

11 ENFORCEMENT AND REGULATION

Since the introduction of the Waste Management Acts 1996-2003 and subsequent Regulations, the task of Regulation and Enforcement has become increasingly important in the Region.

The importance of enforcement was recognised by the Environmental Protection Agency (EPA) with the establishment of the Office of Environmental Enforcement (OEE) whose aims include co-ordination of an enforcement network to tackle illegal waste activities in Ireland.

The OEE has extensive powers under the Protection of the Environment Act, 2003 with severe penalties for those convicted of environmental pollution. The OEE can interact with local authorities and other bodies, such as the Criminal Assets Bureau and the Office of the Director of Corporate Enforcement, in enforcement actions. A number of waste enforcement programmes managed by the OEE are underway which include:

- Review of waste permitting system (facilities and collection). Revised facility permit regulations are expected to be issued by the DEHLG in early 2005
- Review of illegal waste disposal and development of new protocols and training to improve Local Authority response.

The EPA has also set up a number of networking groups looking at:

- Packaging waste enforcement – a new protocol is being implemented
- Transfrontier Shipment of Waste.

With the Protection of the Environment Act, 2003 came a number of enforcement related changes in the law, which brought a number of consequences for Local Authorities, including:

- Increases in fines for offences under the Waste Management Acts
- Strengthening of the powers of 'authorised persons' under the Waste Management

Acts in relation to the stopping, inspection and detention of vehicles

- Powers to impose charges for the provision of any waste service
- Powers to make bye-laws regarding waste management activities, for example, bye-laws covering issues which include requirements on promoters of large events to take litter management and control measures.

Regulation and Enforcement on a local level serves a number of critical functions:

- Ensuring systems set up at national level to regulate the waste industry are fully adhered to in order to ensure waste is handled properly and does not cause pollution
- Ensuring that waste is managed in the manner set out in the Waste Management Plan using local Bye-laws and Permits.

The roles of the local Authorities in Regulation and Enforcement include the following:

- To issue waste bye-laws
- To issue and enforce collection permits under the Waste Management (Collection Permit) Regulations, 2001
- To enforce the Waste Management (Packaging) Regulations, 1997-2003
- To issue and enforce the Waste Management (Permit) Regulations, 1998
- To enforce the Plastic Bag Levy
- To issue and enforce Transfrontier Shipment (TFS) of waste and Consignment Notes (C1 forms), regulations in relation to the movement of waste
- To enforce the Litter Pollution Act, 1997
- To enforce the Farm Plastic Regulations.

Bye-Laws

In order to operate the new collection schemes efficiently, Local Authorities may stipulate how waste is to be presented for collection. This can be achieved through the introduction of Byelaws.

Bye-laws on the presentation and collection of both household and commercial waste have been adopted by Limerick City Council, Limerick County Council, Clare County Council and Kerry County Council. All Local Authorities in the Region are considering including provisions for the storage of waste and for the treatment of waste oils. There has been an increase in the rate of waste segregation in the Region, due in part to the Bye-Laws.

Waste Permits

The introduction of the Waste Management (Permit) Regulations, 1998 means that operators of any waste disposal facility with an annual intake of less than 5,000 tonnes must apply for a permit from the Local Authorities. Local Authorities have to be satisfied that the facility will not cause environmental pollution. In addition, Waste Permits are required for example by car dismantlers, small recycling companies, and those wishing to deposit building waste on their lands. Annual Environmental Reports (AERs) must be produced for each facility. 195 Facility permits have been issued in the Region.

Waste Collection Permits

The Waste Management (Collection Permit) Regulations, 2001 require the collectors to hold a waste permit. There have been 305 waste collection permits issued for the Region. The facilities and equipment of each operator may be inspected, and the Local Authority may lay down conditions of operation. This includes the production of an AER by the collector as to waste quantities collected and waste flows. Limerick County Council acts as the permitting authority for the Limerick/Clare/Kerry Region.

Data Collection and Waste Reporting

Information on waste generation, waste collection, recycling rates and the quantities being disposed of to landfill must be gathered and analysed by each of the Local Authorities on an annual basis and submitted in the form of a questionnaire to the EPA for inclusion in the National Waste Database.

Whilst data is available from Local Authority weighbridges, information must also be collected from waste collection companies, waste recycling companies, and major waste producers such as industries and commercial organisations. The data collection process is vital for waste planning. It requires significant

technical and administrative resources within each Local Authority.

The reporting systems for Collection Permits and Facility Permits are new, and to date the quantity and quality of information being returned is variable. The AERs are often submitted late to Local Authorities and in some instances, only after requests from the Local Authority. To counteract this, a more vigorous approach is needed to be using Section 18 Notices to ensure AERs are returned on time, and by conducting regular audits of facilities (including assessment of weighbridge records, receipts, invoices etc.) to check what the waste flow reported through a facility is accurate.

Enforcement at Local Level

The Department of the Environment (DoE) request information from Local Authorities relating to their waste enforcement activities. In 2004, the Waste Activities Report in the Limerick/Clare/Kerry Region, submitted to the DoE, reported a total of 2,822 logged complaints. Action was taken by the Local Authorities on 2,042 of these complaints. The majority of the problems encountered by the Local Authorities in the Region during 2004 concerned illegal dumping activities, illegal dumping of Construction and Demolition (C&D) Waste and illegal dumping, specifically at Bottle Banks. Under Section 18 of the Waste Management Act 1996, a Local Authority can serve a notice to request information with regard to waste. There it is a legal obligation on the producer, holder, or transporter of waste to maintain these records and submit them to the Local Authority as requested.

Under Section 55 of the Waste Management Act, 1996, Local Authorities can serve a notice requiring certain actions to be taken to prevent the risk of environmental pollution. Failure to comply with either section notices is an offence and can lead to prosecution.

Where practicable, prior to taking formal legal action, Local Authority staff favour the resolution of breaches initially through an advisory and consultation process. This course of action has been employed successfully in the Region. A total of 106 warning letters were issued by the local authorities in the Region in 2004.

A total of 158 Section 18 Notices were issued by the Local Authorities in the Region in 2004,

of which 62 were complied with and 20 were referred for prosecution. In addition, a total of 106 Section 55 Notices were issued by the local authorities in the Region, of which 54 were complied with and a further 16 were referred for prosecution.

Details of other Section Notices issued by the Local Authorities in the Region under the Waste Management Acts 1996 – 2003 are provided in Table 11.1.

Other waste enforcement activity undertaken by the local authorities in the Region included surveillance of waste movement activity in the Region, which took place in the form of 11 checkpoints and a total of 17 inspections. In addition local authorities undertook a wide array of site visits which included 83 Visits to Permitted Sites; 104 to Packaging Producers; 15 to Farm Plastics; 34 illegal sites; 16 C&D sites; 30 Licensed Facilities and 28 Collection Permit Holders.

Table 11.1 Prosecutions taken by Local Authorities in the Region under the Waste Management Acts 1996- 2003*

Section of the Acts	Number of Prosecutions	Case Settled prior to hearing	Successful	Un-successful	Awaiting Court Hearing/Adjourned	Struck out by consent
S14: Failure to comply with directions from an authorised officer	2		2			
S18: Failure to provide information regarding Waste Management activities to the Authorities.	20		1			
S32: Failure of a holder of waste to avoid environmental pollution or transferring control of waste to a person who is not authorised to deal with it.	126	1	39	3	5	1
S34: Failure to operate under or in accordance with a Waste Collection Permit	10		5	1	3	
S36: Illegal activities in relation to the control and movement of waste	1		1			
S39: Failure to hold or comply with a Waste Licence.	5		3		2	
S55: Failure to comply with notices issued by authorities requiring persons to take specified measures to prevent or limit environmental pollution.	19		2	2	12	
S71: Abandoned vehicles	2			2		

*As reported to the DoE in 2004

Under the Litter Pollution Act, 1997 Local Authorities have a wide range of powers to tackle litter effectively and it is a matter for each Authority to investigate individual instances of littering and to take the appropriate enforcement and clean up actions. performance on enforcement of the litter laws continued to improve, with increased numbers of litter wardens employed and substantial increases in the number of prosecutions taken and on-the-spot fines issued annually. In 2004 a total of 1,147 fines were issued under the Act.

Other areas where enforcement action by local authorities took place in the Region during 2004 include the following areas:

- Un-permitted inert waste recovery sites
- Collection of waste without relevant permits
- Non-compliance with permit conditions
- Burning of waste
- Compliance with packaging directive regulations.

11.1 CURRENT ORGANISATION OF REGULATION AND ENFORCEMENT

During January 2005 RPS Consulting Engineers consulted with regulation/enforcement staff in each of the Local Authorities in the Limerick/Clare/Kerry Region.

Great advances made in the last year or two as exemplified by Limerick County Council and Clare County Council in particular, where regulation and enforcement are carried out hand in hand. There is good co-operation in general between technical and administrative staff. Kerry County Council has also developed a similar system within its established enforcement unit.

Staffing and Resources

Figure 11.1 summarise the current staffing/organisation of the waste regulation/enforcement units of the Local Authorities.

The Limerick City Council Enforcement team is led by the Enforcement Team Leader

supported by a Senior Executive Officer, Senior Executive Engineer, Assistant Engineer, 3 Environmental Inspectors, Assistant Scientist and an Educational Awareness Officer. They are supported by 3 Clerical Officers, a Staff Officer and an Administrative Officer.

Limerick County Council has 3 Executive Engineers supported by 1 administrative staff member dealing with the enforcement of Waste Permits & Waste Collection Permits Regulations, Enforcement of Packaging & TFS Regulations, C1's, and general enforcement issues. Three additional engineers have responsibility for dealing with waste management infrastructure projects, e.g. Landfill extension, Civic Amenity Sites, introduction of Bye-Laws and general waste enforcement issues. In addition, there are 3 Environmental Control Wardens (ECW) with responsibility for Litter Control and responding to notification from the public about waste management nuisances within the county. The county is divided into three regions and 1 technical staff member and 1 ECW is assigned to each region.

Clare County Council's waste enforcement team is headed by a Senior Executive Engineer supported by 2 Executive Engineer positions and one Assistant Engineer. There are 3 administrative staff within the Enforcement Unit and 3 Environmental Patrol Wardens employed on a full-time basis with responsibility for Litter Control.

Kerry County Council has 5 Executive Engineers dedicated to enforcement of the Waste and Water Pollution Regulations. In addition, the Enforcement team includes 1 full-time Litter Warden and 5 part-time Litter Wardens.

11.2 ISSUES IDENTIFIED THROUGH MEETINGS, QUESTIONNAIRES AND OBSERVATIONS

Each of the four authorities is at a different stage in development of regulation/enforcement and the staff levels and tasks undertaken varied considerably. The comments below aim to generalise the response.

Staff training and Know-How

The need for training was expressed by all local authorities, with particular emphasis on Expert Witness Training for representation in court for prosecution cases/proceedings. The need was identified for an ongoing training programme in order to maintain staff awareness of legislation changes/updates and continual waste management developments.

Further training in the practicalities of carrying out site audits and audit report writing is required in all Local Authorities.

The availability of the following support services would improve the enforcement of the waste regulations across the Region in general:

- Availability of legal advice from solicitors specialising in Waste Management Law
- Availability of a national database of experts/consultants
- GPS tracking equipment
- Aerial surveys
- Surveillance manpower (Private Investigators).

Co-operation within Local Authorities

The level of co-ordination within Local Authorities was found to be very good in each of the Local Authorities. However, it was felt that there is a general lack of awareness of the Waste Permit Regulations by members of the public and in some cases, the Roads and Planning Divisions of Local Authorities, within the Region.

Regional Co-Operation at Present

A Regional Enforcement Task Group was set up in early 2005 and this group meets bi-monthly to discuss planned and concerted actions for the month ahead. This forum is also used for the sharing and dissemination of all relevant information. This group ensures an effective and consistent approach across the region.

The Regional Waste Co-ordinator shares the outputs of this Group with the National Unauthorised Waste Activities Group (under the Enforcement Network set up by the OEE)

Management of Waste Sections

The goals of the Waste Management Plan, EU and National policies should be clear and communicated to staff at all levels in the Waste Section.

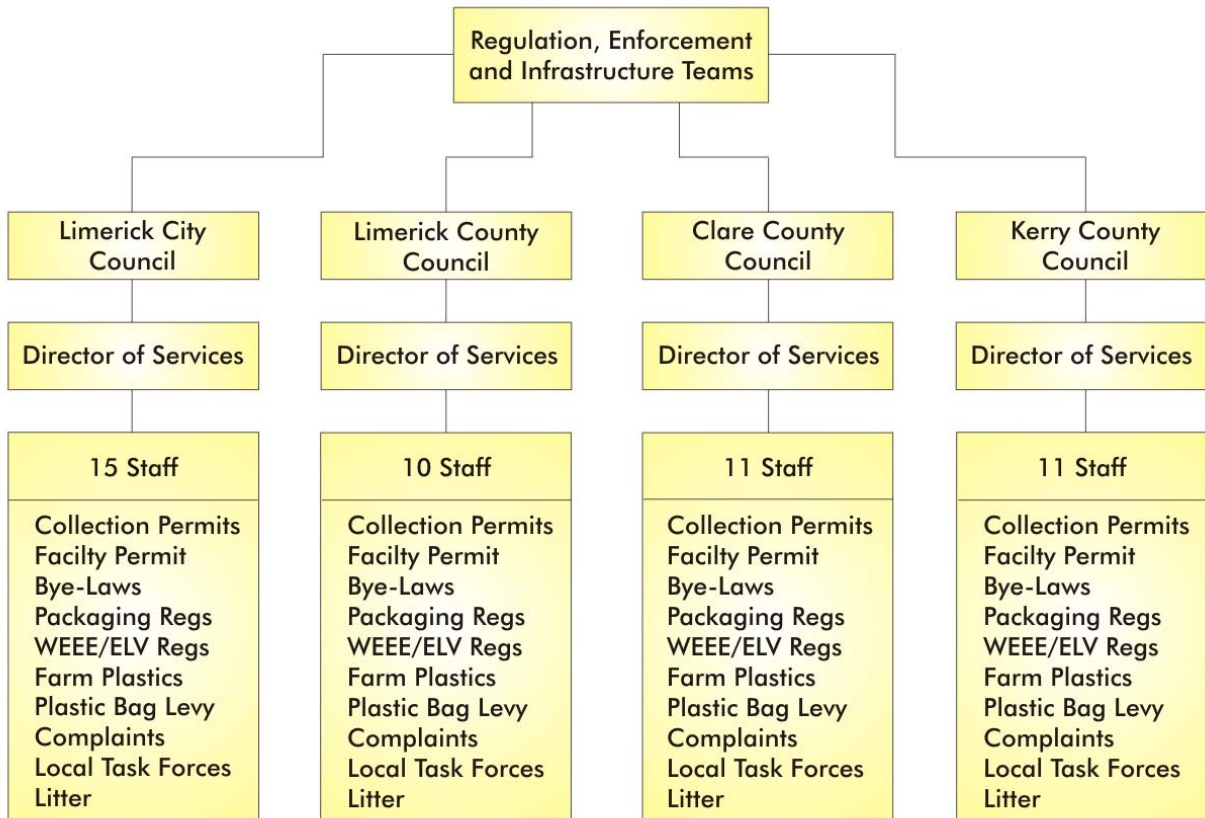
Regulation and enforcement strategies should be developed in order to fulfil the overall goals and strategies in waste management.

The following suggestions were made:

- Regulation and Enforcement should be seen as an equal and integral part of waste services and of delivering the Waste Management Plan

Information sharing within Local authorities and between the four Local Authorities is another important objective.

Figure 11.1 Regulation, Enforcement and Infrastructure Teams



Regulation, Enforcement and Infrastructure Teams