



**Stage one: Consultation on the transposition of the revised Waste Framework Directive (Directive 2008/98/EC)**

**Name of organisation consulting:** Defra and Welsh Assembly Government

**Water UK response**

**Date of submission:** 9 October 2009

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## **1. Introduction**

1.1 Water UK welcomes the opportunity to respond to the Defra and Welsh Assembly Government “Stage one consultation on the transposition of the revised Waste Framework Directive (Directive 2008/98/EC)”.

1.2 Water UK represents water and waste water service providers at UK and European level. Our members provide the UK with safe, clean water and contribute to the protection and enhancement of public health and the environment.

1.3 We support the principle outlined in the Waste Thematic Strategic and the long term vision to make Europe (and therefore the UK) a recycling society that decouples economic growth from increased waste generation. We therefore believe that the revised Waste Framework Directive, the most important legislative instrument for the delivery of this policy, must facilitate rather than hamper its delivery.

1.4 We are encouraged that this consultation is seeking ways and views to develop and deliver the requirement to “apply as a priority order in waste prevention and management legislation and policy: preventions, preparing for re-use, recycling, other recovery (e.g. energy recovery) and disposal”.

1.5 We would like to see current waste management legislation and policies in England changed where they do not apply as a priority order, the new waste hierarchy.

## **2. Subjects not covered by the consultation**

2.1 We have limited our responses to questions that are particularly important to the water industry and within our areas of competence. We have therefore not answered questions 7, 8, 10, 13-17, 20, 21 and 24.

## **3. Response to specific questions in the consultation document**

We respond to the specific questions in the consultation document as follows.

### **Article 4: The Waste Hierarchy (paragraphs 2.5-2.33 above)**

*Q1: What steps do you consider Defra/WAG should take (in addition to the legislative steps set out in paragraph 2.25) to apply the waste*

*hierarchy set out in Article 4(1) of the revised WFD as a priority order in waste management legislation? For example:-*

- (a) *How should producers of waste – other than householders – be required to apply the waste hierarchy as a priority order when taking their decisions on the treatment options for their waste – either before the in-house treatment of their waste or before its transfer to another person for treatment. Please explain how you consider the requirement would operate and how it would be enforced;*

Waste producers should have duty of care to demonstrate that they have applied the waste hierarchy and retain relevant documents for inspection if necessary. Deviations from the waste hierarchy should be allowed if justified by Life Cycle Analysis, Cost Benefit Analysis, Carbon assessment, risk assessment or relevant assessment where appropriate.

In addition to the legal requirements we think it is crucial that steps are taken to promote the waste hierarchy. These should include measures to raise awareness on waste prevention, encourage recycling and re-use by removing the stigma of waste and encouraging the growth of recycling/recovery companies.

- (b) *What other measures, if any, should be adopted in the spatial planning system to apply the waste hierarchy as a priority order;*  
Spatial planning systems should encourage facilities that are higher up the waste hierarchy. Planners should be engaged/trained so that planning decisions relating to the waste hierarchy are applied consistently.
- (c) *How should establishments or undertakings applying for permits for the treatment of waste under Article 23 of the revised WFD be required to demonstrate that they have applied the waste hierarchy as a priority order in reaching their decision about the type of treatment operation for which a permit application is being made;*  
No comment
- (d) *How should competent authorities be required to apply the waste hierarchy as a priority order in making their decisions on permit applications for the treatment of waste; and*  
Competent Authorities should carry out permit and charges reviews to reflect the waste hierarchy. They should consult stakeholders on proposed changes and commit to take into account changes

highlighted during the consultation. The reviews should take into account, Life Cycle Analysis, Cost Benefit Analysis, Carbon assessment where appropriate.

*(e) How should the waste hierarchy be applied to waste treatment operations already authorized and in operation on the due date for transposition of 12 December 2010?*

It should be possible to implement a phased programme of permit reviews but accepting that some operations may not be amenable to change due to potential infrastructure and asset modification that may be disproportionately costly.

There should be requirements for CBA and carbon assessment requirements for the review that could be included in Environmental Permits at the time of application or modification i.e. the permit and the process stays "as is" until a new application is made.

*Q2: Are there specific waste streams where you believe that departing from the waste hierarchy would be justified by life-cycle thinking on the overall impacts of the generation and management of such wastes, in order to deliver the best overall environmental outcome?*

There are cases, particularly in urban areas, where agricultural land is either limited or not available. In such circumstances, recycling of sewage sludge to agriculture would not be practical so incineration with or without energy recovery may be the only practical option to develop. Departures from the waste hierarchy in such circumstances should be allowed.

*Q3: Are there any further steps stakeholders and members of the public would like Defra/WAG to take to ensure that the development of waste legislation and policy, to apply the waste hierarchy as a priority order, is a fully transparent process?*

We think Defra/WAG, EA and WRAP should commit to changing existing waste legislation and policy which do not meet the requirements of the new waste hierarchy. Where stakeholders alert government and regulators, steps should be taken to effect the necessary change and remove all respective barriers. For example a recent Defra document on implementation plan for Anaerobic Digestion has identified a list of regulatory barriers that should be removed to encourage development of AD for recycling of the digestate and generation of renewable energy

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from biogas. Stakeholders see the willingness of government to facilitate change in this area very helpful and good leadership. A similar approach to making UK a recycling society with clear intent, leadership and commitment to apply the principles of the waste hierarchy will be very helpful.

**Article 8: Extended Producer Responsibility (paragraphs 2.34-2.42 above)**

*Q4: Are there any specific waste streams which you consider should be the subject of a producer responsibility regime under Article 8? If so, please explain what the economic and environmental costs and benefits of such regimes would be.*

We suggest producer responsibility should be extended to all products containing substances that are known to have adverse impact on the water environment such as mercury, pharmaceutical products, paints, solvents, lead compounds, DEHP, TBT compounds, phthalates, cadmium compounds, nickel compounds, pesticides, etc (for an exhaustive list see the Directive on Environmental Quality Standards and Pesticides and Biocide Directives). Manufacturers of products that should not be used for the sewer system must also have extended producer responsibility. Examples are wipes, non-woven materials that are not flushable, cotton buds, solid waste materials should not be flushed down the water closets etc.

**Article 11(1): Re-use and Preparing For Re-use Activities (paragraphs 2.44-2.52 above)**

*Q5: Are there any further measures you consider it would be appropriate for Defra/WAG to take under the terms of Article 11(1) to promote the re-use of products or preparing for re-use activities? Please give reasons to support your answer.*

We believe a cultural change is required by regulators in the application of the Article 11 (1) requirements. Our experience from PAS100 and PAS110 appears to suggest more needs to be done to encourage positive recovery of waste into useful resources, both of these specifications (that are used to demonstrate “end-of-waste”) specifically exclude sewage sludge as a suitable feedstock and as a result reduce potential for re-use / recycling.

**Article 11(1): Separate Collections of Waste (paragraphs 2.53-2.68 above)**

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*Q6: Do you agree with the proposed approach to implementing the requirements of Article 11(1) on separate collections? Please provide reasons for your answer including, if possible, the costs and benefits of your preferred approach.*

Separate collection of food waste will provide reliable source of feedstock to support implementation of government policy on Anaerobic Digestion. We think this is a critical factor in encouraging proper use food waste up the waste hierarchy.

Separate food waste collection should also discourage the disposal of food waste and fats oils and greases (FOG) into the sewer system. This is especially important were it relates to commercial food waste, were producers may be disposing of food waste to sewer illegally which should otherwise be dealt with under Animal By-products Regulations.

**Article 11(2) (a): Household Waste Recycling Target (paragraphs 2.69-2.91 above)**

*Q9: Do you agree with the proposed approach to implementing the recycling target for household and similar waste required by Article 11(2) (a)? Please provide reasons for your answer including, if possible, the benefits or otherwise of your preferred approach.*

We urge the government to make it clear that waste prevention programmes to meet recycling targets do not include maceration of food waste into sewers. Sewers are for sewage and practices that lead to increased risk of sewer blockage are not acceptable to the water industry.

*Q11 (England only): If you think the Government should look to introduce additional measures to ensure that the recycling target of 50% for household and similar wastes is reached by 2020, do you have views about what these additional measures should be? If so, please specify and give reasons for your answer.*

See our response to question 9 above.

**We suggest an additional measure to include stipulation/regulation of packaging, such that the content and packaging, where possible, match in the appropriate waste recycling/disposal route. For example it should be possible to have a readily biodegradable packaging on food so both can be recycled together in an Anaerobic Digestion plant.**

*Q12 (England only): Do you have views about targeting any additional measures on specific materials? If so, please specify which materials you consider are high priority and give reasons for your answer.*

See our response to question 9 above.

**Article 21 : Waste Oils (paragraphs 2.122-2.124 above)**

*Q18: Do you agree with the proposed approach to rely on the measures adopted to transpose and implement the waste hierarchy (and related measures) and not to prescribe under Article 21(3) that waste oils must be regenerated if technically feasible? If not, please provide reasons for your answer and, if possible, explain the economic and environmental costs and benefits of your preferred approach.*

We would like to see more encouragement given to recovery and recycling of fats, oils and greases (FOG) from catering and households for beneficial uses. We believe this will reduce the risks of sewer blockages from FOG.

**Article 22 : Bio-waste (paragraphs 2.125-2.132 above)**

*Q19: Do you agree that sufficient measures are already being taken in England and Wales to encourage bio-waste treatment etc as envisaged in Article 22? If not, please (i) explain your reasons and (ii) the measures you consider need to be taken in England and Wales to encourage bio-waste treatment etc as envisaged in Article 22?*

We believe government can do more to encourage food waste collection particularly for anaerobic digestion. Please refer to the Defra document on “Developing an Implementation Plan for Anaerobic Digestion” published in July 2009 for recommendations for improvement relating to food waste.

**Article 29: Waste Prevention Programmes (paragraphs 2.139-2.145 above)**

*Q22: What are your views on the merits of either (i) freestanding national waste prevention programmes in England and Wales or (ii) a more dispersed approach which would involve introducing a requirement for local authorities to draw up their own waste prevention programmes? Please give reasons for your answer.*

We will support a national waste prevention programme that is coordinated throughout local authorities.

*Q23: What are your views on the integration of waste prevention programmes into the waste management plans required by Article 28 of the revised WFD, their integration into other environmental policy programmes or their functioning as separate programmes?*

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We believe integrated waste management plans must include waste prevention programmes with their contributions and limitations clearly acknowledged in the plan.

**Initial Impact Assessment** (paragraph 2.146 above)

*Q25: Do you consider that the costs and benefits of the transposition and implementation of the provisions of the revised WFD that are the subject to the Stage One consultation exercise have been accurately assessed in the initial Impact Assessment at Annex 3 (page 71) to the consultation paper? If not, please provide whatever evidence you can to enable a more accurate assessment to be made in the Impact Assessment that will form part of the Stage Two consultation exercise.*

We do not believe the impact assessment captures the policy costs and benefits implications which are both estimated as zero at the moment. If the waste hierarchy is applied as a priority order then a change in the level in the hierarchy could lead to substantial infrastructure and asset modifications and costs. For example a recent review of the implication of change in water industry sludge treatment assets being regulated as a recovery operation under IPPC (Industrial Emissions Directive) was an additional cost of about £400-500 millions/year. The opposite could also be true and potentially results in benefits if the right incentives are developed for the implementation of the waste hierarchy.