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Llywodraeth Cymru
Welsh Government

Our ref: RE/353/2023

Peredur Owen Griffiths MS
Chair, Finance Committee
Senedd Cymru
Cardiff Bay
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18 October 2023

Dear Peredur,

Independent Review of Landfill Disposals Tax

Thank you for your letter, in which you asked for an update on a number of issues contained within the final report from the Independent Review of Landfill Disposals Tax (LDT), published on 6 July. Please find below a response to the issues highlighted in your letter.

The report noted that there was low engagement with stakeholders when undertaking the research. It warned that the interview and survey data presented within the report is not fully representative of stakeholder groups and caution should be taken when drawing conclusions from the presented data.

While the number of stakeholders engaged in the review was not as high as we had hoped, the review captured views from a broad range of organisations representing a range of stakeholder groups, including trade associations, environmental organisations, regulators, government and policy officials, commercial collectors, landfill site operators, and waste producers. I am satisfied the review team made every effort to engage as many stakeholders as possible in the review, and that the findings of the review, while not necessarily fully representative of opinions, provide a sufficient base to support our understanding of the impact of LDT rates on behaviours to date and to inform the future consideration of policy in this area.

The report further highlighted challenges in isolating the impact of LDT so there was difficulty in attributing direct impact of the tax.

While the review noted the challenges in isolating the impact of LDT as an individual policy lever, it found LDT to be well-aligned with other Welsh Government environmental policies and priorities. Furthermore, the review found LDT to be a vital part of a package of policy measures that is, collectively, driving waste away from landfill and up the waste hierarchy (i.e. towards prevention, re-use, recycling and recovery). My priority now is to consider how

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

best LDT policy can continue to complement new and existing policy initiatives to ensure it continues to contribute towards achieving our environmental objectives.

Several research questions couldn't be answered due to a lack of data.

We recognise that data gaps exist for certain areas such as waste crime and unauthorised disposals. Due to their nature, such areas are difficult to quantify. However, my officials are working with partners in Natural Resources Wales (NRW) and the Welsh Revenue Authority (WRA) to ensure that we make the best possible use of the data we have. The WRA has recently started publishing additional data in its Statistical Bulletins to aid analysis and understanding of the waste sector. My officials are also working with policy colleagues across the Welsh Government to support the implementation of a digital waste tracking service which will help to fill some of the data gaps which currently exist.

The gap between the lower and standard LDT rates has contributed to the intentional misclassification of waste.

The review findings reinforced our previously held assumptions that the widening gap between the lower and standard rates is providing a clear financial incentive for waste to be misdescribed. Understanding how misdescription occurs is key to determining how best to address it. My officials are working with partners in the WRA and NRW to undertake a project to gain a better understanding of what misdescription is, where it occurs in the process, and the key drivers and motivations for people to misdescribe waste. The project will then consider what action is needed to address it.

The discovery phase of the project is now complete and has found multiple points in the waste chain where there are opportunities to misdescribe waste. The next phase will consider how these opportunities can be mitigated and what other measures might be advisable to address misdescription more effectively.

The lower LDT rate has also disincentivised the use of more expensive (relative to landfill) alternative and sustainable waste treatment options.

We recognise that, in some instances, it may be the case that the landfilling of some materials is cheaper than other treatment options. Other factors, aside from cost, may also affect how waste is disposed, including proximity and access to alternative treatment facilities. Some materials which qualify for the lower rate of LDT can also be repurposed, following disposal, to be used in site restoration at landfill sites.

We will continue to work with stakeholders to understand in more detail the factors which may limit more sustainable management of waste and consider what action we may need to take to address these.

The unauthorised disposals rate (150 per cent of the standard rate) was viewed as sensible, but issues were raised with its potential effectiveness at deterring waste crime, due to lack of visibility and enforcement.

Charging tax on unauthorised disposal of waste is a relatively new and unprecedented area of taxation. The WRA has established an unauthorised disposals team, which is currently in a 'test and learn phase'. This may account for the perceived lack of visibility recorded in the review. The WRA has charged tax on several cases of unauthorised disposals, with one case currently under appeal to the Tax Tribunal. The WRA is also working closely with NRW to improve waste quantification methods and future case referrals. As work continues, and

the numbers of cases on which tax is charged increases, the WRA expects more information to be released into the public domain which will support greater visibility going forward.

Suggested improvements included introducing multiple tax rates; changing rates based on the desired treatment of materials; reducing administrative burdens on landfill operators; and assigning more resources (e.g. tax revenue) to improve the regulation of LDT.

Tax rates

There is, currently, a lack of robust data examining the risks and benefits of introducing new tax rates and more work would be needed to understand these in more detail. While the review found that LDT rates do not influence the cross-border flows of waste, this finding can only be considered in the current context, where LDT rates are aligned with those of the UK Landfill Tax (LFT). The relatively small sample size of participating stakeholders from which these conclusions were drawn also makes it difficult to determine the potential appetite for such changes across the wider waste sector. While I do not wish to rule out making any changes to future tax rates, further analysis is needed to determine the risks and benefits of any such change, as well as identifying the levels which could be tolerated by businesses. We will continue to work with colleagues across the other UK nations to understand how we might gather the required information and determine what, if any, action might be taken over the longer term.

Rates based on the desired treatment of materials

The review contained some interesting findings about the types of materials which are being landfilled and noted there were several waste streams where LDT rates were not acting as a deterrent to landfill. There is, therefore, scope to consider whether some materials should be moved up the waste hierarchy to encourage their recovery and reuse, and whether rates for other materials, for example, some hazardous materials, should be re-considered, to encourage their safe disposal.

The findings of the review in this regard provide us with an opportunity to undertake more targeted action to understand the views of the waste sector in more detail and consider what appropriate action should be taken. I am aware HM Treasury is also undertaking similar considerations with regard to LFT and my officials will look to work with HM Treasury officials to consider how our work might align with this, going forward.

Reducing administrative burdens on landfill operators

A small number of landfill site operators (LSOs) participating in the review commented that the administrative burden of LDT in Wales is higher than that of LFT in England. This may be because the WRA has introduced a more detailed, digital LDT return and conducts more rigorous and regular reviews of some LDT approvals, particularly water discounts.

The WRA's new digital tax return aims to make it easier for taxpayers to get things right first time, by asking for more detail from the start. The WRA involved LSOs in the design of the return.

Both HMRC and WRA have identified water discounts as an area of particular risk for waste crime. The WRA has instituted more rigorous checking measures and annual reviews of each discount from the outset, to ensure the regime was not being abused, and consider this approach to have reduced tax risk. WRA has since shared this process with HMRC and Revenue Scotland, both of whom are moving to adopt similar approaches in England, Northern Ireland and Scotland.

The WRA also has two dedicated Customer Relationship Managers who support LSOs on applications for reliefs, tax opinions, general queries, and filing of tax returns. This bespoke, personal approach helps LSOs manage their LDT responsibilities and fosters positive relationships between the WRA and LSOs.

Assigning more resources (e.g. tax revenue) to improve the regulation of LDT

Our approach to the administration of LDT will continue to be to ensure we make the most efficient and effective use of the resources available to support the delivery of LDT, and our other fully devolved tax. Our approach is underpinned by our tax principles, in particular designing taxes to be clear and stable, and that our approach is simple and fair, in line with the Welsh way of doing tax.

We will continue to improve our understanding of key issues in relation to waste management and disposal by strengthening relationships across the Welsh and UK Governments and with our key partners in the WRA and NRW. This will support the ongoing development of LDT to ensure it continues to contribute towards achieving our objective of a zero waste Wales.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive, flowing style.

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