



Northern Ireland
Assembly

**COMMITTEE FOR THE
ENVIRONMENT**

**OFFICIAL REPORT
(Hansard)**

Waste and Contaminated Land Bill

21 October 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Roy Beggs
Mr Trevor Clarke
Mr Willie Clarke
Mr Danny Kinahan
Mr Alastair Ross

Witnesses:

Mr Karl Beattie)
Mr Denis McMahon) Department of the Environment
Mr Donal Starritt)
Ms Ann Tohill)

The Chairperson (Mr Boylan):

At its meeting on 28 September the Committee decided to defer consideration of three clauses until they had had sight of the amendments that the Department agreed to propose at the Bill's Consideration Stage. Those departmental amendments have now been included in the members'

information pack. I advise members that the Department stresses that those amendments have still to receive the Executive's approval. We will go through each clause that the Department has agreed to amend, and I invite members to comment as we go through those.

Clause 1 (Fixed penalty notices for offences under Article 4)

The Chairperson:

The departmental amendment to clause 1 would raise the upper limit of the range of fines for fixed penalties from £200 to £400. That information is included in the first page of the letter dated 15 October. The Committee recommended the amendment. Are there any questions?

Mr Beggs:

I declare an interest. My dad owns land that is used as a legal inert landfill site.

The Chairperson:

As there are no other comments, I will put the Question.

Question, That the Committee is content with the clause, subject to the Department's proposed amendment, put and agreed to.

Clause 1 agreed to.

Clause 5 (Councils to enforce Articles 4 and 5 of 1997 Order)

The Chairperson:

I refer members to the departmental amendment to clause 5, which would extend enforcement powers to local authorities. I advise members that the amendment would allow councils to take enforcement action in the event of a failure to present appropriate waste documents. The amendment was recommended by the Committee. Do members have any comments?

Mr Beggs:

I declare an interest as a member of Carrickfergus Borough Council.

The Chairperson:

We are going to be here all day, Mr Beggs.

Mr T Clarke:

I declare an interest as a member of Antrim Borough Council.

Could you repeat what you said about the amendment?

The Chairperson:

The amendment gives enforcement powers to local authorities.

Mr Donal Starritt (Department of the Environment):

The Committee requested that councils have powers to issue fixed penalty notices in the event of failure to produce appropriate waste management documentation. At the moment, only the Department can do that.

The Chairperson:

It would bring council powers up to the level of the Department's powers.

Mr Starritt:

It would also allow councils to retain receipts.

The Chairperson:

As there are no other comments, I will put the Question.

Question, That the Committee is content with the clause, subject to the Department's proposed amendment, put and agreed to.

Clause 5 agreed to.

Clause 8 (Appeals against remediation notices)

The Chairperson:

I refer members to the departmental amendment to clause 8, which would provide for the Planning Appeals Commission (PAC) to charge a fee to hear an appeal. I remind members that the Committee recommended the amendment to avoid the appeals mechanism being used to delay a fine being imposed. The Department advised that, under current law, there is no mechanism for the Planning Appeals Commission to charge a fee and that it would require an amendment to the Bill to introduce that power.

Could you clarify that for the new Committee members?

Mr Karl Beattie (Department of the Environment):

Clause 8, as originally drafted, amended article 58 of the Waste and Contaminated Land (Northern Ireland) Order 1997 to provide for all appeals against remediation notices, regardless of which regulator issued those, to be heard by the PAC. However, no appeal fee was provided for in the original clause. The Committee expressed concern that, by not doing so, there was a danger that unscrupulous operators may seek to delay meeting their obligations. The amendment simply provides for the Department to prescribe a fee for such an appeal. That fee would be at the same level as a planning appeal, which is currently £126.

The Chairperson:

As there are no other comments, I will put the Question.

Question, That the Committee is content with the clause, subject to the Department's proposed amendment, put and agreed to.

Clause 8 agreed to.

New Clause

The Chairperson:

I remind Committee members that they also sought to propose two amendments in the absence of the Department's agreement to do so. Members have copies of the draft Committee amendments. The second of those amendments gives the highest level of Assembly scrutiny to secondary legislation that alters fixed penalty fines listed in the Bill and the existing Order.

On the advice of the Examiner of Statutory Rules, the Committee asked the Department to make sure that any alteration to fixed penalty fines will be subject to draft affirmative procedure in the Assembly. Higher and lower levels of fixed penalty fines are provided in the Bill — £100 to £400, as we discussed earlier — and three other fixed penalty fines were included in the Waste and Contaminated Land Order 1997 by an amendment in 2007 that, by default of the existing Order, were subject to negative resolution.

The amendment will ensure that the four fine levels cannot be altered without Assembly approval. That would be consistent with other legislation relating to fixed penalty notices that is currently being considered by the Assembly. It is to give us an extra bit of scrutiny.

Mr Ross:

In light of the letters from the Minister and from Glassdon, we might need to give our first proposed amendment more consideration.

The Chairperson:

We are coming to that.

Mr McGlone:

I apologise if this has already been discussed, but what kind of time frame do we have for the Bill?

Mr Starritt:

Do you mean the time frame for the Bill's commencement?

Mr McGlone:

Yes.

Mr Starritt:

We spoke before about the fly-tipping protocol, which is a key feature of the Bill and will need to be in place before the relevant clauses could be commenced and take any effect.

Mr McGlone:

I will rewind a bit there. What is the time frame for the protocol's implementation?

Mr Starritt:

We are hoping to consult on the protocol within the next six weeks.

Mr McGlone:

How long will the consultation last? Will you outline what will happen from that consultation to the decision-making point and the Bill becoming law? There is a bit of a problem with Acts being implemented.

Mr Starritt:

Subject to the Assembly process, we hope that the Bill will receive Royal Assent by February or March. At that stage, many of its provisions could be brought into operation straight away. The fly-tipping provisions would need to wait until the protocol is in place, but we hope that that would happen as soon as possible.

Mr Denis McMahon (Department of the Environment):

Obviously, we cannot pre-empt what will come out of the consultation process. However, we are hopeful that by the time that the Bill receives Royal Assent, we will have the protocol in place.

Mr McGlone:

So, you think that the protocol should be in place by February?

Mr McMahon:

That is the intention. It could be commenced at that point.

Mr McGlone:

Do you have a particular date in mind for the whole thing being in place, subject to Assembly approval?

Mr McMahon:

The intention is to have it all in place by the spring.

The Chairperson:

We had agreed that everything, including the protocol, would be set. I know that we are dealing with different circumstances, but our previous experience of the passage of Bills is a warning to all of us. The Taxis Act has commenced, but three years later some of its provisions have still not been implemented. We need to make sure that that does not happen with this Bill. That is what the Committee talking about.

Mr T Clarke:

Could a further clause be put in that would kill the Bill off completely if it is not enacted by a certain date? That would make the Department move a bit more swiftly.

The Clerk of Bills:

We would have to consider that, Chairperson, and come back to it.

Mr T Clarke:

I say that because the Department might take it more seriously if it realised that all its work could be lost. If we set a time frame for the legislation to be implemented, and if, after that, it is not implemented, all the Department's work would be lost. As you, rightly, said, and as we identified last week, the Taxis Act has been a fiasco. There is no point in us going through this whole process again with other Bills if they will not be enacted.

The Committee Clerk:

The Committee and the councils agreed that they wanted a lot of the Bill to go ahead now. To kill the whole Bill would be detrimental. However, the Committee sought from the Department a commitment that the clauses relating specifically to the agreement on waste management will not be enacted until an agreed protocol is put in place.

Mr T Clarke:

You have, perhaps, taken me up wrongly. I do not want to kill the Bill. The Bill is an

improvement. However, my problem is that we are going through this process, and if the Department does not get its act together, we will have wasted our time again.

The Chairperson:

For clarity, I agree with Trevor Clarke on that point. We have been through this process, and there is no point in this Bill sitting on the shelf. Mr Clarke is asking that we look at the inclusion of a clause that will set a time frame, and if the legislation is not enacted within that, it will be gone. We want to go forward and make the Bill work, but we are going on what has happened —

Mr Kinahan:

That is terribly dangerous.

The Chairperson:

I agree, but I will give it every consideration; it is a request from a Committee member. I will let the Clerk of Bills come in on that.

The Clerk of Bills:

On a procedural point, the Committee is up against the wire in its efforts to complete its report and meet its reporting deadline. It is, however, open to individual members, as MLAs, to approach the Bill Office and seek an amendment. There is time to explore that option. However, for the Committee to start to explore additional amendments at this point, when it is in the middle of its formal clause-by-clause scrutiny — in fact most of the clause-by-clause scrutiny has been done — and is about to report, is not feasible.

Mr McGlone:

Following on from Trevor Clarke's point, on the wider front there seem to be management or delivery issues on the part of the Department; I do not know which. Trevor and I went through that Taxis Bill consideration, as did you, Chairperson, and as regards this and other legislation, we do not come here day after day to sit and go through this stuff for there to be no delivery. Whatever other legislation there may be, we should get clear guideline delivery dates as to when, in fact, the legislation will be in place. I know that that will be subject to other factors. However, I would like to think that there is, at least, someone there who can say that the anticipated date of

enactment of this provision is such and such, so that the legislation can come into operation. Having a Bill or Act sitting on the shelf gathering dust is not a response. We, as a Committee and as elected Members, need to be assured that someone, somewhere, is driving this on.

The Chairperson:

I totally agree.

Mr Beggs:

I think that it is a strange and crazy proposal to booby-trap the Bill so that it will be killed off. There is already a date after which it will be killed off if it is not through the legislative process, so why would we want to add another date? There is a clear date, which everybody is aware of, and unless the Bill is through the Assembly and enacted by that date, it will be killed off anyway. Why do you want to add an earlier date?

Mr T Clarke:

Maybe you are not hearing very well over there.

Mr Beggs:

Maybe I am not.

Mr T Clarke:

We have waited three years for a previous Act to be implemented. Had it had a date on which it had to be implemented — within a year after it received Royal Assent, for example — we would not be sitting here, three years down the line, with it still not having been implemented.

All that work has been done. In no way am I suggesting that we kill off the Bill. I am suggesting that we can make the Department move a wee bit more swiftly if we can make it see that all its work will be lost if, by a certain date after its commencement, it does not have certain things in place. It is to make the Department move more swiftly.

Mr Beggs:

I do not think that the Committee should do that. Individuals can pursue that option if they wish.

The Chairperson:

I understand. However, the key issue for this Committee is that it does not waste its time. The Bill needs to be enacted as soon as it receives Royal Assent. We are talking about less than a year. We are not talking about three years. The first part of the Taxis Act 2008 will be enacted three years after Royal Assent, in March 2011, hopefully.

Mr McGlone:

We hope.

The Chairperson:

Denis, I know that you want to come in, but do you understand the Committee's view? We have taken advice on the clauses, and Mr Clarke wants this moved forward, as do the rest of us. We do not want to kill the Bill. Would you like to respond?

Mr McMahan:

Only to add a little extra context. We have listened to all the points that have been made and we accept those. A key issue has been agreeing a threshold between local government and the Department. That has been a major sticking point for some years. Some local government organisations — it is important to say “some” — proposed using a 20 cu m threshold, and the Minister is minded to put the consultation out on that basis. However, we need to formalise that and put it into a consultation document. The point that I am trying to make is that there has been progress on that issue. We are very much of the view that that now needs to go out to consultation, with a view to having the protocol in place by the time of Royal Assent. Obviously, I cannot comment on the other Bills mentioned. However, I reassure the Committee that there has been movement on the issue.

The Chairperson:

Could you clarify the time frame for the consultation?

Mr McMahan:

We see the consultation going out in six weeks.

The Chairperson:

Will the Minister make a commitment during Consideration Stage to pull it all together? We want to see the Bill enacted. It is a good piece of work and a good Bill, and it will have an impact on the ground in helping constituents. It would be helpful if you would come back to us to tell us what the Minister says about making a commitment in the Chamber. You should also keep us updated on the consultation. You said that that would go out in six weeks and run for, perhaps, 12 weeks. Sorting out the threshold protocol is what could hold the whole process up.

Mr McMahan:

One of the issues has been that we have heard two very different views. The local government organisations' view is that there are already severe pressures on them around fly-tipping. The Northern Ireland Environment Agency's (NIEA) view concerns the practicality of having a 20 cu m threshold, because it may not be feasible for it to manage anything more than that. There has been movement across that gulf, which has been a big cause of the hold-up around the protocol. That being resolved, it is a matter of setting down the roles and responsibilities. We do not envisage any problems with that going out.

The Chairperson:

The threshold needs to be resolved through the consultation, which, hopefully, will happen, even though there are differences between the NIEA and the councils. Do you think that that will happen? In the absence of that being resolved, is there a plan B?

Mr McMahan:

I think that we can reach agreement. This is a significant movement from the position that the NIEA held previously, and moves towards what the councils want. The only caveat is that we cannot predict whether, during the consultation, the councils that are not signed off on a 20 cu m threshold will want to discuss it. It has not been formally signed off that all 26 councils would be prepared to accept the 20 cu m threshold.

Mr T Clarke:

The process to decide the distance seems like a Mexican stand-off between the councils and the Environment Agency. That could continue forever. If that happens, when would it be reasonable

for the Department to come along and say what the threshold protocol will be?

Mr McMahon:

I have not made myself clear. The Mexican stand-off is over. The Minister is minded to move to 20 cu m. Inasmuch as we have been getting feedback from local government, the line that we have received from them is that they want the threshold to be 20 cu m. The Minister has moved in that direction. That is the intention.

The Chairperson:

That is what we are saying. We need acceptance. We need to move on and have the matter to go to consultation.

Mr T Clarke:

You mentioned a further caveat, Denis. You said that when you get to that stage, some councils still might not buy into it. Surely, it would then be a case of saying, "Tough". You will say that the threshold is 20 cu m or whatever you say it is. If you do not say, "Tough" at that stage, your Mexican stand-off continues.

Mr McGlone:

How do you suppose that you would get to that stage?

Mr McMahon:

I am not saying that I expect that to happen. I would not necessarily use such terminology. One way or another, we have to get the consultation over and out of the way. All that I am saying is that it would be inappropriate of me to pre-empt the views of local government before the consultation. But yes: your point is correct in the sense that we must come to a view. There has been a great deal of movement on the issue. We have reached the point at which the Minister is minded to go with a particular threshold. Subject to the consultation taking place, the issue should be resolved.

The Chairperson:

To be honest, Denis, we will continue to press you on that. We need that matter to be resolved.

Mr McGlone:

I am seeking a wee bit of clarity that my point was picked up on. I asked for a commitment or details from the Department on its legislative time frame for all the legislation that is coming before us, not just on this item, that item or another item. We can pump all the Bills that we like through the Committee but if they are not delivered, what is the point? We need to know that someone, somewhere, in authority can actually say that the Department has a time frame and is working to a particular date. We need that assurance. If we do not get it, the Committee will start to reprioritise.

The Chairperson:

Obviously, that is a separate discussion. However, we will, certainly, take that on board and ask the Department for an update on all Bills.

We must get back to the original discussion on the new clause regarding the setting of fines, which will give the Committee the opportunity to scrutinise the level of fines.

Question, That the Committee is content with the amendment, put and agreed to.

New clause agreed to.

New clause

The Chairperson:

The Committee has also requested an amendment to provide the Department with powers to introduce standards for quality of recycled material that is collected by councils, should that prove necessary in the future. I advise members that before they agree the amendment, they may wish to consider additional information that has been provided to the Committee by RecyCo, Glassdon and the Minister. The Department has also answered the Committee's queries on rejection rates from recycling plants, the cost of recycling to each council and glass recycling levels, as well as responding to the letter from Bryson Recycling.

I refer members to the Committee's draft amendment, which is included in members' packs.

Mr Ross:

I understand the rationale behind the draft amendment. The Committee was well-intentioned in what it tried to do through the amendment. However, in light of new information that has been provided, it may actually be a pretty bad amendment to put forward, given that it would tie the hands of councils in an area in which they have authority. It may also severely disadvantage some businesses. The Committee may need to reconsider the amendment and not put it forward.

The Chairperson:

Yes, we should reconsider.

Mr Beggs:

We have been given a lot of information, including rejection rates, from various recycling and waste management areas in Northern Ireland. I am unclear about the percentage of foreign material that ends up being shipped out among material that is supposedly recycled. I assume that those figures refer to material that has come out of material recovery facilities (MRFs) to go to landfill sites. However, it has been highlighted that some MRFs are poor at recycling and that the quality of material that is meant to be recycled might not be as high as it should be and might, subsequently, limit others' ability to reprocess it.

I view this amendment as enabling the Department to bring in regulations should it need to. Therefore, I consider it appropriate that we should propose it. It is pointless to put material through MRFs and pretending that it is recycled and then shipping it off to Third World countries to go through another process of recycling or putting it in a landfill somewhere else. It is appropriate that this amendment be included.

The Chairperson:

I will give my view and then I will ask Denis to step in. This amendment was well intentioned, but am I correct in thinking that 23 out of the 26 councils are operating a co-mingled system?

Ms Ann Tohill (Department of the Environment):

That is correct.

The Chairperson:

We have to consider the impact that that will have on councils. I know that this is an enabling amendment, Roy, and I take on board what you said. However, making the amendment would give the power to enact the new clause. If, for instance, a council comes along to a recycling facility with material, the manager of that facility could turn that material away because he deems it to be contaminated. We visited a recycling centre. We know that there is a model out there that is working, and the co-mingled system is also working. Those facilities are reaching their targets.

I am concerned about the impact that this would have on councils. Ultimately, if this new clause were implemented, it would have serious consequences for councils, and the Committee would be saying that there is a better model. This is about competition, doing the thing right, value for money and meeting targets. In the light of some of the information we have received, I do not support this amendment. Co-mingling seems to be working because 23 councils are meeting their targets. Having said all that, however, we need to look at the quality issue.

Would other members like to comment?

Mr Ross:

I am happy to propose that we do not put this amendment forward in the Committee's name.

Mr W Clarke:

I second that proposal.

Mr Beggs:

Before we vote on this, I would like to ask a question. How can the Department impact on the quality of current MRF schemes to prevent market forces and the cost element driving down the quality of recycling, leaving it as poor as possible, and to ensure that there is an incentive to have high-quality recycling from MRFs?

If we allow low-quality recycling, market forces will drive councils to whoever is producing the lowest quality recycling, because they are putting as little effort as possible into it. What method is there to govern the quality of material coming out of MRFs? I am not talking about the

amount of material that is rejected; that is a separate issue. This is about how the material that comes out of MRFs can be recycled, rather than being shipped off to Third World countries.

Mr McMahon:

Ann can talk about this in a bit more detail. However, I will make a general point. One of the useful things that has come out of this debate is that it encourages us to look again at the whole issue of how MRFs operate. We have looked at some of the councils across the water that have achieved 40% recycling rates. Places such as Cardiff, Nottingham and Leicester achieve 40% recycling rates and are similar in most respects to Belfast; they are similar in size and have similar characteristics. Having talked to some of the MRF operators there and having seen what they are doing, it is clear that they are constantly working on improving those operations and that the market is driving it. Much of what they sell is sold locally and that is how they do business. Some of the material is being transferred to Europe and some further afield, but the majority of the business and the improvements that they are making to the MRFs are clearly driven by the market. That is encouraging in a sense, but, over and above that, we accept that there is a need for standards. Ann, would you like to say a bit about MRF standards and quality protocols?

Ms Tohill:

I want to make a couple of points. The waste and resources action programme, which is the independent and expert body on recycling and reuse, has undertaken a number of studies to test the quality line of MRFs, including one last year where it tested 20% of MRFs across the UK. The findings were that some MRFs are producing very high-quality recyclables. As a result of that work, proposals were made to set up a discussion group. In fact, the operators and reprocessors met to discuss what the standards should look like. There was a consensus that there should not be a quality standard as such. The UK reprocessors set out very clear standards for MRF operators, and those are well understood. They considered weight-based standards, where the material would be sampled, and that work is still under way. However, the findings are very important because they demonstrate that MRFs produce quality material if they are set up correctly.

The technology for sorting waste materials is changing rapidly, and, over the next five to 10 years, we anticipate that a lot of materials that currently cannot be recycled will be recyclable.

We are also aware that some MRFs in Northern Ireland are taking materials from councils that cannot be reprocessed by local companies, because they are not yet at that stage, but there are markets in the UK where that material can be sold and is being reprocessed. If those MRFs were not taking that material, it would end up going to landfill. Therefore, we are conscious that we do not want to do anything that will be detrimental to the amount and quality of materials that we recycle.

There is a perception that a lot of the material that is exported is highly contaminated. However, we do not have evidence of that. We do not have the hard facts from the NIEA or anywhere else that a lot of the material that is being exported contains high levels of contamination. If that is the case, we understand that it is returned to Northern Ireland, but the checks that the NIEA carries out at the border indicate that the material does not contain high levels of contamination. Therefore, we are trying to ensure that we take all that information on board. Where there are gaps as we develop our policy, we will take a balanced view, and any policy that we take forward will not be detrimental to one part of the market and prejudiced towards another.

Mr Kinahan:

I get the impression that the key word in the new clause is “may”, but the word “must” is used for councils. Your argument is that this would only be relevant if there were really a case for legislating for this, but you are saying that, at the moment, there is not a case.

Ms Tohill:

We do not have the hard evidence for that.

Mr Kinahan:

But there might be hard evidence one day, in which case the new clause should be included.

Mr Ross:

It could be inserted at a future date.

The Chairperson:

There are 23 councils operating co-mingling systems, and they are reaching a certain percentage. However, if this clause were included and became law, it would only take one phone call to the council for it to be enacted, if there is a case of contamination or anything else.

Mr McMahon:

One of the issues that has come out of this is that it is a private sector operation. You can see through accounts in various letters — I am not going to comment on the detail of those — that there are different views, in which commercial interests are being reflected. One scenario is that a private sector operator, using a co-mingling system or otherwise; a MRF operator; or another type of operator could push and make the case, and if the power were in place, we would be expected to make regulations. However, given the potential impact on the market, we would have to consult on any regulations that we would make. That is how it could influence the market in the future.

Mr Beggs:

Presumably, this new clause would enable you to make regulations. However, in deciding whether to make regulations you would have to determine whether a strong argument was made, what is practically feasible and what methods would be used. One of the issues that I picked up during the evidence was that textiles caused problems when they are co-mingled.

There may be things that you can do, but they can only be done after careful consideration of everything. Currently, there are no controls, and MRF operators and councils dump everything in their so-called recycling bins, with no regard to what comes out at the other end of the process.

Ms Tohill:

If the operators were producing material of very poor quality, they would not continue in business. We heard anecdotal evidence that MRF operators have gone out of business because they were not producing the quality required. The market will sort it out, because if operators do not produce quality materials they will not get the price for it and will not have a market to supply to. It is the same with markets abroad. A few years ago the market collapsed and stockpiles of paper were built up, but the quality in Northern Ireland was of a high enough standard that it was

protected. As a result of the lack of evidence at the moment, we are not clear that a policy intervention is required.

Mr Beggs:

It has been said that that could be introduced subsequently, but that would require primary legislation. The proposed new clause would only be enabling legislation that could sit dormant and never be enacted if there is no requirement or decision by the Minister or the Department to do so.

Ms Tohill:

We would be concerned that that would send out a signal that the Department was actively thinking about imposing it. The waste framework directive is very clear that that collection method which is the most beneficial technically, economically and environmentally should be the preferred option, so the amendment could be perceived as removing the economic argument for councils, because there will be a cost associated with it. In a way, you would be moving the costs up the chain so that the ratepayer would bear costs, whereas, if the market is left to sort itself out, the reprocessor would bear its share of those costs.

The Chairperson:

OK. We have a proposer and a seconder for the Committee's proposal not to table the amendment. I will need to take a vote. Mr Beggs, are you of the opinion that that amendment should remain?

Mr Beggs:

I have not heard an argument as to why a judgment cannot be made by the Minister and the Department at a subsequent stage, having taken all the circumstances into consideration such as the directives and the economic aspect. That is a decision that the Minister could take. I am concerned that we could potentially ship low-grade material to Third World countries, with everyone feeling happy that we have recycled when we may not have done so properly.

Ms Tohill:

The statistics show that the UK market for recyclables exports a huge amount of paper. Of the 8.8million tonnes that are recovered, 3.8 million tonnes are reprocessed in the UK and 4.4

million tonnes must be exported, because there is no market for it here. If we did not have those marketplaces, the reprocessors and operators —

Mr Beggs:

Sorry, I have no objections to going through legitimate recycling processes and exporting —

The Chairperson:

We need to move this on. I will take a quick point from Mr McGlone, and I will put it to the vote.

Mr McGlone:

Is there not a market for it because there is too much of it, or is it, as Mr Beggs suggested, because the quality is slightly inferior and the marketplace here is taking the best recyclables? In other words, where is the quality control? Does anyone keep tabs on the exported stuff, or are we comfortable enough with just getting it out of these islands?

Ms Tohill:

Every country has its own standards. Under the Transfrontier Shipment of Waste Regulations 2007, the NIEA checks the loads as they cross the borders, and if there are high levels of contamination, those loads are returned. From what we have heard from the agency, six loads were returned in the past few years and, of those, only three contained municipal waste. Quality checks are carried out at the borders. The waste is also checked when it arrives in the destination country, and, depending on what processes that country has, it can also be returned to Northern Ireland from there.

Mr McGlone:

That all depends on the quality of the checking on both sides.

Ms Tohill:

It does. However, if you take the paper market, different grades of paper get different prices. That is just part of the market operating and does not mean that the paper is still contaminated and cannot be recycled; it just means that it is of a lower grade and will have a different end use.

Mr McGlone:

Do you mean that it is not contaminated according to the standard that we would use?

Ms Tohill:

No. There are the highest quality materials, which get the highest prices, but there are still markets for lower-quality materials, which will be recycled into lower-quality products. We need those markets.

The Chairperson:

We have been through the issue. At the time of the amendment being drafted, most of us thought that it was a reasonable suggestion. We have found out more information. The proposal is to not table the amendment, so I will ask for a show of hands from those in favour of withdrawing it.

Mr McGlone:

Sorry, I was called out when you were going through all of this. Could somebody review it for me?

The Chairperson:

There was a suggested amendment from the Committee about the quality of the recycling. We have discussed the issue, and I feel that it is not appropriate to table the amendment. We have 23 councils using co-mingling and three councils using source separation, which was the basis of the suggestion. The councils are reaching targets. We have received three letters from three different groups, and it is not appropriate that for the Committee to support one viewpoint. The impact of the amendment could be to support one business model over another.

The amendment says “may”, but if it is made, its provisions could be enacted fairly quickly. The Committee should not be dealing with that issue; we should be talking about value for money and proper separation. Certainly, quality is a major issue and should be looked at, but it is up to the Department to keep checks on that and ensure that it is carried out properly. The question is whether Committee members support the amendment’s inclusion or its removal.

The amendment is for the insertion of a new clause after clause 6, to be entitled “Quality of waste to be recycled”. The amendment was brought forward by the Committee. However, we

have reviewed the situation and received letters with other information. There is a proposal from Mr Ross, supported by Mr Clarke, to not move the amendment.

Mr Kinahan:

You are being a little one-sided. The amendment was suggested so that if, in the future, things are found to be wrong in the system, we can change it.

The Chairperson:

I totally agree. However, there is a possible impact of that. Some members sit on councils and know that councils sign up to contracts. Be under no illusion that the whole issue came from a visit and a discussion about the co-mingling system and the source separation. The amendment came from the whole issue of equality. You have to look at the impact that the amendment would have on councils. I am not saying whether it would or would not have an impact.

Mr T Clarke:

Patsy is clever enough to make up his own mind, but, given that he has not heard the whole debate, perhaps Ann Tohill should explain how we could be interfering with the markets. She has a very good grasp of the arguments, so perhaps she could go over them again.

Mr McGlone:

Thank you very much for your kind comments, Trevor. The amendment states:

“The Department may by regulations provide that in carrying out their duties under Article 20, district councils must meet such requirements as may be prescribed, in relation to the nature and quality of waste which is to be recycled.”

What is the current process for determining the quality of waste? How are the requirements on the quality of waste to be recycled enforced at the moment? In other words, what does the amendment add to or subtract from what is already there?

Mr McMahan:

There are two forms of regulation. First, as we said, the marketplace is regulating. Factors are in play to encourage MRF operators here and across the water to improve the quality of recyclates that they produce, and there is evidence that some local operators are investing to do that. The second level of checking, which Ann Tohill mentioned, applies to the Transfrontier Shipment of Waste Regulations 2007. Any recyclates shipped out of Northern Ireland have to be checked by the Environment Agency. In addition, Ann may wish to say something about MRF standards and

quality protocols.

Mr McGlone:

I was not talking about spot checks as a means of enforcement; I was asking what regulations are in place. In other words, the Bill proposes regulations for x, y and z, but what exists at the moment?

Mr McMahon:

We do not have any regulations that tell councils how to collect waste, which is what I understand the amendment would do. We have no powers over that; as I understand it, the amendment would move us into that territory.

Mr Beggs:

That needs to be clarified.

The Chairperson:

That is fine. I know that Mr McGlone was out of the room at the time, but we are rehashing arguments. This is a Committee amendment, and the proposal is to either support or remove it, so I will put it to a vote.

Mr McGlone:

I have to say that I could not vote on it, because I am not satisfied about the types of controls that exist now.

Mr Beggs:

The market —

Mr McGlone:

We know where the market goes, which is why we are in the banking crisis that we are in.

Ms Tohill:

There are two standards. The MRF operator has a standard and when council waste arrives at its

gates, it is checked and if the load is contaminated, it is returned. Furthermore, if waste is not accepted, the MRF operator imposes a hefty fine on the council. When waste goes through the MRF operator, the operator tests the waste and rejects any contaminated waste. The reprocessor specifies a standard for the MRF operator. Therefore, as waste passes through the system, there is a series of checks, and if the operator does not meet that standard, it is up to the reprocessor to reject the material and either tender a new contract or look elsewhere.

As we said, we have anecdotal evidence of MRF operators having been closed down because they did not produce material of high enough quality to meet market demand. However, there are buyers in the UK for material produced by our operators, and those buyers are saying that it is of a high quality. Not all material can go to the local reprocessing sector because, in some cases, reprocessors do not accept materials because, as yet, they do not have the technology to turn them into a product. However, elsewhere in the UK, it is taken and turned into quality products. We also have in place and are working on quality protocols and standards for certain waste streams, all of which means that if that waste is treated in a certain way, it is no longer considered as waste because it has been turned into a quality product. Those standards are being worked on by the Department and the Environment Agency.

The Chairperson:

I remind members that, if they wish to do so, they can bring an amendment to the Chamber as a private Member. I shall put the matter to a vote. I, Trevor Clarke, Willie Clarke and Alastair Ross voted against tabling the amendment; Roy Beggs and Danny Kinahan voted for tabling the amendment. Therefore, the Committee will not table the amendment.

New clause disagreed to.