

Water, Waste, Resource Efficiency and Flood Division
Department for Environment and Rural Affairs
Welsh Government
Cathays Park
Cardiff, CF10 3NQ

Monday, 26 March 2018

Dear Sir or Madam

Consultation on proposals to tackle crime and poor performance in the waste sector & introduce a new fixed penalty for the waste duty of care

We have received a copy of the above draft for comment as part of your consultation process.

The Chartered Institution of Wastes Management (CIWM) is the professional body which represents over 5,000 waste and resources management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the waste and resources management industry and has various grades of membership determined by education, qualification and experience.

CIWM is recognised as the foremost professional body representing the complete spectrum of the waste and resources management industry. This gives the Institution the widest possible view and, perhaps more pertinently, an objective rather than partial view, given that our goal is for improvement in the management of all wastes and resources.

The Cymru Wales Centre Council of the Chartered Institution of Wastes Management welcomes the opportunity of contributing to the Consultation on proposals to tackle crime and poor performance in the waste sector & introduce a new fixed penalty for the waste duty of care.

General comments.

However, there is evidence that the proposal whilst good and beneficial do not address some of the major problems within the waste industry. The majority if not all waste crimes within permitted sites are usually motivated by financial gain, cost avoidance and benefit from unfair business advantage against other legitimate operators. CIWM Cymru Wales is aware of permitted sites, which are between OPRA band A-B and compliant with permit conditions but failed/failing miserably with Duty of care (DoC) requirements as large volume of waste can be unaccounted for and gone missing. Unfortunately, lack of compliance with DoC cannot be scored against site OPRA as it is not part of permit condition. The lack of DoC is widespread and misclassification of waste is a common practice at sites with TCM present (both in house staff or external consultants). So, lack of compliance is not directly linked with lack of TCM at sites.



Also, it doesn't help the operators when hired consultants acting as TCM (some who are also WAMITAB assessors!) down plays misclassification of waste as a non-event. Regulators feel operators are in a difficult position when they are hiring in external TCM, at a great cost to their business, then getting a poor service in return, but in the end it's the operator who is culpable and the TCM walks away into the sunset. Therefore, it may be that improving operator compliance and technical competence will not have much impact on waste crime. What is needed is to remove/reduce the financial gain to have any impact. Proceeds of Crime Act has had a positive impact on waste crime but the downfall is that POCA does not include majority of waste crimes and it is also too lengthy and costly for the regulators. Lack of resource is also a major issue affecting the number of POCA cases EA/NRW chases each year.

A site can have an EMS but the EMS may be inadequate or not implemented. These issues again become a lengthy process for regulators to deal with. It can take on average a year from highlighting inadequate/missing EMS to serving an enforcement notice requiring the operator to produce an adequate EMS. There is nothing in this consultation that addresses the issue of an operator failing to implement the EMS.

So, whilst there are some mechanisms to address all of the above issues but the problems are that it becomes very protracted and diverts regulators resources from other issues (e.g. illegal waste sites, exemptions etc.).

Consultation questions:

Part A:

Q1. Do you think widening the definition of relevant offences will enable the regulators to make a more informed decision about operator past performance?

Yes, this will help regulators make appropriate decisions regarding operators who have offended in a manner that falls within the extended definitions.

Q2. Do you think the Serious Crime Act 2015 and the Public Order Act 1986 should be added to table 1?

Yes.

Should offences in other Acts of Parliament be added to table 1?

Yes, other public order offences relating to violent behaviour, criminal damage threats and harm to individuals, this may assist regulators to minimise the risks that they face when dealing with some non-compliant operators.

Q3. Do you think it should be made clearer that regulators can take spent offences into account in exceptional circumstances?

Yes, the current guidance does not spell out the situation where an operator who is a repeat offender in relation to non-compliance with permit conditions and has frequent fines as a result, but these convictions do not last long on their record in relation to the Rehabilitation of



Offenders Act 1974, so making the definition of exceptional circumstance clearer in guidance for regulators will help.

Q4. Do you think that corporate bodies should be treated differently from individuals and the regulators should be able to consider the convictions of corporate bodies?

Yes, but there can be mitigating circumstances for corporate bodies, such as, where a conviction has resulted from actions of an individual employee, this would require some considerable effort in terms of putting up a case for mitigation but should assist corporate bodies to continue expanding their business where appropriate.

Q5. Do you think that ensuring the regulators can take account of poor behaviour will enable the regulators to make a more informed decision about operator past performance?

Yes, provided that the guidance is expanded to include a full definition of poor behaviour.

Q6. Do you think that widening the definition of relevant person will enable the regulators to make a more informed decision about operator past performance?

Yes, probably this will help regulators deal with applications in the name of a person who is not the controlling mind of the operation.

Q7. Do you think that it would be beneficial for all waste permit holders to operate in accordance with a written management system?

Yes, this would help to level the playing field between operators of newer and older permits without requiring the regulators to do a wholesale amendment of permits.

Q8. Do you think that including an explicit requirement in the EPRs for permitted waste sites to demonstrate technical competence through a scheme approved by government will address the current gap in technical competence?

Yes, and this should require the operator to submit an annual return specifying the identity of the TCM and the WAMITAB/CIWM reference of the TCM, or name of auditor and date of last audit for EU Skills for each site.

Q9. Do you think that inserting a requirement into the EPRs for operators to inform the regulators of the TCM at their waste site will address the current gap in technical competence?

Yes, see response to Q8 above.

Q10. Do you think the current competence schemes should be amended to include a TCM registration process to address the current gap in technical competence?

Yes, but the system for registration/deregistration must include ensuring that the TCMs acknowledge the importance of compliance with Duty of Care, a lot of TCMs do not see the point of this piece of legislation and do not ensure that permitted sites comply with it. This



lack of compliance with Duty of Care can and does result in operators of otherwise compliant waste management facilities being involved in illegal waste operations by delivering wastes within their control to operators on unpermitted facilities. So the underlying cause of some illegal activities can be lack of compliance with Duty of Care by operators of waste facilities.

Q11. Do you have any information about the proportion of waste sites that would employ a TCM, rather than training a current employee? Do you have any information about the proportion of sites not currently adequately covered by a TCM?

This information should be available from a combination of information from WAMITAB, ESA, EA and NRW.

Q12. Do you think that an independent report that rates business solvency and risks will enable the regulators to confirm that operators are financially able to meet their permit obligations?

Yes, but there needs to be guidance to the regulators on what the content of the report should be and what factors should be assessed.

Q13. Do you think that all waste site operators or only higher risk operators should be required to make financial provision?

Probably only higher risk sites should be required to have financial provision, but the important factor would be the definition of higher risk site. There is evidence that some low risk sites that were operating historically within OPRA bands A-C but at a point in time became poor performers when they were tackled on their fall in performance by regulators then rapidly filled up the sites with wastes and abandoned them. So, it would appear that problems are not limited to high risk sites and given these cases it may be necessary to include all sites in the requirement for financial provisions.

Q14. What risk criteria do you consider should be taken into account when determining which waste operations should be required to make financial provision?

Higher risk operations would be those that handle biodegradable materials and/or materials which could cause a fire risk if exposed to a flame either as a result of natural conditions such as can occur in stockpiles of material or as a result of vandalism. Factors connecting to the market conditions relating to the materials proposed or permitted at the facility should also be part of the consideration of whether financial provisions should be required.

Q15. Do you think the proposed basis for calculating the amount of financial provision would be sufficient?

If operators remain within their permit conditions then the proposed basis would be adequate. However, typically where sites run into problems excess materials build up or operations are exceeding the quantities of waste that can be held on the permitted site prior to abandoning the site, this would tend to indicate that the proposed basis would not be sufficient.



Q16. Do you think that regulators should be able to extend financial provision in exceptional circumstances?

If regulators are aware of a problem developing on site then extending the financial provision would be a reasonable option, however there may be situations that occur without the prior awareness of regulators, this is due to the fact that regulators can, in some cases, not visit a facility for many months as a result of lack of staff. Guidance on what would comprise exceptional circumstances would be needed.

Q17. Do you think the level of required financial provision should be reduced for wastes with significant and demonstrable recovery values?

Significant recovery values can vary greatly over time resultant on changes in market conditions, and the variations in market conditions can be the very factor that result in the loss of financial viability of some waste operations and a problem occurring.

Q18. Do you think that it is appropriate for operators to agree the mechanism for making financial provision with the regulator?

Yes.

Q19. Do you think it is beneficial for financial institutions to be involved in the holding and management of financial provision funds? What are the opportunities and risks?

Yes, provided the institution is approved by the Financial conduct authority (FCA) and listed as such, also in the event of the financial institution is no longer approved by the FCA then the site operator must be legally required to move the funded to an approved institution.

Q20. Do you think that alternative funding should be found to cover the costs of managing sites in the absence of the operator? How is this best achieved?

Yes, but a whole paper is required to assess this matter with options put forward by the environmental industries and financial institutions and options to consider.

Q21. Do you think that operators of landfill sites should report more frequently on current and projected works at their site and the state of their financial provision fund? Are there more effective ways of preventing shortfalls in funds for maintenance and aftercare?

Yes, but what frequency would be suitable, would this be for the regulator to determine on a site by site basis or would there be guidance provided, guidance would ensure that similar standards are applied across the UK.

Q22. Have you experienced an increase or a decrease in criminality and poor performance in the waste sector over the last few years? What are your expectations for the future if nothing is done to tackle the issue?

There is evidence that the number of poorly performing sites is not reducing and the number of sites operating without a permit also does not appear to be reducing.



Q23. Overall, how effective do you think Options 2 and 3, as described in the impact assessment, would be to tackle criminality and poor performance in the waste sector? What is your preferred option?

Both options 2 and 3 would have a positive impact on reducing poor performance in the waste sector, option 3 only addresses the financial provisions aspect whereas option 2 addresses all of the aspects under consideration, option 3 has stronger provisions in relation to the financial aspects.

Q24. Do you think that any of the proposals will impose additional costs on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs including for regulators.

Q25. Do you think that the proposed analytical approach appropriately covers all potential costs and benefits that would arise from implementing the proposals?

CIWM Cymru Wales is unable to answer this question.

Q26. Do you think that any of the costs and benefit covered in the impact assessment should not be accounted for in the costings?

CIWM Cymru Wales is unable to answer this question.

Q27. Do you have any evidence that would support the calculation of benefits or costs of the operator competence proposals to business? Are you aware of any other sources of evidence that would improve the costings?

CIWM Cymru Wales is unable to answer this question.

Part B

Q28. Do you think the proposal to restrict registration of exemptions at permitted waste operations would help tackle illegal activity and stop waste operators expanding their activity without appropriate controls?

Yes, this would also make the regulation of such sites less complex.

Q29. Do you think that exempt waste operations that have direct technical links with other activities carried out at an adjacent permitted waste site should be included in the adjacent operator's permit?

Yes, if there is a technical connection then the permit area should be extended to cover the activity.



Q30. Do you have further evidence on the current unlawful use of exemptions at permitted sites?

No specific information that the regulators would not have informed of.

Q31. Do you think that the proposals will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q32. Overall which of the proposed options do you support and which do you prefer?

Options 1 and 3 appear to provide the best opportunity to reduce the risk of illegal activity being hidden by the use of a combinations of exemptions, we do not support option 2 as this would give significant problems for organisations operating in the reuse and repair sector.

Q33. Are there any particular exemptions that you think should not be registered at the same site under option 3?

No but I would expect that regulators would have that information, we have concerns about the application of option 2 as this could have a negative effect on low risk operations which have several processes and/or materials, e.g. re-use and repair sites.

Q34. Do you have further evidence on the registration of multiple exemptions at single sites to hide unlawful activities?

No specific information that the regulators would not have informed of we have concerns about the application of Option 2 as this could have a negative effect on low risk operations which have several processes and/or materials, e.g. re-use and repair sites.

Q35. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q36. Do you have further evidence on the current unlawful use of this exemption?

No specific information that the regulators would not have informed of.

Q37. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.



Q38. Which of the proposed options for exemption U1 do you support and which do you prefer?

CIWM Cymru Wales would support Option 2 and 3 and would prefer option 2 but option 3 would have significant merit in that it would ensure that the regulators had funding to inspect whereas the exemptions as they are currently established do not provide any finance to enable inspection of the facilities by regulators as there is insufficient funding provided to enable inspection of what should be low risk activities.

Q39. Under Option 2 do you think the U1 exemption should allow any additional types of construction activities beyond those listed in Annex 2? If so please describe the activities together with the waste types and quantities needed.

Not aware of any additional types of construction activity that should be allowed for within the U1 exemption.

Q40. Under Option 2 do you think the quantities of waste allowed for each specified construction activity are appropriate?

Yes.

Q41. Under Option 2 are the waste types listed sufficient to carry out each specified waste activity?

Yes

Q42. Do you have further evidence on the current unlawful use of this exemption?

No

Q43. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q44. Which of the proposed options for exemption U16 do you support?

Option 2

Q45. Do you have further evidence on the current unlawful use of this exemption?

No specific information that the regulators would not have informed of.



Q46. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q47. Which of the proposed options for exemption T4 do you support and which do you prefer?

CIWM Cymru Wales would support either option 2 or 3 and would prefer option 2 but there may be a case for option 3, however in reference to textiles the proposed threshold of 100 tonnes per annum/2 tonnes pw in Annex 3 Part 2 is too low and the 3 months restriction is unhelpful. Textile merchants typically handle thousands of tonnes and should be required to hold appropriate permits. Charity shops would not normally be required to even register an exemption, unless their stock is considered waste, e.g. if sourced in partnership with local authorities. If so, busier shops would be penalised and required to become permitted waste sites, which would be inappropriate for a high street retail site. A tonnage threshold of 300 tonnes or 6 tonnes per week would ensure charity shops could register an exemption if necessary, with the restriction at 12 months remaining in place to allow for seasonal storage.

Q48. Do you have further evidence on the current unlawful use of this exemption?

No specific information that the regulators would not have informed of.

Q49. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q50. Which of the proposed options for exemption T6 do you support and which do you prefer?

Option 2 would enable small scale operations in appropriate locations to continue where the scale and type of the operation would not justify the use of a standard conditions permit.

Q51. Do you have further evidence on the current unlawful use of this exemption?

No specific information that the regulators would not have informed of.

Q52. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.



Q53. Which of the proposed options for exemption T8 do you support and which do you prefer?

Option 2 would enable very small-scale activities to continue but the numbers of organisations that would benefit from this is not known, overall option 3 may be preferable to require this type of operation to hold a permit which has clarity for both operators and regulators and removes the considerable risks associated with the types of activities that occur in the event of a fire within piles of stockpiled tyres either whole or shredded. The only caveat would be whether the organisations that treat tyres for re-treading purposes would be negatively affected by this option and CIWM Cymru Wales would recommend that a specific conversation be had with these few organisations that provide that service prior to implementing these changes.

Q54. Do you have further evidence on the current unlawful use of this exemption?

No specific information that the regulators would not have informed of.

Q55. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q56. Which of the proposed options for exemption T9 do you support and which do you prefer?

Either option 2 or 3, with option 2 may be preferable to enable small scale activities to continue but the requirement for sealed drainage for all storage and treatment may make the operation of such small-scale activities to be uneconomic, this would effectively mean that option 3 would be the outcome.

Q57. Do you have further evidence on the current unlawful use of this exemption?

No specific information that the regulators would not have informed of.

Q58. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q59. Which of the proposed options for exemption T12 do you support and which do you prefer?

Option 2, CIWM Cymru Wales would support amending the conditions of this exemption it is useful for organisations that operate within the reuse sector, but in reference to clothing and furniture there is a risk that the proposed tonnage thresholds would require charity shops and other re-use retailers to become permitted waste sites. A tonnage threshold of 300 tonnes for



clothing and 1000 tonnes for furniture would be more appropriate. CIWM would not support the other options.

Q60. Do you have further evidence on the current unlawful use of this exemption?

No specific information that the regulators would not have informed of.

Q61. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q62. Which of the proposed options for exemption D7 do you support and which do you prefer?

Option 2 would be preferred, CIWM Cymru Wales would not support option 1 as there is a case for reducing the risks associated with this exemption, however the wording of the proposal where the application of specific descriptor for waste types "Plant tissue consisting of Cut vegetation and plant tissue waste from the clearance and maintenance of agricultural premises, parks and gardens and other land. Including untreated waste bark and wood." Should at the end of this contain the words "and any associated sawdust and chippings" for the sake of clarity.

Q63. Do you have further evidence on the current unlawful use of this exemption?

No specific information that the regulators would not have informed of.

Q64. Do you think that any of the options will impose specific costs or bring benefits on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.

Q65. Which of the proposed options for exemptions S1 and S2 do you support and which do you prefer?

CIWM Cymru Wales would support option 2, option 1 does not seem appropriate given the fire risks outlined.

Q66. Do think that the proposal to split the existing S1 and S2 exemptions into six new exemptions as set out under Annex 9 would help clarify what the exemptions are for and make the conditions clearer?

Yes, the proposal to split the exemptions into a larger range of more specific exemptions does help to clarify the purpose and makes the conditions clearer. However, there may be a temptation to apply for several of these storage exemptions at the same site to enable a broader range of storage to occur, so maybe action needs to be taken to prevent this. With



the glass storage requirement, the 40m³ limit may be problematic where the glass is colour separated therefore storage would not enable a suitable sized quantity of each colour for onward transport so this quantity limit might seriously affect the ability to store colour separated glass. Also as mattresses continue to be collected along with other furniture as part of re-use activities, therefore there is a need for a storage exemption for small quantities of these items.

Q67. Do you think that operators should be required to keep and make available to the regulator records of the activities carried under any exemption?

Yes, and CIWM Cymru Wales would support a requirement for operators of exempt activities to submit annual returns of waste inputs and outputs, operators with permits are required to submit returns on a quarterly basis, a lesser requirement for an annual return would be reasonable and make identification of riskier or illegally operating sites easier.

Q68. Should operators be required to keep the records required in an electronic format and/or in a system identified by the regulator?

This would be a sensible move and would potentially make further requirements such as a return requirement practical.

Q69. Do you think that the regulator should be able to impose additional information requirements for individual exemptions on a case by case basis at registration, on an ongoing basis or at end of operation to address issues of poor compliance?

Yes.

Q70. Do you think any additional information requirements should be implemented immediately, notably in relation to the 10 exemptions of concern described in section 4.2?

Yes.

Q71. Do you have any suggestions on how you think the exemptions registration service can be improved further?

We do not have any suggestions.

Q72. Do you support the changes to the waste codes set out in Annex 10?

Yes.

Q73. If we change the conditions for the exemptions of concern would you support the alignment of conditions across exemptions listed in Annex 11?

No, the other exemptions do not appear to be of concern so there is no real need to change the conditions of these but the changes outlined in regard to waste codes may be appropriate.



For the exemptions U8 and U9 listed in Annex 11 (Table 1), what do you think the new aligned conditions should be?

No changes would be necessary as these exemptions do not appear to be causing concerns but the changes outlined in regard to waste codes may be appropriate.

For the exemptions U8, U9, T1 and T2 listed in Annex 11 (Table 2), what do you think the new aligned conditions should be?

No changes would be necessary as these exemptions do not appear to be causing concerns but the changes outlined in regard to waste codes may be appropriate.

For the exemptions U8 and U9 listed in Annex 11 (Table 3), what do you think the new aligned conditions should be?

No changes would be necessary as these exemptions do not appear to be causing concerns but the changes outlined in regard to waste codes may be appropriate.

Q74. Do you think that the standard rules for the ten exemptions set out in Annex 12 are sufficient? Are new standard rules also needed?

The suggested new standard rules should be sufficient.

Q75. Do you think that the proposed timescales to implement the changes to the exemptions regime are adequate?

These appear to be reasonable and sensible.

Q76. Have you experienced an increase or a decrease in criminality and poor performance in the waste sector over the last few years? What are your expectations for the future if nothing is done to tackle the issue?

There is evidence that the number of poorly performing sites is not reducing and the number of sites operating without a permit also does not appear to be reducing.

Q77. Overall, how effective do you think Options 2 and 3, as described in the impact assessment, would be to tackle criminality and poor performance in the waste sector? What is your preferred option?

Option 2 would be the preferred option and should be sufficient to improve the position without too great an impact on smaller waste operations.

Q78. Do you think that any of the proposals will impose additional costs on yourself or your organisation?

Not for the organisation of CIWM, but for some individual members there will be additional costs and benefits from a more level playing field.



Q79. Do you think that the proposed analytical approach appropriately covers all potential costs and benefits that would arise from implementing the proposals?

CIWM Cymru Wales is unable to answer this question.

Q80. Do you think that any of the costs and benefit covered in the impact assessment should not be accounted for in the costings?

CIWM Cymru Wales is unable to answer this question.

Q81. Do you have any evidence that would support the calculation of benefits or costs of the exemptions proposals to business? Are you aware of any other sources of evidence that would improve the costings, including for the proposals not covered in the current impact assessment?

CIWM Cymru Wales is unable to answer this question.

Part C

Q82. Do you believe that householders are currently sufficiently aware of their duties and the risk of prosecution when passing their waste to an unauthorised person?

No, there is little awareness in the general public of their duties in respect of waste.

Q83. What more could be done to improve householder awareness of their duty of care and prevent fly-tipping of household waste?

The government could work with local authorities to send information out to residents in their council tax bills and other council communications such as newspapers that they produce.

Q84. Do you think that the Waste Duty of Care Code of Practice provides enough guidance on reasonable measures that can be taken to meet the household duty of care?

Yes, but this guidance is written for businesses and the general public might not realise that it applies to them and a simplified piece of guidance that is obviously aimed at the general public which could just take the form of a one-page flier.

Q85. Do you think there are any other reasonable measures to meet the household duty of care that should be set out in guidance to households?

No, the guidance in the code of practice is sufficient in content but the presentation of it could be better made for the general public.

Q86. Do you think that the introduction of a FPN for the offence of a householder passing their waste to an unauthorised person would help tackle fly-tipping?

Yes, if the general public are more aware of their responsibilities to check whether the person who they are proposing to use to remove their wastes is authorised to do this activity and the



risks they take in doing this if the person is unauthorised together with the consequences. This information would need to be included in any publicity provided to the public on the matter.

Q87. Do you think that government should provide further guidance to regulators on the use of the proposed FPN?

Yes, this would be appropriate.

Q88. Do you think that the proposed levels of penalty for this FPN are correct?

Level of deterrent of this FPN seems appropriate.

Q89. Following implementation of the FPN, do you think that local authorities should communicate how frequently they use these penalties, and the impact on fly-tipping?

Yes, this would seem appropriate, this type of information could be included in council news releases and would give additional publicity to this matter.

Q90. Do you think the introduction of this FPN will impose any additional costs on local authorities or other issuing authorities?

There would be some additional costs in relation to training of officers.

Q91. Do you think the introduction of this FPN will make savings for local authorities or other issuing authorities?

Yes, there are potential savings in relation to preparing court papers where investigations indicate the source of fly tipping is a particular household, there are also potential savings if this action results in less fly tipping.

Q92. Do you think that other parties than local authorities and other issuing authorities could incur costs or benefit from the introduction of this FPN?

Not for the organisation of CIWM, but some individual members there will be additional costs and benefits from a more level playing field and there are additional benefits for landowners whose land is subject to fly tipping.

Q93. Do you think that the proposal will impose additional costs on yourself or your organisation?

Not for the organisation of CIWM, but some individual members there will be additional costs and benefits from a more level playing field.

Q94. Do you have any other information on the possible cost or benefits of issuing fixed penalty notices?

No, but issuing authorities would be better placed to answer this question.



Q95. Do you think that issuing authorities should be able to offer an appeals process for people to dispute a householder duty of care FPN?

Yes, but, issuing authorities would be better placed to answer this question, however there are issues in relation to who would hear the appeal and whether the nominated person is regarded as independent.

Q96. Do you think that issuing authorities would incur any additional costs by providing an appeals process for people to dispute the issuing of a householder duty of care FPN?

We do not have an opinion, but, issuing authorities would be better placed to answer this question.

Q97. Do you think there are any other steps the appeal process should cover?

No.

Q98. What are the best ways to ensure that the recipients of a FPN are made aware of the appeal process if one is available?

The appeals process should be noted in the FPN paperwork.

Q99. Where an issuing authority chooses not to offer an appeals process do you think the right of appeal is adequately provided for through the courts?

Yes, this should be adequate.

Should you have any query with regards to our response, please do not hesitate to contact us.

Kind regards

Celine Anouilh
CIWM Regional Development Officer for Wales

For CIWM Cymru Wales

