This figure would help Wales achieve the vision set out in the Well-being of Future Generations (Wales) Act 2016 and lead the rest of the UK e.g. as England's current rate is 4.2% and Scotland's is 10%.
- We support the aim to simplify the administration of the scheme and maximise the amount of funding reaching community projects.
- Given our extensive experience, Wildlife Trusts Wales will put ourselves forward as the Environmental Distributive Body.

1 - INTRODUCTION

1. Wildlife Trusts Wales (WTW) represents the six Wildlife Trusts in Wales – Brecknock, Gwent, Montgomeryshire, North Wales, Radnorshire and South and West Wales (hereafter referred to as the 'Wildlife Trusts') working together in partnership to achieve common aims. The Wildlife Trusts collectively speak on behalf of more than 24,000 members and manage over 200 nature reserves, covering more than 8,000 hectares of prime wildlife habitat, from rugged coastline to urban wildlife havens.
2. Nature is fundamental to everyday life; it provides the air we breathe, the food we eat, the fuel we use for warmth, and the resources we consume for shelter and modern life. Nature and people are not separate; nor

is nature separate from our economy. Without a healthy environment, society cannot be resilient – but for nature to look after us, we need to look after nature.

3. The Wildlife Trusts in Wales strive for **Living Landscapes** and **Living Seas**, recognising these as inspirational ends point where our environment, society, and economy coexist for the benefit of wildlife and people.
4. Wildlife Trusts Wales took an active part of the consultation on the Landfill Disposal Tax (LDT) consultation. Specifically, we were supported the development of a **Landfill Disposals Tax Communities Scheme** (LDT CS) as a continuation of, replacement for, the Landfill Community Fund (LCF).
5. We strongly support a scheme that hypothecates tax raised from an environmentally damaging activity for projects that benefit the environment, including biodiversity.
6. Many of our members took an active part of the consultation as well as our ambassador, Iolo Williams. **More than half the 279 respondents provided views about LCF, including 138 letters from Wildlife Trusts Wales members calling for the continuation of the LCF to support biodiversity projects.**
7. However, **the Bill requires greater clarity and transparency in relation to how LDT revenues are apportioned to the LDT CS** in order to safeguard this important funding mechanism.
8. We support the aim to simplify the administration of the scheme and maximise the amount of funding reaching community projects. We are currently working with Welsh Government and other stakeholders including landfill site operators and the third sector to develop the scheme.
9. We will also put ourselves forward as the streamlined and cost effective Environmental Distributive Body (EDB), given our extensive experience as
 1. an EDB for the LCF (i.e. BIFFA and the Ulster Landfill Community Scheme) and similar funds (i.e. Co-operative carrier bag levy, Peoples Postcode Lottery).
 2. advisor to other Environmental Distributive Bodies (i.e. WREN, SITA)
 3. Local sector knowledge including communities, environment, volunteering).

2 - LANDFILL COMMUNITIES SCHEME

10. As is widely reported¹², we are in a state of major and continuing decline in wildlife and ecosystem resilience, such as
 - 60% of the species in the UK having declined over recent decades.
 - **More than one in ten of all the species in the UK are under threat of disappearing from our shores altogether.**
 - The diversity is declining in Wales, which is shown by loss of habitats and species.
 - The 'extent' of some habitats in Wales has also declined significantly.
 - 'Condition' shows mixed results, while 'connectivity' has greatly reduced in Wales
 - All ecosystems in Wales have problems with one or more attributes of resilience. This means that their capacity to provide ecosystem services and benefits may be at risk.
 - No ecosystem in Wales can be said to have all the features needed for resilience
11. The LCF is one of the few funding streams for 'pure' biodiversity projects. **Biodiversity funding as a whole is significantly underfunded³**: a key factor in Wales failing to hit the 2010 target to halt the loss of biodiversity).

¹ The State of Natural Resources Report (SoNaRR) 2016 <https://naturalresources.wales/our-evidence-and-reports/the-state-of-natural-resources-report-assessment-of-the-sustainable-management-of-natural-resources/?lang=en>

² The State of Nature Report <http://www.wildlifetrusts.org/news/2013/05/22/state-nature-60-uk-species-decline-groundbreaking-study-finds>

12. LDT CS, like the current the Landfill Communities Fund (LCF), will be an important mechanism for Wales to meet the challenges above and moral, legal and policy obligations, for example;
- **Wildlife and Countryside Act 1981** (as amended) - Section 28G states that Welsh Government has a: *“duty ... to take reasonable steps, consistent with the proper exercise of the authority’s functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest ”*
 - **EU Habitats Directive** - Article 6(1) makes provision for the establishment of necessary conservation measures, and is focused on positive and proactive interventions (including designating and managing SACs). Article 6(2) makes provision for avoidance of habitat deterioration and significant species disturbance.
 - **Environment (Wales) Act 2016**
 - i. **Section 6 - Biodiversity and resilience of ecosystems duty** places a duty on public authorities to *‘seek to maintain and enhance biodiversity’ so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to ‘promote the resilience of ecosystems’.*
 - ii. **Section 7 - Biodiversity lists and duty to take steps to maintain and enhance biodiversity** *“The Welsh Ministers will publish, review and revise lists of living organisms and types of habitat in Wales, which they consider are of key significance to sustain and improve biodiversity in relation to Wales...The Welsh Ministers must also take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, and encourage others to take such steps”.*
 - **Well-being of Future Generations (Wales) Act 2015** goal, a Resilient Wales, which states *“A nation which maintains and enhances a biodiverse natural environment with healthy, functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change)”.*
 - **Environment Strategy for Wales** – states that we should have all statutory designated sites (such as Sites of Special Scientific Interest (SSSIs) and Special Areas for Conservation (SACs)) in **favourable condition** by 2026⁴.
 - **EU Biodiversity Strategy** aims to **halt the loss of biodiversity and ecosystem services** in the EU and help stop global biodiversity loss by 2020. It reflects the commitments taken by the EU in 2010, within the international Convention on Biological Diversity.
13. Much of LCF is currently used to fund the restoration of nationally and internationally important sites and species (see **section 5**) (and with it the multiple benefits that brings⁵⁶ as highlighted below⁷). Thus, helping the Welsh Government meet its legal and moral duties to conserve and enhance biodiversity.
14. As such, WTW responded to the consultation and advocated that
- Welsh Government should continue using the Landfill Disposals Tax to maintain the LCF
 - The specific focus of the fund should be dedicated to biodiversity delivery,

³ Environmental causes receive just 3% of public charity donations compared to Medical research (20%) and Children (15%) - CAF/NCVO 2009.

⁴ Welsh Government (2006) Environment Strategy for Wales www.wlga.gov.uk/download.php?id=3972&l=1

⁵ Living Landscapes Cymru 2020 http://www.wtwales.org/sites/default/files/living_landscapes_cymru_2020.pdf

⁶ Green Infrastructure: A Catalyst for the Well-being of Future Generations in Wales - http://www.wtwales.org/sites/default/files/green_infrastructure.pdf

⁷ The Economics Benefits of Natura 2000

<http://ec.europa.eu/environment/nature/natura2000/financing/docs/Economic%20Benefits%20Factsheet.pdf>

- Given the multiple benefits that the LCF achieves, and the current progressive agenda in Wales, we would welcome a higher percentage of tax returns be diverted towards this scheme. We believe that at least 15-20% would be suitable. This figure would help Wales achieve the vision set out in the Well-being of Future Generations (Wales) Act 2016 and lead the rest of the UK e.g. as England's current rate is 4.2% and Scotland's is 10%.

3 - ADMINISTRATIVE MODEL

Distributive Environmental Body

15. Considering the number of landfill sites in Wales is reducing to 10, and thus contributions to the LDT CF will significantly reduce, the Wildlife Trusts Wales agree that there should be one **Distributive Environmental Body (DEB)** in Wales. This will help cut down administration and therefore more money should be directed at good causes.
16. We recommend that the one DEB is Wildlife Trusts Wales. The Wildlife Trusts have a lot of expertise in delivering such grants including LCF, for example,
 - BiffaAward is managed by the Royal Society of Wildlife Trusts (RSWT);
 - Ulster Wildlife Trust is the DEB for several local councils and independent landfill operators.
 - WTW is a member of, and advisor to, the SITA and WREN Wales LCF funding panels.
 - WTW currently distributes the Co-operative single use carrier bag levy, and the Peoples Postcode Lottery contributions to the 6 regional Wildlife Trusts in Wales.
17. We also have local sector knowledge including communities, environment, volunteering i.e. we have over 2000 active volunteers in Wales working on community environmental well-being projects.
18. We believe this model will provide Welsh Government and stakeholders with
 - clear assurance
 - a proper governance framework (as we are subject to both company and charity law),
 - reduced and streamlined administrative costs.
19. We recommend that administrative costs are the same for the current EDBs which is 7.5%. It will also ensure there is an easier application process, providing applicants with a single point of contact.

Definition from landfill sites

20. We agree with the widening of the definition from landfill sites to '*landfill sites and related activities (such as depots and transfer stations)*'.

Grant timescales

21. It is vital for the success of conservation projects to have funders who can commit to funding long term projects (3-5 years). This is to allow
 - time for habitats to mature,
 - species to breed
 - allow project officers and volunteers the flexibility to work with appropriate seasons.

4 - THE BILL

22. **Transparency** - The Bill requires greater clarity and transparency in relation to how LDT revenues are apportioned to the LDT CS in order to safeguard this important funding mechanism.

23. As there is now no link between the LDT and the LDT CS – we would like to know how will funding levels for the new fund be determined and protected?
24. **Equity** – We recommend the Bill highlights that there should be an even spread of resources targeted at the three key areas
- Biodiversity
 - Waste Minimization
 - Environmental Enhancements
25. This is so that the fund is not monopolised by one theme or totally taken up by expensive activities such
- maintaining or improving community facilities, for example community halls roofs which can be very expensive
 - recycling of waste
26. **Maximized Benefits** - There should be also be expert advice given by the EDB to maximize the multiple benefits e.g. environmental enhancements must use volunteers and create biodiverse green spaces.

5 - MULTIPLE BENEFITS

27. The LCF is **excellent value for money** as wildlife projects deliver multiple benefits as such it **punches far above its weight**.
28. By targeting biodiversity and create wildlife friendly community green spaces and supporting green infrastructure, it delivers against all the goals of the **Well-being of Future Generations Act**.

A Prosperous Wales

29. **Match Funding** - Wildlife Trusts and other conservation organisations are able to use the current LCF to **unlock significant match funding** from other sources (e.g. WREN funding for North Wales Wildlife Trust's Anglesey Grazing Animals Partnership unlocked over £100,000 pounds from other sources).
30. **Poverty alleviation** - The LCF also helps to relieve poverty. Poverty is not simply the result of low income, but also reflects a deprivation of basic human requirements for well-being including access to high-quality greenspace⁸. The poorest populations are the most dependent on the 'ecosystem services' we get from nature (e.g. flood alleviation, mental and physical health benefits) and therefore suffer first and most severely from its degradation⁹.
31. LCF wildlife projects also **address additional root causes of poverty** through **training and job creation**. For example, many of the biodiversity projects funded by the LCF are delivered through a combination of
- a) newly employed conservation staff,
 - b) local contractors
 - c) locally recruited volunteers - thousands of hours of volunteer time, helping people gain valuable skills, confidence, and health and well-being benefits
32. For example, the Biffa Funded Pentwyn Meadows Project spent approximately £20,000 on local contractors over 2 years (roughly about half the project costs). Many of the contractors are also small farmers who rely on contract work to supplement their income.

⁸ United Nations, Convention of Biological Diversity – report on Biodiversity for Development and Eradication of Poverty <https://www.cbd.int/undb/media/factsheets/undb-factsheet-development-en.pdf>

⁹ **Ecosystem Services for Poverty Alleviation (ESPA)** Human dependence on ecosystem services - can quantifying it help fight poverty? <http://www.espa.ac.uk/news-events/espa-blog/human-dependence-ecosystem-services-can-quantifying-it-help-fight-poverty>

33. Many of the volunteers are not in **education or employment (NEETS)** but have receive training through the biodiversity projects, thus making them more employable. Volunteering on nature reserves also instils confidence and a sense of pride.
34. **Address the symptoms of poverty** – The LCF wildlife projects use volunteers to help restore and enhance nature reserves and greenspace close to where people live such as Silent Valley Nature Reserve near Ebbw Vale. **Volunteering on nature reserves brings proven health and wellbeing benefits which can help to arrest or reverse ailments that are shown to be more common in deprived communities**^{10,11}. The long-term conditions of obesity, diabetes, heart disease and dementia are much more prevalent in deprived communities which often have the least access to green space¹².
35. **House prices** - It has been proven that, due to the effect of the “dis-amenities” of living near to landfill sites (noise and air pollution, litter, smell), local house prices experience a reduction in value of up to 2.6% against average market value. This is partly due to the “*stigma*” of having a landfill site nearby. This stigma “*appears to endure over periods in excess of 20 years*”. By contrast, high-quality green space has been shown to uplift **property values** by up to 34%¹³.
36. **Economic catalyst** - Improvements in biodiversity and green space have been proven to be a **catalyst for economic activity**¹⁴. It has been proven¹⁵ that **high quality parks, green spaces and nature reserves contribute to the economic vitality of, and confidence in, a locality**. The LCF helps to maintain, restore and enhance these greenspaces.
37. **Tourism** - The Wales Visitor Survey 2013 (GB Staying Visitors) showed that the natural environment is the major attraction for visitors to Wales, with 69% stating that their main reason for visiting was to enjoy the landscape, countryside and/or beach. The **LCF helps protects Wales’s £6.2billion tourist industry**¹⁶ by protecting, restoring and enhancing our most precious and protected landscapes and wildlife.

A Resilient Wales

38. The Wildlife Trusts have been able to protect, restore and enhance some of Wales’s most precious and statutory protected landscapes and wildlife, such as:
 - a) **North Wales Wildlife Trust** used funding from
 - Tir-a-Môr Cyf to restore and enhance Eithinog SSSI and funding. Eithinog became a nature reserve only following 16 hard years of work by local residents, who valued both its specific wildlife attractions and role as community green space.

¹⁰ Environmental inequalities and their impact on the health outcomes of children and young people

<https://www.ncb.org.uk/sites/default/files/field/attachment/Environmental%20Inequalities.pdf>

¹¹ GreenLINK (2011) Understanding the Contribution Parks and Green Spaces can make to Improving People’s Lives. Health and Wellbeing downloadable from <https://www.rudi.net/...file/Blue+Sky+Green+Space+-+Full+Report.pdf>

¹² Greenlinks Scotland - the links between greenspace and health: a critical literature review

<http://greenspacescotland.org.uk/links-between-greenspace-and-health.aspx>

¹³ CABE SPACE (2006) Does Money Grow on Trees

<http://webarchive.nationalarchives.gov.uk/20110118095356/http://www.cabe.org.uk/files/does-money-grow-on-trees-summary.pdf>

¹⁴ Green Infrastructure’s contribution to economic growth: a review A research paper, commissioned by DEFRA and Natural England undertaken by Sheffield Hallam University Centre For Regional Economic And Social Research

<http://www4.shu.ac.uk/research/cresr/sites/shu.ac.uk/files/green-infrastructures-contribution-growth.pdf>

¹⁵ *ibid*

¹⁶ Visit Wales (2010) The Economic Contribution of the Visitor Economy: UK and the Nations. Deloitte and Oxford Economics, June 2010

- SITA to contribute to the favourable conservation status of the Meirionnydd Oakwoods and Bat Sites SAC. Based on the site of the former Cooke’s explosives works (latterly ICI), Gwaith Powdwr forms a vital part of the cultural heritage of the 2,000-strong community of Penrhyndeudraeth. Countless village residents either worked at the site or had family members who did, and the transformation both of its buildings into habitat for lesser horseshoe bats and the wider site into accessible wild play space has been publicly welcomed.
 - b) **Radnorshire Wildlife Trust** secured funding from BIFFA to employ a project officer to oversee restoration of Beacon Hill Common SSSI, home to many rare species including the iconic red grouse.
 - c) **Wildlife Trust of South and West Wales** used WREN funding to restore and enhance the Carmel National Nature Reserve (NNR), SAC and SSSI as part of the WREN funded Gwendraeth Grasslands Project.
 - d) **Gwent Wildlife Trust** used funding from the Silent Valley Environmental Trust to care for the habitats and species of the Silent Valley Woodland SSSI and funding from the Veolia Environmental Trust to improve the Great Traston Meadows SSSI for the nationally rare Shril Carder Bee.
39. Such work could not go ahead without this fund. **Without the LCF, Welsh Government will lose one of the few funding sources it has to help Wales achieve its legal biodiversity duties.**
40. **Waste** - The way that society deals with waste, and our behaviours related to resource consumption, can have a direct and indirect impact upon wildlife. The waste that goes to landfill sites is a mixture of discarded materials/products usually constructed out of natural resources such as wood, oil or other organic material. The production and disposal of these products and materials has a significant negative impact on the environment and increases Wales’s carbon footprint. Landfill sites, waste depots and transfer stations themselves have a significant environmental impact (e.g. land-take from the site as well as noise, air, odour pollution and windblown litter).
41. However, the LCF is a ‘**green tax**’ similar to the carrier bag charge under the Environment (Wales) Act 2016 . The LCF and carrier bag charge are both aligned with the Welsh Government ethos that the **polluter pays**¹⁷ and **biodiversity offsetting**¹⁸ **principles**. For example, the ecological footprint of waste/landfill sites is currently compensated by funding of environmental improvements within a 10-mile radius of landfill sites. This local compensation is a form of **environment justice**.

A Healthy, more equal Wales and Cohesive Communities

42. The LCF is fundamental to **social justice** of local communities that live within 10 miles of a landfill site. As a result of LCF-funded projects, local communities benefit from enhanced green space – this can make up for the dis-amenities of living near a landfill site.
43. The biodiversity improvements undertaken by LCF projects to enhance or create high quality parks, green spaces and nature reserves contributes to the attractiveness of the area and the confidence and sense of place of communities¹⁹²⁰²¹²²²³²⁴²⁵²⁶.

¹⁷ Polluter Pays Principle

<http://gov.wales/topics/environmentcountryside/epq/airqualitypollution/preventpollution/fees/?lang=en>

¹⁸ See page 15 of the Nature Recovery Plan – Achieving No Net Loss - <http://gov.wales/docs/desh/consultation/140910-nature-recovery-plan-consultation-en.pdf>

¹⁹ Wildlife Trusts Wales (2016) Green Infrastructure: A Catalyst for Well-being of Future Generations In Wales - <http://www.wtwales.org/greeninfrastructure>

²⁰ GreenLINK (2011) Understanding the Contribution Parks and Green Spaces can make to Improving People’s Lives. Health and Wellbeing downloadable from <https://www.rudi.net/...file/Blue+Sky+Green+Space+--+Full+Report.pdf>

44. The Department of Health²⁷ recognises that a **poor physical environment is detrimental to the public's physical and mental health**. Research²⁸ has found that **spending time in nature provides protection against a range of diseases, including depression, diabetes, obesity, ADHD, cardiovascular disease, cancer and many more**. This research shows that this is due to **nature's ability to enhance the functioning of the body's immune system**²⁹. It states that nature doesn't just have one or two active ingredients but it is more like a multivitamin that provides us with all of the nutrients we need.
45. Evidence strongly suggests that high quality green spaces can help reduce **health and social inequalities**. It is worth noting that those with close access to green space lived longer than those with no green space, even when adjusted for social class, employment, smoking etc and the impact was significantly greater amongst the least affluent³⁰.
46. The Wildlife Trusts LCF projects have also been able to **inspire and engage communities** to care about nature on their doorstep (for example, North Wales Wildlife Trust's SITA-funded Community Orchard³¹).
47. Time spent in nature has a hugely positive impact on key social indicators. For example, work undertaken by the LCF projects such as creating accessible high quality greenspace make neighbourhoods more attractive, relaxing, comfortable and welcoming places and thus help to^{32,33};
- increase levels of social contact and social integration³⁴
 - create community cohesion and enhance social ties especially within disadvantaged communities³⁵
 - provide a sense of community³⁶
 - engage individuals from different social groupings

²¹ The research from Birmingham University- <http://www.birminghammail.co.uk/incoming/blight-fears-for-homes-near-landfill-390538>

²³ <http://www.espa.ac.uk/news-events/espa-blog/human-dependence-ecosystem-services-can-quantifying-it-help-fight-poverty>

²⁴ Environmental inequalities and their impact on the health outcomes of children and young people
<https://www.ncb.org.uk/sites/default/files/field/attachment/Environmental%20Inequalities.pdf>

²⁵ Greenspace Scotland, 2007. *The links between greenspace and health: A critical literature review*. Greenspace Scotland
<http://greenspacescotland.org.uk/links-between-greenspace-and-health.aspx>

²⁶ Natural England's – Health Information Pack
<https://iucn.oscar.ncsu.edu/mediawiki/images/4/4c/NaturalEngland%282012%29.pdf>

²⁷ Department of Health (2010) - Healthy Lives, Healthy People: our strategy for public health in England

²⁸ Kuo (2015) - How might contact with nature promote human health? Promising mechanisms and a possible central pathway. *Frontiers in Psychology*, 2015; 6 DOI: 10.3389/fpsyg.2015.0109

²⁹ *ibid*

³⁰ Mitchell and Popham (2008) - Effect of exposure to natural environment on health inequalities: an observational population study - *The Lancet* 372 (9650): pp 1655-1660

³¹ Celebrating the Landfill Communities Fund <http://www.wildlifetrusts.org/LCFreport>

³² Sullivan, Kuo and Depooter (2004) - The fruit of urban nature: Vital neighbourhood space. *Environment and Behaviour* 36(5): 678-700;

³³ Pretty, Peacock, Hine, Sellens, South and Griffin (2007) - Green exercise in the UK countryside: Effects on health and psychological well-being, and implications for policy and planning - *Journal of Environmental Planning and Management* 50(2): 211-231

³⁴ Fredrickson and Anderson (1999) - A qualitative exploration of the wilderness experience as a source of spiritual inspiration - *Journal of Environmental Psychology*. 19. 21-40.

³⁵ Dines, Catell, Gesler and Curtis (2006) - Public spaces and social relations in East London - Joseph Rowntree Foundation

³⁶ Pikora, Giles-Corti, Knuiiman, Bull, Jamrozik and Donovan (2005) - Neighbourhood environmental factors correlated with walking near home: using SPACES - *Medicine and Science in Sports and Exercise* 2005;38(4):708-714

- create opportunities for community participation and volunteering Improvements in greenspace are a cost effective way for people to transform their neighbourhoods and improve their quality of life.

A Wales of vibrant culture and thriving Welsh language

48. Biodiversity and linguistic and cultural diversity are linked³⁷ with indigenous languages having elaborate and complex words and phrases for the natural world. This reflects a deep understanding of the local environment. This environmental knowledge can be lost when a community shifts to another language or when the environment is degraded³⁸.
49. The Welsh language is intimately connected with both the history and the natural history of Wales, with many wonderful descriptive names in Welsh such as
 - ‘Eryri’ (Welsh for Snowdonia), means land of Eagles and harks back to the 16th century when eagles nested there
 - A farm near Cerrigydrudion called ‘Clust y Blaidd’ (Wolf’s Ear) which is said to date back 500 years to when wolves roamed the area rocky outcrops in the Welsh uplands.
50. Therefore the LCF, by helping to maintain and enhance biodiversity, is helping to maintain the Welsh language.

Globally Responsible Wales

51. Nature is a crucial part of our efforts to combat, mitigate and adapt to climate change and its effects. By conserving nature and restoring ecosystems we reduce our vulnerability and increase our resilience to climate change in a cost-effective manner – many of the LCF biodiversity projects can be seen as climate change mitigation and adaption projects.
52. Restoring and enhancing important habitats such as peatlands, wetlands, woodlands and unimproved grasslands help mitigate and adapt to climate change by storing and sequestering carbon dioxide from the atmosphere. They also and help to alleviate the effects of flooding (e.g. Montgomeryshire Wildlife Trusts Pumlumon Living Landscape³⁹ and Coed Cymru Pontbren Project⁴⁰).

³⁷ Gorenflo Romaine Mittermeier and Walker-Painemilla (2012) - Co-occurrence of linguistic and biological diversity in biodiversity hotspots and high biodiversity wilderness areas- Proceedings of the National Academy of Sciences of the United States of America

³⁸ UNESCO 2015 - <http://www.unesco.org/new/en/culture/themes/endangered-languages/biodiversity-and-linguistic-diversity/>

³⁹ Pumlumon Project <http://www.montwt.co.uk/what-we-do/living-landscapes/pumlumon-project>

⁴⁰ The Pontbren Report - <http://www.coedcymru.org.uk/images/user/5472%20Pontbren%20CS%20v12.pdf>

Document is Restricted

Document is Restricted

Document is Restricted

Document is Restricted

Agenda Item 12

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted