



Tread Carefully

CIWM spoke with the Environment Agency's head of waste and illegals, **Mat Crocker**, to discuss how it is tackling waste crime and the role waste producers have in regards to their Duty of Care... part two next issue

There has been much publicised cuts to the Environment Agency's (EA) budget, along with an increasing drive to ensure waste producers take responsibility for their waste. But how do the two sit alongside one another, and what is the Agency really able to do in the face of its reduced budgets? So, the first question to pose to the head of waste and illegal's at the EA, Mat Crocker, was how is it meeting the challenge of tackling waste crime?

"Even after the current restructure, we will still be spending around £13m of our core budget for 2014/15 on tackling waste crime, and the lessons learnt from our recent Illegal Waste Sites task force will help us be more effective," Mat explained, while adding that Agency has also received additional funding from Defra, specifically to support the work it is doing on tackling waste crime. "We don't expect any reduction in service," he added.

Having mentioned the additional funding from Defra, our next question was inevitably: "how will it be used?"

"The 2014 Budget included the announcement of an additional £5m one-off payment to the Environment Agency. We will continue to focus on stopping illegal waste sites and preventing the illegal export of waste, but will also be using the extra funding from Defra to investigate the deliberate mis-description of waste with a view to avoiding the costs of proper waste management," Mat explained, highlighting the three key areas it wants to address over a two-year period.

On the issue of illegal waste exports, Mat added: "We will add to our existing exports compliance work of stopping, checking and investigating suspect containers. We intend to build on and develop this work to achieve a significant reduction in the amount of waste being exported illegally".

On the mis-description of waste, he added: "We will undertake audits of waste management facilities to establish whether waste

inputs and outputs are being deliberately mis-described to avoid the costs of proper waste management. We will undertake this work in partnership with staff from Her Majesty's Revenue and Customs, who have an interest in ensuring that appropriate levels of tax are paid".

And on the final issue of illegal waste sites: "We will continue reducing the environmental, human and economic impacts of illegal waste sites by stopping existing sites from operating and preventing new sites from opening," he said.

So the Agency has plans, funding and key objectives, but what about the Duty of Care, what role does that have to play in tackling waste crime and improving overall standards in waste and resource management?

"We can improve waste management practice by reducing waste crime," Mat replied, "the two are inextricably linked.

"The Duty of Care relies on everyone... producers, brokers, carriers, disposers, exporters... on all of those making checks on one another throughout the various waste transactions that take place, taking sufficient steps to ensure others are not mismanaging waste.

"People are supposed to foresee things going wrong and, when they find something that is amiss, take action to stop it. If everyone applied their Duty of Care in the way it was intended, waste crime would be significantly reduced. Waste would be kept secure and would only be handled by people authorised and able to deal with it. When it was passed to someone else it would always be properly recorded," Mat added.

"The waste producers are there at the very start of the process and are crucial in help tackling waste crime.

Even big companies can find themselves implicated in some subsequent waste crime," he added.



"Waste producers are usually the people putting the money into the system at the start to handle the waste they're disposing of. They pay their carriers who, in turn, pay the next person in the chain and so on.

"Waste criminals earn their money by stepping in at one or more of these stages and replacing the legitimate business. Therefore, if waste producers apply their Duty of Care properly, and ensure they're only using legitimate waste contractors – and that those contractors are only using legitimate contractors, and so on – we believe it will make it harder for the waste criminals to profit, and it's therefore less likely they will continue to operate," he elaborated.

Doing More To Help

WHAT ABOUT a waste producer, such as a local council... what could it do more of to help prevent waste crime, we asked Mat. "They can help by taking a lead, by making sure they understand the legislation, where waste is going and that they are being seen to be asking the sort of questions expected," he explained. "The simplest way is to read the Code of Practice," he added. "Although it is in need of an update, we mustn't forget that it is statutory."

To help further, the Agency has also recently published a guide for local councils, setting out its "top tips" to help them reduce the risk of illegal waste disposal. "Perhaps they could help by promoting this to businesses in their area?" Mat suggested.

He added that all waste producers, however, should consider where they are sending their waste and ask more questions. "They don't need to be complicated questions, but if they don't ask them, how they can be sure they are even complying with the waste hierarchy and getting the best outcome for their resources?" he questioned. "We have seen a number of cases in the news recently where large quantities of waste have been building at illegal sites. These sites are well known in those localities, yet businesses still allow their waste to go there. Is it because they don't ask any questions and, therefore, by inference don't care?"

He went on to discuss the Green Compass scheme, trialled in Wales by Construction Excellence among others, which has recently become a PAS standard (PAS 402) for resource management in the construction sector, and he highlighted that there was a great deal of good practice within this that other business sectors could apply. "We should be looking to local authorities, but also business sectors, to share and to push this good practice to their members and a wider business audience," Mat enthused.

But isn't he just saying, essentially, that local councils and waste producers need to help regulate Duty of Care? And isn't that the Agency's job?

"Duty of Care legislation dates back over 20 years and, since day one, it has been a self-regulating system based on good business practice," Mat replied. "This relies on those aforementioned producers, brokers, carriers, disposers, exporters and so on making those checks on one another throughout the various transactions that take place. Regulators are only supposed to step in when they are aware of a breach, it was never intended for them to undertake routine monitoring of compliance with the legislation," he explained.

Mat added that some waste management companies

are actually starting to audit *up* the waste stream, largely because they want to ensure that the materials they receive are what they can accept and in the form they can accept them. "We know there are examples of chemicals, tyres and gas cylinders appearing in waste and causing problems, but contaminated, poorly sorted wastes can also have harmful effects on composting or the AD processes," Mat explained, "and on the quality of the outputs, so these risks are driving their upstream auditing. It's just good practice and we would hope other waste holders further up the stream themselves will want to co-operate. This is what self-regulation should be about."

With local councils under real financial pressures, though, can the Agency support them? Mat says "yes". It's keen to promote and share best practice and, whenever possible it takes the opportunity to engage with waste producers, including local councils, and their representatives to make them aware of the risks and issues. "We are working with organisations such as CIWM to help with this," he added, "and working with the industry we developed the electronic duty of care [edoc] and have recently launched a national compliance indicator pilot to help make businesses aware of good and poor performance."

This is all well and good, but what about enforcement and action? What about prosecuting waste producers if they're part of the problem?

"We have prosecuted waste producers for serious breaches of the Duty of Care and, in the right circumstances, would do so again in the future. But before any prosecution can be brought we have to satisfy two tests: is there enough evidence to have a reasonable chance of securing a conviction, and is it in the public interest to do so? Often, we find that producers are unaware their waste has been illegally disposed of and are keen to address matters when brought to their attention." Explaining that a prosecution can be a long and costly process, and is often not the best use of resources, he says the Agency may in future look more closely at alternatives, from the use of civil sanctions to visits to senior officers of organisations. "The more imaginative ideas might include borrowing speed awareness-type training," he explained, before adding: "As I explained earlier, I think waste producers can very much be part of the solution to tackling waste crime."

But does the behaviour of waste producers make the Agency's job of waste regulation harder? "In some cases it doesn't help!" he replied. "We will often be trying to stop an illegal waste site, preventing an illegal export or trying to improve a poor performing permitted site and we find our actions hampered because the operators of these sites are making so much money from their illegal activities. They are usually making this money by taking in waste from producers which, in many cases, are not really applying their Duty of Care to the extent we think they should. If we can make these illegal activities less profitable, then the regulation of these activities gets easier. Furthermore, if we can persuade those producers to stop using these operators it will make waste regulation easier, as well as allowing us to use our resources more effectively." ■

Next issue we continue our discussion with Mat Crocker on waste crime and the Duty of Care.