

## **Consultation Response Form**

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### **A Fly-tipping Free Wales – Our strategy for tackling fly-tipping**

#### **Introduction**

The UK Environmental Law Association aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.

UKELA prepares advice to UK Governments with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared jointly by UKELA's Wales Working Party and its Waste Working Party.

UKELA makes the following comments on the proposals, primarily from a practical, implementation perspective rather than a legal standpoint.

## **General Overview:**

UKELA welcomes the Welsh Government's attempts to tackle the problem of fly-tipping and applauds the progress made to date. It shares the Government's concerns about the impact of this unacceptable practice on people's health and well-being, particularly in the poorer communities of Wales, and the potential, adverse impact on development of the Welsh economy. UKELA is particularly concerned about the effect of fly-tipping on the environment.

### **1. Do you think this strategy will help tackle fly-tipping in Wales?**

It is difficult to assess the extent to which the strategy will help tackle fly-tipping in Wales and achieve the overall vision of a fly-tipping free Wales because a high proportion of the actions are relatively short term and of a research/investigatory nature. Apart from the significant number of actions focused on research or investigations, a reasonable number are concerned with communications. The communication actions are welcomed, but there is an absence of detail on their strategic nature; how the communication messages will bring about behavioural change; at whom they will be targeted; the communication media to be used; and the balance between national and local communications. In view of the importance of achieving behavioural change through communication of messages along with other mechanisms, UKELA suggests that it would be worthwhile developing a strategic communications plan which clearly details the foregoing components.

The listed outcomes that the strategy hopes to deliver are commendable (page 9), but their linkages to the issues listed on pages 1 and 2, and the actions and cross-cutting themes are not particularly clear in the strategy.

Of particular concern is the lack of information on the resources available to take forward the strategy. There appears to be

considerable reliance on the goodwill and prioritisation of activity/resources by partners (although there is limited reference to these partners and the expectations of them). With all public and third sector organisations facing considerable cuts in funding, it will be challenging to find the resources necessary to take forward the actions needed to tackle the problem.

It is noted that some relevant partners already spend relatively significant sums of money on curtailing fly-tipping. However, there may be a need to encourage or incentivise others to invest now in activity that could lead to expenditure savings in the medium to long term.

In the paper's introductory section, it is stated that the Government wants all residents to take actions themselves. This is welcomed but inevitably will need facilitation and effective communications at both national and local levels. It could also provide an opportunity to engage disaffected, possibly unemployed young people and others who may need confidence building and raising of self esteem. There does not appear to be a specific action listed in the paper focused on this, although the intention to liaise with existing networks and local champions for communication and advice purposes is mentioned.

As illustrated, householders are the main offenders in respect of fly-tipping, followed by small companies or individuals involved in building renovation or minor construction works and garden clearance or re-modelling. However, the actions do not appear to be directly targeted at identifying and tackling the root cause of the problem other than the promotion of engagement with fly-tippers to understand their motivations and what would make them stop the practice. Bearing in mind fly-tipping is a criminal offence, UKELA suggests that by its very nature it should prove to be very difficult to engage fly-tipping offenders.

The valuable role the third sector could play in tackling fly-tipping issues appears to be acknowledged in the strategy document. Well established voluntary organisations, such as Keep Wales Tidy together with Housing Associations, could play a significant part in communicating and mobilising all sections of society to help deal with the problems in a cost effective way.

The fact that local authorities' and Natural Resources Wales' (NRW) statutory duties do not include a duty to investigate incidents of fly-tipping is of concern. UKELA supports proposals for making this a statutory duty, particularly in view of NRW's responsibilities for ensuring that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used, now and in the future and the proposals in the Well-being of Future Generations Bill for imposing a sustainable development duty on public bodies.

**2. Do you agree with the proposed actions under each section of the strategy?**

As mentioned above, the actions appear to be aspirations, as there is a failure to detail how the activities are to be taken forward and implemented; the responsible/accountable body; the necessary resources; and targets and milestones.

Outcome 1

It would be helpful to have the basis for the comment that some local authorities do not have the skills to effectively tackle fly-tipping. What particular skills are required? Is this really a major issue or is it more likely to be that some local authorities do not consider the issue is a problem or a priority?

Whilst it is acknowledged that fly-tipping on private land is primarily a local issue, there may well be a need for a national strategic approach in respect of communications.

### Outcome 2

It might be helpful to provide more information on local champions and further clarity on the communication proposals. It would also be useful to be clear on the process and mechanisms for engaging and mobilising communities.

### Outcome 3

In order that the contribution this strategy makes to Welsh Government strategic aims are evident, the linkages with other waste plans and strategies and perhaps the relationship with the Well-being of Future Generations Bill and the forthcoming Environment Bill should be stated.

A research priority that does not appear to be considered is the availability, accessibility and awareness of waste disposal facilities, unless this is already to be covered under the proposed research into the relationship between waste policy and fly-tipping.

As implied above, if fly-tippers are difficult to detect it is likely to be very challenging to engage with them. Furthermore, it may only be possible to engage with those who have been identified as offenders and they may well be very reluctant to become involved.

Little information is provided on the proposed trade waste directory and the investigation of its benefits. To what extent will this action be directly aimed at the problem?

### Outcome 4

The purpose of bringing together enforcement/legal practitioners to create a pool of expertise is unclear. Any best practice guide will need to be kept up to date and its use and effectiveness kept under review.

### Improving Data Collection

The creation of a baseline data set for the number, type and location of fly-tipping incidents is fundamental for the effective monitoring and evaluation of the strategy. It could be argued that this needs to be done before the strategy is finalised and launched.

### Partnership Working

There is a lack of information on how the proposal to develop Fly-tipping Action Wales into a strategic partnership with a shared vision, outcomes and governance will dovetail with the overall arrangements for implementing the strategy and the role of working groups in progressing the strategy's actions.

### Communications

No comments to offer.

### **3. Do you have any further actions you would like to see included and why?**

The actions contained in the strategy are generally classified as short term or ongoing. Once a number of the time limited actions are completed there will be a need for the development of further actions, as many of those listed are about researching and investigating in order to make more informed decisions.

### **4: Do you have any further comments on how the outcomes can be delivered?**

One of the main difficulties in assessing the likely effectiveness of the strategy and commenting on its contents is the current lack of detail concerning the implementation plan. The majority of the measures are aspirations, lacking detail on how they will be taken forward and

implemented, by whom and how they will be resourced. Furthermore in a number of cases no milestones or delivery targets are set.

**5. Would you like to be involved in the working groups to help deliver the actions needed to achieve the outcomes?**

No, it would not be an appropriate role for UKELA.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: