

## **APPENDIX 2**

### **RELEVANT CONVICTIONS**



**CARDIFF RECYCLING FACILITY**  
**ENVIRONMENTAL PERMIT TRANSFER**  
**APPLICATION**

**APPENDIX 2**

**RELEVANT CONVICTIONS**

**Response to Part d2 application form,  
Question 4a:**

**List of Relevant Convictions**

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**ENVIRONMENTAL PERMIT TRANSFER APPLICATION  
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**-Appendix 1: Relevant Convictions**

**Response to Permit Application Form Part D2, Question 4a – Relevant Convictions**

**D4a.1**

Company/individual: Biffa Waste Services Limited.  
Position of individual: N/A.  
Court: Doncaster Magistrates Court.  
Date of conviction: 05/06/89  
Offence: The relevant offence for which Biffa Waste Services Limited was convicted on 5<sup>th</sup> June 1989 under s3 of the Control of Pollution Act 1974 related to handling of asbestos wastes at the Company's landfill site at Finningley, near Doncaster, South Yorkshire. Bagged asbestos waste was received in bulk (approximately 35 m<sup>3</sup> containers) and when tipped could not be handled in a satisfactory manner.  
Penalty imposed: Fine £1000.  
Outstanding appeals: N/A  
Additional information: To prevent a re-occurrence a revised working plan method was introduced and the Waste Disposal Licence for the site was amended to restrict the size of bagged asbestos loads to 10.7 m<sup>3</sup> containers. No further incidents of this nature have occurred.

**D4a.2**

Company/individual: Biffa Environmental Technology Limited/ Mr. R. B. Tate.  
Position of individual: R. B. Tate, Director.  
Court: West Bromwich Magistrates Court.  
Date of conviction: 29/06/92  
Offence: The relevant offence for which Biffa Environmental Technology was convicted on 29<sup>th</sup> June 1992 under s3 of the Control of Pollution Act 1974 related to the emission of chlorine gas from the Company's liquid waste treatment plant at Wednesbury, West Midlands. A quantity of dilute waste acid was added to a treatment tank already containing rainwater contaminated with dilute waste bleach, the resulting reaction causing the release of chlorine gas from the plant.  
Penalty imposed: Fine £500 and £1000 costs.  
Outstanding appeals: N/A  
Additional information: To prevent a re-occurrence of the above incident the treatment methodology was changed. No further incidents of this nature have occurred.

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**D4a.3**

Company/individual:	Island Waste Services Limited.
Position of individual:	N/A.
Court:	Newport Magistrates Court, Isle of Wight.
Date of conviction:	12/06/00
Offence:	The two relevant offences for which Island Waste Services was convicted on 12 <sup>th</sup> June 2000 under s33(6) of the Environmental Protection Act 1990 related to two breaches of licence conditions at the Company's Lynbottom landfill site, Isle of Wight. A breach of condition 11.4 related to the inability to cover waste by the end of the working day due to a failure of site plant. A breach of condition 7.9 related to the failure to record details of the failure of the site plant and stand-by plant on the same day in the site diary.
Penalty imposed:	Fine £3500 and £2700 costs.
Outstanding appeals:	N/A
Additional information:	To prevent a re-occurrence site specific procedures have been revised.

**D4a.4**

Company/individual:	Biffa Waste Services.
Position of individual:	N/A
Court:	Bournemouth Magistrates Court.
Date of conviction:	17/09/02
Offence:	The relevant offence for which Biffa Waste Services was convicted on 17 <sup>th</sup> September 2002 under s33(1)(c) and s33(6) of the Environmental Protection Act 1990 related to keeping of waste on land in a manner likely to cause pollution to the environment at the Whites Pit landfill site in Wimborne, Dorset at which Biffa are the operator. Odour arose in relation to a leachate tankering operation.
Penalty imposed:	Fine £7000 and £5881.14 costs.
Outstanding appeals:	N/A
Additional information:	No further incidents of this nature have occurred.

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##### D4a.5

Company/individual: Barge Waste Management.  
Position of individual: N/A  
Court: Salisbury Magistrates Court.  
Date of conviction: 20/09/02  
Offence: The relevant offence for which Barge Waste Management was convicted on 20<sup>th</sup> September 2002 under s33(6) of the Environmental Protection Act 1990, related to the acceptance of food waste at the company's Whiteparish landfill, near Salisbury in Wiltshire.  
Penalty imposed: Fine £8500 and £2291 costs.  
Outstanding appeals: N/A  
Additional information: To prevent a re-occurrence procedures have been augmented in relation to the inspection of materials accepted at the site.

##### D4a.6

Company/individual: Biffa Waste Services.  
Position of individual: N/A  
Court: Cannock Magistrates Court (sitting at Stafford).  
Date of conviction: 22/07/04  
Offence: The two relevant offences for which Biffa Waste Services was convicted on 22<sup>nd</sup> July 2004 under s33(6) and s33(1)(b) of the Environmental Protection Act 1990 related to a breach of condition F8 of the waste management licence and keeping of waste on land otherwise than in accordance with the waste management licence at the Poplars landfill site in Cannock, Staffordshire at which Biffa are the operator. Condition F8 requires that precautions are taken effectively to deal with (vermin and) insects on the site. The site had failed to maintain cover in several small areas, which was deemed the precaution to deal effectively with flies.  
Penalty imposed: Fine of £8,000 on the first charge with no further fine on the second charge, and costs of £17,500 were awarded to the Environment Agency.  
Outstanding appeals: N/A  
Additional information: The offences subject to the above prosecutions occurred during 6<sup>th</sup> and 28<sup>th</sup> June 2001. Since the date of the offence, Biffa has been actively engaged in a regular and proactive program of fly control measures on site, including application of insecticides, fly surveys and fly counts. No further incidents of this nature have occurred.

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### -Appendix 1: Relevant Convictions

#### D4a.7

Company/individual:	Biffa Waste Services.
Position of individual:	N/A
Court:	Northampton Magistrates Court
Date of conviction:	17/07/07
Offence:	The three relevant offences for which Biffa Waste Services was convicted on 17 <sup>th</sup> July 2007 under s34 of the Environmental Protection Act 1990 related to failure to provide a sufficiently comprehensive description of waste on three similar consignments sent to WasteGo's hazardous waste landfill site at Kingscliffe, Peterborough. The materials were predominantly hair care products (shampoos, aerosols, mousses etc) transferred from Biffa's Cardiff Special waste facility to the hazardous waste landfill site.
Penalty imposed:	Fine of £4,000 on the first offence with no further fine on the second or third offences, and costs of £16,872.72 were awarded to the Environment Agency.
Outstanding appeals:	N/A
Additional information:	In pleading guilty to the above offences, mitigation was pleaded that WasteGo had still been provided with sufficient information, including the presence of liquids, to have enabled their rejected the wastes at the pre-notification stage, the booking in stage, or at the weighbridge. WasteGo had appeared not to follow their own procedures and the Agency appeared to have enabled a number of operators to continue to forward similar consignments over a prolonged period of time, before intervening and taking action, this point being accepted by the Magistrate. Since the date of the offence, Biffa has undertaken an audit of procedures at the Cardiff transfer station to ensure that wastes are being correctly described and pre-notified. No further incidents of this nature have occurred.

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**-Appendix 1: Relevant Convictions**

**D4a.8**

Company/individual:	Biffa Waste Services.
Position of individual:	N/A
Court:	Hertford Magistrates Court
Date of conviction:	06/11/07
Offence:	<p>The relevant offence for which Biffa Waste Services was convicted on 6<sup>th</sup> November 2007 under regulation 32 (1)(b) Part 6 of the Pollution Prevention and Control (England and Wales) Regulations 2000, and section 2 of the Pollution Prevention and Control Act 1999, related to failure to comply with condition 2.6.12 of Pollution Prevention and Control permit BK1988 relating to Westmill landfill site, by allowing odours to be emitted at levels from the site likely to cause pollution of the environment or harm to human health or serious detriment to the amenity of the locality outside the permitted installation boundary as perceived by an authorised officer of the Agency. Biffa were found guilty of four counts of the same offence occurring on 4<sup>th</sup> November 2004, 21<sup>st</sup> and 31<sup>st</sup> January 2005 and 3<sup>rd</sup> February 2005.</p>
Penalty imposed:	<p>Fine of £5,000 on each count (£20,000 in total), and costs of £12,500 were awarded to the Environment Agency.</p>
Outstanding appeals:	N/A
Additional information:	<p>A Post Conviction Plan has been requested by the Agency and is being prepared for submission within the required deadline. Whilst Biffa has been convicted of failing to control odour in accordance with permit condition 2.6.12 at Westmill landfill, Biffa was at the time complying with the odour management plan forming part of the Operating Techniques approved under the Permit. The Westmill Permit was issued using an early permit template. The permit template has been revised subsequently as a result of Environmental Appeals lodged by operators. The latest permit template recognises that odour may arise despite an operator complying with their Operating Techniques. The current version in the national template states "Emissions from the activities shall be free from odour at levels likely to cause annoyance outside the site, as perceived by an authorised officer of the Agency, unless the operator has used appropriate measures to prevent or where that is not practicable to minimise the odour". If this condition were contained within the Westmill permit at the time, it is unlikely that a conviction would have been secured. The Agency are currently revising all PPC permits, including Westmill's, in line with the new template, that will incorporate the revised odour condition.</p>

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### -Appendix 1: Relevant Convictions

#### D4a.9

Company/individual:	Biffa Waste Services.
Position of individual:	N/A
Court:	West Bromwich Magistrates Court
Date of conviction:	22/05/09
Offence:	<p>The relevant offences for which Biffa Waste Services was convicted comprised the following, all brought under the Pollution Prevention and Control (England and Wales) Regulations 2000 (the Regs):</p> <ol style="list-style-type: none"><li>1. Conviction under regulation 32 (1)(b) of the Regs, for a breach of condition 1.1.1 of Permit XP3631SE applying to Wednesbury Waste Management Resource Centre, on or before 23<sup>rd</sup> November 2006, by having inadequate management procedures on site for contractors who caused a tank to partially collapse during decommissioning.</li><li>2. Conviction under regulation 32 (1)(d) of the Regs, by failing to comply with an enforcement notice on or before 18<sup>th</sup> May 2007, relating to improvements to storage of wastes at the same facility.</li><li>3. Conviction under regulation 32 (1)(b) of the Regs, for a breach of condition 1.1.1 of the above Permit on or before 26<sup>th</sup> July 2007, by failing to store wastes in accordance with BAT requirements as implemented through Sector Guidance Note S5.01</li></ol>
Penalty imposed:	Fine of £20,000 on each count (£60,000 in total), and costs of £17,500 were awarded to the Environment Agency, along with a victim surcharge of £15.
Outstanding appeals:	N/A
Additional information:	<p>A Post Conviction Plan has submitted to the Agency. In relation to the first offence concerning the collapse of a tank, Biffa immediately self reported the incident, put in place measures to deal with the incident, and complied with items in a subsequent suspension notice. The tank collapse was caused by a contractor working outside of the agreed method statement and without a Permit to Work. At the time, procedures were already under review following changes to the CDM Regulations, and shortcomings found during an investigation into this incident relating to signing in, contractor induction and Permit to Work systems were improved and have been implemented to prevent a future re-occurrence.</p> <p>The second and third offences related to pre-acceptance checks, waste storage and labelling highlighted by the Agency during an audit. No issues had been raised since issue of the PPC permit, until the audit and the site was operating in compliance with procedures that had been approved in writing during the permit determination process. Revised procedures have since been submitted to the Agency for approval.</p>



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### **-Appendix 1: Relevant Convictions**

#### **D4a.10**

Company/individual:	Biffa Waste Services.
Position of individual:	N/A
Court:	Derby Magistrates Court
Date of conviction:	14/10/09
Offence:	The relevant offence for which Biffa Waste Services was convicted under Section 33(6) of the Environmental Protection Act 1990, comprised two counts of failing to handle asbestos wastes at Elvaston landfill site in accordance with the waste management licence, EAWML43256, and operational working plan on 17 <sup>th</sup> May 2007 and 21 <sup>st</sup> May 2007.
Penalty imposed:	Fine of £40,000, with costs of £15,400 being awarded to the Environment Agency, and a victim surcharge of £15.
Outstanding appeals:	N/A
Additional information:	The Company had agreed to operate the site so that asbestos wastes were deposited in pre-constructed lands to minimise the potential for asbestos escape. This method of operation was not being utilised at the time of the offences as the space available in the operational cell became restricted, and Site management did not seek to agree new working practices with the Environment Agency. After the incidents that gave rise to the above convictions, the Site's staff were retrained in the relevant procedures and there were no further issues related to asbestos disposal. Infilling of the Site was subsequently completed and the Site closed during October 2007. A Post Conviction Plan is also being prepared for submission to the Agency in relation to the above convictions.

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**-Appendix 1: Relevant Convictions**

**D4a.11**

Company/individual:	Biffa Waste Services.
Position of individual:	N/A
Court:	Sunderland Magistrates Court
Date of conviction:	08/07/11
Offence:	The relevant offences for which Biffa Waste Services was convicted under Section 38(1)(b) of the Environmental Permitting Regulations 2007 and Section 2 of and Schedule 1 to, the Pollution Prevention and Control Act 1999, comprised two counts of breaching the odour condition, contained in environmental permit reference BU8045IR at its Houghton Le Spring Landfill site on 7 <sup>th</sup> February 2010 and 2 <sup>nd</sup> March 2010.
Penalty imposed:	Fine of £15,000 for the first offence and £12,000 for the second offence, with costs of £8, 250 being awarded to the Environment Agency, and a victim surcharge of £15.
Outstanding appeals:	N/A
Additional information:	Since the events that gave rise to the prosecution, Biffa has increased the area of permanent cap at the Site, on which permanent gas control infrastructure is installed. The Site is also subject to regular maintenance checks which include searching for areas of odour release, and rapid implementation of remedial maintenance where required to minimise emissions. Closer liaison is also being undertaken with the Agency via scheduled meetings with the Area Environment Manager and ad hoc meetings to enable a quicker dialogue in relation to complaints.

**D4a.12**

Company/individual:	Greenstar Environmental Limited.
Position of individual:	N/A
Court:	Walsall Magistrates Court
Date of conviction:	18/07/11
Offence:	The relevant offence for which Greenstar Environmental Limited was convicted under Regulation 23(2) and 40(4) of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007, comprised the issuing of an ePackaging Waste Export Recovery Note (ePERN) for a non accredited reprocessing site in China, during November 2009.
Penalty imposed:	Fine of £3,500, with costs of £4,864.20 being awarded to the Environment Agency, and a victim surcharge of £15.
Outstanding appeals:	N/A
Additional information:	The offence was the result of an administrative oversight, which meant that the correct accreditation

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### -Appendix 1: Relevant Convictions

was not in place to claim the recovery notes. Whilst Greenstar has accepted full responsibility for this error, the Greenstar business has since been acquired by Biffa, who already have stringent controls in place to ensure that a similar situation does not reoccur. In addition, the business is no longer an accredited exporter, as a decision was taken to close this operation down, and therefore a similar offence in the future is unlikely.

#### **D4a.13**

Company/individual:	Biffa Waste Services Limited.
Position of individual:	N/A
Court:	Chelmsford Magistrates Court
Date of conviction:	17/04/12
Offence:	The relevant offence for which Biffa Waste Services Limited was convicted under Regulations 12(1)(a) and 38(1)(a) of the Environmental Permitting (England and Wales) Regulations 2010 comprised the storage of containers of waste materials at the Company's workshop located at Basildon, to the extent that the activity would have constituted a regulated facility, for which no Environmental Permit was held at the time.
Penalty imposed:	Fine of £8,000, with costs of £2,282.12 being awarded to the Environment Agency, and a victim surcharge of £15.
Outstanding appeals:	N/A
Additional information:	The offence was the result of an accumulation of containers returned to the depot from customers following termination of contracts, or for repair. The containers should be returned empty and Biffa had procedures in place to empty containers, unless they are defective and cannot be lifted by the relevant collection mode vehicle, but there are issues with customers who place further wastes in these containers before they can be removed from site back to the depot by suitable transport. Biffa also had procedures to ensure that any containers returned to depots and workshops which contained further wastes are emptied within 24 hours. Internal investigation identified that site management had not followed these procedures, resulting in an accumulation of containers over a 2 month period, during which time, senior management were not made aware of the issue. Following the issue being highlighted by the Agency, Biffa acted swiftly to remove all wastes from the site. The Site Manager was subject to disciplinary action following investigation. Revised procedures were issued along with advice to all managers concerning the removal of wastes in such circumstances. A post conviction plan has also been submitted to the Environment Agency.

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### -Appendix 1: Relevant Convictions

#### D4a.14

Company/individual:	Biffa Waste Services Limited.
Position of individual:	N/A
Court:	Sunderland Magistrates Court
Date of conviction:	20/02/13
Offence:	The five relevant offences for which Biffa Waste Services Limited was convicted under Regulations 12(1)(a), 38(1)(a) and 39(1) of the Environmental Permitting (England and Wales) Regulations 2010 comprised breaches of Permit conditions 3.1.1, 3.2.1, 3.2.3, 3.3.1 and 4.3.1 as a result of two different types of incident relating to discharges from the site.
Penalty imposed:	Fine of £15,000 for breach of Permit condition 3.1.1, and four fines of £22,500 for the other four Permit conditions, along with costs of £26,949.73 being awarded to the Environment Agency, and a victim surcharge of £15.
Outstanding appeals:	N/A
Additional information:	<p>The first incident was a one off accidental release following overtopping of a temporary leachate holding tank when an employee left his post in contravention of clear instructions relating to the supervision of filling of the tank. This resulted in a breach of Permit condition 3.1.1. As a result of the incident, the employee has been severely reprimanded, and the tank replaced with a fully bunded and alarmed tank.</p> <p>The second incident was a fugitive emission of leachate over an unforeseen pathway, relating to the design of a site haul road that crossed over the site perimeter engineering, resulting in a breach of Permit condition 3.3.1. As a direct consequent of this breach, Biffa also incurred convictions for breaches of Permit conditions 3.2.1 for discharge of mecoprop (then a list I substance) and 3.2.3 for discharge of ammoniacal nitrogen above permit trigger levels. A failure to submit the correct notification of the mecoprop breach also resulted in a breach of Permit condition 4.3.1. The Company identified the discharge through routine monitoring and reported this to the Agency and co-operated fully with the Agency to investigate and remedy the cause of the discharge. Remedial works were undertaken to the haul road design, and modelling was undertaken by specialist groundwater consultants to investigate possible effects of the discharge on receptors and to design remedial works. Design and inspection procedures for haul road crossing points were also amended to prevent a similar occurrence in the future. A post conviction plan has also been submitted to the Environment Agency.</p>