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Dear Anna

I am writing regarding the Department's response to the Committee's Final Report for Used Tyres and its 12 recommendations.

Firstly I would like to thank the Committee for producing such a comprehensive report into a topic of such environmental importance.

I have considered the final recommendations of the report in conjunction with my officials, and I am pleased to provide the Departmental response to the proposed actions at Appendix 1.

I have instructed officials to incorporate these actions into the Department's Waste Tyres Action Plan, and to provide the Committee with regular updates on progress in delivery of the Action Plan.

I trust this information is of assistance, should you require anything further please contact me directly.

MARK H DURKAN MLA
Minister of the Environment

FINAL REPORT OF THE COMMITTEE FOR THE ENVIRONMENT – INQUIRY INTO THE MANAGEMENT OF USED TYRES – DEPARTMENT’S RESPONSE

REPORT RECOMMENDATION	
I	Revised Recommendation: NIEA should complete the recruitment of staff to the new Enforcement Section within the Land and Resource Management Unit Waste Licensing Team and report enforcement actions to the Committee for the Environment on a regular basis.
II	Retained Recommendation: The Department should conduct regular compliance inspections prior to the granting of a Waste Management Licence to ensure this unlicensed period is not being taken advantage of by unscrupulous operators.
III	Revised Recommendation: The current rationale for allowing some practices to operate under an exemption from the Waste Management Licence in relation to used tyres should be examined and updated and the provision of additional information by licensed or exempt premises should be considered during this review.
IV	Revised Recommendation: The Department should investigate discrepancies between the levies charged by retailers under the Duty of Care system in Northern Ireland and those in the other regions of the UK and obtain the power to regulate the collection and utilisation of the levy.
V	Revised Recommendation: In addition to strengthening the compliance and enforcement of the Waste Carrier and Duty of Care Regulations NIEA should investigate the feasibility of moving to an electronic

	system to increase efficiency and improve the provision of data on used tyres.
VI	Retained Recommendation: Northern Ireland should liaise with the Republic of Ireland when considering a suitable mechanism for dealing with used tyres. A strict producer responsibility scheme would be counterproductive unless introduced in both jurisdictions.
VII	Retained Recommendation: In the longer term, Northern Ireland should consider the introduction of a strict producer responsibility scheme but the nature of such a scheme and its timing should be developed in close liaison with the Republic of Ireland as indicated in recommendation 10.
VIII	Retained Recommendation: In the short term, the Department should require all sectors in the used tyre chain to register with a compliance scheme to enable it to be more proactive in the tracking and enforcement of tyres including the auditing of retailers.
IX	Revised Recommendation: The Department should continue to establish a robust method of quantifying the amount of waste tyres arising in Northern Ireland on an ongoing basis with a clear current indication of what proportion of these is not recovered and utilised in a proper manner and provide an update to the Committee for the Environment when the process is complete.
X	Retained Recommendation: The Department should require public bodies to quantify and report the number of waste tyres found on their property before making arrangements for their disposal.
XI	Revised Recommendation: NIEA should continue to put in place the necessary structures to carefully, clearly and quickly identify definitions of end of waste in a

	proactive rather than reactive way so that recyclers can plan their marketing strategies confidently and respond rapidly to changing global markets and report progress on a regular basis to the Environment Committee.
XII	Revised Recommendation: The Department should investigate non-legislative ways such as best practice schemes to obtain information on used tyres arising from all sectors in the tyre supply chain on a regular basis.

- I. **“NIEA should complete the recruitment of staff to the new Enforcement Section within the Land and Resource Management Unit Waste Licensing Team and report enforcement actions to the Committee for the Environment on a regular basis.”**

Response: NIEA has recruited staff to the Enforcement Section and are pursuing prosecution cases. Its resources are limited, therefore, the section is concentrating on enforcement cases involving serious breaches of waste licences and exemptions.

Action: The Section has already taken one successful court case and has a number of files currently with the PPS.

- II. **“The Department should conduct regular compliance inspections prior to the granting of a Waste Management Licence to ensure this unlicensed period is not being taken advantage of by unscrupulous operators.”**

Response: The Agency’s Waste Management Licensing Unit is wholly dependent on the fee income it generates and does not currently have the resources to cover regular compliance inspections of unlicensed sites. However the Unit works with the Agency’s Environmental Crime Unit where it suspects that unscrupulous operators are attempting to use the licensing process to provide a legal ‘vener’ to illegal activity.

Action: The further implementation of this recommendation would be subject to the availability of additional resources to carry out such inspections and commence enforcement proceedings if required.

- III. “The current rationale for allowing some practices to operate under an exemption from the Waste Management Licence in relation to used tyres should be examined and updated and the provision of additional information by licensed or exempt premises should be considered during this review.”**

Response: The Committee is aware of the Department’s intention to develop and implement an Integrated Permitting Regime. This will take a number of years to introduce new legislative measures.

Action: In the interim the Agency now applies a more stringent assessment of waste tyre exemption applications and a programme of visits.

IV. “The Department should investigate discrepancies between the levies charged by retailers under the Duty of Care system in Northern Ireland and those in the other regions of the UK and obtain the power to regulate the collection and utilisation of the levy.”

Response: Levies charged by tyre retailers or used tyre collectors are **not** made under the Duty of Care system. The Duty of care is required by Article 5 of the Waste and Contaminated Land (NI) Order 1997 (the 1997 Order) and it places an onus on those who handle waste (including tyres) to ensure that:-

- the waste is handled properly, in a way that does not pose any threat to the environment or human health;
- it is only passed to someone who is authorised to accept it; and
- records are kept to ensure that the waste is being managed legally and to provide an audit trail.

Article 5 of the 1997 Order does not contain powers to introduce a recycling levy.

The Tyre Industry Council first introduced the voluntary used tyre levy scheme in Britain in 1999 to help those handling waste tyres to comply with their Duty of Care obligations. This has evolved into the ‘Responsible Recycling Scheme’ which is overseen by the Tyre Recovery Association (TRA). The Scheme is, effectively, a voluntary agreement between

the tyre retailer and the customer. The TRA did try to extend the Responsible Recycling Scheme, which is fully audited, to Northern Ireland, however, it struggled to get members in NI. Also, to enable it to work properly here it would be necessary to set up a NI Group and costs for this, along with audit costs, were considered by the industry to be prohibitive. As a result the Scheme is not regulated by the industry in NI.

Action: The Department does not have the powers to collect a used tyre levy and believes it is not appropriate to interfere in the operation and/or utilisation of the voluntary levy scheme, as imposed by the industry itself. Therefore, no further action is proposed.

- V. **“In addition to strengthening the compliance and enforcement of the Waste Carrier and Duty of Care Regulations NIEA should investigate the feasibility of moving to an electronic system to increase efficiency and improve the provision of data on used tyres.”**

Response: The new Enforcement Team are carrying out routine visits and auditing waste transfer notes. NIEA is also investigating an electronic system.

Action: NIEA is involved in a UK wide electronic Duty of Care (Edoc) pilot project (see <https://www.edoc.uk.com/>) which is a **voluntary** project that goes live in January 2014. The project is part funded by the EU under the Life+scheme until the end of 2014. This project is restricted to waste tyres rather than used tyres.

VI. “Northern Ireland should liaise with the Republic of Ireland when considering a suitable mechanism for dealing with used tyres. A strict producer responsibility scheme would be counterproductive unless introduced in both jurisdictions.”

Response: A review of all producer responsibility initiatives in Ireland is currently being carried out and a report on the management of tyres in Ireland is due shortly. It is expected that the Department of Environment, Community and Local Government in Dublin will consider the report and finalise policy positions in the autumn. Departmental officials have liaised with the consultants carrying out the review and will continue to keep in touch with counterparts in DECLG.

It is not practical to introduce a Producer Responsibility (PR) scheme in Northern Ireland without it applying UK-wide. If it is not possible to gain agreement on a UK-wide scheme, the Department believes that having a full PR scheme in Ireland without a PR scheme in Northern Ireland will not lead to significant adverse impacts.

Action: The Department will continue to liaise with counterparts in DECLG and await the outcome of their PRI review before taking forward policy in Northern Ireland.

If DECLG decide to develop plans for a full producer responsibility scheme in Ireland Departmental officials will

develop proposals for a similar scheme on a UK-wide basis and put these proposals to DEFRA and the other devolved administrations for their consideration.

VII. “In the longer term, Northern Ireland should consider the introduction of a strict producer responsibility scheme but the nature of such a scheme and its timing should be developed in close liaison with the Republic of Ireland as indicated in recommendation 10.”

Response: See comments in Recommendation VI.

Action: See comments in Recommendation VI.

VIII. “In the short term, the Department should require all sectors in the used tyre chain to register with a compliance scheme to enable it to be more proactive in the tracking and enforcement of tyres including the auditing of retailers.”

Response: The Department established a Used Tyre Task Force under auspices of the Waste Programme Board (WPB) last year to review a number of tyre issues. The Group produced a report which included a recommendation that the Department would work with the Tyre Sector on the development and implementation of a voluntary best practice scheme. The report was presented to and accepted by the WPB.

Action: Several members of the Used Tyre Task Force have contacted NIEA to discuss the possibility of introducing a voluntary compliance scheme and discussions are ongoing.

IX. “The Department should continue to establish a robust method of quantifying the amount of waste tyres arising in Northern Ireland on an ongoing basis with a clear current indication of what proportion of these is not recovered and utilised in a proper manner and provide an update to the Committee for the Environment when the process is complete.”

Response: The Department recognises that the information it currently holds in relation to all commercial and industrial (C&I) waste, not just for tyres is not as robust as it would like.

Action: The calculation of the total amount of waste tyres generated in Northern Ireland cannot easily be derived as there is no statutory need to supply this waste data to NIEA. Therefore the overall proportion of waste tyres not recovered/not properly utilised cannot be calculated from simply waste data. To estimate these arisings will require a periodic survey similar to the recent Tyre Data Survey.

- X. “The Department should require public bodies to quantify and report the number of waste tyres found on their property before making arrangements for their disposal.”

Response: The Department accepts that the current flytipping pilot project will provide data and information for District Councils only.

Action: The Department will bear in mind the Committee’s recommendation to require all public bodies to collect and submit tyre data to NIEA, and will initiate discussions with public bodies as part of any wider future development of the current flytipping pilot project.

XI. “NIEA should continue to put in place the necessary structures to carefully, clearly and quickly identify definitions of end of waste in a proactive rather than reactive way so that recyclers can plan their marketing strategies confidently and respond rapidly to changing global markets and report progress on a regular basis to the Environment Committee.”

Response: The NIEA End of Waste (EoW) Group has drafted detailed guidance and procedures. NIEA has recently allocated staff to take forward EoW in a proactive manner.

Action: The Department will progress this new area of work with the business sector. The Department will also provide the Committee with an Annual Report.

XII. “The Department should investigate non-legislative ways such as best practice schemes to obtain information on used tyres arising from all sectors in the tyre supply chain on a regular basis.”

Response: See comments for recommendation VIII.

As there are only a small number of licensed waste tyre processors in Northern Ireland, the amount of waste from these licensed sites can be calculated.

Action: NIEA already collects and collates information for waste tyres. Discussions are ongoing with the tyre retail sector in relation to the setting up of a best practice scheme, see recommendation VIII.

