

LGA Response to Consultation on reforming the UK packaging producer responsibility system

March 2019



1. About the Local Government Association (LGA)

1.1. The Local Government Association (LGA) is the national voice of local government. We are a politically-led, cross party membership organisation, representing councils from England and Wales.

1.2. Our role is to support, promote and improve local government, and raise national awareness of the work of councils. Our ultimate ambition is to support councils to deliver local solutions to national problems.

2. Summary

2.1. The LGA welcomes the opportunity to contribute to the consultations on resources and waste reforms, first set out in the Government's Resources and Waste Strategy. Here we set out an overview of the LGA's response to the package of reforms. We have also answered the individual questions in each of the consultations.

2.2. The LGA supports the ambition for an increase in recycling rates. As the Resources and Waste Strategy notes councils have a good story to tell on the growth in recycling, which has been maintained at its current level of around 45 per cent in recent years even though central government funding for councils has reduced by £15bn, nearly 60 per cent, since 2010. The local government sector is ready to take on the challenge of improving recycling levels and the overall waste service it provides to its residents. Our work in understanding the reforms continues and we are grateful for the engagement with DEFRA.

2.3. Below we set out some of the areas that need further engagement and consideration, but first we set out the emerging sector wide view of the reforms based on our engagement with councils:

- The reforms to the producer responsibility schemes are long overdue and we agree with the Government's broad proposal that producers should be responsible for 100 per cent of the costs of managing packaging waste.
- The majority of councils are already collecting a set of dry recyclables resembling that proposed in the consistency consultation. Where there are substantial additional costs for councils in complying with the proposed set, these should be met by new burden funding and/or transition funding. However, consistency cannot be applied to collections alone, it must also be a principle in the design and recyclability of packaging.

Submission

- How waste is collected should continue to be determined locally. Current approaches reflect a range of local factors. The vast majority of people are not constantly on the move and they do not have to negotiate different local systems. Residents need to know what can be recycled, which is dependent on producers making this very clear on packaging, and their local method for collection. The current differences in the collection service will take into account local geography and housing types and the investment in and availability of sorting and reprocessing infrastructure.
 - The mandating of food waste collection means that all councils should receive new burdens funding to pay for this service even if they have previously been collecting food waste on a voluntary basis.
 - Councils should continue to be allowed to charge for garden waste collection. In our view residents are willing to pay for this service and from our engagement with councils there is little evidence of garden waste being diverted to residual waste as a result of the charge.
3. We make the following additional general points on the package reforms:
- 3.1. **Scope of the reforms:** the reforms focus on increasing recycling but also need to consider action first to prevent waste. The consultations have little to say on whether and how to reduce the overall level of packaging entering the system or the mechanisms for stimulating investment in end of life reprocessing infrastructure. The reforms implicitly rely on market forces to stimulate the use of the right type of packaging, but do not reference an ambition to reduce the overall level of packaging entering the system. Similarly it is assumed that the market will absorb an increase in the supply of recyclable material but there is no discussion on whether incentives are required, the types of preferred reprocessing procedures, the siting of infrastructure, or the timescales for bringing new infrastructure on stream. The current reprocessing market is patchy both geographically and in the depth of its capacity.
- 3.2. Reduction in the quantity of packaging entering the system should be an explicit aim. The government should also signal its long-term preference for how we reprocess recyclable material and consider the incentives that might be required to encourage investment in the right infrastructure in the right place. The Government must also recognise the investment that has taken place already at the local level, for example in energy from waste plants, with the support of past Governments. Any policy and/or tax changes to legacy systems will have a significant financial impact.
- 3.3. **The relationship between the reforms:** The individual reforms will have an impact on each other, but these feedback or spill over effects are not explicitly articulated or mitigated in the consultation documents. One example is the impact of an all-in DRS system on the net cost of kerbside collections. A second is how the EPR and DRS systems interact in the discharge of the overall producer responsibility and the relationship to payments that councils will receive for their role in recycling. The links between the various reforms need to be made more explicit so that councils can understand fully the implications of taking forward any particular set of reforms.
- 3.4. **Funding:** Local government needs clarity about the future funding of the

waste service. The Government states that “the funding to meet [packaging waste] costs will transfer from central and local taxpayers to businesses”.^[1] Current funding of local authority waste services is not transparent. Councils’ funding is made up of council tax, retained business rates, Revenue Support Grant (RSG), specific grants, fees and charges and commercial activities. There is not a line in central government’s budget that is specific to waste services and changes in the composition of local government finance, through a series of financial reforms, means that it is not possible to assess how much funding has been made available by central government for local authority waste collection and disposal.

- 3.5. It is imperative that producers fully fund, through the Extended Producer Responsibility (EPR) measures, both the current waste collection and disposal costs as well as costs associated with increasing the recycling rate. The funding arising from the EPR should flow in its entirety to local government.
- 3.6. It is important to note that as part of the Government’s Review of Relative Needs and Resources, MHCLG is developing a series of formulae to fund local authorities’ services including waste. DEFRA will need to work with MHCLG to ensure that the payments to councils arising from EPR are compatible with the outcome of the Review of Relative needs
- 3.7. The ‘polluter pays’ principle with regard to packaging has been incorporated into European legislation for the past 25 years.¹ In that time the proportion of recycling costs that have been paid for by businesses in other European countries has far exceeded that paid by businesses in the UK.² In 2017 producers paid £73 million towards the cost of managing waste packaging. This compares with an estimated cost to councils of £700 million for managing the collection and disposal of packaging waste.³ For years councils have borne the cost for packaging recycling that should have been the responsibility of producers. The Government must now commit to the funding that comes from an improved producer responsibility system being additional.
- 3.8. **Assumptions:** a range of assumptions inform the impact assessments associated with the proposals and they also help shape the Government’s emerging preferred options. We would like to thank the Department and WRAP for their engagement with the sector on these assumptions. We have worked with waste experts and financial analysts to understand the assumptions and there are signs that this element of the Department’s work should be treated with some caution and by extension we should be wary of a narrative of technical objectivity.
- 3.9. WRAP has been gathering and analysing data on waste management and recycling for the last 15 years and it has undoubted expertise in this area. However, as it stands we have not seen the underlying WRAP data and we are unable to reconcile councils’ data on costs with the data that WRAP uses to populate its model. The model itself is limited in scope and does

^[1] Consultation on reforming the UK packaging producer responsibility system

¹ EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 94/62/EC

² European Commission report: Development of Guidance on Extended Producer Responsibility (EPR),
Final Report 2014

³ The Packaging and Recycling Obligations, NAO 23 August 2018 para 3

not take account fully of high rise flats. In our view this materially restricts the explanatory capacity of the six rurality categories used in the model that underpins the analysis, particularly in terms of the consistency consultation. The model employs standardised costs derived from actual costs provided by councils. We are told that the variation between actual gross costs and standardised gross costs is relatively small (although we have not been able to test this), but this masks greater variation in net costs (which take into account income to councils from recyclable material).

3.10. The model stylises an ideal collection system, a preferred model being multi-stream collection, and uses this as a basis for determining the extent to which councils are 'efficient'. This approach is used in the impact assessments to project savings as a result of councils moving to an idealised system. The model does not take into account, and nor can it, the peculiarities of geography and housing types in any given area. What WRAP determines as inefficiencies and therefore potential savings, are in our view the product of good local decisions based on a range of local factors that seek to optimise the waste service within the constraints of geography and housing types.

3.11. **Future work:** We have answered the questions in the consultation as fully as we can. However, we note that in many cases the high level nature of the consultation documents and the accompanying impact assessments make it difficult to provide definitive responses. More work is required to understand and refine the reforms and we look forward to our continued engagement with DEFRA on these matters.

4. EPR Consultation

4.1. The government is seeking wholesale reform of the waste and recycling services offered by councils. This significant change can only be delivered by a wholesale reform of extended producer responsibility. This consultation must deliver full net cost recovery for councils. This funding should be paid in its entirety to councils and treated as additional. Councils must be meaningfully involved in the development of the formula to distribute the funding.

4.2. But the change needs to be broader than this. EPR reform must:

- Deal with the costs to councils of managing 'approved' materials now and the governments potential future ambition to add additional difficult to deal with materials in the future
- Address all producers, regardless of size and scale. So that everyone who is creating waste is contributing towards recycling it.
- Fundamentally open up the system and deliver greater transparency, meaningful governance, and better monitoring and enforcement.

Background

The first section of the consultation deals with basic concepts. This covers:

- ***The principles of EPR***
- ***The outcomes expected from EPR***
- ***Definitions of packaging and packaging waste***

5. Q6. Do you agree with the principles proposed for packaging EPR?

- 5.1. The LGA broadly agrees with the proposed principles for packaging EPR. They rightly assign greater responsibility to producers. However, the statement “These measures should work together in a way that is understandable and fair for businesses and consumers” should also incorporate local authorities. The principles could do more to acknowledge the role councils play in managing waste and the need for any change to be fair to the sector and council tax paying communities.
- 5.2. Principal 4 refers to local authorities being expected to meet any minimum service standard. The LGA agrees with this in principle although we do not support the current proposed service standard of minimum fortnightly residual waste collections for all councils.
- 5.3. Principle 5 refers to labelling packaging as recyclable or non-recyclable. Further thought needs to be given to compostable products which are often labelled as recyclable but actually end up in landfill.
- 6. Q7. Do you agree with the outcomes that a packaging EPR should contribute to?**
- 6.1. The LGA broadly agrees with the outcomes that a packaging EPR will contribute to. Local government should be involved in helping to establish metrics and definitions around recyclable/difficult to recycle packaging.
- 6.2. We would also want to understand further how the government will measure an increase in the “efficiency of the system for managing packaging waste”⁴. The assertion that producers should not be expected to cover the costs of inefficient service delivery implies that local authorities will be held to account against an objective measure of efficiency, which may not deal with the reasonable challenges of delivering collection/disposal services in individual councils (please see our overarching statement which discusses the assumptions that underpin the impact assessment).
- 7. Q8. Do you think single-use packaging-type items types not currently legally considered packaging should be in scope of the new packaging EPR system?**
- 7.1. Yes – further consideration should be given to how single use packaging type items will be dealt with. If the government has any future ambition that these items should be coming out of residual waste and recycled then this activity needs to be fully funded. Manufacturers of these products need to invest in research to fully examine what the life journey of these products are and what their eventual recyclability is once they have come into contact with food. If they do not have a recyclability option then consideration needs to be given to reflecting the non-recyclability of these products in modulated fees.
- 8. Q9. Which of these two classifications (best fits with how your business categorises packaging?)**
- (a) primary, secondary, tertiary**
(b) consumer-facing and distribution/transit
(c) Neither
- 8.1. (c) Neither. Local government deals predominantly with primary packaging. It also deals with commercial waste where businesses have bought into their commercial waste services.

⁴ Pg22 of the consultation document

Part A: Packaging extended producer responsibility – key principles

Section 1: Full Net Cost Recovery

This section focusses on the key principle of full net cost recovery. It provides a definition of full net cost recovery. It also discusses costs related to:

- collection, sorting and treatment of household/household-like packaging waste***
- disposal of household/household-like packaging in residual waste***
- littered packaging***
- recycling communications***
- data and reporting***
- compliance monitoring and enforcement costs***

9. Q10. Do you agree with our definition of full net cost recovery?

9.1. The LGA broadly agrees with the definition of full net cost recovery. Confirmation is required that the definition includes: the collection cost of packaging waste in residual waste and the disposal cost of littered and fly tipped packaging waste, including waste within the scope of any DRS scheme that ends up in kerbside collections or residual waste collections.

9.2. Further clarification is also sought on how additional infrastructure development costs will be met. On page 29 there is recognition of the fact that there will be “further expansion of recycling collection services”. As volumes of recyclate increase councils anticipate that additional infrastructure support may be required. Clarification is needed on how any additional depots, transfer stations, drivers and trucks will be funded. In some cases planning permission will be required for additional depot space and site licenses. It is not clear if these have been accounted for.

9.3. These are costs which can have significant financial implications for council budgets. Buckinghamshire County Council is in the process of developing a brand new bio waste transfer station. This will be able to handle an additional 75 000 tonnes of material at a cost of £6.5 million. This project has taken a substantial amount of planning, staff time and budget. EPR should pay for any additional infrastructure which will be required by councils to deliver increased quality and quantity.

9.4 In addition funding will also be required to cover the costs of any long term contractual changes which may be needed to implement the proposals within the consistency consultation. An element of transitional funding needs to be accounted for in a transparent manner.

10. Q11. Do you agree that producers should be required to fund the costs of collecting and managing household and household-like packaging waste, i.e. all consumer facing packaging?

10.1. (a) Yes. The ‘polluter pays’ principle with regard to packaging has been incorporated into European legislation for the past 25 years.ⁱ In that time the proportion of recycling costs that have been paid for by businesses in other European countries has far exceeded that paid by businesses in the UK.ⁱⁱ In 2017 producers paid £73 million towards the cost of managing waste packaging. This compares with an estimated cost to councils of £700 million for managing the collection and disposal of

packaging waste.ⁱⁱⁱ For years councils have borne the cost of packaging recycling that should have been the responsibility of producers. In order for recycling rates to improve, producers need to pay to maintain the current levels and then need to provide funding on top of that to help councils achieve the government's ambition of improved recycling rates.

11. Q12. Do you agree that packaging from commercial/industrial applications should be out of scope for full net cost recovery?

11.1. The LGA is not in a position to comment on delivery and transit packaging used in business to business transactions.

12. Q13. We would welcome your views on whether or not producers subject to any DRS should also be obligated under a packaging EPR system for the same packaging items.

12.1. Yes they should. There is no way to guarantee that a DRS system will pick up every single DRS item. Obligating producers under DRS and EPR will ensure that the cost for DRS items which end up in litter or in residual waste will get covered.

Section 2: Driving better designs of packaging

This section focusses on influencing design factors. It introduces the concept of an 'approved' list of recyclable packaging. It also offers two alternative approaches to incentivising producers to make better packaging design choices:

- ***modulated fees (where producers pay more if their packaging cannot be recycled)***
- ***a deposit fee (where producers pay a deposit which is redeemable if they are able to prove that the equivalent of the packaging that they placed on the market has been recycled).***

13. Q14. Do you agree with the development of an 'approved list' of recyclable packaging to underpin the setting of either modulated fee rates or deposits?

13.1. Yes. An approved list should be developed. Local government should be involved in the development of this list to ensure that materials can be collected and disposed of in a cost effective manner. The consultation refers to agreeing an approved list at a 'later stage'. The LGA is assuming that this list will be approved in conjunction with the timetable for implementation of any consistency framework. Any items added in beyond the implementation of the framework could be more challenging and costly to collect.

14. Q15. Do you think the payment of modulated fees or the payment of deposits with the prospect of losing some or all of the deposit would be more effective in changing producers' choices towards the use of easy to recycle packaging?

14.1. The LGA doesn't have a preference for modulated fees over the payment of deposits. The implementation of modulated fees does however appear more transparent and this is something we are seeking in terms of any future system.

15. Q16. Do you think there could be any unintended consequences in terms of packaging design and use arising from:

- (a) modulated fees
- (b) deposit (for recyclable packaging) and fee (for non-recyclable packaging)
- (c) neither

(c) The LGA does not have enough information to be able to comment on this

- 16. Q17. Do you agree that the deposit approach should be designed to incentivise more closed loop recycling (where post-consumer waste is collected, recycled and used to make new products)?**

(c) The LGA does not have enough specialist knowledge to comment on this.

Section 3: Obligated producers

This section focuses on where in the production cycle the responsibility for meeting packaging waste recycling obligations should be met. The government is proposing 2 options:

- *A single point of compliance*
- *Retain shared responsibility*

There is also consideration of how to deal with small producers (de-minimis threshold) and online distance-selling.

- 17. Q18. What do you consider to be the most appropriate approach to a single point of compliance, the brand-owner or the Seller approach?**

17.1. The LGA's main concern is that all producers who are putting packaging into the waste system pay to ensure that the costs of managing their product are fully covered. We support whichever approach is transparent and incentivises producers to act responsibly.

- 18. Q19. If a single point of compliance approach was adopted, do you think the de-minimis should be:**

- (a) Replaced with a lower turnover threshold
- (b) Retained and wholesalers and direct-to-retail sellers take on the obligation of those below the threshold?
- (c) Other, please state

18.1. (a) A lower turnover threshold should be considered if this means more producers are included in the system.

- 19. Q20. Should small cafes and restaurants selling takeaway food and drinks whose packaging is disposed 'on the go' be exempt from being obligated?**

19.1. No. This sort of waste is often found in litter on the street which local authorities have to pay for to clear up. Some of this waste also goes on to end up in the residual waste stream and eventually in landfill. If cafes and restaurants choose to sell takeaway food in packaging they need to pay upfront for the waste management issues related to that packaging – particularly when it is non-recyclable packaging.

- 20. Q21. If shared responsibility is retained, is Option A or Option B preferable for including small businesses or the packaging they handle in the system?**

- (a) Option A (Lower or remove the de-minimis)
- (b) Option B (De-minimis threshold remains as is and obligations extended to distributors of packaging or packaged products)
- (c) Other, please state

20.1. The LGA is keen to ensure that all producers who are putting packaging into the waste system pay to ensure that the costs of managing their product are fully covered. We recognise that there may be different costs involved in regulating additional businesses. This is not an issue we have looked at in any detail. We are therefore not fixed to any one option.

21. Q22. If you have stated preference A, do you think the de-minimis threshold should:

- (a) Be reduced**
- (b) Be removed entirely**

21.1. We are not stating a preferred option.

22. Q23. Overall, do you have a preference for maintaining a shared responsibility compliance approach, or moving to a single point of compliance?

22.1. The LGA's main concern is that all producers who are putting packaging into the waste system pay to ensure that the costs of managing their product are fully covered. We support whichever approach is transparent and incentivises producers to act responsibly. We recognise that there are different administrative and regulation issues associated with each option which need to be considered further. Either approach shouldn't provide any opportunity for producers to avoid any of their responsibilities.

23. Q24. Do you have a preference for how small businesses could comply?

23.1. No

24. Q25. Do you think that requiring operators of online marketplace to take the legal responsibility for the packaging on products for which they facilitate the import would be effective in capturing more of the packaging that is brought into the UK through e-commerce sales?

24.1. Yes. This packaging is becoming more and more prevalent in kerbside collections. The proposed system is straight forward and clear for all to understand.

Section 4: Supporting improved collections and infrastructure

This section deals with how to achieve higher quality, consistent collections of packaging waste for recycling and provision for packaging waste generated 'on-the-go'. There is particular focus on:

- The formula for payments to local authorities***
- How councils will be grouped according to rurality and deprivation for part of their funding***
- The formula for payments to businesses/other public sector organisations***
- Recycling of 'on-the-go' packaging waste***

25. Q26. Do you agree payments to local authorities for collecting and managing household packaging waste should be based on:

- (a) Provision of collection services that meet any minimum standard requirements (by nation)**
- (b) Quantity and quality of target packaging materials collected for recycling**

(c) Cost of managing household packaging waste in residual waste

25.1. The LGA has discussed this issue with councils at a recent event. Councils reflected that the three part formulae provided a useful starting point. However, it is seen as a very high level formula and further feedback cannot be provided until the formula is modelled at a more granular level. There was also feedback from councils that further detail was required around the level of quality of recyclate that would be needed and how this would be accounted for in any proposed formula. The sector would like to be involved in the next iteration of this formula.

26. Q27. Do you think we have considered all of the costs to local authorities of managing packaging waste?

26.1. Confirmation is required that element C of the formula covers packaging waste in litter, at Household Waste Recycling Centre's and bring banks. As referred to in our answer to question 10, further clarification is sought on how additional infrastructure development costs will be met as a result of increased recycling due to the consistency measures and minimum standards. As volumes of packaging increase councils anticipate that additional infrastructure support may be required. Clarification is needed on how any additional depots, transfer stations, drivers and trucks will be funded. In some cases planning permission will be required for additional depot space and site licenses. It is not clear if these will be funded. Clarification is also required around how all transitional costs, such as contract renegotiations, will be funded.

27. Q28. Do you agree with our approach to making payments for the collection of household-like packaging waste for recycling?

27.1. Yes

28. Q29. Should businesses producing household-like packaging receive a payment for the costs of household-like packaging waste in residual waste?

28.1. Yes. The basic premise is that the producer pays for the management of their packaging material. This needs to follow the material through which ever route it takes. However, businesses have direct control over their waste and should therefore be able to deliver residual waste with a lot less household like packaging within it.

29. Q30. Are there other factors, including unintended consequences that should be considered in determining payments to local authorities

29.1. See answer to question 27. Any formula needs to be flexible enough to respond to any broader changes which may directly impact on collection and disposal activity.

30. Q31. Do you have any information that would help us to establish the costs incurred by local authorities and other organisation of cleaning up littered and fly tipped packaging items?

30.1. LGA would be happy to work with DEFRA to carry out a deep dive around litter and fly tipping to help establish how the costs break down. These costs will vary from council to council.

31. Q32. How do you think producer fees could be used to improve the management of packaging waste generated on-the-go?

31.1. Additional funding would be used to develop localised on-the-go solutions. There is not a one size fits all solution to litter. The litter needs of a city with major transport hubs are different to those of a village which are different again to those of a seaside town. In each of these cases councils if funded adequately would offer different solutions to dealing with on the go recycling. This could involve different bins, greater enforcement activity, communications and reward schemes. At the moment due to funding cuts most councils are delivering this service at a basic level.

32. Q33. Do you have information that would help us to establish the costs of collection and disposal of increased on-the-go provision?

32.1. LGA is happy to work with DEFRA to establish those councils which may have this data.

33. Q34. Do you agree that provision for the take back of single-use disposable cups for recycling should continue to be developed on a voluntary basis by businesses prior to a government decision on whether disposable cups are included under an EPR scheme or DRS?

33.1. This is a useful activity for businesses to undertake. It could potentially provide some data which would be useful for the analysis around DRS. However, councils have fed back that recent schemes offered by coffee companies to pay part of the cost for collecting their cups have been limited. These schemes have not reflected the true cost of collecting cups and then ensuring their disposal, which is often very costly as there are only a few places in the country where these cups can be processed. The true value of collecting, transporting and processing coffee cups needs to be fully understood.

34. Q35. Do you think the recycling of single-use disposable cups would be better managed through a DRS or EPR scheme?

34.1. (c) Coffee cups need to be dealt with through both schemes. The DRS element would provide an in-built incentive to cup users to recycle their item in order to receive their initial deposit. The EPR scheme would be able to reflect the fact that this item exists to deliver convenience to the user. Therefore ultimately there will always be a significant percentage of these cups which end up in recycling bins, litter or the residual waste streams. All these have an element of collection and disposal costs which should be met by the producer.

35. Q36. Do you think a recycling target should be set for single-use disposable cups?

35.1. Only if the producers of this product are going to be held responsible for it. Further thought needs to be given as to how government can encourage businesses to use this product less.

Section 5: Helping consumers do the right thing – communications and labelling

This section looks at improving communication with consumers to help deal with some of the barriers the public flag up. It addresses both local and national campaigns, and also looks at labelling of products.

36. Q37. Should producer fees be used to support local service related communications delivered by local authorities?

36.1. (a) Yes – Due to funding pressures many councils have reported to us that they have had to cut back on local communications campaigns for waste services. In a recent LGA survey when questioned about additional funding, increasing communications to local people was the third most frequently ranked top priority (funding for better infrastructure and the provision of food waste services were the top two priorities). It would be useful for some producer fees to help fund this as local communication needs will differ depending on the nature of your local populations and housing stock.

37. Q38. Should producer fees be used to support nationally-led communications campaigns in each nation?

37.1. (a) Yes – a national campaign to reinforce local messages would help. Particularly if there is going to be a significant change such as DRS. These campaigns need to be funded by producer fees, as they directly address packaging materials.

38. Q39. Are there any circumstances where producers should be exempt from contributing to the cost of communications campaigns?

38.1. (b) Only if the campaign does not deal with waste generated or partly generated by producers.

39. Q40. Do you agree it should be mandatory for producers to label their packaging as Recyclable/Not Recyclable?

39.1. (a) Yes. Once an approved list is established it makes sense that it should be mandatory for producers to label packaging as recyclable or not. This will over time help us to rule out labelling as an issue when it comes to improving recycling rates.

40. Q41. Do you think that the percentage of recycled content should be stated on product packaging?

40.1. (c) The LGA does not have a position on this. Percentages should be stated if there is clear evidence that it helps consumers make different choices about which packaging to use.

41. Q42. If you responded yes to the previous question, how could recycled content information be provided to consumers?

41.1. NA

42. Q43. Do you have any other proposals for a labelling system?

42.1. NA

43. Q44. Do you have any experience to suggest an appropriate lead-in time for businesses to incorporate any mandatory labelling requirements?

43.1. NA

Part B: Packaging waste recycling targets

Government has set annual packaging recycling targets to 2020. This part of the consultation document sets out government's proposals for recycling targets to 2030

Section 6: Packaging waste recycling targets to 2030

This section focuses on the recycling rates needed for different materials in order to achieve the 2030 targets.

44. Q45. In your view, are the estimates made in the Material Flow reports for packaging waste arisings the best available data?

44.1. (c) The LGA is not in a position to comment on this

45. Q46. Are you aware of any other factors which may affect the estimates of packaging waste entering the waste stream?

45.1. (b) No

46. Q47. In your view, are there other factors which may affect the amounts of obligated tonnage reported?

46.1. (c) The LGA is not in a position to comment on this

47. Q48. Do you agree with the packaging waste recycling targets proposed for 2025?

47.1. (c) The LGA agrees with the targets in principle but the achievement of higher targets will need to be fully funded by producers

48. Q49. Do you agree with the packaging waste recycling targets proposed for 2030?

48.1. (c) The LGA agrees with the targets in principle but the achievement of higher targets will need to be fully funded by producers

49. Q50. Please provide your views on the policies and actions that could help us achieve an even higher overall packaging recycling rate, as well as the costs associated with this:

49.1. The LGA would like to fully understand the impact of the proposed changes prior to making any suggestions associated with even higher packaging recycling rates. We maintain that there must be a full commitment to reducing waste in the first place prior to recycling. Further thought should also be given to how we support businesses who offer non-packaging options for customers (bring your own containers) or have fully compostable packaging.

50. Q51. Do you foresee any issues with obtaining and managing nation specific data?

50.1. (c) The LGA is not in a position to comment on this

51. Q52. Should a proportion of each material target be met by 'closed loop' recycling, e.g. as is the case for glass recycling targets?

51.1. (c) The LGA is not in a position to comment on this

52. Q53. Should government set specific targets for individual formats of composite packaging?

52.1. (c)The LGA is not in a position to comment on this

53. Q54. Do you agree with the proposed interim targets for 2021 and 2022 set out in Table 6?

53.1. (c)The LGA agrees with the targets in principle but the achievement of higher targets will need to be fully funded by producers

54. Q55. Do you agree with the proposal to increase the allocation method percentage to 35% for 2021 and 2022?

54.1. (c)The LGA is not in a position to comment on this

Part C: Governance arrangements

The previous sections of the document described the current producer responsibility arrangements for packaging waste and Government's requirements form a reformed scheme. This part of the consultation addresses:

- *Present options for future governance arrangements*
- *Address the need for a more transparent system*
- *Consider compliance monitoring and enforcement*

Section 7: Governance models

This model proposes four different options for the governance model for EPR:

- *Model 1 – Enhanced near to business as usual – compliance schemes*
- *Model 2 – Single not for profit management organisation*
- *Model 3 – Separate scheme for household/household like packaging and commercial/industrial packaging*
- *Model 4 - deposit based government managed system*

55. Q56. Overall, which governance model for packaging EPR do you prefer?

55.1. From our discussions with councils there appears to be greatest support for the key elements of model 2, although there is also interest in model 4. Model 2 offers transparency to councils and greatest certainty of income being directed to their services. There is also greatest confidence in this model providing income to all councils – including those whose local issues may mean that their waste services incorporate additional costs. Councils have confidence that this model has been tested elsewhere and that it provides opportunity for local government involvement in the governance process.

56. Q57. If you had to modify any of the models in any way to make them better suited to achieve the principles and outcomes government has set for packaging EPR what changes would you suggest?

56.1. Councils have identified a set of key principles any model needs to deliver. Any effective model will deliver certainty of income to councils,

greater transparency, the involvement of local government in the governance process and clarity around who is holding the risk.

57. Q58. Do you have any concerns about the feasibility of implementing any of the proposed governance models?

57.1. Councils have clearly indicated a lack of support for model 1. There is a shared view that compliance schemes haven't generated any income for councils in the past. There is therefore little confidence in it delivering for councils in the future.

57.2. There is also concern that model 1 could become resource intensive for councils as they could potentially be dealing with a number of compliance schemes who want to pitch for their materials. This process in itself would need to be managed on an annual basis.

57.3. Councils have flagged up that model 3 appears overly complex.

57.4. Model 4 is seen as too much of a risk as it is an untested model. Councils are also unclear about who holds the risk in this model.

57.5. There is recognition that model 2 could become overly bureaucratic and its design should seek to ensure that this is avoided.

58. Q59. Do you think that any of the governance models better enable a UK-wide approach to packaging producer responsibility to be maintained whilst respecting devolved responsibilities?

58.1. The LGA, WLGA and COSLA need further detail about these models before we can comment on the extent to which they respect devolved responsibilities.

59. Q60. Stakeholders have suggested that a compliance fee mechanism similar to the arrangements currently in place under the WEEE producer responsibility scheme should be introduced if a competitive evidence market continues to operate such as in Model 1. Do you agree?

59.1. Councils have raised fundamental concerns that the current competitive evidence market does not raise the level of income required to cover the costs of councils dealing with packaging waste. It also fails to direct any of this funding to councils. However, WEEE is recognised as a scheme which has worked well.

60. Q61. Should a Packaging Advisory Board be established to oversee the functioning of the EPR system and the compliance schemes in the competitive compliance scheme model 1 or do you think other arrangements should be put in place?

60.1. Councils are not in support of model 1.

61. Q62. Please let us know your thoughts as to whether the proposed single management organisation should be established on a not-for-profit basis or as a government Arm's Length Organisation.

61.1. The LGA is not currently in a position to comment on this.

62. Q63. If such a management organisation is established as not-for-profit, one option is for government to invite proposals from potential

operators and then issue a licence to operate for a defined period of time. Do you agree with this approach?

62.1. Further details are required.

63. Q64. Should a single scheme be established for household/household-like packaging and C&I packaging as described for model 2?

63.1. From the feedback we received at our consultation event there was support for this idea in principle. Councils would like further detail about how this would be implemented.

64. Q65. Or, should there be a separate system for managing compliance for household/household-like packaging and C&I packaging as described in model 3?

64.1. From the feedback we received at our consultation event this was not a popular choice with councils.

65. Q66. Under model 4 are producers more likely to?

65.1. The LGA is not able to predict how producers will behave under model 4.

Section 8: Responsible management of packaging waste domestically and globally

The Government wants to responsibly deal with packaging both domestically and globally. Four broad areas for action have been identified to ensure packaging waste exports are managed fairly and responsibly:

- **Strengthened accreditation arrangements where this is needed**
- **Strengthened reporting arrangements**
- **Strengthened monitoring arrangements**
- **A change in the point of issue of evidence reprocessing**

66. Q67. Do you agree that government should seek to ensure export of packaging waste is undertaken in a transparent and environmentally responsible manner?

66.1. Yes – as the UK exports 50% of its packaging waste it is important that this is done in a transparent and responsible manner. This is an issue which is becoming more important to the public. Many councils now provide a ‘Where does my waste go?’ page on their website for example Warwickshire, Bristol, Kent Waste Partnership and Sandwell to name a few.

66.2. However, Government must also support an increase in reprocessing capacity in the UK. Our primary aim should be to deal with waste closer to the source of its creation.

67. Q68. Do you agree that measures identified here would help to ensure the export of packaging waste is undertaken in a transparent and environmentally responsible manner?

67.1. The measures identified in the consultation do appear to further support a more transparent and responsible approach towards the export of packaging waste.

68. Q69. Have we missed potential measures that you believe need to be considered alongside those measured we have proposed?

68.1. The LGA is not in a position to comment on this.

69. Q70. Do you have any concerns about the feasibility and/or costs of implementing any of the proposed measures?

69.1. Yes. Measure 10, the requirement to sort and clean packaging waste prior to domestic reprocessing or export, could potentially have a significant cost and capacity impact on local government. If the government is serious about taking this forward further detailed consultation will be needed with councils to establish what the impact of this measure would be.

69.2. All of the proposed measures will have a financial impact. Any financial cost should be paid for by producers. This impact should be addressed by producers.

Section 9: A more transparent system

One of the underpinning principles for packaging EPR is for measures to be put in place to ensure that the new system is transparent in its operations. In this section the Government outlines proposals for improving transparency, allowing for the different governance models.

70. Q71. Do you agree that accredited reproprocessors and exporters should be required to report their financial information?

70.1. Yes-they should have to report financial information. However, this activity alone would not reassure local government that the PRN system would provide councils with the funding required to deliver on the governments ambitions.

71. Q72. Should accredited reproprocessors and exporters be required to generate evidence for every tonne of packaging waste that they process?

71.1. Yes – evidence should be provided for every tonne. This will help deliver greater transparency into the system which is currently lacking.

72. Q73. Should accredited reproprocessors and exporters be required to report on the packaging waste they handle monthly?

72.1. The LGA does not have any specific insight into this issue.

73. Q74. Do you think that any additional measures to those already described would be required to ensure transparent operating of the evidence market in model 4?

73.1. There is not enough detailed information about model 4 to comment on this.

74. Q75. Are there any additional requirements that should be placed on compliance schemes to ensure greater transparency of their operations and reporting?

74.1. As explained in previous questions local government does not have a lot of confidence in compliance schemes and their ability to be transparent. These schemes have traditionally operated independently of

councils. If any governance model was to be developed with compliance schemes playing a key role local government would want to be more closely involved in ensuring the correct additional requirements for greater transparency are applied. The current situation would be unacceptable.

75. Q76. Under a reformed system do you think compliance schemes should continue to be approved by the existing regulators or do you think a different approach is required?

75.1. A different approach by the existing regulator should be investigated as this may help to increase transparency and help to give councils confidence in compliance schemes.

76. Q77. Are there any additional requirements of a single producer organisation to ensure transparency of its operation and reporting?

76.1. It is too early to identify all the requirements of a single producer organisation. Local government would like to be closely involved in the establishment of this potential organisation.

77. Q78. Do you think there is a need to make more information on packaging available to consumers?

77.1. Yes – in the case of difficult to recycle products it is fair that the consumer is told that the packaging is difficult to recycle and so cannot be accepted in the usual recycling streams. The consumer is therefore making a fully informed choice.

Section 10: Compliance monitoring and enforcement

This section addresses the need to effectively monitor and enforce the proposed reforms to achieve the maximum outcome. It suggests different proposals for the different stakeholders in the system:

- ***Producers***
- ***Compliance schemes***
- ***Transfer stations, MRFs and Waste Sorters***
- ***Reprocessors and Exporters***
- ***Imported packaging waste***

78. Q79 Are there other datasets that will be required in order to monitor producers in any of the proposed models?

78.1. The LGA does not have any specific insight into this issue.

79. Q80. Is there a specific material, packaging type or industry sector whereby producing accurate data is an issue?

79.1. The LGA does not have any specific insight into this issue.

80. Q81. Do you think a single database, as opposed to the current range of methodologies available, would be an effective alternative?

80.1. The LGA does not have any specific insight into this issue.

81. Q82. Do you agree that compliance schemes, the producer management organisation or the scheme administrator should be responsible for carrying out audits of producers, which should be reportable to the regulators?

81.1. This is a sensible idea as long as there are no potential conflicts of interest

82. Q83. Do you support the broadening of legally enforceable notices to obtain required information?

82.1. Yes, where necessary.

83. Q84. Are there other enforcement mechanisms that should be considered which would be timely and effective to bring producers into compliance, for example in relation to fee riders?

83.1. We have said previously that all produces should be covered by the scheme regardless of the governance arrangements. If this is a legal requirement then the opportunity for free riding should be reduced. Any producers that might seek to operate outside of the scheme should be subject to penalties.

84. Q85. Are there any further data that should be required to be collated/collected via compliance schemes or a single management organisation?

84.1. The LGA does not have any specific insight into this issue.

85. Q86. Do you think a penalty charge, as described, is the correct lever to ensure packaging recycling targets are met?

85.1. A penalty charge on producers is definitely one of the levers which should be considered.

86. Q87. Should stakeholders other than reprocessors or exporters be able to issue evidence of recycling?

86.1. The LGA does not have any specific insight into this issue.

87. Q88. Are there any additional enforcement powers that should be applied to waste sorters, MRFs and transfer stations handling packaging waste?

87.1. The LGA does not have any specific insight into this issue.

88. Q89. Do you agree with the proposed amendments to enforcement powers relating to reprocessors and exporters?

88.1. (a) Yes

89. Q90. Do you have any evidence to indicate that under any of the proposed governance models the likelihood of waste packaging being imported and claimed as UK packaging waste might increase?

89.1. The LGA does not have any specific insight into this issue.

90. Q91. Is the current requirement for a sampling and inspection plan and subsequent auditing by the regulator sufficient to address any misclassification of imported packaging waste?

90.1. The LGA does not have any specific insight into this issue.

91. Q92. Are there other mechanisms that could be considered that would prevent imported UK packaging waste being claimed as UK packaging waste under the proposed governance models?

91.1. The LGA does not have any specific insight into this issue.

Section 11: Estimated costs and benefits

This section provides a brief summary of the costs and benefits on the economy, environment and society from the proposals to reform the EPR system.

92. Q93. Do you have any additional data or information that will help us to further assess the costs and benefits that these reforms will have?

92.1. The LGA is currently working with DEFRA and WRAP to look at actual council costings to deliver services.

93. Q94. Do you have further comments on the associated Impact Assessment, including the evidence, data and assumptions used?

93.1. The IA contains only high level summaries of the financial data and little in the way of detail. It is difficult to validate key aspects of the IAs without being provided with the supporting data and calculations. We would like DEFRA and WRAP to be more transparent about the assumptions they have used for apportioning local authority costs. It is essential to local government that actual costs are used within any modelling and the variation of costs related to local delivery of services must be fully factored in.

93.2. The IAs for EPR and DRS use different assumptions as follows:

- EPR assumes waste growth and DRS does not address this
- Recycling rate assumptions for glass bottles, aluminium cans and steel cans appear to vary under the “all in” DRS between the EPR (65%, 70%, 70%) and DRS (70%, 65%, 65%) assumptions
- Some of the tonnage calculations appear inconsistent

This lack of consistency should be considered alongside the fact that the assessment period for Consistency of Recycling is 13 years but for EPR and DRS it is only 10 years. Whilst this lack of consistency may not change the results in a material way, it hinders the consultee’s ability to build a clear picture of the impact of the proposals.

93.3. The proposed consultation sets out how costs will be recovered by LAs and for models 2-4, this will be on the basis of agreed funding formulae as set out in page 47 of the consultation document. For collection, this will be by grouping LAs on the basis of their rurality and deprivation into 6 groups. For disposal, the proposal is by average disposal gate fee, either national or regional averages. Our concern with this proposal is that by using groupings and averages, those LAs who are paying more than average for either collection or disposal will be effectively subsidising those LAs who pay below the average. It is not yet clear whether there are wide variations in collection costs across the 6 proposed groupings. It is abundantly clear that reported residual waste disposal costs vary widely from the average. In addition, publicly available sources of LA residual disposal cost such as the WRAP gate fee report contain costs per tonne which appear to exclude some elements of the full cost of disposal, such as publicly funded capital costs.

93.4. The proposed implementation of EPR and DRS will place considerable incentives on producers to change packaging. These incentives include:

- Change packaging to avoid it being classed as being disposed of in residual waste
- Change packaging to minimise the cost of recycling that packaging
- Change packaging to avoid it coming under the scope of DRS

Local authorities will attempt to ensure their statutory duties are fulfilled at minimum cost whilst a considerable amount of disruption is occurring. The impact of this will be varied and could include:

- Staffing costs in managing and monitoring the change process and reacting to new developments
- Unexpected swings in annual recycling / residual tonnages
- Inability to conclude long-term contracts due to uncertainty
- A time lag between tonnages reducing and LAs being able to reduce costs to compensate
- Impact on existing contracts for recycling / disposal
- Uncertainty whilst tendering for future contracts for recycling / disposal

The IA needs to address these issues in further detail.

94. Q95. If you have any other views or evidence that you think we should be considering when reforming the packaging waste regulations, which you have not yet shared, please add them here.

94.1. Further clarification is sort about the handling of packaging associated with medical waste. Councils are seeing an increased amount of clinical waste entering household waste systems. As more patients are encouraged by the NHS to deal with their medical conditions at home this is generating new types of waste. Clinical waste such as syringes have to be dealt with by councils in a specific manner. However, many of these items will be in packaging which will end up in the household waste system. Under EPR reform will the producers of this packaging be paying into the system?

ⁱ European Parliament and Council Directive 94/62/EC

ⁱⁱ European Commission report: Development of Guidance on Extended Producer Responsibility (EPR), Final Report 2014

ⁱⁱⁱ The Packaging and Recycling Obligations, NAO 23 August 2018 para 3