

## **APPENDIX 1**

### **SUMMARY OF THE GOVERNMENT'S RESOURCES & WASTE STRATEGY CONSULTATION PAPERS**

DEFRA has published two consultation papers, Deposit Return Scheme (DRS) and Extended Producer Responsibility Scheme (EPR) on key policy proposals in the Resources and Waste Strategy (RAWS). This is the second stage of consultation in these two areas following the initial ones in May 2019. The third consultation on Consistent Collections has been delayed.

The changes proposed in both have a significant impact on the operations of Pendle Council as a Waste Collection Authority and importantly how funding will be received by Pendle Council going forward.

The below, provides a brief overview of some of the key areas in the consultations that officers feel will effect Pendle greatest; they will seek to undertake further reviews with the support of other council and industry bodies, such as LARAC, and respond to the government with Pendle Council's best interest at heart.

#### **Extended Producer Responsibility Scheme (EPR)**

##### **Introduction**

The consultation paper sets out far reaching proposals to overhaul the current "producer responsibility" arrangements. It proposes that funding to meet the costs of managing packaging wastes are transferred from central government and local taxpayers to businesses. Local authorities will be paid by producers for collecting and managing packaging that arises in household waste. The payment formula is up for debate, but what is evident is that local authorities will have to collect all recyclable packaging, including plastic film (e.g. bread liners, bags, tops of meat packaging), and the payments will be driven by how efficient a collection service is and be linked to the quality of recyclables collected. It is unclear how this will evolve in two tier authority areas. Collection services will have to meet with any minimum collection standards required in each nation. This will lead to a more consistent service provision across the country.

The EPR consultation runs for 10.5 weeks with a closing date of 4 June. This consultation is applicable to England, Northern Ireland, Scotland, and Wales. There are 104 questions in this consultation, and it has 213 pages.

Below details some of the key areas within this consultation that will affect Pendle.

##### **Modulated Fees and Labelling**

###### **Modulated Fees**

Modulated fees are the fees the producers pay into the system based on the type and how much packaging they place on the market. These fees will then be collected by the Scheme Administrator and used to pay local authorities for dealing with packaging waste.

For producers, whose packaging contributes positively to EPR scheme outcomes (e.g. easily recyclable) they would pay lower fee rates for that packaging, while fee rates

for packaging which does not contribute positively to scheme outcomes are increased (e.g. unrecyclable).

The issues around modulated fees are less directly relevant to local authorities as they apply to the producers. That said they will have an impact on the design of products and types of products we have to collect.

### Labelling

Labelling will be of more relevance to local authorities. The government states that the key objective of mandatory labelling is to provide consumers with clear information regarding what packaging they can and cannot recycle. They have considered how best to implement mandatory labelling requirements to provide clarity to consumers whilst balancing fundamental considerations such as the costs and impact to business and the potential barrier to trade by requiring importers to adhere to UK requirements. Two options are put forward in the consultation.

#### Option 1: Use of approved labels

The government would specify in regulations the criteria that labels must meet, such as the format, size, and appearance. Producers would be required to label their packaging using a label which meets these requirements. Labels would be required to be approved by Government (or the Regulator) prior to use. This would provide a means of ensuring consistency of message to consumers but provide producers with some flexibility in how they label. Producers could either choose to establish their own label or they could choose to subscribe to a labelling scheme and use the labels and services provided by that scheme.

#### Option 2: A single labelling scheme

Under this approach producers would be required to adhere to a single labelling scheme and to use the same labels. This would provide consistency in the approach to labelling. The government would appoint a single labelling scheme and considers this could be achieved by including this as part of the EPR Scheme Administrator's functions. The Scheme Administrator could choose to run the labelling scheme itself; or it could appoint an organisation to deliver this function or include an organisation to run this function as part of its team from the outset.

The government has stated a preference for option one.

A standardised system is supported by Officers, the confusion labelling causes to households is currently problematic.

### Collection of Plastic Film and Flexible Packaging

Industry and government are keen to see plastic film and flexible packaging collected as soon as possible. This is because it makes up one third of all plastic packaging placed on the market whilst currently only a small proportion is recycled. Therefore, to meet future packaging recycling targets and to reduce the impact of the upcoming plastic packaging tax, producers are keen to have it collected for recycling.

Government believes it should be feasible to introduce collections and recycling for all films and flexibles by no later than the end of financial year 2026/27. Individual local authorities and commercial waste collectors collecting from households will be

expected to introduce collections as soon as is feasible ahead of this. The consultation contains the proposal to introduce a requirement for plastic films and flexibles to be collected from businesses by no later than end of financial year 2024/25 and from households by no later than end of financial year 2026/27.

Officers believes that 2026/27 is challenging. The end markets for film in the UK are still at an immature phase although there are signs of them being developed. There is also very little sorting capability at UK MRFs. Early indications from LCC, suggests their MRF will not have capacity to segregate and that Pendle would be required to collect separated plastic film. With this brings added costs, issues with types of collection vehicles and of course method of containment. Many properties in Pendle will struggle to accommodate more containers; however, it must be noted that commingled collections do tend to produce a lower quality output with more chances of contamination which will likely affect the payments received. It will need to be investigated further and an evaluation of the balance of investment in new kerbside collection infrastructure and customer appetite for more containers versus investment in MRF technology and possibly acceptance of a reduced payment because quality of the recyclables will be lower.

### **Payments for Managing Packaging Waste**

This is the section of the consultation that deals with the payments local authorities will get under EPR – the concept of “full net cost recovery”.

The costs incurred by local authorities to manage packaging waste from households are estimated at approximately £683 million for recycling and £289m for the management of packaging in the residual stream. Local authorities which operate both efficient and effective services will have their full net costs of managing packaging waste disposed of by households met by the packaging producers.

The consultation document outlines the costs that the government believes producers should cover and they are quite broad, which is good from a local authority viewpoint, but as stated earlier unclear when two tier authority status with different involvements in the process.

The consultation document outlines that payments for packaging waste from households should:

- be based on the modelling of efficient and effective systems
- use a methodology to determine household packaging waste costs which accommodates the wide range of geographies and demographics across the UK, and supports the different policy approaches adopted within the devolved UK framework
- incentivise and support local authorities to enhance recycling performance
- support innovation, investment, and collaborative working

The government is suggesting a modelled approach to assessing local authority costs. This would be done by looking at the detailed characteristics of a local authority, such as housing number and type, cost, and performance data, and using statistically significant associations with key variables and cost drivers such as geography, rurality, and levels of deprivation.

Based on these characteristics each local authority would be placed in one of nine “family groups”. Each group would have a modelled assessment and a benchmark cost of what an “efficient and effective” waste service is for that family group. All authorities in that group will then have their payments based on this modelled benchmark cost. WRAP have been undertaking the work on the modelling and family groupings. It is not yet known which family group local authorities have been allocated.

It is likely the benchmarked costs will be shown as a cost per tonne and a local authority would then receive payments based on the tonnage of material that they collect. This material might have to also meet a suitable quality standard to qualify for the EPR payment, it appears whilst being hailed as a scheme based on full net cost recovery for LAs – this full net cost is unlikely to be realised. Officers have concerns with the modelling and family group approach.

Ultimately, it will fall to the Scheme Administrator to determine the feasibility and appropriateness of using actual cost data or modelling costs to make payments, considering local and national circumstances in delivering efficient and effective systems.

There is an important issue in this section about the income from the sale of materials. The consultation proposes an approach whereby local authorities would continue to “own” the material collected and where it sells this material to reprocessors, would receive income directly from the sale of that material. In stakeholder meetings in recent months there was a general view from local authority representatives that the producer should take ownership of the materials and have the income. It was believed they are better placed to maximise prices and better placed to take the risk of fluctuating material markets and prices.

There is no financial gain to be had either way as if the local authority keeps material income it will get a reduced EPR payment to take account of that. If the producer kept the material income, then the EPR payment to the local authority would go up to take account of this “lost” income.

Things to take account of here are if the modelled approach to payments is a suitable method for determining the level of payments to local authorities. Also, the issues around what an “effective and efficient” service is and how onerous the assessment of this may be to meet for Pendle.

#### *MRF Sampling*

These questions are related to the sampling needed to establish how much packaging is being recycled and links therefore back to payments. Changes to MRF sampling may impact on LCC or their subsequent plans/contractual arrangements at the MRF that may then impact on Pendle’s operations.

#### *Payments Basis*

The proposal is that local authorities are paid on a financial year basis, based on previous years tonnage data, quarterly in arrears. WasteDataFlow data would be

used for the purpose of assessing what the tonnage payments are based on. Payments in arrears is also problematic and without that surety year on year will impact investment.

### **Litter Payments**

It has been calculated that total litter costs for local authorities and other litter bodies per annum (in England in 2018/19, Wales and Scotland in 2017/18 and Northern Ireland in 2016/17) are in the region of £662m, with £384m attributed to littered packaging, of which £212m relates to packaging in scope of EPR. Of these costs, approximately £74m was attributed to 'bin litter' and £138m to 'ground litter'.

The government has concluded that litter should remain within the scope of the full net costs of managing packaging waste. They believe making packaging producers responsible for packaging litter costs will place a clear incentive on them to take steps to reduce the prevalence of their packaging in the litter stream, either collectively or individually.

Litter costs have broadly been split into three categories:

- prevention activity
- provision and management of receptacles for "bin litter"
- the clearance of "ground litter".

The costs paid to local authorities for packaging litter would include proportionate, proactive, and reactive clean-up services for binned and ground litter as well as funding litter prevention measures in order to achieve the overarching objective, which is to prevent litter arising in the first place.

Three options for how much producers pay into the pot for littering costs are given in the consultation, with a preferred option of establishing, through regular compositional analysis of littered waste, the commonly littered packaging items and allocate litter costs proportionally across these, based on prevalence in the litter stream.

The consultation proposed that bodies other than just local authorities should receive litter payments. Suggestions include charities, not for profit organisations and representative bodies for prevention and educational activities, litter picks and "binrastructure" on land that is accessible to the public free of charge.

There is not much detail on how the payments to local authorities would be calculated. The consultation does say that the Scheme Administrator will be required to develop a mechanism for litter payments that takes account of these and other relevant factors. However, given the Scheme Administrator will not be operational until 2023 earliest, the government will need to undertake further work, in partnership with local authorities, other litter bodies, and producers to develop an approach that could be adopted by the Scheme Administrator and further developed over time.

It is proposed that the litter payments are subject to requirements on local authorities to report through monitoring systems, including on costs and local

cleanliness. It is estimated that such reporting requirements could cost a local authority £9,000 per annum. It is assumed this cost would be included in the litter payments.

#### *Litter Payments*

Views are also sought on who, other than local authorities, should receive litter payments and if these payments should be linked to reporting and improved data on litter. The question is also asked if payments should be linked to standards of cleanliness as well. Officers assume that lower standards of cleanliness would get more funding.

#### **Scheme Administration and Governance**

The administration and governance arrangements will enable producers to meet their obligations under EPR and facilitate collection and payment of all the associated fees and payments. The EPR system for packaging will have upwards of £2.7bn being managed through the system, arrangements need to be robust and financial flows and outcomes transparent.

In the first consultation four options for governance models were given. In this consultation two options are presented.

#### Option 1: Single Management Organisation / Scheme Administrator

Under this approach a single Scheme Administrator (or management organisation) would be responsible for managing and administering the packaging EPR scheme on behalf of producers. Functions would be conferred on the Scheme Administrator via the EPR regulations, and how the Scheme Administrator would fulfil its functions and deliver agreed outcomes and targets would be set out in a contract with the governments. This would include both the 'packaging waste management cost' requirements and producer compliance with packaging waste recycling obligations.

#### Option 2: Scheme Administrator and compliance schemes

With this approach, delivery of the EPR scheme would be managed through a Scheme Administrator and compliance schemes. The Scheme Administrator would be appointed jointly by the Ministers of each administration and compliance schemes would be approved by the UK Government and the Devolved Administrations. The specifics would depend on the final design of the scheme and how responsibilities are best delivered across the organisations. However, it is proposed that the Scheme Administrator would take responsibility for those functions considered best managed on a UK-wide basis such as developing the approach to determining packaging waste management costs to be paid by producers for household packaging waste, setting modulated fee mechanisms and rates, administering payments to local authorities for household packaging waste, and providing oversight of national communications requirements and allocation of funding. The Scheme Administrator could also have responsibilities in respect of payments for packaging waste produced by businesses, depending on the approach agreed.

Officers have a preference for a single body model, as in option one here. This appeared to be most straight forward in terms of local authorities receiving their

payments and had other strategic benefits related to the packaging system as a whole.

### **Implementation Timeline**

The first consultation outlined a plan to have EPR reforms in place in 2023. With the impact of Covid-19 this is now recognised as being an ambitious aim.

There are two critical steps that must be in place to commence roll out of packaging EPR. The first is for EPR regulations to be put in place. The second critical step is to appoint the Scheme Administrator. The current timeline is to appoint the Scheme Administrator in early 2023, but these timings are subject to parliamentary approval of the Environment Bill.

The consultation outlines two phases and the actions that fall within these.

#### **Phase 1 (January 2023 – April 2024)**

The focus for the Scheme Administrator in Phase 1 would be to establish the process to raise fees from producers to enable payments to be made to local authorities for the management of household packaging waste in the autumn of 2023. This would require the introduction of new data reporting requirements to provide the Scheme Administrator with suitable data on which to make operational decisions. This would be delivered by a separate Statutory Instrument (SI) introduced in 2021. A separate SI is needed as the packaging EPR regulations would not be in force until late 2022. This SI would place new data reporting obligations on producers obligated under the EPR regulations to pay packaging waste management costs. It would require them to compile packaging data in 2022 and report this data in 2023 in order to provide the data on which to determine the sums to be recovered from producers in 2023.

This timetable means that the full costs of managing household packaging waste would be not recovered from producers in 2023 and hence local authorities would not receive full cost payments.

It is proposed that payments to local authorities in 2023 should support those who do not collect the core set of packaging materials to start collecting additional materials separately for recycling. This could include plastic film where local authorities are able to start collecting this separately for recycling from 2023. For those already collecting the core materials separately for recycling the payments would contribute to their costs of collecting these materials for recycling.

#### **Phase 2 (From April 2024)**

Phase 2 would see the introduction of the other key elements of packaging EPR. Notably, payments to local authorities for the full costs of managing household packaging waste, payments for the management of litter and payments to businesses for the cost of managing packaging waste. Modulation of the costs paid by producers would be introduced.

Officers believe the timetables need to have flexibility, dependent on factors such as markets for materials, technology to sort, contractual arrangements etc.

### **Deposit Return Scheme (DRS)**

The DRS affects England, Northern Ireland, and Wales. Scotland has already agreed a system. A DRS would see a deposit added to the price of drinks considered “in-scope drinks containers” at the point of purchase, which would be redeemed when consumers return their empty drinks containers.

The consultation runs for ten and a half weeks with a closing date of 4 June. There are 78 questions in this consultation, and it has 98 pages.

### **Scope of the DRS**

The government considers that the scope of a DRS should be determined based on material rather than product, and propose the scheme captures PET plastic bottles, glass bottles, and steel and aluminium cans.

That said the consultation does ask for views regarding the exclusion of glass from a DRS, meaning it would then still be collected by local authorities at the kerbside, bring banks and HWRCs.

High density polyethylene bottles will not be included in a DRS. These are the bottles that are mainly used for shop/supermarket milk. At this stage it is also proposed to exclude beverage cartons (Tetra Pak type containers).

With regards to the size of containers included in a scheme, the Welsh Government’s preferred option for Wales is an all-in scheme (capturing drinks containers up to 3L in size). The UK Government for England and Department of Agriculture Environment and Rural Affairs in Northern Ireland have remained open on scope with regards to introducing a DRS in England and Northern Ireland and would like to use this consultation to gain further views on whether the DRS should be an all-in scheme (including drinks containers up to 3L in size) or an on-the-go (drinks containers under 750ml in size and excluding those containers sold in multipacks) scheme.

In the previous consultation in 2019, Pendle Council responded with a stance that a DRS should be deferred pending implementation of the consistency and EPR policy reforms. This would enable the results of these reforms to be determined and allow for further research considering the impacts of a DRS on local authority collections.

If a DRS was to be introduced, then Pendle’s preferred option was for an “on the go” system. It was felt this better addressed the aspects of littering that were originally claimed to be the driver behind a DRS and because an “on the go” system had less duplication of collection with the existing local authority kerbside schemes than an “all in” system. This meant it was better for consumers and a more cost-effective solution for the UK as a whole.

The Government are considering further feedback on the “All In” or “On the Go”. In theory any income an authority loses if a DRS came in (because there is less material in its kerbside schemes as it would be going through the DRS instead) would be compensated for under the EPR payments system.

## **Scheme Governance**

The governments will appoint an organisation to oversee the DRS in England, Northern Ireland, and Wales. It is referred to as the Deposit Material Organisation (DMO) and is the equivalent of the Scheme Administrator in the EPR system.

The DMO will have a variety of responsibilities such as meeting the targets set on the producers, collecting fees from the producers, setting up the collection system and arranging the payments to local authorities for the DRS material that still ends up in the household collections systems.

The consultation states that the leadership of the DMO would need to be representative of and trusted by drinks producers and by retailers, as well as by consumers. The DMO would be an industry-led organisation and is likely to be made up of several individual companies or trade associations which represent some/all the following industries: drinks producers, retailers, importers, and logistics. There is no mention of what level of local government involvement, if any, might be appropriate. It is recognised there are other stakeholder groups impacted by the deposit return scheme, and bidders may need to also demonstrate their support and/or representation in the Deposit Management Organisation

The DMO would be appointed through a tender process.

## **Return Points**

Large parts of this section are focused on producers and retailers as it covers who should have to operate return points for DRS containers. This could impact Pendle greater in rural areas where there are fewer supermarkets and retail outlets of a size to accommodate take back; the council may be forced to step in.

It also identifies opportunities for utilising new technology for a DRS and provides further detail on how this might support the return point's provisions using smart phone applications allowing the electronic redemption of a deposit. This could mean that residents could continue to use their kerbside collection systems and reclaim their deposit and so cut out the need to take containers back to the shops with them. Trials on this technology are being undertaken in Wales and Northern Ireland now. This is obviously of great interest to local authorities.

It appears, a system based on using digital technology and utilising kerbside collection systems is not seen as an alternative to a collections system using Reverse Vending Machines (RVMs), rather complementary to them. This is in part because the digital technology is still at the early stages of development and trialling. However, deferring a DRS could allow the technology to be fully developed and then a DRS could be implemented without the need for RVMs.

The UK is one of the few countries to introduce a DRS on top of an already mature kerbside collections system. Most other countries had the DRS in place first, which is one reason evidence and examples from other countries are not that easy to carry across to the UK.

If a DRS were based on collections taking place through the existing local authority collection system instead of RVMs then an “All In” system might make more sense.

### **Local Authorities and Local Councils**

Producers will either be obligated through the DRS or EPR systems and so only pay into one system, DRS is just a collection system so still a form of EPR. This means producers of bottles that come under the DRS are still under the principle of paying the full costs of dealing with that container, wherever it ends up.

Under an All-In DRS, which includes containers of all sizes, it is inevitable that some DRS containers will continue to travel through local authority waste streams (household recycling, residual waste, and litter). The government wants to ensure that local authorities are not financially disadvantaged by the appearance of DRS containers in these waste streams.

The consultation offers three options for financially reimbursing local authorities for any DRS items they must deal with, in recycling, residual or litter.

- A “do nothing” approach and allowing local authorities to redeem the deposits of DRS containers collected in their waste streams.
- Allow the DMO to make payments to local authorities for these materials via the EPR Scheme Administrator. The funding formula developed for these payments under EPR would include the costs of deposit return scheme containers.
- A hybrid option, whereby the DMO pays a deposit value on containers that are returned and any additional scheme material in local authority waste streams is covered by a funding formula in Option 2.

There is a stated preference for option two in the consultation. This is very important aspect of the DRS consultation for local authorities as it will determine what payments a local authority gets and how much work is involved to get them.

Options two and three appear to be best suited to how most local authorities would deal with kerbside collected material. Option three gives the flexibility to allow for an authority that did want to undertake the work needed to separate out DRS containers and claim the deposits back.

### **Third consultation: Consistent Collections**

The second stage of this consultation has been delayed and does provide a slight hindrance to officers to be fully informed on Government’s intentions across the whole waste and resource strategy. There is a strong suggestion from DEFRA and industry groups that there will be a requirement for LAs to introduce separate weekly food waste collections; possibly by 2023. In addition the other key areas suggested to be considered with this consultation that will have significant impact on Pendle are:

- Frequency of collections
- Materials to be collected
- Type of containers
- Provision of a FREE garden Waste collection service

An update will be provided when released.

