



Landfill communities fund

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Landfill tax was introduced on 1 October 1996: this country's first tax with an explicit environmental purpose. It is administered by HM Revenue & Customs and collected from landfill site operators. It is charged at a standard rate per tonne on 'active wastes' (such as household wastes that decay), and at a lower rate on inactive or inert wastes. At present the standard rate is £40 per tonne, and the lower rate of tax is £2.50 a tonne. It is estimated the tax will raise £1 billion in 2008-09.¹

Site operators may fund local community environmental projects, under a scheme allowing them to offset this investment against their tax liability, up to a specified limit. In November 2002 the Government announced the landfill tax credit scheme, as it was originally called, would be reformed from 1 April 2003, cutting its size substantially.² Under the landfill communities fund, as it is now known, operators may offset up to 6% of their annual tax bill, by making grants to approved environmental bodies: in total the scheme's potential value is around £70m a year.³

This note gives a short history of the scheme. The fund is managed by the Environmental Trust Scheme Regulatory Body Ltd (ENTRUST), which provides guidance for site operators, as well as environmental bodies who wish to attract funding, on their internet site.⁴

In recent years the Government has been committed to increasing the standard rate of tax each year (a 'duty escalator'), and in the 2009 Budget the Government confirmed that the standard rate of tax would go up by £8 a tonne each year at least until 2013.⁵ In addition it launched a consultation on modernising the scope of the tax. These changes are discussed in a second Library note.⁶

¹ *Budget 2009* HC 407 April 2009 p231

² *Pre-Budget Report* Cm 5664 November 2002 p140

³ HM Revenue & Customs press notice, *Landfill Benefit hits £1bn*, 18 February 2009

⁴ ENTRUST, *The landfill communities fund : an introduction*, 2009. This is available at: <http://www.entrust.org.uk/home/lcf/how-it-works>

⁵ HC 407 April 2009 para 7.61

⁶ *Landfill tax : recent developments* SN/BT/1963, 2 October 2009. A third note looks at the introduction of the tax in 1996 (*Landfill tax : introduction & early history*, SN/BT/237, 30 September 2009).

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1 Introduction

The then Conservative Chancellor, Kenneth Clarke, first proposed a tax on landfill in the 1994 Budget. In March 1995 the Government invited views on the design of the tax, including a possible tax rebate for site operators making payments to trusts for specified environmental purposes. The paper gave two reasons for having this type of rebate:

- The tax reflects the environmental impact of landfill. The rebate would enable account to be taken of off-setting environmental benefits.
- The payments to trusts would reinforce the object of the tax in encouraging more sustainable waste management practices.

The rebate would be capped at 90% of the operator's payment, to provide "an incentive [for the donor] to ensure that expenditure by the trusts represented value for money." A limit would also be set on the maximum share of someone's annual tax bill that could be offset this way.⁷ The response to this idea was generally positive, though respondents anticipated certain problems that might make the trusts unworkable or less effective.⁸ Nevertheless, the Government confirmed that the scheme would be launched alongside the tax, and established ENTRUST, a not-for-profit, private sector company, to regulate its operation.⁹

Initially, operators were entitled to claim a tax credit of 90 per cent of a contribution to an approved environmental body, up to a maximum of 20 per cent of their landfill tax bill in a 12 month period. Third parties, including local authorities and government agencies, can make contributions to the site operator for the 10 per cent of contributions that the operators are unable to claim in tax credits. This credit is claimed on the operator's landfill tax return covering the period in which they make the contribution. Environmental bodies seeking funds must be non-profit distributing. Their work cannot benefit any of the individual site operators whose donations they receive, and they cannot be controlled directly or indirectly by a local authority or by a site operator.

Projects funded under the scheme are required to satisfy certain criteria, or 'objects' – set out in regulations – specifically, reg33(2) of the *Landfill Tax Regulations* SI 1996/1527; *originally*, this provision was as follows:

⁷ HM Customs and Excise, *Landfill Tax - A Consultation Paper*, March 1995 pp11-12

⁸ *Landfill Tax - Report on Responses Received to Consultation Paper*, September 1995 pp11-12

⁹ HC Deb 30 October 1996 c121W

(2) The objects of a body are approved objects insofar as they are any of the following objects—

(a) in relation to any land the use of which for any economic, social or environmental purpose has been prevented or restricted because of the carrying on of an activity on the land which has ceased—

- (i) reclamation, remediation or restoration; or
- (ii) any other operation intended to facilitate economic, social or environmental use; but this is subject to paragraph (3) below;

(b) in relation to any land the condition of which, by reason of the carrying on of an activity on the land which has ceased, is such that pollution (whether of that land or not) is being or may be caused—

- (i) any operation intended to prevent or reduce any potential for pollution; or
- (ii) any operation intended to remedy or mitigate the effects of any pollution that has been caused, but this is subject to paragraph (3) below;

(c) for the purpose of encouraging the use of more sustainable waste management practices—

- (i) research and development;
- (ii) education; or
- (iii) collection and dissemination of information about waste management practices generally;

(d) where it is for the protection of the environment, the provision, maintenance or improvement of—

- (i) a public park; or
 - (ii) another public amenity,
- in the vicinity of a landfill site, provided the conditions in paragraph (6) below are satisfied;

(e) where it is for the protection of the environment, the maintenance, repair or restoration of a building or other structure which—

- (i) is a place of religious worship or of historic or architectural interest,
 - (ii) is open to the public, and
 - (iii) is situated in the vicinity of a landfill site,
- provided the conditions in paragraph (6) below are satisfied;

(f) the provision of financial, administration and other similar services to bodies which are within this regulation and only such bodies.

An example of how the system of credits and contributions has worked is set out below:¹⁰

	£
Landfill tax payable by landfill site operator	100
Landfill site operator contributes £20 and claims tax credits on 90 per cent of the amount contributed	18
Net landfill tax paid to Customs by site operator	82

¹⁰ source: *Appropriation Accounts 1999-2000* HC 25-VI 9 February 2001 p R16

The net cost to the landfill site operator of contributing to the environmental body

The contribution to the environmental body	20
Less landfill tax credit	18
Net cost of contribution to landfill operator	2
Third party contribution may be made to landfill tax operator representing 10 per cent of the amount paid to the environmental body	2
Net cost of contribution to landfill site operator	0

In March 1998 the department published a review of the first year of the tax, which found that it was not having a major impact on trends in waste disposal. In turn this led to the Labour Government announcing that the standard rate of tax – initially set at £7 a tonne – would rise by £3 a tonne from 1 April 1999, and then be increased year on year, to give operators clear incentives to improve standards in the industry.¹¹ Initially this ‘duty escalator’ was set at £1 a tonne, but was increased to £3 a tonne in 2005, and then to £8 a tonne in 2007.

The review of the tax found strong support for the landfill tax credit scheme, though one issue raised by respondents was the scope of the list of ‘approved objects’; in particular, local authorities had suggested “that the approved objects should be extended to allow the funding of local authority recycling and other waste recovery schemes.”¹² In the 1999 Budget the Government announced that the legislation specifying the scheme’s objects would be amended, to make explicit provision for recycling; to this end, a new order was added to the list of objects set out in reg 33(2) of SI 1996/1527, reproduced below:¹³

- (cc) for the purpose of encouraging the development of products from waste or the development of markets for recycled waste -
 - (i) research and development,
 - (ii) education, or
 - (iii) collection and dissemination of information about the development of products from waste or the development of markets for recycled waste

On the success of the scheme, the review noted that “contributions into the scheme only began to flow in significant amounts after October 1997”, so that its performance could be properly evaluated “only when more data regarding the funding received by the various types of approved projects is available and can be analysed.”¹⁴

2 Criticisms of the credits scheme

In July 1999 the Environment, Transport and Regional Affairs Committee completed a report on the landfill tax. The Committee raised concerns that the tax credit scheme was being abused, and argued that a higher percentage of funds raised from the tax should be channelled to environmental projects; a short extract from the Committee’s report is reproduced below:

¹¹ HM Customs & Excise Budget Note C&E5, 9 March 1999

¹² HM Customs & Excise, *Landfill Tax*, March 1998 p16

¹³ SI 1999/3270, which came into force on 1 January 2000.

¹⁴ *Landfill Tax*, March 1998 pp 16-17

Is the scheme being abused?

58. Prior to the enquiry we heard of many serious concerns of unethical and doubtful practices. A fundamental problem is that there is too little verification of projects. While the Committee received no evidence of any abuse, it remains a matter of concern. Once an Environmental Body is enrolled and a project approved ENTRUST must ensure that contributions received by an Environmental Body "have been spent by it only in the course of furtherance of its approved objects". Lord Cranbrook, Chairman of ENTRUST said in evidence; "Our primary role in the regulations is verification and audit." ENTRUST have (or had) 15 staff and evaluate each EB on a risk-based model. Any identified high risk is scrutinised by qualified auditors and one major review by an auditor had been conducted by January 1999.

In addition ENTRUST is empowered to revoke an enrolment if the Environmental Body fails to provide information that enables the regulator to confirm that funds contributed have been spent exclusively on approved objects. ENTRUST has revoked the enrolment of 6 Environmental Bodies, in April 1999, 5 of which were at the bodies request ...

60. A deterrent to abuse is the power that Customs and Excise has to clawback mis-spent funds. This should ensure that Landfill Operators monitor the use of the fund, reducing the need for policing. However, Customs and Excise have stated that provided the contribution has been made in good faith to an Environmental Scheme and the project has been approved by ENTRUST, they will make no further enquiries unless fraud, embezzlement or conspiracy is suspected. Even then, if the landfill operator has acted throughout in good faith, there is unlikely to be a claw back. To date there has been one claw back.

61. A number of particular concerns came to our attention, including: the fact that the waste industry determines which Environmental Bodies get the funds; the abuse of the scheme for excessive public relations benefits; the role of third party donors; and the extent to which local authorities and site operators have excessive influence on Environmental Bodies.¹⁵

At the time of the March 2000 Budget the Government noted that it was considering changes to the scheme as part of its efforts to promote recycling;¹⁶ further details were given in May that year when the Government published its strategy for managing waste:

The Government is very keen to encourage even greater support for sustainable waste management activities, particularly re-use and recycling, through the scheme. ***We therefore propose to use the scheme to help deliver an increase in recycling, particularly of household waste.***

In the first instance, we will extend the range of activity eligible for support, to include recycling and re-use projects carried out by non-profit making, non-public bodies, after consulting interested parties on the exact scope of the provisions. We also believe there is scope for supporting a broader range of community projects under the current scheme. For example, the interpretation of "research and education" by ENTRUST, the regulator of the scheme, is broad and pragmatic. It includes demonstration and pilot schemes, and semi-industrial scale facilities or programmes, for anything up to five years. ENTRUST also puts great weight on the potential educational impact of projects, such as householders learning how to make use of a new collection system

¹⁵ *The operation of the landfill tax*, 14 July 1999 HC 150 1998-99 p xxi

¹⁶ *Budget 2000* HC 346 March 2000 p 121

for recyclable materials. ENTRUST will publish further guidance on what constitutes research and development and education later in the year.

We will also explore other options which might contribute further to the objective of increased recycling. These will need to be additional to and separate from public sector investment, must not unreasonably restrict landfill site operators' discretion and should complement or support activity in a way that makes sense in business and commercial terms.¹⁷

In February 2001 the National Audit Office published its annual report on HM Customs & Excise accounts, and in this made a number of criticisms of the scheme;¹⁸ the then head of the NAO, Sir John Bourn, summarised these concerns as follows:

The regulations and the workings of the scheme itself are complex; and payments for projects that fall within the scheme's rules are not public expenditure because decisions to contribute to environmental projects are made by landfill site operators. This makes external examination of the value-for-money achieved by the scheme difficult for anyone to assess. Sir John concludes among other things that:

- this complexity may can lead people to suspect that there are irregularities in the operation of the scheme; Customs should therefore look at whether the organisational responsibilities could be more clearly separated to avoid any concerns over conflicts of interest; and
- complexity may also result in high transaction costs. Administration costs are borne by all the participants in the scheme, including Customs and the landfill site operators, which in total could be considerable. Customs should examine whether the scheme could be simplified without losing key controls over tax credits and expenditure on projects.¹⁹

On the basis of this report the Public Accounts Committee looked at the accountability arrangements established for the scheme, how it had been monitored, the governance of ENTRUST and arrangements for assessing whether the scheme provided value for money. Its report, published in July 2002, made three conclusions:

Landfill Tax and the associated Tax Credit Scheme cut across departmental boundaries, and involve innovative partnerships with the private sector and local communities. The results are complex administrative and oversight arrangements, a lack of overall accountability for the Scheme and a lack of transparency.

ENTRUST is the body responsible for regulating the environmental tax credits scheme. Despite changes in response to earlier work by the Environment, Transport and Rural Affairs Committee, there remain concerns over whether the waste industry has too much influence over the Scheme, for example because it has no incentive to fund certain types of projects such as recycling. There is also concern whether ENTRUST has the powers to regulate the Scheme properly and about the costs of administration. The Government needs to address these issues in its review of the Scheme, which could include the need for and the role of any regulator.

Since Landfill Tax Credits were introduced in 1996, over £400 million has been contributed to environmental bodies including £109 million in 2000-01. However, there

¹⁷ DETR, *Waste Strategy 2000 for England & Wales Part 1*, Cm 4693-1 May 2000 pp 31-2

¹⁸ NAO, *Appropriation Accounts 1999-2000 Volume 16: Class XVI Departments of the Chancellor of the Exchequer: HM Customs & Excise*, HC 25-VI 9 February 2001 pp R15-R20

¹⁹ NAO press notice 12/01, 9 February 2001

are no arrangements for evaluating the success of individual projects or of the Scheme overall. Whether the Scheme continues or is replaced, the Treasury needs to ensure that there are credible arrangements for regular evaluations to identify good practice and inform decisions on whether changes to the arrangements are required.²⁰

The Environment Committee also drew on the NAO's work in a report on waste management, published in March 2001, which made serious criticisms of the credit scheme:

Our Report of 1999 made a number of criticisms of the credit scheme including that it could not be demonstrated that the maximum possible environmental benefit was being gained. Many of the criticisms we made then were echoed in the evidence we received on this inquiry. In particular, witnesses complained that the scheme fails to divert sufficient funds towards sustainable waste management, and lacks co-ordination to achieve this objective, as funding decisions are entirely controlled by landfill operators. To date, £135 million worth of credits has been distributed but only one-third of this has gone into developing a more sustainable waste management system ...

In January 2000, the Government broadened the categories of project eligible for funding to encourage more funds into sustainable waste management. However, Mr Timms, the Minister of Trade and Industry, acknowledged that this had not taken place, indeed that "if anything, the proportion of the funds going on sustainable waste management projects has fallen rather than risen." ... Mr Meacher²¹ summed the problem up: "One of the concerns about the Landfill Tax Credit Scheme, one of the inbuilt flaws, is that the last thing the landfill operator really wants to do is to have his money used to promote recycling which he is in competition with" ...

One of the fundamental problems of the landfill tax credit scheme is that it was designed such that the funding it releases for environmental projects is classified as private sector expenditure, not public expenditure. It is a direct result of this feature that it is not possible for Government - or even the private sector regulator of the Scheme, Entrust - to control where funds released under the scheme are spent ... The National Audit Office recently concluded that this feature of the scheme "makes external examination of the value-for-money achieved by the scheme difficult to assess."²² The landfill tax credit scheme is hamstrung by the need to be classified as private spending: it is *de facto* public spending, which is (or should be) aimed at furthering the aims of the [Government's waste strategy] ...

There are other criticisms of the way the scheme works: one is that there is little or no information published about where the credits are spent or how to obtain them. Another is that there has been no cost-effectiveness checking of the projects funded so far ... Witnesses to this inquiry echoed our previous conclusion as did Entrust themselves who stated that: "there needs to be some overall cost benefit analysis of the system and we would like responsibility for running that..." It is also clear that the credits are not being distributed equitably across the country: there tends to be a bias towards those areas where the landfill companies operate.

The Committee went on to recommend that the scheme should be scrapped:

The landfill tax credit scheme provides a convoluted and, to date, ineffective method of funding sustainable waste management. Rather than attempt reform of the existing system whilst protecting its status as 'private expenditure', we recommend that this

²⁰ *Forty-seventh report: the Landfill Tax Credit Scheme*, 25 July 2002 HC 338 2001-02 para 4

²¹ ie, the Environment Minister Michael Meacher

²² HC 25-VI 2001-02 9 February 2001 p R3

charade be abandoned. The new system should consist of a fund which takes a given percentage of the revenues from the landfill tax (and the incineration tax which we propose) and is bid for by those wishing to undertake work. The landfill operators would no longer control the destination of any of the funding. Community schemes and general environmental projects ... should be restricted to a smaller portion of the credits than they receive at present, and we expect all the additional credits raised by the increased landfill tax and the new incineration tax to be put directly towards minimising, re-using and recycling waste.

There would be no bar on those wishing to apply for funding and the eligibility of local authorities should be related to their ambition and performance in meeting targets for improving recycling and composting. The fund should be seen, in particular, as a way of covering the transitional costs, for example, of setting up a kerbside recycling scheme. The revenue should also be the source of funds for WRAP²³ to meet its essential task in establishing markets for recycled products.²⁴

Although the scheme came in for a lot of criticism at this time, it is worth noting that just prior to the 2002 Budget Jim Dobbin MP put down an early day motion supporting the existing scheme, which 102 Members signed.²⁵

3 Consultation on reforming the scheme

In the 2001 Budget the Government noted that it would reform the credit scheme:

In the Pre-Budget Report, the Government announced that it would explore how resources going through the Landfill Tax Credit Scheme (LTCS) could be better used to increase recycling rates, particularly of household waste. As an initial step the Government will shortly be challenging the waste industry to meet demanding targets to allocate a greater proportion of tax credits towards sustainable waste management projects and especially projects which promote recycling.

The Government believes that local authorities have a key role in promoting household recycling and would like to see them benefit from funds in the LTCS. In the longer-term the Government is therefore attracted to replacing all or part of the LTCS with a public spending programme to direct resources towards Government priorities on sustainable waste management. The Government will consult with interested parties on how this transition can be managed to ensure that worthwhile projects continue to attract funding both under the current scheme and under any replacement regime.²⁶

In May 2001 the Government proposed that the industry should aim at giving two thirds of tax credits to sustainable waste management projects, while maintaining the one third share

²³ The Waste and Resources Action Programme (WRAP), set up in the *Waste Strategy 2000*, has a remit from Government to “overcome market barriers to promoting re-use and recycling” and started work on 1 January 2001. It is eligible for funds from the LTCS. For details see HC 36 2000-01 para 163-6 and the organisation’s internet site: <http://www.wrap.org.uk>

²⁴ Environment, Transport and Regional Affairs Committee, *Fifth report: delivering sustainable waste management*, 21 March 2001 HC 36 2000-01 para 137-145

²⁵ “Landfill tax credit scheme” EDM 1000 of 2001-02, 13 March 2002. The issue was also raised in a short debate in Westminster Hall in January 2002 (HC Deb 15 January 2002 cc 47-54WH).

²⁶ *Budget 2001* HC 279 March 2001 p 120. This announcement received a small amount of attention in the press; for example, “£356m tax credit scheme for local projects may end”, *Daily Telegraph*, 9 March 2001.

within this category that was being allocated specifically to recycling projects.²⁷ In the Budget the following year, the Government stated that while these targets had not been met, “the industry is making progress towards achieving them. Around 53 per cent of LTCS spending commitments entered into between September 2001 and February 2002 have been allocated to sustainable waste management, and around one third of these to recycling.”²⁸ It also published a consultation paper, seeking views “on the priorities for funding from revenue currently spent through the landfill tax credit scheme, the merits of different funding mechanisms and any transitional arrangements.”²⁹ The paper set out three possible priorities for future LCTS funding:

- encouraging further or quicker behavioural change in line with the environmental objective of the tax (i.e. more sustainable waste management);
- dealing with environmental externalities associated with landfill (i.e. local community projects in the vicinity of landfill sites);
- achieving other Government objectives (this could include biodiversity and land remediation objectives or other wider objectives).

It also asked respondents whether this funding should be delivered through tax credits, some other tax allowance scheme, or by public spending programmes.³⁰ The Department received 700 responses and in September 2002 published a summary of them. Of the options presented in the paper, there was the following split among respondents:³¹

Priorities for funding through the LTCS

Encouraging sustainable waste management 62%
Improving the environment in the vicinity of landfill sites 28%
Other priorities 10%

Potential funding mechanisms and the design options

Keeping the scheme as it is or with modifications 82%
Public spending scheme, in part or whole 9%
Not specified 9%

4 Proposals for reform

In November 2002, in the *Pre-Budget Report*, the Government presented its plans for reforming the LTCS:

Recent changes have improved the administration of the scheme, but will not deliver the strategic and coherent approach to waste management which is needed. The Government has therefore decided to reform the LTCS from 1 April 2003. The level of funding for the replacement schemes will be capped at the value of the tax which would have been forgone in 2002-03 if all the available tax credits had been claimed by

²⁷ HC Deb 10 May 2001 c 285W. These targets are purely indicative; companies are quite free to ignore them should they choose. In July 2001 ENTRUST welcomed a pledge that the Environment Trust established to distribute tax credits generated by the waste management company SITA had been restructured, to enable it to meet the new targets (ENTRUST press notice 01-37, July 2001).

²⁸ HC 592 April 2002 para 7.74

²⁹ HC Deb 18 April 2002 c 1073W; HM Treasury press notice 35/02, 17 April 2002

³⁰ DEFRA, *Summary of responses to the consultation paper on possible changes to the landfill tax credit scheme*, September 2002 para 4

³¹ *Summary of responses to the consultation paper on possible changes to the landfill tax credit scheme*, September 2002 paras 7, 10, 16.

landfill operators. Approximately one third of the funding, around £47 million, will continue to be made available through a reformed tax credit scheme for spending on local community environmental projects, ensuring that the current level of support for these types of projects is maintained. The remainder, £100 million in 2003-04 rising to £110 million in 2004-05 and 2005-06, will be allocated to public spending to encourage sustainable waste management. The design of the public spending programme will be determined following further work on the management of waste policy. The Devolved Administrations will be responsible for these programmes in their regions.³²

At the time there was some criticism of these proposals in the House: for example, Barry Sheerman raised the issue in a debate in Westminster Hall on 14 January 2003.³³ One point Mr Sheerman made on this occasion was that many environmental projects had attracted funding from other sources *on the basis* of having won a grant under the credits scheme (ie, being given a grant matching the money already awarded that project through ENTRUST). The relative importance of this 'matching funding' was also raised in a PQ:

Gregory Barker: To ask the Chancellor of the Exchequer (1) what assessment he has made of the likely impact on the match funding which will be lost when the waste management and recycling element of the Landfill Tax Credit Scheme ends in April 2003; (2) what assessment he made of the likely impact on the match funding available which would be lost before taking the decision to end the waste management and recycling element of the Landfill Tax Credit Scheme in April 2003.

John Healey: The impact of the changes to the Landfill Tax Credit Scheme on match funding was one of the factors which the Government took into account in deciding to make the changes announced in the 2002 Pre-Budget Report. No clear information is available on the quantities of match funding obtained by projects, nor the source of such match funding. However, a study by Glasgow Caledonian University for Entrust, the Scheme's regulator, has estimated that on average waste management and recycling projects have levered in approximately 34 per cent. funding in addition to Landfill Tax Credit Scheme funding. The Government recognises that the change from a tax credit scheme to public spending may reduce the availability of match funding but decided that the benefits of converting funding on waste management and recycling from tax credits to public spending outweigh any loss in match funding.³⁴

Concerns were also been raised about the criteria to be chosen for the replacement credits scheme,³⁵ and the fact that under the scheme a significant number of historic churches had received funding for repairs.³⁶

On 3 February 2003 in a long Ministerial statement the Government gave some details on the successor tax credits regime and announced that funding would be made available on a *transitional basis* to sustainable waste management projects that would be ineligible for funds under the new credits regime; extracts from this statement are reproduced below:

³² *Pre-Budget Report* Cm 5664 November 2002 p140

³³ HC Deb 14 January 2003 cc 232-239WH. The issue was discussed at length with the Economic Secretary John Healey when he appeared before the Environmental Audit Committee: *Pre-Budget Report* 17 December 2002 HC 167 2002-03. See also, "Ministers face backlash over landfill tax credit scheme", *ENDS Report* issue 335, December 2002.

³⁴ HC Deb 21 January 2003 cc243-4W

³⁵ HC Deb 7 January 2003 c 166W

³⁶ During Questions to the Church Commissioners on 3 February 2003, Stuart Bell MP (Second Church Estates Commissioner) said that "an estimated £1 million from the scheme goes toward the repair of churches that qualify through their geographical proximity to landfill sites" (HC Deb 3 February 2003 c18).

The Economic Secretary to the Treasury (John Healey): The Government announced in the 2002 Pre-Budget Report that they would be reforming the Landfill Tax Credit Scheme (LTCS) from 1 April 2003. Approximately two-thirds of the funding currently going through the scheme, under objects C and CC,³⁷ will be allocated to additional public spending on sustainable waste management. The Government are responsible for this spending within England while the Devolved Administrations have responsibility for spending within their countries.

The LTCS successor scheme in the UK

The Government will continue to make available approximately a third of the funding that is currently going through the landfill tax credit scheme, around £47 million per year, for spending on community environmental non-category C or CC projects through a successor tax credit scheme.

Ongoing waste projects

Contributions by landfill site operators under the existing tax credit scheme can continue to be made to waste projects until 31 March 2003. This funding can continue to be allocated and spent by environmental bodies from 1 April 2003 until either the projects are complete or the funding is spent ... Contributions made on or after 1 April 2003 will no longer be able to be allocated to waste management or recycling projects. The Government wish to ensure a smooth transition to the new spending programme with the minimum disruption for existing waste and recycling projects. In England, the Government will therefore provide for a transitional period of funding for ongoing projects beyond 31 March 2003, provided they meet all the eligibility criteria set out below, and subject to any constraints resulting from EU state aid rules. The responsibility for this funding arrangement will lie with DEFRA. The Devolved Administrations are making their own arrangements for spending of the resources released from the reform of the LTCS.

In implementing this transitional funding arrangement, the Government are putting in place a straightforward process for making decisions on funding to ensure minimum delay and uncertainty for ongoing projects. By establishing this transitional funding period the Government are providing a reasonable period for projects to manage the consequences of the decision announced in the Pre-Budget Report ...

Period of funding

This transitional arrangement will be limited to one year, from 1 April 2003 to 31 March 2004. Eligible projects will be considered for funding to cover ongoing commitments during 2003–04 for which they would otherwise have expected to have received funding from landfill operators or DEBs through the LTCS. Projects continuing thereafter will need to secure alternative sources of funding. The Government will confirm their plans for the rest of the funding which will be reallocated to public spending from 2003–04 and beyond as soon as they are able to do so, including the extent to which prospective waste or recycling projects that contribute significantly to the Government's sustainable waste management strategy may be considered for support ...

The continuing tax credit scheme

Landfill site operators are able to claim a credit worth 90 per cent. of any qualifying contribution to the landfill tax credit scheme. This is currently subject to a maximum credit of 20 per cent. of their annual landfill tax liability. From 1 April this year that figure

³⁷ As noted above, the criteria for eligible projects under the scheme are set out in secondary legislation – specifically reg32 of the Landfill Tax Regulations SI 1996/1527. The ‘objects’ for funding were set out in reg.33(2)(a)-(f): at this time, ss33(2)(c) & (cc) covered sustainable waste management activities.

will be revised from 20 per cent. to 6.5 per cent. This will cap the value of the scheme that will make funding available to local environmental projects at approximately £47 million, in line with the announcement made in the Pre-Budget Report 2002, ensuring that the current level of funding for these types of project is maintained. The funding available for these types of projects will be kept broadly constant in real terms and the percentage figure for the maximum proportion of landfill tax liability which landfill operators may allocate to projects will be subject to review in future years accordingly.³⁸

The Government gave more details of the continuing credit scheme in the 2003 Budget:

A successor tax credit scheme will maintain funding at current levels of around £47 million per year for local community environmental projects. Following discussion with stakeholders, the Government will introduce regulations by the summer to extend the scope of the scheme to include habitat creation projects on land that need not have public access, in order to support biodiversity. The Government will also continue work with Entrust, the regulator of the scheme, and other stakeholders to improve the scheme's operation. Administration of the scheme will be simplified through a reduction in the level of information required from projects and through the use of common systems wherever possible. Better information will be recorded on project funding and audit processes will be improved. The Government will also improve monitoring and evaluation of the scheme and develop measures of value for money. These changes will be finalised by the summer.³⁹

The changes were mentioned at the Committee stage of the Finance Bill: speaking for the Conservatives, George Osborne raised the concerns of several charities and environmental groups that the transfer of funds to public spending would diminish local participation in waste management projects. The Minister, John Healey, argued that the problems highlighted in the LTCS had arisen “from the design rather than the principle of the scheme. The Government strongly support the principle; that is why we have retained it for non-waste projects.” Transferring funding for waste management to public spending would, in the Minister’s view, “deliver a more strategic, sustainable waste management policy and programme.”⁴⁰

5 Recent developments

Since the reform of the LTCS in 2003 there have been a few minor changes to the credit scheme, and it has not attracted much debate or comment. Initially the maximum credit a landfill site operator could claim against their annual landfill tax liability was set at 6.5%.⁴¹ This percentage has been amended several times since then, to take account of the increases in the standard rate of tax – which has risen from £14 a tonne in 2003, to £40 a tonne in 2009.⁴² For two years the size of the fund, in real terms, was broadly maintained.

³⁸ HC Deb 3 February 2003 cc 5-7WS. SI 2003/605 removed objects (c) & (cc) from the list set out in reg33(2) of SI 1996/1527, with effect from 1 April 2003.

³⁹ HC 500 April 2003 para 7.52. SI 2003/2313 added biodiversity as a new category – (d)(a) – to the list of approved objects in reg.33(2) (HM Customs & Excise Business Brief 19/2003, 1 October 2003).

⁴⁰ SC Deb (B) 14 May 2003 c399

⁴¹ under the *Landfill Tax (Amendment) Regulations* SI 2003/605, which amended SI 1996/1527 accordingly

⁴² On 1 May 2004 it was set at 6.8% (SI 2004/769). On 16 March 2005 it was set at 6% (SI 2005/759). On 1 April 2006 it was set at 6.7% (SI 2006/865). On 1 April 2007 it was set at 6.6% (SI 2007/965).

Over the next three years, it rose by £20m, so that at present the potential maximum size of the fund is around £70m.⁴³

The scheme was renamed the landfill communities fund in October 2006, on its 10th anniversary; at this time, the Government stated that a total of £700m had been distributed under the scheme, funding over 19,000 community projects. As the then Financial Secretary, John Healey, explained in a press notice at this time, “an additional benefit of the scheme is that any donation is classified as private money. Projects can therefore match the money with, for example, lottery funding, a DEFRA grant or EU money. This means the £700m distributed by the scheme has levered-in further funding, totalling more than £2bn.”⁴⁴ A written answer in May 2008 gave details of donations made to environmental bodies under the scheme since its inception:⁴⁵

Justine Greening: To ask the Chancellor of the Exchequer how much the Landfill Communities Fund and its predecessor received in contributions in each year since 1997.

Angela Eagle: Annual contributions to environmental bodies in the Landfill Communities Fund were as follows:

Contributions to environmental bodies		£ million
1997-98		74.3
1998-99		86.2
1999-2000		103.0
2000-01		121.4
2001-02		141.2
2002-03		144.8
2003-04		50.8
2004-05		49.8
2005-06		51.3
2006-07		61.1

In February 2009 total contributions into the fund reached £1bn.⁴⁶ Following this, in the 2009 Budget the Government confirmed that the maximum credit operators could claim for donations would remain 6%, which “should result in a £2m increase to bring the value of the fund to £72m of credit claimable for 2009-10.”⁴⁷

⁴³ The percentage was set at 6% from 1 April 2008 (SI 2008/770). (HMRC Budget Note BN81, 12 March 2008).

⁴⁴ HM Revenue & Customs press notice 65/06, 19 October 2006

⁴⁵ HC Deb 19 May 2008 c95W

⁴⁶ HM Revenue & Customs press notice 17/09, 18 February 2009

⁴⁷ HC 407 April 2009 para 7.65