

envirowise } THE LEGISLATION, WHAT IS
INCLUDED AND WHAT YOU
NEED TO DO

Overview

- Rationale (objectives and benefits)
- Background (context and origin)
- Consultation
- The Site Waste Management Plan Regulations
 - Definitions
 - Obligations
 - Requirements
 - Additional duties
 - Penalties
 - Enforcement
- Non-statutory guidance
- Summary

Government Objectives (1)

To reduce fly-tipping of C,D&E waste

- 88,000 of Flycapture incidents dealt with by local authorities
- 30% of more serious incidents handled by the EA
- Total cost of clearing fly-tipping exceeds £100m annually



Government Objectives (2)

To minimise waste and improve materials efficiency

- 400 million tonnes materials used in construction in England and Wales each year.
- At least 109 million tonnes of waste produced.
- Government and industry targets for construction waste



Background



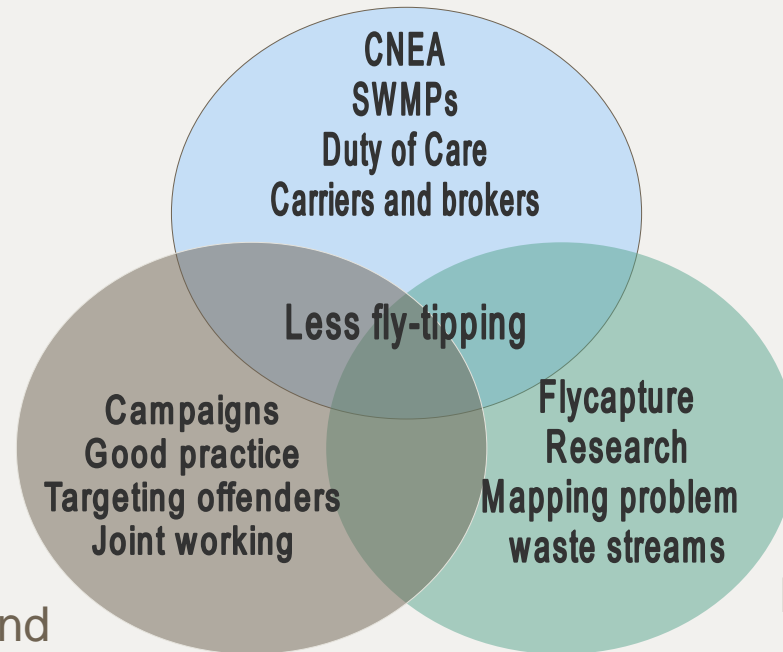
Construction Waste – Strategy & Initiatives

- Defra Waste Strategy 2007
- BERR-led Sustainable Construction Strategy
- CLG Code for Sustainable Homes

Context

Action plan on Illegal Waste Activity

Legislative improvements
to help prevent illegal activity



Better targeted
communication and
enforcement

Improvements to
evidence base

Origin of Regulations

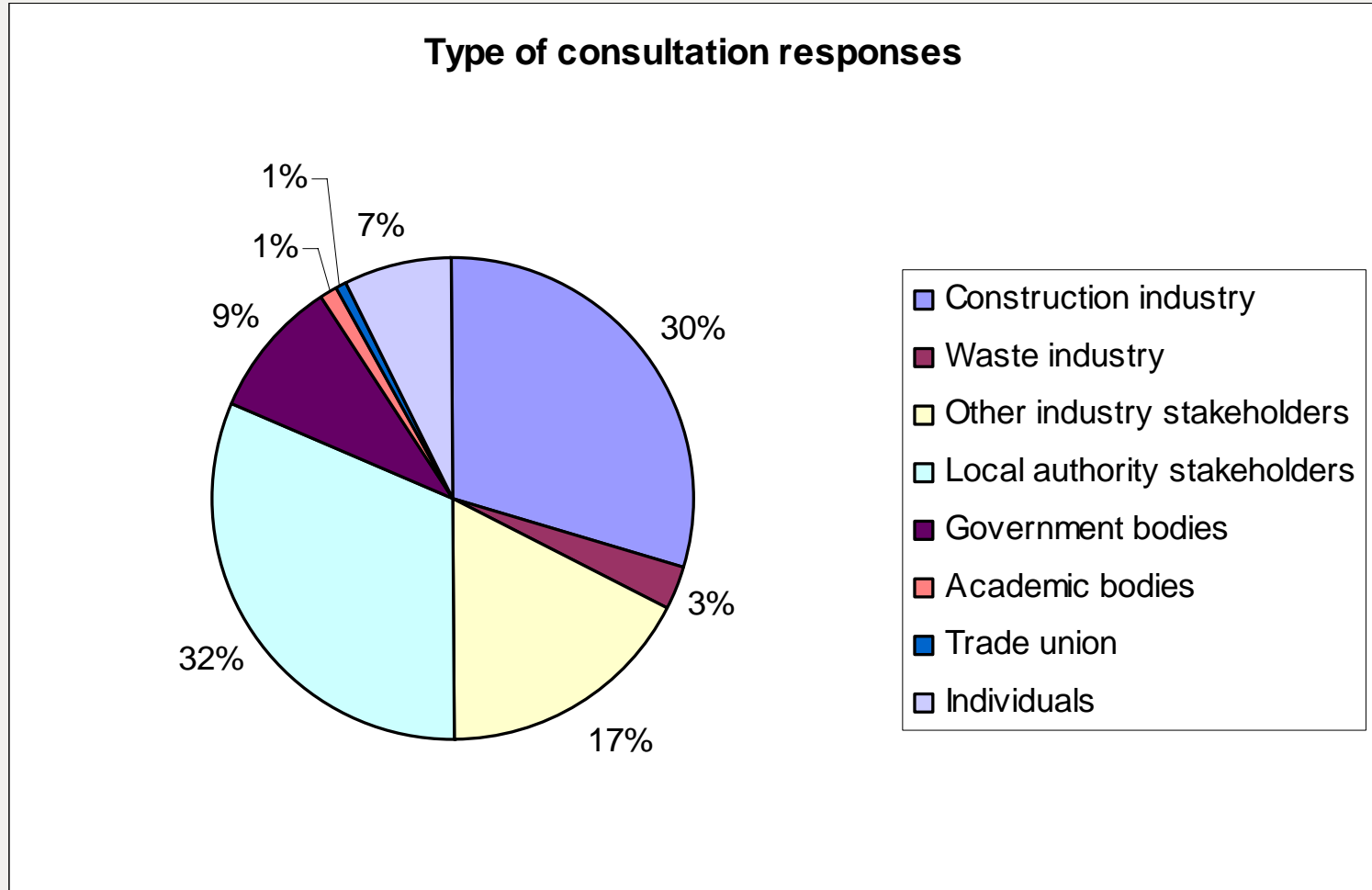
- Cabinet Office Fly-Tipping Prevention Group
- DTI voluntary code of practice 2004
- Powers in Clean Neighbourhoods and Environment Act 2005
 - and other powers to improve enforcement
- Scope broadened to minimise waste at source

Consultation on Mandatory SWMPs



- 14 week consultation launched 2/4/07 to 9/7/07
- Set out detailed proposals and draft regulations
- Workshops held with construction sector representatives and local authorities
- Summary of responses published on Defra website

Consultation: 151 responses



Consultation: main findings

- 75% supported the introduction of SWMPs; 58% of industry responses
- 85% believed SWMPs could improve resource efficiency
- Wide disparity of views for the SWMP threshold and the criteria
- Project value likely to be more practical but could represent a risk of splitting projects
- Excluding smaller businesses could result in those most responsible for flytipping to fall outside of requirements

The SWMP Regulations*

- Required for a construction project on site with an estimated cost greater than **£300,000**
- Cost is the price agreed by the contractor and the client in the tender
- If no tender, the cost **must** include labour, plants, materials, overheads and profit but VAT is **excluded**
- If the cost of the project increases once work has started i.e. above £300,000 there is **no requirement** to produce a SWMP.
- A SWMP **must** be produced before work commences on site

* ***Please note that the SWMP Regulations are yet to be finalised***

Definitions

- Definitions within the Regulations for:
 - Client
 - Construction site
 - Construction work
 - Principal contractor
 - Project
- Covers all aspects of construction work including preparatory works
- Includes civil engineering, maintenance, alteration and services
- These are aligned with the CDM Regulations 2007

Exclusions

- Do **not** apply to construction works taking place at a Part A installation under the Environmental Permitting (England and Wales) Regulations 2007
- These sites must already meet pollution prevention controls that include waste minimisation
- If an Integrated Waste Strategy is in place for a nuclear licensed site which includes waste from construction activities then a separate SWMP is **not** required

Requirements (1)

All projects (before construction waste commences) details of:

Client

Principal Contractor

Person who drafted it

Describe the construction works:

- Location of the site
- Estimated cost of the project

Any decision taken on waste minimisation (i.e. reducing waste quantities) in relation to:

- Project nature
- Design
- Construction method
- Materials employed

Requirements (2)

All projects (before construction waste commences) details of:

- Describe and estimate the quantity of the waste types produced during the course of the project
- Identify the waste management action proposed for each waste type including: re-use, recycling, recovery and disposal
- Declaration that the *client and the principal contractor* will take all reasonable steps to ensure:

*'All waste from site is dealt with under the waste duty of care legislation
Materials will be handled efficiently and waste managed appropriately'*

Requirements for less than £500,000

Implementation:

Whenever any waste is removed from the site the principal contractor must record:

- The identity of the person removing the waste
- The type of waste removed
- The site the waste is being taken to

Review:

Within **3** months of work being completed the principal contractor must add:

- Confirmation that the plan has been monitored on a regular basis to ensure that work was progressing to the plan and has been updated
- An explanation of any deviation from the plan

Requirements for more than £500,000 (1)

Implementation:

When any waste is removed from site the principal contractor must record:

- The identify of the person removing the waste
- Waste carrier registration number
- A copy, or reference to the written description of the waste
- The site the waste is being taken to and whether the site holds a permit or is exempt

Requirements for more than £500,000 (2)

Implementation:

As often as necessary to ensure the plan accurately reflects the progress of the project (*not less than every six months*):

- Review the plan
- Record the types and quantities of waste produced
- Record the types and quantities of waste that have been:
 - Re-used (on or off site)
 - Re-cycled (on or off site)
 - Recovery (on or off site)
 - Landfill
 - Otherwise disposed of

If necessary produce a further plan making changes to reflect the progress

Requirements for more than £500,000 (3)

Review:

Within **3** months of work being completed the principal contractor must add:

- Confirmation that the plan has been monitored on a regular basis to ensure that work was progressing to the plan and has been updated
- Comparison of the estimated quantities of each waste type against the actual quantities
- An explanation of any deviation from the plan
- Estimate of cost savings that have been achieved from the SWMP

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Additional duties (all projects)

Principal Contractor - so far as *reasonable practicable*

- Ensure co-ordination of the work, and co-operation among contractors during the construction phase
- Every worker is provided with (a) suitable site induction and b) further information and training for the SWMP
- Make and maintain arrangements which will enable the principal contractor and the workers to co-operate effectively in promoting and developing measures within the SWMP and checking effectiveness of these measures
- Waste produced is re-used, re-cycled or recovered

Additional duties (all projects)

Principal Contractor and Client

- Must review, revise and refine the plan as necessary, and ensure that any changes in respective roles and responsibilities are clearly communicated to those affected
- Must take reasonable steps to ensure that sufficient site security measures are in place to prevent the illegal disposal of waste

Client

- Must give reasonable directions to any contractor so far as it is necessary to enable the principal contractor to comply

Other requirements (all projects)

Availability of the plan

- The principal contractor must ensure that the plan is kept at the site office, or if there is no site office, at the site
- The principal contractor must ensure that every contractor knows where it is kept, and must make it available to any contractor carrying out work described in the plan

Keeping the plan

- The principal contractor must keep the plan for **2 years** after the completion of the project at their principal place of business or at the site of the project

Requirements: client and contractor

PRINCIPAL CONTRACTOR

UPDATING A PLAN:

PROJECTS BETWEEN £300,000 TO £500,000: (para. 7)

Whenever any waste is removed from the site the principal contractor must record:

- The identify of the person removing the waste
- The type of waste removed
- The site the waste is being taken to

Within 3 months of work being completed the principal contractor must add:

- Confirmation that the plan has been monitored on a regular basis to ensure that work was progressing to the plan and has been updated
- An explanation of any deviation from the plan

It is an offence for the principal contractor (or client, if no principal contractor) if the above is not carried out

PROJECTS OVER £500,000 (para 8.)

When any waste is removed from site the principal contractor must record:

- The identify of the person removing the waste
- Waste carrier registration number
- A copy, or reference to the written description of the waste
- The site the waste is being taken to and whether the site holds a permit or is exempt

As often as necessary to ensure the plan accurately reflects the progress of the project (not less than every six months):

- Review the plan
- Record the types and quantities of waste produced
- Record the types and quantities of waste that have been:
 1. Re-used (on or off site)
 2. Recycled (on or off site)
 3. Recovery (on or off site)
 4. Landfill
 5. Otherwise disposed of

If necessary produce a further plan making changes to reflect the progress

Within 3 months of work being completed the principal contractor must add:

- Confirmation that the plan has been monitored on a regular basis to ensure that work was progressing to the plan and has been updated
- Comparison of the estimated quantities of each waste type against the actual quantities
- An explanation of any deviation from the plan
- Estimate of cost savings that have been achieved from the SWMP
- A copy must be given to the client

It is an offence for the principal contractor (or client, if no principal contractor) if the above is not carried out

AVAILABILITY OF PLAN: ALL PROJECTS (para. 9)

The principal contractor must ensure that the plan is kept at

- a) the site office, or
- b) if there is no site office, at the site.

The principal contractor must ensure that every contractor knows where it is kept, and must make it available to any contractor carrying out work described in the plan.

It is an offence for the principal contractor (or client, if no principal contractor) if the above is not carried out.

KEEPING PLANS: ALL PROJECTS (para 10)*

The principal contractor must keep the plan for 2 years after the completion of the project at their principal place of business or at the site of the project.

It is an offence for the principal contractor (or client, if no principal contractor) if the above is not carried out.

CLIENT

APPOINTMENT OF PRINCIPAL CONTRACTOR (para. 4)

A client who intends to use one or more contractors for any project must appoint a contractor as a principal contractor

If a client does not use a contractor, all obligations placed on the principal contractor must be carried out by the client

PREPARATION OF A SITE WASTE MANAGEMENT PLAN (para. 5)

Any client who intended to carry out a project on once construction site with an estimated cost > £300,000 (excluding VAT), must produce a plan before construction work begins

REQUIREMENTS FOR A SITE WASTE MANAGEMENT PLAN (para. 6)

Identify on the SWMP: (para. 6)

- Client
- Principal Contractor
- Person who drafted it
- Describe the construction works:
 - Location of the site
 - Estimated cost of the project

- Any decision taken on waste minimisation in relation to:
 - Project nature
 - Design
 - Construction method
 - Materials employed

- Describe and estimate the quantity of the waste types produced during the course of the project
- Identify the waste management action proposed for each waste type including:
 - Re-use, recycling, recovery and disposal
- Declaration that the client and the principal contractor will take all reasonable steps to ensure:
 - All waste from site is dealt with under the waste duty of care legislation
 - Materials will be handled efficiently and waste managed appropriately

Please note that starting a project without a SWMP is an offence for the client and the principal contractor

Offences and Penalties

OFFENCE	GUILTY PARTY/PARTIES	PENALTY
Starting a project without a SWMP	Client and principal contractor	<p>A person guilty of any offence is liable:</p> <p>(a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for three months, or to both, or</p> <p>(b) on conviction on indictment, to imprisonment for two years, a fine, or both.</p> <p>Where a body corporate is guilty of an offence, proved to be committed by a qualified person, director, manager, secretary or someone acting in such capacity he is guilty of an offence as well as the body corporate.</p>
Failing to update a SWMP when waste is removed from the site	Principal contractor (or client, if no principal contractor)	
Failing to make a SWMP available on site	Principal contractor (or client, if no principal contractor)	
Failing to give a copy of the finalised plan to the client	Principal contractor	
Failing to keep a SWMP for two years from completion	Principal contractor (or client, if no principal contractor)	
Failing to comply with additional duties	Client and/or principal contractor as specified in the Regulations	
Making a false or misleading statement in a SWMP	Client, person drafting the plan or principal contractor	
Failing to co-operate with, or intentionally obstructing, an enforcing officer	Anyone responding to a request or visit by an officer	
FIXED PENALTY NOTICES		
<p>Available as an alternative to prosecution for failing to produce a SWMP or any other records relating to the plan when requested to do so by an authorised officer. Level of a FPN is £300.</p>		

Enforcement (1)

- Powers for the Environment Agency and Local Authority
- Already have a range of powers related to the illegal disposal of waste
- Accordance with the national flytipping protocol with EA focusing on larger incidents and on hazardous waste incidents
- Up to the enforcing authority to determine who enforces e.g. environmental health, local environmental quality; these will receive training
- Phased approach
- Risk based
- Should coincide within existing site inspection

Enforcement (2)

- Visual check
- Has a SWMP been written and implemented?
- How the plan has been implemented?
- Does the plan present a fair and true description of activities?
- Is there documentary evidence?
- Have the types and quantities of the waste produced been reconciled against the estimates in the plan (higher value projects only)

Non-statutory guidance

- Non-statutory guidance will be available alongside the Regulations available on the Defra website
- Explains the Regulations and the associated requirements
- Includes links to other resources and guidance
- Example template included

Timetable

- Regulations to come into force on the 6th of April 2008
- The Regulations **do not** apply in relation to a project planned before the 6th of April 2008 **and** the construction begins before 1st July 2008
- Publication of Regulations on Defra website:
www.defra.gov.uk/constructionwaste
- Non-statutory guidance: consultation period (February – March) with finalisation for the 6th of April 2008

Summary

- A SWMP must be written before construction commences for projects over £300,000
- It must include a statement related to waste minimisation
- It must identify the type and amount of waste likely to be produced and the intended waste management options for them
- It must be updated to include what is happening to the waste
- There are different requirements for projects under £500,000
- The SWMP will need to be reviewed and kept for 2 years
- There are a range of offences and penalties
- Enforcement will be carried out by the Environment Agency and Local Authorities