

Defra – Stage One: Consultation on the transposition of the revised Waste Framework Directive (July 2009)

Deadline for responses 9 Oct 2009

Response from Suffolk County Council with the support of the Suffolk Waste Partnership

Article 4 : The Waste Hierarchy

Question 1: What steps do you consider Defra/WAG should take to apply the waste hierarchy set out in Article 4(1) of the revised WFD as a priority order in waste management legislation? For example:-

(a) How should producers of waste – other than householders – be required to apply the waste hierarchy as a priority order when taking their decisions on the treatment options for their waste – either before the in-house treatment of their waste or before its transfer to another person for treatment. Please explain how you consider the requirement would operate and how it would be enforced;

Suffolk County Council (SCC) would be happy to comment on proposals put forward by Defra.

SCC believes that waste producers should be given information on the hierarchy by any/every product supplier i.e. following the principles of producer responsibility. Those who profit from the supply of products should be responsible for encouraging customers to apply the waste hierarchy.

The responsibility for educating and encouraging application of the hierarchy should not lie with the local authority. SCC believes that producers should be responsible. This will provide a fair system by which only those consumers who purchase a lot of items (and subsequently generate more waste) pay for the provision of education on the hierarchy through their purchase of products from the supplier.

Alternatively waste management companies could be the most appropriate conduit for providing information on the waste hierarchy. Waste companies could provide advice on the waste hierarchy before issuing quotes or arranging a waste collection. However, information from the waste management company at this stage is likely to be too late as the waste producer has already produced the waste.

The Environment Agency should become ever stricter in enforcing waste acceptance criteria and in particular in preventing hazardous materials entering non-hazardous landfill sites.

(b) What other measures, if any, should be adopted in the spatial planning system to apply the waste hierarchy as a priority order;

Reuse should be more specifically considered in the Regional Spatial Strategy, i.e. predict tonnages, predict number of facilities (collection points, workshops, warehouses) needed; as for recycling and disposal facilities.

(c) How should establishments or undertakings applying for permits for the treatment of waste under Article 23 of the revised WFD be required to demonstrate that they have applied the waste hierarchy as a priority order in reaching their decision about the type of treatment operation for which a permit application is being made;

Article 4 only requires that the hierarchy is applied to legislation and policy i.e. there is no requirement for waste producers or private waste management companies to apply the hierarchy. It is however our opinion that waste treatment establishments should be encouraged to consider the hierarchy.

SCC does not believe that permit application is the appropriate stage for consideration of the hierarchy.

The type of waste treatment facility/permit an operator chooses to construct will depend firstly on demand and economic viability and secondly on gaining planning permission. Planning permissions will be guided by the Regional Spatial Strategy which should (consider the hierarchy, and) provide for the appropriate amount of the appropriate type of treatment facilities. When the stage of applying for a permit is reached, the establishment will have already decided what type of waste treatment they wish to operate and will not have the flexibility to consider the hierarchy and make any alterations.

(d) How should competent authorities be required to apply the waste hierarchy as a priority order in making their decisions on permit applications for the treatment of waste; and

As mentioned in response to question 1(c), waste treatment facilities should be captured under the planning system and land allocations which are based on regional and local area spatial plans (which should themselves consider the hierarchy).

It is not clear whether Defra/WAG are perhaps suggesting that the Environment Agency (EA) are to be given powers to enforce the hierarchy. SCC does not believe that this would be practical in application to give the EA such powers.

SCC does not consider that a more stringent approach to landfill and a more relaxed approach to recycling operations from the EA would be an appropriate approach. This is because the highest standards of environmental protection should be applied in every case, not on a selective basis. Additionally, the very nature of the hierarchy means that those options higher on the hierarchy are less damaging to the environment, so artificially varying the stringency of environmental standards should not be necessary.

(e) How should the waste hierarchy be applied to waste treatment operations already authorised and in operation on the due date for transposition of 12 December 2010?

SCC does not consider that the hierarchy can be directly applied to existing authorised treatment operations. For the greatest effect, application of the hierarchy should be considered by the waste producer supplying the treatment operation (because waste will require separation for example, which must occur before the waste reaches the treatment operation).

Question 2: Are there specific waste streams where you believe that departing from the waste hierarchy would be justified by life-cycle thinking on the overall impacts of the generation and management of such wastes, in order to deliver the best overall environmental outcome?

SCC believes that all decisions should be based on life cycle thinking. Life cycle studies show that in general the hierarchy achieves the best environmental outcome for most material types. Divergence from the hierarchy occurs on an individual basis

and is not necessarily related to “specific waste streams”, but is dependant on various individual factors such as location of facilities, source of displaced virgin materials etc. Therefore it is not possible to name specific waste streams departing from the waste hierarchy would be justified, as this would be a generalisation. Life Cycle Assessment should accompany decisions where the hierarchy is not followed – but as a default the hierarchy should apply.

Question 3: Are there any further steps stakeholders and members of the public would like Defra/WAG to take to ensure that the development of waste legislation and policy, to apply the waste hierarchy as a priority order, is a fully transparent process?

No.

Article 8 : Extended Producer Responsibility (paragraphs 2.34-2.42 above)

Question 4: Are there any specific waste streams which you consider should be the subject of a producer responsibility regime under Article 8? If so, please explain what the economic and environmental costs and benefits of such regimes would be.

SCC suggests that disposable nappies and paint could be considered under extended producer responsibility in the future.

Currently the success of paint reuse is limited by the small scale on which collection and reuse can occur. A producer responsibility scheme could increase the quantity of paint collected, meaning that *useful* quantities of each colour and type of paint could be collected. A higher quality and greater quantity of paint would be of more value to consumers and increase the validity of the scheme.

Disposable nappies form a significant part of the residual waste stream and currently there are limited outlets for recycling. This waste is entirely household waste (as opposed to commercial and industrial) which means it falls under the control of the local authority (LA). LAs have limited resources to provide the collection systems that may be necessary, therefore a producer responsibility scheme could provide the necessary resources. Additionally, disposable nappies are to a certain extent unnecessary (cloth nappies being preferable in terms of waste generation), therefore the producer should be responsible for the generation of this waste.

SCC would like to highlight the extent to which current producer responsibility schemes often rely to some extent on the local authority to provide collection points e.g. many WEEE Designated Collection Facilities are HWRCs. As a concept this is not a problem, but the true and full cost of providing WEEE collection facilities at HWRCs are not currently met. Producers should meet the full cost of the waste collection and disposal under producer responsibility schemes. Additionally, HWRCs do not provide adequate coverage to meet the needs of all householders e.g. many HWRC are difficult to access without access to a car, many items are too bulky for householders to transport.

Article 11(1) : Re-use And Preparing For Re-use Activities (paragraphs 2.44-2.52 above)

Question 5: Are there any further measures you consider it would be appropriate for Defra/WAG to take under the terms of Article 11(1) to promote the re-use of products or preparing for re-use activities? Please give reasons to support your answer.

Defra should develop guidance on systems and prices with regard to reuse payments from Waste Disposal Authorities to Waste Collection Authorities (or community groups). Clarification and standardisation would help to encourage reuse activities because the activities would attract quantifiable recognition.

Additionally, in order to promote reuse, SCC believe that Defra should provide clarification on the issues described below.

Actions are often only embraced if they can be monitored and measured. SCC recognise the following problems with measuring/quantifying reuse:

- How many multiple times will the item pass through the reuse system before it is eventually disposed of?
- How do you ensure that the recipient of the item uses the item for its original use (as in the WFD definition of reuse)?
- Indeed, which definition of reuse should be followed?

The national system for recording municipal waste data in England (WasteDataFlow) defines reuse as:

“the use of household waste for its original or different purpose without processing or treatment ... other than for repairing or refurbishing”.

The WFD definition states reuse as:

“any operation by which products or components that are not waste are used again for the same purpose for which they were conceived”.

Under the first definition the item has become waste and is then reused, whereas under the second definition if the item is reused it is never considered to have become waste. The other discrepancy is that the second definition is based on using items for the same use, but the first recognises that items may not be used for the same use as before.

SCC considers that there is a problem with the Directive definition because items that are reused are not classed as waste. SCC would like to know how the Directive differentiates between second hand items sold on trading sites such as EBay etc. (not waste) and unwanted items such as exchanged through National Industrial Symbiosis Programme (waste). SCC would also like clarification as the Directive definitions do not appear to have a place for items that have become waste (i.e. the holder intends to discard), but are then reused without any preparation (checking, repairing, etc).

The consultation document states that promotion of reuse will be carried out through the Sustainable Clothing Action Plan. Although this will play a valuable contribution, SCC do not consider that targeting clothing have a significant effect on waste reuse. SCC suggest that focus on another waste stream could return greater benefits. The decision on which waste stream should be targeted for reuse should be based on analysis to justify the choice.

The consultation document also highlights the WEEE scheme as a way that reuse will be promoted. SCC does not agree that reuse is currently at the forefront of UK WEEE scheme, rather that recycling often pursued in preference to recycling. The suitability of items for reuse is often reduced by collection methods e.g. mixed collection of items thrown together. SCC believes that there is greater scope for promotion of reuse through the WEEE scheme.

Article 11(1) : Separate Collections Of Waste (paragraphs 2.53-2.68 above)

Question 6: Do you agree with the proposed approach to implementing the requirements of Article 11(1) on separate collections? Please provide reasons for your answer including, if possible, the costs and benefits of your preferred approach.

The Directive requires separate collection of the listed four materials. It is not clear whether separate collection applies only to household waste or whether it also applies to commercial and industrial (C&I) customers. Defra/WAG does not require authorities to offer separate collection of these materials for recycling (co-collected or otherwise) to C&I customers. SCC would like clarification on how waste materials from C&I customers will be captured by Defra in order to meet the requirements of the Directive.

The material groups listed are also not clear. For example, there are many different types of plastics from hard plastics to plastic film. SCC would like clarification on whether householders should have access to separate collection of *all* plastics, or is the Member State only required to offer separate collection of one type of plastic (e.g. bottles).

SCC agrees with the Government's overall approach outlined in para. 2.65, that decisions on the best ways to collect waste are a matter for local authorities or others involved in the collection of waste. Insofar that this is a key principle, the revised WFD should not be prescriptive in terms of the setting up of separate collections of waste to meet the second principle that such collections must be technically, environmentally and economically practicable and appropriate.

A key factor missing in this latter principle is public acceptability; local authorities are not only required to identify the most appropriate means to effect waste recovery, but this is also dependant on securing and sustaining public support for the scheme in order to maximise participation and overall scheme performance. Part of this is being sensitive, where necessary, to the variety of household types and the practical limitations of recycling, including but not limited to the storage of waste recyclables. In Suffolk, high performing recycling rates are being achieved through the co-mingled collection of dry recyclables (paper, card, metal and plastic).

SCC agrees with the statements in para 2.66 which support the maintaining the existing flexible approach, recognising that both collection types (source separated and co-mingled) have a role to play and that the selection of the approach should be determined by what is the most appropriate in the circumstances.

Furthermore, key issues also include the incentive for setting up waste recovery systems and who sets the quality standards. In addition, what would be the baseline for demonstrating if a scheme is technically, environmentally and economically practical?

Question 7: Do you consider that:-

(a) There are any measures that are technically, environmentally and economically practicable and appropriate to take in England and Wales, on the separate collection of household, commercial or industrial waste to meet the necessary quality standards for the relevant recycling sectors? Please give reasons for your answer; and

(b) If yes, which measures do you think should be introduced to achieve this?

Higher the required standards and quality requirements such as PAS 100 the higher is the gate fee. Ensure equity and consistency in the market place.

In Suffolk, a successful co-mingled collection of recyclables is currently operating, delivering high recycling performance. The cost of changing to a separate collection would be significant and would not constitute value for money for local residents.

Spatial considerations are key to effecting successful recycling, particularly in terms of rural communities where household and commercial density may not be sufficient to deliver cost effective separate collections. Moreover in high density urban environments, practical storage may limit practical waste recovery solutions. In view of this, an approach promoting local decision making is important.

Question 8: Do you consider that:-

(a) It will be technically, environmentally and economically practicable to set up by 2015, in England and Wales, separate collection for paper, metal, plastic and glass which is classified as household, commercial or industrial waste: Please give reasons for your answer; and

SCC believes that it will be practicable to set up the separate collections by 2015.

This has already been achieved in a number of authorities. It is largely dependent on strong partnerships in two-tier area which should be encouraged by central government more explicitly.

SCC assume that the responsibility for collection of the materials from C&I customers will lie with the local authority; therefore the measures described below should be considered.

(b) If yes, which measures do you think should be introduced to achieve this?

In order to achieve separate collection, SCC believes that support, guidance, and funding should be provided to those WCAs/Disposal Authorities that do not currently collect these recyclates from C&I customers. The ongoing collection costs of such a service should be covered by the charges made to the C&I customers, however WCAs may require assistance with funding for the initial purchase of new vehicles, and Disposal Authorities may require funding for provision of new HWRC style facilities.

SCC also believes that clear guidance on how to operate such collections is required e.g.

- how tonnages are included in local authority performance indicators,
- how the relationship between authority and arms length businesses/partnership companies operating commercial collection for the local authority works, and
- the powers that the local authority holds etc.

Customers should be incentivised to recycle through the pricing of recyclate service versus residual waste collection service. However, for those customers who are entitled to free collection and/or disposal from the local authority there may not be incentive to recycle. In this case, Defra should reiterate the powers held by the local authority to require all customers to separate materials for recycling (as for householders).

There may be problems with small businesses who lack the space to store additional containers for recyclate. Small businesses may require greater flexibility (size of containers, frequency of collection) from their recycling provider. Defra should provide guidance to local authorities on the provision of this service.

Article 11(2)(a): Household Waste Recycling Target (paragraphs 2.69-2.91 above)

Question 9: Do you agree with the proposed approach to implementing the recycling target for household and similar waste required by Article 11(2)(a)? Please provide reasons for your answer including, if possible, the benefits or otherwise of your preferred approach.

The proposed approach to implementing the recycling target contained in the consultation document focuses on defining the reuse and recycling (and ensuring the definitions include sufficient tonnages to meet the target). No other “approach to implementing the recycling target” is detailed.

SCC believe that the approach to implementing the target should include guidance from Defra on the possible inclusion of “similar wastes” in the target.

Question 10 (England only): Given the LAWRRD model scenarios above, do you agree with the Government’s preferred “no further measures” approach? Please give reasons for your answer.

Yes.

Question 11 (England only): If you think the Government should look to introduce additional measures to ensure that the recycling target of 50% for household and similar wastes is reached by 2020, do you have views about what these additional measures should be? If so, please specify and give reasons for your answer.

A key consideration must be behaviour change to maximise participation and material separation in recycling schemes. This will have a positive impact in improving the environmental and economical performance of collection.

From a process perspective, it may be useful review the definition of household waste in terms of for example the inclusion of litter and street sweepings, which are significantly different to waste collected from the household.

Question 12 (England only): Do you have views about targeting any additional measures on specific materials? If so, please specify which materials you consider are high priority and give reasons for your answer.

Food waste - the environmental effects of landfilling food waste are great due to its biodegradability. The nature of food waste means that unlike other biodegradable wastes, it is often not suitable for home composting. Food waste forms a significant proportion of the residual waste from households.

Question 13 (Wales only): Do you think that Wales’ approach will meet the requirements of Article 11(2)(a) of the revised WFD? Please give reasons for your answer.

Article 11(2)(b) : Recovery Target For Non-Hazardous Construction And Demolition Waste (paragraphs 2.92-2.102 above)

NA

Question 14: Do you agree with our assessment of the extent to which we are already meeting this construction and demolition waste recovery target in England and Wales?

SCC cannot provide a response as a complete data set is not currently available.

Question 15: Do you believe that any additional policy or legislative measures are necessary for us to guarantee that we are meeting this target in England and Wales?

No comment.

Article 16 : Principles Of Self-Sufficiency And Proximity (paragraphs 2.103-2.115 above)

Question 16: Do you agree that the UK is currently self-sufficient in installations for the recovery of mixed municipal waste from private households etc? If not, please (i) explain your reasons and (ii) the steps you consider need to be taken by the UK to achieve self-sufficiency in relation to such installations.

According to the definition of terms used in the Directive, the UK is not self sufficient. The Directive requires an adequate network. The UK does not have currently have an adequate network of recovery facilities to meet the needs of all councils who wish to reduce their reliance on landfill. However, there are many procurement processes underway which will see many councils procuring their own recovery facilities in the next 5-10 years. SCC envisages that these new facilities will meet demand and ensure self sufficiency in recovery.

The Directive also requires consideration of BAT when ensuring self sufficiency. The definition of BAT (Directive 96/61/EC) is the most effective and advanced stage in the development of activities. Therefore, although the UK could be seen as self sufficient with an adequate network for disposal and recovery, a large proportion of this is landfill. Landfill is not the BAT for dealing with mixed household waste. EfW is a better technique in terms of emissions to air, water and land. Therefore SCC does not consider that the UK is self sufficient.

Recovery also includes recycling. Although some recycling operations occur in the UK, many occur in China etc. In this respect SCC does not consider that the UK is self sufficient in BAT recovery operations. The UK requires more economically viable recycling facilities.

The Directive does not however require the UK to be self sufficient in certain recovery processes, only that self sufficiency on a European scale is achieved.

Articles 17-20 : Hazardous Waste (paragraphs 2.116-2.121 above)

Question 17: Do you consider that the following changes will have an impact on the way in which hazardous waste is managed? Please give reasons for your answer and, if yes, set out the implications that you consider the changes will have:-
(a) The addition of a new property: "H13 (*) 'Sensitizing'": substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce non-hereditary congenital malformations or increase their incidence";

No

(b) Existing property H13 has been re-numbered to H15. This means that this property “H15: Waste capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics above” now also applies to “H14 ‘Ecotoxic’”. In other words, H14 (ecotoxicity) now has to be considered as a criterion for H15; and

No

(c) Article 18(2) which allows mixing only where the permitted mixing operation conforms to best available techniques.

SCC would expect industry to be better placed to respond to this question.

Article 21 : Waste Oils (paragraphs 2.122-2.124 above)

Question 18: Do you agree with the proposed approach to rely on the measures adopted to transpose and implement the waste hierarchy (and related measures) and not to prescribe under Article 21(3) that waste oils must be regenerated if technically feasible? If not, please provide reasons for your answer and, if possible, explain the economic and environmental costs and benefits of your preferred approach.

SCC views Defra’s proposed implementation as a weakening of the approach to management of waste oils. Especially given the recognition that there are currently low levels of regeneration with potential to increase (stated in waste strategy 2007)

Article 22 : Bio-waste (paragraphs 2.125-2.132 above)

Question 19: Do you agree that sufficient measures are already being taken in England and Wales to encourage bio-waste treatment etc as envisaged in Article 22? If not, please (i) explain your reasons and (ii) the measures you consider need to be taken in England and Wales to encourage bio-waste treatment etc as envisaged in Article 22?

Sufficient measures may already be being taken to encourage bio waste *treatment*, but the Directive requires that member states encourage the *collection* of bio waste. The cost of treatment is encouraged through landfill tax which in many cases makes composting/digesting more economically viable. However it is the opinion of SCC that the cost of collection often poses the greatest barrier to composting/digesting especially in more rural areas. Bio wastes often require more frequent collection because they cannot be stored at home in a pleasant way – more frequent vehicle passes collecting small quantities each time are not as efficient for the waste collection vehicle. SCC consider that this should be the focus of Defra’s “encouragement” – possibly financial encouragement.

SCC believe that separate collection of bio waste should only be encouraged where a useful output/digestate will be produced. Separate collection for Anaerobic Digestion where the output is landfilled should not be encouraged as diversion from landfill to EfW would be equally preferable.

SCC do not believe that the separate collection of garden, parks and raw food waste should be encouraged. Rather that these materials are composted at home, or (where appropriate) left to decompose in situ.

Article 28 : Waste Management Plans (paragraphs 2.133-2.138 above)

Question 20: What revisions do you consider Defra/WAG should make to the existing arrangements for waste management plans (see paragraph 2.134 above) to transpose the requirements of Articles 28(1), (2) and (3)(a)-(e) of the revised WFD? Please give reasons for your answer.

SCC does not consider that England's current plan (the Strategy 2007) clearly and comprehensively cover Article 28(3)(b) - existing waste collection schemes and disposal/recovery installations.

The waste management system and the planning system need to be far more integrated and waste management plans should begin to take account of waste from sources other than the municipal stream.

Question 21: Which, if any, of the discretionary issues set out in Articles 28(4)(a)-(d) of the revised WFD do you consider Defra/WAG should address in the arrangements for waste management plans adopted in response to Question 20? Please give reasons for your answer.

No comment.

Article 29 : Waste Prevention Programmes (paragraphs 2.139-2.145 above)

Question 22: What are your views on the merits of either (i) freestanding national waste prevention programmes in England and Wales or (ii) a more dispersed approach which would involve introducing a requirement for local authorities to draw up their own waste prevention programmes? Please give reasons for your answer.

SCC believe that the greatest advantage would be gained if a freestanding National Programme were complemented by a more joined up regional or local approach. As there is no longer a requirement for Joint Municipal Waste Management Strategies, waste prevention should be implemented at regional level in accordance with the National Programme. There should be a more consistent and joined up approach with delivery agencies including WRAP, BREW and NISP at a regional level.

The responsibility for the delivery of the Regional Implementation Plan would fall to a Regional Waste Board. This body would 'top slice' funding from the Landfill Tax Levy in a similar manner as for WRAP and BREW.

Question 23: What are your views on the integration of waste prevention programmes into the waste management plans required by Article 28 of the revised WFD, their integration into other environmental policy programmes or their functioning as separate programmes?

Programmes sit below plans and as such should contain greater detail than plans. Therefore it is not appropriate to include a programme for waste prevention within the Plan.

However it is essential that waste prevention is integrated into wider policy objectives at regional level rather than functioning solely as a separate programme. This would help develop the approach of designing products that could be dismantled and reused, rather than dealing with materials after they have been discarded.

Question 24: Member States must evaluate the usefulness of – but not necessarily adopt - the 16 examples of waste prevention measures in Annex IV to the revised WFD. Do you have views on the usefulness of any of these examples as waste

prevention measures? If so, please specify the measures and give reasons for your answer.

SCC cannot respond without more detailed consideration.

Initial Impact Assessment (paragraph 2.146 above)

Question 25: Do you consider that the costs and benefits of the transposition and implementation of the provisions of the revised WFD that are the subject to the Stage One consultation exercise have been accurately assessed in the initial Impact Assessment at Annex 3 (page 71) to the consultation paper? If not, please provide whatever evidence you can to enable a more accurate assessment to be made in the Impact Assessment that will form part of the Stage Two consultation exercise.

SCC consider that cost and benefits of the transposition are accurately assessed.

Additional comments

Whilst SCC accepts Defra's clear statement in para. 2.13 that the definition of recycling includes the reprocessing of organic matter (e.g. composting), the omission of the term "composting" visually excludes a significant waste management process from the immediate list of options available to manage wastes.

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