

Peter Jones

**Our ref:** NR85074

**Your ref:**

**Date:** 22 June 2018

Dear Mr. Jones

### **Enquiry regarding enforcement of the Waste Regulations 2011**

Thank you for your enquiry which was received on 4 April 2018.

We respond to requests under the Freedom of Information Act 2000 and Environmental Information Regulations 2004.

You asked:

1. *Your response relates only to actions under Regulation 42(1)(b) of the Waste Regulations, where there has been a breach of a stop notice or a compliance notice. I am not clear from the response whether any stop notice or compliance notice has been issued in respect of breaches of obligations under Regulation 12 or 13, using the powers in Regulations 38 and 39. Please could you tell me:*

*The number of (a) compliance notices and (b) stop notices issued in respect of breaches of Regulation 12 or Regulation 13, and (c) the number of cases in which the Environment Agency has undertaken an assessment of whether issuing a compliance or stop notice might be appropriate, but has elected not to issue such a notice.*

As stated in our response to your previous request (ref. NR81997), no notices have been served to require compliance with Regulation 12 or 13. We have checked with the 14 Environment Agency area teams whether any assessments have been made to serve a notice in respect of regulation 12 and 13.

One such assessment was made, in relation to a permitted waste facility. However, the problems were associated with a number of operational issues and therefore a decision was made to rectify these problem through the permit, rather than Regulation 13 and 14.

2. *Any internal correspondence relating to decisions regarding whether or not to issue a compliance notice or stop notice in respect of breaches of Regulation 12 or Regulation 13 that can be released without revealing the content of the Agency's legal advice in respect of Regulation 42, recognising that correspondence may need to be redacted in part in order to ensure that the content of legal advice is not revealed.*

In relation to question 1 above, we hold an internal email exchange relating the decision making process. There is also a draft notice. However, this information is internal legal advice and is subject to legal professional privilege. We are therefore not obliged to disclose it and have withheld it. We feel in providing this information it could undermine future decisions to take action in relation to the aforementioned legislation.

As a public body we are required under the Freedom of Information Act/Environmental Information Regulations to give reasons for this refusal. We also need to show that we have considered the Public Interest balance between refusal and disclosure. You can find the details in the appendix attached.

If you are not satisfied you can contact us within 2 calendar months to ask for our decision to be reviewed. We shall review our response to your request and give you our decision in writing within 40 working days.

If you are still not satisfied following this, you can raise a concern with the Information Commissioner, who is the statutory regulator for Freedom of Information and the Environmental Information Regulations. The contact details are:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Tel: 0303 123 1113  
Website: <http://ico.org.uk>

3. *The number of such organisations whose compliance with Regulations 12 and 13 the Agency has assessed (e.g. by undertaking its own compliance assessment, or critically reviewing the organisation's own assessment), and the percentage of such organisations that this number represents;*

The Environment Agency carried out a survey of all local authorities in 2015 in respect of separate collection.

Of the 2015 survey:

- 321 authorities were contacted for a response
- 283 authorities provided a survey response (38)
- 38 WCAs did not submit a survey by the extended deadline end of May 2015.

We are currently in the process of contacting 122 WCAs to follow up on their response or or failure to respond to the 2015 survey.

In addition, we have done the following. Although none of this relates to individual compliance of separate collection.

- Working with waste management companies to understand uptake of SC
  - A meeting with members of the Environmental Services Association
  - Questionnaires produced and sent to 11 waste companies
  - 7 meetings with waste management companies
- Working with supermarkets and retail sector
  - Trial Audit of Meadowhall shopping centre, Sheffield (25 million annual footfall)
  - Visited a further 9 large shopping centres

We have provided a 'crib sheet' used as part of these visits – annex I to this letter.

We have not undertaken any such assessment in relation in the waste hierarchy.

4. *The criteria against which any such assessments were made, in line with the Agency's*

*policy of transparency in respect of enforcement, and ensuring that regulated persons know what they have to do to comply with the law;*

The Environment Agency reviewed the 2015 survey responses taking into account the:

- scale of collections of paper, metal, plastic and glass
- provision by collection method
- WCA progress in carrying out assessments for necessity and TEEP

Please note this did not include a review of actual TEEP assessments. A report is available on gov.uk at:

<https://www.gov.uk/government/publications/waste-collection-authority-separate-collection-arrangements-survey-results>

5. *The number of these organisations that have made any change to their approach to waste management as a result of the Agency's intervention, and any specific details that can be released of the changes that have resulted; and*

This has not been assessed. However, the 321 local authorities are currently being reassessed on a risk based approach, including the ones who did not respond in 2015

6. *Whether, given that the legislation has now been in place for some time, the Agency has undertaken any interventions in respect of any organisations that were deemed lower priority.*

No

7. *Whether any assessment has been made, either by the Agency or by Defra, of the extent to which England is compliant with the UK's obligations under Article 4, Article 10 and Article 11 of the revised Waste Framework Directive of 2008 and, if so, what the findings of this assessment were.*

The Environment Agency has not made any such assessment. Please contact Defra separately.

For the information we have supplied, please refer to [Open Government Licence](#) which explains the permitted use of this information.

Yours sincerely

**Separate Collection Visit**

**Background**

Contact name	
Contact number	
Address	
Parent Company	
Other centres	
Size (m2)	
Annual footfall	
No of Stores	
No of Eateries	
Cinema	
No of Screens	
Stores in centre	
Supermarkets	
Permits/ Exemptions/CBD	
Permission for photos?	

<b>Extra Info</b>	
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Who has the responsibility for organising the waste management system? E.g. the centre, the parent company, facilities management company	
Do you use brokers to manage/sell the waste?	

<p>Who sets the centre's environmental policies, and who monitors these?</p>	
<p>Who is the registered company managing the waste?</p>	
<p>Is it part of the retailer's lease agreement to use the centre's waste management system?</p>	
<p>Is there a discount on the service charge for retailers not using the centre's waste management system?</p>	
<p>What's the percentage split between those who backhaul, and those who use the centre's system?</p>	
<p>What are the reasons for backhauling? E.g. pharmaceutical waste</p>	
<p>Does the centre use any Local Authority waste collection services?</p>	
<p>Have you conducted any necessity or TEEP tests, or have you discussed these with your collector/contractor?</p>	

What is the yearly tonnage of residual waste produced?		
What is the yearly tonnage of waste sent for recycling?		
What is the quantity of waste stored on the premises at any one time?		
Are any of the key recyclables collected mingled? If so, are these sorted on site?		
Are any of the key recyclables baled on site?		
Do you gain income by selling recyclates?		
Are the key recyclables collected separately?	Cardboard	
	Mixed paper	
	Soft plastic	
	Hard plastic	
	Metal	
	Glass	
How often are the different wastes	Cardboard	

collected from the centre (not from individual retailers), and who collects them?	Mixed paper	
	Soft plastic	
	Hard plastic	
	Metal	
	Glass	
	Co-mingled	
	Residual	
	Food	
How do you ensure that the recyclables produced are actually recycled?		
Are there any future changes planned for the centre's waste management, e.g. contract renewal?		
Have you experienced any challenges in implementing your waste management system?		
Do you run any waste related awareness campaigns with retailers and/or customers?		
Do you have any systems in place to aid recycling for the retailers and/or visitors		

<p>Are there any penalties if retailers do not recycle, or recycle incorrectly?</p>	
<p>Do you keep track of contamination rates? If so, what is the average percentage of contamination?</p>	
<p>What are the most common causes of contamination?</p>	
<p>Have you noticed a recent change in attitudes towards plastics?</p>	
<p>Do you have any future recycling schemes planned?</p>	
<p>Do you export any the centre's waste?</p>	
<p>Have you considered the potential impacts of the Chinese Import Restrictions?</p>	
<p>Did you make any contingency plans for any possible disruptions?</p>	
<p>Do you produce RDF? If so, where is it's destination?</p>	

