



7 October 2010

REVIEW OF WASTE POLICIES – RESPONSE TO CALL FOR EVIDENCE

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 welcomes the Government's review of waste policy in England and makes the following comments by way of response to the Call for Evidence. As well as answering the questions set out in section 2 of the Call for Evidence, UKELA has also commented on the 18 waste-related policies listed in section 4 of the Call for Evidence.
4. UKELA would welcome the opportunity to meet with Defra and discuss the Review and this response, if this would be of assistance.

EXECUTIVE SUMMARY

5. UKELA believes that greater clarity is needed over the term 'zero waste economy'. It is suggested that the waste hierarchy contained in the revised EU Waste Framework Directive could provide a basis for this.
6. UKELA has concerns about the devolution of responsibilities for waste services to local communities, given the associated duties and liabilities. Local communities are also unlikely to have sufficient resources or abilities to take on responsibility for waste services and UKELA believes better results could be achieved through greater co-operation and sharing of resources between local authorities.
7. UKELA believes that what is really required to address the problem of fly-tipping is greater investment in manpower and equipment by local authorities and heavier sentences being handed down by the courts.
8. UKELA suggests that Defra should give consideration to identifying and extending the circumstances in which preparing for re-use does not amount to the treatment of waste so that an environmental permit is not necessary. The guidance on the legal definition of waste published earlier this year would be helpful in this regard and UKELA urges Defra to publish the final version of this guidance as soon as possible.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



9. UKELA queries why EfW is the only type of recovery operation addressed in the Call for Evidence paper, when there are many other forms of recovery which have effectively been disregarded.

RESPONSES TO CALL FOR EVIDENCE

10. UKELA makes the following responses to the questions set out in sections 2.3 to 2.8 of the Call for Evidence:

2.3 General

This group of questions considers some aspects of our general approach to waste policy and waste delivery. We would welcome your views on the Government's approach to waste, including these specific questions:

- i *What should the nation's ambition for waste management be? What do we need to do to achieve a 'zero waste economy'?*
11. In order to answer these questions, UKELA suggests that Defra needs to explain in more detail exactly what is meant by the term 'zero waste economy'. The only explanation of the term UKELA can find is on the Review of Waste Policy page on the Defra website, where it is described as an economy "*where resources are fully valued, and nothing of value gets thrown away*". This leaves open the possibility that items of no value will continue to be thrown away, suggesting that 'zero' is aspirational rather than realistically achievable. This may then be seen to be a misnomer, which could undermine the credibility of the policy. This is why defining the concept is so important.
12. UKELA considers that the waste hierarchy, as set out in Article 4 of the revised EU Waste Framework Directive (2008/98/EC), could provide a sound basis for explaining what is a 'zero waste economy' – an economy in which the production of waste is minimised and in which any waste that is produced is recycled or recovered, and is only disposed of as a last resort.
- i *How could the contribution waste management in England makes to the economy and our environmental and energy goals be maximised?*
13. It is not just "waste" management that can make a significant contribution to the economy, as waste management misses the opportunity to develop prevention and reuse of products (the top tier of the waste hierarchy) in order to achieve maximum value from them before they become waste in the first place.
14. Maximising the commercial value of 'waste' will also encourage the development of waste management as an economically advantageous pursuit with ancillary environmental and commercial benefits. Achieving these objectives for maximising value of reused products and waste will require alterations to public and commercial perceptions about the acceptability of re-use of materials and the real benefits of recycling over the use of non-waste origin materials.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



- i *How can Government make the best use of the skills and knowledge of the private sector, civil society and local communities in delivering a zero waste economy?*
15. UKELA refers to its comments above regarding a 'zero waste economy'. Engaging with interested parties from the private sector, "civil society" and local communities at a local level frequently during the development of England's waste policy will ensure that if there are regional or local differences, then these will be taken into account at the policy and planning stages and will alleviate friction as the policies are developed further. Using "localism" in this way will help achieve a best fit for specific initiatives which could deliver cost savings at implementation stage.
- i *Do local authorities have the right responsibilities for waste services? Are there further services that could be devolved to local authorities or directly to local communities?*
16. It is not appropriate for private sector and/or third sector bodies to take on duties imposed on public sector competent authorities by EU legislation. Local authorities can already contract out waste collection and disposal services, and many do so. UKELA questions whether local communities would wish to take on the legal duty for waste collection, waste disposal and other waste services. It is unlikely that either local communities or local authorities would have sufficient resources or abilities to become self-sufficient in waste management and there are examples where cross-jurisdictional co-operation provides greater environmental benefit, but it is unlikely this could be managed or provided at a local community level.
- i *How can illegal waste activity be minimised, including reducing levels of fly-tipping? Are sanctions for breaches of waste regulation fair and proportionate?*
17. UKELA considers that, given the potential risks to human health and the environment arising from the improper handling, treatment and disposal of waste, the sanctions for breaches of waste regulation are fair and proportionate. UKELA agrees with the current position that civil sanctions are not appropriate for fly-tipping offences, but would welcome the extension of civil sanctions to other offences under section 33 of the Environmental Protection Act 1990, such as those involving technical or administrative breaches of environmental permit conditions. However, while the maximum penalties available to the courts should prove to be a significant deterrent to illegal waste activity, in particular fly-tipping, in practice the penalties handed down by the courts are an insufficient deterrent and are often seen by less reputable operators as no more than a 'cost of doing business'. Unless the enforcement of waste regulation improves (which may, because of the scale of the problem, require greater investment in manpower and equipment by local authorities) and heavier sentences are awarded for fly-tipping, this situation is unlikely to change. A review of sentencing guidelines for fly-tipping offences would be a sensible approach to tackle this issue.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



- i *How can we balance regulation to ensure that we protect health and the environment without unnecessarily burdening businesses and local authorities? What are the opportunities to reduce or remove the burdens of regulations?*

18. Defra has noted in the Terms of Reference that a number of waste policies originate from, or are influenced by, EU or international legislation. It is therefore not possible to abandon such policies without putting the UK in breach of its obligations under EU or international law. However, it is possible to transpose these obligations into domestic law in a more efficient manner. In this regard UKELA notes the success of the Environmental Permitting regime, which has put in place a common administrative and procedural framework for a number of environmental regimes, including the waste management licensing regime.

2.4 Waste Prevention

Waste prevention is the term used for taking measures to reduce the quantity of waste that is generated. These measures range from simple actions such as reducing food waste and reusing items to technical activities such as extending the lifespan of products. It also includes measures taken before a material becomes waste to reduce its hazardousness or other negative impacts of waste. As the first layer of the hierarchy, it should be promoted as a priority over the others. We would welcome your views on waste prevention in England, and in particular on:

- i *What roles should (i) national and local government; (ii) businesses; (iii) voluntary organisations; and (iv) individuals take in order to prevent waste from arising, and to reduce the hazardousness or environmental impact of waste?*

19. National and local government have had an important role in encouraging the prevention of waste by educating the public on issues such as food waste and educating manufacturers and retailers over packaging. There are already a number of initiatives in place such as:

- i Reclamation of precious metals/resources from WEEE and other recycling.
- i Producer responsibility compliance schemes, which help large businesses to discharge their legal obligations and maximise recycling.
- i Using recycled materials in manufacture (reducing the use of virgin materials).
- i Improvements in the design of products and packaging.

20. This central role will remain important in supporting voluntary organisations in educating and encouraging the public to reduce the amount of waste sent to landfill and to encourage recycling initiatives. Businesses also need to be further educated and incentivised in terms of product design, manufacture and presentation so that they can increase their contribution to reducing the hazardous environmental impact of waste. Individuals can use their collective consumer powers (often effective when organised by petitions and choosing certain brands/products) to influence manufacturers and suppliers.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



- i *What can be done to encourage businesses to design and manufacture products which produce less waste – such as those which last longer, can be upgraded and/or repaired, and don't have hazardous components? How might Responsibility Deals contribute to this?*
21. UKELA understands from a speech by Lord Henley that the Government wants to work with businesses to help them reduce their waste and increase recycling through “voluntary responsibility deals” which will “*remove the need for further regulation and will lead to less waste and more recycling with the added benefits of businesses saving money and helping to protect the environment*”. The principle appears to be that “*this Government believes that businesses, like householders, should be encouraged to do the right thing, rather than tied down or penalised with excessive rules and regulations*”. It appears that responsibility deals might be similar to existing voluntary agreements – such as the Courtauld Commitment on grocery retail packaging and food waste – which the Government sees as a model for what can be achieved in the future.
22. If UKELA's understanding is correct then such deals might commit businesses to:
- i Improvements in product design, by reducing the components used in a product or making it easier to repair or recycle at the end of its useful life;
 - i Ongoing reductions in packaging; and/or
 - i Improved product durability; however, whilst for example extending a product's useful life can reduce waste and improve resource optimisation, there are downsides, including delaying the introduction of more energy efficient technology - an issue that may potentially be overcome by building upgrading into the design process. For this to work it will need to be accepted by the consuming public which, in itself, presents a difficulty.
23. Such choices involve a balancing of different environmental impacts.
- i *Which waste streams or materials should be a priority for waste prevention?*
24. There are already a number of initiatives in place such as :
- i Reclaiming of precious metals/ resources from WEEE & other recycling.
 - i Using recycled materials in manufacture (reducing the use of virgin materials).
 - i Improvements in the design of products and packaging.
25. Phased targets to reduce some waste streams to landfill could incentivise the development of recovery operations and secondary markets such as food waste to EfW plants. In circumstances where reduction targets are environmentally and economically feasible, UKELA considers this to be a sensible area for Defra to further consult on targets for steadily reducing certain types of waste to landfill. There may be potential to link this to higher landfill tax rates for certain waste streams.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



26. Food waste streams should be a priority for waste prevention, through education and also for re-use rather than disposal, especially because of the comparatively short potential for safe re-use when compared with other waste streams.

i *How should waste prevention be measured?*

27. At its simplest, by reductions in the annual tonnage of materials sent to landfill. Any other mechanism will presumably add to the administrative burden on businesses and households which government seeks to avoid. It may potentially also be possible to measure reduction in the consumption of raw materials of non-waste origin but this is not as direct an indication since it may be possible to use such materials sustainably.

2.5 Preparing for Reuse

Preparing for reuse means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing. Examples of preparing for reuse are refurbishing old IT equipment or discarded furniture. We would welcome your views on preparing for reuse in England and in particular:

i *What more do you think Government, businesses and civil society could do to increase activities that prepare waste for reuse?*

28. In order to answer this question, UKELA suggests that Defra needs to explain in more detail exactly what is meant by the term 'civil society'.

29. The LSE centre for Civil Society explains the term as "*the arena of uncoerced collective action around shared interests, purposes and values. In theory, its institutional forms are distinct from those of the state, family and market, though in practice, the boundaries between state, civil society, family and market are often complex, blurred and negotiated. Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power. Civil societies are often populated by organisations such as registered charities, development non-governmental organisations, community groups, women's organisations, faith-based organisations, professional associations, trades unions, self-help groups, social movements, business associations, coalitions and advocacy group*".

30. There are certainly many businesses, social enterprises and charities involved in recycling whether collecting material for recycling and selling them on or recycling the materials themselves.

31. Consideration should be given to identifying and extending the circumstances where the repair or refurbishment of 'goods' does not amount to the treatment of waste so that an environmental permit is not necessary. That should help to encourage the development of this secondary market. The draft guidance on the legal definition of waste published by Defra this Spring was long awaited and will certainly provide a first step in greater regulatory clarity on what is and what is not waste. UKELA responded to the consultation on this guidance, which was not without its ambiguities and flaws, but UKELA hopes that once the

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



responses have been properly considered by Defra, this guidance will be published and continually updated and improved to assist those who are unsure of the waste status of certain materials.

i *Which waste streams or products are priorities for reuse?*

32. UKELA suggests that clothing should be such a priority.

i *What are the existing barriers to preparing more waste for reuse from both the household waste stream and the 'Commercial and Industrial' and 'Construction and Demolition' waste streams?*

33. In relation to household waste, co-mingling is a significant problem as it causes spoilage which means that products need to be prepared for reuse because they cannot be reused if they have been contaminated or spoilt. Separate collections for items which are destined for reuse rather than recycling would help address this.

34. In relation to commercial and industrial waste, separation of waste from reusable products at the source would also help to prevent spoilage or contamination.

35. In relation to construction and demolition waste, maximising the volume of products segregated for reuse could be efficiently achieved through site waste management plans.

i *Who is best placed to deliver an increase in reuse? How could civil society take a role?*

36. In order to answer this question, UKELA suggests that Defra needs to explain in more detail exactly what is meant by the term 'civil society'. Again, there certainly many businesses, social enterprises and charities involved in recycling whether collecting material for recycling and selling them on or recycling the materials themselves.

2.6 Recycling

Recycling means converting used materials into new products. For most materials and products, recycling is better for the environment than energy recovery and disposal. We would welcome your views on recycling in England generally, and in particular:

i *What should the role and nature of local authority waste management collection and disposal services be?*

37. It is not appropriate for private sector and/or third sector bodies to take on duties imposed on public sector competent authorities by EU legislation. Local authorities can already contract out waste collection and disposal services; and many do so. Again, UKELA questions whether local communities would wish to take on the legal duty for waste collection etc.

i *How can individuals, businesses and communities best be motivated to recycle more?*

38. Convenience is very important, in particular making recycling easy (good receptacles for collection of recyclables and efficient collection by waste collection authorities).

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



39. Another important factor is local authorities and Government leading by example, so that recycling becomes standard behaviour.
40. Benefits such as credits and deposit schemes may also be a motivating factor, but as they require administrative costs to run, these should not be prioritised over other incentives such as convenience and behavioural change.
 - i *How does the choice, including frequency, of collection service impact on the quantity and quality of waste fit for recycling?*
41. 'Green' garden and food waste deteriorates more quickly than other recyclable materials. More frequent collection of these waste streams would improve public perception of that aspect of waste management, potentially increasing contributions towards it instead of materials being diverted to general waste for 'hygiene' reasons.
 - i *Should greater emphasis be placed on using recyclable/recycled materials in manufacturing and production and, if so, how should this be achieved?*
42. Price is likely to be the most important driver for manufacturing, and therefore the price of recyclable material compared to virgin materials will need to be attractive enough to incentivise manufacturers and producers to switch to recycled/recyclable materials.

2.7 Energy recovery

Energy recovery is about extracting, through various technologies, energy from the waste left once as much as possible has been prevented, reused and recycled. Energy derived from bio waste can contribute to renewable energy targets. Energy from Waste (EfW) covers a range of established technologies including combustion and anaerobic digestion, as well as emerging technologies such as advanced gasification and pyrolysis. The Government is committed to delivering a huge increase in EfW through anaerobic digestion. We would welcome your views on EfW in England, and in particular:

- i *What are the barriers to delivering an increase in EfW capacity, including a huge increase in generation from anaerobic digestion? How might these be addressed?*
43. Before answering the questions on recovery, UKELA is puzzled why EfW is the only type of recovery operation addressed in the Call for Evidence paper. There are many other forms of recovery which have effectively been disregarded and Defra has not explained why EfW is the only acceptable type of recovery operation suitable for England's waste management strategy. Clarification on this issue would be welcomed.
44. Other barriers include the planning system and 'Nimbyism'. UKELA suggests that consideration be given to clarifying the relationship between the planning and environmental permitting regimes in order to avoid duplication of controls.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



i *What role should Government, industry and voluntary groups play in communicating the benefits of EfW to local communities?*

45. UKELA suggests that such organisations have a role in providing education to local communities about the benefits.

i *How can Government best support local government in the development of waste management plans that include EfW facilities?*

46. UKELA suggests that Government can best support local government by providing a clear national planning framework and policies.

i *What steps can be taken to encourage community ownership of EfW facilities?*

47. UKELA questions whether local communities would wish to take on the onerous task of ownership of EfW facilities with all the associated risks and liabilities.

2.8 Disposal

Disposal is now considered the last resort for many types of waste. Biodegradable waste in landfill decomposes to release methane, one of the most dangerous greenhouse gases. Disposing of valuable resources rather than using them again is also economically unsustainable. We would welcome your views on the use of waste disposal in England, and in particular on:

i *How best to further reduce the amount of waste going to landfill?*

48. As a general point, UKELA agrees with Defra's application of the waste hierarchy in policy discussions about future regulation of waste management as it will shortly be implemented into UK legislation (although EfW is the only topic relating to recovery discussed in the Call for Evidence paper - which UKELA notes is only one small part of recovery).

49. Phased targets to reduce some waste streams from landfill could incentivise the development of recovery operations such as food waste to AD plants. In circumstances where reduction targets are environmentally and economically feasible, UKELA considers this to be a sensible area for Defra to further consult on targets for steadily reducing certain types of waste to landfill. There may be potential to link this to higher landfill tax rates for certain waste streams.

50. The landfill tax regime has proven to be an effective tool in discouraging businesses from sending waste to landfill and therefore its continued use should be supported. Expanding other successful regulatory mechanisms such as producer responsibility regimes to incentivise recycling and recovery will help create new markets for secondary materials as well as being revenue neutral and should therefore be a key priority for Defra in reducing landfill waste.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



i *What are the types of waste where a continuation of landfill might be acceptable?*

51. With some waste streams, the best environmental option may not currently justify recovery/preparation for reuse because of environmental and/or economic costs, and therefore such regulatory intervention would not be appropriate at present. Regulatory bans alone could result in a significant increase in fly-tipping which poses serious enforcement and resource issues for regulators as well as endangering human health and the environment. For waste streams which are currently difficult to recycle/recover, before reduction targets or regulatory bans are imposed, solutions to overcoming inherent problems with recycling and/or recovery due to design or composition of the waste streams will need to be addressed in priority to reduction targets.

i *When should we aim to be as close to zero waste to landfill as possible?*

52. There needs to be a realistic discussion on achievable goals, because whilst it is right that landfill generally should be discouraged where waste could otherwise be reused or recycled, in relation to some waste streams, the UK is not technologically advanced enough in terms of whole product life cycle thinking to be able to enforce a complete ban on all waste streams destined for landfill. Indeed, Defra has decided not to introduce complete bans on landfill following its recent consultation. Therefore when we aim to be as close to zero waste as possible will depend on progress with whole life cycle thinking of products to ensure they can be reused, recycled or recovered both cost effectively as the best environmental option.

COMMENTS ON 18 WASTE-RELATED POLICIES LISTED IN TERMS OF REFERENCE

1. *How better waste management can help to preserve natural resources and protect the environment at home and abroad.*

53. There are already a number of initiatives in place:

- i Reclaiming of precious metals/resources from WEEE & other recycling.
- i Using recycled materials in manufacture (reducing the use of virgin materials).
- i Improvements in the design of products.
- i The use of Quality Protocols – however, there needs to be a balance between meeting the requirements and achieving ‘product’ status.

54. More is needed in the following areas:

- i Better, more modern regulation which is clearly linked to environmental protection and which is robustly enforced (i.e. there is failure to regulate and enforce a number of environmental legislation including The Site Waste Management Plans Regulations and The Packaging (Essential Requirements) Regulations).
- i Skills and training.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



2. How to maximise the contribution that waste management in England can make to UK energy and climate change goals, both renewable energy targets and the long term goals for greenhouse gas emission reduction by 2050.

55. UKELA suggests that Defra should consider the need for landfill bans for materials where there is more of a carbon impact than if landfill is avoided. This will require accurate Life Cycle Analysis to determine the correct management for different waste types depending on a number of factors (e.g. transport issues, use of waste materials).

3. The need for waste evidence, including the necessary data to consider likely waste volumes and characteristics in the future.

56. WasteDataFlow is in place for local authority data and allows them to indicate their success in recycling by querying the data and producing graphic detail of targets achieved. There is also comprehensive data on arisings and local authorities can use this for trend setting and future planning.

57. The electronic Duty of Care (eDoC) may also improve waste data. Waste data from the commercial/industrial sector is particularly lacking.

4. Actions to ensure the cost-effective contribution waste management in England can make to the green economy is maximised, including the impact on the finances of both households and businesses, on job creation and on green industries themselves.

58. Steps should be taken to improve efficiency in the collection, transport and management of waste - keeping costs down and ensuring the best method is used to benefit the environment rather than purely to meet a target which may not be wholly beneficial to the environment.

59. Local authorities need to work together more – national league tables are driving higher levels of recycling, but not joint working. In many cases it would be more beneficial for some authorities to pool resources.

60. At present, commercial and industrial undertakings do not have access to affordable recycling services.

5. Our future infrastructure needs, including energy from waste and anaerobic digestion capacity and the role of planning including to enable community ownership of waste infrastructure.

61. The following are relevant:

- i There is a need to educate the public from a trustworthy source.
- i The Environment Agency is due to report on infrastructure requirements in the Autumn, but there seems to be a push towards EfW and MBT.
- i Waste treatment needs to be embraced by all sectors.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



- i Clarifying the scope of planning and environmental permitting controls where appropriate.

6. How potential benefits can be gained from better alignment of policies dealing with business and household waste.

62. Clarity is needed on some legislation differentiating business waste and household waste. A consolidation of legislation may help, but certainly there needs to be a way for legislation to be amended without creating an endless list of amending legislation.

7. The role of the public sector leadership in terms of waste management, including procurement.

63. The public sector has got an important message to communicate. There is currently a high level of mistrust and misunderstanding among the public and something needs to be done to turn this around.

8. The role of product policy in waste prevention.

64. The following are relevant:
- i Designing products for longevity.
 - i Hire or lease options.
 - i Eco-labelling is an important step for better product policy.

9. How voluntary Responsibility Deals with businesses can play a role in waste reduction and more efficient use of resources.

65. The following are relevant:
- i Light-weighting of packaging.
 - i Potentially extending Responsibility Deals to LEQ and litter (for example, chewing gum and smoking-related litter).

10. The role of regulations and enforcement in waste management, including the role of standards, ensuring we continue to protect the environment and human health whilst reducing burdens on business, in particular small businesses, where possible.

66. We are told that we have 'modern regulation', but it doesn't feel like it to business – it just feels different, not better. The use of product protocols has relaxed the rules for certain types of material, including the use of compost, tyres and glass. UKELA welcomes this. However, the concept of risk-based regulations has become clichéd and is being used to justify decisions rather than the mechanism by which decisions are made. The relevant regulators must work towards using civil sanctions as a way to disincentivise recalcitrant businesses.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



11. How best to reduce fly-tipping and other forms of illegal waste disposal.

67. The following are relevant:

- i Improving public understanding.
- i Electronic duty of care may help.
- i Stronger, more robust enforcement.
- i Making it easier for businesses to be compliant, through the use of civic amenity sites etc.

12. How best to understand and encourage or incentivise individuals, businesses and communities to produce less waste and recycle more.

68. The following are relevant:

- i Higher landfill tax or other financial incentives and disincentives.
- i Producer responsibility schemes increase recycling, but are often convoluted and unwieldy, making it difficult for businesses to understand what 'compliance' is.
- i There needs to be a separate strategy for supporting small and micro SMEs.

13. How to make the best use of the skills and knowledge of the private sector, the third sector and civil society and local communities.

69. UKELA suggests this could be achieved through sharing of knowledge and skills by publishing research and reviewing in an unbiased way.

14. Whether greater emphasis should be placed by Government on using recyclable/recycled materials in manufacturing, construction and production.

70. There needs to be a market for recycled goods – increased demand will grow the supply. This could be linked to procurement, but clear standards are required.

15. How government can work with local councils to increase the frequency and quality of rubbish collections and make it easier to recycle, to tackle measures which encourage councils specifically to cut the scope of collections; and to address public concerns over the civil liberty aspects of inappropriate enforcement practices associated with household collections.

71. UKELA would not support a move back to weekly collections. This is a highly emotive topic and the debate has been hijacked by certain sections of the media. There is much unbiased, peer-reviewed academic research showing the cost and recycling benefits of fortnightly collections. UKELA fears that the wording of this question implies that there is a political will to 'force' local authorities to move back to weekly collections.

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



16. *The means of decentralising power and responsibility for some services to local communities.*

72. There are already National Indicators for satisfaction in service, i.e. local communities commenting on services delivered locally. Again, UKELA questions whether local communities would wish to take on responsibility for some services with all the associated risks and liabilities.

17. *How to ensure the right concentration of energy from waste, including delivery of a step change in generation from anaerobic digestion.*

73. There needs to be a general understanding that anaerobic digestion will not deliver everything. There needs to be a strategy to address each waste stream.

18. *How best to further reduce the amount of waste going to landfill, so that in future landfill is used only for those wastes for which no better use is practicable.*

74. The following are relevant:

- i Landfill bans or restrictions as previously explained.
- i Better sorting and pre-treatment.
- i Raising awareness.

Contact:

Angus Evers
Convenor, UK Environmental Law Association Waste Working Party
c/o SJ Berwin LLP, 10 Queen Street Place, London EC4R 1BE
Telephone: 020 7111 2763
Email: angus.evers@sjberwin.com

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.