

Consultation on Extended Producer Responsibility for Packaging

About you

1. What is your name? Councillor Clyde Loakes

2. What is your email address? Please email ann.baker@nlwa.gov.uk

This is optional, but if you enter your email address you will be able to return to edit your consultation response in Citizen Space at any time until you submit it. You will also receive an acknowledgement email when you submit a completed response.

3. Which best describes you? Please provide the name of the organisation/business you represent and an approximate size/number of staff (where applicable).

Please tick one option. If multiple categories apply, please choose the one which best describes the organisation you are representing in your response.

- Academic or research
- Business representative organisation/trade body
- Charity or social enterprise
- Community group
- Consultancy
- Distributor
- Individual
- Local government
- Non-governmental organisation
- Product designer/manufacturer/pack filler
- Packaging designer/manufacturer/converter
- Operator/reprocessor
- Exporter
- Retailer including Online Marketplace
- Waste management company
- Other

If you answered 'other', please provide details.

NLWA is the largest Waste Disposal Authority in the Greater London area, with responsibility for managing the waste generated by 2 million residents and from local businesses.

Organisation size

NLWA is the joint waste disposal authority for north London established by the Waste Regulation and Disposal (Authorities) Order 1985. As a joint waste disposal authority NLWA is responsible for

the disposal of waste collected from households and local businesses by seven north London boroughs – Barnet, Camden, Enfield, Hackney, Haringey, Islington and Waltham Forest, the ‘constituent boroughs’. NLWA manages the residual waste from all seven boroughs, recyclable and compostable waste from six boroughs and all the north London reuse and recycling centres except in one borough. NLWA also delivers extensive behaviour-change campaigns in the fields of waste prevention and recycling.

4. Would you like your response to be confidential?

NO

5. Government will need to understand the needs of users to build digital services for Extended Producer Responsibility. Would you like your contact details to be added to a user panel for Extended Producer Responsibility so that we can invite you to participate in user research (e.g. surveys, workshops, interviews) or to test digital services as they are designed and built?

Yes

You can read a [Privacy Notice](#) that explains how your information is safeguarded in relation to user research, what we will and won't do with it, how long it will be kept and how to opt out of user research if you change your mind.

[What we want to achieve: packaging waste recycling targets](#)

6. Do you agree or disagree with the proposed framework for setting packaging targets?

- Agree
- Disagree
- Neither agree nor disagree

NLWA thinks the targets should go further.

Consideration should be given to not just considering weight-based targets but also wider environmental outcomes.

We support the concept of closed loop recycling targets. However, the costs of collecting material of a sufficient quality for closed loop recycling can outweigh any additional recyclate income. The practical ability of delivering sufficiently high quality recyclates in some urban settings and any additional costs should be a key consideration – not least in terms of full net cost recovery.

The timetable for the application of material specific targets should not drive premature mandatory collection of those materials where the necessary collection and treatment infrastructure is not yet in place to ensure the materials will be recycled as intended.

Proposals for setting targets to incentivise refillable and reusable packaging are welcome, but we are

concerned that processes and behaviours that embed recycling in the interim could undermine a subsequent shift to container refill and reuse.

Overall we would seek the most ambitious, granular targets attainable including for closed loop recycling and reuse where this is supported by robust evidence.

Finally it is acknowledged in the document and more widely that the underpinning data is currently poor, especially relating to business waste. Therefore, consideration should be given to revisiting later targets in light of better data to ensure they are challenging but realistic

7. Do you agree or disagree that the business packaging waste recycling targets set for 2022 should be rolled over to the calendar year 2023?

- Agree
- Disagree
- Neither agree nor disagree

It is reasonable to accept that transitional measures are necessary and it would allow more time to improve the current data set for businesses.

8. Do you agree or disagree that the recycling target to be met by 2030 for aluminium could be higher than the rate in Table 3?

- Agree
- Disagree
- Neither agree nor disagree

Aluminium that ends up in the residual waste stream and goes to EfW will also be recycled as part of the IBA process. Local authorities should also receive EPR payments on this basis.

9. Do you agree or disagree with the proposed minimum target to be met by 2030 for glass set out in table 3?

- Agree
- Disagree
- Neither agree nor disagree

Agree in principle subject to the subsequent provision of more detailed data on the expectations around the recycling of glass packaging in scope of EPR collected through local authority systems.

10. What should the glass re-melt target for 2030 for non-bottle packaging be set at?

Not sure but the use of glass for remelt is has greater environmental benefit than its use in aggregate so targets should be as ambitious as possible.

11. Do you agree or disagree with the proposed minimum target to be met by 2030 for plastic set out in table 3?

- Agree
- Disagree
- Neither agree nor disagree

Disagree. NLWA does not think this target is ambitious enough but there are also concerns about the sorting and end market capacity for films and flexibles in the short and medium term in the UK.

12. Do you think a higher recycling target should be set for wood in 2030 than the minimum rate shown in Table 3?

- Yes
- No
- Unsure

Disagree.

Wood packaging should strictly follow the waste hierarchy being re-used wherever possible (with a target) and then recycled, rather than being disposed of.

Higher targets could have unintended consequences of drawing material away from other markets and potentially having a negative impact on reuse.

13. If higher recycling targets are to be set for 2030, should a sub-target be set that encourages long term end markets for recycled wood?

- Yes
- No
- Unsure

Material should move higher up the waste hierarchy and deliver better environmental outcomes.

14. Do you agree or disagree with the proposed minimum target to be met by 2030 for steel set out in table 3?

- Agree
- Disagree
- Neither agree nor disagree

Agree on the understanding that Government confirms that IBA metals will be included within the targets and clearly explains how tonnages will be calculated and how Local Authorities will receive EPR payments on this basis.

15. Do you agree or disagree with the proposed minimum target to be met by 2030 for paper/card set out in table 3?

- Agree
- Disagree
- Neither agree nor disagree

Agree but subject to ongoing monitoring of likely significant future shifts in the amount of paper/card packaging in the household waste stream because of trends in online shopping.

16. Do you agree or disagree with the proposal to set recycling targets for fibre-based composites?

- Agree
- Disagree
- Neither agree nor disagree

However, this will also depend on the sorting and reprocessing infrastructure available. The material should not be added to the list for mandatory local authority collections until the prerequisite treatment and reprocessing infrastructure is in place. Most London LAs collect composite cartons, but if this was extended to hot drinks cups, then there may be operational limitations in terms of co-collecting and may therefore require segregated collections (e.g. point of sale). Without an incentive (such as with the DRS), these consumer-type goods are heavily reliant on public participation. There needs to be a percentage based target, so incentive is still there to reduce overall tonnage.

17. Do you agree or disagree that there may be a need for 'closed loop' recycling targets for plastics, in addition to the Plastics Packaging Tax?

- Agree
- Disagree
- Neither agree nor disagree

On the basis that it supports the circular economy, is the best environmental outcome and increases the confidence of waste producers in the wider system

18. Please indicate other packaging material that may benefit from 'closed loop' targets?

Please answer here

No suggestions

[Producer obligations for full net cost payments and reporting](#)

19. Do you agree or disagree that Brand Owners are best placed to respond effectively and quickly to incentives that are provided through the scheme?

- Agree
- Disagree
- Neither agree nor disagree

There needs to be a single point of responsibility

20. Are there any situations where the proposed approach to imports would result in packaging being imported into the UK which does not pick up an obligation (except if the importer or first-owner is below the de-minimis, or if the packaging is subsequently exported)?

Where available, please share evidence to support your view.

No view although the regulators should be sufficiently adaptable to address any significant gaps in the system should they emerge.

21. Of Options 2 and 3, which do you think would be most effective at both capturing more packaging in the system and ensuring the smallest businesses are protected from excessive burden?

- Option 2
- Option 3
- Neither
- Don't know

If you answered 'neither', please provide the reason for your response and describe any suggestions for alternative approaches to small businesses.

22. If either Option 2 or 3 is implemented, do you consider there to be a strong case to also reduce the de-minimis threshold as set out in Option 1?

- Yes
- No
- Unsure

Please provide the reason for your response.

Yes, or not have a de-minimis at all if the brand owner/ producer / importer is already obligated.

23. Do you think that Online Marketplaces should be obligated for unfilled packaging in addition to filled packaging?

- Yes
- No

Unsure

If you answered 'yes', please provide the reason for your response.

No if the material is already accounted for by the producer / importer but yes if it isn't.

24. Do you foresee any issues with Online Marketplaces not being obligated for packaging sold through their platforms by UK-based businesses?

- Yes
- No
- Unsure

If you answered 'yes', please provide the reason for your response.

Yes, as the packaging will still end up in the waste stream and it makes a fairer system for all.

25. This proposal will require Online Marketplaces to assess what packaging data they can collate and then, where there are gaps to work together to create a methodology for how they will fill those gaps. Do you think there are any barriers to Online Marketplaces developing a methodology in time for the start of the 2022 reporting year (January 2022)?

- Yes
- No
- Unsure

If you answered 'yes', please provide the reason for your response.

The timeline is challenging but potentially achievable with enough resource. However, the SA will need to review and agree which may be difficult if they have only just been appointed (assuming procurement and appointment goes to plan).

26. Is there any packaging that would not be reported by the obligation as proposed below (except for packaging that is manufactured and sold by businesses who sit below the de-minimis)?

- Yes
- No
- Unsure

If you answered 'yes', please detail what packaging would not be reported by this approach.
Unsure

27. Do you agree or disagree that the Allocation Method should be removed?

- Agree
- Disagree
- Neither agree nor disagree

Agree as this is not consistent with polluter pays principle

Producer obligations: disposable cups takeback

28. Do you agree or disagree that a mandatory, producer-led takeback obligation should be placed on sellers of filled disposable paper cups?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response and/or suggest any alternative proposals for increasing the collection and recycling of disposable cups.

Agree - Any mandatory takeback system should work with the existing, voluntary, takeback systems already in place in some areas.

29. Do you agree or disagree with the proposed phased approach to introducing the takeback obligation, with larger businesses/sellers of filled disposable paper cups obligated by the end of 2023, and the obligation extended to all sellers of filled disposable paper cups by the end of 2025?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response and/or how you think the mandatory takeback obligation should be introduced for sellers of filled disposable cups.

Whilst we would seek the introduction of mandatory takeback as soon as possible (at least for above de minimis enterprises) we do have concerns about consumer confusion which would need to be addressed by clear communications.

Modulated fees, labelling and plastic films recycling

30. Do you think that the proposed strategic frameworks will result in a fair and effective system to modulate producer fees being established?

- Yes
- No
- Unsure

If you answered 'no' please provide the reason for your response, being specific with your answer where possible.

Yes.

Although the modulation of fees must avoid worse overall environmental outcomes such as increased lifecycle carbon emissions from the use of more energy intensive packaging.

This also assumes that local government/MRF/waste industry reporting will align with obligated producer reporting so that materials can be tracked through the system. The practicalities of this should also be considered from the outset.

31. Do you agree or disagree that the Scheme Administrator should decide what measures should be taken to adjust fees if a producer has been unable to self-assess, or provides inaccurate information? This is in addition to any enforcement that might be undertaken by the regulators.

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

It would make sense that the Scheme Administrator actions the measures that should be taken to adjust the fees. However, there should be a clear understanding that all unassessed packaging and /or packaging that has inaccurate information provided is classed as unrecyclable. The timelines for implementation appear more than adequate (especially if using a common labelling scheme that many packaging producers already use), and by classing unassessed packaging as unrecyclable, it would incentivise producers to ensure that they complete the self-assessment in good time. It is felt that the use of allowing 'broadly equivalent' may delay early adoption of applying the self-assessment tool.

32. Do you agree or disagree with our preferred approach (Option 1) to implementing mandatory labelling?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

Whilst we understand the reasoning behind the Government's preference for Option 1, Option 2 should be the adopted approach.

Having a variety of labels, albeit with Government specifying the criteria the labels must meet, is potentially going to lead to more, not less, confusion amongst consumers. There should be one mandated packaging

label to enable clear information to be passed on to the consumer.

NLWA supports OPRL as the mandatory label for recycling in the UK. It is already well recognised by consumers, has built up a wealth of consumer insight and knowledge and is widely backed and used by the retail and packaging industry already.

It has been noted that the packaging materials that form a part of the DRS will not be subject to mandatory labelling. It is felt that mandatory labelling should apply to DRS materials, which will ensure those that don't want to use or are unable to use the DRS, e.g. those that are housebound, are still made aware that the packaging is recyclable in local authority collections.

Alternatively the DRS labelling should state that the material is recyclable in local authority schemes. It is noted that there should be clear advice on whether each component is recyclable or not, but each separate component would not be required to be labelled. We believe that each separate element should be labelled as 'recycle' or 'do not recycle'. This again would ensure ease of use for the consumer, and assist in reducing contamination at the reprocessing site.

Whilst it is recognised that there is a need for interim labelling solutions, care should be taken in the transition period whereby there will be instances where some items will not be able to be recycled locally (and therefore will contaminate the recycling stream), or where items are labelled as not recyclable, which then may undermine usage through schemes such as Terracycle.

It should also be noted that careful wording be applied to the labelling, such as 'packaging recyclable, contents not': a huge contamination problem is used nappies in the recycling stream. Studies undertaken with NLWA show that product labelling is part of the cause of the contamination.

There is an obligation on the part of the consumer and making it easy for them to understand what is recyclable and not recyclable is key to them using local authority services. The consultation document rightly points out that 'consumers also have a responsibility to dispose of packaging waste correctly. Increasing consumer's knowledge of the packaging they can and can't recycle and enabling consumers to play their part in correctly managing packaging waste is a key outcome of our reforms.' The Government should therefore recognise that if consumers don't play their part, as is currently the case in certain instances, then local authorities need the powers to address this so consideration should be given to:

-The return of credible s46 enforcement powers to compel householders to recycle and not to contaminate, especially as large amounts of money will be invested in paying for the materials to be recycled;

-The review of s46 obligations (currently on the occupier) to place obligations on the individual or institution best placed to control the waste presented (whether that be householder, the landlord or the managing agent);

-Clear and unambiguous powers to charge for the clearance and differential costs of treatment/disposal of waste set out in contravention of a s46 notice.

33. Do you agree or disagree with the proposal that all producers could be required to use the same 'do not recycle' label?

Agree

Disagree

Neither agree nor disagree

If you disagree, please provide the reason for your response.

As this will further assist with enabling consumers to do the right thing, but it has to be coupled with mandatory single 'recycle' labelling scheme.

34. Do you think that the timescales proposed provide sufficient time to implement the new labelling requirements?

Yes

- No
- Unsure

If you answered 'no' please provide the reason for your response.
Yes, based on the feedback from the first consultation.

35. Do you agree or disagree that the labelling requirement should be placed on businesses who sell unfilled packaging directly to small businesses?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

A labelling requirement should be placed on businesses who sell unfilled packaging directly to small businesses. Not requiring them to adopt labelling will undermine the effectiveness of the scheme and not present consumers with clear information as to what to do with the packaging.

36. Do you think it would be useful to have enhancements on labels, such as including 'in the UK' and making them digitally enabled?

- Yes
- No
- Unsure

If you answered 'yes', please state what enhancements would be useful.
Unsure.

Digitally enhanced labelling should only be used as a source of additional information – the label alone should provide a consumer with a sufficient level of information to know how to dispose of an item. Most consumers are unwilling to seek out further information about recycling of their own accord. Digital enhancements can add utility when it's acknowledged that they hold only niche appeal. If "check locally" is still a necessary inclusion on recycling labels, digitally enhanced labels which link directly to postcode-specific recycling information for that product could be helpful, but most consumers are unlikely to refer to digitally enhanced labelling, and the ability to tailor labelling to localities should not be viewed as an alternative to standardising the range of material collected. NET response on this

37. Do you agree or disagree that local authorities across the UK who do not currently collect plastic films in their collection services should adopt the collection of this material no later than end of financial year 2026/27?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response and/or what date you consider local authorities could collect films and flexibles from. Please share any evidence to support your views.

However, MRF operator responses are required to consider if timescale is realistic, and how financially viable this is. New burdens also need to be considered. Plastic film is a light but sometimes voluminous material, and may affect collection methods (particularly kerbside sort, but more generally, container sizes). Also there is potential for food waste contamination, particularly the requirement for consumer-friendly definitions of "plastic films" should also be considered.

Plastic film is a material currently difficult to separate and has low /no market value. The MRFs have issues with the sorting and processing of flexibles and may take a long time for MRFs to adapt. Markets for collected films in the UK are limited and the export market is fraught with challenges. Given the delay in releasing the consultation on 'consistency', more detail is needed such as volume, requirement for additional collection containers.

38. Do you agree or disagree that collections of plastic films and flexibles from business premises across the UK could be achieved by end of financial year 2024/5?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response and/or what date you consider this could be achieved by. Please share any evidence to support your views.

Agree but same concerns as Q37 about end markets and MRF sorting challenges.

39. Do you agree or disagree that there should be an exemption from the 'do not recycle' label for biodegradable/compostable packaging that is filled and consumed (and collected and taken to composting/anaerobic digestion facilities that accept it), in closed loop situations where reuse or recycling options are unavailable?

- Agree
- Disagree
- Neither agree nor disagree

Please provide the reason for your response.

It should clearly be labelled "do not recycle" to prevent it being misidentified by householders and potentially contaminating recycling streams. Even if this material is exempted for a closed loop situation, there is a risk that people will transfer that practice to other recycling systems that aren't in a closed loop environment. It is difficult to see how an absolute guarantee can be achieved under current circumstances, however, should innovative solutions be demonstrably achievable then they should be kept under review and assessed on their individual merits.

40. Do you consider that any unintended consequences may arise as a result of the proposed approach to modulated fees for compostable and biodegradable plastic packaging?

- Yes
 No
 Unsure

If you answered 'yes', please detail what you think these unintended consequences could be and provide any suggestions for how they may be avoided.

As the consultation document highlights compostable and biodegradable plastic packaging should be regarded as unrecyclable.

With financial incentives and targets to meet, producers will innovate to achieve these aims at least cost. Therefore, there needs to be consideration of the current alternatives on the market and price accordingly. Other considerations include the fact that modulated fees change to reflect the market; they are not fixed, with an ability to vary. The criteria used to set the price should also be considered and how they would they compare against normal recyclable packaging, as well as the impact of these items potentially contaminating other recycle streams.

[Payments for managing packaging waste: necessary costs](#)

41. Do you agree or disagree with the proposed definition and scope of necessary costs?

- Agree
 Disagree
 Neither agree nor disagree

If you disagree, please detail why and provide any costs you think should be included under the definition of necessary costs.

The list of necessary costs is broad but details are lacking on:

- Contract change/ breakage costs
- Additional disposal contract costs e.g. related to failure to achieve guaranteed minimum tonnages (assuming significant waste decreases), changes in calorific value
- Additional procurement costs
- Costs associated with waste composition change
- Transitional costs that some LAs will incur as they change services
- Indirect costs related to administration of the scheme

[Payments for managing packaging waste from households](#)

42. Do you agree or disagree that payments should be based on good practice, efficient and effective system costs and relevant peer benchmarks?

- Agree
 Disagree
 Neither agree nor disagree

If you disagree, please detail any issues you think there are with this approach and how you think payments should instead be calculated.

It is difficult to disagree with the principle as the scope of the payments available to local authorities is broad and covers direct operational costs as well as costs for supporting activities such as communications and collaborative working which NLWA supports. However, these payments are proposed to be mainly distributed, at least initially, using standardised service cost assumptions and tonnage payments based on variables such as geography, rurality and levels of deprivation but excluding more local factors such as the specific housing mix and urban density faced in London. As such, this approach appears unlikely to fully capture all actual costs in some instances.

Under the proposals, the SA is being given control on what determines an efficient and effective system and LAs are unable to influence this. We strongly feel that collection and disposal authorities should be given significant representation on the board of the SA and be fully involved in its procurement. This would enable LAs, who have significant experience of delivering the waste services, to help determine what is an efficient and effective system.

43. Do you agree or disagree that the per tonne payment to local authorities for packaging materials collected and sorted for recycling should be net off an average price per tonne for each material collected?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail how material value should be netted-off a local authority's payment.

NLWA believes the system should deduct the actual income received. Multiple outlets are often secured for the same material not just on price but also on outlet availability. An alternative would be for the scheme administrator to secure the market outlets (MRF or reprocessor direct) that it wanted each local authority to send its material to.

44. Do you agree or disagree that the Scheme Administrator should have the ability to apply incentive adjustments to local authority payments to drive performance and quality in the system?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think the ability to apply an incentive adjustment should not apply.

Agree but more detail is required on the criteria of how this would be applied.

There is a concern how the system will work in practice. Local authorities should be re-imbursed their costs but if the scheme wishes to offer extra incentives for a local authority to change its system that should be within its remit.

There should be a presumption that incentive payments are mainly linked to improvement of lower performers, so the mechanism should reward improvement above benchmarked tonnage rather than enable full value retention which may disproportionately reward existing successful areas.

The range of discretion left in these proposals for the future scheme administrator is so wide, that while the

overall proposals set out appear fair, the way in which they may later be implemented and their effect is very uncertain

45. Do you agree or disagree that local authorities should be given reasonable time and support to move to efficient and effective systems and improve their performance before incentive adjustments to payments are applied?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

The system should seek to bring forward any necessary capital investment to the earliest possible point, so that delays to introducing necessary changes in service delivery terms are minimised.

Efficient and effective systems will look different depending on location (inner city or suburbs) and have different cost and performance profiles and this should be taken into consideration.

46. Should individual local authorities be guaranteed a minimum proportion of their waste management cost regardless of performance?

- Agree
- No
- Unsure

Please provide the reason for your response.

Yes and furthermore the guaranteed minimum proportion should be a significant proportion of the full costs e.g. 90% with an additional percentage which can be used as an incentive for improvement.

47. Do you agree or disagree that there should be incentive adjustments or rewards to encourage local authorities to exceed their modelled recycling benchmarks?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think incentive adjustments should not be applied to encourage local authorities to exceed their recycling performance benchmarks.

Local Authority input is essential to ensure that incentive adjustments are reasonable and drive performance improvements.

There should be a presumption that incentive payments are mainly linked to improvement of lower performers. This would ensure that the mechanism should reward improvement above benchmarked tonnage rather than enable full value retention which may disproportionately reward existing successful areas. The core funding model should prioritise supporting lower performances as a required priority to avoid a 'winner takes all' outcome, where the existing successful areas would receive funding for existing success and less successful areas would have difficulty investing to improve.

48. Do you agree or disagree that unallocated payments should be used to help local authorities meet their recycling performance benchmarks, and contribute to Extended Producer Responsibility outcomes through wider investment and innovation, where it provides value for money?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail how you think any unallocated payments to local authorities should be used.

Agree but more information is required about the criteria for receiving such payments.

49. Do you agree or disagree that residual payments should be calculated using modelled costs of efficient and effective systems based on the average composition of packaging waste within the residual stream?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail how you think residual waste payments should instead be calculated.

Disagree as there is too much variance in waste types between Authorities and regions depending on socio demographics.

This would be best delivered with the inclusion of regular sampling funded by the EPR scheme for councils on a suitable scale and frequency and up to date waste composition datasets that could help stimulate private sector investment in treatment capacity.

The proposed changes may require significant amendments to existing contracts that cannot easily be apportioned using a modelled cost approach.

50. Do you agree or disagree that a disposal authority within a two-tier authority area (England only) should receive the disposal element of the residual waste payment directly?

- Agree
- Disagree
- Neither agree nor disagree

The benefits of those payments will then flow directly back to the relevant taxpayer in unitary and most two-tier waste disposal areas. Separate systems may need to be developed for some of the five statutory joint waste disposal and possibly some voluntary joint waste disposal authorities to ensure that the same principle applies and the correct taxpayers benefit from the payments.

Payments for managing packaging waste from businesses

51. Do you agree or disagree that there remains a strong rationale for making producers responsible for the costs of managing packaging waste produced by businesses?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

Agree

52. Do you agree or disagree that all commercial and industrial packaging should be in scope of the producer payment requirements except where a producer has the necessary evidence that they have paid for its management directly?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

Agree as it will improve the performance and efficiency of the system but the criteria for necessary evidence should be robust so there are no loopholes.

53. Which approach do you believe is most suited to deliver the outcomes being sought below?

- Option 1
- Option 2
- Option 3
- All could work
- Do not know enough to provide a view

Of the three options presented Option 3 would probably deliver the best solution in relative terms. See Q54

54. Do you disagree strongly with any of the options listed in the previous question?

- Yes
- No
- Unsure

If you answered 'yes', please explain which and provide your reason.

All three options would potentially lead to street scene and air quality issues with a potentially uncontrolled proliferation of waste containers and collectors. We have specific concerns about the clearance of contaminated recycling containers under Option 3, although this is a concern for all of the options. As the bodies responsible for the maintenance of street scene and also the provider of last resort for commercial waste collections all the options could place a very considerable additional unfunded new burden on local authorities. The potential street scene impacts would be no doubt be a concern for a range of other stakeholders.

All three options, particularly options 1 and 2, are open to fraud, cherry picking and other unintended outcomes. Furthermore, if the proposals set out in the consistency consultation around zoning/franchising, co-collection of business waste and business support are introduced after the introduction of any of the business waste options under EPR or the business waste recycling requirements more widely then it would be a very complex undertaking to reconcile the various strands at a local level retrospectively.

As set out in the consistency consultation, research indicates that most businesses are unlikely to be substantially motivated by relatively small cost reductions in waste as it is generally a small part of their overall turnover but they feel they would benefit from direct business support to assist them in making the required changes. If enforcement of the business waste producer requirements through s52 of the Environment Bill is through the EA in England, then this is also unlikely to provide a substantial incentive for smaller business waste producers to contribute fully to the Government's ambitions around business waste recycling. This is as the EA does not have significant experience of local enforcement against small businesses and are unlikely to have the necessary resources to deliver this. As such all three options will not deliver on their intended outcomes whilst placing a considerable financial burden on the packaging industry. They will also lead to considerable negative localised impacts felt by business, the public and local authorities.

Rather than the three options set out in the consultation document we instead support the alternative '4th option' that has been considered by the EPR Business Waste Sprint Group. Under this option local authorities would be funded through the Scheme Administrator to each be the provider of a free bin service for micro and small businesses in their areas (with larger businesses having the option to opt in) alongside the introduction in parallel of funded direct support for business waste producers and zoning/franchising. We believe this option would best address the concerns above.

55. Do you think there will be any issues with not having either Packaging Recovery Notes/Packaging Export Recovery Notes or the business payment mechanism (and as a result recycling targets) in place for a short period of time?

- Yes
- No
- Unsure

If you answered 'yes', please detail what issues you think there will be.

All efforts should be made to achieve the timescales outlined and if these are not met the if the transitory arrangements should be continued.

[Payments for managing packaging waste: data and reporting requirements](#)

56. Do you agree or disagree with the proposal to introduce a sampling regime for packaging as an amendment to the MF Regulations in England, Wales and Scotland and incorporation into new or existing regulations in Northern Ireland?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think the proposed sampling regime for packaging waste should not be incorporated as an amendment to MF Regulations in England, Wales and Scotland and incorporated into new or existing regulations in Northern Ireland.

It makes sense to update the existing MF regulations and ensure that any costs incurred are covered by producers.

57. Do you agree or disagree with the proposal to require all First Points of Consolidation to be responsible for sampling and reporting in accordance with a new packaging waste sampling and reporting regime?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail who you think should be required to meet the packaging sampling and reporting regime for Extended Producer Responsibility purposes.

NLWA has several concerns with this proposal.

For many Authorities, the first point of consolidation would be a waste transfer station. Some waste transfer facilities may not be set up in a way that would allow for very detailed sampling due to space constraints and the fact that the operation is simply a bulking facility. Should it be based on the size of the facility, or will the sampling method make allowances depending on the circumstances, particularly given the proposal to change or remove the de-minimis threshold in the current MRF Regs? Furthermore, the calculated costs do not include some key elements, e.g. set up costs, equipment etc. and this could adversely impact smaller facilities.

Many Waste Transfer Stations receiving DMR do not have the space to safely sample this material. If the WTS is being used as to bulk DMR prior to transporting it onto a MRF, the MRF should be responsible for sampling the DMR, as is the case with current MF Regulations, otherwise there is a risk of duplication and potential difference between two sets of sample data.

58. Do you agree or disagree that the existing MF Regulations' de-minimis threshold of facilities that receive 1000 tonnes or more per annum of mixed waste material would need to be removed or changed to capture all First Points of Consolidation?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think a de-minimis threshold is required.

Agree but this would not be without issue and maybe a burden for smaller MRFs and transfer facilities. See Q57

59. Do you think the following list of materials and packaging formats should form the basis for a manual sampling protocol?

- Yes
- No
- Unsure

If you answered 'no', what other materials, format categories or level of separation should be included as part of the manual sampling protocol?

Agree as a starting point.

60. Do you think it is feasible to implement more rigorous sampling arrangements within 6-12 months of the regulations being in place?

- Yes
- No
- Unsure

If you answered 'no', please provide the reason for your response and detail what should be considered in determining an appropriate implementation period.

Not given the scale of changes anticipated. For example, additional space required to increase the frequency of samples from every 125 tonnes to every 25 tonnes will be significant and there is thought that for larger MF facilities this scale of sampling may need to be mechanised.

61. Do you think visual detection technology should be introduced from 2025 to further enhance the sampling regime?

- Yes
- No
- Unsure

If you answered 'no', please detail why you think it should not be considered as a medium to long-term method of sampling.

Provided that the technology is proven to be reliable and accurate.

This technology is rapidly improving, and the more demand there is for it, the more commercially available and affordable it will become. Using it as an enhanced method of sampling, rather than mandating, will help to drive this. In future it is likely to become an industry standard.

62. Do you think existing packaging proportion protocols used by reprocessors would provide a robust and proportionate system to estimate the packaging content of source segregated materials?

- Yes
- Yes, with refinement
- No

Unsure

If you answered 'no', please detail why you think these would not be suitable to use to determine the packaging content in source segregated material.

If the packaging proportion protocols used by reprocessors are regularly reviewed for accuracy they could be appropriate for estimating the packaging content of source segregated materials.

63. Do you agree or disagree that minimum output material quality standards should be set for sorted packaging materials at a material facility?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

NLWA strives to continually improve the quality of DMR it receives from Boroughs so can see the appeal of setting minimum output quality standards. However, the output quality at the MRF will be significantly determined by the quality of the input i.e. the amount and type of contamination. Although materials may not meet a minimum standard, they could still have a market value.

The market should reflect the value/ quality of the materials in the cost/income generated for the material, which should work its way through the system.

64. Do you agree or disagree that material facilities that undertake sorting prior to sending the material to a reprocessor or exporter should have to meet those minimum standards in addition to just assessing and reporting against them?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

NLWA strives to continually improve the quality of DMR it receives from Boroughs so can see the appeal of setting minimum output quality standards. However, the output quality at the MRF will be significantly determined by the quality of the input i.e. the amount and type of contamination. Although materials may not meet a minimum standard, they could still have a market value.

The market should reflect the value/ quality of the materials in the cost/income generated for the material, which should work its way through the system.

65. Do you think any existing industry grades and standards could be used as minimal output material quality standards?

- Yes
- No
- Unsure

If you answered 'yes' please provide evidence of standards you think would be suitable for use as minimal output material standards.

Unsure - this is a question for MRF operators and reprocessors.

Payments for managing packaging waste: reporting and payment cycles

66. Do you agree or disagree that local authority payments should be made quarterly, on a financial year basis?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response and/or suggest any alternative proposals.

This would align with current LA reporting cycles and have an annual reconciliation.

Local Authorities should be paid a proportion of fixed costs in advance which would give them budget certainty, with performance paid on a quarterly basis to capture actual performance.

67. Do you agree or disagree that household and business packaging waste management payments should be based on previous year's data?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide any concerns you have with the proposed approach and/or any alternative proposals.

We agree provided the previous year's data includes all the relevant costs to ensure that the producers take the full financial responsibility for the packaging they place on the market. Given the seasonal variation and the nature of packaging, Government may wish to consider a 12 month rolling period to capture these variations. Only if this cannot be achieved then a static previous year's figures should be used with an annual reconciliation.

Litter payments

68. Do you agree or disagree that the costs of litter management should be borne by the producers of commonly littered items based on their prevalence in the litter waste stream as determined by a composition analysis which is described in option 2?

- Agree

- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response and/or provide an alternative approach to litter management costs being based on a commonly littered basis.

NLWA agrees if it includes all relevant costs to ensure that producers bear the full financial responsibility for the management of packaging that is littered.
Clarity is required on the inclusion of packaging that is fly-tipped as well as littered.

**69. In addition to local authorities, which of the following duty bodies do you agree should also receive full net cost payments for managing littered packaging?
Please select all that apply.**

- Other duty bodies
- Litter authorities
- Statutory undertakers
- None of the above
- Any other(s) - please specify

If you selected 'Any other(s)' - please specify here.

Other duty bodies
Litter authorities
Statutory undertakers
Any others

Any Other - All organisations that incur costs for managing litter and have been approved by the LA for that area, including the voluntary sector.

70. Do you agree or disagree that producers should contribute to the costs of litter prevention and management activities on other land?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

Provided the funding is in addition to that which local authorities receive for the management of litter on public land and not deducted from that amount.

71. Do you agree or disagree that local authority litter payments should be linked to improved data reporting?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think litter payments should not be linked to improved data reporting.

Good consistent data reporting and guidance should support packaging litter collection and management and any costs associated with improvements to this system should be funded by producers through the EPR system.

72. Do you agree or disagree that payments should be linked to standards of local cleanliness over time?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

This could overcomplicate things.

Some local authorities, or areas within local authorities, can experience higher levels of litter that the local authority only has so much power to influence. Any system of payments linked to cleanliness would need to take this sort of situation into account and this might make it overly complex as a result.

[Scheme administration and governance](#)

73. Do you agree or disagree that the functions relating to the management of producer obligations in respect of household packaging waste and litter including the distribution of payments to local authorities are managed by a single organisation?

- Agree
- Disagree
- Neither agree nor disagree

A single organisation managing producer obligations under EPR is the simplest and most efficient way to manage payments to local authorities.

The appointment and governance of the Scheme Administrator (SA) is critical to making the EPR scheme work and NLWA strongly supports that being a not for profit organisation. Also the governance structure of the SA needs to reflect the stakeholders involved in the system and hence it is essential that local government has a role to play and a place on the governing board given it is such a key player in the success of this scheme.

It is not clear how managing the SA through a contractual arrangement with Government allows for stakeholder engagement and feedback to both producers and local authorities. The process for award is to be competitive but it is not clear how bids will be assessed and what criteria will be used for awarding the contract. There will need to be KPIs within the contract and a performance management framework in place to monitor performance. SAs are expected to outline how stakeholders will be represented as part of the scheme management but it is unclear how much of a role local authorities will have on the overall scheme administration or indeed in developing the ITT documentation such that their interests are represented fairly. Accountability of the SA is also unclear unless it will just be through a contractual arrangement.

74. Overall which governance and administrative option do you prefer?

- Option 1
- Option 2
- Neither Option 1 nor Option 2

Please provide the reason for your response.

Having a Scheme Administrator would be less complicated as local authorities would only be dealing with one organisation and introducing compliance schemes as an interface with producers to meet their obligations introduces another layer of complexity. It's hard to see what value it would add to the arrangements that will need to be put in place to deliver the objectives of the scheme.

However, of concern is that what is proposed is a commercially procured contractor representing the packaging industry, which will have a duty to deliver the target recycling rates at lowest achievable cost to the producers and that there is no provision for increasing recycling beyond the target levels.

75. How do you think in-year cost uncertainty to producers could be managed?

- A reserve fund
- In-year adjustment to fees
- Giving individual producers flexibility to choose between options 1) and 2)
- No preference
- Need more information to decide

A reserve fund managed by the Scheme Administrator would minimise the risk to producers of in year fluctuations in cost. However, producers would need to contribute to set up the fund and hence a mechanism to enable this to happen would need to be devised and agreed.

76. Under Option 1, does the proposed initial contract period of 8-10 years (2023 to 2030/32) provide the necessary certainty for the Scheme Administrator to adopt a strategic approach to the management and delivery of its functions and make the investments necessary to deliver targets and outcomes?

Option 1 - Scheme Administrator delivers all functions.

- Yes
- No
- Unsure

If you answered 'no', please detail what you think would be an appropriate contract length.

This time period is long enough to give stability to all parties involved in the scheme allowing confidence in the necessary investment without being so long that it will not have the flexibility to grow & adapt with the changing landscape.

77. Under Option 2, does the proposed initial contract period of 8-10 years (2023 to 2030/32) provide the necessary certainty for the Scheme Administrator to adopt a strategic approach to the management and delivery of its functions and make the investments necessary to deliver targets and outcomes?

Option 2 - Scheme Administrator delivers functions related to household packaging waste and litter.

- Yes
- No
- Unsure

If you answered 'no', please detail what you think would be an appropriate contract length.

Yes, although NLWA does not support option 2.

78. Do you agree or disagree with the timeline proposed for the appointment of the Scheme Administrator?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

Although the timeline for launching the procurement process to appointment of the SA seems ambitious given the complexity of all that is involved from preparation of the ITT, evaluation of bids and mobilisation of the awarded SA. It is also reliant on the parliamentary passage of the Environment Bill in the Autumn 2021.

79. If the Scheme Administrator is appointed in January 2023 as proposed, would it have sufficient time to mobilise in order to make payments to local authorities from October 2023?

- Yes
- No
- Unsure

If you answered 'no' please provide the reason for your response.

This seems highly ambitious and unlikely given the amount of work involved in the preparation for payments from October 2023.

Prospective bidders should be asked to submit their own programmes to demonstrate how this timeline could realistically be met recognising the number of Local Authorities and producers involved & the systems that would need to be established in realistic timescales.

80. Do you agree or disagree with the approval criteria proposed for compliance schemes?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

81. Should Government consider introducing a Compliance Scheme Code of Practice and/or a 'fit and proper person' test?

- A Compliance Scheme Code of Practice
- A 'fit and proper person' test for operators of compliance schemes
- Both
- Neither
- Unsure

Please provide the reason for your response.

Both - The code of practice and tests should be as rigorous as possible and properly enforced.

82. Do you agree or disagree with the proposed reporting requirements for Option 1?

- Agree
- Disagree
- Neither agree nor disagree

83. Do you agree or disagree with the proposed reporting requirements for Option 2?

- Agree
- Disagree
- Neither agree nor disagree

Reprocessors and exporters

84. Do you agree or disagree with the proposal that all reprocessors and exporters handling packaging waste will be required to register with a regulator?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response and detail any exemptions to the registration requirement that should apply.

However, the EA has been under-resourced for many years which has allowed significant gaps to arise in the enforcement of waste regulation. Fees may need to be higher in the earlier years to ensure the system is 'match ready' as early as possible. Introducing a requirement in theory and properly resourcing it to ensure credible enforcement are fundamentally different. The penalties around breaches of due diligence and duty of care in this country should be severe to both serve as a deterrent and support the resourcing of the system. Civil remedies should be introduced for those further down the chain of transfer as resources for reputational damage and the requirement for registration with a regulator should be extended more widely.

85. Do you agree or disagree that all reprocessors and exporters should report on the quality and quantity, of packaging waste received?

- Agree
- Disagree
- Neither agree nor disagree

This should already be picked up through the current acceptance arrangements, but if it isn't then it would seem sensible to include this to ensure material quality throughout the process.

86. What challenges would there be in reporting on the quality and quantity of packaging waste received at the point of reprocessing and/or export?

Please also provide specific detail on any processes, measures and/or costs that would be necessary to address these challenges.

Reporting accurately on quality and quantity of packaging is key to ensuring the success of the scheme and flow of payments. Robust systems will need to be put in place in order that this is achieved but be flexible enough to accommodate market volatility where recyclables could end up diverted elsewhere in the case of export of materials.

87. Do you think contractual arrangements between reprocessors and material facilities or with waste collectors and carriers are a suitable means for facilitating the apportionment and flow of recycling data back through the system to support Extended Producer Responsibility payment mechanisms, incentives and targets?

- Yes
- No
- Unsure

If you answered 'no', please provide the reason for your response and suggest any alternative proposals for using the quantity and quality data reported to support payments, incentives and targets.

On the basis that contractual arrangements are backed by clear and unambiguous guidance. Given the volatility of international markets, there may be variable arrangements / spot purchasing of materials / involvement of brokers (broker not referenced at all within proposal).

88. Do you agree or disagree that exporters should be required to provide evidence that exported waste has been received and processed by an overseas reprocessor?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think exporters should not have to provide this evidence.

89. Do you agree or disagree that only packaging waste that has achieved end of waste status should be able to be exported and count towards the achievement of recycling targets?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think it would not be necessary for waste to meet end of waste status prior to export.

NLWA assumes that this is already picked up through the current acceptance arrangements but if it isn't then it would seem sensible to include this.

90. Do you agree or disagree that there should be a mandatory requirement for exporters to submit fully completed Annex VII forms, contracts and other audit documentation as part of the supporting information when reporting on the export of packaging waste?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think these additional registration requirements on exporters are not required.

91. Do you agree or disagree that regulators seek to undertake additional inspections of receiving sites, via 3rd party operators?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail why you think it would not be necessary to undertake additional inspections and provide any alternative arrangements which could be implemented.

Agree as would provide confidence in the recycling end destinations and a transparent audit trail.

Compliance and enforcement

92. Do you agree or disagree with the proposed approach to regulating the packaging Extended Producer Responsibility system?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please detail any perceived problem or issues with the proposed regulation of the system and provide comments on how the system could be regulated more effectively.

The regulators need to be fully resourced to undertake effective enforcement. Increased data traceability and analysis will go some way to ensuring wrong doing/ unintentional non-compliance is identified quickly.

93. Do you have further suggestions on what environmental regulators should include in their monitoring and inspection plans that they do not at present?

NLWA has nothing further to add.

94. In principle, what are your views if the regulator fees and charges were used for enforcement?

NLWA supports this.

95. Would you prefer to see an instant monetary penalty for a non-compliance, or another sanction as listed below, such as prosecution?

An instant monetary penalty in the first instance, but persistent non-compliance should be prosecuted

Implementation timeline

96. Do you agree or disagree with the activities that the Scheme Administrator would need to undertake in order to make initial payments to local authorities in 2023 (as described above under Phase 1)?

- Agree
- Disagree
- Neither agree nor disagree

If you disagree, please provide the reason for your response.

Neither agree nor disagree.

The activities highlighted appear to all be required in order to make payments to Local Authorities from 2023 but it is not clear whether it is comprehensive and whether other activities will be required. As part of the ITT submission, bidders should be asked to set out all the activities that are required along with a realistic timeline such that this can be assessed.

97. Do you think a phased approach to the implementation of packaging Extended Producer Responsibility, starting in 2023 is feasible and practical?

- Yes
- No
- Unsure

If you answered 'no', please provide the reason for your response and detail any practical issues with the proposed approach.

Yes

98. Do you prefer a phased approach to implementing Extended Producer Responsibility starting in 2023 with partial recovery of the costs of managing packaging waste from households or later implementation, which could enable full cost recovery for household packaging waste from the start?

- Phased approach starting in 2023
- Later implementation
- Unsure

The timeline for having a phased approach in 2023 is challenging and whatever the scope of the starting changes, it is better to mobilise some aspects of the change earlier, to give them chance to become operational and effective, before then moving to later phases. It is also likely that the early experience of the first stages will inform the development of later stages and lead to overall improvements in the effectiveness of the new system

99. Of the options presented for reporting of packaging data for 2022 which do you prefer?

- Option 1
- Option 2
- Neither

If you answered 'neither' please suggest an alternative approach.

Option 2 - A complete picture of packaging flows is needed given the complexities.

100. Are there other datasets required to be reported by producers in order for the Scheme Administrator to determine the costs to be paid by them in 2023?

- Yes
- No
- Unsure

If you answered 'yes', please detail which datasets will be needed.

Unsure

101. Which of the definitions listed below most accurately defines reusable packaging that could be applied to possible future reuse/refill targets or obligations in regulations

Further information to help answer this question (and the 4 that follow) can be found in Annex 1 of the consultation document.

- Definition in The Packaging (Essential Requirements) 2015
- Definition in The Packaging and Packaging Waste Directive (PPWD)
- Definition adopted by The UK Plastic Pact/The Ellen MacArthur Foundation
- None of the above

If you selected 'none of the above', please provide the reason for your response, including any suggestions of alternative definitions for us to consider.

No firm view on which definition but whatever one is chosen it must be consistent across all UK legislation.

102. Do you have any views on any of the listed approaches, or any alternative approaches, for setting reuse and refill targets and obligations? Please provide evidence where possible to support your views.

Please answer here.

These targets should align with the Waste Prevention Plan currently out for consultation. Unfortunately, there are no targets in the Waste Prevention Programme although there are 4 options set out for consideration for increasing refill, reuse and repair which include provision of an information note for local authorities. We suggest that improvements in policy and legislation to mandate reuse, refill and repair are implemented to focus activity and improve performance in these areas and support the principles of the waste hierarchy.

103. Do you agree or disagree that the Scheme Administrator should proactively fund the development and commercialisation of reuse systems?

- Agree
- Disagree
- Neither agree nor disagree

Please provide the reason for your response.

Producers should fund the development of reuse systems via the SA which will have a UK wide overview to ensure development across the whole of the country.

With reuse standing above recycling in the waste hierarchy, it is appropriate that reuse systems are explored and expanded. This must be done on the basis that they create environmental benefits and embrace the underlying principles of the circular economy.

104. Do you agree or disagree that the Scheme Administrator should look to use modulated fees to incentivise the adoption of reuse and refill packaging systems?

- Agree
- Disagree
- Neither agree nor disagree

Please provide the reason for your response.

Reuse and refillable packaging is in many instances an environmentally preferable packaging option but may require a shift in technologies and logistics to enable a significant shift. Modulated fees at appropriate rates may support this shift. This does require the modulated fees system to have sufficient levels to enable the right drivers towards reuse for the right products.