

Department for Environment Food and Rural Affairs

Consultation on proposals to tackle crime and poor performance in the waste sector and introduce a new fixed penalty for the waste duty of care

Energy and Utility Skills Response

About Energy and Utility Skills

Energy & Utility Skills has worked closely with Welsh Government for a number of years, helping to ensure that Wales retains a skilled, resilient and sustainable workforce. We have UK-wide membership, comprising of major infrastructure companies within water, power, gas and waste management and their top tiers of delivery partners. A number of these operate either wholly or partly in Wales. The UK sector is collectively responsible for the greatest share of the £500 billion UK Infrastructure and Construction Pipeline (2017/18 - 2020/21)' and the provision of essential services to 65 million people and UK industry every day. One of largest the investment regions is Wales where £19bn is earmarked and in the UK there is approximately £1.1 billion investment in the pipeline for waste management.¹

In delivering this critical function for the UK, the sector has recognised the workforce renewal and skills challenges, and these are exacerbated by a tightening UK labour market, wage inflation and planning for the uncertainties around Brexit. In response, in February 2017, a partnership of 29 Chief Executives, from these energy and utility-based employers which included Wales and West Utilities, launched the first-ever UK wide Energy & Utilities Workforce Renewal Strategy. To read the document visit <http://www.euskills.co.uk/sector-skills-strategy>.

Setting the Scene

Energy and Utility Skills welcomes the Department for Environmental Food and Rural Affairs consultation on the future direction and policy options to tackle waste crime and persistent poor performers. We are pleased to see the vital role and contribution the ESA/ EU Skills Competence Management System (CMS) is making in assisting in preventing and deterring crime and poor performance in the waste management sector. As a result, our submission addresses and focuses on the Technical Competence requirements proposals and the recommendations outlined for the CMS scheme.

The next section outlines in detail our key points in response to proposals set out in the technical competence section (questions 8-11).

Points to consider

Q8. Do you think that including an explicit requirement in the EPRs for permitted waste sites to demonstrate technical competence through a scheme approved by government will address the current gap in technical competence?

Yes, we agree with the proposal to create a level playing field for all permits by making it explicit in the Environmental Permitting Regulators (EPRs) that all permitted waste sites need to demonstrate technical competence through a scheme approved by government. This will remove the uncertainty and the two-tier system which exists in the market and will create a level playing field for all operators. It will also recognise those operators that have invested heavily in the competence of their workforce and the systems they use and have implemented.

This requirement will ensure all sites operate within the law and discourage or deter poor performers. However, for those operators that are not part of either of the approved government schemes, appropriate support should be offered to them to get them up to speed and fully proficient. Support may include education and awareness of the requirement and the need to be fully competent, pace the introduction to ensure it is not too onerous and allocate financial provision for training costs where needed, in particular for smaller operators.

Q9. Do you think that inserting a requirement into the EPRs for operators to inform the regulators of the TCM at their waste site will address the current gap in technical competence?

Yes, we think the requirement into the EPRs, for operators to notify the regulators of the TCM arrangements at their waste site and when a TCM changes at the site, is much needed step change. It provides a way for the regulator to monitor and detect compliance of operators to meet EPRs requirement to demonstrate technical competence.

However, the ESA/ EU Skills Competency Management Scheme (CMS) is a corporate competence scheme and currently it does not rely on one named individual per site but does have a person(s) nominated by top management to be responsible for management of the CMS. As suggested in the consultation an option would be for the Operator to provide the name of the auditor and date of last audit of the company's CMS scheme, rather than specifying an individual. This proposal will better align with the aims of the CMS as a corporate scheme. The existing compliance features of the scheme are:

1. The Competence Management System satisfies the competence condition of an Environmental Permit in a proactive business focused manner, creating competence awareness across the whole permitted operation, improving standards and efficiency.

2. Essential to the CMS is how an organisations implements it on a company basis and also on site to ensure they meet the requirements of the permit(s).
3. Where individual competence remains a key component with each employee having the relevant technical competences required to carry out their role, but less reliance is placed on just one individual.
4. CMS allows Operators to organise their resources more effectively whilst deploying them in a way that ensures the site operation is technically competent at all times to meet the needs of their business.
5. The organisation should ensure that all persons who work for, or on behalf of, the organisation, including contractors working at an organisation's site are aware of the requirements of the permit and the competence management system. They should also be aware of their roles and requirements and the consequences of their activities and behaviours in achieving compliance with the requirements of the environmental permit.

Under this scheme there is already a specific requirement for organisation to inform the relevant regulator of the status of their competence management system in accordance with the requirements of their environmental permit. Therefore, the overall recommendation is to have this requirement at operator and TCM level.

Q10. Do you think the current competence schemes should be amended to include a TCM registration process to address the current gap in technical competence?

Yes, the current competency schemes should be amended to include TCM registration. Our suggestion is to include this at an operator and a TCM level. This will ensure that competent operators are acting properly and the responsibility is at corporate level.

As the ESA/ EU Skills Competency Management Scheme (CMS) – an operator will define the scope of its activities, sites, processes that will be included in their CMS. It enables operators to demonstrate technically competent management of permitted activities, on the basis of corporate competence and employees' individual competence. The performance of the operator in terms of the technical competence of its workforce and compliance with the permit is part of the audit process and reporting. It also includes a review and management of, any gaps in technical competence should they arise.

For those on CMS scheme a TCM functioning as responsible officer for the organisation will need to be identified as part of the scheme, this currently is a feature we would need to introduce and include in the scheme.

For any sites that fall outside of scope and are relying on individual competence, a register of these individuals would be welcomed.

Q11. Do you have any information about the proportion of waste sites that would employ a TCM, rather than training a current employee? Do you have any information about the proportion of sites not currently adequately covered by a TCM?

We agree that it would be useful for the industry to provide information as the available evidence is limited, on the waste sites that employ a TCM or train a current employee to do this role

ⁱ HM Treasury (2016) *National Infrastructure Delivery Plan*, HMT