

**WELSH GOVERNMENT'S RESPONSE TO THE SECOND  
STAGE CONSULTATION ON:**

**Draft Guidance in support of**

**The Recycling, Preparation for Re-use and Composting  
Targets (Definitions) (Wales) Order 2011**

**Regulations 4 and 5 of The Recycling, Preparation for Re-  
use and Composting Targets (Monitoring and Penalties)  
(Wales) Regulations 2011**

**Made under the Waste (Wales) Measure 2010**

**and**

**Consultation on issues affecting de-watering,  
apportionment of recycling rates from anaerobic  
digestion, composting and the recycling of incinerator  
bottom ash (IBA)  
(Number: WG14470)**

Date of issue: 16 January 2012

Closing date: 16 April 2012

## **Introduction**

The Waste (Wales) Measure 2010 sets statutory recycling, preparation for re-use and composting targets for Welsh local authorities. The Recycling, Preparation for Re-use and Composting Targets (Definitions) (Wales) Order 2011 [the Order] defines recycling, preparation for re-use and composting for the purposes of the targets set in section 3 of the Measure. Regulations 4 and 5 of The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011 [the Regulations] describe the monitoring regime for the statutory recovery targets set under the Measure.

From 16 January 2012 to 16 April 2012 the Welsh Government consulted on a second stage draft Guidance produced under section 7 of the Waste (Wales) Measure 2010, covering the Order and Regulations 4 and 5 of the Regulations.

This document summarises the results of the second stage consultation and provides the Welsh Government's response to consultation. It provides the Welsh Government's views on policy and signals future actions to address the issues raised.

## **Summary breakdown of those who responded**

A total of 36 responses to the consultation were received and they are broken down as follows:

<b>Category of respondent</b>	<b>Number of responses</b>
Local authority	16
Government Agency	2
Third sector/NGO	5
Individuals	3
Trade/professional bodies	7
Private companies	3
<b>Total</b>	<b>36</b>

## **Full list of respondents**

Responses were received from the following:

Caerphilly County Borough Council  
Institute of Civil Engineers  
Stop Newport Incinerator Campaign  
Rob Hepworth  
Rod Walters  
Community Composting Network  
Prosiect Gwyrdd  
Central Wales Waste Partnership  
Waste and Resources Action Programme  
Pembrokeshire County Council  
Environment Agency  
The Wood Panel Industries Federation

Carmarthenshire County Council  
Local Authority Recycling Advisory Committee  
Cardiff Friends of the Earth  
Association for Organics Recycling  
Cardiff Council  
Shanks  
South Wales Without Incineration Network  
Monmouthshire County Council  
The Anaerobic Digestion and Biogas Association  
Bridgend County Borough Council  
Chris Coggins  
Charity Retail Association  
Cylch  
Denbighshire County Council  
Flintshire County Council  
Friends of the Earth Cymru  
Geneco  
Neath Port Talbot County Borough Council  
Viridor  
Vale of Glamorgan Council  
Welsh Environmental Services Association  
Welsh Local Government Association  
Wrexham County Borough Council  
Merthyr Tydfil County Borough Council

Below is a summary of the responses to the consultation and for each question the number of respondents is given and where appropriate the number of 'yes' and 'no' responses that were received are indicated.

### **Responses to consultation questions**

***Question 1. Do you consider that any further clarification is required regarding what constitutes local authority municipal waste? If so, please state what further clarification is necessary.***

1. There were 21 respondents who indicated that they considered that further clarification was necessary.
2. The Community Composting Network (CCN) is concerned that the definition of recycling needs to be clarified to align with Article 3 of the Order. It points out that the Order does not specifically refer to End of Waste (EoW) and therefore conflicts with Guidance. CCN is also concerned that PAS100 requirement might exclude small scale community green waste composters.
3. Several respondents are seeking clarity on the position of specific materials, including soil, rubble, street sweepings, incinerator bottom ash (IBA), air pollution control residues (APCR), plasterboard and asbestos.

4. Several respondents are seeking clarity on the thresholds for soil and rubble and when they may be considered to be 'skewing' recycling rates and therefore subject to review.

5. Friends of the Earth (FoE), Cardiff FoE and South Wales Without Incineration Network (SWWIN) are seeking clarity on whether all materials defined as municipal will be count towards the recovery targets if they are recycled.

6. Cylch is requesting that the difference between re-use and preparation for re-use is more clearly explained.

***Response to issues raised in reply to Question 1 of the consultation.***

7. The Welsh Government [WG] understands the concerns of the Community Composting Network [CCN] and will continue to explore the issues around PAS100 accreditation and the potential impact on small composters. The general approach of the Welsh Government is to promote high quality recycling and this is supported by adhering to quality standards wherever they can be appropriately applied. The Welsh Government is aware that the Waste and Resources Action Programme [WRAP] is commissioning a study of the future of green waste composting in Wales, which will inform consideration of some of the issues raised by CCN.

8. All the Guidance produced under section 7 of the Waste (Wales) Measure 2010 must reflect the scope of the Measure. The CCN is correct to say that the Guidance should refer to Articles 3, 4 and 5 of the Order when defining recovery rather than Article 6 of the Waste Framework Directive which refers to End of Waste (EoW) criteria. The Welsh Government proposes to consult separately on the use of EoW criteria as soon as practicable.

9. Several respondents are seeking further clarity on the inclusion of specific materials towards the Local Authority Recovery Targets, including: soil, rubble, street sweepings, incinerator bottom ash (IBA), air pollution control residues (APCR), plasterboard and asbestos. Each of these materials will be considered in the final Guidance and the positions for each shall be as in the following paragraphs.

10. Soil and stones collected by or on behalf of local authorities under sections 45 or 51 of the Environmental Protection Act 1990 are municipal waste.

11. Soil and rubble may count towards the Local Authority Recovery Targets where they undergo a recovery operation to produce a product, substance or material. It is proposed to separately consult on a position that, where soil and rubble are recovered to produce secondary aggregates, the secondary aggregates must, from 1<sup>st</sup> April 2015, meet the requirements of the 'quality protocol for the production of aggregates from inert waste' [the QP]. This means that soil and stones must come from the garden (20 02 02 in the List of Wastes).

12. Following suggestions from several respondents, the Welsh Government will propose in a future consultation on EoW criteria that until 1<sup>st</sup> April 2015 soil and

stones may still be counted by local authorities towards the Local Authority Recovery Targets provided that they are recovered at facilities that have started on the process of ensuring compliance with the QP. The Welsh Government will propose that thereafter, only QP compliant aggregates will count.

13. Street sweepings collected by, or on behalf of, local authorities under sections 45 or 51 of the Environmental Protection Act 1990 are municipal waste.

14. Street sweepings and leaf fall may count towards the Local Authority Recovery Targets where they meet the conditions of Articles 3 or 5 of the Order. The Welsh Government proposes to consult on a position that these materials must in future be managed in ways that comply with guidance produced by the Monitoring Authority: "Recovery of Street Sweepings and Gully Emptyings" (see:

<http://naturalresourceswales.gov.uk/our-work/policy-advice-guidance/waste/?lang=en> (and go to "External Links" and "Find out what local authorities in Wales need to do to comply on the Environment Agency's website".)

It will be proposed that this guidance be followed carefully and any questions regarding the potential of these materials to count towards Local Authority Recovery Targets should be addressed to the Monitoring Authority.

This guidance also explains the Monitoring Authority's position with regard to leaf fall.

15. The issue of whether incinerator bottom ash (IBA) may count towards the statutory recovery targets elicits varying opinions. The Welsh Government has considered the responses to the second stage consultation, together with its evidence base on this matter and concluded that subject to compliance with Article 3 of the Order that IBA may count towards Local Authority Recovery Targets.

16. IBA may count towards Local Authority Recovery Targets if it is recovered to produce products, materials or substances in accordance with Article 3 of the Order. The Welsh Government intends to consult on a position where in future IBA must meet a Quality Protocol or other EoW criteria. In the absence of a QP for IBA it would still count towards Local Authority Recovery Targets subject to compliance with regulatory requirements. These would be determined on a case by case basis and include consideration of production of concrete products, secondary aggregates and other products from IBA. It will be proposed that secondary aggregates made from IBA must meet the requirements of a relevant QP from 1st April 2015 in order that they may count towards Local Authority Recovery Targets.

17. Air pollution control residues (APCR) may count towards Local Authority Recovery Targets provided that they are recovered in a way that complies with Article 3 of the Order. The Welsh Government will consult on proposals that in future APCR must comply with EoW criteria, including meeting a relevant QP, in order that it counts towards Local Authority Recovery Targets.

18. Plasterboard collected by or on behalf of local authorities under sections 45 or 51 of the Environmental Protection Act 1990 is municipal waste and may count towards Local Authority Recovery Targets provided that it is recovered in compliance with Article 3 of the Order. The Welsh Government proposes to consult on a proposal that in future plasterboard may only count towards Local Authority Recovery Targets if it meets the requirement of the 'Recycled gypsum from waste plasterboard' QP. For further detail see:

<http://www.environment-agency.gov.uk/business/sectors/142481.aspx>

19. Asbestos collected by or on behalf of local authorities under sections 45 or 51 of the Environmental Protection Act 1990 is municipal waste. It is not currently possible to recycle asbestos.

20. Any wastes collected under the appropriate parts of sections 45 and 51 of the Environmental Protection Act 1990, consistent with the definition in the Waste (Wales) Measure 2010 will be considered municipal for the purposes of the Local Authority Recovery Targets.

21. The final issue to be considered as a result of responses to Question 1 of the second stage consultation is clarification of re-use and preparation for re-use. Where materials are exchanged through sale or donation and are not intended to be discarded, the activity is re-use and re-used materials should not be counted as municipal wastes. This includes the use of internet based exchanges, car boot sales and material donated to charity shops. Where materials are collected from households or businesses under sections 45 or 51 of the Environmental Protection Act 1990 it is as a consequence of the intention to discard them. Thus, any bulky items, textiles etc collected by or on behalf of local authorities which are then inspected, cleaned and repaired are considered to have been prepared for re-use as described in Article 4 of the Order. These items/materials are municipal wastes and may count towards Local Authority Recovery Targets.

***Question 2. Do you consider that any additions need to be made to the wastes that may count towards local authority recovery targets? If so, please state what those changes should be and in your opinion why they should be made.***

22. There were 12 respondents who indicated that they considered that there should be additions to the wastes that may count towards local authority recovery targets.

23. The CCN considers that home composting should count towards the targets, that composting should not be conditional upon attainment of PAS 100 (a view supported by Cylch) and that the Welsh Government should try and encourage more processes based on fungal rather than bacterial decomposition.

24. AfOR is seriously concerned that, as a result of the Welsh Government's proposals, local authorities in Wales may decide to divert to larger EoW compliant biowaste treatment sites those biowastes that are currently composted or digested through community or farm schemes. It considers that the Quality Protocols for

composts and digestates' numerous requirements represent an expensive burden for small community, on-farm composters and micro-digestion operators. It considers that this means that, although many community sites, small on-farm composters and micro-digestion operators could probably achieve the quality of compost / digestate required, the costs of proving this and gaining certification are, at worst, prohibitive and at best, considerably higher than the costs associated with using the compost / digestate as 'waste'. AfOR is requesting that the Welsh Government find a solution for small community and farm based composting and AD operators that cannot afford going down the route of certification to End of Waste criteria, as a matter of urgency.

25. The Central Wales Waste Partnership (CWWP) is seeking clarification on what is meant by backfilling and (together with Pembrokeshire County Council, PCC) whether aggregate produced from glass is to be considered as recycled for the purposes of the recovery targets.

26. PCC is suggesting that there be a 'period of grace' regarding deadlines by which soil and rubble must meet quality protocols (QP) – to reflect the position in respect of organic wastes.

27. The Wood Panel Industries Federation (WPIF) is seeking clarification of whether wood and wood products may count towards the recovery targets.

28. Carmarthenshire County Council (CCC) seeks clarity on whether the organic fraction of street sweepings may count towards the recovery targets, clarity over the use of waste exemptions (under the Environmental Permitting (England and Wales) Regulations 2010. Neath Port Talbot County Borough Council (NPTCBC) proposes that the organic fraction of street sweepings should count towards the recovery targets.

29. CCC, the local authority recycling Advisory Committee (LARAC) and others raise the issue of whether materials that are not recycled 'closed loop' will count towards the recovery targets?

30. Cardiff FoE advocates that the Local Authority Recovery Targets should apply to household rather than municipal wastes and that IBA and APCR should not count towards the targets. This view is also expressed by FoE Cymru and SWWIN which proposes that compost like outputs (CLO) applied to land should count towards Local Authority Recovery Targets.

31. Cardiff Council seeks clarification on how IBA and APCR will be treated in the absence of a QP.

32. The Charity Retail Association (CRA) seeks clarification on whether goods re-used/recycled through charity shops count towards the Local Authority Recovery Targets.

33. Merthyr Tydfil County Borough Council (MTCBC) wants clarification on whether water content of gully emptying etc will count towards Local Authority Recovery Targets.

34. Vale of Glamorgan County Council (VoGCC) suggests that the Welsh Government should introduce a mandatory MRF Code of Practice.

35. The Welsh Local Government Association (WLGA) seeks clarification on whether dead sea creatures will count as beach cleansing wastes.

***Response to issues raised in reply to Question 2 of the consultation.***

36. Home composting may not be included towards the Local Authority Recovery Targets as it is not municipal waste as defined in the Measure.

37. Some local authority respondents suggested allowing aggregates produced from inert wastes to count towards the Local Authority Recovery Targets whilst facilities are pursuing accreditation for compliance with the relevant Quality Protocol. The Welsh Government intends to consult on proposals that local authorities may count non-QP compliant aggregates, produced from inert wastes, towards the Local Authority Recovery Targets until 1st April 2015 – and that thereafter only QP compliant aggregates produced from inert wastes will count.

38. Several respondents requested clarification on what backfilling is and why it cannot count towards the Local Authority Recovery Targets. Article 3 (17) of the EU Waste Framework Directive defines recycling as:

“.. any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.”

39. Backfilling is defined (in a communication of clarification from the European Commission) as a recovery operation where waste is used:

- to refill excavated areas (such as underground mines, gravel pits) for the purpose of slope reclamation or safety or
- as filling under new constructions, in landscaping or on landfills

The reprocessing of waste into materials that are to be used for backfilling operations is also to be considered as backfilling.

40. Wood and wood products may count towards the Local Authority Recovery Targets provided that they meet the requirements to be considered as recovered under Articles 3 and 5 of the Order.

41. Water that is covering or absorbed by items or materials which are subsequently recovered is not itself recovered and may not count towards Local Authority Recovery Targets. This includes water from gully emptying, in human waste contaminated absorbent hygiene products (AHP) etc.

42. The Welsh Government intends to join Defra in introducing a mandatory Material Recovery Facility (MRF) Code of Practice and has recently consulted on Regulations to introduce this.

43. Dead sea creatures found on beaches will not count as beach cleansing wastes, they are exceptional wastes that if included would disadvantage local authorities with beaches.

***Question 3. Do you consider that any changes need to be made to the description of the reporting requirements in support of local authority preparation for re-use, recycling and composting targets? If so, please state what those changes should be and in your opinion why they should be made.***

44. There were 14 respondents who indicated that they thought changes should be made to the reporting requirements.

45. Several local authority respondents expressed concerns over the difficulty of reporting material flows beyond the primary MRF.

46. Several respondents thought that disaggregation of data was important, to distinguish household from other municipal wastes.

47. The WLGA and several local authorities have expressed the wish that reporting times to WasteDataFlow be increased from one to two months in order that local authorities have more time to collect detailed information about end destinations and reject rates.

48. The WLGA expressed the view that WasteDataFlow reporting should be carried out by groups of local authorities rather than individually. It repeated earlier suggestions for pooling of targets.

49. Denbighshire County Council (DCC) has requested clarity on the levels of detail required for reporting of mass flows. It perceives a difference of approach between the Welsh Government and the Monitoring Authority.

50. Other respondents raised issues about the accurate use of WasteDataFlow in respect of preparation for re-use and about requiring Quality Protocols to apply as a pre-requisite for material to be considered recovered.

51. AfOR believes that it is absolutely fundamental that the Guidance for local authorities on how to calculate composting targets and report them into the WasteDataFlow system includes a mechanism to encourage local authorities to reduce the levels of contaminants in biowaste delivered to composting, AD and other biowaste treatment sites. Failing to do this only encourages the collection of inappropriate 'contaminant' materials which cost significant sums to remove at an appropriate stage after delivery to the composting / AD sites.

***Response to issues raised in reply to Question 3 of the consultation.***

52. It is essential that material flows beyond the primary MRF are reported into WasteDataFlow and that reject rates and end destinations are fully and accurately reported. Analysis of data has shown that for some local authorities a significant proportion of the material collected for recycling is lost during sorting in secondary and tertiary facilities. If only data from primary sorting facilities is considered it provides an inaccurate measure of recycling rates for the local authority concerned. The MRF Code of Practice will help with more accurate reporting. Any concerns over the reporting of mass flows, rejects and end destinations should be raised initially with the Monitoring Authority.

53. The Local Authority Recovery Targets in Wales apply to municipal waste. From 2020 recycling of wastes from households will be reported by the UK under Article 11 (2) (a) of the Waste Framework Directive<sup>1</sup>. The WasteDataFlow system is capable of disaggregating data and reporting against both municipal and household wastes.

54. Many local authorities have made the case for an increase in WDF reporting times, to allow for the collation and submission of additional information. It is reasonable that, in return for providing more accurate data in respect of reject rates and end destinations, that the local authorities are given more time to enter data. The Welsh Government therefore intends to consult on increasing the reporting times for WasteDataFlow (for Landfill Allowances Scheme and Local Authority Recovery Targets) from one month to two months by amending the relevant Regulations. The reporting times for the Monitoring Authority shall be adjusted in the amended Regulations to reflect this decision.

***Question 4. Do you consider that Welsh Ministers should consult on the possibility of introducing legislation to require all facilities managing waste in Wales to report how much material they reject, the next destinations of materials sent from these facilities and other related information?***

55. There were 21 respondents to this question, 16 agreeing that Welsh Ministers should consult on possible new legislation requiring information from all facilities managing waste and 5 disagreeing.

56. The Welsh Environmental Services Association (WESA) is concerned about issues of apportionment, practicality and commercial confidentiality.

57. AfOR anticipates that the main problem with the 'pro-rata' approach proposed in the consultation document (section 4.3) is that Waste Collection Authorities that achieve lower levels of contaminants in the input materials are attributed exactly the same proportion of rejects (based on the treatment site's overall rejects rate) as the WCAs that are delivering feedstocks that contain high levels of contaminants. This in turn will not encourage the local authorities that are

---

<sup>1</sup> Unilateral statement by the United Kingdom for the Environment Council minutes of 20/21 October 2008

delivering highly contaminated feedstocks to improve their quality. AfOR proposes an alternative approach (which is described in section 2.3.2 of AfOR's response). This alternative approach does not penalise those local authorities that achieve low levels of contaminants in the feedstocks delivered to biowaste treatment sites, and, equally, does not reward those local authorities that deliver feedstocks that contain high levels of contaminants.

58. Viridor considers that WasteDataFlow reporting should be sufficient.

59. Several respondents, including both those in favour of legislation and those against, argue that additional legislation applying in Wales might have the effect of creating a competitive disadvantage for Welsh facilities.

60. Denbighshire CC suggests that any such legislation should apply across the UK and it should be a simple task to persuade other devolved administrations of the need to legislate.

61. The Charity Retail Association would be concerned if any legislation of the kind consulted upon were to apply to charity shops.

62. Monmouthshire County Council considers that any legislation would be meaningless due to cross border movement of materials.

***Response to issues raised in reply to Question 4 of the consultation.***

63. The proposal that Welsh Ministers consult on legislation to require all facilities managing waste in Wales to report how much material they reject, the next destinations of materials sent from these facilities and other related information has prompted a range of responses.

64. The MRF Code of Practice will help with more accurate reporting for MRFs only.

65. The Welsh Government shall consider the need for any additional legislation in this area in the context of other legislative changes and in light of considerations of costs and benefits.

***Question 5. Do you agree with the proposed approach to de-watering? If not, please explain what you think the approach should be.***

66. There were 22 responses, with 5 respondents agreeing with the proposed approach to de-watering and 17 disagreeing.

67. Several respondents were concerned that the approach might encourage in vessel composting (IVC) over anaerobic digestion (AD), since all the inputs to IVC would count whilst only a proportion of the inputs of the same material to AD would count.

68. Some respondents expressed concerns over the practicality of monitoring and complying with requirements. AfOR believes that the approach proposed by the

Welsh Government is very data onerous and, thus, too costly. As specified in the consultation document, the approach requires frequent sampling of the fractions. In addition, AfOR is concerned that basing the recycling targets on the amounts of total solids or total nitrogen recycled would lead to an uneven playing field, as the same approach is not (and should not) be proposed for composting. As an alternative to the approach proposed by the Welsh Government, AfOR strongly recommends that the same approach as for composting is used for anaerobic digestion. In other words, the amount of biowastes recycled from each local authority source through an AD facility should be the total amount of biowastes delivered from the local authority's catchment to the treatment facility, minus an apportioned amount of the rejects sent for disposal, assigned to that local authority.

69. Some respondents mentioned phosphorus and phosphorus compounds as being important nutrients that should not be overlooked by emphasising nitrogen and nitrates.

70. Some respondents thought that whole digestate solutions would be inherently more expensive than de-watered digestate solutions due to transportation issues – and questioned whether the whole life impacts would favour de-watering.

71. Several respondents thought that all water should count towards the targets, irrespective of nutrient retention.

***Response to issues raised in reply to Question 5 of the consultation.***

72. The benefits of de-watering whole digestate to reduce costs of tankering and associated environmental impacts are acknowledged. However, if de-watering of digestate is carried out it should be carried out in a way that retains the beneficial nutrients and remaining organic matter in recovered products, materials or substances, in order for the treated food waste to be counted towards Local Authority Recovery Targets.

73. There is not a requirement to de-water proposed in the draft guidance, rather a method for calculating the recovery rate if de-watering does occur. Consequently the Welsh Government position proposed in the draft guidance does not favour IVC over AD. The Welsh Government will consult on legislation to require use of its approach to calculating local authority recovery rates where de-watering is used.

74. Some consultation respondents suggested that phosphorous (P) be included as a determinand. To avoid additional complexity, it is considered that the determinands of 'total solids' and 'total nitrogen' will suffice if the proposed approach to de-watering is taken, as phosphorous compounds should also be retained from the whole digestate if total solids and total nitrogen are retained.

75. Following consideration of the responses received in relation to de-watering and taking into account progress with the procurement of anaerobic digestion (AD) facilities by regional hubs, the Welsh Government has decided to retain its position regarding the de-watering of digestate from AD facilities.

76. The key priority for the Welsh Government is to ensure that the collection of food waste and its treatment via AD is primarily a nutrient recycling process, with nutrients being used in applications that ensure their re-entry into nutrient cycles.

77. This will enable food waste to be counted towards the Local Authority Recovery Targets when de-watering of digestate occurs. The Welsh Government will consult on the following: that, excluding rejects, the recovery rate will be equivalent to the proportion of total solids and total nitrogen (whichever is the lower) retained from the whole digestate and turned into quality protocol accredited products as in the method proposed in the draft Guidance.

***Question 6. Do you agree with the proposed approach to the apportionment of (i) AD digestates and composts, (ii) recycled incinerator bottom ash (IBA) and (iii) air pollution control residues (APCR) towards recovery targets? If not, please explain what you think the approach should be.***

78. There were 14 respondents to 6(i), 6 agreeing with the proposed approach and 8 disagreeing. For 6(ii) out of 16 respondents, 8 agreed and 8 disagreed. For 6(iii) out of 16 respondents, 8 agreed and 8 disagreed.

79. SNIC and several others feel strongly that neither IBA nor APCR should count towards Local Authority Recovery Targets.

80. CCN and CWWP think that small composting facilities should be exempt from any requirements to meet the QP and PAS. CWWP also expressed concern that any deadline for compliance should be moved from 1<sup>st</sup> April 2014 to 1<sup>st</sup> April 2015. These views reflected those of other respondents.

81. The Association for Organics Recycling (AfOR) want clarification on what pre-accreditation activities will qualify a facility in seeking accreditation. It considers that the deadline proposed by the Welsh Government should be revised so that it allows sufficient time to Welsh Local Authorities and their contracted composting and AD operators to evaluate the implications of such a deadline and take appropriate actions. AfOR has suggested to the Welsh Government what an appropriate deadline should be. In AfOR's opinion pre-registration should be a formal process, which requires composters or AD operators who intend to apply for certification (when they are ready) to confirm in writing their commitment to the Schemes' owners. AfOR has offered to create a 'Statement of Intent form' that these operators need to complete and submit for pre-registering'. In addition, AfOR could make available on its web site (or periodically to local authorities and the Welsh Government on request) the up to date list of pre-registered sites.

82. Cardiff Council suggest that all IBA that is recycled to an appropriate quality standard should count towards Local Authority Recovery Targets and that pro rata application should apply to IBA in the same way that it is proposed to apply to AD.

83. SWWIN objects to what it perceives as a proposed differential application of QP requirements to compost, AD, soil, rubble and IBA. The approach to soil, rubble, beach cleansing wastes and road sweepings etc is 'silly'.

***Response to issues raised in reply to Questions 6 (i), (ii) and (iii) of the consultation.***

**(i)**

84. The Welsh Government is sympathetic to the concerns of the Community Composting Network (CCN) regarding the implications for small, green waste composters of accreditation to PAS 100. The Welsh Government will continue to discuss the issues with CCN and to look for a way forward that protects small composters whilst assuring high quality composting.

85. The purpose of proposing that accreditation be required in order that products, substances or materials produced as in Article 5 of the Order may count towards Local Authority Recovery Targets is to drive high quality recycling. The Welsh Government intends to consult on introducing a deadline for compliance with QP/PAS from 1<sup>st</sup> April 2015. The Welsh Government will continue to discuss these matters with CCN and AfOR in future, with a view to addressing as many of their concerns as possible.

86. In the mean-time it is recommended that all operators of facilities treating municipal organic wastes intended to contribute towards Local Authority Recovery Targets should start on a process leading to accreditation with QP/PAS. Local authorities will be able to demonstrate compliance with the approach where they obtain a letter from the relevant operator outlining that the operator is in the process of seeking accreditation. Thus, work preparatory to formal certification is considered to be part of the process of applying for accreditation. Therefore, it is proposed that provided that a local authority has confirmation from its contractor that the contractor intends to work towards the relevant standard and indicates its timetable for implementation, that the outputs from the facility will count as recovered up to 31 March 2015, by which time the facility will have the opportunity to achieve accreditation.

87. Operators of facilities treating municipal organic wastes intended to contribute towards Local Authority Recovery Targets are recommended to start on a process leading to accreditation with QP/PAS. It is recommended that Quality Protocol and PAS accreditation be achieved by 1<sup>st</sup> April 2015 and that by 1st April 2019 all facilities receiving local authority bio-wastes be appropriately accredited if the local authority inputs are to count towards the Local Authority Recovery Targets. The Welsh Government intends to consult on introducing legislation to require compliance with PAS/QP as described.

**(ii) and (iii)**

88. Some consultation respondents suggested that IBA be treated in a consistent way with proposals for digestate apportionment in the draft guidance. The approach to digestate apportionment was made in response to digestate market

development considerations. Having recommended this approach for digestate it is considered that a consistent approach should be taken towards IBA, to allow more time for the market for IBA to develop. Such an approach would have no consequential impacts on attainment of planning permission or health effects.

89. The Welsh Government intends to consult on introducing legislation on apportionment of recovery, such that where 50% of inputs to a treatment facility are from local authorities and 50% of the outputs are recovered, then 100% of this recovered material may be considered to be from the local authorities. It will be proposed that this approach be taken until 1st April 2019. From 1<sup>st</sup> April 2019 it is proposed that if 50% of inputs to a treatment facility are from local authorities and 50% of a facility's output is recycled then 50% of this would be considered to be material from local authorities. This approach will apply to both AD digestate and IBA/APCR.

90. Whilst some respondents feel very strongly that IBA and APCR should not count towards Local Authority Recovery Targets, the Welsh Government considers that allowing these materials to count will help to promote the most sustainable approaches to their management. It is more sustainable and environmentally beneficial for IBA and APCR to be recycled in line with the high standards required than for it to be disposed of.

91. Calculating the weight of APCR that is derived from the combustion emissions of municipal wastes (as opposed to the combined weight of combustion emissions and reagents used to capture these emissions) might be difficult. However, it is imperative that reagents used to capture emissions derived from the combustion of municipal wastes are not included in any contribution towards Local Authority Recovery Targets as these reagents are not local authority municipal waste.

92. The Welsh Government intends to consult on legislation to define where APCR may count towards the Local Authority Recovery Targets. It is proposed to include the captured emissions from the combustion of municipal wastes, where they are recovered, but exclude any reagents or other materials contained within APCRs used to capture these emissions. Where calculation of the relative weights of reagents and combustion emissions is not possible then recycled APCR should not contribute towards Local Authority Recovery Targets.

93. There are some concerns regarding how IBA/APCR will contribute towards the Local Authority Recovery Targets in the absence of appropriate Quality Protocols. End of Waste (EoW) can normally be determined using one of three methods: by meeting a Quality Protocol; compliance with EoW Regulations; or through an end of waste submission. Following an end of waste submission, the regulator's Definition of Waste Panel will give its view on whether products meet the end of waste test set out in case law. The Welsh Government will consult on legislation to confirm that if the IBA and APCR products meet this test then IBA and APCR products may count towards Local Authority Recovery Targets.

94. Consequently, subject to compliance with regulatory requirements and on a case by case basis, the production of concrete products, secondary aggregates and other products from IBA and APCR should qualify for counting towards Local

Authority Recovery Targets.

***Additional comments.***

95. Several respondents were concerned that the “Environment Agency (since replaced by Natural Resources Wales, NRW) is responsible for (1) Wales’ Waste Policy and (2) Environmental protection, including regulating incinerators”.

96. CCN emphasises the threat to small scale composters of requiring PAS accreditation, not because of quality of outputs but burdens of complying, including financial costs.

97. There are several references to the potential contribution of moisture towards recycling rates, including moisture in waste going to EfW.

98. SWWIN objects to municipal rather than household waste targets, objects to inclusion of IBA and APCR towards the targets, and objects to transporting waste beyond Wales’ borders. Further it advocates mechanical biological treatment (MBT) as the best environmental option and considers Welsh Government policies incoherent – because they undermine high quality recycling.

99. Monmouthshire County Council wishes the final Guidance to include an annex reproducing relevant extracts from legislation and specifically the Environmental Protection Act 1990. It understands that there are not minimum recycling targets between the target years and recommends the use of shadow performance indicators to allow year on year performance comparisons with and without rubble etc.

100. Denbighshire County Council considers the monitoring requirements too resource intensive, suggesting that resources should be allocated to increasing recycling rather than monitoring it.

101. The Vale of Glamorgan Council suggests that the statutory recovery regime should apply beyond local authority managed wastes.

***Responses to additional comments***

102. Welsh waste strategy and policy is the sole responsibility of Welsh Ministers. The NRW does not have responsibility for Welsh waste strategy or policy. The NRW has responsibility for regulation in accordance with legislation, and, if directed by the Welsh Government, advises the Welsh Government on the measures or policies which are to be included in a waste strategy for Wales.

103. The concerns of CCN and AfOR are noted. The Welsh Government wishes to promote high quality recycling of source separated organic wastes through composting and anaerobic digestion. It intends to support this policy through the requirement that the composts and digestates produced meet high quality standards.

104. The only circumstances in which water will contribute towards recycling

figures are where it is an inherent constituent of the material being recycled. Any water added to materials being recycled will not be included towards Local authority Recovery Targets. Materials in which water is an inherent part include green garden wastes and food wastes.

105. *Towards Zero Waste*, the Welsh Government's waste strategy aims to achieve resource efficiency and sustainable management of wastes from all sectors of the economy. Setting municipal rather than household waste recovery targets helps to ensure that all local authority collected wastes are subject to requirements to increase recovery.

106. The Welsh Government has carefully assessed the options for treatment of non-recyclable, residual wastes and concluded that incineration is better than other options, including mechanical biological treatment (MBT) processes and subsequent application of bio-stabilised waste to land.

107. The Local Authority Recovery Targets apply to years between the target years as set out in the Waste (Wales) Measure 2010 and section 2 of the Guidance.

108. Data reported via Stats Wales will allow for year on year performance comparisons of recovery, with and without rubble etc.

109. The Welsh Government has invested significant funds in helping local authorities to improve their levels of recovery. Proper monitoring and reporting of this performance is considered a reasonable and essential duty of local authorities.

110. The statutory recovery regime applies specifically to local authority managed wastes. Other wastes are subject to other incentives to improve levels of recovery.