

Robbie Moore MP
Minister for Environmental Quality and Resilience

28 February 2024

Seacole Building
2 Marsham St
London
SW1P 4DF

Dear Minister Moore,

RE: Consultation: Environmental Permits and Waste Incineration Facilities

Thank you for the call yesterday afternoon and for your letter asking for the Environment Agency's views on your proposal to issue a Direction relating to permits for incinerators, which we received at 20.00 yesterday. We have endeavoured to provide below an initial set of factors to be considered within the one-day deadline you have set. We stand ready to provide any further advice or evidence that you would find useful.

The Government is making considerable progress in developing the legislation to reduce waste flows and improve waste and resources regulation. Measures such as extended producer responsibility, deposit return scheme, carriers brokers dealers regulation and strengthening the waste exemptions process are all intended to drive down volumes going to landfill and incineration. The impacts of the proposed Direction will depend in the main on how long the pause lasts and whether investors and operators can have confidence that the sector will be allowed to continue to operate in the UK in the medium to long term and that they will have regulatory certainty over the restrictions placed over them.

I have kept this letter to the immediate considerations which relate to our statutory role as regulator of waste incineration under Environmental Permitting Regulations. This includes a number of practical issues that we will need to resolve, including handling of 'live' permits applications with the National Permitting Service, performance targets and communication with applicants.

As you are aware there are currently 10 permit applications for new waste incinerators in the permitting system. Of these we were expecting to issue all 10 in the time period being proposed. There are also a number of applications for permit variations to improve environmental performance and increase capacity at existing sites. It is our understanding that these applications and future variations will be out of scope of the Direction but will need this confirmed. We also have a statutory requirement to undertake permit reviews to ensure continued application of UK Best Available Technique standards. This involves variation of existing permits to align with the improved standards and should be out of scope. Clarity on the scope of the Direction therefore is a priority.

Over the past 18 months we have put in significant investment to improve our permitting performance to meet service delivery levels and our duties under the Regulators Code and Growth Duty.

We are committed to continuing to improve and target transformation of our permitting services to support the Government's growth agenda, and as such we will not include the paused applications in our performance reporting.

We will need to inform applicants of the Government's decision and that their applications will not be progressed from the date of the Direction until either it expires or, if sooner, we are informed that it has ended. These communications lines will need to be developed with Defra and any queries for further information passed back to the department.

In line with our statutory role as your advisor on environmental matters, we would like to highlight some of the environmental and climate consequences which I am sure you will be considering prior to making any Direction. Given the tight deadline, we have not produced any detailed analysis or advice on these issues but we would be happy to do so if it would be of use.

Those issues include:

- Displaced waste – the available capacity and affordability of disposal routes for residual waste and how this changes the risk landscape for illegal activity and opportunities for waste crime.
- Releases into the environment – the balance of disposal shifting to more polluting routes such as landfill and a slowing down of investment into environmental and air quality improvements in the waste incineration sector.
- Hazardous wastes – maintaining and not squeezing out capacity for wastes for which incineration is the principle and sometimes only legal and environmentally safe option, eg medical wastes, chemical wastes.
- Energy security and Net Zero - in particular impact on track 1 and track 2 projects into which the Government has already committed significant

investment and the production of low carbon fuels and the consequential environmental impact.

- Certainty - impact on local authority waste management and contractual arrangements making it challenging for the appropriate management of waste and increased risk through the waste supply chain.

Our advice will need to be published and we will work with Defra to agree the schedule for the proactive release of this letter, as well as working with them on monitoring and managing the consequences and associated risk of this fast-paced policy change.

Philip Duffy
Chief Executive Officer