

**National Assembly for Wales**  
Finance Committee

Report on the Financial Implications of the  
Proposed Waste (Wales) Measure

June 2010



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## Finance Committee

The Finance Committee's remit is to ensure that proper scrutiny is given to the budget and expenditure of the Welsh Government, the Assembly Commission, the Ombudsman, the Children's Commissioner, the Older People's Commissioner and various Welsh Government Sponsored Bodies and NHS Bodies.

The Committee has in broad terms three main functions:

- to consider and report on Assembly budget proposals;
- to consider and, where it sees fit, report on the financial information presented in support of Assembly Measures;
- to consider any other matter relating to, or affecting, expenditure by the Government or out of the Welsh Consolidated Fund.

## Powers

The Committee was established on 26 June 2007. Its powers are set out in the National Assembly for Wales' Standing Order 14. These are available at: [www.assemblywales.org](http://www.assemblywales.org)

## Committee Membership



**Angela Burns (Chair)**  
Camarthen West and  
Pembrokeshire  
Welsh Conservative Party



**Lorraine Barrett**  
Cardiff and South Penarth  
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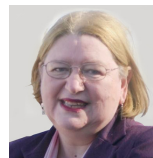
**Andrew Davies**  
Swansea West  
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**Chris Franks**  
South Wales Central  
Plaid Cymru



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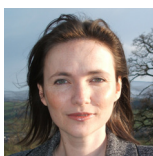
**Ann Jones**  
Vale of Clwyd  
Labour



**Nick Ramsay**  
Monmouth  
Welsh Conservative  
Party



**Janet Ryder**  
North Wales  
Plaid Cymru



**Kirsty Williams**  
Brecon and Radnorshire  
Welsh Liberal Democrats

# Report on Proposed Waste (Wales) Measure

## Introduction

1. Standing Order 14.2 states:

*The [Finance] Committee may also consider and, where it sees fit, report on:*

*financial information in explanatory memoranda accompanying proposed Assembly Measures;*

2. The Finance Committee considered the Proposed Waste (Wales) Measure at its meeting on 27 May 2010. It was presented to the Finance Committee by Jane Davidson AM the Minister for Environment, Sustainability and Housing and Member in charge of the proposed Measure who answered Members' questions. The Finance Committee also took oral evidence from Clifford Parish, Operational Manager for Waste and Cleansing, Vale of Glamorgan in relation to the provisions of the Measure relating to landfill. Members also had regard to the responses received by Legislation Committee 4 in their consultation on the proposed Measure.

## Background

3. The Proposed Waste (Wales) Measure 2010 makes provision to reduce the amount of waste and litter in Wales and to contribute to the development of more effective waste management arrangements in Wales.
4. The proposed measure contains a range of provisions which are primarily 'enabling' – that is they provide Ministers with powers to make regulations in a particular area of responsibility but do not set these out in any detail and leave this to subsequent secondary legislation. The value of 'enabling' legislation is that it provides a flexible means by which the detail of legislation can be specified and varied, to meet particular needs, without going through a full legislative process every time. This approach allows for flexibility and can take account of views expressed through consultation. However it also requires the Assembly to approve measures expressed very generally with the consequent lack

of detail. This lack of detail in the enabling power (the Measure) has the result of making the assessment of the full impact extremely difficult.

5. The proposed Measure covers four policy areas:
  - a. single use carrier bags;
  - b. municipal waste targets;
  - c. banning certain substances from landfill; and
  - d. the development of Site Waste Management Plans in the construction and demolition industry.

### **Single use carrier bags**

6. The proposed *Waste (Wales) Measure* builds on the regulatory powers in the [Climate Change Act 2008](#); which enable (Welsh) Ministers to enforce a charge for the use of single-use carrier bags and to require retailers to record the number of single-use carrier bags sold. The proposed *Waste (Wales) Measure* will enable Welsh Ministers to bring forward regulations that would require retailers to distribute any 'net proceeds' from such a charge to specific environmental purposes or bodies.

7. The Explanatory Memorandum refers also to a voluntary scheme for retailers to pass on the proceeds of such a charge to specific environmental and other projects and indicates<sup>1</sup> that the powers in the proposed Measure will be used *only* if the voluntary arrangements are not satisfactory. The Explanatory Memorandum also suggests<sup>2</sup> that the voluntary option will have the lowest cost.

### **Municipal waste targets**

8. The proposed *Waste (Wales) Measure* introduces statutory targets up to 2024-25 for recycling, reuse and composting of municipal waste. It will also give Welsh Ministers the power to:

- a. specify by regulation other waste targets to be met by a local authority in exercising its functions; and
- b. introduce regulations to penalise local authorities that do not reach the specified targets, the level of the penalties will be set in subsequent regulations.

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<sup>1</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 1.2

<sup>2</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 8.1.46

## Landfill bans

9. The proposed *Waste (Wales) Measure* will give Welsh Ministers the power to ban or restrict certain substances from landfill however it does **not** specify which substances may be banned - this will be a matter for future regulations. It also includes powers to provide for civil sanctions in respect of offences created under Section 9.

## Site Waste Management Plans

10. The proposed *Waste (Wales) Measure* will give Welsh Ministers the power to:

- a. require companies to prepare Site Waste Management Plans and to adhere to them;
- b. to specify the circumstances in which such plans should be prepared, their content and the way in which this should be done; and to
- c. introduce a fees and charging scheme for them.

## Assessment of costs

### Single use carrier bags

11. The powers to impose charges on the supply of carrier bags come from the Climate Change Act 2008 and so these costs fall outside the proposed Measure. The Explanatory Memorandum accompanying the proposed Measure indicates the cost of imposing the duty on retailers to pay money to specified purposes of bodies (option 3 of the EM) for this part of the proposed measure:

**Table: First year costs of option 3 of the EM**

	<u>£ '000s</u>
	Estimated cost
<b>Compliance/Administrations Costs for Businesses/Projects</b>	
Retailer cost	505
Charity/Project Cost	150 - 385
<b>Public Sector Administration/Other Costs</b>	
WAG administration	45
WAG Communications	40
Monitoring/Enforcement by Local Authorities	45
<b>Total</b>	<b>740 - 975</b>
Net Present Value (£m)	8.3 - 11.1

Source: [Proposed Waste \(Wales\) Measure Explanatory Memorandum](#)  
(page 43)

12. The costs for retailers are essentially the cost of recording the sales of carrier bags, and collating the revenue and forwarding it to the relevant charity, project or NGO. The Explanatory Memorandum suggests figures of £15 per 'return' for large retailers and £30 for small ones. The Minister for Environment, Sustainability and Housing said<sup>3</sup> that the figures were based on the approach adopted in Scotland. The Explanatory Memorandum also indicates costs for charities or projects receiving the money of £150,000 - £385,000 based on information from <sup>4</sup>sources such as Charity Finance that suggests administration costs of between 5% and 13% of proceeds. The Explanatory Memorandum notes that both these administrative costs and those incurred by retailers can be deducted from the revenue received and so will have no net cost for either. In relation to enforcement the Minister states (letter 9 June REF) that the Explanatory Memorandum will be amended to emphasise that the Welsh Assembly Government envisages a complaints-led process in relation to the enforcement of any duties imposed by the proposed Measure. As a consequence of it being a complaints-led process the Finance Committee is unable to comment on the cost of enforcement.

13. The Explanatory Memorandum also observes<sup>5</sup> that these costs are broadly similar to those that would be incurred under the voluntary option if it were successful but that the voluntary option would avoid some of the Welsh Assembly Government and local authority administrative costs which it estimates at around £130,000 in the first year.

14. Overall, the Explanatory Memorandum estimates the costs incurred by this part of the proposed measure will be between £740,000 and £975,000 – but, in fact, most of these costs would also be incurred under the 'voluntary' option that the Minister for Environment, Sustainability and Housing hopes will make this part of the measure unnecessary. The real difference between the two is the administration involved if the powers of the measure are invoked. The costs of these latter are estimated at a net £120,000<sup>6</sup>. However, it is not really meaningful to look at these, or this part of the proposed

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<sup>3</sup> RoP p34, 27 May 2010, Finance Committee

<sup>4</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 8.1.26

<sup>5</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 8.1.31-36

<sup>6</sup> Finance Committee FIN(3)-10-10, paper 4, *Financial Implications of the Proposed Waste (Wales) Measure – Additional Information from the Minister for Environment, Sustainability & Housing*, 17 June 2010



Waste (Wales) Measure, in isolation because most of the costs to retailers can be netted off from the revenue generated by the sale of single use carrier bags, the power for which comes from the Climate Change Act 2008.

15. The Explanatory Memorandum (to the proposed Waste (Wales) Measure) estimates<sup>7</sup> current volumes of single use carrier bags in Wales at around 324m per year. It also indicates<sup>8</sup> that the expected charge will be between 5p and 15p per bag and<sup>9</sup> that it will generate revenue of between £1m and £3m. This is based<sup>10</sup> on the Irish experience that introducing a charge for single use carrier bags led to a 90% drop in their usage. The proposed Measure was laid on 22 February 2010 and on 4 June (a week after the Finance Committee took evidence from her) the Minister for Environment, Sustainability and Housing launched a consultation on the Government's proposals to introduce a charge. This says [para 7.6] that 7p is the level at which they have set the minimum charge in the draft regulations.

16. It is very difficult to draw many meaningful conclusions from all this information. If the introduction of a charge leads to a 90% reduction in the use of single use carrier bags it would represent a very significant policy achievement and would still offset the administrative costs associated with this measure. If it does not, then it will generate a much higher level of revenue which will more than offset the costs of its collection and redistribution and lead to significant levels of funding being available to support environmental and other projects.

17. The Finance Committee notes that the level of charge is still undecided but that the Minister for Environment, Sustainability and Housing has recently launched a consultation on a proposed level of 7p per single use bag. The Finance Committee considers it would have been more useful if these two parts of the policy had been presented together and at a time which would have allowed the Finance Committee to discuss all these issues with the Minister. It was therefore unable to examine the consultation document in detail but

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<sup>7</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 3.5

<sup>8</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 8.1.1

<sup>9</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 8.1.41

<sup>10</sup> Finance Committee FIN(3)-09-10 paper 2, *Financial Implications of the Proposed Waste (Wales) Measure – Further Information from the Minister for Environment, Sustainability & Housing*, 27 May

notes that it refers to a range of costs to consumers of £9m - £14m which suggests that current thinking is of a slightly lower level of reduction to be achieved in the use of single use carrier bags. Against this, the costs referred to in the proposed Waste (Wales) Measure are relatively small.

18. The Committee also noted that the Explanatory Memorandum to the proposed Measure is focused very narrowly on the costs of the Measure and has overlooked wider effects such as the impact of the introduction of a charge on small retailers. The Explanatory Memorandum estimates that of the 8,500 retailers collecting the charge the vast majority, some 8,250 of them, will be small or medium sized enterprises. The Committee wondered about the extent to which the increase in turnover that would result from the levy would push some retailers to a level at which they were forced to register for VAT with the significant costs that this will bring but with no increase in business. This in turn could result in a cost for government in trying to mitigate these effects. However, there is no evidence that this issue has even been considered.

### **Municipal waste targets**

19. The Finance Committee considered the explanatory Memorandum accompanying the proposed Measure and also a revision of this presented by the Minister. The financial information in the revised Explanatory Memorandum assumes that, without intervention, recycling rates will plateau at 52% in 2012-13. The Measure sets out the following statutory targets for local authorities to recycle, prepare for re-use or compost municipal waste:

<b>Target (financial) year</b>	2012-13	2015-16	2019-20	2024-25
<b>Target amount</b>	52%	58%	64%	70%

20. The Explanatory Memorandum does not include any detailed analysis of the costs of moving to these levels of recycling but refers to financial modelling undertaken by Eunomia in a 2007 report commissioned by the Welsh Assembly Government.

21. The estimated changes in waste management costs in order to meet the 70 per cent target are outlined in the table below. The table is calculated by social costs (excludes all taxes and subsidies) and private

costs (includes all taxes and subsidies).<sup>11</sup> The table highlights that reaching the 70 per cent target will cost between £35.9 million and £7.8 million, but by taking into account savings from taxes and subsidies (such as landfill taxes) there would be a cost saving of up to £40 million.

**22. Table: Change in waste management cost to achieve 70 per cent recycling rate relative to the baseline, 2009-10 to 2024-25 -**

£million	Social Costs (all taxes and subsidies excluded)		Private Costs (all taxes and subsidies included)	
	Avoided Disposal as Landfill	Avoided Disposal as Incineration	Avoided Disposal as Landfill	Avoided Disposal as Incineration
Change in Kerbside Collection Costs	78.3	78.3	78.3	78.3
Change in Civic Amenity Site Collection Costs	16.4	16.4	16.4	16.4
Change in Bulky Waste Costs	1.3	1.3	1.3	1.3
Change in Cost of Residual Waste management	-40.4	-82.5	-154.5	-151.6
<i>of which: gate fee</i>	-40.4	-82.5	-44.7	-151.6
<i>landfill tax</i>	0.0	0.0	-109.9	0.0
<b>Total Change in waste management costs</b>	55.5	13.4	-58.6	-55.7
<b>Total Costs (Net Present Value) 2009/10 - 2024/5</b>	<b>£35.9</b>	<b>£7.8</b>	<b>-£40.2</b>	<b>-£38.3</b>
<b>Annualised Costs (Net Present Value)</b>	£3.0	£0.6	-£3.3	-£3.2

Source: Revised Explanatory Memorandum (not available in the public domain at time of briefing)

23. The cost of complying with these targets would fall to local authorities but the Explanatory Memorandum does not give any analysis of the costs for individual authorities. However, the Welsh Assembly Government provides the majority of funding required to ‘enable local authorities to make the appropriate transformational changes in their waste management approaches’.<sup>12</sup> In addition, when asked if the Government, under the New Understanding (the successor to the Jones-Essex agreement), would fund any additional costs faced by local authorities, The Minister for Environment, Sustainability and Housing said that the Government already funds Local authority waste budgets to about 80%.

24. The Finance Committee was concerned about the impact that this part of the measure would have on local authorities and invited Directors of Technical Services to provide written evidence on this. Only two authorities responded and their main concerns arose from the uncertainties in the proposed Measure and, in particular, about the

<sup>11</sup> Under HM Treasury’s Green Book guidance, greater weighting should be attached to the social costs as this is the metric that is used in government decision making. Private costs are relevant to affordability, which is particularly important from the perspective of local authorities in relation to landfill tax.

<sup>12</sup> FIN(3)-09-10 paper 3, *Letter from Minister for Environment, Sustainability and Housing to Chair of Legislation Committee No 4: Revised Explanatory Memorandum*, 27 May 2010

possibility of ‘unknown future monetary penalties’ and the difficulties authorities would face if powers to ban or restrict specific kinds of waste were introduced before new infrastructure was in place.

25. Responding to these issues the Minister for Environment, Sustainability and Housing indicated<sup>13</sup> that she saw this very much as an ‘invest to save agenda’. She emphasised the detailed work that had been undertaken and said that total compliance cost savings would be up to £40 million by 2024-25. She said that the compliance cost savings would yield immediate benefits, not least because of the increase in landfill tax which, in particular, would be about £2.5 million in 2013-14 alone. She said she also saw recycling leading to cost compliance savings of about £3.7 million. In relation to penalties the Minister for Environment, Sustainability and Housing said she did not expect local authorities to fail to deliver and that this had not been raised with her in her discussions with local authorities<sup>14</sup>.

26. In relation to alternative infrastructure to replace landfill, officials referred<sup>15</sup> to a range of funding mechanisms that involved support for capital up front and an agreement with local authorities about the additional revenue support for amortised capital costs. The Committee notes the Minister’s response and her confidence that local authorities will meet the financial consequences of the targets she sets. It is however disappointed that there is so little detailed analysis of the financial impact that these statutory obligations will have on local authorities and, in particular, on any unintended financial consequences that might result from the measure.

### **Landfill bans**

27. Sections 9 to 11 of the proposed Measure will give the Welsh Ministers the power to introduce regulations to restrict or prohibit the deposit of certain wastes from landfill.

28. The Explanatory Memorandum says<sup>16</sup> that a general cost benefits analysis of the two main policy options has been undertaken but says that no estimates of potential costs have been included as no detailed bans or restrictions have been proposed at this stage.

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<sup>13</sup> RoP, para 106, 27 May 2010, Finance Committee

<sup>14</sup> RoP, para 111, 27 May 2010, Finance Committee

<sup>15</sup> RoP, para 113-115, 27 May 2010, Finance Committee

<sup>16</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 8.3.10

29. It goes on to say that the Assembly Government has been working closely with the UK Government and the other Devolved Administrations to look at the potential for landfill bans and restrictions. A report will be published on this issue in spring 2010 which will set out, amongst other things, an assessment of the costs and benefits of landfill bans at an UK level. A reason for not providing more information at this stage is that the costs and benefits vary considerably depending on the exact waste material in question. In conjunction with this report, Defra and the Assembly Government will be conducting a public consultation on possible options for landfill bans or restrictions. As a result of this work, the Assembly Government will be undertaking more detailed work on the cost of banning or restricting particular types of waste from landfill at a Welsh level. Such assessments will, in particular, consider potential outlets for banned or restricted waste materials as well as implications for waste management infrastructure in Wales. Given the clear sequence of policy developments in this area the Explanatory Memorandum says the Government believes it would be inappropriate to set out very general estimates of costs, based on UK level data, of banning or restricting particular types of waste from landfill. It says that such estimates of costs may be misleading. The Government believes that it would be more appropriate for estimates of costs to be fully reflected in the regulatory impact assessments which would accompany any draft regulations.

30. The general cost benefit analysis included in the Explanatory Memorandum indicates that administrative, compliance and other costs that are likely to be incurred by:

- **Local authorities for** increased costs from changes in infrastructure and collection systems
- **The Regulator for** guidance, training, regulation and enforcement – but this will vary depending on the kind of waste banned
- **Businesses for** increased cost from changes in waste collection costs, possible increased management of waste on-site or off-site; and
- **Landfill operators:** changes in operations, re-train staff, increased testing costs for incoming waste.

31. The financial impact of this part of the proposed measure is therefore potentially very wide-ranging. In her oral evidence to the Committee<sup>17</sup>, the Minister for Environment, Sustainability and Housing confirmed her view that in the context of the landfill ban, any detailed regulatory impact assessment at the moment, ahead of having completed the consultation, would have been inappropriate. She said that that was why they had made a commitment to divert as much waste away from landfill as possible but the proposed Measure is only providing the enabling power so that Welsh Ministers can look at appropriate bans or restrictions. This process will have a very long lead-in time, and will also be related to ensuring that infrastructure and markets work has already been undertaken.

### **Site Waste Management Plans**

32. The Explanatory Memorandum gives a similarly incomplete picture for the costs of this part of the proposed Measure. It says<sup>18</sup> that the proposed Waste (Wales) Measure restates the existing powers of Welsh Ministers under section 54 of the Clean Neighbourhoods and Environment Act (CNEA) 2005 to make regulations requiring Site Waste Management Plans. It also gives Welsh Ministers the power to make regulations about the making of fees and charging schemes in relation to Site Waste Management Plans. However, it goes on to say<sup>19</sup> that the latter is 'one' option for resourcing this work.

33. The Explanatory Memorandum says that the Welsh Assembly Government is proposing to consult on a fees and charges system as part of the main consultation on Site Waste Management Plan Regulations in Wales at the end of 2010. The Assembly Government is currently conducting a cost benefit analysis and impact assessment on the options to take forward for the consultation of Site Waste Management Plan Wales' regulations.

34. The Explanatory Memorandum says that a separate impact assessment has been prepared looking into the costs and benefits associated with introducing charges. This separate Impact Assessment has been carried out at an early stage of the cost benefit analysis work to give some background for the introduction of a

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<sup>17</sup> RoP, p124, 27 May 2010, Finance Committee

<sup>18</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 8.4.1

<sup>19</sup> Proposed Waste (Wales) Measure, Explanatory Memorandum, para 8.4.2

charging provision within the measure. The policy options on Site Waste Management Plans, the mechanism for cost recovery and how a fees and charges scheme would work have not been set yet. As such, the options and the data contained within this regulatory impact assessment are broad estimates associated with introducing a charging scheme. Both the options and data will be further refined as the cost benefit analysis and the impact assessment progresses to completion in April 2010.

35. In her oral evidence to the Committee the Minister for Environment, Sustainability and Housing confirmed that considerable further work was needed before this aspect of the Measure could be taken forward. She said that the full regulatory impact assessment is a wider package of work being undertaken on the regulatory options for site waste management plan regulations in Wales. She would be issuing a consultation document on this in the autumn, to be accompanied by a full regulatory impact assessment.

### **The general approach of the Measure**

36. The Finance Committee has found some difficulty in examining the financial impact of this proposed Measure because so many of its provisions are ‘enabling’ in nature and are supported by very little detail of their likely effect and, particularly, their possible financial impact. In particular it noted the lack of a regulatory impact assessment on most of the specific proposals contained within the Measure.

37. The Minister for Environment, Sustainability and Housing told the Committee that the Measure was essentially a tidying up piece of legislation – a sort of ‘miscellaneous provisions Bill’ which would provide the power for the government to introduce further regulations and that these will be subject to their own further regulatory impact assessments. She said it was necessary to remember that the proposed Measure had come forward now because it had taken longer than anticipated to get the Legislative Competence Order through the appropriate processes.

38. The Finance Committee acknowledges that there is a role for legislation which is only ‘enabling’ in nature and for the detail of legislative provisions to be set out in regulations via secondary

legislative processes. However it is uncertain about whether the Government has the balance right in this Measure.

39. While the Finance Committee accepts that secondary legislation is subject to its own requirements in relation to regulatory impact assessments, the scrutiny of such assessments is less formal, and has less time available to it, than the scrutiny of those supporting a proposed measure. The Finance Committee is concerned that use of secondary legislation, when there is so little detail supporting the enabling measure, means that in practice there is very little actual scrutiny of the financial (and other regulatory) aspects of the legislation. The issue is particularly pertinent in relation to measures such as the proposed Waste (Wales) Measure which can result in significant financial implications, for a wide ranging number of external organisations and authorities.

### **Conclusion**

40. The Finance Committee has found it very difficult to make an assessment of the financial impact of this measure due to the lack of detail contained in the explanatory memorandum and lack of clarity on the intended use of the powers conferred to Ministers.

41. The Finance Committee notes the administrative costs associated with the provisions in the measure relating to single use carrier bags. Taken in isolation, they are relatively modest and it appears likely that the revenue from the sale of these bags will more than offset them. The Committee notes that since presenting this proposed measure the Government has launched a consultation on the charge for single use carrier bags and feels it would have been more useful if these two aspects of this policy had been presented together. The Finance Committee is concerned that the development of the policy in relation to single use carrier bags seems uncoordinated. It is also concerned that there is very little evidence of any assessment of its financial impact, particularly, on small retailers who make up the vast majority of the organisations collecting this charge.

42. The Committee notes the proposals for powers to enable the government to set waste targets for local authorities and at the same time acknowledges local authorities' concerns that delivery of these depends crucially on appropriate infrastructure being in place. It



notes also local authorities' concerns about the prospect of 'unknown' financial penalties for a failure to meet these targets. While the Committee accepts that the Government's 'carrot and stick' approach to encouraging local authorities to deliver the necessary changes is a legitimate approach, it is disappointed that the financial information and analysis underpinning is so unclear. Without this the Finance Committee is unable to come to a view on the financial implications of this part of the proposed measure.

43. Similarly the Finance Committee is unable to report on the proposed powers to ban certain substances from landfill or the development of waste management plans because the Government has not provided any meaningful financial information on these. Without information it is not possible for the Finance Committee to scrutinise the financial aspects of this part of the proposed measure.

44. In conclusion, the Finance Committee feels unable to fulfil its primary duty to scrutinise the financial implications of legislation, and to make much comment on this proposed Measure, because of the lack of analysis, detail and adequate financial information. The Committee therefore finds it impossible to comment on the overall financial impact of this measure. This is obviously of grave concern to the Committee.

**Angela Burns**  
**Chair, Finance Committee**