

WM 12

Legislation Committee No 4

Written Evidence submitted by the Federation of Master Builders Wales

8th April 2010



THE NATIONAL ASSEMBLY FOR WALES' LEGISLATION COMMITTEE NO.4 CALL FOR EVIDENCE

THE GENERAL PRINCIPLES OF THE PROPOSED WASTE (WALES) MEASURE

SITE WASTE MANAGEMENT PLANS

A submission from the

Federation of Master Builders

Introduction

We are writing in response to the National Assembly for Wales' Legislation Committee No. 4 call for written evidence on the general principles of the proposed Waste (Wales) Measure.

The Federation of Master Builders (FMB) is the largest employers' body for Small to Medium sized Enterprises (SMEs) in the construction industry, and with over 11,000 members is the recognised voice of the sector. The FMB is committed to promoting excellent standards in craftsmanship and assisting builders to improve levels of building performance and customer service. The FMB also fully supports the drive to improve the environmental performance of the UK construction sector as demonstrated by its research report, '*Building a Greener Britain*' which examines ways to transform the UK's existing housing stock to make it greener and more energy efficient.

Executive Summary and FMB Key Recommendations:

1. The SME construction sector has experienced declining workloads for over two years and despite a gradually improving outlook, is likely to remain without significant growth until 2012 and is not expected to return to 2007 output levels until 2021. If the Welsh Assembly Government does decide to proceed with Site Waste Management Plans (SWMPs), implementation should be delayed until the sector has returned to significant growth as the measure has a significant compliance cost.
2. Evidence from a survey of FMB members in England suggests that while the majority regard SWMPs as a positive demonstration of good practice many regard them as a paper exercise. There is a strong view amongst FMB members that SWMPs have not been the driving force to bring about improvements in waste management and have not delivered the business benefits that were promised prior to implementation.
3. SWMPs are unlikely to tackle fly tipping as those that undertake this deplorable practice will ignore the obligation in the same way that they ignore existing waste regulation. The best

solution is to address the shortfall in the number of sites that will accept construction waste as the facilities provided to builders are inadequate and do not match up the community sites available for non commercial disposal. We are aware of an initiative In Wales to fund builder's merchants to provide collection points for builders - a sort of pick up and drop off point which the FMB in Wales would fully support this as well as the introduction of tax incentives for businesses that recycle.

4. The evidence also suggests that SWMPs should be under the jurisdiction of Building Control as they have innate knowledge of construction and the problems entailed for small builders.
5. The FMB supports Option 1 of the list of options given in Eunomia's option paper as this has the virtue of simplicity and lower costs.
6. The FMB in Wales would support an initiative that would transfer a greater degree of responsibility for the disposal of packaging to the supplier.

The FMB Response

The call for written submissions contains a number of general questions covering the full range of provisions under the proposed Waste (Wales) Measure. As the FMB is not best placed to answer all the provisions under consideration, our response restricts itself to comment on the construction industry, and the proposals relating to site waste management plans. As such our paper is divided into three short background sections with the main response on site waste management plans is under the following section headings:

1. The UK Construction Sector
2. The UK Construction Sector and the Recession
3. The Effects of the Recession on the Construction Industry in Wales
4. Construction Site Waste
5. Site Waste Management Plans
6. Site Waste Management Plans in Practice.
7. Site Waste Policy.

The UK Construction Sector

1. Construction is one of the most important sectors of the UK economy. The UK construction industry accounts for around 10% of UK's Gross Domestic Product (GDP); employs around 3 million people when the overall value chain is considered; and its direct contribution to GDP is approximately £124 billion annually¹. Construction companies provide employment for every skill level from labourers to architects, and its efficient operation is essential to the economic and social well being of the UK, as it is the only industry that can deliver the new schools, hospitals, housing, offices, factories, and infrastructure it needs. Construction is an SME dominated industry with c.99% of firms employing fewer than 60 employees, and 93% fewer than 14.

The UK Construction Sector and the Recession

2. Construction is generally accepted to be the first industry to enter a recession and one of the last to emerge from it. The current recession has been particularly severe and estimates from ConstructionSkills, the industry training body, suggest that construction will

¹ UK Contractors Group and L.E.K "Construction in the UK Economy: the Benefits of Investment." October 2009, pgs 3-4.

lose 319,000² jobs from pre-recession peak to eventual trough. According to the forecasts from the Construction Products Association³ while it is widely believed that the wider economy is now out of recession, the construction industry is going to have to wait for at least another 12 months; construction output fell 12% in 2009, its sharpest fall since records began in 1955; and it will fall a further 2% in 2010 before returning to growth in 2011. The CPA further suggest that significant construction growth is only expected in 2012 and even if trend growth occurs every year after 2013, construction output would only return to 2007 pre-recession level in 2021. Housing will recover but from an historically low level, the 80,000 private housing starts for Great Britain in 2009 being the lowest level since 1924.

3. The FMB's own State of Trade survey results for Quarter 4 2009 show that construction SMEs have experienced two years of unbroken decline in their workloads and results for the first quarter of 2010 demonstrate that this trend has continued with the majority of firms continuing to report lower workloads overall despite some improvements in outlook. The outlook for the coming quarter is also more optimistic, but the industry as a whole is still likely to continue to see falling workloads, with 30% of firms still expecting a decline. However, this figure was a marked improvement on the 44% of respondents with negative expectations in the final quarter of 2009.
4. The impact of the recession, the record levels of government debt and their implications for public sector construction spend are particularly unfortunate given that the construction industry is the most effective focus for government investment. Public investment in construction has a net cost to the Treasury of only £0.44 for every £1 invested as it recoups approximately £0.56 in the pound through gains such as increased tax revenue, and lower unemployment benefit payments resulting from job creation. Furthermore, each £0.44 net spend generates a total benefit to the economy of between £3.87 and £5.04 per pound as direct investment in construction filters through to the wider economy. Investment in construction has three other key advantages: The industry's low import requirements mean that a very high proportion of any investment remains in the UK economy. It is also labour intensive creating jobs for all skill levels but especially those lower skilled workers who are most vulnerable in times of recession. Finally, construction is not only immediate economic production it is also investment rather than consumption, which provides significant long term economic and social benefits to the country by adding to its capital stock.

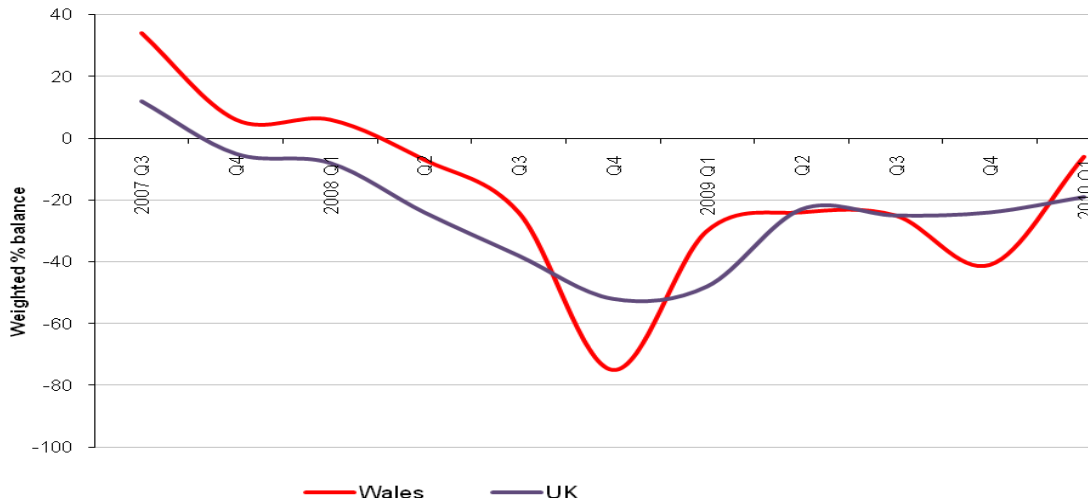
The Effects of the Recession on the Construction Industry in Wales

5. According to the FMB's State of Trade survey, the UK's SME construction sector entered the current recession in Quarter 1 of 2008. The same survey suggests that Wales was able to sustain growth for an additional quarter, before two consecutive quarters of negative growth saw it join the recession in quarter three of 2008. Construction SMEs in Wales then experienced a slower rate of decline than the UK's SME construction sector as a whole until Quarter 4 2008 which saw a massive acceleration in the rate of decline. FMB members in Wales submitted their most negative results in the survey's history, with only the Northern Irish construction sector experiencing worse conditions. The rate of decline for Wales slowed in Quarter 1 2009 and remained roughly constant until Christmas 2009 when the bad weather saw a further acceleration in Quarter 4. The latest results for Wales show the least negative results of the last two years.

² James Hastings on behalf of the ConstructionSkills Network, "National Group Meeting: The Outlook for this Year. CSN Forecasts for 2010 –2014" pg 4.

³ Construction Products Association "Construction Industry Forecasts 2009-2013" Autumn 2009, pg 1. Please note that the 12% fall in 2009 cited above is an update from the Construction Products Association of its own Autumn 2009 prediction.

Construction SME Performance in Wales and the UK



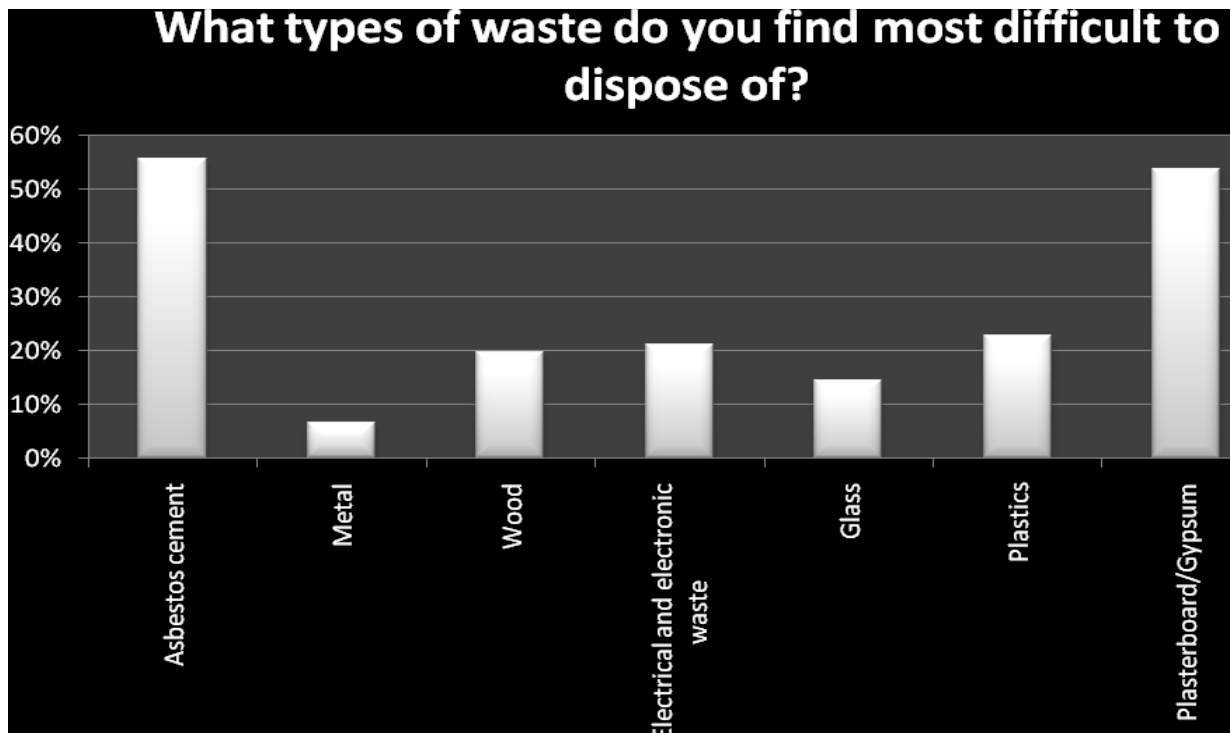
Construction Site Waste

6. There is little doubt that waste is a serious issue for the construction industry. According to the Environment Agency, 10 million tonnes of construction products are wasted every year at a cost of approximately £1.5 billion, and even a reduction of just 1% could save £15 million and 104,000 tonnes of products per annum. They further estimate that the cost of waste can be as high as £43/m² in a typical construction project. Even at the micro level the waste of waste is evident. Envirowise suggest that the average 8 cubic yard skip costs around £150, and that the average cost of what is being thrown away in that skip is over £1500.

7. FMB members repeatedly express their frustrations at the quantities of unnecessary packaging, and at not being able to return to source materials that should be amenable to recycling or re-use. A meeting of the FMB's influential Homebuilders' Policy Group recently identified the top five sources of waste on small sites. These included: one ton bulk bags commonly used to supply aggregates etc; plasterboard off cuts; the plastic containers in which substances such as tile adhesive are received; the excessive quantities of polystyrene in which white goods and kitchens are received; and the excessive and often unnecessary use of polythene wrapping. With regard to the excessive quantities of polystyrene it is bulky and very few facilities exist to cope with its re-use and in relation to the unnecessary use of polythene wrapping a recent comment from one of our member's is telling:

“When I used to order bricks, they came bound to a pallet, now they come bound to the pallet *and* wrapped in plastic. If I was worried about the bricks, I would stick a tarpaulin over them, why do I need the plastic?”

8. When asked about which types of construction waste they find most difficult to dispose of, respondents to a joint survey of FMB members by FMB and NetRegs on site waste responded accordingly:



Site Waste Management Plans

9. Site Waste Management Plans (SWMPs) have been a legal requirement in England for two years, and place a compliance duty on all construction projects that were started after 6th April 2008 which have an estimated cost in excess of £300,000. Additional duties apply to projects with an estimated value in excess of £500,000.
10. The reason for the £300,000 project cost trigger is that the compliance requirements for a SWMP are extensive, and as such are both disproportionate and impractical for the majority of smaller projects. While the £300,000 limit may seem quite high, it should be remembered that this is still low enough to catch single dwelling developments, and that £500,000 will place duties on developments as small as two or three dwellings. Projects of this type face considerable challenges in relation to SWMP implementation due to the limited resources of the types of firm that undertake the work, and because such sites usually do not have the space for waste collection, sorting and storage. This is particularly true of urban infill developments that seek to use “waste land” in urban areas as a means of relieving pressure on green belt land.
11. The administrative requirements are considerable and require the nomination of an individual to take responsibility for updating the plan. According to the official guidance from NetRegs⁴⁵, “you must record all decisions about the project design, construction methods or materials that will minimise the waste produced on site.” You must also “make sure you record all measures taken to reduce waste, even where waste is totally eliminated.” Those with responsibility for updating the SWMP will need to: plan for allocation of site space for segregation and storage of materials; plan for re use of materials; calculate likely types and quantities of waste; allow for on and off-site reuse recycling and disposal; complete/collect,

⁴ NetRegs “Site Waste – It’s Criminal: A Simple Guide to Site Waste Management Plans” 2008.

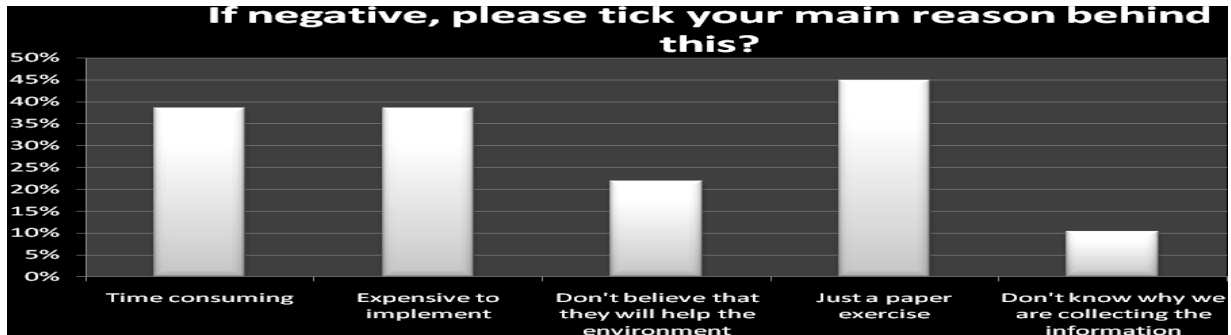
⁵ Note: NetRegs is a partnership between the UK environmental regulators – the Environment Agency in England and Wales, SEPA in Scotland, and the Northern Ireland Environment Agency (NIEA) in Northern Ireland - providing free environmental guidance for small and medium-sized businesses throughout the UK.

and analyse “data sheets” during the project; collect all waste transfer notes and consignment notes for all waste disposed of or transferred from the site and retain them for two and three years respectively; check and record waste carrier registrations; check and record waste permit, licence or exemption details for anyone receiving waste from the site; communicate site waste management processes to staff and subcontractors; supply any information and or training which may be required; keeping track of all movements of waste with and from site, including the recording of the types of waste taken, who removed them, and where they were taken; measure how well the plan is working by assessing the type and quantity of waste produced by taking measurements of volume, value, and weight of waste and recoding it against the value of the project, the area of build floor space and the volume of building; confirm that the plan has been monitored and updated on a regular basis; explain any changes from the original plan; and review the plan at the end of the project. The SWMP then needs to be stored for at least two years with its attendant paperwork.

Site Waste Management Plans in Practice

12. SWMPs are already a legal requirement for relevant projects in England, and the FMB has been involved in the assessment of their first two years of mandatory operation. More specifically the FMB has, in conjunction with NetRegs, conducted an annual survey of its members’ experiences and views of SWMPs and construction waste management issues. The results of the autumn 2009 survey are revealing.
13. The results of the survey suggest that construction SMEs regard waste minimisation and good environmental practice as being important, despite not being obliged to use SWMPs on most of the projects they undertake. The survey results show that 88% of respondents operated as the principal contractor, and that 88% also said that their typical contract size was below the £300,000 threshold. Despite this, when asked “how important is good environmental practice to your business?” over 90% responded that it was either a high or medium priority, and in a subsequent question, nearly 66% indicated that they had change their working practices in the last 12 months to prevent or reduce harm to the environment. On waste more specifically, 80% indicated that they had examined their working practices in the last 12 months to try and find ways to reduce the amount of waste produced. As a result of this effort, it is perhaps unsurprising that 92% regard their on-site approach to reducing and disposing of waste as either good or adequate. This suggests that legal requirement to produce a SWMP is not necessary to drive environmentally friendly reforms to business practices in the legitimate sector of the industry. We would suggest that business efficiency and growing client demand are the key drivers behind these reforms rather than the demands of regulatory compliance.
14. One of the key arguments in favour of SWMPs has been that they will save a firm money and gain new business. However, this has not been borne out in the survey results. When asked “has a SWMP helped you save money?”, only 20% said yes; 48% said that they had not used an SWMP; with the remaining 32% answering no. When asked “If you have used a SWMP, has the experience of working with it helped you improve your environmental credentials and gain new business” the results were similarly weak with only 13% indicating that it had. The FMB would surmise that this indicates that SWMPs are not necessarily the best means of achieving waste reduction for all projects over the low threshold value currently used in England. Given that clients and businesses tend to be more focussed on outcome than process, and that no two construction sites are identical, the FMB would suggest that current duties, client demand, and social responsibility of firms are sufficient to drive improvements in the legitimate sector of the industry. Measures for facilitating these improvements are discussed later. However, we do see tangible economic benefits deriving from SWMPs to the much larger projects where the quantities of waste are sufficient to see a return on the cost of recycling.

15. Despite the apparent lack of business or financial benefits, nearly 57% of respondents indicated a positive perception of SWMPs, and subsequent answers suggest that the reason for this is that they can help to “demonstrate good practice”, with 59% indicating that an SWMP could help in this area. As such the FMB sees SWMPs as a potentially useful tool for firms to use, but would suggest that they are not the only option and would urge the Welsh Assembly to consider a more flexible approach for smaller projects.
16. Those respondents with a negative view of SWMPs indicated that their main reasons as below with many considering them to be just a paper exercise.



Site Waste Policy.

17. According to the Department for Environment, Food and Rural Affairs (Defra), SWMPs are intended to do two things: First, they “improve resource efficiency within the construction industry by identifying opportunities to reduce waste at source, and encouraging the recovery of materials for re use.” Secondly, they “reduce ‘waste crime’ such as fly tipping by ensuring that those responsible for waste know the destination of the waste, and that it is being managed by a legitimate registered waste carrier who will manage the waste responsibly.”
18. The FMB does not believe that SWMPs are the solution to resource efficiency. Defra assume that the writing of a plan will identify potential waste savings at source, which in turn assumes that insufficient attention is given to estimating material requirements at the planning stage. Estimating material requirements and waste production is notoriously difficult, and is generally guided by the practical experience of those preparing the bid. The SWMP process adds little of value to this process. Those preparing bids already include estimates for materials and waste disposal costs which are as accurate as they can practically be because if they over estimate, this pushes up the overall estimate for the job thus increasing the chances that they will not be successful in winning the work, and if they underestimate, the costs have to be met from the already narrow profit margin. A drastic underestimate of costs can result in a firm making a loss on the project, and repetition of these failings can ultimately lead to the collapse of the firm.
19. With regard to the issue of ‘waste crime’, the FMB believes that SWMPs will have little or no effect because they are aimed at the wrong target, and add little value to existing legislative provision.
20. Together, the Control of Pollution (Amendment) Act 1989, The Environmental Protection Act 1990, The Controlled Waste (Registration of Carriers & Seizure of Vehicles) Regulations 1991, and the Waste Management Licensing Regulations 1994, are more than sufficient to create a legal duty of care in relation to the disposal of waste by the producer, including by means of transfer to another responsible party, and are more than sufficient to create the “clear audit trail of regulatory compliance” cited by Defra as being a positive

outcome of SWMPs. SWMPs will not add anything positive to this audit trail, and may be counter-productive in terms of increasing the paper requirements of compliance which burden the legal operator and increase the advantages that the non compliant already enjoy over them. The reason why making SWMPs a legal requirement will not stop waste crime is that same reason why the existing legislation has not already done so. Those that break the law will continue to do so because non compliance saves money and they do not think they will get caught. Given that the informal economy in the Welsh domestic Repair Maintenance and Improvement Market is 40% of the size of its formal sector, the FMB's view is that the Welsh Assembly should look more towards cracking down on rogues traders than to introducing new burdens on those already trying to improve. As such we see the answer to fly tipping in the refinement and enforcement of existing legislation, not creation of more legislation for the informal economy to ignore. When asked "do you think that the current waste regulations are adequately enforced, 47% of respondents to the FMB/NetRegs survey said no.

21. In terms of how the current regime could be improved, the issue of when a material becomes classified as waste is the key due to the plethora of duties which are conferred upon them once materials are classified as such. This issue is at the heart of the confusion surrounding waste transfer stations, waste transfer licensing, and what a firm is and is not allowed to do in relation to materials.
22. The FMB has received reports of firms bringing their excess materials back to site for re use, and being told that they need a waste transfer license, and of other firms attempting to sort their own waste at their own yard and being accused of running an illegal waste transfer station. We have also received anecdotal evidence of members giving up recycling activity as a result of such encounters with enforcement authorities, and do not doubt that fear of enforcement activity and the complexity, cost and bureaucracy of associated with licensing, actively discourage small firms from recycling. Encouragingly there have also been reports of more sensible inspectors turning a blind eye to recycling activity but having to quietly warn the company that they are technically breaking the law. While we welcome the use of common sense in enforcement, the FMB feels that it would be beneficial to all involved if the rules were brought into line with this approach to provide protection for both operator and inspector alike.
23. Central to our concern is the point at which material is deemed to be classified as waste. In our view materials should not be classified as waste until the owner seeks to dispose of them. This approach would allow building firms to transport materials from the site to their yard for sorting, re use and recycling without fear of legal repercussions and without the need to engage in unnecessary bureaucratic procedures.
24. The FMB strongly supports the drive to reuse and recycle building "waste" and as such we have lobbied the UK Government to undertake three relatively simple measures:
25. **Increase the number of recycling sites available for construction waste.** The Construction Industry Research and Information Association (CIRIA) database of construction related recycling sites in Great Britain lists only 279 such sites, and not all of them take all of the main types of construction waste. Depending on the distribution of the sites in the area, the waste they cater for, and the waste being produced, many firms experience problems with disposal, and may have to drive some considerable distance to get to the site or sites that will take their waste. The problem is particularly acute in South Wales where FMB members are reporting having to travel to England to dispose of hazardous waste, and where increasing instances of fly tipping have been partly attributed to the lack of disposal sites for this and other types of construction waste. The FMB/NetRegs survey confirmed this lack of facilities, with 72% of respondents indicating that there were not enough recycling facilities that will take building/construction waste in their area. The FMB believes that an increase in the number of recycling facilities would encourage more firms to engage in recycling activities. One quick and easy way in which

access to facilities could be quickly enhanced, would be to allow small quantities of waste from small works to be disposed of at local authority sites. These sites could attract sufficient quantities of waste to make recycling commercially viable. When asked “would allowing small quantities of building/construction waste to be recycled at local authority sites enable your firm to recycle more of its waste” 89% said yes.

26. **Ring fence land fill tax revenues for the improvement of recycling facilities:** it is estimated that the Treasury will have received somewhere between £1 billion and £1.2 billion from land fill tax revenues in 2009, and they are planning to ratchet up the cost per tonne from the current £40/tonne to £48/ tonne by 2010/11. This £48 per tonne tax is likely to yield receipts in the region of £1.6 billion per annum.

27. **Introduce financial incentives to recycle.** The FMB believes that if government is serious about getting the UK to recycle more, it needs to make it both convenient, and financially viable to do so. As such it should consider financial incentives for recycling and recovery of waste, such as allowing firms to offset the costs of recycling against tax. It could also consider similar allowances for builders’ merchants and other materials suppliers who set up recycling points for the return and collection of excess materials. As such they could act as a central collection point for materials from a multitude of small and medium sized works in their catchment area, and thus accumulate the commercially viable quantities required to incentivise recycling.

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