

**RECAP response to Stage One: Consultation on the transposition of the revised Waste Framework Directive (Directive 2008/98/ED), July 2009**

**Article 4: The Waste Hierarchy**

**Question 1: What steps do you consider Defra/WAG should take to apply the waste hierarchy set out in Article 4(1) of the revised WFD as a priority order in waste management legislation? For example:-**

**(a) How should producers of waste – other than householders – be required to apply the waste hierarchy as a priority order when taking their decisions on the treatment options for their waste – either before the in-house treatment of their waste or before its transfer to another person for treatment. Please explain how you consider the requirement would operate and how it would be enforced;**

At the moment, there is not enough to incentivise industry to apply the waste hierarchy and they are driven by economics. Some measures we can suggest that would improve the application of the waste hierarchy are:

- The Packaging Obligation System has clearly not worked. We suggest removing the ability to purchase PRNs and if producers do not meet their targets then they should be taxed. These funds should then be distributed within the waste industry and reinvested in new schemes, similar to the schemes run by BREW and WRAP.
- The landfill tax escalator will affect everyone and Government should consider the next phase of the escalation of this tax until at least 2020. As above, most operations are driven by economics and this would help drive waste up the hierarchy.
- Industry should be taxed as a whole and some of these funds could be allocated to an education programme that could be run through BREW or WRAP. This could help educate business and industry on the waste hierarchy and waste disposal options. Alternatively, there could be a duty for Waste Disposal Authorities, Waste Collection Authorities or Third Sector to provide free advice and provide waste audits to help business and industry understand the waste hierarchy which would be funded from this levy above.

**(b) What other measures, if any, should be adopted in the spatial planning system to apply the waste hierarchy as a priority order;**

It is difficult to get planning permission for any type of waste facility and there is often great public resistance to applications for these schemes. Resistance to proposals for waste facilities could be reduced if the public was better informed on waste operations and the need for waste facilities. To enable this, it is suggested that:

- The Government could have a greater role in providing information and raising general awareness about waste operations so that public can be better informed.
- Planning Aid could have a role to play in providing information to members of the public on waste management issues and proposals, in addition to their existing role on providing advice relating to specific planning applications where requested. This would ensure there was a third party that could provide impartial and unprejudiced information to the public, independent of local authorities, developers and the planning process.
- Government should also encourage operators to do more to raise public awareness, through initiatives such as open days and tours of waste management facilities so that people can learn more about the latest design of facilities and technology used in waste management operations, and where possible this could be provided in conjunction with Planning Aid.

**(c) How should establishments or undertakings applying for permits for the treatment of waste under Article 23 of the revised WFD be required to demonstrate that they have applied the waste hierarchy as a priority order in reaching their decision about the type of treatment operation for which a permit application is being made;**

It should be a requirement in a permit application to demonstrate, by reference to the hierarchy, what options further up the hierarchy had been considered, why these were not being pursued and why this had led to the proposed treatment being chosen.

**(d) How should competent authorities be required to apply the waste hierarchy as a priority order in making their decisions on permit applications for the treatment of waste; and**

In the application, there should be an outline of the steps taken to apply the waste hierarchy as in the answer to 1c above. Competent authorities need to be satisfied with these steps and if not then would be able to reject the application.

**(e) How should the waste hierarchy be applied to waste treatment operations already authorised and in operation on the due date for transposition of 12 December 2010?**

We do not think this is possible. This should only apply if there are any changes that are made to a treatment operation where a change to a permit is required. It is only at this stage the waste hierarchy should be applied.

**Question 2: Are there specific waste streams where you believe that departing from the waste hierarchy would be justified by life-cycle thinking on the overall impacts of the generation and management of such wastes, in order to deliver the best overall environmental outcome?**

We believe it would be a benefit to recover energy from non-recyclable, combustible organic material rejected by a Mechanical Biological Treatment facility by incineration or ATT rather than try to recover component plastics, cardboard, wood etc.

**Question 3: Are there any further steps stakeholders and members of the public would like Defra/WAG to take to ensure that the development of waste legislation and policy, to apply the waste hierarchy as a priority order, is a fully transparent process?**

The steps Defra have taken to develop waste legislation complies with HM Government Code of Practice. However, such a document could be overwhelming and not readily understandable to members of the public who are not waste management experts. If Government would like public feedback, a different method of consultation should be developed that would have more of a 'laymans' approach.

#### **Article 8: Extended Producer Responsibility**

**Question 4: Are there any specific waste streams which you consider should be the subject of a producer responsibility regime under Article 8? If so, please explain what the economic and environmental costs and benefits of such regimes would be.**

The list below outlines priority waste streams that should be subject to producer responsibility regimes: -

- Used mobile phones,

- Energy saving light bulbs
- Tyres
- Gas cylinders
- Ink cartridges and toners

Other materials that could benefit from a producer responsibility regime but are not high priority and are difficult to treat are: -

- Disposable Nappies
- Mattresses and carpets
- Hard plastic (i.e. chairs, tables and non-electrical children toys).
- Soft furnishings, bathroom and kitchen suites
- Wooden furniture

We are not in a position to outline the economic and environmental costs and benefits, this would be for industry to define.

#### **Article 11(1) : Re-use and Preparing For Re-use Activities**

**Question 5: Are there any further measures you consider it would be appropriate for Defra/WAG to take under the terms of Article 11(1) to promote the re-use of products or preparing for re-use activities? Please give reasons to support your answer.**

In previous consultation responses, we have raised concerns over the payment of reuse credits to third parties. We recognise the contribution this sector play in management of waste, however, we are concerned on how reuse tonnage would be recorded and we see this credit open to fraudulent claims.

A meeting was held on 17<sup>th</sup> June 2008 under the chairmanship of the LGA and attended by senior staff from Defra and the Heads of about 30 WDAs around the country. From this meeting, Defra recognised that there are considerably more issues than they had at first realised in payments of re-use credits and they undertook to have another look at issues raised by both the Local Government Association and Waste Disposal Authorities. Until these issues are resolved, Government needs to be careful on what level of encouragement they place on Local Authorities of the payment of reuse credits.

Cambridgeshire County Council's position (as a WDA) has been to not enter into a re-use credit scheme and we see no foreseeable change in this position. Any pass through of recycling credit to third parties (for either re-use or recycling activity) is at the discretion of the District Councils.

If the desire is to support the Third Sector then the funding should come from Central Government not WDAs through a re-use credit scheme. This could be funded from the levy imposed on the replacement PRN system as discussed in question 1a.

In addition, WRAP have been carrying out studies to develop models for estimating diversion rates for organic waste attributable to home composting and these should count towards the waste prevention targets.

## Article 11(1) : Separate Collections of Waste

**Question 6: Do you agree with the proposed approach to implementing the requirements of Article 11(1) on separate collections? Please provide reasons for your answer including, if possible, the costs and benefits of your preferred approach.**

We agree with Government's approach that decisions on the best way to collect waste are a matter for local authorities or others involved in the collection of waste.

Defra should consider setting a minimum requirement for MRFs beyond 2015 so that the quality of materials can be guaranteed.

**Question 7: Do you consider that:-**

**(a) There are any measures that are technically, environmentally and economically practicable and appropriate to take in England and Wales, on the separate collection of household, commercial or industrial waste to meet the necessary quality standards for the relevant recycling sectors? Please give reasons for your answer; and**

A greater number of locally available MRFs would help in the separate collection of commercial and industrial wastes.

Financial incentives from Government to WCAs and WDAs to set up commercial recycling rounds or to receive small amounts of commercial waste at Household Waste Recycling Centres would help.

**(b) If yes, which measures do you think should be introduced to achieve this?**

Proximity of MRFs or transfer stations has been an obstacle for many local authorities. This refers back to our comment on planning issues in question 1b, and more needs to be done to reduce public resistance.

Enforcement of the Pre-treatment Regulations would have an impact on delivery of this requirement in the revised WFD. Government should consider that enforcement of the Pre-treatment Regulation should move to Waste Collection Authorities.

**Question 8: Do you consider that:-**

**(a) It will be technically, environmentally and economically practicable to set up by 2015, in England and Wales, separate collection for paper, metal, plastic and glass which is classified as household, commercial or industrial waste: Please give reasons for your answer; and**

Measures in 7b above could be achieved by 2015.

**(b) If yes, which measures do you think should be introduced to achieve this?**

Government needs to be prepared to make financial incentives to Local Authorities to bring about the changes outlined above.

## Article 11(2)(a): Household Waste Recycling Target

**Question 9: Do you agree with the proposed approach to implementing the recycling target for household and similar waste required by Article 11(2)(a)? Please provide**

**reasons for your answer including, if possible, the benefits or otherwise of your preferred approach.**

We agree with Government's approach to implement the recycling target and that it is a combined target for all recyclates and not material specific. We agree that 'green waste' and the composting of household waste should count towards the target and that waste that is disposed of to landfill after being composted will not count as being recycled, and therefore 'composting' could be included back in the text of the waste hierarchy .

The recession has had a significant economic impact on the recycling industry in the UK. Government needs to help re-establish recycling markets by offering a tax relief on products made with significant proportion of post consumer recycled materials.

**Question 10 (England only): Given the LAWRRD model scenarios above, do you agree with the Government's preferred —no further measures approach? Please give reasons for your answer.**

We agree as the modeling suggests that we will meet our target. However, it will be important for Government to monitor the recycling rates and carry out additional modeling scenarios if there is deviation from the predicted outcome.

**Question 11 (England only): If you think the Government should look to introduce additional measures to ensure that the recycling target of 50% for household and similar wastes is reached by 2020, do you have views about what these additional measures should be? If so, please specify and give reasons for your answer.**

Government should provide additional funding to stimulate the recycling of 'difficult' to recycle materials such as waste food and plastics in groups 4, 5 and 6.

**Question 12 (England only): Do you have views about targeting any additional measures on specific materials? If so, please specify which materials you consider are high priority and give reasons for your answer.**

Government needs to raise public awareness from the national level on priority waste streams such as kitchen/food waste. In addition, Government should publicise the result of the recent study on Health Impact Assessment of Alternate Week Waste Collections of Biodegradable Waste (CIWM / DEFRA) as there are misconceptions of this type of collection method.

**Question 13 (Wales only): Do you think that Wales' approach will meet the requirements of Article 11(2)(a) of the revised WFD? Please give reasons for your answer.**

N/A

**Article 11(2)(b) : Recovery Target for Non-Hazardous Construction and Demolition Waste**

**Question 14: Do you agree with our assessment of the extent to which we are already meeting this construction and demolition waste recovery target in England and Wales?**

We are unable to comment.

**Question 15: Do you believe that any additional policy or legislative measures are necessary for us to guarantee that we are meeting this target in England and Wales?**

Statutory targets should be imposed for CD&E wastes. Smaller developers are still not recycling as they should (lack of education and perceived costs being a major factor) and are being carried by the excellent progress made by larger developers. Statutory targets worked effectively for the household waste stream and helped 'kick start' recycling programmes and this could have the same effect in this sector.

Government should also make it a priority to establish reliable data from this sector so that accurate diversion rates can be established.

#### **Article 16 : Principles of Self-Sufficiency and Proximity**

**Question 16: Do you agree that the UK is currently self-sufficient in installations for the recovery of mixed municipal waste from private households etc? If not, please (i) explain your reasons and (ii) the steps you consider need to be taken by the UK to achieve self-sufficiency in relation to such installations.**

The UK is not self-sufficient with regard to installations for the recovery of mixed municipal solid waste (MSW) and still sends more than 50% of MSW to landfill. Many waste management schemes are seriously delayed at the planning stage. As outlined in question 1b, this could be rectified if more was done to reduce public resistance.

#### **Articles 17-20 : Hazardous Waste**

**Question 17: Do you consider that the following changes will have an impact on the way in which hazardous waste is managed? Please give reasons for your answer and, if yes, set out the implications that you consider the changes will have:-**

- (a) The addition of a new property: "H13 (\*) 'Sensitizing'": substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce non-hereditary congenital malformations or increase their incidence";**

This assumes that all sensitizing substances are known. If this is to include future risk then hazardous waste disposal costs will need to increase to pay for this risk, as claims for congenital malformations would take many years to be made.

Government need to consider where the burden of proof will be for 'may induce' (for example, the claimant to prove it did or the defendant to prove it did not result from H13).

- (b) Existing property H13 has been re-numbered to H15. This means that this property "H15: Waste capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics above" now also applies to "H14 'Ecotoxic'". In other words, H14 (ecotoxicity) now has to be considered as a criterion for H15; and**

We are unable to comment.

- (c) Article 18(2) which allows mixing only where the permitted mixing operation conforms to best available techniques.**

It could be possible for such permitted mixing to be a defense for claims under H13.

If permits were granted for the mixing of hazardous waste under Article 18(2), then a rigorous enforcement and monitoring regime would need to be established to ensure materials were handled correctly with no increased risk to human health or the environment.

#### **Article 21 : Waste Oils**

**Question 18: Do you agree with the proposed approach to rely on the measures adopted to transpose and implement the waste hierarchy (and related measures) and not to prescribe under Article 21(3) that waste oils must be regenerated if technically feasible? If not, please provide reasons for your answer and, if possible, explain the economic and environmental costs and benefits of your preferred approach.**

Yes, we agree with the approach, however, we are unable to comment on economic and environmental costs.

#### **Article 22 : Bio-waste**

**Question 19: Do you agree that sufficient measures are already being taken in England and Wales to encourage bio-waste treatment etc as envisaged in Article 22? If not, please (i) explain your reasons and (ii) the measures you consider need to be taken in England and Wales to encourage bio-waste treatment etc as envisaged in Article 22?**

The best way to collect waste is a matter for local authorities or others involved in the collection of waste, which is in line with Article 11(1) of the revised WFD. This needs to apply to the collection and treatment of bio-waste.

In addition, Government needs to help speed the planning process including those for bio-waste treatment facilities, through initiatives to reduce public resistance outlined in question 1b.

#### **Article 28 : Waste Management Plans**

**Question 20: What revisions do you consider Defra/WAG should make to the existing arrangements for waste management plans (see paragraph 2.134 above) to transpose the requirements of Articles 28(1), (2) and (3)(a)-(e) of the revised WFD? Please give reasons for your answer.**

The Waste Strategy 2007 meets all the necessary provisions in the revised WFD for the time being and when the strategy is next due for revision in 2011/12, all the new provisions under Article 28 can be entered into the national strategy and then regional and local waste management plans can follow.

**Question 21: Which, if any, of the discretionary issues set out in Articles 28(4)(a)-(d) of the revised WFD do you consider Defra/WAG should address in the arrangements for waste management plans adopted in response to Question 20? Please give reasons for your answer.**

Any issues outstanding from the current national strategy should be implemented in the next revision in 2011/12. Other issues we would like to be considered are:

- Evaluation of the usefulness and suitability of the use of economic and other instruments in tackling various waste problems, taking into account the need to maintain the smooth functioning of the internal market. For example, the local authority recycling incentive scheme introduced in 2008 was unsuccessful because Government refused to learn from 'Best Practise' in Europe and adopt a scheme that was workable and attractive to Local Authorities. In consequence there was no interest from Local Authorities and no other schemes have been brought forward by Government.
- Addressing consumer confusion resulting from regional variances which have already been experienced through local authority recycling collection arrangements.

## **Article 29 : Waste Prevention Programmes**

**Question 22: What are your views on the merits of either (i) freestanding national waste prevention programmes in England and Wales or (ii) a more dispersed approach which would involve introducing a requirement for local authorities to draw up their own waste prevention programmes? Please give reasons for your answer.**

We agree that there should be a freestanding national waste prevention programme since the measures needed outlined in Annex IV are best taken by Government rather than local authorities.

**Question 23: What are your views on the integration of waste prevention programmes into the waste management plans required by Article 28 of the revised WFD, their integration into other environmental policy programmes or their functioning as separate programmes?**

Waste Prevention Programmes should be integrated into waste management plans required by Article 28 of the revised WFD so that there is consistency between national waste strategies and other national waste and environmental legislation.

**Question 24: Member States must evaluate the usefulness of – but not necessarily adopt - the 16 examples of waste prevention measures in Annex IV to the revised WFD. Do you have views on the usefulness of any of these examples as waste prevention measures? If so, please specify the measures and give reasons for your answer.**

We agree with all of the examples set out in Annex IV, but also recognise that a programme for these is important to set out how they will be achieved.

## **Initial Impact Assessment**

**Question 25: Do you consider that the costs and benefits of the transposition and implementation of the provisions of the revised WFD that are the subject to the Stage One consultation exercise have been accurately assessed in the initial Impact Assessment at Annex 3 (page 71) to the consultation paper? If not, please provide whatever evidence you can to enable a more accurate assessment to be made in the Impact Assessment that will form part of the Stage Two consultation exercise.**

Costs that would need to be included in the Impact Assessment are: -

- If Government decided to take the responsibility for planning decisions relating to location of waste facilities.
- Any additions or alterations required to the National Waste Strategy.