



## Advisory Group on a 'Waste Action Plan for a Circular Economy'

Meeting Wednesday 29 April 2020

### Discussion Note – Waste Enforcement

#### Context

Effective enforcement of waste legislation is vital for the credibility of our systems of waste management. Ireland has experienced significant improvements in waste enforcement in recent years and a corresponding change in the culture of compliance. A new regional enforcement structure has brought greater consistency and coordination which has resulted in the cessation of significant illegal waste activities with corresponding environmental benefits on identified sites across the regions. However, new and complex challenges await and we must respond with innovative solutions and greater flexibility in the way we deliver them.

#### Why effective waste enforcement is essential

- To protect human health and the environment
- To address specific problems- e.g. illegal dumping;
- To give effect to policy objectives;
- To ensure a level playing field within the regulated waste sector;
- To maintain the integrity of the regulatory system;
- To avoid economic consequences of illegal dumping (e.g. clean-up costs, impacts on tourism, loss of amenity value etc);
- To provide a deterrent effect.

## **Roles and Responsibilities**

Issues concerning the enforcement of waste legislation are statutory matters for local authorities or the Environmental Protection Agency (EPA) as appropriate, who both have significant powers under waste regulations to secure compliance by waste operators. The role of the Department is to provide a comprehensive legislative and waste policy framework through which the enforcement authorities operate.

The primary objective of local authorities in terms of waste enforcement is to achieve regulatory compliance in relation to waste activities in the local authority's functional area. This covers a wide range of roles, including regulatory enforcement, undertaking inspections and taking appropriate measures to bring relevant parties into compliance, addressing unauthorised waste activities and responding to environmental complaints.

Local authorities are assisted by three Waste Enforcement Regional Lead Authorities (WERLAs), who have responsibility for coordinating waste enforcement actions within regions, setting priorities and common objectives for waste enforcement and ensuring consistent enforcement of waste legislation. Local authority personnel continue to act as first responders on the ground.

The Environmental Protection Agency carries out its waste enforcement functions through the Office of Environmental Enforcement (OEE), which has a mandate to deliver enhanced environmental compliance through enforcement of EPA licences issued to waste, industrial and other activities. It also exercises a supervisory role in respect of the environmental protection activities of local authorities. In this regard, the OEE acts as a resource to members of the public who have exhausted all other avenues of complaint.

## **Limitations of the current system**

- The existing model is resource intense at every stage. Local authorities estimate that waste enforcement costs them €20M per annum; DCCAE contribute a further €12M (Waste enforcement grant scheme, WERLA offices and anti-dumping initiative);

- Legislation is enacted with provision for enforcement by prescribed bodies using traditional legal techniques. As a result enforcement is largely via civil and criminal remedies- injunctions and criminal sanctions using the courts systems and procedures- resource intensive which can act as a barrier to access in form of costs and delays;
- Burden of proof, books of evidence, technical nature of offence makes prosecutions difficult.

## **Emerging threats**

There is a significant criminal element involved in illegal waste activities – from unauthorised waste collection and the provision of skips to illegal landfilling and the burning of waste. Motivated by money alone, the consequences to the environment can be catastrophic while undermining investment, growth and jobs within the waste industry. There are obvious dangers associated with local authority and EPA personnel tackling serious criminals but the National Waste Enforcement Steering Committee has created a network of statutory bodies with a link to waste crime which has facilitated more multi-agency operations taking place on a regional basis with tangible results for the various enforcement bodies in terms of identifying, stopping and prosecuting non-compliant activities in the waste sector. A report on the costs of waste crime in Ireland is currently being undertaken by the EPA. This will include an overview of the scale, cost and impact of waste crime in Ireland, the factors leading to waste crime, the types of waste crime taking place and recommendations for tackling waste crime and the potential return on investment made in the waste enforcement sector.

## **Performance**

It is difficult to evaluate the effectiveness of the current enforcement model and assessments can be contentious. The EPA has designed a Performance Framework to help local authorities to continue to improve their work in environmental enforcement. Information on enforcement activities is provided by local authorities and has informed results of assessments made through the Framework. The most recent evaluation indicates that in 2018 the vast majority of environmental enforcement actions and prosecutions are in the waste area with over 40,000 complaints investigated, 7,600 enforcement actions and 717 prosecutions undertaken. The Framework is currently being reviewed by the

Agency. A new Local Authority Waste Enforcement funding model has also been agreed under which 20% of the €7.4M annual grant will be dependent upon performance. This shall be adjudicated on by the WERLAs with input from the EPA.

A European Council evaluation report, entitled “The practical implementation and operation of European policies on preventing and combatting environmental crime in Ireland”, which was published last year states that “The commitment of the Irish Government to supporting the enforcement of environmental regulation in Ireland has been demonstrated through continued investment in the network of local authority waste enforcement officers, increased resources for the EPA and the further development of the WERLA”. The report further states that “the evaluation team found in the Irish system many examples of best practices to be shared with other Member States” and highlighted in particular the multi-agency approach that has been developed to tackle waste crime.

### **Some questions to consider**

- Are there alternative forms of waste regulation/enforcement which could be more flexible and effective?
- Is the culture of compliance in Ireland sufficiently developed to enable us transition to an alternative model?
- What measures are required to respond to the links between waste crime and other forms of serious criminal offences, such as organised crime?
- How can performance be best measured from both a qualitative and quantitative perspective?