

Y Pwyllgor ar y Gorchymyn ynghylch Diogelu'r
Amgylchedd a Rheoli Gwastraff

Proposed Environmental Protection and Waste
Management Legislative Competence Order
Committee

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Jane Davidson AM
Minister for Environment, Sustainability and
Housing
Welsh Assembly Government
Cardiff Bay
Cardiff CF99 1NA

23 October 2007

Dear Jane

PROPOSED ENVIRONMENTAL PROTECTION AND WASTE MANAGEMENT LCO

1. You may be aware that the Proposed Environmental Protection and Waste Management LCO Committee met in private on 16 October to discuss key issues emerging from the Committee's pre-legislative scrutiny of the proposed Order.
2. Members asked that I write to you to seek clarification on certain issues and consequently thought it would be more sensible for you to appear before the Committee on 6 November, rather than 23 October. The committee is grateful that you have re-arranged your diary commitments to accommodate the change of date.

Matter 6.1

3. The committee is keen that Matter 6.1 is more explicit in conferring competence on the prevention of waste, perhaps by referring to the minimisation or reduction of waste. In committee on 25 September you said that you would be happy in principle to include an additional word but further consideration would be necessary to ensure that its inclusion does not compromise the scope of the LCO.
Point 1: Have you had an opportunity to undertake any such consideration and if so, what was the outcome?
4. **Point 2: Members would also like clarification on which waste streams are not covered by this proposed LCO. For example, are radioactive wastes excluded? If not, and the Assembly is responsible for radioactive waste and its**

collection, management, treatment and disposal, how is this affected by exception 16, which prohibits the Assembly from legislating in relation to the carriage of radioactive material?

Matter 6.2

5. The committee has considered your letter of 1 October in relation to the definition of environmental protection and also the relationship between the terms of the proposed Order and paragraph 6, Schedule 7 to the Government of Wales Act 2006. It has also discussed the need for clarity in the drafting of Matter 6.2 and also whether it needs to be, or should be, more explicit in referring, in some way, to the enhancement of the environment (given that the explanatory memorandum makes reference to bringing forward Measures to improve local environmental quality). Following on from this, Members have also considered whether the scope of the proposed Order should be broadened given the weight of evidence it has received supporting such an approach and in particular, in relation to the addition of a new matter on biodiversity.

Point 3: Members would be grateful for an explanation as to why the proposed Order has been confined to the first two sentences of paragraph 6, Schedule 7 to the 2006 Act (albeit subject to the addition of the word "treatment" in Matter 6.1).

Point 4: Members would be interested to know what thought you have given to broadening the scope of the proposed Order, for example to cover biodiversity and other matters in paragraph 6, Schedule 7 to the 2006 Act.

6. Paragraph 4 of your letter of 1 October says that the proposed Order could allow for a levy or charge to be introduced by Measure to encourage behaviour that addresses environmental protection within the terms of Matter 6.2, insofar as it relates to "pollution, nuisances and hazardous substances", subject to certain potential legal restrictions.

Point 5: Members would welcome clarification on the extent to which these powers could be used. For example, could they, in principle, be used to introduce charges / levies in relation to pollutants and noise pollution?

Exceptions

7. **Point 6:** Members would be grateful if you could set out clearly, and in detail, the rationale for all the relevant excepted matters in so far as they relate to this proposed Order, including whether they relate to non-devolved matters. As part of this information, it would be helpful if you could cover the following points:

- (i) Exceptions 1 and 2: clarification on whether these exceptions would restrict the Assembly's ability to legislate to tackle road traffic pollution. On exception 2, what would be the impact of removing the phrase "and conditions under which they may be so used"?

(ii) Exception 16: clarification on whether the term dangerous goods covers hazardous wastes and radioactive wastes.

(iii) Exception 18: clarification on what prohibition means in the context of this excepted matter.

8. I would be grateful if you could reply by noon on Wednesday 31 October. Your response will form the basis for our meeting on 6 November, though I should stress that this would not prevent Members from raising other issues as well.

Yours sincerely

A handwritten signature in black ink that reads "Alun Ffred Jones". The signature is written in a cursive style and is positioned above the printed name.

Alun Ffred Jones AM
Chair