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| Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd | National Assembly for Wales Environment and Sustainability Committee |
| Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru) | General principals of the Environment (Wales) Bill |
| Ymateb gan Cyngor Bro Morgannwg | Response from Vale of Glamorgan Council |
| EB 26 | EB 26 |



Date/Dyddiad 9th June 2015
Ask for/Gofynwch am Mr. C. S. Parish
Telephone/Rhif ffôn 01446 700111
Fax/Ffacs
e-mail/e-bost visible@valeofglamorgan.gov.uk

The Vale of Glamorgan Council
The Alps, Wenvoe CF5 6AA
Cyngor Bro Morgannwg
Yr Alpau, Gwenfô CF5 6AA
www.valeofglamorgan.gov.uk
www.bromorgannwg.gov.uk



Your Ref/Eich Cyf

My Ref/Cyf

WM/OM/CSP/BDI/I/he

Committee Clerk
Environment and Sustainability
Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA



Dear Sir

RE: Consultation on the Environment (Wales) Bill

I would thank the National Assembly for Wales Environment and Sustainability Committee for the opportunity to comment on the Environment (Wales) Bill. I will however be focusing these comment solely to the waste management issues the Bill introduces.

The views and opinions express within this response do not necessarily represent the views of the Vale of Glamorgan Council, its Elected Members, Executive or any other senior officer. Neither does it supersede any other response that you may receive from the Council, but should be taken into consideration in parallel with any other such response.

While I would support any effective legalisation or measures that would assist Wales move to a more sustainable nation that makes the most of its resources and enhances its environment. I do not believe that the Bill's waste management proposals, if made law, will enable Welsh Government (WG) help tackle the environmental challenges and improve waste management processes in Wales.

If we in Wales are going to achieve a circular economy as defined by WRAP as an alternative to a traditional linear economy (make, use, dispose) in which we keep resources in use for as long as possible, extracting the maximum value from them then recover and regenerate products and materials at the end of each service life WG and regulator need to adopt more complete and adoptable enforcement policy to tackle the traditional way society looks at waste management which is still out of sight out of mind mentality by the general waste producer.

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Correspondence is welcomed in Welsh or English/Croesawir Gohebiaeth yn y Gymraeg neu yn Saesneg

Director of Visible Services and Housing / Cyfarwyddwr Gwasanaethau Gweladwy a Thai – Miles Punter

I would therefore welcome the Committee's inquiry into the general principles of the Bill as I believe that in respect to Part 4 particularly the Bill contains significant idealistic and unworkable legislative proposal that will fail to achieve the goals that failures to achieve the waste objectives let alone the Bill overall aims.

Although the Environment and Sustainability Committee are seeking comments on primary legislation which provides the authority from which the more detailed secondary legislation will be derived. It will be regulations and explanatory memorandums that will ultimately provide the detail of how the primary legislation will deliver the more sustainable and joined up way WG wished to achieve by Royal Assent in the spring of 2016. Therefore any comments or observations made to Committee at this time would need to be caveated until the secondary legislation is also fully consulted on.

I strongly believe that the Bill's proposals to implement landfill and Energy from Waste bans are completely unrealistic and unachievable and would urge the Committee to explore this during the hearings. I do not want future generations burdened with either laws that have no consequence or costs of enforcing them that is utterly disproportionate to the environmental advantage that they are convince to achieve for the sake of an poorly conceived plan that will just result further strain to people, the waste industry, regulatory bodies and the tax payer.

It is my belief that the proposals on waste bans are not acceptable for no other reason that the effective regulation of waste management in Wales already stands on feet of clay. Such legislation will only increase the burden on the already stretched regulatory resources, and in conditions of weak economic growth, reduced UK government finance to WG and public sector austerity it is unsustainable. At a time when the EU intention is in the direction of reducing direct policing of environmental controls, rather than

I would therefore maintain that the Bill's proposed regulations for banning recycling and organic waste are far more stringent than necessary to protect public health and the environment, and WG is significantly underestimating" the costs the new legislation would impose on industry and the tax payer . I would further argue that WG's proposals are "fundamentally flawed" because they focus on the utopian objectives rather than evaluating the partialities and cost which appears to be resulting is a set of unenforceable waste laws that do not reflect actual performance of real life sources

Therefore having provided my general observation in respect to the overarching aim of the waste management matters within the consultation paper, provided below are my observation and comment in answer to the specific question raise within the consultation:

Part 4: Collection and Disposal of Waste

- For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?

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Response:

If Welsh Ministers are minded to steamroller the waste philosophy to industry and commercial waste producers the more power they have the better. But whether it is appropriate to have the power to force and possibly adversely affect their trading status is a matter that Ministers will need to reflect on. At this time it would appear that irrespective of any consultation reply warnings from the commercial sector that such powers will have a negative impact on them WG appear to be minded to carry on regardless in obtaining and implementing these powers.

- Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

Response:

Traditionally, undertakings and businesses have procured their waste collection services independently with few spending much time choosing a service provider as a quality of service is difficult to assess. Cost is often the key or deciding factor and I believe it will continue to be so irrespective of the Bill's requirements. Separate recycling food waste collection is seen as an unnecessary additional cost and it's unlikely that any company will opt for it without being forced to do which will require policing and possible enforcement.

I do not believe that this is necessary and that infrastructure and market is not mature enough in Wales to allow this to be achieved and the regulation bodies insufficient resourced to make it happen. Clearly it will be apparent that requiring non-domestic premises to adopt the WG 'Blue print' will at best result in the cost being lead on the customer and at worst complete apathy and failure to comply by the non-domestic sector. It would also be unwise to force any industry to place all of its eggs in one legislative basket when WG should also be taking measures to remove what it considers burdens on business.

Before any requirement business is considered WG need to ensure that Anaerobic Digester (AD) developers must engage with both collection contractors and their customers to demonstrate the advantages of separate food waste collections. Without this type of jointed up practices I wouldn't be surprised to see a number of distressed AD assets appearing on the market in the short term, ripe for the plucking by the more savvy private equity funds or project developers. Are WG confident of the long term future for AD given the failure of some of their financial supported local authority procurement programmers?

- Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?

Response:

Given that the EU Waste Framework Directive (2008/98/EC) via the 2010 and 2011 regulation already provides Member States with the power to go beyond the minimum in

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setting up separate collection for at least paper, metal, plastic and glass wastes I would suggest that the power to impose a blanket ban on these and other waste materials being delivered to Energy Resource Facilities (ERF) is not needed to meet the aims of their National Waste Strategy, 'Towards Zero Waste'.

I would also express my concerns that implementing such a ban could threaten the viability of such facilities where the combustible index (c i) of the feedstock would be radically reduced making their future operation economically unviable. Given that WG have made a multi-million pound investment in partnership with my and four other local authorities in SE Wales at the recently opened Viridor Energy from Waste (ERC) Plant in Cardiff there must be the fear that the WG could be queried or criticized for inappropriate use of public money by supporting a venture that their own policies could be putting at risk of being expensive failure should the future feed stock's c i, without combustible recyclable or organic wastes result in the plant becoming commercial unviable.

- What will the impacts of these waste proposals be for you or your organisation?

Response:

The waste proposals within the Bill will have a major impact on my and all other Welsh local authorities. The financial impact of compliance alone will prove prohibitive at a time of exceptional budgetary pressures. There is a desperate need for statutory guidance and draft regulations to alleviate the fear that the Bill's waste measures will result in local authorities being able to meet its new duties without major grant support to meet the inspection, compliance and enforcement needs that the Bill requires. It is also my view that unless WG extends these proposals to include the householder themselves then the local authority is being condemned to failure being powerless themselves to achieve what WG requires within the Bill.

All of which is at a time when the medium to long term outlook for waste sector is facing significant challenges to some degree or another, local government funding for recycling is, and will continue to be, squeezed; UK reprocessing capacity is being buffeted by global market and the investment landscape for new waste infrastructure remains challenging; and the strategic planning necessary to ensure that the UK extracts the maximum material and energy value from its waste is not happening in a holistic way have serious longer term consequences for the UK's, let alone Wales', where there is still a considerable void of reprocessing capacity, resources and waste sectors.

- Are there other waste proposals that you think should be included in the Bill?

Response:

IF WG is serious about improving waste management processes and allow local authorities to have the tools to meet their policies then I would suggest that clause 66 Requirements relating to separate collections etc. of waste must include within 45AA occupiers of premises within paragraph (a) or (b) of section 75(5) of the Environmental Protection Act 1990 including waste from domestic properties, caravans and residential homes and that the existing householder's duty of care as provided by

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Section 34(2A) of the Environmental Protection Act 1990 (inserted by the Household Waste Duty of Care Regulations 2005) should be amended to include penalties for householder's up to £5,000 on conviction in the Magistrates Court or an unlimited fine if convicted in the Crown Court for failure to comply without reasonable excuse.

Although, I believe that the Bill's legal requirements, specifically the bans on undertakings and local authorities are likely to be unenforceable in practice, they need to place a legal requirement on all waste producers to have to separate their wastes. I would draw attention to the use of seat belts in motor vehicles which ultimately needed law to make it happen.

If WG feel that they are not able to deliver extended householder 'Duty of Care' then I would suggest at a very minimum that a WG supported and financed campaign be included to give out a consistent message and help change consumer attitudes. I would not of sign up to something retailers, waste management companies and local authorities know they can't achieve. It must be more constructive to shape something possible where one size won't fit all.

Overarching Question;

For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

Response:

Part 4: Collection and Disposal of Waste of the Bill appears to have been shoe-horned into the Bill without any synergies to the other parts. It is difficult to see what the proposed relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill is or the connections between them

Finance Questions

What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections)

Response:

I do not believe that the true cost of implementing the requirements of the waste measures, practically the compliance costs have been fully considered and fail to see how the benefits will outweigh the financial budget on all waste collectors and the regulatory body which will ultimately be passed down to the communities either in increased prices or reduced public service provision.

You may also want to consider:

- How accurate are the costs and benefits identified in the Regulatory Impact Assessment?

I am not confident that the few impacts and cost have been taken into consideration within the Regulatory Impact Assessment and would suggest that the Committee seek strong assurance whether they have from WG.

- Whether there are any costs or benefits you think may have been missed?

Yes, the significant additional costs of compliance.

- What is the cumulative impact of the costs or benefits of the Bill's proposals for you/your organisation?

Possible reduction in other public services and reduces recycling performance leading to possible failure to meet WG statutory recycling targets.

- Do you think 10 years (2016-17 to 2025-26) is an appropriate time period over which to analyse the costs and benefits?

Given that the additional cost would need to be met immediately by all collection and treatment undertakings considering a 10 years analysis may be a case of putting the 'cart before the horse' and result in a lot of pain to these bodies before an outcome is determined.

- The cumulative cost and/or benefit to organisations who will be affected by the Well-being of Future Generations (Wales) Act 2015, the Planning Bill and the Environment Bill?

No comment

- Are there any other options that would achieve the intended effect of the Bill in a more cost effective way?

Yes, a less prescriptive approach which would allow more flexibility would allow the effect of the Bill to be delivered in a more cost effective way

I hope that our comments and observations as they relate to your consultation paper are of some value to you and would be happy to expand on any aspect of my above response, should you feel that to be appropriate.

Yours faithfully,



Clifford Parish

**Operational Manager Waste Management and Cleansing
Rheolwr Gwaith Rheoli Gwastraff a Glanhau**