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Committee of Public Accounts

Government actions to combat waste crime

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to the report*

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Summary

Waste crime, such as fly-tipping, is a huge issue within England, both in terms of antisocial behaviour and clear up costs. Aside from being unsightly and polluting, it costs the economy around £1 billion a year, though even that is likely to be an underestimate, and the number of incidents of waste crime and the cost of addressing them has been increasing over recent years. Yet the Department for Environment, Food & Rural Affairs (Defra) and the Environment Agency (the Agency) are being slow to implement the actions from its Resources and Waste Strategy. Waste crime is known to be greatly under-reported, so the true scale and impact of the problem are even larger than official data suggest. Waste crime is not getting the local or national attention needed to effectively tackle it, despite it being on the rise and increasingly dominated by organised criminal gangs. The current cost of living crisis may increase further the incentives for people to get rid of waste inappropriately. HM Revenue & Customs (HMRC) has to date only pursued prosecution in one case of landfill tax evasion, which failed at a cost of £3.5 million.

Witnesses acknowledged that the waste regulatory system needs to be strengthened and that they have more to do. Landfill tax and local charges for disposing of waste create financial incentives to commit waste crime, but the penalties if caught are not proving effective at deterring people from committing such crimes. This regime has attracted organised crime groups to the waste sector, which can be adept at avoiding detection and sanctions. But Defra's initiatives to combat waste crime are piecemeal and its progress is slow – for example, digital tracking of waste, on which much hope is being placed to deter waste crime, is still not even at the pilot stage after four years of effort. Together, Defra's actions do not add up to a consistent delivery plan to take forward the aims of the Resources and Waste Strategy. Furthermore, there is currently no strategy or plan for how to achieve the hugely ambitious target of eliminating waste crime by 2043.

Introduction

Waste crime covers several types of crime, including fly-tipping, illegal waste sites, illegal export of waste, breaches of waste permit conditions and breaches of exemptions to the requirements for waste permits. Evasion of landfill tax or other charges for disposing of waste underlie many of these crimes. Recent data indicate that in general waste crime is increasing, but the true scale of waste crime is uncertain as the available data are not comprehensive, for example because of under-reporting of fly-tipping incidents and undiscovered activity such as illegal waste sites. Barriers to operators entering the waste sector are low, and the large real-terms increase in landfill tax rates after 2004–05 increased the potential financial return to criminals.

Defra has policy responsibility for waste, including waste crime. The Agency is the principal body responsible for regulating the waste sector, for investigating certain types of waste crime and taking action against the perpetrators, including illegal waste sites, illegal dumping (the most serious fly-tipping incidents) and breaches of environmental permits and exemptions. HMRC has responsibility for pursuing the evasion of landfill tax in England. Local authorities have powers and duties relating to fly-tipping, and deal with the majority of smaller incidents. Responsibility for clearing waste ultimately sits with the landowner or land manager, including local authorities and public bodies such as National Highways.

Conclusions and recommendations

1. **Progress implementing the actions from the Resources and Waste Strategy has been slow and piecemeal, and Defra does not have an outline delivery plan for achieving its ambition of eliminating waste crime by 2043.** The 2018 Resources and Waste Strategy set the goal of eliminating waste crime within 25 years and listed 14 actions to be taken. Mid-way through 2022, only three of these actions have been completed: establishing the Joint Unit for Waste Crime, making changes to legislation to give the Agency greater powers and giving the Agency access to police intelligence systems. Access to police systems is only very recent and witnesses were not yet able to point to it leading to successful outcomes, such as prosecutions. Fundamental changes to the system, such as digital waste tracking and reform of the carriers, brokers and dealers' regulations, are still the subject of consultation on how to implement them. In addition, Defra has been clear that the 2018 Strategy did not attempt to set out a pathway to the elimination of waste crime. Defra cannot yet track its progress towards this goal. It is relying on an externally contracted evaluation of the strategy, due to complete in 2027, to identify further actions that it may need to take. The Agency is exploring ways to raise additional funds - another action from the strategy - through charges or other contributions from the waste industry.

Recommendation: *Defra should increase the impetus with which the Resources and waste strategy is taken forward. By October 2022, it should provide the committee with its outline plan for achieving the elimination of waste crime by 2043, and provide annual updates on progress against this plan.*

2. **Official data do not capture the true scale and impact of waste crime, and government initiatives do not amount to a convincing overall plan to address this.** Waste crime is greatly under-reported, so government and Agency statistics do not capture the full impact it has on communities, businesses and the environment. Only around a quarter of waste crime is reported and the Agency cannot estimate the quantity of waste that is illegally exported. Local authorities do not report fly-tipping to Defra on a consistent basis. To improve waste crime data, Defra and the Agency are placing their trust in a mix of initiatives, including encouraging public reporting, introducing digital tracking of waste and technological initiatives such as use of drones. But for the public to go to the effort of making reports, they will need to know that action will be taken in response and they will hear what it is. In the UK outside England environmental regulators are exploring the use of satellite technology to identify serious waste crime.

Recommendation: *Defra and the Agency need to explore the full range of potential solutions to data weaknesses, including for example satellite technology, and ensure successful delivery of existing initiatives to improve data; where these initiatives rely on public reporting there should be appropriate capacity to follow up reported incidents.*

3. **Over recent years the landfill tax regime has successfully encouraged recycling but has increased the incentives to commit waste crime, and HMRC has been slow to prosecute offenders.** Landfill tax, introduced in 1996, has driven down the amount of waste sent to landfill and increased recycling, but has increased the

incentives to dispose of waste illegally to avoid paying the tax. Across all taxes, the gap between the amount of tax due and the amount collected is estimated to be proportionally one of the highest for landfill tax. HMRC works with landfill site operators to identify and rectify landfill tax non-compliance, primarily through civil sanctions, preventing significant losses. But HMRC finds criminal investigations difficult and time-consuming and has to balance the potential benefits against the impact on other aspects of its work. HMRC has not yet achieved a single successful prosecution for landfill tax evasion. The one investigation where it did try to prosecute the alleged offenders—Operation Nosedive—cost £3.5 million yet ended without going to court because evidential requirements were not met. HMRC was frank that it is still learning how best to investigate such crimes. HMRC is engaging with HM Treasury’s current review of landfill tax.

Recommendation: *Defra should work with HMT and HMRC to ensure the current review of landfill tax takes account of the incentives that the tax as currently designed creates to commit waste crime.*

HMRC should report by the end of the year on how it has improved its approach to landfill tax prosecutions.

4. **The current sanctions are not effective in deterring people from committing waste crime.** Under the current regime almost anybody can register with the Agency as a waste carrier and present themselves to the public as a legitimate person to take away their waste. The Agency is increasingly concentrating its enforcement efforts on the most serious waste criminals. We heard in stark terms about the difficulties, delays and dangers involved in tackling organised criminals of this type, and how they regard fines as ‘business expenses’. Only jail sentences have a real impact. Meanwhile, much waste crime is responded to with a minimal, or no, enforcement response: fewer incidents are investigated, investigations are taking longer, and advice and guidance or warning letters are the most common responses for most types of waste crime. The number of prosecutions per year has fallen by more than 90% since their peak in 2007–08, with court delays slowing their progress. Defra, if it is serious about eliminating waste crime, has a long way to go from the current position where the approach to large parts of waste crime is closer to decriminalisation.

Recommendation: *Defra, the Agency and HMRC should work with relevant bodies within the criminal justice system to develop a plan for making enforcement more effective across the full spectrum of waste crime. This should include how to speed the process up and consideration of whether the sentencing guidelines need strengthening.*

5. **Defra is not doing enough to support local authorities to tackle fly-tipping.** Fly-tipping has a big impact on the public: there were well over a million recorded incidents in England in 2020–21. Reported fly-tipping in urban areas is high while fly-tipping can blight lives in rural areas despite remaining substantially unreported. Defra is adamant that it is the responsibility of local authorities to tackle fly-tipping, supported by guidance and powers to impose sanctions that Defra develops and provides. Yet local authorities’ clear duty is to clear fly-tipped waste from land it controls, while investigating fly-tipping or tackling the perpetrators are choices

constrained by local authorities' limited resources; different local authorities show highly variable practice. Defra is still working on a fly-tipping toolkit announced in 2018 and has recently provided 11 authorities with between £25,000 and £50,000 each to trial approaches to preventing or addressing fly-tipping. Defra allocated this funding on the basis of bids from invited authorities, which may have rewarded those authorities with the most capacity to bid rather than the best ideas. Defra was not able to explain the gap between the scale of fly-tipping and action on the ground, or explain how its overall goal of eliminating waste crime was compatible with this level of variation.

Recommendation: *Defra should work with local authorities to set a clear national framework for tackling fly-tipping, setting overall expectations and promoting good practice, while allowing local authorities the flexibility to respond to local circumstances.*

6. **We are concerned that the Agency is not doing enough to prevent the illegal export of waste.** The Agency estimates that around 14 million tonnes of waste are legitimately exported each year. In the five years to 2020–21, the Agency inspected 1,100 shipping containers per year on average, preventing around 18,000 tonnes of waste from illegal export and saving the economy £1.3 million annually. The Agency believes that most illegally exported waste goes to non-OECD countries where controls on the harms this waste may cause are weaker. The Agency accepts that, despite its efforts, it does not know the total amount of waste that is illegally exported. However, the Environmental Services Association estimates that around 400,000 tonnes of waste are exported illegally each year, costing the economy £42 million. The Agency can do more here – it told us about a record £1.5 million fine it achieved for waste export offences committed by a waste disposal company last year, which was the company's second offence within two years. In this instance, investigators were able to prevent 16 25-tonne containers from being exported, but another 26 containers had already left port for India or Indonesia.

Recommendation: *The Agency should write to us within six weeks setting out what actions would be required to enable it to understand the true scale of illegal waste exports and what further action it might take to prevent them.*

7. **The digital waste tracking system is still in development after four years despite its implementation being core to combatting waste crime.** Recording waste movements digitally rather than on paper is an important initiative from the 2018 Waste and Resources Strategy. Defra and the Agency believe it will give them an improved understanding of waste movements and enable them to better identify misclassification and improper disposal of waste. Defra is creating a prototype in-house, with 1,600 users currently testing it. It is seeking an IT partner for the next stage of development and expects to roll out the system in 2024, following the passage of secondary legislation and piloting. We acknowledge that this project has ambitious aims: the current plans are to record 10 items of information at each movement, treatment or transfer of waste, and 200 million tonnes of waste are produced each year. Defra is confident it can successfully deliver this project based on its record of delivering the IT systems it put in place for leaving the EU. But progress to date is

not commensurate with the need for digital tracking to underpin other actions in the Waste and Resources Strategy, and our recent experience of large-scale digital programmes across government does not give us the same confidence.

Recommendation: *Defra should write to the committee when the IT contract is let to confirm that it has happened and what the plan is for full implementation.*

1 Progress with the government's strategy

1. On the basis of a report by the Comptroller and Auditor General, we took evidence from the Department for Environment, Food and Rural Affairs (Defra), the Environment Agency (the Agency) and HM Revenue and Customs (HMRC) about government actions to combat waste crime in England.¹

2. In the absence of an official estimate of the cost of waste crime to the English economy, the Agency, Defra and HM Treasury use an estimate made by the Environmental Services Association (ESA), the trade body representing the UK's resource and waste management industry, of £924 million in 2018–19. This represents a significant rise on ESA's previous estimate of £604 million in 2015, driven largely by increases to the cost of addressing fly-tipping and landfill tax evaded at illegal waste sites (Figure 2). Defra and the Agency acknowledge that the estimated cost is based on broad assumptions and poor data on the scale of waste crime and is likely to be an underestimate.²

3. In general, the number of incidents of waste crime and the cost of addressing them has been increasing over recent years. The number of fly-tipping incidents reported by local authorities has been rising over the past decade, and while the number of known active illegal waste sites has dropped since 2018–19, the Agency considers this to be unrepresentative of the true situation due to the impact of the COVID-19 pandemic on the ability of its officers to investigate alleged waste crime. The Agency believes there is widespread abuse of exemptions from requiring a permit to process waste. The increase in waste crime is associated with an increase in the involvement of organised crime groups within the waste sector.³

4. The most common sanctions levied against perpetrators of waste crime are issuing advice and guidance and sending warning letters. Over the last 15 years the number of prosecutions of organisations for waste crime pursued by the Agency has reduced dramatically, from almost 800 in 2007–08 to 60 or fewer per year since 2017–18. Local authorities have made extensive use of fixed penalty notices since they were introduced for fly-tipping in 2016–17.⁴

5. The government has pledged to leave the environment in a better condition for the next generation and in 2018 it published its *25-Year Environment Plan*, which included the ambition of eliminating waste crime and illegal waste sites by 2043. *The Resources and Waste Strategy* was also published in 2018, setting out planned actions to combat waste crime over the short to medium term. The strategy addressed the findings of the 2018 Defra-commissioned *Independent review into serious and organised crime in the waste sector*.⁵

1 C&AG's Report, *Investigation into government's actions to combat waste crime in England*, Session 2021–22, HC 1149, 27 April 2022

2 C&AG's Report, para 1.4

3 C&AG's Report, paras 10–12, 14, 23

4 C&AG's Report, paras 15–17 and Figure 14

5 C&AG's Report, para 4

Delivering strategy actions and achieving the goal of eliminating waste crime

6. In 2018, the government published the Resources and Waste Strategy, which included 14 actions to tackle waste crime.⁶ However, we heard how progress implementing the actions has been slow, to the extent that at present only three of these actions have been completed. The Joint Unit for Waste Crime was established in January 2020, and we heard from all the witnesses that it has strengthened partnerships between the bodies tackling waste crime, leading to more effective joint operations.⁷ Only earlier this year the Agency gained access to key police systems—the police national computer, the police national database and the national automatic number plate recognition system—which it says are now providing it with important intelligence with which to tackle waste crime.⁸ As an example, the Agency described Operation Goldjuno, a joint operation earlier this year with 43 police forces targeting metal crime and money laundering, which resulted in 29 arrests. However, we heard how it was too soon to see outcomes such as successful prosecutions.⁹ We also heard from the Agency that it is already using some of the additional powers it has received through the Environment Act, which received Royal Assent in November 2021.¹⁰

7. Other actions from the strategy which are central to combatting waste crime are at earlier stages of implementation. Digital waste tracking and reform of the carriers, brokers and dealers' regulations have been the subject of consultations on how to implement them, and Defra is currently analysing the responses.¹¹ A toolkit to help local authorities tackle fly-tipping is in development.¹² The Agency spoke positively about its campaigns to encourage the public to report waste crime, citing annual rises in the number of crimes reported to Crimestoppers.¹³ The Agency told us that, given pressure on the public purse, it is exploring ways to finance some of its work on waste crime from charges on waste businesses or other waste industry contributions.¹⁴ Exploring all options for funding activity to tackle waste crime is an action from the 2018 strategy.¹⁵ Several stakeholders who wrote to us expressed strong views about the need for additional resources for the Agency to tackle waste crime.¹⁶ The Agency acknowledged that recent baselining of previously ad hoc funding allows it to plan its activity better and stressed the need to use that funding as effectively as possible through partnership working and through engaging the waste sector and the public more in tackling waste crime.¹⁷

8. The 2018 Resources and Waste Strategy does not set out a pathway to government's ultimate goal of eliminating waste crime by 2043.¹⁸ Defra acknowledged that its reporting on progress implementing the strategy and towards this goal has been limited. The Agency told us how it is expanding its metrics beyond its current quarterly reporting on the number of high-risk illegal waste sites, to a suite of measures including the proportion

6 C&AG's Report, Figure 21

7 Qq 3, 17, 56, 61, 64, 86

8 Qq 17, 88; C&AG's Report, Figure 21

9 Qq 17–18

10 Qq 87–88

11 Qq 5, 7, 43, 49

12 Q 31

13 Q 3

14 Q 88

15 C&AG's Report, figure 21

16 GWC0003 (ESA); GWC0006 (ADEPT); GWC0007 (SUEZ)

17 Qq 25–28, 88

18 C&AG's Report, para 24, Figure 24

of waste that is being handled legitimately, the amount of waste prevented from illegal export, and the amount of hazardous waste discovered to be misdescribed to avoid tax.¹⁹ Defra is relying on an externally contracted evaluation of the strategy, due to complete in 2027, to identify further actions that it may need to take.²⁰

Improving waste crime data

9. The 2018 Resources and Waste Strategy acknowledged there were serious gaps in the national data on waste.²¹ When we asked how action to combat waste crime could be prioritised without good quality data, Defra told us “There is quite a lot more that we want to do” to improve data on waste crime.²² The Agency said “we think that only about 25% of all waste crime” is reported, and described the level of illegal waste exports as a “known unknown”.²³ Defra and the Agency accept that the public cannot rely on information about who are legitimate waste operators as opposed to rogue dealers or “fly-by-night companies”, due to weaknesses in the registration system.²⁴ Data limitations mean that Defra and the Agency are not yet able to comprehensively track their progress against the government’s goal to eradicate waste crime.²⁵

10. Defra and the Agency told us about a range of initiatives to improve data, including recent consultations on introducing digital waste tracking and reforming the system for registering as a waste carrier, broker or dealer.²⁶ The Agency told us it was working more closely with the legitimate waste industry to get a handle on the extent and nature of waste crime, and seeking to encourage members of the public to report waste crime.²⁷ Defra said it had supported development of apps to enable public reporting of fly-tipping. Nonetheless, Defra told us it needed an external contractor to carry out further work looking at gaps in data later this year, in order to “get us on a programme” for data improvement.²⁸

11. Stakeholders emphasised the need to ensure timely, effective delivery and implementation of the government’s initiatives. The Environmental Services Association wrote that tighter requirements to prevent criminals entering the sector “must be developed and pushed through with urgency”, while ADEPT also supports improving data to help expose rogue operators.²⁹ Large waste company SUEZ wrote that new legislation needs to be supported by the resources to implement it effectively, including sufficient monitoring and enforcement.³⁰ NFU evidence made clear that improving user experience and willingness to report waste crime requires fundamental change, telling us that a single reporting mechanism is needed to reduce frustration and confusion, as is feedback following a report.³¹ The Agency has said publicly that its new approach to tackling waste crime is “a lot more high-tech”, citing use of drones and heat-sensitive

19 Qq 5–6

20 Qq 2, 5–6, 29

21 C&AG’s Report, para 1.2

22 Q 2

23 Qq 3, 81; C&AG’s Report, para 1.2

24 Qq 48–49

25 Qq 5–6; C&AG’s Report, paras 3.3 and 3.4

26 Qq 5, 43, 49

27 Q 3

28 Q 2

29 GWC0003 (ESA); GWC0006 (ADEPT)

30 GWC0007 (SUEZ)

31 GWC0004 (NFU England and Wales)

cameras.³² Equivalent bodies in other UK nations have explored using satellite data to improve data on waste crime: both the Scottish Environmental Protection Agency and Natural Resources Wales have trialled the use of satellites to discover waste crime.³³

Delivering an IT project critical to the waste strategy

12. Waste tracking data is currently collected in multiple systems: some paper-based and some digital, some operated by private contractors and some by the government; not all information is collated centrally.³⁴ Since the 2018 Resources and Waste Strategy, the government has intended to collect more comprehensive tracking data in a single, central electronic system: digital waste tracking.³⁵ The plans currently under consultation are to cover the 200 million tonnes of waste produced each year across the UK, and to capture 10 pieces of information (such as the waste classification, waste movements and waste treatment) from the point of production to the end of its life.³⁶ Digital waste tracking underpins the Agency's and Defra's plans to measure progress against the overarching goal of eradicating waste crime.³⁷ Defra also told us that digital waste tracking is part of strengthening the regulatory system for waste and will make a big difference.³⁸ The Environment Agency said that data from digital waste tracking will enable waste crime to be identified, and allow the Agency and its partners to target their resources much more effectively to tackle or even prevent that waste crime.³⁹

13. Stakeholders who wrote to us were largely positive about digital waste tracking.⁴⁰ SUEZ emphasised that new legislation needs to be supported by clear penalties for non-compliance and investment in regulatory staff and systems to enable appropriate monitoring and enforcement.⁴¹ Defra and the Agency were not able to set out clearly how they would ensure waste handlers comply with the digital tracking system.⁴²

14. Defra told us that an in-house digital delivery team is working on a prototype digital waste tracking system and it has engaged a panel of 1,600 users to help with testing.⁴³ This follows £1.4 million of funding awarded to tech companies in two rounds of the GovTech Catalyst competition, resulting in development of two earlier prototypes.⁴⁴ In a follow-up letter after the evidence session, Defra said it is currently assessing responses to an exercise to procure an IT partner to work with the in-house team to build the service.⁴⁵

32 Sir James Bevan speech, [Crackdown on waste crime: Time to stop trashing our future](#), 12 April 2022; Environment Agency blog, [Flying high! Using drones to collect evidence of illegal waste sites – Creating a better place \(blog.gov.uk\)](#), October 2021

33 Scottish Environmental Protection Agency, [Smarter regulation of waste: progress to date](#), February 2020; Natural Resources Wales, [Socially distant but always on duty – using technology to catch waste criminals](#), May 2020

34 Q 8; Defra, Scottish Government, Welsh Government, Northern Ireland Department of Agriculture, Environment and Rural Affairs, [Consultation on the introduction of mandatory digital waste tracking](#), January 2022

35 C&AG's Report, Figure 21

36 Defra, Scottish Government, Welsh Government, Northern Ireland Department of Agriculture, Environment and Rural Affairs, [Consultation on the introduction of mandatory digital waste tracking](#), January 2022

37 Q 6; C&AG's Report, paras 3.3 and 3.4

38 Qq 43, 83

39 Q 8

40 GWC0004 (NFU England and Wales); GWC0003 (ESA); GWC0006 (ADEPT); GWC0007 (Suez)

41 GWC0007 (Suez)

42 Q 8

43 Qq 7, 12–13; Letter from Defra's Permanent Secretary to PAC Chair, sent 29 June 2022

44 [Smart tracking of waste across the UK: GovTech Catalyst competition winners announced](#), February 2019; [£1 million boost for UK smart waste tracking](#), October 2019

45 Letter from Defra's Permanent Secretary to PAC Chair, sent 29 June 2022

Budget 2020 committed to invest £7.2 million in the system for digital waste tracking and Defra told us the project has a capital budget of £4 million in this financial year.⁴⁶ The letter added that the project will be subject to a range of formal assurance processes in line with the Government's agreed approach to managing IT projects.⁴⁷ The Department has publicised its use of an agile approach for this project.⁴⁸ Defra told us it expects to fully roll out the service in 2024.⁴⁹ When we asked how the department would avoid the delays and other problems that have affected other government IT projects, Defra told us its record of delivering systems required for leaving the EU gives confidence that the department has learned the necessary lessons.⁵⁰ As we observed recently, government's complex, large-scale digital programmes continue to fail; while there have been recent successes, these have been with projects that are straightforward or narrow in purpose.⁵¹

46 HM Treasury, [Budget 2020: Delivering on our promises to the British people](#), HC 121, March 2020, para 2.118; Letter from Defra's Permanent Secretary to PAC Chair, sent 29 June 2022

47 Letter from Defra's Permanent Secretary to PAC Chair, sent 29 June 2022

48 Central Digital and Data Office, [report for Defra's Export green list waste alpha assessment](#), July 2021, point 7; [Waste tracking newsletter](#), March 2020

49 Q 7

50 Q 9

51 [Challenges in implementing digital change](#), Thirtieth Report of Session 2021–22, HC 637, December 2021, summary, conclusion 3 and paragraph 11

2 Tackling waste crime

Addressing landfill tax non-compliance

15. HM Revenue and Customs (HMRC) explained that landfill tax was introduced in 1996 to encourage the public and organisations that generate or process waste to move away from using landfill to dispose of waste, and that revenue generation is not its primary purpose.⁵² The tax comprises a lower rate for waste that will not decompose and a higher rate for waste that will decompose and release greenhouse gases.⁵³ From 2008 to 2014, the top rate of landfill tax increased significantly with annual above-inflation increases in the rate, while the lower rate barely increased.⁵⁴ This had the environmentally beneficial effect of driving down the level of waste sent to landfill and increasing recycling – HMRC told us that there has been a 90% decrease in the amount of waste sent to landfill by local authorities. However, landfill tax also increases the incentives to dispose of waste illegally to avoid paying the tax.⁵⁵

16. HMRC estimates that the amount of landfill tax due but not collected was £200 million in 2019–20. The Environmental Services Association told us that proportionally this is the second highest tax gap across all taxes, which HMRC agreed with.⁵⁶ We heard from HMRC that this lost revenue comprises tax avoided through waste operators misdescribing waste so as to pay the lower rate, and tax that should be paid on waste that is illegally dumped. HMRC agreed that the true tax gap is higher because, for example, this estimate does not take into account fly-tipped waste, which is also in some cases a crime committed to avoid landfill tax.⁵⁷ HMRC told us that it aims to promote landfill tax compliance and deter crime through working closely with landfill site operators to identify and rectify non-compliance, primarily through civil sanctions.⁵⁸ But HMRC finds criminal investigations complex, time-consuming and difficult, and has to balance the potential benefits against the impact on other aspects of its work. HMRC has not yet completed a single successful prosecution for landfill tax evasion, currently having only one underway, and it was frank that it is still learning how best to investigate such crimes.⁵⁹

17. We heard of recent actions and successes in combatting landfill tax evasion. HMRC has increased the number of its officials that are working on landfill tax compliance and it assured us that it works with the largest businesses to secure around 80% of total landfill tax revenue. It claimed that it has saved around £1.1 billion in landfill tax over the last few years that would potentially have been lost through misinterpretation of the legislation.⁶⁰ It is engaging with HM Treasury's current review of landfill tax. The Environment Agency (the Agency) told us it is also tackling landfill tax evasion – around two years ago it started investigating misdescription of waste and has been working more closely with HMRC. It described how it has recently tackled waste operators that fraudulently apply for a water

52 Qq 22, 58

53 Q 58; C&AG's Report, para 1.5

54 Q 77; C&AG's Report, Figure 3

55 Qq 22, 81; C&AG's Report, para 13

56 Q 19; GWC0003 (Environmental Services Association)

57 Qq 19–22

58 Qq 52–54

59 Qq 55, 57, 65, 75

60 Q 58

discount—a reduction in the amount of landfill tax paid to offset the water content of waste—resulting in a significant drop in applications and recouping some of the estimated £200 million lost through this type of fraud.⁶¹

Deterring waste crime

18. The Agency told us how under the current regime almost anybody can register with it as a waste carrier, broker or dealer and present themselves as a legitimate waste operator. Several organisations submitted evidence to our enquiry that demonstrated how this lax approach enables waste crime. The National Farmers Union told us how its members are approached by companies posing as legitimate waste operators, offering farmers money in return for temporary storage of waste, only for the companies to then disappear.⁶² SUEZ Recycling and Recovery UK told us how rogue companies charge low rates for waste collection, undercutting legitimate operators, but then fold leaving the waste for others to clean up. It called for more robust competency requirements for organisations seeking environmental permits.⁶³ The Environmental Services Association also called for reforms to the waste carriers, brokers and dealers regulations to make it more difficult for criminals to enter the waste sector.⁶⁴ We heard from Defra and the Agency that they are consulting on the regulations, which will be reformed to require a much higher level of technical competence and evidence of not being a rogue dealer, including background and criminal checks, in order to be able to register as a waste operator.⁶⁵

19. The Agency told us how current sanctions often have limited deterrent effect. It considers that the only penalty that makes a difference to many waste criminals, particularly one from an organised crime group, is a custodial sentence, but even when these are imposed they are often not long enough to deter further crime. Fines are not high enough and are treated as business expenses by waste criminals.⁶⁶ The Agency acknowledged that sentencing guidelines require courts to have regard to guilty individuals' ability to pay, but asserted that larger fines, and more and longer custodial sentences, would act as greater deterrents.⁶⁷ It told us that it is using the Proceeds of Crime Act more frequently to confiscate criminals' assets, which as well as acting as strong deterrent has the added benefit of generating revenue for the Agency, in contrast to fines where the money goes to HM Treasury.⁶⁸

20. It is widely believed across the waste sector that there has been a steady rise in the involvement of organised crime groups over recent years.⁶⁹ We heard from the Agency and HMRC of the challenges involved in taking such criminals to court, and how they can afford good legal teams.⁷⁰ Criminal prosecutions require higher evidential standards than

61 Qq 23, 24

62 Q 48; GWC0004 (NFU England and Wales)

63 Q 47; GWC0007 (Suez Recycling and Recovery UK)

64 GWC0003 (Environmental Services Association)

65 Qq 49–50

66 Qq 65, 69–72

67 Qq 65, 68

68 Qq 69, 73

69 C&AG's Report, para 14

70 Qq 46, 60, 65

civil cases, and therefore investigations are more complex and difficult, compounded by the exponential growth in data from mobile phones and laptops that need to be examined as potential evidence.⁷¹

21. We queried why the number of successful prosecutions has dropped dramatically over the past 15 years and why investigations were taking longer and longer.⁷² The Agency told us that prosecutions, despite their potential effectiveness at deterring waste crime, are a last resort because they tend to be slow, complex and expensive, and the Agency needs to use and target its resources in the best way to address and prevent the huge array of waste crime. The Agency's strategy is to go after the worst criminals who do the most damage, and this requires higher evidential standards and, inevitably, longer investigations.⁷³ HMRC is even more reticent to prosecute, predominantly using civil sanctions and seeking to promote good compliance.⁷⁴ We heard from HMRC that it has learnt the lessons from its only, and failed, attempt to prosecute for landfill tax evasion to date, Operation Nosedive. It now works much better with the Agency on complex investigations through the Joint Unit for Waste Crime and has improved the quality of the evidence it gathers.⁷⁵ The Agency also confirmed it has learnt lessons from Operation Nosedive, and assured us that its staff are committed to combatting waste crime despite the huge challenges of the job, including threats and actual assaults.⁷⁶

22. Advice and guidance or warning letters are the most common responses for most types of waste crime, and we pushed the witnesses on whether they were using the right balance of enforcement actions.⁷⁷ The Agency described how it takes a proportionate, risk-based and outcome-focused approach, and that providing advice and guidance is the default response. We were told most people respond well to advice and guidance, but if that does not work, the Agency has an escalating series of civil sanctions.⁷⁸ However, SUEZ argued that greater focus should be placed on tackling waste crime at all levels, telling us that small-scale activities may lead to more severe criminal activities in the future if not dealt with effectively.⁷⁹ We heard that there are thousands of waste companies, most of which are legitimate but a lot operate on the edge of economic viability. The Agency described how it does not want to tip legitimate companies into insolvency, so will always try to keep them operational and bring them back into compliance. If a company does go bankrupt or disappear, it leads to a host of other problems, including the landowner, who may be an innocent third party, becoming liable for the waste.⁸⁰

Getting a grip on illegal export of waste

23. The Agency estimates that around 14 million tonnes of waste are legitimately exported each year. The Agency told us that tackling illegal export of waste is “one of our top priorities” and “we are active in trying to stop it”.⁸¹ It accepts this will require the

71 Qq 55–56, 65–67

72 Qq 43, 45; C&AG's Report, Figure 18

73 Qq 45, 46

74 Qq 52–54

75 Qq 55–58

76 Qq 60–61

77 Qq 59, 62

78 Qq 62–63

79 GWC0007 (SUEZ)

80 Q 47

81 Q 81

Agency to work more over the next few years with the recipient countries of illegal waste exports than it has previously. The Agency believes that most illegally exported waste is going to non-OECD countries, which are less able to process the waste and more damaged by getting it.⁸² In future the Agency plans to use the tonnage of waste that is not going to illegal export, because of Agency interventions, as a performance metric.⁸³

24. We asked the Agency about its efforts to stop illegal exports and its performance in doing so. In response, the Agency highlighted the waste it successfully prevents being illegally exported, saying it prevented about 18,000 tonnes last year.⁸⁴ Over the five years to 2020–21, on average two-thirds of the waste the Agency stopped was intercepted at the originating waste site; the Agency’s estimate of the revenue to the economy from the waste it stops at site averages £1.3 million per year over this period.⁸⁵ The other third of the waste the Agency stopped was at intercepted at ports; in this period the Agency inspected around 1,100 containers per year on average.⁸⁶ However, the Agency acknowledged that it does not know how much waste is illegally exported despite its efforts.⁸⁷ Describing it as a conservative estimate, the Environmental Services Association told us that around 400,000 tonnes of waste are exported illegally each year, costing the economy £42 million.⁸⁸

25. The Agency also highlighted its recent achievement in securing fines of £1.5 million against a large waste company for waste export illegalities.⁸⁹ The Agency has been keen to publicise this record fine for waste export breaches that the judge called “reckless, bordering on deliberate”. However, despite the company having been fined £350,000 for similar offences only two years earlier, the Agency was able to stop less than half of the shipment concerned. 16 containers were stopped but 26 containers had already left port under rolling contracts to send waste to India and Indonesia.⁹⁰

Combatting fly-tipping locally

26. Local authorities reported 1.1 million incidents of fly-tipping during 2020–21 to Defra.⁹¹ However, Defra recognises that some local authorities provide incomplete figures, and that coverage of fly-tipping on private sector land is not good enough.⁹² Other stakeholders made similar points more strongly: written evidence from academics stated that “Waste crime on private land is overlooked” while evidence from the National Farmers Union (NFU) said that better reporting and recording of waste crime on private land “is urgently needed” due to a substantial number of unrecorded incidents.⁹³ Recorded fly-tipping is high in urban areas: Hackney recorded 13,600 incidents in 2020–21, while Sandwell recorded 10,300.⁹⁴ But it is also a serious issue in rural areas: the NFU estimates that fly-tipping is a widespread problem that will affect two-thirds of farmers. In addition, the NFU reports

82 Q 89

83 Q 6

84 Q 81

85 Environment Agency, [Waste Crime Summary Data to 2020/21](#)

86 C&AG’s Report, Figure 7; Environment Agency, [Waste Crime Summary Data to 2020/21](#)

87 Q 81

88 GWC0003 (ESA)

89 Q 46

90 [Biffa fined £1.5 million for ‘reckless’ export breach - GOV.UK \(www.gov.uk\)](#)

91 C&AG’s Report, para 1.14

92 Qq 2, 41; C&AG’s Report, para 1.14

93 GWC0001 (Farrell, Dixon and Tilley); GWC0004 (NFU England and Wales)

94 Qq 30, 33, 43; Defra, [ENV24 – Fly tipping incidents and actions taken in England](#), statistical dataset, December 2021

hearing from its members about an increase in large scale fly-tipping involving multiple vehicles in a short space of time.⁹⁵ It is the responsibility of the landowner to remove waste fly-tipped on private land.⁹⁶ The NFU told us that costs can run from hundreds to tens of thousands of pounds to deal with and remove fly-tipped waste, while protective measures both cost money to install and increase farmers' workload.⁹⁷

27. Defra told us that “Local authorities have the responsibility to deal with fly-tipping” while Defra’s role is to support authorities and provide tools for carrying out this work. However, Defra’s statutory guidance presents a less straightforward picture of local authority responsibilities. Local authorities have a duty to keep specified land clear of refuse, and can be taken to court to ensure they clean up such refuse within a reasonable time.⁹⁸ Investigation and enforcement are steps that local authorities can choose to take; they are not themselves duties on the authority.⁹⁹ Local authorities have many different priorities to balance, and their spending on non-social care services fell by 24.8% in real terms between 2010–11 and 2019–20. The Local Government Association believes that local authorities will only recover around half their costs, even after a successful prosecution. Between 2014–15 and 2020–21, the proportion of fly-tipping incidents investigated by local authorities fell from 35% to 28%.¹⁰⁰ In 2020–21 Sandwell and Hackney Councils recorded 24,000 fly-tipping incidents between them, issued 31 and 150 fixed penalty notices, respectively, and undertook no prosecutions.¹⁰¹ A submission from academic crime scientists argued that authorities could do much more with their information about fly-tipping to inform prevention.¹⁰²

28. Defra told us it has invested in the development of apps to make reporting of fly-tipping, such as on private land, to local authorities easier.¹⁰³ Defra said it is developing a fly-tipping toolkit to share best practice, the first element of which relates to putting together robust cases for magistrates courts that demonstrate the impact of fly-tipping.¹⁰⁴ The development of a fly-tipping toolkit was an action set out in the 2018 Resources and Waste Strategy.¹⁰⁵ Defra also told us it had invited local authorities it knew were leading on fly-tipping or had a significant fly-tipping issue to apply for up to £50,000 each for projects to trial approaches and interventions to prevent or address fly-tipping.¹⁰⁶ We have previously commented on the burden on local authorities of bidding for funding pots, absorbing time and resource with no guarantee they will be successful; this is particularly true for small, short-duration grants.¹⁰⁷ In this case six authorities worked on bids that were unsuccessful. Only three of the 11 successful authorities were outside London and the

95 GWC0004 (NFU England and Wales)

96 C&AG’s Report, para 3

97 GWC0004 (NFU England and Wales)

98 Defra, *Code of Practice on Litter and Refuse*, September 2019, paras 1.1 and 2.6

99 Defra, *Code of Practice on Litter and Refuse: Part 1A – Effective enforcement*, February 2022, para 11B1 and footnote 1

100 C&AG’s Report, paras 1.15, 2.5, 3.15

101 Qq 30, 33, 43; Defra, [ENV24 – Fly tipping incidents and actions taken in England](#), statistical dataset, December 2021

102 GWC0001 (Farrell, Dixon, Tilley)

103 Q 2

104 Qq 31–32; C&AG’s report, Figure 21

105 C&AG’s report, Figure 21

106 Qq 35–37; Letter from Defra’s Permanent Secretary to PAC Chair, sent 29 June 2022

107 *Local Government Finance System: Overview and Challenges*, Thirty-Fourth Report of Session 2021–22, HC 646, February 2022, conclusion 7 and paras 26–27; *Local economic growth*, Fifty Report of Session 2022–23, HC 252, June 2022, paras 5 and 6

nearby counties.¹⁰⁸ When we asked if Defra was happy with local authority enforcement action against fly-tipping, Defra accepted there is more to do.¹⁰⁹ When we asked about the gap between action on the ground and the scale of crime (which ultimately Defra wants to eliminate), the response was about taking forward research.¹¹⁰

108 Letter from Defra's Permanent Secretary to PAC Chair, sent 29 June 2022; WRAP, [Fly-tipping intervention grant](#)

109 Q 43

110 Qq 33–34

Formal minutes

Thursday 8 September 2022

Members present:

Dame Meg Hillier

Olivia Blake

Mr Louie French

Kate Green

James Wild

Government actions to combat waste crime

Draft Report (*Government actions to combat waste crime*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 28 read and agreed to.

Summary agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Resolved, That the Report be the eighteenth of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Adjournment

Adjourned till Monday 12 September at 3.30pm

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 15 June 2022

Sir James Bevan, Chief Executive, Environment Agency; **Tamara Finkelstein**, Permanent Secretary, Department for Environment, Food and Rural Affairs; and **Richard Las**, Head of Operations, Fraud Investigation Service, HMRC

[Q1-92](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

GWC numbers are generated by the evidence processing system and so may not be complete.

- 1 Association of Directors of Environment, Economy, Planning and Transport (ADEPT) ([GWC0006](#))
- 2 Environmental Services Association ([GWC0003](#))
- 3 Farrell, Professor Graham (Professor of Crime Science, School of Law, University of Leeds); Dixon, Anthony (Researcher, School of Law, University of Leeds); and Tilley, Professor Nick (Professor of Crime Science, Department of Security and Crime Science, University College London) ([GWC0001](#))
- 4 National Farmers' Union ([GWC0004](#))
- 5 SUEZ Recycling and Recovery UK ([GWC0007](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

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25th	The Department for Work and Pensions' Accounts 2020–21 – Fraud and error in the benefits system	HC 633
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27th	Green Homes Grant Voucher Scheme	HC 635
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34th	Local Government Finance System: Overview and Challenges	HC 646
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36th	EU Exit: UK Border post transition	HC 746
37th	HMRC Performance in 2020–21	HC 641

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1st Special Report	Fifth Annual Report of the Chair of the Committee of Public Accounts	HC 222

Session 2019–21

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36th	HMRC performance 2019–20	HC 690
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38th	Managing colleges' financial sustainability	HC 692
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