



CIWM Scotland Centre  
C/O 7-9 St. Peter's Gardens  
Marefair  
Northampton  
NN1 1SX  
T: +44 (0) 7921 386000  
E: Gail.martin@ciwm.co.uk  
W: www.ciwm.co.uk

# CIWM Scotland Centre Consultation Response

May 2018

SEPA Consultation – Landfill Sector Plan

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

The Scottish Centre Council of the Chartered Institution of Wastes Management welcomes the opportunity of contributing to the SEPA consultation on the Landfill Sector Plan.

CIWM is recognised as the foremost professional body representing the complete spectrum of the waste and resources sector. 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.

CIWM Scotland offers these comments based on the extensive experience of a number of our senior members.

---

**1. We want to be a world class regulator, adopting innovative and novel approaches that help as many operators as possible to move beyond minimum legal standards and create economic and social success for Scotland from environmental excellence. Do you think these first three sector plans set the right level of ambition to achieve this goal?**

From a general perspective, CIWM Scotland welcome SEPA's sectoral approach and think it will be beneficial for everyone involved in the sectors chosen.

For the avoidance of doubt, all of the further responses provided to this consultation relate only to the Landfill Sector Plan ("LSP") as we are not commenting on either the Whisky or Metals' Sector Plans in our response.

Responding solely with reference to the LSP, our comments are as follows: CIWM Scotland considers that the LSP is structured more as a strategy document than an action plan for the sector. Whilst that is helpful to some extent, fundamentally, to date, SEPA has failed in its mission to bring the sector into compliance with around 1/3 of sites failing their compliance assessment in 2016 and action is needed to address that.

There is mention made of the fact that SEPA intend to bring in its new CAS in due course. As was highlighted during the consultation process for the new CAS, its introduction will see a significant proportion of landfill sites which are currently compliant become immediately non-compliant. That applies to both operational and non-operational landfill sites. Has SEPA considered how that will impact the sector, SEPA, the wider public and factored those considerations into the LSP?

The data and statistics referred to in the LSP only takes into account those sites which are permitted and do not therefore reflect the number of illegal waste sites which are wholly non-compliant with environmental legislation. Little explanation is provided in the LSP as to why the position remains as poor as it is in terms of compliance within the sector or why the levels of waste crime remain so high, both of which CIWM Scotland consider to be omissions from the LSP.

CIWM Scotland considers that it will be challenging for SEPA to move on to the next stage of 'beyond compliance' or 'business diversification' without resolving the ongoing issues in the sector (including the level of waste crime in the sector and the action needed to deal with that). The strategic aim of 'zero tolerance to non-compliance' needs to be backed up by specific action to be taken by SEPA (over and above what is already being done in the sector), such as confirmation of when voluntary monetary penalties (which could (if rendered at the right level) make a real difference to non-compliance) will be brought into force.

Whilst priority actions have been set for 2018/19, CIWM Scotland find it difficult to advise whether those actions have been set at the right level of ambition without seeing additional detail. CIWM Scotland's view it that these priority actions appear to be strategic goals rather than specific actions for either the regulator or landfill operators and would welcome some more detail being provided in relation to these priority actions (as set out in further detail below in response to Q5) and perhaps some specific targets being set (against which those actions can be measured).

## **2. Do you think that the plans set the right level of ambition for the sector?**

As noted above in response to Q1, CIWM Scotland's view is that in the short to medium term (and given the current state of play) the priority for the landfill sector should be more heavily focused on bringing the sector into full compliance (insofar as possible) and focusing on reducing/eradicating waste crime rather than looking towards 'beyond compliance' or business diversification. On that basis, CIWM Scotland's view is that perhaps the ambition level of the LSP is set too high.

In addition, other than a couple of minor remarks, the LSP fails to address the significant impact which the 2021 landfill ban could have on the sector and how SEPA intend to assist landfill operators in dealing with that impact, in particular the number of landfill sites which may be forced to close as a result. To date, there has been little in the way of correspondence by SEPA with the sector other than to ask landfill operators what they intend to do to ensure that they comply with the ban when it comes into play. The specific guidance on the ban and what exactly it will entail has not yet been put out to consultation and until that consultation process has been completed and there is clarity for the sector, CIWM Scotland considers that the LSP is lacking in its approach towards the ban.

## **3. Do the plans contain the right actions to: (a) tackle non-compliance and (b) to help businesses go beyond compliance?**

As noted above in response to Qs1 and 2, CIWM Scotland does not consider that there are sufficient or robust enough actions set in respect of non-compliance being tackled by SEPA. Specifically:

- Simply stating that compliance is non-negotiable and that *"it is for the landfill sector to recognise this and lead in delivering improvement where it is required"* is not sufficient given the levels of non-compliance which exist and have existed in the sector for a long time. Strategic action points are required to confirm how SEPA intends to deal with those operators with the very worst compliance records and support those who are genuinely trying to comply;
- It is encouraging to note that SEPA intend to support those operators who are seeking to move towards compliance and have a good attitude towards it. However, CIWM Scotland would welcome some confirmation from SEPA as to how they intend to achieve that as (from the information provided by our members who are landfill operators) it does not currently appear to be the case, across the board, at ground level. In particular, where actions have been agreed between an operator and SEPA, fast, efficient and consistent implementation of those actions from SEPA's perspective would be welcomed by the sector. As a result of resourcing

issues, there is often an unreasonable delay which can, at times, lead to further issues of non-compliance as a result of action not being taken quickly enough on a landfill site (CIWM Scotland would be willing to speak to SEPA, outlining the issues with examples);

- There is general acknowledgement throughout the sector that the approach of SEPA officers is not yet consistent or pragmatic across the board. CIWM Scotland would welcome confirmation as to how SEPA are dealing with that internally to ensure that all landfill operators are given the same 'treatment' as the LSP suggests is vital;
- Has SEPA considered what, if any, new measures or actions can be taken in relation to odour control? Are there lessons which can be learnt from how it is dealt with by other UK regulators?
- It is acknowledged that non-compliance in the sector is often as the result of a: "*complex combination of environmental impact and inadequate management factors*". Has SEPA done any further/detailed analysis of that to ascertain where assistance or guidance could most usefully be provided to operators, by SEPA, to encourage compliance?
- CIWM Scotland would welcome confirmation as to when SEPA intend to issue the guidance referred to in the LSP (on page 20) which will allow those in the sector to understand their compliance obligations;
- There are many landfill permits which are outdated or not fit for purpose. CIWM Scotland would welcome further information from SEPA as to how and when they intend to address this as it could have a significant impact on the level of compliance;
- There is mention (on page 20) that SEPA will "*only require operators to provide data which we or others use to understand risks and impacts..*". CIWM Scotland would welcome confirmation as to whether that will mean a change of practice by SEPA (i.e. changes to landfill permits which currently include obligations to produce data that does not fall into that category).
- CIWM Scotland would welcome confirmation as to when SEPA intend to revise and implement the new CAS (taking into account the comments made above in response to Q1).

As noted above in response to Qs1 and 2, CIWM Scotland considers that looking 'beyond compliance' at this point in time may be premature/overly ambitious for the landfill sector. However, CIWM Scotland would comment specifically as follows in that regard:

- What proportion of landfill sites does SEPA consider to be in a position to move beyond compliance at this stage? Will SEPA take a different view of that if the new CAS has the effect indicated at Q1 above?
- CIWM Scotland would be interested in SEPA's views as to what would constitute innovation and diversity for a landfill site and what input SEPA would expect to have in that regard (i.e. under which regulatory/legislative framework)? What mechanisms does SEPA intend to employ to ensure that this goal is met going forward?
- Has SEPA considered how non-operational sites and/or those that will be forced to close following the landfill ban in 2021 will be managed to the point that they can surrender their licence/permit and achieve 'completion'? CIWM Scotland considers that it is very difficult to reach that point (which is why there are so many non-operational landfill sites which remain within SEPA's remit) and that will have an impact on an operator's ability to achieve any form of innovation or diversification. CIWM Scotland would welcome further confirmation/suggestions from SEPA as to how the closure/completion process can be simplified/shortened so that more non-operational landfill sites can be taken out of the permitting regime. There is often a continuing cost involved (in terms of charges etc) for a landfill operator long after a landfill site has ceased to be profitable.

**4. Are there other opportunities that SEPA should be taking, or partners that we should be working with, that have not been referenced?**

CIWM Scotland considers that SEPA could work more effectively with industry direct including with operators themselves (via stakeholder workshops etc), advisors to the industry and industry groups including CIWM Scotland. Wider, more meaningful and more regular engagement could help to shape the LSP.

CIWM Scotland also considers that SEPA could work more effectively with Revenue Scotland, in particular:

- As noted above in response to Q2, CIWM Scotland would welcome further information as to how SEPA intend to deal with waste crime and illegal sites. In particular, is there any scope for SEPA to work with Revenue Scotland in imposing, as they are entitled to, Scottish Landfill Tax in relation to illegal sites?

- With regard to Scottish Landfill Tax generally, there are continuing issues in the sector with respect to Revenue Scotland's operation and inconsistency in the levying of the tax. For example, there is inconsistency throughout Revenue Scotland about how waste fines are dealt with and which level of tax they attract when disposed of at landfill sites. CIWM Scotland would welcome some additional partnership working between SEPA and Revenue Scotland to ensure that advice and guidance provided to those operating and advising in the sector is accurate and consistent at all times.

#### **5. Do you agree with the targets and priority actions for 2018-2019?**

As indicated above at Q1, CIWM Scotland would welcome some more detail being provided in relation to these priority actions as follows:

- How SEPA intends to improve compliance by the worst performing operators – i.e. what new action or enforcement measures will be taken which differ from what has been done in the past to try and bring these sites into compliance? How do SEPA intend to achieve that by 30<sup>th</sup> March 2019?
- Fixed monetary penalties are restricted in amount. CIWM Scotland would be interested in SEPA's view as to whether these have/will continue to be effective in relation to landfill. CIWM Scotland would also welcome confirmation as to when variable monetary penalties will be brought into use;
- What does SEPA intend to include within its enforcement campaigns and how does SEPA intend to make those effective?
- CIWM Scotland would welcome confirmation as to when SEPA intend to issue the guidance referred to in the LSP (on page 27) or is that intended to be bespoke guidance as and when required?
- When does SEPA intend to start the process of reviewing and revising PPC permits with a view to completing the exercise by 31<sup>st</sup> March 2019? Will a similar exercise be carried out in relation to waste management licences? Will any support, guidance or funding be provided for operators in going through that review process?
- When will SEPA put the guidance on the 2021 landfill ban out to consultation? What additional support will be provided to landfill operators in respect thereof?

- When do SEPA intend to commence their internal staff training and development and how will that interact with the other priority actions?

**6. Do you have any other comments?**

CIWM Scotland considers that all of the above points need further consideration and should be factored into the LSP before it is published and implemented in July.

In the LSP, there is reference to CIWM as '*the Chartered Institute of Wastes Management*'. That should be corrected to the Chartered Institution of Wastes Management.

**7. If you have any additional questions regarding our consultations or would like someone to get back in touch, please provide your details.**

Gail Martin  
Regional Development Officer (Scotland)  
CIWM  
c/o 7-9 St. Peters Gardens  
Marefair  
Northampton  
NN1 1SX

T: 07921386000  
E: Gail.martin@ciwm.co.uk