

A&L Goodbody



# The Irish Waste Management Conference 2018

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**Alison Fanagan**  
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Croke Park



# Topics for discussion

- CCPC Report – Competition in or for the market?
- Enforcement/Regulatory risk
- Soil & Stone: by-product or waste?

CCPC “The operation of the household waste collection market” Published 28 September 2018 recommends:

*A review of waste policy*

*A national economic regulator*



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1

**Last Waste Policy Document  
“A resource opportunity,”  
2012**

2

**“Competition in the  
market” retained**

3

**Ancillary measures  
put in place**

4

**Review in 2016 or earlier if  
“market failure” – not yet  
commissioned**

CCPC Report requested by Minister for CCAE due to Dáil Motion,  
4 July 2017:

*“ To report on the operation of the household waste collection market in order to inform the development of national waste management policy. . . which will provide an evidence base to establish a regulator to prevent price guiding”.*



# CCPC Report stated:

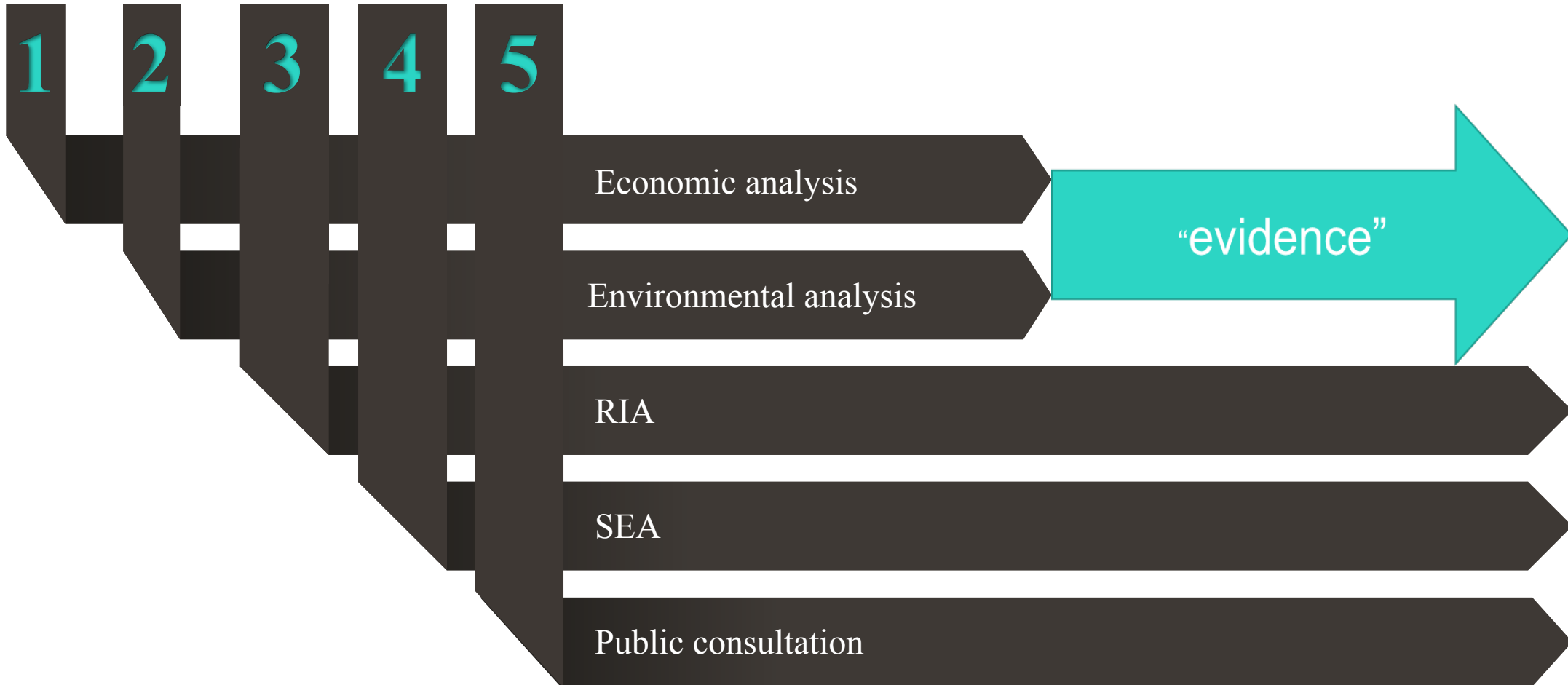
Number of operators down  
23% between 2012 and  
2016

6 years market experience  
now available

**Economic regulator  
justified**

**Review of waste policy  
timely**

# Waste Policy involves:



# NB: Words of McKechnie J in Panda/Greenstar v DCC, 2009

*“The end which the Variation seeks to attain, namely decreased costs to customers and certainly environmental concerns, could easily be met without the harsh terms of the Variation”.*





# Revision to Waste Policy #1

- Evidence must be robust, thorough and independent
- Both economic and environmental
- Draft revised policy must be published and consulted on and subjected to RIA and SEA



# Revision to Waste Policy #2

- All submissions must be considered
- Final policy emerges
- Legislation drafted and passed
- Waste Plans amended
- Economic Regulator, if decided on, must be set up and staffed



# Enforcement

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- Only 3 EPA prosecutions re waste in 2018:

1

**Organic Gold (Manufacturing) Ltd**

2

**Dublin Waste to Energy Ltd**

3

**Glen Aherlow Holdings**

# Enforcement

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- But. . . prosecutions ongoing and 3 Waste facilities on EPA Priority List published 30 September 2018



# Enforcement

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- Leachate/Storm water & sewers
- Poor drainage/hardstanding
- Unbunded areas/oil, diesel
- Odour
- Stockpiles

# Other regulatory risk

1

**Health & Safety: Gaskells  
Waste Services fined £700K,  
October 2018, England**

2

**Owner jailed for 8 months;  
H & S manager jailed for 9  
months, due to death of  
employee in waste baler**

# Planning

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- Planning exemptions lost if EIA, AA, previous unauthorised development
- 2018 Planning Act provisions/screening



# Soil and Stone: by-product or waste?

- EPA Consultation Paper, 19 October 2018 – Guidance
- 4 conditions:
  - > Further use certain e.g. part of design, limited storage
  - > Doesn't need further processing other than normal industrial practise (not soil treatment)
  - > Produced as integral part of production process
  - > Further use lawful – “no overall adverse environmental or human health impacts”
- EPA Guidance Notice on Soil Recovery WAC for unlined soil/recovery facilities/S.56 WMA 1996

# Soil and Stone: by-product or waste?

- Onus on producer: case by case assessment; process
- Must demonstrate intent e.g. planning permission
- No soil recovery actions required
- Production part of wider process
- No EIA/AA required for reuse
- Risk Assessment demonstrates no likelihood of environmental or human health impacts
- N.B. Use on site? Only if uncontaminated.

# Soil and Stone: by-product or waste?

- Responses due by 14 December 2018
- Query: Time limits for response?
- Who is the producer?





Thank you

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# Questions?

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