

DMQTWB 04 - Evidence from: Institution of Civil Engineers Wales Cymru

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil Tomenni Mwyngloddiau a Chwareli Nas Defnyddir (Cymru) | Disused Mine and Quarry Tips (Wales) Bill

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

The Bill is excellent and reflects well on the consultation process. The legal and financial aspects are well covered as expected. The technical aspects are strategically covered very well. However, engineering technical detail now needs to be added, particularly regarding technical and asset management competence within the Authority, what the levels of competence will be, titles and the function of the institutions which may be monitoring requirements.

2. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

▪ Part 1 - The Disused Tips Authority for Wales (sections 1 to 5 and Schedule 1)

The emphasis here is on 'threat to human welfare' and information management. These are well covered and should deliver the stated policy. However, how will the situation where the disused tip is a threat to environmentally sensitive areas or heritage sites be covered in Part 1? These areas and sites may grow in number as the inspections start to record knowledge.

▪ Part 2 - Assessment, registration and monitoring of disused tips (sections 6 to 32 and Schedule 2)

The legal and strategy aspects are very well covered. However, there are practical aspects that the Authority needs to be aware of to implement its legal obligations and which will have financial consequences. In the first year there will of course

be 'setting-up' cost above the norm. One resource that is commonly underestimated is the IT platform upon which the assessment, registration and monitoring is recorded, interpreted, actioned and monitored. In the past this has led to high unexpected public financial costs. These systems are inevitably bespoke. In our view, this should be led by an experienced engineering coal tip team not by an IT firm. 'Servant' and 'master' need to be clearly understood.

- **Part 3 - Dealing with tip instability and threats to tip stability (sections 33 to 54 and Schedule 3)**

This part covers the legal obligations of the parties if there is instability, or threat thereof, identified. In our view, this is where the competence of the Authority will be challenged in terms of identification, threat and solution. It is imperative that competence of staff is easily identifiable (in terms of experience and professional and academic qualifications). The systems used and methods employed should also be competent and industry tested. There are various ways of doing this for example employing CIRIA, ICE, or IMMM through publications and conferences.

- **Part 4 - Supplementary (sections 55 to 70)**

no comment

- **Part 5 - General (sections 71 to 88)**

no comment

3. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

We have identified two barriers to the implementation of the Bill's provisions. 1) an underestimate of the set-up costs of the IT required. 2) A lack of the availability of competent staff applying to the Authority or where there are sufficient numbers, the effect on other bodies in Wales. There does not appear to be account for these.

4. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

no comment

5. Are any unintended consequences likely to arise from the Bill?

no comment

6. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

The Bill costs are stated as £99.1m over 15 years. The distortion (ie larger) to the costs will be in the first five years as staff, accommodation, equipment, training and systems are put in place. These do not appear to have been quantified. A GIS based knowledge management system, essential to this asset management Bill, is not mentioned and can be costly but absolutely necessary.

7. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

We are concerned that the responsibility of Welsh Ministers and the Authority is not always clear. Welsh Ministers have the authority to issue and enforce 'guidelines' according to the Memorandum. Our concern is not with legislative or financial guidelines, but with guidelines based on technical understanding of tips such as remedial works and costs, intervention into competency of technical aspects. Both Aberfan and Tylorstown ultimately required a technical understanding of the ground however often it was inspected by legislation and management. Who will provide this advice independently to Welsh Ministers?
