

EFFECTIVE WASTE MANAGEMENT -

A waste management industry
policy response

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Executive Summary

Introduction

It is well recognised that Ireland has a waste management problem. Ireland is unable to manage its own waste. This inability to manage our waste is manifest in our over-reliance on diminishing local authority landfill capacity and the lack of alternative infrastructure, which in turn has led to the export of waste out of Ireland. A poor overall recycling performance is further evidence of Ireland's inability thus far to tackle waste management effectively.

This problem is having a serious impact on the competitiveness of Irish industry and the ability of Ireland to attract foreign direct investment. Foreign direct investment has been identified by the OECD as a key driver behind Ireland's economic success of the 1990s. Effective waste management has recently been identified as one of the '*highest priorities in Ireland for the next three years*'.¹

The Irish Waste Management Association, the voice of the waste management industry in Ireland, has identified three priority areas, which need to be addressed in order to deliver effective waste management in Ireland.

Priority Areas

Infrastructure

Ireland currently does not have the capacity to recover, recycle or dispose of the quantities of waste produced. We are still largely reliant on local authority landfill as our solution and their diminishing capacity has driven waste charges to become the most expensive in Europe. In addition to this, alternatives to disposal have not been developed. This is

¹ An investment in Quality, Services, Inclusion & Enterprise (NESC, 2002)

evident in our low recycling and recovery rates, thus compounding the problem.

Competition

The waste management industry is characterised by competition with the public sector/local authorities in the provision of waste management facilities and services. Unfair competition issues have arisen due to the dominant position held by local authorities where they are waste management service and facility providers, regulators and planners. It has been recognised that this has led to cases of inefficient and uneconomic waste management services and a delay in the delivery of necessary waste management infrastructure.

Enforcement

Lack of enforcement of national and European waste management legislation has enabled illegal operators to undermine the waste management industry, through below cost services and illegal operations which cause serious damage to the environment and the reputation of the waste industry. Illegal dumping and now the export of waste have acted as a release valve, which has enabled Ireland to ignore the fact that it does not have the necessary infrastructure to deal with its own waste. This situation is unsustainable and concrete action to tackle the problem must be forthcoming.

Solutions

In order to ensure effective waste management, Ireland needs to change its current approach.

Infrastructure

Ireland needs to adopt a national approach, where the key documents such as Strategic Planning Guidelines, Regional Planning Guidelines and Regional Waste Management Plans reflect actual waste management situations and requirements. This will ensure the roll out of infrastructure in a manner, which is cost effective, while ensuring environmental protection.

Competition

Ireland needs to adopt an approach, which ensures a level playing field for both the public and the private sector to operate and which recognises the important role the private sector has to play in the delivery of effective waste management.

Enforcement

Ireland needs to adopt an approach, which also ensures that environmental standards and legislation are enforced.

Conclusion

This change in approach will deliver the necessary, economically viable, efficient and environmentally sound waste management infrastructure and services.

EFFECTIVE WASTE MANAGEMENT-

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Introduction

It has long been recognised that Ireland has a waste management problem. Ireland is unable to manage its own waste. This inability to manage our waste is manifest in our over-reliance on diminishing local authority landfill capacity and the lack of alternative infrastructure, which in turn has led to the export of waste out of Ireland. A poor overall recycling performance is further evidence of Ireland's inability thus far to tackle waste management effectively.

This problem is having a serious impact on the competitiveness of Irish industry and the ability of Ireland to attract foreign direct investment. Foreign direct investment has been identified by the OECD as a key driver behind Ireland's economic success of the 1990s.

Most recently the National Economic and Social Council has recognised that *'the effective management of waste is one of the highest priorities in Ireland for the next three years.'*² The Government has undertaken to work with the social partners *'to develop a shared understanding of the actions necessary to underpin the effective management of the waste management problem'* under the new Social Partnership Agreement 2003-2005, **Sustaining Progress**.

The Irish Waste Management Association (IWMA Ltd.) is the voice of the waste management industry in Ireland, which was affiliated to IBEC in 1999 to answer the need for professional and coherent representation of the waste management industry in Ireland. The IWMA has identified three priority areas, which need to be addressed, in order to deliver effective waste management in Ireland.

The IWMA has identified three priority areas, which need to be addressed in order to deliver effective waste management in Ireland. These areas are:

- ✍ **Infrastructure**
- ✍ **Competition**
- ✍ **Enforcement**

² An investment in Quality, Services, Inclusion & Enterprise (NESC, 2002)

The purpose of this document is to highlight the issues, which need to be addressed, in order to deliver effective waste management. The policy response provides solutions to these issues and addresses the role of the private sector in the delivery of effective waste management.³

INFRASTRUCTURE

Historically waste management was the remit of local authorities, with little or no direction or involvement from central government. The last ten years have seen a marked change in this situation with the introduction of European and national waste management policy and regulation and with a very clear direction from central government. The past ten years have also seen the development of private sector involvement in waste management. A professional waste management industry has developed around the new requirements of the regulatory and policy environment.

However, while Ireland is as advanced as its counterparts in Europe, in terms of the adoption of progressive and innovative waste management policy and legislation, at a practical and operational level waste management remains very much within inefficient historic boundaries. European policy and Irish legislation required Ireland to introduce waste management planning. Instead of adopting a rational national approach to waste management planning, which would take into account the size, geographical makeup, population distribution and required economies of scale, local authorities were asked to devise and adopt regional waste management plans.

Regional Waste Management Plans

Nine regional waste management plans were eventually adopted in September 2001, when powers to make plans were taken out of the hands of elected officials and into those of the County Managers. One plan, that of the South-East had not even been drafted at this stage. The plans do not take into account the importance of the size or geographical makeup of the country, population distribution or economies of scale, which are vital elements of strategic planning for critical national infrastructure. Instead they rely on historic piecemeal boundaries. This is especially the case in the single county plans.

When the plans were finally adopted they were out of date and as a result did not provide for infrastructure to meet the demand of actual waste arisings nor did they adequately provide for commercial and industrial waste arisings. Provision of economically and environmentally efficient waste management

³ The policy response does not examine the area of hazardous waste management, which will be the subject of a future policy document.

infrastructure for commercial and industrial waste is recognised as a vital element in the competitiveness of any country and adequate infrastructure is a major factor in considering investment. The lack of such infrastructure in Ireland has already deterred foreign direct investment into the country and will continue to do so unless there is a radical change in the very near future. An Bord Pleanála's policy to rigidly base their decisions on planning applications for waste management infrastructure on the inadequate Regional Waste Management Plans, is therefore of serious concern, not only to private sector investors in infrastructure but to businesses currently in Ireland or those planning to invest here.

Role of the Private Sector

If we examine the regional waste management plans in terms of the role of the private sector in waste management, it must be recognised that the situation, which pertained at the time of drafting the plans, no longer exists. When regional waste management plans were first conceived local authorities were the main service providers throughout the country. Furthermore the existing private sector firms were more localised than is the case today. Taking these two factors into account the multi-county or Regional Waste Management Plans represented a sensible approach, assuming no national strategy was in place.

However in the intervening years the landscape has altered dramatically in four major respects:

1. The rise of a professional waste management industry
2. Local authorities are no longer the only option for waste management
3. The private sector manages 60 per cent of municipal waste arisings in Ireland compared with 40 per cent being managed by local authorities
4. More recently there has been significant contraction in the number of service providers, working over broader geographical areas and often encompassing one or more regions. Private sector service providers now have responsibilities to customers on a national basis rather than just in an arbitrary number of functional areas.

This situation and the increasing role of the private sector must be recognised within the context of waste management planning and in the delivery of waste management infrastructure.

IWMA Recommendations

Waste management infrastructure in Ireland has been consistently underfunded and significant capital investment will be necessary to achieve the radical improvements, which are required. The National Development Plan 2000 – 2006 envisaged that private sector investment of €571million would be forthcoming for a wide range of waste management projects, which would represent some 70% of total projected investment. Lack of modern waste infrastructure remains the fundamental problem and changes are needed to encourage and not discourage the private sector to provide them.

The IWMA proposes the following actions, which if implemented would improve the situation:

More Effective Inter-regional Co-operation

Currently, inter-regional co-operation between waste management planning regions is inadequate, a fact highlighted in the recent NESC report. In order to achieve a network of integrated waste management facilities, much more effective inter-regional co-operation is required. Decisions on the roll out of waste management infrastructure should be based on criteria such as economies of scale, transport corridors and critical mass irrespective of county boundaries. Such an approach would be more environmentally and economically beneficial than a regional approach containing overlap, duplication and significant gaps.

Strategic Planning Guidelines

Strategic Planning Guidelines are a key framework for the regulation of infrastructure development. Strategic Planning Guidelines where they do exist do not recognise the scale of the waste management problem. The waste management industry has a key role to play in ensuring that the Strategic Planning Guidelines reflect the actual waste management situation and requirements in each region. This role should be recognised and the waste management industry consulted in the revision of any such guidelines.

Review of Regional Waste Management Plans

Again the role of the waste management industry in ensuring that waste management planning reflects actual situations and requirements should be recognised. The industry should be consulted when the Regional Waste Management Plans are being reviewed. Any review should aim to ensure that the plans reflect actual tonnages, the need to adequately cater for commercial and industrial waste and the necessary role of the private sector in delivering the plans. This would ensure that realistic targets are set and adequate facilities developed to cater for waste arisings.

Regional Planning Guidelines

The waste management industry should be fully consulted in the drafting of any Regional Planning Guidelines, in order to ensure that guidelines reflect the actual waste management situation and requirements in that region.

COMPETITION

In order to ensure effective waste management there is a need for a level playing field between the public and private sector in the provision of waste management infrastructure and services. Currently local authorities are the regulator of private sector waste management collection services but also operate their own waste management collection services. They operate and own the majority of the waste management facilities in the country especially waste disposal facilities, which means that they control waste management pricing and access to facilities. They have a privileged position in the area of waste management planning under the regional waste management plans and as the planning authority for all infrastructure that is proposed within their functional area. The potential for a conflict of interest and the abuse of a dominant position is clear.

Waste Collection

Unfair competition with local authorities is an ongoing issue for private collection service providers, where the local authority within whose functional area they operate is also involved in the collection of domestic and/or commercial waste. Where a local authority is involved in the collection of waste and is also the operator of the only available waste management facilities, they are in a position to and have undercut private waste contractors in price of service.

Such local authorities are also in a position to and have restricted access to waste management facilities for private waste collection service providers, due to limited remaining capacity. Notably in the two biggest urban areas with the highest waste arisings, the Greater Dublin Area and Cork.

In some areas local authorities have chosen to withdraw from the provision of collection services and have allowed the private sector to provide the required collection service. While the IWMA acknowledges and welcomes the efforts by Minister Cullen to ensure that an economic rate is charged by local authorities for this service, notably in the Protection of the Environment Bill 2003, a number of local authorities continue to provide services at below cost rates.

Waste Collection Permits

In the area of waste collection, there is a conflict of interest where local authorities that provide the same collection services are not subject to the same regulatory requirements as the private sector i.e. a waste collection permit and are also the permitting and regulatory authority for the collection permits. Of the 10 regional permitting authorities five are involved in the provision of waste collection services for both domestic and commercial waste. These authorities are in a position to place conditions on the permits of private contractors, which is in effect an ability to place conditions on their competitor's ability to operate. In the application process private contractors were requested to provide commercially sensitive information to local authorities who again are their competitors. There is a clear conflict of interest here and potential for abuse of a dominant position.

Provision of Waste Management Infrastructure

A series of planning decisions by local authorities and An Bord Pleanala over the past two years, in respect of proposals for waste management facilities and for new landfill in particular, has led to widespread concern in the private sector that both EU and National competition laws are being breached. The key concern of the private sector has been the conferral by regional waste management plans of territorial exclusivity on the public sector in the provision of waste management facilities, resulting in the exclusion of the private sector from the market in many regions.

The powers conferred on local authorities through the regional waste management plans, coupled with decisions by An Bord Pleanala in interpreting these plans, clearly have the effect of restricting competition by private operators and confining the ability to provide waste management facilities to the public sector. The effect of this situation has been to exclude the private sector from competing in or even entering the market for waste management services or infrastructure in parts of Ireland unless agreed by the local authorities. This is of major national concern, given the Government's expectation outlined under the National Development Plan that the private sector will provide the investment required for necessary waste management infrastructure.

IWMA Recommendations

The IWMA believes the following actions will bring about the level playing field required between the public and private sector for the delivery of necessary economically viable, efficient and environmentally sound waste management systems:

Role of local authorities as a regulator

There is a need to clearly define the role of local authorities in waste management. Local Authorities should be either the regulator or provider of waste management services, not both. The Waste Management Act (1996) and the roles of local authorities in the waste management system should be amended accordingly.

Role of local authorities in the provision of waste management services

If local authorities continue in the provision of waste collection services they should be subject to the same regulatory requirements as the private sector i.e. a collection permit and to operate on an economically viable basis. To this end local authorities that provide collection services and waste management facilities should be required to set up private companies to administer their waste management facilities, as was required in the UK for local authority waste disposal companies (LAWDCs). In addition, such local authorities should not be permitted to issue collection permits.

Public Private Partnerships

Public procurement guidelines should be amended to facilitate Public Private Partnerships for all public waste management infrastructure projects.

Consideration of Planning Applications

Planning applications for waste management infrastructure should be considered in the national context and take into account the requirements of businesses and the inhabitants of an area, which may be determined in terms of economies of scale and not necessarily within the confines of regional waste management plans. Especially where these plans only cover a single county. There is a need for transparency in and accountability for planning decisions.

ENFORCEMENT

The results of the lack of enforcement of national and European waste management legislation have been widely publicised. Illegal operators have undermined the waste management industry, not only in economic terms but also through damage to the reputation of the waste industry. Illegal dumping and now the export of waste have acted as a release valve, which has enabled Ireland to ignore the fact that it does not have the necessary infrastructure to deal with its own waste. This situation has meant concrete action to tackle the problem has not been forthcoming.

The IWMA has identified the enforcement of waste management legislation as key to the delivery of effective waste management. The Association has the following recommendations to make:

IWMA Recommendations

Institutional Framework

The existing institutional framework for the regulation of the waste management industry must be simplified and streamlined in order to facilitate the enforcement of waste management legislation. With this in mind the IWMA recommends that a single agency be responsible for the regulation of the waste management industry. The IWMA believes that the EPA, as the regulator of waste licensing, should also be accorded responsibility for the regulation of waste collection permitting and become the regulator of the waste management industry as a whole.

Waste Collection Permits

The current system of issuing and regulating waste collection permits is overly complicated and too much of an administrative burden to be effective. The Waste Management Collection Permit Regulations should be revised as follows in order to simplify this system:

- ✍ A single permitting authority should be appointed. The suggested authority is the EPA.
- ✍ A single permit should be issued per company and should be relevant for the whole country.

This would ensure uniform application of the regulations and conditions to permits and result in a more efficient and effective system.

Resources

Adequate resources to ensure the enforcement of legislation and the prevention of illegal operations should be given to the EPA to regulate the waste management industry and to local authorities to ensure non-licensed or permitted activities, including the export of waste across borders is regulated properly.

Duty of Care

Duty of care legislation should be introduced, as is provided for under Section 34 of the UK Waste Management Act. Such legislation would improve the traceability of waste coming from waste producers' sites and reduce the incentive to use illegal operators. Such legislation would also result in more cost-effective enforcement, as it would place the obligation on the waste producer to familiarise themselves with their legislative responsibilities and to use permitted and licensed contractors. Non-permitted contractors and illegal movement of waste across borders, is a competition issue as well as an enforcement issue.

CONCLUSION

Ireland needs to adopt a national approach to waste management, which ensures a level playing field for both the public and private sector to operate in and that environmental standards and legislation are enforced. This approach will deliver the necessary, economically viable, efficient and environmentally sound waste management infrastructure and services.

Changes need to be made to how waste management services and infrastructure are planned, delivered and implemented in this country. The IWMA, as the representative of the waste management industry, hopes that this paper and the solutions provided in this document will contribute to the change needed to deliver effective waste management.