



The manufacturers' organisation

Mr Mark Shotton  
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Dear Mr Shotton,

EEF is a trusted partner to businesses across Britain. We work on behalf of over 6,000 companies, in manufacturing, engineering, technology and beyond. Together, they employ close to a million people. On any given day you will find us helping our members tackle a whole range of business challenges.

We welcome the opportunity to comment on the draft revised Waste Framework Directive. The openness of approach by DEFRA which this represents is to be applauded.

It is vital that the final text is one which is enabling rather than prescriptive. This, in our view, will be achieved by setting clear objectives to be achieved rather than focusing on prescriptive detail

### **Detailed comments**

We have restricted our responses to the issues which we are concerned about.

Question 1a)

1. Difficulties regarding the definition of waste have proved to be a significant barrier to innovative approaches to re-use, recycling and efficient disposal. We accept that the European Commission have consulted specifically on this issue and found that the majority opinion lies with leaving the definition unchanged and rely on a revised definition of the waste hierarchy to deliver the outcomes required. We are comfortable with this approach however, it significantly increases the importance of getting the hierarchy right.
2. In common with other business organisations it is not the steps in the hierarchy which concern us – rather it is the way in which it would come to be used. We urge a flexible approach and that this is clearly signalled in the directive. Failure to provide



this lead will encourage differing standards across Member States which is both economically and environmentally disadvantageous.

Question 1b)

3. It would be helpful to cross-reference the objectives stated in article 7. We also suggest that careful thought is given to the meaning of '*endanger[ing] human health*'. We recommend defining this in terms of established epidemiology.

Question 2c)

4. We are concerned regarding the narrowing of the definition of '*other legislation*' which as you identify has the effect of reversing the Avesta Polarit judgement. This is contrary to the principals of subsidiarity.

Question 3b)

5. In addition to the definitions given, it would be helpful to recognise that aggregating waste through a supply-chain relationship is a potential means to improving re-use and recycling. These relationships are not based on a commercial waste service being offered by one business to another but more typically could flourish in the building trade. A contractor buys materials for a job. On completion there are unused materials and off-cuts. At present this material usually enters the waste disposal system at the cost of the contractor. The revised Waste Framework Directive (WFD) should encourage these part used goods and off-cuts to be returned to the supplier and from there to the manufacturer. By making this process easy we believe there will follow significant improvements.

Question 4a)

6. We do not think that it is either practical or environmentally sound to ensure that all waste undergoes recovery operations. It is just such a rigidity of approach which will make the revised WFD thoroughly unworkable.

Question 4b)

7. We do not think that substitution of resources should be the sole criterion in the classification of an operation as being *recovery*. We concur that it should, however, be the main aim of such an enterprise.

Question 4c)

8. We agree that *recovery* should have a very broad definition, certainly not confined to a site and logically not one national economy. If there is a market for the recovered material somewhere it is meeting the stated objective.

Question 4d)

9. In order to encourage a level playing-field in waste throughout the EU it does appear to be appropriate for the European Commission (EC) to agree efficiency criteria for recovery operations.

Question 5a)

10. Disposal should not be defined as something which happens only where recovery is not possible. As previously stated this sort of rigidity helps neither environmental compliance nor economic efficiency.

Question 5b)

11. It is appropriate for the EC to use the comitology process to make additions to Annex 1.

Question 6a)

12. *Polluter Pays* has become a well-established concept within UK environmental compliance. We believe that an explicit reference to this should be retained. It is possible that its absence would be highlighted by non-governmental organisations (NGOs) as a watering down of the WFD's philosophy.

Question 6b)

13. The *Polluter Pays* principal should apply specifically to disposal operations. To blur this into *recovery* would confuse the issue where benefits continue to exist for the parties involved. If retained as proposed it also will drive the desired behaviour.

Question 6c)

14. We do not support the broadening of the *Polluter Pays* principle to anyone whose activities produce waste. To do so would represent a significant dilution of the effect and therefore hinder the desired change. It is important to maintain the current focus because in this way we are more likely to see design changes in production which reduce the scale of the problem.

Question 7

15. The proposed tightening of criteria from BATNEEC to BAT is a matter of concern because it may result in little improvement for significant investments.

Question 8

16. In broad terms we agree with the thrust of proposed article 11. However, we do not think it is for the EC to determine quality specifications for a material - this should be for producers and their customers to determine. This is important both in business efficiency and environmental terms.

Question 9

17. From a better regulation perspective we agree that it makes sense for the Hazardous Waste Directive to be subsumed into the new WFD. Equally because of the potential for harm of hazardous materials we do agree that it is appropriate for mixing operations to conform to BAT.

Question 10a)

18. We agree that the requirement for the recovery of waste oils by regeneration should be repealed. This is wholly consistent with our approach to the broad waste hierarchy whereby the WFD should not unduly restrict its application to particular circumstances.

Question 10b)

19. The handling of waste oils should be in line with the proposed requirements of Article 7.

Question 11

20. The phrase in draft Article 11 concerning a '*high-level of energy efficiency*' is of itself, ambiguous. If firm criteria were to be applied this concern would be removed but as stated elsewhere in this response a black and white interpretation is often not helpful either in terms of environmental or business efficiency criteria. This is because we are working with an existing mixed fleet of installations.

Question 12a)

21. We believe that transferring standard setting to the EC could prove problematic because not all Member States are at the same point. This directive will establish *minimum standards* centralised standard setting would eventually lead to levelling-up.

Question 12b)

22. European wide standards would in our view have a negative environmental and economic impact. This is because we believe that such standardisation would result in little overall change. However, the cost to business would be disproportionate in relation to any gains.

Question 12c)

23. Any impact of Europe-wide standards on recovery/recycling targets and diversion from landfill would in our opinion be minor.

Question 13

24. The permit exemptions should not be unnecessarily narrowed. Recovery and disposal at source is preferable to transporting to other parties to meet these requirements. Arguably this means that the site operator is truly dealing with the consequences of their production. This is desirable and should be encouraged – where possible, through the WFD.

Question 14

25. This question concerns registration provision for commercial collectors. This is not something EEF members have views upon.

Question 15a)

26. The requirement on Member States Competent Authorities to describe financial and organisational aspects (26(2) g) and utility of various fiscal instruments (26 (2) h) go beyond issues which these authorities should be directed to address through the WFD.

Question 15b)

27. These provisions seem to add burden without commensurate benefit in terms of business or environmental improvement.

Question 15c)

28. In our views the provisions of Article 26 would divert Competent Authorities away from rather than support their delivery of the WFDs stated objectives.

Question 16a)

29. The measures described in Annex IV should be seen as a list of options. We are particularly concerned with item 9 on the list which refers to sectoral negotiations. Any mandatory adoption of this provision in particular should be strongly resisted. Whilst in some Member States such agreements, particularly between trade unions and employers are common place they are not acceptable to UK businesses.

Question 16b)

30. The measures described in Annex IV all have the potential, taking into account regional and industrial variations, to support the WFDs principal objective of separating the link between economic growth and environmental impacts.

Question 16c)

31. The Commission's proposals if used proportionately (i.e. in a way which is sensitive to the particular conditions in a Member State) could prove beneficial. A rigid approach could prove burdensome.

Question 17

32. The proposed inspection regime for all waste seems too onerous. We are not convinced that significant benefits could flow from these requirements.

Question 18

33. This question concerns energy efficiency thresholds for municipal waste facilities and as such is not an area of interest for EEF members.

Question 19

34. In general terms the revised WFD appears to meet the principles of subsidiarity. However, this general view depends on the following conditions being met:

- a pragmatic interpretation of the waste hierarchy,
- regarding Annex IV as a menu of potential measures rather than a proscriptive list, and
- the removal of the text which has the effect of reversing the Avesta\_Polarit judgement (Article 2(1) refers)

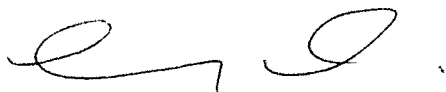
Question 20

35. In general terms the revised WFD has the potential to meet the objectives set for this instrument. At present there appears to be a missed opportunity in Article 34. This could be brought into sharper focus requiring reporting against the Commission's objectives for this Directive.

Question 21

36. We have no comment to make on the RIA.

Yours sincerely,



Gary Booton  
**Director of Health, Safety & Environment**