



24 July 2009

CONTROLS ON THE HANDLING, TRANSFER AND TRANSPORT OF WASTE: VEHICLE SEARCH AND SEIZURE

INTRODUCTION

1. The UK Environmental Law Association (**UKELA**) 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 and formulation of environmental law in the UK and the European Union. UKELA attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.
2. UKELA prepares advice to government with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared with the help of the Waste Working Party.
3. UKELA makes the following comments on the follow-up letter dated 6 July 2009 to DEFRA's Second Consultation on "Controls on the Handling, Transfer and Transport of Waste: Vehicle Search and Seizure".

Q1 In these circumstances do you believe that 21 days is a sufficient period in which to conclude any investigations and gather relevant evidence? If not, what time period would be sufficient (bearing in mind the rights of the keeper with regard to their vehicle)?

4. UKELA believes that 21 days is a reasonable period for investigations to be concluded and for evidence to be gathered. UKELA suggests that a maximum period which cannot be extended by a Magistrate would focus the minds of regulators and should help to ensure that regulators progress their investigations in a prompt and efficient manner.

Q2 When a decision to prosecute is taken, how much time lapses, on average, between a vehicle being seized and the start of court proceedings? How soon after seizure would you normally charge somebody with a related offence when such a decision is taken?

5. UKELA is surprised that DEFRA needs to ask this question in the consultation and does not itself hold any information or statistics relating to this issue. It is likely that the anecdotal evidence that suggests that proceedings are rarely, if ever, begun within 21 days is correct. UKELA suggests that DEFRA asks the Environment Agency and local authorities to provide information in relation to this issue.

Q3 Does it seem reasonable that an authority should publish a notice of seizure on its website and at its offices (and nowhere else)? Do you believe that this would discriminate against any particular group of individuals or businesses?

6. UKELA reiterates the comments it made in its response to the consultation in September 2008 regarding the general level of internet access across the waste management industry. Although approximately 90% of businesses and 65% of households have internet access,

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this still leaves a significant minority who would have no means of seeing a notice published on a website. UKELA acknowledges that local newspapers may not be widely read, but they are a pragmatic means of publishing information to those who do not have internet access. As stated in its response to the consultation in September 2008, UKELA believes that both options need to be open to regulators.

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