ENVIRONMENTAL CRIME AND JUSTICE

ALSO

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THE Scottish Environment Protection Agency (SEPA) is Scotland’s principle environmental regulator, with a range of responsibilities. One of these is protecting communities by regulating activities that can cause harmful pollution and by monitoring the quality of Scotland’s air, land and water. The waste industry is one of those regulated through permits, licences and exemptions, with strict conditions to protect the environment.

Scotland is currently working towards zero waste, meaning that all usable resources are removed and re-used, rather than being wasted. However, this approach has highlighted the problem of what happens to the waste that is left after all useful resources have been removed and recycled. It has no value left, and instead attracts disposal costs, which legitimate businesses will pay. Those less scrupulous will find ways to charge for disposing of the waste, without having to pay landfill gate fees, landfill tax and so on. When there is money to be made criminals can be very inventive, and this means that organisations such as SEPA have to be inventive in how they tackle the problem.

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To Willie Wilson, SEPA’s National Operations, Waste and Enforcement Manager, it is important to tackle the root cause of the problem.

“There are people who will only look at the number of prosecutions as a measure of how well we’re doing tackling waste crime, but that’s only a very small part of the story. We do have cases working through the legal system at this very moment, but effort needs go into stopping it from happening in the first place. “It’s all very well to see an individual or company being fined, but by then the damage to the environment has already been done. A legitimate business has already lost out on a contract, a landowner or the taxpayer has already been left with a bill to clear up a site. The public purse has already lost out on revenue that could be spent on schools and hospitals. It’s too late to fix it. What we’re focussing on is ways we can stop the criminals getting that far, and while it’s an area of work that is generally hidden it is a vital one.”

SEPA’s waste crime team was formed in December 2013, to lead investigations directed at tackling the most serious offenders, working in partnership with law enforcement agencies, such as Police Scotland, to identify and disrupt serious organised crime within the waste sector.

The importance of this is highlighted by the team’s Unit Manager, Iain Brockie:

“Waste criminals adapt their behaviours and patterns to circumvent and evade environmental laws, and their actions are often invisible to traditional regulatory models and approaches. We know that as a regulator we need to enhance our skills and ensure we are adapting and changing to the new challenges this presents.

“The extent and complexity of the investigations required to tackle serious organised crime convinced SEPA that new specialisms were required within the agency. Enquiries are run by former police officers, who utilise the investigative techniques they were taught within the Police Service. This includes appointing a Senior Investigating Officer and a Deputy to drive and focus each enquiry.”

Gayle Howard on how Scotland’s environmental regulator (SEPA) is tackling waste crime at home and abroad

World Wide Waste
Since the team was formed it has undertaken eight complex investigations including the large scale illegal deposit of waste onto private land and illegal landfilling of mixed waste. Over 190 witness interviews have been carried out and in excess of 500 pieces of evidence have been seized. In addition, over 400 separate enquiries have been carried out and 38 formal notices have been issued to operators for a variety of issues.

The team has also succeeded in getting 15,000 tonnes of illegally deposited waste removed from one site, 700 bales of waste removed from another and they are in the process of ensuring an estimated 20,000 tonnes are removed from two other sites.

Within Scotland a major development has been the establishment of the Scottish Government’s Environmental Crime Taskforce (ECTF), by Richard Lochhead, Cabinet Secretary for Rural Affairs and the Environment. It is chaired by SEPA's Executive Director, Calum MacDonald. With membership including the Association of Chief Police Officers in Scotland, Crown Office and Procurator Fiscal Service, Scottish Government, SEPA, the Society of Local Authority Chief Executives and Senior Managers (UK) and Zero Waste Scotland, experts are tasked with supporting the delivery of the Scottish Government’s commitment to tackling environmental crime. The first ECTF conference was held in Edinburgh in November 2014 to bring together interested parties from across Scotland, the UK and Europe, to discuss the problems and look at ways to tackle them.

SEPA is working closely with Police Scotland and other partners to map the presence of waste crime groups operating in the Scottish waste industry. As part of this collaborative approach we now have officers embedded in the Scottish Crime Campus at Gartcosh. This will enable better information sharing, which is essential to tackle this threat. In addition, SEPA is now participating in two sub-groups of the Serious Organised Crime Taskforce in Scotland: this demonstrates the importance of our knowledge and experience.

One of the areas highlighted as a particular concern at the ECTF Conference was limitations in procurement rules, which may not stop contracts being awarded to companies that are involved with organised crime. SEPA and Zero Waste Scotland have launched a consultation with the independent consultancy Eunomia, seeking to supply guidance to the public sector about how to identify best practice.

To ensure that the organisation continues to stay ahead of the criminals it has also been exploring whether there are opportunities for academic research to identify potential measures that could be used to for waste crime assessments.

Within the UK, SEPA works closely with staff from other regulatory agencies. Recently staff from the Northern Ireland Environment Agency (NIEA) met with SEPA’s Enforcement Support Team to exchange best practice on development and the use of intelligence models.

Waste is an international commodity, which means waste crime is an international problem. As a result SEPA’s work and influence extends far beyond Scotland’s borders, and it is leading some important European projects.

For environmental and partner bodies, there are big gaps in understanding how illegal markets behave and how to tackle criminal behaviour. This poses major challenges, but also opportunities for innovation, which is where the LIFE SMART Waste Project comes in.

Cath Preston, a Principal Policy Officer in SEPA, is leading the project, which is funded through the European Commission LIFE Programme.

“The project, which is led by us, will also involve Natural Resources Wales, The Association of Cities and Regions for Recycling and sustainable Resource management (ACR+) and the Brussels Institute for the Management of the Environment. It will allow us to improve our understanding of how illegal waste markets and criminals behave, enabling environmental bodies to set intelligence objectives around shared areas of concern, then work together identify and tackle illegality.”

SEPA has also been co-ordinating the transfrontier shipment of waste (TFS) flagship Enforcement Actions project for the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) since 2011 (see also Bisschop on page ?). The project seeks to maintain and improve the network of front line waste shipment inspectors, inspection methods, exchange of information and inspectors’ knowledge on the Waste Shipment Regime.

Katie Olley, Senior Environment Protection Officer in SEPA, explains:

“Co-operation with other regulatory authorities continues to develop within the project. It focuses on the importance of cross-border and regional cooperation, with joint inspections and officer exchanges fostering this. Officers from newly participating countries benefit from the expertise of other countries with established teams.

“Participants share their experiences with their project colleagues by emails, news messages and in webinars. The webinars help to exchange best practice and make authorities aware of the procedures and evidence needed in different jurisdictions. Participants are encouraged to disseminate their experiences in their own countries.”

Serious waste crime is a material threat to the health and prosperity of Scotland’s natural environment, the wellbeing of our communities and the continuing viability of our waste management sector. But, the routes open to criminals will be reduced, as new projects bring together law enforcement agencies, regulators, governments and industry representatives to raise awareness and explore intervention opportunities and preventative actions.

Gayle Howard is SEPA’s communications officer.

European Union Network for the Implementation and Enforcement of Environmental Law http://impeleu/