

Justice Committee

Environmental crime and serious organised crime

Written submission from the Scottish Environmental Services Association

The Scottish Environmental Services Association (“SESA”) is the sectoral trade association for Scotland’s managers of waste and secondary resources. SESA’s Members seek to align economic and environmental sustainability through delivering compliance with relevant EU waste and environmental law.

SESA’s Members – as the regulated industry - have an integral role to play in making a success of Scotland’s Zero Waste Plan and in partnership with local authorities and commercial customers, our industry delivers a range of integrated waste management services and infrastructure designed to ensure regulatory compliance.

Opening remarks

- Criminals, some associated with serious and organised crime networks, have gained a strong foothold in Scotland’s waste management industry. The scale and extent of this infiltration is not currently known, but is significant enough for the Scottish Government to establish an Environmental Crime Task Force to help tackle this emerging menace.
- Waste criminals’ motives are purely financial and the waste management industry in Scotland (and across the UK) is increasingly perceived as a lucrative, soft target: there are high financial rewards available for very little risk in return.
- Waste criminals have no regard for the environmental impact of their activities or the health and disamenity on local communities. There is also a financial impact of illegal waste activities to consider: not only a loss of Government income through avoided landfill tax, but waste criminals directly undermine the legitimate operations of responsible waste managers. SESA’s Members are losing income as waste is diverted from regulated waste management activities to illegal operations.
- SESA welcomes recent positive moves by SEPA and the Environmental Crime Task Force to tackle waste crime, but these are early days yet and thus far efforts have been limited to “fact finding” and improving co-ordination between relevant agencies.
- Of course, identifying and then shutting down illegal waste sites is only half the battle. There must be a more concerted effort to ensure Scotland’s businesses (as waste producers) are not only aware of their legal waste management obligations, but take all necessary steps to ensure that their waste is collected, handled and disposed of lawfully (thereby cutting off the supply to illegal waste operations). This is an existing legal requirement.

Waste management in Scotland

European and Scottish Government policy, with ambitious targets for recycling and reducing waste to landfill, is transforming the way Scotland manages its waste. The policy objective is to move Scotland towards a “circular economy” where all practical steps are taken to extract the valuable material contained in Scotland’s waste and

return it back to the productive economy (in the form of material and renewable energy). This aims to break the historical linear model of waste to landfill.

SESA fully supports this policy objective, and SESA's Members are set to make about £1.5b of investment in new infrastructure and services to meet the relevant objectives of Scotland's Zero Waste Plan.

This is a crucial point: increasingly high recycling targets, coupled with the need to drive waste up the hierarchy while taxing disposal to landfill (currently £80/tonne) has served to raise the costs of legitimate waste operations, as waste is treated to exacting standards. Environmental criminals exploit this opportunity by seeking to evade waste management costs (and landfill tax) and in doing so are able to make significant financial gains.

Types of illegal waste activity

Waste crime is widespread in Scotland with at least some involvement in serious and organised crime. Waste criminals deliberately flout the rules through abuse of licences (or waste exemptions¹) by taking in the "wrong type" of waste (ie waste materials not covered by licence conditions); taking in more material than allowed by the licence (or exemption); or disposing of the material on site illegally (instead of recycling it, or bulking it up for onward transport).

Some sites are operating without any licence at all. Such operations are entirely illegal and unlikely to have the necessary provisions in place to protect human health and the environment.

In other cases there may be a site licence in place but a seemingly legitimate operation is being used by organised and serious crime networks as a "front" for criminal activity (money laundering etc). Businesses using such sites are often unwittingly supporting criminal activities.

Incentives for waste criminals

The landfill tax is now at £80/tonne and is doing what it is designed to do: discourage disposal to landfill and make alternative waste treatment options more economically viable. Criminals can exploit the rising cost of waste management and make considerable financial gains by:

- offering a seemingly legitimate recycling service, but disposing of residues illegally (sometimes on site) and thus avoiding landfill tax;
- offering services to customers at a reduced price (illegal waste operators would not have made the same investment in plant and equipment or regulatory compliance as the legitimate industry and can therefore offer a cheaper service). Businesses may be tempted by such low-cost services, thinking that they have found a "good deal" but their waste is simply disposed of illegally.

¹ Low risk waste activities are covered by a waste management licence 'exemption'. The applicant need only register the waste activity with SEPA rather than apply for a full licence. Due to the low-risk nature of these activities, SEPA tends to adopt a "light touch" approach to the regulation of exemptions.

These financial gains are made by criminals at relatively low risk. The chances of being caught have tended to be slim, and even where cases are brought to court, the sentencing or level of fine has not always reflected the proceeds generated by the illegal activity.

The impact of waste crime

The regulated industry SESA represents is one of the most direct victims of environmental crime, as its business activities are often directly undercut by those environmental criminals who cut costs by circumventing or blatantly ignoring the relevant environmental laws. Managing waste properly comes at a cost and there is always a temptation for the criminal element to seek financial benefit from circumventing the law - either through operating illegal sites, or through fly-tipping. The impact of these crimes has serious environmental, economic and social consequences.

Waste crime also causes reputational damage to the industry as a whole, which could make it harder to attract inward investment in the infrastructure and services required to deliver Scotland's recycling and landfill diversion targets.

As well as taking away income from licensed, legitimate waste management operators, waste crime has a financial impact on the taxpayer – through a combination of lost tax income; clean-up of illegal operations and properly disposing of material; investigating and prosecuting waste criminals; and flytipping.

Attaching a monetary value to such costs is difficult, as the scale of criminality in the waste industry is not clear, but a recent report by the Environmental Services Association Education Trust estimated that waste crime costs the UK economy almost £570m a year.²

Natural Resources Wales recently reported that over £18m had been made by just 20 individuals convicted for environmental crimes and subsequently pursued under the Proceeds of Crime Act.³

An investigation into waste crime in Northern Ireland noted that in one illegal landfill site alone, nearly £35m had been evaded in landfill tax (over 500,000 tonnes estimated to be illegal disposed of on site).⁴ The same report noted that infiltration of organised crime was considered to be even greater in Scotland and England.

In England, the Environment Agency identified and closed down nearly 1300 illegal waste sites in 2012/13.⁵

²

http://www.esauk.org/reports_press_releases/esa_reports/ESAET_Waste_Crime_Tackling_Britains_Dirty_Secret_LIVE.pdf

³ <http://naturalresourceswales.gov.uk/our-work/news/193557/?lang=en#.U562C5RdV8E>

⁴ <http://www.doeni.gov.uk/niea/mills-review-december-2013.pdf>

⁵

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288604/LIT_8776_956_402.pdf

Role of waste producers

The roll out of Scotland's new waste regulations from the beginning of 2014 has placed a range of new obligations on Scottish businesses, including a new mandatory requirement to source segregate a range of materials for recycling. It is clear that a number of businesses are struggling to understand the new regulatory requirements, and for some the cost of waste services has inevitably increased (more frequent collections, a greater range of materials presented for separate collection etc).

The duty of care, in place for over 20 years, places a legal duty on all waste producers to ensure that their waste is collected by a SEPA registered carrier and then handled in a responsible manner. Unfortunately, there is low awareness of the duty of care among many businesses and the legal requirements are rarely enforced.

With poor enforcement of the duty of care, and with financially-strained businesses looking for a "good deal", many may dispose of their waste through an illegal operator tempted by the offer of waste management services below the market rate. As above, businesses using such sites (and services) are often unwittingly supporting criminal activities.

Scottish Environmental Services Association
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