

The CIWM is the professional body for the resource and waste management sector. It represents around 5,000 waste and resource management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the sector and has various grades of membership determined by education, qualification and experience.

Performance Regulation for EPR

CIWM welcomes the opportunity to respond to this informal consultation and sought views from its members as well as those specifically on the Waste Regulation and Hazardous Waste special interest groups. Their feedback has helped inform this response.

Q1 Attitude – please tell us if there’s anything about the attribute ‘Attitude’ which you think could be improved

1.1 A brief introduction at the top to explain what the attitude criteria is for and why the operator needs to show it i.e. the way a person views something or tends to behave towards it often in an evaluative way. CIWM suggests “Operator behaviour, and specifically negative behaviour is something which impacts on legitimate businesses within a sector, a performance based framework gives us the opportunity to clearly set out expectations of operator behaviour, and would enable us to recognise positive behaviours.”

1.2 There is no column for ‘Criteria’ on this sheet.

1.3 Large organisations will have many different people that liaise with the EA. This may be consultants on their behalf, consultants, operative, site manager, director, supervisors who will in the main deal with their one contact at the EA (usually the environment protection officer), this is something to think about as it will be difficult to monitor the attitude of the company when dealing with so many different people.

1.4 The permit holder/operator will also need to liaise with members of the public and/or councillors particularly when complaints are being made. CIWM suggests liaison with the local community should be added to the expectations.

1.5 The attributes and criteria need to focus clearly on setting out expectations for behaviour and how these will be measured and assessed. Some parts appear to have diverged from the point and not considered behaviour to encourage.



1.6 Expected:

1.6.1 Many of the attributes under this heading are duplicated or similar in meaning i.e. "a positive and open attitude" and "exhibits a positive attitude". These can quite easily be consolidated into one paragraph and hold the same meaning.

1.6.2 CIWM highlights that "respect" works both ways, the operator will also expect respect. This is a very subjective attribute and CIWM suggests will require a guidance sheet identifying what the terms mean and involve.

1.6.3 CIWM believes that - reporting of internal/external audit findings; timely accurate submission of reports; meets deadlines; self report as required by permit; undertake monitoring – are all permit compliance requirements and therefore should not be within 'Attitude' but moved to the 'Compliance' attribute.

1.6.4 CIWM feels "getting it right first time" is impossible - on moving this to 'Compliance' include "striving to get it right".

1.6.5 "identified problems resolved with minimal EA input" – CIWM seeks clarification as to problems identified by whom?

1.6.6 Required fees or charges paid on time – CIWM suggests this would fit better in the 'Corporate Transparency' attribute in the Finance and Credit history criteria.

1.6.7 Openly approach the EA to discuss concerns/issues. CIWM is aware that due to a fear of being penalised for non-compliance or in the case where a variation to the permit is required this can take months to resolve and in the meantime the EA officer makes life difficult for the operator and activity has to cease while enquiries are being made (very slowly) there is reluctance to discuss concerns/issues/seek advice. CIWM has been informed that permit applications are taking months to complete which puts business operations on hold. The target of 12 weeks to process an application should be the maximum time-frame (except for extenuating circumstances) some applications could be completed sooner - so the 12 weeks should not be taken as the time 'we have'. CIWM suggests there are permitting system issues that need addressing to make this aspect easier to conform to - better pre-apps needed; simpler application forms and better initial checks and duly making process.

1.7 In the Improvement needed section:



1.7.1 “typically ...” used throughout the section and CIWM feels this needs to be more specific, what does typically mean?

1.7.2 CIWM notes there are many of the attributes which are unnecessarily repeated or similar in meaning (see 1.3) or conflicting i.e. “can be a general reluctance to share data” conflicts with “typically submits time, full and accurate records” and “typically meet deadlines unless for a good reason”.

1.7.3 CIWM suggests most of this section falls into compliance and therefore should not be included here the Attitude section.

1.7.4 CIWM suggests the fees and charges part would sit better in ‘Corporate Transparency’ (see 1.3.5) attribute.

1.8 Significant improvement needed:

1.8.1 “our visits require double manning” this should be combined with the paragraph “EA and other regulators been assaulted...” as it explains why.

1.8.2 CIWM suggests most of this section falls within 'Compliance' and 'Corporate Transparency' and should not be in 'Attitude' attribute.

1.9 Exemplary:

1.9.1 CIWM suggests everything in this performance band is compliance. What are the exemplary behaviours for Attitude? CIWM suggests: Takes on board constructive criticism; Proactively working with customers to provide solutions to waste separation and keeping waste out of landfill to encourage re-use and circular economy; Proactive with promoting legal practice and encouraging their customers, suppliers and contractors to do the same.

Q2 Compliance – please tell us if there’s anything about the attribute ‘Compliance’ which you think could be improved

2.1 A brief introduction at the top to explain what the Compliance attribute is for and why the operator fulfil it. See example in 'Attitude' attribute.

2.2 Criteria: there are very few expectations of permit holders in the permit criteria section. CIWM suggests this needs addressing as this will be used “in assessing a wider criteria under performance, we would be better positioned to identify early indicators of potential increasing risk”.

2.2.1 CIWM suggests improvements can be made to the criteria which could indicate the potential increasing risk by including factors that have the potential



to cause harm to the environment, human health and local amenity; these factors (additional criteria) could be reviewed by the operator and the EA individually or together (for more details on this see question 8). Missing criteria that should be included individually rather than grouped together as 'permitting' such as:

- a) FPP – check spaces between stock piles, fire prevention measures, fire control measures, responsibility, do all staff know what to do?
- b) Risk assessments and contingency plans – control measures in place and when to use them
- c) Technical competence – know appropriate level of certification, continuing competence, time on site. CIWM would like to see a future link made for operators whose rating is below 'expected' to Technically Competent Status for their Technically Competent Managers (TCM) – this must take into account situations where the TCM has carried out their role but not been taken notice of by management. A range of potential links/actions depending on severity of performance issues/banding
- d) That the site plan matches what is on the ground
- e) Site drainage – sealed drainage, know where the site drains to, surface water, sewer, discharge limits, is a consent needed?
- f) Requirements for maintenance of equipment and infrastructure – is there a rolling programme of inspections and works, is there an inventory
- g) General housekeeping – cleansing of bays and containers, sweeping the site, litter, vermin i.e. fugitive emissions
- h) Storage capacities for waste types – do site operatives know what these are, heights of stacks, methods of storage, correctly labelled
- i) Waste acceptance – annual tonnages of throughput, waste types accepted at site, transfer notes, consignment notes, registered waste carriers, Duty of Care requirements, transfrontier shipments, quarantine area
- j) Correct use of waste codes has it been coded correctly particularly hazardous waste
- k) Exempt areas on site, discharge consents, MRF Schedule 9 monitoring, ELVs regulations, end of waste protocols
- l) Requirements of the permit – discharging improvement conditions
- m) Staff training – no training, basic training to get by, full training on permit and Management System equipment and procedures, should have enough training knowledge when TCM is not on site - above and beyond training for example the importance of waste separation, treatment techniques, markets, etc.
- n) Complaints handling – no liaison, some liaison (with EA and locals) after the event; warning of potential problem as it's happening/just about to happen if anyone (EA and locals) asks; active letter dropping to locals etc.
- o) EA info requests – submitting data on time; quality reporting; using digital portals where necessary; reporting all incidents not just minor incidents, this may mean enforcement action if the incident was significant but a positive



response should still be recognised to encourage self-reporting. Incident/near miss type incidents should be dealt with, recorded and lessons learnt/implemented in a non-blame culture (unless clearly a malicious action or repeated alongside inappropriate staff actions etc. where employer should take appropriate discipline

p) Provide an organisation chart showing who has overall responsibility of the company (MD, Directors, Management, Supervisors, Charge-hand) showing who is responsible for what, who is TCM, who can speak and sign on behalf of the company. Likewise an organisation charge for non-limited organisations

2.4 CIWM expresses its disappointment that the EA does not appear to be resourced to undertake regular compliance monitoring. Because EA do not have the resource to carry out regular compliance checks, site operators have little regulatory pressure to improve performance, leading to large stockpiles, badly stored waste, infrastructure and equipment that has not been maintained which has the potential to contribute to site fires and potential contamination of surface water and groundwater. CIWM feels that without site visits performance/compliance monitoring is basically ineffective.

2.5 When compliance monitoring is undertaken the EA do not appear to routinely check things such as technical competence or transfer/consignment note information. These issues are of concern to the waste management sector and there is a great deal of anecdotal evidence that technical competence on some [poorly performing] sites leaves a lot to be desired, whilst without examination of transfer note information the EA lose opportunities to make timely interventions either at site or further down the chain.

2.6 The attributes and criteria need to focus clearly on setting out expectations for compliance with the permit and EMS (and other legislation regulated by the EA) and how these will be measured and assessed. Some parts make it difficult for the operator to understand what is expected of them and these parts do not consider what needs to be complied with, and when it isn't complied with cannot be used to identify potential increasing risk.

2.7 CIWM suggests that mobile plant permits should still be able to fit into this criteria/attribute.

2.8 Expected:

2.8.1 "where appropriate we may carry out annual inspections of compliance at the site, identify none or very few permit breaches..." when is appropriate? CIWM suggest that there is a need to establish guidance so that everyone knows what such terms mean. At least annual inspections should be carried out (see question 9). How many is very few permit breaches? CIWM feels that it is



impossible to have no permit breaches. Limited impact on the environment and local community, should this be detriment to the environment, human health and local amenities.

2.8.2 “amenity plan” – what is this? Is this the risk assessment? Must use terms and phrases that are commonly used for all sectors that are permitted.

2.8.3 “our review of the MS...” how can the EA assessment of the EMS be a criteria in the expected performance band? The operator has no control over this.

2.9 Improvement needed:

2.9.1 CIWM asks - how many permit non-compliances would be considered to make the operator need improvement? There is also no mention of number of EA visits, so how would this be determined.

2.9.2 “potentially negligent approach to performance” this is subjective, there must be evidence to show a lack of understanding of permit conditions and there is already EA guidance on ‘Developing and management system’ and ‘Control and monitor your emissions for an environmental permit’.

2.9.3 As part of any regulatory effort for those in "improvement needed" CIWM suggests including an element of training/learning/ update etc. be included. This should show what the operator can put in place in order to make the necessary improvements last. CIWM also suggests there should be submission of a development plan to the EA.

2.9.4 same as 2.8.3

2.9.5 “incident response plan” term used in installations, this is not a term used in bespoke or standard rules permits. The performance bands review should include consistent terms and phrases over all regimes, standard rules and bespoke permits.

2.10 Significant improvement needed:

2.10.1 CIWM is disappointed there is no mention of increased EA visits to match the consistent non-compliance.

2.10.2 There is no mention of operator review of MS.

2.10.3 There is no mention of warnings, notices, enforcement action already received.



2.11 Exemplary:

2.11.1 Choosing to adopt an accredited EMS that is subject to audit by a third party puts SMEs at a disadvantage due to cost and time taken to maintain the requirements of an accredited EMS. The third party auditor does not stipulate it needs to be a registered auditor as mentioned in EA guidance.

2.11.2 Environmental objectives and a policy are a requirement of an EMS and therefore should not be exemplary as they are a requirement and should be expected.

2.11.2 The criteria asks for environmental objectives to be set independently of the permit requirements but the EA will accept an auditors report detailing compliance with the EMS so that the EA can be satisfied that no non-compliances have occurred. However, if the environmental objectives are independent of the permit and chosen by the operator, how does the auditors report prove there are no potentially increasing risks identified by the risk assessment? Will the environmental objectives be approved by the EA? This would be labour intensive and against the ethos the Performance Bands are trying to achieve i.e. being a 'hands-off' self regulating approach?

2.11.3 Exemplary expectations could include use of the waste hierarchy for disposal of waste from site i.e. not just landfill or incineration (also a requirement under DoC) but to be investigating alternative routes such as energy from waste, AD and by looking at Circular Economy and depending on waste types, looking at end of waste criteria to put the waste back into circulation by re-use and recovery/ recycling.

Q3 Corporate Transparency – please tell us if there’s anything about the attribute ‘Corporate Transparency’ which you think could be improved.

3.1 The first point to make with this attribute is that, as it currently stands there is an assumption that all permit holders are limited companies. There are many waste permit operators whose permits are held in the name of individuals or one single person. Therefore, some of the expectations are out of reach of these permit holders.

3.2 The use of this attribute is assumed that if the company is solvent and has a business plan then they are a responsible, secure and stable organisation that are more likely to be better performers. This attribute will take sometime to convince operators that by meeting the expectations identified within it can identify early indicators of potential increasing risk.



3.3 There may be some resistance to share information with the EA relating to business accounts, plans and investors, as the operator may feel this has no bearing on the ability to operate the site. It would not be a legal requirement for permit holders to provide this information and unless it is a legal requirement the information will not arrive voluntarily.

3.4 The permitting application process for waste sites requires that the financial provision part of fit and proper is undertaken by means of a credit check (unless the site is a landfill). Perhaps if operators were offered 'exemplary' status in exchange for a credit reference check this could be enough encouragement.

3.5 Some smaller companies attract investment from international companies who will invest but do not want to be associated with the permitting or operational side of the business. Is this information relevant to the EA? Does knowing this help to identify potential increasing risk?

3.6 Information for companies is publicly available free of charge from Companies House web-check service and therefore this can be monitored by the EA. This could be just as labour intensive as requesting the information from the permit holder direct, who may be unwilling to spend the time providing data that is available on the companies house website and that they do not think is relevant for the EA to be considering as part of their compliance.

3.7 It would be useful to show an organisation chart (a requirement of EMS – see section 2.3 (p)) of who has overall responsibility for an organisation and limited company, who is able to speak and sign on behalf of the company, who is responsible for what.

3.8 Where partnerships or more than one person is named on the environmental permit should a legal agreement be drawn up? There is still the issue that any enforcement action will ultimately be taken on the permit holders/landowner regardless of if they are in a partnership.

3.9 It would be useful to know who the landowner is and whether or not there is a lease agreement on the land, would having this information help to identify indicators of potential increasing risk? It would be useful to know when the lease expires as the permit holder may decide to abandon the site as is often the case.

3.10 Information gathering for items 3.9, 3.8 and 3.7 should be completed at the application stage, consideration should be given as to how to make this information less onerous to gather if it is determined a requirement for every



performance review. CIWM believes point 3.6 would only need to be updated when there have been major changes.

3.11 Again the expectations of the operator are not clear and some appear to be excessive and would be labour intensive for the EA to monitor, some criteria are questionable as to the relevance of the EA getting involved, time could be better spent physically visiting the site in person, see below:

3.12 Expected:

3.10.1 "compliant with company house requirements" – is this really a role for the EA to enforce? Documents that have been submitted are publicly available.

3.10.2 "Business plan shows a viable model and is open and clear" – is this really a role for the EA to determine this? CIWM feels the organisations accountant and bank manager/financial adviser are better suited for this.

3.10.3 "Comes with some form of assurance?" - Not sure what this means, is this reminiscent of some kind of financial provision agreement back in the days of Waste Management Licensing? CIWM suggests this should be a requirement at the permitting application stage.

3.10.4 Finances / credit history – accounts are filed with companies house, see points 3.2-3.25 above. Add payment of EA fees and charges to this section paid on time (within 28 days of invoice being sent).

3.10.5 "Pro-actively review financial provision agreements" – these were all returned to permit holders years ago for waste facilities. If reviews of financial provision is to take place (reintroduced) would this be included in the annual subsistence fee? CIWM suggests some guidance and a template review document will be required?

3.10.6 "Sign up to open data and digital portals" – submitting data also appears in compliance with permit which would include waste returns and monitoring data, PI reporting, etc. Although some operators do use portals to share their data this is completely voluntary and should be made exemplary behaviour rather than expected or even raise as an issue for improvement.

3.10.7 Responding to information requests is in the permit section.

3.11 Improvement needed:



3.11.1 incomplete data on Companies House (part-satisfied charges with Companies House) – is this really for the EA to enforce? History of partial or late returns assume this to be for EA monitoring and waste returns data.

3.11.2 No written business plan – is this really for the EA to determine the completeness of a business model? See 3.10.2 above.

3.11.3 Finances/credit history – records not updated – this is not for EA to enforce but is publicly available.

3.11.4 CIWM suggests adding - Late payments of EA fees and charges that are up to 6 months overdue?

3.11.5 Information requests not dealt with is in permit section.

3.12 Significant improvement needed:

3.13 Unknown, constantly changing directors, evidence of shared directorship to poorly performing/illegal operators? See points 3.7-3.9 above this information should be secured at the application stage and regular performance monitoring site inspections will be beneficial.

3.14 No business plan – is this really for the EA to determine if a business plan is unviable?

3.15 No financial records – for companies house to enforce.

3.16 CIWM suggests adding no payment of EA fees and charges or over 6 months overdue.

3.17 No evidence permit/operational financial obligations can be met. CIWM seeks clarification as to whether this is after a financial provision review?

3.18 Not wanting to use a digital portal. If it is voluntary they should not be penalised for not wanting to use a data portal. Reporting monitoring, waste returns to EA etc only way is to submit online but alternative should be provided for those who cannot use the web based reporting system. Does not submit data or respond to info requests
- this is in permit section.

Q4 Relationship with the community – please tell us if there's anything about the attribute 'Relationship with the community' which you think should be improved



- 4.1 A brief introduction at the top to explain the 'relationship with the community' – what the criteria means, what is it for and why the operator needs to fulfil it.
- 4.2 At present, this is the only attribute that shows what is expected of the permit holder, however, they are all requirements of the permit or EMS.

Q5 Compliance with other regimes – please tell us if there's anything about the attribute 'Compliance with other regimes' which you think should be improved

5.1 A brief description of what this attribute entails and how the permit holder can provide evidence of meeting EA expectations would be useful.

5.2 The criteria "compliance with regimes administered by other regulatory organisations" would be labour intensive. As it is the responsibility of other regulators to monitor and enforce CIWM seeks clarification as how the EA will satisfy this criteria. CIWM believes performance compliance would benefit from more site visits by the regulators.

5.3 "Ensuring tax returns and other financial returns are submitted on time" is duplication for the operator (reporting to HMRC and EA). Would knowing all the reporting requirements for all permitted sites be beneficial and help to identify potential risk? CIWM understands the reasoning behind such requests but compliance monitoring for environmental incidents/breaches are more likely to be intercepted during site visits.

5.4 There should be no reason why the EA could not liaise with the other regulators to share knowledge. Issues of a similar nature will be flagged up by checks in other attributes i.e. filing of financial returns would be raised when assessing the Corporate Transparency.

5.5 This attribute would be improved if the 'compliance with regimes administered by other regulatory organisations' criteria was not aimed at the operator.

5.6 The criteria for 'Compliance with other regimes we regulate' could also be included in the 'Compliance' attribute. Many of the criteria have been mentioned in section 2.3. The expectations for all bands needs to be made clear and unambiguous, the 'expected' band should not 'endeavour' to comply with all relevant regulatory regimes, compliance with all legislation should be 'expected'. 'Endeavour' means not complying but trying and so 'improvement needed'. Disregarding and non-conforming will require 'significant improvement'.



Q6 – Wider environmental performance – please tell us if there’s anything about the attribute ‘wider environmental performance’ which you think could be improved

6.1 This attribute definitely needs an introduction to explain what is expected and how to fulfil the criteria.

CIWM suggests as this is a Performance Assessment the use of the word ‘wider’ implies meeting the criteria will require going above and beyond what has already been expected and assessed in other attributes. Alternatively it could mean ‘wider’ in a national or international sense regarding the environmental effects the activities have an influence on, for example carbon emissions. It could also be a mix of the two. Where there is no legal requirement to provide education and research and a zero waste policy these are certainly issues permit holders can aspire to for the future.

6.2 The current expectations have clearly been written with installations in mind and are not appropriate for waste facilities (and perhaps other regimes). The expectations need to be made clearer so they are achievable and unambiguous.

6.3 The Environmental Ethos refers to an Environmental Policy which is a requirement of the EMS. CIWM asks whether this would fit better in the ‘Compliance’ attribute?

6.4 CIWM suggests ‘Benchmarking and continuous improvement’, will need to be explained to operators with clear expectations of what is required. Continuous improvement will be part of the Environmental Objectives in the EMS. CIWM asks whether this would fit better in the ‘Compliance’ attribute?

6.5 The criteria ‘wider company compliance’, needs further explanation and CIWM suggests clear expectations should be provided.

6.6 Under the ‘Corporate Social Responsibility’ criteria within the “expected” band -
the phrase “should work with exemplary and expected performers” - CIWM seeks clarification as to how operators will know who these performers are? Will there be a summary of all performers freely available on the EA public register? Will explanations be provided as to what “exemplary and expected performers” means to those outside the permitting arena.

6.7 Improvement could be made by including the following:



- a) a Circular Economy criteria to encourage operators/ permit holders to work with community re-use groups to encourage waste minimisation;
- b) taking part in trials and research projects to improve technology and systems to treat new waste streams coming online (solar panels) and changing legislation;
- c) encourage membership of a professional organisation and to be an active member within that organisation by promoting schemes and raise awareness of issues;
- d) Health and Safety awareness to show a personal responsibility for health, safety and well-being in the workplace.

Q7 – Please tell us of any attributes or criteria that you think are missing

There are attributes / criteria missing. Also some expectations are repeated across the criteria and may be better placed in other attributes.

- Some expectations are contradictory and some duplicating requirements for operators in areas that are not directly responsible for the EA to monitor;
- Other expectations are for information that is already publicly available and does not need to be provided by the operator.
- Some of the criteria do not set out expectations clearly and appear confusing.
- Wording needs to relate to all facilities across all regimes in EPR not just installations.
- There appears to be a focus on large organisations and limited companies, there is a need to consider individual permit holders.
- Needs more focus on training and CPD particularly for those permit holders "needing improvement" and "significant improvement" to enable them to understand what has gone wrong and how they could improve; CIWM is willing to work with the EA on how this can be addressed.
- Need to have in place a strict policy for when enforcement action will be taken if operators are constantly in "need of improvement" and "significant improvement".
- Liaison with other agencies i.e. local authorities, PHE, HSE, etc. to gather data for poor performing sites.
- Promote good/exemplary cases – use of newsletters (even for one-off examples) for good practice/expected behaviour - (and even bad case studies can promote good practice for others).
- Use of fines to support/promote local re-use/ recycling projects.
- Use notices to force the site operator to undertake improvements.
- Need more focus on making permit holders take responsibility for maintaining site infrastructure and equipment and staff training and welfare.



- Need to know landownership – who owns the land? Rented/leased/owner (gathered at permitting application stage).
- Guidance package should be comprehensive with case studies and ideas on how to improve your band and meet expectations.

Q8 – How do you think a site should move between the four bands, both upwards and downwards?

CIWM assumes there will be a transition phase for all existing sites. CIWM believes everyone will start in the expected band due to their current OPRA score.

CIWM sees expectations for each criteria to be treated as objectives. To keep focused the operator/permit holder/TCM/nominated person will go through the expectations and find evidence for those expectations that have been met. CIWM assumes the evidence is to be sent to the EA annually, the EA will review all the evidence collated by the permit holder and decide whether or not the evidence is appropriate or irrelevant. Data will be gathered between Jan-Dec with the results of the assessment taking effect for charges the following April (as is currently the case).

Evidence gathering is a continuous process so that a new performance assessment starts again in January with new evidence that needs to be gathered. This way the permit holder needs to maintain certain practices to ensure they continue to meet those expectations and work on ones they don't meet in order to move up to the next band or down in some cases.

In order to be exemplary CIWM assumes all the expected criteria must be met. Consideration should be given for how some SMEs are expected to achieve exemplary status when they will not be using an accredited EMS, for example - although they may have some other system in place that enables the same outcome - such as in-house.

A site inspection should be included in the final assessment of the evidence to determine which performance band the operator falls within, any questions could be responded to immediately and will make the process more productive.

If evidence is not supplied (or available) then this expectation will be classed as needing improvement or significant improvement depending on information gleaned from the site visit.

CIWM believes some form of incentive is needed for permit holders to move up the bands and into exemplary - maybe by getting insurance companies on board to reduce rates for operators reaching exemplary status.



The expectations in exemplary are not exhaustive; other information evidenced by the permit holder could be assessed. The process and definitions should be clearly explained as described in CIWM's response to question 9.

The EA must provide clear guidance on how the permit holders can move up and down the bands, there must be incentives for them to do this. EA must show permit holders where to get help to make improvements, this could be by a series of courses or workshops or guidance documents. CIWM is happy to talk to the EA in providing outlets for guidance and information to be easily accessible.

Permit holders (nominated person of the site) should not just keep undertaking courses and workshops because they cannot meet the expectations of the attributes. Neither can they keep sending different people to attend the same education programme. Attendance at a training course is not showing application of knowledge and competence. CIWM suggests that work on permit awareness is required and is willing to talk to the EA if this is something that would benefit the sector. Enforcement action should be considered if operators are just relying on training courses to achieve attributes.

As an incentive to encourage CPD and maintain momentum with the performance assessment process, occasional free webinars or workshops should be made available with common themes in mind, this would give permit holders a feeling of being involved and not forgotten about (quarterly newsletters updates might also benefit the process).

Q9 – What can we do to make the way we assess performance clear, consistent and transparent?

CIWM believes all guidance should be available to everyone, there should be no separate EA officer guidance that is not available on a wider basis.

Regarding the 'Corporate Transparency' attribute if the EA does go ahead to request business plans and company accounts, that are not publicly available, there should be a guaranteed confidentiality request granted without having to go through the lengthy request for confidentiality.

There must be at least one annual visit / site inspection for all sites. Sites requiring improvement or significant improvement will receive more visits.

The EA must include clear and comprehensive guidance available on the website as a printable version and must be available as soon as the process is launched. As mentioned in previous sections guidance must show what is required to



progress through the bands, the expectations and why the information is required. Case studies should be used as examples. Updates (to performance bands/ regulations/ guidance/ workshops) can be notified to permit holders by a quarterly newsletter. CIWM is happy to discuss with the EA how guidance/information can be made widely available if there are issues with hosting material.

There should be an Appeals process available initially for the first few years, with dedicated officers available to deal with staff enquiries, permit holder enquiries and appeals.

EA staff should be knowledgeable and approachable to encourage questions to be asked by permit holders. As mentioned in previous sections some of the expectations could be met at the permit application stage, certainly the status of land ownership was requested for WML applications but does not appear to be the case for EPR, likewise financial provision agreements for all waste facilities but this is not the case for EPR. The permitting application process should be reviewed.

Q10 – we are planning to transition to performance banding from 1 April 2018 for waste facilities and installations, with other EPR regimes being phased in over subsequent years. Because the performance year will be the same as the calendar year. Would you be comfortable that the first year transition would be based on an assessment period of 9 months (Apr – Dec)?

The Attributes, Criteria and Expectations and guidance have not been set yet. Permit holders are disadvantaged in that they do not know what is expected of them. It is currently unknown if the performance bands will be related to the fees and charges scheme. CIWM suggests that communications on wider promotion of the changes to all waste producers is needed to inform them that there are substantial compliance benefits in sending their waste to exemplary or expected sites. Producers need to understand what the impacts would be on them using sites that are in the improvement needed and significant improvement needed category. This is the incentive to the permitted operator - they win the legitimate business. CIWM believes April 2018 does not give sufficient time - knowing the resource level in the EA has been reduced significantly over the past year or so.

Q11 – in some regimes, we are seeing a noticeable rise of non-payment of fees and also hostile and obstructive behaviour towards our staff. We want to bring in zero tolerance for extreme situations, for example, any site failing to pay fees and charges or demonstrating significant hostile and obstructive behaviour to our staff will move directly into the lowest performance band and we will begin proceedings to revoke that operators permit. As a responsible operator would you support the introduction of a zero tolerance policy?



CIWM supports the zero tolerance policy only as long as there is clear guidance available to everyone (no special guidance for EA officers only) and case studies to show where the boundaries lie. CIWM is aware that a clash of personalities can cause people to behave very differently to how they would normally and this is not uncommon. CIWM asks - is the hostile sites register still in place?

Double manning (as suggested in the attitude attribute) and replacing the officer or other remedy tactics involving the police may be more appropriate to begin with rather than going straight to the revocation proceedings.

CIWM seeks clarification on how long a debt will need to be owed before the revocation proceedings commence? What if there is a court order for the permit holder to pay a small insignificant amount every month, would the EA appeal this court decision so they can revoke the permit?

