

Response ID ANON-GRED-ESX1-3

Submitted to **Serious and organised crime in the waste sector: Call for Evidence**
Submitted on **2018-07-08 21:50:27**

Introduction

1 What is your name?

Name:

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2 What is your email address?

Email:

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3 You are responding as, or on behalf of:

an individual

4 If you are responding as an individual, please state your interest in the topic:

individual:

I am a lecturer and researcher in Environmental Law at Newcastle University. My research focuses on environmental regulation and environmental crime, particularly in relation to waste.

5 If you are responding on behalf of an organisation or business, please explain the nature of your organisation or business:

nature of organisation:

6 Would you like anything in your response to be confidential?

No

7 If you answered Yes to this question please give the reason why you are requesting anything within your response to be confidential.

confidentiality info:

The threat and impact of serious and organised waste crime

8 Please tell us about the character of organised crime groups involved in waste crime. For example: Are groups working legally, in part (that is, hiding behind legitimate businesses)? Are they characterised by violence? Are they local or working across national/international boundaries?

character:

There are a range of perpetrator profiles in the context of waste crime, and these vary across, and within the different UK jurisdictions. Please see the attached article (Brennan, 2016) for a detailed analysis of the types of waste crime perpetrator present in Northern Ireland. There important lessons to be learned for England from the experience in NI, specifically in relation to the causes and drivers for serious waste crime and how these have influenced perpetrator profiles.

9 Please tell us about the types of waste crimes that are being committed by organised crime groups. For example: What is the range of crime being committed? How frequently are groups committing waste crime? Do these organised crime groups engage in other (non-waste related) criminality? If so, what?

types:

Perpetrators of organised waste crime are, by necessity involved in a range of other criminal activities including fraud, money laundering and tax evasion. The amount of profit that can be made from the illegal dumping of waste makes this type of environmental offending an attractive option for organised crime gangs who are frequently involved in an array of other criminal enterprises, e.g. illegal fuel laundering, extortion and drug dealing.

10 How has the nature or scale of criminal activity changed over time? Please explain your answer and provide evidence, where possible.

change:

The incentive to engage in waste crime has increased over time as a result of the increasing costs of disposing of waste legally, driven by the need to reduce reliance on landfill. Landfill tax is currently £88.95 per tonne for the standard rate (£2.80 for the lower rate). This has gradually, but significantly increased since landfill tax was first imposed in the late 1990s. Since its introduction, landfill tax (in conjunction with increased export of waste) has resulted in a significant reduction in the amount of waste being disposed of via landfill. However, the high rate of landfill tax has also been instrumental in creating a black market in illegal waste disposal and a clear opportunity for unscrupulous operators to make significant profits from disposing of waste illegally in order to avoid paying landfill tax and gate fees. In Ireland, differential rates of landfill tax and regulatory disparities on either side of the border created a thriving cross-border illegal waste flow during the early 2000s which resulted in the UK and Ireland being threatened with infraction fines from Europe. There is risk that any post-Brexit changes to any

of the UK's borders or border controls could contribute to a similarly problematic situation for England. It is hoped that the extension of landfill tax to unauthorised waste disposal which came into force in April 2018 will mitigate this issue, but it is too early to tell whether the new measures will have a demonstrable impact on illegal dumping rates.

11 Please tell us anything else about the scale and nature of serious and organised crime in the waste sector. For example: environmental, community and economic impacts.

aoi:

The environmental impact of illegal dumping depends on the nature of the material disposed of and of the land onto which it is disposed, but can be serious and pervasive. Remediation can be very challenging and multiple environmental media can be affected. Land can be contaminated and its suitability for farming or food production, or even human habitation, can be directly impacted. Air quality can be reduced as a result of dangerous toxic gases produced as material decomposes. Water can be polluted causing persistent contamination. Ecosystems and vulnerable species/sites can also be negatively affected resulting in the loss of biodiversity.

The direct economic costs associated with serious waste crime primarily relate to the cost of remediation and legal disposal of illegally dumped waste. Dependant on the type of waste that has been dumped, these costs can be astronomical. If the waste is toxic in nature and has seeped into water tables or water courses, then the pollution created can be incredibly challenging and expensive to remediate. There can also be consequences on the costs of, for example, purification of water for household consumption - in turn leading to increasing water charges for tax payers. An key economic impact is the loss in tax revenue created by the avoidance of landfill tax, and, as seen in waste crime cases where Proceeds of Crime legislation has been used to confiscate criminal assets gained as a result of failure to pay landfill tax, this can amount to many millions of pounds. However, as of April 2018 any person or business who makes a disposal at an unauthorised waste site, or knowingly causes or permits the disposal, may be liable for landfill tax - this should hopefully reduce this aspect of the economic impact of illegal dumping.

Wider/indirect consequences of illegal dumping include erosion of the rule of law, intimidation of local communities and 'broken window' effects on areas in terms of development and house prices. See link to 2017 article (Brennan et al, 2017) for details on the costs of waste crime in Northern Ireland - there are important lessons for England in how the devolved government in NI has failed to manage serious waste crime and what the consequences for Northern Ireland have been.

The capacity, capability and powers of the enforcement authorities

12 How effective are enforcement authorities and industry at preventing and responding to serious and organised waste crime? Please explain your answer.

effective:

Please see attached article (Brennan, 2016) for analysis of the experience of experience of authorities in Northern Ireland in preventing and responding to serious and organised waste crime. Although different a context, some of the difficulties discussed in this analysis are common across the UK.

13 What changes could make the government or industry response to serious and organised waste crime more effective? Please be specific, and state which organisations, agencies and industries you think are relevant.

changes:

A key challenge is creating a deterrent to waste offending where there is a high likelihood of apprehension and any sanction imposed outweighs any benefit that could be derived from the criminal activity. This will require close cooperation between law enforcement agencies and also for the courts to impose very substantial penalties where serious and organised waste crime has been established. Sentencing guidelines have been produced by the Sentencing Council and these should assist the judiciary in imposing appropriate sentences in cases involving waste criminality. If fine levels do not increase then these guidelines should be re-evaluated.

14 What capabilities (skills, structures and resources) do you believe organisations have to help them prevent and respond to serious and organised crime?

capabilities:

See attached article (Brennan, 2016) and thesis (Brennan, 2014) for discussion of capabilities - specifically structural issues that have impacted the effectiveness of enforcement of environmental law in NI which may be relevant in the English context.

15 How well do agencies and organisations work together to prevent and tackle serious and organised waste crime? Please explain your answer.

worktogether:

See attached article (2016) for lessons from the NI context.

16 What would most help develop effective partnerships to tackle serious and organised waste crime?

mosthelp:

See attached article (2016) for lessons from the NI context.

17 Does the Environment Agency have the right capabilities, capacity and powers to tackle serious and organised waste crime? Please consider resources (including people and IT), structures, staffing levels, funding and powers.

ea:

See 2016 article (Brennan, 2016) and PhD thesis (Brennan, 2014).

Additional evidence

18 Additional evidence

uploads:

Ciara Brennan Thesis Final.pdf was uploaded

upload2:

J Environmental Law-2016-Brennan-jel-eqw026.pdf was uploaded

upload3:

Brennan et al 2017:

<https://nilq.qub.ac.uk/index.php/nilq/article/view/31>

Brennan 2016:

<https://academic.oup.com/jel/article-abstract/28/3/471/2562985?redirectedFrom=PDF>

Brennan 2014:

<http://ethos.bl.uk/OrderDetails.do?uin=uk.bl.ethos.669649>