



APSE response to the proposals for an Environment Bill in Wales

This briefing provides details of APSE's response to the Welsh Government's consultation on proposals for an Environment Bill in Wales. This briefing is provided to local authority chief executives, council leaders and all APSE waste contacts in Wales and to England, Scotland and Northern Ireland contacts for information.

Key Issues:

- This APSE briefing includes APSE's response on the Welsh Government's proposals for an Environment Bill in Wales
- APSE supports the overall aims for the better management and use of our natural resources, although the briefing paper highlights areas where further guidance or clarification is needed or where concerns have been raised
- Proposals include an area-based approach for natural resource management and the regulation of waste segregation and collection

1. Introduction

The Welsh Government's proposals for the better management and use of our natural resources are contained in a White Paper entitled *Towards the Sustainable Management of Wales' Natural Resources*, which was published in October 2013.

The White Paper proposes the introduction of an Environment Bill and sets out how the Welsh Government will take steps to:

- Join-up the existing statutory frameworks for natural resource planning and management in Wales
- Ensure Natural Resources Wales (NRW) has the legislative tools to help enable them to implement integrated natural resource management
- Take actions to ensure Wales' natural resources are used to best effect and reduce waste
- Simplify, streamline and clarify the law for a number of existing environmental regulatory regimes.

The full consultation documents can be accessed by clicking on the following link: [click here](#). The remainder of this briefing replicates APSE's response to the consultation.

2. APSE response to the Welsh Government

The Association for Public Service Excellence (APSE) represents officers and members involved in the management and provision of quality public services. APSE's mission statement positions the organisation as 'The Association which consults, develops, promotes, advises and shares on best practice in the delivery and provision of efficient and accountable public services'. APSE is currently working with 250 authorities within the United Kingdom including all 22 councils in Wales, has advisory networks in waste and recycling and has been involved in a number of projects with a range of local authorities throughout the UK on waste related issues. APSE is also currently undertaking a national research project on waste collection services. APSE has consulted with its membership and has included their comments within this submission.

APSE supports the overall aims of the White Paper for the better management and use of our natural resources. APSE agrees that sustainability should be central to all local government activities and that local authorities have a key role in developing and providing sustainable initiatives through well managed public services. Such services also help to alleviate the conditions which lead to inequalities in the quality of the environment which ultimately impact on the health and well-being of citizens.

The main part of the White Paper which, in our opinion, requires clarification and revision is Chapter 4 on 'Resource Efficiency'. In Chapter 4, the Welsh Government seems to be pursuing source segregation as the preferred option on waste collection systems. This is despite the recent Judicial Review on co-mingled recycling collections, where on 6 March 2013 the judge, Mr Justice Hickinbottom, dismissed the claim lodged by the Campaign for Real Recycling who sought to restrict co-mingled recycling collections. Mr Justice Hickinbottom ruled the obligation to establish separate collection of paper, metal, plastic and glass from 2015 applies only where it is necessary to ensure waste undergoes recovery operations and to facilitate and improve recovery and is also technically, environmentally and economically practicable (TEEP). The judge also ruled in favour of local authorities determining whether separate collection is TEEP:

"It was and is open to the United Kingdom to fulfil its obligations under the Directive by the system created by the 2011 Regulations, which allows a local authority to determine within its area whether separate collection is technically, environmentally and economically practicable; enforced by the Environment Agency, through compliance, stop and restoration notices, and ultimately by way of criminal proceedings. Given the need to consider the particular circumstances of collection, it is perfectly understandable that the primary decision-making function has been given to local authorities, which are uniquely placed to take into account local circumstances."

APSE welcomed this ruling as we believe that the type of collection systems (co-mingled and source segregation) should be a local decision and local authorities should be given the flexibility in how they achieve the targets in terms of waste minimisation, recycling and carbon reduction, whilst providing residents with an efficient, environmentally responsible and value for money waste service. Methods used by different councils will vary greatly according to local circumstances, demographics and treatment/sorting facilities. APSE's 2013 State of the Market Survey into local authority refuse services throughout the UK received 113 responses and 84% stated that they operate co-mingled collections, which has increased from 72% in the 2012 survey.

APSE has received feedback from its membership that clarification needs to be sought on which of the proposals in Chapter 4 are targeted at the commercial and industrial sector and which are targeted at local authorities in particular. APSE believes that the Welsh Government should educate businesses on reducing packaging in the production and distribution processes and should have enforcement powers for where companies breach national guidelines, rather than simply concentrating on householders.

There have been concerns raised by APSE's membership of the cost considerations, given the current financial climate, of monitoring and enforcing the landfill and energy from waste bans and the duty to present waste separately for collection. For domestic waste alone, local authorities throughout the UK collected on average 76,832 tonnes of waste in 2011/12 and made 2,951,943 collections (source: APSE performance networks) and therefore to regulate the banning of specific materials from landfill or energy from waste facilities would be a huge task. There needs to be further clarity in the paper over responsibility for this between the various statutory bodies, how the associated costs are going to be met and that the proposals don't result in an additional unbudgeted burden for local authorities at a time of austerity. Local authorities have already seen reductions in their refuse service budgets; APSE's UK-wide benchmarking service, performance networks has shown that the average net cost of refuse collection services has reduced by 5% between 2009-10 and 2011-12. In addition, according to APSE's 2013 State of the Market for Refuse Services survey, the financial outlook for refuse collection services is deteriorating, with 79% expecting the refuse budget to change in 2014, with the majority of these (66%) expecting a decrease in revenue and some (31%) expecting a decrease in capital. Over the next 5 years, the majority of respondents expect to see a reduction in their service budgets of up to 5% or 10%.

In response to the questions in the consultation 'are there any particular types or sizes of businesses where it would not be technically, environmentally or economically practicable to keep the 7 waste streams separate at source?', this question can only be answered following guidance provided by the Welsh Government on what comprises technical, economically and environmentally practicable to collect. However, our members have raised a range of factors such as the size, location and physical environment of the business which will mean that not all businesses will have the capacity to keep 7 waste streams at the point of generation pending collection.

The paper indicates that further decisions are to be made on what comprises an 'area' in the proposed 'area based approach'. However, it is important to be clear on how this area-based approach fits with local authority boundaries and democratic decision making processes. APSE believes that public services should be subject to the maximum form of democratic control and scrutiny and that local government is central to the delivery of area-based outcomes. In addition, whilst it is important for public bodies to engage with Natural Resources Wales (NRW) in sustainably managing the environment and natural resources of Wales, we disagree with the need to place a requirement on public bodies to co-operate, share information, jointly plan and jointly report on the management of natural resources. Joint working and partnership approaches are already commonplace within public bodies in Wales and providing more information on the desired outcomes would be a more constructive approach.

Thank you for the opportunity to respond to this consultation.

Debbie Johns, Principal Advisor,
APSE