

Response: Extended Producer Responsibility for Packaging

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About the District Councils' Network

The District Councils' Network (DCN) is a cross-party member led network of 183 councils. We are a Special Interest Group of the Local Government Association (LGA), and provide a single voice for district services within the Local Government Association.

Our member councils in England deliver 86 out of 137 essential local government services to over 22 million people - 40% of the population - and cover 68% of the country by area.

District councils have a proven track record of building better lives and stronger economies in the areas that they serve. Districts protect and enhance quality of life by safeguarding our environment, promoting public health and leisure, whilst creating attractive places to live, raise families and build a stronger economy. By tackling homelessness and promoting wellbeing, district councils ensure no one gets left behind by addressing the complex needs of today whilst attempting to prevent the social problems of tomorrow.

Response from the District Councils' Network

Key Messages

The District Councils' Network welcomes a scheme that incentivises producers to reduce their packaging and encourages reuse. We would also be pleased to see a system that properly funds and provides security for waste collection services; services that will be subject to huge changes in infrastructure and the way that they operate as a result of the range of reforms entailed in the Resources & Waste Strategy. We would urge that the enormity of these changes, and the impacts this will have on councils in the short term, should be remembered throughout the consideration of all proposals.

We would also highlight our district members' concerns that waste collections remain a matter for local determination. Districts know their localities intimately and the challenges and efficiencies that are involved in waste collections within them. Though some may be viewed as outliers, or inefficient in a modelled system, these variances have been developed to best deal with local geographies and housing type for reasons that cannot be captured within the modelling proposed, particularly our highly rural districts. Waste cannot exist as a singular universal service and must be designed around local need.

We would also urge that all waste reforms are reconsidered in just how they are meeting wider objectives in tackling the climate emergency. This issue must now cut across all Departments and policy areas and unfortunately much of the detail covered under waste reform consultations so far have not focussed on waste minimisation at source, and reuse. EPR in itself does not push materials higher up the waste hierarchy, relying on market forces to incentivise this, and instead focussing on recycling rates and quality. Though this is of

course important, more consideration is needed in meeting the wider ambitions of a sustainable waste system that helps mitigate climate impacts. Districts are committed to the ambition to improve recycling rates but do not believe that mandated collection methods are the best way to achieve a sustainable waste system. Districts need the flexibility to collect the core set of materials in ways that work for their community, and more focus needs to be placed on community engagement and behaviour change to minimise waste as well as improving recycling rates

The DCN advocates for an equitable and clear payment system that works for all councils and ensures that all authorities responsible for collection and disposal of waste have assurance of payment under these reforms with minimal disruption to services and budgets. The current proposals leave much uncertainty and work is needed now to develop a payment system to avoid disruption and to provide clarity, particularly in two-tier authority areas. There is much detail yet to be provided on the funding of this scheme, as well as that for consistency requirements. Clarity on central government funding of waste services, on what is a radical departure from previous service funding is needed; along with assurance on how need will be assessed and funding provided equitably given the variety of services provided across authorities.

However, the DCN were pleased to see that EPR payments will follow function, with it being stated within the consistency of recycling consultation that collection authorities will receive payments for collection services directly. This is certainly logical, given that modelled payments would be based on levels of rurality that will be specific to districts, being the collection authorities within two tier regions. The DCN will continue to advocate for this payment mechanism and make sure that it is confirmed by the Scheme Administrator. Our district members will strive to ensure that every tier and form of local government responsible for waste services is fairly provisioned and recompensed, and that funding from EPR comes directly to local government.

The preferred option of providing initial payments based on modelled costs has the potential to be considerably disruptive, as outliers will be inevitable and 'efficiency' will also be hard to contextualise across the country. Additionally, beyond the first year of implementation, when historic data will inform the process, the new methods involved in providing the data required from year two, such as waste composition analysis, will create further uncertainty and turbulence. Introducing further incentivised payments and payment reductions adds another level of uncertainty. We therefore propose that fixed payments are provided to authorities for the initial five years of implementation to better cover costs, provide clarity, and allow for authorities to ensure the necessary infrastructure is in place to provide the services and data required. These payments would be guaranteed, and have set lower and upper limits, to provide certainty for authorities and to producers in terms of costs they will have to cover in the initial years of the scheme.

Districts are best placed to instigate the improvements to recycling. It should be remembered that improving the quality of materials begins with residents, and that collection authorities are the stakeholders that speak directly to residents. It should also be remembered that although collection authorities will do all they can to encourage behaviour change, ultimately much of the quality of recyclables and the amount that ends in residual streams rests with the consumer. Authorities responsible for collection and disposal should not be unfairly penalised for that. This should also mean that the expectations placed on residents should

be thoroughly considered throughout proposals. Much more detail is needed on the supporting activities that will be covered under the scheme such as engagement campaigns and initiatives to educate residents on changes.

Putting in such measures as the fixed payment proposal detailed in this response would not only provide clarity but would make the implementation timeline much more feasible. Currently the Scheme Administrator will have an intricate system of payment mechanisms and processes to develop when appointed in early 2023, mere months before the first payments will be made. Committing to a simplified fixed payment system now will give some breathing space for all parties to allow for more gradual implementation of massive reforms and provide immediate certainty.

EPR Consultation - Responses

(As questions 1-3 reflect organisational details only, they are not repeated here)

Q4 Would you like your response to be confidential? Yes / No If you answered 'Yes', please provide your reason.

No

Q5 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

Yes

What we want to achieve – principles, outcomes and targets

Q6 Do you agree or disagree with the proposed framework for setting packaging targets? (P30)

Agree

Q7 Do you agree or disagree that the business packaging waste recycling targets set for 2022 should be rolled over to the calendar year 2023? (P32)

Agree

Q8 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? (P36)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q9 Do you agree or disagree with the proposed minimum target to be met by 2030 for glass set out in table 3? (P36)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q10 What should the glass re-melt target for 2030 for non-bottle packaging be set at? (P37)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q11 Do you agree or disagree with the proposed minimum target to be met by 2030 for plastic set out in table 3? (P37)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q12 Do you think a higher recycling target should be set for wood in 2030 than the minimum rate shown in Table 3? (P38)

Unsure

Please provide the reason for your response.

The DCN are unsure as to the full merits of setting higher recycling targets in any instance, given that we believe a focus should be on prevention. We would hope that other measures, such as the modulated fees introduced through EPR, will help accomplish this. This, in the long-term should mean that a reduction in recycling rates is seen.

Q13 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? (P38)

Yes

We encourage the development of long-term end markets for all recycled products given our agreement with a whole system approach that is less wasteful and more sustainable.

Q14 Do you agree or disagree with the proposed minimum target to be met by 2030 for steel set out in table 3? (P39)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q15 Do you agree or disagree with the proposed minimum target to be met by 2030 for paper/card set out in table 3? (P39)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q16 Do you agree or disagree with the proposal to set recycling targets for fibre-based composites? (P41)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q17 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? (P43)

Neither agree nor disagree

Though we see the value for closed loop recycling targets we do not deem them strictly necessary at this point and would look to the results of the plastics packaging tax in the first instance.

Q18 Please indicate other packaging material that may benefit from closed loop targets. (P43)

We would refer you to responses from individual districts and Waste Collection Authorities.

Producer Obligations for Full Net Cost Payments and Reporting

Q19 Do you agree or disagree that Brand Owners are best placed to respond effectively and quickly to incentives that are provided through the scheme? (P50)

Agree

Q20 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)? (P51)

Where available, please share evidence to support your view.

We would refer you to responses from individual districts and Waste Collection Authorities.

Q21 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? (P54)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q22 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? (P54)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q23 Do you think that Online Marketplaces should be obligated for unfilled packaging in addition to filled packaging? (P56)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q24 Do you foresee any issues with Online Marketplaces *not* being obligated for packaging sold through their platforms by UK-based businesses? (P56)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q25 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 by the start of the 2022 reporting year (January 2022)? (P56)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q26 Is there any packaging that would not be reported by the obligation as proposed? (except for packaging that is manufactured and sold by businesses who sit below the de-minimis) (P59)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q27 Do you agree or disagree that the allocation method should be removed? (P60)

We would refer you to responses from individual districts and Waste Collection Authorities.

Producer Disposable Cups Takeback Obligation

Q28 Do you agree or disagree that a mandatory, producer-led takeback obligation should be placed on sellers of filled disposable paper cups? (P67)

Agree

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.

Q29 Do you agree or disagree with the proposed phased approach to introducing any 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? (P67)

We would urge that careful consideration is given as to how the approach will affect our small businesses, given that they shall also be subject to DRS requirements. Obligations and interplay between schemes should be clear and straightforward. Undue strain and burdens on our small businesses should be mitigated given the high levels of uncertainty they have experienced as a consequence of the pandemic.

Modulated Fees and Labelling

Q30 Do you think that the proposed strategic frameworks will result in a fair and effective system to modulate producer fees being established? (P72)

Yes

Q31 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 action that might be undertaken by the regulators. (P75)

Agree

Q32 Do you agree or disagree with our preferred approach (Option 1) to implementing mandatory labelling? (P82)

Disagree

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

The labelling system used should be as straightforward and simple as possible to make things as clear and easy as possible for the consumer. This would make Option 2 the preferable option. We do not believe the benefit of Option 1 in allowing mandatory labelling to be brought in more quickly outweigh the disadvantages of necessitating more complex communications with consumers. The key to success of what are wide-ranging and already complex waste reforms will be clear consumer engagement and so labelling is one area that should be kept as straightforward as possible.

Q33 Do you agree or disagree with the proposal that all producers could be required to use the same 'do not recycle' label? (P82)

Agree

Q34 Do you think that the timescales proposed provide sufficient time to implement the new labelling requirements? (P82)

Yes

Q35 Do you agree or disagree that the labelling requirement should be placed on businesses who sell unfilled packaging directly to small businesses? (P82)

Agree

Q36 Do you think it would be useful to have enhancements on labels, such as including 'in the UK' and making them digitally enabled? (P83)

Yes

Any kind of digitally enabled tracking enhancement to aid the evidencing needed at all stages of the EPR process, and in concert with DRS, would be beneficial as it should also aid greatly in the identification of items needed when separating those

out that fall within the DRS. Until such technological assistance can be ensured across the country then the issues around sorting DRS from EPR items will likely be problematic.

Q37 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 the end of financial year 2026/27? (P85)

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 supporting evidence to support your views.

The DCN disagrees on this point given that currently the infrastructure for sorting and recycling is not in place across the country, nor are end markets. The latter point is beyond the control of districts responsible for collections. The infrastructure changes needed across the board are large, and will take time. There must be assurance that burdens and costs incurred by districts for this transition are met, given the tight timelines. We consider the year end of 2027/28 to be more feasible for allowing the infrastructure changes to proceed that would allow comprehensive recycling of plastic films.

Q38 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? (P85)

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.

As with the answer to Q37, we suspect that though collection of these materials from businesses would be possible within that timeframe, the facilities will not be consistently in place by this point to allow for the recycling of those films across the country. We do not have enough evidence to hand at this stage to elaborate on this further.

Q39 Do you think 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 situations where reuse or recycling options are unavailable? (P87)

Disagree

Please provide the reason for your response.

The labelling system and accompanying communication needs to be as clear and straightforward as possible. Biodegradable items are not recyclable through the same systems as non-bio plastics, and this needs to be clear in terms of what's 'in' or

'out'. Further work could be carried out to establish a consistent approach for these materials, with best practice suggestions for closed situations, which can then be clearly communicated with suitable labelling.

Q40 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? (P87)

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.

Payments for Managing Packaging Waste

Q41 Do you agree or disagree with the proposed definition and scope of necessary costs? (P90)

Agree

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

Q42 Do you agree or disagree that payments should be based on good practice, efficient and effective system costs and relevant peer benchmarks? (P96)

Disagree

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

The DCN suggests that any payment mechanism should allow for collection authorities to have the freedom and flexibility to collect the core set of materials in the manner that is most effective for their locality. An initial payment mechanism proposal, that does not take into account unique local factors, would seem to be in contradiction to the renewed focus on devolution and localism.

There will inevitably be outliers in any such modelled system and a high degree of disruption and adjustment will be the likely result, particularly in the initial phase of implementation. Even with the increase of modelling groups to nine, the model will not allow for the array of factors that affect services locally. We have concerns that both highly rural locations and locations containing a large proportion of high-density flats will not be sufficiently captured.

There is a relative lack of clarity and potential subjectivity as to what "efficient and effective" systems mean in practical terms. There is a possibility that authorities will effectively be penalised under this proposal for not conforming to whatever practices are deemed "efficient", despite them potentially being the most effective within their

locality. If districts are compelled to radically alter their practices as a result, they will face additional costs, such as changing contracts; these costs must be met as part of the reforms funding.

Q43 Do you agree or disagree that the per tonne payment to local authorities for packaging materials collected and sorted for recycling should be net of an average price per tonne for each material collected? (P99)

Disagree

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

Local authorities will not have the same ability to control or respond to the prices of materials and this leaves open the possibility that they will be disadvantaged by having to rely on recouping costs based on materials' prices. Producers will have far greater influence of the price of materials via their purchasing and use of recycled material which will have impacts for authorities under these proposals, causing uncertainty, and gives them no recourse to influence prices. The long-term contracts that authorities may have in place also means that they cannot be fleet of foot in responding to changing prices and therefore impacts may be felt differently and the benefits diluted.

We would emphasise again that such a proposal causes a further level of uncertainty for local authorities, and potential strain in relationships between authorities on two-tier areas, at a time when massive changes will be occurring as a result of reforms. We would urge that payment systems are kept as simple and provide as much certainty as possible for both collection and disposal authorities. This is why the DCN are suggesting that a guaranteed fixed payment system is put in place for the initial five years of the scheme to allow for far greater certainty on budgets for all stakeholders and swathes of changes to services occur.

Finally, we would flag here a general concern that we hold regarding per tonne payments. There will always be a per household cost for the collection of waste regardless of tonnage. We would emphasise at this point that full net cost recovery for collection services must be ensured regardless of the reduction of tonnage, which would be the ultimate aim of the scheme. Costs will still be incurred for collections from households regardless of significant reductions in waste and that should be acknowledged as a potential factor that will need consideration as the scheme progresses.

Q44 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? (P101)

Disagree

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

Although we agree with the general concept of incentives to drive performance the scale of the reforms that are to take place means that we feel that the focus, certainly in initial years, must be on ensuring improvements at authorities that do not meet the requirements of new systems put in place. This will not be done by incentivising good performance as that only limits the ability of poor performers to improve. It is therefore not the time to consider these incentive adjustments and the matter should be revisited by the Scheme Administrator in the years following implementation. Hastily bringing in incentives for good performance, on top of already potential penalisation of authorities not deemed to be 'efficient' will cause greater differentiation of service and risks some areas being left behind. Only when there is a consistent level of performance across the country and the necessary changes to service delivery as a result of all reforms have bedded in, should further incentive adjustments be offered for good performance.

The DCN again suggests going a step further in providing certainty, in the guaranteeing of fixed payments in the initial five years of the scheme, with a minimum and maximum level to reflect the range of circumstances, but that adequately covers costs for all authorities. This would provide certainty on budgets for both Local Authorities and producers, and it would afford the consistent development of services able to meet the requirements of the scheme with minimal disruption before incentives are applied.

Q45 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? (P101)

Agree

The changes to infrastructure and service delivery required in the next few years as a result of all reforms proposed will be truly enormous. Therefore, it is imperative that authorities are given time and crucial support to improve performance and adjust to different systems. Providing this certainty and mitigation for all authorities will be key to the success of reforms. Focussing on those authorities deemed to be poor performers will also have an exponentially greater impact on national recycling rates and meeting government targets on this. We would however, warn against disregarding authorities performing at or above requirements and again emphasise that full net costs for all must be ensured as a baseline in the initial years of the scheme.

Q46 Should individual local authorities be guaranteed a minimum proportion of their waste management cost regardless of performance? (P101)

Yes

Please provide the reason for your response.

The DCN feels that all authorities should receive guaranteed fixed payments to cover the net costs of managing the in-scope materials during the initial five years of the scheme. This is again due to the huge scale of the reforms that will be brought in across waste services that have the potential to cause disruption and uncertainty.

The timeline for bringing in all the system changes proposed is also clearly ambitious, as Defra has acknowledged. This action then would mitigate turbulence and provide certainty for authorities' services and budgets. It would also provide certainty for producers, giving clarity on costs for which they would be liable.

Going forward local authorities should be guaranteed a minimum proportion their costs regardless of performance to avoid great differentiation between services across the country. Not doing so would penalise those authorities performing poorly which would be detrimental to their ability to improve.

Q47 Do you agree or disagree that there should be incentive adjustments or rewards to encourage local authorities to exceed their modelled recycling benchmarks? (P101)

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?

As already stated, initial focus should be on supporting all authorities to meet the requirements of the new systems and reforms. This will have a greater impact on recycling rates and be ultimately more successful in producing a waste management system that is sustainable across the country. These incentive adjustments would only serve to increase the distance between differently performing authorities. There may be scope to bring in incentive adjustments at a later stage of the scheme.

Q48 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? (P102)

Agree

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

We certainly agree that unallocated payments should be first used to help local authorities meet their benchmarks and support them during these reforms. This will be crucial in assuring success across the board. We would suggest that this should result in further unallocated payments being in short supply. However, if there are further funds, investment in innovation should be considered, though it will most likely offer smaller improvements in comparison. Nevertheless, innovations that improve the systems and makes processes work better for authorities should be encouraged.

Q49 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? (P103)

Disagree

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

DCN disagrees with the proposals on modelled costs, particularly regarding payments for packaging in the residual stream.

It should be remembered that although collection authorities will do all they can to influence behaviour change of their residents the direct impact they can have on what the public put in their residual bin is limited. There will always be individuals that place packaging in their residual bin regardless of engagement or system changes. Disposal authorities have even less influence on the composition of residual waste streams. Authorities should not be unfairly penalised for this and have their waste services impacted if it's clear that they have supported activities and efforts to engage the public on recycling and waste practice. Disposal Payments should then be based on actual composition not modelled costs.

Q50 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? (P103)

Agree

There is a general lack of clarity on how payment mechanisms will operate in two-tier areas within this consultation. However, were pleased to see it confirmed within the consistency of recycling consultation that payments will be made directly to those authorities responsible for collection and disposal. We support the notion of funding following function and will strive to ensure that this is indeed confirmed by the Scheme Administrator. We would also ask that Defra provides fuller, more consistent clarity now on payments for both recycling and residual collections going directly to collection authorities, and disposal payments going to disposal authorities in two-tier areas, and any further detail on these arrangements.

Q51 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? (P109)

Agree

This is clearly a strong rationale, but as districts are the champions of the small businesses within their areas, it is imperative for us that small businesses are not unduly affected.

Q52 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? (P111)

Agree

Q53 Which approach do you believe is most suited to deliver the outcomes being sought in paragraph 8.84? (P115)

Option 3

Option 3 would likely ensure that all businesses within districts, regardless of their size or location have the potential to have their packaging taken away for free. We would therefore suggest this is the best suited approach providing the government develops the measures mentioned to make it fair and efficient. We again would cite our members' concerns over their small businesses, many of which will have acute problems in being able to store and separate waste if required. Burdens to smaller businesses with limited space should be thoroughly considered, particularly given the challenges they have recently faced caused by the Covid-19 pandemic.

Q54 Do you disagree strongly with any of the approaches above? (P115)

No

Q55 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? (P119)

We would refer you to responses from individual districts and Waste Collection Authorities.

Q56 Do you agree or disagree with the proposal to introduce a sampling regime for packaging waste as an amendment to the MF Regulations in England, Wales and Scotland and incorporation into new or existing regulations in Northern Ireland? (P123)

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?

Q57 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? (P124)

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?

Q58 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? (P124)

Neither agree nor disagree

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

Q59 Do you think the above list of materials and packaging formats should form the basis for a manual sampling protocol? (P126)

Unsure

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

Q60 Do you think it is feasible to implement more rigorous sampling arrangements, as suggested above, within 6-12 months of the regulations being in place? (P126)

No

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

Q61 Do you think visual detection technology should be introduced from 2025 to further enhance the sampling regime? (P127)

Unsure

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

Q62 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? (P128)

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.

Q63 Do you agree or disagree that minimum output material quality standards should be set for sorted packaging materials at a material facility? (P128)

Neither agree nor disagree

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

Q64 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? (P129)

Neither agree nor disagree

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

Q65 Do you think any existing industry grades and standards could be used as minimum output material quality standards? (P129)

Unsure

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

Q66 Do you agree or disagree that local authority payments should be made quarterly, on a financial year basis? (P132)

Agree

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

Q67 Do you agree or disagree that household and business packaging waste management payments should be based on previous year's data? (P132)

Disagree

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

The DCN foresees that introducing the analysis and sampling data to make payments will be a complex and significant undertaking. Many authorities do not currently undertake waste composition analysis and therefore this is a substantial upheaval on top of other reforms. We therefore suggest that payments are fixed for the initial years of the scheme to allow for practice to be bedded in and create much needed certainty for stakeholders as already mentioned. There has also been a lack of consideration given to how the payment process will impact and interact with the timing of authorities' budget-setting process. Fixed payments will provide the certainty needed to set budgets.

Going forward, the suggestion that payments be based on the previous year's data sounds sensible, given that it would be difficult to submit and analyse data on a more accelerated schedule.

Litter Payments

Q68 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? (P137)

Agree

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.

Though we agree that Option 2 is generally the best option we have concerns over the responsibility for sampling and compositional analysis. It will need to be ensured that the costs for doing this are passed to the authorities actually carrying it out, if that is the approach to be taken, many of whom may not be currently carrying out such compositional analysis.

Q69 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? Selecting multiple options is allowed. (P140)

- a. Other duty bodies
- b. Litter authorities
- c. Statutory undertakers

Q70 Do you agree or disagree that producers should contribute to the costs of litter prevention and management activities on other land? (P140)

Agree

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

Q71 Do you agree or disagree that local authority litter payments should be linked to improved data reporting? (P141)

Disagree

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

Whilst this could be an eventual goal of the scheme we once more would cite the enormity of the changes that are being proposed in what is a short timeframe. We would again therefore call for fixed payments to also be in place for litter management during the first five years of this scheme whilst it and the data requirements are developed. This will help to mitigate the turbulence of the changes and provide some stability as the likely teething issues as to how the litter obligations under EPR interplay with the DRS.

Costs to councils in developing and providing the sampling will also need to be fully considered and covered.

Q72 Do you agree or disagree that payments should be linked to standards of local cleanliness over time? (P141)

Disagree

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

There are too many factors that determine this that our outside of authorities' control; the behaviour of the public being chief among these. We would agree that payments could be linked to evidence that satisfactory and/or innovative prevention activity, campaigns and engagement is in place. Such campaigns and engagement will be

the key to changing littering behaviour over time and subsequent cleanliness of our localities; there should therefore be a shift in funding focus to support these behaviour change campaigns.

Scheme Administration and Governance

Q73 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? (P147)

Agree

Q74 Overall which governance and administrative option do you prefer? (P147)

Option 1

Please provide the reason for your response.

This is the simpler of the two options and will provide more clarity on administration as well as reduce the likelihood of unintended consequences.

Q75 How do you think in-year cost uncertainty to producers could be managed? (P149)

Need more information to decide

Q76 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? (P150)

Yes

Q77 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? (P150)

Unsure

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

Q78 Do you agree or disagree with the timeline proposed for the appointment of the Scheme Administrator? (P153)

Disagree

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

The timeline proposed seems unfeasible given the amount of work required from the administrator in confirming systems and developing the mechanisms required within

the scheme. There is no easy solution to this given that all parties would still prefer to see the scheme commence in 2023 but measures to make processes easier and provide greater certainty, such as initial fixed payments, should be considered.

Q79 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? (P153)

No

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

This seems unlikely, though it would be helped by the fact that initial payments will be based on historic data. The timeline in general though is very ambitious in terms of the Administrator having sufficient capacity to develop the processes and payment mechanisms required. This is another reason why DCN suggests a fixed payment system to Local Authorities for the initial years following implementation.

Q80 Do you agree or disagree with the approval criteria proposed for compliance schemes? (P156)

Neither agree nor disagree

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

Q81 Should Government consider introducing a Compliance Scheme Code of Practice and/or a 'fit and proper person' test? (P156)

Both

Please provide the reason for your response.

This would provide assurance in the Scheme Administrator which will be key in the success of the scheme. It would also reduce the risk of fraud.

Q82 Do you agree or disagree with the proposed reporting requirements for Option 1? (P157)

Agree

Q83 Do you agree or disagree with the proposed reporting requirements for Option 2? (P157)

Agree

Reprocessors and Exporters

Q84 Do you agree or disagree with the proposal that all reprocessors and exporters handling packaging waste will be required to register with a regulator? (P164)

Agree

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

Q85 Do you agree or disagree that all reprocessors and exporters should report on quality and quantity, of packaging waste received? (P164)

Agree

Q86 What challenges would there be in reporting on the quality of packaging waste received at the point of reprocessing and/or export? (P164)

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

We would refer you to responses from individual districts and Waste Collection Authorities.

Q87 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? (P164)

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.

We have concerns in general on using the new raft of data to inform and support payments as stated earlier as this will create a high level of uncertainty in what is already an array of major reforms. We again suggest that fixed payments to waste authorities are considered in the initial years of the scheme to provide greater certainty and allow processes to develop.

Q88 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? (P165)

Agree

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

Q89 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? (P165)

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.

Q90 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? (P165)

Agree

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

Q91 Do you agree or disagree that regulators seek to undertake additional inspections of receiving sites, via 3rd party operators? (P165)

Agree

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.

Compliance and Enforcement

Q92 Do you agree or disagree with the proposed approach to regulating the packaging Extended Producer Responsibility system? (P169)

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.

Q93 Do you have further suggestions on what environmental regulators should include in their monitoring and inspection plans that they do not at present? (169)

Not at present.

Q94 In principle, what are your views if the regulator fees and charges were used for enforcement? (P171)

We agree in principle but we would refer you to responses from individual district-level councils for further detail.

Q95 Would you prefer to see an instant monetary penalty for a non-compliance, or another sanction as listed in 12.26, such as prosecution? (P171)

We prefer the process in 12.26 to ensure other steps are taken rather than early penalties.

Implementation Timeline

Q96 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)? (P176)

Disagree

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

There is no detail given here as to the need of the administrator to develop payment mechanisms to Local Authorities. This detail is missing within this consultation and it will be crucial that the Scheme Administrator develops an efficient and equitable payment system that works for all tiers of local government. We were pleased to see it confirmed elsewhere that the intention is for payments to go directly to the tier of government responsible for the delivery of specific services and we look forward to seeing that taken forward.

There is also much further detail needed on the additional requirements that will be placed on authorities. This will be particularly pertinent when it comes to the new requirements on analysis and producing data, the costs of which will not be close to being covered by the initial scheme payments, particularly as the bulk of these will be needed elsewhere. Given the limited time that the Scheme Administrator will have to contemplate these issues, and the likely disruption and uncertainty that moving from year one to year two when this data is required, we state again that a system of fixed payments should be considered for the initial years of the scheme.

The DCN are pleased to see that the initial Phase 1 payments will be used to support those authorities not currently meeting requirements of collection, but we suggest these funds may not be sufficient, particularly as all authorities will be receiving payments. Further detail is needed on how these funds will be allocated.

Q97 Do you think a phased approach to the implementation of packaging Extended Producer Responsibility, starting in 2023 is feasible and practical? (P176)

No

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

As it stands then the DCN would have to answer no. We believe that if the government wishes to see a scheme starting in 2023 then the ambitions and requirements of that scheme will have to be adjusted. The funding in Phase 1 will not cover the great swathe of additional activities needed and detail on new burdens is still unclear. Local authorities will need to make provisions for additional collections and services to accommodate the changes in food, garden and dry recyclable collections, as well as the costs of data analysis and reporting. As stated elsewhere it is the latter of these requirements that might be relaxed to allow for a more feasible approach. Fixed payments in the initial years of the scheme will make the timeline much more feasible, and would reduce the turbulence felt by authorities as they grow accustomed to new practices such as additional separate collections. It would also provide breathing space for the development of the data reporting processes needed

in a way that can be properly funded. Finally, it would provide much greater certainty for authorities and producers in regard to their budgets for the scheme.

Q98. 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? (P176)

Unsure

Please provide the reason for your response.

If the scheme cannot be adjusted in the way we have suggested to provide a simpler and more certain payment system that does not rely on new data requirements then we would suggest that later implementation may be preferable. All of the new systems taken together represent considerable change and financial outlay for local authorities before and during the initial phase of the scheme with only limited funding available in Phase 1. A more staggered approach may therefore be needed to account for those costs and to allow for the development of new systems if no adjustment to the scheme is to be made. The DCN would stress however that the new burdens faced by districts as the result of changes to the statutory requirements of collections would need to be funded, along with the costs of more complex services, regardless of the implementation date of EPR. It would therefore not be ideal if no payments from EPR are forthcoming in the immediate aftermath of service changes due to consistency requirements. This is why we again call for fixed payments, to provide certain immediate funding at a time of turbulence within waste services.

Q99 Of the options presented for reporting of packaging data for 2022 which do you prefer? (P179)

Option 2

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

Q100 Are there other data required to be reported by producers in order for the Scheme Administrator to determine the costs to be paid by them in 2023? (P179)

Unsure

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

Annex One

Q101 Which of the definitions listed above most accurately defines reusable packaging and could be applied to possible future reuse/refill targets or obligations in regulations. (P187)

Definition in The Packaging and Packaging Waste Directive (PPWD)

If you think none of these definitions accurately define reuse/refillable packaging please provide the reason for your response, including any suggestions of alternative definitions for us to consider.

Q102 Do you have any views on the above listed approaches, or any alternative approaches, for setting reuse and refill targets and obligations? (P189)

Please provide evidence where possible to support your views.

We would refer you to responses from individual districts and Waste Collection Authorities.

Q103 Do you agree or disagree that the Scheme Administrator should proactively fund the development and commercialisation of reuse systems? (P189)

Agree

Please provide the reason for your response.

Every effort should be made first to encourage producers to fund the development of reuse systems themselves, and hopefully this scheme will act as a partial incentive to that. However, if the Scheme Administrator has the funds available then the DCN would support this proactive funding as we embrace the ideals on minimising waste and pushing up the waste hierarchy. Therefore, any developments that encourages reuse should be welcomed. Sadly, reuse does not seem to be the primary outcome of the current Resources and Waste Strategy consultations.

Q104 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? (P189)

Agree

Please provide the reason for your response.

Incentivising the adoption of reuse and refill packaging is imperative and therefore we agree, on the proviso that authorities' costs in managing packaging waste can still be met.