



Department
for Environment
Food & Rural Affairs

Consultation on improved reporting of food waste by large food businesses in England

Date: June 2022

We are the Department for Environment, Food and Rural Affairs. We're responsible for improving and protecting the environment, growing the green economy, sustaining thriving rural communities and supporting our world-class food, farming and fishing industries.

We work closely with our 33 agencies and arm's length bodies on our ambition to make our air purer, our water cleaner, our land greener and our food more sustainable. Our mission is to restore and enhance the environment for the next generation, and to leave the environment in a better state than we found it.



© Crown copyright 2022

This information is licensed under the Open Government Licence v3.0. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at

The Food Waste Prevention Team

Department for Environment, Food & Rural Affairs

Horizon House

Deanery Road

Bristol

BS1 5AH

www.gov.uk/defra

Contents

Introduction	5
Purpose of this consultation	5
Scope of this consultation.....	5
Geographical extent	5
Responsible body	6
Audience	6
Duration.....	6
Responding to the consultation	6
About you	7
Background.....	9
The case for action	10
Definitions	11
The UK Food Waste Reduction Roadmap.....	12
Scope.....	14
Geographical scope.....	14
Size of business	14
Types of business.....	17
Material.....	22
Proposals for Reporting Process	25
Environmental Permitting (England and Wales) Regulations 2016	25
Measurement method.....	26
Measurement period.....	26
Reporting period	26
Reporting method	27
Transparent reporting	27

Quality assurance checks.....	27
Related consultations	29
Timeline for introduction under Option 2.....	30
Analysis on the impact of the reporting requirements	30
Compliance.....	34
Costs to the public sector	34
Operational costs.....	34
Enforcement action.....	35
After the consultation	37
Compliance with the consultation principles	37
Annex A: Reporting Template.....	38
Annex B: Summary of costs identified in the impact assessment	40

Introduction

The government wants to leave the environment in a better condition for the next generation. The 25 Year Environment Plan¹, the Clean Growth Strategy² and the Resources and Waste Strategy for England³ (RWS) outlined the steps that will be taken in to achieve that goal. Chapter 5 of the RWS outlines the UK government's approach to food waste in England and in it we pledged to consult on annual reporting of food surplus and waste by food businesses. Sustainability is a key element of the Government Food Strategy White Paper which is a once in a generation opportunity to create a food system that feeds our nation today and protects it for tomorrow. This consultation forms a part of that ambition.

By progressing with aims to tackle food waste in England, we will be working towards building a cleaner, greener and more resilient economy, which not only protects our environment, but leaves it in a better state than we found it.

Purpose of this consultation

The government is seeking views by 5th September 2022 on different options being considered to improve food waste reporting by food businesses in England.

Scope of this consultation

This consultation seeks views and evidence on:

- Type of business in scope
- Material in scope
- Reporting process
- Compliance and enforcement

Geographical extent

Waste is a devolved matter. This consultation is being undertaken by the UK Government in England. This document and descriptions of existing law therefore relate to England.

Unless otherwise stated, references to 'government' are references to the UK Government.

¹ <https://www.gov.uk/government/publications/25-year-environment-plan>

² <https://www.gov.uk/government/publications/clean-growth-strategy>

³ <https://www.gov.uk/government/publications/resources-and-waste-strategy-for-england>

Responsible body

This consultation is being carried out by Defra's Food Waste Prevention Team in the Resources and Waste Division.

Audience

This is a public consultation and it is open to anyone with an interest to provide comments. The consultation should be of particular interest to businesses involved in the production, manufacture, processing, sale or distribution of food and non-governmental organisations (NGOs) concerned about the cost of food waste to their business, inefficiencies in the food industry, or the impact of food waste on the environment.

Duration

The consultation will run for 12 weeks. This in line with the Cabinet Office's 'Consultation Principles' which advises government departments to adopt proportionate consultation procedures. This consultation opens on 13/06/2022 and closes on 05/09/2022.

Responding to the consultation

Not all questions in this consultation are mandatory and some questions in this consultation are specifically for businesses and organisations. If you do not want to answer questions, you do not need to. Please respond to this consultation using the Citizen Space consultation hub at: <https://consult.defra.gov.uk/environmental-quality/improved-reporting-of-food-waste>

If responding on Citizen Space is not possible, please use one of the options below:

By email to: foodwaste@defra.gov.uk

Or in writing to: Consultation on improved reporting of food waste by food businesses in England, Food Waste Prevention Team, Horizon House, Deanery Road, Bristol BS1 5AH

About you

A wide range of businesses, organisations and individuals are involved with or take an interest in food waste. The questions below are intended to grasp this diversity and put your responses in perspective with those of other respondents.

Q1. Would you like your response to be confidential?

Yes

No

If you answered 'Yes' above, please give your reason:

Confidentiality and data protection information

A summary of responses to this consultation will be published on the government website at: www.gov.uk/defra. An annex to the consultation summary will list all organisations that responded but will not include personal names, addresses or other contact details.

Defra may publish the content of your response to this consultation to make it available to the public without your personal name and private contact details (e.g. home address, email address, etc).

If you click on 'Yes' in response to the question asking if you would like anything in your response to be kept confidential, you are asked to state clearly what information you would like to be kept as confidential and explain your reasons for confidentiality. The reason for this is that information in responses to this consultation may be subject to release to the public or other parties in accordance with the access to information law (these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances. In view of this, your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance these obligations for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response, but we cannot guarantee that confidentiality can be maintained in all circumstances.

If you click on 'No' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of your response to the public, but we won't make your personal name and private contact details publicly available.

There may be occasions when Defra will share the information you provide in response to the consultation, including any personal data with external analysts. This is for the purposes of consultation response analysis and provision of a report of the summary of responses only.

This consultation is being conducted in line with the Cabinet Office "Consultation Principles" and be found at: <https://www.gov.uk/government/publications/consultation-principles-guidance>.

If you have any comments or complaints about the consultation process, please address them to:

Consultation Coordinator, Defra
2nd Floor, Foss House, Kings Pool,
1-2 Peasholme Green, York, YO1 7PX

Or email: consultation.coordinator@defra.gov.uk

Q2. What is your name?

Q3. What is your email address?

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

Q4. Which best describes you? (Please tick only one option. If multiple categories apply to you, please choose the one which best describes you and which you are representing in your response.) (Required)

- Primary producer (e.g. involved in farming, fishing)
- Food manufacturer/producer
- Distributor
- Retailer
- Wholesaler
- Hospitality or food service provider
- Animal feed producer
- Charitable food redistribution organisation
- Commercial food redistribution organisation
- Independent food haulier
- Food delivery business
- Trade body
- Local government
- Community Group
- Internet-based company
- Non-governmental organisation
- Charity or social enterprise
- Consultancy
- Academic or research
- Individual
- Other
- If you answered 'Other' above, please provide details:

Please only answer questions 5 and 6 if you are responding on behalf of an organisation or business.

Q5. Please provide the name of the organisation/business you represent.

Q6. Where does your organisation/business currently operate?

- England only.
- UK-wide
- Other. Please state:

Background

Food waste is a financial and environmental burden. Unnecessary food waste is inefficient, pushing up the price of food for consumers and businesses, whilst undermining our national self-sufficiency. Reducing food waste can help food businesses cut costs, which can be passed onto customers, and identify food that could be redistributed to the most vulnerable. Evidence suggests that a £1 investment by businesses in action to reduce food waste yields a £14 return.⁴ Under the current voluntary approach to food waste reporting, businesses measuring and reporting data year-on-year collectively saved 251,000 tonnes of food from going to waste, worth £365 million.⁵

Furthermore, food waste damages the earth's ecosystems; globally, one third of edible food produced for human consumption is lost or wasted.⁶ A fifth of territorial UK greenhouse gas emissions are associated with food and drink, mostly created during production (agriculture and manufacturing). These are needless emissions if the food and drink are subsequently wasted. The environmental impact of UK food waste is estimated at more than 25 million tonnes of CO₂ equivalent emissions every year.⁷

Food surplus and waste can arise in businesses for a number of reasons for example, food that is incorrectly labelled, over-ordered, over-supplied or obsolete seasonal stock. The UK currently produces 9.5 million tonnes of food waste every year post-farm gate, valued at £19 billion, over 2.9 million tonnes of which comes from businesses.⁸

6.6 million tonnes of UK food waste occurs in households, 4.5 million tonnes of which could have been eaten.⁹ The government is taking a range of action to reduce household food waste including support for an annual Food Waste Action Week and consumer campaigns delivered by the Waste and Resources Action Programme (WRAP) including

⁴ <https://champions123.org/publication/business-case-reducing-food-loss-and-waste>

⁵ <https://wrap.org.uk/resources/report/food-waste-reduction-roadmap-progress-report-2021>

⁶ <http://www.fao.org/3/mb060e/mb060e00.htm>

⁷ <https://wrap.org.uk/resources/report/uk-progress-against-courtald-2025-targets-and-un-sustainable-development-goal-123>

⁸ <https://wrap.org.uk/resources/report/food-surplus-and-waste-uk-key-facts>

⁹ <https://wrap.org.uk/resources/report/food-surplus-and-waste-uk-key-facts>

*Wasting Food; It's Out of Date*¹⁰ and *Love Food Hate Waste*¹¹. In addition, we support innovations which lead to consumer behaviour change such as packaging modification and labelling. These measures all seek to help citizens buy what they need and use what they buy.

The case for action

The government has long recognised the need to tackle food waste in the supply chain to help businesses be more resilient, efficient, cut costs and protect the environment. The UK is committed to UN Sustainable Development Goal Target 12.3 (SDG 12.3). SDG 12.3 is an ambitious target to halve, by 2030, per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses.

Defra has sought to address this issue through a range of measures including support for the Courtauld Commitment 2030 (C2030), a voluntary agreement with industry which fosters collaboration to pioneer sustainable change across the UK food and drink supply chain, and financial support through a £15m Food Waste Prevention Fund.¹²

Estimates of UK food waste reductions between 2015 and 2018 suggest that supply chain food waste declined by just over 2.4% during this three-year period, demonstrating limited progress and associated financial savings to business.¹³ There is no room for complacency; in order to support businesses to become more efficient and to achieve the SDG 12.3 target, at least another 1.8 million tonnes of food waste will need to be prevented annually by 2030 compared to 2018.¹⁴

We need to do more to ensure that more food businesses are engaged and taking action to reduce food waste in order to maintain progress and realise the associated benefits. All large food businesses are not measuring and reporting food waste already due to barriers including a lack of awareness around food waste, a lack of incentive and a lack of confidence in their capabilities to measure food waste robustly.

The RWS and draft Waste Prevention Programme (WPP)¹⁵ include sections on food waste, in which we propose that businesses be required to report food waste data annually.

¹⁰ <https://outofdate.org.uk/>

¹¹ <https://www.lovefoodhatewaste.com/>

¹² <https://www.gov.uk/government/news/action-to-reduce-food-waste-announced> and <https://wrap.org.uk/what-we-do/our-services/grants-and-investments/resource-action-fund>

¹³ <https://wrap.org.uk/resources/report/uk-progress-against-courtauld-2025-targets-and-un-sustainable-development-goal-123#download-file>

¹⁴ <https://wrap.org.uk/resources/report/food-surplus-and-waste-uk-key-facts>

¹⁵ <https://consult.defra.gov.uk/waste-and-recycling/waste-prevention-programme-for-england-2021/>

Options

In preparing this consultation document and the associated impact assessment, we have considered a range of policy options including:

- a) Do-nothing option – this would mean maintaining current measures;
- b) Option 1 – enhance current voluntary agreements by extending the Field Force, which is a team of sector specialists, to accelerate the take-up of voluntary measurement and reporting of food waste by businesses;
- c) Option 2 - require food waste measurement and reporting for large food businesses.

The impact assessment¹⁶ (IA) published alongside this consultation sets out the rationale, costs and benefits of each policy option.

We are taking a collaborative approach with the food industry to determine the best ways to improve food waste reporting and reduce the cost of waste, whilst recognising the need to minimise burdens on business.

Q7. Do you have a preferred option? (Please see IA for more information in relation to the options)

- Do nothing
- Option 1
- Option 2
- Not sure/don't have an opinion

Q8. How do you think the proposals under Option 1 (enhance current voluntary approach) could be improved? Further information on Option 1 can be found in the impact assessment published alongside this consultation¹⁷ and at this website [Introduction to the Food Waste Reduction Roadmap and how to get involved | WRAP](#) (200 words max)

Definitions

We propose that 'waste' be defined as any substance or object which the holder discards or intends or is required to discard. This definition is used in section 75(2) of the Environmental Protection Act 1990, as well as various other waste related legislation.

Food waste is defined in the Waste (England and Wales) Regulations 2011.¹⁸ The definition of 'food waste' in those regulations is all food that has become waste.

¹⁶ [Impact Assessment Improved Food Waste Reporting 2022.pdf \(defra.gov.uk\)](#)

¹⁷ [Impact Assessment Improved Food Waste Reporting 2022.pdf \(defra.gov.uk\)](#)

¹⁸ By virtue of regulation 3(2) of those regulations, see <https://www.legislation.gov.uk/uksi/2011/988/regulation/3/made>

'Food' is defined in legislation¹⁹ as any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans and includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. For the purpose of these regulations, 'food' also includes associated inedible parts which are components of food but not intended for consumption such as shells, bones, pits or stones.

Food surplus is considered to be food which cannot be used or is no longer required for its original purpose which is prevented from becoming waste. Whilst there is a legal definition for waste, there is no legal definition for food surplus, but it is often considered to be associated with the following destinations:

- Redistribution for human consumption
- Animal feed²⁰
- Bio-based materials/biochemical processing (e.g. feedstock for other industrial products)²¹

The UK Food Waste Reduction Roadmap

Improved reporting would be based on the current voluntary approach. To support delivery of C2030, WRAP and Institute of Grocery Distribution (IGD), supported by Defra, launched [the Food Waste Reduction Roadmap²² \(FWRR\)](#) in September 2018. This is a voluntary initiative to enable businesses to self-regulate by measuring and reporting food surplus and waste either publicly, or to WRAP in confidence. WRAP announced in September 2021 that 267 food businesses across the UK had committed to the FWRR and that 207 of these had provided evidence to WRAP of implementing measurement of their food waste.²³

The measurement approach in the FWRR was widely consulted upon during its development through working groups with industry and input from trade bodies and is consistent with internationally agreed best practice. The FWRR toolkit includes sector

¹⁹ Regulation (EC) Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, as amended by S.I. 2019/641. See Article 2.

²⁰ Diverting food and/or inedible parts, directly or after processing, to animals

²¹ This refers to destinations in which food and/or inedible parts are 'valorised' by conversion into industrial products.

²² <http://www.wrap.org.uk/food-waste-reduction-roadmap>

²³ <https://wrap.org.uk/resources/report/food-waste-reduction-roadmap-progress-report-2021>

specific guidance on measuring and reporting food waste, a data capture sheet²⁴ and reporting template.

We propose to use a reporting template similar to the one used in the FWRR (see Annex A for an amended version). Large businesses would be required to complete the template, including the section on quantification methods and uncertainty to provide insight into how the data has been acquired. Use of existing international best practice would ensure, for those businesses already reporting, there is not an added burden.

Q9. Do you think reporting should be based on the FWRR including use of a reporting template (similar to the one at Annex A)?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q10. Please briefly state your reasons for your response. Where available, please share evidence to support your view. (200 words max)

Please only answer question 11 if you are responding on behalf of a business.

Q11. Does your business currently measure its food surplus and waste?

- Yes
- No
- Only food surplus
- Only food waste
- Not sure

Please only answer questions 12 to 14 if your business currently uses the FWRR.

Q12. Did your business require direct support to implement the guidelines in the FWRR?

- Yes, from WRAP
- Yes, from another organisation. Please state which organisation:
- No

Q13. How long did it take your business to establish a baseline for food waste measurement?

- Less than 1 year
- Between 1 and 2 years
- Between 2 and 3 years
- More than 3 years

²⁴ <https://wrap.org.uk/resources/tool/food-loss-and-waste-data-capture-sheet>

Q14. How does your business report and/or publish food waste data? (Select one or more options)

- Report to WRAP
- Report to a different body
- Publicly publish data
- None of the above

Scope

Geographical scope

Waste is a devolved matter and the regulations proposed in this consultation are for England only. We are considering whether large businesses should report food waste which occurs in their own operations in England. Own operations mean where there is total control of a process and/or ownership of the material.

Defra will continue to encourage UK wide businesses to report their UK food waste data voluntarily under current measures such as the FWRR. We work closely with the Devolved Administrations and will seek to engage with them as this policy develops to assess potential impacts on the UK internal market and ensure that any proposals for similar regulations in Scotland, Wales or Northern Ireland are joined up with regulations in England and have minimal impacts on industry.

Size of business

Large businesses

The proposal outlined in Option 2 would be to require reporting of food waste for all food businesses that are considered to be large under the Companies Act 2006²⁵ that operate in England. The focus is on large businesses as we believe they have the capacity and resources to measure and report on their food waste. Reporting by large-sized businesses would result in approximately 67% of food waste produced by businesses in the supply chain being reported and accounted for.

We would intend under Option 2 to define 'large' companies as those that exceed the criteria for medium companies under the Companies Act 2006²⁶ i.e. where a company exceeds two or more of the following criteria within a financial year:

²⁵ <https://www.legislation.gov.uk/ukpga/2006/46/contents>

²⁶ <https://www.legislation.gov.uk/ukpga/2006/46/section/465>

- Annual turnover of £36m
- Annual balance sheet total of £18m
- 250 employees

We would intend under Option 2 for the criteria to apply to individual UK companies and limited liability partnerships operating in England, and also to parent companies which are considered large where their group cumulatively exceeds the above criteria. Companies will already know if they are 'large' under the Companies Act and will likely be familiar with other forms of environmental reporting.

Cooperatives that operate with the object of making profits mainly for the payment of interest, dividends or bonuses and which meet the criteria for large company and food business would also be required to report under Option 2.

Q15. Based on the criteria above, does your organisation or business qualify as a large-sized business? (If you are responding as an individual, please select not applicable)

- Yes
- No
- Not applicable

Q16. If you answered yes to question 15, how many premises does your business operate in England?

Q17. If you do not agree with the definition of large businesses or the thresholds indicated under Option 2, please provide an alternative definition explaining why that is preferable. If possible, please also provide evidence of the source of the definition and number of food businesses that would be captured under the alternative definition. (200 words max)

Medium-sized business

Medium-sized businesses are defined by Companies Act 2006²⁷ as those which meet two of the following in a financial year:

- Annual turnover between £10.2 million and £35.9 million

²⁷ <https://www.legislation.gov.uk/ukpga/2006/46/section/465>

- Annual balance sheet total between £5.1 million and £17.9 million
- Between 50 and 249 employees

In June 2018 the government announced its Business Impact Target (BIT). BIT requires the government to review whether MSBs should be exempt from requirements of new regulatory measures. In many cases it may be possible to achieve the majority of intended benefits even if MSBs are exempted. We have considered this in the context of food waste and believe a significant proportion of food waste can be reported by targeting large food businesses only.

Advice from WRAP states any food waste reporting regulations are less suited to MSBs for the following reasons:

1. MSBs have a smaller workforce and are therefore much less likely to have resource dedicated to waste and sustainability issues.
2. Margins are tight for most food businesses and for MSBs businesses having to take time away from the core business activities to acquire the necessary knowledge, gather data and report would be a commercial risk.
3. Very few MSBs will have access to existing data that could be used to help complete food waste reporting, whereas larger ones are likely to have systems in place for monitoring waste in general, and operational efficiencies.
4. Not all MSBs will be members of organisations that could inform and support them in reporting, such as trade bodies.

There are a number of ways in which medium-sized food businesses are currently being engaged and supported by WRAP and Defra.²⁸

Q18. Based on the criteria above, does your organisation or business qualify as a medium-sized business? (If you are responding as an individual, please select not applicable)

- Yes
- No
- Not applicable

Q19. If you answered yes to question 18, how many premises does your business operate in England?

²⁸ While WRAP's FWRR is primarily targeted at large businesses the tools, general and sector specific guidance can be adopted by medium-sized businesses to prevent and reduce food waste. Other free resources such as Your Business is Food (<https://wrap.org.uk/resources/case-study/your-business-food-how-much-are-you-throwing-away>) and Guardians of Grub (<https://www.guardiansofgrub.com/>) are targeted towards smaller businesses in the food manufacture and hospitality and food service sectors respectively. Each provides a toolkit that helps food businesses to reduce food waste. FWRR signatories and WRAP provide direction, leadership and support for MSBs, including suppliers to larger businesses and smaller hospitality and food service (HaFS) businesses.

Q20. Do you agree that medium-sized businesses should be outside the scope for any regulations?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q21. Please briefly state your reasons for your response. Where available, please share evidence to support your view. (200 words max)

Micro and small-sized businesses

Micro and small sized businesses, as defined by Companies Act 2006²⁹, have not been included in our policy options for these regulations because we deem the costs associated with the measurement and reporting of food waste to be greater than the value of having these businesses report data for any regulations.

Small-sized businesses are defined in Companies Act 2006 as those which satisfy two or more of the following:

- Annual turnover between £632,000 and £10.1 million
- Annual balance sheet between £316,000 and £5 million
- Between 10 and 50 employees

Micro-sized businesses are defined in Companies Act 2006 as those which satisfy two or more of the following:

- Annual turnover of less than £632,000
- Annual balance sheet total of less than £316,000
- Less than 10 employees

Types of business

Weight threshold

A criterion we have considered for determining which food businesses would be required to measure and report is one based on the weight of food waste produced. Using a weight threshold would enable policy interventions aimed at only those businesses that produce

²⁹ Micro-sized businesses - <http://www.legislation.gov.uk/ukpga/2006/46/section/384A> and small-sized businesses - <http://www.legislation.gov.uk/ukpga/2006/46/section/382>

the most food waste. However, we have considered that setting a weight threshold would not be viable for the regulations envisaged by this consultation as many food businesses do not currently measure their food waste and we could not therefore accurately ascertain which businesses should or should not be reporting.

Businesses in scope

We would expect, subject to consultation, the following types of businesses would be required to measure and report food waste under Option 2, where they also meet the criteria for a large business:

- Food packing business
- Food manufacturers
- Food wholesalers
- Food retailers
- Caterers
- Hospitality and food service (restaurants, pubs, quick service restaurants, takeaways)
- Internet-based organisations that manage, distribute or produce food (for example, an internet-based organisation who manages food in a warehouse or arranges the distribution of food)
- Commercial food redistribution organisations

For the purpose of any proposed regulations, processes that are part of a business's own operations would be included in scope and should measure and report food waste which occurs in England. Own operations mean where there is total control of a process and/or ownership of the material.

Q22. Do you agree with the list of businesses which would be required to report under Option 2?

Yes

No. Please provide further detail of what changes you would make and why. (200 words max)

Not-for-profit Organisations, including not-for-profit Co-operatives and Community Benefit Societies

We recognise that many non-profit organisations, such as food redistribution charities, will not have the capacity or resources to undertake measurement and reporting and therefore, subject to the outcome of this consultation, propose to exclude them from the requirements outlined in Option 2.

We propose that co-operative societies registered under the Co-Operative and Community Benefit Societies Act 2014³⁰ would also not be required to report their food waste as this would create an undue burden on a not-for-profit organisation. Community benefit societies can only conduct business for the benefit of the community.

However, Defra will continue to encourage these organisations to report their food waste voluntarily.

Q23. Do you think not-for-profit organisations, co-operatives and community benefit societies registered under the Co-Operative and Community Benefit Societies Act 2014 should be required to report their food waste?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Franchises and store groups

To ensure food businesses are publishing robust data and to get an accurate picture of food waste in England, our preference under Option 2 would be for businesses which operate a franchise model to measure and report food waste from both their directly managed sites and franchised sites.

We propose that the head office for a brand would be obligated to quantify and report food waste volumes which are representative of the franchise as a whole to the regulator. This would include gathering data from their directly managed sites and from their franchisees which are themselves in scope (for both size and type of business). This would mean that in scope franchisees would need to report data for their operations into the brand or symbol group head office. The head office would then be required to aggregate and scale up the data submitted by in scope franchisees to form one data submission. That data submission would represent the volume of food waste across the franchise (and all of its branches) as a whole.

Franchisees who do not qualify for both size and type of business would not be in scope and, as such, would not need to report food waste data for their operations into the brand or symbol group head office under Option 2 (but could choose to do so voluntarily).

³⁰Section 2(3) of the Act states that a co-operative society does not include a society that carries on, or intends to carry on, business with the object of making profits (<http://www.legislation.gov.uk/ukpga/2014/14/section/2>).

Q24. Do you think that businesses in scope which operate with a franchise model should be required to measure and report food waste in this manner?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q25. Please briefly state your reasons for your response. Where available, please share evidence to support your view. (200 words max)

Contract packing and catering

As detailed previously, we propose under Option 2 that food businesses would report food waste which occurs in their own operations in England. Where there may be joint ownership of part or all of the operations, businesses would agree how the food waste should be reported, and by whom, in accordance with the relevant legislation and guidance, seeking information from the other party as necessary to fulfil any reporting obligations.

Packing

It is proposed that this would include where a business' own operations may be packing for a customer or another business.

Where one business in this situation is in scope for size, that business would be responsible for quantifying and reporting the surplus and waste. Where both businesses are in scope for size, the brand/product owner of the food would be responsible for reporting the surplus and waste which occurs during contract packing. This would involve liaising with the packer to quantify the volume of food waste. In this scenario, the packing business would not report food waste that would be reported by the brand/product owner to avoid double counting.

Catering

Contract catering businesses may not have control over the collection or management of the food waste which occurs on sites where the food is prepared and consumed i.e. hospitals or office buildings. Under Option 2, we would propose that caterers in scope would be responsible for measuring and reporting food waste in their operations, regardless of their control of waste management. Caterers in scope would capture and report the food waste generated on site within the catering outlet. Depending on the quantification methods used, this could involve liaising with those responsible for waste management in order to inform quantification of waste.

Q26. Do you agree that food contract packers and caterers should report food waste in their own operations as described?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q27. Please briefly state your reasons for your response. Where available, please share evidence to support your view. (200 words max)

Food haulage businesses

In line with the FWRR, it is proposed that third party transport, distribution and haulage companies would not be required to report food waste under any regulations under Option 2. It is our understanding that these businesses transport food which is owned by their customer (e.g. a retailer) and so any waste which occurs in transportation should be reported by that customer instead as part of their operations. WRAP have estimated that only circa 5,000 tonnes of food waste might arise in distribution which is a relatively small amount.³¹ We would like your views, and any evidence to support these, on whether these food haulage businesses should be in scope of any regulations.

Q28. Do you think that transport, distribution and haulage businesses should be required to report food waste which occurs in transit?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q29. Please briefly state your reasons for your response. Where available, please share evidence to support your view. (200 words max)

Food delivery businesses

We are seeking your views on whether large third-party food delivery businesses or aggregators which provide delivery services from shops and hospitality venues to consumers should report food waste which occurs in transit under Option 2.

³¹ <https://www.wrap.org.uk/content/quantification-food-surplus-waste-and-related-materials-supply-chain>

It is our understanding that there are complexities surrounding the matter of “own operations” with these types of businesses with some providing fiscal responsibility for the food in transit and others only acting as an agent, putting restaurants and drivers in contact. We propose that these types of businesses would be best approached through voluntary measures, which some are already engaged with, but we would like to seek your views on this.

Q30. Do you think that third party delivery businesses should be required to report food waste which occurs in their operations?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q31. Please briefly state your reasons for your response to Q30. Where available, please share evidence to support your view. (200 words max)

Material

Subject to the outcome of this consultation, we would want large food businesses under Option 2 to report on the food surplus and waste they have produced. We propose that businesses would have to report that their food waste or surplus has been sent to one of the following destinations / processes:

- Redistribution for human consumption
- Animal feed
- Bio-based materials/biochemical processing (e.g. feedstock for other industrial products)
- Anaerobic digestion/codigestion³²
- Composting/aerobic processes³³
- Incineration/controlled combustion³⁴

³² Breaking down material via bacteria in the absence of oxygen. This process generates biogas and nutrient-rich matter that can be used as fertiliser. Codigestion refers to the simultaneous anaerobic digestion of food waste and other organic material in one digester. This destination includes fermentation (converting carbohydrates – such as glucose, fructose, and sucrose – via microbes into alcohols in the absence of oxygen to create products such as biogas). All food materials sent to anaerobic digestion/codigestion should be quantified and recorded.

³³ Breaking down material via bacteria in oxygen-rich environments. Composting refers to the production of organic material (via aerobic processes) that can be used as a soil amendment.

³⁴ Sending material to a facility that is specifically designed for combustion in a controlled manner, which may include some form of energy recovery.

- Land application³⁵
- Landfill³⁶
- Sewer/wastewater treatment³⁷
- Refuse/discards/litter (including dumping and unmanaged disposal)³⁸
- Other.³⁹

Q32. Do you agree with the list of destinations / processes above?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Redistributed food

Having regard to the definition of waste, food that is redistributed to people (e.g. through a charity or commercial redistributor) should not be regarded as waste.

The measurement and reporting of this food, alongside food that has been discarded, may encourage businesses to:

- Increase food being redistributed from businesses to charities and others, with potential benefits in supporting more vulnerable people.
- reduce food surplus arisings (which would reduce the consumption of resources used when making the food)

Whilst redistribution has been increasing significantly in recent years, research carried out by WRAP demonstrates that there is still the potential to redistribute an additional 165,000 tonnes of food surplus annually which is currently going to animal feed or waste disposal.⁴⁰

Measuring and reporting surplus food that is redistributed to humans therefore would provide an incentive for businesses to move food up the food and drink waste hierarchy.

³⁵ Spreading, spraying, injecting, or incorporating organic material onto or below the surface of the land to enhance soil quality

³⁶ Sending material to an area of land or an excavated site that is specifically designed and built to receive wastes.

³⁷ Sending material down the sewer (with or without prior treatment), including that which may go to a facility designed to treat wastewater

³⁸ Abandoning material on land or disposing of it in the sea. Encompasses open dumps (i.e. uncovered, unlined), open burn (i.e. not in a controlled facility), and fish discards

³⁹ Sending material to a destination that is different from those listed above. Includes material that goes to a bio-based materials/biochemical processing destination but results in production of a biofuel product (e.g. biodiesel, fuel pellets).

⁴⁰ <https://wrap.org.uk/resources/report/surplus-food-redistribution-uk-2015-2020>

This would bring social, environmental and financial benefits to business by ensuring good food is eaten and reducing waste.

We propose that the reporting of food surplus which is redistributed to humans be included in scope of Option 2.

Q33. Do you think that the reporting of redistributed food surplus should be included in scope?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q34. Please briefly state your reasons for your response. Where available, please share evidence to support your view. (200 words max)

Q35. Do you consider there to be any additional costs or burdens associated with measuring and reporting redistributed food surplus in addition to those identified for food waste sent to other destinations? Where available, please share evidence to support your view. The costs identified for reporting food waste are outlined in the impact assessment and in the 'Analysis on the impact of the reporting requirements' section in this document.

Food and inedible parts

The FWRR identifies 'food' and 'inedible parts' as different aspects of the material which makes up food waste and this is consistent with the global Food Loss and Waste Accounting and Reporting Standard⁴¹. Inedible parts can include components associated with a food that would never have been intended to be consumed by humans – such as shells, bones, and pits/stones. Inedible parts do not include packaging, or food that could once have been eaten but has been spoiled or passed its 'use by' date (i.e. spoiled or past its 'use by' date edible food is included in the 'food' subsection of food waste).

⁴¹ <https://flwprotocol.org/flw-standard/>

We would intend to utilise the sector specific 'inedible parts'⁴² definition in the FWRR⁴³ agreed by industry stakeholders which enables consistency for businesses. The FWRR also includes guidance on how to separately measure the edible and inedible parts of food waste but it is voluntary for businesses to undertake this exercise. The separation of edible and inedible parts is considered to be an additional cost and burden to business, but it does allow for businesses and government to better understand and track the proportion of food waste that can be more readily prevented.

As with the FWRR, the government would propose under Option 2 that business measure and report total food waste (both edible and the associated inedible parts) which are sent to waste destinations. Reporting of edible and inedible parts separately would be voluntary for food businesses.

Proposals for Reporting Process

This section outlines the framework under Option 2 for the measurement and reporting of food waste in any proposed regulations. There are questions at the end of this section where you can provide your views on the framework proposed.

Environmental Permitting (England and Wales) Regulations 2016

Under Option 2 the Environmental Permitting (England and Wales) Regulations 2016 (EPRs) would be amended to require food businesses of a certain size to report their food waste data to the Environment Agency (EA). The production of food waste by businesses of a certain size would be classified as a "regulated facility" under the EPRs. However, that class of facility would be exempt from the requirement to obtain an environmental permit and would be classed as an exempt facility. The organisation producing the food waste would need to register their "exemption" with the EA (the regulator). For businesses which operate as franchises, the brand head office would be required to register their "exemption".

As part of that exemption registration and in order for the exemption to continue to be valid, the business would need to comply with the conditions detailed in any legislation and outlined in the following section of this consultation.

⁴² Components associated with a food that would never have been intended to be consumed by humans – such as shells, bones, pits/stones. 'Inedible parts' do not include packaging, or food that could once have been eaten but has been spoiled or passed its 'use by' date.

⁴³ <https://wrap.org.uk/resources/tool/food-waste-reduction-roadmap-toolkit>

Installations

Some food and drink businesses will already be required to obtain site permits from the Environment Agency under the EPRs as Installations. We propose that businesses in scope under Option 2 for the food waste reporting regulations would require a permit exemption and would need to meet the requirements of that exemption, in addition to some of their sites requiring an Installation permit.

Measurement method

Businesses in scope would be required to collect data on their food waste in line with the FWRR UK Guidelines⁴⁴ and the International Food Loss and Waste Accounting and Reporting Standard (FLWS)⁴⁵, the international standard for quantifying and reporting on the weight of food waste. These documents outline the range of methods available to measure food surplus and waste. Businesses may choose which method to use based on their needs and resourcing.

To limit burden to business, Option 2 proposes maintaining consistency with the FWRR and FLWS guidance which do not require data from every unit/outlet within a business; instead food businesses can acquire a robust representative sample and scale this up to determine an aggregated number for the whole organisation. The head office of the business would be required to collate this data and report food waste on behalf of the business as a whole.

Measurement period

Stakeholder engagement shows that environmental benefits aside, from a business perspective, the main reason for measuring and reporting food waste is to deliver efficiencies, which is aligned to financial reporting. In most instances it would be more practical for organisations to report food waste annually in line with their fiscal year. We are aware that fiscal years vary but as with other forms of environmental reporting, we propose businesses report data for the 12-month period from 1 April to 31 March.

Reporting period

To enable comparison and evaluation of food waste data we need to ensure companies are reporting consistently and in a timely manner. We would propose under Option 2 that all food businesses required to report to the EA under any regulations would have to do so within 3 months of the end of a financial year, 31 March. This would support the regulator

⁴⁴ <https://wrap.org.uk/resources/guide/uk-food-surplus-and-waste-measurement-and-reporting-guidelines>

⁴⁵ <https://flwprotocol.org/flw-standard/>

and other government departments to scrutinise and compare data and ensures all food businesses are publicly reporting at the same time.

Reporting method

Under Option 2 businesses would have to, as a minimum, complete a reporting template similar to the one at Annex A (based on the FWRR reporting template) to record their food waste data. Subject to consultation, under Option 2 businesses in scope would also be able to record and report voluntary data in this template.

Businesses would be required to send their food waste data to the regulator, the EA. This would enable the regulator to collate data for analysis, in addition to ensuring all businesses in scope were complying with any regulations.

Transparent reporting

Public reporting can provide a reputational advantage for businesses and is shown to spur companies into taking the necessary targeted action. We therefore propose under Option 2 that all reporting would be transparent as called for in the RWS and in line with recommendations from Champions 12.3⁴⁶.

Under Option 2 food businesses would have to, as a minimum, publish the reporting template (based on the FWRR template) on their company website as a condition of their registered exemption and, if they wished to do so, also through other channels (such as the WRAP FWRR site or The Food Waste Atlas⁴⁷). The food waste data submitted to the EA would also be made public and would appear on the Defra/EA public register online site.

Quality assurance checks

Appropriate quality and accuracy of data is essential and should align with UK Guidelines and the FLWS. In order to ensure accuracy and alignment with these guidelines, under Option 2 we would propose food businesses in scope would have to employ the services of an independent third-party consultant to provide quality assurance for the reports which would be sent to the regulator.

While this would add an additional cost to business, independent third-party quality assurance checks would ensure quality of data and would deter false or inaccurate submissions, providing confidence in data. An assurance statement would have to be submitted to the regulator, alongside food waste data reporting templates. We would propose under Option 2 that this would be an annual requirement.

⁴⁶ <https://champions123.org/>

⁴⁷ <https://thefoodwasteatlas.org/home>

Q36. Are you content with the proposal to amend the Environmental Permitting (England and Wales) Regulations 2016 to require food businesses of a certain size to report their food waste data?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Please answer question 37 if responding on behalf of a business.

Q37. Is your business currently required to obtain permit(s) for Installation sites?

- Yes
- No
- Not sure
- Not applicable

Q38. Do you agree with the measurement and reporting requirements outlined?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q39. Please briefly state your reasons for your response. Where available, please share evidence to support your view. (300 words max)

Q40. Where do you think that food businesses should be required to publish their data?

(Please select one or more options)

- Own website
- Other website or platform. Please provide further detail:
- Not sure/don't have an opinion

Q41. If you do not agree that businesses in scope should be required to employ an independent third-party consultant to provide quality assurance checks for food waste data reports, please briefly state the reason for your response and how you would suggest data submitted by businesses is quality assured. (200 words max)

Please answer Q42-43 if your business currently measures food waste data.

Q42. If your business currently measures its food waste, does it currently publicly publish its data?

- Yes
- No
- Not sure

Q43. If you answered no to question 42, does your business plan to publish its food waste data in the future, even if any regulations are not introduced?

- Yes. Please provide further detail of when:
- No
- Neither/mixed
- Not sure/don't have an opinion

Related consultations

Waste tracking

In the RWS we stated our intention to legislate to make waste transfer records digital and mandatory subject to consultation. This work is now in progress and an associated consultation was published in January 2022. Waste tracking might support data collection by any businesses in scope for food waste reporting (should Option 2 be the preferred option) by requiring that the volumes of food waste collected by waste carriers are recorded.

We will keep under review whether waste tracking can be used, should food waste reporting under Option 2 be taken forward, as the waste tracking project develops. In the short term we will need to look into an alternate system, with the expectation under Option 2 that food business would be required to submit their data to the regulator using the template outlined.

Separate food waste collections

Through requirements in the Environment Act 2021, businesses and other organisations in England will be required to arrange for the separate collection of a core set of materials, including the separate collection of food waste. Defra have consulted⁴⁸ on further details around this policy, including on exemptions and transition timelines for businesses and a government response to this consultation will be published in due course. Separate food waste collections for businesses would facilitate the measurement and transparent reporting of food waste.

Public sector food and catering policy

Proposed changes to public sector food and catering policy, including the Government Buying Standards for Food and Catering Services (GBSF) are being consulted on in parallel. The proposed changes bring the standards into alignment with the Food Surplus and Waste Hierarchy and voluntary Food Waste Reduction Roadmap approach to food

⁴⁸ <https://consult.defra.gov.uk/waste-and-recycling/consistency-in-household-and-business-recycling/>

waste. Specifically, a new 'food waste prevention' standard would require public sector caterers to provide evidence of a 'Target, Measure, Act' (TMA) approach to measuring and minimising the impacts of food waste.

Timeline for introduction under Option 2

We understand that businesses would require some time to prepare for any food waste reporting requirements. However, this should be balanced with the need for increased business action to reduce food waste to meet the SDG 12.3 target by 2030.

Any regulations would come into force in April 2024 with large businesses being required to measure food waste from that point under Option 2 and report the first set of data at the end of the 24/25 financial year.

Q44. Do you agree with the timeline for introduction proposed above for Option 2?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q45. If you answered no, please briefly state your reasons. (200 words max)

Analysis on the impact of the reporting requirements

The impact assessment (IA)⁴⁹ that accompanies this consultation analyses the costs and benefits of the policy options. Direct benefits arising from food waste reporting have not been identified. Indirect costs and benefits, associated with businesses taking action to reduce food waste, have been identified but are unable to be monetised.

The IA estimates the following costs to businesses and the public sector:

1. One-off familiarisation costs to businesses
2. One-off IT system set-up costs to businesses
3. Ongoing annual reporting costs to businesses
4. Ongoing annual third-party food waste data quality assurance costs to business (only applicable to Option 2)
5. Ongoing annual operational costs to business (this relates to charging scheme fees under Option 2)

⁴⁹ [Impact Assessment Improved Food Waste Reporting 2022.pdf \(defra.gov.uk\)](#)

6. One-off operational set-up costs to the regulator (only applicable to Option 2)
7. Costs of enhancing voluntary agreement managed by WRAP and funded by government (only applicable to Option 1)

We welcome additional evidence on the costs of monitoring food waste measurement and reporting through this consultation. Further analysis and assumptions are included in the impact assessment and a summary of the costs can be found at Annex B.

Q46. Do you agree with the types of cost government has identified?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

If you have answered 'No' or 'Neither/mixed', please provide an explanation and evidence to suggest why alternative costs should be identified. (200 words max)

Q47. Do you agree with the assumptions, calculations and magnitude of the costs identified? (further information is provided in the key assumptions section of the impact assessment)

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

If you have answered 'No' or 'Neither/mixed', please provide an explanation and evidence if available to suggest why a different assumption or calculation should be used and for which cost. (200 words max)

Q48. Are there any other types of cost you can identify and, if available, please can you provide evidence of their magnitude per business or per premise/local outlet? Please provide quantitative evidence to support your answer if available.

Q49. What, if any, barriers would your business have to overcome in order to measure and report food waste?

- Cost
- Lack of experience
- Lack of staff
- Lack of skills
- Other

If 'Other' please provide further detail.

Please answer questions 50 to 56 if you are answering on behalf of a business which currently measures its food waste. These questions will be used to understand and estimate the costs to business associated with familiarisation with the regulations and measurement and reporting activity.

Q50. What were the first year set up costs (e.g. staff time and investment in IT systems) for measuring food waste for your business?

- £0-£500
- £501-£1,000
- £1,001-£5,000
- £5,001-£10,000
- £10,001-£15,000
- £15,001-£20,000
- £20,001-£30,000
- £30,000+

Q51. In the first year of measuring food waste, how many staff hours did it take per premise and per businesses (i.e. head office level) to familiarise with reporting requirements?

_____ staff hours

The following question is for businesses who have been measuring food waste for more than one year.

Q52. Since your first year of measuring food waste, what are the average ongoing annual costs of measuring food waste?

- £0-£500
- £501-£1,000
- £1,001-£5,000
- £5,001-£10,000
- £10,001-£15,000
- £15,001-£20,000
- £20,001-£30,000
- £30,000+

Q53. How many hours a week on average does it take to measure food waste data **per business premises**? (Please answer based only on time taken to measure food waste, excluding any time taken to familiarise with or set up the process)

_____ hours

Q54. What are the average staff costs per hour for food waste measuring and reporting **per business premise**?

_____ hours

Q55. How many days per year does it take in your **head office** to compile food waste data? If your business is UK wide, please respond in relation to your operations in England if possible. (Please answer based only on time taken to measure food waste, excluding any time taken to familiarise with or set up the process)

_____ days

Q56. What are the average staff costs per day in your **head office** to compile food waste data for food measuring and reporting?

£ _____

The impact assessment identifies indirect benefits from food waste measurement and reporting but does not monetise them. This is because, we want better evidence on the size of the benefits and how to link those to food waste data reporting. We have case studies and evidence on how measurement catalyses action and delivers benefits. However, these case studies usually involve several initiatives or are very specific to a particular business/entity to be extrapolated to others. We have identified the following benefits:

- Food waste reduction financial benefit to businesses
- Food waste reduction environmental benefits
- Reduction in associated packaging waste and its environmental and financial benefits

We have assumed that these benefits are indirect. This is because the benefits arise from the action taken to tackle food waste rather than direct measurement of it.

Q57. Do you agree with the types of indirect benefits government has identified?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

If not, please briefly state your reasons. (200 words max)

Q58. Please can you provide evidence of whether and how the policy options presented in this document, can directly and indirectly affect the benefits described above in a qualitative and/or quantitative way. (300 words max)

Q59. Are there any other benefits from food waste measurement and reporting that should be identified? Can you provide any evidence to support this? (300 words max)

Compliance

Under Option 2 the government would want to design and implement reporting requirements, subject to consultation, in a way that promotes transparent reporting and prevents avoidance.

The regulator would be responsible for ensuring that businesses in scope register their exemption from the requirement to have an environmental permit. A condition of their exemption would be to report their food waste data in the reporting period (proposed as within 3 months of the end of the financial year). The regulator would also ensure that those businesses in scope submit the data required in the mandatory timescale. A proportion of data reports submitted would receive more detailed compliance checks by the regulator to ensure that the data reported was accurate and used appropriate methodology.

Costs to the public sector

To set up the proposals in Option 2, the regulator would require investment in a new IT system, which would be estimated to cost £500,000 in 2022/2023. There would also be additional staff costs required to manage the acquisition of any new IT system and set-up which would amount to £220,000 in 2022/2023 and £200,000 in 2023/2024.

Additionally, the regulator would incur operational costs for the first 12 months of any regulations. These costs would be used to provide additional support to businesses to help them adapt and comply with any new regulations. This cost to the regulator for this is estimated to be £200,000 in 2024/2025.

Finally, there would be an estimated cost of £100,000 for the enforcement of any regulations in 2024/2025.

Operational costs

Option 2, improved measurement and reporting for large businesses, has an estimated annual operational cost of £348,000 to the regulator.

Aligning with the polluter pays principle, we propose that the Environment Agency would implement a charging scheme which would require food businesses in scope to pay a fee when registering their permit exemption. This fee would cover the operational costs of the regulator to ensure that the responsibility for costs is designated to the businesses which produce food waste rather than using public funds.

Under Option 2, this annual fee would be estimated at £684 per business. The regulator would consult on the detail of any such charging scheme at a later date. This estimate is used as an indicator of potential costs but is subject to change based on the outcomes of any charging scheme consultation.

Enforcement action

Under Option 2, large food businesses in scope would be required to comply with measurement and reporting requirements as outlined in this consultation. Businesses in scope that do not measure and report in line with the relevant regulations under Option 2 would be considered to be in breach of those regulations if they did not comply with the conditions of their registered exemption.

Where an offence has occurred, the regulator would apply its enforcement and sanction policy⁵⁰ to determine the most appropriate response. Currently, under the EPRs, the following sanctions are available:

- Warning
- Formal caution
- Prosecution

The offender would also be able to offer an enforcement undertaking to avoid prosecution. An enforcement undertaking must specify an action which the business will take to ensure the offence does not continue to occur or recur or that the position is restored to what it would have been if the offence had not been committed or an action (including the payment of a sum of money) to benefit any person affected by the offence. Where restoration is not possible, action must be taken which will secure equivalent benefit or improvement to the environment.

Where an action offered as part of an enforcement undertaking includes a payment of a sum of money, this could include a payment to a third party which protects, restores and enhances the natural capital of England and/or a payment to a charity relevant to the objectives of the breached legislation e.g. a food waste prevention charity.⁵¹

If the business undertakes the actions proposed, the business could not be convicted of the offence which occurred and the regulator would not be able to impose further civil or criminal sanctions on the business in respect of that offence.

Enforcement undertakings are provided for under EPR as a civil sanction alternative to criminal enforcement action in appropriate circumstances. If further civil sanctions become available for EPR offences in the future then we can consider if these should apply in relation to food waste reporting, giving regulators the option to consider these in determining their enforcement response.

⁵⁰ <https://www.gov.uk/government/publications/environment-agency-enforcement-and-sanctions-policy/environment-agency-enforcement-and-sanctions-policy>

⁵¹ <https://www.gov.uk/government/publications/environment-agency-enforcement-and-sanctions-policy/annex-1-res-act-the-environment-agencys-approach-to-applying-civil-sanctions-and-accepting-enforcement-undertakings#enforcement-undertakings>

Q60. Do you agree with the enforcement actions proposed above?

- Yes
- No
- Neither/mixed
- Not sure/don't have an opinion

Q61. Please briefly state the reasons for your response. (200 words max)

After the consultation

After the consultation, a summary of the responses to this consultation will be published and placed on the government website at www.gov.uk/defra.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes. These are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department of Environment Food and Rural Affairs will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Compliance with the consultation principles

This consultation is being conducted in line with the “Consultation Principles” as set out in the Better Regulation Executive guidance which can be found at <https://www.gov.uk/government/publications/consultation-principles-guidance>.

If you have any comments or complaints about the consultation process, please address them to: by e-mail: consultation.coordinator@defra.gov.uk, or in writing to: Consultation Coordinator, The Consultation Co-ordinator, Department for Environment, Food & Rural Affairs, 2nd Floor, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX

Annex A: Reporting Template

Food Waste Reporting Template

Company name:

Name of person completing the report:

Date completed:

Summary

Reporting period (start date):

Reporting period (end date):

Overall food waste in tonnes:

Food waste as a % food produced / purchase and sold as intended by your organisation*:

(Optional) Percentage of inedible parts included in total FLW tonnage:

* this should be tonnes FLW ÷ tonnes (food product produced or sold as intended + FLW + food sent to other destinations).

If food tonnes cannot be measured, provide an alternative metric, such as % by value, and explain the method used.

Destinations (tonnes)*:

	Quantity	Unit	Notes
Redistribution of food for human consumption*	0.00	TONNES	
Animal feed	0.00	TONNES	
Bio-based materials / biochemical processing	0.00	TONNES	
Not known	0.00	TONNES	
Landfill	0.00	TONNES	
Sewer / wastewater treatment	0.00	TONNES	
Other (including the production of biofuel products e.g. biodiesel, fuel pellets)	0.00	TONNES	
Refuse/discards/litter (including dumping, or unmanaged disposal)	0.00	TONNES	
Not known (if destinations are known but not how much to each destination)	0.00	TONNES	

* It is important only to include here food that would have become waste if it had not been redistributed. Other donations to charities or sale to secondary markets should be excluded

Quantification methods used:

Summary of data uncertainties:

[Text]- please provide a qualitative description and/or quantitative assessment of the uncertainty around food surplus and waste inventory results

Sampling & scaling of data, or other means of gap filling:

[Text] - please describe the approaches used

Assurance and declaration**Assurance statement:**

If possible, please provide an assurance statement

Annex B: Summary of costs identified in the impact assessment

On 1, familiarisation costs are calculated per premise and per business. This includes 1 hour of a retail assistant's equivalent time per outlet and 2 FTE days of an IT professional time to alter systems. These estimates are made based on an assessment of the time spent to understand the requirements and processes that need to be undertaken by staff per business and per premise. We have limited evidence on these familiarisation costs and welcome responses in the consultation to improve our evidence base.

On 2, set-up costs are comprised of staff time and IT systems investment to set up the reporting infrastructure. They would also include staff training, communications (internal and external) and possibly some consultant time. Again, we do not have robust evidence on these costs. This is because the companies that have started to report their food waste do not readily share this information. We have used a range of £10,000-£20,000 as a one-off set up cost per large business, based on the discussions through C2025. Furthermore, those businesses - that shared with us their estimates – provided a range of estimates for their set up costs, with some having invested little or nothing upfront to implement measurement and reporting.

On 3, ongoing reporting costs would be incurred yearly and are comprised of data acquisition and checking across relevant business premises. There may also be business communications and possibly external support from consultants, although we do not have evidence on the make-up of these costs and invite responses in the consultation to improve our evidence base.

On 4, these estimates are based on expert advice by WRAP who liaise with businesses who already commission annual independent food waste quality assurance. For large businesses this cost is estimated between £5,000-£7,000 pa.

On 5, the EA has provided us with some estimates. The operational costs for any regulations under Option 2 would be £0.348m per annum. We are proposing that businesses pay these costs as part of a charging scheme. Further detail on this is provided in the "Operational costs" section of this consultation.

On 6, the EA provided us with an estimate of £1.12m for the operational set-up costs for the regulator under Option 2.

On 7, these are the costs associated with enhancing voluntary agreements and include £0.9m per year from 2023 for the cost of extending the Field Force, a team of sector specialists hired to accelerate the take-up of the voluntary agreements. In addition, there are costs associated with enhancing WRAP's business to business communications work, at £0.3m per year from 2023. These costs would be managed by WRAP and funded by Defra. These costs relate to Option 1 only.