

House of Commons  
Environment, Food and Rural  
Affairs Committee

**HAZARDOUS WASTE**

Eighth Report of Session 2001–02

*Report, together with  
Proceedings of the Committee,  
Minutes of Evidence and Appendices*

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The Environment, Food and Rural Affairs Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Environment, Food and Rural Affairs and its associated public bodies.

### **Powers**

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No.152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk). The Committee has the power to appoint two Sub-committees.

The Committee agreed on Wednesday 22 May 2002 that it would nominate a Hazardous Waste Sub-committee to undertake this inquiry.

### **Current Membership**

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Mr David Borrow (*Labour, South Ribble*) \*

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Mr Mark Todd (*Labour, South Derbyshire*) \*

\* These Members were nominated as members of the Sub-committee. Mr Michael Jack was the Chairman of the Sub-committee.

### **Publications**

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/commons/selcom/efrahome.htm](http://www.parliament.uk/commons/selcom/efrahome.htm).

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### **Footnotes**

In the footnotes of this Report, references to oral evidence are indicated by the date of the relevant volume with its House of Commons Paper number, followed by 'Q' and the question number. References to written evidence are indicated by the date of the relevant volume with its House of Commons Paper number, followed by the page number.

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# EIGHTH REPORT

**The Environment, Food and Rural Affairs Committee has agreed to the following Report:**

## **HAZARDOUS WASTE**

### **SUMMARY**

Management of hazardous waste in the United Kingdom will change significantly over the next few years. A suite of new European Directives will direct hazardous waste away from landfill, impose greater requirements for waste treatment and require stricter pollution controls of incinerators. Furthermore, the revised European Hazardous Waste List and the introduction of producer-responsibility legislation, such as the End of Life Vehicles Directive and the proposed Waste Electrical and Electronic Equipment Directive, will define many more types of waste as hazardous for the first time. The introduction of the changes has caused a great deal of uncertainty for waste producers and the waste management industry. The most immediate changes are those under the Landfill Directive, which start to take effect from 16 July 2002. This is despite the fact that crucial technical requirements of the Landfill Directive have still not been agreed. We are profoundly concerned that this should have occurred. We are also disturbed that, in a sector that relies almost entirely on private industry, the Government does not have an adequate strategic relationship with industry. We support proposals for an industrial waste forum and urge the Government to use the forum discuss how its hazardous waste policy can be achieved. We are also concerned that the Environment Agency is under-resourced to fulfil its regulatory functions. Finally, we recommend that the Government instigates a thorough review of the process by which environmental legislation is arrived at in the European Commission

### **Introduction**

1. We decided to appoint a Sub-committee to undertake an inquiry into the issues relating to hazardous waste management and announced our inquiry in a press notice issued on 24 April 2002.<sup>1</sup> The terms of reference for the inquiry were:

“Taking note of the current review by the Performance and Innovation Unit, the Committee will examine whether the particular problems of dealing with hazardous (special) waste have properly been taken into account in the development of waste disposal policies. It will specifically:

- consider the impact on hazardous waste disposal of past changes in legislation governing landfill, and, with regard to hazardous waste, the adequacy of preparations for the implementation of the Landfill Directive (Council Directive 99/31/EC) in the draft Landfill (England and Wales) Regulations 2002;
- examine the steps taken by the Government to prepare for the implementation of the Incineration of Hazardous Waste Directive (Council Directive 94/67/EC) and the Integrated Pollution Prevention and Control Directive (Council Directive 96/61/EC), as well as the End-of-Life Vehicles Directive (Council Directive 2000/53/EC) and

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<sup>1</sup> The press notice can be viewed on our website, at <http://www.parliament.uk/commons/selcom/efrapnt24.htm>.

the proposed Waste Electrical and Electronic Equipment Directive inasmuch as they deal with hazardous or special wastes; and

- consider the progress of DEFRA's [the Department for Environment, Food and Rural Affairs] 'root and branch' review of its Special Waste Regulations".

2. In response to our invitation to submit written evidence we received 23 written memoranda. We held four oral evidence sessions in June and July 2002, hearing from representatives from Shanks Group plc, the Chemical Industries Association, the Environment Agency, the Local Government Association, the Minister for the Environment, Rt Hon Michael Meacher MP and officials from the Department for Environment, Food and Rural Affairs (DEFRA), the Environmental Services Association and the British Cement Association. We wish to thank all those who gave evidence, either orally or in writing. We made a visit to a waste transfer site and a waste treatment site in Liverpool, both operated by Shanks Group plc, Cleanaway's high temperature incinerator at Ellesmere Port in Cheshire; and a landfill site in Arpley operated by Waste Recycling Group plc. We are extremely grateful to those whom we met during the visit for their help and advice, and to the Environment Agency, which arranged the visit.

3. Broadly speaking, hazardous waste is waste that intrinsically poses a risk to human health or the environment. Under European Union law, hazardous waste is defined as waste featuring on a list drawn up by the Commission (the 'Hazardous Waste List'<sup>2</sup>). These wastes have one or more of fourteen properties listed in the Hazardous Waste Directive, which include being explosive, flammable, carcinogenic or infectious.<sup>3</sup>

4. Under the Environmental Protection Act of 1990, hazardous waste is called 'special waste' in the United Kingdom. At present the definitions of 'special' and 'hazardous' wastes are slightly different. For example, the United Kingdom applies thresholds for some hazards to exclude lower risk materials and all prescription only medicines are classed as special waste.

5. More than six million tonnes of special waste was disposed of in England and Wales in 2000. This involved 200,000 producers, of which 90,000 produced special waste regularly or in large quantities, or both. In 1998-99 the three largest waste streams by weight were oils and oil and water mixtures (1,027,516 tonnes), construction and demolition waste (1,005,250 tonnes) and waste arising from organic chemical processes (539,742 tonnes).<sup>4</sup> About 43% of hazardous waste is currently sent to landfill.<sup>5</sup> At the time of writing there were 1430 landfill sites in England and Wales, of which 241 accepted hazardous wastes.<sup>6</sup>

## Legal Framework

6. The European Union framework for waste management is set out in the Framework Directive on Waste.<sup>7</sup> It defines waste, specifies the preferred options for waste management (the 'waste hierarchy') and provides a list of common principles for waste management. The waste hierarchy has waste prevention and minimisation at the top, followed by re-use and recycling and finally disposal. For disposal, incineration with energy recovery is preferred to incineration without energy recovery. Landfill, Britain's

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<sup>2</sup> The most recent Hazardous Waste List was published in 2000, although it has since been amended. It came into force on 1 January 2002 and was intended to form a consistent waste classification system across the European Union.

<sup>3</sup> Council Directive 91/689/EEC of 12 December 1991 on hazardous waste, Article 1(4) and Annex III.

<sup>4</sup> Data provided by the Environment Agency.

<sup>5</sup> Memorandum submitted by the Environment Agency, Ev 24.

<sup>6</sup> Data provided by the Environment Agency.

<sup>7</sup> Official title: 'Council Directive 75/442/EEC on waste, as amended by Council Directive 91/156/EEC'

most commonly used method of disposal, is the least favoured option. The principles for waste management include the use of the best available technology not entailing excessive cost in the establishment of a network of waste disposal and treatment facilities, proximity of treatment and disposal sites to the source of waste, national self-sufficiency in waste disposal (ie. reliance on national waste disposal and treatment facilities to avoid trans-boundary movements of waste) and the 'polluter pays' principle (ie. the cost of disposing of waste is borne by the producer or holder of the waste).

7. All waste (hazardous or not) is subject to the Waste Framework Directive. Hazardous waste is also subject to the Hazardous Waste Directive,<sup>8</sup> which sets out the European Union framework for the management, recovery and correct disposal of hazardous waste.

8. The way hazardous waste is managed will change a great deal over the next few years. On 16 July 2002 the first changes required under the Landfill Directive (Council Directive 1999/31/EC on the Landfill of Waste) came into force. Further significant changes to hazardous waste management under the Directive will come into effect in 2004 and beyond.

9. Other recently adopted items of European law will also have an effect:

- A revised European Waste Catalogue and hazardous waste list came into force in January 2001 that classified around 200 wastes as hazardous for the first time. This will not only increase the volume of hazardous waste that must be properly managed but also the number of producers who must deal with hazardous waste.
- The Waste Incineration Directive (Council Directive 2000/76/EC on the incineration of waste) must be implemented by the end of 2002. It aims to reduce emissions of pollutants from incinerators and co-incinerators that burn waste.
- By 2007, all existing industrial plant will have to comply with the requirements of the Integrated Pollution Prevention and Control (IPPC) Directive (Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control), which can include reducing the environmental impact of waste disposal.
- Provisions in the End of Life Vehicles Directive (Council Directive 2000/53/EC) and the proposed Waste Electrical and Electronic Equipment Directive require hazardous components of such equipment to be removed, and where possible recovered, before the equipment is disposed of.<sup>9</sup>

### ***The Landfill Directive***

10. The objective of the Landfill Directive is "to prevent or reduce as far as possible negative effects on the environment from the landfilling of waste, by introducing stringent technical requirements for waste and landfills".<sup>10</sup> It introduces extensive changes to landfill practice and imposes more stringent requirements on operators of landfill sites. The key new requirements are:

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<sup>8</sup> Council Directive 91/689/EEC of 12 December 1991 on hazardous waste.

<sup>9</sup> See *End of Life Vehicles Directive*, First Report of the Trade and Industry Committee, HC (2001-02) 299 and *End of Life Vehicles Directive: Government Reply*, Second Special Report of the Trade and Industry Committee, HC (2001-02) 678.

<sup>10</sup> Council Directive 1999/31/EC on the landfill of waste.

- (a) The separation of landfills into three types: for only hazardous, non-hazardous or inert waste. This will mean that the three types of waste must be disposed of separately, although some stable and non-reactive hazardous wastes, such as asbestos, can be disposed of in separate cells in non-hazardous landfill sites.
- (b) An end to the practice of co-disposal by July 2004. Co-disposal is the disposal of hazardous waste with non-hazardous waste, such as household waste, which can attenuate the potentially polluting and hazardous properties of the hazardous waste. It is very common practice in the United Kingdom at present.
- (c) The development and introduction of waste acceptance criteria which define which types of waste can be accepted at each type of landfill.
- (d) The requirement to treat most wastes before landfill in order to minimise their undesirable properties. This is most likely to become the responsibility of the waste holder/ producer as facilities are unlikely to be available at the point of disposal.
- (e) The Directive bans certain types of waste from landfill including liquid wastes and waste which is 'in landfill conditions', explosive, corrosive, oxidising, highly flammable or flammable and infectious hospital and clinical waste. (Flammable and explosive wastes are not currently landfilled in the United Kingdom in any case.)

11. Operators of existing landfill sites must decide whether they wish them to be classified as hazardous waste sites by 16 July 2002. By this date, all sites must produce a site conditioning plan which sets out the details of the site and how the management of the site will meet the requirements of the Directive. The Environment Agency has sent a Site Conditioning Plan Pack to all operators to help operators to prepare their plans. After the deadline it will be an offence to operate a site without having submitted a plan. The Directive requires that the ban on liquid and other wastes from landfill be implemented at hazardous waste sites by 16 July 2002. As we discuss in paragraph 19, this ban comes into force before the final decision on the waste acceptance criteria.

12. The European Court of Justice has instigated infraction proceedings against the United Kingdom and six other European Union countries<sup>11</sup> over their failure to meet the agreed deadline of 16 July 2001 for transposing the Landfill Directive into national legislation.

13. The Landfill (England and Wales) Regulations 2002 eventually came into force on 15 June 2002. DEFRA told the Committee that the delay was due in part to a 'comprehensive consultation process' that was conducted 'to ensure that implementation proceeds as smoothly as possible'.<sup>12</sup> Nevertheless, the lateness of agreeing the Landfill (England and Wales) Regulations 2002 has meant that the time between the Regulations being finalised and their requirements coming into effect has been extremely short.

*Timetable of principal events relating to Directive 99/31/EC on the Landfill of Waste*

1991	
July	Commission proposes a Directive on the landfilling of waste
1995	

<sup>11</sup> Belgium, Germany, Greece, Italy, Luxembourg, and Portugal.

<sup>12</sup> Memorandum submitted by DEFRA, Ev 62.

October	Council adopts Common Position.
1996	
May	European Parliament rejects the proposed Directive for failure to ensure high enough level of environmental protection.
1998	
March	Revised proposal introduced to European Parliament.
April	House of Lords Select Committee on European Communities publishes its Seventeenth Report, Session 1997-98 HL Paper 83: <i>Sustainable Landfill</i> , which considers the revised proposal.
June	Council adopts second Common Position.
1999	
March	Government submits Explanatory Memorandum to House of Lords Select Committee on European Communities and House of Commons European Scrutiny Committee
19 April	15th Report of the European Scrutiny Committee, Session 1998-99, HC 34-xv published, classing the draft Directive as 'politically important, uncleared' and requests more information. Government Submits Supplementary Explanatory memorandum.
26 April	EC adopts Council Directive 99/31/EC on the landfill of waste
30 April	16th Report of the European Scrutiny Committee, Session 1998-99, HC 34-xvi published, classing the draft Directive as 'politically important, cleared'. (The meeting itself was held a week before the Environment Council met and adopted the Directive.)
2000	
October	Government publishes its first consultation paper on implementation of the Directive.
2001	
July	Original deadline for agreement of Waste Acceptance Criteria by EC Technical Adaptation Committee
August	Government publishes its second consultation paper on the Directive, including draft Regulations.
2002	
March	(draft) Landfill (England and Wales) Regulations 2002 laid before Parliament.
June	Landfill (England and Wales) Regulations come into force

16 July	Landfill site operators must classify their sites as one of 'hazardous' 'non-hazardous' or 'inert'. Site conditioning plans must be submitted to the Environment Agency. Certain wastes, eg. liquids and corrosive wastes, banned from landfill.
23 July	Commission due to make final decision on Waste Acceptance Criteria.
2004	
July	Ban on co-disposal of hazardous and non-hazardous waste
2005?	
July?	Waste Acceptance Criteria likely to come into force.

### ***Producer responsibility legislation (ELV, WEEE)***

14. The End-of-Life Vehicles Directive (Council Directive 2000/53/EC) requires that all environmentally hazardous components of such vehicles be recovered and that priority is given to re-use and re-cycling of vehicle components, including potentially hazardous ones such as batteries and oil.

15. The proposed Waste Electrical and Electronic Equipment Directive (WEEE) sets out conditions for the treatment and storage of hazardous components in such equipment. For example, components that contain heavy metals might have to be removed before disposal, and component that contain PVC might be banned from incineration.<sup>13</sup>

### **Uncertainty**

16. With all these changes in prospect, it concerned us that the dominant theme in the evidence submitted to this inquiry was that of uncertainty. This was expressed most strongly by waste producers and waste managers but also by the Government, local Government and the regulator. For example, the Chemical Industries Association argued in its memorandum to the Sub-committee that "in truth, our sector has more questions than answers with regard to the shape of industrial waste management in the short to medium-term as there are so many uncertainties in this policy area and many strands of waste policy are developing separately"<sup>14</sup>. In turn, Cleanaway said "*we do not know what criteria waste will have to meet to be allowed into landfill, we do not know what level of treatment will be required and we do not even know the exact dates when parts of the Directive will come into effect. Government cannot leave the future of hazardous waste management to be determined by market forces and then bemoan the fact that businesses are cautious of investing before knowing whether there is a commercial case for it.*"<sup>15</sup>

<sup>13</sup> Proposal for a Directive of the European Parliament and of the Council on waste electrical and electronic equipment; see [http://europa.eu.int/eur-lex/en/com/pdf/2000/en\\_500PC0347\\_02.pdf](http://europa.eu.int/eur-lex/en/com/pdf/2000/en_500PC0347_02.pdf).

<sup>14</sup> Memorandum submitted by the Chemical Industries Association, Ev 1, para 5.

<sup>15</sup> Memorandum submitted by Cleanaway, Ev 132.

### *Waste Acceptance Criteria*

17. The Waste Acceptance Criteria, which are crucial technical requirements of the Landfill Directive, were not included in the original Directive. Instead they were to be agreed by the Technical Adaptation Committee (a committee of European Union officials chaired by the Commission). Originally the Commission planned to finalise the Criteria by July 2001, but “but in the event considered that the need for further modelling work to underpin the criteria meant that this date was unachievable”.<sup>16</sup> The final decision on the criteria is now expected to take place on 23 July 2002, that is, a week *after* the date by which landfill site operators must decide how to classify their sites.

18. **This delay should not have occurred.** Not only will the Waste Acceptance Criteria determine the pre-disposal treatment facilities needed; but they are crucial to landfill site operators’ decisions about what category of site they wish to operate. Specific examples were outlined by the Environmental Services Association when they appeared before the Committee on 2 July:

“In 14 days’ time, hazardous liquids will be banned from landfill; we still do not have an agreed definition of what a liquid is<sup>17</sup>. In 14 days’ time, corrosive hazardous waste will be banned from landfill; we do not have an agreed definition of what corrosive is, in terms of what will be banned and where the line will be drawn. We do not have a date on when the Acceptance Criteria for hazardous waste will be brought in; we do not have a date on when the Acceptance Criteria for non-hazardous waste will be brought in. We do not have a date on when the pre-treatment requirements for non-hazardous waste will be brought in; we do not know what the Acceptance Criteria are.”<sup>18</sup>

19. The Government says that it has done its best to drive the Technical Adaption Committee’s decision process forward:

“we have led and funded much of the modelling work that is informing the criteria, we have hosted meetings, and have emphasised to the Commission the importance we attach to securing criteria as soon as possible.”<sup>19</sup>

20. It appreciates that “the absence of agreed criteria has caused uncertainty and made operators’ decisions about the type of site to operate difficult. It may also have delayed decisions about investing in alternative treatment facilities until the standards to which waste must be treated to gain access to a landfill site are finalised”<sup>20</sup> and has argued that the United Kingdom should therefore “be given a realistic timescale for transposing and implementing the criteria”.<sup>21</sup> When the Minister appeared before the Sub-committee he told us that “the Commission has now agreed a transition period to bring the waste acceptance criteria into effect up to July 2005 and we are in discussion with the industry as to whether that does constitute a sufficient timescale”.<sup>22</sup>

21. Although it seems that there is little more anyone in this country could do to speed up agreement of the waste acceptance criteria, we find it astonishing that once again the Government should have to agree to a European Directive without a clear understanding

<sup>16</sup> Memorandum submitted by DEFRA, Ev 65, para 37.

<sup>17</sup> The definition of “liquid waste” and the distinction between a liquid and a sludge is important as sludge is not banned from landfill.

<sup>18</sup> Evidence taken on 2 July 2002, Q361, Ev 95.

<sup>19</sup> Memorandum submitted by DEFRA, Ev 64 para 38.

<sup>20</sup> Memorandum submitted by DEFRA, Ev 64, para 39.

<sup>21</sup> Memorandum submitted by DEFRA, Ev 64, para 39.

<sup>22</sup> Evidence taken on 1 July 2002, Ev 77, Q295.

of its technical requirements, particularly in this case, as the United Kingdom is more reliant on landfill than many of the other Member States. While it may have been appropriate to delegate the formulation of the Waste Acceptance Criteria to the Technical Adaptation Committee, the Directive should not have been adopted until they had completed their work. **We are concerned that landfill operators are required to make crucial decisions about the future designations of their sites without the Waste Acceptance Criteria having been agreed. We can only reiterate our previous recommendation, made in relation to the disposal of refrigerators, that in cases such as this, which require radical changes in the practices of an important industry, any new item of European legislation should not be agreed until all the practical implications of implementation are well-understood.**<sup>23</sup>

22. The Minister for the Environment told the Committee that  
 “It would indeed be very helpful if we could have a discussion, together with the Commission, to ensure first of all that the detailed requirements for implementation are fully understood before a directive or regulation is passed or adopted, and that any matters which were not foreseen should then be promptly and rapidly dealt with.”<sup>24</sup>

**We recommend that the Minister takes this discussion forward and instigates a thorough review of the process by which environmental legislation is arrived at in the European Commission.**

23. Even the fact that the Commission has agreed to a transition period for the introduction of the Waste Acceptance Criteria seems likely to cause problems, which are discussed in paragraphs 49-50 below. **When fundamental aspects of legislation are left to be developed after a Directive is signed, as in this case, we urge the Government to lobby vigorously for the implementation date of the Directive to be tied to the date when all the criteria are finalised and not to the date on which the Directive was agreed.**

#### *Data on the amount of hazardous waste*

24. The Environment Agency collates data on all movements of hazardous waste in England and Wales. These data include where the waste is taken from and where to, its physical form and quantity, its chemical composition and its European Waste Catalogue classification. It takes a long time to publish the data; the most recent published data are for 1998-99. The review of the Special Waste Regime in this country is expected to shift the burden of documenting waste shipments onto the producer, which may alleviate this problem. Both the Environment Agency and those in the waste industry feel that the quality of the data could be improved. **The Environment agency and DEFRA must work with the waste management industry to provide timely high-quality data on the amount of hazardous waste produced each year and to develop management methods to assist in planning for future capacity.**

#### *Environment Agency and DEFRA guidance*

25. Despite the absence of the final Waste Acceptance Criteria, the Government and the Environment Agency have attempted to provide guidance to waste producers and waste managers to help them prepare for the implementation of the Landfill Directive this summer.

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<sup>23</sup> Fourth Report of the Select Committee on Environment, Food and Rural Affairs, Session 2001-02, HC 673 - 12.

<sup>24</sup> Evidence taken on 1 July 2002, Ev 75, Q279.

26. Interim Waste Acceptance Criteria were included in the Landfill Regulations of 2002, but these are very general in scope. Draft versions of the European criteria have been published. Both the Environment Agency and the Government believed that the final agreed European Waste Acceptance Criteria would be very close to the draft version. During Question Time on 27 June 2002 the Minister for the Environment said that the Commission had recently completed the 'determination of exactly what the waste acceptance criteria are'<sup>25</sup>. In his oral evidence to the Sub-committee he clarified this by saying

“The final vote will be taken, as I understand it, by the Technical Advisory Committee on 23 July. This will be in the light of the drafting of those waste acceptance criteria which has already of course been extensively considered. I am not suggesting that this is just a rubber stamping; it is not, but I think there is every expectation that they will be largely accepted in the form they are.”<sup>26</sup>

27. The Environment Agency therefore encouraged the waste industry to proceed on that basis. While most of the evidence submitted to the Committee appreciates that the Environment Agency has done the best it can under difficult circumstances, waste management companies emphasised that they did not feel able to make investment decisions based on non-statutory guidance of the kind provided by the Environment Agency.

28. The Chief Executive of the Environmental Services Association told us that “on 15 May, I was summoned, at relatively short notice, to a meeting with Mr Meacher and the Chemical Industries Association and the Environment Agency, and at that meeting, ... one of the two Agency people there said the Waste Acceptance Criteria were already in a draft form and had been made available to Environmental Services Association, on the strength of which our members could start investing. But since that meeting, ... the Waste Acceptance Criteria have materially changed, the draft criteria have materially changed”<sup>27</sup>. He argues that it would therefore have been a mistake to have invested on the basis of the draft Waste Acceptance Criteria.

29. The evidence given to us by the waste management industry makes it clear that they believe that there is no natural market for waste processing,<sup>28</sup> that producers of waste will usually choose the cheapest legal option available to them and that therefore “all significant demand accrues from informed legislation and its effective enforcement”.<sup>29</sup> To the extent that this is indeed the case, **the lessons learned from the fridge crisis also apply here and, as the Government suggested then, it remains up to the Government “to create a policy framework that stimulates innovative and market-led solutions”.**<sup>30</sup> **This needs to be provided well before implementation dates and part of this policy framework must include ensuring sufficient regulatory certainty to encourage waste management companies to invest at an appropriate time.**

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<sup>25</sup> HC Deb, 27 June 2002, col 945.

<sup>26</sup> Evidence taken on 1 July 2002, Ev 75, Q278.

<sup>27</sup> Evidence taken on 2 July 2002, Ev 94, Q359.

<sup>28</sup> Evidence taken on 10 June 2002, Ev 15, Q64.

<sup>29</sup> Memorandum submitted by Shanks Group plc, Ev 13.

<sup>30</sup> Fourth Report of the Select Committee on Environment, Food and Rural Affairs, Session 2001-02, HC 673 - 18.

## Government Action on hazardous waste

### *The review of the Special Waste Regulations*

30. Under the Environmental Protection Act of 1990, hazardous waste is called 'special waste' in the United Kingdom. At present the definitions of 'special' and 'hazardous' wastes are slightly different. There are currently wastes which the United Kingdom may regard as 'special' under the Special Waste Regulations of 1996, but which do not appear on the European Hazardous Waste List, for example, all prescription only medicines are classed as special waste. Equally, there may be wastes which are on the Hazardous Waste List but are not considered "special".

31. The Government is currently reviewing the Special Waste Regulations. The review aims to address the reasons for the European Commission's infraction charges outlined above, including the replacement of the term "special waste" with "hazardous waste". It will also incorporate the most recent European Waste Catalogue and Hazardous Waste List, thereby defining approximately 200 wastes as hazardous for the first time. Many of the newly hazardous wastes are everyday items, such as PC and TV monitors and fluorescent light tubes.<sup>31</sup>

### *The Performance and Innovation Unit waste study*

32. The Cabinet Office's Performance and Innovation Unit is currently conducting a study on waste, which will be completed by October 2002. Its objective is

"to provide an independent resource to assist DEFRA in its delivery of Waste Strategy 2000 and assess what extra instruments, changes to targets or regulations, and/or additional funding may be required to ensure that a) we meet the European Union Landfill Directive and b) that we are able to develop more sustainable waste management"<sup>32</sup>

Its main focus is on solid municipal waste, although it is "considering wider controlled wastes as far as these impact on proposed waste management options".<sup>33</sup>

33. The changes in hazardous waste management required by the Landfill Directive, and other European Union Directives such as the End of Life Vehicles Directive, will have a profound effect not only on the way landfill sites are managed but on other waste management options too, when waste is diverted from landfill. **We recommend that the Performance and Innovation Unit consider the issues surrounding the provision of new hazardous waste management facilities in the light of the Government's aim to move waste up the waste hierarchy and adhere to the principles of proximity of disposal and self-sufficiency in waste management.**

34. **The Government should clarify its position on the specific role of incineration in the disposal of hazardous waste.**

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<sup>31</sup> Evidence submitted by DEFRA, Ev 65, para43.

<sup>32</sup> See <http://www.cabinet-office.gov.uk/innovation/2001/Waste/summ.shtml>

<sup>33</sup> See <http://www.cabinet-office.gov.uk/innovation/2001/Waste/summ.shtml>

### *Consultation process*

35. Almost all waste collection, storage, treatment and disposal is managed by the private sector in the United Kingdom. In England and Wales, the Environment Agency is the regulator. It monitors imports and exports of hazardous waste as well as movements of such waste within England and Wales. It licences and inspects sites for storage, recovery and disposal and responds to fly-tipping and other environmental crime. Local Government prepares local waste plans and regional strategies, collects some hazardous waste from households (eg. asbestos) and also responds to fly-tipping.

36. The Government's role includes negotiating and agreeing European Union Directives, setting United Kingdom law and forming Government policies and strategies. One of its key tasks is to consult with the relevant actors over new items of legislation.

37. DEFRA believes that its consultation over the implementation of the Landfill Directive has been comprehensive. In its memorandum, it said:

“Two consultation papers on the implementation of the Landfill Directive have been issued. The first was published in October 2000, the second in August 2001, containing a copy of draft regulations. In addition, a number of consultation seminars on various aspects of the Directive have been held, as have regular liaison meetings with key stakeholders. These established sounding boards to discuss the proposals on a number of issues, for example to inform our negotiating stance on the waste acceptance criteria. The responses to both consultation exercises were very thoroughly analysed and the results fed into both the development of the regulations and wider implementation policy.”<sup>34</sup>

38. The Chemical Industries Association told the Committee that “there is usually some attempt made to take the views of industry while the Directive terms are being negotiated, but it is quite often the case that the United Kingdom views are in a minority in terms of the discussions at member state level ... What does not always happen - and this may be an area for improvement - is more input from the regulatory bodies like the Environment Agency, who are going to have to implement the Directive, in this case once it is in place, so that they can keep an eye on what the practical problems might be of dealing with it on a day-to-day basis.”<sup>35</sup>

39. The Environmental Services Association told us that although they were consulted on certain issues — for example, its Chief Executive is on the Secretary of State's Advisory Board on the PIU study — such consultation is not at the strategic level that they would wish for. They said that they had “*never had a substantive discussion with DEFRA on the strategy of waste management in this country*”<sup>36</sup>.

40. Mr Fielding of the Local Government Association (LGA) told the Committee that, from his perspective as a Waste Advisor to the LGA, “the consultations have been quite thorough and technical. I think that has not always been to best advantage, because they have tended to be quite difficult things to wade through ... to find out what the implications are has been quite difficult. As a consequence, I suspect that the comments this Government has received have probably not been as thorough as they would have wished.”

41. While the Committee commends the principle of the Government's consulting with all parties likely to be affected by the new Directive, **we recommend that the**

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<sup>34</sup> Memorandum submitted by DEFRA, Ev 62, paras 17-18.

<sup>35</sup> Evidence taken on 10 June 2002 Ev 6, Q14.

<sup>36</sup> Evidence taken on 2 July 2002, Ev 92, Q354.

**Government takes the utmost care to ensure that such consultations occur as early as possible, are of the right kind and are at the right level.**

42. It is vital that stakeholders are adequately consulted while the Directive is being developed and negotiated as well as when it is implemented into United Kingdom law. The consultations should be tailored to the role of those being consulted. For example, the basic implications for waste producers and local government should not be lost in a mass of technical data. Finally it seems clear to us that if private industries are to provide the solutions to waste management problems, they should be involved in the development of any strategy to achieve such solutions.

#### *Environment Agency role and resources*

43. The demands placed on the Environment Agency are likely to increase significantly because of the implementation of the Landfill Directive and the expanded European Waste Catalogue. This will be exacerbated as the requirements of the Integrated Pollution Prevention and Control Directive and other new environmental regulations take effect. The legislation in this area is complex and many of the Environment Agency's regulatory tasks demand a high level of expertise and experience.

44. Not only this, but the Environment Agency and others have expressed concern that the increased costs of waste disposal expected to result from new Directives, such as the Landfill and End of Life Vehicles Directives, may encourage illegal and unsafe disposal.<sup>37</sup> On its visit to Liverpool, the Committee saw examples of illegal hazardous waste dumping and learnt of the high costs of responding to such crimes.

45. Both producers and managers of hazardous waste expressed concern that the Environment Agency has neither the resources nor the qualified staff to fulfill all of its many functions. Dr Leinster of the Environment Agency told us that, rather than resources, per se, the question :

“is one of competence, and the level at which we can afford to pay and keep skilled people within the Agency. Now I am not questioning at all the competency of Agency employees, but we are a very good training-ground for others then to come and take from us. So a number of people join the Agency, get a good training, learn, and then others are able to entice them away with higher salaries. I think that if we were able to pay more for some of our regulators then we would not have quite so many enticed away to other places.”<sup>38</sup>

46. We are concerned that the Environment Agency does not have the resources it needs to meet the increasing demands on it. We are particularly concerned about the issue of poor pay and the retention of skilled staff. **We therefore recommend that, as a matter of urgency, the Government re-examines the funding available to the Environment Agency and ensures that it can adequately enforce legislation and prevent and respond to illegal disposal.**

#### **The future for landfill**

47. The Landfill Directive sets stringent operating standards for landfill sites and imposes a greater requirement for after-care of closed sites. Although some sites that currently accept hazardous waste are likely to classify themselves as 'non-hazardous' on July 16

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<sup>37</sup> Evidence taken on 10 June 2002, Ev 6, Q11 and evidence taken on 17 June 2002, Ev 34, Q170.

<sup>38</sup> Evidence taken on 17 June 2002, Ev 36, Q193.

2002, the biggest change is expected in July 2004, when those sites that have opted to be 'interim hazardous' sites may no longer accept both hazardous and non-hazardous waste. Many witnesses to this inquiry expected a sharp fall in the number of hazardous waste landfill sites on that date. Although a reduction in the amount of waste going to landfill is consistent with a policy of moving waste up the waste hierarchy, the questions of what alternatives are needed, and whether they can be provided in time, remain.

48. When the Sub-committee visited the Arpley landfill site operated by Waste Recycling Group plc, we were told that Waste Recycling has designated the majority of its 67 landfill sites as hazardous with the specific intention of then re-classifying them as non-hazardous in 2004. The managers of the site emphasised that industry would need clear comprehensive unequivocal and realistic guidance as to what was expected. They did not think that two years was a long time for the introduction and implementation of new management systems and told us that recent experience regarding the drafting and introduction of relevant guidance did not bode well.

### *Risks associated with hazardous waste only sites*

49. Co-disposal, where hazardous and non-hazardous wastes are landfilled together under controlled conditions, has been a very common practice in the United Kingdom until now. In co-disposal, bio-chemical processes within the landfilled waste attenuate the hazardous properties of that waste over a period of time and this is viewed as a safe and appropriate management technique by the Environmental Services Association.<sup>39</sup>

50. Nevertheless, co-disposal is not acceptable under the Landfill Directive and must cease by July 2004. This means that hazardous waste landfill site operators must stop accepting non-hazardous waste in July 2004. The benefits of co-disposal will no longer be available. Originally, it was thought that the waste acceptance criteria would come into force on the same date and that therefore the hazardous waste entering landfill after 2004 would have been treated to minimise the risks it posed.

51. However, because of the delay in agreeing the Waste Acceptance Criteria, the Commission has agreed that the implementation of these criteria may be delayed until 2005. The waste management industry has expressed grave concerns that, should there be a period when co-disposal is banned but the Waste Acceptance Criteria have not yet been introduced, disposal of hazardous waste by itself will pose an unacceptably high risk to the environment. Waste management companies have told us that they would not be willing to operate sites under such conditions and the Environmental Services Association does not believe that the Environment Agency would licence such sites in any case.<sup>40</sup>

52. The evidence from the waste management industry urges the Government to bring forward the implementation date for the waste acceptance criteria so that it coincides with the ban on co-disposal and avoids the need for any period during which hazardous waste that does not meet the Criteria is landfilled by itself.

53. The Minister told us that:

"I do not know that the Environmental Services Association are keen that the Waste Acceptance Criteria are introduced a year earlier - that is in July 2004 - because they do not want untreated waste going into hazardous only landfill. I do not think that is

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<sup>39</sup> Evidence taken on July 2 2002, Ev 100, Q389.

<sup>40</sup> Evidence taken on 2 July 2002, Ev 93, Q356.

the issue, actually, because the Landfill Directive requires all hazardous waste to be treated in July 2004<sup>41</sup>

54. The Environment Agency told us that, in order to avoid any pollution or harm from the deposit of hazardous wastes alone, the Agency intends that co-disposal loading rates will continue to apply. That is, the ratio of hazardous wastes to non-hazardous wastes, and any mixing requirements, will apply, using the non-hazardous wastes already deposited.<sup>42</sup>

**55. We recommend as a matter of urgency that the Government formally assesses the risks posed by the landfill of hazardous waste between the date that the ban on co-disposal comes into force and the introduction of the Waste Acceptance Criteria. If, as the Environmental Services Association believes, these risks are unacceptable, contingency plans should be made for that period.**

## **The future for incineration**

### *High temperature incineration*

56. The Government's Waste Strategy 2000 "recognises the importance of having available a network of high temperature incinerators, suitable for the disposal of hazardous organic wastes and other wastes where high temperature incineration is the Best Practicable Environmental Option".<sup>43</sup> Despite this, the United Kingdom's high temperature incineration capacity has declined from four plants with a combined capacity of over 165, 000 tonnes in 1999 to two plants with a combined capacity of 105, 000 tonnes today.<sup>44</sup>

57. The operators of the remaining incinerators, at Ellesmere Port in Cheshire and at Fawley in Hampshire, feel that the decline is partly due to a lack of demand in the absence of regulation to direct waste towards high temperature incineration and away from what they regard as less environmentally suitable options. High temperature incineration is expensive. As long as there are cheaper legal alternatives, they will be used.

58. The operators of high temperature incinerators feel that they are in competition with the cement industry for certain waste streams, particularly those wastes with the highest calorific values. The cement industry uses such wastes as substitute fuels in the manufacture of cement and high temperature incineration uses them to burn lower calorific value (CV) wastes. The European Commission classes the incineration of waste during the cement-making process as 'recovery', but incineration of the same waste in high temperature incineration is classed as 'disposal'. Ms Gill Weeks, Regulatory Affairs Director of Cleanaway, told us that if high temperature incinerators did not have access to enough high calorific value wastes, they would have to use fossil fuels in their place<sup>45</sup> and that therefore the incineration of high CV waste in high temperature incineration should be classed as 'recovery' too. The operators feel that the difference in classification mean that waste producers prefer to send their waste to cement kilns rather to high temperature incineration because they then "get more points on [their] EMAS [European Union Eco-Management and Audit Scheme] score,"<sup>46</sup> but that incineration in cement kilns is not necessarily as environmentally suitable as within a high temperature incinerator.

<sup>41</sup> Evidence taken on 1 July 2002, Ev 82, Q329.

<sup>42</sup> Supplementary memorandum from the Environment Agency, Ev 46, para 2.2.3.

<sup>43</sup> DETR 2000, Waste Strategy 2000, The Stationary Office, Part 2, p 95, para 6.23.

<sup>44</sup> *The Need for a UK Strategy on Hazardous Waste*, a joint briefing paper by Cleanaway and Shanks for ministerial meeting on 22 April 2002.

<sup>45</sup> Evidence taken on 2 July 2002, Ev 97-98, QQ378-381.

<sup>46</sup> Evidence taken on 2 July 2002, Ev 97, Q378.

59. The Minister told us that he was aware of these concerns, but that the United Kingdom is bound by European Union legislation. He said “we are looking to see whether within the current framework it is possible to find a way of meeting [the high temperature incineration industry’s] requirements.”<sup>47</sup>

**60. It is the Committee’s view that there should be a diversity of management options for hazardous waste and that high temperature incineration is part of this. The continued existence of such a diversity is called into question by the lack of demand for high temperature incineration for high calorific value wastes. We recommend that if the Government wishes to sustain diversity in this sector, it must recognise the problems faced by high temperature incinerators and should look again at the equivalency of use of high calorific values wastes as fuel in high temperature incineration and cement kilns.**

### *Incineration during the cement-making process*

61. The British Cement Association told us that “the cement industry can provide part of the waste solution to the problems that we are all facing.”<sup>48</sup> It did not accept that the cement industry posed a threat to high temperature incineration, saying that

“[the Environmental Services Association] gave evidence that there are more high temperature incineration kilns in European Member States than there are here, and yet Europe uses far more waste fuels in cement kilns; so the two things do not seem, to me, to be a problem, or a contradiction. It just seems that we have got to get better at playing the game.”<sup>49</sup>

62. In both its written and oral evidence to this inquiry, the cement industry told us that its ability to manage more waste streams was hampered by the Substitute Fuels Protocol (SFP).<sup>50</sup> The SFP is a set of guidelines used by the Environment Agency to assess the suitability of a particular waste stream for use as fuel in the cement-making process.

63. The cement industry told us that assessment of new waste streams took a very long time and that the SFP had been “superseded by IPPC [Integrated Pollution Prevention and Control], the Waste Incineration Directive and some work we have been doing with the Agency on improved stakeholder dialogue.”<sup>51</sup> They would like the Environment Agency to “review the operation of the Substitute Fuels Protocol and speed up the adoption of alternative fuels [by the cement industry]”.<sup>52</sup> **The Committee believes that the primary consideration in allowing waste to be incinerated should be the overall environmental impact of doing so. It remains for the Environment Agency to decide how best to ensure that the environmental impact of waste management is minimised within the current regulatory regime.**

### **Alternative recovery and disposal options**

64. Landfill and incineration are not the only options for dealing with hazardous waste. Shanks Group plc told us of innovative technologies for returning many hazardous waste streams to the productive economy.<sup>53</sup> While we insist that the option that presents the best

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<sup>47</sup> Evidence taken on 1 July 2002, Ev 81, Q325.

<sup>48</sup> Evidence taken on 2 July 2002, Ev 112, Q398.

<sup>49</sup> Evidence taken on 2 July 2002, Ev 113, Q399.

<sup>50</sup> Memoranda submitted by the British Cement Association, Ev 103, and Lafarge Cement, Ev 143-144.

<sup>51</sup> Evidence taken on 2 July 2002, Ev 112, Q398.

<sup>52</sup> Evidence taken on 2 July 2002, Ev 112, Q398.

<sup>53</sup> Evidence taken on 10 June 2002, Ev 19, Q95.

net environmental benefit (or least environmental cost) is to be preferred, we expect that more of these alternative management techniques will come into use when a greater volume of hazardous waste is diverted from landfill under the Landfill Directive. Furthermore, except for the most stable and unreactive wastes, hazardous wastes that are landfilled will need to be treated beforehand.

65. The point of most immediate concern is 16 July 2002, when certain hazardous waste streams are banned from landfill altogether. In its written evidence, the Government told us that it had

“concluded that there was sufficient alternative disposal systems (in use or planned) to cope with the large volume of organic process waste streams requiring diversion from landfill [...but that] additional facilities might be required for oily wastes, contaminated soils, and inorganic chemical wastes.”<sup>54</sup>

66. According to the Government’s own memorandum, “the most significant hazardous waste streams by mass are oily wastes and construction and demolition wastes, largely contaminated soil”<sup>55</sup> so the Government has no reason to be complacent about the provision of additional facilities for these waste streams.

67. The Minister told us that the Government had discussed the need for additional facilities with the industry, that he did not believe there would be a shortfall in capacity and that the industry had had adequate time to meet the requirements of the Landfill Directive in this respect.<sup>56</sup> He said “I am not sure there is anything more that we can do.”<sup>57</sup> When asked what the consequences would be if industry had not responded to the need for alternative facilities, the Minister said “If one draws up regulations, and gives people adequate time in order to meet those regulations ... and they are not met, then in the normal way there would be a prosecution.”<sup>58</sup>

68. It seems to us that there is a flaw in this line of reasoning. Waste producers are obliged to send their waste down a legal disposal route, but it is up to the private waste management companies to provide those disposal routes. It seems unjust to prosecute waste producers if the waste management industry has not provided the necessary facilities for them to use.

69. The Minister did not tell us when it became clear to the Government that alternative facilities would be needed. Given the time needed to obtain planning consent for, and to build, new facilities, unless notice was given to the waste management industry several years ago, we fear there may yet be a shortage of appropriate facilities. *We intend to return to this issue once the Landfill Directive has fully come into force and assess then whether the Government’s preparations were indeed adequate and whether the apparent absence of any contingency plan is justified.*

### **Future capacity**

70. The ban in 2004 on co-disposal, and the likely reduction in hazardous-waste only landfill sites, are expected to have a great impact on hazardous waste management. There is a great deal of uncertainty on the part of all involved about whether there will be

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<sup>54</sup> Memorandum submitted by the Department for Environment, Food and Rural Affairs, Ev 64, para 28.

<sup>55</sup> Memorandum submitted by the Department for Environment, Food and Rural Affairs, Ev 61, para 7.

<sup>56</sup> Evidence taken on 1 July 2002, Ev 78-79, QQ305-312.

<sup>57</sup> Evidence taken on 1 July 2002, Ev 79, Q306.

<sup>58</sup> Evidence taken on 1 July 2002, Ev 79, Q311.

sufficient capacity for management of hazardous waste when the July 2004 deadline is reached.

71. It is generally assumed that market forces will eventually ensure that the necessary facilities are provided. But, one of the key concerns is that the planning process for any new facility is so slow. There may therefore be a hiatus between the 2004 deadline and the point at which alternative facilities come on-stream. The witnesses to this inquiry felt that the proposals outlined in the Green Paper on planning did not address these problems. During our visit to Cheshire we were told that public perception of the waste management industry and the special waste management industry in particular is such that proposals for new facilities often met with fierce opposition.

72. The Government urgently needs better to engage the public in waste management issues in order to arrive at a hazardous waste management infrastructure that meets the needs of industry, poses the least threat to public health and the environment and is not distrusted by the communities surrounding it. **We urge the Government and the PIU to address ways of better informing the public about hazardous waste management issues and addressing their concerns.**

#### **A national hazardous waste forum**

73. The legal framework surrounding hazardous waste management is complex, at both the European and United Kingdom level. There is a family of European Directives relating to waste; provisions relating to hazardous waste occur in many of them. In addition, other environmental Directives not immediately concerned with waste management also impact upon the way hazardous waste is produced and dealt with. The Minister doubts whether there are senior EC officials taking an overview of all the European Union law relating to hazardous waste or who are “orchestrating it a consistent compatible way.”<sup>59</sup>

74. At the United Kingdom level, not only is the law complex, but the responsibility for hazardous waste management is shared between the United Kingdom Government, the devolved administrations, local government and the regulators. Within the United Kingdom Government, the Department for Environment, Food and Rural Affairs has overall responsibility for waste matters, but the Department for Trade and Industry takes the lead on producer-responsibility initiatives, the Office of the Deputy Prime Minister is in charge of planning and the Treasury is involved in, for example, the operation of the Landfill Tax.

75. Given that the determination of waste policy is dominated by the European Union and the provision of facilities is down to the private sector, the Government’s key role is coordination. It must provide the link between the two to ensure the best outcome for the United Kingdom’s public health, the environment and United Kingdom industry.

76. In the light of this complexity, the waste management industry has called for the Government to produce a national hazardous waste strategy to ensure that the requirements of European Union law are met, that the principles of self-sufficiency and proximity in waste management are adhered to and that publically acceptable solutions are found.<sup>60</sup> The Environment Agency supports this idea. In its written evidence, it recommended “the development and implementation by Government of a national hazardous waste management plan to ensure an adequate national network of hazardous waste management facilities”.<sup>61</sup> It advocates a “national overview, over the number, the type, the distribution of hazardous waste

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<sup>59</sup> Evidence taken on 1 July 2002, Ev 91, Q327.

<sup>60</sup> Memoranda submitted by Onyx Environmental Group plc Ev 128-130, Cleanaway Technical Waste Ev 131-134, Biffa Waste Services Ev 143, the Environmental Services Association Ev 87, and Shanks Group plc Ev 12.

<sup>61</sup> Memorandum submitted by the Environment Agency E 23, para 1.

facilities that we will need into the future. Without that overview we are depending either on happenstance or individual commercial decisions, and there is no guarantee that we would end up with the type and distribution of sites that we need".<sup>62</sup>

77. The Minister rejected the proposal for a specific hazardous waste management plan saying

"I would strongly assert the United Kingdom already has a national waste strategy, not only for England but for Wales, Scotland and Northern Ireland. We have the Environment Agency Strategic Waste Management Assessments. Let us be aware, hazardous waste is only approximately two per cent of total waste arising so there is really no need for a separate waste plan ... I am always against trying to solve problems by having separate committees or separate plans"<sup>63</sup>

78. We do not accept that Waste Strategy 2000 provides an adequate plan with respect to hazardous waste streams. For example, with regard to the specific issue of setting targets for hazardous waste reduction, the Minister told the Committee that there were targets for the reduction of hazardous waste in Waste Strategy 2000.<sup>64</sup> He said that the Government was going to achieve the targets

"in exactly the same way as all the reductions are to be got. We have set targets which require a doubling of the level of recycling and recovery for all local authorities (and that covers the whole of the country, and this is domestic waste, of course,) within three years by 2003/2004, and a trebling within five years, by 2005/2006, and that includes hazardous waste"<sup>65</sup>

And yet in Waste Strategy 2000, the Government said

"The Government has agreed with its European partners to increase the number of waste streams that are considered hazardous or special. Furthermore the withdrawal of harmful chemicals, such as ozone depleting substances, from use will lead to additional hazardous wastes. For these reasons, the Government and the National Assembly do not consider that a target for the reduction in the *total* amount of hazardous waste arising is appropriate at this time. However, targets for individual key hazardous waste streams may be considered where such targets would be workable and relevant."<sup>66</sup>

79. Moreover, at present, domestic waste is not covered by hazardous waste laws so it is odd that the Minister regards targets for the recycling of municipal waste, which is largely domestic waste, as targets for hazardous waste. Waste Strategy 2000 does include a target "to reduce the amount of industrial and commercial waste landfilled to 85% of 1998 levels" by 2005<sup>67</sup> but as hazardous waste forms only a small proportion of industrial wastes, these targets could be achieved with no change in the amount of hazardous waste produced. **We recommend that the Government consider how waste streams occurring at a domestic level should be handled, particularly in the context of the Waste from Electrical and Electronic Equipment (WEEE) Directive and the End of Life Vehicles Directive where new streams of waste are emerging.**

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<sup>62</sup> Evidence taken on 17 June 2002, Ev 32, Q150.

<sup>63</sup> Evidence taken on 1 July 2002, Ev 82, 83, QQ330, 332.

<sup>64</sup> Evidence taken on 1 July 2002, Ev 77, QQ291-93.

<sup>65</sup> Evidence taken on 1 July 2002, Ev 77, Q294.

<sup>66</sup> DETR 2000, Waste Strategy 2000, The Stationary Office, Part 1, p 23 para 2.46

<sup>67</sup> DETR 2000, Waste Strategy 2000, The Stationary Office, Summary, p 7.

80. In its written evidence, the Government told us that

“The [Landfill] Directive brings forward a number of requirements that will add between £2.20 and £40.40 per tonne to the mean cost of waste disposal with costs ranging from £0 to £120 per tonne for specific waste streams. These costs will largely be passed back to the waste producers, reflecting the polluter pays principle, and will provide a further incentive to waste producers to reuse, recycle, recover or otherwise minimise their waste production.”<sup>68</sup>

81. While it is hoped that the costs introduced by the Landfill Directive will act as an incentive to industry to reduce the amount of hazardous waste it produces, this still does not qualify as a Government target. **The Government must make clear what specific targets, if any, it has set for hazardous waste reduction and what positive steps it has taken to achieve those targets.**

82. To the extent that waste producers are legally required to dispose of their waste in an appropriate way, the market is expected to provide facilities to allow them to do so. However we are concerned that, since the current regulatory regime specifies only the minimum standards that waste producers and waste managers must adhere to, some of the objectives of the Waste Framework Directive may be missed. For example, the Waste Framework Directive establishes the principle of proximity of treatment and disposal sites to the source of waste and the Government has expressed its commitment to this principle.<sup>69</sup>

83. **While we do not believe there is a need for a formal strategic plan, we recommend that the Government should produce a framework paper that draws together, in a single document, the issues that must be addressed for hazardous waste management. This should outline:**

- (a) **the demands on industry;**
- (b) **targets for hazardous waste reduction and recovery;**
- (c) **how the uncertainties discussed in this report can be resolved; and**
- (d) **how the Government is looking ahead to the implementation of forthcoming EC Directives to guard against the delays and confusion that have so far attended the implementation of the Landfill Directive.**

84. **The Government should encourage the development of a national hazardous waste forum to address the issues outlined in the framework document. The forum must involve waste producers, the waste management industry, the regulators and local government and should take care to have regard for the public’s view of waste management.**

85. We are confident that the necessary information and the enthusiastic support of the regulator, the waste management industry and hazardous waste producers are all in place. For example, the Chemical Industries Association has already proposed an Industrial Waste Forum to address some of these issues.<sup>70</sup> The Performance and Innovation Unit report may also be helpful to the Government in drafting the framework document. **What is clear is**

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<sup>68</sup> Memorandum submitted by the Department for Environment, Food and Rural Affairs, Ev 65, para 42.

<sup>69</sup> Memorandum submitted by the Department for Environment, Food and Rural Affairs, Ev 71, para 104.

<sup>70</sup> Evidence taken on 10 June 2002, Ev 5, Q5.

**that the Government and industry must form a partnership for the management of hazardous waste to ensure that, in 2004 and beyond, we have an adequate and environmentally appropriate hazardous waste management infrastructure.**

## Conclusions and recommendations

- (a) **This delay [ in determining the Waste Acceptance Criteria] should not have occurred (paragraph 18).**
- (b) **We are concerned that landfill operators are required to make crucial decisions about the future designations of their sites without the Waste Acceptance Criteria having been agreed. We can only reiterate our previous recommendation, made in relation to the disposal of refrigerators, that in cases such as this, which require radical changes in the practices of an important industry, any new item of European legislation should not be agreed until all the practical implications of implementation are well-understood (paragraph 21).**
- (c) **We recommend that the Minister takes this discussion forward and instigates a thorough review of the process by which environmental legislation is arrived at in the European Commission (paragraph 22).**
- (d) **When fundamental aspects of legislation *are* left to be developed after a Directive is signed, as in this case, we urge the Government to lobby vigorously for the implementation date of the Directive to be tied to the date when all the criteria are finalised and not to the date on which the Directive was agreed (paragraph 23).**
- (e) **The Environment agency and DEFRA must work with the waste management industry to provide timely high-quality data on the amount of hazardous waste produced each year and to develop management methods to assist in planning for future capacity (paragraph 24).**
- (f) **the lessons learned from the fridge crisis also apply here and, as the Government suggested then, it remains up to the Government “to create a policy framework that stimulates innovative and market-led solutions”. (Paragraph 29).**
- (g) **This needs to be provided well before implementation dates and part of this policy framework must include ensuring sufficient regulatory certainty to encourage waste management companies to invest at an appropriate time (paragraph 29).**
- (h) **We recommend that the Performance and Innovation Unit consider the issues surrounding the provision of new hazardous waste management facilities in the light of the Government’s aim to move waste up the waste hierarchy and adhere to the principles of proximity of disposal and self-sufficiency in waste management (paragraph 33).**
- (i) **The Government should clarify its position on the specific role of incineration in the disposal of hazardous waste (paragraph 34).**
- (j) **we recommend that the Government takes the utmost care to ensure that such consultations occur as early as possible, are of the right kind and are at the right level (paragraph 41).**
- (k) **It is vital that stakeholders are adequately consulted while the Directive is being developed and negotiated as well as when it is implemented into United Kingdom law. The consultations should be tailored to the role of those being**

consulted. For example, the basic implications for waste producers and local government should not be lost in a mass of technical data. Finally it seems clear to us that if private industries are to provide the solutions to waste management problems, they should be involved in the development of any strategy to achieve such solutions (paragraph 42).

- (l) We therefore recommend that, as a matter of urgency, the Government re-examines the funding available to the Environment Agency and ensures that it can adequately enforce legislation and prevent and respond to illegal disposal (paragraph 46).
- (m) We recommend as a matter of urgency that the Government formally assesses the risks posed by the landfill of hazardous waste between the date that the ban on co-disposal comes into force and the introduction of the Waste Acceptance Criteria. If, as the Environmental Services Association believes, these risks are unacceptable, contingency plans should be made for that period (paragraph 55).
- (n) It is the Committee's view that there should be a diversity of management options for hazardous waste and that high temperature incineration is part of this. The continued existence of such a diversity is called into question by the lack of demand for high temperature incineration for high calorific value wastes. We recommend that if the Government wishes to sustain diversity in this sector, it must recognise the problems faced by high temperature incinerators and should look again at the equivalency of use of high calorific value wastes as fuel in high temperature incineration and cement kilns (paragraph 60).
- (o) The Committee believes that the primary consideration in allowing waste to be incinerated should be the overall environmental impact of doing so. It remains for the Environment Agency to decide how best to ensure that the environmental impact of waste management is minimised within the current regulatory regime (paragraph 63).
- (p) We urge the Government and the PIU to address ways of better informing the public about hazardous waste management issues and addressing their concerns (paragraph 72).
- (q) We recommend that the Government consider how waste streams occurring at a domestic level should be handled, particularly in the context of the Waste from Electrical and Electronic Equipment (WEEE) Directive and the End of Life Vehicles Directive where new streams of waste are emerging (paragraph 79).
- (r) The Government must make clear what specific targets, if any, it has set for hazardous waste reduction and what positive steps it has taken to achieve those targets (paragraph 81).
- (s) While we do not believe there is a need for a formal strategic plan, we recommend that the Government should produce a framework paper that draws together, in a single document, the issues that must be addressed for hazardous waste management. This should outline:
  - (t) the demands on industry;

- (u) targets for hazardous waste reduction and recovery;**
- (v) how the uncertainties discussed in this report can be resolved; and**
- (w) how the Government is looking ahead (paragraph 83.(d)).**
- (x) to the implementation of forthcoming EC Directives to guard against the delays and confusion that have so far attended the implementation of the Landfill Directive (paragraph 83.(d)).**
- (y) The Government should encourage the development of a national hazardous waste forum to address the issues outlined in the framework document. The forum must involve waste producers, the waste management industry, the regulators and local government and should take care to have regard for the public's view of waste management. (Paragraph 84).**
- (z) What is clear is that the Government and industry must form a partnership for the management of hazardous waste to ensure that, in 2004 and beyond, we have an adequate and environmentally appropriate hazardous waste management infrastructure (paragraph 85).**

## PROCEEDINGS OF THE COMMITTEE

WEDNESDAY 17 JULY 2002

Members present:

Mr David Curry, in the Chair

Mr David Borrow	Diana Organ
David Burnside	Mrs Gillian Shephard
Mr David Drew	Mr Keith Simpson
Mr Michael Jack	David Taylor
Mr David Lepper	Paddy Tipping
Mr Austin Mitchell	Mr Mark Todd

\* \* \*

The Committee deliberated.

Draft Report [*Hazardous Waste*], proposed by Mr Jack, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 85 read and agreed to.

Summary read and agreed to.

*Resolved*, That the Report be the Eighth Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

Several Papers were ordered to be appended to the Minutes of Evidence.

*Ordered*, That the Appendices to the Minutes of Evidence taken before taken before the Committee be reported to the House.—(*The Chairman*).

Several Papers were ordered to be reported to the House.

The Committee further deliberated.

\* \* \*

[Adjourned till Tuesday 23 July at Ten o'clock.]

## LIST OF WITNESSES

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[HC 919-i]*

### CHEMICAL INDUSTRIES ASSOCIATION

Ms Judith Hackitt, Mr Doug Rodger and Mr Dai Hayward ..... Ev 4

### SHANKS GROUP PLC

Mr Michael Averill, Mr John Shaughnessy, Mr Patrick Pointer ..... Ev 15

*Evidence taken Monday 17 June 2002  
[HC 919-ii]*

### ENVIRONMENT AGENCY

Dr Paul Leinster, Mr Steve Lee and Mr Roy Watkinson ..... Ev 29

*Evidence taken Monday 1 July 2002  
[HC 919-iii]*

### LOCAL GOVERNMENT ASSOCIATION

Mr Ian Fielding and Mr Stephen Didsbury ..... Ev 52

### DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

Rt Hon Michael Meacher, MP, Ms Sue Ellis and Mr Simon Hewitt ..... Ev 74

*Evidence taken Tuesday 2 July 2002  
[HC 919-iv]*

### ENVIRONMENTAL SERVICES ASSOCIATION

Mr Dirk Hazell, Ms Leslie Heasman and Ms Gill Weeks ..... Ev 91

### BRITISH CEMENT ASSOCIATION

Mr Mike Gilbert, Mr Richard Boarder and Mr Robert Davies ..... Ev 111

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5.	Supplementary memorandum by Cleanaway Limited .....	Ev 134
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7.	Memorandum by Lafarge Cement UK .....	Ev 143
8.	Memorandum by Biffa Waste Services Ltd .....	Ev 147
9.	Memorandum by Safety-Kleen UK Limited .....	Ev 150
10.	Memorandum by the CBI .....	Ev 152
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12.	Memorandum by the British Retail Consortium .....	Ev 156
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14.	Memorandum by Brunner Mond .....	Ev 161
15.	Memorandum by British Metals Recycling Association (BRMA) .....	Ev 163

## **UNPRINTED MEMORANDA**

The following Memoranda were received and have been reported to the House. Copies have been placed in the House of Commons Library where they may be inspected by Members. Other copies have been placed in the Record Office, House of Lords, and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1A 0PW (tel 020 7219 3074). Hours of inspection are from 9.30 am to 5.30pm on Mondays to Fridays.

1. Letters from K H Harrison C Eng retired
2. Memorandum from Friends of the Earth (Blackburn, Hyndburn and Ribble Valley)

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