



"Working for our members to be the voice of government on waste minimisation and recycling issues"

LOCAL AUTHORITY RECYCLING
ADVISORY COMMITTEE

Controlled Waste Regulations Project Team
Defra Waste Programme
Area 6C, Ergon House
Horseferry Road
LONDON
SW1P 2AL

14th January 2011

Dear Sir

Review of Schedule 2 of the Controlled Waste Regulations (1992) – Proposals for amending and updating the legislation

I am writing to present the LARAC response to the Controlled Waste Regulations Consultation, which is contained below, and I thank you for the opportunity to respond.

The responses below are sent on behalf of the Local Authority Recycling Advisory Committee (LARAC). LARAC is an association of around 380 local authorities across England, Scotland, Wales and Northern Ireland whose waste management and recycling professionals' co-ordinate and operate waste management services. Membership is drawn from all types of authority including statutory Waste Collection (WCA), Waste Disposal (WDA) and Unitary.

Our response has been peer reviewed by members of LARAC's policy team and executive committee. LARAC members have also been invited to comment on the consultation through the members' discussion forum on our website. All contributions received have been taken into account in drafting the response below.

If you have any queries on this response then please contact me at sarah.dagwell@medway.gov.uk

Yours faithfully,

Ms Sarah Dagwell
LARAC Policy Team



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GREEN GLASS

SUMMARY OF CONSULTATION QUESTIONS

General comment:

LARAC supports Defra's position around encouraging producer responsibility by making producers pay for collection and disposal. With the current structure, where no charges for disposal are allowed, the local authority can be seen as a cheap option and this does not encourage investment in waste minimisation or recycling options.

By allowing a power to charge for disposal as well as collection, this would encourage the polluter pays principle and movements of waste up the hierarchy to reduction, reuse and recycling.

LARAC would also encourage Defra to carefully consider the position put forward by the Kent Waste Partnership:

"Though the decisions on whether to charge (or not) for disposal should be made by the Waste Disposal Authorities and not by Waste Collection Authorities. Furthermore, Defra Guidance on the use of the new CWR should explicitly state that WDAs have a responsibility to contribute to tackling the national deficit as a first priority when forming any local frameworks for discretionary waivers of charges to charities. As a result, Schedule 2 organisations should have an expectation of paying for charging and disposal and that the use of waivers would not be the norm."

Option 1

Do you agree with our assessment that publishing guidance on the current CWR rather than amending the regulations would not be an effective means of tackling the problems with the legislation? If not, please set out why you would prefer guidance.

Yes - LARAC agrees with Defra's position, further guidance will not solve the problems but will prolong the historical issues that have arisen with the current legislation.

Option 2

- 1. Do you agree that waste from tents should be classified as commercial waste?***
- 2. Do you agree that waste from caravan sites or parts of caravan sites, not licensed for permanent domestic accommodation, should be classified as commercial waste?***
- 3. Do you agree that waste from properties used for the provision of self-catering accommodation and registered for business rates should be classed as commercial waste?***

Yes – to point 1-3. These are holiday accommodations and as such are operated as commercial businesses and hence should be classed as commercial waste.



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LOCAL AUTHORITY RECYCLING
ADVISORY COMMITTEE

4. Do you agree that local authorities should be entitled to charge charities for disposal of the waste they produce?

Yes – LARAC agrees with Defra's assessment – it should be for local people and the local council, to decide which charities they support and/or if they wish to charge or offer free collections and disposal

5. Do you agree that waste from premises used for public meetings should be classified as commercial waste?

Yes – LARAC agrees with Defra's assessment.

6. Do you agree that waste from Royal Palaces should be classified as commercial waste?

Yes – LARAC agrees with Defra's assessment.

7. Do you agree with the reclassification of non-clinical waste from GP surgeries?

Yes – LARAC agrees with Defra's assessment to reclassify this waste as commercial waste rather than industrial waste.

8. Do you agree that local authorities should have the power to charge educational institutions for disposal of their waste?

Yes – LARAC agrees with Defra's assessment and notes their comment about being unable to remove the phrase 'premises forming part of' but would suggest this could be reviewed as part of the wider piece of work looking at all waste legislation.

9. Do you agree that litter collected on premises occupied by educational establishments should be charged for in the same way as other non-hazardous waste generated on the site?

Yes – LARAC agrees with Defra's assessment.

10. Do you agree that local authorities should have the power to charge hospitals and nursing homes for disposal of their waste?

Yes – LARAC agrees with Defra's assessment.

11. Do you agree that the term 'care home' is equivalent to 'residential home', and that 'nursing home' is equivalent to care home with nursing?

Yes – LARAC agrees with Defra's assessment.



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LOCAL AUTHORITY RECYCLING
ADVISORY COMMITTEE

12. Do you agree that local authorities should have the power to charge residential homes for disposal of their waste?

Yes – LARAC agrees with Defra's assessment. Many residential homes, nursing homes and care homes are run as profit making businesses and as such local authorities should be given the option to charge for collections and disposal. Some homes also act as respite centres and hence are not the primary home (for which council tax is paid).

By allowing a power to charge for disposal as well as collection, this would encourage the polluter pays principle and movements of waste up the hierarchy to reduction, reuse and recycling.

13. Do you agree that local authorities should have the power to charge penal institutions for disposal of their waste?

Yes – LARAC agrees with Defra's assessment.

14. Do you agree that decisions of collection and disposal charging are best made by individual local authorities and, therefore, the discretion on whether to charge or not should be retained for collection and extended to the proposed new power to charge for disposal?

This is an area that has been debated over the last few months, especially amongst Waste Disposal Authorities.

The proposal to retain the Waste Collection Authorities' discretion on whether to charge any particular institution or premises for collection, and to extend that discretion to Waste Disposal Authorities charging for disposal is welcome and is in line with the Government's Localism Agenda.

However, it must be recognised that this discretion will lead to a fragmented approach nationally (as is currently the situation with collection charges) and lead local authorities being open to criticism and "external" pressure when different approaches to collection and/or disposal charging can be evidenced.

Decisions should be made by local authorities that are consistent with UK law and Government Guidance. There is a need, however, for the law and Guidance to be clear to all parties. There is also a need for Schedule 2 organisations to be treated similarly across the country as a whole. The current proposals will ensure that the previous lack of consistent application of the CWR will continue across England – which was a specific area of contention among all parties to the CWR. The fairest position, LARAC believes, is that all Schedule 2 organisations should have an expectation of paying for collection and disposal and that the use of waivers would not be the norm. This aligns to the polluter pays principle. It also reinforces the Government's first challenge of tackling the national deficit.

Decisions on whether to charge (or not) for disposal should be made by the Waste Disposal Authorities and not by Waste Collection Authorities. We suggest that the Government issues



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LOCAL AUTHORITY RECYCLING
ADVISORY COMMITTEE

guidance requiring WCAs and WDAs to have an agreed policy about charging, coherent with their joint WM strategy.

15. Is there any reason why the duty to make arrangements, if asked, to collect waste from institutions listed in the table at paragraph 4 of the Schedule should not be retained?

LARAC believes this duty should be retained, but only if the ability to set the charge level for both collection and disposal is at the discretion of the relevant local authority (WCA for collection and WDA for disposal).

Additionally, clarification and guidance is needed on how this can be met. LARAC supports ALCO in seeking clarification as to whether local authorities can meet the duty to collect "Schedule 2" waste by referring organisations to a private waste company that have bought the local authorities trade waste service. We would support any proposals that enable local authorities to meet the duty to collect in this way.

16. Do you agree with the principle of postponing the introduction of disposal charging? If so, do you consider twelve months to be an appropriate period of time?

In the current climate of significant budget cuts for local government, LARAC would like to see the introduction of this change as soon as possible. LARAC recognises the arguments put forward regarding the budget setting process for Schedule 2 organisations, but are conscious of the burden this will place on local government for another full year if the changes are not implemented sooner. In this way LARAC would support the proposal put forward by Kent Waste Partnership,

"...in the interests of tackling the national deficit, we strongly urge the Government to introduce charging from October 2011. This would be almost 12 months from the publication of the likelihood of changes – which is consistent with the question asking whether 12 months is an appropriate period of time. We believe that it is an appropriate period of time, and have started the clock from when Defra announced formally that changes could be introduced (i.e. publication of the consultation papers)."

17. Do you think that the current definition of clinical waste in the regulations is useful? If not, what would you consider to be a better definition?

"Clinical Waste" is not an EWC classification and is not a recognised legal term.

LARAC would suggest that clinical waste should be aligned to healthcare wastes definitions, which correspond to EWC and are used across NHS. LARAC would also ask Defra to provide clarification in the revised regulations and guidance on where local authority responsibility lies or health budgets pick up costs of treating patients at home; either self-medicating or by a healthcare professional.



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LOCAL AUTHORITY RECYCLING
ADVISORY COMMITTEE

18. Is the new definition of a 'residential hostel' clearer? Does it exclude any types of hostel which you consider should be included?

Yes - this definition is clearer, but LARAC would support comments made by ALCO who have recommended that Defra consult with organisations, such as the Chartered Institute of Housing, to ensure that all of the accommodation for people that do not have a fixed addresses is captured.

19. Do the new regulations make it clear that waste arising from domestic caravans and vehicles at a transit site is household waste?

LARAC would recommend that it is made clear that "transit sites" means "official" sites only and that waste must only be of a domestic nature as historically issues have arisen with waste deposited at these sites that is clearly of a commercial nature.

20. Do you agree that charity shops and re-use organisations should benefit from free waste disposal?

21. Do you consider that the restriction of free waste disposal to waste originating from a domestic property is practical?

22. If you are a waste disposal authority, would you be willing to accept all goods from charity shops for free disposal in order to reduce the administration burden? If so, do you think the legislation should refer to all goods, rather than specifying goods originating from domestic properties?

23. Are any safeguards necessary to ensure that commercial waste is not channelled through charity shops and reuse organisations in order to avoid disposal charging?

The ethos behind Defra's arguments in respect of the Controlled Waste Regulations is very much around producer responsibility and encouraging better usage of our waste. From a charities perspective, the charity shop is there to help raise funds for its cause and does not have a primary principle of reducing waste. By imposing a charge for collection and disposal, this will help meet the Government's aims as well as encouraging the charities to become more selective of their materials and less of a general 'dumping ground' by householders, perhaps encouraging a 'donation policy' to be developed; i.e. we only want materials we can sell not general rubbish.

A number of charity shops also sell 'new' goods, often from a fair trade source and also accept materials from commercial businesses, i.e. end of line etc.

LARAC feel it will be impractical to identify materials from different sources, i.e. commercial or domestic, for both the charity and the Waste Collection Authority, as this will place additional audit and hence cost burdens on both that would effectively offset some, if not all, the costs saving on 'free' disposal.

Additionally, in the consultation papers at 71d Defra states:

"We consider that it is for local people to decide how best to support charities in their area, and hence decisions on whether it is appropriate to charge premises for waste collection and disposal should rest with the local authority."



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LOCAL AUTHORITY RECYCLING
ADVISORY COMMITTEE

We feel this principle should apply to charity shops as well as wider charities.

24. Do you agree that the new structure is clearer? Please identify any wastes which are missing from the new Schedule which you believe should be listed in these Regulations

Yes - the new structure is clearer, but LARAC would agree with Warwickshire CC that further clarification is needed around:

- *"If establishments such as transit sites, charity shops and reuse organisations, storage units etc are to be treated as "household" waste, then the council may use the same policies and collection methods, as it does for its standard domestic collections. i.e. alternate week collection; limited size of bin and introducing no side waste policies.*
- *Does waste arising from properties vacated by tenants which landlords clear, class as domestic or commercial waste? If said landlord has withheld the security deposit for such clearance and thus effectively taken payment, does this changes its status? In this regard if the local authority is acting as a landlord do the same rules apply?"*

25. Is the proposed hierarchy clear and easy to follow? Please highlight any conflicts between the tables, or perverse consequences of the proposed hierarchy.

Yes - the use of the tables has made the structure of the Controlled Waste Regulations clearer.