

Pwyllgor Deddfwriaeth Rhif 4

Nid yw'r dudalen ar gael yn y Gymraeg

LC4(3)-05-10 : Paper 4 : Written evidence from CBI Wales

Proposed Waste (Wales) Measure

The CBI is pleased to offer evidence to Legislation Committee 4, scrutinising the above Measure.

The CBI has significant membership interest in the retail, industrial and construction/demolition sectors. We offer comment only on those parts of the Measure that directly affect our members.

Single Use Carrier Bags

We note the evidence provided to the Committee by the British Retail Consortium, and are happy to endorse this. Most of the large grocery multiples are also CBI members as are a number of other non-food retailers. All our members would strongly prefer a continuation of the successful voluntary approach to reducing carrier bag usage and do not believe that a compulsory charge for single use carrier bags is yet needed.

If the Assembly Government does proceed with its intention to publish regulations to impose a mandatory charge then we believe the use of the proceeds from such a charge to be a second order issue. The purpose of the legislation - to reduce usage - is achieved by a customer having to pay a fee, not by the destination of the resulting monies.

We believe that the requirement for retailers to publish the net amount raised, and how they have applied the net proceeds, will be sufficient to ensure that the monies are passed to good causes. Most large retailers already have organisations they support through their CSR policies and we envisage that the carrier bag charges will be applied in furtherance of these existing policies. We believe it is disproportionate and inappropriate for the Assembly Government to dictate which organisations are allowed to benefit from receipt of these funds.

We are pleased to note from the Explanatory Memorandum that it is the Assembly Government's intention to allow a voluntary approach to the distribution of the proceeds of the carrier bag charge, and to hold in abeyance the power sought in the Measure to mandate the recipients.

Waste targets

We have no comment to make

Landfill

We note the wide powers being sought by the Assembly Government to ban additional substances from landfill. The explanatory Memorandum states that this is not merely to prevent pollution, as some of the substances will be inert, but in order to divert valuable materials from being landfilled.

The industrial sector has already made significant progress in reducing landfill, as evidenced by the statistics in the Memorandum. Half of commercial waste, 70% of industrial waste and 90% of construction/demolition waste does not go to landfill. There are already significant drivers in place to ensure this is the case: the landfill tax has been progressively increased, and some materials, as the Memorandum states, have an intrinsic value.

We would recommend a thorough examination and understanding of why these market drivers have not resulted in 100% diversion from landfill, especially of inert substances, and what the barriers to alternative uses or methods of disposal might be, before a complete ban is introduced.

The availability of a disposal and processing infrastructure is a problem in Wales and the Memorandum seems to assert that a ban on landfill will result in such infrastructure being developed, it is presumed by the private sector, in response to the newly created demand.

Waste disposal infrastructure has externalities which means it is not a perfect market and may not necessarily react to simple market signals. The most obvious of these is the planning system, which means that the development of new waste projects is a lengthy, costly, and most importantly an "uncertain" process. If new waste disposal infrastructure is developed it will mean disposal costs will be higher than current landfill costs (if costs were lower it would have been developed already) with consequences on those organizations creating the waste.

Any ban on the landfilling of further materials should only be introduced after a thorough understanding of the consequences and the identification of the alternative disposal methods, and a "rigorous" appraisal of the costs for disposal of the materials and how this will affect various categories of waste producers.

Site Waste Management Plans

The Explanatory Memorandum acknowledges the already very high recycling and re-use rate for waste generated by the construction and demolition sectors. We acknowledge the role of SWMPs in reducing waste within construction, and these are already in common use by large companies.

The Assembly Government already has the powers to require the preparation of SWMPs and we look forward to seeing the Regulatory Impact Assessment for this regulation later in 2010, and the consultation on its introduction. This Measure seeks to introduce a fees and charges scheme for the monitoring and enforcement of SWMPs. There is no such charging scheme for the equivalent service applied in England. The acceptability of such a proposal will be closely tied to the level of charges and the success of the enforcement in ensuring a level playing field between construction companies - ensuring irresponsible companies are not allowed to avoid their waste obligations.

Regulatory Impact Assessments (RIAs)

The CBI is a strong supporter of robust and detailed RIAs. We are much better placed to debate the merits of proposed legislation, and to argue for amendments, if there is a clear understanding of the costs of the proposed regulations and where they will fall. Both government and business organisations are then better able to understand the implications of new legislation and assess the benefits by reference to the consequent costs.

We have some concerns over the robustness of the RIAs in this Measure. In particular we see the partial calculation of RIAs for the precise consequences of this Measure, with reference to other RIAs in preparation for other parts of what will ultimately be one piece of legislation. For example, the RIA on SWMPs in this Measure only attempts to calculate the costs to the regulatory authorities, with the inference that this will be passed on to construction companies. It makes no attempt to calculate the cost to companies of the preparation of SWMPs, which seems to be promised later. It is extremely difficult for all concerned (those preparing the legislation, those scrutinising it, those giving evidence, and those who will ultimately be subject to it) to properly assess the consequences when RIAs are prepared in this piecemeal manner.

Carrier bags.

This RIA only attempts to deal with the costs of dealing with the regulation of disbursement of the proceeds of the carrier bag charges. We have yet to see a RIA for the overall policy proposal of mandating charge for single use carrier bags, and are disappointed that this policy has proceeded so far without this calculation being made. It gives the impression that the costs to those being regulated are an immaterial consideration.

The costs highlighted within the RIA are acknowledged to be "highly uncertain" in option 2, so we question how this can proceed on this basis.

Under option 3 the identified costs falling on retailers do not take any account of time spent dealing with enforcement officers from Trading Standards. Experience suggests that this can be significant.

The cost to local authorities is identified as 5% of a FTE person, so approximately one FTE across Wales to deal with the payments from 8,500 retailers.

The uncertainties from these costings suggest that the only sensible option is to do nothing - to allow retailers to disburse the monies received from the carrier bag charges as they see fit, but to require them to publish the donations.

Landfill

No attempt has been made to calculate and allocate the costs resulting from this Measure.

Site Waste Management Plans

As stated previously this RIA does not attempt to calculate the costs to companies in the preparation and development of SWMPs. The fees suggested for submitting a SWMP appear modest - from £52 to £213 - assuming full cost recovery and a simple equal division of the costs across all SWMPs. However this is based on a number of assumptions, the most critical being the number of plans being prepared (a lower number would result on higher costs) and all building projects being charged equally. One imagines by the time the regulations are implemented that larger projects would be charged substantially more than smaller.

The other key issue is the actual level of enforcement costs to be incurred by the regulator. The steady state costs are assumed to be £110,000 (2.5 people?) to receive and process applications, inspect, monitor and enforce 2,200 SWMPs. Under option 3, a comprehensive scheme, steady state running costs are estimated to be £3.5m. If this does not result in the greatly increased level of SWMPs (19,800 - why nine times more?) then the cost to the proposer of a scheme could be considerable. When the regulations are ultimately published we would wish to see certainty around these charges to companies.

The RIA itself acknowledges that there is significant uncertainty in the figures and that "it is difficult to draw any firm conclusions on the modeling". We would encourage the Committee to press the Assembly Government for more work on this RIA.

Overall effect on the construction sector.

There is one further point to be made on the subject of RIAs. Currently there are a number of legislative and regulatory proposals being

pursued by the Assembly Government which will impact on some or all parts of the construction sector in Wales. These include:

The provisions of this Waste Measure

Ambitious zero carbon development standards

Wales-specific building regulations

Mandatory fire sprinklers for new housing

Whilst RIAs will be developed for each of these in turn, we are unaware of how the cumulative impact of these measures on key construction sectors is being assessed. At a time when the activity levels in construction are very weak, and prices are static or falling in certain markets, it is critical that this is done.

CBI Wales
March 2010