

ENVIRONMENT, PLANNING AND TRANSPORT COMMITTEE

Date: Wednesday 17 July 2002
Time: 2.00 to 5.00 pm
Venue: Committee Room 3, National Assembly Building

**RESPONSE BY THE MINISTER FOR ENVIRONMENT TO THE ENVIRONMENT PLANNING AND TRANSPORT COMMITTEE'S
RECOMMENDATIONS ON THE REPORT OF THE INVESTIGATION INTO THE NANTYGWYDDON LANDFILL SITE**

17 July 2002

At the EPT meeting on 29 May I agreed to co-ordinate a response identifying action taken by the responsible bodies in response to the Committee's Report on Nantygwyddon.

A summary of action is attached. I am grateful to Amgen Cymru, the Environment Agency and Rhondda Cynon Taff County Borough Council for providing the relevant information.

<p>1 - that there should be an end to household waste disposal at Nant-y-gwyddon (16.1)</p>	<p>RCT CBC</p>	<p>RCT has reported on this recommendation as follows:</p> <ul style="list-style-type: none"> "Some time ago the Council approved, and is now implementing, a new Waste Strategy and associated Action Plan, which involved the cessation of Waste Disposal at Nant-y-Gwyddon. Waste Disposal at the site actually stopped in December 2001, shortly after Mr Purchon's verbal comments in a public meeting in Treorchy".
<p>2 – 1st bullet:</p> <p>the phase 1 area should be swiftly completed to suitable finished levels to ensure a sound, stable landform and reasonably impervious cap (16.2)</p>	<p>Amgen Rhondda and RCT CBC</p>	<p>Amgen Cymru has reported on this recommendation as follows:</p> <ul style="list-style-type: none"> "Phase 1 has been completed and an intermediate capping layer has been emplaced. Permanent capping will take place in accordance with the site remediation plan being drawn up with the key stakeholders including representatives of the local community, the Environment Agency, RCTCBC and Amgen Rhondda Limited". <p>RCT has reported on this recommendation as follows:</p> <ul style="list-style-type: none"> "The Council is in the process of establishing a dialogue with all relevant parties, to fully explore the precise nature of full closure and remediation works at Nant-y-Gwyddon. Discussions have been held with Assembly Officials about the Stability Study which they are procuring to ensure that their work dovetails with our deliberations. Requests for funding to help progress the closure scheme have been submitted to the Assembly Environment Minister, so far to no avail".

2 – 2nd bullet

the National Assembly commission an authoritative stability study of Nantygwyddon (16.10).

**Welsh
Assembly
Government**

ACTION: E3/2

&NM2

The Welsh Assembly Government has reported on this recommendation:

- Environment Protection (EnvP) has discussed this work with RCT, Environment Agency and AMGEN. All have agreed the need to co-ordinate this with other related issues, for which other agencies have responsibilities, particularly site remediation.
- EnvP has sought a meeting with RANT to ensure that their concerns are taken into account in commissioning work.

3 – 1ST bullet:

a landfill gas management system be devised, implemented, monitored and regularly reviewed, to include real time recording of flare temperature, gas residence time and complete combustion monitoring instruments (16.3)

Amgen Rhondda and
EAW

Amgen Cymru and Environment Agency Wales (EAW) have reported on this recommendation as follows:

- "Amgen Cymru report that, in their opinion, this recommendation has been satisfied for some time. Additional work is currently being progressed to improve the accessibility of the monitoring data generated at the site.
- EAW reports that the initial part of this recommendation has already been achieved, i.e. a landfill gas management system has been devised, implemented and is subject to regular review. Amgen Rhondda Ltd, carried out a review that led to the installation of a new flare system in August 2001, which meets current best practice. EAW are continuing to work on the remaining elements of this recommendation, on the feasibility of providing real time recording of combustion parameters and the provision of results in a readily available format to local residents.
- EAW report that the following progress has been made on these issues:
 - (i) EAW issued a revised waste management licence on 18 January 2002 containing additional requirements for landfill gas flare monitoring. EAW are also reviewing the existing landfill gas monitoring being undertaken by Amgen Rhondda Ltd on and off site
 - i. The Environment Council has been appointed to carry out a stakeholder dialogue scoping exercise to improve responsiveness to local residents on the provision of environmental data in a readily accessible form. The Environment Council are currently contacting stakeholders to discuss their views
 - ii. Additional air quality monitoring equipment (portable equipment and a mobile laboratory) has been purchased by EAW with Assembly Government funding. The mobile monitoring facility is currently being tested at various locations where the Agency has well established monitoring programmes to ensure it is capable of providing reliable data. Once these trials have been completed it will be used at key locations around Wales. It is anticipated that Nant-y-Gwyddon will be monitored during the summer of 2003
 - iii. EAW are liaising with RCT and Amgen Rhondda Ltd to develop an integrated monitoring and reporting protocol. The purpose of this protocol is to ensure our respective monitoring programmes provide the best available information for local residents".

3 – 2nd bullet:

leachate be treated on site before discharge (16.4)

Amgen Rhondda

Amgen Cymru has reported on this recommendation as follows:

- "Leachate treatment on site has been a long established objective at Nantygwyddon. The establishment of such permanent works on site will form an integral part of the site's remediation programme.
- Amgen is currently investigating options for partial treatment at the site which may provide for early progress on this recommendation".

3 – 3rd bullet:

until the landfill is successfully "planted" with vegetation surface water collection and management be maintained (16.5)

Amgen Rhondda

Amgen Cymru has reported on this recommendation as follows:

- "This recommendation is a statement of Amgen's legal duty under the Water Resources Act.

		<ul style="list-style-type: none"> ● Surface water management is an essential element of the site's maintenance and further improvements to the site's surface water drainage are currently in hand".
<p>4 - that specific health studies related to person/dose/ substance(s) be commissioned involving blood, urine and fat sampling/testing and analysis. Results should be published with independent expert commentary as soon as possible. These tests and analyses need to be undertaken in the context of ambient and site specific pollution data. Attempts should be made to plot low birth weights in the vicinity of the Nantygwyddon site as soon as possible (16.6)</p>	<p>Welsh Assembly Government</p> <p><u>ACTION:</u></p> <p><u>PH</u></p>	<p>The Welsh Assembly Government has reported on this recommendation:</p> <ul style="list-style-type: none"> ● The Assembly's Chief Medical Officer has met members of RANT to discuss initial proposals to take forward this recommendation including a seminar proposed for the Autumn. ● Exploratory discussions are being held with the Agency for Toxic Substances and Disease Registry(ATSDR), Atlanta, USA to work up proposals to assist with taking forward this recommendation. ● The shadow Wales Centre for Health and Wales Office for Research and Development will be involved in taking forward this recommendation
<p>5 - that when the financial information about the trading and contractual affairs of Rhondda Waste Disposal Ltd. is available to Rhondda Cynon Taf CBC, it should be subjected to the closest scrutiny, and that if evidence of wrong doing emerges it should be pursued with vigour, so that individuals are held to account for their acts and omissions when exercising stewardship of public money (16.12).</p>	<p>RCT CBC</p>	<p>RCT has reported on this recommendation as follows:</p> <ul style="list-style-type: none"> ● "Productive discussions are ongoing with the Administrator to conclude the complex financial affairs of Rhondda Waste Disposal Ltd. Whilst excellent progress has been made in reaching agreement in respect of determining the position vis a vis the Council, the Administrator is still in negotiations with a number of other interested parties. The Council has already made it clear to the Administrator that it would wish to view and scrutinise all files and documents in his possession which relate to Rhondda Waste Disposal Ltd, once the company has been formally wound up".

6 - that the National Assembly issue mandatory guidance to the Environment Agency Wales to require all the openness and transparency permitted by current legislation and furthermore press UK government to espouse freedom of environmental information generally and certainly removing "commercial confidentiality" as a barrier to public accountability (16.7).

**Welsh
Assembly
Government**

ACTION:

E1/3

The Welsh Assembly Government has reported on this recommendation:

- Draft statutory guidance for the Environment Agency, in relation to its objectives and contribution to sustainable development, was considered by the EPT Committee on 29 May.
- The guidance includes a requirement for the Agency to conduct its affairs in an open and transparent manner in full compliance with the requirements of all relevant statutory provisions and codes of practice relating to the freedom of, and public access to, environmental and other information, and make such information available to the maximum extent permitted by legislation.
- Consultation concludes on 18 July.
- The Environment Minister is raising the issue of commercial confidentiality and public accountability with the UK Environment Minister and will be discussing the issue with him when they next meet. Any change in the law will be a matter for the UK Government

7 – 1st bullet:

that the National Assembly consider how formal impact assessment (environmental, health and financial) can best be used in Wales to properly consider the implications of plans, programmes and projects concerning waste disposal (16.14)

Welsh

Assembly

Government

ACTION:

E3/P4/PH

The Welsh Assembly Government has reported on this recommendation:

- Work is in hand to examine ways of ensuring that the potential health implications of all proposed developments are properly considered during the planning process.
- This work will consider the implications of, and for other policy areas and consenting regimes [eg integrated pollution prevention and control (IPPC) and formal strategic environmental appraisal / impact assessment (environmental, health and financial)].
- Interim proposals will be considered by Cabinet at the turn of the year.
- A report has been made to the EPT and HSS Committees about the work in progress.
- It is anticipated a further report will be taken to EPT and HSS Committees in the New Year.

7 – 2nd bullet:

consider how they may best secure the principle of producer responsibility for waste minimisation, re-use and recycling in Wales (16.16).

Welsh

Assembly

Government

ACTION:

E3/WPSU

The Welsh Assembly Government has reported on this recommendation:

- Welsh Assembly Government is discussing producer responsibility matters with DEFRA and DTI, and other stakeholders to reflect EC Directives on producer responsibility for eg end of life vehicles (ELV) and waste electrical and electronic equipment (WEEE). Other such Directives are also under consideration.
- "Wise about Waste" the National Waste Strategy for Wales, published on 14 June 2002, contains targets for local authorities in Wales that will encourage the minimisation of municipal waste and that will greatly increase recycling and composting of municipal waste. The strategy also contains targets for minimisation and increased recycling in other waste streams.
- The Producer Responsibility Obligations (Packaging Waste)(Amendment)(Wales) Regulations 2002 increases the targets, for companies obligated under these regulations, to recover 59% of packaging waste and recycle at least 19% of each material.

<p>8 - that the National Assembly consider how communities may seek independent research and health risk appraisal to allay their fears and respond to inactivity or failure by the regulatory/health protection bodies (16.15).</p>	<p>Welsh Assembly Government</p> <p>ACTION:</p> <p>PH/E3</p>	<p>The Welsh Assembly Government has reported on this recommendation:</p> <ul style="list-style-type: none"> • The Shadow Wales Centre for Health was established on 1 June 2002 within the Velindre NHS Trust until it can be established on a statutory footing. • The NHS (Wales) Bill, if enacted, will permit the establishment of the Wales Centre for Health on a statutory basis. • The Wales Centre for Health will be an independent training, advisory and research body designed to facilitate partnerships with the Assembly, the public, voluntary and academic sectors
<p>9 – 1st bullett</p> <p>that the National Assembly support the principle of public accountability for the "public pound" (16.8)</p>	<p>Welsh Assembly Government</p>	<p>The Welsh Assembly Government has reported on this recommendation:</p> <ul style="list-style-type: none"> • Welsh Assembly Government agrees with this statement.

9 – 2nd bullet

that the National Assembly consider and improve accountability for securing files upon the proposed abolition of a public authority (16.9);

**Welsh
Assembly**

Government

The Welsh Assembly Government has reported on this recommendation:

- Article 6 of the Local Government Reorganisation (Wales) (Property) Order 1996, introduced under the Local Government (Wales) Act 1994, states that in a new authority, any "property in or on that land", being property held by the old authority shall vest in the new authority. Article 7(1) states that this expression includes "records".
- The Chief Medical Officer has agreed to register the importance with the Director of the NHS in Wales of the need to ensure that health authorities files are retained and made available to successor bodies

9 – 3rd bullet

that the National Assembly review EU grant criteria, audit and the prospect of repayment if a grant aided asset is transferred with no public finance benefit (16.11).

**Welsh
Assembly
Government**

The Welsh Assembly Government has reported on this recommendation:

- The European Commission has the primary responsibility for the operation of European Structural Funds programmes. European programmes run for a fixed number of years and are reviewed on a regular basis by the Commission to improve their effectiveness. They have introduced new regulations covering the operation of the current round of programmes covering the period 2000-06.
- Rules on eligibility and selection of projects have changed significantly since 1991 and are now built into programme documents.
- Financial control requirements are now more stringent and new rules have been introduced on the transfer of assets.
- Management of European payments is now the responsibility of WEFO. Additional resources have been given to WEFO to improve the time taken to process payment claims. As a result, ERDF claims under the latest programmes are currently taking some 4 weeks to process. However all final claims have to be independently certified by the organisations' external auditors and this is reliant upon the body concerned submitting the final claim to their auditors for that certification. Only when that certified claim is received by the Assembly is any final payment made and any retention held released.
- As indicated above, the Commission has made requirements for operating European funds more stringent over recent years, particularly in the area of financial control, and procedures have been amended to meet these requirements.
- All of WEFO's procedures for dealing with EU grants, like the Welsh Office before it, are subject to audit by the National Audit Office, the Assembly's own Internal Audit Service, the European Court of Auditors and the European Commission. Any recommendations made by those auditors have been acted upon. For example, annual audit certification was introduced in 1998 following a recommendation made by NAO.

10 - that the National Assembly, after obtaining any necessary legal and other advice, considers the human rights implications of the use of legal sanctions by public or quasi-public bodies to restrain the activities of officers of organisations such as RANT who organise protests against those bodies (16.13).

**Welsh
Assembly
Government**

The Welsh Assembly Government has reported on this recommendation:

- The framework within which such cases are to be decided has, since 1 October 2000, changed fundamentally in the light of the Human Rights Act 1998 (which came into force on that date).
- Public bodies and bodies discharging public functions (including the courts) are now required to give effect to convention rights including those which provide protection for the home, for freedom of expression and for freedom of assembly.
- These rights are not absolute, and have to be weighed against the rights of others and the interests of society generally, within the context of individual cases.
- The National Assembly cannot therefore make predictions as to how particular disputes would be resolved nor guarantee any final outcome, but issues such as the ability to protest effectively against un-social activities would now be able to be aired in a way which has not previously been possible.