

**COMPLAINT
TO THE COMMISSION OF THE EUROPEAN COMMUNITIES
CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW**

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6. Environmental Campaigning organisation working throughout Northern Ireland as part of Friends of the Earth England, Wales and Northern Ireland.
7. The UK Government acting through the Department of the Environment (the DOE) in Northern Ireland. The DOE is currently under the control of the Parliamentary Under Secretary of State for Northern Ireland with responsibility for the Environment, a UK Government Minister.
8. The UK Government has failed fully to implement the Waste Framework Directive 75/442/EEC¹ ('the Directive'), as amended, in Northern Ireland. Responsibility lies with the Parliamentary Under Secretary of State for Northern Ireland who is currently charged with control of the Department of the Environment, a department of the Northern Ireland Assembly.

The details of this complaint are as follows:-

Article 4 of the Directive requires the DOE to ensure waste disposal operations do not harm the environment or cause a nuisance.

Article 7 requires landfill site operators to draw-up and implement waste management plans.

Article 8 of the Directive, and Articles 9 and 10 of amendment 91/156/EEC, require that a permit (licence) be obtained for storing, treating or disposing of waste. The competent authority is the Department of the Environment. Prior December 19 2003 local authorities were responsible for issuing licences.

Article 10, as amended by Article 12 of 91/156/EEC, requires organisations which collect and transport waste to be registered with the DOE. Article 9, as amended by Art. 13, requires the competent authority to inspect licensed and

¹ O.J. L194/39

registered organisations to ensure compliance with their operating conditions.

Article 14 of amendment 91/156/EEC requires waste disposal operators and waste producers to keep accurate and detailed records and to make these records available to the DOE.

A large number of landfill sites in Northern Ireland are operating either in breach of their waste disposal licences or without waste disposal licences. Furthermore, the Waste Management and Contaminated Land Unit of the Department of the Environment seems unwilling to exercise its regulatory powers and has allowed this situation to evolve.

The problem is further compounded by the fact that licensing powers have recently been transferred from local councils to the Department of the Environment. The result is that the Waste and Contaminated Land Unit's time is now spent compiling and analysing rather than regulating. Indeed it is unable to answer some very basic questions because "definitive information is not yet to hand."²

As a consequence, much of the information presented in this complaint is anecdotal and comes from concerned members of the public who have turned to Friends of the Earth for help.

Case A – Craigmore Road landfill site, Garvagh, Co. Londonderry, operated by Mr Malachy Higgins.

Although Mr Higgins had his licence revoked in October 2003, this case is indicative of the unwillingness of the competent authority to enforce the Waste Framework Directive. Mr Higgins took over the operation of the site in 1996 and, according to residents of Craigmore Road, he very quickly started to accept waste for which the site wasn't licensed. Despite complaints by the residents and unfavourable reports from Coleraine Borough Council (A.6 – A.8 of the supporting evidence) it took until 2003 before any action was taken. Mr Higgins was ordered to remove the illegal material but at the time of writing this had not happened nor were we aware of any attempts to enforce the order. Mr Higgins has not been prosecuted.

Case B – Kildress landfill site, Cookstown, Co. Tyrone, operated by Mr Fred Wilson of Tyrone Waste Recycling Ltd.

This site is licensed to process green waste and inert waste only. An investigation was carried out by Cookstown District Council following allegations by local people that the site was operating in breach of its licence and that waste from the Republic of Ireland had been disposed of in it. The licence was revoked and the operator was ordered to remove the illegal waste. According to residents, however, the unlicensed waste was simply buried.

² Response from the Waste Management and Contaminated Land Unit of the Department of the Environment to an information request from Friends of the Earth.

Case C – Bentra Road landfill site, Ballycarry, Carrickfergus, Co. Antrim, operated by Mr McAllister.

Friends of the Earth was informed by a resident of Carrickfergus about this site. It accepts a range of waste materials including domestic waste even though the operator has no waste disposal licence and the site has no planning permission.

Case D – Newtownards Road landfill site, Comber, Co. Down, operated by Mr Jimmy Sails.

This site is situated on salt marshes and a tidal river within the boundary of Strangford Lough SAC, SPA and is operating without a waste disposal licence. Residents report seeing frequent fires and claim that Ards Borough Council has used the site for disposing of municipal waste. The operator has been contracted by the Department of the Environment to remove abandoned and burnt-out cars which he then dumps on the site.

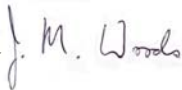
Case E – The Rumbling Hole landfill site, Glenside Road, Lisburn, Co. Antrim, operated by Mr J McQuillan.

This site is licensed to take inert waste only but a wide range of waste including municipal waste and end of life vehicles has been disposed of here. This site has a long history of unlicensed waste disposal but no action has been taken to enforce the licence conditions.

Case F – Wilson’s Waste transfer station, Limestone Road/Tigers Bay, Belfast operated by Wilson’s Waste.

The Wilson’s Waste site is a transfer and packing station. The waste processed on site is then moved to an appropriate landfill site for disposal. Clinical waste, including syringes and needles, has been found on site in contravention of its licence. Environment and Heritage Service have informed residents that it is investigating the case but to date it has failed to confirm to Friends of the Earth that it is carrying out such an investigation.

9. Council Directive 75/442/EEC on Waste as amended
10. N/A
11. N/A
12. N/A
13. N/A
14. Please see enclosures.
15. I authorise the Commission to disclose my identity in its contacts with the authorities of the Member State against which the complaint is made.

16. Signed 

John Woods

Date 4 May 2004