

**New Levy Mechanism and LATS Trading Policy 2010-2015****SUMMARY**

*This report provides an update on the development of the new “pay as you throw” levy mechanism. It describes the development of a strategy for the trading of LATS allowances, including an agreed basis for apportioning any costs or benefits from trading across the constituent boroughs.*

**RECOMMENDATIONS**

The Authority is asked to:-

- a) Recommend the adoption of the new “Pay as you throw” levy mechanism to the constituent boroughs
- b) Note the illustrative impact of the change in levy mechanism using 2010-11 Budget figures and tonnages as per Appendix I (Part 2 of the Agenda)
- c) Approve the draft LATS Trading Policy 2010-2015 as set out at Appendix II

**1. Background**

At the October 2009 meeting, the Authority received a report on the review of the levy system and supported the development of a new “Pay as you throw” levy mechanism to be adopted for implementation in 2011-12.

At its December meeting, the Authority received a report on the principles established for a trading policy in connection with the Landfill Allowance Trading Scheme (LATS).

Since then, further discussions with technical and financial officers from all of the constituent Boroughs have taken place on the new levy and a LATS policy has been drafted based on the outcomes of these meetings.

**2. “Pay as you throw” Levy mechanism**

A financial model has been developed to show how the new levy mechanism will work in practice and to give comparisons with the current levy system. Finance officers and officers from the Constituent Engineers’ Group have reached consensus on the principles and design of the new levy.

The financial impact on individual Boroughs that will result from this move to a new type of mechanism are minor and have been assessed as acceptable by all constituent Boroughs’ officers, in return for a more adaptive and responsive levy mechanism – one that immediately rewards Boroughs for increased diversion from landfill.

Appendix I shows the impact of the change in levy mechanism by re-casting the 2010 Budget using the new mechanism and comparing it to the current Levy.

## APPENDIX A

Changes for the constituent Boroughs range from an increase of 2.6% to a decrease of 1.4%. (Please note Appendix I contains commercially sensitive information relating to contractors' rates and is therefore available on the Part 2 agenda).

The important point to note is that since this new mechanism focuses on waste tonnages **actually** deposited for disposal or treatment, rather than predicted tonnages, the Boroughs have the opportunity to influence their costs better than before. As a result, any comparative increase in costs for a Borough indicated in Appendix I will be directly affected by any changes that the Boroughs make to their services.

The onus for financial planning in relation to waste tonnages will pass from the Authority to the constituent Boroughs, since their Budgets will need to reflect detailed estimates for tonnages, whereas the Authority will need to ensure that its fixed costs and overheads are met.

Overheads and fixed costs, in this context, refer to those costs that cannot easily be attributed to specific methods of waste treatment and disposal. This includes the operation of the Waste Transfer Stations – a key part in various methods of waste treatment. The table below outlines what overheads there are:

	£000
Employee costs	3,860
Premises Costs	2,400
Vehicle Costs (other than waste transport costs)	325
Supplies and Services (other than disposal costs and Landfill Tax)	370
Support Service costs (from relevant Boroughs)	320
Trade waste income (net of disposal costs)	-1,830
HRRC residual waste disposal and transport (including Landfill Tax)	4,671
<b>Total overheads and fixed costs</b>	<b>10,116</b>

HRRC residual waste is treated as an overhead, since it is an area-wide issue, with residents from across West London able to take waste to any of the 9 HRRC sites within the Authority area.

As the mechanism develops and matures, the aim will be to reduce the elements which make up the overheads and fixed costs figure and apply them directly to methods of waste treatment and disposal.

The next step towards adoption and implementation of "Pay as you throw" will be for the Authority to recommend that each of the constituent Boroughs adopt the new mechanism, in readiness for the start of the 2011-12 Budget Review (i.e. no later than October 2010). The constituent Boroughs will need to formally confirm their acceptance of the new arrangements. Authority officers will provide all necessary information to the Boroughs, in a consistent manner,

to assist this process. The new Levy mechanism will also include the LATS Trading Policy as an addendum.

## **LATS Strategy**

### **3. Background**

The Landfill Allowances Trading Scheme (LATS) is a government mechanism to encourage local authorities to divert waste away from landfill and so help the UK meet targets on landfilling waste set by the EU. Each authority with waste disposal responsibilities has been issued with an annual allocation of Landfill Allowances (each equivalent to one tonne of bio-degradable municipal waste). These allowances were based on waste tonnages from 2001-02 and decrease year-on-year in order to incentivise waste treatments other than landfilling.

In order to meet its own landfill target, an authority can either divert waste from landfill or purchase additional allowances (from an authority with a surplus) to meet any deficit. Similarly, under certain circumstances, an authority can sell any surplus allowances it may have built up.

Key target years for the UK (and hence the local authorities) are 2010, 2013 and 2020.

Although the Landfill Allowances Trading Scheme (LATS) and the allocation of Landfill Allowances has been in place since 2006-07, there has been no impact – negative or positive – on the Authority to date.

The market for surplus allowances has been fairly inactive and the majority of local authorities have not had a need to purchase additional Landfill Allowances to redress a LATS deficit. 2009-10 was the first target year and whilst the UK as a whole (and indeed the Authority) is predicting a LATS surplus, the allocation of Landfill Allowances drops sharply from 2010-11 onwards.

An increase in trading activity is expected, since local authorities who have yet to put infrastructure in place to divert waste from landfill may well need to purchase Landfill Allowances from those that have already done so. The Authority is currently in just such a position.

A draft LATS Trading Policy has now been drafted and is attached at Appendix II. This has been based on issues covered in previous reports to the Authority and provides a clear process for LATS including:

- Who will be responsible for trading the Landfill Allowances
- How the costs will be shared out amongst the constituent Boroughs

### **4. Roles and responsibilities**

The Authority is the accountable body for the allocation of Landfill Allowances and for performance in meeting LATS targets. Therefore only the Authority can make purchases of LATS allowances, or their sale, as required to meet LATS targets.

The use of waste modelling and the recently developed LATS model will ensure that decisions will be made using robust information and projections, in consultation with the constituent Boroughs.

### **5. Apportionment of Costs/Benefit**

To ensure an equitable approach, the basis for sharing the burden of the purchase of any additional allowances looks at how LATS allowances would have been originally allocated to individual Boroughs had the Authority not existed (i.e. based on waste tonnages from 2001-02 for each Borough). Sharing of benefits from the sale of any surplus LATS allowances would follow the same principles.

Table 1 shows the hypothetical proportion of WLWA LATS allowances for each Borough. The proportions are based on the Borough tonnages reported to Defra in 2001-02 that were used in the original allocation of Landfill Allowances to the Authority.

<b>Borough</b>	<b>Brent</b>	<b>Ealing</b>	<b>Harrow</b>	<b>Hillingdon</b>	<b>Hounslow</b>	<b>Richmond</b>
% LATS allowances	17.42	19.35	13.68	14.77	16.44	18.34

The Trading Policy will apply these proportions to the LATS allowances allocated to the Authority for each year from 2010-11 onwards – effectively giving each Borough their own LATS allocation. Performance will be measured in terms of the Bio-degradable Municipal Waste (BMW) tonnages sent to landfill compared to the LATS allocations.

In a position where the Authority has an overall LATS surplus and allowances are available to sell, the benefits will be shared (in proportion) among those Boroughs that have a positive LATS balance. Those that have a LATS deficit will not receive any benefit.

In the reverse situation, costs for the purchase of additional LATS allowances will be shared across those Boroughs with a LATS deficit. Boroughs with a LATS surplus will not have any costs.

**6. Purchase of LATS**

The best analogy of the Landfill Allowance Trading Scheme is futures commodity trading, where deals are struck for future years. In this case, a price is set for the years that LATS allowances are needed, based on assumptions about how much the allowances would be worth.

The Authority has current projections for LATS deficits. These are based on the constituent Borough’s own estimates of future waste arisings and take account of planned service improvements. These show that we will probably require additional LATS allowances from 2012-13 onwards.

Since 2012-13 is a target year for LATS and many planned infrastructure changes for waste treatment and disposal will not be in place by this time, action is likely to be needed in relation to the purchase of allowances to redress the predicted deficit.

It will therefore be prudent to consider the purchase of LATS allowances from authorities who have (or are predicting) a surplus by that point in time. However, a Defra consultation on the definition of municipal waste started in March 2010 and will impact on the future of LATS. Therefore, no forward purchasing of Landfill Allowances for 2012-13 is recommended until the outcome of the consultation is known.

Should LATS continue, the majority of the constituent Boroughs will face a varying cost burden to redress these predicted LATS deficits.

This adds yet more urgency to the argument that the Authority and its partners need to press on with establishing new waste treatment infrastructure that will ensure increased diversion of waste from landfill.

## 7. Current forecast projections

The LATS model is based on Boroughs' own estimates for waste tonnages up to 2014-15 and takes a number of other factors (including Boroughs' planned service improvements, the Authority's increased use of Energy from Waste over time, etc) into consideration.

On this basis and using the agreed apportionment method outlined above, the estimated impact of LATS upon the Boroughs will be as shown in the table below:

	Brent	Ealing	Harrow	Hillingdon	Hounslow	Richmond	Overall
2010-11	(1,639)	2,923	8,053	(3,538)	5,549	11,748	23,096
<b>2010-11 c/f</b>	<b>(1,639)</b>	<b>2,923</b>	<b>8,053</b>	<b>(3,538)</b>	<b>5,549</b>	<b>11,748</b>	<b>23,096</b>
	Brent	Ealing	Harrow	Hillingdon	Hounslow	Richmond	Overall
2010-11 b/f	(1,639)	2,923	8,053	(3,538)	5,549	11,748	23,096
2011-12	1,489	(4,616)	3,014	(8,027)	1,058	9,167	2,086
<b>In-year total</b>	<b>(150)</b>	<b>(1,693)</b>	<b>11,067</b>	<b>(11,565)</b>	<b>6,607</b>	<b>20,915</b>	<b>25,182</b>
Sale of Surpluses	0	0	(7,222)	0	(4,312)	(13,648)	(25,182)
<b>NO CARRY FORWARD TO TARGET YEAR</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	Brent	Ealing	Harrow	Hillingdon	Hounslow	Richmond	Overall
2011-12 b/f	0	0	0	0	0	0	0
2012-13	(704)	(12,169)	(2,033)	(10,145)	(3,266)	2,783	(25,525)
<b>In-year total</b>	<b>(704)</b>	<b>(12,169)</b>	<b>(2,033)</b>	<b>(10,145)</b>	<b>(3,266)</b>	<b>2,783</b>	<b>(25,525)</b>
Purchase of LATS	635	10,973	1,833	9,148	2,937	0	25,525
<b>NO CARRY FORWARD FROM TARGET YEAR</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	Brent	Ealing	Harrow	Hillingdon	Hounslow	Richmond	Overall
2012-13 b/f	0	0	0	0	0	0	0

## APPENDIX A

2013-14	3,410	(11,569)	(1,400)	(9,466)	(1,889)	2,790	(18,123)
<b>In-year Total</b>	<b>3,410</b>	<b>(11,569)</b>	<b>(1,400)</b>	<b>(9,466)</b>	<b>(1,889)</b>	<b>2,790</b>	<b>(18,123)</b>
Purchase of LATS	0	8,620	1,043	7,053	1,407	0	18,123
<b>2013-14 c/f</b>	<b>3,410</b>	<b>(2,949)</b>	<b>(357)</b>	<b>(2,413)</b>	<b>(481)</b>	<b>2,790</b>	<b>0</b>
	<b>Brent</b>	<b>Ealing</b>	<b>Harrow</b>	<b>Hillingdon</b>	<b>Hounslow</b>	<b>Richmond</b>	<b>Overall</b>
2013-14 b/f	3,410	(2,949)	(357)	(2,413)	(481)	2,790	0
2014-15	9,433	(7,416)	1,641	(5,607)	7,582	4,791	10,423
<b>In-year Total</b>	<b>12,843</b>	<b>(10,365)</b>	<b>1,284</b>	<b>(8,020)</b>	<b>7,101</b>	<b>7,581</b>	<b>10,423</b>
Sale of Surpluses	(4,646)	0	(465)	0	(2,569)	(2,743)	(10,423)
<b>2014-15 c/f</b>	<b>8,493</b>	<b>(11,625)</b>	<b>741</b>	<b>(9,057)</b>	<b>4,557</b>	<b>6,891</b>	<b>0</b>

Looking at the pattern of income and expenditure expected for the Boroughs (caveated by the fact that future prices of Landfill Allowances can only be guessed at), the financial impact could well be as follows:

	<b>Brent £000</b>	<b>Ealing £000</b>	<b>Harrow £000</b>	<b>Hillingdon £000</b>	<b>Hounslow £000</b>	<b>Richmond £000</b>	<b>Overall £000</b>
2010-11 (banked)	-	-	-	-	-	-	-
2011-12 (sale @ £20)	-	-	(145)	-	(86)	(273)	(504)
2012-13 (purchase @ £100)	64	1,097	183	915	294	-	2,553
2013-14 (purchase @ £20)	-	172	21	141	28	-	362
2014-15 (sale @ £20)	(93)	-	(9)	-	(52)	(55)	(209)

The main concern is that for 2012-13, a LATS target year, there is a predicted deficit. Since it is a target year, the prices for Landfill Allowances are likely to be significantly higher, especially if the UK as a whole is struggling to meet the LATS requirement. The expected burden is in the region of £2.5m, falling mainly on two Boroughs. This will be partially defrayed by the £300,000 LATS reserve (which would be allocated pro-rata across the Boroughs), but there is still a significant remainder.

This could be offset in one of two ways:

- The Authority could seek spare capacity for landfill diversion treatments (such as Energy from Waste) in merchant facilities, or
- The affected Boroughs could implement initiatives to either reduce waste or improve recycling and composting performance

## 8. Conclusions

The LATS model will be regularly updated to account for changes in services, waste growth and to take account of any new initiatives at a Borough, Authority or national level.

The other positive aspect is that there is not a LATS deficit predicted until 2012-13, which may give time to action some contingency plans. In addition, the review of Waste Management and the definition of Municipal Waste may have wide ranging implications that include the cessation of LATS.

## **9. Financial implications**

In setting the 2010-11 budget for the Authority, a “ringfencing” of balances created a LATS trading reserve, set at £300,000. This can be utilised for the purchase of LATS allowances in the first instance, but beyond this (as stated above), the burden of funding LATS purchases will need to come from those constituent Boroughs that cause the LATS deficits.

Any charge or rebate made to Boroughs for this will be incorporated into the “Pay as you throw” levy mechanism. In practice, due to the delay in accounting for LATS, each relevant Borough will be charged (or credited) in line with the LATS costs from the previous year.

This fundamental change in the levy mechanism and LATS Strategy will have an impact on the Medium Term Financial Strategies of the constituent Boroughs and places the onus of addressing diversion from landfill on them, but with the help and support of the Authority.

For LATS trading, the table in paragraph 6 above shows the estimated impact on constituent Boroughs for the years up to 2014-15. This takes account of the use of the LATS Trading Reserve as an initial buffer. Estimates for the costs of purchasing Landfill Allowances are based on assumptions around the market appetite for Allowances in a particular year, together with an assumed premium for target years (i.e. 2012-13).

It is stressed that these figures are based on Borough estimates, themselves based on a whole series of projections and assumptions, which may change over time. This is the best estimate of the impact at this point in time – the actual outcome will depend on a range of operational decisions and external factors.

## **10. Legal Implications**

Under the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006, the amount levied by the Authority may be made “in such proportions as all the constituent councils may agree”. Therefore a new levy mechanism can be adopted only with the unanimous support of all the constituent Boroughs. Failure to achieve universal approval will mean that the current or default mechanism would continue to apply.

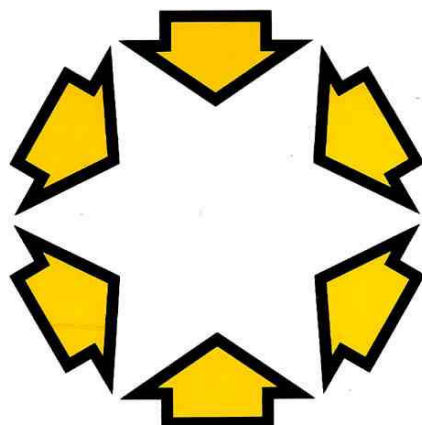
For the purposes of the Scheme of Delegation to officers, the purchase and/or sale of Landfill Allowances (LATS) shall be treated as a tender for works, services or goods, i.e. Director delegation for up to £250,000.

## 11. Joint Municipal Waste Management Strategy

The proposals in this report support **Policy 8** of the joint strategy, “The WLWA and constituent Boroughs will work together to achieve the aims of this strategy and are committed to share equitably the costs and rewards of achieving it”

Background Papers	None	
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**WEST  
WASTE**

West London Waste Authority

LATS Trading Policy  
2010-2015

West London Waste Authority - a joint Authority of the London Boroughs of Brent, Ealing, Harrow, Hillingdon, Hounslow and Richmond upon Thames

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## Introduction

In 2006-07, the Government introduced the Landfill Allowance Trading Scheme (LATS) as a tool to meet England's target under the EU Landfill Directive. The Allowances have been allocated to waste disposal authorities, using waste tonnages from 2001-02 as a baseline. Year on year, these allocations reduce to ensure that the UK as a whole is able to meet landfill targets set under the EU Landfill Directive.

A key point of LATS is the provision for authorities to trade surplus Landfill Allowances with those authorities that have a LATS shortfall to ensure that the national target is met.

The amount of Bio-degradable Municipal Waste (thought to cause greenhouse gas emissions in landfill) sent to landfill by each authority is calculated, using 68% of residual waste as a default proportion. This is then compared to the Landfill Allowance allocation, giving either a LATS surplus or a LATS deficit.

LATS then acts as a market tool, to allow and regulate the sale and purchase of Landfill Allowances so that authorities can gain from their LATS surplus, or redress their LATS deficit.

Allowances can be banked between target years, giving cumulative surpluses or deficits. However, any authority with a deficit in a LATS target year (2010, 2013 or 2020), that fails to purchase surplus Allowances from another source, will risk penalties from Government of up to £150 per Allowance.

To date, waste disposal authorities have had little need of additional Landfill Allowances, so the market value of LATS traded for years up to 2009-10 have been very low. Typical trading values on LATS in 2009-10 were only 25p per Allowance.

It is predicted that for the first target year - 2010 (the municipal year 2009-10) – the UK as a whole will be below the LATS target. Provided trading takes place, no penalties will need to be issued to local authorities. However, projections for subsequent target years are far less encouraging.

## Target years

Under the European Waste Framework Directive, there are a number of key dates for progress on reducing waste sent to landfill. For the UK and LATS, this means target years where the municipal waste tonnages going to landfill for that particular year must at or below the target allocation of Landfill Allowances.

Legislation allows for penalties of up to £150 per tonne to be levied against local authorities who exceed their target allocation (to defray the penalties that UK plc would be liable for). 2009-10 is a target year and current forecasts are that UK plc will have an overall surplus of 2,000,000 tonnes, so no penalties are needed.

Target years for LATS performance are:

- 2010 (i.e. financial year 2009-10)
- 2013 (i.e. 2012-13)
- 2020 (i.e. 2019-20)

## LATS projections

WLWA, with input and support from the constituent Boroughs will produce projections for performance against LATS targets. These will be derived from the Authority's waste model, based on:

- Estimated tonnages for waste sent to landfill
- Estimates of recycling, composting and energy recovery tonnages
- Waste growth rate assumptions

Although individual Mass Balance Calculations will take place on the waste that each Borough sends to landfill (as done through WasteDataFlow), projections will make use of assumed proportions of Bio-degradable Municipal Waste (a default percentage of 68% is used by Defra in its definitions).

This effectively means that 68% of the estimated tonnages sent to landfill will be compared to Landfill Allowance allocations to determine whether the Authority has a LATS surplus or deficit.

## Procedure for purchase of Landfill Allowances

For years where there is a predicted LATS deficit that cannot be redressed through banked LATS surpluses, the Authority will need to purchase Landfill Allowances from other authorities that have an actual, or predicted LATS surplus.

Using the LATS website, the Authority will post an interest in purchasing Allowances and will negotiate with interested parties to agree a price per tonne.

Such a purchase agreement may be for a single year, or may cover a number of years, with agreed prices per tonne for each year. The Authority will follow best practice in such negotiations (e.g. using the model used by Merseyside WA for their deal with NE local authorities).

From 2010-11 onwards, a LATS purchase reserve has been established within Authority balances. At the time of writing this policy, the reserve stands at £300,000. This will defray some of the initial costs of purchasing LATS.

## Procedure for sale of Landfill Allowances

If the Authority is in a position where there is a LATS surplus (or a robust prediction of a LATS surplus). Surpluses will first be considered for banking or for use in future years. In target years, no carry-forwards or banking is permitted. If the Authority decides, in consultation with the Constituent Engineers' Group, to offer surplus Landfill Allowances for sale.

For a decision that the surplus will not be banked, the following criteria will need to be met:

- (a) The surplus allowances will not be required to redress LATS deficits in the following year
- (b) The market value of Allowances being sold represents good value for money from an Authority perspective

Once the criteria are met, the Allowances can be posted on the LATS website as available for sale. As with purchases, best value outcomes for the Authority will be sought in negotiations, following best practice.

## Apportionment of costs and benefits from LATS

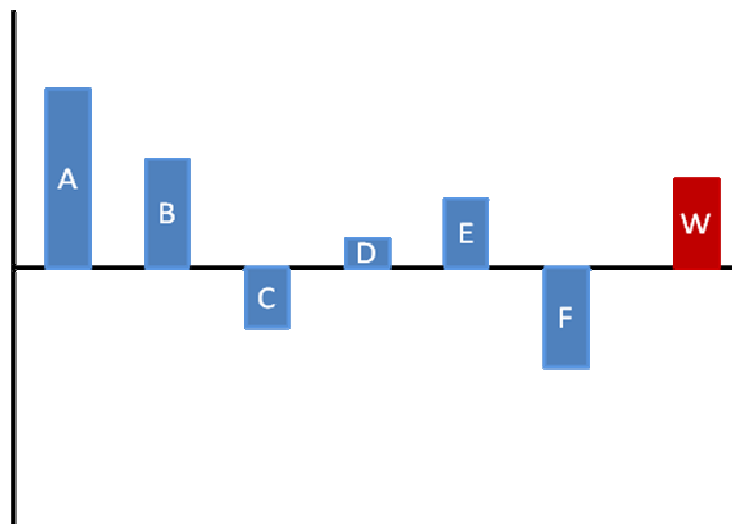
The mechanism for the apportionment of any costs or benefits arising from LATS (be that purchase costs, sales income or LATS penalties) has been agreed by officers from the constituent Boroughs and approved by the Authority.

The basis of the apportionment mechanism is to consider what LATS allocations would have been for each individual Boroughs had they been Unitary Authorities (i.e. had waste collection **and** waste disposal responsibilities). This ensures that the Boroughs who have achieved high levels of diversion from landfill are rewarded.

Using the baseline data that WLWA's LATS allocations have been based on – the 2001-02 waste tonnage data from the Annual Waste Survey (now supplanted by Defra's WasteDataFlow) – Landfill Allowances for each year have been allocated to each Borough, in proportion to the baseline information.

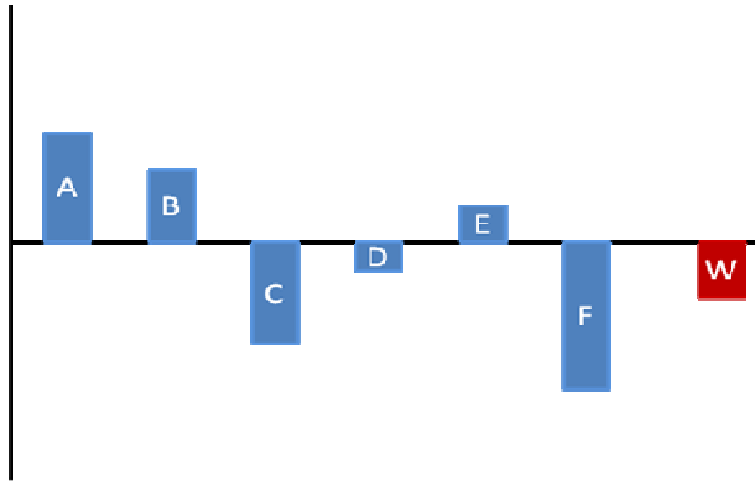
Each Borough's performance will then be assessed against its own LATS allocation, to establish whether it has a LATS deficit or surplus.

In cases where the Authority overall has a LATS surplus and does not bank this surplus, the proceeds of any sale of Allowances will be shared proportionately among those Boroughs with an individual LATS surplus.



In the example above, there is an overall LATS surplus ("W"). Boroughs A, B, D and E all have individual LATS surpluses and so will receive a proportionate share of the income from the sale of those surplus Allowances. Boroughs C, D and F will not receive any benefits. All individual LATS allocations will be amended accordingly.

If there is an overall LATS deficit position for the Authority, then additional Landfill Allowances will need to be purchased. The cost burden of this would be shared proportionately amongst those Boroughs with a deficit position (C, D & F in the example on the next page).



## Changes to LATS regulations

Should there be any changes made to LATS regulations or to its operating environment, this trading policy will be revised accordingly and resubmitted for officer agreement and for Authority approval.

Should LATS and Landfill Allowance allocations cease, then any residual cost burden or benefit will be apportioned across the constituent Boroughs in line with model mentioned above.

## Roles and responsibilities

- Landfill Allowances are allocated to West London Waste Authority, not to individual constituent Boroughs, therefore the Authority will have the responsibility for trading Landfill Allowances.
- The Director, under delegated powers will take the role of signatory for any deals agreed within LATS
- The Assistant Director (Resources) will have the role of sourcing and investigating potential purchases and sales as necessary, as well as routine use of the LATS web-portal.
- The Constituent Engineers' Group will be regularly updated on LATS projections and proposed purchases or sales.
- Regular reports on LATS performance and trading will be made to Authority members.

## Glossary

- BMW - Biodegradable Municipal Waste, a major contributor to greenhouse gas defined as 68% of residual waste
- LATS - Landfill Allowance Trading Scheme
- Landfill Allowance - Equivalent of a tonne of Biodegradable Municipal Waste sent to landfill.
- EU Landfill Directive - This Directive is EU legislation to limit biodegradable waste going to landfill and thereby reduce greenhouse gas