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FROM THE PRIVATE SECRETARY  
TO THE SECRETARY OF STATE  
FOR WALES

29 January 1991

Dear Phillip,

**SELECT COMMITTEE ON WELSH AFFAIRS: RESPONSE TO REPORT ON  
RECHEM INTERNATIONAL LIMITED, PONTYPOOL**

Following on from my letter of 3 December 1990 your Secretary of State might wish to have this advance copy of the Command Paper being published at 3.30 pm tomorrow.

As you will see, we have taken on board the minor changes you suggested in your letter of 12 December. We have also taken the opportunity of announcing, in paragraph 1.4, the University of East Anglia as contractors for the Rechem study which my Secretary of State announced last August.

/ I am sending a copy of this letter and the Command Paper to Barry Potter at No 10, John Gieve in the Treasury, Sonia Phippard in the Cabinet Office, Andy McKeen at the Department of Health and Martin Stanley at Trade and Industry.

Yas ew,

JCS

JUDITH C SIMPSON

Phillip Ward Esq  
PS/Secretary of State for the Environment  
Department of the Environment  
2 Marsham Street  
LONDON SW1P 3PY



LOCAL GOVT : Waste Separation,

Jan 89





# **Rechem International Limited: Incineration Plant, Pontypool**

The Government's response to the Second Report of the  
Welsh Affairs Committee, Session 1989-90:

Presented to Parliament by the Secretary of State for Wales by Command of Her  
Majesty January 1991



# Welsh Affairs Committee: GOVERNMENT'S RESPONSE

## Foreword

1. The Government welcomes the report of the Welsh Affairs Committee into the Rechem International Ltd incineration plant at Pontypool.
2. The Government is fully aware of local concern about this plant. It is also mindful of the fact that the Rechem plant is licensed by the waste disposal authority, Torfaen Borough Council, which has the duty under the Control of Pollution Act 1974 to ensure that the activities to which the licence relate do not cause danger to public health. In addition, the incineration plant is registered with Her Majesty's Inspectorate of Pollution, who are charged with enforcing on the Company the duty to use the best practicable means for preventing the emission into the atmosphere of noxious or offensive substances. Regular monitoring of the site is undertaken and the Inspectorate are satisfied that the plant is operating to current requirements.
3. It is in the light of these considerations that the Government has given careful thought to the Committee's report and recommendations.



# THE GOVERNMENT'S RESPONSE TO RECOMMENDATIONS AND CONCLUSIONS

## INDEPENDENT MONITORING PROGRAMME OF THE PLANT AND ITS ENVIRONS

### Recommendation

1.1 We recommend that the Welsh Office ask independent experts to undertake a comprehensive monitoring programme of the plant and its environs. A possible programme is outlined in the Appendix to the Report. The independent experts should produce a report showing the results of the monitoring programme in a form which is publicly available and readily comprehensible to the public. The Report should be presented to the Secretary of State who should order a public inquiry if the results show that there is a serious risk to public health or the environment.

### Response

1.2 As a result of Torfaen Borough Council's findings of PCBs in duck eggs from a smallholding near the plant the Secretary of State for Wales instructed his officials to undertake further sampling of other duck eggs, hens eggs, milk, water, vegetation and soil from the locality. Though the results were generally reassuring, in that apart from low levels in a sample of carrots no PCBs above the detection levels were revealed, the Secretary of State has been considering what further steps might be needed.

1.3 The Government notes the Committee's view that the evidence gathered about environmental pollution caused by the Rechem incinerator does not prove that the plant is a serious public health risk but that there are grounds for concern about public health which merit further investigation. The Government notes too that it is mainly this concern and the fears of the local population which have led the Committee to make their recommendation that the Welsh Office ask independent experts to undertake a comprehensive monitoring programme of the plant and its environs.

1.4 The Secretary of State for Wales announced on 3 August 1990 that the Government has decided to accept the Committee's recommendation for a survey. The Secretary of State also announced the appointment of Professor Lewis Roberts CBE, FRS, former Wolfson Professor of Environmental Risk Assessment, University of East Anglia as an independent adviser. His role is to ensure that the survey is scientifically sound from start to finish and to verify its results. As a first step Professor Roberts prepared a specification for the study to be used as the basis of negotiation with a leading University Department in this field. These negotiations have now been completed and the Secretary of State has invited the University of East Anglia to undertake the study.

1.5 The Secretary of State for Wales seeks the full cooperation of both Torfaen Borough Council and Rechem in the survey. This has been achieved by their representation on a technical steering group, chaired by the Welsh Office and including representatives of HMIP and Government Departments as appropriate, to advise on the methodology of the survey and to receive interim results. The European Commission is also represented on the technical steering group.

## LOCATION OF MAJOR INCINERATORS

### Recommendation

1.6 We recommend that major incinerators are not in future located near residential areas.

### Response

1.7 Planning permission would be needed for the construction of any new major incinerator. The Government considers that the town and country planning system enables all planning aspects of a proposed incinerator to be taken into account by the local planning authority. Before arriving at a decision on the planning application, the local planning authority would need to have regard to the provisions of the development plan and to all other material considerations, including the effects which a proposal would be likely to have on the environment and amenity of any nearby dwellings. Moreover, if the proposed development involved a notifiable quantity of a "hazardous substance", the local planning authority would need to consult the Health and Safety Executive before granting planning permission.

1.8 In addition, a local planning authority would also need to consider whether an application for an incinerator required environmental assessment under the terms of the 1988 Assessment of Environmental Effects Regulations. Formal environmental assessment (EA) is essentially a technique for drawing together, systematically, expert quantitative analysis and qualitative assessment of a project's environmental effects, and presenting the results in a way which enables the importance of the predicted effects, and the scope for modifying or mitigating them, to be properly evaluated by the relevant decision-making body before a decision is given. Environmental assessment techniques can help both developers and public authorities with environmental responsibilities to identify likely effects at an early stage, and thus to improve the quality of both project planning and decision-making. Projects listed in Schedule 1 of these Regulations require EA in every case: the Regulations provide that planning permission should not be granted unless the planning authority has first taken the environmental information into account. Schedule I projects include "A waste-disposal installation for the incineration or chemical treatment of special waste".

## DISCHARGES TO SEWERS

### Recommendation

1.9 We recommend that information about companies' discharges to sewer, which are at present only made available to the public with the consent of the discharging company, should be placed on a public register unless the information would prejudice to an unreasonable degree the companies' interests.

### Response

1.10 Under the Environmental Protection Act 1990 discharges into sewers will be treated as a release into water. Information about prescribed processes, such as details of applications, authorisations and monitoring information required by the conditions of an authorisation will be recorded on a public register to be kept by the enforcing authority. That register will cover whatever monitoring information the enforcing authority needs about discharges to air, land and water. Exclusions from such registers will be allowed only if information is regarded by the Secretary of State as affecting national security or if the enforcing authority or (on appeal) the Secretary of State determines, after receiving cogent and specific evidence to substantiate such a claim, that the information is commercially confidential.



## HER MAJESTY'S INSPECTORATE OF POLLUTION

### Recommendation

1.11 Finally it is important that people living near major 'prescribed processes' should have confidence in HMIP. We recommend that HMIP be enabled to increase the pay of its staff to attract and retain sufficient people of the right calibre. HMIP is at present considering the creation of its own laboratory facilities. We recommend that such facilities be established as quickly as possible. We also recommend that in the long term HMIP should undertake its own monitoring of prescribed processes.

### Response

#### Staffing

1.12 The Government has noted the comments of the Committee about staff pay and recruitment. There were 229 staff in post in Her Majesty's Inspectorate of Pollution on 1 October 1990 compared with 148 when HMIP was established in April 1987 and 193 a year ago. The staff complement has recently been increased further to 250 and inspectors' salaries were increased by up to 28 per cent last Autumn. Twelve of the Inspectorate's current vacancies are reserved for successful candidates from the current recruitment competition for professional staff. HMIP is continuing to recruit actively to fill the remaining posts. HMIP has also commissioned a consultancy study of its recruitment policy and practice.

#### Monitoring/Laboratory Facilities

1.13 Under the Environmental Protection Act 1990 processes such as that operated by Rechem, will become subject to integrated pollution control (IPC). One of the standard conditions of IPC authorisations to be issued by HMIP in respect of prescribed processes will require a discharger to carry out self-monitoring of emissions. This will involve the use of appropriate analytical methods with recognised performance characteristics and a quality assurance programme.

1.14 HMIP will audit the results and arrange for samples to be taken for independent analysis.

1.15 Contracts for the analysis for low concentrations of PCBs or other substances requiring the most modern analytical techniques and facilities, will be let as part of this policy to laboratories with appropriate facilities and experience of such difficult analyses.

1.16 The Inspectorate has now considered the desirability of establishing its own laboratory facilities. Given the very wide variety of substances to be controlled and hence samples to be analysed and the relative infrequency of samples arising for some of the more complex substances, there is sound technical and economic merit in placing contracts with independent laboratories where experienced staff are utilising expensive and sophisticated analytical equipment to the optimum.

1.17 It has therefore been decided that the sampling and analysis should be the subject of a programme to be carried out by independent contractors on behalf of the Inspectorate. These matters are kept under constant review.





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FROM THE PRIVATE SECRETARY  
TO THE SECRETARY OF STATE  
FOR WALES

CT/3122/90

3 December 1990

*Dear Phillip*

**SELECT COMMITTEE ON WELSH AFFAIRS: RESPONSE TO REPORT ON  
RECHEM INTERNATIONAL LIMITED, PONTYPOOL**

On 13 June the Welsh Affairs Committee published their report on Rechem International Limited, Incineration Plant, Pontypool. I attach a draft of the response my Secretary of State proposes to publish.

Your officials have been consulted on appropriate parts of the response, in particular, those relating to HMI Inspectorate of Pollution. My Secretary of State would be pleased to know by 7 December whether Mr Heseltine, and other Ministerial colleagues to whom I am copying this letter, are content with the draft following which he will arrange for the response to be published as a Command Paper as soon as possible.

As required in such cases, I am sending a copy of this letter, the Select Committee's Report and the draft response, to Barry Potter at No 10, John Gieve in the Treasury and Sonia Phippard in the Cabinet Office. As the draft response gives the latest position on the Rechem study which my Secretary of State announced in 3 August, copies also go to the Andy McKeen at the Department of Health and Martin Stanley at Trade and Industry.

*Yours sincerely,  
Judith Simpson*

MISS JUDITH SIMPSON

Phillip Ward Esq  
PS/Secretary of State for the Environment  
Department of the Environment  
2 Marsham Street  
LONDON SW1P 3PY

SECOND DRAFT

RECHEM INTERNATIONAL LIMITED:  
INCINERATION PLAN, PONTYPOOL

The Government's response to the Second Report of the Welsh  
Affairs Committee, Session 1989-90:

Presented to Parliament by the Secretary of State for Wales  
by Command of Her Majesty  
1991

LONDON: HMSO

Cm £ net



**WELSH AFFAIRS COMMITTEE:  
GOVERNMENT'S RESPONSE**

**FOREWORD**

1. The Government welcomes the report of the Welsh Affairs Committee into the Rechem International Ltd incineration plant at Pontypool.
2. The Government is fully aware of local concern about this plant. It is also mindful of the fact that the Rechem plant is licensed by the waste disposal authority, Torfaen Borough Council, which has the duty under the Control of Pollution Act 1974 to ensure that the activities to which the licence relate do not cause danger to public health. In addition, the incineration plant is registered with Her Majesty's Inspectorate of Pollution, who are charged with enforcing on the Company the duty to use the best practicable means for preventing the emission into the atmosphere of noxious or offensive substances. Regular monitoring of the site is undertaken and the Inspectorate are satisfied that the plant is operating to current requirements.
3. The Government is therefore of the view that the system of monitoring and control ensures safety, and safeguards against public health risks. However, it has been made clear that if evidence comes to light which suggests that an inquiry or some other form of investigation might be justified, the Secretary of State for Wales would be ready to reconsider the position urgently.
4. It is in the light of these considerations that the Government has given careful thought to the Committee's report and recommendations.



## THE GOVERNMENT'S RESPONSE TO RECOMMENDATIONS AND CONCLUSIONS

### INDEPENDENT MONITORING PROGRAMME OF THE PLANT AND ITS ENVIRONS

#### Recommendation

1.1 We recommend that the Welsh Office ask independent experts to undertake a comprehensive monitoring programme of the plant and its environs. A possible programme is outlined in the Appendix to the Report. The independent experts should produce a report showing the results of the monitoring programme in a form which is publicly available and readily comprehensible to the public. The Report should be presented to the Secretary of State who should order a public inquiry if the results show that there is a serious risk to public health or the environment.

#### Response

1.2 As a result of Torfaen Borough Council's findings of PCBs in duck eggs from a small holding near the plant the Secretary of State for Wales instructed his officials to undertake further sampling of other duck eggs, hens eggs, milk, water, vegetation and soil from the locality. Though the results were generally reassuring, in that apart from low levels in a sample of carrots no PCBs above the detection levels were revealed, the Secretary of State has been considering what further steps might be needed.

1.3 The Government notes the Committee's view that the evidence gathered about environmental pollution caused by the Rechem incinerator does not prove that the plant is a serious public health risk but that there are grounds for concern about public health which merit further investigation. The Government notes too that it is mainly this concern and the fears of the local population which have led the Committee to make their recommendation that the Welsh Office ask independent experts to undertake a comprehensive monitoring programme of the plant and its environs.

1.4 The Secretary of State for Wales announced on 3 August 1990 that the Government has decided to accept the Committee's recommendation for a survey. The Secretary of State also announced the appointment of Professor Lewis Roberts CBE, FRS, former Wolfson Professor of Environmental Risk Assessment, University of East Anglia as an independent adviser. His role is to ensure that the survey is scientifically sound from start to finish and to verify its results. As a first step Professor Roberts prepared a specification for the study to be used as the basis of negotiation with a leading University Department in this field. [Following these negotiations the Secretary of State announced on .... that the University of East Anglia had been appointed to conduct the survey which will last for up to 2 years.]

1.5 The Secretary of State for Wales seeks the full cooperation of both Torfaen Borough Council and Rechem in the survey. This has been achieved by their representation on a technical steering group, chaired by the Welsh Office and including representatives of HMIP and Government Departments as appropriate, to advise on the methodology of the survey and to receive interim results. The European Commission is also represented on the technical steering group.



## LOCATION OF MAJOR INCINERATORS

### Recommendation

1.6 We recommend that major incinerators are not in future located near residential areas.

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1.7 Planning permission would be needed for the construction of a new major incinerator. The Government feels that the town and country planning system enables all planning aspects of a proposed incinerator to be considered by the local planning authority. Before arriving at a decision on the planning application, the local planning authority would need to have regard to the provisions of the development plan and to all other material considerations, including the effects which a proposal would be likely to have on the environment and amenity of any nearby dwellings. Moreover, if the proposed development involved a notifiable quantity of a "hazardous substance", the local planning authority would need to consult the Health and Safety Executive before granting planning permission.

1.8 In addition, the Planning (Hazardous Substances) Act 1990 contains new controls over "hazardous substances". These are designed to ensure that land may be used for a purpose involving the presence of a significant quantity of a hazardous substance only after the safety implications and the wider implications for the community have been considered by the responsible authorities.

1.9 Before these controls can be brought into force, it will be necessary to make Regulations which, amongst other things, will prescribe the substances and quantities which will be subject to control and set out the procedures for obtaining consent. The Government expects to make such Regulations early in 1991.

1.10 In addition, a local planning authority would also need to consider whether an application for an incinerator required environmental assessment under the terms of the 1988 Assessment of Environmental Effects Regulations. Formal environmental assessment (EA) is essentially a technique for drawing together, systematically, expert quantitative analysis and qualitative assessment of a project's environmental effects, and presenting the results in a way which enables the importance of the predicted effects, and the scope for modifying or mitigating them, to be properly evaluated by the relevant decision-making body before a decision is given. Environmental assessment techniques can help both developers and public authorities with environmental responsibilities to identify likely effects at an early stage, and thus to improve the quality of both project planning and decision-making. Projects listed in Schedule 1 of these Regulations require EA in every case: the Regulations provide that planning permission should not be granted unless the planning authority has first taken the environmental information into account. Schedule I projects include "A waste-disposal installation for the incineration or chemical treatment of special waste".

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## **HER MAJESTY'S INSPECTORATE OF POLLUTION**

### **Recommendation**

1.13 Finally it is important that people living near major 'prescribed processes' should have confidence in HMIP. We recommend that HMIP be enabled to increase the pay of its staff to attract and retain sufficient people of the right calibre. HMIP is at present considering the creation of its own laboratory facilities. We recommend that such facilities be established as quickly as possible. We also recommend that in the long term HMIP should undertake its own monitoring of prescribed processes.

## **Response**

### **Staffing**

1.14 The Government has noted the comments of the Committee about staff pay and recruitment. There are currently 228 staff in post in Her Majesty's Inspectorate of Pollution compared with 148 when HMIP was established in April 1987 and 193 a year ago. The staff complement has recently been increased further to 250 and inspectors salaries were increased by up to 28% last Autumn. Twelve of the Inspectorate's current vacancies are reserved for successful candidates from the current recruitment competition for professional staff. HMIP is continuing to recruit actively to fill the remaining posts. HMIP has also commissioned a consultancy study of its recruitment policy and practice.

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1.17 Contracts for the analysis for low concentrations of PCBs or other substances requiring the most modern analytical techniques and facilities, will be let as part of this policy to laboratories with appropriate facilities and experience of such difficult analyses.

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HOUSE OF COMMONS

SESSION 1989-90

WELSH AFFAIRS  
COMMITTEE

Second Report

RECHEM INTERNATIONAL LIMITED:  
INCINERATION PLANT, PONTYPOOL

Report together with the Proceedings of the Committee,  
Minutes of Evidence and Appendices

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*Ordered by the House of Commons to be printed  
6 June 1990*

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HOUSE OF COMMONS

SESSION 1989-90

WELSH AFFAIRS  
COMMITTEE

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## SECOND REPORT FROM

The Welsh Affairs Committee is appointed under SO No. 130 to examine the expenditure, administration and policy of the Welsh Office and associated public bodies, and similar matters within the responsibilities of the Secretary of State for Wales.

The Committee consists of a maximum of 11 Members, of whom the quorum is three. Unless the House otherwise orders, all Members nominated to the Committee continue to be members of the Committee for the remainder of the Parliament.

The Committee has power:

- (a) to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time;
- (b) to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the Committee's order of reference.
- (c) to communicate to any other such committee its evidence and any other documents relating to matters of common interest;  
and
- (d) to meet concurrently with any other such committee for the purposes of deliberating, taking evidence, or considering draft reports.

The membership of the Committee since its appointment on 2 December 1987 is as follows:

Mr Gareth Wardell (Chairman)	
Mr Nicholas Bennett	Sir Anthony Meyer
Dr Kim Howells	Mr Paul Murphy
(appointed 20.3.89)	(discharged 20.3.89)
(discharged 21.5.90)	Mr Keith Raffan
Sir Raymond Gower	Mr John P Smith
(died 22.2.89)	(appointed 21.5.90)
Mr Gwilym Jones	Dr Dyfydd Elis Thomas
Mr Ieuan Wyn Jones	(discharged 17.4.89)
(appointed 17.4.89)	Mr Alan W Williams
Mr Richard Livsey	

Mr Gareth Wardell was elected Chairman on 16 December 1987



THE WELSH AFFAIRS COMMITTEE

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Wednesday 13 December 1989

RECHEM INTERNATIONAL LIMITED

Mr Malcolm Lee, Mr David Wheeler, Mr Allen Woods, Dr Peter Jones and Mr Les Baker

TORFAEN BOROUGH COUNCIL

Councillor B Smith, Councillor A J Davies, Councillor F Bacon, Mr D Thomas and Mr C Tindall



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3.* Torfaen Borough Council: Presentation to the Secretary of State for Wales	
4.* Rechem International Limited (WA3) 'The Torfaen Report' (reply to Appendix 3)	
5. Rechem International Limited (WA115, 88/89)	
6. Rechem International Limited (WA2)	

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\* The appendices to these papers have not been printed but have been reported to the House and placed in the Library of the House of Commons and the Record Office, House of Lords.



LIST OF PAPERS REPORTED TO THE HOUSE  
AND NOT PRINTED

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LIBRARY OF THE OF COMMONS AND THE RECORD OFFICE, HOUSE  
OF LORDS\*

1. Gwent County Council (WA133, 88/89)
2. Health and Safety Executive (WA18)
3. Borough of Torfaen (WA17)
4. Rechem International Limited (WA16)
5. Paul Johnston, Queen Mary and Westfield College, University of London (WA120)
6. Rechem International Limited (WA127)
7. National Rivers Authority (WA156, 88/89)
8. Borough of Torfaen (Appendices to Appendix 3)
9. Rechem International Limited (Appendices to Appendix 4)



## SECOND REPORT

### Rechem International Limited:Incineration Plant, Pontypool

The Welsh Affairs Committee has agreed to the following Report:

- 1 During our inquiry into toxic waste<sup>1</sup> we became aware of the great public concern about the Rechem International Ltd incinerator at Pontypool. We decided to hold a separate inquiry into this subject. Our intention was to investigate why there is such a lack of public confidence in the plant, and to discover what broader lessons might be learnt about such matters as the siting of plants of this kind, and the way in which their operation is regulated. We have visited the company at the incinerator site and the local authority and have taken oral evidence from both. During the inquiry into toxic waste disposal we asked the Parliamentary Under Secretary at the Welsh Office, Mr Ian Grist, MP, Her Majesty's Inspectorate of Pollution (HMIP) and the National Association of Waste Disposal Contractors (NAWDC) about the working and safety of the plant.<sup>2</sup> We would like to thank Dr Chris Sollars our specialist adviser for his assistance during the inquiry.
  
- 2 Planning permission to construct the plant at Pontypool was given in 1972. It began operating in 1974. Since that date there have been improvements in the design. The plant is the only one in the U.K. capable of incinerating large pieces of metal contaminated with PCBs.<sup>3</sup>

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<sup>1</sup>First Report (1989-90) HC34-I

<sup>2</sup>HC34-II (1989-90)

<sup>3</sup>Appendix 5, Appendix 1, Appendix 2



- 3 It is a combined hearth incinerator with a single door loading system whereas most of the large incinerators being built at present in West Germany, Holland and France are of the rotary kiln variety with a double door loading system which provides an air lock arrangement. Rechem told us, however, that the design was intended to enable it to take large pieces of material; it would adopt a similar design if it were constructing a new plant today.<sup>4</sup>
- 4 There have been a considerable number of complaints about the working of the plant. The complaints can reasonably be placed into two groups;
- (i) those concerning nuisance caused to local inhabitants;
  - (ii) those concerning a public health risk.<sup>5</sup>

The company agrees that local inhabitants were inconvenienced by the plant and in 1987 installed gas cleaning equipment to take out the steam from the plant emission thereby preventing a heavy plume descending into the neighbourhood.<sup>6</sup> Since then there have been fewer complaints but there have been some, for example, of unpleasant smells. The company took the view that these smells were unavoidable and in any case were a by-product of many other industries' activities.<sup>7</sup> The original licence included a clause which prohibited the plant from causing a public nuisance. However, when the local authority attempted to

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<sup>4</sup> Q40

<sup>5</sup> Appendix 1

<sup>6</sup> Q72

<sup>7</sup> Q93



enforce that clause it was declared by a High Court Judge to be ultra vires, although the judge did express sympathy for the local inhabitants.<sup>8</sup> There have also been complaints about specific incidents and there is a general deep concern about the incineration of very large quantities of highly toxic PCB wastes at the plant. Company plans in August 1989 to import a cargo from Canada of PCBs that had been involved in a fire, provoked protest locally and nationally.

- 5 The public's concern centres upon the fear that flue gases from the incinerator may contain dangerously high levels of PCBs, dioxins and furans. These could be a possible health hazard to people living in the neighbourhood of the plant and their deposition could lead to their absorption into the food chain. Because of such anxieties Torfaen Borough Council have submitted samples for independent analysis and have found very high levels of PCBs in duck eggs near the plant and in grass samples, levels of 50-100 times background levels of PCBs.<sup>9</sup> Rechem on the other hand argue that:

- (i) the PCBs etc could have come from another source.<sup>10</sup>
- (ii) some hot spots are found in sampling herbage.<sup>11</sup>
- (iii) some of the samples taken were not available for independent examination when requested,<sup>12</sup> and;

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<sup>8</sup>Appendix 2

<sup>9</sup>Appendix 2, Appendix 1

<sup>10</sup>Appendix 4

<sup>11</sup> idem

<sup>12</sup> idem



(iv) the results were at variance with their own investigations which showed PCB levels near the plant at similar levels to background levels in South Wales.<sup>13</sup>

- 6 Torfaen Borough Council also expressed disquiet at the present site of the plant. The Council stated<sup>14</sup>

"Being located at the bottom of a valley and in close proximity to other important industry and residential areas, the general topography is such that in adverse weather conditions the area suffers from frequent atmospheric inversion conditions. This tends to create a situation where pollutants are held in the confines of the valley and may not disperse properly."

The Council added

"If such plants are to continue they should be located safely away from residential areas and other sensitive industry so that in the event of unforeseen incidents, human error or breakdown, there is no immediate risk whether in the short or long term to local inhabitants, and where there is no interference to the quality of daily life through their normal operation."<sup>15</sup>

- 7 There were several unsuccessful attempts to set up a Liaison Committee between 1976 and 1989. Torfaen Borough Council argued for a public inquiry to see whether the processes at the plant were safe. The public inquiry, it said, should be a form of planning inquiry which would examine whether the incinerator was operating at the right site, whether there was a serious public health risk and also whether there was the right legislative and regulatory framework for controlling the work of the plant. It should also consider the

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<sup>13</sup> idem

<sup>14</sup> Appendix 3

<sup>15</sup> idem



possible relocation of the plant. The Council considered that the evidence of the danger to public health made a compelling case for such an inquiry.<sup>16</sup> Mr Justice Garland in the High Court, when giving judgement against Torfaen in the public nuisance case said:

"one can understand the fears and one can understand people going away feeling that no one has got to grips with it. But that really must be a matter for further research or public inquiry".<sup>17</sup>

Rechem stated that it did not:

"disagree with the judge provided that research and inquiry were conducted by the responsible body and performed in an objective and scientific manner".

However it also stated:

"The objective of a Public Inquiry is to either seek out new facts in any matter or to establish a system for the future to ensure that relevant information is available. A Public Inquiry is not necessary if the facts or the system already exist, which is the position in this particular case. A Public Inquiry is not necessary if the sole purpose of that Inquiry is to cover up the abdication of responsibility by the body calling for the Inquiry."<sup>18</sup>

In oral evidence to us Mr Woods of Rechem said:

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<sup>16</sup> idem

<sup>17</sup>Appendix 2

<sup>18</sup>Appendix 4



"A Public Inquiry, in my view, is necessary either to establish facts that are not already available or to establish a system to obtain those facts. In this particular instance, the facts are available and the system is available to collect the facts. I believe that, in going for a public inquiry, you are already doing something that is superfluous."<sup>19</sup>

- 8 The company argued strongly for establishing a Liaison Committee such as exists at their Fawley site to which environmental monitoring information could be given. It stated<sup>20</sup>

"It was always the intention, and indeed commitment was given, that the findings of the environmental monitoring work would be made public. It was expected that this would be achieved via two approaches, on the one hand, publication of scientific papers in learned journals, and on the other, by distribution of information to the community via Liaison Committees. Liaison Committees meet regularly at the Fawley plant, and continue to meet at Bonnybridge - notwithstanding the fact that the Company has not operated the plant for well over four years. Information is provided via both those Committees. It is a matter of regret that no Liaison Committee exists in relation to the Pontypool plant, despite the Company's frequent and public appeals that one be established."

The importance of a Liaison Committee was indicated by HMIP. Mr Thayer of HMIP told us<sup>21</sup>

"There is a facility within the Control of Pollution Act for any local authority to require information about what is being emitted from a scheduled process. But it also goes on to say that, before a local authority exercises that request to get information, it has

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<sup>19</sup>Q46

<sup>20</sup>Appendix 5

<sup>21</sup>HC 34-II (1989-90) Q507



to have a mechanism for (a) reporting it in a formal register to the people, if you like, and (b) at the same time, to put an interpretation on it. It also goes on, within the Control of Pollution Act, to say that there should be a liaison committee, or a committee of some standing set up in order to help with that interpretation of the data."

The local authority told us that:<sup>22</sup>

"this company is involved in litigation currently against the following organisations; Express Newspapers, Cardiff Broadcasting Company, Western Mail and Echo, a Mr David Powell who is a member of a local protest group, Greenpeace itself, Madeleine Cobbing an official of Greenpeace, the British Broadcasting Corporation, Channel Four and the Guardian. If I want to go on a Committee like that, I am afraid that I am not a Jeffrey Archer or an Elton John. I want to be protected and to receive an undertaking from the company that anyone joining the Committee will be free from threats or actual prosecution, that they will be able to express open and honest opinions. That is a matter that the company is currently considering. And it does not seem to me, that in the background of those matters, to be unreasonable".

If the Environmental Protection Bill is enacted, information about air emissions should be available on a public register, and accordingly liaison committees should have less importance for conveying information.

- 9 It appears to us that rightly or wrongly many local inhabitants no longer have confidence that the plant is being safely operated.

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<sup>22</sup>Q152



10 This lack of confidence is exacerbated by the fact that there is in the public mind some confusion of responsibility amongst the various bodies responsible for regulating the plant, particularly between the local authority and HMIP.<sup>23</sup>

11 Moreover, Torfaen told us that HMIP itself does not instill public confidence.<sup>24</sup> Rechem stated<sup>25</sup>

"The fact that HM Industrial Air Pollution Inspectorate (now part of HM Inspectorate of Pollution) were satisfied with the standards of the Rechem operation at Pontypool, and publicly said so on several occasions, seemed to do little to calm the concerns of the local population."

Rechem were asked <sup>26</sup>

"Would you acknowledge that the lack of inspectors working for Her Majesty's Inspector of Pollution is one of the reasons why there is something of a lack of confidence in the operation of your factory?"

Mr Lee, the Managing Director, replied:

"Yes. We would welcome as many inspections as possible. As far as we are concerned, the more inspections the better. People would then be more informed and would be more comfortable with the data that we are producing."

HMIP was finding it difficult to fill vacancies<sup>27</sup>. It also had problems in retaining staff.<sup>28</sup> In October 1989 it was 45 staff short of a complement of

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<sup>23</sup>Appendix 2, Appendix 3

<sup>24</sup> idem

<sup>25</sup>Appendix 5

<sup>26</sup>Q86

<sup>27</sup>HC34-II (1989-90) Q465

<sup>28</sup> idem



240<sup>29</sup>. HMIP therefore finds it difficult to respond quickly or effectively when incidents take place. HMIP told us that they visit the plant monthly and sample the flue gases twice a year, carrying out the simpler end of the stack tests. They claim that 99.9999% destruction of PCBs is achieved in "trial burn" conditions. They do not themselves test for PCBs, dioxins or furans in the flue gases but accept the results provided by Rechem.<sup>30</sup> Unlike for example the water companies and the National Rivers Authority, HMIP does not have its own laboratories for analysing samples.<sup>31</sup>

- 12 A further source of public concern is the fact that information about the plant is not readily available. Part of the problem of course is that there is no Liaison Committee through which details about emissions could be made available<sup>32</sup>. Furthermore, Welsh Water plc is forbidden by law to supply details of the company's discharges to sewer.<sup>33</sup>
- 13 Since 1989 the company and the local authority have agreed to a monitoring programme.<sup>34</sup>
- 14 The unpopularity of the site with local people is increased by the fact that much of the waste incinerated is imported into the UK.<sup>35</sup> A former plant manager of Rechem, Mr Tytler, stated that during the 1980s "we became very aggressive

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<sup>29</sup>idem

<sup>30</sup>HC34 II (1989-90) Q502; Appendix 1

<sup>31</sup>HC 34-II (1989-90) Q944. However, we were told by Dr Rae of HMIP "we are looking at the whole question of sampling and laboratory facilities" *ibid.* (Q944)

<sup>32</sup>*ibid* Q507

<sup>33</sup> Water Act 1989

<sup>34</sup> Appendix 4

<sup>35</sup> Appendix 3



on marketing our facilities abroad. When I was with Rechem, we had a sales team which was going around looking, because of the financial problems we were in in those days, specifically for PCBs because it is a high-revenue earner for the contribution of the incinerators. A market was created by the fact that we were out there. We had the competence and the ability to handle this waste and therefore we attracted it".<sup>36</sup> Rechem told the Committee that the market developed because of the growing awareness of the problems of PCBs and because the Pontypool plant was one of very few incinerators that could handle solids contaminated with PCBs.<sup>37</sup> The Company also stated that UK market demand for its facilities fell short of expectation and capacity. In 1989 over one half of the financial turnover of the Pontypool plant derived from the incineration of imported PCBs.<sup>38</sup>

- 15 Rechem was bought out by its management from the industrial conglomerate B.E.T. in 1985 for £1.6 million<sup>39</sup>. Its current market capitalisation was £138.9 million on 4 June 1990.<sup>40</sup>The Rechem plant in Pontypool is one of the largest major toxic waste incinerators in Britain. Rechem also have a plant in Fawley, but that does not handle PCB wastes. It is a highly profitable company. In the 1988/9 financial year, from a turnover of £19.5 million there was an operating profit of £8.75 million (pre tax). Imports accounted for £8.74 million or 44% of total sales. Nearly all of these were destined for the Pontypool plant which has become one of Europe's largest processors of imported PCB wastes. The agreement reached recently in the North Sea conference to ban incineration at

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<sup>36</sup> Q100 (Mr Tytler's evidence was given to the Environment Committee, HC22-II 1988-9)

<sup>37</sup> idem

<sup>38</sup> Appendix 5; QQ 112-118

<sup>39</sup> According to the Financial Times, 19 September 1989

<sup>40</sup> Financial Times, 4 June 1990



sea by 1990 and to destroy all Europe's PCBs by 1998, means that there will be a thriving market in the importation of PCBs during the 1990s.<sup>41</sup>

- 16 The evidence so far gathered about environmental pollution caused by the Rechem incinerator does not prove that the plant is a serious public health risk, although there are grounds for concern about public health which merit further investigation. Because of this, because of the fears of the local population, and because of the apparent lack of public confidence in HMIP and the regulatory procedures which should instill it, **we recommend that the Welsh Office ask independent experts to undertake a comprehensive monitoring programme of the plant and its environs. A possible programme is outlined in the Appendix to the Report. The independent experts should produce a report showing the results of the monitoring programme in a form which is publicly available and readily comprehensible to the public. The Report should be presented to the Secretary of State who should order a public inquiry if the results show that there is a serious risk to public health or the environment.**
- 17 The Environmental Safety Centre, Harwell, has been established since 1971. It has a reputation for excellence and independence, and would be a suitable independent body to devise and carry out an appropriate monitoring programme.<sup>42</sup>
- 18 A number of general lessons can be learnt from what has occurred at Pontypool. **First, we recommend that major incinerators are not in future located near residential areas.**

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<sup>41</sup>However EC Ministers decided on 7 June 1990 that each EC country should aim to be self sufficient in waste disposal facilities.

<sup>42</sup> Its work is outlined in its submission to the Environment Committee on Toxic Waste, Ev p 458 HC22(1988-89)



- 19 Secondly information about discharges from prescribed processes<sup>43</sup> (ie. operations which could pollute the environment) should be made more readily available to the public. If the appropriate provisions of the Environmental Protection Bill are enacted information about air emissions will be made available on public registers provided that such information does not 'prejudice to an unreasonable degree some person's commercial interests'. Discharges to sewer should be treated in the same way. **We recommend that similar information about companies' discharges to sewer, which are at present only made available to the public with the consent of the discharging company, should be placed on a public register unless the information would prejudice to an unreasonable degree the companies' interests.**
- 20 Finally it is important that people living near major 'prescribed processes' should have confidence in HMIP. **We recommend that HMIP be enabled to increase the pay of its staff to attract and retain sufficient people of the right calibre.** HMIP "is at present considering the creation of its own laboratory facilities."<sup>44</sup> **We recommend that such facilities be established as quickly as possible. We also recommend that in the long term HMIP should undertake its own monitoring of prescribed processes.**

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<sup>43</sup> 'Prescribed processes' is a term introduced by the Environmental Protection Bill. Many such processes are at present described as 'registered processes'.

<sup>44</sup>HC34 II (1989-90) Q944



## APPENDIX

Possible monitoring programme suggested by the Committee's Specialist Adviser, Dr Chris Sollars.

A: Media to be sampled:

1. Soil
2. Herbage
3. Ambient Air
4. Stack emissions
5. Human blood/adipose tissue
6. Livestock

### 1. SOIL

Control: 100 samples covering all of Wales based on grid used for HMIP study.

Site Area: ca. 20 sites chosen to take account of prevailing wind pattern and avoidance of extraneous contamination eg. open uncultivated pasture.



## 2. HERBAGE

Control: Grass or similar herbage from background sampling points used for (1). Due consideration to be given to current knowledge concerning species-specific uptake patterns etc.

Site Area: As per soil samples, having regard to comments on herbage sampling above.

## 3. AIR

Control: Weekly (1-day) samples at three rural sites in Wales.

Site Area: Weekly (1-day) samples at locations around plant, where plume from stack might be expected to "ground" in adverse weather conditions, PLUS similar samples from areas where this is unlikely.

4. STACK At least one sample per week on a random basis.

## 5. BLOOD/TISSUE

Control: a) Samples from properly selected control group from industrial area with no obvious source of PCBs in the immediate environment.

b) Samples from control group in rural area.

Site Area: Samples from similar group to (a) within 2km of plant.

Samples from representative group of Rechem employees.



## 6. LIVESTOCK

Control: a) Suitable tissue from animals with well-defined history of grazing on unpolluted pasture in rural areas covered by soil/herbage survey.

b) Suitable and similar tissue from similar near-industrial area in Wales where no obvious PCB sources are known (inc. abandoned landfill sites).

Site Area: Suitable and similar tissue samples from animals grazing near the plant.

All samples to be split for dioxin analysis as required, especially in cases of anomalously high PCB results.



Wednesday 6th June 1990

Members Present:

Mr Gareth Wardell, in the Chair

Mr Nicholas Bennett  
Mr Gwilym Jones  
Mr Ieuan Wyn Jones  
Mr Richard Livsey

Sir Anthony Meyer  
Mr Keith Raffan  
Mr John P Smith  
Mr Alan W Williams

The Committee deliberated.

Draft Report (Rechem International Limited: Incineration Plant, Pontypool), proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 and 2 read and agreed to.

Paragraph 3 read, amended, and agreed to.

Paragraph 4 read and agreed to.

Paragraph 5 read, amended, and agreed to.

Paragraphs 6 to 14 read and agreed to.

Paragraphs 15 and 16 read, amended, and agreed to.

Paragraphs 17 to 20 read and agreed to.

Appendix read and agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No 116 (Select Committees (reports)) be applied to the Report.

Several Memoranda were ordered to be appended to the Minutes of Evidence.

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House. - *The Chairman*.

Several Memoranda were ordered to be reported to the House.

[Adjourned till Tuesday next at Two o'clock.]



dti

the department for Enterprise

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NBPM  
CPS

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Secretary of State for Trade and Industry

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PE5APR

9 July 1990

Dear David

SELECT COMMITTEE ON WELSH AFFAIRS : RESPONSE TO REPORT ON  
TOXIC WASTE DISPOSAL IN WALES

WITH CAS? / WILL REQUEST IF REQUIRED

I have seen your Private Secretary's letter of 3 July seeking agreement to the proposed Government response to the Welsh Affairs Committee's Report on Toxic Waste.

I am broadly content with the proposed response. I particularly welcome the emphasis it gives to the need for regional cooperation.

However, I have one point of concern relating to the last sentence of paragraph 1.34 which refers to industry's responsibility to ensure that provision exists for the disposal of its waste. I accept of course that industry must bear full economic and environmental responsibility for the disposal of its own waste. But the problem - which is rightly addressed in the draft of the Environment White Paper - is that industry does not have a free hand. It is very much at the mercy of local planners. The value of longer term planning for the waste disposal needs in a region is that it will inform local planning decisions. I do not suggest that it necessarily falls to the Welsh Office to develop such plans, but the suggestion that this is wholly a problem for industry will conflict with the thrust of the White Paper which is to encourage local authorities - and local communities - to shoulder their responsibilities in this area. I hope you can agree that the sentence should be deleted.



Recycled Paper





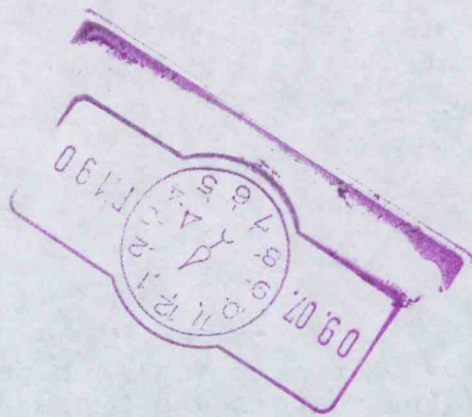
the department for Enterprise

On a more minor point, there have been no formal public consultations on the results of the Coopers and Lybrand Deloitte study on CFCs, as might be implied by paragraph 1.22, although my Department is indeed receiving and considering comments on the study. My officials have therefore provided yours with an alternative form of words.

I am copying this letter to the Prime Minister, John Major, Sir Robin Butler, Kenneth Clarke and Malcolm Rifkind.

*John Summerville*  
*Andrew Green*







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FROM THE PRIVATE SECRETARY  
TO THE SECRETARY OF STATE  
FOR WALES

CT/4267/90

3 July 1990

*Dear Mr Bright,*

**SELECT COMMITTEE ON WELSH AFFAIRS: RESPONSE TO REPORT ON TOXIC WASTE DISPOSAL IN WALES**

*with request of response*

On 28 March the Welsh Affairs Committee published their ... report on toxic waste disposal in Wales. I attach a draft of the response my Secretary of State proposes to publish.

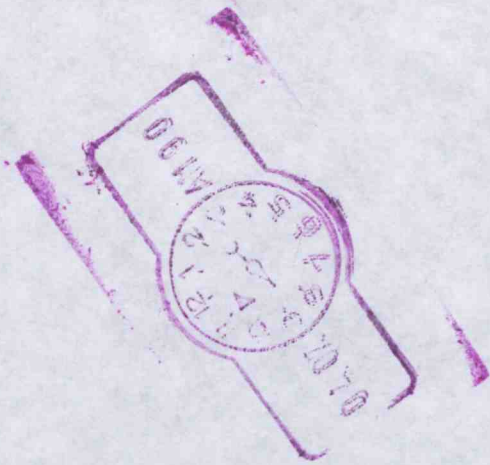
Officials of the Departments of the Environment, Health and Trade and Industry have been consulted on appropriate parts of the response. However, my Secretary of State is concerned to ensure that the response, particularly the Foreword and Paragraphs 1.54 to 1.56 concerning the arrangements for regulating disposal operations, do not include statements that might cause future difficulty in the context of the Environment White Paper and I should be grateful therefore if you would draw this point to Mr Patten's attention. My Secretary of State would be pleased to know by 10 July whether Mr Patten and other Ministerial colleagues are content with the draft following which he will arrange for the response to be published as a Command Paper as soon as possible. . . .

/ I am copying this letter together with the draft response to Barry Potter at No 10, John Gieve (Treasury), Sonia Phippard (Cabinet Office), Andy McKeon (Department of Health), Neil Thornton (Department of Trade and Industry) and Jim Gallagher (Scottish Office)

*AE Coleman*

ANNA E COLEMAN

Roger Bright Esq  
Private Secretary  
Secretary of State for the Environment  
Department of the Environment  
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THE GOVERNMENT'S RESPONSE TO THE FIRST REPORT  
OF THE WELSH AFFAIRS COMMITTEE, SESSION 1989-90:  
TOXIC WASTE DISPOSAL  
IN WALES

Presented to Parliament by the Secretary of State  
for Wales by Command of Her Majesty

July 1990

Cover: HMSO



**WELSH AFFAIRS COMMITTEE: GOVERNMENT'S RESPONSE****FOREWORD**

1. The Government welcomes the report of the Welsh Affairs Committee into toxic waste disposal in Wales, and the support it has given both to the proposals in the Environmental Protection Bill and to the work the Department has undertaken on contaminated land.

2. The Government notes that the majority of recommendations relate to waste management issues in Great Britain as a whole and the views of the Committee are therefore topical in the context of the Government's Environmental Protection Bill.

3. The Government notes with particular interest the Committee's recognition of the improvements made in waste management by the regional waste management groups and its recommendations to give the Groups statutory regulatory powers. These Groups were established with the encouragement and support of the Welsh Office with the specific aim of helping district councils achieve a co-ordinated approach to waste management matters and to improve the consistency of site operation and regulation through a pooling of expertise and, where appropriate, resources.

4. Despite the improvements that have been made, there is no room for complacency; the Government considers that there is considerable scope for the existing regional arrangements in Wales to be developed further particularly in the context of the proposals for operational and regulatory changes included in the Environmental Protection Bill. These changes will:

provide greater control over waste producers through a "Duty of Care";

provide for the registration of carriers, for which primary legislation is now in place in the form of the Control of Pollution (Amendment) Act 1989 requiring secondary legislation to bring the proposals into effect;

give stronger powers to Waste Regulation Authorities by strengthening and extending their existing responsibilities in licensing and enforcement; and

place disposal operations at arm's length from the regulatory function through the creation of Local Authority Waste Disposal Companies.

5. The Government believes that the package overall is a good one and that the present framework for regulating waste disposal facilities is sufficiently flexible to enable authorities in Wales to respond to the challenges that lie ahead. The proposals for legislative change provide district councils in Wales, overseen by the regional groups, the opportunity to demonstrate that they can perform these functions to the high standards we wish to see.

6. However, the Government is mindful of the fact that district councils will have to respond positively to the changing situation by developing the regional group arrangements and by encouraging those authorities which have to date been slow to respond to promptings of the regional groups to improve



their performance. Waste management requires a strategic overview and it is clear that if the function is to remain at district council level, regional co-ordination will require considerable strengthening to provide stronger central direction and a greater degree of expertise and professionalism in disposal licencing and enforcement.

7. Given the importance the Government attaches to effective regional cooperation, it does not have a closed mind on the question of reserve powers to enable the Secretary of State to establish regional groupings based upon voluntary joint committees with delegated powers for licensing and enforcement if such a course is considered to be necessary. However, the Secretary of State's preference is to build upon the existing structure of regional cooperation between Welsh districts and to seek to strengthen those arrangements where appropriate. The Bill requires the Government to keep the waste regulatory function under review. This responsibility will be continuously and actively discharged in Wales by the Welsh Office through discussion with the Council of Welsh Districts and individual authorities, and attendance at meetings of the regional groups, and by Her Majesty's Inspectorate of Pollution who will audit local authority performance, comment on waste regulation authority reports and attend regional waste management group meetings as appropriate.



## THE GOVERNMENT'S RESPONSE TO RECOMMENDATIONS AND CONCLUSIONS

### Contaminated Land

#### Recommendation

1.1 The Environment Committee recommended that the Government bring forward legislation to lay on local authorities a duty to seek out and compile registers of contaminated land. The Committee added: "We find that, insofar as the rule of caveat emptor relates to contaminated land, its effect is to discourage sound environmental practice and environmental responsibility. Its abolition would be a natural corollary to the compilation of local authority registers. We recommend that the Government bring forward legislation to place upon vendors a duty to declare information in their possession about contamination present on site, however caused".

1.2 We agree. We also recommend that the Welsh Office send to each district and county authority in Wales a computer print-out of the data it possesses on contaminated sites in that authority. This should be regularly updated and should be available for public inspection.

#### Response

1.3 The Government has recently announced its intention to take powers in the Environmental Protection Bill to place a duty on local authorities to compile public registers of potentially contaminated land. It is envisaged that the registers will identify sites of potential contamination based on past land use and will provide a means of alerting interested parties to the potential for contamination so that, where necessary, more detailed site surveys can be undertaken. The Government is considering the Environment Committee's recommendation for legislation to place upon vendors a duty to declare information about contamination on the land they possess. The information held in the Welsh Office on contaminated sites has always been made available to local authorities and members of the public on request. The need to update the information regularly, its distribution and future availability are being considered in the context of the Government's proposal to require local authorities to maintain their own registers. The Government will shortly be responding to the Environment Committee's Report on Contaminated land.

### Landfill Gas

#### Recommendation

1.4 We recommend that no new landfill site licences be granted for a site within 250 metres of a dwelling.

#### Response

1.5 It is the planning permission, not the waste disposal site licence which governs the use of land for waste disposal purposes. Welsh Office Circular 38/89 (Landfill Sites: Development Control) gives advice to local authorities about the use of their planning powers in relation to landfill sites which may be generating harmful gases. The Circular says that whereas there can be no hard-and-fast rule about the appropriate distance between new landfill sites and existing development in relation to the possible migration of landfill gas, a proposal for a site as close as 250 metres to other development will require special attention. The Circular goes on to urge that there should be close consultation between those responsible for disposal



licensing and for land use planning, so that full account is taken both of the current and future pattern of development in the vicinity of any site, and of the after-use of the site following its completion as a landfill. In order to determine a planning application for a new landfill site, and to draw up relevant conditions if permission is granted, information will usually be needed on the source, types and quantities of wastes likely to be deposited, and on the intended duration of the operations. Waste Management Paper No 26 provides guidance on what matters should be considered in establishing and operating a landfill site.

1.6 Planning authorities also need to consider whether applications for new landfill sites require an environmental assessment in accordance with the Town and Country Planning (Assessment of Environment Effects) Regulations 1988. Welsh Office Circular 23/88 (Environmental Assessment) advises that landfill sites with a capacity of more than 75,000 tonnes a year may well be candidates for environmental assessment. Sites taking smaller tonnages could require environmental assessment if they are proposed for particularly sensitive or vulnerable locations.

### **Leachates**

#### **Recommendation**

1.7 **We recommend that there be regular monitoring of the groundwater near all waste disposal sites, and the results should be publicly available.**

#### **Response**

1.8 The Water Act 1989 places a duty on the National Rivers Authority to monitor all waters including groundwater. The results of samples taken are placed on a public register which may be inspected free of charge by members of the public. The NRA are currently considering the possibility of establishing a national network for monitoring ground water which would include the possible effects of waste disposal sites.

### **Development and Insurance**

#### **Recommendation**

1.9 **We recommend that the Department of the Environment and the Welsh Office give urgent consideration to the insurance of houses near landfills lest householders be denied insurance cover.**

#### **Response**

1.10 A letter from the Association of British Insurers (ABI) was one of over 100 comments received on the draft Department of the Environment/Welsh Office Circular on development control problems arising from landfill gas. The ABI's interest in landfill operations is understandable but as there have been so few recorded cases of damage to property caused either by landfill gas or landfill operations generally, it would appear that, **in insurance terms**, close proximity of a landfill site to housing should not present an unacceptable risk.

1.11 The Government regrets that the ABI's request for a reply was overlooked, but responses to consultations are not normally used to open correspondence on issues. A reply has now been sent. The question of insurance of houses near landfills is essentially for the Insurance industry and the parties concerned.



## **Unmanned Sites**

### **Recommendation**

1.12 **We recommend that waste disposal authorities ensure that all sites are manned when they are open.**

### **Response**

1.13 The Government agrees with the Committee's view that sites, when open, should be manned and this view is supported by advice issued to waste disposal authorities in Waste Management Papers. Waste Management Paper No 4, "The Licensing of Waste Facilities", published by Her Majesty's Inspectorate of Pollution, states that waste facilities should operate only when manned to the minimum agreed level with appropriately trained and experienced staff with access to a suitably experienced manager. The Waste Management Paper also advises that, in appropriate cases, the waste disposal site licence should specify the number of staff to be on site whilst the facility is operating and Appendix B provides examples of appropriate licensing conditions. Additionally Waste Management Paper No 26 describes the principal considerations that need to be borne in mind when determining manning levels.

### **Footpaths**

#### **Recommendation**

1.14 **We recommend that the Welsh Office remind local authorities that when licensing/giving planning permission for waste disposal sites, footpaths crossing the site should be diverted, not removed.**

#### **Response**

1.15 Welsh Office Circular 1/83 (Department of the Environment 1/83), "Public Rights of Way", contains advice and guidance on, amongst other things, the relationship between public rights of way and development. The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and the circular asks local planning authorities to ensure that the effect on the right of way is taken into account whenever such applications are considered. Moreover, local planning authorities, where minded to grant permission for development affecting a right of way, are encouraged to give consideration at the detailed planning stage to whether a new line for the right of way can be defined which would be generally acceptable to the public.

1.16 The advice and guidance contained in circular 1/83 was supplemented and amplified in a letter, "Public Rights of Way and Development", issued jointly by the Welsh Office and the Department of the Environment in August 1987. It is not considered necessary to remind local planning authorities further of their responsibility adequately to consider the footpaths aspects of development proposals.



## **Fly-Tipping (Para 22)**

### **Recommendation**

**1.17 We recommend that the Welsh Office encourage waste disposal authorities to establish more civic amenity sites.**

### **Response**

1.18 The Government recognises that the provision of civic amenity sites can play a part in dealing with the problem of fly-tipping. As a general rule the Government considers that there should be a civic amenity site within 5 miles of 90% of the population but is of the view that decisions on the number of sites required are best determined locally by district councils who are able to assess the needs of their areas in the light of any problems that may exist. The Environmental Protection Bill includes a duty on district councils in Wales to arrange for the provision of civic amenity sites, replacing the duty on them to provide such facilities themselves under the Refuse Disposal (Amenity) Act 1978. The Welsh Office will be raising the question of future provision of such sites with authorities in the context of their discussions with them on the proposals for the creation of Local Authority Waste Disposal Companies.

1.19 The Government shares the Committee's concerns about fly-tipping which underlies this recommendation and has proposed three measures to deal with the problem. First, anyone convicted of fly-tipping (of other relevant offences) is liable to be struck off the register of carriers which waste regulation authorities will be required to establish when appropriate Regulations are made under the Control of Pollution (Amendment) Act 1989. Any producer of waste who then engages that person to carry his waste will himself become liable to prosecution. This will be a powerful incentive for waste producers to vet very carefully those to whom they consign waste. Secondly, relevant convictions for waste disposal offences will be taken into account when considering operators' licences for goods vehicles. Finally, owners of vehicles used in fly-tipping will be liable to prosecution so as to prevent situations where known fly-tipping organisations can avoid penalties by feigning ignorance of the vehicle's use. These measures will substantially increase the powers available to authorities to track down the culpable parties in fly-tipping and to impose effective penalties.

### **CFCs**

#### **Recommendation**

**1.20 We recommend that further consideration be given to evolving a system (for ensuring that no CFCs are disposed of to landfill) whereby the polluter pays for the disposal of the CFCs. This should be supported by appropriately severe penalties for those who might seek to evade their responsibilities.**

1.21 As the Committee is aware, the Department of Trade and Industry commissioned Coopers and Lybrand Deloitte to carry out a study to:

provide accurate and up-to-date information for the UK on the amount of chlorofluorocarbons (CFCs) and halons used in manufacturing processes and embodied in stocks of products;

determine the most economic and technically efficient means of complying with the Montreal Protocol and other specified regulatory scenarios which limit production and consumption of CFCs and halons;



identify the opportunities for recovery, recycling and destruction of CFCs and halons.

1.22 The study - "CFCs and Halons: Alternatives and the Scope for Recovery for Recycling and Destruction" - was published on 5 June. Comments are being welcomed from industry, local government, and the general public on what further initiatives might be taken by them, as well as by Government. The Government will consider the Committee's recommendation alongside those contained in the report, and suggestions made by others, in due course.

## **Tyres**

### **Recommendation**

1.23 We recommend that the Waste Management Paper guidelines for disposing of tyres become a requisite condition for any site licence. As a matter of urgency we also recommend that the DOE direct the British tyre industry to undertake research into, and apply, recycling programmes for utilising worn tyres. The Government should press for concerted action by the European Community on this matter.

### **Response**

1.24 The Government proposes to enhance the status of Waste Management Papers so that Waste Regulation Authorities will be required by statute to have regard to their recommendations in carrying out their duties of licensing and enforcement.

1.25 The Government recognises the growing economic and environmental problem created by the considerable numbers of tyres being scrapped annually in the UK, and has for some years been encouraging the development of effective solutions. Most recently, the Department of Trade and Industry commissioned in November 1989 a major study by KPMG Peat Marwick McLintock aimed at finding economically efficient, environmentally sound and commercially viable methods for the recycling and disposal of used tyres.

1.26 The report of this study has now been presented to the Department of Trade and Industry, and its recommendations will in the coming weeks be discussed in a working group of representative industry, consumer and environmental bodies, whose advice will be taken into account when Ministers decide what if any action is required by Government. Amongst its recommendations, the report echoes the Committee's calls for changes in current landfill disposal guidelines and for increased R and D activity.

1.27 The European Commission is already considering the mechanics of concerted action to address the problem of scrap tyres, which have been identified as a possible priority waste stream.

## **Landfill Problems**

### **Recommendation**

1.28 We recommend that regulatory authorities review site licences every year in the light of waste management papers and that they revoke licences when there have been serious breaches of the conditions.



## Response

1.29 Part I of the Control of Pollution Act 1974 requires local authorities to supervise licensed waste disposal facilities and places a duty on them to ensure compliance with the conditions in waste disposal licences and to ensure such facilities do not cause pollution of water or danger to public health or become seriously detrimental to the amenities of the locality in which they are situated. These responsibilities, which have been consolidated into the Environmental Protection Bill with amendments to strengthen the existing arrangements, including a requirement to publish annual reports on licensing and enforcement policies and achievements are designed to ensure that licences are kept under continuous review. The Government believes that Her Majesty's Inspectorate of Pollution has a central role to play in ensuring that waste regulation authorities discharge these duties to the high standards expected of them. To this end the Inspectorate will be given explicit powers of access to waste regulation authorities' records and the right of entry on to land to determine whether all provisions of the licences are being complied with, including the statutory duty on authorities to have regard to the recommendations of Waste Management Papers, which will include guidance on the issue, revision and revocation of licences.

1.30 The Government agree with the Committee's view that licences should be revoked when there are serious breaches of the conditions and has included proposals in the Environmental Protection Bill to strengthen existing provisions. These will enable an authority, faced with problems in a licensed activity, to discontinue operations while leaving precautionary conditions in force and will offer the alternative courses of:

- total revocation
- partial revocation
- suspension, in an emergency with immediate effect, while the authority considers what action to take.

1.31 The Government believes these new arrangements will give authorities more flexibility to deal with problems arising in a licensed facility.

## Co-disposal and the Availability of Sites for the disposal of industrial waste

### Recommendation

1.32 We recommend that the Welsh Office draw up a long term plan for the disposal of industrial waste in Wales. Of course such a plan must take into account the possibility that the European Commission may effectively rule out co-disposal as an option.

## Response

1.33 The Welsh Office and Her Majesty's Inspectorate of Pollution are discussing with district councils and industry representatives the potential for suitable sites in Wales to receive a wider range of wastes for the use of industry, particularly those companies in Wales which currently export wastes over long distances to sites in England. The Committee will be aware of the study the Department has commissioned on this subject. The Welsh Office has held recent discussions with the Council of Welsh Districts, and Her Majesty's Inspectorate of Pollution are continuing to take the matter forward at meetings of the Regional Waste Management Groups.



1.34 However, these discussions are considering issues in the short term. The Welsh Office considers that it is inappropriate to consider the question of drawing up future long-term plans for the disposal of industrial waste at least until discussions within Europe have clarified precisely what, if anything, Government needs to plan for. Furthermore it is the responsibility of producers of industrial waste to ensure that adequate provision exists for the disposal of wastes they generate.

1.35 A draft EC Directive on landfill practice is now in preparation and this will establish criteria for landfill which would need to be taken into account in any long term plan for industrial waste. The Committee has referred specifically to uncertainties over the future interpretation of the groundwater directive but have recorded its continuing support for the practice of co-disposal. While the Government wishes to ensure that the groundwater directive is properly implemented, it considers that this should leave suitable scope for co-disposal conducted to high standards. The Government considers that co-disposal is particularly well suited to the geology of certain parts of the United Kingdom and this conclusion is confirmed by the results of national research undertaken by the Department of the Environment.

1.36 But uncertainties over landfill practice and the future of co-disposal are not the only uncertainties at the present time which could affect future strategies. There are discussions, for example, taking place within the Community on many issues which could affect the future of industrial waste disposal within the Community. Perhaps the most significant of these is the consideration being given to the current scope of the proposed EC Council Regulation concerning the control over the movement of waste and the changes required to take account of the creation of the single market coupled with the proposal that wastes should be disposed of at the nearest suitable point to its arising. The Government accepts that there could be a possible need for such plans to be drawn up in the future but considers that the present uncertainties militate against immediate action.

### **Imports**

#### **Recommendations**

1.37 We welcome the Government's proposals that all waste originating in the OECD countries should be disposed of in the country of origin. In the meantime we recommend that the import of waste for direct landfill be banned immediately. We also recommend that, for the time being, in allowing import for treatment, 'treatment' is carefully defined to ensure that cowboy operators do not use the excuse of pre-treatment of waste as a way of circumventing any ban on import direct to landfill. The best way of doing this would be to ensure that only treatments which followed waste management paper guidelines, such as those recently issued in draft form, for consultation, on solidification, should be defined as treatment for import purposes.

1.38 We support the Government's representations to the European Community that the present pre-notification system and consignment note requirements of the Transfrontier Shipment of Hazardous Wastes Regulations should be extended to all wastes.

#### **Response**

1.39 The Government welcomes the Committee's support for the principle that industrial countries should aim to dispose of the waste they generate in their own country and the Committee's endorsement of the Government's efforts to



extend EC controls on transfrontier shipment of hazardous waste to all wastes. The Government is seeking general powers in the Environmental Protection Bill to prohibit or restrict the importation or exportation of waste and the powers cover importation for direct landfill. When exercising these proposed powers the Government will give careful consideration to ways of preventing circumvention of the controls by any means, including the Committee's example of the use of superficial treatment.

## Clinical Waste

### Recommendations

1.40 We recommend that District Health Authorities in conjunction with regulatory authorities formulate plans (to be submitted to the Welsh office) to ensure that their clinical waste will be incinerated to the new stricter standards whether in their own incinerators, other health authorities' incinerators or private sector incinerators. Such changes have considerable financial implications. We recommend that the Welsh Office and HMIP establish procedures to ensure that health authorities are promptly and regularly informed about important documents such as waste management papers.

### Response

1.41 The Government accepts the need for a concerted approach to the disposal of clinical waste and to improving hospital incineration standards. To this end, the Welsh Office has already issued to health authorities the consultation paper which reviews the operation of the Control of Pollution (Special Waste) Regulations 1980 - including clinical waste - in setting out the changes which the Government proposes to strengthen and improve the controls applied to dangerous and difficult waste. It has also drawn health authorities' attention to the publication last year in "Health Service Estate", issues number 65 and 68, of the more stringent incineration standards which it is proposed should be introduced as a result of the enactment of the Environmental Protection Bill. Health Authorities have been urged by the Welsh Office actively to consider how to deal with the disposal of clinical waste following the introduction of the new standards when Crown Immunity is removed, and the Welsh Office has had a preliminary discussion with Health Authority General Managers on the action needed. The matter has also been discussed by the Department at a meeting of the Welsh Health Estate Managers' Group.

1.42 In addition the Welsh Office has convened a seminar on all aspects of hospital waste incineration in the light of the provisions of the NHS and Community Care Bill and the Environmental Protection Bill. Participants in the seminar included senior health authority staff, local authority Environmental Health Officers, Her Majesty's Inspectorate of Pollution, the Welsh Health Common Services Authority and the Welsh Office. The aim of the seminar was to agree on the steps by which, individually and, where appropriate, collectively, Health Authorities were to meet the new standards which will be required of their hospital incinerators. Health Authorities' progress will thereafter be monitored by the Welsh Office.

1.43 Procedures to ensure that health authorities are promptly and regularly informed of important documents have been strengthened. Waste Management Paper No 25 has now been issued to Health Authority General Managers. Welsh Office will participate in a further review of Waste Management Paper No 25 which has been proposed by the Department of the Environment. The Welsh Office has taken steps to ensure that guidance and information on the handling, transport and disposal of clinical waste is



communicated promptly to health authorities. These include improved Departmental liaison and the establishment of a regular forum of health authority and Welsh Office NHS Directorate staff to discuss estate management, including waste disposal matters.

#### **HMIP**

##### **Recommendation**

1.44 **We recommend that as a matter of urgency staffing levels in Wales be improved and funding increased.**

##### **Response**

1.45 The Government fully accepts that monitoring and improving environmental standards demand high levels of inspection and enforcement. HMIP was set up to be an effective regulatory body within England and Wales and it will be given whatever resources are required to do its job.

1.46 HMIP's staff complement has been increased by 25% since November 1988 and an exceptional salary increase of 28.5% is being offered in the current recruitment round to attract Pollution Inspectors of the right calibre to fill posts. The Government is determined to ensure that the Inspectorate is adequately resourced to carry out its duties under the Environmental Protection Bill.

##### **Operators**

##### **Conclusion**

1.47 Programmes to encourage better training and a greater degree of professionalism within the industry have been initiated by such bodies as the Institute of Waste Management and NAWDC. **We welcome these initiatives.**

##### **Response**

1.48 The Government joins the Committee in welcoming the initiatives taken to encourage training and to improve professionalism within the waste management industry.

##### **Environmental Protection Bill**

##### **Recommendation**

1.49 **We recommend that the Secretary of State be quick to use his default powers when a waste regulation authority fails to execute its licensing or enforcement functions satisfactorily.** However, we would like to see a more automatic link between waste management papers and licensing. **We reiterate our earlier recommendation that site licences should be reviewed annually in the light of waste management papers and regulatory authorities should revoke licences if there have been serious breaches of the conditions. Furthermore, we agree with the Council of Welsh Districts that it should be possible to specify as a licence condition a prohibition on causing nuisance to local inhabitants.**



## Response

1.50 The purpose of the default power in clause 69 of the Environmental Protection Bill is to target existing powers in section 97 of the Control of Pollution Act 1974 more finely to enable the Secretary of State to make an order declaring a waste regulation authority to be in default if it has failed to carry out any of its functions in a satisfactory manner. The Secretary of State will use the powers available to him if he is satisfied on the basis of waste regulation authority reports and advice from Her Majesty's Inspectorate of Pollution that an authority has failed in any respect to carry out any of its functions.

1.51 The Committee's recommendation that site licences should be reviewed annually is noted but for reasons already given the Government's view is that such licences should be continuously reviewed in the light of operational developments on site, changes in operational practice and guidance issued by the Secretary of State. Proposed powers in the Environmental Protection Bill will require waste regulation authorities to have regard to guidance issued by the Secretary of State in carrying out their licensing functions and such guidance will cover the issue, revision and revocation of licences.

1.52 The Government notes also the Committee's support for nuisance conditions to be incorporated into site licences. The Government does not agree that it would be appropriate for Part II of the Bill to deal with nuisances as these are matters covered comprehensively by Part III as a free standing item to cover statutory nuisances generally. The purpose of a waste disposal site licence is to impose specific enforceable conditions under which a site operates so as to prevent pollution of the environment and harm to human health and not to attempt to deal by means of blanket conditions with nuisances that can be dealt with by alternative means. The Government believes that if a waste regulation authority wishes to combat particular environmental problems it should do so by imposing site-specific conditions aimed at those problems.

## Regional Groups

### Recommendation

1.53 **We were impressed by the improvements made by the regional groups. However, there remain district authorities the work of which is unsatisfactory and which have been too slow to respond to the promptings of the regional groups. We therefore recommend that the three original groupings should be given statutory regulatory powers covering licensing, monitoring etc. Planning consent should remain the responsibility of the district councils. The statutory regional groups must have the funds and staff to enable them to fulfil their functions properly.**

### Response

1.54 The Government agrees that the regional groups in Wales have been instrumental in bringing about improvements in waste management standards although it recognises that some authorities have been slow to respond to the need for change. It accepts, that the present arrangements in Wales will require strengthening not only to ensure consistency of licensing, inspection and enforcement, but also that district councils are able to respond positively to the new legislative changes embodied in the Environmental Protection Bill. The Welsh Office is discussing with the Council of Welsh Districts (CWD) the steps that are needed to improve the existing framework as a result of the new legislative requirements and has received assurances that



the existing regional arrangements will be considerably strengthened to provide stronger administrative and professional links between the Groups and their constituent local authorities. The CWD plans to reorganise the Regional Groups include proposals to ensure that:

more effective oversight of district council arrangements for waste regulation is achieved;

waste regulation is undertaken to consistent standards through the setting of regional objectives;

waste management licences will be set out on the basis of model conditions set by the Groups;

through an enhanced audit role, performance targets are met. The Regional Groups will also play a major role in relation to waste disposal and waste recycling planning; and

the regional groups will be treated as formal consultees for licensing purposes.

1.55 The Government is currently considering, in the context of the Environmental Protection Bill, how to give effect to stronger regional cooperation across England and Wales. At Report Stage, the Government gave a commitment to strengthen the present framework for waste regulation and to ensure effective arrangements for regional cooperation. ~~The Government has emphasised it does not want to undermine the existing waste disposal authority structure or to remove the responsibility for waste disposal from existing authorities - the planning authorities with responsibility for considering applications for new waste disposal facilities.~~ In Wales, the Government proposes to give district councils the opportunity to demonstrate that they can perform their functions to the high standards required on the basis of the present structured approach to waste management and the assurances the Welsh Office has received from the CWD to strengthen considerably the regional approach.

1.56 At the same time, given the importance they attach to the effectiveness of regional cooperation, the Government has indicated that it does not have a closed mind on the question of reserve powers to enable the Secretary of State to establish regional groupings, if considered necessary, based on voluntary joint committees with delegated powers for licensing and enforcement. Such powers, were they to be taken, could be used to strengthen existing arrangements in Wales although the Secretary of State's preference is to build upon the existing structure of regional cooperation between Welsh districts and to seek to strengthen these where appropriate. The proposed national charging arrangements will provide authorities with an additional source of income which can be used to offset the additional expenditure required to strengthen the regional approach.





(Ru)

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The Rt Hon John Wakeham MP  
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Prime Minister <sup>2</sup>

9 January 1989

You do not need to read the paper itself.

The essence of Mr Ridley's proposals boil down to:  
(i) leaving the licensing function on waste disposal with local authorities but keeping up accountability

Dear Lord President

(ii) separating local authorities' operational activities in waste disposal from their licensing functions - their operational functions being subject to licensing just like private sector operation.

WASTE REGULATION  
THE ROLE AND FUNCTIONS OF WASTE DISPOSAL AUTHORITIES

In my letter of 11 November on waste disposal law amendments I said that I was developing complementary proposals to reform Waste Disposal Authorities in both their operational and regulatory roles. I now enclose for your agreement a draft consultation paper setting out these reforms.

DM  
13/

It is right to point out that there is a great deal of pressure to remove the waste regulation function from shire counties, districts and boroughs. Arguments have been mounted for putting the function on a regional or even national basis, with the waste disposal industry maintaining that it should be removed entirely from local political control. There are strong hints that the Environment Committee, currently examining toxic waste disposal, will recommend the creation of regional authorities for this purpose.

I am reluctant to embark on another round of local government re-organisation. At the same time I believe this is an area where local accountability is important and that the task should not be taken over by a new statutory body. The close links between disposal site licensing and land use planning reinforce this view. I have accordingly concluded that the regulatory function should remain with those authorities who currently exercise it. They should be capable of doing the job properly - some do - but it is essential that there should be some means of monitoring their performance and calling them to account for their performance.

My proposals will achieve this by providing clear performance criteria for authorities set out in Waste Management Papers issued by HMIP; by requiring authorities to report annually to their electorate on their performance and by a clear technical audit power for HMIP. At the same time, regulation will be distanced





from authorities' own waste disposal operational functions, which will become subject to the full rigours of licensing currently applied to private sector operations. I propose that operations be organised into arms-length local authority companies which will operate in full and fair competition with the private sector.

I should be grateful for your agreement and that of colleagues, to the issue of the consultation paper. It is written primarily for England and Wales although certain references to arrangements in Scotland are included for completeness. Malcolm Rifkind may wish to consider whether the proposals should apply to Scotland and if so what amendment he wishes made to the draft to accommodate Scottish arrangements.

Malcolm Caithness will give evidence to the Environment Committee on 25 January. It will clearly be most unfortunate if he is questioned on future plans for waste regulation and is unable to give the Government's view. It would be especially helpful therefore to receive your views on the consultation paper by 17 January, in order that it may be issued by the date that Malcolm appears.

I am copying this letter to members of H, David Young, Malcolm Rifkind and Peter Walker.

Yours sincerely,

Deborah Lamb

pp NICHOLAS RIDLEY

(approved by the Secretary  
of State & signed in his  
absence.)



CONFIDENTIAL

DRAFT CONSULTATION PAPER

THE ROLE AND FUNCTIONS OF WASTE DISPOSAL AUTHORITIES

1. The Secretaries of State for the Environment and the Welsh Office have announced proposals for changes to the controls on waste management operations and the extension of controls to producers and carriers of waste. These are summarised at Annex A. This consultation paper sets out complementary proposals to improve the administration and enforcement of regulatory powers as they affect both public and private sector waste disposal facilities, and to increase competition in local authority waste disposal operations.

Present local authority functions in waste management

2. Local authorities have various powers and duties in regard to waste management under the Control of Pollution Act 1974. Waste Collection Authorities collect household and some commercial waste and are under a duty to deliver it to a Waste Disposal Authority (WDA) for disposal. Collection authorities have no powers to dispose of, or arrange the disposal of, waste which they have collected, other than for recycling with the agreement of the WDA.



3. Waste Disposal Authorities (WDAs) are under a duty to arrange for the disposal of this waste. They have powers to provide disposal facilities themselves or they may contract with the private sector for disposal of the waste. Of the 5,000 plus waste disposal facilities in England and Wales, some 1750 are operated by WDAs, while another 535 private sector facilities are licensed to accept household waste collected by collection authorities. (The rest are private sector sites dealing only in industrial waste.) WDAs do not necessarily own the facilities they operate. The land or equipment is often leased.

4. WDAs also regulate waste disposal. They are required to prepare Waste Disposal Plans to guide future investment. They set and monitor the standards under which both their own and private sector facilities operate - the former in accordance with Resolution of Council and the latter by site licences. They administer the additional controls over the movement of special waste. The Secretary of State's role in licensing is limited to consideration of appeals against refusal of a licence or the conditions attached to it. Waste Management Papers (WMPs) containing advice on the handling of controlled waste and the licensing of facilities are published by the Department of the Environment but these have no statutory force.

#### Collection and Disposal arrangements in England, Scotland and Wales

5. Waste Collection Authorities are Borough or District Councils throughout Great Britain. Waste Disposal Authorities may be County Councils, District or Borough Councils or Statutory Joint Authorities. In many cases therefore the Collection and Disposal Authorities are the same Council Authority.



6. In the English shire counties WDAs are the County Councils. In the Metropolitan areas they are most usually the Borough Councils but in Greater Manchester and Merseyside there are statutory countywide Waste Disposal Authorities. In London the operational and regulatory functions are separated. Boroughs, or statutory groups of Boroughs (of which there are four) operate facilities and prepare Waste Disposal Plans. The London Waste Regulation Authority licences all London facilities including those of the Boroughs. Similar arrangements exist in Greater Manchester in respect of Wigan MBC. Informal regional groupings co-ordinate the work of WDAs.

7. In Wales and Scotland all waste disposal functions are at District level. In Wales these are co-ordinated through voluntary regional groupings.

#### Improvements to Waste Regulation

8. The reports of the Hazardous Waste Inspectorate, now HMIP, have repeatedly emphasised that standards of waste management are patchy and frequently are too low. They have drawn attention to many and varied undesirable practices which present licensing and enforcement arrangements have failed to stop. In their first report they said "The HWI is in no doubt that the standards achieved are anything but consistent or satisfactory" (Para 4.3). In Chapter 5 of that first report the HWI concluded that current standards of disposal site licensing cause considerable concern, and that very different attitudes towards the policing of hazardous waste disposal sites prevail amongst English and Welsh WDAs.

9. In their second report they were able to say that some of the very worst disposal sites had been improved dramatically but that many sites continued to show problems



of poor operational management or problems which are inherent to the site licences (Para 10.4). And in June 1988 they reported that although considerable improvements have been achieved at many sites ..... "the contrast between the best and worst remains as dramatic as ever" (Ch 14).

10. Such reports are bound to be of concern to Government, to the public and to the responsible waste disposal contractor. The National Association of Waste Disposal Contractors in its paper published in November 1988 records its view that poor standards still found at the bottom end of the industry are a consequence of poor policing and enforcement. They are also concerned that the level of inspection and enforcement conducted on their sites is significantly greater than that applied to WDAs' own facilities.

11. While the Departments welcome the improvements that have been made, it is clear that these improvements are not happening fast enough. The Departments therefore believe that steps must be taken to strengthen not only the regulatory powers of local authorities as they have proposed in previous consultation documents, but also the way these powers are used and enforced.

#### Basic Principles of Waste Regulation

12. The Departments believe that the system of waste regulation should be guided by three principles. It should comprise authorities that:-

- a) should be capable of deploying specialist resources, both staff and equipment, to enforce the law with respect to the range of waste and facilities found



in the area and with due regard to the need for consistency between public and private sectors, and between authorities

b) are neither so small as to allow local issues to obscure wider regional or national needs, nor so remote that local issues are disregarded and local incidents cannot be quickly responded to;

c) are fully accountable to the public.

#### Licensing role for HMIP

13. One way of meeting these principles might be through a more direct role for HMIP in licensing. This has been fully considered. The Departments do not believe that HMIP should become a national licensing authority. They believe that licensing cannot be divorced from the administration of the special waste regulations and that the latter especially requires detailed local knowledge of arisings as well as disposal and treatment facilities. Waste regulation involves over 5,000 licensed facilities in England and Wales, a much greater number of facilities than are currently under HMIP control in air regulation. The Departments believe that direct licensing of so many facilities with the accompanying special waste responsibilities would not afford the necessary opportunities for quick response to incidents or indeed for local accountability. This option would therefore run counter to the basic principles of waste regulation.

14. Neither do the Departments believe it would be sensible for HMIP to adopt direct licensing of the 100 or so major facilities managing special wastes. The Departments recognise the need for special vigilance at co-disposal sites but are equally aware that standards at the other



5,000+ sites are in need of improvement. Direct licensing of special waste facilities and the administration of the special waste regulations would equally suffer from remoteness from local issues and would do nothing to improve standards at other facilities.

15. A final option on the theme of HMIP's more direct involvement in licensing is that it might become a statutory consultee on licences issued by WDAs. This would involve 450 new applications each year and (under WMP4 recommended practice) an estimated 2,000 modifications. This approach has attractions in that HMIP would be able to influence directly the content of licences. But it would not address the main issue, which is how well licences are enforced. Approval of a licence or modification by HMIP would lend considerable weight to the status of any individual licence but might also cause confusion about statutory responsibilities. Moreover to ensure that the licence conditions were indeed necessary, comprehensive, unambiguous and enforceable, and remained so, as recommended in WMP4, would require knowledge of each facility in question, which only a greatly expanded HMIP could acquire.

#### Appeals

16. A major problem with all three suggestions for more direct involvement in licensing by HMIP is the possible prejudicial effect on the Secretary of State's appellate role. In waste disposal licensing, the appeals systems is a well-established mechanism for ensuring that disagreements between licensor and licensee are aired and resolved. At a time when every effort is being made to reduce the time for appeals to be decided, closer involvement of HMIP would require the creation of a more unwieldy mechanism which is not to be recommended without very compelling reasons.



### Regional authorities

17. A alternative solution to the problems described in paras 8 to 11 is the creation of regional authorities on the model of the London Waste Regulation Authority (LWRA). This is a single purpose joint authority comprised of nominees from the constituent boroughs. It is unique in holding only licensing and special waste functions with no operational responsibilities. This arrangement is widely acknowledged to have shown considerable benefits in allowing the authority to concentrate on regulation and to develop a high level of technical and administrative expertise. An extension of this model to the rest of the country would involve bringing counties or boroughs together in groups. Each county or borough would nominate a representative to the new authority. There might be up to 10 of these regional authorities.

18. The advantages of a regional system of waste regulation along these lines are:-

- a) they would be of sufficient size to employ and train a wide range of specialist officers,
- b) their larger geographical areas should automatically result in greater consistency of site licensing and allow easier liaison between authorities,
- c) since they would not be involved in disposal operations they would be in a position to demonstrate that the law is applied equally to public and private facilities,
- d) they would be able to take a more objective view of licensing, being more remote from local political influences.



19. These are persuasive arguments. It is quite clear that present local authority arrangements do not in practice meet the requirements of the basic principles outlined above. Staffing levels are inadequate both numerically and technically. Dual standards are said to exist between public and private sector enforcement. Standards of licensing vary enormously between even neighbouring authorities. The understandable reluctance of local residents to have a waste facility in their neighbourhood often overshadows the undeniable fact that waste must be disposed of somewhere.

20. However the Departments do believe that waste disposal facilities are a legitimate local environmental concern. There are strong arguments for preserving local accountability and involvement, not least so that public confidence in waste management can be fostered. It is also right that the local links between disposal licensing and land use planning be retained.

21. In principle the Departments see no reason to believe that a system of waste regulation based on local authorities cannot be made to work, provided that the local authorities are prepared to apply themselves to the task. Some authorities, including LWRA which forms the model for the suggested regional authorities, are developing the expertise and beginning to demonstrate the resolve that is necessary. The Departments therefore reject the proposals for regional authorities and further upheaval in local government at this time. In reaching this conclusion the Departments have taken into account the review of waste disposal arrangements carried out in Wales between 1982 and 1986. They believe that local authorities should be given the opportunity to demonstrate that waste regulation can be properly applied by local government.



22. The Departments believe that the present arrangements provide the basis for a local authority system but that this system must be strengthened by separation of regulation from operational responsibilities within local authorities, by the provision of more overt objective standards by HMIP, by more direct accountability of the local authorities themselves and by provision of statutory inspection powers over the performance of WDAs, to be exercised by HMIP.

#### THE DEPARTMENTS' PROPOSALS

23. The Departments therefore propose to retain the existing regulatory structure based on local authorities but to institute a new formalised system for the setting of standards of licensing and enforcement and the reporting on the application of those standards. To minimise the scope for conflict of interest in the regulation of an authority's own sites compared with those in the private sector, the Departments propose to require that WDAs re-organise their operations into local authority companies at arms length from the present authorities. Waste Disposal Authorities will then become Waste Regulation Authorities (WRAs). The duty to arrange for the disposal of collected waste will become a Collection Authority duty. The local authority companies will operate in free and fair competition with the private sector. These proposals are fully discussed below.

#### New Standards of Licensing and Enforcement from HMIP

24. Steps have already been taken by HMIP, in writing new or revised Waste Management Papers, to include more operational and quantitative advice on licensing and monitoring. This practice will be carried forward, and broadened, in all new editions of WMPs. The Departments now propose that these papers will be given statutory backing by



requiring WRAs to have regard to such advice and guidance on good practice issued by the Secretaries of State as is relevant to the operation of the facility in question when considering the conditions to be attached to a licence.

25. The advice (in the form of Waste Management Papers) will contain recommendations to the WRAs on the manner and frequency of inspection of various facilities (as does WMP4) and the training and qualifications appropriate to WRA staff responsible for licensing and enforcement at the full range of facilities.

#### Annual Reports

26. The Departments believe that WMPs will thus form the foundation on which a greatly improved licensing and enforcement system can be built. They recognise however that much needs to be done to demonstrate that such improvements are indeed taking place and that it is primarily for WRAs themselves to provide this assurance. The Departments therefore propose that WRAs should be required to publish annual reports on their licensing and enforcement policies and achievements, with particular reference to the guidelines published in WMPs taking into account the contribution to revenues provided by charges for disposal licences. These reports are to be submitted to full Council as an account to its constituency of the discharge of the Authority's duties under the Act.

#### The role of HMIP

27. HMIP have at present no direct powers to intervene in waste regulation except where authorised by the Secretary of State in pursuance of his statutory duties. Their role has been mainly advisory, helping local authorities and industry to improve performance by case specific guidance, the



production of WMPs and by the publication of annual reports. The value of this advisory role is well recognised and it will remain central to HMIP's continuing duties. But it does need to be strengthened and sharpened by statute.

28. It is proposed that the Secretary of State be empowered to appoint Inspectors to examine and report on the regulatory arrangements of Waste Regulation Authorities. These powers will be exercised through HMIP and will include the right to publish reports on the regulatory performance of individual authorities, the right of access to authorities' documents and the right of entry onto any land to determine whether any provision of the Act is being complied with. It is envisaged that any HMIP reports on an individual authority will be, in the first instance, a response to the authority's own annual report, but will draw on HMIP's own inspections and observations. These powers will enable HMIP to conduct in-depth investigations of authorities regulatory functions where necessary and will enhance the public accountability emphasis of the Department's proposals.

#### Secretary of State's Default powers

29. The Departments propose to make amendments to the provisions of S97 of COPA, as far as they relate to waste management. It is proposed to target these powers more finely, so that the appropriate Secretary of State may make an order directing a WDA as to either licence conditions or enforcement activity in respect of a particular facility or class of facility. Such an order would be served if the Secretary of State were satisfied, on the basis of the WRA and HMIP reports, that the WRA was not properly executing its functions in any of these respects. Where an authority failed to comply with any direction contained in an order the Secretary of State would be empowered to make an order



transferring to himself the function, or the exercise of that function in respect of named facilities or a class of facility.

#### Co-ordination between authorities

30. The Departments are encouraged by the progress made in regional co-operation between authorities in some areas of England and Wales [and Scotland]. They believe much can be achieved through a genuine commitment to unify licensing arrangements by regular co-ordination of policies. HMIP will assist authorities to improve their regional co-ordination arrangements and will bring together representatives of each region [in Great Britain] on a regular basis to ensure co-ordination of policies and standards at the national level.

#### Summary of Departments proposals for new regulatory arrangements

31. The Departments have concluded that it should not be necessary to institute a fundamental re-organisation of waste regulation, which ought to be within the competence of local government. Instead it is proposed to build on the existing strengths of local authority regulation of waste management. But recognising the needs for greater accountability set against more transparent licensing and enforcement standards they propose

(a) Quantitative, operational guidelines for licences and enforcement to be contained in Waste Management Papers,



(b) Publication of annual reports by the Waste Regulation Authority on its licensing and enforcement policies and achievements in relation to the Statutory Waste Management Papers,

(c) Powers for the Secretary of State (acting through HMIP) to inspect the regulatory functions of WRAs and to publish reports on individual authorities where necessary.

(d) More finely targetted default powers for the Secretary of State.

(e) Better co-ordination between WRAs

#### LOCAL AUTHORITY WASTE DISPOSAL COMPANIES

32. Of immense importance in any strengthened licensing system is the separation of regulatory from operational responsibilities. Present arrangements for waste disposal operations in local authorities are open to the obvious criticism that they are regulated and monitored by the organisation that also operates them. In principle this arrangement will always give rise to unease as to whether the operations are well controlled, in waste disposal as in other areas of public responsibility. In practice, there are indeed known examples where local authority operations are not well controlled. Blanket resolutions of Council covering all facilities are not unknown. HMIP report that some authorities' operations are very poor because they are not properly self-regulated.

33. This is unacceptable in itself. It does, however, also have effects on the whole disposal industry. If any operator offers lower charges because of lower standards, or even simply lack of proper accounting procedures, the



pressures of competition bear on the whole industry to seek minimum standards and avoid regulation. It does seem that WDAs' generally lower levels of charges for disposal are not only, or perhaps even principally, due to lower standards but are equally the result of failure to attribute all relevant costs, for instance management, overheads, depreciation or transport.

34. The Departments therefore propose that all present WDA operational activities, including landfills, incinerators, and transfer stations, (see later for civic amenity sites) be re-organised as local authority "arms length" companies under the Companies Act as defined in the Departments' consultation papers "Local Authorities Interests in Companies" of June 1988 (Summary at Annex B). This will separate out waste disposal services both from other technical, environmental and consumer services within local government and, most importantly, from the regulatory role of the WRA. Although a WRA will be able to dispose of waste through the executive functions of its LAWDCs, it will be under no duty to so do. Neither will it be empowered to dispose of, or manage, waste in any way other than through a LAWDC. The Waste Collection Authority will become responsible for arranging for the disposal of waste it collects, but will not be empowered to dispose of it itself except in an emergency.

#### Functions of LAWDCs

35. The Local Authority Waste Disposal Companies (LAWDCs) will be empowered to undertake specified waste management functions. At present WDAs must take delivery of waste collected by the collection authority or direct the WCA's delivery elsewhere, and it may collect industrial waste itself. It is proposed to extend the scope of these functions by permitting LAWDCs to accept waste delivered to



them by any party. In addition they will be empowered to collect industrial and commercial waste as defined in Section 30 of COPA and in Schedules 3 and 4 of the Collection and Disposal of Waste Regulations 1988. They will not however be empowered to tender for the collection of household waste as defined in the Act and Regulations.

#### Control of the LAWDCs by parent authorities

36. Annex B describes the Directors' independent status, the arms length nature of transactions, the financial objectives to be imposed on LAWDCs and financial relations between the authority and the company. LAWDCs will operate on a normal commercial basis and the authority will benefit from any distributed income. Dividend paid to the parent authority shall be treated as a capital receipt. Further advice will be issued on the setting up of LAWDCs.

#### Financial controls on LAWDCs

37. LAWDCs will be subject to the same financial controls as other local authority controlled companies while they remain under that control. In particular when a LAWDC borrows money, that will be treated as borrowing by the owning authority subject to capital spending controls. There will be scope for private sector investment in the facilities for joint ventures. It will be open to any WRA to dispose of shares or sell the company subject to requirements to obtain the best price. It will be prevented from placing obstacles to the sale of the company in the constitution.



### Environmental Controls

38. LAWDCs will also be subject to the same range of environmental controls, existing and proposed, as the private sector. They will require a full disposal licence (to be charged for), the management will be required to satisfy the conditions for obtaining or retaining such a licence, and they will retain responsibility for landfills until a Certificate of Completion is obtained. (See also paras 43 and 44).

### Competition

39. When the local authority waste disposal companies (LAWDCs) are formed, Waste Collection Authorities (Districts) will be freed from their obligation to deliver waste to the WDA. Instead they will be required to seek competitive tenders for the disposal of collected waste. This will transfer the duty to arrange for disposal under Section 14(4) of COPA from Waste Disposal to Waste Collection Authorities (WCA's) but WCAs will not have powers to provide facilities themselves except insofar as they might also be disposal authorities. The new LAWDCs will be free to submit tenders for this work and to seek any other private or public sector waste disposal contracts they wish, either within or outside their areas. Authorities will be able to establish LAWDCs jointly to provide a larger, joint company with sufficient assets and flexibility to operate efficiently. In the Metropolitan County areas the Secretary of State will be empowered to create single LAWDCs to cover the whole area.



### Civic Amenity Sites

40. Civic amenity (CA) sites will need special consideration. CA sites accept waste from the general public without charge as a public service and to discourage fly-tipping. The importance of CA sites has grown rapidly in recent years and the Departments do not wish to discourage this trend. In principle, CA sites are part of the waste collection service, and as such responsibility for them should be transferred to Waste Collection Authorities (WCAs). However about one-third of CA sites share premises with transfer stations, landfills and incinerators. It would be difficult to divide these assets between authorities, and it would not be sensible to require WCAs to provide new sites at alternative locations in view of the high construction costs and the pressure on development land in some areas.

41. The Departments propose that responsibility for CA sites should lie with WCAs. In those cases where the sites are separate the assets should be transferred to the WCA. In those cases where the sites are shared with other facilities arrangements will need to be made so that the WCA continues to have the use of these assets, either through direct leasing or repayment to the LAWDC, even where the LAWDC does not have the contract for disposal of the WCA waste. The WCA will however be free to provide alternative or additional CA sites in appropriate circumstances.

### Financial arrangements

42. Transfer of responsibility for the disposal of waste from disposal to collection authorities will transfer the costs of waste disposal from County to District Councils in the shire Counties of England. This will affect the distribution of spending and resource needs between Counties and Districts. In Greater Manchester and Merseyside the



financial contribution by the Boroughs to the statutory authorities will be reduced by the relevant amounts designated for disposal operations. In London, the four statutory operational authorities will be wound up when the new LAWDC is established. Their constituent Boroughs will become shareholders in the LAWDC. The remaining functions of the statutory authorities, preparation of waste disposal plans and statutory consultees on licences for facilities in their areas, will transfer to the Boroughs.

#### Environmental Protection

43. In considering tenders for the disposal of waste, Waste Collection Authorities will be required to have regard to the environmental effects of the proposed method of disposal. In particular they should have regard, in assessing value for money, to the desirability of such operations as compaction, bio-stabilisation, pre-treatment or incineration, in comparison to direct transport to landfill.

44. If a LAWDC for any reason ceases trading, it will need to dispose of its assets in the market as would any commercial operator. It will be subject to the same obligations to ensure the long term safety of the facilities until such time as a new licensee takes over, or a certificate of completion is obtained. If no new licensee is forthcoming, the WRA will assume, as parent authority, responsibility for making the site safe in the short and long term and will assume any other continuing responsibilities under outstanding licence conditions. Exceptionally the WRA will be empowered to use an alternative contractor to complete deposit of waste where this is the environmentally preferable course of action. The Secretary



of State will be empowered to direct an authority to set up a LAWDC where it appears that there is no reasonable alternative provision for the disposal of waste.

#### Conclusions and Summary

45. Standards of waste management have been under considerable criticism in recent years. Failures have been attributed to inadequacies in legislation and to failure to apply and enforce the legislation that is in force. The Government have announced proposals for strengthening the law in relation to the control of the waste disposal process itself, from the producer through to the long term care of landfill sites. A further consultation to complete this exercise is in progress. The measures proposed in the present paper are designed to address the second half of the problem - the enforcement of both existing and, in due course, new legislation. The Departments have considered alternative regulatory systems but consider that present arrangements can be adapted to work well if appropriate resources are allocated to the task.

46. Accordingly the Departments propose to introduce a new system based on objective standards for licensing and enforcement contained in statutory Codes of Practice. The Secretary of State will be empowered to investigate, through HMIP, the waste regulation arrangements of WRAs. In exercising these powers, it will be able to draw on information published by the WRAs in their annual reports on their policies and achievements as well as its own observations and inspections. The appropriate Secretary of State will be empowered to issue notices to WRAs to direct them in regard to licence conditions or inspection



frequencies in individual facilities or classes of facility, and default powers will relate to those facilities named in the notice.

47. To demonstrate equality of treatment between private and public sector activities, to improve accounting and pricing policies and to allow full competition in waste disposal operations, the operational arm of the WRA will be re-organised into Local Authority Waste Disposal Companies subject to full licensing. Waste Collection Authorities will assume responsibility for arranging for the disposal of the waste they collect and will be obliged to seek tenders for this work. They will be required to take environmental factors into account in deciding tenders. Waste Collection Authorities will not be empowered to dispose of waste themselves. LAWDCs and their parent authority will be subject to the same environmental requirements as the private sector, including responsibility for landfills until a Certificate of Completion is obtained.

48. The effects of these proposals on the different disposal authorities are summarised in Annex C.

#### Financial Implications

49. HMIP has estimated the costs of its recommended levels of licensing and enforcement standards. These costs formed the basis of the Compliance Cost Assessment accompanying the 29 June announcement. The proposals in this present paper are one way of ensuring that these recommended standards are attained. The new regulatory system will therefore not involve additional resource implications for WRAs above those already allowed for. Charges for site licences will similarly remain as estimated in the 29 June announcement.



50. Additional costs to WRAs may arise from the preparation of an annual report. This might amount to 0.5 man year per authority, at £10,000 p.a. (around £500,000 in England and £200,000 in Wales).

#### LAWDCs

51. The actual costs of waste disposal for the authorities should not be affected by re-organisation of the structure except insofar as efficiency improves through competition. Proper identification of costs may lead to apparent increases in disposal charges but this should be offset by corresponding decreases in the budget areas that were previously charged. The cost associated with this proposal would be one-off costs of introducing competition; setting up companies, re-organising staff and assets, establishing new financial and administrative arrangements. This would be an exercise similar to that of creating 42 bus companies in 1985. The financial memorandum to the Transport Bill estimated costs of £1m. On this basis the costs of establishing 80 LAWDCs in England would be around £2m and of 37 LAWDCs in Wales £1m.

52. The costs of disposing of waste will be transferred from the Disposal to the Collection Authorities, in the Shire Counties of England. Provision will need to be made for this transfer in the allocation of resources between authorities.

#### HMIP

53. The Department of the Environment and Welsh Office have announced increased staff complements for HMIP of 9 posts to improve investigation of waste management and to advance the preparation of waste management papers. The proposals in



this paper will formalise those improved procedures and the announced increased in staff will be sufficient to accommodate the extra workload.



## SUMMARY OF WASTE DISPOSAL LAW AMENDMENTS ANNOUNCEMENT

1. Enhanced Responsibility of Producers and Holders of Waste (Duty of Care)

There will be a duty to take all reasonable steps to ensure satisfactory disposal when transferring waste to someone else.

The duty will apply to waste producers and middlemen, including local authorities, contractors, sub-contractors and employees but not private householders.

A code of practice will spell out what steps are reasonable, depending on the nature of the waste and the size and expertise of the firm involved.

All controlled waste will have to be passed on to either a local authority or a registered carrier or a proper treatment or disposal site.

Breach of the duty of care will be an offence.

2. Registration of Waste Carriers

Anyone carrying waste by way of business will have to register with the local waste disposal authority.

Exemptions will include producers carrying their own waste and waste disposal authorities.

Authorities will be able to refuse or revoke the registration of anyone convicted of a relevant pollution offence. Breach of these requirements will be an offence.

3. Extension of powers of Waste Disposal Authorities - to refuse, revoke or refuse the transfer of a licence where the applicant:

(a) has relevant convictions; or

(b) has insufficient resources to guarantee meeting licence conditions; or

(c) lacks suitable qualifications of technical competence.

4. Extension of powers of Goods Vehicle Licensing Authorities - to take into account pollution offences when granting licences.

5. Pollution Control Conditions. Pollution control conditions in site licences will continue in force after completion of the deposit of waste, until the licensing authority issues a certificate that the site is safe. The licensee may not surrender or transfer the licence without the authority's consent.



6. Charging for licences including costs of inspection and monitoring, on a scale set by the Secretary of State related to tonnages and types of waste.

7. Other amendments. Including:

- (i) to make breach of any licence condition an offence;
- (ii) licensing of mobile facilities;
- (iii) streamlining appeals procedure.

June 1988



Controlled companies operating at arms' length

ANNEX B

43. In considering the application of financial and propriety controls to local-authority-controlled companies, it is appropriate to draw a distinction between companies conducting local authority business in much the same way as the authority itself, and companies which are run more or less as commercial undertakings, at arms' length from the controlling authority. There is a case for treating arms' length companies differently in certain respects, in order not to prejudice their ability to act commercially.

44. It is proposed therefore to define an arms' length company as one where:
- a. the directors have a status which effectively protects them from undue influence;
  - b. transactions between the local authority and the company are at arms' length;
  - c. the company has declared financial objectives;
  - d. the financial relationships between the local authority and the company are clearly regulated to avoid deficit financing;
  - e. the company is in competition with a market.

The proposed requirements are spelt out more fully in Annex B.

45. Such companies would be treated differently from other local-authority-controlled companies in the following respects:
- a. there would be the option to treat the interest in such a company on an equity basis for accounting purposes;
  - b. an arms' length company would not be required to publish details of its contracts procedures;
  - c. the requirements for compulsory competition would not be applied;
  - d. its activities would not be subject to access to information requirements;
  - e. its activities would remain outside the scope of the Commission for Local Administration.



## Annex C

### ORGANISATIONAL EFFECTS OF PROPOSALS ON AUTHORITIES

#### Wales and Scotland

There will be no changes to the responsibilities of District Councils. Waste Disposal operations will be re-organised into LAWDCs and these will be licensed by the District Waste Regulation Authority.

#### England

##### a) Shire Counties

County Councils will become Waste Regulation Authorities. LAWDCs will be owned by the County Councils and subject to full licensing. The Districts of the County will have a new duty to seek tenders for the disposal of waste.

##### b) London

The four statutory disposal authorities will be wound up and their duties to prepare waste disposal plans will be transferred to the Boroughs. All Boroughs will be statutory consultees on licences in their areas. The LAWDCs will be owned by the Boroughs and the Secretary of State may direct Boroughs to jointly own and operate LAWDCs in accordance with existing voluntary or statutory arrangements. Boroughs, acting as Collection Authorities, will be required to seek tenders for the disposal of their waste. They will remain either singly or jointly, responsible for the financial commitments of their LAWDCs. Bexley may form part of the Kent LAWDC or make alternative arrangements if the Secretary of State agrees.

##### c) Greater Manchester and Merseyside

The County wide LAWDC will be owned direct by the Boroughs in a consortium. The joint statutory regulation authorities will licence the facilities. Wigan will be empowered to set up its own LAWDC.

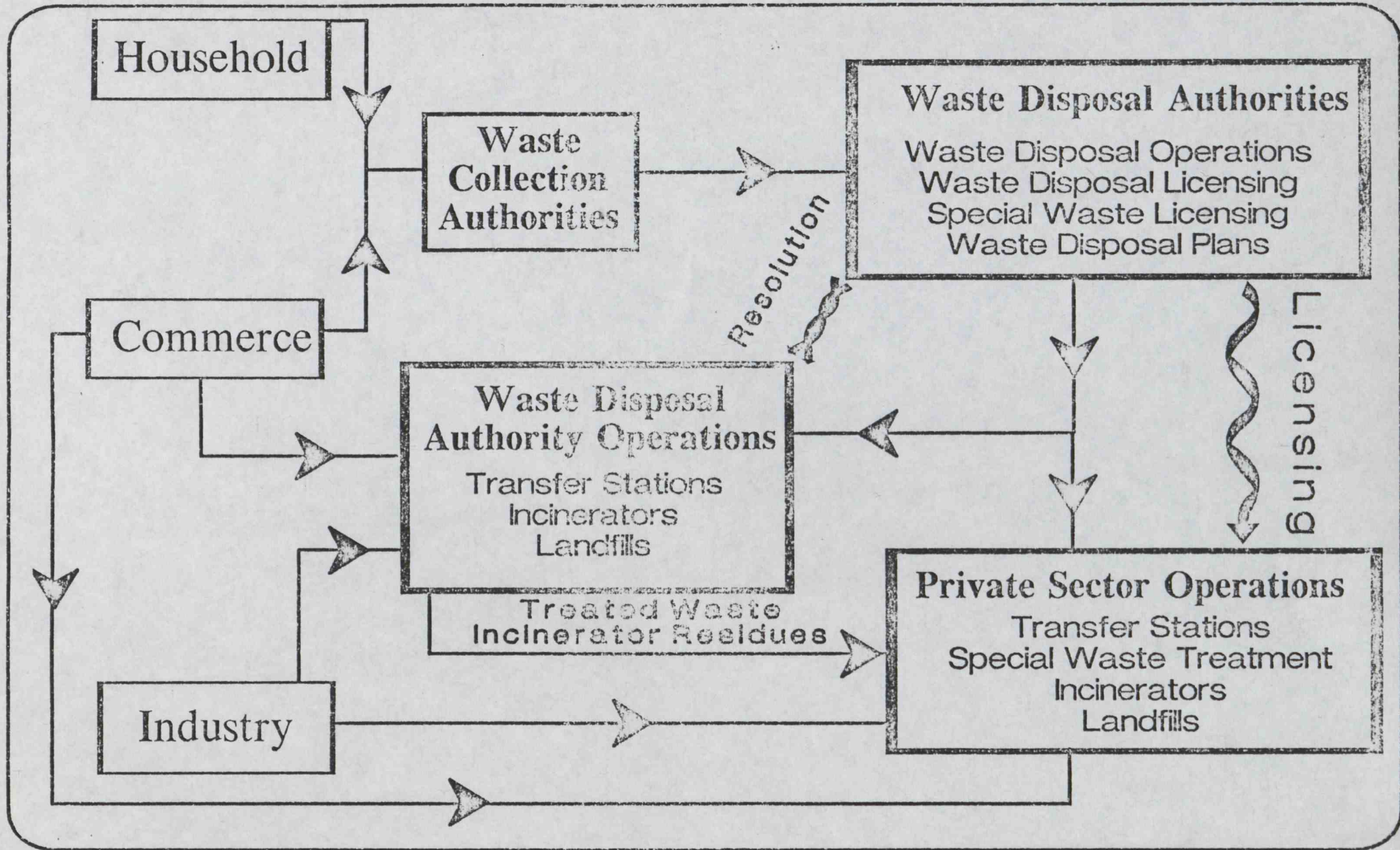
##### d) Metropolitan Areas covered by Voluntary Agreements

Boroughs will remain responsible for waste collection and for licensing. Their operations will be organised into LAWDCs and the Secretary of State may direct Boroughs to jointly own and operate LAWDCs in accordance with their current agreements. Boroughs, acting as Collection Authorities, will be required to seek tenders for the disposal of their waste as individual authorities. They will remain, either singly or jointly, responsible for the financial commitment of their LAWDCs. All other aspects of the agreements will remain unchanged.



SHIRE COUNTIES IN ENGLAND  
MERSEYSIDE & GREATER MANCHESTER

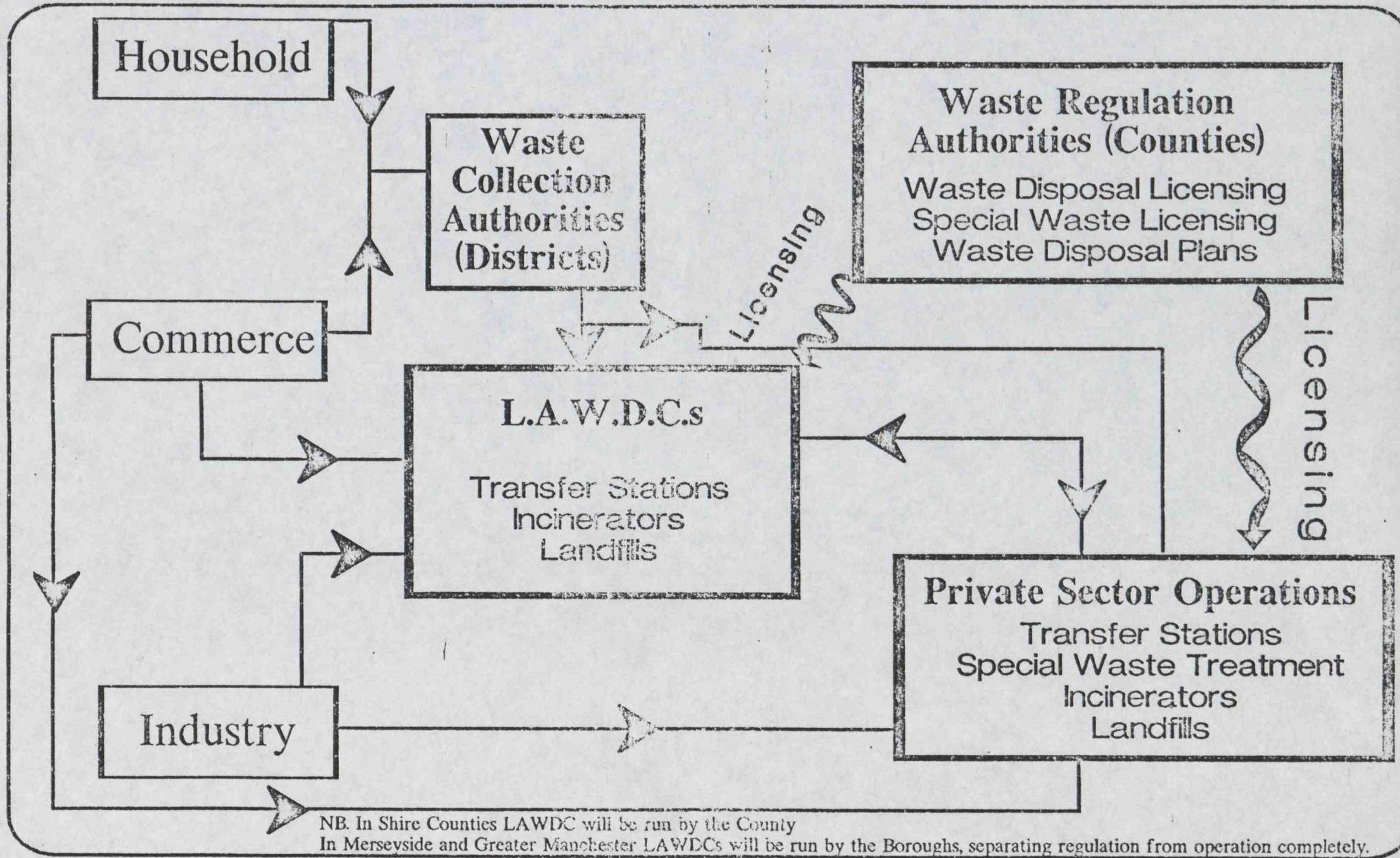
1 The Present  
Situation





**SHIRE COUNTIES IN ENGLAND  
MERSEYSIDE & GREATER MANCHESTER**

**2. Proposed  
Arrangements**

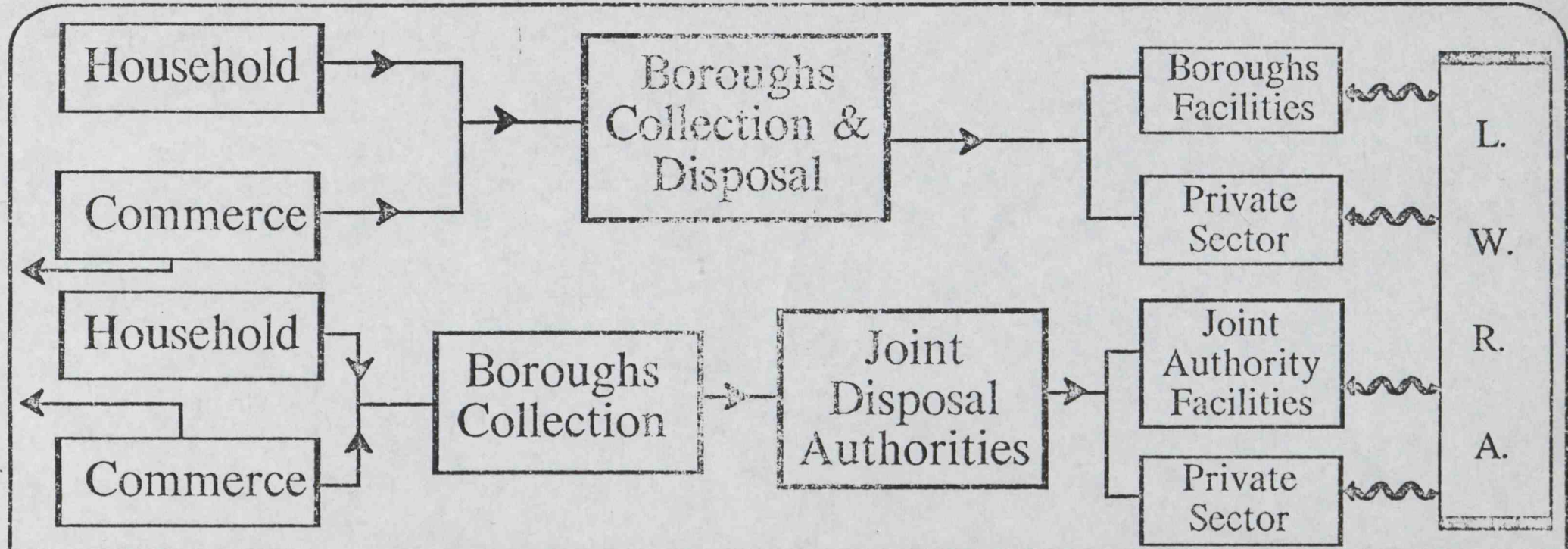


NB. In Shire Counties LAWDC will be run by the County  
In Merseyside and Greater Manchester LAWDCs will be run by the Boroughs, separating regulation from operation completely.

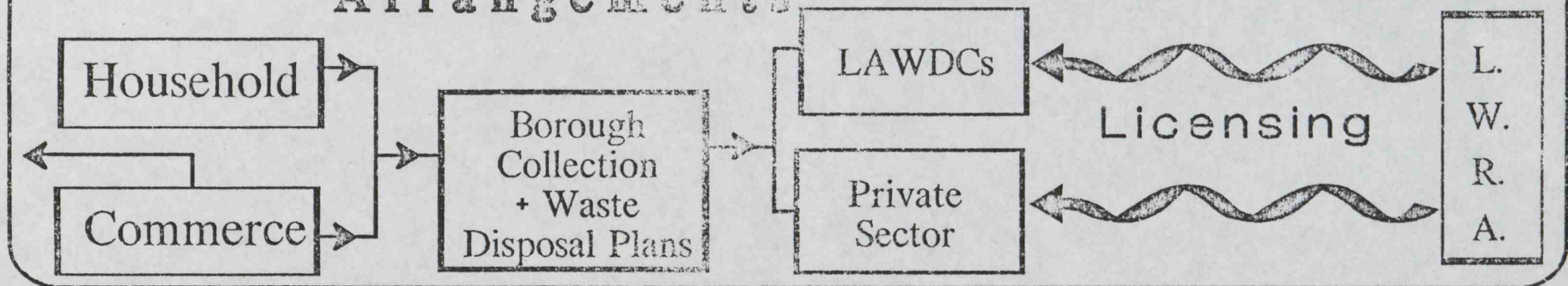


# LONDON

## 1 The Present Situation



## 2 Proposed Arrangements





# METROPOLITAN AREAS (VOLUNTARY AGREEMENTS)

## 1 The Present Situation



## 2 Proposed Arrangements

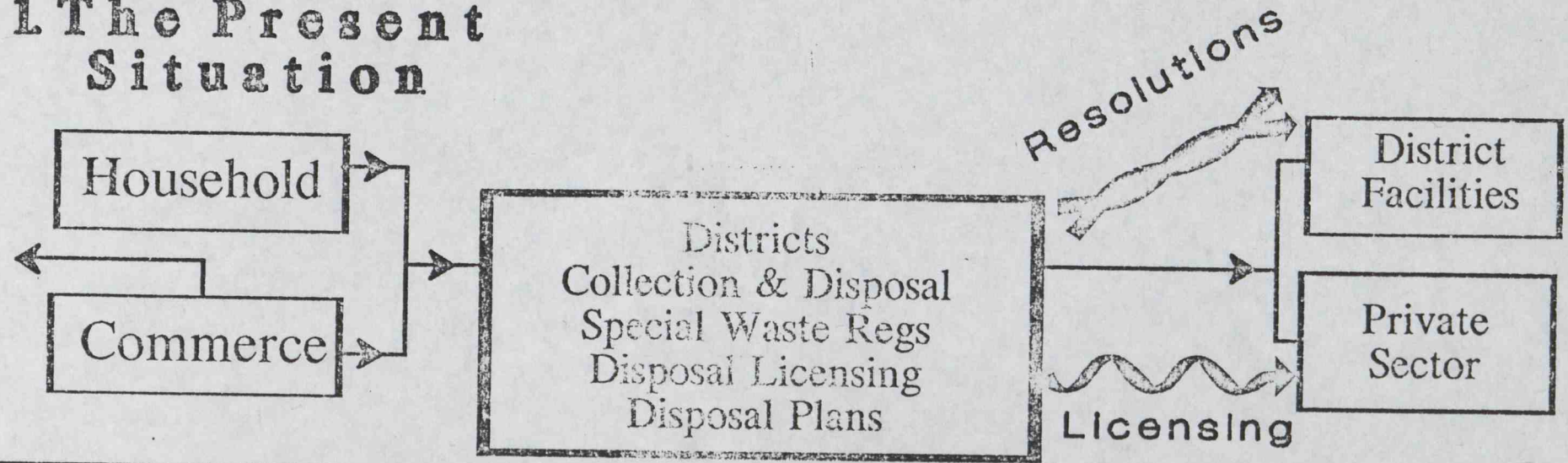




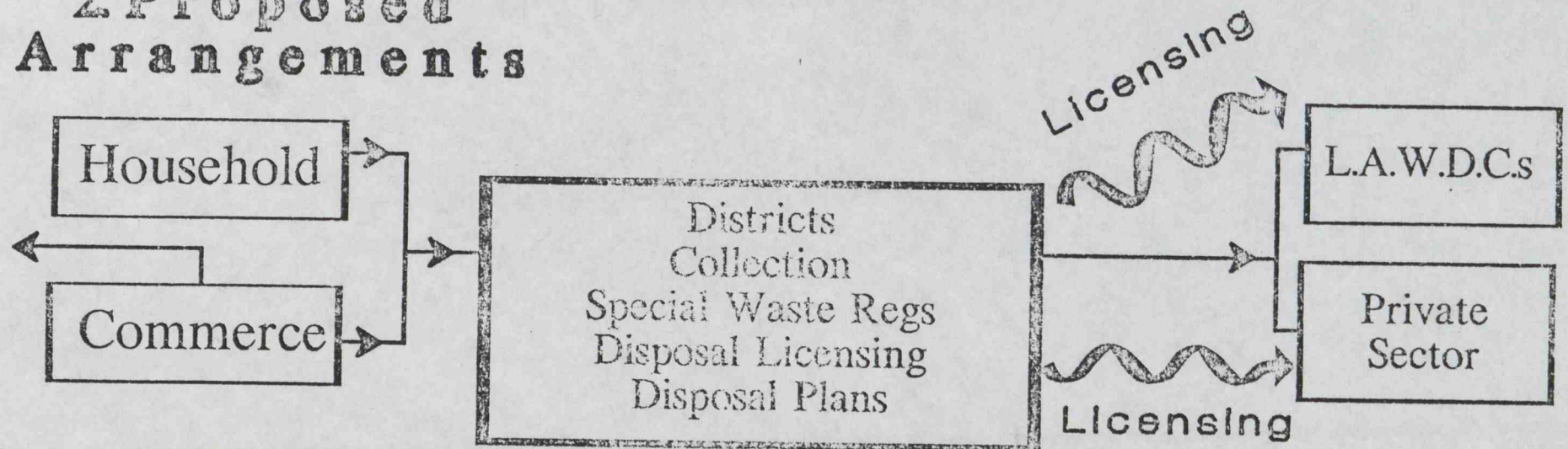
# WALES AND SCOTLAND

NB. Only change is to make operations a company and to have full licensing.

## 1 The Present Situation



## 2 Proposed Arrangements





# Grey Scale #13



**A**

1

2

3

4

5

6

**M**

8

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10

11

12

13

14

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**B**

17

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19

