



Northern Ireland
Assembly

Committee for Agriculture, Environment and
Rural Affairs

OFFICIAL REPORT (Hansard)

Illegal Dumping and Waste Crime:
Department of Agriculture, Environment and Rural
Affairs and Northern Ireland Environment Agency

24 November 2016

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Linda Dillon (Chairperson)
Ms Caoimhe Archibald (Deputy Chairperson)
Mr Sydney Anderson
Mr Maurice Bradley
Mr David Ford
Mr William Irwin
Mr Harold McKee
Mr Oliver McMullan
Mr Edwin Poots

Witnesses:

Mr David Small	Department of Agriculture, Environment and Rural Affairs
Ms Tracey Teague	Department of Agriculture, Environment and Rural Affairs
Mr Mark Livingstone	Northern Ireland Environment Agency
Mr Derek Williamson	Northern Ireland Environment Agency

The Chairperson (Ms Dillon): Today, from the Department, we have David Small, head of environment, marine and fisheries group (EMFG) and chief executive of NIEA; Tracey Teague from the Department; Mark Livingstone from resource efficiency division of NIEA; and Derek Williamson from NIEA controls and operations unit. Thank you very much for coming along. I ask you to keep the briefing as short as possible so that members can get the opportunity to ask questions. I know that we are a wee bit late starting. I apologise for that. Given the weather, some members were delayed.

Mr David Small (Department of Agriculture, Environment and Rural Affairs): Thanks for the opportunity to meet the Committee today. We will present to the Committee on a couple of issues. The first will be illegal dumping and waste crime, which we will deal with now, and later we will deal with the agency's business plan and framework document for this business year. My colleague Tracey Teague will introduce the illegal dumping and waste crime issue and other colleagues who are joining us, and, later in the meeting, I will make a few introductory comments to set the context for the business plan. We will start on illegal dumping and waste crime.

Ms Tracey Teague (Department of Agriculture, Environment and Rural Affairs): I have recently been appointed as director of the resource efficiency division in the Northern Ireland Environment Agency (NIEA). I was previously with the Department in a different role. With me today are Derek

Williamson and Mark Livingstone. Derek heads the controls and operations unit, which includes environmental crime. It is important that Mark Livingstone is here as well because he covers the regulation side, which is more the upfront side of the whole waste area.

We take waste crime very seriously indeed, and we have allocated significant resources to tackle it. It is a significant issue not only in Northern Ireland but across the UK. It is quite clear, as you will hear from Derek's presentation, that we cannot tackle these problems alone. We need to work in partnership with a range of agencies and stakeholders to achieve our goal of a fully compliant and crime-free waste sector, and working in partnership is one of the key ways we hope to do that. In addition, it is vital that our efforts are interconnected with the strategic management of waste, with the circular economy and the treatment of waste as a resource with value. The importance of tackling waste crime in a way that prevents waste getting into the wrong hands and creating the necessary infrastructure to deal with waste are as vital as our efforts to deal with the discovery of illegal waste dumps and other waste offending.

The strong regulation of the companies that manage and treat our waste has improved over the last two years following implementation of a range of new initiatives that have been designed to strengthen the licensing and compliance inspection regimes. We have new powers for fit and proper person tests and legislative changes. We continue to work with businesses for them to stay within the law and to develop and grow. The key messages to the Committee today are that concentrating on dealing mainly with the consequences of waste crime is a less effective approach and that we need a holistic approach. We need to prevent waste crime in the first instance as a priority, and this will be achieved by upfront, strong regulation, assisting those who want to get into compliance to do so and dealing effectively with those who flout the law. That is why our approach to waste and waste crime concentrates on regulation and enforcement. It is also why our approach engages a range of stakeholders and partners.

I know that you heard last week from my policy colleague John Mills about waste management in Northern Ireland, and that will set the policy context for what you will hear today. There is plenty of detail in Derek's presentation. Afterwards, the visit to Mobuoy will hopefully set the scene of the environment with which we work. I will hand over to Derek.

Mr Derek Williamson (Northern Ireland Environment Agency): Morning, everybody. I hope that you have in front of you the presentation that we submitted. I will talk to that presentation. I will not go through the introductions again. I will not repeat all of that. I want to reiterate the thanks to the Committee for your interest in the topic of waste crime. The presentation will take members through what I hope are the key questions that might be in your minds. Obviously, we will take any other questions that you have at the end. We will talk about some of the structures that deal with waste crime, the definitions in relation to those and the outcomes that we are delivering. Finally, I will speak about some of the challenges and some of the changes that we are trying to implement in that area.

The second slide is on structures. Hopefully, you will see that I have tried to highlight in red some of the areas that are very relevant to the areas that we will discuss. As Tracey said, there is the controls and operations unit, which I head, including the environmental crime unit (ECU), the assessment unit and a controls and data management team. On Mark's side, there is the regulation unit, the regulation teams and a small team that deals with volume crime enforcement. I hope that that sets the remainder of the presentation in some context. I will take any questions on that at the end.

I will turn to slide 3, which is about what waste crime is. We can talk about waste crime in a very broad sense and, by definition, it is any act prohibited by law, but you will see in the third slide that the definitions of serious and organised crime are also given. I will not bore members with the detail of those. If you have any questions, I will be happy to take those at the end. For the most part, the work of the environmental crime unit concentrates on those elements of serious and organised crime that are highlighted in the slide. The most common crimes that we see and deal with are illegal infilling or dumping of waste and the misdescription of waste. The following slides provide some visual examples.

Slide 4 is a representation of a typical case of illegal infilling that we deal with in the environmental crime unit. That case is one that we successfully prosecuted in recent years. On the surface, without any excavation, you will see that it is very difficult to tell what lies beneath there but, once the digger has started its work, it is very obvious what lies beneath. You might see some indicators of that when you visit Mobuoy later today. That is typical of the illegal infilling cases that we see. Slide 5 is a visual representation of the misclassification of waste. That is a lorry tipping material at a landfill site, which was described as inert material but, in fact, would attract the higher rate of tax and is non-inert

material. The following slide is a better representation of misclassification, and you can tell the difference between the materials. In fact, what you see is typical of a lorry that might arrive at a landfill site being what is known as "top-dressed". The main bulk of the material will be non-inert, attracting the higher rate of tax, and it will be top-dressed with a layer of soil, stone or something like that, which gives the appearance of being inert material. Later, I will draw attention to some of the financial aspects of those types of crimes and what is typical, so that members are aware of it.

Slide 7 is about how all this is regulated. In the context of waste crime, regulation is hugely important. A critical element of our approach is about the regulation of the waste sector in the first instance, rather than dealing with the consequence, which is the waste crime. There are a range of legislative vehicles, which set out the requirements, and a system of licensing, permits and exemptions, which are managed through the regulatory teams led by Mark. The slide also shows a range of areas that are regulated. The Assembly research paper, which members received very recently, explains this in more detail, so I will not labour the point and take up your valuable time. However, I want to emphasise, once again, that the regulation of waste is critical to the prevention and detection of waste crime. The two are not divorced, and each relies on the other for success.

Slide 8 looks at the drivers for waste crime. Pure and simple, it is just finance — it is all about the money. I hope that I am not insulting anyone when I say that, very simply, it is the driver for all the waste crime that we see. Ultimately, the money can be made either through criminals undercutting legitimate businesses or by the avoidance of fees and charges. Slide 8 highlights a typical example of the misclassification issue that I described earlier. It is a kind of worst-case scenario, but it makes the point clearly that there are considerable financial benefits to this kind of crime. We are not talking about a few thousand pounds or even a few hundred thousand pounds; potentially, this can be multimillions of pounds.

Slide 9 looks at the extent of reported waste crime. That slide sets out the level of reported incidents that we are dealing with on an annual basis. In fact, as of Monday this week, the number was 771 for this year. We are averaging around 70 reports or incidents per month. Not all of those will be serious incidents and organised crime. Many will be dealt with by our volume crime team. All have to be assessed and responded to with an investigation. Another important point for members is that the number of incidents is on the rise. There is a range of explanations for that, such as greater public awareness, which is undoubtedly the case. The outreach work that we are doing with partners and partner agencies has also driven a rise in the number of reported incidents. For example, we have been working with colleagues in the Planning Service and with local council environmental health officers. The number of reports — right across the board — from a range of agencies has increased, and that is being driven by our work.

Slide 10 looks at waste crime volumes. I hope that this slide is helpful in understanding the volume of waste being dealt with by the environmental crime unit and the context, bearing in mind what I said earlier about the ECU dealing primarily with serious and organised waste crime. The number of active investigations dealt with by the environmental crime unit is currently 73, with 22 live financial investigations attached thereto. Excluding the Mobuoy Road site, these cases collectively concern over half a million tons of waste, and the average volume of waste that we have in any one case is just over 6,000 tons. In such cases, the potential high point of financial benefit arising or avoided could reach around three quarters of a million pounds, depending on the nature of the waste and the relevant landfill tax or gate fees. Hopefully, that slide also demonstrates and highlights the volume of reports being dealt with by the volume crime team, which was 224 at the end of September.

Turning to slide 11, where are these incidents happening? I hope that this slide gives you a representation of the breakdown across the council areas in this part of the world. The three highest in order are Mid Ulster, Newry, Mourne and Down, and Armagh City, Banbridge and Craigavon. I caution that, while this gives a very broad picture, it does not mean that Mid Ulster is the waste capital of Northern Ireland. It could equally mean that its council and citizens report more incidents and, therefore, prevent more serious waste crime from occurring. I caution not to read into this that the fact that Mid Ulster is the highest means that it is the worst location for waste. Slide 12 continues on the issue of where it is happening. This slide demonstrates the type of land concerned in reported waste incidents. The highest, shown in the blue line, is farmland. The green line is commercial and industrial premises, and the red line at the bottom of the graph is domestic premises, where we actually get very few reports. The orange line is roadside dumping, where reports are slightly higher but clearly not as significant as farmland or commercial and industrial premises.

Slide 13 is probably the most important slide of this presentation. It represents our planned approach to waste crime. At the top, you will see the outcome that we seek and that Tracey mentioned, which is

a compliant and crime-free waste sector. Below that, in the boxes moving from left to right, is a range of supporting activities, such as incident-handling, regulation and compliance activity, waste-movement monitoring, and action to deter, disrupt, dismantle or prosecute waste criminals. Equally important and underpinning these are our activities on remediation, which is the last of the boxes to the right. Also underpinning them, in the bottom two boxes, are the themes that support that work and the activities that I have just described. That includes partnership working, which Tracey also mentioned at the outset and which we see as essential to success, and education and prevention activities that help to divert people from waste crime and ensure compliance. You will see more about some of those activities in the following few slides, so I will not labour any further on that.

I turn now to slide 14. On the previous slide, I mentioned waste movements and some of the work that we are doing around that. A good example of that is the trans-frontier shipment (TFS) of waste and the work that we do at ports. Members heard about waste exports from John Mills last week. This slide gives an overview of the types of materials passing through our ports. The picture depicts paper that is ready for export from the Belfast port. Members will see that the main export through the ports is metal followed closely by paper.

Where do all those waste exports go? Slide 15 gives a representation of where those wastes ultimately end up. It is a high-level representation of the areas receiving waste from Northern Ireland. It represents non-hazardous waste rather than any other category. You can see plainly from that Indonesia and China, between them, are receiving almost half of the exports. The main hazardous wastes being exported are oil, construction and demolition waste including asbestos, and waste electronic and electrical equipment. The two main destinations for hazardous waste are the Netherlands — examples of what it takes include paint thinner, polymers and pharmaceuticals — and the Irish Republic, where it is primarily waste oils. Mr McGlone asked that question last week, which is why I added that piece at the end; unfortunately, I see that Mr McGlone is not here. Hopefully, that is helpful.

Slide 16 stays with the trans-frontier shipment of waste. What are the outcomes? The slide provides an example of the activity that we undertake at the ports on waste movements and, in particular, the exports that I have mentioned. The figures represent the number of trans-frontier waste movements monitored; physical inspections and site audits conducted in 2015; and formal notices issued and advisory letters sent in relation to activity at the ports. The fact that only one conviction resulted is a testament to the very positive work that the team does on trans-frontier shipments. In recent years, the story is one of hugely increasing compliance. Very little such crime is seen and few repatriations ordered from other countries. It is well recognised that our regulation and monitoring of the trans-frontier shipment movements is at a comparatively high level.

Slide 17 covers hazardous waste. Similar to the previous slide, it shows an example of the activity that we undertake on the movements of hazardous waste. In 2015, 28,500 consignment notes concerning hazardous waste were processed and monitored by my teams. There were 1,129 inspections and checks at the roadside and at ports. As with TFS movements, we should not underestimate the value of the deterrent effect of all that work. That activity resulted in 17 advisory letters, 11 formal warning letters, one fixed penalty notice and one conviction.

Slide 18 concerns the outcomes for the more serious and organised crime elements that I referred to earlier, which are dealt with by the environmental crime unit. In terms of the incidents and investigations allocated to that unit, the slide represents the number of convictions over the last number of years. In the last five full years, the average was 28 convictions per annum, with a higher than average of 36 in 2015. Again, I want to emphasise to members that these are the prosecutions taken only by the environmental crime unit on the serious and organised crime element. The fines that resulted from those have a range, but the average, as you can see, is just over £2,000. Members might be interested to know that the maximum fine available in the Magistrates' Court is £50,000, with an unlimited fine in the Crown Court.

Slide 19 continues on the outcomes. Earlier, I mentioned our financial investigations, and this slide gives you a representation of the outcomes from those. Members will note that these orders are used sparingly, in appropriate cases and in line with the strict legal principles that surround these very invasive powers. Our average confiscation order is just over £70,000. Once again, the deterrent value of that work and process should not be underestimated. I know from experience that losing assets is one of the things that criminals fear most.

Additional outcomes are shown in slide 20. This is not just about prosecution in the courts. Members will rightly have determined that, with over 700 incidents this year and the numbers of prosecutions in

the previous slide, there is a discrepancy between the two. Slide 20 demonstrates for you that prosecutions are not the only disposal method for the incidents and investigations that we process. On very many occasions, we decide to take no formal action and instead issue advice and guidance, to bring the person into compliance; or, as the table indicates, we may issue formal warnings, statutory notices or fixed penalty notices. In some cases, there may be a combination of a statutory notice and some other form of action, so there is an element, I suppose, of double counting in that. However, I thought that it was important to mention that to explain the discrepancy that I spoke about just now.

I turn now to slide 21. Obviously, the discovery of the major illegal waste deposits at Mobuoy were a watershed. What has been achieved since? We have restructured and changed the leadership of key areas, and we have improved process in our approach to regulation and enforcement, as Tracey mentioned at the outset. This has included the implementation of both the Mills and recent Criminal Justice Inspection (CJI) reports. In addition, we have developed stronger systems of regulatory control, based on risks. Our strategy to remediate the Mobuoy site is at an advanced stage, and members will no doubt want to hear more about that when they visit the site, following the session. Also, we are exploring a new, potentially mandatory system for the monitoring of waste movements, including hazardous waste. It is known as the eDoc+ system, the electronic duty of care system. We are collaborating with sister agencies across these islands and with industry to develop this system. If introduced, it will be a fundamental and positive change to how we monitor waste movements and waste arisings. It will allow us to monitor all waste movements in real time. As I said, that will be a step change and one that we are keen to take to the next stage. Finally on this slide, we are also working closely with local government on new strategies for the management of municipal waste.

You will be glad to hear that this is the penultimate slide, because this has gone on a bit, I am sure. There is a lot of detail, as Tracey said. What challenges are there? On the kinds of waste crime that we often see and which I have highlighted for members, there are a number of challenges. Most obviously, this kind of activity is conducted in secret, and criminals go to great lengths to cover their tracks. In many cases, this criminality is a kind of complex fraud with a veneer of legitimacy in the form of some kind of authorisation or exemption issued by NIEA. The paper trail and the use of phoenix companies makes detection of these complex crimes resource-intensive and complex. Criminals will very often consider the risk and the reward before entering into their activity. In the case of waste crime, the rewards are obviously high, while the risks are less so. This can be too tempting for many, although I wish to recognise and point out that there are many legitimate and hard-working operators in this sector, and they are doing their level best to do the right things. They are let down by the criminal elements in the sector. None of this is divorced from the wider strategic context of waste. Having the right infrastructure and embedding our work in the waste hierarchy, the circular economy and resource efficiency is as vital as the enforcement work that we undertake.

Lastly, what is the change that we are trying to encourage? Where are we trying to go? In how we are tackling waste crime, we are clear that the focus on prosecution alone will not be fully effective. We have been and continually are engaged in work with others that endeavours to prevent illegal activity. However important enforcement is — it is important — we cannot prosecute our way out of the problem. Our approach increasingly is becoming more proactive but recognising that we are not in a position to stop responding to those matters reported to us. The 700-plus incidents that we get a year still have to be responded to. As part of the proactive approach, we are endeavouring to focus on waste streams and issues that create the most risk of harm as a priority. Helping us to do that are regular strategic assessments of waste crime. These help us to understand the problems and allocate our resources and maximise our efficiency.

Finally, as a point linking back to Tracey's opening, waste crime and the focus on the consequences needs to be part of a wider strategy in managing waste and in building the waste infrastructure with which, at best, we can and will design out crime. Thanks very much. We will be happy to take questions.

The Chairperson (Ms Dillon): That was a lengthy presentation, but I do think that it was worthwhile, particularly given that we are going out to Mobuoy, in giving us a good understanding. A number of members are looking to get in, and I will let a few of the members ask questions first.

Mr McMullan: Thank you for a detailed and interesting presentation. When we recycle stuff, how sure are we that it is being recycled? Here in Derry, there was a major fire, even after the dumping at Mobuoy was found. You could see the glow from that fire from Belfast. How can we be sure that what is sent to different countries for recycling is being recycled? That is the whole ethos of having that. We are not sure of that, are we?

Mr Williamson: I am not sure that you could ever be sure. If you are speaking primarily about what leaves the country, once it is exported, obviously the responsibility transfers from this jurisdiction. Locally, the system of regulation and controls, which Mark's team leads on, is key to all of that. I will let Mark come in and talk about compliance models and how we regulate some of the sites.

Mr Mark Livingstone (Northern Ireland Environment Agency): I suppose that there are a couple of simple approaches to it. If you think about the sites where the material originates, there are standards under our regulatory position statements that say that material must be recycled to a certain standard. So we catch it there, and we pick that up through a series of compliance visits. As it is transited out through the ports, other teams check that they do not sneak extra things into containers that they should not, because we have standards of regulation there again. The real concern and catch-all is that if one of those containers goes out — it costs £10,000 a container — and it is picked up in the regulatory systems in the country it is delivered to, it will be sent back, and the Department will have to pick up the cost. We have quite a lot of stopgaps in place to make sure that that does not happen. Obviously, if you are an out-and-out criminal, you will look to get around those things, but it should not be happening and it is not happening on a big scale.

Mr McMullan: I do not want to dwell on it, because there are so many other people and we have a time frame, but the method of it being allowed to stack up at ports before it is exported has to be looked at. It really is a very grey area. I will not go into it any further at this stage, but I know what is behind all of that, and you know that there is a lot of work to be done on that one.

Mr Livingstone: Sure. If I can just finalise that one, all the ports will have licensed sites to hold that material. The site that it comes from will have a licence and a permit and the port will have a licence and a permit, which will have standards and conditions for the number of bales, the type of material and how long it can be stored before it is moved out. We are quite tight on that because it is detrimental to, for example, the tourist industry. If it builds up at Belfast port, it will affect cruise ships coming in and there will be rats, vermin and flies. We are very sensitive to that area and make sure that it is tightly controlled.

Mr McMullan: It sort of goes back to the other story. Why are we exporting? Can we not recycle here for our own benefit without sending it out to be recycled? That is an issue that always rankles with a lot of people.

The fines on land are mostly for farmland. There is no mention in your report of fines for landowners. I know that inspections can be done from drones and everything else. Your single farm payment is on your land etc, and they can pick up if you have not claimed for a tree, a bush or whatever. It baffles me how they can get away with it and why those places do not show up in inspections. Maybe they are in some cases. We do not know whether those who have been caught on their land have had their single farm payments withdrawn because it is not compliant with the agreements on receiving single farm payments. That needs to be highlighted.

Mr Williamson: I can certainly tell you that, in a number of cases we have investigated in recent times, we have addressed the issue of single farm payments. Historically, I do not know whether that has always been the case, but it is certainly something that we are very conscious about.

In terms of the work I described us doing at an earlier stage in the presentation, we are very much conscious of and linked in with colleagues from, for example, the veterinary service and others who are out on farms and may be the eyes and ears for the kind of waste criminality that is going on. We get reports from those quarters; there is no question of that.

Mr McMullan: That should be highlighted. I am not getting at you, but that should be highlighted in your report. You have quite a lot of very detailed information about fines and the stuff that you have accrued on fines etc. That should be in there too — how much single farm payment money has actually been withdrawn from landowners. If that message also went out, it would send a message that not only can you be fined but you will lose your payments, although at this stage, with Brexit, it might not worry too many of them.

You have talked about waste infrastructure. What are we talking about here? Classification? Incineration?

Mr Williamson: What I was referring to is whether we have enough infrastructure, indigenously in Northern Ireland, to deal with, for example, the RDF, which you quite rightly highlighted just a moment

ago. The answer to that is I do not think that we have. That is the reason why we are exporting so much material for energy from waste recovery to all sorts of other places.

Mr McMullan: We need to do a programme on that. We need to look at more anaerobic digestion and all those things. Why are we sending waste out when we could be turning it into recyclables here for power or whatever? It is the height of nonsense.

The Department here — when you look through the report, and it has been asked of the Minister — has no plans to enhance regulations to prevent further illegal dumping. It has no plans to introduce a requirement on the commercial and industrial sectors to report waste. What is going on there, when we look through that report, that we are not doing that? We are not closing that gap.

Mr Williamson: There are probably two separate issues there. The first is that in order to prevent or detect waste crime, I am confident that we have sufficient powers. The second part of the question is back to the infrastructure requirements and what we need to take that forward, which is a completely different question.

Mr McMullan: Yes, but it all feeds into the crime, because a lot of that industrial waste is top-dressing what was dumped before. The same gangs are doing that. They know they cannot be prosecuted for industrial waste because we have nothing there to legislate for, so that is used for top-dressing. I will not say at which sites that has been used — you know yourselves — but that is a door that needs to be closed.

Mr Williamson: Part of the answer to that — it is not a complete answer, and I referred to it in the presentation — is that we are actively looking at the eDoc plus system, which will be a step change in how we manage waste and waste arisings. That will not exclude construction waste, industrial waste or any other sort of waste. It will, from cradle to grave, manage all our waste, including hazardous waste and all those other categories that I talked about. From my point of view, we are putting as much energy and effort into that as we can, linking in with all the other UK-wide agencies so that we get a complete picture of waste and waste movements across the UK.

Mr McMullan: That is fine. That will do, and thank you for that.

The Chairperson (Ms Dillon): Can we get a written briefing on exactly what that system is, what it entails and who you are collaborating on it? I would be interested to have a more in-depth understanding, but a written briefing would be OK.

Just to let members know: I usually limit people to one question but this is an important issue, and we have come to Derry for a reason, so members can do what Oliver did and have a number of questions.

Mr McMullan: *[Inaudible.]*

Mr Small: Oliver raised a couple of important points. The point about enhanced infrastructure within Northern Ireland is an important point that we agree with. We would like to see enhanced, more extensive infrastructure. The point about eDoc+ and the better controls that will give us in terms of construction and demolition waste, again, is an important point. In the past, the controls around that particular waste stream have not been as strong as they could have been.

Mr Irwin: Thank you very much for your presentation. It was interesting and easily followed. It was very good. I have a couple of issues. There were 771 incidents reported this year, and 400-odd in 2011. Is that because there is more waste crime or because the community is more aware and reporting more?

Mr Williamson: I am going to give you a very simple answer to that. I do not think there is more waste crime. I think we are better at recognising, detecting and reporting it. A lot of that is about empowering and educating citizens, and we have been trying to do that. As always, there is more to do, but I think that accounts for the vast bulk of the rise.

Mr Irwin: I reckoned that probably was the case. Average criminal benefit could reach £750,000 per case, and we are told that the average penalty is £2,000. That is quite small in relation to the gain.

Mr Williamson: Absolutely, and that does concern us. There is work to do to educate all sorts of people, including lots of people in the criminal justice system, as to the importance of this issue. I cannot talk about individual cases, but in a broad sense we are concerned about the levels of fines.

Mr Irwin: You spoke about the seizure of assets. Is that rare?

Mr Williamson: I would not describe it as rare. In every case that we investigate, and certainly in every serious case, we ask our financial investigators to look at that and see whether we can prove that the financial benefit arising can be subject to a confiscation order. You will see from the slide that the average confiscation order that we obtain is just over £70,000. That is not insignificant in terms of the kind of deterrent effect, let alone the effect on the individual concerned. These kind of cases are very robustly defended in the court.

Mr Irwin: Personally, I have always felt that where there is criminal activity in any field, the seizure of assets should be more widely used. As someone said earlier, it is one of the biggest fears that criminals have. No one likes losing assets. It is something that we need to take a wider look at in the Assembly on how we move forward in the future on a lot of criminal issues. Criminals are being fined a couple of thousand pounds and they are making millions; it does not make much sense.

Mr Small: It is certainly a mechanism that we will continue to look at, because it is right with regard to the deterrent value.

Mr Irwin: If you are a criminal — a high-flying one or a low-flying one — at the end of the day, there is an opportunity to make large amounts of money, and you know the fines are small.

Mr Small: It brings us back to the issue of prosecution.

Mr Williamson: It is the issue of risk or reward.

Mr Small: Taking a prosecution involves a lot of work; a lot of resources have to be deployed to it. If, at the end of that process, the penalty imposed is insignificant, then you need to question the value of taking the prosecution every time.

Mr Irwin: I will make one more comment, in closing. I am a farmer and have been a farmer all my life. With regard to cross-compliance fines, if you have an intentional fine it will be much higher than your £2,000. Farmers are fined massive amounts of money. I spoke to two farmers this last day or two who were fined 35% of the single farm payment. It was nothing to do with crime; it was to do with a much more minor issue.

Mr Small: That fact, William, has influenced our approach around where we deploy our resource. More and more we are deploying the resource to try and prevent waste being generated and to disrupt the activities of criminals, so that we get to the issue before it becomes a major environmental problem which then takes us down the enforcement and prosecution route. So we are shifting our resource to try and deal with it at an earlier stage.

Mr Irwin: One would think that the courts — given the magnitude of what it would take to rectify this site we are going to look at today — would be trying to retrieve that money from the criminals to pay for it.

The Chairperson (Ms Dillon): I will just ask two quick questions on that. Obviously, the fines are quite small. Have the confiscations gone alongside some of those fines?

Mr Williamson: Yes.

The Chairperson (Ms Dillon): OK. And has the Minister had any conversations with the Department of Justice on the issue of how small the fines are?

Mr Williamson: Not to my knowledge.

Mr Small: I am not aware of any direct conversations, but it is certainly something that we will consider. If we felt that the Minister's involvement could help influence the situation, then it would definitely be worth pursuing.

Mr Williamson: I am personally engaged in conversations which are taking us along that way in trying to educate, as I referred to, people in the criminal justice system. I have had conversations with lots of legal people, and we will shortly have a workshop with our colleagues in the Public Prosecution Service to try and work through some of these issues, raise the level of understanding and try and take us further along that route. Ultimately, judges are independent and they will make their own decisions about these things.

Mr Small: The Committee's support, Chair, in some of that work would be very helpful.

Mr Ford: I declare a former interest in this particular issue. Certainly, Mobuoy highlighted this issue, which meant that environmental crime was taken into account by the Organised Crime Task Force, which was positive. What we are really talking about is not actually engagement with the DOJ or the PPS, but engagement with the judiciary. That is where action needs to be taken, through the various groups that the Lord Chief Justice has on sentencing guidelines and so on, to ensure that people take real account of the issue.

Mr Williamson: I could not agree more.

Ms Archibald: Thank you for the presentation and the briefing; it has been very informative. I concur with the comments around the deterrence; we certainly need to look at that. I just want to make a wee comment on the circular economy and the potential of using waste as a resource. There are possibly some legislative hurdles to that. For example, classifying waste tyres as a waste stream in the first place limits their reuse potential. Is that something that you are looking at? I will just touch on the eDoc system. Is the infrastructure — the software, hardware and whatever is necessary — in place to make that process work? Post any EU exit, there is the potential for tariffs on waste streams, and that might exacerbate waste crime or incentivise it. Has that been evaluated by the Department?

Mr Small: I will just pick up on the first point on the circular economy. We are at a pretty early stage in our thinking on the circular economy as a concept. We see the value of the circular economy. Rather than use and dispose of something and send it down a waste route, it is far better to use, reuse and recycle if you can. We see a lot of benefit in the circular economy concept, but we are at a very early stage in terms of to what extent we want to embrace it in Northern Ireland and what that would mean for our Department, for example. What would the activities for our Department be, and how would they be reflected in our business plan? We are at an early stage, and we will have to think about the kind of issues that you have raised as we work our way into it.

I am not sure that we have all the infrastructure and IT functionality in place for eDoc.

Mr Williamson: We do not. The Scottish Environmental Protection Agency is leading on a project, which we are very much plugged into, to look at all that. There are seven or eight different work streams, one of which is on the IT support that will be necessary. We will have to get industry buy-in; there has to be benefit for both the regulator and the industry. It is a very saleable product, but it is a long process to get a UK-wide IT infrastructure in place.

Ms Archibald: I suppose that you would have to have buy-in from all the different partners and organisations. Can you just expand on what partner organisations you do engage with or are involved with?

Mr Williamson: The primary umbrella group for industry that we refer to is the Chartered Institution of Wastes Management (CIWM). Most legitimate waste companies are plugged into CIWM, so we use that as a vehicle. Not very long ago, I had the chief executive over in Belfast doing a series of presentations to waste companies on where we are trying to take the eDoc plus project. The general feedback from the industry is pretty positive at this stage. It can see the benefit in logistics and waste movements. Rather than all sorts of paper flying about, there would be one system. It is electronic; it is live; it allows them to deliver a much slicker service and to invoice their customers, ultimately, which is the benefit for them. Obviously, the benefit for the regulator is that we are able to monitor all waste movements in real time.

Ms Teague: I will just pick up on the circular economy; I will bring Mark in on tyres. It is much broader than just waste. We have engaged with colleagues in the Department for the Economy, and we are planning to engage with colleagues in the Department for Communities, because there are a lot of social benefits from the circular economy, not least job creation. There are some good examples of circular economy in Northern Ireland, which we can share in some detail with you if that would be helpful. Tyres are a slightly more complicated issue, so I will invite Mark to give some comments on that.

Mr Livingstone: I will add a bit more detail on partnership working as well. We also work through the CBI with all the waste management companies to underpin that drive towards compliance. We ask them how they can help us in the drive towards compliance because they manage all the waste, treat all the waste or move it on. The CBI is a great vehicle for that, because it is professional industry managers

We have a waste working group at council technical director level to help councils manage their waste. We are working very hard to understand their needs and concerns in managing the waste because, ultimately, we want to ensure that the bins are emptied on a day-to-day basis and that it meets the waste hierarchy as we move through that. Tyres are difficult. We underpin the circular economy from a regulatory point of view through the end-of-waste process. We have some good guidance documents on our website, and I can certainly flick them to you and explain the end-of-waste process. That is really about how we take a waste and turn it into a reusable virgin product. For example, we are working with a company to reuse some carbon fibre filaments that went to landfill recently, and we are looking to allow that to be reused as a virgin product.

Tyres are difficult. We have a huge programme with tyres and the reuse of tyres through various companies. For example, we are trying to work with Lafarge to use shredded tyres with the metal removed as a product for using in the incinerator to heat and make energy as part of the cement process. We are working with other companies through pyrolysis in the County Antrim area to deal with those things. We are trying to encourage companies to reuse tyres, and we were down South in Ireland working with other cement companies to try and open up markets which we will underpin by our regulatory position statements to allow people to reuse these products. Tyres are a difficult issue in Northern Ireland.

Mr Small: Partnership is really important. At last week's Committee meeting we discussed the new Programme for Government, and I mentioned that one of the core principles is collaboration and working across boundaries. The work that we are doing with the private sector, private companies and councils is a good demonstration of where that partnership collaborative working is really important, and we need to make sure that we do more of it and that it delivers.

Ms Archibald: The tariff one?

Mr Small: Can you run that issue past me again?

Ms Archibald: Are we looking at tariffs on waste streams?

Mr Small: Again, we are at a very early stage in terms of Brexit negotiations and what that might mean for tariffs. That is one for further down the track a little bit. It will be an issue we will have to consider under the wider Brexit negotiations.

Mr Poots: Are we winning the battle on illegal waste?

Mr Williamson: In combination, all of the work we are doing, primarily in Mark's area, which is about regulation and compliance in the waste industry, and the work my teams are doing — some of which is regulatory but, for the most part, I will talk about the waste crime sector — is having a deterrent effect. You can never be definitive and say you have prevented all waste crime, and clearly we have not. We continue to get reports and find some reasonably significant sites. We are having an effect, and part of the evidence of that is we are not finding major illegal sites on a regular basis. We are not having waste repatriated from other countries when it is exported from here. Of course, I emphasise that you cannot be absolutely definitive about it.

Mr Small: Edwin, we are making good progress but we are definitely not on top of it yet. There is more work to be done. I would like Mark's teams to be so successful that we do not need an environmental crime unit. We still have a lot to do.

Mr Poots: Mobuoy plus 560,000 tonnes is not a great demonstration of winning.

Mr Small: I agree. When Mobuoy was discovered, it was a massive disappointment.

Mr Poots: There were 560,000 tonnes aside of Mobuoy. I was somewhat shocked at that figure when I read it.

Mr Livingstone: I want to add value to that. We have over 1,000 licensed sites. When we first came and started a new leadership programme in waste management, we had no way of answering the question, "How compliant is our waste industry?". We now have a compliance assessment strategy that tells us that, given the conditions and the limits that we currently measure — statistics will always damn statistics— 90% of the licences are compliant.

My main emphasis is actually to put Derek out of business, and we laugh about that daily. I am here to help industry. I am here to help farmers or whoever get into compliance, and my role is to give advice and guidance rather than hit you over the head. We are starting to use fixed penalty notices instead of taking people to court, because Derek can spend four or five years taking you to court and get £2,000. I can get £300 off you in about half an hour. We have issued over 40 fixed penalty notices this year for waste offences, and it deals with the thing quickly and sharply. I think we are winning. Have we won? We will never be able to say that, but we are winning.

Mr Poots: Again, the evidence you provided shows companies making £750,000 from waste, with the potential of a fine of £2,000. Even if it is £20,000 — or £100,000 for that matter — you will still be left £650,000 to the good. The punishment does not seem to fit the crime.

Mr Small: I agree, Edwin. The penalties that we are seeing at the end of a long prosecution, which has taken up quite significant resources on our part, are very disappointing. We need to engage, as we have discussed, with other colleagues in the Executive about how we can change that and increase the penalties. We also need to refocus our efforts so that we are deterring and disrupting the criminals' activities before we get to that point.

Mr Poots: Tracey said something at the start that concerned me. It was about regulating companies. Dispensing huge amounts of your resources on regulating companies that are seeking to do things legitimately is not a good use of resources. The resources should be targeted towards the illegal activity. I know this because my son used to work in the industry. He does not do so now, so I have no interest to declare. The calls were almost daily to companies that were doing things right, yet you hear about half a million tons or more of illegal waste. To me, the NIEA spends too much time focusing on people who are trying to do things right — sometimes they get it wrong but they are trying to do things right — as opposed to focusing on people who are deliberately going out to do wrong.

Mr Small: I will let Mark pick that issue up and talk about how we apply the risk-based solution.

Mr Livingstone: Your comments are fair and they have been in the past, but the compliance assessment strategy is all based on risk. If you were compliant last year, you are likely to get fewer visits this year and we should not be out with you every day. We are targeting our efforts at that final 10% to bring them into compliance. I do not like the word "regulation". If I could change it to the phrase "business support" I would, but that does not sound good either. Ultimately, we are out there to give advice and guidance to companies on a daily basis whether they need it or not. I do that regularly and my inspectors do it regularly. I have 40 inspectors out every day of the week and we will give advice and guidance where it is needed. You can see our figures as they have started to stack up over the past couple of years. We are now focusing on the non-compliant industry and the non-compliant guys who are taking money off the guys who are working hard on the right lines.

Mr Poots: While we were focusing on those guys, somebody managed to tip 100,000 tons of waste illegally at Mobuoy, for example.

Mr Small: We agree the point, Edwin. We need to focus our resources more and more on the areas where the damage is being done.

Mr Poots: There is stuff coming from the South too, a lot of which has not been repatriated yet. How many sites are clear now?

Mr Williamson: The repatriation programme has 17 sites in total. Eleven sites have been cleared to date. In fact, tomorrow I am meeting colleagues from Dublin to talk about next year's programme and we hope to clear another two sites in total next year.

Mr Small: The programme is ongoing, Edwin. I agree that it is probably slower than we would like, but we need to work in partnership with colleagues in the South.

Mr Poots: I have one final question, Chairperson; thank you for your discretion. Caoimhe quite rightly raised the issue of tyres and you talked about working with business and mentioned the work being done by Lafarge. That has been going on for 10 years. That is an awful long time to get a solution.

Mr Small: Yes, well, these things are difficult in business. Lafarge has changed ownership three times in the last four years and the board changes its investment strategy as it goes forward. We need £1 million to make this project a success and the board has indicated that it is going to be positive this year and address that need. On the real positive side, there is anecdotal evidence from working with Belfast City Council that far fewer tyres are going on bonfires. We are supporting retailers to find efficient resources and sources to get rid of waste and used tyres and that seems to have been effective.

Mr Poots: One of the worst incidents with tyres was up here, where tens of thousands were burned in one go.

Mr Livingstone: Yes.

Mr Poots: Someone got paid to store them.

Ms Teague: May I respond to Edwin's first point? I am relatively new to the division; you may remember me from a previous time.

Mr Poots: I know.

Ms Teague: Although the recommendations from the Mills report have been implemented, by and large, there is still a lot of work to be done. There have been structural changes and we have looked at the expertise that we have in the team and the skills that staff need. There is still a big journey to go.

To go back to your question about whether we are winning, I think that we are doing all the right things. I want to pick up on a point that Derek was very strong on, which was about engaging with the likes of the judiciary and the PPS. We are getting all our facts and figures together and are working through the key things that are going to make a difference. That will maybe give you some reassurance that we know that we have not nailed it simply because the recommendations of the Mills report have all been implemented. We are still working through all that. There is a big job ahead.

Mr Small: We certainly do not underestimate the challenge of getting on top of the whole issue of waste crime and environmental crime.

Mr Poots: There are probably three or four areas in which you could really make a big difference. David mentioned one of them, and Oliver made some valid points as well.

The Chairperson (Ms Dillon): David, can you give us some information on the remediation strategy for Mobyoy? What conversations have been had with local residents? Obviously, they are concerned about what is going to happen up there and whether it could cause further issues for them.

Mr Small: We have been doing a bit of work around the remediation options. We have had consultants on-site helping us in terms of doing risk assessments to assess the risk issues at the site. We are about to commission a further piece of work specifically on what the remediation solutions might be. Our plan is that this should be available by, I think, the end of March or April next year. That will give us a set of remediation potential solutions. We have also commissioned a piece of

research work looking at what the best remediation options might be. We are not yet totally clear on the remediation solutions but we have work in place that will help to get us to a point where we can, hopefully, make decisions on how to proceed.

There is a range of costs associated with the various options. One is retaining and containing the site; another might be treatment on-site; and another might be removing the waste and disposing of it safely elsewhere. The associated costs range from £10 million to £100 million-plus. The remediation costs could be very significant, depending on what solution we decide is the most appropriate in the end. We will be doing that based on advice from a consultancy piece of work that uses UK best practice to determine what the best solution might be. We are not quite there; we have a bit more work to do before we can make clear decisions. We have been working closely with a group of stakeholders; there was a meeting yesterday, the purpose of which was to bring stakeholders, the local community and residents up to date in terms of the work that we have done around assessing risks on the site as well as what the remediation solutions might look like. We are very aware of the need to keep close to stakeholders and residents in the community. We will continue to do that. Colleagues may want to expand a bit on that.

Mr Livingstone: I will take you through more detail on the site today. We had a really useful meeting yesterday. We have had a series of stakeholder events as we have reached key milestones in the project. Yesterday's was one of the key milestones: the detailed risk assessment of what we think the exact problems are on the site. There are problems, but, currently, there is little to no impact on the Faughan. There is a limited exposure to the drinking water point down at Cloghole for Carmoney, so there is some good news.

Our next phase over the next four months is to develop a specific remediation strategy. What do we need to do, and how much is it going to cost? We asked for a reference group of specialists from the area to be set up, such as the Faughan anglers or some of the local guys and girls who know the detail of the farmland around there to help us to make the right decisions. The Faughan is very well fished, so, as part of the remediation project, how do we make sure that the bank is sound and that it is not going to collapse at any stage? How could we improve access for guys who want to fish down there? There are some real local benefits. However, this is tempered by the fact that there is a legal case going through the courts at the minute. We do not own or have access to that land, so we are looking for legal opinion on how we make sure that any steps we take as we weave our way through the process are done legally and that there is no benefit to anyone who owns that land currently once we spend the money on making sure that it is fixed. It is a process that is going to be difficult and complex. It is fraught with legalities.

The Chairperson (Ms Dillon): From that meeting, do you feel that the stakeholders are content that the Department is doing everything it possibly can?

Mr Livingstone: I finished off yesterday by asking that question. I asked: "Do you see any holes in this? Are you unhappy? Are you going to go home feeling that that guy Livingstone is a twit and is not telling us what we need to know?". I was not getting that feeling. I got the feeling that Edwin described earlier: "This is terrible, how did this happen? Let us get this fixed and how can we work with you to get this remediated". It was positive.

Mr Small: Clearly, some individuals and small groups have concerns about what has happened at the site. They have concerns about what risks the site may pose and we will have to continue to deal with those individuals and groups. The meeting yesterday was an important step in continuing to do that.

Mr Ford: I thank you all for your presentation. You will be pleased that most of my questions have already been asked. Mark, we have Mobuoy on the agenda; and, at the other end of the scale, we have people hiring out skips, not every one of which goes into an authorised dump. You recently prosecuted some people around Belfast who tend to dump either in Edwin's constituency or mine, as soon as they get over the hills. How much of your effort goes into each end of that scale, on the large number of small-scale incidents, some of which are not much more than fly-tipping, or on the small number of very serious issues?

Mr Williamson: I cannot give you a definitive breakdown of the percentages but, as I hope you have picked up from the presentation, we are trying to focus our energy and activity more towards the

serious and organised crimes, to allow Mark and his teams to do the regulatory piece for people who have waste management licences to operate as a registered carrier, for example. That would include skip hire operators.

Another thing we are doing is that we have recently brought in a crime analyst who does the strategic assessment of crime for us on a biannual basis. Through that, we are trying to see the problem waste streams and the problem people. We should target our resources at those rather than chase after every incident that comes through the door. Now, we still have to do that, and that is what I referred to earlier. We cannot ignore any one of those 771 reports. We must respond to them all but we are trying to shift the energy, effort, and focus that we put into that towards the right areas. That must happen over time. We cannot just step off the hamster wheel, trip ourselves up and miss something along the way. Part of the trick for me is that any one of those 771 reports might be an indicator of another Mobuoy. We cannot take our eye off that ball. So there is a constant balancing act. We are almost trying to walk a tightrope. We must bear in mind that a lot of those fly-tipping incidents, as you describe them, can be dealt with adequately by a bit of advice, a warning, or a fixed penalty notice if it is particularly bad. We are always trying to achieve a balance.

Mr Ford: One area in which it seems it might be relevant for you to engage with DOJ is around the potential changes in the definition of "organised crime", which were highlighted by the panel on paramilitarism. It seems that anything that ensures that that activity is fully covered would be beneficial. We have had the Mills report, which followed Mobuoy, and the recent CJINI report. Has the Department published a formal response to each? What is the date for updating them?

Mr Williamson: I do not think that we have published a formal report. However, we have updated the action plans internally, as we have gone along. There is also a planned inspection and review by the Northern Ireland Audit Office (NIAO) which will look at both those areas and ultimately all NIAO reports are published. Whether there are any plans to publish —

Mr Ford: Are the action plans published at this stage?

Ms Teague: No, they are internal.

Mr Small: The Mills report was an internal review commissioned by the Department to look specifically at how a situation like Mobuoy could have occurred and look at our waste systems and procedures and ensure that we make improvements where needed. It was an internally commissioned report, and we are acting on the recommendations. In fact, we have implemented all of them. I am not sure that there was ever an intention to publish a departmental response to the Department's own commissioned review. That is not to say that we have anything to hide. We commissioned it for a purpose, and it was required. We have been delivering on the recommendations. We are happy to share what we have been doing and the extent to which we have implemented the Mills report —

Mr Ford: You have clearly been sharing a certain amount of it today in what you have been saying but it would be useful if those were formally shared with the Committee. I accept that that might be a ministerial decision.

Mr Small: I am happy to consider that.

Mr Anderson: Thanks to you all for your detailed presentation. We are here in the vicinity of Mobuoy, an issue that has been kicking around for a number of years now. David mentioned the recommendations of the Mills report, which have been implemented, but it worries me, as other colleagues have touched on, that we have found a rise in the detection of sites in the last number of years. I ask this question: how many more are out there that we do not know about, and what are they like? Is there a possibility that there is another Mobuoy sitting out there?

Mr Small: We do not know what we do not know.

Mr Anderson: We do not know that. The question has been asked: are we getting on top of all of this or is there so much out there that we maybe do not know about? That is where my worries are.

Mr Williamson: I think that your worry is shared, and I share it. We all worry about whether there is something more out there. The contrary point to that is that, as I hope we described earlier, all of the change that we have implemented and all of the shift in focus that we have implemented over the last

couple of years, including the tighter regulation and the controls and the focus that my teams in particular put on problem waste streams, problem people and problem companies, is giving me a level of comfort that I would not have had without that and which my predecessors might not have had two years ago. Can we say that there is definitely not another waste site out there? I think that any of us would be a hostage to fortune to say that there is not.

Mr Anderson: When we look at this realistically, we see that the people involved in this type of activity will go to any lengths. That is why I am saying that, if they have the capability to do something on one site like Mobuoy, what is there in other locations down the road ahead of us? I think that lessons need to be learned — I hope that lessons have been learned — to ensure that everything out of the Mills report and whatever else that can be done is being done so that we are on top of this to ensure that these people know that they are not getting away with what was carried on in the past.

There are high rewards for the low risk of detection, and they have more or less got a slap on the wrist and walked away. It was really an encouragement to get involved in this if you are that type of person. I hope that we are now in a different situation. I do not know what your resources are like. You talk about your crime enforcement team. Is it a small team? Does it need beefed up? How do we get on top of this with resource? As my colleague Mr Poots said, are we maybe putting resource to those who try to operate within the system and try to be good operators? I am referring to people who want to work within the system without being — I will use this word — hounded by the NIEA for not complying when others are getting away with everything. This is a case of resource, and are we targeting the right people?

Mr Small: Resource is constrained. Like every other Department, we have constrained budgets. That is the environment that we live in at the moment. We have put in significant resource both towards the waste-management and compliance work that Mark leads and towards the environmental crime work that Derek leads. Derek has already described the approach that we take. We take a risk-based approach so that we are applying our resource in the right places. Can I say categorically that we will never have another Mobuoy-type find? I cannot say that categorically but I can say that our systems are now much more robust. We have much, much better inspection processes and compliance and regulation processes in place. However, as you say, there is a very strong financial incentive available for this kind of criminal activity. I have spoken to colleagues in ROI, England, Wales and Scotland, and they are dealing with very similar situations. They have very similar challenges with environmental crime and waste crime. Recently, you may have picked up on a massive illegal dump that was found Donegal. There is always a risk that something is running that we are not aware of. I am hopeful that the stronger more robust systems we now have in place will make it much less likely, and that we will identify these things at a much earlier stage. It is a major challenge for us, and I do not underestimate the challenge.

Mr Anderson: There is an ongoing legal case with the Mobuoy site but, whatever its outcome and however it is managed in future years, this is going to come at a tremendous cost. The site has leachate run-off and gas emissions. If we look after it or cap it in some way, that may be for 25 or 30 years. Who is going to pay for this? If this is the case, something else will lose out, and who will pay for it?

Mr Small: We want the polluter to pay for this, but it is not always possible to apply the polluter pays principle in every case as we want to. If that is not possible, the taxpayer will pay for it. It is definitely not a good outcome for this Department, for my agency or for the taxpayer, but we are exploring all the avenues we can, with legal advice, to pursue the polluter so that they pay for the damage that has been caused and for the resulting remediation costs. I cannot say how successful it will be, but we are exploring various possibilities and options because I take the point.

Mr Anderson: Are any licensing permits granted by NIEA revoked for operators who have failed to comply?

Mr Livingstone: Yes.

Mr Anderson: Mark, what is the process for the 10% who have not? I have experience of operators who have had a licence in the past and failed to comply but carried on in certain ways which I do not want to go into today. If someone is stepping outside the limits, what can be done to ensure that their licence is revoked? Do they have to go to the extremes before action will be taken?

Mr Livingstone: Unfortunately, Sydney, that has been the case in the past. Guys have been non-compliant and have been taken to court and found guilty, taken to court again and found guilty, and still continue with their licences. The process has now changed. I cannot give you the figures of the top of my head but we have revoked licenses this year. We have a process whereby when you go to court your company will be put in front of what is called a fit and proper person panel. It will decide, based on the evidence and linkages to our enforcement policy and our fit and proper person policy, whether they should lose their licence and whether to revoke the licence.

That is a very extreme case because, ultimately, if a person makes a significant mistake and causes an environmental incident and goes to court, we have to be careful that we are not ruining somebody's livelihood or a family's livelihood. We have to take the decision and we have to take it correctly with the right levels of evidence. There is a process in place, and we have recently revoked licences, but the criminals come at us very strongly and they will judicially review our decisions.

I recently fought a case which had been ongoing for five years and cost the Department thousands of pounds in legal costs. So, we must get our decisions right and make them on good evidential needs. Initially, we lost that last case, but we appealed it and we were hit with £200,000 of costs. We appealed it because we were right, and we won the appeal. It has put that family firm out of business, but it was a criminal operation. We will take the steps that we deem necessary, but it has to be based on stringent process.

Mr Williamson: When a lot of the companies that Mark talks about come into my area of criminal investigation, one of the challenges is that a lot of them turn into what I know as phoenix companies. They will reinvent themselves under a different name with a different director who is a second cousin third removed. It is the same business but, legally, we cannot prosecute these people because they are different people, which is one challenge we face.

Mr Livingstone: The landscape of waste management companies in Northern Ireland has changed dramatically over the last three years, which is quite interesting. Some of the key criminal companies are now out of the business. Strong companies are coming through, and we have three, four or five very strong companies coming through in Northern Ireland which do things right and which is helping quite a lot.

Mr Anderson: OK, we have talked a lot about this issue. Thank you very much.

The Chairperson (Ms Dillon): I will ask a quick question about illegal dumping sites. If criminals are taking waste across the border from wherever and illegally dumping it on somebody's land without that person's knowledge, is that person held responsible because it is on their land?

Mr Williamson: Legally, the landowner is responsible. Our enforcement policy takes into account all the facts and surrounding circumstances. We would not seek to prosecute somebody who is completely unaware of it. I have to say that that is not what we find; in many cases, people know exactly what is going on and have turned a blind eye. Probably, in very many cases, they are receiving some financial reward.

Mr Small: Each case is considered on its own merits and looking at all aspects of it.

The Chairperson (Ms Dillon): I suppose that that is down to educating people. Some of them are probably receiving what they think is a lot of money but, if they knew the harm that they are doing to themselves, their neighbours and family members possibly, they might think twice.

Mr Williamson: Absolutely. I will give you an example. There was a case very recently where a farmer was receiving about £200 for every load of about 20 tons a time. For one lorryload, the guys who are doing this are making £2,500 a load; but the farmer gets £200. There is a major discrepancy there, and there is a level of naivety on the part of some landowners. I do not say all of them. As David has emphasised, we treat every case on its own merits.

Mr McKee: My questions have been answered, but let me ask about the big picture. There are tighter controls in the proper, recognised, tips, whether they are council owned. There is an additional cost for people who rightfully go to tip waste on council sites. In some cases, they are turned away with: "Sorry, we cannot take that." I know for a fact that in my own area, people have had to drive at least 20 miles to take that stuff. I am not so sure whether that stuff will be driven the 20 miles or whether it

will end up on a fly-tip, because there is such a cost to tipping it legally. Edwin said, and Sydney touched on it too, that those who are trying to do the thing right are sometimes hammered. The same thing happens in my area as well. The cost drives people away from council tips.

Looking at it from an entirely different angle, I do not know whether you could ever tell us the annual cost of all the work you do, and all the 450 staff employed —

Mr Small: We have just over 400 staff at the agency, but they will not all be working on waste.

Mr McKee: Yes, think about that. I honestly think that this problem will never be cleared up properly. There will be illegal tipping for as long as I am on this earth until the day when people get paid for tipping stuff. If you balance out the cost, as this gentleman here, Oliver, has said, and this is something I say all the time: why do we get everyone to separate waste? Picture some old lady separating her waste into blue, black and brown bins: what is the end product? It is shipped out, burning fossil fuels to save the environment. Someone else can benefit from it but we cannot. We are no further on. I do not see us any further on in that respect. I do not expect an answer, for I near enough know your answer to that. Why does waste crime not feature in the Programme for Government consultation?

Mr Small: I suppose we picked this up last week as well, when we talked about the Programme for Government. Not every single issue will feature prominently in the Programme for Government. We work closely with the Department of Justice and there is a crime outcome. We have engaged with the Department of Justice to try to get some recognition of the issue of waste and environmental crime in doing that. Even if it is not prominently referenced in the Programme for Government, that does not mean that it will not receive the attention it needs. Certainly, in this Department, we will continue to allocate appropriate resource to deal with the issue. It may not be prominently referenced in the Programme for Government, Harold, but you can be assured that the agency and Department will put in the resource needed.

Mr McKee: When your staff visit a site, is there a fear element? Is there a risk from people who could confront them?

Mr Small: That is an ongoing issue that we have to deal with.

Mr Williamson: It is certainly an issue. In a lot of the incidents and areas that my staff, in particular, are involved in, we always intervene with support from the PSNI. I have to say that we get very good — in fact, exceptional — support from the PSNI. It has amazed me since I came into the Department how much the PSNI will bend to our will. I had not expected it, to be quite frank. I am amazed by how good the police are.

Mr Small: That reflects the criminal nature of some of the activities.

Mr McKee: Maybe this was touched on: what budgetary considerations have you given to addressing remedial options?

Mr Williamson: We have the repatriation programme for the 17 sites that Edwin mentioned earlier. We have also very significant work ongoing on the discovery of Republic of Ireland waste in east Tyrone last year, the ultimate aim of which will be, if we cannot make the polluter responsible or someone who has been responsible for that waste pay, for us to repatriate it, and there are budgetary considerations in all that.

Mr McKee: Waste crime incidents far outweigh the number of convictions. The number of incidents — 771 to date — has almost doubled from 2011, and yet the number of convictions has halved. Are you saying that that is good work on your behalf, or are there failings?

Mr Williamson: A number of things are going on in the statistics. First, as we described — hopefully, adequately — earlier, it takes a long time for some of these cases to reach a conclusion in the courts. There is always a bit of a lag. In recent years, for example, there have been a smaller number of prosecutions in comparison with previous years, which is because the cases are working their way through. One case decided recently had been in the courts for almost eight years.

Are we being fully effective? I think that some of the other members asked that question earlier. What you are looking at, Harold, is the environmental crime unit serious crime cases, not the 770-odd cases that we have a year. Lots of those are dealt with by Mark's team through compliance, regulation, advice, warnings and fixed-penalty notices. That is where the gap appears. You should not think that we prosecute only 28 of the 700-odd incidents and are not doing anything about the rest — we are. In very many cases, rather than prosecuting, we try to get people into compliance.

Mr McKee: In Mid Ulster, there were 109 incidents; in Newry, Mourne and Down, 97; in my area, the Causeway Coast and Glens, only 37. Is there a reason for that?

Mr Williamson: There is a range of reasons. I wanted to emphasise — I hope that I did so adequately in the presentation — that Mid Ulster having the highest figure does not mean that it has the most serious waste crime or most problems. It might be down simply to the local populace being more aware. Some of the key partners whom we engage with are environmental health officers, veterinary staff and officials, and they report incidents to us. Primarily, however, we get a lot of reports from the councils, and it will depend very much on how they view these things, what they understand to be an incident and, potentially, waste crime. The figure for Newry and Mourne does not equate to it being worse than any of the others, although many of the incidents there relate to fuel-launders waste, which, as you know, has been a problem in that area.

Mr McKee: Is that still a problem?

Mr Williamson: Fuel-launders waste is still a problem. It is not as significant as it has been. In recent months, after a complete gap for a number of months, fuel-launders waste plants have started being reported to us. I think that it is to do with economics: it was as lucrative simply to smuggle the diesel in recent times because of the exchange rate. Now, because the exchange rate is less lucrative for the criminal, fuel launders is coming back. I think that is why it is on the up again.

Mr McKee: There was a different colouring in the fuel to make it more difficult.

Mr Williamson: Yes, absolutely.

Mr McKee: Have the criminals caught on to that? Have they been able to overcome that?

Mr Williamson: I cannot talk about the detail because HMRC is leading on that. HMRC led on the fuel marker, which, undoubtedly, has also had an impact on this. One of the other factors that we see is quite simply the economics.

Mr McKee: Going back to farmland waste, I am interested to know the type of waste. Is it farmland waste that has been brought into the farms or a conglomeration of waste built up by the farmer himself?

Mr Williamson: Most of what we see is waste brought on to a farm. It is transported in. Particularly in the serious crime cases that we see — those that go to prosecution — it is invariably waste that is brought on to the site. It is mostly municipal waste.

Mr McKee: Last week, a pie chart showed a volume of 5,790,000 tons. I asked whether there was another pie chart showing the density of construction waste against volume, and, if so, whether it would look much different? Have you done anything on that?

Mr Williamson: No. I know that, in John Mills's presentation last week, that was the total waste arisings. How you measure that at source is very difficult. We face this even in some of the investigations that we conduct. You will find a site with 20,000 tons on it. In one corner, it might be compacted and a different type of waste. Therefore, the volume-to-weight ratio is completely different all over a site. It will vary, so, in most cases, we use the 1:1 ratio, which is recognised as being about the average. We can go no further than that because every case will be different. Two lorries will be different. Even within a lorry, what is compacted at the front or the back will be different, so I am not sure that it would tell you anything of major value.

Mr McKee: It is just that on the chart, the green portion representing construction waste is very large, but obviously that is heavier than paper waste.

Mr Williamson: Yes, absolutely.

Mr McKee: You keep referring to slide numbers. We do not have slide numbers against our page numbers. Maybe that could be looked at.

Mr Williamson: Sorry. I was hoping that you would go by the page numbers, but maybe not. I will take that on board.

The Chairperson (Ms Dillon): Can we get a written paper on the relevant legislation, offences, penalties and enforcement powers? In cases of serious or organised crime, for example, can the police intervene because it is organised crime? Can somebody face a jail sentence?

Mr Williamson: Yes, absolutely. It will all depend on individual circumstances and the nature of the case. Earlier, I talked about a lot of these cases being fraud. If it reached a threshold at which I thought that there was a need to refer it to the PSNI, I would absolutely do that. The same powers, largely, would apply, and, yes, people would face jail. In fact, even in the waste cases that we prosecute, jail is a possibility.

Mr Small: We can certainly provide a summary of the relevant regulations and legislation.

The Chairperson (Ms Dillon): I appreciate that. Thank you.

Mr M Bradley: Thank you for your presentation. You will be happy to know that I have 17 questions, but they have mostly been answered. No, I am only kidding.

There is a cost to all this, especially around the Mobuoy site. There is an excavation cost there of around £100 million. However, is that the real cost? There is a cost to the environment as well. How high do you place the cost to the environment when prosecuting? How highly do you weight the environment as part of your prosecution process?

Mr Williamson: We have addressed that in our enforcement policy. The impact on the environment is a key element of our consideration. As we said earlier, every case is considered on its own merits. Key among our considerations is whether there is any potential or likely impact on the environment — not just now but into the future — and we will prosecute on that alone. There is a series of potential charges that we can bring under the Waste and Contaminated Land (Northern Ireland) Order 1997. One relates to environmental damage, which is article 4(1)(c). Many of the serious waste crime offences that we prosecute are brought under article 4(1)(c), which refers to the likelihood of environmental impact, which does not have to be in the here and now; it could be 10, 15, 20 or 50 years in the future.

Mr Small: The nature and extent of environmental damage will be taken into account by the PPS when considering the case, and by the court.

Mr M Bradley: You talked about the local site. Most of the land there is sand and gravel. You mentioned during your presentation that there was no sign of contamination so far, but how confident are you that, in the future, the leachate will not go into the sand and gravel beds and eventually make its way into the river and, perhaps, even into Loch Foyle?

Mr Livingstone: I will qualify that comment: there is an impact on the river, but it is limited. It is below the environmental quality standards of drinking water, which are lower for each contaminant level. We are concerned that the longer we leave it, the more problematic it will become. Whilst it is a sand and gravel base, it is held together like clay in a bowl, and the longer the leachate sits there, the more potent it becomes, and there is a concern that, in the longer term, the groundwater will flush it through. That is why it is key that we develop the remediation strategy and get on with its implementation. The main impact of Mobuoy is the rainfall infiltration, as the groundwater feeds the River Faughan at that stage. It is not picking up any impacts at the minute, but, in the event of a series of significant droughts or intensive rainfalls events, that is when the problems will come.

Mr M Bradley: Will that be measured going in the future?

Mr Livingstone: Yes, very much so.

Mr M Bradley: Both William and David touched on the lack of a deterrent to criminals, and there were a few suggestions from David, given his experience, on the way forward —

Mr Ford: I will take that.

Mr M Bradley: The report identifies major management failures. Perhaps it is not prudent at this stage to let us know what they are, but I would like to know what they are going forward; either now or after the court case, if possible.

Mr Small: When the report refers to management failures, I think that it means procedural and system failures — systems that were not as robust and strong as they could have been. We have been working our way through the Mills report, and we have made changes and strengthened processes and systems where necessary. I have already made a request for a copy and sight of the Department's action plan for implementing the Mills report. I will bring it back to the Department and judge whether we can release the various papers, which will then become available to the Committee. The comments and concerns were around system and procedural failures rather than any suggestion that individuals were failing.

Mr M Bradley: Thank you very much for that, but the report states that there was "significant criminal infiltration", and I am keen to know what that means. Also, another point was raised about fixed penalties of £300: is that enough? Should there be a sliding scale of fixed penalties relevant to the crimes committed? Maybe we need to take that up as well. That is something else that we need to take up.

Mr Livingstone: Yes, as part of the new transformation of our permanent systems process, we will look at the whole civil administration, fixed penalties and enforcement undertakings. Where, for example, you have caused some damage to the environment, we could agree an enforcement undertaking that you agree to pay, say, £1,000 to restock the river. That will be part of a binding legal agreement that will set aside any other enforcement measures, such as an enforcement notice or prosecution, or it might stand alone. We are considering all of those powers. The fixed penalty notices can increase up to about £2,000, I think, but we consider them for low-level offences and we find them very effective. They give the individual an immediate slap on the wrist, and then we have a process of fixing the non-compliance issue.

The Chairperson (Ms Dillon): William and Oliver have asked to get back in, so I will allow them to ask two very quick questions, and I would like quick responses.

Mr Irwin: I am not sure whether I have heard something about this in the past, but given the situation at the Mobuoy site, where a massive amount of waste was dumped, quite a bit of which came from the Irish Republic, do you have the wherewithal to get the Irish Republic to pay for the clean-up operation?

Mr Williamson: First, I do not believe that there is a significant amount of waste from the Republic of Ireland in Mobuoy. If there are pockets, I do not think they are significant enough. In answer to the more general question, which I will address in a broad sense, we do work with our colleagues in the Irish Republic on the repatriation of waste where we can definitively prove that the waste has come from that location. We are working through a series of cases at the moment in that bracket. First, we have to go through our own investigation and legal process to prove the origin of the waste in the first instance and that somebody, either a waste company or a landowner, cannot be made responsible and made to pay. On the heels of all that, if that does not work out, we will go to the Dublin Government and tell them that they need to repatriate their waste. Of course, that can also work in reverse, although I have no evidence and no current cases to suggest that any waste from Northern Ireland ends up in the Republic.

Mr Irwin: I have one further question and it is on an issue that I may speak to you privately about at some stage. You said that most landowners are aware that there is dumping. I am aware of one incident when an elderly lady gave permission for some clay from the roads to be put in a hollow in a field. She was in her 80s and totally innocent, but a lot of stuff was dumped there. In that instance, is the landowner still held liable?

Mr Williamson: Legally and formally, the landowner will always be responsible for keeping the waste on their land. We would take into account all the attendant circumstances. As you have described, if

someone is in that kind of circumstance — I will not talk about the individual case — it is highly likely that we will recommend to the Public Prosecution Service that, in the public interest, there should be no prosecution. It would depend on the individual circumstances and those would all be taken into account.

Mr Small: The strict interpretation of the legislation indicates that —

Mr Williamson: Strictly, it is the landowner's responsibility.

Mr McMullan: I will be very quick. We need to see something about the origin of waste, but we are not seeing that. As you said, there is very little waste from the South of Ireland in Mobuoy. We need to see where that waste is coming from and what type of waste it is. When we talk about "polluter pays", it should not be too hard to find the origins of some of it to give us an idea.

Too many people are transporting waste. Today has been very useful, but, having looked through the Mills report, I believe that we need to call a meeting, primarily to give us more time to discuss this issue. The Mills report is vital. From what we have seen of it today, we could spend a day discussing it. Your Department needs help from the likes of us. Carriers should be required to have bonds. They are used for other things, but carriers are not required to have them to transport waste, for example.

You said that, if waste is dumped on your land, you are liable. Very quickly, the powers that be will come in and issue a spot fine and all of that. I do not think that that should be the case. We need to be concentrating on the bigger bit: where the organised criminals are taking the waste from. As we get more private waste collectors, we could be getting more of this problem. I do not think that the waste is council or local authority waste; it is private waste. There needs to be another layer of regulation — I know that you do not like that word, so whatever word you want to use. We do not have that yet, as proven in the discussion on waste tyres. We do not have any regulation on waste tyres; we do not know how many there are; we do not know how many are sold; and we do not know where they are going. Similarly, we do not know how much waste there is; we do not know where it is coming from; and we have no report on independent waste collectors or on where their waste goes. There should be a paper trail of what they are taking to registered sites — that is not being done — and on what they are charging customers. All of those things need to be started. If we start from there, we will get a better idea of the upward trail. We are going to see more Mobuoys if we do not start regulating from the bottom.

Mr Williamson: Part of the answer to your several questions is the eDoc-plus system that we mentioned. The Chair has asked for a briefing paper on that system, and we will be happy to supply it. That will take us a very long way towards understanding the entire waste arisings, including all the various waste streams — construction, demolition, industrial and so on — and enable us to monitor that in real time. That, for me, is a complete game-changer. It means that all of our resources will be reconfigured so that we stop chasing after the event has happened and get up front, using the eDoc-plus system to put preventative mechanisms in place.

Mr McMullan: That is what we have done today, and rightly so, on what we have in front of us. However, we should, in fact, be starting at the bottom and looking at how we can do what you are saying. Waste is being stored because the waste exporters depend on the global price of waste. They will not send it off today when it is £10 a ton; they will wait until next week or next month when it is £20 a ton. You cannot make them export waste until they get the right price for it.

Mr Williamson: No, but we can control it through the waste management licence.

Mr McMullan: Are we doing that? That is the point.

Mr Williamson: I think that we are. I was on-site at the Belfast port, not more than two weeks ago, looking at all of the RDF that is stored there. The management licence contains a very strict rule, which is enforced: stuff should not be sitting about for more than three months, so that we do not have an infestation of flies or rats, for instance. That is fairly tightly controlled. I think that the bigger question is whether we need to send any of it all: can we not build the infrastructure here and use the energy from waste?

Mr McMullan: That is a point.

Mr Small: That is a separate issue.

Mr McMullan: Look at the regulations on transport carriers Vehicle and Operator Services Agency (VOSA). They cannot scratch their head without VOSA coming down on top of them. Why are we not implementing something similar — not the same — to regulate waste carriers? That is a grey area that needs to be attended to.

Mr Small: Mark wants to come in on the issue of waste carriers and the extent to which we manage and license them. We will provide information on eDoc-plus and give an illustration of what that will do to track the origin of the waste and where it goes. That will help to address some of the points that you have raised, Oliver. You also mentioned bonds.

Mr Livingstone: There are a couple of things, Oliver. You raised the question of whether a thesis on waste might help. I think that it would be useful — I do not want to give us work — to give you a presentation on how we regulate waste. We issue bonds, and we have the fit-and-proper person test: if you have a waste management site, we insist that you have the financial means to clear that site through an insurance bond. We brought that in under the Mills implementation plan to make sure that those sites can be cleared. You must not have any convictions, and you have to attend an accredited training course to make sure that you can manage all of that properly. Then, when we go to a site, we ensure that we track the duty of care for the waste that arrives and then moves between sites and to different people. It might be useful to give a presentation some time —

Mr McMullan: How many bonds are there for waste carriers?

The Chairperson (Ms Dillon): I will wrap this up now because we have another presentation. I would appreciate a written briefing on the regulations. The reason why I ask for a written briefing is that one of our strategic priorities is waste management, and waste crime is part of that. We will come back to this, and, if we have all the written briefings that we asked for today, that will inform us for our future oral presentation, which will give us another opportunity to have this kind of conversation. We could easily talk about this for the rest of the day. It is important that we come back to it, and we as a Committee certainly will do so and will also ask officials to come back to us about it. I would like all members to have an opportunity to read all the papers. We will then come back to the next conversation more informed and will no doubt look for more briefings. It is a strategic priority, so it is important that we follow it up.

Mr Small: It is clear to us that the Committee has a really strong interest in the issue, and I welcome that interest. I am more than happy to provide the written briefings that you asked for and to support future meetings.

The Chairperson (Ms Dillon): I appreciate that. Thank you for your presentation.