



Casework Summary **Report**

Case Number: CMS-533

Description: Potential failure by the Environment Agency (EA) to comply with duties under the Environmental Permitting Regulations 2016 in relation to financial provision and the regulation of Gilberdyke Landfill.

Case Overview

Background/Complaints Summary
The Office for Environmental Protection (OEP) received a complaint in April 2024 alleging the Environment Agency (EA) had failed in numerous areas when regulating the environmental permit operated by City Plant Limited at Gilberdyke Landfill in East Yorkshire. The potential failures alleged relate to large shortfalls in the financial provision funds available for the landfill and not regulating to ensure that the operator complied with the site engineering, provision of infrastructure requirements (such as that to manage surface water and landfill leachate) and reporting requirements of the environmental permit. The complainant submitted evidence highlighting these issues and the correspondence they had with the EA. The key concern highlighted by the complainant was that the EA had knowledge that the site had continued to operate in non-compliance with permit conditions for a long period of time and that the operator was not financially able to comply with the permit requirements, resulting in increased environmental risk and repeated pollution incidents from the site. The environmental permit at Gilberdyke Landfill ceased to exist in December 2024 following the operator entering creditors' voluntary liquidation.¹ Following this, the EA monitored works to complete the surface water drainage system, which are now finished. The EA will continue to review whether there is any risk of serious pollution from the site and what action may be needed to address that if it arises.
OEP Actions
We considered the information submitted by the complainant and have liaised with the EA to understand what steps it has taken to regulate the site and its position in relation to the alleged continuing non-compliance. We considered the following:

¹ [Environment Agency update on Gilberdyke landfill site – Gilberdyke Parish Council.](#)

1. The regulation and enforcement of the operator's duty of care and compliance with permit conditions relating to waste capping, leachate management, surface water management, waste misdescription, site restoration and reporting.
2. The adequacy of the agreed mechanism of financial provision for the Gilberdyke Landfill and the regulation of compliance with the permit condition requiring that the operator top-up shortfalls when directed to do so. We also considered the EA's own guidance and the scale of financial provision shortfalls in place for landfills across England.

We requested additional information to support our assessment of these matters, which was provided by the EA on 18 November 2024, 13 February 2025, 17 June 2025 and 2 October 2025.

We decided to align our assessment with our wider ongoing work reviewing the EA's inspections of waste and installations. We therefore also considered whether the EA had regulated the landfill in accordance with its own policy for assessing and scoring non-compliance, mirroring the approach used during this review.² This has allowed us to consider our assessment findings in the light of our wider work, which can complement and inform the recommendations we will make within our forthcoming inspections report. This report will be published in 2026 and follows our complementary report 'Environmental Inspections in England – case studies on selected laws and their implementation' which identified the large amount of discretion the EA has when completing inspections of regulated sites.³

We engaged with multiple teams within the EA to set out our own concerns highlighted by the complaint, providing advice and guidance to national and regulatory teams responsible for implementing EA's policies. We also sought to reach a resolution to address shortfalls for financial provision which addresses our concerns. As a result of this engagement, the EA has confirmed they will undertake a review of how they regulate financial provision and we will monitor the progress as they do so.

Conclusions and Outcomes

Following our assessment of the complaint submitted to the OEP, which included review of information provided directly by the EA, we determined that there is information which indicates there may have been one or more potential serious failures to comply with environmental law. These are set out in further detail below.

Our assessment also concluded there was no information which indicated the EA may have failed to comply with Schedule 10, paragraph 5 of the Environmental Permitting Regulations 2016 ("EPR 2016").

² [Waste operations and installations: assessing and scoring environmental permit compliance - GOV.UK](https://www.gov.uk/government/publications/waste-operations-and-installations-assessing-and-scoring-environmental-permit-compliance).

³ [Environmental Inspections in England - Case studies on selected laws and their implementation | Office for Environmental Protection](https://www.gov.uk/government/publications/environmental-inspections-in-england-case-studies-on-selected-laws-and-their-implementation)

Regulation of Permit Conditions

We believe that information indicates the EA may have failed to comply with the requirements of Schedule 7, paragraph 9 of the EPR 2016 which, in turn, requires compliance with Article 23 of the Industrial Emissions Directive (“IED”) when completing inspections of regulated facilities such as the Gilberdyke Landfill. This is because the EA may have failed to undertake non-routine inspections of Gilberdyke Landfill which investigated occurrences of non-compliance and incidents; prepare Compliance Assessment Report (“CAR”) forms which describe relevant findings regarding compliance and set out conclusions on action necessary to bring the operator into compliance with permit conditions; and ensure that the operator took all necessary actions identified in CAR forms within a reasonable period. Based on the evidence available, we consider that these failures, if they occurred, would be serious.

We also found evidence of poor implementation of the EA’s policy guidance on assessing and scoring environmental permit compliance which sets out the principles the assessments recorded in CAR forms should follow. Though this does not amount to a potential failure to comply with environmental law, this was considered as the requirements of Article 23 IED are broadly reflected in the policy guidance. We have provided advice and guidance to the EA that taking steps to ensure that the approach to regulation is outcome-focused, and that all policy guidance is complied with, will help ensure they comply with their legal duties under EPR 2016. As this will be the subject of the OEP’s forthcoming work on waste and installations more broadly (report anticipated in 2026), we did not consider that commencing an investigation at this time would be appropriate.

Financial Provision

Information records the EA identified financial provision was substantially deficient in 2015, and, at the time the landfill permit was disclaimed in 2024, this initial deficiency increased over time and was exacerbated by inflation. Information records substantial periods of time where the EA took no action to require the operator to return to compliance with the financial provision permit condition and make good the shortfall, and that the regulatory and enforcement activity completed did not ensure the operator returned to compliance.

We believe that information indicates the EA may have failed to comply with environmental law, namely the requirement for financial provision under Article 8 of the Landfill Directive⁴ as a result of an apparent failure to maintain adequate financial provision and not making up the deficit. We also conclude information indicates the EA may also have failed in relation to its duties under Article 8 of the Industrial Emissions Directive which sets out the steps to be taken in the event of a breach of a permit condition. The EA must exercise its relevant functions so as to ensure compliance with these requirements pursuant to Schedule 7, paragraph 5 of the EPR 2016. This includes a requirement that the “competent authority requires the operator to take any appropriate complementary measures that the competent authority considers necessary to restore compliance.”

⁴ Regulation 35(2) and schedule 10, paragraph 5 of EPR 2016 transpose these requirements into domestic law.

We have concluded there is an indication that the inadequacies of the trust-based mechanism are exacerbated by the inability for the available enforcement tools to ensure compliance with the permit condition designed to “back up” the trust. We have concerns that following EA’s own guidance would not necessarily be sufficient to ensure compliance with environmental law.

As a result of our engagement, the EA have now agreed to produce a detailed action plan, including timeframes, and work with the OEP to complete the following proposed actions:

- Complete a review of trust-based mechanisms for providing financial provision
- Update guidance, if necessary, to reflect the outcome of this review to provide clarity for staff and stakeholders
- Review how the EA regulates financial provision, especially where deficits exist. They will review how the EA identifies and enforces deficits, and how its governance, decision-making, and guidance support compliance with EPR 2016 and the Landfill Directive.

In view of these steps, we did not consider that commencing an investigation at this time would be appropriate. We advised the EA that the OEP will monitor its progress with its proposed action plan, review and recommendations.

The EA has provided a time-bound action plan comprising three phases:

- A policy review, to be completed by the end of September 2026
- A regulation review, to be completed by the end of October 2027
- Improvement implementation, to be completed by the end of January 2028

At this stage, we are satisfied that the proposed action plan provides a proportionate route to addressing our concerns without the need for statutory enforcement. We will continue to monitor progress at agreed regular milestones.