

Rt Hon Owen Patterson MP
Secretary of State for Environment Food and Rural Affairs
Department for Environment Food and Rural Affairs
Nobel House
17 Smith Square
London
SW1P 3JR

16th October 2013

Dear Owen,

Re: Separate collection of waste.

I write further to correspondence from Lord de Mauley on the issue of separate collection of waste, received by the LGA on the 15th October. I rather feel this letter, which has been published and generated widespread media commentary, is an unhelpful contribution to the debate and will only cause confusion amongst councils and the industry in their interpretation of the legal framework.

The outcome of the recent Judicial Review (JR) demonstrated that the most sensible approach, and indeed the most effective approach to mitigating the risk of legal challenge, is to rely directly on the words of the Waste Framework Directive itself. Attempts to add commentary, views or gloss to this have been proved in the JR case increase confusion and risk and I believe should be avoided as far as possible.

Article 10 of the Directive clearly states that *'waste shall be collected separately if technically, environmentally and economically practicable and shall not be mixed with other waste or other materials with different properties'*

Lord de Mauley's letter of course does not have the weight of statutory guidance. Recent case law has shown that statements by Ministers articulating views on policy have no force in the Court's interpretation of the law. It is therefore crucial that councils understand that the letter records simply the opinion of the Minister, and that it would be legally unsafe to allow it to guide Local Authority decisions in any way. The most useful advice in the letter is that Local Authorities should take their own legal advice, and make decisions in accordance with that advice locally.

We are keen to continue the constructive work that has to date been taking place between our two organisations to develop statutory guidance on this issue that is clear and concise. The most important thing is having in place systems that work locally, encourage recycling and are easy for people to use. It is therefore regrettable that the

published correspondence, which has no legal force or value, is now causing confusion across the sector.

I would be very happy to discuss this matter further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mike Jones', with a horizontal line extending to the right.

Councillor Mike Jones
Chairman, Environment and Housing Board
Local Government Association

Cc

Rt Hon Eric Pickles MP, Communities and Local Government
Lord de Mauley, DEFRA
Rt Hon Dan Rogerson MP, DEFRA