

The CIWM is the professional body for the resource and waste management sector. It represents around 6,500 waste and resource management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the sector and has various grades of membership determined by education, qualification and experience.

## **Defra Hazardous Waste Strategy for England – “temperature check”**

CIWM has engaged its membership through the Hazardous Waste special interest group (SIG) and comments from this group and the wider membership have helped formulate this response.

### **General Comments**

The general consensus of the feedback received from CIWM members to this consultation has been that there is general support for the 2010 Hazardous Waste Strategy and the principles it outlines, however, due to a lack of implementation and enforcement by Defra and the Environment Agency the Strategy has not achieved what it set out to do.

The main development relevant to the Strategy since the initial temperature check consultation held by Defra in early 2016 is the announcement on 7 February 2017 that Defra Ministers have taken the decision not to remove the derogation that allows Air Pollution Control Residues (APCRs) that are three times above Landfill Directive waste acceptance criteria (3xWAC) to be landfilled. Whilst the decision relates directly to Principle 6 of the Strategy it is relevant also to three of the other high level principles namely Principle 1 – the waste hierarchy, Principle 2 – infrastructure provision and Principle 3 – Reducing reliance on landfill.

CIWM agrees that the waste hierarchy has been effective in driving more sustainable waste management for non-hazardous waste CIWM does have concerns that a slavish approach to the application of the waste hierarchy for hazardous wastes is likely to result in adverse environmental outcomes. The issues raised in the current EU consultation on the chemical products waste interface illustrates the point. There is a serious risk that we shall merely perpetuate the presence of persistent and toxic pollutants in the cycle of utility. CIWM considers that there is a need to review the applicability of the hierarchy for hazardous wastes and the role of Best Overall Environmental Option (BOEO) as set out in the Waste Framework Directive.



Responses focus on the need for clearer direction, support and funding from Defra in relation to research, development and infrastructure and that a consistent enforcement policy is used. Suggestions for improvements are made in response to the questions below.

**Q1(a) Has the strategy led to more environmentally sound management of hazardous waste?**

CIWM believes there has been insufficient environmentally sound management of hazardous waste due mainly to the failure of implementation and enforcement. Where improvements have been made, these have occurred due to the efforts of individual companies and have been largely incidental to the existence of the strategy.

CIWM is aware of a company that had invested in excess of £2.5m to provide a sustainable solution for the management of Air Pollution Control Residues. The investment directly addressed the three key principles of the 2010 strategy by moving waste up the hierarchy, reducing the reliance on landfill, and removing the reliance on landfill derogations. Only to find a lack of effective implementation and enforcement of the key principles by both Defra and the Environment Agency, which resulted in the company being at a significant disadvantage when compared to competitors who had failed to invest and continue to manage hazardous waste outside of the principles of the 2010 strategy.

A clear example of lack of implementation is the recent decision not to phase out 3xWAC derogations for APCR going to hazardous landfill. The failure of the regulators, to take effective steps to shape the hazardous waste industry, continues to provide an uncertain business environment and results in a lack of investment in the processes and technologies required to improve the management of hazardous waste in England and the UK.

It might be perceived that the retention of the 3xWAC derogation does not promote management of hazardous waste up the waste hierarchy and does not reduce the reliance on landfill, however, there are a number of other drivers including escalation in landfill tax which incentivise the development of alternatives to landfill and can potentially support the development of hazardous waste treatment infrastructure as desired under Principle 2 of the Strategy. Importantly however, in many circumstances retention of the 3xWAC derogation can compromise the BOEO for these wastes therefore it is considered that the actions taken by Defra are in accordance with the Strategy. The BOEO approach is supported by the statement in the announcement made by Defra on 7 February 2017 which states in the reasoning for not removing the derogation



that “*the environmental gains [are] not strong enough to support removing the 3xWAC derogation*”.

Principle 1 of the strategy promotes application of the waste hierarchy and the Waste Framework Directive (WFD) specifies that measures should be taken to encourage the options that deliver the best overall environmental outcome (BOEO). It is necessary to assess each different hazardous waste stream, for example APCRs, to determine what comprises the BOEO taking into consideration the entire life-cycle of the waste stream based on the context relevant to that specific arising at that specific location. What constitutes BOEO varies depending on which waste stream is considered. For example, for certain waste streams a significant energy input may be necessary which may be disproportionate to the potential benefit of raising the management of the waste up the hierarchy. Without defining what comprises the BOEO or what comprises environmentally sound management on a waste stream specific basis it is not possible to state clearly whether the Hazardous Waste Strategy has resulted in more environmentally sound management of hazardous wastes.

The Strategy in its current form pays insufficient attention to the BOEO and this lack of focus is now further compounded by the lack of the Environment Agency End of Waste Panel. This leads to a scenario where the most [hazardous wastes] expensive to dispose are being diverted to the lowest cost recycling/recovery route with little regard to environmental and human health. The need to re-establish an end of waste panel is critical to the proper and safe evaluation of recycled products from hazardous wastes.

It is also noticeable that the UK allows recycling/recovery practices which are not allowed in other EU countries where a much more precautionary approach is used to hazardous waste (the same process which developed absolute hazardous entries in the EWC). This approach (and concern) has recently been highlighted by the Chemical Waste Interface consultation document where it is clear that too little is known about some hazardous substances (which under REACH would be controlled or prohibited) can be allowed in ‘products’ derived from waste. This again is a concern with regard to substances such as lead which at very low concentrations can have long term impact on human health, in particular children, or for carcinogenic materials for which there are no minimum thresholds at which harm may result.

**Q1(b) Would the strategy, as drafted, continue to encourage more environmentally sound management of hazardous waste? If not, what changes would you like to see to ensure this?**



CIWM feels that the strategy as drafted will not encourage more environmentally sound management of hazardous waste.

CIWM acknowledges that the purpose of the Hazardous Waste Strategy is to present high level overarching principles and not to consider individual waste streams but a quantitative measure of its success would need to be made in much more detail. CIWM therefore considers that the provision of practical guidance on the assessment of BOEO, including worked examples would assist in achieving a consistent approach.

CIWM believes Defra and the Environment Agency should take the following actions:

- Defra should provide clear policy for the future by revising the UK Hazardous Waste Strategy in close consultation with the waste management industry and hazardous waste producers
- Defra and the Environment Agency need to provide practical guidance on the assessment of best overall environmental outcomes including worked examples for certain individual waste streams
- Re-establish an end of waste panel
- Defra and the Environment Agency need to engage directly with hazardous waste producers to ensure they do the right thing with their waste to ensure the treatment / disposal routes are legitimate facilities and take enforcement action where necessary
- A workable system of electronic consignment notes (as proposed with hazdoc) should be introduced as soon as possible
- Defra and the Environment Agency should improve the standard of classifying waste so that hazardous waste can be easily identified at the place of production
- Defra and the Environment Agency should support a competence scheme to ensure that hazardous wastes are coded correctly at the place of production and checked throughout the point of further treatment and/or disposal
- Defra and the Environment Agency should review whether they consider there is a need for hazardous waste landfill in the future, which wastes are included over what timescale
- Defra and the Environment Agency must be consistent with taking enforcement action against those that do not comply with the legislation
- Defra should encourage the investment of existing and new hazardous waste treatment and disposal facilities by using penalties/fines received from enforcement action under Hazardous Waste legislation or related to hazardous waste and additional government funding (from landfill tax) this should be awarded to research and infrastructure for new technology



processes to treat hazardous waste types for the future for example solar panels

- Defra should encourage the circular economy by supporting research into hazardous properties and finding technology to extract those components which are hazardous
- Defra should include waste management infrastructure within the Infrastructure Strategy to ensure facilities are strategically located throughout England to encourage local authority planners to grant planning permission for facilities when the investment and funding is available to construct them
- To promote the development of infrastructure for the management of waste higher up the hierarchy Defra needs to apply a co-ordinated approach across the waste and materials sectors from a circular economy viewpoint considering aspects such as end of waste

**Q2(a) Has the strategy led to the development of more infrastructure for the treatment of hazardous wastes?**

The Strategy together with the National Policy Statement on hazardous waste infrastructure created a broad policy framework for the planning of new hazardous waste facilities, but investment in new facilities remains a high risk due to uncertainties over markets and prices.

**Q2(b) Would the strategy, as drafted, continue to encourage the development of more infrastructure for the treatment of hazardous wastes further up the hierarchy? If not, what changes would you like to see to ensure this?**

CIWM believes the strategy is not the only aspect that has to be considered, as noted in question 2a financial risk associated with markets and prices play a key role.

If Defra wishes to promote the development of infrastructure for the management of waste higher up the hierarchy and the reduction in reliance on landfill it will be necessary to apply a co-ordinated approach across the waste and materials sectors from a circular economy viewpoint considering aspects such as end of waste. The announcement made by the Environment Agency that as of 16 September 2016 the Environment Agency Definition of Waste Panel is temporarily closed to all new end of waste submissions does not support development of the circular economy. The most recent update provided via the GOV.UK website in March 2017 confirmed that the Definition of Waste Panel remains closed whilst it reviews the service. It is critical that this review gives



consideration to the benefits to the environment of the circular economy rather than solely on the availability of resources.

For the circular economy to be viable we need to adopt controls on wastes in the same way as for products. This means not simply risk assessing aspects out due to the lack of information on - or known to be - hazardous components but to endeavour to understand and/or remove those components which may cause harm to the environment or human health.

CIWM would like to reiterate that Defra and the Environment Agency could encourage the development of hazardous waste infrastructure by making changes as suggested under question 1b.

