

## Keep Wales Tidy: Response to Consultation on the introduction of mandatory digital waste tracking - January 2022

To: [ResourceEfficiencyAndCircularEconomy@gov.wales](mailto:ResourceEfficiencyAndCircularEconomy@gov.wales)

Consultation document: <https://consult.defra.gov.uk/environmental-quality/waste-tracking/>

**ORGANISATION:** KEEP WALES TIDY, (Registered Charity no. 1082058) 33-35 Cathedral Road, Cardiff, CF11 9HB

**CONTACT:** Jemma Bere, Policy & Research Manager [Jemma.Bere@KeepWalesTidy.Cymru](mailto:Jemma.Bere@KeepWalesTidy.Cymru)

### Key points:

Keep Wales Tidy broadly supports the introduction of waste tracking as it supports efforts towards a 'globally responsible Wales' and sees the biggest opportunity with these proposals to effectively monitor waste exports and waste origin / destinations which can support Circular Economy ambitions. We also see the value in how the introduction of these proposals relate to EPR and will contribute to a more complete picture of waste data for the proposed Extended Producer Responsibility (EPR) scheme in the UK.

However, these proposals are unlikely to deter / prevent the issue of fly-tipping as the majority of instances are from households / of household waste which are not covered or do not apply.

**An unintended consequence of increased waste administration could be to fuel the market in illegal waste traders. Policies which would help to mitigate this could include:**

- Reviewing enforcement for environmental crime and clarifying responsibilities
  - Stronger regulations on illegal traders, putting more onus on the waste carriers, rather than the households.
  - Introducing a Statutory Duty to investigate
  - Reviewing enforcement for environmental crime
- Ensuring that additional burdens are not introduced for the day-to-day disposal of household waste at Household Waste Recycling Centres (HWRCs)
- Introducing mandatory WEEE tracking at the point of production.

Keep Wales Tidy supports the introduction of a mandatory digital waste tracking service and its efforts to prevent waste crime and enhance the end-of-life picture of the UK's waste. This will be particularly effective in monitoring waste exports and our global responsibility aims.

However, Keep Wales Tidy is keen to highlight that the digital waste tracking proposals will do little to address fly-tipping instances in Wales. Although it may support the deterrence of commercial waste, the proposals do not largely affect households and domestic waste, which makes up the greatest proportion of current fly-tipping instances. Whilst we do not suggest any changes to the expectations on the householder for their Waste Duty of Care, Keep Wales Tidy feels that there is already an over-emphasis on the householder and a lack of regulations pertaining to waste carriers themselves. This short statement will evaluate the proposal from the point of view of our policy work, specifically regarding various types of fly-tipping and circular economy practices within

businesses and residences. The information recording proposals in Table 1 will create not only a trail of the journey of waste, but accountability to the person classifying the waste. This should allow for more certainty in the end-of-life of products for effective life-cycle analyses and discourage misleading classifications and rejections of loads that may lead to inappropriate waste disposal. The Standard Industrial Classification (SIC) codes appear adequate in their range to cover a wide variety of waste producing industries so that even obscure use classes of businesses are accounted for (e.g. holiday let waste which causing an increasing fly-tipping problem will likely come under SIC code 55209 - Other holiday and other collective accommodation). The details and onward destinations of the end of waste products and materials produced will provide useful information relating to recycling targets, circular economy and may, in time, contribute to reduce the prevailing myth that 'all recycling ends up abroad' and may support recycling participation as a result.

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Keep Wales Tidy agree that the waste producer or carrier are most suitable to classify or confirm classification of the waste they produce, and that the Duty of Care requirements, where this is incorrect, are simple enough to allow rapid ratification of a wrong classification. However, a survey carried out by Keep Wales Tidy in 2021 found in 14 of the 22 Welsh Local Authorities domestic black bag and bulky waste items were the most commonly found fly-tipped waste, with 8 Local Authorities agreeing householders, and 5 agreeing rogue traders, where the primary perpetrators of fly-tipping. This is supported by Welsh Government's own statistics.

Concerns arise where a household is unaware of their duty of care to use a waste carrier registered on the digital waste tracking service and to have a unique identifier generated for their waste prior to its removal. Keep Wales Tidy has repeatedly noted that the onus of this responsibility should not entirely fall to the householder as it is unrealistic to expect that every householder will undertake the necessary checks. It would also be reasonable for most households to assume that traders have the necessary permits in place and would not respond well to more targeted responsibility. It is therefore expected that greater administration requirements will fall to those waste carriers who are already disposing of waste responsibly. For those who are already avoiding waste licence responsibilities, we would not see additional tracking as a deterrent unless the tracking was regulated on household items, WEEE and furniture which would likely be effective but burdensome. It would be reasonable to assume that the rogue and illegal traders who are operating without a waste permit will also avoid other regulations. **Therefore, whilst we would agree that digital waste tracking is a useful tool, it is unlikely to address the issue of fly-tipping, and unless introduced with caution, could exacerbate the problem.**

Whilst it is not our suggestions that Household Duty of care is changed, Keep Wales Tidy strongly believes that the solution to tackling illegal waste (from households) does not lie with greater actions and responsibilities on the householder but in a **much stronger legislation to tackle illegal waste traders that target households** that would make this form of waste disposal significantly less commonplace.

An additional possibility to support the introduction of digital tracking could be to develop a certified logo or other form of visible identification with the aim of the mark becoming commonplace. For example, once registered, traders can use the 'I am a Waste Safe' Trader mark which can then be used in their own marketing and could be an **additional communication tool to the public.**

In addition, a large proportion of domestic waste is not from rogue traders but from households themselves (Keep Wales Tidy are currently developing research in this area). Similarly to above, the waste tracking proposal cannot prevent illegal waste disposal by this source where the waste is not declared in the first place. Therefore, as a tool to address fly-tipping, the solutions discussed in the consultation are unlikely to prevent the majority of fly-tipping cases.

The consultation does not mention how the waste tracking service would work for residents bringing household waste to municipal waste centres. In current work by Keep Wales Tidy exploring the barriers to proper waste disposal, time/reduced simplicity at municipal waste sites is a deterrent for their use, potentially exacerbating fly-tipping instances. **Any additional burdens through increased time and administration could further exacerbate this problem** and may deter their use even more.

Regarding enforcement, Keep Wales Tidy agrees with the proposed fixed and variable monetary penalties outlined in Table 5 and with the service being used to aid enforcement officers. We would, however, also draw attention to the limited time and resources available to many local authority enforcement teams and would be strongly supportive of the concept of a centralised 'back office' system through which this and other environmental crime instances can be investigated. This could lead to significant costs savings as well as support investigations across local authority borders. Keep Wales Tidy has undertaken research into enforcement for littering and has a paper which outlines the common challenges which concludes in the need to review and overhaul current practice and systems. Although there are some differences between enforcement activity for littering and that of other waste offences, it may be useful to consider the conclusions of how environmental enforcement works in practice and what could be done to make this more effective. In a recent survey by Keep Wales Tidy, many Local Authorities believe that the majority of households do not believe that there is any risk of getting caught and the relatively low number of successful prosecutions would appear to back this up.

If all WEEE items (in the first instance) were tracked at the point of production through to sale, then this may be successful in reducing the illegal dumping of this waste in particular but would still be reliant on enforcement being consistent and effective. Greater clarification is also required as to the role of NRW enforcement in illegal waste instances as responsibilities are not always clear and collaboration has historically been poor.

Issues of fly-tipping on private land is a persistent and contentious issue. In this context, the same issues around rogue traders applies and the biggest barrier to instances on private land relate to the duty to investigate which Keep Wales Tidy and many others have urged Welsh Government to become a statutory requirement if enforcement is to be truly effective.

Private landowners are responsible for removing waste (including fly-tipping) from their land but can claim for disposal costs from the perpetrator if they can be identified (in some circumstances, local authorities remove the waste and charge the landowner). Where there is a record on the digital waste tracking service of missing waste collected by the carrier, how can this information be used by private landowners to help identify the fly-tipper and take legal action, especially as offenders have a special protected status under GDPR regulations? Without collaboration between Local Authorities and private landowners regarding fly-tipping, offenders are less likely to be deterred or caught and will continue to use private land to dump waste.

When considering charging, producers should certainly pay for the waste that they produce but we would urge caution against introducing significant cost and administration burdens to smaller

producers and traders as this may inadvertently create a market for illegal trade waste which may increase fly-tipping as more agencies seek to avoid costs.

