

23<sup>rd</sup> September 2013

Dear PCC,

### **Complaint 134024**

Thank you for your e-mail today passing on the *Daily Mail*'s response of 19<sup>th</sup> September to my complaint. I am disappointed that the *Mail* has failed to recognise its error, and do not think it is satisfactory to wait for Defra's guidance on the subject of the interpretation of the Waste (England and Wales) Regulations 2011 (amended by the Waste (England and Wales) (Amendment) Regulations 2012) ('the Regulations') before the article is corrected. To do so would leave the *Mail*'s inaccurate and to some readers unsettling story in the public domain for several more months, when there is no reason to do so. The newspaper's interpretation of the regulations is utterly untenable, and I would therefore urge that the *Mail* corrects its story as soon as possible.

For informed commentators, the remarks in Lord de Mauley's speech of 4<sup>th</sup> June which, a couple of months later, caused the *Mail* such convulsions were amongst the least interesting things he said. In the [coverage](#) of the speech by *LetsRecycle* on 5<sup>th</sup> June, the minister's bland rehearsal of the requirements of the Waste Framework Directive was relegated to the final paragraphs. Had the minister's remarks been intended to announce a fundamental change in the way that every local authority collects recycling, they might well have attracted rather more comment. So, why didn't they?

### **What does 'separate collection' mean?**

While the meaning of the words 'separately to collect' in the context of recycling may seem clear to the *Mail*, it is in fact anything but. Were the meaning of the words so straightforward as the *Mail* suggests (i.e. 'householders must put each of the four target materials – plastics, metals, glass, paper – in a separate container for collection'), the Regulations would not have been litigated in such depth as they have been – although they would no doubt have horrified the councils required to implement such a problematic and costly system.

The key point that the *Mail* has misunderstood is that 'separate collection' does not require separate containers or separate storage by householders. Such an impractical interpretation of the law simply does not figure in informed debate. The litigation over the Regulations concerned whether fully commingled collection (where all recycling is collected from a single bin using a standard refuse truck, and separated at a materials recovery facility or 'MRF') could be counted as separate collection.

Defra sought to argue that it should, finding support in the [Guidance](#) issued by the European Commission regarding the Directive:

*"co-mingled collection of more than one single waste streams may be accepted as meeting the requirement for separate collection.... [I]f subsequent separation can achieve high-quality recycling similar to that achieved with separate collection, then co-mingling would be in line with Article 11 WFD and the principles of the waste hierarchy. Practically, this usually excludes co-mingled collection of bio-waste and other 'wet' waste fractions with dry fractions*

*such as e.g. paper. On the other hand, subject to available separation technology, the co-mingled collection of certain dry recyclables (e.g. metal and plastic) should be possible, if these materials are being separated to high quality standards in a subsequent treatment process.”*

A group of recycling reprocessors sought to argue that the lower quality of recycling that resulted from fully commingled collection meant that the law necessitated some additional separation of recycling. One common method by which this is achieved is the ‘kerbside sort’ system, in which householders place their recycling in one or two boxes, and the material is separated by the bin men into a number of compartments on a specialist vehicle, illustrated here in use in Somerset:



This method is fully compliant with the most stringent interpretation of the law, is already operated by a third of local authorities, and does not necessitate five bins – just one, along with a box or two.

As I stated in my complaint, the end result of the litigation is not completely clear. Defra’s guidance will, I hope clarify things further. I suspect it will allow full commingling of the four materials. Perhaps it will suggest that glass (often the most difficult of the materials to separate out from the others) should where practicable be collected separately, while the other three materials may be commingled. Or there is an outside chance it will say that all materials must be collected separately where practicable. However, what is clear to everyone (except the *Mail*) is that ‘separate collection’ does not require separate *containers*, and even if required to collect all four materials in separate streams, local authorities are unlikely to voluntarily opt for an expensive and unpopular solution involving five bins for each household when a cheaper, more convenient solution is already widely practised.

### **Defra’s view**

The *Mail* did not mention in its letter that the Government has already clarified the position in advance of Defra’s much anticipated guidance. In the time that has elapsed following my complaint, it has been reported that the Local Government Minister, Brandon Lewis, wrote to the *Mail* on 20<sup>th</sup> August 2013 in the following terms:

*“Contrary to your report (Daily Mail, 17 August 2013), it is not the case that weekly rubbish collections will need to be scrapped to meet European Union regulations.... In March, the government won a High Court case, confirming that councils can continue to provide ‘commingled collections’. Councils are not required by any diktat to make householders separate rubbish into five separate bins.”*

In the circumstances, I feel it is entirely clear that the key claims of the *Mail*'s article are highly misleading, regardless of what Defra's guidance may ultimately say. In particular:

- "Every home must be made to separate its rubbish into at least five bins, the Government says." Brandon Lewis has made it clear that, as I pointed out, this is not the meaning of what Lord de Mauley said.
- "The enforcement of waste collection systems using several separate recycling bins will mean an end to the weekly general rubbish collections operated since Victorian times" Brandon Lewis has also confirmed the point I made in my complaint, that weekly collections are unaffected by the changes envisaged.
- "[T]he European Waste Framework Directive... demands that families sort metal, paper, plastic and glass into separate waste bins. Unsorted general rubbish goes into a fifth bin." The guidance on the Waste Framework Directive guidance makes it clear that commingled collection is permitted where it results in high quality recycling. It makes no demands regarding the use of separate containers, only stipulating that recycling must be *collected* separately – which can be (and in many authorities already is) achieved without five separate bins.

The *Mail* has misled its readers by ascribing policies to the Government and the European Commission that are demonstrably at odds with the truth. I would be grateful if the PCC would therefore press the *Mail* to issue a correction and amend or withdraw its article.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'PRL Jones', written in a cursive style.

Peter Jones