



Consultation on Amending the NIEA's Financial Provisions Policy

Introduction

The Chartered Institution of Wastes Management (CIWM) is the professional body which represents around 6,200 waste management professionals, predominantly in the UK but also overseas. CIWM sets the professional standards for individuals working in the waste management industry and has various grades of membership determined by education, qualification and experience.

The CIWM Northern Ireland Centre (CIWM NI) welcomes the opportunity to respond to this consultation. Centre members have contributed to this response through canvassing of views and arriving at a collective position.

Report

Eight main questions have been posed by the NIEA to aid their deliberations.

Questions

Question 1: Do you have any views on the inclusion of restoration/remedial costs?

Answer 1. CIWM (NI) is content with the proposals.

Question 2: What are your views on the removal of the 'Letter of Comfort' option as a FP mechanism?

Answer 2. In view of the fact that the NIEA has had some experience of occasions that the measure of a 'Letter of Comfort' has been proven to be deficient, CIWM (NI) is content with the proposed removal.

Question 3: Do you consider it unacceptable for NIEA to undertake a credit check on a business? If so please provide detailed reasons.

Answer 3. CIWM (NI) does not consider it unacceptable for NIEA to have the provision to undertake a credit check on a business. It is worth noting that the consultation paper refers to a waste operator rather than a business. It is suggested that the NIEA clarify the position in respect of an operator who is an individual rather than a business.

A credit check in the case of the waste operator being a Council would not be necessary due to the nature of their function and operation. The consultation paper indicates that the operator will be required to sign a consent form to permit the NIEA to conduct such a check.

In the interests of clarity and transparency, the policy should indicate the action available to NIEA should such permission not be forthcoming.

Finally CIWM (NI) notes that this proposal is suggested as part of a process entailing a number of checks and that reliance will not be solely on a good credit score as there is a risk that it could present a false impression. CIWM (NI) understands that a good credit score can be manipulated, to some extent, through using holding/sister companies. There can also be a time lag in some information, which may influence a credit score, being available.

Question 4: *Please provide your views on the proposal to introduce a FP mechanism for non-landfill waste management sites, which pose a higher risk to the environment and to human health.*

Answer 4. CIWM (NI) has no objection, in principle, to the introduction of a FP mechanism in said circumstances. However, the policy should make it clear how a non-landfill waste management site, which poses a higher risk to the environment and to human health, will be determined.

Question 5: *What are your thoughts regarding the proposal to recover the costs for expert advice if required to assess a FP submission.*

Answer 5. CIWM (NI) has no objection, in principle, to this proposal. However the policy should clearly set out the circumstances and criteria that would lead the NIEA to invoke this measure in addition to the manner in which it will be commissioned and likely cost. The policy should also indicate the options available to both an operator and the NIEA, should an operator disagree with it being invoked or disagree with the cost involved.

Question 6: *Do you consider these transitional arrangements are satisfactory? If not please provide your reasons with suggested timescales.*

Answer 6. The timing for the transitional arrangements are largely dependent on the date on which the final policy will be published and implemented but there is no indication of such in the consultation paper. An indication of this would have helped consideration of this matter, particularly in relation to new applications. Having said that, intuitively 12 months may be satisfactory in most cases but there may situations whereby 12 months may not be sufficient and the NIEA may wish to consider expressing the transitional arrangements in such a way which does not entirely offer any prospect of a slightly longer period, should circumstances merit such.

Question 7: *Do you have any views regarding these impact statements?*

Answer 7. CIWM (NI) would suggest that impact statements numbering 4.6 and 4.7 in the consultation document could be interpreted as not being wholly compatible with each other. Statement 4.6 alludes to a situation whereby the operators of high risk non-landfill sites will have additional costs. However statement 4.7 alludes that operators (assumed to be operators including those in high risk non-landfill sites) will not have additional costs as a result of the proposed changes should they comply with the conditions of their authorisation. It would be helpful if the NIEA could offer greater clarity in this regard.

Question 8: Please indicate if you think there are further impacts that have not been considered and provide details of these impacts.

Answer 8. The Partial Regulatory Impact Assessment simply states that there will be “*a slight increase in costs to the industry associated with the setting up of a FP mechanism*”. The lack of any figures or quantification is not seen as being particularly helpful. A significant number of consultations which contain more complex proposals have included an outline of quantified costs and, given the experience of the NIEA and other UK waste regulatory agencies in this field, CIWM (NI) is not aware of a reason why a more detailed partial RIA could not have been produced. One person’s interpretation of a “slight increase” may differ from that of another. The production of such would have been enhanced transparency and aided potential respondees in their deliberations and considerations.

CIWM (NI) Centre
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