



<b>Title of Report:</b>	<b>Correspondence</b>
<b>Committee Report Submitted To:</b>	<b>Environmental Services Committee</b>
<b>Date of Meeting:</b>	<b>8 October 2019</b>
<b>For Decision or For Information</b>	<b>FOR INFORMATION</b>

<b>Linkage to Council Strategy (2019-23)</b>	
Strategic Theme	Leader and Champion
Outcome	Establish key relationships with Government, agencies and potential strategic partners
Lead Officer	Director of Environmental Services

<b>Budgetary Considerations</b>	
Cost of Proposal	
Included in Current Year Estimates	<b>YES/NO</b>
Capital/Revenue	
Code	
Staffing Costs	

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	Yes/No	Date:
	EQIA Required and Completed:	Yes/No	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No	Date:
	RNA Required and Completed:	Yes/No	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No	Date:
	DPIA Required and Completed:	Yes/No	Date:

## 1. Purpose of Report

The purpose of this report is to present correspondence for Members consideration.

## 2. The following correspondence had been received:

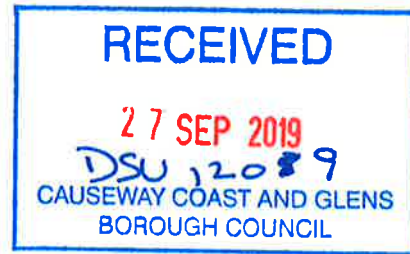
### 2.1 Northern Ireland Environment Agency (dated 25 September 2019 and received 27 September 2019)

Correspondence has been received from Northern Ireland Environment Agency informing Council of the Fly-Tipping Revised Shared Protocol (attached). The purpose of the letter is to provide a copy of the revised shared protocol and to seek Council's commitment to agree this operational practice between Causeway Coast and Glens Borough Council and the NIEA.

It is intended that agreement with local Councils would commence on 20 February 2020 and around the same time the Department of Agriculture, Environment and Rural Affairs (DAERA) intend to introduce a Commencement Order, which would bring into operation Sections 4 and 5 of the 2011 Amendment Act, which essentially provides the NIEA and local Councils with identical powers to address illegal waste disposal. The presence of an agreed protocol, is therefore, beneficial in delineating the roles and responsibilities of the NIEA and local Councils in the application of these powers.

## 3. Recommendation

**It is recommended** that the Corporate Policy and Resources Committee consider the correspondence.



David Jackson  
Chief Executive  
Causeway Coast and Glens Borough Council  
Cloonavin  
66 Portstewart Road  
Coleraine  
BT52 1EY

25 September 2019

Dear Mr Jackson

**RE: FLY-TIPPING REVISED SHARED PROTOCOL**

As you may be aware, the Waste and Contaminated Land (Northern Ireland) Order 1997 (the 1997 Order) was amended by way of the Waste (Amendment)(Northern Ireland) Order 2007 and the Waste and Contaminated Land (Amendment) Act (Northern Ireland) 2011 (the 2011 Amendment Act). The amendments were brought forward to enable district councils to prosecute offenders in respect of the illegal disposal of waste (Articles 4 and 5 of the 1997 Order) and to provide the Department with powers to require removal of waste unlawfully deposited, similar to those already in place for councils (Articles 28, etc.). However, these amendments have yet to be commenced.

Commencement of the above powers was deferred to await updates to a joint shared protocol which identified the respective roles and responsibilities between local and central government. This protocol, known as 'The Fly-tipping Protocol', upon development was the previously agreed operational practice between the NIEA and a majority of the then 26 Local District Councils.

However, it was recognised through the Joint Central and Local Government Waste Working Group that, following local government reform, it was timely to refresh the arrangements between the NIEA and the new 11 district councils. A working group including representatives of central and local government was subsequently formed (the Fly-tipping Sub-Group) to complete this work.

Following consultation with the local council professional groups (Environmental Health Northern Ireland and the Technical Advisory Group) the Sub Group has finalised a refreshed protocol for consideration. While in essence regularising current operating arrangements, the Fly-tipping Revised Shared Protocol also provides clarification in terms of interpretation, responsibilities and consequent action by the appropriate authority.

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It is in the interest of all of the citizens of Northern Ireland for central and local government to operate in a co-operative way, under pragmatic, agreed procedures, which obviate any procedural difficulties surrounding the operational response to illegal dumping. It is important, therefore, to emphasise that the overarching purpose of the protocol is to ensure a seamless response to issues of illegal waste disposal between central and local government and that issues of illegal dumping/fly-tipping do not attract adverse attention from the public or in the media.

Accordingly, the purpose of this letter is to provide a copy of the revised shared protocol and to seek your commitment to agree this operational practice between Causeway Coast and Glens Borough Council and the NIEA.

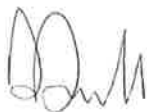
The Fly-tipping Sub-Group looks forward to receiving your response which should be forwarded via Mr Mark Cherry at the address below. The closing date for your response is 30 November 2019.

It is intended that agreements with local councils would commence on 20 February 2020 and around the same time the Department of Agriculture, Environment and Rural Affairs (DAERA) intend to introduce a Commencement Order, which would bring into operation Sections 4 and 5 of the 2011 Amendment Act, which essentially provides the NIEA and local councils with identical powers to address illegal waste disposal. The presence of an agreed protocol is therefore beneficial in delineating the roles and responsibilities of the NIEA and local councils in the application of these powers.

Please send responses to:

**Fly-tipping Sub-Group**  
**C/O Mark Cherry**  
**Klondyke Building**  
**Gasworks Business Park**  
**Cromac Avenue**  
**Belfast**  
**BT7 2JA**

Yours sincerely



**DAVID SMALL**  
Chief Executive

Enc: Fly-tipping Revised Shared Protocol

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An Agency within the Department of  
**Agriculture, Environment  
and Rural Affairs**  
[www.daera-ni.gov.uk](http://www.daera-ni.gov.uk)



**INVESTORS  
IN PEOPLE**

OPERATIONAL ARRANGEMENTS ON FLY-TIPPING -

PROTOCOL AGREEMENT BETWEEN

NORTHERN IRELAND ENVIRONMENT AGENCY

AND

\_\_\_\_\_ COUNCIL

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## 1. Background

The fly-tipping of waste remains a high profile environmental issue. It is a criminal activity that can blight communities and reduces the quality of life for residents. It can often begin a spiral of decline and has the potential to cause serious pollution to the environment. In some cases, it may also be a risk to human health as well as causing harm to the environment. The incidence of fly-tipping is a further demand on the revenue budgets of Local Councils and the NIEA which needs to be addressed collaboratively across the region

Fly-tipping primarily arises from household and or commercial sources and both are controlled under a specific legal duties known as the waste 'Duty of Care'. This duty applies to anyone, including householders who dispose or transfer their waste (except household waste transferred to the local Council). It applies at all times throughout the year and includes the transfer of waste, for example, to:

- Private companies or individuals (e.g. skip hire operators);
- Private individuals who may offer to take waste for profit (i.e. on payment); and
- Private individuals who offer to take or dispose of waste.

In addition, the legal 'duty of care' means that everyone must:

- Only transfer waste to a person authorised to receive it.
- Take all reasonable steps to ensure responsible disposal and prevent fly-tipping/illegal disposal by someone else; and
- Prevent the escape of waste or it causing pollution or harm.

Whatever the source, fly-tipping constitutes illegal waste disposal. It is a criminal offence attracting significant penalties. Unscrupulous individuals use fly-tipping as a way of avoiding costs of the proper management of waste. It also undermines the legitimate waste industry.

Both the NIEA and local Councils have powers and responsibilities to deal with fly-tipping. However clarity of working arrangements is vital to efficient and effective services for the public. This agreement defines the agreed roles and responsibilities of the NIEA and Local Councils in dealing with fly-tipping and illegal waste disposal.

## 2. Definition and roles

Fly-tipping *"is the illegal disposal of household, industrial, commercial or other controlled waste without a waste management licence. The waste can be liquid or solid. Fly tipping is not the same as littering <sup>(1)</sup>"* Unlike litter – which is often dropped habitually, sometimes accidentally, and usually involves only single, small waste items – fly tipping is larger in scale and usually considered a premeditated, wilful act.

Fly-tipping poses a threat to humans and wildlife, it has a negative impact on our environment, and spoils our enjoyment of our towns and countryside. It also undermines legitimate waste businesses where illegal operators undercut those operating within the law. At the same time, the reputation of legal operators is undermined by rogue traders.

The motivation of the perpetrators is largely driven by financial gain or financial saving although other factors such as laziness, proximity to local amenities and simple disregard for the environment play a part.

Both the Local Councils and the NIEA have powers to deal with fly-tipped waste. Accordingly fly tipping incidents need to be treated on a case-by-case basis in determining the most appropriate authority to deal with the incident.

Within this agreement the general approach taken will see the NIEA deal with waste disposal incidents concerning larger quantities of waste, which have a greater environmental risk and may have commercial involvement and/or involve organised criminality. Local Councils will deal with smaller scale incidents in terms of quantity, environmental risk and commercial involvement.

<sup>(1)</sup> *House of Commons Briefing Paper (CBP05672) dated 25<sup>th</sup> June 2018*

### **3. Remit**

The criteria for the determination of responsibility for waste crime incidents between the NIEA and Local Councils are as follows:

#### **(i) Volume of waste deposited**

- Local Councils will have responsibility for all non-hazardous waste deposits under 20 cubic metres in volume or accumulations of several small-scale fly-tipping incidents.
- The NIEA will have responsibility for all waste deposits over 20 cubic metres in volume regardless of the waste classification.

In summary, 20 cubic metres generally relates to less than a single small lorry load.

(See Appendix 1 regarding estimation of waste volumes)

#### **(ii) Classification of the waste deposited**

- Local Councils will have responsibility for all hazardous waste of a type and volume that could be accepted at an appropriately authorised Council operated civic amenity or waste recycling centre.
- The NIEA will have responsibility of all other hazardous waste of a type and volume which would not be accepted at a Council operated Recycling Centre.

(See Appendix 2 regarding hazardous wastes which may be accepted at Council Recycling Centres)



#### 4. Incident management and reporting methods

Reports on waste crime incidents are received from a range of sources by both the NIEA and the Local Councils and both have systems and procedures in place for incident recording, assessment and handling.

As part of that assessment and with regard to the criteria in Section 2, the receiving body may refer the incident to the partner agency for consideration and action. Any referrals between the NIEA/Local Council should be made using the 'Incident Referral Form' as shown in Appendix 3.

Completed referral forms should be forwarded to the following email address:

(i) NIEA – [EnvironmentalCrime@daera-ni.gov.uk](mailto:EnvironmentalCrime@daera-ni.gov.uk)

(ii) [insert Name of Local Council]            [insert Email address]

Upon receipt the NIEA/Local Council will assess the referral and if content will confirm receipt by return on the email address above. Responsibility for the incident management will rest with the accepting Local Council/NIEA who may engage with relevant third parties.

#### 5. Hazardous waste

It is agreed that hazardous waste would normally be identified by simple checks at the site (form, colour, smell) and a precautionary principle would apply. Waste sampling and testing will not normally be employed but may be considered in exceptional circumstances.

Mixtures of waste containing hazardous material that cannot be safely removed will be treated as hazardous in their entirety. However, if possible any hazardous waste from the waste pile (e.g. fridge) should be safely removed to reduce potential removal costs.

#### 6. Resolution of disputes

The Local Council and the NIEA will take a pragmatic approach in applying the criteria for determining thresholds and responsibilities as part of this agreement and it is envisaged that most disputes may be resolved through joint on-site visits attended by operational staff from the Local Council and NIEA.

However, if agreement cannot be reached at an operational level then the persons nominated below will jointly agree whether the Local Council or NIEA will accept responsibility for any disputed incidents

NIEA nominee: [insert name and/or position]

Local Council nominee: [insert name and/or position]

## 7. Joint working

It is recognised that in dealing with the problem of fly-tipping and illegal waste disposal a collaborative approach may be prove more resource efficient and effective in combating such criminal activity.

Therefore, when appropriate Local Councils may request that the NIEA consider the provision of support and assistance in providing a more robust response to matters such as repeat and persistent offenders, waste crime hotspots and incidents involving commercial operators. Each such case will be considered on its own merits on a case by case basis and any disputes resolved in accordance with paragraph 6.

## 8. Information sharing

The routine sharing of data and information between parties to this agreement does not engage the Data Protection Act 2018 insofar as 'personal' data<sup>1</sup> is not processed. Otherwise, any personal data sharing will comply with the requirements of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. A Data Protection Act (DPA) request should be made in each individual case between the parties to this agreement when it is considered necessary to share personal data.

## 9. Data collection

\_\_\_\_\_ [INSERT] Council shall provide the NIEA with a quarterly report on 'fly-tipping' INCIDENTCES to include the following information:

- (i) location of clear-up (postal address including postcode)
- (ii) Type of waste (e.g. describe the main type of waste – by EWC Code)
- (iii) Describe the volume of waste
- (iv) Cost of clean-up and (collection and disposal costs only)

This information will be collated and used by NIEA for the purposes of:

- (a) Informing and educating the public about the incidence of fly tipping and the costs associated
- (b) Assessment of fly tipping hotspots
- (c) Assessment of fly tipping waste streams
- (d) Assessment of fly tipping volumes

## 10. Management and review

<sup>1</sup> Section 3 (2) of the data protection Act 2018 defines personal data as, "Personal data means any information relating to an identified or identifiable living individual (subject to subsection (14 (c))).

This operational agreement should be reviewed by the Fly-tipping sub group of the Joint Central & Local Government Waste Working Group 12 months after implementation.

\_\_\_\_\_  
Signed on behalf of  
Northern Ireland Environment Agency

Date:

\_\_\_\_\_  
Signed on behalf of  
[Insert relevant Council]

Date:

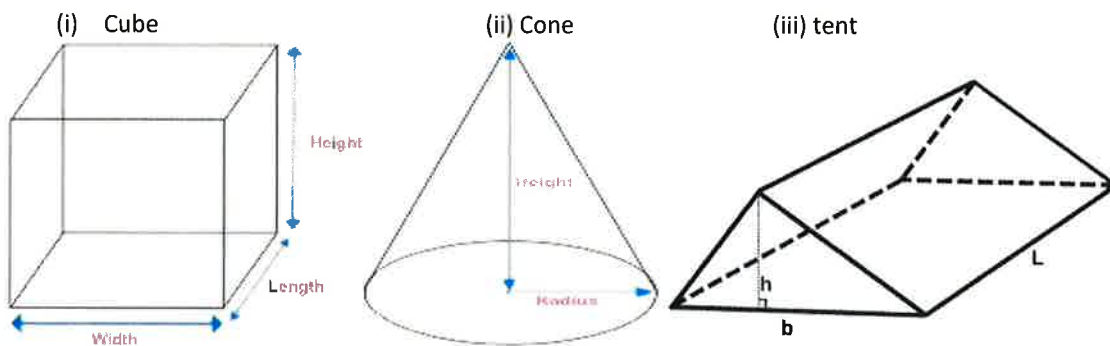
## Appendix 1

Information to assist NIEA and Council officers in estimating waste volumes

E.g. photo of waste emptied from bin lorry = 18.5 m<sup>3</sup>



How to estimate volumes of waste:

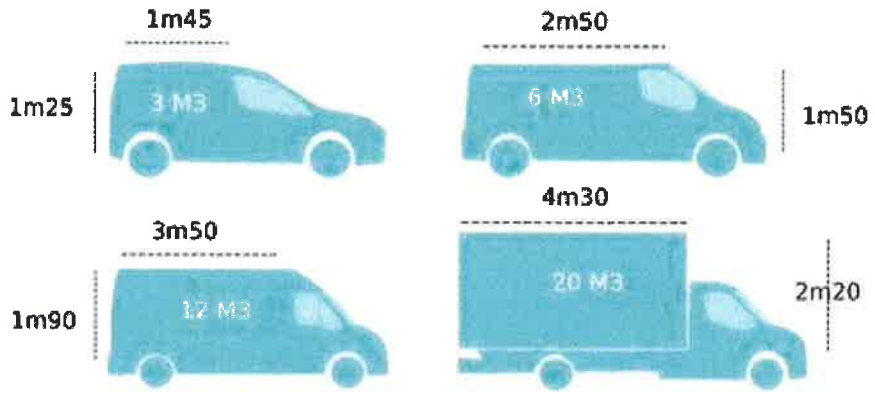


(i) Calculating a cube shape deposit – length x breadth x height

(ii) Calculating a cone shape deposit –  $\frac{1}{3} \times \pi \times \text{radius}^2 \times \text{height}$

(iii) Calculating a tent shape deposit –  $\frac{1}{2} \times \text{base} \times \text{length} \times \text{height}$

VISUAL REPRESENTATION OF THE VOLUMES (IN CUBIC METRES) OF VEHICLES



## Appendix 2

The list below provides a broad directory of the range of hazardous materials (including relevant EWC Code) which may be acceptable at an appropriately authorised Local Civic Amenity/Recycling centres. It is recognised that the wastes acceptable vary on a site by site basis and reference should be made to the site specific license conditions for conformation that the site is authorised to accept such wastes.

<u>EWC Code</u>	<u>Waste Description</u>
03 01 04*	sawdust, shavings, cuttings, wood, particle board and veneer containing dangerous substances
13 01 01*	hydraulic oils, containing PCBs [Note A]
13 01 04*	chlorinated emulsions
13 01 05*	non-chlorinated emulsions
13 01 09*	mineral-based chlorinated hydraulic oils
13 01 10*	mineral based non-chlorinated hydraulic oils
13 01 11*	synthetic hydraulic oils
13 01 12*	readily biodegradable hydraulic oils
13 01 13*	other hydraulic oils
13 02 04*	mineral-based chlorinated engine, gear and lubricating oils
13 02 05*	mineral-based non-chlorinated engine, gear and lubricating oils
13 02 06*	synthetic engine, gear and lubricating oils
13 02 07*	readily biodegradable engine, gear and lubricating oils
13 02 08*	other engine, gear and lubricating oils
14 06 01*	chlorofluorocarbons, HCFC, HFC
14 06 02*	other halogenated solvents and solvent mixtures
14 06 03*	other solvents and solvent mixtures
14 06 04*	sludges or solid wastes containing halogenated solvents
14 06 05*	sludges or solid wastes containing other solvents
15 01 10*	packaging containing residues of or contaminated by dangerous substances
15 02 02*	absorbents, filter materials (including oil filters not otherwise specified), wiping cloths, protective clothing contaminated by dangerous substances
16 01 07*	oil filters
16 01 08*	components containing mercury
16 01 09*	components containing PCBs [Note A]
16 01 13*	brake fluids
16 02 09*	transformers and capacitors containing PCBs [Note A]
16 02 10*	discarded equipment containing or contaminated by PCBs other than those mentioned in 16 02 09 [Note A]
16 02 11*	discarded equipment containing chlorofluorocarbons, HCFC, HFC
16 02 12*	discarded equipment containing free asbestos
16 02 13*	discarded equipment containing hazardous components other than those mentioned in 16 02 09 to 16 02 12 [Note B]

16 02 14	discarded equipment other than those mentioned in 16 02 09 to 16 02 13
16 02 15*	hazardous components removed from discarded equipment [Note B]
16 03 03*	inorganic wastes containing dangerous substances
16 03 05*	organic wastes containing dangerous substances
16 05 04*	gases in pressure containers (including halons) containing dangerous substances
16 06 01*	lead batteries
16 06 02*	Ni-Cd batteries
16 06 03*	mercury-containing batteries
16 06 06*	separately collected electrolyte from batteries and accumulators
17 02 04*	glass, plastic and wood containing or contaminated with dangerous substances
17 03 01*	bituminous mixtures containing coal tar
17 03 03*	coal tar and tarred products
17 08 01*	gypsum-based construction materials contaminated with dangerous substances
17 09 02*	construction and demolition wastes containing PCB (for example PCB-containing sealants, PCB-containing resin-based floorings, PCB-containing sealed glazing units, PCB-containing capacitors) [Note A]
20 01 13*	solvents
20 01 14*	acids
20 01 15*	alkalines
20 01 17*	pesticides
20 01 21*	fluorescent tubes and other mercury-containing waste
20 01 23*	discarded equipment containing chlorofluorocarbons
20 01 26*	oil and fat other than those mentioned in 20 01 25
20 01 27*	paint, inks, adhesives and resins containing dangerous substances
20 01 29*	detergents containing dangerous substances
20 01 31*	cytotoxic and cytostatic medicines
20 01 33*	batteries and accumulators included in 16 06 01, 16 06 02 or 16 06 03 and unsorted batteries and accumulators containing these batteries
20 01 35*	discarded electrical and electronic equipment other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components [Note B]
20 01 37*	wood containing dangerous substances

### **Notes**

Note A For the purposes of this list of wastes, PCBs will be defined as in Directive 96/59/EC

Note B Hazardous components from electrical and electronic equipment may include accumulators and batteries mentioned in 16 06 and marked as hazardous; mercury switches, glass from cathode ray tubes and other activated glass, and other similar items.

