

## **Appendix A**

### **Defra Consultation: Review of the Controlled Waste Regulations**

(Regarding the handling of "Schedule 2" waste)

#### **A response on behalf of the Lincolnshire Waste Partnership**

A range of organisations are represented in the LWP, including one Waste Disposal Authority, seven Waste Collection Authorities, and the Environment Agency.

#### **Option 1: Issue guidance**

Question	<i>Do you agree with our assessment that publishing guidance on the current CWR rather than amending the regulations would not be an effective means of tackling the problems with the legislation? If not, please set out why you would prefer guidance.</i>
LWP Response	The LWP agrees with Government's approach to amend the Controlled Waste Regulations (CWR), provided these are accompanied by clear guidance on their interpretation. This is the only way to resolve the problems which Defra have identified.

#### **Option 2: Introduce new Regulations to allow local authorities to charge for disposal of waste from 'Schedule 2' institutions.**

***A. Making new Regulations to allow local authorities to charge for the collection and disposal of waste from non-domestic premises.***

#### **Proposal A 1. To reclassify as 'commercial waste', waste from 'Schedule 2' premises that are not listed in section 75(5) of the EPA.**

Question 1	<i>Do you agree that waste from tents should be classified as commercial waste?.</i>
LWP Response	Yes, the LWP agrees.

Question 2	<i>Do you agree that waste from caravan sites or parts of caravan sites, not licensed for permanent domestic accommodation, should be classified as commercial waste?</i>
LWP Response	Yes, the LWP agrees. We would also seek clarification of the status of caravan sites without a license or planning permission, as we believe this should also not be household waste.

Question 3	<i>Do you agree that waste from properties used for the provision of self-catering accommodation and registered for business rates should be classed as commercial waste?</i>
LWP Response	Yes, the LWP agrees.

Question 4	<i>Do you agree that local authorities should be entitled to charge charities for disposal of the waste they produce?</i>
LWP	Yes, the LWP agrees. However, more clarity is needed as to the definition

Response	of a charity. Is it simply an organisation registered with the Charity Commission?
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Question 5	<i>Do you agree that waste from premises used for public meetings should be classified as commercial waste?</i>
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LWP Response	Yes, the LWP agrees. However, we would seek clarification that this definition includes the hiring out for other uses of a building which is also a place of worship.
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Question 6	<i>Do you agree that waste from Royal Palaces should be classified as commercial waste?</i>
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LWP Response	n/a – There are none in Lincolnshire.
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Question 7	<i>Do you agree with the reclassification of non-clinical waste from GP surgeries?</i>
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LWP Response	Yes, the LWP agrees.
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**Proposal A 2. To reclassify as ‘commercial waste’ for the purposes of charging, waste from ‘Schedule 2’ premises listed in section 75(5) of the EPA as household waste or to be treated as household waste because of the Regulations.**

Question 8	<i>Do you agree that local authorities should have the power to charge educational institutions for disposal of their waste?</i>
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LWP Response	Yes, the LWP agrees. This is in line with the polluter pays principle, and will allow schools the freedom to choose waste disposal routes from higher up the waste hierarchy. The LWP share Defra’s regret that the term ‘premises forming part of’ must remain in the legislation.
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Question 9	<i>Do you agree that litter collected on premises occupied by educational establishments should be charged for in the same way as other non-hazardous waste generated on the site?</i>
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LWP Response	Yes, the LWP agrees.
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Question 10	<i>Do you agree that local authorities should have the power to charge hospitals and nursing homes for disposal of their waste?</i>
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LWP Response	Yes, the LWP agrees.
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Question 11	<i>Do you agree that the term ‘care home’ is equivalent to ‘residential home’, and that ‘nursing home’ is equivalent to a care home with nursing?</i>
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LWP Response	Yes, the LWP agrees. However, for clarity, Government should consider adding to the definition within Paragraph 1 of the revised CWR that a residential home is defined as a care home as set out in the Care Standards Act 2000.
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Question 12	<i>Do you agree that local authorities should have the power to charge</i>
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	<i>residential homes (i.e. care homes) for disposal of their waste?</i>
LWP Response	Yes, the LWP agrees.

Question 13	<i>Do you agree that local authorities should have the power to charge penal institutions for disposal of their waste?</i>
LWP Response	Yes, the LWP agrees.

**Proposal A 3. To retain local authorities' discretion on charging.**

Question 14	<i>Do you agree that decisions of collection and disposal charging are best made by individual local authorities, and therefore the discretion on whether to charge or not should be retained for collection and extended to the proposed new power to charge for disposal?</i>
LWP Response	Yes, the LWP agrees. However, whilst charging remains discretionary, the assumption should be that Schedule 2 premises will be charged, both for collection and disposal, with only rare exceptions.

**Proposal A 4. To retain local authorities' duty to collect, if requested.**

Question 15	<i>Is there any reason why the duty to make arrangements, if asked, to collect waste from institutions listed in the table at paragraph 4 of the schedule should not be retained?</i>
LWP Response	Yes, the LWP agrees. However, there is not consistency between legislation on classifying waste such as asbestos. Under the revised definition of municipal waste, all construction and demolition waste is not included within municipal waste. Asbestos is clearly 'industrial' waste and should not therefore be entitled to free disposal as set out in the revised CWR.

**Proposal A 5. To postpone the coming into force of provisions relating to disposal charging for a short period.**

Question 16	<i>Do you agree with the principle of postponing the introduction of disposal charging? If so, do you consider twelve months to be an appropriate period of time?</i>
LWP Response	The LWP understands that a delay would protect some local authorities from additional costs on Schedule 2 waste disposal. However, given that the new CWR incentivises Schedule 2 waste producers to seek disposal methods which are cheaper than landfill, the result should be an overall saving to the public purse. Thus, in these difficult financial times, the LWP would prefer that the option to charge is introduced as soon as possible. However, the LWP recognises that there is a need for a lead-in period to prepare for this change, and thus it is unlikely to be possible before April 2012.

**B. Changes and clarifications to definitions of premises or wastes to be classed as household waste**

**Proposal B 1. To consider the case for amending the definition of clinical waste**

Question 17	<i>Do you think that the current definition of clinical waste in the regulations is useful? If not, what would you consider to be a better definition?</i>
LWP Response	The LWP agree that the current definition of clinical wastes is useful but possibly too general. It does not, for example, distinguish between infectious, non-infectious, sharps waste, etc., the costs of dealing with which can vary greatly. The term 'clinical waste' does not distinguish between wastes that are generated in the home, via self-administration, and wastes generated by the administration of medication by a health professional. The latter should not really be classified as household waste and local authorities should not be responsible for the collection and disposal of them. The inclusion of clinical waste generated in the home in the exclusions is not, therefore, helpful because it could give rise to collection and disposal problems, particularly if the recovery of disposal costs by the WDA is not allowed.

**Proposal B 2. To improve the definition of 'residential hostels'**

Question 18	<i>Is the new definition of a 'residential hostel' clearer? Does it exclude any types of hostel which you consider should be included?</i>
LWP Response	Whilst the LWP agrees that this definition is clearer, there is some concern that the phrase 'unable to live at their permanent address' provides new opportunities for ambiguity. Who (other than future legal precedent) determines what 'unable' means?

**Proposal B 3. To include specific reference to waste from transit sites for Gypsies and Travellers**

Question 19	<i>Do the new regulations make it clear that waste arising from domestic caravans and vehicles at a transit site is household waste?</i>
LWP Response	The LWP agrees that this definition is clearer.

**Proposal B 4. To classify waste from charity shops and re-use organisations that remove waste from the household waste stream, as household waste, and to exempt such waste from disposal charging.**

Question 20	<i>Do you agree that charity shops and re-use organisations should benefit from free waste disposal?</i>
LWP Response	The LWP agrees in part with this proposal. However we are concerned that the definition is too wide, and believe that the following should not benefit from free waste disposal, but should instead be classified as <u>commercial waste, subject to charges for both collection and disposal</u> : <ul style="list-style-type: none"> <li>• Waste which is clearly not of a household nature.</li> <li>• Waste from re-use organisations which are not run by a registered charity.</li> </ul>

Question 21	<i>Do you consider that the restriction of free waste disposal to waste originating from a domestic property is practical?</i>
LWP Response	No, the LWP disagrees with this proposal, as it would be almost impossible to administer. It might require WCAs to provide separate collections but, more importantly, it would require complete honesty on behalf of the charity shops either in the separation of their waste or in their declaration of it.

Question 22	<i>If you are a waste disposal authority, would you be willing to accept <u>all</u> goods from charity shops for free disposal in order to reduce the administration burden? If so, do you think the legislation should refer to all goods, rather than specifying goods originating from domestic properties?</i>
LWP Response	No, the LWP disagrees with this proposal. This would place an unacceptable financial burden on WDA's and removes the financial incentive for charity shops to seek disposal methods which are cheaper (and higher in the waste hierarchy) for items which they cannot sell.

Question 23	<i>Are any safeguards necessary to ensure that commercial waste is not channelled through charity shops and reuse organisations in order to avoid disposal charging?</i>
LWP Response	The LWP consider that the existing system of Waste Transfer Notes should provide sufficient protection against this.

### **C. Structure of the Regulations**

#### **Proposal C 1. To list the classifications of wastes in tables**

No separate questions.

#### **Proposal C 2. To combine Schedules 1, 2 3, and 4 into a single Schedule**

Question 24	<i>Do you agree that the new structure is clearer? Please identify any wastes which are missing from the new Schedule which you believe should be listed in these Regulations.</i>
LWP Response	Yes, the LWP agrees that the new structure is clearer. As mentioned previously, it may be helpful to emphasize that (other than in exceptional circumstances) Authorities will charge for both collection and disposal where they are permitted to.

#### **Proposal C 3. To introduce a hierarchy of classification**

Question 25	<i>Is the proposed hierarchy clear and easy to follow?  Please highlight any conflicts between the tables, or perverse consequences of the proposed hierarchy.</i>
LWP Response	The LWP has concerns that the hierarchy is unclear in places. It may be helpful to insert some kind of flow chart or a single clear statement to indicate that Paragraph 4 takes precedence over Paragraph 3 (see paragraph 3(4)), which in turn takes precedence over Paragraph 2 (see paragraph 2(4)).