

REPORT TO THE SOUTH TYNE AND WEAR WASTE MANAGEMENT PARTNERSHIP JOINT EXECUTIVE COMMITTEE

23 September 2016

REPORT OF - Tony Alder, Project Director, South Tyne and Wear Waste Management Partnership

SUBJECT: 'Brexit' - Implications for the Waste Sector

1. PURPOSE OF REPORT

- 1.1 To update the Joint Executive Committee on the latest position within the waste sector following the recent referendum to leave the European Union (EU) and the potential impact that triggering Article 50 of the Lisbon Treaty will have on EU waste legislation and UK law.

2. BACKGROUND

- 2.1 On 23 June 2016, the UK held a referendum to decide whether it should leave or remain in the European Union (EU), with 52% of the turnout voting to leave.
- 2.2 The result, therefore, provided Government with a mandate to negotiate for the UK to leave the EU. However, EU legislation has had a significant impact on UK environmental law and a number of waste-related issues will need to be considered as negotiations with the EU progress over forthcoming years.

3. WASTE-RELATED LEGISLATION

- 3.1 A large proportion of UK environmental policy is shaped at EU level, including water, air, chemicals, noise, climate change, energy efficiency, technical regulations and standards, and waste.
- 3.2 The waste sector is one of the most regulated industries in the UK, and over recent years there has been a number of EU Directives and Regulations that have had a significant impact on waste management, including:

- Waste Framework Directive 2006
- Revised Waste Framework Directive 2008.
- Landfill Directive 1999
- Waste Incineration Directive 2000
- Waste Electrical and Electronic Equipment Directive 2012
- Waste Shipments Regulations 2006

3.3 Since EU Directives must be transposed into national law, there is little doubt that waste-related legislation in the UK has largely been driven by Europe. The key English legislation includes:

- The Environmental Protection Act 1990
- The Waste (England and Wales) Regulations 2011
- The Waste (England and Wales)(Amendment) 2014
- Hazardous Waste (England and Wales) Regulations 2005
- The Waste (Household Waste Duty of Care)(England and Wales) Regulations 2005
- Waste Electrical and Electronic Equipment Regulations 2013

4. WASTE SECTOR COMMENTS

4.1 Both the Environmental Services Association (ESA) and the Chartered Institution of Wastes Management (CIWM) have expressed opinions that EU membership has had a positive influence on UK resources policy. Major waste management companies SUEZ and Viridor have also praised the EU's lead on environmental issues.

4.2 In March 2016, the Environmental Audit Committee (EAC) published a report following their inquiry into environmental policies, which assessed the extent to which EU environmental objectives and policies have succeeded in tackling environmental issues in the UK. The inquiry found that the UK's membership of the EU has been a crucial factor in the shaping of its environmental policy, and the overwhelming view of witnesses stated that this had been positive for the UK environment.

4.3 The EAC also found that the UK government was broadly satisfied with EU environmental policy and noted that it had not been included in the recent renegotiation discussions, which then led to the referendum.

4.4 However, even before the referendum was held, the EAC found that contingency planning in the case of the UK voting to leave the EU appeared to be limited. Furthermore, separate to the inquiry, Defra was criticised by both the Resource Association and CIWM for showing a lack of leadership on matters including European Commission's circular economy package.

5. IMPACT OF THE RESULT

- 5.1 Following the referendum results, the waste sector called for swift action. For example, David Palmer-Jones, SUEZ Chief Executive Officer, issued a statement in which he highlighted concerns that 'whilst the UK negotiates its exit, there is a risk of a void in national [waste] policy'. Other key figures within the industry also echoed these views and highlighted concerns that environmental commitments could be side-lined – or even shelved altogether – if the UK is no longer driven by international obligations and targets.
- 5.2 In July 2016, the Chair of the EAC, Mary Creagh MP, wrote to both the Secretary of State for Exiting the European Union, David Davis MP, and the new Parliamentary Under-Secretary at Defra, Therese Coffey MP, seeking reassurances about government plans to maintain the existing levels of environmental protection currently guaranteed by EU law.
- 5.3 But within some areas, currency movements led to an immediate impact on business. Transactions within the UK's growing export market to divert waste from landfill as refuse-derived fuel (RDF) to operators in Germany, Sweden, and the Netherlands, for example, are conducted in euros. The result of the referendum impacted on exchange rates and consequently increased the cost of such RDF exports and, if the trend continues, may reduce its market advantage over landfilling waste.

6. EU LEGISLATION - NEXT STEPS

- 6.1 Even after Article 50 is triggered, European law will continue to affect the UK. This means that the government will have to decide whether to repeal or amend the European Communities Act 1972, secondary legislation implementing EU law, and directly applicable EU regulations.
- 6.2 However, even after leaving the EU, the UK will still be bound by some international treaty obligations, such as the Basel Convention on the Movement of Hazardous Waste and their disposal.
- 6.5 In reality, there is no reason why EU-based Directives could not remain part of UK law. Speaking at an Environmental Audit Committee enquiry earlier this month Therese Coffey said that Defra's environment plan has not changed and that 'it was going to be the model if we stayed in the EU and is the model now we're exiting the EU'.

7. CONCLUSION

- 7.1 The impact of the result of the referendum on the waste sector cannot be known at this stage. The UK has a legacy of EU-led legislation already in place, such as landfill diversion and recycling targets, and there has been no feedback to date to suggest that the UK intends

unravel the progress made so far to achieve compliance with EU legislation.

7.2 However, many within the waste sector see 'Brexit' as an opportunity for change to more sophisticated approaches which safeguard the environment and ensure that the UK can improve its resource efficiency. Furthermore, many environmentalists see an opportunity to move away from weight-based targets and establish resource-focused performance indicators.

7.3 Therefore, even when Article 50 is enacted and the two-year negotiation period to leave the EU begins, the impact on the waste sector may still not be immediately apparent.

8. RECOMMENDATION

71 The Joint Executive Committee is requested to:

- i) Note the contents of this report; and
- ii) Agree to receive further updates regarding the implications on the waste sector of the referendum vote to leave the EU, as appropriate.

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