



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

LOCAL AUTHORITY RECYCLING
ADVISORY COMMITTEE

Mr Ian Troy
Environmental Policy Division
6th Floor, Goodwood House
44-58 May Street
Belfast
BT1 4NN

11 March 2011

Dear Mr Troy

DOE NI CONSULTATION WITH LOCAL GOVERNMENT ON THE FRAMEWORK FOR A FLYTIPPING PROTOCOL

I am writing to present the LARAC response to the above 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.

Overall, LARAC members welcome the underlying objectives of the flytipping protocol to clarify and clearly define the respective roles and responsibilities of the Northern Ireland Environment Agency (NIEA) and local councils in tackling the flytipping of wastes. However, LARAC feel that in order to effectively tackle flytipping in Northern Ireland adequate resources will have to be made available to Councils, to provide, for example, staffing, training and where necessary, specific funding for site clearance in special circumstances, eg. emergency response to imminent risk of serious public health hazard. Our detailed comments are set out below.

If you have any queries on this response then please contact me at 028 37529624, mobile 07703594971 or e-mail: larac@armagh.gov.uk

Yours faithfully,

Ms Liz Drew
Policy Support Officer, LARAC Policy Team

cc. Mark McAdoo, LARAC Representative NI: mark.mcadoo@cookstown.gov.uk



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SUMMARY OF CONSULTATION QUESTIONS

General Principles

Q1. Do you agree with these broad principles as a framework for the development of a Flytipping Policy?

LARAC members broadly support the principles as outlined in the consultation paper.

Members welcome the underlying objective to clarify and clearly define the respective roles and responsibilities of the Northern Ireland Environment Agency (NIEA) and local councils in tackling the flytipping of wastes. However, LARAC would urge that, regardless of the delineation of functions, a commitment to collaboration, cooperation, the sharing of information between these parties, and to an agreed minimum level of service that will be delivered in relation to every reported incident, should also be incorporated into the General Principles in order to reinforce and enhance the joint working approach recommended in this document, and to provide best value for money.

With particular regard to the partnership approach to tackling flytipping referred to within the document, members would welcome details of how the wider partnership will work and who will be involved. Members would further welcome clear guidance on the Terms of Reference for the partnership, as well as on how information and intelligence will be shared and what stakeholders will be invited to participate.

The Scottish Authorities have recently published "Flytipping in Scotland: a guide to prevention and enforcement" (December 2010), which set out a Fly-Tipping Investigation and Enforcement Protocol', alongside a 'Fly-Tipping Practitioners Guide', for use by all stakeholder agencies. Members would welcome the development of a similar guide for all relevant agencies and stakeholders across Northern Ireland.

LARAC members would also welcome further clarification of the meaning of "*..... and subject to resource constraints*" (General Principles (iii) and (iv)). With all local authorities currently facing budgetary constraints and reduced resources, dealing with incidents of flytipping on public land will inevitably stretch limited resources. At what point does the Department feel that "resource constraints" may impact on a council's ability to deal with an individual fly-tipping incident? What human and/or financial resources would be available, if any, to assist with, for example, staffing, training and where necessary specific funding for site clearance in special circumstances such as an emergency response to imminent risk of serious public health hazard?

Q2. Are there any other issues which need to be covered?

As for Question 1



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Quantitative Threshold

Q3. Do you agree that councils in Northern Ireland should have responsibility for investigating, and, where appropriate, for taking enforcement action with regard to illegally deposited waste of up to 20 m³?

LARAC members support the 20 m³ threshold as detailed in the document, and as already practised in England and Wales.

However, Appendix 7 of the recently published "Flytipping in Scotland: a guide to prevention and enforcement" (December 2010) suggests a quantitative threshold of 6 m³ for flytipped wastes dealt with by Scottish councils. In the light of this, members would suggest that there should be some opportunity for review of the 20 m³ threshold at a later date based on working experience of the protocol.

LARAC members suggest that, whatever threshold is set, operational guidance will be required in order to ensure consistency of approach, reduce the opportunity for duplication of investigation, and to ensure that appropriate determination is made on demarcation cut-offs, especially where repeated fly-tipping is taking place.

Q4. Do you agree that NIEA should have responsibility for investigating, and, where appropriate, for taking enforcement action with regard to illegally deposited waste of more than 20 m³?

Yes. LARAC broadly agrees that NIEA should have responsibility for investigation/taking appropriate enforcement action with regard to illegally deposited waste of more than 20 m³. LARAC members would also suggest that NIEA should have responsibility for dealing with cases of wastes deposited illegally on land to which a Waste Management Licence applies regardless of the threshold involved.

Q5. If you disagree with either of the above, what alternative would you suggest? If possible, please provide evidence in support of your proposal.

N/A

Clean up

Q6. Do you agree with the Department's proposal with respect to the clean up of public sector land?

Yes. LARAC members welcome the proposal to distinguish between public land owned by councils, and that owned by other public sector bodies, i.e. public sector land. Again, as for Question 1, members support the engagement of a wide range of public sector bodies in the development of detailed operational policy, including policy/protocol relating to responsibility for cleaning up flytipped waste on public sector land.

Members support the view of the Department that NIEA, or the relevant council, should have powers of investigation and enforcement, but that if for any reason further action cannot be



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taken, responsibility for clean up of the incident should lie with the public body which owns the land. Based on members' experience, LARAC welcome clear guidance in relation to how public sector land clean-up operations will be achieved in those cases where a public sector landlord is reluctant to remove flytipped waste.

Q7. If you disagree with the above, what alternative would you suggest? If possible, please provide evidence in support of your proposal.

N/A

Q8. Do you agree that councils in Northern Ireland should have responsibility for the clean up of illegally deposited waste of up to 20 m³ on public land?

Yes, as for Question 3 above.

However, in those instances where fly-tipping has occurred on the road surface, the DRD Roads Service will normally assume responsibility for its clean-up and removal. LARAC members see no reason to amend these arrangements, or for councils to assume the responsibility of another public sector organisation, as proposed within the consultation document.

Q9. Do you agree that NIEA should have responsibility for the clean up of illegally deposited waste of more than 20 m³ on public land?

Yes, as for Question 3 above.

LARAC members welcome reassurance that all types of illegally deposited wastes on public land of more than 20 m³ will be dealt with by NIEA. We would urge the development of a protocol regarding the removal of waste from public land so that all deposits are dealt with in a timely manner.

Q10. If you disagree with either of the above, what alternative would you suggest? If possible, please provide evidence in support of your proposal.

N/A

Q11. Do you agree with the Department's proposal with respect to private land?

Yes.

LARAC members would also suggest that the Department consider greater collaboration and partnership working between NIEA/local councils and, for example, landowners and local police in order to highlight the importance of prevention of flytipping incidents on private land. This would potentially have the dual purpose of reducing flytipping incidents, and attendant costs to landowners.

Q12. If you disagree with the above, what alternative would you suggest? If possible, please provide evidence in support of your proposal.



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N/A

Hazardous Waste

Q13. Do you agree with the Department's proposals with respect to hazardous waste?

No.

Q14. If you disagree with the above, what alternative(s) would you suggest? If possible, please provide evidence in support of your proposal(s).

LARAC members would recommend that NIEA assume the full responsibility as currently legislated for within the Hazardous Waste Regulations (Northern Ireland) 2005, for the enforcement and clean-up of all illegally deposited hazardous waste on public and private land. It is proposed that the Scottish Model is adopted, as outlined in their 'Fly-Tipping Investigation and Enforcement Protocol', where the Scottish Environmental Protection Agency (SEPA) have assumed responsibility for all clinical waste, oil, drums of chemicals, asbestos and hazardous waste.

Given the nature of the material in question and the level of expertise required in dealing with same, members would be of the opinion that the Department would be best placed to address this matter. One possible exception could be in regard to those incidents where fridges / freezers and discarded motor vehicles have been abandoned, which would replicate current practice.

Q15. What do you feel would be an appropriate threshold for determining responsibility for hazardous waste (both in m³ for solid waste and litres for liquid/drummed waste)?

As for Question 14

Whilst the Environment Agency (EA) in England are responsible for dealing with hazardous waste in drums or other containers with a capacity of 75 litres or greater, an addendum to the England/Wales Flytipping and Illegal Waste Activities protocol places responsibility for dealing with hazardous wastes in drums and containers of at least 25 litre capacity with the Environment Agency across Wales. However, recent Scottish guidance (quoted in Question 3, above) suggests that the Scottish Environmental Protection Agency (SEPA) are responsible for clinical waste, oil, drums of chemicals, asbestos and hazardous waste.

In the light of this, and the nature of materials covered, LARAC members would welcome adoption of the Scottish approach across Northern Ireland.

Members would further add that flytipped hazardous waste should ideally be subject to a risk analysis and not to arbitrary, quantitative thresholds. This needs to be the province of NIEA to advise, and in some cases, to assess on an incident by incident basis. LARAC would welcome protocols governing particular hazardous wastes when they are discovered to be flytipped, for example asbestos, by-products of diesel laundering activities, solvents, garden chemical etc.



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Q16. Are there any specific hazardous wastes that you feel should be identified for an individual response? If so please give your reasons.

As for Question 15

Q17. Have you any other comments on this issue?

No

Data Collection and Monitoring

Q18. Do you agree that a requirement to collect and submit data on all reported incidents of flytipping in Northern Ireland should form part of the Flytipping Protocol?

Yes.

Q19. If so, do you have any suggestions on what data should be collected, who should collate the data or any other aspect of the data collection process?

As waste data is already compiled on a quarterly basis for national Waste Data Flow (WDF) purposes, LARAC members would support inclusion of the required information in the existing WDF system. Whilst this would require the sharing of information between council departments such as Technical or Operational Services and Environmental Health, it would potentially strengthen cross departmental working and partnerships, and reduce double counting of flytipping incidents.

Members would support the establishment of a 'pilot' process in a small number of Councils, to enable the Department to assess and evaluate the benefits of any proposed scheme.

Q20. What are your views on the possible use of Flycapture in Northern Ireland?

As for Question 19

LARAC members would have concerns regarding both the set up and annual running cost implications of a requirement to subscribe to a central fly-capture data base.

Q21. Have you any other comments on this issue?

LARAC members would welcome clarification of how wastes removed from flytipping incidents will be categorised for WDF and NILAS purposes. In areas where flytipping incidents are highest, tonnages of landfill bound wastes may increase under the proposed protocol. Members are concerned that this could have a negative impact on both the recycling figures and the NILAS targets of affected authorities, and would welcome clarification of how such materials will be recorded for these purposes.



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We do welcome the Departments commitment to consider whether NILAS penalties would be imposed in a situation where flytipped waste is solely responsible for councils exceeding their NILAS allowances.

General

Q22 What are your views on the provision of a freephone flytipping helpline for Northern Ireland?

In general, LARAC members would support the provision of a freephone flytipping helpline in Northern Ireland, for example along the lines of the Dumb Dumpers Stop Line and associated flytipping prevention campaign in Scotland (again see Scottish Guidance quoted in Question 3). However, members would have some concerns regarding the cost of introducing such a facility when a majority of flytipping complaints already come through local councils.

Q23. What are your views on the need for and possible composition of a national flytipping group for Northern Ireland?

Members would welcome the opportunity to be able to benchmark and share best practice, both within Northern Ireland and with counterparts across the UK. Members suggest that such a group should be representative of all 26 Councils, as well as NIEA Officers and should be facilitated and administered through the Department of Environment.

Q24. Are there any other relevant issues which you wish to bring to the Department's attention?

No