

**Department for Environment, Food and Rural Affairs**

**Clarifying the application of the definition of waste  
to re-use and repair activities: Discussion paper**

**Summary of Stakeholder Responses**

**August 2015**

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## Background

During the development of the Waste Prevention Programme for England in 2013 a number of stakeholders identified the definition of waste or its interpretation as a potential barrier to re-use and repair across various sectors. In November 2014, Defra issued a discussion paper seeking further information and specific examples of where the definition of waste may have acted as a barrier to re-use, and suggestions for changes related to this which might support growth in the re-use and repair sectors.

## Stakeholder responses

A total of 37 stakeholder responses were received. A list of the organisations which responded is included at Annex A.

The summary of emerging themes which follows highlights stakeholder views on issues related to how the definition of waste or its interpretation has impacted on re-use and repair activities. Some stakeholders also took this opportunity to highlight a range of other non-regulatory issues and proposals to support growth in the re-use and repair sector, which were not directly related to the definition of waste or its interpretation. These issues are referred to under the heading of “Other issues” on page 3 and 4.

The view of most respondents was that barriers to re-use and repair arose more from the interpretation of the definition of waste or other wider factors rather than directly from the EU definition itself.

The discussion paper highlighted five examples of potential barriers to re-use, which had been drawn from previous stakeholder input. Some respondents regarded the example relating to Waste Electrical and Electronic Equipment (WEEE) as a significant issue, and one commented on the chemical drums example, but there was little comment on the others. One response questioned the inclusion of the energy example, as it was not really about re-use.

## Key themes

The main themes emerging from responses to the discussion paper were as follows:

### **Promoting re-use at Household Waste Recycling Centres (HWRCs)**

There was a recurrent theme in many responses around scope for greater promotion of re-use and repair activities at HWRCs.

- Some respondents highlighted what they perceived to be a difference in regulatory approach between items donated to charity shops (which are not considered to be

waste in England) and those brought into HWRCs, even where intended for re-use, which are generally considered to be waste, and so subject to regulatory restrictions.

- In the light of this, some respondents felt that consideration should be given to adapting or extending permitting exemptions to encourage greater re-use at HWRCs, e.g. by allowing sorting of waste on premises into reusable items or items requiring further treatment; or exempting sound wooden furniture or washing machines, where there is less environmental risk, from permitting requirements.
- Others commented that re-use sector organisations had, in general, already got used to complying with the requirements of the waste regulatory system, and the fact that these requirements applied did not, in itself, pose a significant barrier to re-use. There was also concern over potential for increased waste crime (see below).
- Some concern was expressed about apparent inconsistency between the Environment Agency's approach to regulation in different parts of the country – e.g. suggesting that the pragmatic approach adopted in some regions, whereby items which are checked and in good condition are not classified as waste, should be extended to all.
- Some responses flagged the particular challenges arising from re-use of WEEE at HWRCs – e.g. that products such as TVs and fridges are regarded as hazardous waste at HWRCs and therefore need to be consigned to another site for testing, repairing etc at additional cost. Poor handling of WEEE at Designated Collection Facilities was also highlighted as a challenge, and it was suggested e.g. that deferments of the point at which items are considered waste could help with this.

## **Risk of increased waste crime**

Several respondents highlighted the risk that any changes to interpretation of the definition of waste would have potential to promote increased waste crime unless carefully managed. If unscrupulous operators gained increased access to waste streams, then passed on goods which were not fit for purpose or hazardous to health, this would pose a serious risk to the reputation of the re-use sector.

## **End of Waste criteria**

Several respondents raised this as an issue, emphasising the need to give local authorities, re-use organisations and others as much confidence as possible in determining whether or not an item is waste. Some respondents suggested that there was a need for simple end of waste guidance to be developed which could be applied at HWRCs, depots etc. It was noted that some material was already available to support decision-making in this area, including the Environment Agency's 'IsItWaste' tool.

## **Guidance**

The need for better, clearer and more accessible guidance was a commonly recurring theme in the responses, with comments ranging from generic requests for guidance to quite specific proposals. It was suggested, for example, that guidance is needed on the issues related to the definition of waste specifically as it applies to re-use and preparation for re-use, including interpretation of the meaning of 'discard'. Suggestions included the use of decision-trees to illustrate the route of certain items or products; and that guidance could be split into two parts, with overarching guidance on Gov.uk and more detailed guidance on stakeholder websites. It was also suggested that there could be scope for the Environment Agency's 'IsItWaste' tool to be enhanced to set out both the legislative position and guidance as regards re-use.

## **Differences of approach to regulation across the UK and EU**

Differences of approach were raised as an issue in several responses, creating challenges particularly where charities operate across the UK as a whole or trade in other Member States. Some respondents referred to differences in the regulatory approach in England and Scotland with regard to whether items donated to charity shops are classified as waste. Differences of approach within the UK as regards the status of clothing deposited in textile banks were also raised as a potential barrier.

Concerns were raised that the different approaches to interpretation of the definition of waste in different Member States create significant practical problems for organisations trading in second-hand clothing (e.g. where the UK as country of dispatch does not consider donated clothing to be waste, but the country of transit or destination takes a different approach). It was suggested that action was therefore needed to promote greater consistency and clarity of approach across Member States.

## **Accreditation for re-use organisations**

This issue was raised in a few responses as a way of identifying reputable operators and raising standards in re-use sector. For example one organisation suggested licensing or accrediting re-use organisations as separate entities from main waste carriers where they meet an appropriate standard; or alternately classifying these organisations as 'resource recovery organisations' rather than 'waste carriers'. It should be noted that legislative change of this kind is not required under the Waste Framework Directive, and could potentially be seen as gold plating, though voluntary accreditation systems could be adopted.

## **Other issues**

A number of issues were raised in responses which related to re-use and repair but which were not directly relevant to the definition of waste or its interpretation. These included, for example:

- the importance of local authority procurement in incentivising re-use through bringing in experienced and professional re-use partners;
- the need for effective action to implement the Public Services (Social Value) Act 2012;
- the need for charity sector re-use organisations to have greater access to amenity sites and collection systems;
- the importance of public education campaigns in promoting re-use;
- consideration of fiscal incentives to encourage re-use;
- the need to design products to be more repairable and re-usable;
- the need for robust metrics to allow for evaluation of impacts;
- the value of establishing re-use networks.

Other issues which were raised in individual responses to the discussion paper included, for example:

- the status of marketable by-products;
- the relationship between the definition of waste and the practical application of the waste hierarchy within a food business;
- application of regulatory controls to remanufacturing;
- testing of soil intended for re-use;
- approach to regulation of wastewater-related activities;
- end of waste assessment process for gypsum.

## **What is Defra doing as a result of this evidence gathering?**

In March 2015, a working group was established bringing together relevant Government Departments, UK regulators, WRAP and a range of stakeholder representatives including from the local government, waste management, re-use & repair, and charity retail sectors. The group is considering and prioritising the key themes raised through responses to the discussion paper and will seek to identify actions to promote re-use and repair, while continuing to ensure effective regulation of waste.

The main focus of the Group's current work is on the potential for promoting growth in re-use at HWRCs while maintaining effective regulation (including looking at the role which local authority procurement can play in promoting re-use); and the scope for developing improved, user-friendly guidance to support re-use activities. The desirability of encouraging consistent approaches to application of regulation in all parts of the UK is also a factor in the group's considerations. The group has not so far identified a need for changes to regulation, or formal accreditation of re-use organisations, given the vital role the regulatory system plays in protecting health and the environment and that most re-use organisations have become used to complying with its requirements.

We are keen to involve stakeholders in the work of the group going forward. If you are interested in receiving updates on the group's activities or feeding into proposals emerging from the group, please contact Defra's Resource Efficiency team (details below). We envisage that the group will complete its work by March 2016.

## Further information

If you would like any further information about the issues raised in this paper and how they are being taken forward, please contact the Defra Resource Efficiency team at: [waste prevention](#)<sup>1</sup>.

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<sup>1</sup> [Wasteprevention@defra.gsi.gov.uk](mailto:Wasteprevention@defra.gsi.gov.uk)

## Annex A: List of respondents

A P Limited  
2G Environmental Limited  
Buckinghamshire County Council  
Bulky Guru  
British Heart Foundation  
Chartered Institute of Wastes Management  
Clothes Aid  
EDF Energy  
Energy UK  
Environmental Services Association  
FareShare  
Federation of Small Business  
Food and Drink Federation  
Hampshire County Council  
Furniture Re-use Network  
JMP Wilcox Limited  
Lafarge Tarmac  
Leeds City Council  
Leicestershire County Council  
Merseyside Recycling and Waste Authority  
National Association of Waste Disposal Officers (NAWDO)  
Norfolk County Council  
North London Waste Authority  
PHS Group  
Plasterboard Sustainability Partnership  
Premier Workplace Services  
Resource Futures  
Salvation Army Trading Company Limited  
Simons Group Construction  
Surrey Waste Partnership  
Textile Recycling Association  
Thames Water  
United Kingdom Cartridge Remanufacturers Association  
University of Creative Arts  
Valpak  
WestEnviron  
Wiser Environment Group