

**Q1. Would you like your response to be confidential? Yes / No**

**Q2. Your name?**

Michael Clarke

**Q3. Your email address?**

[Michael.clarke@nlwa.gov.uk](mailto:Michael.clarke@nlwa.gov.uk)

**Q4. Which best describes you? Please provide the name of the organisation/business you represent and an approximate size/number of staff (where applicable).**

Local Authority

North London Waste Authority – a statutory waste disposal authority, covering the London boroughs of Barnet, Camden, Enfield, Hackney, Haringey, Islington and Waltham Forest, and responsible for the waste of over 2 million residents.

**Q5. Government will need to understand the needs of users to build digital services for EPR for packaging. Would you like your contact details to be added to a user panel for EPR for packaging so that we can invite you to participate in user research (e.g., surveys, workshops and interviews) or to test digital services as they are designed and built?**

**Yes** / No

**Q6. Do you agree that we should work towards excluding packaging that is designed only for use by a business from the payment of household disposal cost fees?**

a. Yes

**b. No**

c. Do not know

NLWA does not agree with this exclusion as it would remove a key incentive for businesses to seek better environmental solutions for packaging. Fee modulation would not apply, leading to businesses to continue to use materials that are difficult to recycle or unrecyclable with no incentive to improve.

It must also be emphasised that business waste ends up in the household waste stream, as residents/householder are able to purchase these items and bring them home. It is essential, therefore, that this packaging is covered in the regulations so that local authorities are able to recover the cost of processing this waste.

**Q7. Do the draft Regulations ensure all types of packaging, which is not exempt packaging, are subject to recycling obligations?**

- d. Yes
- e. No
- f. Do not know

If 'no', please detail which types of packaging are missed.

The regulations need to be clearer around DRS materials and ensuring that they will be covered by EPR during any time that the DRS is not live, and that drinks containers that fall out of the scope of DRS are subject to EPR fees.

The regulations also exclude packaging that is discarded as food waste – as some packaging is marketed as compostable and designed to go into food waste, this could cause confusion.

We feel it should be clarified that all packaging should be included in the scheme by default unless there is good evidence set out for it to be excluded.

#### **Q8. Are producers recycling obligations clear?**

- a. Yes
- b. No
- c. Do not know

If 'no', please provide details of anything that is unclear.

This is for producers to answer, however NLWA understands the regulations are clear in this regard.

#### **Q9. Are the obligations on each type of producer clear?**

- a. Yes
- b. No
- c. Do not know

If 'no', please state the type of producer and how the obligation is unclear.

This is for producers to answer, however NLWA understands the regulations are clear in this regard.

#### **Q10. Are the obligations on all types of packaging clear?**

- a. Yes
- b. No
- c. Do not know

If 'no', please give examples of any packaging types where the obligations are unclear.

See response to Q7: The regulations need to be clearer around DRS materials and ensuring that they will be covered by EPR during any time that the DRS is not live, and that drinks containers that fall out of the scope of DRS are subject to EPR fees. The regulations also exclude packaging that is discarded as food waste – as some packaging is marketed as compostable and designed to go into food waste, this could cause confusion.

**Q11. Are there any areas in which two producers may be obligated for the same item of packaging?**

- a. Yes
- b. No
- c. Do not know

If 'yes', please set out clear examples to demonstrate this.

It is not clear to us where responsibility would lie for an item of packaging which is produced by a manufacturer but branded differently – e.g. for a supermarket.

**Q12. Is the relationship between a Packaging Compliance Scheme and its members clear?**

- a. Yes
- b. No
- c. Do not know

If 'no', please provide details of anything that is unclear.

**Q13. Are the obligations that a Packaging Compliance Scheme assumes on behalf of its members clear?**

- a. Yes
- b. No
- c. Do not know

If 'no', please provide details of obligations that are unclear.

**Q14. Are the requirements for the provision of recycling information and packaging labelling clear?**

- a. Yes
- b. No
- c. Unsure

If 'no' or 'unsure', please explain the reason for your response and provide examples.

Recycling information for “how packaging may be collected for recycling, other than by a relevant authority” is not clear, and the regulations do not set out the circumstances under which this would occur.

We feel that providing some clarity on consistency arrangements or simpler recycling arrangements is important when it comes to this point, as not all local authorities are currently collecting and recycling the same items, so EPR labelling needs to be designed with this in mind.

The regulations also state that recycling information obligations do not apply to “any drink container”, it is assumed that this is in relation to DRS, however only certain types of drinks containers are covered in the scope of DRS, and it is feasible that DRS is be launched after EPR, in which case any DRS materials should be covered under EPR for any amount of time that a DRS scheme is not in effect.

**Q15. Are you likely to use a third-party organisation to conduct packaging recyclability assessments?**

- a) Yes
- b) No**
- c) Unsure/not decided

Please provide the reason for your response.

This does not apply to local authorities – however an answer has been provided to Q16.

**Q16. If you answered yes to Q14, should there be a mandatory accreditation scheme for third-party organisation(s) who undertake recyclability assessments?**

- a) Yes, approved by the Scheme Administrator
- b) Yes, accredited by UKAS**
- c) Yes, other (please specify)
- d) No accreditation scheme

Please explain the reason for your response.

Government needs to ensure that third parties are properly regulated, as such a mandatory accreditation scheme will enable this and make regulation significantly easier. It is currently unclear how the Scheme Administrator will be managed – if it is unbalanced towards producers, accreditation needs to have independence.

NLWA feel that UKAS accreditation is essential, bringing assurance and independence to the process, particularly as the proposed make-up of the SA is industry heavy.

We agree with the NAWDO view that independent verification of an item’s recyclability is essential to ensure if it is recyclable via common recycling schemes that most local authorities offer.

**Q17. Are the functions of the Scheme Administrator as outlined in the draft Regulations clear?**

- a. Yes
- b. No**
- c. Do not know

If ‘no’, please provide examples of where the draft Regulations are not clear.

There is a lack of clarity on how these functions should be applied. For example, the regulations do not make it clear how “efficient” or “effective” services will be defined, benchmarked, and assessed.

The regulations also refer to the SA being required to conduct public information campaigns. It would be helpful to set out more information on the campaigns the SA will be required to deliver, and whether these will be restricted to EPR related issues. These must also be joined up with relevant campaigns in local authority areas/industry/waste organisations, so messaging isn't conflicting. Any campaigns must also take account of 'simpler recycling' arrangements.

**Q18. Do the draft Regulations allow for the Scheme Administrator to accurately apportion fees to producers?**

- a. Yes
- b. No**
- c. Do not know

If no, please detail why.

There is lack of detail on how the SA should perform its outlined functions, it is understood that this would be covered in their strategy produced within the first 6 months, at which point it is expected that there would be greater clarity.

As above, the regulations need to be clearer around the scope of DRS materials and ensuring that they will be covered by EPR during any time that the DRS is not live or is not introduced, and that drinks containers that fall out of the scope of DRS are subject to EPR fees.

**Q19. If your organisation collects and recycles packaging waste, do you understand if you would qualify for off-setting under the draft Regulations?**

- a. Yes
- b. No**
- c. Do not know

If no, how can this be made clear?

Local authorities are organisations that collect and recycle packaging waste, however it is understood that off-setting in this context is applicable to producers. It isn't clear in the draft regulations if off-setting is applicable to local authorities or is only relevant for producers.

**Q20. Do you think the offsetting provisions should be extended as part of future reforms to EPR?**

- a. Yes**
- b. No
- c. Do not know

If yes, please detail how you think these offsetting provisions should be extended and why.

NLWA would support further offsetting provisions if this would effectively incentivise producers to establish schemes to collect & recycle their packaging waste, through take-back and reuse schemes.

**Q21. Do the draft Regulations provide appropriate safeguards for compliant producers, including with regards to the impact producer non-compliance may have on producer disposal fees?**

- a. Yes
- b. No
- c. Do not know

If 'no', please provide details of your concerns.

**Q22. Do the draft Regulations make it clear what the Scheme Administrator is required to do and consider in assessing local authority efficient net disposal costs and service effectiveness?**

- a. Yes
- b. No

If no, how could these be made clear and what do you consider is missing?

At present the regulations contain no clarity on this. The regulations need to provide a definition of "efficient" and "effective" services, as well as outline the exact process of how the Scheme Administrator will assess local authority costs, including the criteria that will be used to assess the efficient costs and how authorities will be benchmarked against each other to assess service effectiveness. One of the factors in assessing effective services, "How much packaging waste a comparable authority would be able to manage if it was following good practice in waste management" doesn't set out what a comparable authority looks like and how this is calculated. The regulations need to make this clear to avoid inappropriate comparisons being made.

It is very hard to group local authorities together and compare them directly, as most local authorities bear significant differences to others. It will therefore be difficult to make a judgement on an 'efficient and effective' waste management service using this method.

For example, the East London Waste Authority may be considered to bear similarities to the North London Waste Authority (both are statutory WDAs operating in London with some comparables when it comes to demographics). However, taking population and housing density as examples, there are considerable differences. Whereas North London has almost 2,000,000 residents, East London has around 1,100,000. The housing numbers are very different. NLWA has 847,000 households, whereas East London only have 418,000. Consequently, both are dealing with different waste tonnages (NLWA deal with around 60,000 tonnes more than ELWA) and collection services.

Other local authorities are more different still, demonstrating further how hard it is to group authorities together. Despite both being statutory waste authorities operating in a major city (like NLWA), Greater Manchester has a population of 2,500,000 million and around 1,115,000 households. Greater Manchester also faces different challenges, covering more rural, less densely populated areas as well as metropolitan areas.

The regulations also state that the "SA may consider local, national or international examples" when assessing good practice. Using international examples is unwise as they are generally not transferable to the UK, which operates under different legislation and regulations, and has different attitudes and cultures toward recycling in comparison to other countries.

NLWA has highlighted before that understanding and assessing actual authority costs would be a preferable method of assessing local authority efficient net disposal costs.

The regulations should also reflect different elements of disposal costs. The capital costs of infrastructure projects to manage waste should be accounted for by the SA when it comes to assessing overall disposal costs.

**Q23. Do the draft Regulations make appropriate provision for how the Scheme Administrator will incentivise the delivery of efficient and effective packaging waste management services by local authorities?**

- a. Yes
- b. No**
- c. Do not know

If no, please detail why and explain what is missing.

As with the answer to Q22, the lack of definition for “efficient” and “effective” services means that understanding the SA’s ability to incentivise LA’s delivery of these is not fully possible. The “improvement plans” set out in the regulations appear to be one of the key incentives, however the scope of these plans is not clear. A defined remit of the improvement plans is necessary to ensure that the SA cannot override local decision making.

Please also see Q22, and the answer on the difficulties of grouping local authorities together to measure ‘efficient and effective’ packaging waste management services.

**Q24. Do the draft Regulations make it clear what the Scheme Administrator is required to do and consider in assessing Scheme Administrator public information costs and administration costs?**

- a. Yes
- b. No**

If no, how could these be made clear and what do you consider is missing?

There is no clarity on what could be included within the SA’s costs for providing public information. The regulations state that the SA is only required to distribute money to local authorities after taking account of its own public information disposal costs, and there is no cap on these. It is unclear whether this would significantly impact the amount local authorities receive.

**Q25. Do the draft Regulations make appropriate provision for how the Scheme Administrator will distribute disposal cost payments to local authorities?**

- a. Yes
- b. No**
- c. Do not know

If no, how could the provisions be made clear or and what do you consider is missing?

The regulations do not define who the “relevant authorities” are in terms of collection and disposal authorities and of whom holds the responsibility.

In terms of two-tier areas, there are issues that need addressing. In the case of statutory joint waste disposal authorities (of which NLWA is one), it needs to be clear how payments will be distributed

between WCAs and the SJWDAs and how this will impact levy mechanisms in place. SJWDAs are funded by a levy, which is apportioned to the WCAs in the area on an annual basis.

**Q.26 Do the draft Regulations make it clear how the Scheme Administrator will adjust (modulate) fees to account for the environmental sustainability of household packaging?**

a. Yes

b. No

If no, how could these be made clear and what do you consider is missing?

Yes but, we would suggest carbon impact is added to the list of assessment criteria.

The fee modulation could also take into account the difficulties of recycling some materials, due to a lack of available processing infrastructure or available end markets.

**Q27. Do you have views on any materials that should be exempted from the scope of modulating fees?**

a. Yes

b. No

If yes, please specify which materials.

We feel as many materials as possible should be included in the scope, in order to encourage greater recyclability and environmental sustainability of household packaging.

**Q28. Do the draft Regulations provide the necessary grounds to allow the Scheme Administrator to recalculate the costs and fees?**

a. Yes

b. No

c. Do not know

If no, which grounds are missing?

The lack of definition for “efficient” and “effective” services means that understanding the grounds for the SA’s ability to recalculate local authority disposal costs is not fully possible.

Please also see above answers (Q22 and Q23) for the problems highlighted on the basis of grouping local authorities together to assess what an efficient and effective service is.

There may also need to be more thought put into the recalculation process so that it adequately captures the effects of changing markets for recycling materials.

**Q29. Do the draft Regulations set out clearly the process the Scheme Administrator must follow in making fee and cost recalculations?**

a. Yes



b. No

c. Do not know

If no, how can the process be made clearer?

The lack of definition for “efficient” and “effective” services means that understanding the SA’s process for recalculating local authority disposal costs is not fully possible.

Please also see above answers (Q22 and Q23) for the problems highlighted on the basis of grouping local authorities together to assess what an efficient and effective service is.

**Q30. Are the new registration requirements for reprocessors and exporters handling packaging waste clear?**

a. Yes

b. No

c. Do not know

If ‘no’, please provide details of any requirements that are unclear.

**Q31. Are the new conditions and reporting requirements for accredited reprocessors and exporters clear?**

a. Yes

b. No

c. Do not know

If ‘no’, please provide details of any conditions and/or reporting requirements that are unclear.

**Q32. Do the draft Regulations adequately capture the decisions that can be appealed?**

a. Yes

b. No

c. Do not know

If no, what decisions are not adequately captured or missing?

The regulations may be limited in the scope of what can be appealed, and as such a clause allowing local authorities or producers to put forward any other decision that they consider appropriate should be included.

It is unclear how the appeals bodies mentioned in the regulations will be made up, and whether they will have the experience to make adequate judgements.

**Q33. Do the draft Regulations set out an adequate appeals process?**

a. Yes

b. No

c. Do not know

If no, how could this process be made clear?

It is unclear who local authorities should appeal to, as there are no details on who the appeal bodies are. This needs setting out clearly in the regulations to ensure the appeals process can be adequately followed once the scheme has come into force.

There is also no timescale for an appeals process, which could create problems should the decision under question result in financial difficulties which may lead to problems with service delivery.

**Q34. Please raise up to three areas of EPR packaging policy that you would like us to consider in the first review and rank in order of priority.**

1. Working towards using actual local authority disposal costs instead of modelled costs.
2. A defined methodology for grouping local authorities together to determine efficient disposal costs.
3. Greater local authority (WCA & WDA) involvement in the operation of the scheme administrator and the scheme as a whole going forward.