

# Hazardous Waste Plus ça Change



CIWM President, and Chair of the CIWM's Hazardous Waste Special Interest Group (SIG), **David C Wilson**, reflects on the challenges facing UK hazardous waste management in the UK and Ireland – past, present and future.

**M**y first 30 years of involvement with CIWM was dominated by hazardous waste management. So I was very pleased to be invited as President to talk at a recent hazardous waste event organised by CIWM's Northern Ireland Centre.

My overall theme for my Presidential year has been waste management as the forgotten utility service. The collection and safe disposal of municipal solid waste is part of the necessary infrastructure underpinning modern society. But unlike other utilities, such as clean and dirty water, electricity and gas, transport and telephone and broadband internet, we do not pay directly for municipal solid waste management, so it is very much "taken for granted". I would argue that hazardous waste management is similarly a necessary and a forgotten utility service. Many components of our houses, the phones

and computers we use, the cars we drive, even our healthcare; these all result in hazardous wastes whose safe collection and waste management society takes for granted.

I first joined the sector in August 1974, working in what was then called the Hazardous Waste Service (HWS), at the old Atomic Energy Research Establishment at Harwell. The HWS had been set up in 1972, at the time when the first Deposit of Poisonous Wastes Act (DoPWA) was rushed through Parliament, in a record 10 days, in response to a public outcry over the dumping of drums containing cyanide wastes on 24 February in an area near Nuneaton, where children played.

That emergency legislation, alongside similar Acts in a few other EU member states, served as the basis for the first EU directive on toxic and dangerous wastes in 1978, and indeed for the first international policy guideline and code

of practice on Management of Hazardous Waste, published by UNEP and WHO in 1983, following an expert working group meeting for which I was the rapporteur. The coverage of hazardous waste regulations in individual countries is similar, but there was and still is a lot of difference in the detail.

From 1985, I represented CIWM on ISWA's Working Group on Hazardous Waste, and acted as editor for two ISWA international comparative reports published in 1987 and 1999. For example, a particular focus of the original UK controls was on transport, to ensure that waste reached its designated destination. So, the DoPWA included a requirement to notify the regulator in advance of the intention to transport a waste – which was never required in other countries, so for some 25 years the UK actually "gold-plated" the Directive, compared to other EU member states.

In some other aspects, the opposite



was true. The UK government always left facility provision largely to "the market", holding out against both monopoly provision of centralised facilities (as was done in the Netherlands, Flanders, across Scandinavia and in West German states, for example); and what was seen as "prescriptive" direction of specific wastes to a particular type of treatment. The UK was also one of very few countries to allow the co-disposal of selected hazardous wastes in municipal waste landfill sites.

Taken together, these policy differences had a big impact. If facility provision is left largely to the market, there is a fundamental problem when Government decides to "ramp up" standards. It is easy to put revised legislation in place, but the regulator cannot close down the lower standard, existing facilities until the new, more expensive, facilities come on line, because the waste has to go somewhere. But until there is a guarantee that the older, cheaper facility will indeed close down, companies are reluctant to invest – what I dubbed in the early 1990s the "implementation conundrum". For many years, many hazardous waste streams could find a home at a co-disposal landfill somewhere in the UK, so investment in more advanced technologies largely dried up.

By the time co-disposal was eventually banned in December 2003, when the UK implemented the Landfill Directive, a large gap in hazardous waste facility provision had opened-up between the UK and other EU countries. The UK and France were quite similar – in population, industry and hazardous waste generation – but the treatment technologies used were quite different. For example, the UK only sent three percent by weight of its hazardous waste to high-temperature incineration in 2000, compared to 25 percent in France, or around 10 percent in the UK compared to 55 percent in France if co-incineration and evapo-incineration were taken into account.<sup>1</sup>

By 2003, 40 percent of UK hazardous wastes were going to co-disposal landfill, so the fundamental question posed by Defra to the stakeholder Hazardous Waste Forum (HWF), set up to prepare for implementation of the co-disposal ban, was how do we plug that facility gap? I represented CIWM on the Defra HWF; Chaired Northern Ireland's

parallel HWF; and still Chair CIWM's hazardous waste SIG set up at the same time to feed into the Defra Forum.

The key issues considered by the HWFs were capacity issues, and how to create the "regulatory certainty" needed to give the industry and their bankers confidence to invest in the new facilities needed. A particular concern was the "level playing field", the need to avoid either criminal operators, or legitimate operators operating cheaper processes at the margins of the law, undermining investment in "proper" facilities. These issues continued to be at the top of the SIG's agenda over the years that followed.

## The Challenges

TO PREPARE for my presentation in Northern Ireland, I asked the SIG at its last meeting in April to identify the key challenges facing hazardous waste management today. The first two on their list were particularly relevant to my initial audience, namely uncertainty due to Brexit and reliance on export to Europe. Both Northern Ireland and the Republic are relatively small hazardous waste generating countries, and each relies heavily on export, be that to facilities elsewhere on the island of Ireland, on the mainland UK and/or on continental Europe. Equally, mainland UK both exports hazardous waste to, and imports from, continental Europe. The rules of transfrontier shipment into and out of the EU are particularly onerous, with import or export for disposal (which includes some hazardous waste treatments and high temperature incineration without energy recovery) being strictly prohibited.

Another challenge identified by the SIG is frequent regulatory changes – which is a sub-set of our old chestnut "regulatory certainty". The most recent example of this is technical guidance on the classification of wastes. Current UK-wide guidance dates back only to 2015, and the industry were already concerned that revised guidance was due to be published this summer. Then, on 9 April 2018, the European Commission published a new version of their guidelines, including 87 changes, which will likely result in yet another version of the UK guidance issued in 2019. Clearly, it is important that when knowledge and experience move on, the guidance is changed; equally

too frequent changes make business planning and new investment difficult; so a careful balance is needed.

Two more challenges relate to another "old chestnut", the need for a level playing field. One is the lack of a common understanding between all of the stakeholder groups, including waste producers, operators and regulators. The SIG sees an urgent need to raise the levels of competence of all of those working with hazardous wastes, and CIWM is working with Defra and ESA on a competency scheme for hazardous waste.

A related issue is a lack of consistency in the application of regulatory standards across the country. As an example of this, some operator members of the SIG cited a recent England-wide pre-acceptance audit programme directed at hazardous waste operators, where their perception was that regulators in some regions have been taking a less pragmatic approach than in others, potentially resulting in the unnecessary transport of hazardous wastes between regions and putting some operators at a competitive disadvantage. The Environment Agency was present at the SIG meeting and has taken the comments on board.

Whether avoidable or not, all of these continuing uncertainties feed into and reinforce the last of the challenges listed by the SIG, the lack of investment in UK hazardous waste infrastructure and capacity. Which all goes to show that hazardous waste management is yet another example of the truth of a familiar French proverb. *Plus ça change, plus c'est la même chose* – the more things change, the more they stay the same. ■

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## References

1. Presentation by Gev Eduljee to Defra Hazardous Waste Forum, 30 September 2003. Data reproduced in D.C. Wilson and R. Smith, *The hazwaste dilemma – How the UK is coping with the demise of landfill co-disposal*, Waste Management World, Sept-Oct 2005, 64-69.