**EXPLANATORY MEMORANDUM TO**

**THE LOCAL GOVERNMENT (BEST VALUE) PERFORMANCE INDICATORS AND PERFORMANCE STANDARDS (ENGLAND) (AMENDMENT) ORDER 2007**

**2007 No. 585**

**1.** This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

## 2. Description

2.1 The Local Government (Best Value) Performance Indicators and Performance Standards (England) Order 2005 (SI 2005/598) (the 2005 Order) set performance indicators by reference to which the performance of certain best value authorities, in exercising their functions, can be measured. The Order also specified performance standards to be met by particular authorities in respect of certain planning functions. The 2005 Order also specified performance standards to be met by waste authorities with respect to the proportion of household waste sent for recycling and composting.

2.2 This Order amends the list of specific authorities subject to performance standards for certain planning functions. This Order also sets the performance standards for waste authorities in 2007/08 in respect of the proportion of household waste sent for recycling/composting. It retains for 2007/08 the basis for which standards were set for all authorities in 2005/06 except for authorities who had the lowest standard of 18 per cent, who will have their standard raised to 20 per cent for 2007/08. This Order also amends the list of specific waste authorities that will have different recycling/composting standards.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

None

## 4. Legislative Background

4.1 Part I (best value) of the Local Government Act 1999 (LGA 1999) imposes a general duty on local authorities and other authorities listed in section 1 of the LGA 1999 (collectively referred to as "best value authorities") to make arrangements to secure continuous improvement in the way in which their functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

4.2 Section 4(1) of the LGA 1999 confers power on the Secretary of State to specify, by order, factors (best value performance indicators) and standards (best value performance standards) by reference to which a best value authority's performance in exercising its functions can be measured.

4.3 Authorities are under a duty (by virtue of section 4(5) of the LGA 1999) to meet best value performance standards ("performance standards"). Where the Secretary of State is satisfied that an authority is failing to comply with the

requirements of Part I of the LGA 1999 (including the duty to meet best value performance standards) she may make various directions under section 15 of the LGA 1999. The powers under section 15 are commonly known as "intervention" powers. The intervention powers are subject to specific consultation requirements set out in the LGA 1999 and in addition the Government has produced a protocol explaining the circumstances in which the powers would be used http://www.communities.gov.uk/pub/429/AnnexEProtocolPDF39Kb_id1136429.pdf

## 5. Extent

This instrument applies to England only.

## 6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

7.1 Best Value Performance Indicators (BVPIs) provide a framework against which to measure local authority performance delivery across the key local services covering both national and local priorities. They are designed to:

- enable central Government to monitor progress over a period of time;
- allow authorities to compare their performance against that of their peers; and
- provide residents with information about the performance of their local authority.

Planning Standards

7.2 Authorities who are underperforming against the best value performance indicators for planning (BVPI 109a, b & c – set out in paragraph 7.3) are designated and set best value performance standards to meet and are known as planning standards authorities.

7.3 The designation process is intrinsically linked to the Department for Communities and Local Government's PSA6 agreement which requires all local planning authorities in England to be achieving, as a minimum, the BVPI 109 performance levels by March 2007 and to sustain these levels for the duration of the spending review period i.e. to March 2008. BVPI 109 specifies the indicator that local planning authorities in England process a minimum of:

60% of major planning applications in 13 weeks;
65% of minor planning applications in 8 weeks and;
80% of other planning applications in 8 weeks.

7.4 The designation of planning standards authorities provides the legal framework for potential formal intervention by the Secretary of State, using the power in section 15 of the LGA 1999, in an authority's planning service if an authority fails or refuses to improve the timely delivery of planning decisions.

7.5 Authorities designated to date have been provided with support through consultants working on behalf of the Department and, more recently, by the Planning

Advisory Service funded by the Department and hosted by the Improvement and Development Agency (IDeA). Whilst the support provided to authorities through this process has had a significant positive effect on improving the performance of local planning authorities, designation as a planning standards authority has also brought focus on the need for improvement.

7.6 On 20 October 2006 the Department published a consultation paper entitled "Proposed Planning Best Value Performance Standards for 2007/8: Consultation" setting out the authorities the Department proposed to designate as planning standards authorities and the methodology used to identify those authorities. The document was circulated to all local planning authorities in England and other interested parties including the Local Government Association, the Planning Officers' Society and the Audit Commission.

7.7 A total of 31 responses was received to the consultation paper, the second smallest number of responses received since the regime was introduced in 2001/02. The key points arising from the consultation were:

- There was support for the proposal to take into account performance statistics published after the end of the consultation period (as well as for the period 1 July 2005 – 30 June 2006). The Department said in the consultation document that it would also take into consideration performance in the quarter ending 30 September 2006 (data published in December) before making a final decision on authorities to be designated.
- A number of authorities thought that the main period of assessment (1 July 2005 to 30 June 2006) was not a satisfactory basis for judging performance, a number of different periods for assessment were suggested. This representation was rejected – the Department used a period of 12 months so that it could take into consideration recent improvements in performance whilst ensuring that the period was long enough to give an indication that the recent improvements were sustainable. This year, for the first time, the Department has allowed a further three months of performance (1 July 2006 - 30 September 2006) to be taken into consideration, in order to minimise the time lag between the qualifying performance period and designation. Since the data relevant to any later period could not be verified and assessed before the Order needed to be made, it was not practicable to take account of performance after the end of September 2006.
- Several authorities sought to be removed from the final list due to improvements in performance since September 2006. The data for the period September 2006 - December 2006 has yet to be verified and published and therefore it is not possible to include it.
- Several authorities said that the threshold used to assess performance on major applications was too high and/or did not allow for local circumstances. The thresholds set were five percentage points below the levels in BVPI 109 a, b and c, allowing some latitude for authorities to continue to improve performance towards the standards to be attained by 31 March 2007.

7.8 Sixteen authorities were removed from the final list of best value planning standards authorities because their performance in the year 1 October 2005 to 30 September 2006 (data published in December) had improved, taking them above the threshold for being made a planning standards authority. For the same reason five others were also removed from the list for some but not all categories of application in

which they appear. Altogether 57 authorities are designated as standards authorities for 2007/08. 81 authorities were designated in 2006/07.

7.9 A summary of recent work with planning standards authorities, *Key lessons for development control: an overview of the evaluation of planning standards authorities 2005/06*, DCLG June 2006 is available at:
http://www.communities.gov.uk/index.asp?id=1501132

Recycling and Composting Standards

7.10 The UK must meet tough targets to comply with the requirements of the EU Landfill Directive to reduce the amount of biodegradable municipal waste that is landfilled. Furthermore, Waste Strategy 2000 set targets to recycle or compost 25 per cent of household waste by 2005, rising to 30 per cent by 2010 and 33 per cent by 2015. Government also has a Public Service Agreement (PSA) target to achieve 25 per cent recycling or composting of household waste by 2005/06 with further improvement by 2007/08.

7.11 Government is heavily dependent on local authorities to deliver sustainable waste outcomes. As part of the strategy to encourage local authorities to focus on a sustainable approach to waste management, and to ensure that all authorities will contribute to achieving the PSA target, the government set statutory performance standards for recycling and composting for each local authority. These are based on recycling rates for each authority calculated from returns to the 1998/99 Municipal Waste Survey. On average, the government asked authorities to double their rate of recycling by 2003/04, and triple it by 2005/06. Recycling standards also contribute to the achieving of the government's targets under the Landfill Directive to divert biodegradable municipal waste from landfill.

7.12 Between 26 October 2005 and 20 January 2006, the Government undertook a consultation on options for local authority statutory performance standards on recycling and composting in 2007/08. The options that the consultation invited responses on were:

- Option 1: do nothing – i.e. set no targets;
- Option 2: set statutory performance standards in 2007/08 for recycling and composting for all local authorities equal to the level of their standards in 2005/06;
- Option 3: set statutory performance standards for recycling and composting in 2007/08 for all local authorities equal to the level of their standards in 2005/06, except for those local authorities with a standard of 18 per cent in 2005/06, who would be required to raise their performance to 20 per cent; and
- Option 4: set statutory performance standards for recycling and composting in 2007/08 as in option 3 and include the removal of the 30 per cent cap imposed in December 2004 on the highest recycling standards.

7.13 Out of 101 respondents who responded to the invitation to comment on the options the majority preferred Option 3, the Government's preferred option, agreeing with the statement in the consultation paper that it would narrow the gap in performance between higher and lower performing authorities, and help to ensure a more even level of service provision across the country. Some were in favour of this option as it addressed the need to raise the performance of lower performers while

avoiding additional burdens on higher performers. It was often stated in responses that the cost of raising the performance of higher performers was disproportionately higher than doing so for lower performers.

7.14 Therefore, following the consultation, the Government adopted Option 3 for 2007-08 to keep the standards the same as they were for 2005/06, except that the lowest standard would be raised from 18 per cent to 20 per cent.

7.16 Furthermore, following support from respondents (77 out of the 95 who answered this question), the Government decided to allow in 2007/08 pooling arrangements similar to those in previous years whereby groups of authorities could, if they wish, work together to achieve Best Value by having different individual levels of recycling and composting required of each of them, as long as the overall tonnage of waste recycled by the pool as a whole exceeds that which would be recycled in the absence of the pooling arrangements. This is provided for in Schedule 10 of the 2005 Order.

7.17 An analysis and Government response to the consultation can be found on the Department for Environment Food and Rural Affairs' website at www.defra.gov.uk.

## 8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for the planning provisions of this instrument as they have no impact on business, charities or voluntary bodies. The impact on the public sector is negligible in financial terms but ensures that improvements are made to public service delivery. Support to help improve performance is available free of charge through the Planning Advisory Service.

8.2 As for recycling and composting standards, a public sector final Regulatory Impact Assessment has been prepared and is attached to this memorandum. Although economic modelling suggests extra costs for the chosen option will be £2.34m, which is below the threshold of £5m for developing a partial Regulatory Impact Assessment into a final one, good practice in better regulation is a final Regulatory Impact Assessment is expected to be prepared for the SI following consultation if a partial one was done for consultation.

8.3 The partial RIA showed cost implications for England of around £60m for Option 3. The reduction in costs to £2.34m since the partial RIA was prepared can be explained by the fact that more authorities are already reaching rates close to the standards given effect by this Order. By 2007/8, it is expected that even more authorities will have reached these standards or surpassed them. It would therefore be expected that the costs of compliance associated with the suggested options are likely to be lower than those previously estimated. Other drivers, such as the landfill Allowances Trading Scheme targets for reducing landfilling, and Local Area Agreements, mean authorities would be recycling to or above the levels of statutory targets anyway. Therefore modelling now suggests that increasing the floor recycling standard from 18 per cent to 20 per cent has limited impact on costs. But recycling and composting standards do have a role in further incentivising poorer performers to improve, and form the basis for the Department for Environment, Food, and Rural Affairs to engage with those authorities to help improve their performance.

8.4 The final Regulatory Impact Assessment can also be found on the Department for Environment Food and Rural Affairs' website at www.defra.gov.uk.

## 9. Contact

Julian Wheeler at the Department for the Communities and Local Government (Tel: 020 7944 5790 ), (e-mail: julian.wheeler@communities.gsi.gov.uk) can answer any queries you have regarding this instrument other than queries relating to paragraphs 7.10 – 7.17 (recycling and composting standards) which should be directed to Philip Walker at the Department for the Environment, Food and Rural Affairs (Tel 020 7082 8802 ), (e-mail philip.walker@defra.gsi.gov.uk ).

**Final Regulatory Impact Assessment on statutory performance standards on recycling and composting of household waste for local authorities in England**

1. **Title of proposal**

The Local Government (Best Value) Performance Indicators and Performance Standards (England) (Amendment) Order 2007. Statutory Instrument on 2007/8 Statutory Performance Standards on planning performance, recycling and composting of household waste for English local authorities (recycling targets).

2. **Purpose and intended effect**

- **Objective:**

To increase the sustainability of waste management in the UK. The purpose of this measure is to contribute towards a reduction in the quantity of waste sent to landfill. The Statutory Instrument would set each local authority in England a statutory performance standard for the recycling and composting of household waste in 2007/08. The intended effect is that local authorities will have an incentive to raise recycling levels. In particular the SI will raise statutory recycling and composting targets for those authorities with currently the lowest targets. This will help reduce the gap between the better and poorer performers and help increase national recycling and composting levels.

- **Background:**

A Regulatory Impact Assessment has not been prepared for the planning sections of this instrument as it has no impact on business, charities or voluntary bodies. The impact on the public sector is negligible. Support to help improve planning performance is available free of charge through the Planning Advisory Service.

a) Household waste recycling targets contribute to Defra's strategic aim of more sustainable use of natural resources. Waste Strategy 2000 set targets to recycle or compost 25 per cent of household waste by 2005 rising to 30 per cent by 2010 and 33 per cent by 2015. Government also has a Public Service Agreement (PSA) target to achieve 25 per cent recycling or composting of household waste by 2005/06 with further improvement by 2007/08. To ensure that all local authorities would contribute to achieving these targets, including the interim target of 17 per cent in 2003/04, Government set statutory performance standards for recycling and composting in each local authority for 2003/04 and 2005/06. These were based on recycling rates for each authority calculated from returns to the 1998/99 Municipal Waste Management Survey.

b) The effect of these targets has played a key part in England successfully achieving its 2005/06 target (recycling 26.7%) thus exceeding the Government's target of 25%, with 261 (66%) authorities meeting or exceeding their individual targets. In 2003/04, England met its target of 17% by recycling 17.7 per cent with 224 authorities (57 per cent) meeting or exceeding their individual targets These standards have formed an effective part of the Government's implementation of Waste Strategy 2000 contributing to a three-fold increase in household waste recycling rates since 1998/9.

c) In response to recommendation Nine of the Strategy Unit Report 'Waste not, Want not', Government committed to a review of recycling and composting targets in the light of performance against 2003/04 targets and taking into account the fact that there are already a number of policy levers designed to drive the management of waste up the hierarchy. These levers include the Landfill Allowance Trading Scheme and the new landfill tax escalator, both introduced in April this year, as well as a number of obligations imposed on the producers of waste, including in relation to the recycling of packaging materials and of waste electrical and electronic equipment.

d) Work is still ongoing to consider what form indicators and targets should take over the longer-term, i.e. post 2007/8 (2007/08 will be the final year of best value performance indicators and targets), as part of the performance framework and aims set out in the Government's local government white paper, "Strong and Prosperous Communities". This white paper was published in October 2006 and sets out a radical simplification of the local authority performance framework including fewer indicators and centrally set targets. Indicators in the new framework will reflect national outcomes agreed in the Comprehensive Spending Review 2007, delivered through Local Area Agreements.

e) In the meantime, we consider that it is possible to set further targets for 2007/08. Following the consultation, the Government decided to adopt the preferred approach which was set out in Option Three below.

- **Rationale for government intervention:**

a) Recycling tackles climate change, saves resources and reduces our reliance on landfill. Recycling reduces the demand for and environmental impacts of raw material extraction and processing, saving significant amounts of energy. Recycling biodegradable wastes, such as paper, offers additional climate change benefit (compared to the alternative of landfill) through avoided landfill methane emissions. WRAP has estimated that recycling in the UK saves carbon emissions equivalent to taking 3.5 million cars off the road.

b) The UK has tough targets to meet to meet the requirements of the EU Landfill Directive to reduce the amount of biodegradable municipal waste that is landfilled. Recycling and composting of household waste plays a key role in helping England play its part in meeting these objectives. Furthermore, Waste Strategy 2000 set targets to recycle or compost 25 per cent of household waste by 2005 rising to 30 per cent by 2010 and 33 per cent by 2015. Government also has a Public Service Agreement (PSA) target to achieve 25 per cent recycling or composting of household waste by 2005/06 with further improvement by 2007/08.

c) Government is heavily dependent on local authorities to deliver sustainable waste outcomes. As part of our strategy to encourage local authorities to focus on a sustainable approach to waste management, and to ensure that all authorities would contribute to achieving the PSA target, we set Statutory Performance Standards for recycling and composting in each local authority. These are based on recycling rates for each authority calculated from returns to the 1998/99 Municipal Waste Survey. On average, we asked authorities to double their rate of recycling

by 2003/04, and triple it by 2005/06. Recycling targets also contribute to the achieving of our targets under the Landfill Directive to divert biodegradable municipal waste from landfill.

d) Recycling targets have had a positive effect in driving forward local authority service improvements and raising recycling levels, in particular the targets set for 2003/04 and 2005/06 have given a 'political' impetus to many authorities – the presence of statutory targets helping officers to gain support from their members for recycling activities. It has been proven that authorities will concentrate on funding the elements of the service that are a statutory requirement.

e) There has been steady improvement in performance in recent years. Data for 2005/06 shows England recycled 26.7% of household waste in 2005/06, an increase of 4% over the previous year. This means that the Government's target to recycled 25% of household waste in England in 2005/06 has been exceeded..In 2003/04, England recycled over 17% of its household waste, beating the national target by almost 1%. This performance was up 3.2% from 14.5% in 2002/03 and from 7.5% in 1996/97.

f) Recycling targets for 2007/08 would afford local authorities the required certainty for their medium-term financial planning.

g) Recycling targets for 2007/08 would help to mitigate the risk that in the absence of recycling targets for Waste Collection Authorities after 2005/06 those authorities may decouple from the successful partnership working currently in two-tier authorities which would negatively impact on the broader biodegradable municipal waste diversion activities of Waste Disposal Authorities (WDAs) being driven by the UK's requirement to meet mandatory EU targets.

3. **Consultation**

- Within government: The Department for Communities and Local Government and HMT have raised no objections to the initial proposals.

- Public consultation: The Local Government Association (LGA) and the Local Authority Recycling Advisory Committee (LARAC) are broadly content with the proposals.

4. **Options**

**Option One - Do Nothing: set no further targets for local authorities in England.**

a) Research shows that local authorities are not driven solely by the need to achieve statutory recycling targets. Whilst the drivers are complex, it is true that there is often a desire to be seen as 'leading', i.e. these authorities aim to top the performance league tables.

b) A review of policy drivers has shown that the efforts to adhere to landfill allowance targets and the requirements of Packaging Regulations as well as the effects of the annually increasing landfill tax will have a significant influence in driving recycling in future. To avoid paying high penalties under the Landfill

Allowance Trading Scheme, authorities will be forced to include high levels of recycling and composting in to their waste management strategies. The length of time required to develop alternative residual waste treatment technologies will mean that in the short-term local authorities will turn to recycling and composting to meet existing obligations.

c) Modelling suggests that without targets, England could achieve a recycling rate of 27 per cent by 2007/08. There would, however, still need to be a great effort required in subsequent years to achieve the national target of 30 per cent recycling by 2010.

**Risks:**

d) While some authorities would continue to maintain or increase recycling as a result of local priorities or to meet EU landfill reduction targets others may decide not to plan their programmes in accordance with the waste hierarchy.

e) Research (carried out by Defra's Waste Implementation Programme) has highlighted that by not setting recycling targets for Waste Collection Authorities (WCAs) after 2005/06 there is a risk that those authorities may decouple from the successful partnership working currently in two-tier authorities which would negatively impact on the broader biodegradable municipal waste diversion activities of Waste Disposal Authorities (WDAs) being driven by the UK's requirement to meet mandatory EU targets. There would be financial consequences as a reduction in recycling rates of WCAs would increase costs for WDAs (both in terms of meeting Landfill Allowance Trading Scheme obligations and through increased landfill tax contributions).

f) In two-tier areas, not specifying recycling levels for 2007/08 would, perversely, stand to increase theoretical pressure on council tax, by increasing the risk that waste collection authorities would reduce their recycling efforts, pushing up the cost to waste disposal authorities of meeting their LATS obligations: the increased costs being reflected in increased 'precept' costs imposed by County Councils.

g) The "do nothing" approach does not give any assurance that levels of recycling and composting will ensure continued progress towards our national recycling targets. There is a very significant risk that this could lead to failure to meet the stringent EU landfill reduction targets which carries severe financial penalties for both the government and individual local authorities. It could also lead to very variable levels of service provision across England This could undermine the government's attempts to increase participation in recycling activities since the evidence shows that easy access to recycling opportunities is essential to changing behaviour.

Option Two - Maintaining the level of recycling performance at 2005/06 levels

a) This proposal is to set statutory performance standards for recycling and composting in 2007/08 for all local authorities equal to the level of their targets in 2005/06 (as effected by Statutory Instrument 2005/598). This essentially acts to freeze the current targets for all authorities and requires the maintenance of

performance at or above the same level in 2007/08. These targets would be measured in the same way as the 2003/04 and 2005/06 targets by combining the data sources from Best Value Performance Indicators 82a and 82b.

b) Any authority that fails to reach its 2005/06 target in the year 2005/06 would therefore be required to attain it by 2007/08 and can expect to be subject to some form of engagement or intervention by Government following the announcement of 2005/06 performance.

c) Authorities in two-tier would again be eligible to apply to pool their targets. Pooling allows groups of waste authorities to work together to achieve Best Value by changing the individual levels of recycling and composting required of each of them, as long as the overall tonnage of waste recycled by the pool as a whole exceeds that which would be recycled in the absence of the pooling arrangements. Authorities which currently have pooling arrangements for 2005/06 would need to re-submit their applications.

**Compliance:**

d) The Local Government Act 1999 designates all local authorities with responsibility for waste management as Best Value authorities. Best Value also applies to the six statutory joint waste disposal authorities established under section 10 of the Local Government Act 1985. These authorities have a statutory duty to put in place arrangements to secure continuous improvement in their functions. To contribute and facilitate continuous improvement in the efficiency and effectiveness of local authorities' services, Government has established a suite of performance indicators for waste management within the overarching framework of performance measures across the range of local government services offered by Best Value Performance Indicators (BVPIs). The indicators are audited and published annually by the Audit Commission. The proposed (and current) statutory performance standards for recycling and composting are based on two of these indicators (BVPI 82 a and b). Performance against the targets will therefore be measured using these existing indicators.

e) The proposed targets will not impose direct compliance costs on business, charities and voluntary organisations.

**Compliance costs**

f) Defra's has a public service agreement "to enable at least 25 per cent of household waste to be recycled or composted by 2005-06, with further improvement by 2008".

g) To achieve this, in last year's spending review, the Government announced an increase in the Environmental, Protective and Cultural Services (EPCS) Formula Spending Share block of £888 million by 2007/08 over 2004/05. This increase includes the return of revenues from the Landfill Tax Escalator, set to increase the price of landfill by at least £3 per tonne per year from April 2005. The tax will be £24 per tonne from 1 April 2007, and consideration will be given to steeper increases in the tax from 2008.

h) Delivery of statutory performance standards will also be supported through the Waste Implementation Programme and the Waste and Resources Action Programme. Defra will also allocate a further £105m and £110m of unring-fenced funds through the Waste Performance and Efficiency Grant (WPEG) for the years 2006/07 and 2007/08 to help authorities meet their ongoing waste management challenges. Waste funding needs are also being considered as part of the Comprehensive Spending Review.

**Unintended Consequences:**

i) The 2003/04 and 2005/06 statutory performance standards have been set on performances based on performance in 1998/99 and some good performing authorities in 1998/99 have found it unfairly challenging and costly to meet the standards.

j) Recycling targets for some WDAs are in some cases greater than the sum of the target amounts for the constituent WCAs plus the amounts that the WDA can realistically recycle through civic amenity sites.

k) High weight based statutory performance standards could encourage an uptake in the doorstep collection of green waste which otherwise would either have been home composted (leading to an increase in waste arisings for all authorities) or taken to a civic amenity site (leading to an increase in waste arisings for just the waste collection authority as waste taken to civic amenity sites is allocated to waste disposal authorities).

**Option Three - Maintaining the level of recycling performance at 2005/06 levels and increasing the floor level of recycling to 20 per cent**

a) This proposal would have the same effect as Option Two in that all local authorities would be set statutory performance standards for recycling and composting equal to the level of targets set in 2005/06 with the exception that the existing 'floor level' of recycling performance (the lowest level of statutory performance standard in 2005/06) would be increased from 18 per cent to 20 per cent for 2007/08. This proposal would affect 143 authorities.

b) Points b) and c) of Option Two would also apply to this Option.

**Compliance costs:** See Option Two
**Unintended Consequences:** See Option Two

**Option Four - Maintaining the level of recycling performance at 2005/06 levels, increasing the floor level of recycling to 20 per cent and removing the 30 per cent cap from those authorities originally given targets in excess of 30 per cent**

a) In December 2004 Government announced that statutory performance standards for recycling and composting of household waste would be capped at 30 per cent in 2005/06 in recognition of the fact that, while many local authorities were able to deliver and sustain very high levels of recycling, in some circumstances local authorities were unable to deliver this degree of step change in the time available, or could only do so at disproportionate short-term cost.

b) Option Four is to set statutory performance standards for recycling and composting equal to the level of targets set in 2005/06, raise the existing 'floor level' of recycling performance from 18 per cent to 20 per cent for 2007/08 and also to remove the 30 per cent cap from those authorities that were given targets for 2005/06 in excess of 30 per cent as published in Annex A-2 of the guidance to the Municipal Waste Management Strategy. This would have the effect of reinstating the original individual performance standards in the range of 31-40 per cent for the 104 local authorities whose targets were reset to 30 per cent.

c) Points b) and c) of Option Two would also apply to this Option.

**Compliance costs:** See Option Two
**Unintended Consequences:** See Option Two

5. **Costs and benefits**

- **Sectors and groups affected:** targets for recycling will have positive [and negative] impacts on the waste management industry. Local authorities will look to the private sector to provide services to increase recycling rates, whilst demand for landfill services should increasingly decline. There may also be indirect effect on the virgin raw materials and energy sectors.

- **Benefits:**

**Option One:**

Modelling indicates that performance without any further statutory performance standards would deliver a national recycling rate of 27%.

**Option Two:**

a) Although recycling activities have negative impacts on the environment (through transporting and reprocessing waste to produce secondary resources), recycling has net environmental benefits because:

   – Recycling waste means that less waste is sent to landfill and other disposal options which have greater pollution and disamenity effects than recycling

   – For some materials, producing goods from secondary resources reduces the environmental impacts of production through reduced energy use and reduced pollution

   – Using more secondary resources means using less primary resources (renewable and non-renewable natural resources) and the management, extraction, processing and distribution of primary resources can have environmental impacts that are greater than the environmental impacts of obtaining secondary resources from waste

   – Current rates of depletion of non-renewable natural resources and methods of managing renewable natural resources may not be consistent with sustainable development

b) Diverting waste from landfill to recycling substitutes a practice that has only environmental costs with a practice that has net environmental benefits. It is considered that an effective way to encourage this activity is to set each local authority a statutory performance standard for recycling and composting. The presence of statutory standards helps officers to gain support from their members for recycling activities by providing a political impetus. It has been proven that authorities will concentrate on funding the elements of the service that are a statutory requirement.

c) In two-tier areas, Waste Disposal Authorities view statutory performance standards as essential in maintaining at the waste collection authority level support of the area's broader biodegradable municipal waste diversion activities.

d) This option also has the advantage of ensuring that Waste Collection Authorities (in two tier areas) will have obligations that encourage them to continue working in partnership with their Waste Disposal Authorities. It will also ensure that a certain level of service provision for recycling is provided throughout England and will maintain the focus for achievement for the 43 per cent of local authorities who failed to achieve their 2003/04 targets. This proposal should also help to ensure that LATS targets are met across the country as we progress towards the EU target in 2010.

e) This option will ensure we continue to see progress towards our national recycling targets, Modelling indicates that this option would deliver a national recycling and composting rate of approximately 27.1 per cent in 2007/08

f) The additional environmental benefit of this option (over option one) is within the range of £0.57 million to £1.88 million (for breakdown of methodology see Annex B and C).

**Option Three:**

a) See Points a) to d) of Option Two

b) Modelling estimates on this proposal suggest that the effect of the increasing the floor level of performance will be to increase the national recycling and composting rate to approaching 27.2 per cent in 2007/08.

c) This option also has the advantage of focussing on improving poor performance by requiring the local authorities with the lowest level of targets to go some small way to closing the gap on those local authorities at the top end of the performance league. It will also help to ensure a more even level of service provision across the country.

d) This proposal aims to continue the forward momentum on recycling and composting in England and to require in particular those local authorities with the lowest performance to improve with respect to the rest. It also does not place unfunded burdens on local authorities. As such this is the Government's preferred option.

e) The additional environmental benefit of this option (over Option Two?) is within the range of £0.39 million to £1.28 million (for breakdown of methodology see Annex B and C).

**Option Four:**

a) See Points a) to d) of Option Two

b) Modelling shows that this option would yield a recycling rate of 28 per cent.

c) The additional environmental benefit of this option (over Option Three) is within the range of £3.74 million to £12.27 million (for breakdown of methodology see Annex B and C).

- **Costs**

**Option Two**

a) The additional financial cost of setting each local authority in England a statutory performance standard for 2007/08 would be £1.31 million.

b) The spending review 2004 has, however, already secured funding to all authorities to support the government's goal of achieving a 25 per cent recycling rate by 2007/08 with further improvement.

**Option Three**

a) The additional financial cost (above Option Two) of setting each local authority in England a statutory performance standard for 2007/08 including raising the existing floor from 18 to 20 per cent would be £1.03 million.

b) A quarter of these costs can be attributed to those authorities whose standards are being raised from 18 per cent to 20 per cent. A large proportion of the costs will also fall to the waste collection authorities that would otherwise not have an impetus to ensure that recycling levels are improved or maintained.

**Option Four**

a) The additional financial cost (above Option Three) of setting each local authority in England a statutory performance standard for 2007/08 including raising the existing floor from 18 to 20 per cent would be £3.91 million.

**Summary of costs and benefits**

Option Three achieves a recycling rate of 27.2 per cent at an additional cost of £1.03 million, whereas Option Four adds a further 0.8 per cent to the national recycling rate but at an additional cost of £3.91 million. Option Three puts us well on the way to meeting the national target of 30 per cent in 2010 and helping to meet our EU Landfill Directive obligations in 2009/10. Without bringing forward increased performance and financial cost before it is necessary and before local authorities could implement such a step change efficiently. Option Three achieves this with a comparable benefit-cost ratio to Option Two.

| | Option 1 - Do Nothing | Option 2 - Maintain 2005/06 BVPI Targets | Option 3 - Option 2 with 20 per cent Floor | Option 4 - Option 3 with 30 per cent Cap Removed |
|---|---|---|---|---|
| **BVPI Recycling Rate 2007/08 %** | 27.0 | 27.1 | 27.2 | 28.0 |
| **Additional BVPI Recycling Performance %** | | 0.1 | 0.1 | 0.8 |
| | | | | |
| **Additional Financial Cost £m** | | 1.31 | 1.03 | 3.91 |
| **Additional Environmental Benefit Min £m** | | 0.57 | 0.39 | 3.74 |
| **Additional Environmental Benefit Max £m** | | 1.88 | 1.28 | 12.27 |
| | | | | |
| **Additional Benefit-Cost Ratio** | | 0.44:1 to 1.44:1 | 0.38:1 to 1.24:1 | 0.96:1 to 3.14:1 |
| **Cost Benefit Ratio of option compared to option 1.** | | 0.44:1 to 1.44:1 | 0.41:1 to 1.35:1 | 0.75:1 to 2.47:1 |

**Table 1: Summary of costs and benefits of the Options**

Since the partial RIA was formed, more authorities are already reaching rates close to the suggested floor targets. By 2007/8, it is expected that even more authorities will have reached floor targets or surpassed them. It would therefore be expected that the costs of compliance associated with the suggested options are likely to be lower than what was previously estimated. As Table 1 shows, the costs are significantly less than those in the partial RIA, and so potentially reflect the lower expected compliance costs.

Alongside the above discussion as to why we might expect relatively smaller impacts, there were also difficulties in the modelling of options. The Local Authority Waste Recycling Recovery and Disposal (LAWRRD) model has been used to estimate the additional financial costs, and additional financial benefits that may arise as a result of implementing each option.

Realistically the recycling rate is thought to be higher than those rates that have been estimated. The results for the BVPI recycling rate under the four options are not comparable with the recycling rate that was predicted by the LAWRRD model used in the base case for the Waste Strategy RIA; 29%. The reason being that the targets within the LAWRRD model were adjusted to take account of other drivers i.e. higher local targets above that of BVPI targets which reflect both public pressure for higher rates and the impact of BVPI targets existing in the first place.

It is difficult to model the impact of the four options on a national level. The drivers as mentioned above are thought to be quite significant and so trying to model the impact of any changes as defined by the options within the version as used for the Waste strategy is likely to lead to negligible impact on performance and hence costs. Therefore to gauge what impact there may be, these drivers i.e. higher local targets were removed. Impacts of the options on performance and costs have been estimated although as illustrated in the financial costs and environmental benefits in table 1, these impacts are of a small magnitude.

## 6. Small Firms Impact Test

n/a

## 7. Competition assessment

n/a

## 8. Enforcement, sanctions and monitoring

No specific sanction has been proposed for a local authority that fails to meet its statutory performance standard. However, under Section 15 of the Local Government Act 1999, the Secretary of State has the power to intervene with those authorities that fail to demonstrate a commitment to improvement. There are three broad categories of intervention in rising order of severity:

- relating to process (for example requiring an authority to carry out a review of a specific function such as waste management);
- relating to the way a service is delivered (for example specifying priorities, such as a greater emphasis on recycling);
- to completely remove functions from an authority (for example, to the Secretary of State, in which case they would become his responsibility to discharge, although he would be able to appoint a nominee to act on his behalf);

A protocol has been agreed with the Local Government Association setting out the principles under which these powers will be used. The starting point would be

to invite the authority to submit an action plan setting out how it proposed to meet the statutory recycling targets by a given deadline. If the authority's plan were considered unsatisfactory, management consultants (using framework contracts established to support Ministerial intervention) would be invited to advise on the range of alternative steps available. These might include:

- providing advice to the authority
- working alongside the authority to help them carry out the function
- the operating contractor taking over all or part of the service delivery
- the Secretary of State taking over the duties of the authority, which would then in practice be carried out by someone nominated by her.

The Secretary of State may also order a local inquiry into the way an authority exercises specific functions, such as waste management, or simply direct the authority to ensure that the standard be met by a certain date. Such a direction could be enforceable through the courts.

## 9. Implementation and delivery plan

Implementation will be brought about through the new Statutory Instrument [2007 No ] that amends the Local Government (Best Value) Performance Indicators and Performance Standards (England) (Amendment) Order 2005. It amends articles 11 and 12, and replaces Schedules 9 and 10 to that Order which specify standards which apply to Best Value Authorities in relation to their waste functions.

This enforces recycling and composting standards for all waste authorities in England which specify the proportions of household waste they must send for recycling and/or composting during the year ending 31 March 2008

## 10. Post-implementation review

The effectiveness of setting recycling and composting standards will be judged by how much local authorities have increased the amount of household waste they send for recycling and composting in 2007-08. Furthermore, success will be judged on whether England as a whole recycles and composts 27.2 per cent or more household waste – this is the amount modelling suggests can be achieved through Option 3.

The results will be measured following the release by the Audit Commission of the Best Value Performance data which shows local authorities' performance in the measurements specified by Best Value Performance Indicators (BVPIs). Authorities' performance against recycling and composting targets will be measured by adding together each authority's performance under BVPI 82a (household waste sent for recycling) and BVPI 82b (household waste sent for composting).

## 11. Summary and recommendation

It is recommended that Option 3 in the consultation be implemented. This maintains the level of recycling and composting standards at 2005/06 levels but increases the minimum target from 18 to 20 per cent. It keeps the cap on recycling standards at 30% that was introduced in 2005/06. Option 3 would help close the gap between the better and lower

performing authorities, and potentially increase the proportion of household waste recycled in England to 27.2% per cent at an additional cost of only £ 1.03m above costs for Option 2.

Option 4, which involves removing the "cap", and thus reinstate standards of between 31 per cent and 40 per cent, but for which some authorities would be unable to deliver the step-change needed to achieve these targets in the time available. This Option would add £3.91m above Option 3 while adding only 0.8 per cent to the national recycling rate. In contrast, Option 3 focuses on the lower-performing authorities.

Option 2 would involve Maintaining Level of Recycling Performance at 2005/06 Levels, at a cost of £1.31 above Option 1, but would not provide sufficient incentive for authorities to improve. Option 1 (set no standards) would risk losing the impetus in increasing recycling and would send wrong messages to the public about its importance.

**Summary costs and benefits table**

| Option | Total benefit per annum: economic, environmental, social | Total cost per annum:<br>- economic, environmental, social<br>- policy and administrative |
|---|---|---|
| 1 | | |
| 2 | 0.57 – 1.88 | 1.31 |
| 3 | 0.39 – 1.28 | 1.03 |
| 4 | 3.74 – 12.27 | 3.91 |

## 12. Declaration and publication

*I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs*

**Signed Ben Bradshaw.**

**26th February 2007**

**Ben Bradshaw**
**Minister of State, Local Environment, Marine and Animal Welfare**
**Department for Environment Food and Rural Affairs**

**All enquiries and comments should be directed to Philip Walker at the Department for the Environment, Food and Rural Affairs (Tel 020 7082 8802 ), (e-mail philip.walker@defra.gsi.gov.uk ).**

## Annex A - The Local Authority Waste Recycling Recovery and Disposal Model

1. The Local Authority Waste Recycling Recovery and Disposal (LAWRRD) model has been developed for Defra by AEAT. The LAWRRD model is a replacement for the Strategy Unit (SU) model that was created as part of the Cabinet Office SU report 'Waste not Want not'.

2. The model's purpose is to predict the costs of local authorities waste management costs, flows of materials and the facilities needed for waste treatment to meet the EU Landfill Directive targets and increased rates of recycling and recovery. Different policy initiatives can be modelled using the LAWRRD (e.g. different taxes and target rates).

3. LAWRRD is a costs-driven, bottom up model. It models waste management by taking input data on waste arisings, numbers of actual or planned facilities from each local authority in turn and then summing the relevant outputs to develop a picture representing England as a whole.

4. Each local authority is assigned to one of up to three 'typologies' (i.e. urban, suburban and rural). The typologies allow user input of waste composition, growth rates, local gate fees and 'pressure factors' reflecting political and practical weighting against certain options (e.g. anti-incineration and non-achievement of targets). The assignment of typology is determined by the socio-economic and demographic characteristics of each area. The typology approach allows for the introduction of local variations in the model that cannot be reflected when the country is, in effect, treated as a single waste disposal authority, as in the SU model.

5. The model works by simulating the decision processes of each waste disposal authority. Each year, the costs of adding different waste management facilities at various operational scales is compared with the cost of making no change to the existing suite of facilities. The cost of each option includes the gate fees, costs of residue treatment and disposal, taxes, tradable allowances, fines and 'pressure' factors.

6. Having identified the lowest cost additional plant (or found that 'no change' is cheapest), the model then adds a facility of the selected type to the existing options for that local authority and then repeats the process for the following year. By basing decisions on economic costs, the model simulates the main driver for local authority decision making.

7. LAWRRD considers the material flows and costs from collection of recyclates and residual waste via civic amenity (CA) sites, 'bring' and direct recycling and kerbside collection options. The waste management options in the model are placed in a hierarchy[1], in which recyclates are removed at the top of the hierarchy, leaving residues for treatment in the lower levels.

[1] The hierarchy of treatment options is in descending order, MRF, Dirty MRF, green waste composting, bio waste composting, Bio-Mechanical Treatment with refuse-derived fuel production, MBT with compost /RDF production, MBT with compost produced going to landfill, EfW combustion, Advanced conversion technologies (e.g. pyrolysis and gasification which also recovery energy), residues to landfill.

## Annex B - Apportionment of Recyclate by Material

1. The LAWRRD model (see annex **A**) does not apportion out the level of recycling by material. It is necessary to take account of recycling by material when examining the environmental benefits of different target options, as different materials have different environmental benefits (see annex **A**).

2. The modelling used to generate the figures in table **x** used two different methodologies to apportion out the additional recycling predicted by the LAWRRD model:

    - **Methodology 1 –** Using the same split of materials as reported for the national total from the 2003/04 municipal waste management survey[2]
    - **Methodology 2 –** In proportion to the amount of material in the waste stream[3] as estimated in the Strategy Unit report 'Waste not, Want not'[4]

3. There is an automatic check built into the model to ensure that none of the options recycle more material then is in the waste stream.

**4.** While waste disposal authorities are likely to focus attention on biodegradable municipal waste from 2005/06 to help them meet their Landfill Allowance Trading Scheme obligations, it is reasonable to expect local authorities to still target a proportion of non-biodegradable material.

[2] Recycling reported as 'co-mingled' and 'other' was apportioned across the other materials in proportion to the amount recycled in 2003/04.
[3] Garden waste, kitchen waste and wood were taken as the components of composting.
[4] http://www.strategy.gov.uk/downloads/su/waste/report/02.html
Section 2 -What Is Waste And How Much Is There?, Figure 1: Composition of Household Waste

## 5. Annex C – Environmental Factors

1. The factors for environmental benefits of recycling[5] were taken from the Governments 'Waste Strategy 2000'[6] and converted into 2005/06 prices[7]

| Waste Management Option | External Cost Estimate £ p/t waste 1999 prices |
|---|---|
| **Recycling** | |
| Ferrous metal | -297 |
| Non-ferrous metal | -929 |
| Glass | -196 |
| Paper | -69 |
| Plastic film | 17 |
| Rigid plastic | -48 |
| Textiles | -66 |

2. The factors for the environmental impact of landfill and energy from waste were taken from the HMCE report[8] combining two different Defra studies[9] looking at the health and environmental impacts of different waste management options:

    - Landfill flare and landfill engine around £10 p/t
    - Incineration with energy recovery between £13 p/t and £14 p/t[10]

[5] In the absence of any benefit figures, compost was given the same factor as recycling paper and card. Cans were given the average of the ferrous and non-ferrous benefit figures. Scrap metal and white goods were also given the average of the ferrous and non-ferrous benefit figures

[6] http://www.defra.gov.uk/environment/waste/strategy/cm4693/pdf/wastv2_4.pdf
'Waste Strategy 2000, England and Wales Part 2' Appendix C, Table C4

[7] http://www.statistics.gov.uk/
See Retail Price Index.

[8] http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageVAT_ShowContent&id=HMCE_PROD_011566&propertyType=document
'Combining the government's two health and environment studies' Charts 1 & 2

[9] http://www.defra.gov.uk/environment/waste/research/health/index.htm
Stage 1: Review of environmental and health effects of waste management: municipal solid waste and similar wastes (May 2004)
Stage 2: Valuation of the external costs and benefits to health and environment of waste management options (December 2004)

[10] Dependent on what assumption is made about displaced energy production. **Note** this study did not net off emissions from the biomass fraction of waste sent to energy from waste facilities that are carbon neutral.