

Debate Pack

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Landfill Tax fraud: Backbench Business Debate

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1 Background

A general debate on landfill tax fraud will be held in the House of Commons chamber on Thursday 12 January 2023. The subject has been chosen by the Backbench Business Committee, and the debate was [requested by David Davis MP on behalf of Kevan Jones MP on 1 November 2022](#).

1.1 Landfill Tax

Landfill Tax applies to all waste disposed at a licensed landfill site (unless the waste is classed as exempt).¹ Landfill Tax applies to England and Northern Ireland, and is collected by HM Revenue & Customs (HMRC).²

The tax is devolved to Scotland (where the Scottish Landfill Tax is in place) and Wales (where the Landfill Disposals Tax was introduced).³ However, certain provisions applicable in England and Northern Ireland also apply to landfill operators in Wales that were registered for Landfill Tax until 31 March 2018, and those that were registered in Scotland until 31 March 2015.⁴

Who is liable to pay Landfill Tax?

The permit holders for landfill sites (operators) are liable to Landfill Tax in the first instance. If the operator does not have direct involvement with the operation the person who decides what can be disposed at the site (controller) is liable. If the operator fails to pay landfill tax, the controller is jointly and severally liable to pay.⁵

Rates

Landfill Tax is charged by weight. There are 2 rates:

- For less polluting materials and for ‘qualifying fines’ (which are “particles produced by a waste treatment process that involves an element of

¹ Office for Budget Responsibility (OBR), [Tax by Tax, Spend by Spend: Landfill Tax](#), updated 26 April 2022

² The primary legislation that establishes Landfill Tax is contained in sections 39 to 71 and schedule 5 of the [Finance Act 1996](#). The operation of the tax is underpinned by several pieces of secondary legislation, outlined in section 1.4 of HMRC’s [Excise Notice LFT1](#).

³ For details see, Revenue Scotland, [Scottish Landfill Tax](#) and Welsh Revenue Authority, [Landfill Disposals Tax](#), retrieved 21 December 2022

⁴ HMRC, [Excise Notice LFT1: a general guide to Landfill Tax](#), GOV.UK, 23 November 2022 (accessed on 21 December 2022)

⁵ HMRC, [Excise Notice LFT1: a general guide to Landfill Tax](#), GOV.UK, 23 November 2022 (accessed on 21 December 2022), para 2.6

mechanical treatment”), a lower rate applies.⁶ This rate has been set at £3.15 per tonne since 1 April 2022.

- For all other taxable material, the Landfill Tax rate has been set at a standard rate of £98.60 per tonne since 1 April 2022.⁷

The rates of landfill tax are updated annually – that is, increased in line with inflation.⁸ In their overview of landfill tax the Office for Budget Responsibility (OBR) noted that “the Scottish and Welsh Governments have both so far announced rates that match those set by the UK Government. These taxes are all similar in design and the ONS combines them when recording them in the National Accounts, so we have combined them in our latest forecast.” The OBR estimate that in 2022-23 landfill taxes will raise £0.66 billion. This represents 0.1 per cent of all tax receipts and is equivalent to £24 per household and 0.03 per cent of national income.⁹

Unauthorised landfill sites

In April 2018, the government extended landfill tax to disposals of material at sites operating without the appropriate disposal permit. The policy objective was to deter non-compliance by removing the tax advantage that incentivises this type of illegal activity, and to reinforce the principle of ‘the polluter pays’.¹⁰

In March 2017 HMRC had launched a [consultation](#) on the case for extending the scope of landfill tax, to help tackle the wider problem of waste crime. The consultation document set out the background to this problem, citing HMRC’s 2014-15 tax gap for landfill tax to be at £150 million, or 12% of theoretical landfill tax liabilities.¹¹ Following the outcome of the consultation, [draft legislation](#) was published, and in turn, the Autumn 2017 Budget confirmed that provision to this effect would be included in the Finance Bill 2018.¹² The Budget report estimated that this would raise £30 million in 2018-19, and £44-50 million a year in subsequent years.¹³

The lower rate does not apply to any material disposed of in an unauthorised landfill site.

⁶ HMRC, [Excise Notice LFTI: a general guide to Landfill Tax](#), GOV.UK, 23 November 2022 (accessed on 21 December 2022), s3.1 – see also the [Landfill Tax \(Qualifying Material\) Order 2011](#), as amended

⁷ HMRC, [Excise Notice LFTI: a general guide to Landfill Tax](#), GOV.UK, 23 November 2022 (accessed on 21 December 2022), s3.1

⁸ HM Treasury, [Autumn Statement 2022: Policy Costings](#), November 2022 (see Annex A: Indexation in the public forecast baseline)

⁹ OBR, [Tax by Tax, Spend by Spend: Landfill Tax](#), updated 26 April 2022

¹⁰ HM Treasury, [Landfill Tax Review: call for evidence](#), November 2021 para 3.18

¹¹ HMRC, [Landfill Tax: Whether to bring illegal waste sites within the scope of Landfill Tax - Consultation document](#), (PDF), 20 March 2017 pp5-6

¹² [Autumn Budget 2017. \(PDF\) HC 587, November 2017](#) para 3.51

¹³ [As above](#) p29 (Table 2.1 – item 49). See also, HMRC, [Landfill Tax: disposals not made at landfill sites: tax information and impact note](#), 16 March 2018

On top of a landfill tax liability, a penalty can also be charged, of the value of up to 100% of the tax due. HMRC adds that, in some cases, “it is appropriate for criminal action to be taken.” The penalties are:

- On summary conviction, a fine up to the statutory maximum (£20,000) or 3 times the amount of tax, whichever is the greatest and/or up to 6 months in prison.
- On conviction on indictment, an unlimited fine and/or up to 7 years in prison.¹⁴

Landfill tax and the tax gap

In recent years HMRC has produced estimates of the tax gap - the difference between tax that is actually collected and that which is “theoretically due” –if compliance and mistakes did not happen.¹⁵

In June 2022, HMRC published revised estimates, which put the tax gap at £32 billion for 2020-21, representing 5.1% of total tax liabilities.¹⁶

HMRC estimate that the tax gap for landfill tax is higher than the overall tax gap at 17.1% for 2020-21 (equivalent to £125 million). The estimate has fallen over the last two years: from 29.2% in 2018-19 (equivalent to £275 million), to 23.0% in 2019-20 (equivalent to £200 million), to its present level.¹⁷ By way of contrast, the tax gap estimated by HMRC for some key taxes is as follows:

¹⁴ HMRC, [Excise Notice IFTI: a general guide to Landfill Tax](#), GOV.UK, 23 November 2022 (accessed on 21 December 2022), s24.12

¹⁵ HMRC, [Measuring Tax Gaps 2013](#), GOV.UK (The National Archives), October 2013 p6

¹⁶ HMRC Press notice, [Tax gap remains steady at 5.1%](#), GOV.UK, 23 June 2022

¹⁷ HMRC, [Measuring tax gaps – 6: Other taxes](#), GOV.UK, 23 June 2022

Table 1 Tax gap estimates, 2020-21

Tax	Tax gap (%)	Tax gap (£)
Landfill Tax	17.1%	£125 million
Income Tax, National Insurance Contributions, and Capital Gains Tax	3.5%	£364 billion
VAT	7%	£129 billion
Corporation Tax	9.2%	£60 billion

Source: HMRC, [Measuring tax gaps – 1: Summary](#), GOV.UK, 23 June 2022¹⁸

It seems likely that one reason for the decline in the tax gap for landfill tax in the last three years is the aforementioned legislation which has brought unauthorised landfill sites within the remit of landfill tax.

Current review of the design of landfill tax

In Spring 2021, the Government announced it would review the landfill tax to ensure it “continues to support the government’s ambitious environmental objectives.”¹⁹ In November 2021, HM Treasury launched a call for evidence to ask for views on the key design features of the tax.²⁰

The Treasury’s call for evidence had a short section on waste crime, which noted the change made to the application of landfill tax to waste deposited on unauthorised sites:

HMRC can only take action against a liable person where there is an enforceable tax debt. In April 2018, the government extended Landfill Tax to disposals of material at sites operating without the appropriate disposal permit [...] The change also provides HMRC with a means of pursuing and penalising those involved in the evasion of Landfill Tax where they can be identified, alongside any enforcement action by the relevant Environment Agency to tackle the illegal waste activity.²¹

The paper went on to suggest that other policy instruments might have to be used to tackle the problem, saying that “tax is not always the most effective

¹⁸ In producing their estimates [HMRC assign an uncertainty rating](#), and in the case of landfill tax, this is ‘high’. As they note, “This means that the tax base may not be fully captured and represented. The estimate is based on a combination of modelling, proxy indicators and assumptions made in collaboration with HMRC’s operational experts

¹⁹ [Tax Policies and Consultations, CP 404, \(PDF\) 23 March 2021 para 3.12](#)

²⁰ HM Treasury, [Landfill Tax Review: call for evidence](#), (PDF), November 2021

²¹ As above, para 3.18-9

policy instrument to tackle a particular issue.”²² It added that since the creation of the Joint Unit for Waste Crime (JUWC) in January 2020, significant interventions and investigations had been made, which had resulted in more offenders being targeted more effectively.²³

As part of its series of questions, the paper asks respondents “what more could HMRC do, together with Defra and the Environment Agency, to tackle waste crime?” and, “are there any other areas where you think HMRC could work collaboratively with environmental regulators to prevent landfill tax avoidance and evasion?”²⁴

This consultation closed on 22 February 2022. To date no further details have been published.²⁵

The Public Accounts Committee’s Inquiry on Waste Crime

In September 2022 the Public Accounts Committee [completed an inquiry](#) on government actions to combat waste crime, and as part of this, looked at the issue of landfill tax non-compliance.²⁶

In its report the Committee noted that the tax gap for landfill tax was relatively high, and discussed the factors driving it. It also noted that HMRC had agreed the true tax gap to be higher, as their estimates did not take into account fly-tipping.²⁷

The inquiry also discussed the difficulties HMRC had had in prosecuting criminal activity in this area. The Committee report mentioned that HMRC had yet to complete a successful prosecution for landfill tax evasion, and had admitted that it was still learning how to investigate these crimes. However, the Committee also pointed out that HMRC had assured them that their increased compliance work had saved around £1.1 billion in landfill tax which could have been lost through misinterpretation.²⁸

The report also looked at the actions of the Environment Agency on tackling landfill tax fraud. It transpired that the Agency had been working more closely with HMRC, and that it had begun investigations on the misdescription of waste. Furthermore, the Agency had tackled waste operators that were seeking to reduce their tax liability by fraudulent water discount claims. The water discount is an offset of the amount of landfill tax paid according to the

²² HM Treasury, [Landfill Tax Review: call for evidence](#), (PDF), November 2021, para 3.20-22

²³ As above

²⁴ As above, p13

²⁵ HM Treasury, [Landfill Tax Review: call for evidence](#), GOV.UK, 30 November 2021 (accessed on 06 January 2023)

²⁶ Public Accounts Committee, [Government actions to combat waste crime](#) (PDF), HC 33, 19 October 2022

²⁷ As above, para 16

²⁸ [As above](#) paras 16-17

water content of the waste. The investigation led to a decrease in applications for the water discount and the recouping of some of the estimated £200 million lost.²⁹

The Committee recommended that

Defra should work with HMT and HMRC to ensure the current review of landfill tax takes account of the incentives that the tax as currently designed creates to commit waste crime.

It also recommended that

HMRC should report by the end of the year on how it has improved its approach to landfill tax prosecutions.³⁰

The Committee published the Government's response to its report on 14 December, and in this case, the Government agreed with both recommendations. In its response the Government noted as part of its review of the design of the tax, it would "consider the structure of the tax and the impacts of any proposed changes to this on waste crime and on businesses, local authorities and individuals", and that DEFRA "continues to collaborate closely with HM Treasury and HMRC on the Landfill Tax Review."³¹

1.2 Waste legislation

As well as the landfill tax legislation itself, there are also a number of other laws and policies aimed at making sure that waste is dealt with correctly.

Waste duty of care

Section 34(1) of the [Environmental Protection Act 1990](#), as amended, provides for a "waste duty of care". The aim of this is to ensure the safe management of waste, to protect human health and the environment. The duty of care is imposed on everyone involved in handling controlled waste (household, industrial and commercial waste), from the person who produces it to the person who finally disposes of it or recovers it.

This waste duty of care is accompanied by a [Waste Duty of Care Code of Practice](#), published by the Government, last updated in November 2018. Under the code of practice, a "waste holder" (the term which includes waste

²⁹ [As above](#) para 17

³⁰ [As above](#) p6. See also, Public Accounts Committee statement on its report: Government actions to combat waste crime ([HC Deb 20 October 2022 cc891-4](#))

³¹ Public Accounts Committee, [Government response to the Committee's 18th report of Session 2022-23: Government actions to combat waste crime \(PDF\)](#), 14 December 2022 p5

producers – any person whose activities produce waste), must take all reasonable steps to:

1. prevent unauthorised or harmful deposit, treatment or disposal of waste
2. prevent a breach (failure) by any other person to meet the requirement to have an environmental permit, or a breach of a permit condition
3. prevent the escape of waste from your control
4. ensure that any person you transfer the waste to has the correct authorisation
5. provide an accurate description of the waste when it is transferred to another person³²

Failure to comply with the duty of care is an offence subject to an unlimited fine on conviction.

Fly-tipping

Fly-tipping is the illegal disposal of household, industrial, commercial or other 'controlled' waste. The waste can be liquid or solid; controlled waste includes garden refuse and larger domestic items such as fridges and mattresses.

There are legislative provisions and sanctions which apply to both people who fly-tip themselves and to those who breach the waste duty of care by not using properly registered waste carriers.

Breach of the waste duty of care; use of unauthorised carriers

Two-thirds of fly-tipped waste originates from household waste.³³ Often it is not householders themselves doing the fly-tipping, but by people employed by them to take the waste away. Waste carriers (i.e. those transporting waste) should be properly registered with the Environment Agency. The Environment Agency has a [Register of waste carriers, brokers and dealers](#), which can be checked by members of the public to see if someone holds the correct registration.

The Government consulted in January 2018 on introducing a fixed penalty notice (FPN) for householders who had allowed an authorised waste carrier to dispose of their waste.³⁴ Any householder who had not checked that they were disposing of their waste with a registered waste carrier would be at risk of a waste duty of care offence.

³² HM Government, [Waste Duty of Care Code of Practice](#), updated November 2018

³³ HM Government, [proposals to tackle crime and poor performance in the waste sector & introduce a new fixed penalty for the waste duty of care](#), January 2018, p69

³⁴ HM Government, [proposals to tackle crime and poor performance in the waste sector & introduce a new fixed penalty for the waste duty of care, January 2018](#)

Following this consultation process regulations were made in England and Wales. This now means that householders have a duty of care to check that anyone they use to take away and dispose of their domestic waste is registered. The regulations introduced new provision into the Environmental Protection Act 1990 for England and Wales as follows:

1. In **England** the [Environmental Protection \(Miscellaneous Amendments\) \(England and Wales\) Regulations 2018](#) (SI 1227), provided that from 7 January 2019 the Environment Agency or local authorities can impose an FPN for a breach of the household waste duty of care in England. The fixed penalty is as follows:
 - (7) The fixed penalty payable to an enforcement authority under this section is—
 - (a) the amount specified by the authority in respect of the offence; or
 - (b) if no amount is specified by the authority, £200.
 - (8) The amount specified by an authority in respect of the offence under subsection (7)(a) must not be less than £150 or more than £400.
2. In **Wales** the [Household Waste Duty of Care \(Fixed Penalties\) \(Wales\) Regulations 2019](#) (SI 331) provided that, from 21 February 2019, enforcement authorities can impose an FPN for breach of the household waste duty of care in Wales. The fixed penalty is as follows:
 - (7) The fixed penalty payable to an enforcement authority under this section is £300.³⁶

Fly-tipping penalties

The penalties for fly-tipping are set out in the Environmental Protection Act 1990. There is currently no minimum fine set out in law for unlawfully depositing waste under Section 33 of the Environmental Protection Act. Sentencing in individual cases is a matter for the independent courts.³⁷ From July 2014, [sentencing guidelines](#) have been produced by the Sentencing Council for England and Wales.³⁸ An offender is liable:

- On summary conviction in the magistrates' court, to imprisonment for a term not exceeding 6 months, an unlimited fine or both.
- On conviction on indictment in the Crown Court, to five years imprisonment, an unlimited fine or both.³⁹

³⁵ Section 34ZA(7) and (8) Environmental Protection Act 1990, as amended

³⁶ Section 34ZB(7) Environmental Protection Act 1990, as amended

³⁷ [PQ Fly-tipping: Fines UIN 29008, tabled on 7 July 2021](#)

³⁸ Sentencing Council, [New sentencing guideline for environmental crimes brings higher sentences for serious offenders](#), 26 February 2014

³⁹ Practical Law, Fly Tipping, maintained resource, accessed 25 August 2021 [Subscription required]

Those found guilty of fly-tipping may also have to pay legal costs and compensation, which can greatly increase the financial implications of illegal dumping.

In addition, under the [Proceeds of Crime Act 2002](#), as amended offenders can have assets frozen and confiscated.

There are also a range of other possible penalties including fixed penalty notices⁴⁰ and seizure of property (including vehicles and contents).⁴¹

1.3 Waste crime

What is waste crime?

The UK Government's Resources and Waste strategy defines waste crime as anything that intentionally breaks the law relating to the handling and disposal of waste.⁴² Waste crime can be motivated by landfill tax evasion and generally covers activities including illegal exports of waste, large scale fly tipping, illegal burning of waste, illegal operation of waste sites, non-compliance with the waste duty of care, misclassifying waste and falsifying records.

The scale of the problem of waste crime

The true scale of waste crime is, by its nature, difficult to fully quantify. Those participating in illegal activities are unregulated and actively seek to evade detection. In October 2021 the Environment Agency, in its report [National waste crime survey report 2021 - findings and analysis](#), estimated that 18% of all waste is illegally managed, equating to approximately 34Mt (megatonnes). This is the equivalent of enough waste to fill Wembley Stadium 30 times.⁴³

From 2013-14 to 2018-19, the total number of active illegal waste sites identified in England increased gradually from 556 to 685. In 2020-21, the number of active illegal waste sites fell to 470, the lowest figure yet recorded. The government concedes that some of the reduction for 2020-21 may be due to reduced enforcement activity during the COVID-19 pandemic, which may have led to fewer sites being identified. However, the government also highlights that the number of illegal waste sites recorded in 2019-20 was also

⁴⁰ For example, from 9 May 2016, local authorities in England can issue fixed penalty notices of between £150 to £400 for small-scale fly-tipping offences pursuant to the [Unauthorised Deposit of Waste \(Fixed Penalties\) Regulations 2016](#)(SI 2016/334).

⁴¹ The power to seize a vehicle and its contents stems from section 5 of the Control of Pollution (Amendment) Act 1989, as amended.

⁴² HM Government, [Resources and waste strategy for England](#), December 2018, p86

⁴³ Environment Agency, [National waste crime survey report 2021 - findings and analysis](#), October 2021, p7

lower than in any previous year, and has contended that this trend predates the pandemic.⁴⁴

The impact of waste crime

The impacts of waste crime are widespread, with adverse effects on individuals, businesses, public services, the environment and the economy. For example, illegal waste sites can pollute the environment through the release of noise, dust, surface or groundwater contamination or through unauthorised fires and burning. These sites are unlikely to treat the waste in compliance with environmental best practice. They divert waste from legitimate businesses, reducing their potential income streams, viability and competitive advantage. The cost of remediation of fly tipped waste falls to public services and/or private landowners. Tax revenue is lost if the waste would otherwise have been sent to landfill.

The Environment Agency's report stated that waste crime costs the economy in England an estimated £1 billion per year. This represented a 55% increase since its last estimate made in 2015 of £604 million per year.⁴⁵

The Environmental Services Association and consultants Eunomia published a report in July 2021, [Counting the Cost of UK Waste Crime](#). It broke down the estimated financial impact of waste crime from 2018-19 as follows (from a total figure £924m):

- Fly-tipping - £392m
- Illegal waste sites - £236m
- Misclassification - £120m
- Exemption breaches - £87m
- Illegal exports - £42m
- Waste fires - £22m⁴⁶

Responsibility for waste crime

A range of organisations are involved in combatting waste crime in England. The Department for Environment, Food & Rural Affairs (Defra) has policy responsibility for waste, including waste crime, within government. The Environment Agency is responsible for investigating certain types of waste

⁴⁴ HM Government, [Resources and waste strategy: monitoring progress, Third edition](#), November 2022, p63

⁴⁵ Environment Agency, [National waste crime survey report 2021 - findings and analysis](#), October 2021, p5

⁴⁶ Environmental Services Association and Eunomia, [Counting the Cost of UK Waste Crime](#), July 2021, p24

crime and taking action against the perpetrators, including illegal waste sites, illegal dumping (the most serious fly-tipping incidents) and breaches of environmental permits and exemptions. Responsibility for clearing waste ultimately sits with the landowner or land manager, including local authorities and other public bodies such as National Highways. Local authorities also have powers and duties relating to fly-tipping, and deal with the majority of smaller incidents. HM Revenue & Customs (HMRC) has responsibility for pursuing the evasion of landfill tax in England.⁴⁷

1.4 Government measures to tackle waste crime

In the government's January 2018 25 Year Environment Plan it set ambition to eliminate waste crime and illegal waste sites over the lifetime of the Plan (by 2043).⁴⁸ The government has made various changes to the waste management regime over the last few years, with a view to tackling waste crime. The government's December 2018 Resources and Waste Strategy contained a chapter on waste crime which also set out ambition for a more strategic approach to waste crime. This included plans to:

- Improve the transportation, management and description of waste by reforming existing regulations
- Strengthen intelligence sharing and engagement to tackle illegal activity
- Prevent illegal activity being hidden through waste exemptions by reforming the existing regime
- Mandate the digital recording of waste movements, subject to consultation
- Create a Joint Unit for Waste Crime
- Toughen penalties for waste criminals
- Increase awareness of waste regulations and publicise positive work of enforcement bodies as they tackle waste crime⁴⁹

In 2018, Defra commissioned and published an [independent review of serious and organised crime in the waste sector](#). The final report set out a number of recommendations for a more strategic approach to serious and organised waste crime. The recommendations included the establishment of a Joint Unit for Waste Crime (JUWC) led by environmental regulators with law enforcement agencies, HMRC and waste industry to tackle the most serious cases. It also recommended new and reformed waste legislation. This

⁴⁷ National Audit Office, [Investigation into government's actions to combat waste crime in England](#), April 2022

⁴⁸ HM Government, [A Green Future: Our 25 Year Plan to Improve the Environment](#), January 2018, p95

⁴⁹ HM Government, [Resources and waste strategy for England](#), December 2018, p85

included new investigatory and disruptive powers for the Environment Agency, a tightening of the registration and duty of care requirements for carriers, brokers and dealers and mandatory electronic tracking of waste and a national database of registered brokers.

In January 2020, the government announced that it had set up the JUWC.⁵⁰ The JUWC is comprised of eight partners: the Environment Agency (EA), Natural Resources Wales, the Scottish Environment Protection Agency, the Northern Ireland Environment Agency, the police, the National Crime Agency (NCA), HM Revenue & Customs (HMRC) and the British Transport Police.⁵¹ A press release set out that the new unit would conduct site inspections, make arrests and prosecutions and, upon conviction, push for heavy fines and custodial sentences.⁵² In a PQ response from November 2022 the Government said that, since its establishment, the JUWC had, “worked with over 50 partner organisations and engaged in 74 multi-agency days of action, which have resulted in 52 associated arrests by other agencies.”⁵³

Reports into the Government’s work on waste crime

In April 2022 the National Audit Office (NAO) published a report, [Investigation into government’s actions to combat waste crime in England](#). The NAO concluded that the Environment Agency does not have the data it needs to identify and assess the full extent of all waste crime, which makes it difficult to prioritise its response effectively. It stated that landfill tax changes have, as intended, led to a reduction in landfill volumes but have also increased the financial incentives to commit waste crime. It highlighted that barriers to operators entering the waste sector were low, and that sanctions and prosecutions for committing waste crime “may not be acting as effective deterrents.”⁵⁴

Following this work, the House of Commons Committee of Public Accounts published a report in October 2022, [Government actions to combat waste crime](#). In relation to landfill tax evasion specifically it highlighted that HMRC had, to date, only pursued prosecution in one case of landfill tax evasion, which, “failed at a cost of £3.5 million.”⁵⁵ It concluded that the current system did not provide sufficient detection and penalties to deter criminals in the sector:

Landfill tax and local charges for disposing of waste create financial incentives to commit waste crime, but the penalties if caught are not proving effective at deterring people from committing such crimes. This regime has attracted

⁵⁰ GOV.UK, [Clock is ticking for waste criminals as new taskforce launched](#), 16 January 2020

⁵¹ GOV.UK, [Successful first year for waste crime taskforce despite pandemic](#), 18 January 2021

⁵² GOV.UK, [Clock is ticking for waste criminals as new taskforce launched](#), 16 January 2020

⁵³ [Waste: Crime. UIN 76119](#), tabled on 1 November 2022

⁵⁴ National Audit Office, [Investigation into government’s actions to combat waste crime in England](#), April 2022

⁵⁵ House of Commons Committee of Public Accounts, [Government actions to combat waste crime](#), 19 October 2022, p3

organised crime groups to the waste sector, which can be adept at avoiding detection and sanctions. But Defra's initiatives to combat waste crime are piecemeal and its progress is slow – for example, digital tracking of waste, on which much hope is being placed to deter waste crime, is still not even at the pilot stage after four years of effort. Together, Defra's actions do not add up to a consistent delivery plan to take forward the aims of the Resources and Waste Strategy. Furthermore, there is currently no strategy or plan for how to achieve the hugely ambitious target of eliminating waste crime by 2043.⁵⁶

The Environmental Services Association (ESA), the trade body representing the UK's resource and waste management industry, welcomed the Committee's report calling it, "a depressingly familiar analysis of the impact of waste crime and the lack of progress made to tackle it."⁵⁷ The ESA called for "stronger application of duty of care requirements on waste producers and better use being made of the landfill tax illegal disposals regulations, alongside much more urgent reform of the carriers, brokers and dealers regime and the rapid introduction of digital waste tracking."⁵⁸

The Government responded to the Committee's report in [a December 2022 Treasury Minute](#) (opens PDF). In it, Defra said that it was taking forward the commitments in its Resources and Waste Strategy as a priority, but acknowledged that some delivery of it had been slower than originally planned. It said that waste crime was an important issue and said that as part of the [Landfill Tax Review Call for Evidence](#) (published in November 2021), the government would consider the structure of the tax and the impacts of any proposed changes to this on waste crime and on businesses, local authorities and individuals.⁵⁹

Future changes

The UK government has consulted on a number of policies aimed at making it more difficult to fly-tip waste undetected and to remove barriers to disposing of waste responsibly. Waste policy is normally a devolved subject area, but some work, highlighted below, has been carried out jointly with the devolved nations.

Reform of the waste carrier, broker, dealer registration system

In January 2022 the Government published a [Consultation on the reform of the waste carrier, broker, dealer registration system in England](#). It set out concern that waste brokers, (i.e. someone who arranges for other businesses' controlled waste to be handled, transported, disposed of or recovered) and waste dealers (i.e. someone who takes waste from another business to sell on), can operate almost out of sight of the regulator. In addition, that the

⁵⁶ House of Commons Committee of Public Accounts, [Government actions to combat waste crime](#), 19 October 2022, p3

⁵⁷ Let's Recycle, [Waste crime report 'depressingly familiar', ESA says](#), 19 October 2022

⁵⁸ Let's Recycle, [Waste crime report 'depressingly familiar', ESA says](#), 19 October 2022

⁵⁹ Treasury minutes: [Government response to the Committee of Public Accounts on the Eighteenth report from Session 2022-23](#), 14 December 2022, pages 2 and 5

current registration process allows anyone can set up and register as a waste carrier, broker or dealer without any check on their competency or background.

To address these concerns, the Government wants increased checks to ensure waste is managed by authorised persons only and in a safe manner, making it harder for unregistered operators to find work in the sector. Specifically, the Government sought views on:

- The move from a registration to a permit-based system and the levels of permits available
- What activities should be covered by permits, what should be covered by exemptions and what activities should not require either a permit or registration
- The introduction of a technical competence element required for permits; the level required and how it can be demonstrated through the workforce⁶⁰

The Government has not yet responded to this consultation. In its December 2022 response to the Public Accounts Committee's report on waste crime, the Government indicated that the new system would be introduced in 2024.⁶¹

Digital waste tracking

Again, in January 2022 the government published a consultation on the [introduction of mandatory digital waste tracking](#). This was a joint consultation from the UK, Scottish and Welsh Governments and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland. A central digital waste tracking service would require those who produce, handle, dispose of or make products from waste, to enter information onto it. The aim of this is to address concerns that there is currently no comprehensive way of tracking waste produced in the UK, with various existing fragmented systems using a mixture of electronic and paper-based systems.

The consultation follows on from powers provided in the [Environment Act 2021](#) (section 58 and 59) to allow such a service to be established. The consultation sought views on how the system would work in practice, covering areas such as what sort of waste would be tracked, what information would be recorded and how, who would have access to the service and how it would be enforced.⁶² A Government press notice stated that this will, “enable

⁶⁰ HM Government, [Consultation on the reform of the waste carrier, broker, dealer registration system in England](#), January 2022

⁶¹ Treasury minutes: [Government response to the Committee of Public Accounts on the Eighteenth report from Session 2022-23](#), 14 December 2022

⁶² HM Government, [Introduction of mandatory digital waste tracking](#), January 2022

regulators to better detect illegal activity and tackle waste crime, including fly-tipping, illegal waste sites, and illegal waste exports.”⁶³

In April 2022 the Government provided further information about its plans for digital waste tracking in a policy paper, [Mandatory digital waste tracking](#). It confirmed that it is working towards a target date of 2023 to 2024 to launch the digital waste tracking service. Exact timings will “depend on progress with the IT development and the transition needs of businesses.”⁶⁴

A [summary of responses to the consultation](#) was published in December 2022. A government response is expected in 2023.⁶⁵

Household waste recycling centres: DIY waste disposal charges

In April 2022 the Government published a technical consultation on changes to allow householders in England to dispose of DIY waste at household waste recycling centres free. Some, but not all local authorities consider that DIY waste does not fall under the heading of “household waste” and therefore impose a charge for the disposal of this type of waste. The aim of this change is to reduce the potential risk of fly-tipping, littering and backyard burning which “create additional costs for local authorities and causes environmental issues.”⁶⁶

⁶³ GOV.UK [Government unveils plans to crack down on waste](#), 21 January 2022

⁶⁴ HM Government, [Mandatory digital waste tracking](#), April 2022

⁶⁵ HM Government, [Introduction of Mandatory Digital Waste Tracking Summary of responses](#) December 2022, p29

⁶⁶ HM Government, [Household waste recycling centres: DIY waste disposal charges and booking systems](#), 11 April 2022

2 Parliamentary material

2.1 Parliamentary questions

Landfill Tax: Fraud

21 June 2022 | UIN 16034

Asked by: Mr Kevan Jones

To ask the Chancellor of the Exchequer, pursuant to the Answer of 15 June 2021 to Question 11491 on Niramax, how many press releases and press comments HMRC have made on landfill tax fraud in the last five years.

Answering Member: Jesse Norman | HM Treasury

HMRC do not collate data on all the comments/press releases issued so they are unable to provide an accurate answer to the question asked within the timeframe.

The statutory duty of confidentiality referred to in the answer of 15 June 2021 relates to the legislation as set out at Section 18 of the Commissioners for Revenue and Customs Act of 2005.

The request to break down the number of interventions by region and year is not possible to fulfil within the timescale allowed as HMRC do not record the data in that format. HMRC can give details of the number of risks closed as follows: 2018, 250 risks closed; 2019, 235 risks closed; 2020, 293 risks closed; and 2021, 238 risks closed. Information in the form requested is not readily available and could only be compiled at disproportionate cost.

Niramax: Landfill Tax

UIN 11490, 15 June 2021

Asked by: Mr Kevan Jones

To ask the Secretary of State for Environment, Food and Rural Affairs, whether the Environment Agency concluded its investigation into Niramax on the potential systematic abuse of the landfill tax system by that company prior to the inauguration of the Joint Unit for Waste Crime; and whether the Environment Agency passed over its investigation of that company to the Joint Unit for Waste Crime.

Answering Member: Rebecca Pow | Department for Environment, Food and Rural Affairs

The investigation into Niramax and abuse of the landfill tax system was conducted by HM Revenue & Customs. The Environment Agency and the Joint Unit for Waste Crime only provided support to their investigation.

[Landfill Tax](#)

UIN 10185 | 9 June 2021

Asked by: Mr Kevan Jones

To ask the Chancellor of the Exchequer, pursuant to the Answer of 19 May 2021 to Question 78 on Landfill Tax, how the £1.563bn yield was calculated; and how his Department defines the risks referred to.

Answering Member: Jesse Norman | HM Treasury

The yield is the total financial impact flowing from HMRC interventions in relation to landfill tax, as recorded on HMRC management information systems. It includes additional tax paid to HMRC, tax losses prevented, financial penalties and estimated additional future tax flowing from the interventions.

The risks that this yield flowed from were mainly suspected evasion or avoidance of landfill tax, but also include situations where interpretation of the law is disputed by HMRC and the tax paying entity.

[Landfill Tax: Fraud](#)

Asked by: Mr Kevan Jones

UIN4544 | 25 May 2021

To ask the Chancellor of the Exchequer, pursuant to the Answer of 19 May 2021 to Question 77 on Stamp Duty Land Tax: Fraud, whether the Minister was referring to landfill tax fraud, not land tax fraud, in his answer.

UIN4545 | 25 May 2021

To ask the Chancellor of the Exchequer, how many companies pay landfill tax in the UK as at 20 May 2021.

UIN 4546 | 25 May 2021

To ask the Chancellor of the Exchequer, how many investigators are looking into the issue of landfill tax fraud as at 20 May 2021.

UIN 4547 | 25 May 2021

To ask the Chancellor of the Exchequer, what is HMRC's policy on commenting on ongoing landfill tax fraud investigations.

UIN 4548 | 25 May 2021

To ask the Chancellor of the Exchequer, how many hon. Members had meetings with HMRC on its investigation into the suspected systematic abuse of the landfill tax system, referred to as Operation Nosedive.

Answering Member: Jesse Norman | HM Treasury

The response provided related to landfill tax fraud.

Two Honourable Members have met with HMRC on their investigation into the suspected systematic abuse of the landfill tax system, referred to as Operation Nosedive.

Landfill Tax is a devolved tax. 125 companies pay Landfill Tax to HMRC in relation to landfill sites in England. 16 companies pay Landfill Disposal Tax to the Welsh Revenue Authority, along with 1 City Council. 28 companies pay the Scottish Landfill Tax (SLT) to Revenue Scotland, along with 7 Unitary Authorities and 1 Public Body.

As at 20 May 2021 there are approximately 48 HMRC investigators working on landfill tax compliance. Of this number approximately 10 HMRC investigators are looking into the issue of landfill tax fraud.

HMRC have a statutory duty of confidentiality to protect information held about taxpayers, so that such information is not passed to unauthorised parties. HMRC's ability to disclose information held about taxpayers is restricted by the Commissioners for Revenue and Customs Act 2005 (CRCA). Section 18 of CRCA makes clear that HMRC must not disclose information to anyone, unless they have lawful authority to do so.

Landfill Tax

UIN 78 | 19 May 2021

Asked by: Mr Kevan Jones

To ask the Chancellor of the Exchequer, what (a) methodology and (b) evidence HMRC used to estimate the alleged landfill tax fraud at £78 million prior to its raid on Niramax's offices in September 2015.

Over the last five years HMRC have undertaken interventions into land tax fraud that have closed 1121 risks and generated £1.563 billion of yield.

Answering Member: Jesse Norman | HM Treasury

HMRC's statutory duty of taxpayer confidentiality prevent them from commenting on the specifics of any case.

Taxation: Fraud

UIN 188070, 29 April 2021

Asked by: Mr Kevan Jones

To ask the Chancellor of the Exchequer, how many investigations his Department has conducted into tax fraud in the last five years.

Answering Member: Kemi Badenoch | HM Treasury

HMRC's statutory duty of taxpayer confidentiality prevents it from commenting on the specifics of any case. HMRC do not break costs down by individual investigations. They are funded by Government to investigate serious tax fraud and deploy resources to achieve value for money overall. HMRC closely collaborates with the Environment Agency, relevant local authorities and the Crown Prosecution Service during the course of investigations into landfill tax fraud.

To date there has been no prosecution into landfill tax fraud, but over the last five years, HMRC's civil compliance activity has prevented more than £1billion in incorrect landfill tax repayment claims and it has stepped in to protect £125m of tax that would otherwise have gone unpaid. Since it was set up in 2016, HMRC's Fraud Investigation Service has secured and protected more than £25bn for our vital public services and has launched over 76,000 civil cases and more than 4,000 criminal investigations, securing 3,700 criminal convictions.

2.2

Parliamentary debates

Waste Crime

**20 October 2022 | House of Commons | 720 cc891-4
Select Committee statement**

[Waste Industry: Criminality and Regulation](#)

1 February 2022 | Westminster Hall | 708 cc115-134WH

Commons Motion that this House has considered criminality within and regulation of the waste industry.

2.3

Select Committee publications

Public Accounts Committee, [Government Actions to combat waste crime: Eighteenth Report of Session 2022-23](#), (PDF) HC 33, 19 October 2022

HM Treasury, [Government response to Public Accounts Committee Eighteenth Report of Session 2022-23](#), (PDF), 14 December 2022

3

Further reading

Pippa Neill, [Government reconsidering structure of landfill tax in bid to prevent waste crime](#), ENDS Report, 14 December 2022

National Audit Office, [Investigation into government's actions to combat waste crime in England](#), HC 1149, 27 April 2022

HM Treasury, [Landfill Tax Review: call for evidence](#), 30 November 2021

Sam Taylor and Leyla Lugal, [Counting the cost of UK waste crime](#), UK Environmental Services Association/Eunomia, July 2021

Library publications

Commons Library briefing CBP5672, [Fly-tipping - the illegal dumping of waste](#), 23 May 2022

Commons Library briefing CDP8515, [Plastic waste](#), 9 March 2022

Commons Library Debate Pack CDP-0023 (2022), [Criminality within and regulation of the waste industry](#), 31 January 2022

Commons Library briefing CDP1963, [Landfill tax : recent developments](#), 15 December 2009

Commons Library briefing CDP237, [Landfill tax : introduction & early history](#), 6 October 2009

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