

## **Justice Committee**

### **Environmental crime and serious organised crime**

#### **Written submission from the Society of Local Authority Chief Executives Scotland**

SOLACE welcomes the Justice Committee's interest in exploring the issues relating to the links between environmental crime and serious organised crime. I would like to thank you for inviting me to attend the Justice Committee's meeting on 12 August to provide evidence on this issue from a local authority perspective.

The purpose of this written submission is to highlight the issues that are commonly experienced by local authorities across Scotland in relation to environmental crime and serious organised crime, as well as possible courses of action that would help to alleviate the problems experienced by local authorities.

Environmental crime not only has an impact on all local authorities across Scotland but it poses a threat to the Scottish environment, its economy and communities.

Positive progress is being made to tackle this issue with the establishment of the Environmental Crime Task Force in 2011 which brings together key partners in this area to identify opportunities and priorities for preventing, tackling and deterring environmental crime. Local Government is very supportive of this initiative and believes that it will bring significant future benefits. In addition, the Environmental Crime Conference which will take place in November 2014 will enable the work of the Environmental Crime Taskforce to be promoted to stakeholders particularly in relation to serious organised crime.

The key issues experienced by local government are:

#### **Large scale illegal dumping**

Large scale illegal dumping in unauthorised waste facilities or storage of waste at unlicensed facilities which are either closed or abandoned is an environmental crime experienced by local authorities. This is problematic for local authorities and SEPA to deal with as there is often no adequate record of ownership or leasing arrangements for the facilities or any compliance with Duty of Care regulations.

There are a number of contributing factors that could lead to large scale illegal dumping which may occur on land or at sea. For example, the Scottish Government's appropriate ban on waste such as tyres going to landfill contributes to this issue. Contractors have to decide whether to pay large fees to dispose of waste properly or find other means in these very challenging economic times. For example, the disposal cost of a tyre is in the region of £1 to £2 per tyre and this results in facilities which may store several thousands of tyres at half the cost not only becoming a "cost effective" option but also a lucrative business. High landfill costs are another contributory factor. Currently landfill tax is £80 per tonne with spot gate fees of around £30 to £40 per tonne, making the costs of disposal upwards of £110/tonne.

It is important that landfill tax levels remain the same across the UK or there may be an increase in cross boundary movement of waste to help defray operators' disposal costs within the country with the highest tax levies. This would also increase the carbon footprint of the waste process.

Ensuring that businesses comply with Duty of Care regulations is essential and enforcement is likely to become more difficult as financial restrictions increase and partners face potential capacity and skills issues as staff numbers reduce. In addition, more work needs to be done by the Scottish Government, SEPA, local Government and other interested parties on transforming producer responsibilities.

## **Local Environmental Issues**

**Fly-tipping- large scale:** Fly-tipping, especially when it occurs on a large scale is a significant problem for Local Authorities which impacts on the environment, community access to land and potential inward investment. Given the nature of the diverse range of materials that can be involved, removal costs can be significant and may even require specialist hazardous waste disposal interventions.

Large scale tipping consists of material such as construction and demolition waste, landscaping materials, large scale tyre deposits and poisonous chemicals. In some instances these originate from jobbing contractors and may consist of hazardous material e.g. asbestos) deposited over a period of time and a proportion of this results from opportunism where there is a low risk of detection.

Significant work has been done by the Waste and Resources Action Programme (WRAP) and the construction industry to develop a waste management plan for larger scale construction projects. Significant improvements have been made and this is evidenced by the large quantities of waste construction material now being recycled in situ.

**Fly-tipping- smaller/medium scale** – Smaller to medium scale fly-tipping and dumping also causes significant problems in local communities. This can happen anywhere in a whole range of sites, both urban and rural and can be associated with a whole range of factors and projects, industrial, commercial and domestic. For example, homeowners are known to engage some of the Gypsy Traveller community in various works such as landscaping and driveways which typically generate significant quantities of waste. A number of local authorities have direct experience of some Gypsy Travellers allegedly contributing to anti-social behaviour relating to property damage and complaints of illegal dumping and fly-tipping. Evidence has shown in many cases where unauthorised sites are established and then vacated, there can be significant quantities of illegally dumped materials appearing including general household, human and landscaping waste. When this happens, the cost of cleaning these unauthorised sites is met by local authorities in the main or sometimes, even, unfortunate landowners. In addition to any such illegally dumped waste being found at the sites of unauthorised encampments there is usually no evidence available to confirm that other waste material generated has been disposed of in a legally compliant manner. For example in Inverclyde which has had direct experience of some unauthorised gypsy traveller encampments, the Council has no

record of these types of material being sent to their waste transfer stations or disposal facilities.

## **Procurement**

Councils as major procurers of waste services have a role to play in ensuring they carry out effective due diligence checks not only in terms of waste routes and paths, but also checks on financial probity, company directors, performance bonds and references when awarding contracts. This forms part of most Councils prequalification checks for contract awards. Councils should also undertake duty of care compliance checking. For example, by comparing the final destination of treatment of waste against SEPA's register of licensed facilities. However, waste is also a global traded commodity and cross border compliance checks are much more difficult to undertake. Companies should be required to supply final destinations and relevant documentation to provide assurance that these are appropriately managed.

Councils are also constrained by EU procurement regulations. There are major benefits in sharing information between partners in order to avoid contracting if at all possible with organisations that may be active under the umbrella of organised crime. In practice it would be difficult if not impossible for a local authority to preclude any company who met the minimum tendering criteria unless there was clear evidence that they had actually been found guilty of associated criminal activity. Even if evidence indicates that the company has links to serious organised crime, there is little that Councils can do. This can result in Councils potentially being tied into a lengthy contract with a company allegedly involved in illegal waste disposal connected to serious organised crime.

## **Planning Regulations**

Current processes are not sufficient to safeguard against planning permission inadvertently being given to criminal organisations. Planning tend to deal with land use issues prior to any criminal activity taking place and in most cases of illegal dumping planning has not been applied for. However, there is a role for planning in terms of monitoring land use to ensure compliance with Planning Regulations.

There are a number of areas where action is required to address the links between environmental crime and serious organised crime.

## **Information Gathering and Data Sharing**

It is essential that work is undertaken to identify the extent to which organised crime contributes to environmental crime and the scale of the problem in Scotland. This includes identifying the geographical areas where this activity commonly takes place and the nature and quantities of materials that are targeted.

Information sharing between enforcement bodies needs to be further improved and efforts are being made to put in place protocols to share evidence/details of cases/prosecutions between agencies via the Environmental Crime Task Force.

Another example of agencies working together to gather information is Flymapper Scotland. This is a system which enables the reporting and mapping of fly-tipping incidents across Scotland. City of Edinburgh Council, Glasgow City Council and Stirling Council participated in a pilot project and this was unanimously welcomed by all staff involved. Phase 2 of the project is now underway with additional local authorities participating in a trial of Flymapper in their area. Additional pilot work will also be undertaken in 2014-15 with private landowners and major land managers to test the suitability and benefits of the system more widely.

This information gathered from this locally and nationally will in time, help to focus resources and interventions where they are most need. It should also help to increase convictions and reduce incidence of fly-tipping and dumping.

### **Better Enforcement**

Without regulatory controls and investment in infrastructure, legitimate business can be undermined commercially and communities and the environment put at risk. Positive momentum is already being created through the work of the Environmental Crime Task Force by reviewing current processes, introducing a better and more coordinated range of interventions to tackle non-compliance and environmental crime.

However, more needs to be done and consideration needs to be given to achieving better enforcement by:

- Improving and coordinating application of existing powers amongst enforcement bodies.
- Review of all relevant legislation to ensure that it is fit for purpose and can be used in a timely manner to tackle serious organised crime that is linked to environmental crime.
- Enforcement bodies must be held accountable if they fail to take action.
- It is essential that fines, penalties and prison sentences reflect the serious nature and impact of the crimes carried out.
- Ensure that the links between environmental crime and serious organised crime are better understood by key stakeholders.

### **Producer Pays Principle**

Tackling the problem at the producer end could be a more effective and efficient way of tackling the issue. The development of a more robust approach by regulators to waste producers and the expansion of the “Producer Responsibility” framework to make the production industry directly responsible for financing the treatment and disposal of certain wastes are measures that need to be progressed further.

### **Awareness Raising Campaign**

Members of the public are often responsible for bringing environmental crime to the attention of agencies. It tends to be communities who witness increased traffic to sites and activities out with normal working hours. An awareness raising campaign to publicise the serious nature of environmental crime and also a helpline for

communities to report any suspicious activity could lead to increased identification of environmental crime at an earlier stage.

I hope this written submission serves its purpose of highlighting the key issues from a local authority prospective to members of the Justice Committee.

John W Mundell  
Solace Portfolio Lead  
Environment, Sustainability and Waste Management  
6 August 2014