

Working Better Together Protocol Series

Wales Fly-tipping Addendum

This technical protocol is one of eight protocols, introduced to support the joint Environment Agency and Local Government Association/Welsh Local Government Association memorandum of understanding 'Working Better Together'. This addendum reflects the local agreement between the EA and the WLGA.

Jointly agreed¹ 21st July 2005

LOCAL GOVERNMENT ASSOCIATION AND THE ENVIRONMENT AGENCY

PROTOCOL ON FLYTIPPING

ADDENDUM

WELSH LOCAL GOVERNMENT ASSOCIATION AND ENVIRONMENT AGENCY WALES

1.INTRODUCTION

This document is an Addendum to the Protocol on Fly-tipping that forms part of the Memorandum of Understanding between the Local Government Association (LGA), and the Environment Agency (Agency).

1. This Addendum is an agreement between the Welsh Local Government Association (WLGA) and Environment Agency Wales (Agency Wales), in respect of the response to incidents of fly-tipping in Wales (including areas covered by the Midlands Region of the Environment Agency). This Addendum modifies the responses of both the Local Authorities and the Agency from that agreed in the Protocol only as detailed below. This Addendum applies only to Wales.
2. This Addendum modifies the Protocol as it applies to:
 - Clinical Waste
 - Drummed Waste
 - Tyres
 - Beach Waste.

In all other respects the Protocol will continue to apply.

3. This Addendum will be reviewed after twelve months.

2. ROLES AND RESPONSIBILITIES

2.1 Costs

Where a Local Authority or Agency Wales takes responsibility for dealing with an incident of fly-tipped or illegally kept waste as provided for by this Addendum, the Local Authority or as the case may be, Agency Wales, hereby accepts liability for any costs it may incur and neither party will demand re-imburement for such costs from the other save for those costs agreed in writing made in advance of any action being undertaken.

2.2 Resources

Both the WLGA and Agency Wales recognise the limits of each other's resources, statutory powers, duties and responsibilities and their respective ability to act in the event of a fly-tipping incident. Both parties will use best endeavours at all times to mitigate the effects of fly-tipping.

Agency Wales will respond to all incidents of fly-tipping in accordance with its Incident Procedures and service levels as set out in the Corporate Plan. Where drummed chemical or oil wastes are involved, the incident will be treated as having the potential for a Category 1 or 2 environmental impact.(Cat 1s would require an incident room to be opened and this is not always the case with incidents involving drummed waste).

In response to a fly-tipping incident, which is the responsibility of Agency Wales under the terms of this Addendum, the Agency will instigate enforcement action in accordance with its Enforcement and Prosecution Policy. For incidents where the Local Authority leads, Agency Wales will use best endeavours to assist with and facilitate appropriate enforcement action that may be taken by either party upon agreement.

The Agency has produced a call down list of contractors that have been assessed as having in place appropriate procedures and resources for dealing with the removal of hazardous wastes. This list will be made available to the Local Authorities.

Agency Wales will use best endeavours to make available to the Local Authorities information and intelligence on fly-tipping including where appropriate using the resources of the Agency's Environmental Crime Unit and local intelligence where this is available and relevant. This information sharing should include that gathered by each party through the service of notice under the Duty of Care provisions of s34 of the Environmental Protection Act 1990.

2.3 Review Meetings

The WLGA and Agency Wales agree to meet at least twice per year, to share information and to enhance working arrangements to combat fly-tipping.

3. THE RESPONSE STRATEGY IN WALES

3.1 Clinical Waste

For the purposes of this Addendum Clinical Waste has the same meaning as that defined in Regulations made under the Environmental Protection Act 1990.

The Local Authority will take responsibility for the removal and disposal of clinical waste that has been fly-tipped, with Agency Wales passing all reports received from the public to the Local Authority.

The Local Authority will undertake all appropriate enforcement action for fly-tipped clinical waste other than where cross boundary transport results in organised fly-tipping or keeping of clinical waste, when Agency Wales will under take enforcement action.

The WLGA and Agency Wales will keep records of reports of fly-tipping of clinical wastes so that the scale of the problem can be kept under review.

3.2 Drummed Wastes

For the purpose of this addendum a drum is considered to be a container with a capacity of at least 25 litres.

(For smaller containers see below)

Agency Wales will take responsibility for the removal and disposal of all drums on public beaches and any drummed chemical wastes including drums of oil, either empty or full that have been fly-tipped near watercourses or occupied buildings. Agency Wales will investigate fly tipped drummed waste discovered at other locations and seek its removal by the person who deposited it, the drum owner, or the landowner. Where such individuals cannot be identified or refuse to remove the waste Agency Wales will arrange its removal and will seek to recover costs in appropriate circumstances.

Drummed waste arising from an accident on a Highway is not considered to be fly tipping and is not covered by this addendum.

The collection of hazardous household waste either in small or large containers from a householder, remains the responsibility of the Local Authority.

Agency Wales will instigate enforcement action as appropriate for fly-tipped drummed chemical and oil waste.

Where the Local Authority receives a report of fly-tipped drummed chemical or oil waste from a member of the public, the individual reporting the incident will be directed to call the Agency on the free Pollution Incident Hotline 0800 807060. This is to ensure that, accurate information about an incident is obtained speedily, the appropriate Agency Wales office is advised and that members of the public receive a contact name from the Agency.

Where drummed chemical or oil waste has been fly-tipped on public land the Local Authority will be informed. The Local Authority will review the incident to consider what action it can take to prevent a recurrence.

Where small numbers (less than 25 litres total volume) of smaller containers are reported consideration should be given to the likely source of the waste. Where the container contained a proprietary product on the open market to the general public then this can be considered household waste and can be disposed of as such.

If there are large numbers of containers (more than 25 litres total volume) and have indications that they are from commercial or industrial sources then they should be dealt with as for drummed waste.

3.3 Tyres

Tyre dumping and uncontrolled stockpiling either in the open or under cover is recognised as a serious issue for the Local Authority and Agency Wales. Waste tyres are particularly problematic if they catch fire as the smoke is potentially hazardous to health, the fires are difficult to control and the resulting fire fighting run-off water is highly polluting. Tyres dumped directly in a watercourse may pose a flooding risk. Fly-tipped tyres are a visual eyesore and tend to act as a magnet for the dumping of other wastes.

The Local Authority will take responsibility, subject to the following, for fly-tipped and illegally kept waste tyres including their removal as appropriate and the instigation of enforcement action.

Agency Wales will take responsibility for fly-tipped tyres in or within 10m of a watercourse where their presence poses a significant risk of pollution or harm to human health or would constitute a potential flooding risk to a main river. In such cases Agency Wales will be responsible for the removal and disposal of the tyres and will also take responsibility for the instigation of any appropriate enforcement action. Where Agency Wales determines that there is no significant environmental or flooding risk from the tyres the matter will be referred to the Local Authority for its consideration.

Where waste tyres are either discovered fly-tipped or kept illegally on private land in large quantities, i.e. exceeding 50 cu. m. Agency Wales will investigate and undertake any appropriate enforcement action. Agency Wales will only consider removing and disposing of large quantities of fly-tipped or illegally kept tyres on private land, if the risk of serious pollution is considered to be high.

The WLGA and Agency Wales will exchange information on the illegal keeping and disposal of tyres on a regular basis. Agency Wales undertakes to co-ordinate the keeping of such records and to provide information on waste tyres upon request to a Local Authority.

3.4 Beach Waste.(also see s 5)

For the purpose of this Addendum beach Waste is any material deposited on a public beach that requires removal and disposal except oil resulting from a spillage at sea.

Agency Wales will take responsibility for the removal and disposal of all drums or similar containers deposited on a public beach.

The Local Authority will take responsibility for all other waste materials deposited on a public beach including its removal and disposal where there is a danger to the public health or a serious risk of pollution.

4. Fly Tipping responsibilities Wales.

This document constitutes a form of “local arrangement” as envisaged by Part 2 of the National Protocol . Welsh Local Authorities and the Environment Agency will respond in accordance with appendix 1 of the protocol except for the arrangements outlined in s 3 of this document.

5. Joint approach to Enforcement

The Wales Waste Strategy “Wise about Waste” and the Joint LGA and Environment Agency document “ Working better together” both recognise the value of a co-ordinated approach to dealing with illegal waste management. The Welsh Local Government Association and the Environment Agency Wales are committed to developing community strategies at a local level. The development of joint enforcement action plans for Fly Tipping between each Local Authority and Environment Agency Wales will be a focus for achieving this.

6 Joint Guidance Notes.

The Welsh Local Government Association and Environment Agency Wales are committed to producing and endorsing the use of Joint Guidance Notes on best practice for dealing with Fly Tipped wastes. Such Joint Guidance Notes will be reviewed and amended as necessary on a regular basis.

The initial notes will include :
Dealing with Animal carcasses.
Dealing with Beach waste.

Signed for the Welsh Local Government Association

Environment and Planning Spokesperson



Date...11th July 2005.....

Signed for Environment Agency Wales

Director Wales



Date...20th July 2005.....

V(ii) May 05.