

David Rowlands Chair of Petitions Committee
National Assembly for Wales
Cardiff Bay
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21 November 2017

Dear Mr Rowlands,

**P-05-753 Strengthening the Legislative and Regulatory Framework Surrounding
Waste Wood Processing Facilities**

Following your letter on the 18th October to Emyr Roberts. I welcome the opportunity to respond in my capacity as interim Chief Executive of Natural Resources Wales and share our views with the Petitions Committee in relation to the above referenced petition and following consideration of the points raised in previous correspondence.

Natural Resources Wales is responsible for providing a risk-based approach to regulation of the waste industry to ensure the sustainable management of our natural resources for human and environmental well-being.

We seek to achieve this directly through delivery of our regulatory duties, using powers and tools available as set out in legislation; and indirectly through wider interventions that support the delivery of relevant outcomes, such as raising awareness with waste producers to ensure they are taking steps to segregate, classify and manage their waste responsibly.

In relation to the specific waste operator referenced by the petitioner, it is important to highlight that we have a prosecution case in progress within the court system. This limits what we can discuss in this response. We have met with local elected representatives previously to understand their concerns and we will ensure that we contact them again. We are therefore limiting our response here to provide a view on

our generic approach to regulation and progress being made to improve the legislative framework and our approach.

The responsibility of complying with permit conditions and relevant legislation lies with the waste operator and they are ultimately in control and responsible for what happens on site. By applying for a permit they have made a commitment to operate lawfully and in line with the conditions within it. The majority of the waste industry operates responsibly, but there is a part of the industry that fails to meet the required standards or operates outside the law. These non-compliant, poor performing or illegal sites can impact on the environment, communities, reputation of a sector and legitimate waste business. These sites also pose a greater risk of incidents and can consume a large amount of the collective resources of Welsh public bodies.

Our initial regulatory approach is to work with legitimate operators to bring them into compliance. This approach reflects our wider duty to follow the Regulators' Code and is reflected in our organisation's Regulatory Principles. Where operators fail to take adequate steps we then seek to use our other powers, though our use of powers must be proportionate, justified and based on sound evidence. We recognise that there are some operators within the industry that will make some short-term progress to demonstrate a shift to compliance, for example with meeting the requirements of enforcement notices served, but then demonstrate further non-compliances in the same or different areas of their activities. We recognise this issue and are seeking to better address this through the effective use of our existing and recently enhanced powers.

We are committed to working with Welsh Government, Local Government and the Fire and Rescue Services in Wales to tackle the problems caused by poor compliance and illegal waste sites. In response to some significant incidents in the last 24 months we prioritised work to ensure that our regulatory approach to poor performing, illegal sites and sites posing high fire risk is robust. For example, we used additional Welsh Government funding to second an officer from the South Wales Fire and Rescue service to work with us to help develop, review and revise our Fire Prevention Mitigation Guidance for permitted sites. We have provided training for our regulatory officers, Fire and Rescue officers and waste operators to embed this guidance. We are progressing with a programme to include a permit condition to require operators of specific sites to develop a Fire Prevention Mitigation Plan which provides a stronger basis for tackling compliance issues. This programme is being targeted at sites posing a high fire risk. We have a further two officers from the fire and rescue services seconded to support continued delivery of a prioritised operational work programme.

Specifically, in relation to the management of waste wood we are working with the Environment Agency and other organisations to address concerns we have with the segregation, classification and destination of waste wood. We have highlighted these concerns to the Welsh Local authorities to ensure that they are managing their waste wood appropriately and there is consistency in reporting this material for Local Authority Recovery Targets.

We are also supporting Welsh Government in some significant areas of regulatory reform; for example, new powers under the Environmental Permitting Regulations introduced in October 2015 have already improved our ability to take action against some aspects of poor performance by waste operators. We believe the further amendments expected in early 2018 to introduce powers to secure premises that pose a high risk of pollution and to require removal of waste at abandoned sites will provide us with additional tools. In parallel, we continue to work with Government to reinforce the fundamental basis to Environmental Permitting Regulations including Operator Competence, Technical Competence and Financial Provision. We believe that strengthening these provisions will improve operator competence and enable us to reduce opportunities for poor operators to enter the industry. A joint Welsh Government/DEFRA public consultation will be published shortly and we encourage interested parties to respond.

In addition, we have provided our views to the Cabinet Secretary and continue to explore, with her officials, additional regulatory approaches, powers and funding that we believe would improve our ability to undertake waste regulation effectively and encourage the Sustainable Management of Natural Resources.

We will continue to undertake our risk based regulation and focus the resources available to us on those who operate below a level of compliance, but recognise that our regulation will not be effective in isolation. We face similar resource constraints and challenges to other public sector organisations such as local authorities. It will take concerted action from all those involved in the waste chain; producers, collectors, carriers and waste management operators, to create an environment where compliant businesses can flourish on a level playing field.

We support Wales's ambition to create a circular economy that moves away from the current linear model, where materials are fed in to the economy at the start and discarded at the end. Whilst increasing recycling rates is important, it is essential that mechanisms and drivers are put in place to encourage prevention and re-use of waste as recognised by Welsh Government's waste prevention programme. Manufacturers have a role to prevent waste through designing out waste in products as well as ensuring their products and packaging can be re-used or widely recycled. Public

sector organisations, including Natural Resources Wales, must ensure that they take steps to influence sustainable procurement so that it optimises low waste.

I trust that this response explains our position on the legislative and regulatory framework surrounding waste wood processing facilities and our commitment to working with other public bodies to tackle issues in the waste sector but please let us know if you require any additional information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Ingram', with a stylized flourish at the end.

Kevin Ingram

Prif Weithredwr Interim, Cyfoeth Naturiol Cymru
Interim Chief Executive, Natural Resources Wales