



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

January 2017

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

Specific responses to terms of reference for the inquiry

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

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

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

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

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

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

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

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

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

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

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

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

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

²

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

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

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

3.1 We note that The Cabinet Secretary for Finance and Local Government has confirmed that for LDT the Landfill Communities (Environmental Bodies) Credit arrangements will not be delivered as a tax credit and therefore will not be required to be made in legislation. We are concerned that this detachment will lead to less transparency regarding the grants scheme and levels of funding within it. See Q16.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16.8 In addition to supporting healthy ecosystems and the benefits they provide, the current LCF has directly enabled the creation of green growth within the Welsh economy through projects such as the creation of the indoor learning and events space at RSPB Conwy nature reserve. In 2005/06 the creation of a new facility at RSPB Conwy not only safeguarded two full time and six part time posts, but in addition created two full time and three part time posts, as well as a wealth of new

volunteer opportunities due to the expansion in activities and events on offer at the reserve. Visitor numbers to the site almost doubled within 2 years, encouraging indirect spend within the Welsh economy too. 69% of visitors in peak season and 63% in off peak visit to enjoy the landscape/countryside/beach⁴. LCF funding for biodiversity helps to maintain and improve this vital part of the Welsh tourism offer for this key Welsh industry.

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

Summary

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

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

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

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

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

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

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

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

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

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

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

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