

## Landfill Restoration Plan – Operator Notification Guidance

This guidance document is intended to support operators with completion of the Landfill Restoration Plan - Operator Notification document.

The Landfill Restoration Plan Notification Form has been designed to deliver the basic information SEPA requires in order to approve a 'Restoration Plan'. Once approved the Restoration Plan will form part of the Management Plan for your site. All operations on the site must be carried out in compliance with the Management Plan, except where the plan conflicts with a permit condition; in that case, the permit condition takes precedence.

### General guidance on completing the form

We have tried to ask for as little information as is necessary. We are conscious that other regulators, such as a planning authority, may also request restoration information from you. The information we require can be subtly different from the information requested by other regulators as it is used for different end purposes.

To aid the quick completion and assessment of the notification form some of the boxes are colour coded. If you find yourself writing in an **orange** box, you will also be required to submit supporting documentation for that answer. The size, extent and detail of the supporting documentation will depend on how novel or contentious your plan is. We will aim to respond to 'non-standard' plans with supporting documentation within 4-8 weeks. We will acknowledge receipt of your plan at the outset and provide an indication of when you will get a response.

If you only need to complete the blank and **green** boxes, that is an indication that your plan is a 'standard' plan. You may still be required to submit supporting documentation, however, this will need less consideration from SEPA and we will aim to respond to your 'standard' plan more quickly, usually within 4 weeks. We will acknowledge receipt of your plan at the outset and provide an indication of when you will get a response.

When your Restoration Management Plan has been approved by SEPA you may be required to provide a reviewed copy of your Expenditure Plan, to demonstrate how you will provide sufficient financial provision for the full life of the site.

### Section 1 – Administration

Please provide details of the most appropriate person(s) that SEPA should contact to discuss this document. This doesn't necessarily need to be the operator – the plan may for example have been developed by a consultant.

### Section 2 – The capping status of the site

We need to know which area(s) of the site has (have) already been restored, which still require to be restored, and which area(s) has (have) already been capped. We need to know if the capping was undertaken prior to the issuing of the permit, under the Waste Management Licensing regime, or under the permit. We also need to know if the capping was undertaken under Construction Quality Assurance (CQA) procedures, or otherwise. This information should be provided on a map, as required in **Section 6(a)**.

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### Section 3 – The Overall Restoration Scheme

We are aware that operators approach restoration in various ways. Some restore progressively as the site develops, others prefer to do it as a project when landfilling is complete. To complete the notification you will need to break the restoration activities down into those areas of your site which have already been completed and those that you intend to complete in the future. However, as a first step we need to understand the overall scheme. We need to know how much restoration you are doing and the proposed land use. This is important because the proposed land use will dictate the acceptable waste types and quantities which can be used and the techniques to be employed in placement and cultivation.

We need to know:

- (a) The overall area you will be restoring. This will include areas above and around disposal cells.
- (b) The areas outside the footprint of deposited waste where site roads, compounds, buildings or other facilities are/were located.
- (c) The intended land use or uses. This will dictate acceptable restoration material depths, profiles, nutrient requirements and emplacement techniques. When appraising options for post-restoration target land use, please consider whether the proposed future use will require that heavy machinery will traverse the former landfill, and whether this will pose a risk. For example, typical agricultural crop production and commercial forestry felling require heavy plant. 'Semi-natural habitat creation' will include grassland, scrub, heathland and hedgerows. 'Improved grassland' means either land used for grazing (other than arable land) where over one third of the sward comprises, singly or in mixture, ryegrass, cocksfoot or timothy, or land that has been improved by management practices such as liming and top dressing, where there is not a significant presence of sensitive plant species indicative of native unimproved grassland. 'Rough grazing' means land containing semi natural vegetation including heathland, heather moorland, bog and rough grassland used or suitable for use as grazing<sup>1</sup>.

We have identified the most common land uses for former landfills, but it may be that you have another consented land use in mind in which case use the 'other' box and provide separate justification. Examples of other uses include restoration for amenity, nature conservation or recreation. Where the proposed land use is one of the common ones listed in the notification form, you should still be able to justify the proposed plans if requested to do so at a later date.

- (d) Whether or not any of the restoration work has been undertaken already. You should include all areas of the site that have already been restored, including areas which may have previously been operated under a Waste Management Licence or areas where restoration materials have been placed as part of CQA works.

This information should also be provided on maps and/or drawings, as required in **Section 6 (b)**.

### Section 4 – Restoration activities undertaken already

If you have never placed any restoration materials above the engineered cap, you can skip section 4.

If you have already undertaken restoration works, we need to start with the same type of information as in section 3.

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<sup>1</sup><http://www.gov.scot/Topics/farmingrural/SRDP/RuralPriorities/Options/BrackenManagement/DefinitionsofLandTypes>

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The (a) area (s) restored and (b) the land use for the area(s) should be provided. This information may be cross referenced by SEPA and partner agencies to ensure compliance with acceptable practice.

**In section (c)** you should identify whether works to date have been undertaken in compliance with an approved Restoration Management Plan. This may be an initial Restoration Management Plan submitted as part of your permit application (if no changes have been made to the Plan in the meantime) or it may be a Plan that has been submitted in the intervening period as an update to a Restoration Management Plan.

If you consider that you have worked to an approved Restoration Management Plan, please supply the plan as required by **Section 6(c)** and supporting evidence that it was ‘approved’. This could include (but is not necessarily limited to):

- A letter from SEPA confirming our approval of the Plan.
- Evidence of Plan submission and any other response from SEPA

Your position may also be supported by correspondence from a partner agency, for example a letter from Revenue Scotland or a planning authority. However, it should be noted that acceptance by another party must not be taken as confirmation that SEPA accept the plan.

If you are unable to supply sufficient supporting evidence that your plan has already been approved by SEPA, our position is that any ongoing or future restoration works should be documented in this notification form, and will be need to be reviewed and approved by SEPA before they can begin. Full details should be provided in Section 5 onwards.

If restoration completed to date has not been undertaken in compliance with an approved Restoration Management Plan (**section 4(c)**) SEPA may ask you for additional justification or supporting evidence at a later date to confirm that the activities undertaken do not pose an environmental risk. Other Agencies may also seek clarification from you in relation to their regulatory responsibilities.

If you have an approved Restoration Management Plan which covers your future restoration activities, as confirmed in **section 4(d)**, and this does not require any amendment, SEPA will review the plan and respond to you in line with our orange assessment timescale. SEPA will only consider this as an approved Restoration Management Plan if you have been able to provide evidence that this has been approved by SEPA to accompany your answer to **section 4(c)**.

If you have answered ‘yes’ to question **4(d)** and the Plan needs to be amended or updated, you should complete the rest of the notification form; the submission will be treated as a new plan submission and we will respond within either the green or orange assessment timescale, as appropriate.

### Section 5 – Future Restoration Proposals

Section 5 onwards should be completed unless all future restoration activities (from the date of submission of the notification onwards) are covered by an existing approved Restoration Management Plan.

Please provide details of the overall future restoration area and specific land uses in **sections 5(a) and (b)**. As in sections 3 and 4, common land use types have been identified, but if you have another planned use please provide supporting information.

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In **section 5(e)** there are a number of standard statements referring to depth of restoration profiles. Please confirm your proposals by answering to each statement that you 'agree' (green box), 'disagree' (orange box) or 'not applicable (N/A)'. If you are able to confirm that your proposals will comply with the statements in the green column in this section, no further justification is required to be submitted with the notification form for this section.

**Sections 5(f) and 5(g)** should be used to record which wastes types you are intending to use in the restoration. Wastes types that will be used to create the topsoil layer of the restoration profile should be outlined in **section 5(f)**; waste types that will be used to create the subsoil layer of the restoration profile should be listed in **section 5(g)**. In **sections 5(f)** and **5(g)** waste types are then listed under a green pathway or an orange pathway. If you propose to use anything other than those with EWC codes 170504, 200202, 191209 and 191212, then those must be listed separately in **section 5(f)(ii)** for topsoil and/or **section 5(g)(ii)** for subsoil. Continue on a separate referenced sheet, if necessary. It is acknowledged that EWC code 191212 is widely used for waste fines from mechanical sorting of various wastes eg trommel fines. Please note that SEPA would not approve restoration using trommel fines but would consider waste from screening and sorting of inert wastes that may contain a small proportion of bricks, tiles and concrete if potential risks and preventative measures are provided to support such a proposal in **Section 5 (h)** of the form.

If you are manufacturing topsoil to standard BS3882:2015, using EWC code 191209 and/or EWC code 191212, you must specify which grade within BS3882:2015 you wish to manufacture topsoil to. The grade to which topsoil is manufactured must be appropriate for the habitat that it is intended to be created; for example the 'low fertility' grade is likely to be the most appropriate grade to use for semi-natural habitat creation. Batches of manufactured topsoil should be tested for conformance with the appropriate BS3882:2015 grade as specified in the standard. Any batch of manufactured topsoil that does not conform to BS3882:2015 must not be used in the restoration without permission from SEPA. You must also provide evidence that the soil manufactured to standard BS3882:2015 has been analysed for appropriate contaminants based on the history of the source(s) of the material that make up the topsoil and the intended use of the site where the topsoil is to be used.

Although green pathway submissions do not require submission of all justification at the time of notification, operators must be able to demonstrate on SEPA's request that they have complied with these terms. In most cases, this does not add regulatory burden as the required steps would need to be taken to comply with relevant permit conditions or Duty of Care obligations anyway. For example, operators should already undertake periodic soil chemistry sampling to comply with waste acceptance requirements and ensure that waste is identified and described appropriately.

In **section 5(h)** we need to know that the waste you propose to use is suitably low in contaminants to ensure that it is not a risk to human health based on the proposed use of the restored site. It is also your responsibility to ensure that the waste will not pose a risk to the water environment. Both matters should be addressed in this section. You may wish to demonstrate any testing undertaken prior to waste acceptance, any periodic testing undertaken when waste is received on site, and/or checks made to ensure waste complies with all relevant legislation.

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In **Section 5(i)** there are further statements, which were derived from internal and external expertise and industry best practice guidance. Limits here have been set to levels at which we are satisfied that, if complied with, they provide adequate protection of the environment. Please also be aware that even if manufactured topsoil meets the required BS3882:2015 grade, if the extractable phosphorus concentration in topsoil in the restoration profile exceeds 30mg/l if measured following the SRUC method or 45mg/l if measured following the ADAS method, then the orange pathway must be followed (please see section 5(i)(iii)).

Please confirm your proposals by responding to each statement, indicating either that you 'agree' (green box), 'disagree' (orange box) or 'not applicable (N/A)' (grey box). If you are able to confirm that your proposals will comply with all of these statements by ticking the green column in each case in this section, no further justification is required to be submitted with the notification form. If you find that one or more of your answers is in an orange box, then you will need to provide further justification to support your proposals.

Submissions that follow the orange pathway will be considered on a case by case basis. However, we would hope that in light of experience gained through successful approved restoration projects, limits and techniques can be reviewed over time and, if appropriate, changed. Please see associated SEPA Landfill Restoration General Guidance for our general principles and approach to landfill restoration.

### Section 6 – Checklist and Declaration

This section also contains a number of statements, the answers to which can be 'agree', 'disagree' or 'not applicable (N/A)'.

SEPA will undertake compliance assessment against the submitted Restoration Management Plan, if approved, as this will then form part of the Management Plan and all operations on the landfill site shall be carried out in accordance with this Plan. In addition to site inspections, data submissions including waste data returns will be used. Weighbridge records and data returns are recorded by weight. Waste quantities are also necessary for Scottish Landfill Tax calculation purposes. To reduce the notification burden on you we will calculate quantities based on the areas and depths confirmed in other parts of this form.

The density factors which we use are derived from HMRC – Excise Notice LFT1: a general guide to Landfill Tax<sup>2</sup>. If you propose to use alternative factors, then you must identify the source and justify their use. It is also important, for the purposes of separating previous and future activities, to have a clear cut-off date set. We have chosen this to be the date of this submission.

While we will not necessarily interrogate the details of your planning consent, we require your confirmation that, where there are specific conditions which relate to restoration, these will be met. Where there is a relevant consent, it should be provided.

Plans, maps, drawings and cross sections are a vital part of your proposals. These should differentiate between works completed and those yet to be undertaken. These drawings provide clarity for both SEPA and operators with regard to extent, profiles and quantities of waste to be used.

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<sup>2</sup> <https://www.gov.uk/government/publications/excise-notice-lft1-a-general-guide-to-landfill-tax/excise-notice-lft1-a-general-guide-to-landfill-tax#calculating-the-weight-of-waste>

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If your proposed final land use is not listed specifically in section 5, we will require additional justification to support your plan. While it is not possible to be categorical in terms of what this supporting information must be, it could include:

- Specific requirements set by other agencies, e.g. planning authorities
- Reports and plans from recreational amenity trusts

Plans sometimes change, and we understand that. If changes to approved plans are required, this must be undertaken in accordance with your permit. Failure to do so could lead to environmental risk and result in enforcement and intervention by other agencies such as Revenue Scotland or the planning authority.

It is important for us to know whether the operator has direct control over the works undertaken within the boundary of their permit. Restoration activities, like lining and capping, can be sub-contracted to individuals/organisations with relevant expertise and suitable equipment. Sometimes restoration profiles are included in Construction Quality Assurance Plans, and therefore we have a level of comfort that these works are overseen by appropriately qualified people, but this is not an absolute requirement. We need to understand that there is relevant competence overseeing the restoration works, and who we should be speaking to if we have questions.

A person authorised by the operator is required to sign all Notifications. The signatory should be identified as a director, company secretary, or an authorised signatory, in which case evidence of authorisation should be provided.

### **Are there any aspects of your restoration proposals for which you would like additional support from SEPA?**

As is outlined in our Landfill Restoration General Guidance, SEPA would like to support innovation. For example, would you like to use a waste type not currently supported? Do you feel you could make an end of waste case for restoration materials? Do you need us to provide contacts for grant or other support schemes? Would you like advice on potential habitats you can create on a restored site? Do you need advice on flood risk? If you need additional support on these or any other issue relating to environmental protection, please tick this box and outline your requirements. If necessary, please continue on a separate referenced page.

The small print...

SEPA is gathering this information from you for the purposes of assessing permit compliance and ensuring that any restoration activity is undertaken in a manner which does not pose environmental risk.

We may consult and share information with partner agencies in relation to your proposed restoration activities, for example to gain clarity on a planning condition requirement, or to ensure that Revenue Scotland is satisfied that the proposals do not conflict with Scottish Landfill Tax requirements.