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## 5. Legislation

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Civic amenity sites, now known as household waste and recycling centres (HWRCs), were originally set up under the [Civic Amenities Act 1967](#). This stated in Part III (18) that the duty of a local authority was:

‘to provide places where refuse, other than refuse falling to be disposed in the course of a business, may be deposited at all reasonable times free of charge by persons resident in the area of the authority and, on payment of such charges (if any) as the authority think fit, by other persons.’

Since the 1967 Act there have been numerous legislative changes, such as the Waste Electrical and Electronic Equipment (WEEE) Regulations, to define the responsibilities of local authorities and influence the management and recycling requirements at HWRCs. The overarching legislation is discussed in this section, starting with a focus on the legal definitions of waste, including different types of waste. Health and safety issues and responsibilities are also discussed in detail.

### 1.1 Definition of waste

Understanding and applying the definition of waste, and those of different types of waste, is a vital aspect of managing HWRCs. These definitions can fundamentally affect the operation of sites, including requirements to charge for disposal of certain wastes. The Government plans to publish guidance on the legal definition of waste and its application. In the meantime, Defra’s draft [guidance for consultation on the definition of waste](#) from 2010 may be of use. The [Waste Framework Directive](#) (2008/98/EC) defines waste as:

‘any substance or object which the holder discards or intends or is required to discard.’

Waste managed at HWRCs should be household, industrial or commercial waste. All these wastes are classed as ‘controlled waste’, which is defined in [section 75 of the Environmental Protection Act 1990](#) (EPA 1990) and through the [Controlled Waste \(England and Wales\) Regulations 2012](#). Although generically HWRCs could take in all controlled waste it depends on their permit in England and Wales or Licence in Scotland as to whether they can actually take them in on a site specific basis.

#### 1.1.1 Household waste

‘Household waste’ is defined in the EPA 1990, and comprises:

- all waste collected by waste collection authorities (WCAs) under [section 45\(1\) of the EPA 1990](#);
- all waste arisings from HWRCs established under [section 51\(1\)\(b\) of the EPA 1990](#), as explained in Section 5.2; and
- waste collected by third parties for which collection or disposal re-use or recycling credits are paid under [section 52 of the EPA 1990](#).

It should be noted that the Controlled Waste (England and Wales) Regulations 2012 have also more recently provided a definition of what is considered Household Waste.

#### 1.1.2 Municipal waste

The definition of municipal waste as described in the Landfill Directive includes both household waste and waste from other sources which is similar in nature and composition. This is likely to include a significant amount of waste generated by businesses and not collected by local authorities. Before the directive was implemented in the UK, ‘municipal waste’ referred to waste collected by local authorities. In 2010, following a consultation and negotiations with the EU Commission, national targets were redefined and in future references to ‘municipal waste’ will refer to the new definitions, as set out in the Defra note [‘Local authority collected waste – Definition of Terms’](#):

- **Local authority collected municipal waste (LACMW)** refers to the previous 'municipal' element of the waste collected by local authorities. It includes household waste and business waste, as well as other waste which is similar in nature and composition, as required by the Landfill Directive.
- **Local authority collected waste (LACW)** refers to all waste collected by the local authority. This is a slightly broader concept than LACMW, as it would include both municipal waste and non-municipal fractions, including construction and demolition waste.

### 1.1.3 DIY, construction and demolition waste

Construction and demolition waste from households is not defined as household waste for the purposes of [section 51 of the EPA 1990](#), which sets out the duty for waste disposal authorities (WDAs) to provide HWRCs to residents to dispose of their household waste.

DIY waste is classed as household waste if it results from work a householder would normally carry out. However interpretation differ on the householder's ability to perform certain home improvement tasks and if a householder employs the services of a trades person to perform domestic tasks consideration must be given the classification of the resultant waste.

Examples of construction and demolition waste from households could include:

- doors and windows;
- fitted kitchens;
- fitted wardrobes;
- inert material such as rubble, concrete, bricks and roof tiles;
- plasterboard;
- soil from landscaping activities; and
- any other building materials.

Local authorities understand that such waste can be generated by householders, and they therefore need to dispose it. Several authorities have limited the quantity that can be disposed of for free within their HWRC network, which minimises abuse from traders while providing a service to householders. An example is provided below.

<b>Example</b>	<p>Leicestershire County Council states on its website that, like many local authorities, it accepts construction and demolition waste from households at HWRCs. To control the input of such wastes, the council restricts the amount that can be delivered to its sites to:</p> <ul style="list-style-type: none"> <li>• six bin liners of construction and demolition waste from each resident's home every six months, brought in a car; and</li> <li>• four items that were fitted to the house, such as doors, windows, radiators or fitted units, every six months.</li> </ul>
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This issue is further discussed in Section 7, along with advice on monitoring restrictions. On sites where commercial waste and household waste are collected together, local authorities will need to measure how much waste originates from each source. This is so that they can be reported on separately, as with other types of waste entering the site.

### 1.1.4 Hazardous waste

In England and Wales certain wastes are classified as hazardous. In Scotland the term Special Waste is used. Waste is considered 'hazardous' when it contains substances or has properties that might make it harmful to human health or the environment. The Environment Agency's interpretation of the definition and classification of hazardous waste can be found in their technical guidance [WM2](#). WM2 is used by the nations to determine whether waste is considered hazardous/special or not for classification and regulatory purposes.

Wastes brought to an HWRC will fall into one of three categories:

- always hazardous, such as lead acid batteries and fluorescent tubes;
- never hazardous, such as edible oil; or
- may be hazardous and needs to be assessed, such as paint.

While some of these wastes are not legally hazardous, they can be difficult to dispose of, causing mess and nuisance if they are disposed of incorrectly, or if spillages or breakages occur. The [National Household Hazardous Waste Forum](#) (NHHWF) therefore defines [household hazardous waste](#) as:

‘any material discarded by a household which is difficult to dispose of or which puts human health or the environment at risk because of its chemical or biological nature.’

While this is not a legal definition, it clearly indicates that HWRC site staff need to manage some wastes with more care and attention than others. Although it is no longer an active forum, the [NHHWF website](#) and [the Haz Guide](#), still host useful and relevant information.

The EU Hazardous Waste Directive (HWD) 1991, as amended, aims to provide a Europe-wide definition of hazardous waste and to ensure its correct management and regulation. The HWD identifies wastes which are hazardous, on the grounds that they possess one or more of 14 hazardous properties. A comprehensive list of all wastes, including hazardous waste, is available in the [European Waste Catalogue](#).

The HWD is implemented in the UK through the following legislation:

- England and Wales: The HWD is implemented through the [Hazardous Waste \(England and Wales\) Regulations 2005](#) and the [Hazardous Waste \(Wales\) Regulations 2005](#). These regulations were amended by the [Hazardous Waste \(England and Wales\) \(Amendment\) Regulations 2009](#) and the [Hazardous Waste \(Wales\) Amendment Regulations 2009](#). They have also been amended by [Schedule 2 of the Waste \(England and Wales\) Regulations 2011](#). Hazardous waste is defined within the [List of Wastes \(England\) Regulations 2005](#) and the [List of Wastes \(Wales\) Regulations 2005](#).
- Scotland: Rather than implement a new set of regulations to take account of the HWD, Scotland amended the Special Waste Regulations so that the [Special Waste Amendment \(Scotland\) Regulations 2004](#) and the [Waste \(Scotland\) Regulations 2011](#) include provisions for enforcing the HWD.
- Northern Ireland: The [Northern Ireland Environment Agency](#) is responsible for enforcing the [Hazardous Waste Regulations \(Northern Ireland\) 2005](#). These were amended by regulations 45 to 63 of the [Waste Regulations \(Northern Ireland\) 2011](#) and the [Environmental Protection \(Disposal of Polychlorinated Biphenyls and other Dangerous Substances\) Regulations \(Northern Ireland\) 2000](#). Again, these contain provisions which implement the HWD.

### 1.1.5 Bulky waste

The legal definition of ‘bulky waste’ in the [Controlled Waste Regulations 1992](#) and [Controlled Waste Regulations \(Northern Ireland\) 2002](#) is:

- any article of waste which exceeds 25 kilograms in weight; and/or
- any article of waste which does not fit, or cannot be fitted into:
  - a) a receptacle for household waste provided in accordance with [section 46 of the Environmental Protection Act 1990](#); or
  - b) where no such receptacle is provided, a cylindrical container 750 millimetres in diameter and 1 metre in length.

The [WRAP Bulky Waste Guidance](#) describes common practice in defining what constitutes bulky waste.

### 1.1.6 Commercial waste

Commercial waste is waste generated from premises used wholly or mainly for the purposes of a trade or business. The [Controlled Waste \(England and Wales\) Regulations 2012](#) list wastes that should be treated as commercial waste. Commercial waste does not include household, agricultural or industrial waste.

If waste is generated within a residential home or garden, but as a result of a business activity (for example garden waste generated by a landscape gardener or building waste as a result of removing a fitted kitchen), it is defined as, and therefore subject to regulation as, commercial waste.

<b>Legislation and policy</b>	<p><b>Schedule 2 wastes</b></p> <p>Schedule 2 of the Controlled Waste Regulations (CWR) lists various types of household waste for which local authorities can make a charge for collection. 'Household waste' in this context includes waste from households and various non-domestic institutions, including schools, hospitals and prisons. There is no legislation that allows local authorities to charge for disposal of waste from Schedule 2 premises. However, how the regulations apply to charities, charity shops and re-use organisations is unclear. As different local authorities have interpreted this differently, definitive advice is needed on how these organisations fit into the current and future legislation.</p> <p>Some local authorities allow charities and charity shops access to their sites, but limit the number of visits per week, month or year. Additional visits are deemed to be commercial activity, and so the organisations would be expected to pay commercial waste charges. There may also be a limit on the size of vehicle that can be used on site by a charity or charity shop, above which they may be charged as a commercial waste producer.</p> <p>In 2010 Defra consulted on amendments to the CWR to include, among other proposals, provision for free disposal for charity shops and re-use organisations that help to reduce household waste by encouraging re-use. The review of the CWR consultation closed on 14 January 2011, and the Government response is expected shortly.</p>
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### 1.1.7 Re-use

In the revised Waste Framework Directive, the definition of 're-use' is split into two categories, as is currently the case in England and Wales. Some re-use is categorised as 'waste prevention', which means that measures have been taken before a substance, material or product is allowed to become waste. The other category includes items that have become waste, and therefore the items are categorised under 'preparing for re-use'. This type of activity can and does occur at HWRCs. 'Preparing for re-use' refers to checking, cleaning, repairing or recovery operations, which enable products or components of products that have become waste to be re-used without any other pre-processing. Any site considering undertaking direct reuse or preparation for reuse should consult with the relevant regulatory to ascertain the regulatory requirement applicable to their sites and activities.

Clothes, bric-a-brac, electrical and electronic equipment and furniture can be repaired or refurbished and then sold on. Re-usable items at HWRCs can be segregated for off-site or on-site sale; further details are included in Section 4.9. HWRCs that are designated collection facilities (DCFs) for WEEE should consider the [BIS Code of Practice for the collection of WEEE from DCFs](#), which states that there should be systems in place to identify WEEE suitable for refurbishment and re-use.

In Scotland, the [Scottish Environmental Protection Agency \(SEPA\)](#) states that:

'SEPA consider waste to remain waste until fully recovered. The fact that the holder of the waste may have a use for the waste or that the waste may have a value does not necessarily mean that it is not being discarded or that it has been fully recovered [...] The fact that an item has been donated does not mean that it is not waste or that it ceases to be waste, as the decision to discard usually precedes the decision to donate.'

SEPA also states that:

'Goods given to charity shops are generally waste. They may be considered to be fully recovered when they are sorted and put on the shelf for re-sale [...] Goods 'donated' to charitable organisations for refurbishment or re-use are generally waste. They may be considered to be fully recovered only when they are refurbished, treated and/or sorted and made available for (re)sale.'

### 1.1.7.1 End of Waste

The revised Waste Framework Directive (rWFD) contains criteria which can be used to determine when certain materials recovered from waste cease to be waste and become products that are outside of waste controls. The rWFD contains generic criteria for end of waste, stating that waste ceases to be waste when it has undergone a recovery operation (including recycling) and:

- the substance or object is commonly used for specific purposes;
- a market or demand exists for such a substance or object;
- the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and
- the use of the substance or object will not lead to overall adverse environmental or human health impacts.

The Environment Agency has worked with WRAP, the Northern Ireland Environment Agency and the Welsh Government on the [Waste Protocol Project](#). The project is looking at the recovery of what is currently defined as waste, and how it can lose the associated stigma and regulatory burden. Examples of wastes that may be received at an HWRC and for which final quality protocols have been published include:

- cooking oil;
- source-segregated biodegradable material for compost;
- flat glass;
- plasterboard; and
- tyres.

Segregation of these types of wastes will therefore be encouraged, as the quality protocol will help to open up markets for their recycling into new products. While many of these waste streams are already segregated at HWRCs, the demand for segregating these and other materials may increase as new markets are found.

### 1.1.8 Summary

The definitions above illustrate that not only the type of waste but also its source defines how it should be classified. Because it can be difficult to interpret the sources of waste, many local authorities take a pragmatic view regarding what is and isn't acceptable at their sites. Table 5.1 provides a non-exhaustive list of examples of the types of materials which must be accepted free of charge at HWRCs, and those for which charges can be levied.

**Table 5.1: Materials which can and cannot be charged for at HWRCs**

Materials which must be accepted free of charge	Materials for which charges can be levied
<p>All household waste delivered by residents in the area to the site, including but not limited to:</p> <ul style="list-style-type: none"> <li>• Small recyclables:               <ul style="list-style-type: none"> <li>○ Cardboard;</li> <li>○ Paper;</li> <li>○ Cans;</li> <li>○ Glass;</li> <li>○ Plastic bottles;</li> <li>○ Drinks cartons/Tetra-pak;</li> <li>○ Textiles and shoes;</li> <li>○ Books;</li> </ul> </li> <li>• Green (garden) waste;</li> <li>• Timber (high and low grade);</li> <li>• Metal;</li> <li>• Large and small domestic appliances;</li> <li>• Hazardous household wastes:               <ul style="list-style-type: none"> <li>○ Chemicals;</li> <li>○ Paint;</li> <li>○ Fridges and freezers;</li> <li>○ Televisions and monitors (CRT);</li> <li>○ Fluorescent tubes;</li> <li>○ Batteries (domestic and vehicle);</li> <li>○ Dense plastics;</li> <li>○ Carpet;</li> <li>○ Mattresses;</li> <li>○ Furniture; and</li> </ul> </li> <li>• Black-bag waste.</li> </ul>	<ul style="list-style-type: none"> <li>• DIY wastes:               <ul style="list-style-type: none"> <li>○ Doors and windows;</li> <li>○ Fitted kitchens;</li> <li>○ Fitted wardrobes;</li> <li>○ Inert material such as rubble and concrete, bricks and roof tiles;</li> <li>○ Plasterboard;</li> <li>○ Soil from landscaping activities;</li> <li>○ Any other building materials;</li> </ul> </li> <li>• Commercial wastes; and</li> <li>• Tyres.</li> </ul>

Note that HWRCs can also charge for household waste for non-residents (see Section 8.2 for discussion of cross-border waste management); and that additional discretionary facilities that are not HWRCs under the EPA 1990 may also be able to charge to receive household waste (see Section 9).

<p><b>Legislation and policy</b></p>	<p><b>Asbestos</b></p> <p>Asbestos should only be accepted at HWRCs that have suitable facilities and the resources to accept it. Guidance is available from the Health and Safety Executive (HSE) on <a href="#">Safe Handling of Asbestos Waste at Civic Amenity Sites</a>. Asbestos may be accepted for free but some authorities do charge or set limits on quantities accepted. Householders may be requested to make arrangements for the disposal of asbestos, and may also be provided with plastic sheeting in which to bag the asbestos before arriving at the site.</p>
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## 1.2 The Environmental Protection Act 1990

HWRCs are provided under the [EPA 1990](#). The relevant part of the act, [section 51](#), states that:

(1) It shall be the duty of each waste disposal authority to arrange—

- a) for the disposal of the controlled waste collected in its area by the waste collection authorities; and
- b) for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of waste so deposited;

(2) The arrangements made by a waste disposal authority under subsection (1) (b) above shall be such as to secure that—

- (a) each place is situated either within the area of the authority or so as to be reasonably accessible to persons resident in its area;
- (b) each place is available for the deposit of waste at all reasonable times (including at least one period on the Saturday or following day of each week except a week in which the Saturday is 25th December or 1st January);
- (c) each place is available for the deposit of waste free of charge by persons resident in the area; but the arrangements may restrict the availability of specified places to specified descriptions of waste.

(3) A waste disposal authority may include in arrangements made under subsection (1) (b) above arrangements for the places provided for its area for the deposit of household waste free of charge by residents in its area to be available for the deposit of household or other controlled waste by other persons on such terms as to payment (if any) as the authority determines.'

<b>Legislation and policy</b>	<p><b>What does the EPA 1990 section 51 mean?</b></p> <p>The waste disposal authority has a duty to provide HWRC facilities. However, there is no mention of the number of facilities needed save the requirement for them to be 'reasonably accessible to persons resident in the area'. Therefore, an authority may decide that one facility satisfies that duty, whereas other authorities may consider that they require more sites (see Section 2.2 which discusses standard levels of HWRC provision). It also means that not all wastes have to be accepted at all sites; for example, asbestos may be excluded at a particular HWRC.</p> <p>Local authorities are obliged to provide HWRCs for residents to dispose of their household waste free of charge. The sites must be reasonably accessible and available at all reasonable times. Other wastes can be also accepted (household waste from non-residents or non-householders, or non-household waste) and charges may be levied for the disposal of these wastes.</p>
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[Section 34 of the EPA 1990](#) and the Waste (England and Wales) Regulations 2011 places a duty to manage and transfer waste in a way that enables its safe recovery or disposal on:

- all producers, carriers and importers of controlled waste;
- anyone who keeps, treats or disposes of controlled waste; or
- anyone who has control of such waste as a broker.

This is known as the 'duty of care', and it is particularly pertinent when local authorities are using third parties to treat or dispose of waste from their HWRCs. Failure to comply with this duty could result in wastes being handled or disposed of by illegal traders or exported illegally. This can obviously lead to environmental concerns, but may also cause reputational damage to the local authority. A local authority could be prosecuted for failing to comply with its duty of care under section 34 if it does not take all such measures in its capacity as are reasonable in the circumstances.

<b>Legislation and policy</b>	<p><b>The repeal of section 1 of the Refuse Disposal Amenity Act 1978</b></p> <p>Until recently, there was a conflict between section 1 of the Refuse Disposal Amenity Act 1978 (RDAA 1978), which placed the duty to provide HWRCs on local authorities in their role as waste collection authorities (WCAs), and section 51 of the EPA 1990, which assigns the duty to waste disposal authorities (WDAs).</p> <p>This was an issue for two-tier authorities in London, where WCAs historically held responsibility for providing HWRCs.</p> <p>Following consultation with English and Welsh local authorities in 2010, Defra repealed section 1 of the RDAA in those parts of the UK with effect from 1 April 2012 (section 1 of the RDAA did not extend to Northern Ireland, and the section 1 RDAA repeal in the EPA does not extend to Scotland).</p> <p>The duty to provide HWRCs is now the sole responsibility of WDAs as per the EPA 1990. Household waste must be accepted by WDA-managed sites in order to comply with the requirements of the EPA. However, WDAs may be able to make arrangements with WCAs so a WCA can still operate the HWRC in a way that allows a WDA to meet its obligations for HWRC provision.</p>
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### 1.3 The Controlled Waste Regulations

The definition of household waste in section 75(5) in the EPA 1990 was further clarified in the [Controlled Waste Regulations 1992](#). [Schedule 1 of the regulations](#) defined such waste according to its source rather than its content. This was problematic for HWRC operators because it was sometimes difficult to establish the source of waste once it has been brought to an HWRC for disposal. For example, traders may try to dispose of wastes arising from commercial activities under the guise of their own household waste.

Section 5.1 of this guide discusses the definition of different types of waste including household, commercial and hazardous waste.

Defra and the Welsh Government have replaced the Controlled Waste Regulations 1992 with the [Controlled Waste \(England and Wales\) Regulations 2012](#). The new regulations came into force in April 2012 and replaced Schedule 1 of the 1992 regulations with an updated schedule defining household waste, still by reference to its origin, but introducing some exceptions. The changes relevant to the management of HWRCs include:

- some waste previously designated as household waste, such as waste from camp sites and halls used for public meetings, being classified as 'commercial waste' for which charges can be made; and
- waste from a 'charity shop selling donated goods originating from domestic property' being classed as household waste, but waste from 'premises occupied by a charity and wholly or mainly used for charitable purposes' being classed as commercial waste, except if the waste is from a place of worship in which case it will be treated as household waste.

#### 1.3.1 Charging householders

The Controlled Waste (England and Wales) Regulations 2012 describe waste which is to be treated as household waste, industrial waste or commercial waste, and specifies (under section 45(3) of the 1990 Environmental Protection Act) the types of household waste for which a collection charge may be made. In addition, it specifies that certain types of household waste are to be treated as commercial waste for the purpose of enabling a charge to be made for the collection of the waste and, in some cases, its disposal under section 45(4) of the 1990 Act.

However, the Regulations also specify that waste from construction or demolition works, including preparatory works should be "treated as household waste for the purposes of section 34(2) and (2A) of the Act only (disapplication of Section 34(1) and duty on the occupier of domestic property to transfer household waste only to an authorised person or for authorised transport purposes)".

A number of local authorities are charging householders to deposit (large) amounts of construction and demolition type waste. It is suggested that local authorities consult their



own legal team regarding the 2012 regulations and their position on charging to accept certain types of waste. Charging to dispose of certain wastes

[Section 93 of the Local Government Act 2003](#) allows local authorities to charge for discretionary services, so long as the authority is authorised but not required by law to provide the service and the person using the service has agreed to its provision. The local authority can recover the costs of providing discretionary services but it cannot make a profit from charging, so the income from charging for the services should not exceed the cost of providing them.

Some authorities have argued that some of their HWRC sites that are provided are in addition to the statutory HWRC network required under section 51 (such as the Community Recycling Centres in Somerset see Case Study 4), and therefore can accordingly charge for the disposal of household waste by residents in their area.

In Scotland, the charging and trading power is contained in the [Local Government in Scotland Act 2003](#).

## 1.4 The Waste Framework Directive

The European Commission's [revised Waste Framework Directive](#) (rWFD) has been partially implemented through the [Waste \(England and Wales\) Regulations 2011](#), which have been in force since 29 March 2011. In addition the European Commission has also issued [guidance on the interpretation and key provisions of Directive 2008/98/EC on waste](#). The rWFD has amended and strengthened the waste hierarchy; indicating that it should be viewed as a priority order. The amended hierarchy is:

- Prevention, including re-use;
- Preparing for re-use;
- Recycling;
- Other recovery, including energy recovery; and
- Disposal.



The hierarchy is subject to a proviso that member states shall take measures to encourage options that deliver the best overall outcome. This may require specific waste streams to depart from the hierarchy where this is justified in terms of overall waste-management priorities. Additionally, there may be factors that influence how the hierarchy is applied to HWRC wastes, particularly where an option is not economically viable or technically feasible. Such decisions will be for each local authority to determine, but if decisions do not follow the priorities of the waste hierarchy, the decision must be justifiable.

<b>Legislation and policy</b>	<p><b>How does the rWFD apply to local authorities?</b></p> <p>Local authorities should ask themselves what they do with their waste now and in particular:</p> <ul style="list-style-type: none"> <li>• could waste at HWRCs be prepared for re-use (for example, by sorting or cleaning)?</li> <li>• could more or different waste streams be recycled? and</li> <li>• is there anything else that could be extracted from the waste, such as energy or products?</li> </ul> <p>Defra has published <a href="#">Guidance on Applying the Waste Hierarchy</a>.. The Scottish Government plans to issue <a href="#">guidance in 2012</a>.</p> <p>From September 2011, a declaration is needed on Waste Transfer Notes and Hazardous Waste Consignment Notes confirming that the duty to apply the waste hierarchy has been applied. Suggested wording is as follows:</p> <p>‘I confirm that I have fulfilled my duty to apply the waste hierarchy as required by regulation 12 of the Waste (England and Wales) Regulations 2011.’</p>
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### 1.4.1 Re-use and the waste hierarchy

The definition of re-use, as discussed in Section 5.1.7, includes waste-prevention activities for reusable items that have not yet entered the waste stream, and preparing items that have entered the waste stream

for re-use. Article 11 of the rWFD discusses re-use and recycling in detail, and includes a target to recycle or prepare for re-use 50% of household waste by 2020.

Article 29 of the rWFD requires EU member states to develop waste-prevention plans by 12 December 2013. The Commission has not proposed specific measures and it is not yet known whether there will be a national waste-prevention plan or whether local authorities will be required to develop their own. However, 'preparing for re-use' will need to be included in waste-prevention plans. The rWFD states that the plans will:

'set out an analysis of the current waste management situation in the geographical entity concerned, as well as the measures to be taken to improve environmentally sound preparing for re-use, recycling, recovery and disposal of waste and an evaluation of how the plan will support the implementation of the objectives and provisions of this Directive.'

The rWFD also mentions measures that can affect the consumption and use of a product as an example of waste-prevention activities. One measure could apply to reusable items segregated at HWRCs:

'The promotion of the re-use and/or repair of appropriate discarded products or of their components, notably through the use of educational, economic, logistic or other measures such as support to or establishment of accredited repair and re-use-centres and networks especially in densely populated regions.'

Local authorities are encouraged to take account of the waste hierarchy when making waste-management decisions. With proposals for the establishment of Waste Prevention Strategies and Plans, and the possibility of 'a revision of the indicators' to include waste prevention, re-use activity and waste prevention will begin to receive more recognition for the value they provide.

<b>Legislation and policy</b>	<b>What does the rWFD mean for local authorities?</b> Local authorities will be required to demonstrate that they are implementing the waste hierarchy in priority order. This means that waste prevention and re-use activities will become more important.
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## 1.5 The Waste Shipment Regulation

The export of waste is regulated predominantly by the [Waste Shipment Regulation](#). This sets out what can and cannot be exported, and for what purpose it can be exported, to countries within and outside Europe. The types of waste and where they are being exported to are the most important factors. Most waste cannot be exported for disposal, regardless of where it is being exported to. Certain waste types can be exported for recovery depending on the country of destination. Waste controls will fall into one of three categories:

- Prohibited (for example, WEEE cannot be exported to African countries);
- Notification (for example, refuse-derived fuel or treated wood waste); or
- Green List (for example, single-stream paper or plastic).

Notification and Green List means that waste export can proceed under the relevant controls. Further advice can be found in the Environment Agency publication [Moving Waste Between Countries: Determining the Controls on Waste Exports](#). Of course, there will also be specific regulations in the countries through which the waste will travel and the country of destination. Definition of waste/ non waste and level of control applied must comply the standards of the highest level or regulatory control.

### 1.5.1 Illegal waste

Waste arising at an HWRC could be illegally exported – for example, residual waste which is described as 'paper' or 'plastic', contaminated recyclates, or WEEE under the guise of 'used goods'. There are obvious environmental and reputational consequences of such illegal exports, as well as potentially large fines. As destination countries tighten controls and there are continued international concerns about the illegal movement of waste, it will be even more important for local authorities to be responsible, fulfil their duty of care and be aware of the requirements of the Regulation.

<b>Example</b>	<b>Illegal export of hazardous WEEE</b> In November 2009 the Environment Agency received information from the Hong Kong Environmental Protection Department regarding a suspected illegal shipment of hazardous
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waste from the UK. The container was inspected and found to contain hazardous WEEE (computer monitors). The container was returned to the UK where the Environment Agency found the contents to be poorly packed with some items visibly damaged.

The WEEE was exported by Sinoway from Cumbria Recycling Limited in Workington to Hong Kong. Cumbria Recycling Ltd collects WEEE from HWRCs in Cumbria, and then performs refurbishment or repair at their site. Any items of WEEE that are beyond repair are sent for reprocessing. Unfortunately on this occasion, Cumbria Recycling Ltd sold the WEEE to Sinoway, which was aware that the goods were hazardous waste.

Cumbria Recycling Ltd paid for the entire contents of the container to be sent for reprocessing at a suitable facility in the UK once it had been returned to Cumbria. It received a formal caution from the Environment Agency for its role in the illegal export. Sinoway was fined £2,000 and ordered to pay £2,700 in costs after pleading guilty to illegally exporting the equipment. For further information on these issues, visit the [Environment Agency website](#).

The example shows how important it is for local authorities to be fully aware of where their waste goes. It is acceptable for some wastes to be exported, but officers need to understand the rules and constraints. They should be aware that HWRCs may be a target source for waste that could be illegally exported and therefore it is important to know the onward destination of waste materials throughout the disposal and recovery chain. When considering the illegal export of waste one must also give due consideration to the role of brokers and agents and not just traditional waste management sites. Officers should request proof during contractor duty-of-care audits to ensure that they are being given reliable information about onward destinations of materials.

Re-use, particularly of electrical items, can be a particular challenge. HWRC operators must have robust contracts in place for all types of waste to ensure that only legitimate treatment facilities are used. Officers should review waste data and conduct a mass balance to ensure that waste has not leaked out of the legal waste system.

## 1.6 Waste Management Licencing and Environmental Permitting

The law relating to waste management licences and environmental permitting varies between the nations of the UK.

### 1.6.1 England and Wales

In England and Wales, the [Environmental Permitting Core Guidance](#), updated in November 2009, describes the requirements for operator competence and the role of management systems. The competence of an operator is considered by the regulator when issuing an environmental permit. Operators are encouraged to demonstrate good practice by implementing an environmental-management system (EMS) such as ISO14001 or the EU's Eco-Management and Audit Scheme (EMAS).

Under the [Environmental Permitting \(England and Wales\) Regulations 2010](#), operators of certain waste activities, including HWRC managers, are required to prove the competence of their staff to operate the facility and to hold an environmental permit. The wider management system of the operator should contain mechanisms for assessing and maintaining staff technical competence.

There are two Defra-approved schemes for demonstrating technical competence within the waste-management industry:

- The [CIWM/WAMITAB](#) scheme is NVQ-based and leads to the award of a Certificate of Technical Competence (COTC) relevant to a particular type of facility. Holders of a COTC are required to take a Continuing Competence assessment every two years in order to keep the certification.
- The [ESA/EU Skills](#) scheme takes into account vocational and academic qualifications as well as internal and external training.

Environmental Permitting is covered by the [Waste \(England and Wales\) Regulations 2011](#), which superseded the [Waste Management Licensing Regulations 1994](#). The Environmental Permitting (England and Wales) Regulations 2010 and section 9 of the Government's core permitting guidance ('core guidance')

set out requirements for the competence of operators holding environmental permits. The Environment Agency has produced [guidance on operator competence](#) under these regulations.

### 1.6.2 Northern Ireland

In Northern Ireland, a waste management licence is required to authorise the deposit, treating, storage or disposal of controlled waste on any land, or by means of mobile plant, under the Waste Management Licensing Amendment Regulations NI 2009. The Northern Ireland Environment Agency is responsible for granting licences, setting conditions on licensing activities and monitoring sites to ensure compliance. It has produced [guidance on waste management licensing](#), as well as [guidance on technical competence](#), which is also a requirement in Northern Ireland.

### 1.6.3 Scotland

The [Waste Management Licensing \(Scotland\) Regulations 2011](#) and the associated [Waste \(Scotland\) Regulations 2011](#) came into force in March 2011. They implement certain provisions of the revised Waste Framework Directive 2008. In addition the Scottish Government are also [consulting on an Integrated Framework for Environmental Regulation](#) which would bring together many sets of regulations, including the Waste Management Licensing Regulations into one flexible, streamlined, risk-based regime.

These regulations consolidate the Waste Management Licensing Regulations 1994 and their amendments into one piece of legislation. [An overview of the 2011 Waste Regulations in Scotland](#) is available from the Environment Agency. The regulations:

- introduce new activities that can be carried out under an exemption rather than needing a waste-management licence;
- remove the need for a COTC to demonstrate that a person is suitably qualified to hold a waste-management licence; and
- introduce the need for all businesses that carry their own waste to be registered as waste carriers.

Sites in Scotland will have a waste-management licence which states that they must have a COTC-holder on site. The change to the legislation will not alter the waste-management licence. Clarity is needed from SEPA regarding the impact of this legislative change. In practice, the requirement to have a COTC-holder is likely to continue to be of benefit to staff in terms of career development, and to employers in terms of safe management of sites, even though it is no longer a legal requirement.

The Waste (Scotland) Regulations 2011 implement the remaining parts of the Waste Framework Directive 2008 that are not covered by the Waste Management Licensing (Scotland) Regulations 2011. The regulations allow:

- the partial suspension, revocation, transfer and surrender of site licences;
- the consolidation of licences to cover one site held by the same person or more than one mobile plant held by the same person; and
- changes to the land covered by the licence, such as where a licence is surrendered for some areas of land only.

## 1.7 The Waste Electrical and Electronic Equipment (WEEE) Regulations

The [WEEE Regulations 2006](#) transpose the EC WEEE Directive 2002 into UK law, and are in force throughout the UK. The WEEE Directive is designed to minimise the environmental impact of WEEE by increasing its collection, re-use, recycling and recovery. It also aims to reduce the amount of WEEE going to landfill. The Directive makes producers responsible for financing the collection, treatment and recovery of WEEE and obliges retailers to take back WEEE from consumers free of charge. This is effectively implementing the principle of 'polluter pays'. The WEEE Directive has been recast and we are expecting revised WEEE Regulations in the near future.

The WEEE Regulations apply to 13 product categories of EEE (electrical and electronic equipment):

1. Large household appliances

2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools
7. Toys, leisure and sports equipment
8. Medical devices
9. Monitoring and control instruments
10. Automatic dispensers
11. Display equipment
12. Cooling appliances containing refrigerants
13. Gas discharge lamps

The WEEE Regulations apply to any business that manufactures, imports, re-brands, distributes, or sells EEE, or that stores, treats, dismantles, recycles, disposes of, uses, repairs or refurbishes WEEE. The Environment Agency website discusses [how the WEEE Regulations affect different businesses](#).

Waste-management companies that intend to undertake treatment, recycling and recovery of WEEE must be authorised by the relevant Environment Agency to do so.

[Guidance notes on the WEEE Regulations](#) can be found on the Department for Business Innovation and Skills (BIS) website and further detail is available in the [WEEE Good Practice Guidance](#) published by WRAP.

<b>Legislation and policy</b>	<b>What the WEEE Regulations mean for local authorities managing HWRCs</b> Although the WEEE Regulations do not place obligations on local authorities to collect and dispose of WEEE, a large proportion of WEEE is likely to end up at HWRCs. Most local authorities have therefore signed up their HWRCs as designated collection facilities (DCFs). As DCFs they will need to comply with the BIS Code of Practice (see below). The WEEE collected from sites registered as DCFs will be removed and recycled free of charge by a producer compliance scheme (PCS) partner.
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### 1.7.1 The BIS Code of Practice

The BIS [Code of Practice for the Collection of Waste Electrical and Electronic Equipment \(WEEE\) from Designated Collection Facilities](#) sets out guidance and principles which should be used by anyone who is running a DCF, as well as PCSs that are removing WEEE items from DCFs. The Code of Practice was updated in July 2010. It should be viewed as the minimum standard that a DCF operator should be achieving in order to comply with legislation. The Code gives details on:

- Collecting WEEE as a separate fraction;
- Giving priority to WEEE re-use;
- Staffing and managing facilities appropriately;
- Scheduling collections;
- Health and safety;
- Contaminations;
- Environmental standards, insurance, and reporting; and
- Resolving disputes.

## 1.8 The Localism Act, England

The Localism Act was given Royal Assent in November 2011. The Act includes new rights and powers for communities because the Government believes that social enterprises and community groups can provide high-quality and good-value services. The Localism Act gives these groups, and other organisations such as parish councils, the right to express an interest in taking over the running of a local-authority service. The local authority must then consider and respond accordingly. However if it chooses to accept the challenge it is required to conduct a procurement exercise. This means the challenging organisation can bid but cannot manage the service automatically. This is intended to make it easier for local groups to drive improvement in local services.

The Localism Act gives people the power to initiate local referendums on issues that are important to them. Local authorities and other public bodies are required to take the outcome of referendums into account and consider what steps, if any, they will take to enact the result. Therefore the Localism Act could, in principle, allow local people and organisations representing them to challenge and bid for the management of HWRCs, or to conduct referendums on HWRC-management issues. This means the Localism Act will need to be considered by those opening or closing HWRCs.

## 1.9 Scotland: The Waste (Scotland) Regulations 2012 and the Zero Waste Plan

Scotland's Zero Waste Plan sets out the Scottish Government's vision for a zero-waste society in which waste is minimised and seen as a resource. It wants most waste to be sorted, ensuring valuable resources are not disposed of in landfill. The plan includes the separate collection of individual waste materials, waste-prevention plans, and the promotion of the waste hierarchy so that only limited amounts of waste are to be treated. The measures set out in the plan that are relevant to waste disposed at HWRCs include:

- the development of a Waste Prevention Programme for all wastes, ensuring that the prevention and re-use of waste is central to all actions and policies;
- landfill bans for specific waste types, reducing greenhouse-gas emissions and capturing the value from these resources;
- separate collections of specific waste types (including food) to avoid contaminating other materials, thus increasing re-use and recycling opportunities and contributing to renewable energy targets;
- new targets that will apply to all waste so that 70% is recycled, and a maximum of 5% is sent to landfill, both by 2025;
- restrictions on the input to all EfW facilities, which in the past only applied to municipal waste, to encourage greater waste prevention, re-use and recycling; and
- encouraging local authorities and the resource-management sector to establish good-practice commitments and work together to create consistent waste-management services, benefitting businesses and the public.

<b>Legislation and policy</b>	<b>What do the Zero Waste Regulations mean?</b> It is likely that these regulations will place some requirements for black bag-waste to be pre-treated before disposal and for increased re-use and recycling to occur at HWRCs.
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## 1.10 The Review of Waste Policy in England

The Government published its [Review of Waste Policy in England](#) in June 2011. It does not, however, contain many references to HWRCs. Paragraph 75 refers to HWRCs in relation to the need to:

‘establish with local authorities and civil society groups whether there are opportunities for re-use collection facilities to be provided at civic amenity sites.’

Paragraph 124 refers to charging for waste, with reference to HWRCs:

‘The Government believes bin charging is counter-productive and would harm the local environment by fuelling flytipping. This includes ensuring that householders have access to civic amenity sites [HWRCs] where they can deposit their waste and recycling free at the point of use. The Government

is committed to this important principle and is opposed to charging for the mainstream collection and disposal of waste from householders.'

Paragraph 157 discusses the acceptance of business waste at HWRCs:

'[...] we want to encourage local authorities to consider whether HWRCs [...] could be adapted to accept business waste and recycling at an affordable cost to the business user. Accepting business waste and recycling at HWRCs may also have a subsidiary benefit to local authorities and household residents; a number of sites are currently under threat of closure due to financial pressures, but the revenues generated from accepting business waste could help provide the funds needed to keep the sites open. Through WRAP, we will provide guidance to authorities on how they can resolve practical issues associated with adapting HWRCs and ensure charging is fair, easy to understand and transparent to business.'

<b>Legislation and policy</b>	<b>What does the Review of Waste Policy in England 2011 mean for HWRC management?</b>  Charging for household waste is clearly discouraged, but the Government acknowledges that revenue from businesses could help to supplement the costs of HWRCs. In reality there will be practical issues regarding the segregation of commercial and household waste and the data that is reported within waste returns, including <a href="#">WasteDataFlow</a> . There are likely to be enforcement issues regarding illegal disposal of commercial waste and WDAs should check that their HWRC permit allows for receipt of commercial waste. They should also check their planning permission because this may impose limitations on tonnages and vehicle numbers. The latter can be an issue due to the additional tonnages and vehicle movements if business waste is accepted.  Charging for waste is discussed in Section 5.3.1 and commercial-waste management in Section 7.
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## 1.11 Health and safety

Responsibility for ensuring the health and safety of operatives lies with both the local authority and any organisation with which they contract. The organisation managing the HWRC must ensure that its operatives are correctly trained and risk assessments have been carried out. The local authority also has a duty of care to ensure that its contractors are competent to carry out the service that they have been contracted to do, and so should see copies of risk assessments, method statements, liability insurance and health and safety policies to ensure that this is the case.

Risks on site can be controlled by:

- selecting and maintaining suitable vehicles and equipment;
- adopting traffic-control measures and a safe site layout;
- developing and maintaining safe operating procedures;
- providing [competence training for employees](#) as outlined on the HSE website; and
- adequate supervision, information and instruction for site users.

HWRCs do present risks to children and animals and therefore it is recommended that there is signage at the site to ask drivers to keep children and animals within the vehicle when visiting the site.

### 1.11.1 Traffic movements

There are risks to site staff, site users and service-vehicle drivers from traffic movement at HWRCs. In July 2011 a worker at an [HWRC in Northern Ireland](#) was trapped and killed in a vehicle accident.

Managing congestion is important, and site operatives should ensure that users are not tempted to park outside the designated areas and walk to disposal areas, rather than waiting. Site layout and parking should aim to minimise pedestrian interaction with traffic. Modern sites generally direct traffic flow one way and include a passing lane. There should be access to the disposal areas for pedestrians without crossing traffic lanes. Where any servicing of containers is required within public areas of the site, risks can be minimised by ensuring that this takes place outside peak hours.

The [Workplace \(Health, Safety and Welfare\) Regulations 1992](#) require traffic on sites such as HWRCs to be safely managed.

The HSE has developed a wide range of guidance regarding transport at HWRCs, including:

- [Operating Civic Amenity Sites Safely \(WASTE 01\)](#)
- [Skip and Container Safety in Waste Management and Recycling \(WASTE 06\)](#)
- [Safe Transport in Waste Management and Recycling Facilities \(WASTE 09\)](#)
- [Safety at 'Bring Sites' in the Waste Management and Recycling Industries \(WASTE 11\)](#)
- [Hand Sorting of Recyclables \('Totting'\) with Vehicle Assistance \(WASTE 18\)](#)
- [Sheeting and Unsheeting](#)
- [Safe Use of Skip Loaders \(INDG378\)](#)

The HSE also has an area dedicated to [workplace transport](#) on its website.

### 1.11.2 Slips, trips, falls and manual handling

The [Manual Handling Operations Regulations 1992](#) state that the need to undertake any manual-handling operation which is likely to involve a risk of injury should be avoided so far as is reasonably practicable. Where manual handling is unavoidable, employers have a duty under the regulations to carry out a suitable risk assessment and take steps to reduce the risk of injury to employees to the lowest level possible. Employees have a duty to make use of any system provided by their employer to abide by these regulations.

Operatives responsible for using lifting equipment to move large and/or heavy items must abide by the [Lifting Operations and Lifting Equipment Regulations 1998](#) which impose requirements on any employer providing lifting equipment for use by an employee at their place of work. The [Provision and Use of Work Equipment Regulations 1998](#) are also relevant.

### 1.11.3 Safe use of machinery

Compactors are the type of machinery most likely to be found at an HWRC, though balers and lifting equipment may also be used. Accidents can occur if the machinery is poorly guarded or not used properly. Only staff who are properly trained to use and maintain machinery should use such equipment. There should be appropriate safety measures for all equipment, including warnings and protective devices. Any guards should be secure, with no access to moving parts when the compactor is being used.

The Provision and Use of Work Equipment Regulations 1998 require that the equipment provided for use at work is suitable for the intended use, safe for use, maintained in a safe condition and (in certain circumstances) inspected to ensure this remains the case. It also states that equipment should only be used by people who have received adequate information, instruction and training. The HSE has produced a [simple guide to the regulations](#).

Other relevant guidance includes the HSE's [Guidance for the Recovered Paper Industry](#), which provides information on safe working with balers and compactors. The principles outlined are relevant elsewhere in the recycling and waste industry.

The [Compaction Equipment: User and Public Safety](#) guidance (Waste 08) is also relevant for those operating sites where balers and compactors are used.

### 1.11.4 Management of hazardous wastes

HWRCs accept numerous different types of hazardous wastes, including gas cylinders, automotive and household batteries, cathode ray tubes and fluorescent tubes. In 2009 the HSE developed guidance on [Storing Hazardous Waste at Household Waste and Recycling Centres](#), focusing on the health and safety implications of handling these hazardous materials.

HWRC operators should have procedures in place for accepting each type of hazardous waste, and if they do not, the waste should not be accepted. Sites must be able to receive, identify, segregate, handle and store wastes safely. Sites should have emergency and security plans and only appropriately trained site operatives should handle the hazardous wastes. Site operators should also be aware of their duty under the [Dangerous Substances and Explosive Atmospheres Regulations 2002](#) to protect people from the risks of fires and explosions.

The public should also be made aware of their responsibility to dispose of wastes safely. The importance of public awareness was highlighted following a gas cylinder explosion in a scrap metal skip at an [HWRC in Warwickshire](#) in March 2011. The council suspects that this item was hidden among other waste.

### 1.11.5 Abuse at work

Abuse, threats and even assaults do occur at some sites, and it is important that the danger of work-related violence is managed. Employers are responsible for identifying and managing the risk of any violence or harassment in the workplace. This means that there should be policies in place detailing the responsibility of individual staff and the employer to:

- raise awareness of potentially dangerous situations;
- identify acceptable standards of behaviour; and
- understand the appropriate action to be taken should an incident occur.

Many sites have clear signage stating that abusive behaviour towards staff will not be tolerated. Staff should be made aware of what constitutes unacceptable behaviour and trained to mitigate risk should an incident occur. Some sites have sent their staff on training courses designed for doormen of licensed premises. Where site staff experience abuse from site users, it is important that formal procedures are in place to take action against the offending party, be that a site ban or prosecution. If site staff feel that they have the support of their managers and local authority in these circumstances, this will help to boost their morale and give them greater confidence in dealing with difficult site users.

However, failure to offer adequate support can be very damaging for staff morale. Indeed, under health and safety law, responsibility for a work environment where risks to health and safety are properly controlled rests with employers. Risks associated with abuse at work must therefore be controlled on site. Workers have a duty to take care for their own health and safety and that of others who may be affected by their actions at work. Workers must co-operate with employers and colleagues to help everyone meet their legal requirements.

Relevant guidance from the HSE is available on [Preventing Workplace Harassment and Violence](#).