

Natural Resources Management Team
Welsh Government
Cathays Park
Pillar J08
East Core
CF10 3NQ

Friday, 29 September 2017

Dear Sir/Madam

Consultation Paper: Taking Forward Wales' Sustainable Management of Natural Resources

We have received a copy of the above draft guidance for comment as part of your consultation process.

The Chartered Institution of Wastes Management (CIWM) is the professional body which represents over 6,000 waste and resources management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the waste and resources management industry and has various grades of membership determined by education, qualification and experience.

CIWM is recognised as the foremost professional body representing the complete spectrum of the waste and resources management industry. This gives the Institution the widest possible view and, perhaps more pertinently, an objective rather than partial view, given that our goal is for improvement in the management of all wastes and resources.

The Cymru Wales Centre of the Chartered Institution of Wastes Management welcomes the opportunity of contributing to the consultation on **Taking Forward Wales' Sustainable Management of Natural Resources**. Our comments are provided below and on the next pages.

Question 1

Do you consider there are further opportunities for integration of circular economic approaches? If so, please provide examples of where there are any regulatory obstacles to achieving integration.

Yes ✓

Comments:

CIWM Cymru Wales agrees that there are opportunities for taking forward circular economy proposals, specifically a look at how the definition of waste could be clarified to reduce regulatory barriers to reuse and recycling through closed loop mechanisms of wastes. If we can change the narrative towards 'yes, but,' from, 'not possible without a permit or registered exemption', it may help with improving the use of products after the end of their first use and this might be a positive effect of the Brexit proposals. There is

also significant potential to move the effectiveness of producer responsibility legislation to drive repair and reuse over recycling as the primary driver for the WEEE waste stream, this would require a significant change to this legislation and the possibility of utilising the Welsh Government's tax raising powers to discourage the production of goods that cannot be dismantled for repair could be looked at.

Question 26

Do you agree that Welsh government should amend section 108 of the Environment Act 1995 so that: it removes the need for providing 7 days notice to the person in occupation of the premises; retains the need for a warrant; extends the description of information that can be required; and provides the ability to remove (and retain) material for examination, including information stored electronically?

Yes ✓

Comments:

CIWM Cymru Wales agrees the proposal to remove the need for 7 days notice seems eminently sensible. The retention of the requirement for a warrant gives confidence that things are being regulated appropriately. We agree that an extended description of what information can be required is appropriate. The ability for NRW to remove and retain material for examination is appropriate as there are now a multitude of devices that can be used to store information.

Proposal 46

To amend section 46 of the Environment Protection Act 1990 to enable local authorities to issue a fixed penalty notice for failure to comply with a notice on householders requiring them to place specified materials in specified containers.

Comments:

CIWM Cymru Wales can't see the information on challenge. We assume there is the possibility to challenge but it has not been mentioned. There is no indication of how much the Fixed Penalty Notice is to be, unless this is indicated in a previous consultation or assumed to be the same for others, i.e. litter. CIWM Cymru Wales asks whether there is a process to be followed and whether the FPN is the final part of that process. E.g. three requests, each more insistent, request to comply and the final request saying if not done, a FPN is issued.

With regards to the outcomes Welsh Government anticipates - it mentions that Fixed Penalty Notices are simpler and easier than court proceedings. From some LA representatives on the National Fly-Tipping Prevention Group (NFTPG), there was an indication that Fixed Penalty Notices need nearly as much evidence; it might mean the legal person in the council is happier the evidence is sufficient for FPN but not court. CIWM Cymru Wales believes that something CIWM headquarters staff were told when Defra talked about the fly-tipping FPN before introduction was that FPN were seen as another 'tool in the box'.



Question 27

Do you agree that the Welsh Government should amend section 46 of The Environmental Protection Act 1990 so that it includes the option of Local Authorities serving Fixed Penalty Notices for failure to comply with notices rather than having to prosecute through the courts?

Yes ✓

CIWM Cymru Wales agrees this tool should be 'in the box' but asks whether Penalty Charge Notices would be an option to consider. The caution being that they are not handed out indiscriminately. There have been enough issues with overzealous use of penalties by some local authorities leading to unhelpful press coverage.

One concern we do have is that, if Fixed Penalty Notices are used, would householders then start fly-tipping their waste to avoid it? Granted they get caught the penalty is likely to be bigger, but some people will try.

Question 28

Do you agree the Welsh Government should introduce powers in Wales that will allow local authorities to be able to issue a financial penalty to a registered keeper of a vehicle if litter has been dropped from that vehicle, regardless of whether the identity of the individual who committed the littering offence is known?

Please consider if there are alternative legislative changes the Welsh Government should consider to help tackle littering from vehicles?

Yes (in principle) ✓

Comments:

CIWM Cymru Wales likes the boldness of the proposal: no evidence of who was in the car, just that someone in the car did the deed. We can see a lot of potential challenges. In which case, we ask what the evidence requirement is: is it CCTV, video to show the act and the registration? Or, is it just the word of the Local Authority officer?

What if the local authority is using a contractor (we are not sure how many in Wales do) there has already been stories in the press about overzealous operators and money making by local authorities in this area of their work, not necessarily in Wales but it is an aspect on which care must be taken.

With all these proposals, there is not massive amounts of detail provided, so much of this is currently 'in principle', we anticipate that more detailed consultation on the legal changes will come forward in due course.

Should you have any query with regards to our response, please do not hesitate to contact us.
Kind regards,

Celine Anouilh
CIWM Regional Development Officer for Wales

For CIWM Cymru Wales