

Philip Nugent
Principal Officer
Waste Policy & Resource Efficiency
Department of the Environment, Community &
Local Government
Newtown Road
Wexford

Headquarters, PO Box 3000
Johnstown Castle Estate
County Wexford, Ireland
T: +353 539160600
F: +353 53 9160699
E: info@epa.ie
W: www.epa.ie

30 January 2014

My ref: sd120/00584

Dear Philip,

Re: Consultation on the Regulation of Household Waste Collection

I refer to your Department's consultation dated November 2013 on the regulation of household waste collection and the invitation therein to make a submission. The observations and commentary below are presented in a format that reflects the order of policy questions set in the consultation.

Section 2 - Household Waste Collection Legislation

Local authorities that are in the waste collection market are currently exempted from holding a waste collection permit under existing legislation. It is unusual that there is a significant waste management activity for which no authorisation is required. For national waste reporting purposes, we need to capture information on what the waste local authorities collect, in the same format that the private sector permitted operators submit data (i.e. annual return). This has been overcome to date by NWCPD issuing a 'dummy' permit number to the local authorities that are still in the collection market and then the local authorities upload the relevant information to the e-reporting system. Our sense is that the Local Authorities should be required to hold a collection permit.

Section 8a – Waste Hierarchy

Q1 – It is clear from different sources of feedback that the EPA get that there are variations in what certain waste collectors will or will not accept in the different bins provided by their individual services. This is not satisfactory for householders: some will choose based on price others on the quality of the service, which is not satisfactory for the State. Household waste collection should be offered on a common understanding of what waste can go into what bin (a common example would be what waste plastics are acceptable in the dry recyclables bin). Operators should develop and promote this common source segregation and bin-use protocol in collaboration with the regional waste management authorities and the NWCPD.

Moreover, we strongly believe that the colour coding of the bins (or at the very least the bin lids) should be standardised nationally as a clear and instant behavioural signal to the consumer (e.g. dry recyclables bin is not always green, etc). As regards waste prevention, the State has undertaken some initial investment in

the national Green Home programme (via the NWPP). It strikes that this is an excellent vehicle for promoting appropriate household waste prevention behaviours. EPA suggest that the national Local Authority Prevention Network (LAPN) currently supported and coordinated by EPA should have a central role in household waste prevention behaviours, education, etc. Indeed it might be preferable for the LAPN network to take over the operation and development of the Green Home programme (with continued support of EPA) as it is currently not maximising its potential as a prevention opportunity. Household waste prevention/education is an essential element to be included in the new Regional Waste Management Plans, and Plan implementation.

Q2 – The sophistication and technology applied to waste segregation has advanced significantly in recent years. The current model of ‘competition in the market’ for waste service, and the associated uncertainty, does impact on the level of ambition and investment put towards sophisticated waste segregation technology (cheapest and usually less ambitious service wins – ambition in this case being the effort applied to add value through maximising segregation & recovery). There is an economy of scale argument here too: with high waste volumes from urban areas the investment in sophisticated technologies such as optical separators is more cost efficient. We would also add that it is our experience from research and from years of enforcement practice that the average consumer is broadly lazy or apathetic when it comes to participating in complex waste sorting solutions that would necessitate multiple trips with different waste streams to different collection points. It will always be infinitely more efficient to have the national arrangement of 70 to 100 waste treatment facilities properly apply sophisticated waste sorting technologies to separate the different dry-recyclable streams than expect 1.7 million households to separate all streams efficiently at source *beyond* what is understood as a three bin system. I see no technical difficulty in principal with co-mingled collections of certain compatible dry-recyclable materials as the technology is available to segregate effectively. There is an overlapping concern here with Q1 in that any agreement for co-mingling of diverse streams in the dry-recyclable bin has to be accepted on a broadly national scale so as to avoid confusing the consumer with different rules in different areas.

Q3 & Q4 – Again this is linked to Q1. There should be one consistent national understanding of what can go in each of the three collection bins. The State should use the national collection permit regulation to harmonise this rather than see a raft of perhaps divergent local bye-laws. The regulations should stipulate that all household should have a minimum 2 bin service (dry recyclable and residual) and that the 3rd bin (for organics) should be provided as per the household food waste regulations population thresholds. The rules for use of bins could be *general binding rules* applied as an annex to the regulations and would apply to all household waste collection permits.

Q5 - Yes

Q6 – The use of PTUs is a complex matter. Firstly we do believe that these units have a legitimate place in the national waste collection infrastructure - with certain limitations. For instance we see that the units have a place dealing with transient populations associated with tourism activities (camp sites, boating marinas, small island communities, etc.,) where sophisticated segregation at the level of the waste producer is not realistic in the circumstances. The units could also be co-located at Local Authority recycling centres to handle residual waste brought to these sites (37,000t in 2011) and where the operator may not wish to handle money, etc., or the site is partly manned. In certain low-density rural areas where there is currently no collection service offered (which would not be the case were it a ‘completion for the market’ solution). EPA and CSO data suggests that only 70% of occupied households nationally are either

not offered a collection service or do not participate in one. The PTU solution could be usefully deployed in low density areas (at cross-roads, at a shop, etc.) to provide for such un-serviced communities. A manned bin truck service may not be economic for low density and remote geographical areas. We may well have to accept that full source segregation of collected household waste is not realistic or achievable in cases of economic or technical impracticability (e.g. remote areas). All PTU material should, as a condition of the collection permit, be consigned to a MRF for recovery of recyclables prior to onward use in energy recovery or disposal. We would see that split PTU bins (one part for recyclables) is not an implausible design solution either (with no price differential so as to ensure appropriate use). The final case for acceptance of PTU would be where there is no competition in the collection market in a given area. Here the collector would be in a monopoly situation leaving households with no choice but to pay what is asked (whereas in a *competition for the market* solution the single operator would have bid a collection price which would be fixed for the household/level of use, for the period of the tender). A PTU solution would give choice to consumers in an unregulated monopoly situation. PTUs are a form of waste collection adequately regulated under a collection permit (like a skip, or compactor at the back of a retail premises) and not necessarily requiring a facility permit. There seems to be a variation in national practice on this point. A final point on PTU is regarding the data collection. We are not entirely sure if this household stream is adequately captured and differentiated from the door-to-door collection data by the collection companies and should be a requirement of their authorisation. This is a matter for the collectors to address as a specific item in their reporting documentation and we understand that NWCPO at Offaly Co. Co. is addressing this as part of the 2013 waste collection permit annual return e-reporting system.

Q7 - It is extremely difficult for collectors to effectively monitor the contents of bins as presented other than a cursory peek in the top as the bin is presented to the rear lift device on the truck. Thorough examination would require CCTV and client coding on all bins presented to the lift, and it would also really slow up the route; and even then it is not fully realistic as inappropriate materials could be bagged and thus concealed/disguised. There are 1.7M occupied houses in the state with say an average of 2 bins per week yielding nearly 3.5M bin contents to be checked – this is not realistic. Perhaps likely to be more successful would be random checks of clients' bins and also checking of anomalous bins (e.g. atypically heavy for house type): but even this requires facilities, equipment, time, training, etc., - it is hardly likely to take place on the side of the road. There are three main reasons for bin contamination; 1) lack of education on use, 2) laziness/apathy, and 3) it profits the householder to 'hide' high cost waste in low cost bins. We believe that education is a matter for the Local Authorities (through EAOs & the LAPN network) in collaboration with the collectors. In addition to educating households, careful finessing of the pricing structure for bins can likely be used to incentivise correct behaviour and avoid the profiteering from non-compliant behaviour. It will have to be accepted that even with education and incentivising, some degree of contamination will be a reality for the bin collections and accordingly the recovery/treatment centres should be designed to capture and remove this material where possible (though ideally at a low level of incidence). Any condition in a collection permit for bin checking will need really careful drafting and really careful enforcement so as to ensure there is a realistic possibility to comply and a cost-effective enforcement objective/outcome. On a related matter; if there is a high contamination rate in bins (and waste operators reported at the November 2013 Waste Summit that contamination was a problem in dry recyclable and organics bins), then this has implications for waste data reporting. There should therefore be a condition to require waste operators to provide an estimate of percentage contamination in the MDR and organics bins they collect. This could be built into the waste collection permit annual return template in time.

Q8 - a) Landfill bans are OK but do represent an enforcement challenge. The BMW ban/restriction only reduces municipal derived biodegradables and not biodegradables from industrial sources. This is inefficient from an environmental benefit perspective – i.e. still methanogenic waste in fill. It would seem logical from an environmental benefit and technical sense to ban all biodegradable wastes from landfill (including international transport derived food waste as this can now be treated by incineration). With that exception, we would suggest that the extensive processing of wastes prior to landfill means that it may be difficult to identify/isolate specific source streams for inclusion in a ban. It is perhaps more efficient to let the market regulate what goes to landfill by sending price signals through the landfill levy. The government policy aims to “virtually eliminate landfill by 2020” which suggests that by then non-disposal treatment solutions will be found for materials such as ash from incinerators. We suggest it makes sense to look at the type of wastes that are currently landfilled, decide whether or not disposal to landfill for these streams is a satisfactory waste management option (considering current technologies available) and, if not, estimate the time period necessary to find or establish the waste management technology and infrastructure necessary to provide an alternative treatment. A timetable could then be drawn up to eliminate those waste streams from landfill, for which better waste management options exist or are likely to exist in the short, medium or long term.

b) See a) above. Yes.

c) Remove the suggestion that sewage sludge *disposal* to landfill is exempt (c.f. see article 6(1)(c) SI 199 of 2008). Sewage sludge should only be used in a recovery capacity in landfill restoration projects. Remove blanket exemption for (d),(e) & (f) (street cleaning & municipal litter as well as fly-tipped material, etc.,) as this eliminates the incentive to source recovery options for such materials. Only allow the levy relief for the *residuals* of these streams following pre-treatment.

d) Any legislative fixes for the current weakness in relation to financial liability are appreciated; though in the context of waste collection activities environmental liabilities are not as significant as would be the case for a waste facility. That said, we would like to make some general points on the matter of environmental liabilities. Viz; for example the EPA (or the environment) is not a secured creditor in the Companies legislation and the liability of an EPA licence can be disowned as onerous property by a liquidator. Moreover, funds set aside by a company for legally approved restoration are confiscated by the receiver/liquidator. These frailties must be addressed or else the State will have to continue to pay for such risks from the public purse while banks and other secured creditors are protected. Kerdiffstown - a facility and not a collector - has cost the State millions.

Q9 – Export bans are problematic as waste destined for recovery is not subject to the EU Proximity Principle. Any restriction could run counter to EU trade agreements. That said, the State may be able to attach levies to certain activities lower down in the waste hierarchy other than landfill. It would seem a good defence to any suggestion of trade interference that the State policy was to use levies to drive waste management choices up the hierarchy. A levy on waste-to-energy activities that would apply to material sent to national and export facilities may assist. The State has some practice in applying such levies through for example the An Bord Bia Act 1994 (c.f. in Section 37). The State may also look at the application of VAT to processed secondary fuels (RDF/SRF) as the material is in effect a value-added stream (through processing) to see if this could be used to drive greater use in the national value chain.

Q10 - In the case of streams like batteries we believe the State should consider the use of deposit return levies or a statutory discount on return requirement (where you get a reduction in the price for exchanging

a used battery for a new one) that would incentivise the diversion from household bins. If successful this could be used for drink cans and other value streams.

Section 8b – Deliver Mandated Service Levels

Q11 – No. The technology is there to adequately segregate once the economics are right. And it is more challenging in a *competition in the market* scenario to get the right economic environment necessary to secure investment in treatment technology. Moreover, from a cost benefit and regulatory efficiency perspective it would seem logical to apply the correct effort of treatment/recovery to extract these materials at the less than 100 facilities nationally than to expect to deliver this high ambition at the doorstep of 1.7million homes.

Q12 – I am not sure what the basis for this stipulation would be. Is there a major problem in the current frequency of services that warrants regulation? It seems like a too strong an intervention into the collectors' business planning, and is more appropriate to a service level agreement undertaken in a *competition for the market* situation.

Q13 – Mandatory 2-bin service to all serviced households, and 3-bin as per household food waste regulations. Collectors should be required to provide household level information for apartment complexes serviced in their AER. Eliminate bag based collections from household doorstep services (use wheelie bins).

8c Pricing Structures

Q14 – Yes

Q15 & Q16 – These are difficult questions. As noted in the response to **Q7** above there is need to finesse the pay-by-weight system that recognises (i) that the *polluter pays* principal is operated, (ii) that good segregation behaviours at households are incentivised, and (iii) that cross-contamination due to households attempting to avoid cost by placing inappropriate high cost waste in the recycling or organics bin. This finessing will also involve different PBW scales for each bin type. This will need input from the collectors who best understand their client behaviours. It may be necessary to undertake a period of trialling different solutions, or at the very least a willingness to monitor household behaviours/responses to the charging structure.

Q17 & Q19 – It seems reasonable that a fixed charge be applied as there is a basic cost of providing a service regardless whether any individual house presents waste for collection in any given week. Customers would then pay additional charges based on weight of the content of their presented bins. Bin collection charging is a bit like health insurance schemes in that there must be a common basic fee (fixed charge element) paid to cover all participants whether heavy or light users. See also **Q21**. Many waste companies offer a tag-a-bag service, and particularly in rural areas, branded bags are collected at particular collection points. These bags are bought for example at the post office by people who don't have a contract with a waste collection company. Such services do represent a littering risk. Pay-by-weight would not be an option for such bags; moreover it is difficult for the waste operators to estimate how many households they service based on tonnage of bags they collect, as these customers are not identified in any customer database to identify individual households.

Where a pay by weight system is introduced, security of the bins would be important, i.e. that your neighbours couldn't fraudulently use your bin to minimise their own waste disposal costs!

Q18 - All bins should have a charge as an essential means of incentivising on-going prevention behaviours. Another risk of the 'free' bin is associated with contamination by material from the 'cost' bin through householders trying to avoid cost.

Q20 – Perhaps fixed penalty would be better as revoking means that there is no immediately available replacement service. Revocation has the effect of putting all staff out of work. This is a severe sanction, and thus should be progressed exceptionally.

Q21 – Has to be nationally fixed. However it is only reasonable to contemplate fixing the standing charge element. If there is set universal charges then all market competition incentive is removed. The Competition Authority supported the competition *in the market* solution on the basis that price competition was good for the consumer. If you remove this then we may as well have *competition for the market*. Transparency in pricing mechanisms is very important – householder should be easily able to compare costs across any operators providing service in their area. Currently with all the pricing models this is difficult. It would be appropriate to levy the standing charge on all occupied households in the State (holiday homes – which are an additional class of housing – may attract a 50% charge); this to be included in the Governments Household Charge and a portion used to offset local recycling infrastructure not provided by collectors. The contribution by every house to fixed charge could also be used to guarantee universal service (i.e. collection in low density remote areas). Finally we would suggest that as part of the fee mechanism that both collectors and householders pay, that a percentage is appropriated for EPA use in the periodic (4-5 year intervals) but very costly waste characterisation activities.

Q22 – No.

8c Fit & Proper Persons

Q23 – Yes the authority should remain with the LAs.

Q24 – Yes. However for operators with national permits this sanction may need careful application as the poor practices may be a local management issue. Bear in mind that revocation will make staff redundant.

Q25 – Yes

Q26 – The level of insurance is related to the scale of business, the range of services provided, and the attendant environmental liability.

Q27 – Not necessary in relation to the holding of a permit, but it should be specified in a condition in permits regarding the skills and training of operational personnel. Accredited training to ensure that permit holders or their operational personnel have the necessary technical and IT skills is very important. Reporting obligations should form part of the training curriculum, for example annual waste data returns should be filled in and corrected as part of the training. The training should also give the operators the knowledge necessary to obtain a data management system that will provide the information to fulfil their waste reporting requirements, and that can be adapted to satisfy future needs. Training of weighbridge staff is critical, as they have a key role in the recording of incoming and outgoing waste streams at the site, which ultimately are the source of the annual data returns.

Q28 - Yes, because insurance cover is typically arranged on an annual basis, and there could have been compliance issues in the previous year. The Annual Environmental Report could be used as a vehicle to address this renewal requirement.

Q29 – Could there be a penalty points system for operators who don't submit waste collection reports of appropriate quality. Clear consequences would need to be defined once a certain number of penalty points had been accumulated, such as increased enforcement fee due to the extra time needed for local authority staff to validate poor quality returns or those having to be resubmitted.

8c Waste Management Collection Fees

Q30 => Q35 – The LAs and the NWCPO will likely be commenting on these questions. There are two fee possibilities, the first in relation to permit application and the second in relation to an annual charge. Decisions need to be made in relation to the latter. Fees should reflect the scale of activity, the extent of its regional presence and the likely enforcement burden (risk based). The suggested fee structure does not have a weighting for scale of operations which would seem disproportionate. [If I had Class 7 would that permit me to take Class 8?] The fee structure should be scaled for single or multi-regional operations. Three tiers of risk based (enforcement effort) fee factor would be sufficient. A fee formula based around a set minimum might assist. It should be clear, simple and defensible (and can avoid the establishment of troublesome classification as in the table included with the Consultation). The following example sets out such an approach:

$$FEE = A + 2B + 3C + 4D$$

A = The set *de minimis* fee

B = Risk base = 0.25(A) for C&D and inert carriers; 0.5(A) for Household waste; 1x(A) for hazardous waste

C = Scale = 0.25(A) for <40,000tpa; 0.5(A) for 40,000 to 100,000tpa; 1x(A) for >100,000tpa

D = Regional presence = 0.25(A) for one region, 0.5(A) for 2 regions, 1x(A) for three or four regions.

Such a formula will need proofing to ensure the weighting factors are applied at a proportionate level. The advantage of this approach is that only one base fee is set in legislation and is accordingly easy to subsequently adjust. In the case of collection for re-use activities, or very small 'artisan type' collectors, they could be asked to pay a proportion of the base fee. See also Q21 in relation to contributions to State costs in waste characterisation.

Q36 – Yes, can be included in revamped Annual Environmental Report (AER) submission.

Q37 – The Charter should include a commitment by operators to assist the national authorities in making national statistical returns by providing accurate, complete and timely data. The Charter should include a commitment to the **fundamentally important** obligations articulated in Section 29(2A)(a) of the Waste Management Acts. The Charter should also commit operators to cooperating with the EPA in relation to the periodic national waste characterisation surveys (providing access to waste streams, temporary space to characterise waste, etc). The Charter could include a requirement to publish annual information on the percentage of household waste that they collected that was disposed/energy recovered/recycled (in

accordance with the obligations of Section 29(2A)(a) of the Waste Management Acts), although some oversight on how they calculate these percentages would be needed. **Q38** – Yes

Q39 – Collectors participate in a peer-to-peer audit scheme operated by trade association and the findings reported in AER.

Q40 – Refer Q37.

Q41 – Customer charters or regulations could be used to address issues arising via nuisance. This question is related to that posed in **Q12** above. Either way enforcement will be required. Otherwise it is difficult to see how the State should interfere with the market to the extent as to synchronise collection activities. Competition *for the market* would eliminate this risk.

Q42 – This is a planning and road safety issue primarily. There is no easy win. In urban areas night collections are very efficient, minimise traffic nuisance, but may cause noise nuisance for urban dwellers. Maybe specialist fleet with noise suppression would address the problem, rather than stopping night collections. Collections during rush-hour do represent a road traffic risk.

Q43 – See also **Q42**. Other than nuisance matters like emissions, and the requirement to ensure segregation of different waste streams, the choice of fleet (size of unit, etc.,) is surely an operational decision and not one for regulation.

Q44 - Overlapping collections are hugely inefficient from an emissions and carbon intensity perspective: any objective Life Cycle Assessment of this scenario would confirm same. Unfortunately the carbon intensity of this inefficiency is not factored into the advice of the competition authority. The most efficient solution from a carbon intensity perspective is likely found in the *competition for the market* model.

8c Awareness & Education Measures

Q45 – FPNs are a good instrument, but they require a detailed enforcement regime backing them up. It would be administratively more efficient and perhaps yield a better outcome to put the standing waste collection charge in the national Household Charge scheme. In this way all households will pay for services and will thus likely be more inclined to present their waste and pay the collector the additional per kg charge.

Q46 – Absolutely agree. Such statistics are essential to support national reporting obligations to the EU. Very important in the case of serviced apartments as data from this housing type has been traditionally poor.

Q47 – The Local Authorities through the Regional Waste Management Planning arrangements must accept responsibility for waste management and waste prevention awareness and education for households. The LAPN can contribute to this planning action. We anticipate that the CSO Quarterly National Household Survey 2014 will give us reliable statistical information on household waste management behaviours which could inform future regulation. See also **Q1**.

Q48 – a) The permit application process is complex, particularly for local, small volume activities. General Binding Rules could be employed to simplify permitting. The Fourth Schedule of SI 821 of 2007 (Facility

Permit Regs) is a good example of the use of general binding rules. The advent of the NWCPO is an excellent innovation, and a great success. It has improved the approach to collection permitting.

b) No. We think that submitting an annual return is preferable to supplying data on an on-going basis. When the annual return is compiled, errors can be spotted and fixed. The annual reporting process can serve as an annual review of general data management procedures.

c) Movement to web publication is very attractive – and would involve significant savings – though it could be challenged under Aarhus I suspect. Perhaps if combined with a continuation of site notices may work. Legal advice on this warranted.

d) Definitely

e) Yes. All local libraries have public access internet facilities.

f) Similar to a) above. Yes.

g) Seems reasonable.

h) The permit number is unique. Permit names are not. Perhaps permit the Permit number to be displayed 'in' the vehicle rather than 'on' it would allow a simple low-cost replaceable tax disk type arrangement for the number record to be displayed.

i) Yes to all.

j) Seems reasonable.

Q49 – Regulation 30 of the Waste Collection Permit Regulations 2007 deals with exemptions from the need to hold a collection permit. There are aspects of these that have been unhelpful to regulators over the years. For instance there is no relief for community nurses, doctors or veterinarians who may have to carry clinical/medical waste back to base from a client visit. Regulation 30(1)(b) of SI 820 of 2007 is limited in value as it only applies to non-hazardous waste. Road-side breakdown assist companies who may have oil waste, or emergency services who attend a chemical spill and clean-up, or wind turbine service engineers, all would transport waste back to base for appropriate onward management are not given relief. The transport of hazardous waste in these cases is not the main activity, it is incidental, and is not for reward. It seems particularly unreasonable to have the emergency services require an authorisation for such eventualities. The matter has been ignored in the implementation of the Regulations rather than forced through, but that is legislatively unsatisfactory. It would be of some merit to consult with the NWCPO to highlight any other anomalies. We would like to see some relief under the exemption clause too for farmers bringing farm hazardous waste to central collection centres (at marts or Civic Amenity sites). The 126,000 farms nationally are widely dispersed, so getting an economical and environmentally viable collection to each farm is not practical: recent pilot studies by EPA and DAFM have demonstrated the successful operation of a special one day 'bring centre' approach in collecting farm hazardous waste stream.

We would like the Collection Permit regulations to clarify any concern around so called 'static collection' services (i.e. the collection does not have to be on a moving vehicle). This would permit the use of local 'chem-car' type collections of household hazardous waste in community shopping centres or at charity days where metal is collected, or use of farm waste collection points on mart days. These collection points

are temporary and movable and needed, and the collection Permit regulations are the most appropriate regulatory mechanism for this service (a facility or certificate approach would kill such useful initiatives).

We are also aware of issues where the exemption is being used to facilitate movements of waste we believe should be regulated under a collection permit such as in the case of WEEE (haulage companies used by EEE distributors to move WEEE and using the distributors' relief but not tracking/reporting the material). We have previously made a submission to the Department on this matter (c.f. Roger Harrington).

It is very important that annual waste data reporting can be carried out in such a way that the information is submitted once; is validated thoroughly by the regulator; and that the data are then accessible to various users. When developing and reviewing the annual return template, the information needs of all users must be known and addressed.

Civic amenity sites and bring banks are important elements of national infrastructure in relation to acceptance of household waste (16% of managed household waste in 2012). In the main they have been built/managed by local authorities. There are some private operators that allow households to bring their waste directly to their site, but don't generally distinguish between these household waste streams and other wastes accepted at their weighbridge and so there is no separate reporting of this as a 'household' waste stream in their annual returns. This could be resolved by requiring operators to separately record and report on such household waste acceptance in their annual returns.

□

We trust these comments and observations are of some value, should you have any queries please do not hesitate to get in touch.

Yours sincerely



Dr J Derham
Programme Manager