



The Scottish Parliament  
Pàrlamaid na h-Alba

## Justice Committee

Kenny McAskill MSP  
Cabinet Secretary for Justice

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### BY EMAIL

19 August 2014

Dear Kenny

### **Justice Committee: Environmental Crime and its links to Serious Organised Crime**

At its meeting on Tuesday 12 August, the Justice Committee held a very informative round-table evidence session on environmental crime and its links to serious organised crime and money laundering. Participants in the session were the Scottish Environment Protection Agency, Police Scotland, SOLACE Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Environment Services Association and the Chartered Institution of Wastes Management. A copy of the Official Report is available here:

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9458&mode=pdf>.

The session focused on waste management and the Committee received an overview of the extent of the involvement of serious organised crime groups in the waste management industry.

We were advised that 4 per cent of organised crime group members were involved in environmental crime in 2014 as opposed to 1.3 per cent in 2012. We were also advised that the financial benefit of illegal activity in waste management industry was around £29 million. It is therefore clear that a lot of this criminal activity is hidden and more extensive than generally considered.

We were informed that many serious organised crime groups are set up behind the façade of legitimate operations which enables them to operate outwith the regulatory framework. As a consequence, these groups can offer cheaper waste management services which undercuts legitimate operators. It also provides them with the opportunity to launder money. The impact of the problem is therefore very serious.

A number of issues were highlighted during the session which would help in tackling these issues.

#### *Improved information sharing*

Witnesses acknowledged that information sharing amongst key agencies had improved, particularly since the establishment of the Environmental Crime Task Force. However, they considered that more steps are required to further develop this process.

Improved information sharing can be beneficial in many ways. In relation to the procurement process for public contracts, if an operator tendering for a contract appears to be fit and proper but it is known that it is a front for illegitimate business, this cannot be taken into account when awarding contracts where no formal criminal proceedings have taken place.

Improved sharing of information would therefore be particularly beneficial in informing this process as it would help to increase prosecution rates as well as raise awareness more generally.

In addition, witnesses agreed that steps needed to be taken to improve the sharing of financial investigation information and financial intelligence in order to better understand trends. This, alongside the use of local intelligence, would help to understand how the system is being used and exploited by serious organised criminals and improve detection and prosecution rates.

#### *Public awareness*

Witnesses confirmed that awareness of the extent of illegal activity in the waste management sector amongst some responsible authorities, as well as amongst the general public more generally, was limited. This means that individuals and companies often inadvertently use the services of these illegal operators, particularly as on the face of it they offer a cheaper service as they operate outwith the regulatory framework.

Profit is made by many means, including through tax evasion and the illegal disposal of waste which has an impact on the public purse through the loss of tax revenue as well as through clean-up costs. It also undercuts legitimate businesses.

#### *Prosecution and sentencing*

Some witnesses were of the view that the sentencing regime could be tightened up to act as an effective deterrent. Witnesses did not necessarily consider Scotland to be a “soft touch” when it comes to sentencing in these cases and it was acknowledged that the extent of the problem is not as serious as in some other European countries. However, entry into the industry by serious organised criminals was considered to be relatively easy.

### *Duty of care*

Another issue raised was the need to review the enforcement of the legislation placing a duty of care on legitimate waste disposal operators in the movement of waste. In particular, consideration should be given to whether the responsibilities of operators under the legislation were fully understood.

We were also advised that records for the movement of waste are currently maintained within a paper-based system which is easily exploited. Witnesses noted that electronic records are sometimes kept which are easier to trace and therefore reduce the ability to exploit the system as well as improve information sharing. However, their use is voluntary and so consideration could be given to making electronic record keeping compulsory.

### *Licence exemptions*

Witnesses noted that difficulties can arise from the process of exempting operators from licences. Some companies exploit this process by running illegal businesses without being properly licensed which, in turn, enables illegal activity to take place.

In summary, the Committee would welcome a response to the following points specifically, although it would welcome any response to the issues more generally—

- Steps need to be taken to further develop the existing good practice in sharing information to break down barriers and encourage collaborative working amongst key agencies;
- Action needs to be taken to raise public awareness of the extent of illegal activity in the industry;
- Steps therefore should therefore be taken to raise the barrier to entry to the industry for illegal operator;
- Consideration should be given to the operation of the duty of care responsibilities on operators;
- Consideration should also be given to making electronic record keeping compulsory;
- An examination of the operation of the licence exemption system would be beneficial.

If possible, to allow it to consider the response at its meeting on 7 October, the Committee would appreciate a response to this letter by Wednesday 1 October.

I am copying this letter to Richard Lochhead MSP, Cabinet Secretary for Rural Affairs and the Environment for his portfolio interest and to Rob Gibson MSP, Convener of the Rural Affairs, Climate Change and Environment Committee for information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Christine Grahame', with a long, sweeping horizontal stroke at the beginning.

Christine Grahame MSP  
Convener, Justice Committee

cc:

Richard Lochhead MSP, Cabinet Secretary for Rural Affairs and the Environment

Rob Gibson MSP, Convener of the Rural Affairs, Climate Change and Environment  
Committee