

CONSULTATION PAPER ON JOINT MUNICIPAL WASTE MANAGEMENT STRATEGIES AND DIRECTIONS TO WASTE COLLECTION AUTHORITIES IN ENGLAND

AUGUST 2004

THE FOLLOWING IS A RESPONSE BY THE NATIONAL ASSOCIATION OF WASTE DISPOSAL OFFICERS (NAWDO) TO THE GOVERNMENT CONSULTATION ON JOINT MUNICIPAL WASTE MANAGEMENT STRATEGIES AND POWERS OF DIRECTION PUBLISHED BY DEFRA ON 20 JULY 2004. NAWDO IS AN ASSOCIATION OF SENIOR PROFESSIONAL LOCAL AUTHORITY WASTE MANAGEMENT OFFICERS EMPLOYED WITHIN WASTE DISPOSAL AUTHORITIES THROUGHOUT THE UK.

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NAWDO welcomes the opportunity to comment on the government's consultation on Joint Municipal Waste Management Strategies and Directions to Waste Collection Authorities in England and is pleased to offer the following comments:-

**1 JOINT MUNICIPAL WASTE MANAGEMENT STRATEGIES**

1.1 The guidance on the application of the duty to have in place a joint strategy for the management of municipal waste is confusing and overly complicated.

- 1.2 Section 32 of the WET Act places a statutory obligation for authorities in two tier areas only to produce a waste management strategy. This obligation is waived where authorities are considered 'excellent' for CPA purposes. It is understood that government wishes to reduce the bureaucratic burden on local authorities but it is highly unlikely that an authority qualifying as excellent for the purposes of CPA would not already have in place a joint municipal waste strategy with other authorities in its area. It is therefore highly unlikely that the removal of the obligation on an authority to produce a joint municipal waste strategy as proposed in the guidance will significantly reduce the administrative burden on that authority.
- 1.3 In order to deliver on the long term objectives of the WET Act, it is essential that any municipal waste management strategy looks towards the long term. The guidance on application of the requirement to produce municipal waste strategies appears to allow for an authority to be relieved of its obligation one year but then to be required to produce a strategy the next. This would not be helpful to either that authority or any others within the two tier area.
- 1.4 Municipal waste strategies should be inclusive and long term. It is therefore not sensible nor practical to relieve authorities from an obligation to produce a strategy to deliver challenging future performance at this time. Put simply, any authority within a two tier area without a joint municipal waste management strategy is highly unlikely to deliver on future performance targets or retain an excellent CPA status for long.

## **2 GUIDANCE FOR WASTE AUTHORITIES IN TWO TIER AREAS ON DIRECTIONS TO WASTE COLLECTION AUTHORITIES IN ENGLAND**

- 2.1 The guidance on the application of the new provisions giving Waste Disposal Authorities the power to direct collection authorities lacks sufficient detail or clarity to be of significant value. It leaves a number of significant issues of principle to be resolved. The principle of a power of direction is to be supported although it is important that the guidance clarifies issues in relation to the following:-
- 2.2 The WET Act provides for a WDA to issue a direction to a WCA where it is necessary for at WDA to meets its own statutory obligations. Whilst the disposal authorities performance is at least in part a measure of the collection authorities, the option for the disposal authority to trade landfill allowances means that it may be difficult to

justify that a direction to the collection authority was, strictly speaking, “necessary”. It needs to be made clear that the power of direction is available for WDA’s in order to meet statutory obligations in a cost effective way.

- 2.3 There is also a need for clarity in what actions the WDA might take if a WCA failed to comply with a direction. In such circumstances, it is important that the WDA is removed from any liabilities as a result of failure to deliver on its statutory obligations arising due to the failures of the collection authority in carrying out the direction.
- 2.4 There is a need for further clarity as to what powers, if any, a WCA has to object or appeal against a direction issued to it by a WDA. The appeals procedure and time scale needs to be understood from the outset.
- 2.5 Whilst it is understood that the WDA should consult its constituent WCA’s before issuing any direction, the fact that the direction has been issued is in itself symptomatic of the breakdown of effective communication between the two tiers. It is therefore very unlikely that consultation will add value to the process. In any event, the 12 week consultation period appears to be excessive, especially when only 6 weeks is being allowed for consultation on the guidance.
- 2.6 There is also a danger with respect to the consultation provisions of a WCA arguing that the direction being given is not appropriate. Provided the WDA can demonstrate through costed options appraisals, that the direction represents the most cost effective solution for the WDA, there should be no grounds for challenge. Further clarity is needed on the level of information which should be made available in order to demonstrate this case.
- 2.7 The ability for a WDA to construct a case for issuing a direction will, to some degree, depend on the quality of information available to it from the WCA. This information extends to performance and cost data on waste collection and it is pleasing to see that government recognise that it is the responsibility of the WCA to provide adequate information. However, there remains no obligation on the WCA to provide either quality or timely information. This is a significant hole in the legislation that could frustrate WDA’s ability to both plan and monitor compliance with the WET Act.

- 2.8 By definition, the issuing of a direction by a WDA signifies that the WDA and WCA concerned do not share a common vision on management of municipal waste. The second sentence in paragraph 16 of the guidance is therefore unnecessary.
- 2.9 A critical issue of importance is to ensure that the power of direction extends not only to a requirement to separate, but a requirement to separate municipal waste to defined quality and performance standards. It will not be sufficient for collection authorities to be required to collect elements of municipal waste separately without appropriate controls on the amounts and quality of materials being collected.
- 2.10 Equally, there is a need for clarity on the WCA's obligations to mitigate any additional costs incurred in complying with the direction. For example, collection costs can be significantly reduced by offering alternate weekly collection of recyclables and residual waste. A WCA might be no worst off if it were to collect materials on an alternate weekly basis although this option may not be considered as acceptable to the WCA. It seems unreasonable and unfair for a WDA to have to bear the costs of a political decision made by the WCA in this way. The guidance needs more detail on how it will be determined whether a collection authority is "worst off" as a result of having to comply with a direction or not.

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