

## **Review of waste policies call for evidence**

### **Response of the Environmental Services Association**

ESA is the sectoral trade association for the UK's managers of waste and secondary resources, a sector with an annual turnover of around £9 billion. ESA's Members seek to align economic and environmental sustainability through delivering compliance with relevant EU waste and environmental law.

It is important to stress that the waste management industry provides significant benefits to the environment and to human health by collecting and treating the nation's waste. The industry manages and processes waste to reduce the potential negative impacts which would be associated with uncontrolled waste.

The current waste policy review initiated by Defra covers an extremely broad area. The waste management sector involves hugely complicated processes and a wide range of activities. The UK's European obligations in terms of landfill diversion, recycling performance and renewable energy generation are all reasonably well understood and it is now important that Defra uses the current review to remove barriers and facilitate the development of new infrastructure which will enable the UK to meet these obligations. ESA provides here some initial suggestions on how this could be achieved and would welcome further engagement with Defra to explore how the review can align incentives for the industry to maximise the potential contribution that waste management could make towards meeting the UK's environmental objectives.

ESA recommends that the government:

1. Improves coordination of waste and energy policy. The incentive framework needs to be improved so that energy from waste's potential contribution to the UK's energy needs is maximised.
2. Aligns responsibilities between waste disposal and collection authorities. Collection systems should be coordinated and harmonised with treatment infrastructure to ensure consistency of material delivered to facilities.
3. Improves the coordination of municipal and commercial waste infrastructure. Consideration needs to be made of improving the risk profile for residual waste facilities so that economies of scale can be optimised in managing both municipal and commercial waste streams together.
4. Speeds up the planning process. The planning process, including for appeals, needs to be speeded up. Timing uncertainty increases complications associated with contractual and funding issues. This needs to be reduced.
5. Incentivises local communities to accept new waste infrastructure. This could be achieved through directing business rates raised from facilities back to local communities. An alternative would be to bring forward the negotiation of section 106 agreements such that local residents are able to see the benefits in advance of the planning decision being debated.
6. Incentivises demand for domestic use of recycled materials. Green public procurement should be used to take advantage of the government's purchasing power. At the same time, recyclers should be able to use the greenhouse gas saving benefits from material recovery to offset their carbon footprints under instruments such as the CRC Efficiency Scheme.
7. Extends producer responsibility schemes to encourage reuse as well as recycling. Greater incentives could also be built into municipal contracts to encourage contractors to increase reuse activities.

The remainder of this document sets out ESA's responses to the questions raised in the call for evidence.

## **General**

*What should the nation's ambition of waste management be? What do we need to do to achieve a 'zero waste economy'?*

It is unclear from the call for evidence what a 'zero waste' economy actually is. The costs of attempting to eliminate all material waste from the economy would be likely to far exceed the environmental benefits associated with zero waste. Therefore, as a concept, it should mean that materials should not be wasted, i.e. they should be re-used, recycled or used in alternative ways (such as a low carbon/renewable fuel source), rather than being sent to landfill.

Notwithstanding regulatory definitions of waste, on a practical and policy level a clear, common sense message needs to be sent out: namely that if there is a useful purpose for a waste material or by-product then it is no longer being "wasted", it is being used as a resource, which in policy terms is the objective. It may also be helpful in that context to explain the reasons for different definitions of "waste" for regulatory purposes and "waste" for policy purposes – the former being waste as a noun (what the material is), the latter being waste as a verb (what is done with the material).

A practical approach to a zero waste economy should be emphasised. It should be clarified that the whole of the waste hierarchy has a role to play and that there will always be some form of residual waste which requires disposal at landfill.

Furthermore, it is our firm view that focusing on zero waste should not be used as a reason to avoid making pressing decisions now about the need for more waste management infrastructure. Rather, the concept of zero waste and what it means in practical and policy terms should be clarified to enable the industry to move forward with development.

*How could the contribution waste management in England makes to the economy and our environmental and energy goals be maximised?*

It should be emphasised that the value of any resource is indicated by its market price. For economic drivers to lead to increased resource recovery it is necessary for market prices to exceed the costs of extracting those materials from the waste stream. Waste is a heterogeneous material and it is relatively thinly dispersed, both of which raise extraction costs from waste. Resource prices are in most cases currently insufficient to enable economic drivers to take effect and it is regulation which stimulates recycling markets.

Waste actually possesses a negative value to waste producers, which is why they have to pay an operator to remove it. Those operators then process the material to try to extract some value from it based on the regulatory drivers determined by legislation.

The landfill tax escalator is performing a strong role in establishing a demand for alternative waste treatment processes to landfill. Unfortunately this is being frustrated by an inability for the supply of facilities to rise appropriately to meet the demand.

The planning system is the single largest constraint preventing the delivery of new waste treatment facilities. This needs to be addressed. Looking at the fate of large scale EFW planning applications over the last couple of years, there is a rift between technical experts at both local and national level and local politicians. The most common pattern currently is that local planning experts (Council Planning Officers) are supportive (recommend consent), local Planning Committees are not (refuse against officer advice) and national planning experts (Secretary of State on appeal) are supportive. Where this happens in sequence there is a "go/stop/go" effect, which benefits nobody, pleases nobody and costs everybody more.

The government's introduction of a 'localism' approach to planning must be supported by appropriate legislation to expedite preparation and approval of waste development frameworks.

Statutory timeframes should be introduced for plan preparation, with sanctions for late completion of plans. Government should offer strong direction to local authorities that waste recovery facilities should be defined as sustainable development within local development frameworks.

With the abolition of the Regional Spatial Strategies, it is difficult to see how appropriate cooperation between local planning authorities as suggested by the government could realistically be achieved in order to provide the necessary waste management capacity, particularly for energy recovery facilities. Local councillors determine planning applications, and with an eye on the electorate, they are likely to pay lip service to any 'appropriate cooperation' with adjoining authorities. Without some formal arrangement, preferably on the regional level, whereby future requirements for waste management capacity are established, there will, in many authorities, be a policy vacuum for determining applications for major waste management facilities.

Another barrier lies in the form of the overly cumbersome approach to procuring public facilities which consumes excessive resources in terms of time and money both to local authorities and to private contractors. This, combined with an inflexible approach to risk transfer, raises costs and reduces value for money for the public sector.

*How can government make the best use of the skills and knowledge of the private sector, civil society and local communities in delivering a zero waste economy?*

The private sector is the most efficient means of delivering integrated waste services. Its ability to manage project risk makes it the most efficient way to develop new waste infrastructure and the competitive tension it provides contributes towards increased innovation.

It should be noted that the voluntary sector has an important role to play in supporting the private sector and the use of the voluntary sector can be useful where the economic benefits of waste services are marginal, such as for waste prevention education measures and bulky waste collections from households. Service standards however, and health and safety standards in particular, must not be compromised when engaging the voluntary sector. Third sector organisations must be subject to the same regulatory standards as the private sector.

*Do local authorities have the right responsibilities for waste services? Are there further services that could be devolved to local authorities or directly to local communities?*

Local authorities should increasingly be seen as hubs which procure and commission waste services utilising the efficiencies of the private sector. Recent announcements by Suffolk County Council are aligned with this approach.

It is not for ESA to advocate local authority structures but it would be beneficial to have greater consistency within local authority areas. It is far easier to propose and develop infrastructure where the collection systems are harmonised within disposal authority boundaries, as with unitaries.

*How can illegal waste activity be minimised, including reducing levels of fly tipping? Are sanctions for breaches of waste regulation fair and proportionate?*

The surest way of reducing illegal waste activity is to ensure that the expected penalty exceeds any criminal benefit of breaking the law. This can either be achieved by increasing the sanctions for criminals who are caught or through increasing the likelihood that transgressors will be caught, charged and convicted. Sanctions currently applied through the courts are often pitifully low and fail to serve as a deterrent to would be criminals. At the same time, the Environment Agency is under-resourced for fighting environmental crime. This should be increased as a priority.

ESA would also like to see a focussed regulator effectively using resources and consistently targeting those who pose the greatest environmental risk. While this is easier to say than to do, it is essential that the regulator achieves effective and risk-based enforcement and must be toughest on those who are most aggressive, whose transgressions are most difficult to detect and whose adverse environmental impact is greatest.

In contrast to environmental criminals, ESA's strictly regulated Members seek to improve the environment by delivering an essential public service and, effectively, producing environmental compliance for their public and private sector clients. The regulated industry ESA represents is one of the most direct victims of environmental crime.

Another consideration should be increased coordination between the Environment Agency and HM Revenue and Customs. Waste crime is increasingly motivated by landfill tax avoidance and the two agencies should support each other in helping to reduce illegal waste activity.

*How can we balance regulation to ensure that we protect health and the environment without unnecessarily burdening businesses and local authorities? What are the opportunities to reduce or remove the burdens of regulations?*

The Environment Agency has begun to move towards a more risk-based approach to regulation which is to be welcomed. Further moves in this regard should be encouraged.

### **Waste prevention**

*What roles should (i) national and local government; (ii) businesses; (iii) voluntary organisations; and (iv) individuals take in order to prevent waste from arising, and to reduce the hazardousness or environmental impact of waste?*

The surest way of encouraging waste prevention is to increase the costs associated with waste management. This is already occurring through the use of the landfill tax escalator. Recent falls in waste arisings may be indicative of this effect.

It has also been suggested that the introduction of recycling services for multiple waste streams can help to highlight the importance of waste management within a household or organisation which can in turn lead to behaviour change which not only leads to increased recycling but to increased waste minimisation as well.

Regulations which impose environmental standards are a less efficient means of encouraging greener manufacturing but would impose certainty on product manufacturers. The UK on its own may not be well placed to implement these but the EU market as a whole would be likely to be of sufficient size to enforce globally recognised standards.

*What can be done to encourage businesses to design and manufacture products which produce less waste – such as those which last longer, can be upgraded and/or repaired, and don't have hazardous components? How might Responsibility Deals contribute to this?*

Businesses will tend to design and manufacture products which are demanded by consumers. Education programmes and the provision of environmental information to consumers could help to encourage them to switch demand to more environmentally sustainable products.

Extended producer responsibility measures which force manufacturers to take responsibility for the management of their products at the end of life stage would also be a potential method for encouraging them to design waste out of their products.

### **Preparing for reuse**

*What more do you think government, businesses and civil society could do to increase activities that prepare waste for reuse?*

The government should seek to encourage the greater use of take back schemes.

There may also be scope for municipal contracts to provide greater support for reuse activities. Some contracts currently fail to provide any incentives to encourage contractors to drive reuse.

*What are the existing barriers to preparing more waste for reuse from both the household waste stream and the 'commercial and industrial' and 'construction and demolition' waste streams?*

It is important to make a distinction between the household and commercial sectors when considering reuse.

In the household sector there may be limited opportunities to increase bulky waste collections and reuse networks. These will however be likely to be constrained by the scale of consumer demand for such services. The voluntary/third sector is well placed to support the private sector in delivering these services which may be of marginal benefit from an economic perspective. As above, the third sector must be subject to the same regulatory standards as the private sector.

In the commercial sector there are opportunities for the reuse of packaging containers in a variety of materials, such as wood or metal. Many of these opportunities may already have been exploited and the role of government in increasing them may be limited to information provision.

ESA supported Defra's recent decision to replace certain high risk exemptions with standard permits. ESA agreed that only "low risk" activities should benefit from an exemption and that exemptions should only be applicable for operations which were small enough so as not to pose any risk to the environment and where they would not impact on competitiveness. ESA also agreed that environmental risk should be the principal criterion for determining whether an exemption was appropriate for a particular activity. ESA hopes that Defra will recognise the additional administrative and cost burdens placed on operators whose activities previously fell under a paragraph 13 exemption and consider how to address any adverse impact these might have on recycling and recovery operations.

### **Recycling**

*What should the role and nature of local authority waste management collection and disposal services be?*

As previously stated, local authorities should be increasingly utilised as commissioning and procuring organisations while the private sector is better placed to deliver services. Private sector organisations are incentivised to continually improve efficiency and competitive tensions within the private sector lead to innovation and technological improvements.

The private sector is also much better placed than local authorities to manage the risks associated with large projects. Appropriate risk transfer to the private sector delivers much greater value for money for the tax payer.

Local authorities also have a potential role to play in successfully introducing incentive schemes targeting household recycling. These have been well received where introduced and conform to the government's stated approach of using carrots rather than sticks.

It should also be noted that packaging design is an integral part of improving recyclability. Packaging manufacturers should be encouraged to use a narrower and more consistent range of materials, plastic polymers in particular. Manufacturers should also be encouraged to avoid multi-material packaging which is inherently more difficult to recycle.

*How can individuals, businesses and communities best be motivated to recycle more?*

The public's lack of awareness should not be underestimated. Communication about recycling should not be sporadic or conducted at limited times, such as during the Christmas period, but should focus on continuing engagement with the public.

Positive reinforcement policies may also help to maximise recycling yields by providing incentives and raising awareness.

*How does the choice, including frequency, of collection service impact on the quantity and quality of waste fit for recycling?*

Both source segregated and co-mingled materials streams have suffered from non-target materials which degrade the quality of the materials stream. The focus should not just be on more recycling, but also better recycling. Information campaigns should seek to minimise non-target materials in recycling streams.

ESA is working with the Environment Agency and WRAP to improve the quality of materials delivered to MRFs. Further work is also ongoing to develop a publicly available specification for measuring the quality of recycling streams.

Source segregated and co-mingled collection streams both provide options for managing recyclate, and the technologies employed in Material Recovery Facilities (MRFs) continue to evolve. ESA believes that the choice of collection stream should be determined by the local authority, and will depend on local circumstances. There is no one-size fits all.

*Should greater emphasis be placed on using recyclable/recycled materials in manufacturing and production and, if so, how should this be achieved?*

Yes. The Government can influence whether the UK leads the way in reprocessing infrastructure, or lags behind the rest of the world, by stimulating domestic markets for recyclate. Firm green public procurement standards should be adopted to utilise the public sector's considerable purchasing power.

The government could also consider implementing product and manufacturing standards that specify recyclate requirements where and when this is reasonable to do. It may be the case that the European market is a more appropriate level for the imposition of standards, given its size and purchasing power.

Domestically, the government might also consider encouraging voluntary agreements among manufacturers to utilise recycled materials.

Another option may be for the government to consider using reduced PRN obligations as a way in which increased recycled content in UK manufacture and construction could be supported.

## Energy recovery

*What are the barriers to delivering an increase in efw capacity, including a huge increase in generation from anaerobic digestion? How might these be addressed?*

There is considerable local opposition to the development of energy from waste infrastructure, which tends to be based on outdated and ill-informed misconceptions. This leads to considerable delays in the planning system and a high rate of planning refusals – see later comments.

There is ongoing uncertainty over claiming ROCs, in relation to continuing difficulties with persuading Ofgem to adopt a more practical approach to fuel measuring and sampling. Decc's recent announcement that it will grandfather support to efw projects is welcomed but the Renewables Obligation remains an overly complex and difficult means of subsidising renewable electricity.

The development of a quality protocol for IBA would be a significant help. This has been consistently delayed to date. Also delayed has been finalisation of a position confirming that IBA is non-hazardous, as it is in other EU Member States.

It should be noted that, despite its apparent benefits, anaerobic digestion is only of limited potential application to the solid waste sector. It should also be noted that the purity of the feedstock, the purity of the output gas and the purity of the digestate will all affect the usefulness of the technology. With recent (albeit welcome) positive press coverage of AD, there also seems to be a growing misconception that AD is an alternative to direct combustion (incineration). However AD deals with separately collected food waste and some organics, whereas direct combustion deals with residual dry combustible waste. They serve different purposes and are complementary, not in competition (direct combustion dealing very effectively with the much larger waste stream of the two). Similarly, there appears to be an overoptimistic assumption about the ability of small on-farm agricultural waste based AD plants to deal with the much larger volumes and more heterogeneous nature of MSW and C&I food waste, which also includes packaging.

It should also be noted that the stock of land requiring restoration will impose a constraint on the amount of digestate which can usefully be applied (unless the digestate has been derived from relatively expensive source-segregated collections).

Work should continue on the quality protocol for digestate. It is ESA's view that a protocol should focus on the outputs from a process. If this meets the qualifying criteria then it shouldn't matter where the inputs were sourced from.

There also exist regulatory barriers preventing the use of water industry AD plants for the processing of waste materials. With changes to these regulations the waste management sector would be able to utilise more effectively the AD capacity which already exists in the country.

The IPC threshold of 50MW encourages developers to increase the scale of proposed facilities which could result in wider catchment areas and more traffic movements. A lower threshold of 20MW for waste-fired plant would be beneficial to the industry.

*What role should government, industry and voluntary groups play in communicating the benefits of efw to local communities?*

As above, the starting point for communications should be the illustration of the fact that the waste management industry is the solution to waste problems and not the cause. Householders should be informed explicitly how their waste is managed and what proportions of it are sent to different output destinations.

Communicating benefits to the householder should be a joint responsibility and communications to the public should be managed appropriately. Defra's use of an open online forum as part of the current review is an example of the misuse of communication tools which has resulted in further misinformation being presented to the public.

Local opposition based on health / environmental misconceptions MUST be corrected based on the current evidence base. A strong lead from central Government is required both to allay any concerns over bias and to provide decision makers and communities with a clear understanding of the credible evidence. Clear policy guidance from central Government has assisted the delivery of other necessary infrastructure, such as telecommunications, and these lessons could be applied to the delivery of efw capacity.

Local communities need to be communicated strong and simple messages. Misconceptions based on interrelation with maximising recycling should be addressed – the two can be improved simultaneously.

It should also be emphasised to householders the importance of energy from waste in meeting renewable energy targets and as a potential source of cheap local heat as well as secure and environmentally sustainable supplies of electricity.

As regards industry's role, industry already dedicates substantial resources to extensive community engagement exercises in connection with major planning applications and will continue to do this. However, whilst this helps, it is not a magic bullet and it is inevitable that a hardcore of objectors will usually remain. Local residents also invariably wish to be assured by independent regulators or bodies, rather than the developer who is proposing the scheme. Consensus is rarely, if ever, achievable and, ultimately, local politicians still face making difficult and potentially unpopular decisions in the wider public interest. It is therefore vital that independent bodies and regulators give local communities and local politicians all necessary assistance and support in having to make those difficult decisions – industry is already doing its bit.

Council Planning Officers should also make sure that all community engagement activities by the applicant and the Council are fully reported, along with the level of response and interest. For example, even though thousands of invitations are often sent out by applicants to people to attend local exhibitions, usually only a very small proportion of those people attend. This would appear to indicate that the wider community is often not unduly concerned with what is being proposed. However, it is inherent with planning (development control) public consultation that the people most motivated to respond and those who wish to object will do so, whereas as those who are content or even supportive tend not to comment. Consequently, Councillors may receive a misleading (overly negative) picture of the wider public interest when they read committee reports which only tend to detail objections. This should be re-dressed to give planning councillors a more representative appreciation of the actual level of public concern across the wider community. This would help a return to the fundamental principle of planning decisions being based on the wider public interest.

Also, the impacts of planning refusals should be considered more properly by Planning Authorities. For example, refusing planning permission for an EfW plant against officer advice does not mean that a more politically acceptable technology will appear over the horizon, it simply means that the waste will continue going to landfill, contrary to the waste hierarchy, but this is not often taken into account.

*How can government best support local government in the development of waste management plans that include efw facilities?*

See above comments.

A key message for Government to assist with, as has been explained in work in the West Midlands (AWM's "Landfill Diversion Strategy"), is linking more clearly the energy, waste and economic development agenda. This must include better recognition of the "green infrastructure" development opportunities – not just in terms of investment in and jobs at facilities, but also in plant and technology design and construction. The skills for the latter are, unfortunately, mainly held abroad nowadays, in contrast to previous generations when the UK was once a world leader in waste plant technology. The vast majority of technology providers today are from outside the UK.

A useful exercise would be to research heat maps of local areas as has been done in the West Midlands and been proposed on a wider scale by WIDP. The preparation and delivery of heat plans as well as the preparation of local waste development plans would be assisted through support at a strategic level by government.

In order to achieve a realistic and responsible approach to future waste management, there should be a formal arrangement for the continuation of research into waste arisings and capacity requirements previously carried out at the regional level. Some local planning authorities (particularly unitary authorities) have no staff with any experience in waste planning, and few authorities have the staff with the experience required to carry out specialised research. The problem is compounded by the lack of data on waste arisings other than MSW, though the current Defra national survey of C&I arisings will hopefully provide some valuable up-to-date information.

The government should also look to improve incentives to develop heat distribution infrastructure, as well as ensure that financial drivers are clear and stable and that all incentives are grandfathered so that investments are protected.

The government should also look to provide clear guidance on the planning approval process for waste infrastructure and consider how planning gains could be utilised to encourage local communities to accept infrastructure development. This could include reductions to electricity bills for residents in areas with significant contribution of energy supply from low carbon and renewable sources.

*What steps can be taken to encourage community ownership of efw facilities?*

The value generated from energy infrastructure could be fed back to local communities through reductions in the community charge from the local authority. This could be achieved through sharing revenues from CI waste streams or through the allocation of a proportion of the business rates to the local community, or through reductions in local electricity bills in areas where EfW plants supply power to the grid.

However, care must be taken not to overload additional costs onto merchant projects, otherwise those projects will become uneconomic and will not get delivered. Community benefits associated with the waste development sectors should also not be disproportionate to other development sectors, particularly given that waste facilities represent necessary waste and energy infrastructure for society.

Where planning gains have been used successfully in the sense of enabling favourable local decisions without the need to resort to the appeals process, government could use such case studies to encourage best practice. If community benefits are to help provide an incentive for positive local decision making, rather than via the appeals route, it is important that they are linked to local decisions.

Other benefits of energy from waste schemes, such as local employment opportunities and the introduction of apprentice schemes, should also be communicated to the local community. See various above comments on similar points.

## Disposal

It should be noted that modern landfill sites are well engineered and operate to a high standard. Landfills also generate a significant proportion of the UK's renewable electricity and as landfill diversion continues to take place this generating capacity will have to be replaced. This will make the UK's renewable energy targets even more challenging than they already are.

Landfills have also performed a valuable land restoration role. The mineral extracting industries are often granted planning permissions on the basis that the land will be restored (usually by utilising landfill) when their activities are completed. Landfill for inert waste material should continue to play an important role in land restoration going forward.

Where practicable, waste should be managed as a secondary resource rather than be disposed of at landfill. Material from which further value can be recovered should not be landfilled in principle.

*How best to further reduce the amount of waste going to landfill?*

By enabling more planning permissions for landfill diversion facilities to be granted planning permission without the need to resort to the appeals process. The biggest contribution to landfill diversion comes from traditional combustion based energy from waste, yet these projects fare worst in the planning system (on political rather than technical grounds). Consequently, where such schemes are refused consent the large quantities of waste involved continue to go to landfill.

The primary driver for diverting waste from landfill has and will continue to be, the landfill tax. ESA supports the Government's decision to provide long term certainty regarding landfill tax rates to act as a driver to encourage investment in additional infrastructure. The medium-term target of £80 per tonne should prove sufficient to encourage investment in alternative infrastructure. The escalator's impact has yet to be fully seen due to the long lead time for new facilities.

At the same time, ESA's Members also need regulatory certainty to drive investment in new treatment infrastructure.

*What are the types of waste where a continuation of landfill might be acceptable?*

However well developed the recycling and recovery sector becomes, it is likely that there will always be some form of residual waste which requires disposal at landfill. In such circumstances landfill is an environmentally justifiable means of managing many different types of waste. Recognition of the continued role of landfill within the waste hierarchy should be clarified.