

Mr Derek Williamson  
Head of Environmental Crime  
Northern Ireland Environment Agency  
Klondyke Building  
Cromac Avenue  
Gasworks Business Park  
Lower Ormeau Road  
Belfast  
BT7 2JA

15<sup>th</sup> March 2018

Dear Sir,

**Re: Seasonal Bonfires in the Mid Ulster District Council Area**

Within Mid Ulster District Council there have been discussions regarding the anticipated seasonal bonfires that take place across the District annually. An internal working group has been set up to develop a structured procedure for dealing with bonfires on Council land. I have been asked to contact you to clarify ways in which the NIEA and Mid Ulster District Council can work in partnership in order to minimize any adverse pollution effects that could potentially arise from the burning of tyres within bonfires.

**Waste Tyre Stream**

It is Mid Ulster District Council's understanding that the NIEA has responsibility under Article 5 of The Waste and Contaminated Land (NI) Order 1997 (as amended) to ensure that tyre retailers dispose of their waste tyres in a responsible manner and records are maintained. It would be appreciated if you could advise as to the number of audits and advisory visits that were carried out by NIEA on tyre retailers within the MUDC area within this current financial year and to advise on what audits or advisory visits are planned for 2018/19.

It is envisaged that sufficient number of visits by NIEA to tyre retailers will be effective in raising the regulatory aspects of suitable waste disposal within this retail sector and help to influence behaviors when tyre dealers are approached for bonfire materials. In conjunction with the NIEA regulatory approach, MUDC are exploring a voluntary colour coding system which requires participating tyre retailers to mark their waste tyres with an identifying colour. Mid Ulster District Council would welcome input from the NIEA particularly in respect of simultaneous checks being carried out under the 'Duty of Care' requirements.

**Dealing with Tyres Dumped at Local Bonfire Sites**

In previous years tyres and various other items fly-tipped at local bonfire sites have been referred to the NIEA for removal as hazardous waste, as per the draft fly-tipping

protocol between the NIEA and Local Councils. I would like to take this opportunity to check that this is still the correct method of proceeding with complaints of this nature and would welcome a copy of the most up to date referral form. In instances where the Council is able to gain relevant evidence as to the identity of fly-tippers on bonfire land, it would intend to refer fly-tippers details to the NIEA for potential enforcement action. Could you please clarify NIEA's preferred method for such referrals?

If you wish to discuss any matters relating to this letter please do not hesitate to telephone me at 03000 132 132 or contacting me at my email address of [Fiona.McClements@midulstercouncil.org](mailto:Fiona.McClements@midulstercouncil.org).  
I look forward to your response.

Yours faithfully,

29 MAR 2018

Environmental Health Department  
(Dungannon Office)  
Environmental Crime Unit  
Northern Ireland Environment Agency  
Klondyke Building, Gasworks Business Park  
Belfast  
BT7 2JA

26 March 2018

Ms F McClements  
Head of Environmental Health  
Mid Ulster District Council  
Dungannon Office  
Circular Road  
Dungannon  
BT7 6 DT

27 March 2018

Dear Ms McClements

**Re: Seasonal Bonfires in the Mid Ulster District Council Area**

Thank you for your letter of 16 March 2018 in respect of the above. I welcome the opportunity to further a partnership approach to the matter of bonfires and also to clarify the NIEA position in relation to these matters. As you will no doubt be aware, bonfires are a controversial issue and occur in many areas across Northern Ireland and in a variety of settings, not exclusively on Council property. NIEA have worked closely with all Councils for a considerable period on issues surrounding bonfires and we are clear that this work will continue, subject to legal, practical and other resource considerations.

**NIEA Role**

NIEA's role in relation to the controversial issues of bonfires obviously surrounds our role in protecting the environment and in waste management. The primary legislation is that contained in the Waste & Contaminated Land (Northern Ireland) Order 1997 [the Order].

NIEA is not the lead agency for bonfires and primarily works within local Council-led fora to address issues of risk and harm. As part of that work, NIEA will take enforcement action in appropriate circumstances and in line with our enforcement policy. Often, in the context of the Waste & Contaminated Land (Northern Ireland Order) 1997, that may mean enforcement against the landowner and, with regard to bonfires, could well mean other public bodies such as Councils. Articles 4, 5 and 27 of the Order are normally the powers which might be used in this context. With regard to the latter, an analogous power is available to Councils under Article 28 of the Order.

NIEA's approach to the issue of bonfires relies primarily on preventative work and dealing with the source of the problem, rather than the consequences (the bonfire). In



addition to prevention measures, we will concentrate available resources on reducing hazardous waste from being burnt on bonfires. However, we firmly believe the long term solution to bonfires is in the community management of them alongside statutory partners.

NIEA's specific aims and objectives in this context are to:

- Support work within Council/NIHE or other statutory agency led multi-agency fora;
- Provide effective targeted regulation of waste treatment facilities which have the potential to provide material for burning on problematic bonfire sites;
- Provide effective targeted regulation of specific waste producers and controlled waste streams to include tyres and asbestos;
- Assist the development of an intelligence picture of wider waste issues affecting bonfires; and
- Develop targeted strategies for dealing with illegal waste offenders who provide controlled wastes to bonfires.

I believe it is important to highlight what NIEA cannot do in relation to the control of issues of risk and harm surrounding bonfires.

For clarity, NIEA will not:

- Intervene directly at bonfire sites or remove hazardous waste unless in exceptional circumstances and then only if the approach is agreed through a Council led partnership.
- Jeopardise our staff's personal safety.

It may also be important to note that NIEA has no legal authority to itself remove controlled waste from bonfire sites.

With regard to the fly-tipping protocol previously operated across Northern Ireland, NIEA continues to utilise these arrangements to deal with controlled waste in excess of 20m<sup>3</sup> or hazardous materials unable to be accepted at Council civic amenity sites. As for tyres, these are not by definition hazardous waste. However, as part of NIEA's partnership approach to the issues of risk and harm surrounding bonfires, we will, where local agreement has been brokered through Councils/NIHE or other statutory agencies, use the fly-tipping protocol to remove tyres being stockpiled for use in bonfires. Hence, the approach to intervention outlined.

## ARTICLE 5 AND DUTY OF CARE

You asked specifically about Article 5 and link this to tyre retailers as well as indicating



that NIEA has responsibility for Article 5. In fact, while the Department (and by extension NIEA) do have powers to enforce a range of matters under the Order, including Article 5, there are also references in Article 5 to District Councils being authorised for the purposes of paragraphs 1 (c) [i.e. the transfer of waste to authorised persons etc.] and paragraph 2A [i.e. the duty of the occupier of domestic properties to transfer waste to authorised persons].

## TYRE RETAILERS

On the specific issue of tyre retailers, I can advise that NIEA has no direct responsibility for the regulation of tyre retailers and consequently does not routinely conduct audits of tyre retailers as part of its regulatory function. Similarly, as NIEA does not regulate tyre retailers, we do not hold any database of such retailers. However, in line with the approach to tackling problem waste streams and waste producers, we have on occasion conducted checks with tyre retailers as part of their 'duty of care' responsibilities under Art. 5 of the Waste & Contaminated Land (Northern Ireland Order) 1997. Often, this has previously been done in conjunction with visits from other partners such as the Northern Ireland Fire & Rescue Service and local Councils. NIEA does not currently retain records of such visits conducted to tyre retailers and hence is unable to meet your request for this data.

Further, given the numbers of tyre retailers and the available resources, NIEA does not consider that a blanket approach to visits as being the most effective response. Rather, we approach the issue on a targeted basis conducting visits and investigations where matters of concern are found or referred. We expect that referrals will come primarily from other statutory agencies and Councils. It is planned that this will continue to be the approach during the incoming year and to that extent, I would encourage Council officials to report any issues of concern to us using the methods set out post. Of course, we will also be happy to discuss where a joint approach could be of benefit.

## GENERAL

The NIEA approach to waste management, enforcement and specifically issues arising from traditional bonfires is greatly assisted in many areas across Northern Ireland by initiatives supported by Councils using, for example, Police & Community Safety Partnerships, Good Relations Officers and in supporting community management of the risks associated. NIEA is keen where possible to assist those efforts recognising that the solution to those bonfires which create risks are best managed through supporting local communities to resolve the issues arising.

Please find enclosed the current NIEA/Council referral form in use for issues surrounding the clear up of relevant waste(s). Councils are encouraged to refer these, together with any available photographs, to [environmentalcrime@daera-ni.gov.uk](mailto:environmentalcrime@daera-ni.gov.uk) or by telephone to 02890569453.



Should you consider a meeting is necessary to discuss any matter outlined, I will be happy to facilitate. In the meantime, I look forward to hearing how MUDC intend to approach the issue of bonfires across the area and in particular its approach to voluntary marking by tyre retailers. Finally, I would be interested also to hear whether MUDC intend to create a database of tyre retailers.

Yours sincerely



**Derek Williamson**  
**Head of Enforcement**  
**Northern Ireland Environment Agency**



<b>FLYTIPPING PILOT</b>	File Ref
<b>Council Incident Referral Form</b>	FT1
	Issue Date
	26/09/2012

#### Council Officers Reporting Requirements

<b>Name of Council</b>	
<b>Reporting Officer</b>	
<b>Date</b>	

<b>Waste</b>	
<b>Type of waste</b>	
<b>Amount (Tonnes)</b>	

<b>Full Postal Address of the Waste including postcode?</b>	
<b>What are the GPS coordinates of the waste?</b>	

	Yes	No
<b>Is the waste Hazardous?</b>		
<b>Is the amount of waste above 20m<sup>3</sup></b>		

	Yes/No	Detail
<b>Has a council Officer Visited the Site? If date and time of visit.</b>		
<b>Is the waste confirmed as Flytipping?</b>		

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	Issue Date
	26/09/2012

Has the Council Officer taken Photographs?		
Other detail, such as presence of gloves, clothing etc		
Has the incident been reported to PSNI/HMRC?		