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Department of
**Agriculture, Environment
and Rural Affairs**

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Extended Producer Responsibility for Packaging

Consultation Document

24 March 2021

We are the Department for Environment, Food and Rural Affairs. We're responsible for improving and protecting the environment, growing the green economy 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.



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packaging@defra.gov.uk

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1. Executive summary

Introduction

1.1 The UK Government and the Devolved Administrations are committed to protecting the environment and have all signalled their strong intent to introduce Extended Producer Responsibility for packaging so that producers pay the full costs of dealing with the waste they produce. These commitments include those in the 2018 *Resource and Waste Strategy for England*; the 2019 Conservative Manifesto; the Scottish Government's *Making Things Last*; the Welsh Government's *Beyond Recycling, A strategy to make a circular economy in Wales a reality*; and Northern Ireland's 2019 *Waste Management Plan*.

1.2 Powers are being taken through the Environment Bill to enable the introduction of Extended Producer Responsibility schemes. In addition, in order to comply with the Ireland/Northern Ireland Protocol under the EU Withdrawal Agreement, the UK Government must ensure that Northern Ireland continues to transpose the Packaging and Packaging Waste Directive, as amended. The Directive was most recently amended by the Waste Circular Economy Package which requires Extended Producer Responsibility for packaging.

1.3 The system of producer responsibility for packaging has been in place in the UK since 1997 and has helped to increase recycling of packaging waste from 25%, 20 years ago to 63.9% in 2017. Over this period, we exceeded all UK and EU packaging waste recycling targets, and the cost of compliance to business was kept low when compared to countries in Europe.

1.4 However, as with any system that is over 20 years old, it needs reform. In 2019 Government¹ set out the case for significant reforms to the current system in the consultation document *Reforming the UK Packaging Producer Responsibility System*. This included making producers responsible for the full net cost of managing packaging once it becomes waste, setting more ambitious targets for producers, and introducing clear and consistent labelling for recyclability. It recognised that the reforms must result in a packaging producer responsibility system that has a positive long-term impact, and works well for all stakeholders, for the UK and for all parts of the UK. Given the integrated nature of the packaging value chain and that many manufacturers and retailers operate across the UK, the proposals were based on the continuation of a UK-wide approach.

1.5 The consultation received 679 separate responses and 34 campaign responses. These were strongly supportive of the outcomes and principles

¹ Unless otherwise stated "Government" refers to the UK Government, the Scottish Government, the Welsh Government and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

underpinning the reforms, and broadly supportive of the proposals. In response to the consultation Government outlined its intent to progress these policy proposals, introduce an Extended Producer Responsibility scheme in 2023 and take primary powers in the Environment Bill to enable it to implement the reforms.

1.6 Since this first consultation, the Environment Bill has been scrutinised in the House of Commons and will be carried over to the next parliamentary session (when the Report Stage will be completed in the House of Commons). We have undertaken additional review of consultation responses, evidence development and stakeholder engagement to develop proposals further. This work has enabled Government to confirm its preferred approach to many key elements of the reforms and to seek views, through this consultation, on the specific details of implementing its preferred approaches.

1.7 For some areas Government seeks more views on broad options. Where this is the case it will be important for Government to form a clear position soon after consultation to allow the focus to shift to legislating. As a result, we will look to actively engage stakeholders in these areas during consultation to help facilitate broad consensus.

Summary of proposals and benefits

1.8 As a result of the proposals set out below, and assuming the introduction of recycling consistency proposals in England and an 'all in' deposit return scheme, our analysis indicates a total UK packaging recycling rate by 2030 of 78%, with the estimated recycling rates for each material exceeding those set in the European Union. The recycling rates for glass (96%), card (86%) and steel (93%) are ambitious and close to the maximum likely to be achievable. The recycling rates estimated for aluminium of 69% and plastics 62% are lower, but we expect these to increase once the collection and recycling of other aluminium packaging and plastic film and flexibles are included in our analysis.

1.9 We estimate this increase in the recycling of packaging will generate 3.1 million tonnes of traded carbon benefits and 1.3 million tonnes of non-traded benefits over the appraisal period (2023-2032). This represents £412m of benefit to society². This does not include additional savings resulting from reduced packaging use as these have not been quantified at this stage.

² The impact assessment for EPR accounts for the portion of costs and benefits. Specifically, it includes the impact of modulated fees on EPR materials, the collection of plastic films and flexibles, and mandatory take back of paper cups. It excludes the benefits of increase recycling of deposit return scheme materials, and, while being funded by EPR producers, it does not include the costs and benefits of consistent collection of other packaging materials such as pots tubs and trays as these are accounted for in the consistency IA.

1.10 Under the proposals set out in this consultation, packaging producers will be made responsible for the full cost of managing the packaging they place on the market. Government estimates that their costs will be in the region of £2.7bn in the first full year of implementation.

1.11 This cost transfer, from the public purse and those who dispose of packaging waste, will incentivise producers to question whether the packaging they use is necessary, could be reduced or not used at all. Government also proposes introducing obligations, possibly in the form of packaging reuse targets from 2025, to provide an additional incentive to reduce packaging use and encourage take up of reuse or refill models. Government will bring forward proposals by the end of 2023 working with the sector on the details in advance of this. Given businesses are already exploring such models this commitment will send a strong signal to accelerate their development and deployment in advance of 2025.

1.12 Producers' fees will be varied (modulated), providing further incentive to support the achievement of scheme outcomes, such as increased recycling. For example, producers who use unrecyclable packaging (such as polystyrene or black plastic), will be required to pay higher fees thereby incentivising them to use recyclable packaging. Fees will also be modulated to deliver funding to support additional collection and upgrading of infrastructure to allow recycling of currently unrecyclable materials, where producers are willing to invest (e.g. fund the roll out of collections for plastic films and flexibles), where reduction of packaging is not possible, or to incentivise greater uptake of reuse and refill business models and systems.

1.13 In driving increased recycling, it is important that quality does not reduce but is enhanced. This consultation therefore includes proposals to maintain and enhance the quality of material through collection and sorting, to ensure more of what is collected is recycled, including back into packaging, and encourages more domestic reprocessing and fewer exports of poor quality and contaminated packaging for recycling.

1.14 To support consumers in homes and businesses across the country to make the right recycling decisions, all packaging will be clearly and consistently labelled to inform consumers whether it can or cannot be recycled. This will reduce confusion and make it easier for us all to do the right thing. To inform the fees packaging producers pay, and how they label their packaging producers will need to self-assess their packaging to determine its recyclability. This will not just be based on whether it is technically recyclable, as can be the case at present, but also on whether the infrastructure is in place to enable packaging to be recycled (i.e. nationwide collection and sorting systems).

1.15 As part of full net cost payments, producers of commonly littered packaging, such as fast food packaging and single use cups, will be made responsible for the costs of its management. This will place a strong incentive on those producers to seek to prevent littering, and where this is not possible, ensure it is effectively managed through litter bins and street cleansing. In addition, we are seeking views on whether sellers of filled single use paper cups should be required to provide takeback facilities for single use paper cups and ensure these are recycled. In the longer term, recycling targets will be introduced for laminated card, which will help facilitate increased ‘on the go’ recycling of single use cups, in places such as transport hubs, where necessary, to meet targets.

Implementation timing

1.16 In our response to the last consultation Government indicated a target date of 2023 to implement Extended Producer Responsibility and committed to obtaining the required powers in the Environment Bill. In collaboration with stakeholders, considerable work has been undertaken to further develop the proposals outlined in this document and to understand the steps necessary to implement the proposed reforms. Whilst recognising this is an ambitious timeline, we remain committed to the implementation of packaging Extended Producer Responsibility as soon as possible and propose implementing Extended Producer Responsibility through a phased approach commencing from 2023.

1.17 Our proposal is for the first phase of Extended Producer Responsibility to be established in 2023, enabling initial payments for household packaging waste to local authorities from October 2023. This will depend on the ability of the Scheme Administrator to mobilise and establish the necessary systems and processes to commence roll-out. Subject to parliamentary approval of the Environment Bill, Government will undertake an open procurement exercise starting in late 2021 and would aim to appoint the successful Scheme Administrator in early 2023. Further elements of Extended Producer Responsibility, including modulation of fees based on recyclability of packaging, payments for the management of litter and payments to businesses for the cost of managing packaging waste would be introduced in Phase 2, from 2024 (see Figure 1).

1.18 Government seeks the views of the packaging value chain on the feasibility of this timeline and practicality of the phased approach to implementing Extended Producer Responsibility commencing in 2023. If it is considered desirable and feasible for the Scheme Administrator to mobilise in 2023, Government would introduce new data reporting requirements to ensure that the Scheme Administrator had suitable data on which to make operational decisions. This would be delivered by a separate Statutory Instrument, which would place new data reporting obligations on Extended Producer Responsibility producers to compile packaging data in 2022.

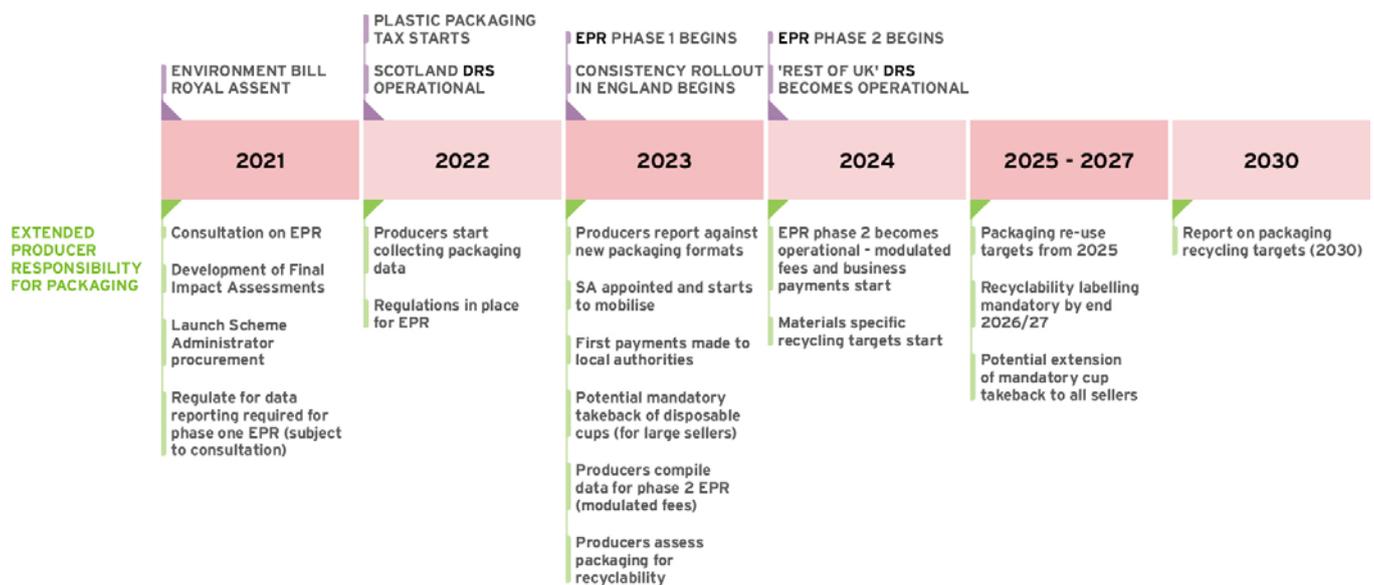


Figure 1 - Phased introduction of Extended Producer Responsibility - indicative timeline

Summary of proposals by section

Targets

1.19 Under the Packaging Waste Regulations 2007, obligated producers are required to meet annual recycling targets, with UK packaging waste recycling rates reported annually by Defra. In future, packaging recycling targets will be set for packaging that is obligated under the Extended Producer Responsibility scheme, and separate targets set for drinks containers within the scope of the deposit return schemes. Government will separately report overall packaging waste recycling rates for England, Northern Ireland, Scotland and Wales which will reflect total packaging recycled i.e. through Extended Producer Responsibility and deposit return schemes.

1.20 The consultation proposes minimum recycling targets for the six packaging materials. These equate to an overall recycling rate for Extended Producer Responsibility packaging of 73% by 2030. It also proposes the introduction of a recycling target for fibre-based composite packaging such as food and drink cartons and single use paper cups.

1.21 The consultation indicates our intention to consider whether 'closed loop' recycling targets for materials, in addition to glass, are required to drive quality and end markets, and to introduce obligations, possibly in the form of targets, to increase the use of reusable/refillable packaging. We invite views through the consultation on a definition of reuse/refillables, and on the form potential targets or obligations could

take. We propose to bring forward proposals for reuse in 2023, with the introduction of obligations from 2025.

Full net costs of managing packaging waste

1.22 Following strong support in the 2019 consultation, subsequent evidence development and stakeholder engagement, Government intends to progress with the broad scope of full net costs of managing packaging waste as set out in the response to the first consultation. This includes:

- The collecting, sorting and recycling of packaging waste from households and businesses;
- The collecting and disposing of packaging in the residual waste stream from households only;
- Litter and refuse management costs, including bin and ground litter;

1.23 Our revised estimates indicate that the annual packaging waste management costs that producers will be required to pay will be in the region of £2.7bn in the first full year of implementation, with £1bn of this related to packaging waste collected from households, £1.5bn for packaging waste collected from businesses, and £200m for the management of bin and ground packaging litter³.

1.24 In confirming this approach, Government recognises that this is not a new cost for the economy, but a transfer from one part to another. This will incentivise producers to reduce their use of packaging, adopt reusable packaging where reduction is not feasible, or use easily recyclable packaging, and fund the recycling and management of single use packaging where it remains necessary.

Obligated producers

1.25 In the current system, the obligation for a single item of packaging is shared across multiple businesses. For Extended Producer Responsibility, Government proposes the introduction of a single point of obligation (i.e. a single producer is responsible for the cost of managing a piece of packaging). This will focus the obligations onto those who are best placed to reduce and/or increase the recyclability of the packaging they use. The consultation details the proposed obligations for reporting and payment of costs for the different types of obligated producer.

³ The estimates of business packaging waste management and litter costs are higher than quoted in the Impact Assessment and reflect updated analysis not available at the time of drafting the Impact Assessment. As costs are transferring from one part of the economy to another, they do not impact on the net costs and benefits to the economy or society as a whole.

1.26 We have also considered options for bringing packaging handled by small businesses within the Extended Producer Responsibility system. This includes lowering the existing de-minimis threshold, and, for unfilled packaging that is sold to small businesses under a lower de-minimis, to obligate the business that sells this unfilled packaging to them (e.g. wholesalers or manufacturers who sell direct to these businesses). We also propose obligating Online Marketplaces for any filled packaging that is imported through their platform and sold direct to customers in the UK, by their clients.

Disposable cups

1.27 The consultation seeks views on whether a mandatory cup takeback and recycling requirement should be placed on businesses selling filled disposable paper cups to provide for the separate collection of used cups (either generated in-store or consumed 'on-the-go'). This could be through both instore and front of shop collection points and would extend to accepting all disposable paper cups at these collection points irrespective of brand or where the drink was purchased.

Modulated Fees

1.28 The consultation proposes that the fees producers will pay to cover the disposal costs of their packaging should be varied to reflect criteria such as recyclability. For instance, producers whose packaging contributes positively to scheme outcomes (e.g. easily recyclable) will pay lower fee rates, while fee rates for packaging which does not contribute positively to scheme outcomes will be increased (e.g. unrecyclable). The consultation sets out the broad framework within which this system could operate and proposes it is administered by a Scheme Administrator.

Labelling

1.29 The consultation proposes that mandatory recyclability labelling should be introduced on packaging as soon as is feasible and by end of 2026/27 at the latest, with expectations that labelling is introduced on different packaging types in line with requirements for their separate collection by local authorities. To provide consumers with clarity regarding what they can and can't recycle it is proposed that the broad requirements for labelling are set out in legislation, including a requirement to use a label approved by Government (or the Regulator). This would ensure a consistent message to consumers on all packaging whilst providing some flexibility for producers in how they comply.

Plastic film and flexible packaging

1.30 Plastic film and flexible packaging such as single-use carrier bags, bread bags, and confectionary wrappers make up a third of the 2.4mt of plastic packaging placed on the market annually in the UK. However only a small proportion is

recycled, due to challenges with its collection, sorting and recycling as well as end markets. We want this to change and its recycling to become commonplace. While time is needed to address the challenges, Government recognises that it needs to give a clear signal through the policy framework to help stimulate investment in sorting and reprocessing infrastructure. We therefore propose that plastic films and flexibles should be required to be collected for recycling as soon as is practical, and the costs of achieving this are paid by producers. It is assumed this will be possible by end of financial year 2026/27 but we are seeking views through this consultation.

Bio-degradable, bio-based and compostable plastic packaging

1.31 The UK Government and the Devolved Administrations continue to monitor developments in biodegradable plastics where they may represent the best environmental and economic outcome. For example, through UK Research and Innovation and other channels, Defra has supported and will continue to support research and innovation in plastics. Government policies will take into consideration the benefits of biodegradable plastics in situations where they do not have adverse effects on the environment including on the soil and the ocean (such as from microplastics), and the recycling system or wider circular economy aims. At the present time there are challenges associated with the use and management of compostable and biodegradable packaging. Evidence suggests that some of these types of materials do not fully biodegrade in the open environment (such as in soils or the ocean), leaving behind potentially harmful microplastics. Some require specific treatment at the end of their life. The number of UK industrial composting or anaerobic digestion facilities that accept these materials is limited and they are not widely collected for composting or incorporation into digestate. Where the material is accepted it does not always fully biodegrade. In addition, it can cause consumer confusion as it is easy to mistake for conventional plastic, contaminating and disrupting its recycling. The consultation therefore suggests that until such time as the state of evidence, collections and infrastructure for this packaging can be improved, it is unlikely to be considered recyclable under packaging Extended Producer Responsibility and will therefore attract higher fee rates than packaging that contributes positively to scheme outcomes.

Payment for management of packaging waste from households

1.32 The consultation sets broad principles underpinning the implementation of payment mechanisms. These include the scope of 'necessary costs' and that costs paid by producers should be for the delivery of 'efficient and effective' services. It sets out how Government may expect a Scheme Administrator to approach payments to local authorities. It proposes that payments should be based on both the tonnages and quality of packaging waste collected and recycled, with these requirements being phased in and a Scheme Administrator encouraged to support local authorities to improve and meet performance benchmarks, to obtain their full payments.

Payment for management of packaging waste from businesses

1.33 The consultation also seeks views on three different approaches to facilitate payments from packaging producers to businesses generating packaging waste, including transit and industrial packaging where a producer is not able to prove they had managed this packaging themselves. Two of these approaches foresee a clear role for compliance schemes, whilst one foresees full responsibility for payment, and therefore achievement of targets, placed on a Scheme Administrator.

Payment for management of packaging disposed of in the litter stream

1.34 The consultation proposes that producers of commonly littered packaging items be made responsible for the costs that are directly attributable to their management, both as bin and ground litter. This includes costs incurred by local authorities, other duty bodies, litter authorities and statutory undertakers. It also extends to a contribution towards costs incurred by charities, not-for-profit organisations and representative bodies for prevention and educational activities, litter picks, and provision of bins on land that is accessible to the public free of charge. The consultation also proposes that the Scheme Administrator should bring in monitoring arrangements to allow payments to be linked to litter outcomes (such as cleanliness scores) as soon as is feasible.

Scheme Administration and Governance

1.35 The administration and governance arrangements for Extended Producer Responsibility will need to support producers in complying with their obligations. They will need to be robust and financial flows and outcomes transparent whilst providing flexibility for producers to decide how best to meet their obligations. The consultation seeks views on two broad approaches:

- *A single administrator / management organisation:* responsible for administering and managing delivery of the packaging waste management ('disposal cost') cost requirements and producer compliance with packaging waste recycling targets.
- *Multiple compliance schemes with certain functions undertaken by a Scheme Administrator:* a Scheme Administrator would take on functions that are better delivered UK-wide such as developing the approach to determining packaging waste management costs for household waste, setting the fee modulation mechanism and administering payments to local authorities; with compliance schemes primarily responsible for managing compliance with obligations in respect of non-household packaging waste.

1.36 There are many examples of each approach operating successfully internationally, with a single Scheme Administrator offering greater strategic oversight and compliance schemes offering greater producer choice. International comparisons suggest the benefits of each are finely balanced and in part depend on

the context within which they operate. Government is of the view that those aspects of the scheme that interface with local authorities are best managed by a single organisation or Scheme Administrator.

Reprocessors and Exports

1.37 Measures introduced through Extended Producer Responsibility will improve the quality of packaging waste for recycling whether that material is recycled in the UK or exported. Additional proposals for consultation include new registration and reporting requirements for reprocessors and exporters of packaging waste. Amendments to the Basel Convention implemented in the UK as of January 2021 have strengthened controls on the export of waste plastics. Government has also committed to reviewing the regulatory framework for all waste exports and to banning the export of plastic waste to countries that are not members of the Organisation for Economic Cooperation and Development. Powers in the Environment Bill will enable us to deliver this commitment.

Monitoring and Enforcement

1.38 Effective and proportionate monitoring and enforcement powers that drive high levels of compliance and prevent fraud will be set in regulation, within the context of the enforcement frameworks of each administration. The consultation sets out system obligations and compliance requirements. It proposes that the environmental regulators in England, Northern Ireland, Scotland and Wales will be the primary regulators and have the powers to monitor, audit, and use civil and criminal penalties to drive compliance and address non-compliance. It also proposes that regulator charges better reflect the costs incurred in their compliance monitoring activities and that the level of such activity takes account of the increased financial flows within the system.

Digital design

1.39 The collection, handling and use of data required by Extended Producer Responsibility will need to be underpinned by digital infrastructure. This infrastructure is likely to be required to facilitate registration processes, to support the administration of the payment framework and to enable the submission of evidence on packaging placed on the market and its flow through the waste management system, together with associated costs. This consultation proposes a split of responsibilities between Government and the Scheme Administrator regarding who is responsible for setting up and running some key elements of this digital infrastructure.

2. Introduction

Purpose of the consultation

2.1 The current producer responsibility system for packaging has been in place since 1997 and predates the introduction of devolved Government in Scotland and Wales in 1999. It operates UK-wide under Great Britain and parallel Northern Ireland regulations⁴. In response to commitments made by the UK Government (in England) and the Devolved Administrations to reform the existing regime and to incentivise producers to take more responsibility for the materials and products they place on the market, the UK Government, the Scottish Government, the Welsh Government and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland published a joint consultation in February 2019⁵ setting out proposals to reform the producer responsibility system for packaging.

2.2 The 2019 consultation set out the case for reform and was broad in scope. A key principle underpinning the proposed reforms was the introduction of Extended Producer Responsibility. Extended Producer Responsibility is an established policy approach adopted by many countries around the world, across a broad range of products and materials. It gives producers an incentive to make better, more sustainable decisions at the product design stage including decisions that make it easier for products to be reused or recycled at end of their life. It also places the financial cost of managing products once they reach end of life on producers.

2.3 A total of 713 responses were received. Government published a summary of the responses and next steps on 23 July 2019⁶. In its response Government stated its intention to proceed with introducing Extended Producer Responsibility for packaging in 2023 and take new powers in the Environment Bill to enable it to do so. It would consider the responses and evidence submitted in detail, undertake further analysis and bring forward final proposals for Extended Producer Responsibility for packaging for consultation.

2.4 Northern Ireland will need to continue to comply with The Packaging and Packaging Waste Directive as it is listed in Annex 2 of the Northern Ireland Protocol.

⁴ The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended) and The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007 (and amendments) cover the recycling and recovery of packaging waste (the Packaging Waste Regulations). The Packaging (Essential Requirements) (Amendment) Regulations 2015 cover single market and design and manufacturing aspects of packaging.

⁵ https://consult.defra.gov.uk/environmental-quality/consultation-on-reforming-the-uk-packaging-produce/supporting_documents/packagingepiconsultdoc.pdf

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819467/epr-consult-sum-resp.pdf

This Directive requires the establishment of an Extended Producer Responsibility scheme for packaging by the end of 2024 in accordance with the requirements set out in Articles 8 and 8a of the amended Waste Framework Directive.

2.5 This consultation document sets out our proposals for Extended Producer Responsibility for Packaging. We encourage you to respond to this consultation. Your responses will help ensure an effective system is put in place and inform the regulatory framework required to deliver this change.

2.6 Alongside this consultation there are two other consultations taking place:

- The UK Government, the Welsh Government and the Department for Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA) are undertaking a second consultation on a deposit return scheme for drinks containers (referred to in this document as the England, Wales and Northern Ireland deposit return scheme). This proposes that the scope of a deposit return scheme should be determined based on material rather than product, and the scheme captures PET (polyethylene terephthalate) plastic bottles, glass bottles, and steel and aluminium cans. With regards to the size of containers included, the UK Government (in England) and DAERA have remained open on scope with regards to introducing a deposit return scheme in England and Northern Ireland and will use the deposit return scheme consultation to gain further views on whether it should be an all-in scheme (including drinks containers up to 3L in size) or an On-The-Go scheme (drinks containers under 750ml in size and excluding those containers sold in multipacks). However, the Welsh Government's preferred option for Wales is an all-in scheme (capturing drinks containers up to 3L in size). It remains committed to working in partnership with the UK Government and DAERA so that the scheme is as consistent as possible across Wales, England and Northern Ireland. The link to this consultation is:
<https://consult.defra.gov.uk/environment/consultation-on-introducing-deposit-return-scheme>
- The UK Government will shortly be undertaking a second consultation on consistency in household and business waste recycling in **England**. This will include proposals for the separate collection for recycling of a common set of materials. This consultation will cover England only.

2.7 As these proposals form a package of measures the consultations are being run in parallel to give respondents the opportunity to consider the proposals together. We encourage you to look at these other consultations as you consider your response to this consultation. We also encourage you to respond to these other consultations.

2.8 Government has also initiated a review of the Packaging (Essential Requirements) Regulations 2015 and may in due course consult on amendments to these Regulations⁷. This consultation **does not** cover these Regulations.

Geographical extent

2.9 Producer responsibility and waste policy is a devolved matter. The UK Government (acting for England) and the Devolved administrations of Northern Ireland, Scotland and Wales have agreed to continue with a UK-wide approach to packaging Extended Producer Responsibility. Accordingly, as with the previous consultation, this consultation is being undertaken jointly by the UK Government, the Scottish Government, the Welsh Government and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland. Unless otherwise stated, references to ‘Government’ are references to the UK Government, the Scottish Government, the Welsh Government and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland. Where reference is made in this document to the UK Government in relation to matters of devolved policy, it is the UK Government acting for England.

2.10 This document and descriptions of existing law therefore relate to England, Scotland, Wales and Northern Ireland.

2.11 References to Ministers are references to Ministers of each administration. Reference to ‘the regulator’ or ‘regulators’ are references to the Environment Agency (EA), the Northern Ireland Environment Agency (NIEA), Natural Resources Wales (NRW) and the Scottish Environment Protection Agency (SEPA) unless stated otherwise.

2.12 Reference to “local authorities” includes district councils in Northern Ireland.

Audience

2.13 Responses to this consultation are welcomed from:

- Businesses involved in the design, production and specification of packaging.
- Businesses who manufacture products and put these products into packaging, or who have products put into packaging on their behalf, and who place these products on the UK market.
- Retailers, online marketplaces and importers of packaged products
- Packaging compliance schemes.

⁷ The Packaging (Essential Requirements) Regulations 2015 and the Packaging (Essential Requirements) Regulations: guidance notes

- Organisations involved in the management and recycling of packaging waste including local authorities, waste management companies, brokers, exporters, and reprocessors.
- Other organisations such as professional and membership organisations, Non-Governmental Organisations, consultants and charitable organisations who have an interest in packaging and how packaging waste is managed in the UK.
- Members of the public.

Responding to the consultation

2.14 Please respond to this consultation in one of the following ways:

Online using the Citizen Space consultation hub at Defra
<https://consult.defra.gov.uk/>

For ease of analysis, responses via the Citizen Space platform would be preferred, but alternative options are provided below if required:

By email to: packaging@defra.gov.uk

In writing to:

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

2.15 Please note, any responses sent by post must have **arrived** at the above address by the closing date of the consultation (4th June 2021) to be counted. Unfortunately, any responses received after this date will not be analysed. To ensure your response is included in the analysis, please consider responding online via Citizen Space.

2.16 Defra is managing the consultation process on behalf of the UK, Scottish and Welsh Governments and the Department for Agriculture, Environment and Rural Affairs in Northern Ireland.

2.17 The Scottish and Welsh Governments will have access to the consultation responses provided via the Citizen Space consultation hub. If you would like to send a copy of your consultation response to the Scottish and/or Welsh Governments, then please send by email to:

Scotland: egce.cezw@gov.scot

Wales: wastestrategy@gov.wales

If you are responding from Northern Ireland please ensure a copy of your response is also sent to EPRTeam@daera-ni.gov.uk.

Consultation period

2.18 This consultation will run from 24th March 2021 and closes on 4th June 2021

After the consultation

2.19 A summary of the responses to this consultation and the Government response will be published and placed on Government websites at www.gov.uk/defra, www.daera-ni.gov.uk, www.gov.scot and www.gov.wales

2.20 The summary will include a list of respondents and organisations that responded but not personal names, addresses or other contact details. However, information provided in response to this consultation document, including personal information, will be shared with the Devolved Administrations and may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes e.g. Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018.

2.21 If you want information, including personal data that you provide to be treated as confidential, please say so clearly in writing when you submit your response to the consultation and explain why you need these details to be kept confidential.

2.22 If we receive a request for disclosure under the FOIA, we will take full account of your explanation, but due to the law we cannot provide 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 a confidentiality request.

2.23 Defra is the data controller in respect of any personal data that you provide, and Defra's Personal Information Charter, which gives details of your rights in respect of the handling of your personal data, can be found at: <https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs/about/personal-information-charter>

2.24 Defra has contracted the Office of Public Management Ltd, trading as Traverse, to support the analysis of responses to this consultation. Traverse will treat personal data they receive and analyse as confidential and will only have access to the response data for the period of the analysis, following which the data will be permanently removed from their system and supplied to Defra. Please find further information in the accompanying Privacy Notice for this consultation.

Compliance with the consultation principles

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

2.26 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 Co-ordinator,
Department for Environment, Food and Rural Affairs,
1C, Nobel House,
17 Smith Square,
London SW1P 3JR

About you

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

Q1. Your name?

Q2. 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 submit a completed response.

Q3. Which best describes you? Please provide the name of the organisation/ business you represent and an approximate size/number of staff (where applicable).

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

- Business representative organisation/trade body
- Packaging designer / manufacturer / converter
- Product designer / manufacturer / pack filler
- Distributor
- Retailer including Online Marketplace
- Waste management company
- Operator / reprocessor

- Exporter
- Local government
- Community group
- Non-governmental organisation
- Charity or social enterprise
- Consultancy
- Academic or research
- Individual
- Other
- If you answered 'Other', please provide details:

Q4. Would you like your response to be confidential?

Yes / No

If you answered 'Yes', please provide your reason.

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

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

Yes / No

3. Background

Key propositions made in the previous consultation

3.1 The 2019 consultation ran from 18 February until 13 May 2019. It was broad in scope and set out the underpinning principles and framework for Extended Producer Responsibility for packaging. It recognised what had been achieved by the current system but also its limitations. The proposed reforms were acknowledged as being considerable, requiring changes in packaging design and use, business practices, relationships along the packaging value chain, the collection and management of packaging waste, and significantly, how packaging waste and recycling services are paid for. Whilst the challenges associated with the reforms were recognised so were the benefits including more sustainable design and use of packaging, less packaging waste and increased recycling thereby contributing to a circular economy and reducing carbon impacts.

3.2 Key propositions put forward for consultation in 2019 were:

- That producers pay the **full net cost of managing the packaging they place on the market** at end of life (i.e. the 'polluter pays' principle). It proposed that these costs include the costs of collecting, sorting, recycling and disposing of packaging, the costs of managing littered and discarded packaging and the cost of communications campaigns to encourage the correct recycling and disposal behaviours by consumers.
- That the **costs paid by producers should vary by packaging material and format to reflect the costs of managing that type of packaging and the ease by which it can be recycled**. It set out two approaches - a modulated fees approach and a deposit fee approach.
- That **the costs paid by producers fund local authorities for the collection and management of household packaging waste and fund the collection for recycling of household-like packaging waste** arising from businesses and public sector organisations. In turn, this would lead to a more effective and efficient system overall for managing packaging waste including the collection of a common set of packaging materials for all households.
- That **we move away from the current shared responsibility system and place the responsibility for the full net cost payments on a 'single point' in the supply chain**. Proposals for reducing or removing the de-minimis threshold and obligating producers selling online through distance selling marketplaces were also put forward.
- **Arrangements for the administration and governance** of a packaging Extended Producer Responsibility scheme were outlined and four broad approaches presented.

- That **all packaging should be labelled as either 'Recyclable' or 'Not Recyclable'** to make it easier for people to do the right thing and avoid confusion over what can and cannot be recycled.
- Proposals for **packaging waste recycling targets** for 2025 and 2030 and **the requirement for packaging data to be reported for England, Northern Ireland, Scotland and Wales and recycling targets met in each nation.**
- Measures to **strengthen compliance monitoring and enforcement** including on the export of packaging waste for recycling.

Key feedback provided and actions taken

3.3 The summary of responses to the 2019 consultation and next steps was published on 23 July 2019 and can be found here⁸. Overall respondents were positive of the intent to reform the current system and introduce Extended Producer Responsibility. There was strong support for the principles and outcomes proposed. Respondents emphasised that the new arrangements should be understandable and fair to businesses and consumers; and the package of policy reforms should be joined up and protect against unintended consequences. Value for money and system efficiency were identified as key outcomes. Given the additional investment required and the substantial financial implications for producers, all outcomes need to be assessed and transparent.

3.4 Feedback was also provided on the individual proposals presented. We reflect on this feedback where we set out our final proposals for consultation in this document.

3.5 In developing our final proposals, we have continued to engage with stakeholders from across the packaging value-chain. We are grateful to all who have contributed, including Government's Advisory Committee on Packaging, the Extended Producer Responsibility Industry Sounding Board, the Defra Packaging and Collections Working Group and local government organisations.

Scope of proposals

3.6 Our proposals extend to all types of packaging used in relation to the distribution and supply of products that are placed for sale on the UK market, and to both single-use and reusable packaging with the exception of packaging drinks containers that are in scope of the Scottish deposit return scheme and those that will be in scope of the England, Wales and Northern Ireland deposit return scheme. Our

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819467/epr-consult-sum-resp.pdf

proposals also extend to the associated packaging waste that arises in households as well as household-like, commercial and industrial packaging waste that arises in public sector premises (for example, schools), and retail, hospitality and other commercial and industrial premises.

3.7 The obligations on producers in respect of different types of packaging and packaging waste may however vary and where this is the case this is described in the consultation document.

Packaging definitions

3.8 All definitions of packaging will be set out on the face of the new regulations⁹. We are not proposing to change the definition of packaging adopted in the current Packaging Waste Regulations (Great Britain and equivalent Northern Ireland) as follows:

- “all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. Non-returnable items used for the same purposes shall also be considered to constitute packaging”.

3.9 Further, packaging is defined as consisting only of:

- **Sales packaging or primary packaging**, i.e. packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
- **Grouped packaging or secondary packaging**, i.e. packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;
- **Transport packaging or tertiary packaging**, i.e. packaging conceived to facilitate handling and transport of a number of sales units or grouped packaging in order to prevent physical handling and transport damage. Transport packaging does not include road, rail, ship and air containers.

⁹ Definitions in the Packaging Waste Regulations 2007 are by reference to the relevant definitions in the Packaging and Packaging Waste Directive. All definitions adopted in the new packaging Extended Producer Responsibility Regulations will be on the face on the regulations. Whilst definitions may be a copy over of text from EU Directives, there will be no reference made to EU Directives in the regulations.

3.10 This consultation includes sections dedicated to some specific packaging materials, such as plastic film. The policy proposals in these sections relate to the use of this material for packaging. For example, plastic film when used to package food for sale to a consumer is in scope but cling film used in the home or film used for agricultural purposes is not, as these uses constitute products rather than packaging.

3.11 It is likely that additional types of packaging or packaging materials will be required to be defined in the Extended Producer Responsibility regulations. Where this may be the case definitions are proposed in the relevant sections of this document.

Packaging not in scope of Extended Producer Responsibility

3.12 Beverage containers that are within scope of the Scottish deposit return scheme, which are made wholly or mainly of polyethylene terephthalate (PET) plastic, glass, steel and aluminium.

3.13 Beverage containers that are in scope of the England, Wales and Northern Ireland deposit return scheme, which will be confirmed following the consultation.

3.14 To be clear, all other packaging associated with the distribution and sale of drinks products in the UK such as multipack plastic wrap and presentation boxes, and secondary and transit packaging is not exempt from Extended Producer Responsibility obligations.

Packaging waste

3.15 We are not proposing to change the definition of packaging waste adopted in the current regulations (Great Britain and equivalent Northern Ireland). The definition of packaging waste is:

- “packaging waste” means any packaging or packaging materials which the holder discards or intends or is required to discard. It excludes production residues and packaging that became waste outside the United Kingdom”.

Household products

3.16 There are a range of products that are sold for use in the home such as aluminium foil, cling film, jiffy bags and plastic sandwich bags that are like products used as packaging. We asked for views at the 2019 consultation on whether these products should be included in the scope of packaging Extended Producer Responsibility. Whilst this received some support, respondents raised issues including difficulties in differentiating products based on home versus business use,

as well as products that are single use compared to products with a similar function that are reusable. As many of these items have a range of uses within the home, e.g. for cooking and managing food, so including them within a producer responsibility regime for packaging would add complexity. We are not extending the scope of the packaging Extended Producer Responsibility scheme to include such products.

3.17 As occurs under the current system, each obligated producer will need to self-assess their packaging to determine what's in scope of the Extended Producer Responsibility regulations and the regulators will audit this as part of their inspection programme.

Proposals set out in this document

3.18 This document sets out the proposals of the UK Government and the Devolved Administrations for introducing an Extended Producer Responsibility scheme for packaging. Our detailed proposals, including indicative timelines, for which regulatory timescales are subject to parliamentary passage of the Environment Bill, are presented in the following sections with supporting information presented in a series of annexes:

- What we want to achieve – principles, outcomes and targets
- Businesses that will be obligated and their obligations
- Proposals for single use disposable cups
- Incentivising packaging design through modulating the fees paid by producers and packaging labelling
- Payments for managing packaging waste and littered packaging waste
- Scheme administration and governance
- Reprocessing and exporting packaging waste
- Monitoring compliance and enforcement
- Digital design
- Implementation timeline and phased introduction
- Summary of costs and benefits

4. What we want to achieve – principles, outcomes and targets

4.1 Setting expectations for the new packaging Extended Producer Responsibility scheme is important as a basis for scheme design and delivery. This section sets out:

- The principles of packaging Extended Producer Responsibility
- The outcomes Government wants to be achieved
- Government’s proposals for future targets

Principles of Packaging Extended Producer Responsibility

4.2 The principles for Extended Producer Responsibility reflect the principles in the 2018 *Resources & Waste Strategy for England*, commitments in the Welsh Government’s *Beyond Recycling, A strategy to make a circular economy in Wales a reality*, the Scottish Government’s *Making Things Last* and the principles for Extended Producer Responsibility in Northern Ireland’s *Waste Prevention Programme 2019*. They also reflect experience from our current producer responsibility schemes and wider international and European practice including the principles set out in Article 8a of the revised Waste Framework Directive.

4.3 Overall, there was strong support at the 2019 consultation for the overarching principles proposed for packaging Extended Producer Responsibility (80% of respondents agreed) and for the principles for scheme governance (88% of respondents agreed). These have been revised to reflect the feedback received and are set out below. They underpin the proposals for packaging Extended Producer Responsibility set out in this document.

Overarching principles for packaging Extended Producer Responsibility:

1. Producers are incentivised through the fees they pay or by other complementary measures to reduce unnecessary and difficult-to-recycle packaging, to design and use packaging that is recyclable and to promote reusable or refillable packaging where it is a feasible option.
2. Producers will pay into the system either directly or through the price they are charged by others in the supply chain consistent with the ‘polluter pays’ principle.
3. Producers will bear the full net cost of managing the packaging they handle or place on the market including at end-of-life to achieve agreed targets and outcomes.
4. Costs paid by producers will support a cost-effective and efficient system for managing packaging waste, including the collection of a common set of packaging materials for recycling from households and businesses.

5. Actions by producers will enable consumers to play their part and correctly manage packaging waste through access to good services, labelling and other means that tell consumers how to recycle and dispose of packaging, and enhanced communications campaigns.

Governing principles for packaging Extended Producer Responsibility:

1. A UK-wide approach that provides Government-level accountability and supports delivery of the wider policy context in England, Northern Ireland, Scotland and Wales; that provides the flexibility to tailor scheme implementation to different parts of the UK where this is necessary; and which enables broad parity in the distribution of producer funding and treatment of local authorities and businesses across the UK.
2. Clear outcomes and UK-wide targets for packaging Extended Producer Responsibility to be set by Government to encourage long-term investment and innovation across the packaging value chain.
3. Scheme governance arrangements to be approved by Government in accordance with established procedures and procurement processes.
4. Those involved in scheme governance to have a fiduciary duty to obligated producers in line with best business practice.
5. All sectors in the value chain to be clear on their roles and responsibilities in contributing to the delivery of an efficient and effective system.
6. Measures put in place to increase transparency of material and financial flows, encourage effective competition, drive efficiency and improve quality along the value chain. This is so that costs to producers do not exceed those necessary to provide packaging waste services in a cost-efficient way, and that payments to local authorities and other service providers are fair and transparent and they understand any conditions that apply.
7. Measures are put in place to promote compliance and limit opportunities for fraud and waste crime and ensure packaging waste is managed in an environmentally responsible way both in the UK and when exported.

Outcomes of packaging Extended Producer Responsibility

4.4 At the 2019 consultation a predominant number of respondents (88%) agreed with the outcomes proposed for packaging Extended Producer Responsibility. The outcomes have been further refined to reflect ongoing system development and stakeholder feedback and are presented below. The UK Government and the Devolved Administrations have all set wider policy objectives of using resources more sustainably and efficiently, mitigating climate change, minimising waste and developing a circular economy. Packaging Extended Producer Responsibility will operate within the wider policy framework in each nation and contribute to these wider policy objectives.

Packaging Extended Producer Responsibility Outcomes

- That unnecessary packaging - packaging that is not required to protect a product or excess packaging - is avoided; this will help reduce packaging and packaging waste
- That opportunities to replace single-use packaging with reusable or refillable packaging increase, particularly for consumer products
- That more packaging is designed to be recyclable, so packaging that cannot be recycled because of the material or the materials it is made from, or due to its format, will cease to be used where it can be avoided
- That packaging waste recycling increases. It is proposed that by 2030, 73% of all packaging placed on the UK market and in scope of packaging Extended Producer Responsibility will be recycled
- That the quality of packaging materials presented for recycling increases across the packaging value chain and more packaging is recycled into higher value and closed loop applications
- That packaging Extended Producer Responsibility and the deposit return scheme contribute to less packaging being littered.

4.5 As well as environmental outcomes, broader system outcomes have been identified:

- That there is additional reprocessing capacity available in the UK to handle the increasing quantities of packaging waste that will be available for recycling;
- That the system for managing packaging waste becomes more efficient and effective in delivering the environmental outcomes;
- That people's knowledge of the packaging they can and can't recycle increases and it is easier for them to recycle.

4.6 The design and delivery of packaging Extended Producer Responsibility will incentivise the behaviours and practices necessary to achieve these outcomes and disincentivise or penalise behaviours and practices that do not. A range of measures are proposed that apply across the packaging value chain from packaging design and use, to end user collection, sorting and reprocessing. These include targets, financial mechanisms and standards. These need to align with the outcomes to deliver an efficient, high performing and cost-effective system. All those involved in the packaging value-chain have responsibilities.

4.7 We have developed the sections of this consultation document with those outcomes in mind. Some of our proposals raise key considerations for the development of the Extended Producer Responsibility regulations, others will be subject to ongoing development and implementation through the scheme governance arrangements, such as how the costs paid by producers can incentivise

the design of packaging, and consumer communications to encourage correct packaging recycling behaviours.

4.8 Figure 2 below highlights the range of measures proposed through Extended Producer Responsibility that will contribute to the outcomes.

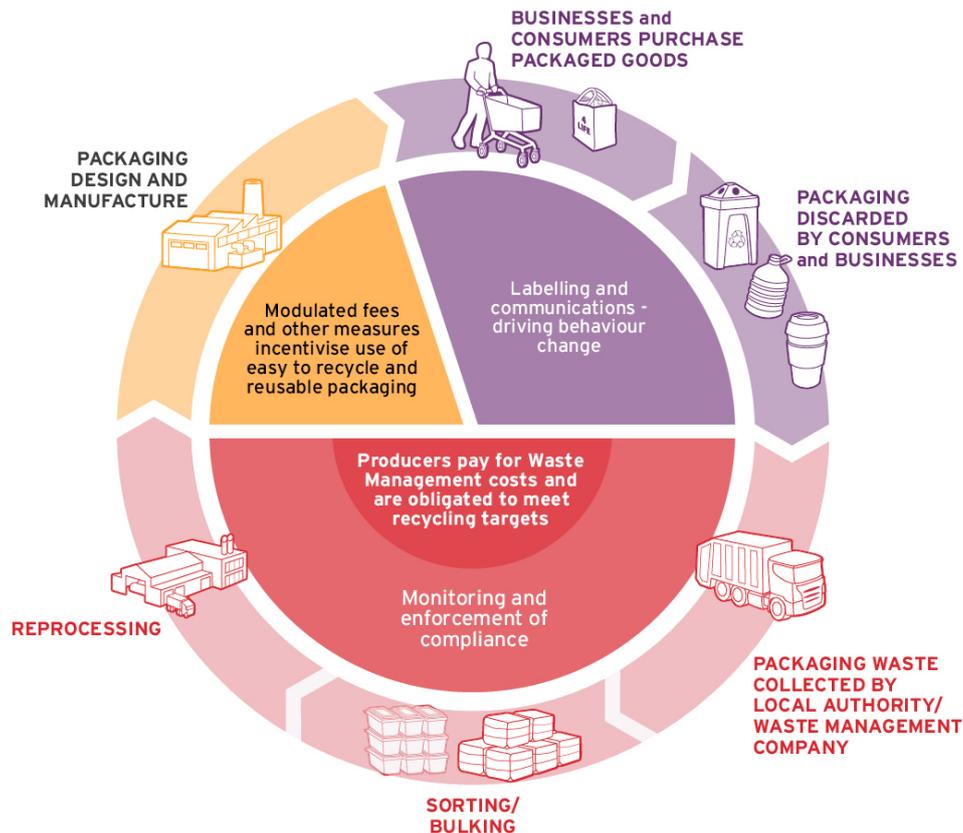


Figure 2 - Measures introduced through Extended Producer Responsibility that will contribute to desired outcomes

Targets

4.9 This section covers:

- The overarching framework for future packaging targets
- Business recycling targets for 2023 to be introduced under the 2007 Packaging Waste Regulations
- Packaging recycling rates to 2030; that is the combined recycling rate for packaging in scope of Extended Producer Responsibility and deposit return schemes
- Proposed packaging recycling targets to 2030 for packaging in scope of Extended Producer Responsibility
- New targets (closed loop and reuse/refill)

Framework for future packaging targets

4.10 Government has developed a framework for packaging targets, set out below. It has been developed in discussion with stakeholders. It focuses on increasing the recycling of packaging initially, acknowledging that good progress has been made but there is more to be done, whilst signalling Government's clear desire to see greater circularity and more reusable and refillable packaging in use.

1. Targets will be set on producers obligated under the Extended Producer Responsibility scheme for packaging that is in scope of Extended Producer Responsibility. Collection targets have been set for the Scottish deposit return scheme and collection targets will be set for the England, Wales and Northern Ireland deposit return scheme.
2. Overall packaging recycling rates will be reported for the UK and for England, Northern Ireland, Scotland and Wales separately, taking account of material collected and recycled under the Extended Producer Responsibility and the deposit return schemes.
3. Extended Producer Responsibility recycling targets for six packaging materials (plastic, card, steel, aluminium, glass, wood) will be set initially to 2030. These targets will be established on a UK-wide basis and will be required to be met in England, Northern Ireland, Scotland and Wales.
4. Recycling targets will be introduced for additional packaging materials where targets are identified as an effective tool to contribute to the delivery of desired outcomes. The first consideration is to establish recycling targets for fibre-based composite packaging including disposable paper cups.
5. Introduction of 'closed loop' recycling targets where required to drive the supply of better-quality material to end markets. A re-melt target for glass will be retained. Targets for other materials will be considered in 2025, allowing time for markets to respond to the changes introduced through Extended Producer Responsibility, deposit return schemes and the Plastic Packaging Tax.
6. Introduction of targets to incentivise adoption of re-fillable and re-usable packaging systems will be considered further by Government. Government will make proposals for reuse/refill targets by the end of 2023, with the intention of introducing targets or obligations from 2025.

Q6. Do you agree or disagree with the proposed framework for setting packaging targets?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Recycling targets for 2023

4.11 Packaging waste recycling targets under the current regulations are in place to 2022. These targets are shown in Table 1 and typically are referred to as business targets¹⁰. As it is proposed, subject to this consultation, that the new Extended Producer Responsibility scheme will be phased in from 2023 and operate alongside the existing producer responsibility system in 2023, recycling targets for 2023 will be required under the current regulations to ensure continued functioning of the Packaging Recovery Note (PRN) evidence system. Government proposes that for 2023 the targets are held at the rates agreed for 2022. The Scottish deposit return scheme will have commenced in 2022 and will be accompanied by scheme-specific targets; therefore, material collected through the Scottish deposit return scheme will not contribute to the business packaging waste recycling targets set for 2023 (to be achieved through the current packaging producer responsibility system). Government also recognises that 2023 will be a year of transition to the new Extended Producer Responsibility system and some producers will pick up new obligations in respect of the payment of fees for household packaging waste.

Table 1 - 2021 and 2022 business recycling targets for the current packaging producer responsibility scheme.

	2021 Business targets	Overall recycling rate	2022 Business targets	Overall recycling rate
Paper	79.0%	67.8%	83.0%	71.5%
Glass	81.0%	69.1%	82.0%	70.8%
Aluminium	66.0%	56.0%	69.0%	58.0%
Steel	86.0%	77.3%	87.0%	77.6%
Plastic	59.0%	49.8%	61.0%	51.5%
Wood	35.0%	36.3%	35.0%	36.9%
Overall Recycling	76.0%	66.3%	77.0%	67.6%

Note – these are the minimum rates the material specific targets would achieve and do not take account of the general recycling requirement.

¹⁰ Under the current Packaging Waste Regulations (2007) obligated producers are required to meet annual recycling targets (known as business packaging waste recycling targets), with total UK packaging waste recycling rates reported annually by Defra.

4.12 The final compliance year of the current packaging producer responsibility system will end on 31 December 2023. We anticipate that the compliance year for Extended Producer Responsibility targets will be the calendar year (i.e. January to December) with new recycling targets for Extended Producer Responsibility in place from January 2024.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Overall packaging recycling rates to 2030

4.13 Under the current Packaging Waste Regulations (2007) obligated producers are required to meet annual recycling targets (known as business targets), with total UK packaging waste recycling rates reported annually by Defra. In future producer responsibility for packaging will be managed through three producer led schemes (Extended Producer Responsibility UK, Scottish deposit return scheme and England, Wales and Northern Ireland deposit return scheme), each introduced through separate regulations and with separate targets¹¹.

4.14 Once new data reporting requirements on producers have been established and packaging placed on the market data is available for England, Northern Ireland, Scotland and Wales overall packaging waste recycling rates by nation (that is packaging waste recycled through Extended Producer Responsibility plus that collected and recycled through deposit return schemes) will be reported by the UK Government and each of the Devolved Administrations annually.

4.15 Our initial analysis estimates an overall UK packaging recycling rate of **78% in 2030**. This is based on the proposals for Extended Producer Responsibility set out in this document and is based on modelling that Extended Producer Responsibility will be introduced alongside an all-in England, Wales and Northern Ireland deposit return scheme and the collection of a consistent set of packaging materials for recycling from households and businesses in all parts of the UK. The combined impact of implementing these measures is an estimated 16 percentage-point increase in

¹¹ It is proposed for the England, Wales and Northern Ireland deposit return scheme that collection targets will be set in the regulations with the obligation to meet these targets placed on the Deposit Management Organisation. The Scottish deposit return scheme regulations set collection targets.

recycling by 2030, compared to no change¹². For each material the estimated recycling rate for 2030, shown in Table 2, exceeds the equivalent target set by the European Packaging and Packaging Waste Directive. The overall packaging recycling rates that are considered achievable will depend on the final design of each policy.

Table 2 - Modelled UK packaging waste recycling rates in 2025 and 2030

	2025			2030			2030 PPWD Targets ¹³
	No change	DRS Consistency +EPR	+ Percentage point increase	No change	DRS Consistency + EPR	+ Percentage Point increase	
Plastic	42%	51%	+9%	42%	62%	+20%	55%
Wood	38%	39%	+1%	38%	39%	+1%	30%
Aluminium	57%	69%	+12%	57%	69%	+12%	60%
Steel	83%	88%	+5%	83%	92%	+9%	80%
Paper/card	70%	81%	+11%	70%	86%	+15%	85%
Glass	69%	92%	+23%	69%	93%	+25%	75%
Total	61%	73%	+11%	61%	78%	+16%	70%

Note: this analysis assumes the introduction of an England, Wales and Northern Ireland deposit return scheme, Extended Producer Responsibility and Consistency (in England). The analysis does not include the contribution from Scottish deposit return scheme material.

¹² The difference in the baseline 'no change' packaging recycling rate (61% in 2030) and the estimated packaging waste recycling rate for 2022 of 67% (Table 1) is due to different assumptions regarding placed on the market packaging (POM). POM tonnages assumed for the Impact Assessment are the "high POM" estimates from the WRAP/Valpak Packflow Material reports, derived by applying the upper error margins presented in the reports to the central POM scenario in the Impact Assessment. This results in an additional 1 million tonnes of packaging POM compared to the total POM estimate used to determine current packaging recycling rates. A higher total POM has been assumed in the Impact Assessment to address concerns that total packaging is under-estimated currently.

¹³ Packaging and Packaging Waste Directive targets that apply to EU Member States

Extended Producer Responsibility packaging waste recycling targets to 2030

4.16 Under the new Extended Producer Responsibility regulations, the obligation to meet targets will be placed on those producers who place packaging on the UK market and who are obligated to fund the full net costs of managing this packaging (as set out in Section 5)¹⁴. Our proposals for obligated producers would see those businesses selling unfilled packaging to businesses below the de-minimis threshold take on the obligation for this packaging. This means that most packaging would be in scope and as a result we expect there would no longer be a need to set business recycling targets as required by the current regulations.

4.17 The Extended Producer Responsibility regulations will set recycling targets for packaging materials in scope of Extended Producer Responsibility. In the 2019 consultation it was proposed that targets would be set for 2025 and 2030, with a requirement on the UK Government and the Devolved Administrations to report annually on recycling rates in order to monitor progress towards these targets. Following feedback from stakeholders, including the Advisory Committee on Packaging, Government proposes that Extended Producer Responsibility targets are set on an annual basis.

4.18 Table 3 sets out the proposed material targets for 2024 and 2030. Annual targets for the years 2025 to 2029 would be set on a trajectory to reach the 2030 target rate. The overall recycling rate is derived from the individual material rates. Consideration of issues relevant to the individual material streams are discussed below. The targets have been derived from an analysis of the impact of key packaging Extended Producer Responsibility measures. The analysis assumes that an all in England, Wales and Northern Ireland deposit return scheme and consistent collections will be introduced alongside Extended Producer Responsibility as outlined above. The rationale, key assumptions and results of this analysis are described in the accompanying Impact Assessment¹⁵.

4.19 Our intention is that for the purpose of measuring the achievement of recycling targets, that packaging waste recycled is calculated as the weight of packaging that has become waste which, having undergone all checking, sorting and other operations necessary to remove waste materials that are not targeted by the subsequent reprocessing operation and to ensure quality material, enters the final reprocessing operation and is reprocessed into new products, materials or

¹⁴ The Environment Act 95 (s.93-96) producer responsibility powers, which will be repealed and updated by the Environment Bill clause 49 and schedule 4), require obligations to be placed on producers. Producers however can discharge their obligations by joining a compliance scheme.

¹⁵ Please see accompanying Impact Assessment

substances. In other words, the point of measurement is when the waste enters the final reprocessing operation. The reporting and evidence requirements to demonstrate packaging waste has reached this stage are discussed in Sections 8 and 11.

4.20 **We do not intend to set an overall recycling target for each year**, rather the material specific targets will deliver the overall packaging waste recycling rate. This means that producers will not have a “general recycling obligation” as under the current regulations. The general recycling obligation was intended to ensure a minimum level of recycling when the material specific targets were relatively low. As the material specific targets have increased, closing the gap on the ‘overall recycling level’, the need for the general requirement has declined.

Table 3 - Proposed recycling targets for packaging in scope of Extended Producer Responsibility

EPR Packaging Materials	2024	2030
Plastic	41%	56%
Wood	38%	39%
Aluminium*	30%	30%
Steel*	85%	92%
Paper/Card	76%	85%
Glass	71%	81%
Recycling rate delivered by targets	63%	73%

Notes:

- i. Excludes materials proposed to be in scope of deposit return schemes (Scottish and England, Wales and Northern Ireland)
- ii. Includes some provision for metals recovered for recycling from incinerator bottom ash*
- iii. Targets are not comparable with the recycling rates achieved under the current scheme

Aluminium

4.21 Table 3 shows the recycling rate for aluminium packaging in scope of Extended Producer Responsibility. Most aluminium packaging is drinks cans; these are in scope of the Scottish deposit return scheme and proposed to be in scope of the England, Wales and Northern Ireland deposit return scheme. The assumption in the Impact Assessment is that a total of 229kt of aluminium packaging will be placed on the market in 2023, with 98kt being non-can and therefore in scope of Extended

Producer Responsibility. This is consistent with industry estimates of tonnage for drinks cans in 2019 (132kt of drinks can material)¹⁶.

4.22 Our analysis assumes that the tonnage, once cans have been removed, consists of packaging that currently does not have a high recycling rate (such as aerosols and foils) mainly because these are not collected for recycling by all local authorities. This is the reason for the low recycling rate. If these items (including aerosols, foils, closures) are required to be collected from households by all local authorities as proposed, this would see the recycling rate increase and hence a higher target for aluminium could be set. This additional analysis will be undertaken for the final impact assessment and we will continue to engage with the sector as we undertake this analysis.

Q8. Do you agree or disagree that the recycling target to be met by 2030 for aluminium could be higher than the rate in Table 3?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Glass

4.23 A high proportion of glass packaging is drinks containers which are in scope of the Scottish deposit return scheme and proposed to be in scope of the England, Wales and Northern Ireland deposit return scheme (84% of glass packaging placed on the market is glass bottles); otherwise glass packaging is mainly used for food products such as condiments, sauces and preserves. This packaging is readily recyclable supporting a high target being set for non-bottle glass packaging.

4.24 There has been a 're-melt' target for glass for several years to incentivise more glass into re-melt applications (e.g. container glass back into containers), thereby encouraging better quality and greater environmental benefit than alternative uses such as aggregate. The re-melt target is 72% for 2021 and 2022.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

¹⁶ Valpak Packflow Report 2020 – Covid-19 phase 1: Metals

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

Please provide the reason for your response.

Plastic

4.25 Polyethylene terephthalate (PET) drinks containers which are in scope of the Scottish deposit return scheme and proposed to be in scope of the England, Wales and Northern Ireland deposit return scheme would not be subject to Extended Producer Responsibility and hence would not contribute to Extended Producer Responsibility plastic packaging recycling targets; all other plastic packaging that is recycled would. The Impact Assessment assumes policy measures introduced under Extended Producer Responsibility would reduce the use of hard to recycle plastic packaging and that plastic pots, tubs and trays would be collected for recycling by all local authorities and from businesses. These measures would contribute to higher recycling of plastic packaging. However, a key consideration in the setting of future recycling targets for plastic packaging is the contribution from plastic films and flexibles. With around a third of the 2.4mt of plastic packaging being films and flexibles and around half of this consumer packaging, the recyclability of these materials and their collection for recycling is a key consideration in the setting of future targets.

4.26 Conservative assumptions are made in the Impact Assessment analysis regarding the introduction of films to recycling collections and likely capture rates. Depending on final policy decisions regarding the collection of plastic films and flexibles for recycling, it may be feasible to set higher plastic packaging recycling targets.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Wood

4.27 The business recycling target for wood was set at 48% for 2020, however, following discussions with producers, and feedback to the 2019 consultation, it was reduced to 35% for 2021 and 2022. This is still 10% higher than the equivalent European Union target. It was the view of producers that the target for 2020 had been set too high, resulting in price spikes for wood Packaging Recycling Notes in 2018 as the market responded. Most wood recyclers, however, did not share this view. Lowering the target for 2021 and 2022 was intended to be a compromise between achievability and ambition.

4.28 Sources suggest that the higher wood recycling rates were achieved by drawing waste packaging wood from the biomass and energy from waste sectors rather than incentivising additional collection for recycling. The demand for wood Packaging Recycling Notes driving higher prices, to the point at which the incentive to recycle was greater than the renewables incentives. The environmental case for a higher wood target was limited, as it did not lead to additional carbon benefits or more collection of wood packaging, but rather re-directed waste wood from other existing activities.

4.29 Government is not against higher targets in the future, however we would want to ensure that the targets lead to new collection systems being established, and that wood packaging waste is sent to the most environmentally beneficial use, including longer term applications (such as panels). We also do not want recycling targets to dis-incentivise greater re-use. A balance therefore needs to be established between a suitably ambitious recycling target and one that delivers the best environmental outcome for waste wood packaging. The analysis for the Impact Assessment shows a modest 1% increase against the baseline, however Government acknowledges that further work is required before confirming future targets. A cross sector working group has been established to take forward this work and Government will engage with this group prior to finalising target proposals for wood.

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

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

Please provide the reason for your response.

Q13. If higher recycling targets are to be set for 2030, should a sub-target be set that encourages long term end markets for recycled wood?

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

Please provide the reason for your response.

Steel

4.30 The recycling target proposed for steel packaging is 92% by 2030. This reflects the already high recycling rate for steel; that most steel packaging will be in scope of Extended Producer Responsibility (e.g. canned food, pet food, some aerosols, DIY goods) and that the infrastructure is in place to capture this material for recycling. Compared with aluminium only a small proportion of drinks containers are made from steel. To achieve these higher targets, it will be important to capture data on all steel packaging recycling.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Paper/Card

4.31 The recycling target proposed for paper/card packaging is 85% by 2030. The high target reflects that all paper/card packaging will be in scope of Extended Producer Responsibility (i.e. none under deposit return scheme); that collections of paper/card packaging for recycling are widespread; and the current recycling rate is high at around 70%, with the recycling rate for non-consumer packaging estimated at around 85%¹⁷. The ongoing need to review the mixed grade protocols to monitor changes in the mix of packaging and non-packaging paper is likely to be necessary to help ensure all paper/card packaging is captured.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

4.32 A final decision on targets will depend on final policy decisions for Extended Producer Responsibility, deposit return scheme and consistent recycling, informed by responses to the consultations, continued engagement with the relevant materials organisations and the Advisory Committee on Packaging, and further analysis for the final impact assessment.

Meeting recycling targets in England, Northern Ireland, Scotland and Wales

4.33 The Extended Producer Responsibility scheme will operate UK-wide to ensure a consistent approach for producers. However, as producer responsibility is a devolved matter and as expressed in the 2019 consultation, recycling targets will be required to be met and reported on for each of England, Northern Ireland, Scotland and Wales.

4.34 The packaging Extended Producer Responsibility recycling targets (by material type) will apply in each nation, with the obligation on producers to meet these targets in each nation. In order to enable the measurement of recycling rates, Government proposes setting an obligation on 'sellers' (see definition of 'sellers' and

¹⁷ [Valpak PackFlow Covid-19 Report – October 2020:](#)

further details of this obligation in Section 5) to separately report tonnages of packaging placed on the market in England, Northern Ireland, Scotland and Wales for each of the main packaging material categories. The first reporting year will be 2024 for packaging placed on the market in 2023, and the first year for which targets will be required to be met for England, Northern Ireland, Scotland and Wales will be 2025.

Introduction of new targets

New material recycling targets

4.35 Government will consider the introduction of recycling targets for other packaging materials where it considers targets would help achieve scheme outcomes and provide an incentive for producers to invest in the collection and recycling of this packaging. Government proposes in the first instance to introduce targets for fibre-based composite packaging.

Fibre based composite target

4.36 The collection and reprocessing of disposable paper cups and other fibre-based composite packaging is limited at present. This is due to the costs of collecting, limited sorting capacity, the challenges of reprocessing and lower material revenue in comparison with other paper/card waste-streams.

4.37 Under the current producer responsibility system there is little or no economic incentive to recycle this packaging. As it falls under the paper/card stream producers placing disposable paper cups and other fibre-based composite packaging on the market can comply with their obligations by purchasing evidence of any paper/card packaging recycling. It also means that there is a lack of accurate placed on the market data and recycling capture rates for these packaging materials.

4.38 In the 2019 consultation there was majority support for the setting of recycling targets for single-use disposable cups. Subsequent stakeholder engagement has also indicated that there is support for a target to apply to other types of fibre based composite packaging which can also be more difficult to recycle. Government therefore proposes to introduce recycling targets for a new category of packaging, fibre-based composite packaging. By fibre-based composite packaging we mean laminated paperboard; either single-sided plastic laminate or two-sided plastic laminate and the packaging may include other material such as aluminium foil. Examples of fibre-based composite packaging include disposable drinks cups, sandwich boxes (skillets) and food and drink cartons. Many of these packaging types cannot be reprocessed in paper packaging mills with standard reprocessing

technology. They are generally required to be separately collected or separately sorted and reprocessed at specialist mills¹⁸.

4.39 It is estimated that approximately 131,000 tonnes of fibre-based composite packaging were placed on the market in 2017¹⁹ (excluding cups). Projections for 2023 indicate 107,000 tonnes of fibre-based disposable cups (5.9bn) could be placed on the market²⁰. However, data on these packaging types remains limited. Better data on disposable paper cups and fibre-based composite packaging will be required before targets can be set, otherwise there is a risk of setting an over or under-challenging target that could lead to contradictory or inefficient outcomes. Before setting targets, Government is taking steps to obtain better data.

4.40 Defra has commissioned a piece of research to obtain UK data from industry on disposable cups and other fibre-based composite packaging, including placed on the market data, market trends and estimated current recycling rates for these materials. This evidence is due in 2021.

4.41 Government also proposes to require producers to report tonnages of fibre-based composites placed on the market as part of the producer reporting obligations set out in the next section. This reporting requirement would be introduced under the proposed Data Reporting Regulation 2021 which will require placed on the market data for 2022 to be reported in January 2023 (see Section 14). Thereafter, reporting of placed on the market data will be required under the Extended Producer Responsibility Regulations. There may also be the potential to require collectors, sorters, reprocessors/exporters to report on tonnages of fibre-based composite packaging collected, received and managed. Data reported for 2022 and 2023 would inform the setting of targets. It is proposed that recycling targets would be introduced from 2026.

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

- a. Agree
- b. Disagree

¹⁸ Confederation of Paper Industries; Paper and Board Packaging Recyclability Guidelines, Revision One, January 2020.

¹⁹ This is an estimate from a waste composition study by WRAP on the tonnage of food and drink cartons placed on the market. It excluded food/salad boxes and is considerably higher than estimates suggested in responses to the 2019 consultation (60,000tpa), so is used as a proxy for all (non-cup) based fibre-composites including food/salad boxes.

²⁰ This is in line with the growth rate proposed by the Environmental Audit Committee <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvaud/657/65705.htm>

c. Neither agree nor disagree

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

‘Closed loop’ recycling targets

4.42 In the 2019 consultation, whilst 58% of respondents agreed with closed loop²¹ recycling targets, many felt this should be a future aspiration once the Extended Producer Responsibility scheme was established and progress had been made in meeting the new material recycling targets. Closed loop recycling targets were proposed as a means of driving improved quality in recyclable materials and thereby encouraging greater use of recycled materials in equivalent closed loop applications (e.g. recycled plastic packaging used in the manufacture of plastic packaging).

4.43 Many noted that in setting closed loop targets consideration should be given to the lifecycle of the material and the cost-benefit impacts. For some materials, such as metals, there is no additional environmental benefit to be gained from recycling metal packaging back into packaging applications. Some packaging, such as corrugated card already has very high levels of recycled content driven by commercial as well as environmental considerations, and as noted there is already a re-melt target for glass. For other packaging such as types of plastic packaging, the infrastructure is not yet in place to enable closed loop recycling to take place with enough volume and quality. Therefore, any consideration of closed loop targets must be material specific.

4.44 Material quality will be incentivised across the packaging value chain through a range of measures that are proposed in later sections of this document. Modulated fees will drive better packaging design and the use of recyclable packaging. All households and businesses will be able to recycle the same materials. Labelling and consumer information will provide clear instructions on the packaging that can be recycled. Payment mechanisms for those providing packaging waste management services will factor in quality of material, and material standards will apply at sorting and reprocessing stages. Improved material quality, as well as measures such as the plastic packaging tax, will stimulate demand for recycled content in plastic packaging.

4.45 Government accepts the argument that these new measures should be fully implemented as a first step and their impact assessed before additional targets are introduced. Improved data reporting under the Extended Producer Responsibility scheme will also help identify where closed loop targets may be required to drive

²¹ 'Closed loop' recycling is generally understood to take place where recycled material substitutes the equivalent virgin material, regardless of the application (e.g. recycled HDPE plastic packaging used in the manufacture of plastic pipes).

quality and more recycled content in packaging where this is viable on economic, environmental and commercial grounds.

4.46 However, as material quality is a concern of stakeholders, Government is seeking further views on the extent to which the measures identified above are likely to, in the absence of closed loop targets, meet producers and others' expectations for improved material quality. Government is particularly interested in views on plastics but also other materials such as card and wood. If closed loop targets are not taken forward at this stage Government would consider these again in 2024/25, with implementation from 2026.

Q17. Do you agree or disagree that there may be a need for closed loop recycling targets for plastics, in addition to the plastics packaging tax?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

Please provide the reason for your response.

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

Re-usable and refillable packaging targets

4.47 Government is undertaking work on re-useable and refillable packaging as part of the review of the Packaging (Essential Requirement) Regulations 2015, the post implementation review of which began in February 2021. As part of this review we are looking at how targets or obligations may be placed on producers to encourage waste prevention and greater use of re-usable and re-fillable packaging.

4.48 The UK Plastic Pact (UKPP) also has work on-going. It consulted pact members in January 2021 on a reuse/refill target including potential options for setting a target and how it could be measured (and with what data). One aspect of their consultation focused on legislative and infrastructure enablers to help create a level playing field for producers, such as legally binding reuse targets and mandatory reporting.

4.49 Once the outputs of these key pieces of work are available, Government will consult on specific proposals for re-usable and refillable packaging with a view to introducing obligations from 2025 onwards. Until then, packaging that is re-useable will be treated in the same way under the Extended Producer Responsibility regulations as under the current Packaging Waste Regulations (2007).

4.50 Under the current regulations reusable packaging is handled in a similar way to non-reusable packaging. It is only counted towards a producer's obligation on the first use; once it re-enters the market as a reused item, if sufficient proof that it has

been reused can be provided by the producer, it is not counted towards their obligation.

4.51 We are inviting feedback in this consultation on potential definitions of reusable packaging and approaches to setting targets or obligations, questions on which are set out in Annex 1. We also seek views on whether a requirement should be placed on producers, delivered through the Scheme Administrator, to proactively support market development and the commercialisation of re-use systems, through direct funding and to encourage their adoption through modulated fees. Please make sure to refer to this Annex if you would like to respond to these proposals.

5. Producer Obligations for full net cost payments and reporting

5.1 The previous section sets out the outcomes, principles and targets that will underpin a reformed system. This includes a requirement on producers to meet the packaging waste management costs required to achieve recycling targets in England, Northern Ireland, Scotland and Wales. This section sets out Government's proposed approach for:

- producers that will be obligated to meet the costs of managing packaging waste
- reporting obligations on certain producers to enable nation level reporting of recycling targets
- obligations on packaging placed on the market by small and micro businesses and through Online Marketplaces
- specific obligations related to payment of packaging waste management costs and reporting of packaging placed on the market data in England, Northern Ireland, Scotland and Wales
- requiring reporting of actual weights data
- the scope and estimated scale of the costs of managing packaging waste
- other costs producers will be obligated to pay
- other obligations on producers that are considered in detail elsewhere in this document

Types of producer and their obligations

5.2 In the current system, the obligation for a single item of packaging is shared across multiple businesses. Government consulted previously on moving to a single point of obligation (whereby a single producer is responsible for the cost of managing a single piece of packaging) so as to focus the obligation onto those who are best placed to take decisions on the packaging they use. This approach received majority support (59%) with strong support (72%) for this obligation being placed on brand owners (which would include retailer own-brands).

5.3 Having reviewed responses to the 2019 consultation and undertaken further analysis, Government intends to legislate to move to a single point of obligation for the cost of managing any given piece of packaging. Such an approach will obligate most producers that are obligated in the current system, given that packaging is placed on the market at each stage of the packaging value chain in the form of primary, secondary and tertiary packaging. Our proposals also require the creation of new categories of producer to ensure close to all packaging is obligated in future.

5.4 New obligations will also need to be placed on certain categories of producer to separately report packaging placed on the market in England, Northern Ireland

Scotland and Wales to enable the tracking of progress to meet recycling targets. The details of these obligations are set out more fully below.

5.5 Government is proposing that there should be six types of obligated producer under the reformed system, each with varying obligations. These are as follows:

- A. Businesses who either put goods into packaging, or have goods put into packaging, and place those goods on the UK market under their brand name (“**Brand Owners**”)
- B. Businesses who are responsible for the import of filled packaging into the UK for sale. Where the importer is not based in the UK, it will be the first UK-based owner of the packaging who takes this obligation (“**Importers**”)
- C. Businesses who sell unfilled packaging to producers who are below the de-minimis threshold take on the obligation for that packaging. This may be wholesalers/distributors, importers or any other business who sells directly to unobligated producers (“**Distributors**”)
- D. Businesses based in the UK who operate a website, or any other means by which information is made available over the internet, through which persons based outside the UK, other than the operator, are able to offer filled packaging for sale in the UK (whether or not the operator also does so). (“**Online Marketplaces**”)
- E. Businesses in the UK who sell any filled packaging to the end user. This includes all types of packaging, so could be, for example, supermarkets in relation to primary packaging, or manufacturers in relation to secondary or transit packaging. (“**Sellers**”)
- F. Businesses who supply reusable packaging to a user of that packaging where the supply is made by hiring out or lending the packaging (“**Service Providers**”)

5.6 Business in categories **A**, **B**, **C**, **D** and **F** would take on a “**waste management costs obligation**”. Businesses in category **B** (for packaging they import and discard in the UK before it is sold), **C**, **D**, **E** and **F** would take on an obligation to separately report packaging placed on the market in England, Northern Ireland Scotland and Wales”. More detail is provided on these obligations below. **Individual businesses may take on more than one obligation.** For example, in a case where a business is both the brand owner and the seller of a packaged product, they would take on obligations as both a Brand Owner (**A**) and a Seller (**E**). An Online Marketplace may add packaging to a product sold through their marketplace by another business, in which case they would take on obligations as both a Brand Owner (**A**) and an Online Marketplace (**D**).

Table 4 - Examples of different businesses that would be obligated

Producer Type	Example 1	Example 2
Brand Owner (A)	A manufacturer who makes soup and fills steel cans with that soup. They put their brand on the label and sell the soup to supermarkets. In this case, the manufacturer is the brand owner and takes the obligation.	A supermarket, A Ltd, has an own-brand range of coffee. They contract a manufacturer to make the coffee and put it in the packaging. The contractor also prints the label. The label may have the supermarket's primary brand on it "by A"; a secondary brand "A Essentials", or it may have a tertiary brand on it that does not include the supermarket's name. In this example, the supermarket is the brand owner and takes the obligation.
Importer (B)	An importer imports a pallet of filled cereal boxes. They subsequently sell the cereal boxes but discard the pallet and shrink wrap. They will be obligated as Importer on the cereal box packaging. (see Example 2 for Sellers, regarding the transit packaging).	
Distributor (C)	A wholesaler buys empty disposable cups from a manufacturer. They sell those cups to a small, independent coffee shop who fills them with coffee. (This coffee shop is below the de-minimis threshold.)	A manufacturer who makes disposable cups and sells them direct to a small, independent coffee shop. This coffee shop is below the de-minimis threshold.
Online Marketplaces (D)	An overseas business, "X Ltd", advertises lamps for sale on an Online Marketplace. A private individual in the UK purchases a lamp via that marketplace. The lamp is imported into the UK and delivered direct to the private individual who	

	<p>purchased it. The Online Marketplace adds some additional cardboard packaging for shipment in the UK.</p> <p>The Online Marketplace, as the facilitator of this sale, would be obligated for any packaging of that imported lamp.</p> <p>The Online Marketplace would be obligated as a Brand Owner for the cardboard packaging that they add to the product in the process of fulfilling the order on behalf of X Ltd.</p>	
Seller (E)	<p>A manufacturer sells their own branded biscuits to a supermarket in <i>shelf ready packaging</i> (e.g. an outer transit box containing packs of the biscuits ready for sale).</p> <p>They will be obligated as a Seller for the <i>shelf ready packaging</i> because this packaging will be discarded by the supermarket.</p>	<p>A business imports a pallet of 'filled' cereal boxes. They subsequently sell the cereal to a supermarket but re-export the pallet and discard the shrink wrap.</p> <p>They must report, as a Seller, the shrink wrap.</p> <p>(They will be obligated as an Importer for the cereal box packaging and the shrink wrap packaging as this packaging will be disposed in the UK. They would also need to report the exported pallet too to provide evidence that it had been exported and is therefore exempt.)</p>
Service Provider (F)	<p>A pallet company hires out reusable pallets. They will only need to report the pallets and pay waste management cost fees the first time they are placed on the market.</p> <p>Those who are using the pallets, such as manufacturers</p>	<p>A company hires out reusable IBCs (Intermediate Bulk Containers)²². They will only need to report and pay waste management cost fees for the IBCs the first time they are placed on the market.</p>

²² Intermediate bulk containers (also known as IBC tote, IBC tank, IBC, or pallet tank) are reusable, multi-use industrial-grade containers engineered for the mass handling, transport, and storage of liquids, semi-solids, pastes, or solids

	and supermarkets, never own these pallets, and so do not need to report them.	Those who are using the IBCs, such as manufacturers, never own it, and so do not need to report them.
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Waste management cost obligation

5.7 Government proposes that Brand Owners, Importers, Distributors, Online Marketplaces, and Service Providers take on a “**waste management cost obligation**”. They would report the obligated packaging they placed on the market (or facilitated the sale of, if an Online Marketplace) and pay fees to cover the costs associated with the management of the packaging waste, in addition to paying for other scheme costs. Where producers can provide evidence that any packaging that has been filled or imported has subsequently been exported without being placed on the market in the UK, then that packaging will become exempt. Where they can provide evidence that they have arranged for packaging waste to be separately managed, then they will be able to offset an equivalent amount from their obligation, for similar packaging (see the section on Payments for Managing Packaging Waste, for more on this).

Brand Owners

5.8 Government believes that placing the main point of obligation on Brand Owners will ensure that the requirement to pay fees to cover the costs of managing packaging waste, and the modulation of those fees, are placed on those with most influence over decisions made at the design stage and in the choice of packaging used on their products. Brand Owners are best placed to act quickly and effectively to change the packaging used on their products.

5.9 Obligating the Brand Owner, and not the packer/filler, ensures that where producers contract out the manufacture and packing of products, they will retain the producer responsibility obligation. This is important as it is often the Brand Owner and not the contracted party who will have influence in specifying the packaging to be used. In some situations, such as where certain types of transit packaging are used, there may not be a brand on the packaging, or a Brand Owner may not be identifiable. In these cases, the obligation would then fall to the person who placed the goods into the packaging.

5.10 There are also technical considerations. IT systems for data reporting and modulated fees could be more complex to design and implement in a shared responsibility approach. In addition to this, Government has concluded that it is not technically feasible to design a system that does not raise more or less than the full-net costs of managing packaging waste whilst allowing for more than one business to be obligated for any one piece of packaging. If responsibility were to be shared

across the packaging supply chain, there is an assumption that all packaging/packaged goods sold would arise as UK packaging waste. However, if for example some packaging is exported by a seller, then those in the supply chain before the seller will be reporting and paying towards waste management costs unnecessarily. This would result in more costs being raised than required.

5.11 Finally, when looking at good practice in other countries, particularly those that modulate fees, a single point of obligation is common. Moreover, many of these countries obligate the business whose brand is on the product when it is sold, and who either packages the product or is responsible for the product being packaged.

5.12 This proposal is also consistent with those being put forward for deposit return schemes in the UK. The Scottish deposit return scheme regulations²³ set out that it is the brand owner who places drinks onto the market in containers that are in scope of the scheme that is obligated²⁴. The proposal for the England, Wales and Northern Ireland deposit return scheme also places the obligation on the brand owner who places the drink on the market²⁵.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

Importers

5.13 The key principle for obligating importers will be that, subject to the de-minimis threshold, all packaging that is imported into the UK and placed on the UK market will pick up an obligation by a business with a UK presence.

5.14 Government proposes that importers of *filled* packaging should be obligated for that packaging under the Extended Producer Responsibility scheme. *Unfilled* packaging that is imported will become obligated at the point where it is filled or packed in the UK, or if sold to an unobligated producer (see section on “approach to small businesses”). Any imported packaging (unfilled or filled) that is subsequently

²³ The Deposit and Return Scheme for Scotland Regulations 2020

²⁴ The Scotland deposit return scheme regulations define “brand owner” as the person who, in the course of a trade, business, craft or profession, puts a name, trade mark or other distinguishing mark on a scheme article or scheme packaging by which the person is held out to be a manufacturer or the originator of the scheme article, and “branded” is to be construed accordingly.

²⁵ The proposed definition is: “Producers are those who place on the market branded beverage products in drinks containers within the scope of the deposit return scheme (the brand owner). Retailers are not included, unless they place own-branded drinks on the market, in which case they would be obligated producers under the scheme. This would include those who import beverage products to put on the market in England, Wales and Northern Ireland. This does not include those who manufacture the physical containers.”

exported, and can be evidenced as such, would not incur obligations under Extended Producer Responsibility.

5.15 As is the case with the current system, where an importer with a UK presence cannot be identified, then the first owner in the UK would pick up the obligation, subject to the de-minimis threshold. Government recognises that identifying the first owner in some circumstances is challenging. This is because of the additional complexity due to the nature of the supply chains and the role of intermediaries such as agents, brokers, hauliers and freight-forwarders. Government will continue to work with the regulators to ensure that the obligations on imported packaging will be picked up by a producer (subject to any de-minimis arrangement).

Q20. Are there any situations where the proposed approach to imports would result in packaging being imported into the UK which does not pick up an obligation (except if the importer or first-owner is below the de-minimis, or if the packaging is subsequently exported)?

Where available, please share evidence to support your view.

The approach to small businesses

5.16 In the current regulations (the Packaging Waste Regulations 2007) producers that have a turnover below £2m and who use less than 50 tonnes of packaging per year are exempt from reporting and evidence obligations. In 2019, approximately 11.7m tonnes of packaging was placed on the UK market. The amount accounted for by compliant obligated producers in the same year was just under 10.1m tonnes²⁶. The obligated producers have a business target applied to their packaging to account for unobligated tonnage. The amount of packaging not accounted for (either from producers below the de-minimis threshold or free riders²⁷) was approximately 1.6m tonnes, or 14%.

5.17 As part of the packaging reforms, Government wants to ensure as much packaging as possible is brought within the system and is therefore subject to fees to cover the costs of packaging waste management and the modulation of those fees. However, the collating and reporting of packaging data will be more burdensome for the smallest producers. These businesses are unlikely to have digital records or databases and may struggle to dedicate staff time to the task. For these reasons Government wants to avoid placing any unnecessary reporting burden on the smallest producers under this new scheme.

²⁶ National Packaging Waste Database

²⁷ Free riders are businesses that are obligated under the regulations but do not register and comply with the regulations.

5.18 Three broad options have been identified that could be used individually or together to obligate significantly more, or close to all, packaging, while ensuring the smallest producers are not exposed directly to the burden of reporting. These are:

- Option 1 - Lowering the de-minimis threshold to £1m and 25 tonnes²⁸
- Option 2 – Obligating distributors for unfilled packaging sold to businesses below the existing or a reduced de minimis threshold
- Option 3 – Obligating manufacturers and importers of unfilled packaging sold to businesses below the existing or a reduced de minimis threshold

5.19 The central scenario in our analysis suggests that Option 1 could increase the number of obligated producers by 1,800. This number, calculated using a statistical method, is very uncertain and could be as high as 17,800. The same analysis also estimated the additional tonnage that would become obligated in this scenario to be 390,000 tonnes, or just over 3% of what was placed on the market in 2019, or just over one fifth of the packaging not accounted for in the current system. The main benefit of this option is that the costs are shared among more producers, and the number of producers that are actively and consciously involved with the system is increased. However, the number of obligated producers would need to increase significantly to bring in a meaningful additional tonnage and this would make the administration and enforcement of the system more burdensome.

5.20 Government does not intend to align the Packaging Extended Producer Responsibility de-minimis threshold with that of the approaches to small businesses for the Plastic Packaging Tax or the deposit return schemes in the UK²⁹. This is because the de-minimis threshold for the Plastic Packaging Tax and the deposit return schemes have been designed for a narrower range of materials and types of packaging and therefore a smaller number of businesses. In addition to this, deposit return schemes are centred around changing consumer behaviour, and so excluding some products from the system has a greater impact on the outcomes being sought.

²⁸ The current packaging waste regulations require businesses that handle over 50 tonnes of packaging annually **and** have an annual turnover over £2 million to meet a share of the annual UK packaging waste recycling targets. Those below this threshold are do not have any obligations. This is known as the de-minimis threshold.

²⁹ The deposit return scheme in Scotland will not have a de-minimis for producers, however those with a taxable turnover of £85,000 or less will not be required to pay a registration fee. Government is proposing that the deposit return scheme for England, Wales, and Northern Ireland will not have a de-minimis for producers, however Government is considering waiving registration fees for smaller producers. A de-minimis threshold will be apply to the plastic packaging tax. Government intends for this to be set at 10 tonnes.

Consumers need to know which products are in-scope of the deposit return scheme. Government therefore considers it appropriate for the approaches to differ.

5.21 Option 2 and Option 3 would result in close to all packaging becoming obligated for packaging waste management cost payments, whilst minimising the additional number of obligated producers³⁰. They would both work by embedding an assumption in the system that the seller of unfilled packaging was obligated for that packaging unless they could demonstrate that the packaging was sold to an obligated business. This would require all obligated producers to be issued with a unique identification number, and for the sellers of unfilled packaging to monitor and report the proportion of packaging sold to unobligated businesses and pick up the obligation on their behalf. As a result, packaging sold to unobligated businesses would be sold as 'Extended Producer Responsibility obligation paid'.

5.22 Under Option 2 this obligation would be placed on distributors of unfilled packaging. As noted in the section above, this would primarily focus on wholesalers of unfilled packaging, but would also include manufacturers and importers (including Online Marketplaces) that sell direct to unobligated producers. This may result in a small increase in obligated producers, primarily wholesalers, but the number would be significantly lower than for Option 1.

5.23 Under Option 3 the obligation would be placed only on the manufacturers and importers (including Online Marketplaces) of unfilled packaging, and no new obligations would be placed on wholesalers. This would be the least burdensome approach, only obligating one type of business. These manufacturers would already be captured in the system, for example reporting any transit packaging that they pack/fill and sell, as Brand Owners. Additionally, manufacturers of packaging will already hold all the information necessary for reporting (e.g. packaging weights and recyclability information) and may be able to react more effectively than wholesalers to price signals sent through modulated fees because they manufacture the packaging. Finally, it is proposed (in the labelling section) that it is the manufacturer or importer of unfilled packaging sold to businesses below the de-minimis who should be obligated to meet new mandatory labelling requirements.

³⁰ Government acknowledges that these approaches would not pick up 100% of packaging placed on the market. This is because some small producers may make their own packaging. However, Government expects this approach to capture the vast majority of packaging and will provide a good balance between adhering to the *polluter pays principle* and protecting the smallest of producers from any unnecessary burden.

5.24 Government recognises that under Options 2 and 3 some, or all, of the costs that are incurred in obligating unfilled packaging sold to small producers may be passed on in the price of the packaging. However, it is the burden of having to collate and report technical packaging data, and not this financial cost, that these proposals seek to protect smaller producers from. This is in line with an overarching principle for Packaging Extended Producer Responsibility: “*Producers pay into the system either directly or through the price they are charged by others in the supply chain consistent with the ‘polluter pays’ principle*”. This in turn may influence their own packaging use choices, to either reduce the volume used or switch to cheaper recyclable alternatives.

5.25 Government sees merit in all three approaches, potentially applied in combination. However, Government has an initial preference for Option 3 as the means to streamline recyclability assessments and labelling and to minimise reporting burden.

Q21. Of Options 2 and 3, which do you think would be most effective at both capturing more packaging in the system and ensuring the smallest businesses are protected from excessive burden?

- a. Option 2
- b. Option 3
- c. Neither
- d. Don't know

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

Q22. If either Option 2 or 3 is implemented, do you consider there to be a strong case to also reduce the de-minimis threshold as set out in Option 1?

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

Please provide the reason for your response.

Online Marketplaces

5.26 Government set out in the previous consultation a proposal to address the issue of increasing sales into the UK through online marketplaces. The respondents to the consultation gave a strong steer with 95% supporting this proposal.

5.27 Following engagement with stakeholders Government proposes the following approach:

- Online Marketplaces are obligated in relation to *filled* packaging that is sold on the UK market via their platforms/websites by businesses based outside the UK. Online marketplaces must pay fees to cover the costs of managing this packaging waste, as well as other scheme costs. This would be in addition to

any other obligations they might have as a Brand Owner or any other type of producer.

- If a business using their platforms/websites is already obligated and compliant with the regulations, then the Online Marketplace can exempt this packaging from their obligation. This can be evidenced through a unique identification number, in the same way as proposed for Options 2 or 3 in the section of this document that covers the approach to small businesses.
- It would be expected that Online Marketplaces would submit as much actual weights data as is possible. However, they would have the option to propose to the regulators a methodology by which they will compensate for any gaps in their data in order to comply. The regulators will set out a process for how to obtain approval for a methodology. It is Governments' strong preference that Online Marketplaces would submit a single methodology to be used by all.
- If Online Marketplaces have not proposed an acceptable methodology, they will be permitted a period in which to improve it. This period must end before the reporting year begins.
- If it is still not approved, then the Online Marketplace must report actual weights data.

5.28 This approach is designed in recognition that Online Marketplaces in many cases never legally own packaging and products being sold via their websites, making data collation challenging. The approach proposed will provide Online Marketplaces with the opportunity to work together to establish a methodology for how they will obtain the data needed, whilst providing confidence to the regulators and others that Online Marketplaces are providing the most accurate data available. Where a sub-group of Online Marketplaces can make the case, the regulators may make an exception to approve more than one methodology. This could be, for example, to account for a sector amongst Online Marketplaces that have distinct data collation challenges to others. However, the regulators will not accept methodologies from individual Online Marketplaces as that will lead to inconsistencies and an un-level playing field. Government would expect as few methodologies as possible to be approved.

5.29 The underlying principle and requirement will be that Online Marketplaces contribute to the waste management cost obligations in a way that is equivalent to other producers. Government therefore sees this approach as a steppingstone towards maximising the provision of actual weights data by Online Marketplaces. It would be expected that the regulators and the Scheme Administrator would work with Online Marketplaces to ensure that data for actual weights being submitted by Online Marketplaces are maximised quickly. A central weights database may provide one way of supporting this (see below for more on actual weights data).

5.30 Government does not propose to include in this obligation the sale, via Online Marketplaces, of packaged products from UK-based businesses. Given the

proposals on the approach to small businesses (as set out above), the vast majority of this packaging will be obligated. Where UK-based producers who are below the de-minimis threshold purchase unfilled packaging, the obligation for that packaging will be passed on to the business who sold it to them.

5.31 This approach is intended to obligate packaging that is being sold by businesses, either to other businesses or to consumers. It is not the intention of this proposal to obligate packaging used in the sale of products between two private households. It is expected that this will only be a small proportion of the imports that occur as a result of sales via Online Marketplaces. Government is developing its thinking on how this could be defined in regulations and properly enforced.

5.32 Government proposes that the obligation on Online Marketplaces could be broadened to capture fulfilment houses. Fulfilment houses store goods for overseas clients with no fixed UK establishment. Some Online Marketplaces operate their own fulfilment house. Government is developing its thinking on this proposal.

5.33 Government has also identified an opportunity to extend this approach by also obligating unfilled packaging that is sold in large quantities via Online Marketplaces from outside the UK. A threshold would need to be set to avoid targeting small quantities being supplied to individuals for non-packaging uses (for example, a private individual ordering some drinks cups for a party). Doing this could address fairness between businesses based in the UK who supply unfilled packaging to unobligated producers, and similar businesses based outside of the UK, supplying via online marketplaces. The businesses based in the UK will be obligated for the unfilled packaging they supply (as per the “Distributors Approach”).

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

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

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

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

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

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

Q25. This proposal will require Online Marketplaces to assess what packaging data they can collate and then, where there are gaps to work together to create a methodology for how they will fill those gaps. Do you think there are any

barriers to Online Marketplaces developing a methodology by the start of the 2022 reporting year (January 2022)?

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

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

Service Providers

5.34 Government proposes that Service Providers should be obligated for reusable packaging that they hire or lend out, but only on the first time that it is placed on the market. This would be a continuation of the approach in the current system. In the current system Service Providers pick up a rolled-up obligation equivalent to being both the “packer/filler” and the “seller”. Those who they lend or hire reusable packaging to never own that packaging and will not have control over its design. Therefore, it should be the person hiring out the packaging who takes responsibility for paying the costs associated with managing it once it becomes waste.

Reporting obligations for payments to cover packaging waste management costs

5.35 Producers will be required to report the tonnage of packaging that they are obligated for in the previous calendar year. Reporting in phase 1 in 2023, if proved to be feasible, will be different (see Section 14).

5.36 Producers in the current system report the tonnage of packaging they have handled according to seven material categories (plastic, paper/card, glass, steel, aluminium, wood, and other). In the future, reporting will need to be done at a more granular level to enable the application of modulated fees. A project undertaken by Eunomia for Defra in 2019 proposed 79 packaging categories³¹. We are currently reviewing this as part of a collaborative project on modulated fees with producers and engaging stakeholders more widely (see Section 7 for more on modulated fees).

5.37 Government proposes that Online Marketplaces should initially be required to report by eight material categories - Plastic, Aluminium, Steel, Paper/Card, Glass, Wood, Fibre-based Composites, and Other - in recognition that collating detailed packaging data from the businesses who use their websites/platforms will present a

³¹ The title of this report is: *Study on Two Approaches to Extended Producer Responsibility for Packaging (2019)*. Publication of this report is due to occur in parallel with this consultation. The report will be published at <http://sciencesearch.defra.gov.uk>.

significant challenge. This means that the fees they pay would not be modulated until such time as they can report data by packaging format/category.

5.38 The regulations will require producers to report their placed on the market tonnages annually. This reporting may be through the Scheme Administrator or compliance schemes depending on the overarching governance arrangements (see Section 10).

5.39 It will be for the Scheme Administrator or compliance schemes to decide whether producers may need to report more frequently. They may, for example, encourage or require producers to submit data quarterly, allowing for quality assurance processes to be undertaken during the year. This would make end of year reporting a quicker, less burdensome process, allowing tight deadlines for the application of modulated fees to be met. Government intends to explore the feasibility of developing a digital solution that allows for the more frequent provision of data, which will give the Scheme Administrator and compliance schemes the choice.

Obligation to separately report packaging placed on the market data in England, Northern Ireland, Scotland and Wales

5.40 Government proposes that **an obligation is placed on certain producers to separately report data on packaging placed on the market in England, Northern Ireland Scotland and Wales** in order to facilitate the tracking of progress to meet packaging waste recycling targets.

5.41 Producers with this obligation would report where they have:

- sold filled packaging to the end consumer (**Sellers**)
 - This would include, for example, supermarkets for the sale of primary packaging, manufacturers for the sale of secondary and transit packaging, and **Importers** for any packaging they import and subsequently sell (for example, if they import unfilled packaging, and sell it to a manufacturer, they would be a Seller with regards to any transit packaging).
- sold unfilled packaging to unobligated producer (**Distributors**)
- hired out reusable packaging (**Service Providers**)
 - Packaging that is hired out would only need to be reported the first time it is placed on the market.
- facilitated the sale of filled packaging via an **Online Marketplace**
- any packaging that has been imported but subsequently discarded in the UK before selling (**Importers**)

5.42 The obligation would apply to all types of packaging, including transit and delivery packaging. Where a producer has this obligation only (for example a

supermarket that doesn't sell any own-brand products) they would not pay fees to cover packaging waste management costs, but they would pay annual fees to cover administrative and regulator costs. However, many producers will have this obligation in addition to a waste management cost obligation.

5.43 Government acknowledges that for some producers it might not be possible to know that the packaging will remain where it is sold. As an example, a Distributor located in England close to the border with Wales sells unfilled packaging to a person whose business is in Wales meaning that packaging is placed on the market in Wales. However, it is expected that this would be a minority of the packaging reported.

5.44 The de-minimis threshold will apply to this obligation to avoid placing any unnecessary reporting burden on small businesses (the de-minimis is covered in the section on the approach to small businesses).

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

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

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

5.45 Producers with this obligation will report annually the tonnage of packaging they have placed on the market according to eight packaging categories initially – Plastic, Aluminium, Steel, Paper/Card, Glass, Wood, Fibre-based Composites, and Other. The purpose of the obligation is to provide data to inform the reporting of packaging waste recycling rates by nation (packaging waste recycling targets are covered in section 4). Therefore, data by packaging format is not required. which minimises the burden placed on those producers who only have this reporting *obligation*.

Packaging Weight Data

5.46 In the current system, several of the compliance schemes maintain 'average weight' packaging databases meaning that by assessing the market producers can seek to minimise their obligation. In the previous consultation, Government proposed moving to actual packaging weights where feasible to ensure reported tonnages accurately reflect what producers are placing on the market. This approach received strong support (72%) and so Government intends to look at ways of supporting this as it scopes the digital infrastructure required to enable reporting of packaging placed on the market.

5.47 Government proposes that producers should be required to report actual packaging weights data, except where this is technically not feasible.

Government acknowledges that this may be more straight-forward for some types of packaging than others. For instance, where products are imported on a pallet, the amount of film used to wrap a pallet may vary pallet by pallet and business by business depending on what is wrapped and who is wrapping it. In such situations it would be for the Scheme Administrator to establish an average weight or weights, depending on the type and application of the packaging.

5.48 As set out in the previous consultation, one way this requirement could be supported is through a central weights database. As part of scoping, Government will explore with producers, different ways of facilitating the submission of actual weights data and how this could be streamlined. For instance, it may be possible for some data to be supplied to a central database direct by manufacturers of unfilled packaging (where multiple producers use the same packaging) using unique identification codes.

5.49 The requirement to report packaging placed on the market based on actual weight data would apply from 2024, for packaging placed on the market in 2023.

Removal of the Allocation Method

5.50 In the current Packaging Waste Regulations (2007) there is a system in place for smaller, obligated producers who sit just above the de-minimis threshold. If a producer has an annual turnover of between £2-5m then they can comply using the Allocation Method. This method sees a producer's turnover being used along with the "Recycling Allocation" to determine their obligation. The Recycling Allocation is a factor that is determined by Government. This obligation reduces the administrative burden on these producers as they do not have to collate and report packaging weight data. In the 2019 registration year, just under 5% of producers used this method. Together, their obligation accounted for 0.4% of the total obligated tonnage.

5.51 Government proposes removing the option to use the allocation method in the new scheme. This is because the Allocation Method is not consistent with the *polluter pays* principle. All producers in the new system who are obligated to pay packaging waste management costs will need to report packaging weight data to ensure that every producer covers 100% of the costs incurred by their packaging. Additionally, if any producers only report their turnover, then it will not be possible to modulate their fees. This means that these producers would not be actively engaged in the system and would not be incentivised to use better packaging.

Q27. Do you agree or disagree that the allocation method should be removed?

- a. Agree
- b. Disagree

c. Neither agree nor disagree

Scope and estimated scale of the costs of managing packaging waste

5.52 At the core of Extended Producer Responsibility for packaging will be the requirement for producers to pay to cover the costs of the management of packaging waste. In the previous consultation, Government proposed a set of costs that would be accounted for when calculating the overall costs:

- Collecting and transporting household/household-like packaging waste for recycling
- Sorting and treatment of household/household-like packaging waste (where required) for recycling. The income obtained from the sale of recyclable materials would be netted off.
- Treating/disposing of any packaging disposed of in the residual waste stream
- Providing information to consumers on recycling packaging waste and anti-littering
- Clean up of littered and fly-tipped packaging items
- The collection, collation and reporting of relevant packaging and waste management data (including litter and fly-tipping)

5.53 Based on the responses to the previous consultation, and further analysis undertaken, Government proposes that these costs should be paid by producers and in addition, the cost of **collecting** packaging waste in the residual waste stream from households for disposal as this represents approximately two thirds of residual household packaging waste management costs incurred by local authorities. The details of what makes up these costs is covered in Section 8.

5.54 Below are the estimated costs that will need to be recovered from producers as set out in the Impact Assessment published alongside this consultation. Please consult the Impact Assessment for information on how these numbers were derived:

- **Collecting, sorting and recycling packaging waste from households** (including bring sites, recycling centres, and recycling communications that are specific to local services): £726m when Extended Producer Responsibility is fully operational, increasing to £915m in 2032, primarily driven by increases in population, number of households and volume of packaging consumed.
- **Collecting and disposing of packaging in the residual waste stream from households:** £289m when Extended Producer Responsibility is fully operational, reducing to £251m in 2032, driven by higher recycling rates (and despite increases in population, households and packaging consumed).
- **Collecting, sorting and recycling household-like packaging waste collected from businesses:** Costs relating to business waste collections have been challenging to estimate. This is because Government does not collect the same level of information on commercial and industrial waste, and collection and treatment costs are commercial information. The UK Government will shortly consult on new requirements in England for

consistency in waste collection services and this could increase costs. Given this, at present Government estimates the cost to producers could be in the region of £1.5bn if all businesses are required, or choose, to have a dry mixed recycling. Analysis has indicated that it may be possible to reduce these costs through scheme design (this is covered in more detail in the payments section).

- **Litter and refuse management costs:** an initial estimate suggests costs of approximately £212m.

5.55 All producers will need to assess their packaging for recyclability and report this data. This will then inform the modulation (variation) of their fees. Modulated fees are considered further in Section 7. Producers will also need to report whether their packaging is commonly littered, with producers of commonly littered items bearing the cost for its management. Litter costs are considered further in Section 9.

Payments for other scheme costs

5.56 In addition to the payment of packaging waste management costs, producers will pay other costs incurred in the running of the scheme.

Regulator charges

5.57 In the current system producers pay registration fees to regulators to cover the costs regulators incur in monitoring compliance. This will continue in a reformed system. Compliance monitoring and enforcement is covered in Section 12.

Scheme Administrator costs

5.58 All producers will need to pay annually to cover the administrative costs incurred by the Scheme Administrator. This includes producers who only have an obligation to separately report packaging placed on the market in England, Northern Ireland Scotland and Wales". These costs will be determined by the Scheme Administrator. If the governance of the scheme involves a role for compliance schemes, then producers may pay a membership fee for the scheme too, as is the case in the current system (scheme governance is covered in Section 10). Government expects that a Scheme Administrator will be operating in 2023 (see Section 14), and therefore producers would be required to register with the Scheme Administrator in 2023 and at this point would be expected to pay registration fees and administrative costs.

National Communication Campaigns

5.59 In the previous consultation, Government set out proposals to obligate producers to contribute to the cost of recycling communications campaigns. Respondents to the consultation showed strong support for this with 90% supportive

of producer fees funding both national campaigns and 88% for local level campaigns.

5.60 A large minority of respondents stated that producer fees should only be provided where local authority campaigns are consistent with national campaigns. For nation-led campaigns, the majority felt that it was important that they operate within a UK-wide framework.

5.61 Government proposes that producers with a “*waste management cost obligation*” (Brand Owners, Importers, Distributors, and Online Marketplaces) will be obligated to pay costs to fund national communication campaigns. This is in addition to payments for locally run communication campaigns as part of the packaging waste management cost fees. It will be for the Scheme Administrator to establish the costs to be paid by producers and whether to deliver these communications itself or distribute the funds raised to other organisations to run campaigns.

Other producer obligations considered elsewhere in this consultation

- **Disposable cups** – some producers may have an obligation to provide ‘take back’ facilities for the collection of single-use paper cups for recycling. This is considered further in Section 6.
- **Labelling** - some producers will have an obligation to label their packaging as to whether it is recyclable or not. Labelling is covered in Section 7.

6. Producer disposable cups takeback obligation

6.1 In line with the waste hierarchy and the objectives of Extended Producer Responsibility, Government aims to increase the use of reusable cups, reduce the use of difficult-to-recycle single-use cups and increase the recycling of single-use cups. We also want to see a reduction in the numbers of cups that are littered and for it to be easier for people and businesses to recycle used cups through effective and accessible recycling systems. This section sets out Government's proposals to increase the recycling of disposable paper cups.

6.2 The UK Government and the Devolved Administrations are considering possible approaches to reduce the consumption of single use cups through preventative measures such as the introduction of a cups charge. Whilst complementary to Extended Producer Responsibility, these measures do not form part of the packaging Extended Producer Responsibility proposals. The Environment Bill will introduce powers to place charges on single use items, which could be applied to single use cups in the future, if deemed appropriate.

6.3 The targets section sets out Government's intention to introduce a recycling target for fibre based composite packaging from 2026 which would include disposable fibre-based cups. Given current tonnage estimates suggest fibre-based cups could represent just under 50% of this fibre-based packaging, the recycling of paper cups would make a significant contribution to increasing the recycling of this packaging stream. It is estimated that approximately 0.25% of paper cups are recycled at present.³²

6.4 Voluntary takeback initiatives have been positive in helping to support recycling and in indicating the support and willingness of large retailers to undertake cup recycling initiatives. The National Cup Recycling Scheme comprises of eight major retailers including: Costa, McDonald's, Pret A Manger, Caffè Nero, Greggs, Burger King, Pure and Lavazza Professional, which are estimated to represent approximately 36% of the overall market of sold filled disposable cups³³. It reports a

³² Environmental Audit Committee. 2017. Disposable packaging: coffee cups. House of Commons, 5 January 2018.

³³ WRAP - Valpak (2021), 'Single-use cups and on-the-go fibre composite packaging' (unpublished report)

6% recycling rate, based on the number of cups that its members placed on the market in 2019³⁴.

6.5 However, voluntary initiatives will only go so far. Government wants to see producers take greater responsibility for these difficult to recycle packaging products and provide consumers with the opportunity to do the right thing by recycling their disposable cups. Government is therefore seeking views on placing a mandatory takeback obligation on sellers of filled disposable paper cups, and any impacts this may have on retailers and consumers. This obligation would require the separate collection and recycling of single-use paper cups. Cups made of other materials such as plastic, are more easily recyclable and often are processed alongside other plastic packaging.

6.6 Given the lack of reporting and limited data on disposable cups, Government is also seeking views on obligating producers to report on all disposable cups placed on the market by format at a UK level, in alignment with the reporting requirements set out in the Producer Obligations section. This data would help to monitor progress towards reducing, re-using and recycling disposable cups and determine the proportion of different formats of cups placed on the market, which will help to better target measures to manage disposable cups. This could be introduced in the proposed new Data Reporting Regulation 2021 which will require placed on the market data for 2022 to be reported in January 2023 (see Section 14).

Takeback obligation

6.7 Mandatory takeback would require businesses selling filled disposable paper cups to provide for the separate collection of used cups (either generated in-store or consumed 'on-the-go'), through both instore and front of shop collection points, and to arrange for the collection and recycling of these cups. The takeback requirement would extend to accepting all disposable paper cups at these collection points irrespective of brand or where the drink was purchased.

6.8 Introducing this takeback requirement could provide the financial stimulus necessary (at least initially) for investment in collection and reprocessing (similar to what has been achieved by the National Recycling Cup Scheme) and may reduce costs as economies of scale increase³⁵. It would bring all sellers of drinks sold in disposable paper cups onto a level playing-field in providing for takeback. Investing in collection infrastructure and communication campaigns to influence consumer behaviour will also help reduce disposable cups being littered.

³⁴ <https://www.cuprecyclingscheme.co.uk/news/national-cup-recycling-scheme-updates/uk-cup-recycling--myth-vs--fact>

³⁵ <https://www.cuprecyclingscheme.co.uk/about>

6.9 The Impact Assessment assessed the costs and benefits of introducing a mandatory takeback. It estimated that the recycling rate could increase from 0.25% to 39% based on stated evidence in the 'Leeds by example's' study³⁶. Additional evidence has been commissioned by Defra to inform future analysis.

6.10 If introduced Government would seek to introduce the takeback obligation on sellers of filled disposable paper cups within the Extended Producer Responsibility regulations in 2022 and for it to be met by the end of 2023. Obligated sellers would be able to decide how to deliver on their obligation either by joining an existing takeback scheme, by putting in place their own arrangements or by developing new schemes.

6.11 If introduced sellers would also be obligated to report on cup tonnages separately collected, managed and recycled through their takeback arrangements. It may be possible to be automated through new electronic waste data tracking arrangements. All sellers obligated to introduce takeback arrangements would be required to meet this reporting requirement.

6.12 Once scheme governance arrangements were in place and Phase 2 of Extended Producer Responsibility is operational, brand owners who place disposable cups on the market and are also sellers of disposable cups that have mandatory takeback obligations (e.g. national coffeehouse chains), could seek to offset the tonnages of cups that have been managed through their takeback scheme against their Extended Producer Responsibility packaging waste management fees. This would be contingent on the seller making necessary arrangements to secure evidence direct from a reprocessor or through their waste collector and presenting this to either the Scheme Administrator or a Compliance Scheme. In line with wider proposals in the consultation, Extended Producer Responsibility producer fees would be paid to cover the costs of managing the cups that are not captured through takeback arrangements (i.e. predominantly managed through business waste, litter management) and contribute to the wider system costs associated with meeting the statutory targets, including contributing to communication campaigns, and scheme administration etc.

6.13 Alongside the mandatory takeback requirement on individual sellers, the Scheme Administrator or compliance schemes could implement other supplementary on-the-go cup collection initiatives such as provision of collection points at workplace and transit hubs if necessary, to help meet recycling targets and other outcomes (i.e. litter reduction).

³⁶ https://issuu.com/hubbubuk/docs/double_lbe_report_2019_digital

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Approach to small businesses.

6.14 Small and micro businesses account for approximately 35% of the overall market of sold filled disposable cups.³⁷ Requiring these businesses to meet mandatory takeback requirements would make it easier for consumers to recycle their cups and help meet a fibre-based composite packaging target once set.

6.15 However, Government would want to avoid placing a disproportionate burden on these businesses who are often single shops or very small chain businesses. Defra is undertaking further analysis to better understand the benefits and impacts of requiring these businesses to meet the take back requirements. This includes permanently or temporarily exempting small and micro businesses from any takeback requirement.

6.16 Government will consider further what a suitable exemption period may be, however, a two-year exemption would allow time for collection and reprocessing infrastructure to develop and the business payment mechanism (see payments section 8 below) to be implemented. This would then enable the funding of this takeback requirement for smaller businesses through their suppliers and would align with the introduction of fibre-based composite packaging targets.

6.17 If taken forward by Government, it is proposed that the exemption would be set-in alignment with the de minimis threshold set out in the Obligated Producers section. Franchises owned and let by the large sellers/businesses in scope of the producer payment obligation would not be exempt.

Q29. Do you agree or disagree with the proposed phased approach to introducing any takeback obligation, with larger businesses/sellers of filled disposable paper cups obligated by the end of 2023, and the obligation extended to all sellers of filled disposable paper cups by the end of 2025?

- a. Agree

³⁷ WRAP - Valpak (2021), 'Single-use cups and on-the-go fibre composite packaging' (unpublished report)

- b. Disagree
- c. Neither agree nor disagree

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

Implementation timeline

6.18 If introduced, this is the proposed timeline for implementation:

Table 5 - Indicative timeline for introduction of mandatory takeback for disposable cups

Activity	Time	Description
Defra-funded research project	Spring 2021	Completion of the cups research project
Placed on the market reporting requirement set in regulation	Autumn 2021	Reporting of disposable paper cups as a separate packaging format will be set within the proposed data reporting obligations, for packaging placed on the market in 2022 ³⁸ .
Mandatory takeback obligation	Autumn 2022	Mandatory takeback obligation set in packaging Extended Producer Responsibility regulations.
Reporting of data on disposable cups placed on the market begins	January 2023	The first year of reporting on disposable cups placed on the market in Jan – Dec 2022, and formally reported in Jan 2023 ³⁹ .
Mandatory takeback obligation on large	By end of 2023	Mandatory takeback obligation on large businesses/sellers, above Extended Producer Responsibility de-minimis, to be

³⁸ This is contingent on Government progressing with the wider data reporting SI in 2021 to enable phase 1 of EPR to commence in 2023.

³⁹ This is contingent on Government progressing with the wider data reporting SI in 2021 to enable phase 1 of packaging Extended Producer Responsibility to commence in 2023.

businesses/sellers to be met		met, including reporting on cups collected and recycled through the takeback scheme
Fibre based composite packaging waste recycling target set	2025	Government sets fibre based composite packaging targets in Extended Producer Responsibility regulations.
Mandatory takeback obligation on all sellers of filled disposable paper cups	By end of 2025	All sellers of filled disposable cups required to have takeback arrangements in place.
Fibre based target to be met	From 2026	Targets to be met from 2026 onwards.

7. Modulated Fees & Labelling

7.1 Government wants to ensure there are clear incentives on producers to make more sustainable design and purchasing decisions in their use of packaging and proposes that this is achieved through the application of modulated fees. This section sets out Government's proposals in respect of modulated fees. It also sets out Government's proposals for the labelling of packaging as to whether it can be recycled or not. They are considered together in this section because both will be informed by the outputs of an assessment to determine the recyclability of packaging. This section also sets out some specific considerations in respect of the application of modulated fees and labelling to biodegradable and compostable plastic packaging and plastic films and flexible packaging.

Modulated fees

Strategic framework for modulated fees

7.2 Modulated fees will adjust the packaging waste management costs paid by individual producers based on the positive or negative aspects of the packaging they use. For instance, producers whose packaging contributes positively to Extended Producer Responsibility scheme outcomes (e.g. easily recyclable) 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).

7.3 The modulation of fees should be applied in a fair, proportionate and strategic manner. The requirement for the Scheme Administrator (and compliance schemes, if applicable) to modulate (vary) the costs paid by producers according to aspects of packaging design would be set in the regulations. The regulations would not be prescriptive, but the approach adopted should be designed to deliver changes that will contribute to scheme outcomes and targets, such as more use of recyclable and reusable packaging. **Government proposes that the approach to modulation and the fee rates that would apply to different types of packaging should be determined by an appointed value-chain led Scheme Administrator.** If the governance arrangements include a role for compliance schemes, they could have some flexibility to determine base fee rates for non-household packaging waste; however the modulation element would be determined by Scheme Administrator and apply to all schemes to ensure the same incentives are applied to obligated producers. It is proposed that fee modulation will be introduced by the Scheme Administrator in fees charged to producers from April 2024, based on the packaging they placed on the market in 2023.

7.4 Government has developed a proposed strategic framework for the determination of modulated fees and to enable an effective modulation system to be established. Prospective scheme administrators' will be required to set out their

proposed approach to modulation as part of the process to appoint the Scheme Administrator. The Scheme Administrator's proposed approach will then form part of its contract with Government. A proposed framework is set out below.

7.5 This approach to modulated fees gives flexibility to the Scheme Administrator to adapt and modify the fee structure as and when needed. This could be to respond to changes in packaging design and formats and the market, to increase the effect of the modulation, or in response to new targets that may be introduced in the future.

7.6 **The proposed strategic framework regarding the modulation of producer fees:**

- Modulation should **decrease the fee** rates for packaging that contributes positively to scheme targets and outcomes.
- Modulation should **increase the fee** rates for packaging that does not contribute positively to scheme targets and outcomes. The increase should provide an incentive for those producers to:
 - Use different packaging / formats
 - Make improvements to the packaging they use
 - Fund improvements to the management of their packaging
- Plans should be made by the Scheme Administrator to introduce financial incentives to producers to **increase the use of reusable or refillable packaging**.
- The modulation of fees **should aim to raise no more, or less, than what has been deemed the necessary costs** (see payments section), of an effective and efficient system for managing packaging waste in any given year/period (after netting off material value). However, some flexibility in the total fees raised between years may be necessary to account for factors such as fluctuations in material price and contract and investment cycles.
- In certain circumstances modulation should provide for **targeted additional funding to be raised against a specific packaging format to fund improvements to the collection, sorting or reprocessing infrastructure**. This could be to enable an 'unrecyclable' type of packaging to become recyclable. This would need the agreement of relevant producers who have established that investment in the waste management system is preferable to using alternative packaging formats. As such, this targeted investment is distinct from the use of modulated fees to discourage the use of a particular type of packaging or generally funding the capture of already 'recyclable' items to meet scheme targets and outcomes.
- **Packaging waste management costs should be fairly apportioned** across material types and formats based on their respective waste management costs. However, the modulation of fees must avoid **worse overall environment**

outcomes⁴⁰ (e.g. increased lifecycle carbon emissions from the use of more energy intensive packaging formats or increased food waste as a result of poor packaging). Where necessary, the product that is being packaged should be considered when modulating fees. For example, where a packaging format/material that is not easily recycled may be the only option available to the producer (e.g. blister packs for pharmaceuticals) a different modulation rate for that product may apply, for a limited transitional period or until such time as a viable alternative becomes available.

- The mechanism for modulating fees **should be developed in consultation** with the packaging value-chain.

Proposed framework for the packaging reporting categories

- The packaging reporting categories should be **granular enough** to allow the modulation mechanism to function effectively **but not be so granular** that reporting becomes excessively burdensome for producers.
- **All types of packaging should be attributable to a specific category** so that all packaging types carry a fee. For less common packaging types this may mean establishing a ‘miscellaneous or other’ category and associated fee rates depending on recyclability.
- The categories should be **reviewed annually**, and no category should be added or removed within a reporting period. Changes to reporting categories should be introduced with an **appropriate amount of lead-in time**, to allow reporting systems to be updated and necessary data to be sourced by producers.
- The categories, and any subsequent changes, should be developed in **consultation with the packaging value-chain**.

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

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

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

Producer reporting requirements

7.7 The setting of modulated fee rates will require producers to report data on packaging placed on the market in more detail than under both the current packaging producer responsibility system and the data which will be required for Phase 1 of Extended Producer Responsibility if implemented in 2023 (see detail on Phase 1 in Section 14). Producers would be required to collate data against new

⁴⁰ This is a “requirement to consider” and not a mandate to do tests (such as Life Cycle Analysis) on every type of packaging. Tests such as LCAs are expensive, difficult, and not always conclusive, however they may have a role to play in some scenarios.

packaging reporting categories from January to December 2023, and report this data in January 2024, thereby allowing modulated fees to be introduced in April 2024. The new, more granular reporting categories are likely to mean that producers will need to put in place new internal data management systems to collate this data.

7.8 The UK Government and the Devolved Administrations have initiated a project in partnership with trade bodies representing producers, to establish the likely data requirements under the new Extended Producer Responsibility scheme and to develop an approach to modulated fees that the Scheme Administrator could choose to adopt⁴¹. The outputs of this project will supplement responses to this consultation and inform decisions on the reporting requirements to be placed on producers. It will also inform the development of the digital solution for Extended Producer Responsibility that Government is taking the lead on developing (see Section 13). This project will build on a report on the modulation of fees undertaken by Eunomia for Defra in 2019⁴².

7.9 In developing the new packaging reporting categories, Government is minded that they should be as future proof as possible. This means not only designing the categories with current targets in mind (i.e. recycling) but also future objectives or targets such as increasing the use of packaging re-use systems. Future proofing the reporting categories initially may make data collation a larger task for producers. However, Government believes this is necessary and will be beneficial. Collating more granular data will help to inform the work around future priorities such as re-use. It will also help producers to future proof their own data management systems. As part of the development of the digital solution for Extended Producer Responsibility, careful consideration would be given to ensuring commercially sensitive data remains confidential.

Modulation for recyclability

7.10 Government proposes that fee modulation should focus initially on recyclability, consistent with the initial focus on recycling targets. This is due to several factors including the complexity of developing a mechanism to modulate fees, to allow time to set new targets that will drive the use of modulation for criteria beyond recycling (for instance re-use and closed loop recycling), and collating the data necessary to underpin any new criteria for modulation. Ensuring that modulated

⁴¹ The specification for this project can be found as a separate document on the consultation page.

⁴²The title of this report is: *Study on Two Approaches to Extended Producer Responsibility for Packaging (2019)*. Publication of this report is due to occur in parallel with this consultation. The report will be published at <http://sciencesearch.defra.gov.uk>.

fees work effectively and drive the intended behaviours is important before adding new and additional criteria.

7.11 To enable fees to be modulated for recyclability producers will need to report on whether their packaging is recyclable or not. The previous consultation proposed that this should be done through establishing an ‘approved list’ of recyclable packaging. However, following engagement with the sector, Government does not believe this to be a practical way forward. This is because it would not account for individual packaging designs. For example, if a packaging format/material was put on the “approved list”, such as PET (polyethylene terephthalate) pots, it may be that not all polyethylene terephthalate pots are easily recyclable; some producers may add labels or sleeves that are difficult to remove, making the packaging hard to recycle. Other examples include the use of certain inks or the proportion of plastic on laminated card.

7.12 Instead, Government proposes that producers should assess the recyclability of their packaging, using a prescribed assessment methodology, reporting separately the tonnages of recyclable and non-recyclable material used. To facilitate this, it is proposed that the Scheme Administrator develops or procures the assessment methodology on behalf of its members. This would provide producers with a common methodology to determine whether for individual items of packaging the combination of components, materials, and design, meets the recyclability criteria. This approach would also underpin labelling for recyclability. In the previous consultation we were clear that recyclability would need to be determined on the basis of at least three criteria: that the packaging item can be collected and sorted, that reprocessing facilities are available and that a market exists for the reprocessed material.

7.13 To enable modulated fees to be introduced from 2024, producers will need to report on the recyclability of all the packaging they placed on the market during the 2023 reporting year. Introducing modulated fees in 2024 would also be dependent on the Scheme Administrator being able to establish an approach to recyclability assessments following its appointment in 2023.

7.14 Government anticipates that for a large proportion of packaging items, this assessment should be a relatively straightforward process. Where packaging is not complex and is made principally from one material, it should be easily identified as recyclable or not recyclable. It is also likely that some producers will already have assessed the recyclability of their packaging. Government proposes that it should be left to the Scheme Administrator as to how it handles producers who have not assessed all their packaging in a given reporting year, or who have made inaccurate assessments. For instance, it could decide to treat all ‘unassessed’ packaging as unrecyclable or allow ‘broadly equivalent’ methodologies to be used until such time as assessments using the Scheme Administrator ‘approved’ tool can be completed.

It would be for the regulators to enforce the regulations where a producer has submitted inaccurate or late recyclability assessments.

Q31. Do you agree or disagree that the Scheme Administrator should decide what measures should be taken to adjust fees if a producer has been unable to self-assess, or provides inaccurate information? This is in addition to any enforcement action that might be undertaken by the regulators.

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

7.15 The proposed timeline to introduce modulated fees in 2024 is summarised in Table 6:

Table 6 - Proposed timeline for the introduction of modulated fees

Activity	Time	Description
Modulated Fees Project	Present – Late 2021	Proposed packaging reporting categories and a proposed mechanism by which fees could be modulated (plus other outcomes).
Extended Producer Responsibility Regulations	2022	Commencement of regulations in late 2022.
Framework for modulated fees	Late 2022	Framework for modulated fees set out in contract between Scheme Administrator and Government.
Appointment of the Scheme Administrator	Early 2023	To include a requirement for the Scheme Administrator to put in place a process to enable producers to self-assess the recyclability of their packaging.
Producers collate packaging data, and assess packaging recyclability	Jan 1 st – Dec 31 st 2023	Producers capture and collate packaging data for 2023 to comply with their obligations to report in Jan 2024, including packaging weight data, and recyclability information.
Scheme Administrator operational	During 2023	Scheme Administrator develops or adopts a modulation mechanism and integrates and establishes an IT system. Recyclability assessment tool and support is available early 2023.
Producers submit 2023 data	Jan 2024	Producers submit 2023 packaging data, including results of packaging recyclability assessment and weight data.

Data processing and invoicing	Feb - Mar 2024	Scheme Administrator apportions packaging waste management costs by packaging materials and formats and applies a modulation mechanism to determine the costs to be paid by individual producers. Invoices are issued to producers.
Producers pay modulated fees	April 2024	Producers make first quarter payments

Scope of modulated fees

7.16 To ensure modulated fees have maximum impact, Government would like to see all relevant packaging and relevant costs within scope. This includes packaging waste collected from households and businesses and would mean fees would be modulated against the total cost of managing packaging waste (i.e. a £2.5bn cost envelope not just the estimated £1bn household costs). As a result, the only packaging outside of scope of modulated fees would be the packaging directly managed by the producers themselves (for instance, back hauled packaging).

7.17 The extent to which this is possible may depend on the approach taken to business payments (more detail in Section 8) as, under a multiple compliance scheme model, the Scheme Administrator and compliance schemes will be responsible for setting producer fees, for household and business packaging respectively. In the event of a multiple compliance scheme system, a common approach to modulation would need to be developed and be applied by all compliance schemes. This is because Government believes variation between compliance schemes on the modulation mechanism used would fundamentally undermine the policy intent and render modulated fees ineffective if schemes sought to minimise their members costs.

7.18 The collaborative modulated fee project referred to above will explore the extent to which modulation could be applied equally across multiple compliance schemes.

Packaging Labelling

7.19 Whilst many of our proposals place more responsibility on producers for the packaging they place on the market, consumers also have a responsibility to dispose of packaging waste correctly. Increasing consumer's knowledge of the packaging they can and can't recycle and enabling consumers to play their part in correctly managing packaging waste is a key outcome of our reforms. Along with enhanced communications, labelling on packaging is widely supported by stakeholders as a means of conveying this information to consumers.

7.20 The key objective of mandatory labelling is to provide consumers with clear information regarding what packaging they can and cannot recycle. We 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. Government has considered two options which are described in this section.

Who will be obligated?

7.21 Government proposes that any company or person offering packaged products for sale in the UK will be obligated to comply with the mandatory labelling requirements. This includes:

- Manufacturers of products produced and packaged in the UK (i.e. brand owners including retail 'own brand' as set out in Section 5) and
- Importers of packaged products for sale in the UK (the importer).

7.22 In order to provide clarity to consumers on whether items of packaging are recyclable or not, Government's preferred approach is that no de-minimis will apply. This means that all businesses who place packaged products on the UK market will be obligated to comply with the mandatory labelling requirements. To leave a proportion of packaging unlabelled would undermine the objective of providing clear information to consumers on whether packaging items can be recycled or not.

7.23 However, Government recognises the requirement to label packaging may be a burden for those small and micro-businesses who do not specify their own packaging, but rather buy and use unfilled 'off the shelf' packaging. Government also recognises the practical and operational issues involved in ensuring compliance by small business. Government proposes to address these issues through placing the labelling requirement on businesses who sell unfilled packaging directly to small producers. This may be wholesalers/distributors or any business who sells unfilled packaging directly to small businesses. This aligns with the proposal for obligated producers as set out in section 5.

What packaging will be required to be labelled?

7.24 We propose that mandatory labelling will apply to packaging as follows:

- All primary packaging (the layer of packaging in immediate contact with the product; or the first packaging layer in which the product is contained)
- Primary packaging that comprises of multiple components (e.g. ready meal packaging with a card sleeve, plastic tray and plastic film lid) - clear advice on whether each component is recyclable or not will be required, but each separate component would not be required to be labelled

- All shipment packaging, that is packaging associated with online, catalogue or over the phone purchases that are either delivered direct to the purchaser or collected at store ('click and collect').

7.25 The following packaging will not be subject to mandatory labelling under the Extended Producer Responsibility regulations:

- Packaging items that are in scope of the Scotland deposit return scheme and an England, Wales and Northern Ireland deposit return scheme
- All secondary and tertiary (transit) packaging

What are the requirements and when will they enter into force?

7.26 Government wants all packaging either to be recyclable or not recyclable and labelled accordingly. The requirement will be to label packaging as 'recycle' or 'do not recycle'. To determine whether packaging is recyclable or not will require producers to assess the recyclability of their packaging. However, as discussed below some provision will be required for packaging where an interim labelling solution may be necessary due to the phased introduction of new collection and/or sorting and reprocessing infrastructure.

7.27 Government recognises that determining the recyclability of certain materials and packaging can be a complex process and producers may need support when assessing how to label their packaging. It is proposed that producers' self-assessment of the recyclability of their packaging to determine the modulated fee rates that would apply (as described in para 7.12), also underpins how the packaging is labelled. This will ensure alignment and confidence in the assessment process, mean producers only need to undertake this assessment once, and enable compliance monitoring to be focussed more effectively.

7.28 The requirement to label would be introduced through new Extended Producer Responsibility regulations expected to come into force in late 2022. Government recognises that producers will need time to adopt the labelling requirements⁴³ and that producers' ability to label packaging as recyclable will be dependent on the availability of collection, sorting and reprocessing infrastructure as key determinants in the assessment of recyclability. Therefore, timelines for the

⁴³ In the 2019 consultation; 35% of respondents suggested they would need 1-2 years to adopt labelling and 32% 2-3 years. Subsequent stakeholder engagement indicated a minimum of 2 years. Higher costs to businesses associated with earlier introduction reflect the costs of changing packaging out with the typical business cycle of reviewing packaging design and/or before existing stock inventories are used.

adoption of labelling need to align with those for the introduction of recycling collections for the core packaging materials.

7.29 Government therefore proposes that binary labelling is fully adopted by the end of financial year 2026/27 consistent with the timeline proposed for the rollout of collection of plastic films and flexibles packaging (see later in this section). However, for all other packaging Government proposes that binary labelling is introduced by end of financial year 2024/25. The core set of packaging items that will be collected from households and businesses include many packaging items that already are widely collected for recycling such as:

- Glass containers – such as condiment bottles, jars
- Paper and card packaging
- Plastic bottles / containers – including for milk, detergents, shampoo, cleaning products
- Plastic pots, tubs and trays
- Steel and aluminium cans

7.30 The core set will also include additional packaging materials that are not currently collected for recycling by all local authorities but which it is proposed will be required to be collected from both households and business from the start of Extended Producer Responsibility in 2023. These include:

- Other types of metal packaging – such as foil trays and aerosols
- Food and drink cartons

7.31 Subject to the self-assessment of individual packaging items, packaging that falls into these broad categories should be able to be labelled as recyclable.

7.32 For packaging materials for which the recycling infrastructure is poorly developed and will take several years to roll out, it will not be feasible to move directly to binary labelling. Interim labelling solutions will therefore be required to ensure that where there is existing provision for these materials, people continue to recycle them. Labelling of plastic film and flexible packaging will need to instruct consumers to take their used film and flexible packaging to their nearest front of store collection point or check whether their local authority includes it in their collections.

7.33 Due to reasons outlined later in this section (from paragraph 7.60) clear advice will also be required on biodegradable and compostable plastic packaging. As most compostable and biodegradable plastic packaging will be considered as not recyclable, it will be required to be labelled as 'do not recycle'. There may be some exemptions to this which would be specified in the Extended Producer Responsibility regulations and kept under review.

7.34 Packaging items deemed not recyclable because of the material(s) they are made from, their format or because they are comprised of a number of materials

which means they are not recyclable would be required to be labelled as 'do not recycle'.

7.35 The 2019 consultation sought views on whether the percentage of recycled content in packaging should be stated on the packaging. There was some support for this (53%) however including this information on labels risks consumer confusion regarding recyclability of the packaging, therefore, there will not be a mandatory requirement to include this information on packaging.

Options for implementing mandatory labelling

7.36 Government has considered two approaches for how producers could meet their obligations:

Option 1: Use of approved labels

7.37 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.

7.38 As a variation of this approach, the requirements of the 'do not recycle' label could be set in the Extended Producer Responsibility regulations thereby providing no flexibility to producers in how they label packaging that is not recyclable.

Option 2: A single labelling scheme

7.39 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. Government would appoint a single labelling scheme and considers this could be achieved by including this as part of the Extended Producer Responsibility 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. This would provide an opportunity for established voluntary schemes to be considered to deliver this function.

7.40 All obligated producers would be required to register with the labelling scheme; the operator of the scheme (Scheme Administrator or other) would establish the process of registration; develop the labels; provide the artwork and

necessary support to producers on how to use the labels; and undertake auditing to ensure correct use of the labels.

7.41 Government's preference is option 1. This approach would enable producers who already use an existing labelling scheme to continue to do so provided the label is approved. It would also allow producers the flexibility to adopt any existing voluntary scheme or any other labelling scheme that may emerge subject to approval. Producers who already label packaging that complies with the requirements set by Government would not have to change their labelling so long as it was approved. As such, this option would allow mandatory labelling to be brought in more quickly and minimise cost on producers.

7.42 Government recognises that there are some potential limitations to this approach, including the need for more nuanced communications to householders but believes these can be reduced by requiring labels to be approved and by mandating the 'do not recycle' label. Government also considers these will reduce over time as a broader range of materials are collected for recycling and modulated fees encourage a shift away from unrecyclable material.

7.43 Government is also keen to obtain views on enhancements to labelling, such as including 'in the UK' on the labels and on digitally enabled labels (e.g. container QR codes) as a way of further supporting consumers to understand what is and is not recyclable. The former is proposed as it is recognised that some European/internationally imported packaging carries labelling that is not relevant in the UK. Similarly, UK exporters will need to differentiate between labelling relevant to the UK and to international markets. As Government does not have legal powers to prohibit the use of alternative/additional recycling labels the 'in the UK' detail is proposed as a potential option.

Imported filled packaging and trade considerations

7.44 Concerns were raised in the 2019 consultation that mandating the use of a specific label may create barriers to trade (which may affect the free movement of goods into the UK) and increase complexity and costs to manufacturers. Government recognises these concerns. However, there is a need to balance these potential issues against the objective of increasing recycling rates and ensuring equal treatment of UK producers and international producers.

7.45 According to the National Packaging Waste Database, approximately 3.2 million tonnes of 'filled' packaging is imported into the UK. This represents

approximately 30% of all packaging placed on the market⁴⁴. Therefore, omitting imported packaging from the labelling requirements would reduce the effectiveness of the scheme.

7.46 Importers of filled packaging for sale into the UK will be expected to comply with the labelling requirements set out in the Extended Producer Responsibility regulations and follow the approvals process for the labels they want to use on their packaging. This provides importers with some flexibility to use their own labels for recyclable packaging provided they meet the standards set and are approved by Government or the regulator.

7.47 Government is considering its approach to regulation to ensure compliance with the mandatory labelling requirements.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

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

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

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

⁴⁴ These figures relate to packaging handled by obligated producers so there may be a small proportion which falls under the threshold which is not reflected in this estimate

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

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

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

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

Collection and recycling of plastic film and flexible packaging

7.48 Plastic film and flexible packaging makes up a third of the 2.4mt of plastic packaging placed on the market annually in the UK. The estimated total consumer plastic film/flexible packaging (such as single use carrier bags, bread bags, and confectionary wrappers) placed on the market in 2017 was 395,000 tonnes, with 365,000 tonnes estimated to arise in the household-like and other commercial and industrial waste streams^{45,46}. However, only a small proportion is recycled, due to challenges with its collection, sorting and recycling as well as end markets.

7.49 The 2019 consultation recognised that the reprocessing of difficult to recycle materials (such as plastic films) would be required to achieve higher plastic packaging recycling rates. There has also been a call from the packaging value chain (especially producers, who will ultimately pay for its collection and management under Extended Producer Responsibility) to require local authorities and businesses to collect these materials for recycling. This has been driven by HMT's plastic packaging tax, which is already providing a strong incentive for producers to use recycled content in their packaging, and the wider expectations of consumers who want to be able to recycle this packaging.

7.50 This section provides an outline of our proposals for this type of packaging. Annex 5 provides further background.

7.51 In 2020, Government established a sprint group of representatives of the packaging value chain, facilitated by WRAP, to identify the challenges to plastic film recycling and identify solutions. The group proposed the introduction of plastic film collections from households and businesses by no later than 2028⁴⁷, recognising that while time is needed to address the challenges, the sector requires a clear

⁴⁵ WRAP (2019) Plastics Market Situation Report and accompanying Impact Assessment to this consultation

⁴⁶ Agricultural film plastics are out of scope of this consultation as they are not classed as packaging.

⁴⁷ WRAP (2021) A report to the Defra Packaging Collections Recycling Working Group on the implementation of plastic film/flexibles recycling within consistency policy. Available at: www.wrap.org.uk/resources/report/defra-collections-implementation#

signal from Government to stimulate the necessary investment including upgrading of sorting facilities and additional reprocessing capacity.

7.52 Having considered the conclusions of the sprint group, and informed by wider discussions with stakeholders, 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. Collections from businesses should be introduced no later than the end of financial year 2024/25. This recognises that commercial waste collectors can move faster than local authorities to introduce collection of plastic films and flexibles as contracts with their customers are for much shorter time periods. Tonnages available for recycling would start to increase and help stimulate infrastructure upgrades and end markets in the lead up to the widespread collection of these materials from households.

7.53 The impact assessment accompanying this consultation assesses an illustrative scenario of UK wide collections of plastic film in 2025 (the date proposed by the UK Plastic Pact and also the European CEFLEX projects)⁴⁸. **Net present societal value arising from the inclusion of plastic film is estimated as £218m over the period 2023-2032**, compared to £157m without its inclusion. Benefits include an estimated additional material revenue for the recycling sector of £92.6m over the same period.

7.54 Government therefore proposes 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.

7.55 These specific requirements would cover all consumer plastic film and flexible packaging. This includes laminated and metallised formats (for example crisp packets), and flexible formats incorporating multiple layers of plastic and/or other materials such as aluminium (for example, pet and baby food pouches).

7.56 In line with the proposed general expectation for modulated fees (set out earlier in this section), Government would expect to see obligated producers for this type of packaging fund the necessary investment to allow for its collection and recycling, unless funded through payments in 2023, and provided this does not result in perverse environmental outcomes. The varying status of different plastic film and flexible packaging formats in terms of recyclability means that fee modulation is likely

⁴⁸ https://www.wrap.org.uk/flexible_plastic_packaging_roadmap and <https://ceflex.eu/>. The final stage IA will include a firmer policy proposal for plastic film and flexible packaging.

to need to apply differently to different formats. This will be a decision for the Scheme Administrator.

Q37. Do you agree or disagree that local authorities across the UK who do not currently collect plastic films in their collection services should adopt the collection of this material no later than the end of financial year 2026/27?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Q38. Do you agree or disagree that collections of plastic films and flexibles from business premises across the UK could be achieved by end of financial year 2024/5?

- a. Agree
- b. Disagree
- c. Neither disagree nor agree

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

Front of store recycling of plastic film and flexibles

7.57 Through independent initiatives and the UK Plastics Pact some retailers provide or are trialling front of store collections of plastic films and flexibles. UK Plastic Pact members have continued to launch trials or introduce collection points during 2020⁴⁹. This is anticipated to become more prevalent in the lead up to the introduction of packaging Extended Producer Responsibility. The Pact's roadmap estimates that by late 2022 around 10% of plastic film and flexible packaging could be captured via this route.

7.58 Given the above, there can be confidence that front of store recycling can provide a means to make early progress and provide consumers with the opportunity to recycle types of films and flexibles until kerbside collections are fully implemented.

7.59 Finally, the current packaging producer responsibility system allows producers to offset this packaging against their obligated tonnages. The business payments section of this consultation proposes this arrangement continues under packaging Extended Producer Responsibility.

⁴⁹ UK-Plastics-Pact-Annual-Report 2019-20

Modulated fees and labelling in relation to compostable and biodegradable plastic packaging

7.60 There are challenges associated with the use and management of compostable and biodegradable packaging. Evidence suggests that some of these types of packaging do not fully biodegrade in the open environment (such as in soils or the ocean) and can potentially leave behind harmful microplastics.

7.61 In the UK, the number of industrial composting or anaerobic digestion facilities that accept these materials is also limited and they are not widely collected for composting or incorporation into digestate (a form of fertiliser). Where the material is accepted, there are concerns that it does not always fully biodegrade, and questions remain over whether it can be defined as recyclable and contribute to a circular economy, given the low level of evidence that it contributes to the quality of soils or digestate.

7.62 In addition, it can cause consumer confusion as it is easy to mistake for conventional plastic. Biodegradable or compostable packaging can contaminate and disrupt conventional plastic recycling if it arrives at reprocessing facilities. It can also contaminate compost that seeks to achieve composting standards that place limits on the presence of plastic in the final compost product.

7.63 The challenges associated with this packaging are set out more fully in Annex 6. Based on this assessment most compostable or biodegradable packaging would be considered not recyclable. Consequently, it is likely to attract higher fee rates than packaging that contributes positively to scheme outcomes when modulated fees are introduced in 2024 and would be required to be labelled as 'do not recycle'.

7.64 Should the Scheme Administrator see a strong case for a different approach, including based on greater certainty over not just a lack of any negative effects but also evidence of benefits in end applications, Government would remain open to considering supporting an alternative approach. It would be contingent on the Scheme Administrator having the support of its members to fund both the necessary infrastructure upgrades, and any measures required to protect the quality of conventional plastic recycling and compost and digestate production.

7.65 However, notwithstanding the existing concerns over the evidence base, Government recognises that use of this packaging in some niche applications could avoid perverse environmental outcomes. Evidence currently suggests this would be at 'closed loop' venues (see Annex 6) where it is not possible to reuse or facilitate recycling of packaging such as food containers. In this circumstance, use of compostable packaging to be filled and consumed on site could prevent conventional plastic or other packaging being disposed of in the residual waste stream, if

dedicated collection of it for onward treatment at facilities that accept it can be put in place.

7.66 Therefore, Government considers that packaging intended for this specified application should be exempt from applying the 'do not recycle' label and an alternative label could be used to provide the consumer with instructions on how to dispose of this packaging. An illustrative example could be 'place in composting bin on site'. Any such exemptions would be set out in the Extended Producer Responsibility regulations and kept under review.

Q39. Do you think there should be an exemption from the 'do not recycle' label for biodegradable/compostable packaging that is filled and consumed (and collected and taken to composting/anaerobic digestion facilities that accept it), in closed situations where reuse or recycling options are unavailable?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

Please provide the reason for your response.

Q40. Do you consider that any unintended consequences may arise as a result of the proposed approach to modulated fees for compostable and biodegradable plastic packaging?

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

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

8. Payments for managing packaging waste

8.1 Local authorities, businesses and public sector bodies, such as schools and hospitals, all incur costs for the management of packaging waste. Under Extended Producer Responsibility, obligated producers will be expected to pay these costs. This section sets out:

- Proposed underpinning requirements applicable to payments, including necessary costs, efficient and effective services and material quality
- An emerging framework for payments to local authorities for packaging waste from households
- Three potential models for payments for the management of packaging waste produced by businesses and public bodies
- Data and reporting requirements in support of payments

Underpinning principles

8.2 A key underpinning principle of Extended Producer Responsibility is that the costs paid by producers support a cost-effective and efficient system for managing packaging waste, including the collection of a common set of packaging materials for recycling. Costs to producers should not exceed those necessary to provide packaging waste services in a cost-efficient way and in a way that maximises the quantity and quality of packaging material which is recycled.

Scope of necessary costs

8.3 We propose that necessary costs be broadly defined as: the costs of waste management-related activities needed to deliver the packaging Extended Producer Responsibility outcomes and targets through the provision of consistent, efficient and effective systems. These costs are detailed in Table 7 but can be broadly split into:

- Operational costs to collect, manage and dispose of packaging waste. This includes any investment in capital infrastructure or innovation, where it can be shown to increase performance and help producers meet Extended Producer Responsibility targets and outcomes.
- Support costs in achieving scheme outcomes and targets, including communications and provision of public information on waste prevention and recycling, efficiency reviews, data gathering and reporting, performance incentives, and supporting local authorities in contract negotiations and variations with service providers.

8.4 Costs may also arise at the discretion of the Scheme Administrator or compliance schemes, where necessary to achieve scheme outcomes and targets, improve efficiency or generally reduce longer term costs for producers. These may include costs of prevention measures, the trialling of innovative new approaches, transitioning to efficient and effective systems, or collaborative working between local authorities or along the value chain.

8.5 Where packaging is managed as part of integrated waste systems, the costs borne by producers should be reasonable and proportionate. This means costs should be appropriately allocated to producers in circumstances where packaging waste is collected and processed alongside other materials (e.g. packaging producers should not pay for the collection of newspapers and magazines where collected in the same bin as paper and card packaging). Where costs only arise as a result of Extended Producer Responsibility scheme requirements, but include non-packaging items, producers should bear the full cost. For instance, if Extended Producer Responsibility requires enhanced waste sampling regimes then producers should bear the full cost of the enhanced sampling regime, not just the proportion related to packaging.

Table 7 - Necessary costs

Operational costs	Supporting activity costs
Direct vehicle, staff and container costs (capital and revenue expenditure) for all collection systems used for packaging waste (incl. kerbside collections (recycling and residual waste), HWRC, bring-sites, business collections (recycling only) and litter management (litter bins, on the go recycling and ground litter)).	Development and delivery of communication campaigns and public information, on issues such as waste and litter prevention, correct preparation for reuse/recycling, take back schemes, and recycling collections. These should be of the level and type necessary to achieve required behaviour from consumers, i.e. national and local.
Costs associated with establishing, maintaining and operating vehicle depots, transfer stations and other facilities required to support the collection and disposal of packaging waste.	Efficiency reviews to ensure packaging waste management services are being run efficiently and effectively, to help achieve the stated Extended Producer Responsibility packaging objectives and/or targets, whilst accounting for local circumstances. This could include staff training, supporting collaborative working across local authorities and value chain, knowledge sharing, and business support.

Costs associated with sorting, sampling, processing and the preparation of packaging waste for recycling, reuse and/or disposal (Capital and revenue expenditure). Income received through the selling of materials to be netted-off, leaving the cost of handling and processing the material.	Data gathering, recording, analysis, reporting and auditing of packaging collected, processed, recycled, exported and disposed. This would include the development, implementation and running of any packaging data management systems and supporting methodologies.
Maintenance of capital items used for the collection, sorting, sampling, processing and disposal of packaging for example vehicles, bins and skips.	Performance incentives, initiatives and investments i.e. financial rewards for waste prevention and reuse, optimised recycling rates, higher recyclate quality, and other relevant scheme objectives.
Transportation of packaging waste to its final treatment destination (reuse, recycling, and disposal).	Contract negotiation and variations with waste management companies, local authorities, material facilities, brokers, reprocessors and exporters.
Corporate overheads associated with operating the waste management services (IT, HR, financial services), proportionate to packaging.	
Marketing costs for selling reused items or recycled materials (if not already undertaken or borne by producers)	

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Efficient and effective systems

8.6 Government proposes that payments of necessary costs should reflect systems and services designed and delivered around good practice and reasonable benchmarks of cost and performance of comparable peers. Producers should not be expected to pay for poorly designed or implemented services. The costs paid by producers should be net of material value.

8.7 Equally, in establishing necessary costs of efficient and effective systems, costs should fairly account for geographic, socio-economic and other factors that impact on cost and performance, also ensuring waste management activity is not limited to areas where the collection and management of packaging waste are the most profitable or least cost. This includes ensuring the provision of packaging waste collection systems within these areas, taking account of the volumes of packaging waste produced and the ability of the waste producer to store it for a reasonable period.

Material quality

8.8 Currently, quantity is often prioritised over quality, with some collection and sorting systems geared towards lowering costs and meeting tonnage targets. This subsequently results in lower quality material being passed through the system, influencing recycling processes and the value of recycled products generated. It also results in valuable material losses to the residual waste stream.

8.9 There is high demand from reprocessors for high-grade quality packaging material. However, the cost of improving low quality material post-sorting to meet this demand is considered economically unviable. These materials are therefore sold to lower quality markets instead, further driving demand for virgin materials. Avoiding the loss of material quality at each stage of the system is important in reducing costs and increasing the circularity of the packaging system. Figure 3 shows the range of measures within the Extended Producer Responsibility system which are designed to improve quality. These include financial mechanisms and incentives, as well as material quality standards and reporting, to improve and enhance quality at the collection and sorting stages which are considered further in this section.



Figure 3 - Packaging material quality

An emerging framework for local authority payments for waste from households

8.10 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 (2023). Local authorities which operate efficient and effective services will have their full net costs of managing packaging waste disposed of by households met by packaging producers.

8.11 This is proposed to include local authority transitional costs in meeting Extended Producer Responsibility requirements, including the collection of a core set of packaging materials for recycling. We are exploring whether a limited number of new burdens, for instance for further compositional analysis testing, may be incurred in advance of the introduction of Extended Producer Responsibility and the funding implications of this.

8.12 The appointed Scheme Administrator will be responsible for determining the approach to payments to local authorities for household packaging waste. Government, however, recognises that all those in the value chain want to build broad consensus around the payment framework for packaging from households. If it is deemed desirable and feasible for the Scheme Administrator to mobilise in order

to make payments to local authorities in 2023 then work undertaken by the value chain may be helpful to the Scheme Administrator.

8.13 This section reflects feedback from the first consultation and discussions held with stakeholders over the past 12 months. Government believes there is emerging consensus that payments for packaging waste from households should:

- a. be based on the modelling of efficient and effective systems
- b. 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
- c. incentivise and support local authorities to enhance recycling performance
- d. support innovation, investment and collaborative working

Establishing the costs of efficient and effective systems

8.14 During 2020, Government engaged the Advisory Committee on Packaging (ACP) and wider stakeholders in a series of workshops to consider different approaches to establishing the costs of efficient and effective collection systems for household packaging waste. This included discussion of international good practice and consideration of both modelled and actual cost approaches to establishing local authority costs. As a result of this engagement, Government believes there is an emerging consensus towards basing payments to local authorities on a modelled approach. Both approaches are considered further below.

Actual cost approach

8.15 Actual cost reporting would need to be standardised across all local authorities, audited and adjusted regularly to reflect their recycling performance, any inefficiencies in operations, and the allocation of overhead costs between packaging waste management services and other activities.

8.16 Waste is a devolved policy subject to local drivers resulting in differing degrees of consistency in collection services across the UK. Against the backdrop of very different local authority circumstances it would be challenging to report actual costs of waste and recycling services in a transparent and consistent way that reflects the large variations in accounting bases between local authority collectors and, where services are contracted out to the private sector, contractors across the UK. If Extended Producer Responsibility payments were based on actual costs, this would likely require standardisation of local authority accounting, wider than just packaging and waste management, and considerable additional auditing to check costs have been attributed fairly and proportionately.

8.17 Considering these points, Government believes it would be challenging, at least initially, to base Extended Producer Responsibility household payments to local authorities on actual costs that cannot easily be audited in a timely manner for Extended Producer Responsibility purposes, whilst also ensuring producers were only responsible for the necessary costs of efficient and effective systems. However, actual cost data can and is used to review, validate and update underpinning data in modelled approaches.

Modelled cost approach

8.18 A modelled cost approach would seek to establish for each local authority a benchmark cost for managing packaging waste based on the adoption of good practice in the design of their collection system, the effective delivery of that service, and the achievement of results that are comparable to relevant peer authorities⁵⁰. It does this 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.

8.19 This allows relative costs and performance of similar local authorities to be assessed in an objective, transparent and evidence-based way, and incentivises those responsible for collection and sorting of packaging waste to adopt the most efficient and effective methods. It can be updated when new materials are added to recycling collections or regional circumstances change, can reflect various collection system options and can detail levels of efficiency that are realistic for a particular system or region in line with relevant policies.

8.20 As a result, a local authority's modelled costs could be lower than the actual costs incurred by the local authority. This could either be the result of a local authority not having adopted good practice or it could be an extreme outlier within a peer group (e.g. very rural or very urban). Equally, some local authorities could receive more than their actual costs, either because they are performing above benchmarks levels, or are an outlier. It is therefore important that a modelled approach can fairly accommodate different types of local authority and that there is broad support for the methodology with processes in place to assess the robustness of the approach and arbitrate if any disputes should arise.

8.21 Over the past 5 years WRAP (England and Northern Ireland) has developed such an approach to both support individual local authorities to understand the likely costs and benefits of changes to their collection systems and inform policy

⁵⁰ WRAP modelling is based on 6 local authority rurality groups but has work underway to increase the number of rurality groups from 6 to 9 to further reduce the risk of outliers

development. This WRAP tool underpins the impact assessment for Extended Producer Responsibility, deposit return scheme (England, Wales and Northern Ireland), and consistent recycling collection (England) consultations. It has also been recognised as good practice internationally and is cited in the EU Commission guidance for implementing Article 8A of the revised Waste Framework Directive⁵¹.

8.22 While this approach has been developed, tested and used in England and Northern Ireland, it has not been as extensively tested in Wales and Scotland, or in relation to very rural authorities. WRAP (England) is undertaking further work to develop additional ‘modules’ that better account for local authorities with high levels of very rural or very urban properties and associated haulage and transfer costs. WRAP Cymru and Zero Waste Scotland will continue to work with and supply data to WRAP (England and Northern Ireland), to test and compare the modelling outputs for Welsh and Scottish local authorities. This will draw on data sources, such as the Welsh Local Government Association Waste Improvement and Finance Programmes, which have built up cost estimates for the management of packaging waste from available resource data and standardised unit costs, to sense check the modelling outputs.

8.23 Pending this further development and scrutiny, Government believes this could form the basis of an approach that the Scheme Administrator, once appointed, **could** choose to adopt. If such an approach is adopted, the Scheme Administrator would be required to review this framework regularly to ensure that it remains fit for purpose, and to establish appropriate consultation and dispute resolution mechanisms with local authorities across the UK.

Devolution and broad parity in collection costs

8.24 A further challenge in establishing a common UK-wide payment approach is ensuring broad parity is maintained in collection arrangements and underpinning assumptions, while recognising waste policy is a devolved matter. This is important as under a UK-wide Extended Producer Responsibility system, disproportionately high costs in one nation as a result of wider policy decisions, could risk excessive and unfair costs being placed on producers and consumers in the other parts of the UK. Equally, packaging is managed as part of integrated local collection systems, where policy decisions in areas such as food waste collection and residual waste collections can impact on packaging collection costs.

⁵¹ Using modelled or reference costs is also common practice in many international schemes where local authorities are providing waste services on behalf of producers and the Scheme Administrator is not contracting these services out through competitive tenders.

8.25 To help mitigate this risk, the Defra and the Devolved Administrations are working together to improve alignment between collection requirements. This includes the collection of a core set of packaging materials, including plastic films. When operational, the Scheme Administrator will be expected to monitor and report on the extent to which payments reflect the specific waste policy requirements of the UK Government and those of each of the Devolved Administrations, whilst maintaining broad cost parity to ensure the fair treatment of producers and consumers across the UK. Should it become apparent that excessive costs have arisen in one part of the UK, and are therefore considered inefficient, then adjustments may be necessary to payment formulas to preserve broad cost parity.

8.26 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, giving consideration to local and national circumstances in delivering efficient and effective systems, as well as the wider UK Extended Producer Responsibility costs to producers and consumers.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Linking recycling payments to outcomes

8.27 The previous consultation demonstrated high levels of support (77%) for payments to local authorities to be linked to collection services that meet minimum service requirements (for packaging) and very high support (91%) for payments to be linked to quantities of good quality target packaging material recycled. This support has remained high in subsequent engagement with stakeholders.

8.28 Such an approach, when linked to a modelled cost approach set out above, would see local authorities that implement efficient and effective systems that collect comparable tonnages and quality to their peers receive their full-net costs for the packaging they have collected and recycled. It may also result in those local authorities performing below peer-based cost and performance benchmarks receiving less than full net cost, and local authorities performing above these benchmarks receiving more than their full net costs.

8.29 The strength of this incentive would depend on the detailed design of the incentive mechanism by the Scheme Administrator. These elements are considered further below.

Collection of core materials

8.30 The application of modulated fees and requirements for recyclability labelling of packaging will require the same packaging materials to be collected across the UK. Although at different starting points in terms of current collection systems, and at different stages of introducing legislative requirements, the UK Government and the Devolved Administrations agree alignment will be essential to underpin a UK Extended Producer Responsibility system.

8.31 Statutory requirements on local authorities and businesses provide the strongest signals for the collection of core materials. As a result, there may be less value in linking incentive payment adjustments to the collection of the core packaging materials as proposed in the 2019 consultation.

8.32 However, systems do not remain static. Over time, investment in collection and sorting technologies or packaging design (e.g. smart inks) may result in packaging formats that are currently unrecyclable becoming recyclable. Given this, and the time it can take to make changes to waste management systems, it is proposed that the Scheme Administrator should have the ability to apply an incentive adjustment to local authority payments on the basis of core packaging materials collected.

Per tonne payment

8.33 There was strong support in response to the previous consultation for basing payments to local authorities on the tonnage of packaging material collected that reflects both the costs and likely performance of a collection system in any given area. This benchmark cost per tonne would represent the per tonne payment for an efficient and effective service delivering good practice performance. It would be unique to the local authority, taking account of their housing stock and peer performance benchmarks. The actual tonnages of packaging waste collected by a local authority would be monitored through both weighbridge data and regular compositional analysis (where packaging materials are not collected separately). The overall payment a local authority would receive would be the total of the tonnes collected times the per tonne payment for each material. A minimum acceptable quality standard would need to be set on receipt of the materials and monitored through compositional testing at material facilities. Proposals on data collection and reporting, and the introduction of minimum output quality standards are set out later in this section.

Material value

8.34 When packaging is collected for recycling it has a value; typically, it has a positive value. As traded global commodities, whose consumption is dependent on factors such as the strength of the economy and the price of raw materials, recovered packaging material prices can be volatile. To date it has been those disposing of, and those managing, packaging waste that have been exposed to this volatility, but it has also impacted on investment in the sector.

8.35 Under a reformed system, any price volatility in the value of recovered packaging materials will be borne by producers. As such, when demand and therefore prices for recovered materials are high, producers will benefit from lower overall waste management costs. Equally, when prices are low, costs paid by producers could be higher.

8.36 Government has explored various options to account for material value in full cost payments, from the value of the material being 'netted off' a local authority payment, to the ownership and onward management of the materials being the responsibility of the Scheme Administrator. Following discussions with the Sounding Board and the Advisory Committee on Packaging, Government believes the most appropriate approach to handling material value for packaging waste from households is to net off material value from a local authority's payment.

8.37 Under this approach a local authority 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. Local authorities contracting with material recycling facilities they would pay gate fees, with the value of the materials typically accounted for in the gate fee. Reference material prices would be established for each of the core materials and applied to the benchmark service costs. The reference material prices would be based on market data and updated quarterly or monthly. Several reference costs for materials pricing are already routinely collected and there is the opportunity through refinements to national data frameworks to gather further insights on local variations.

8.38 Local authorities would be incentivised to improve the quality of the material they collect as they would benefit financially, where they receive a higher value for this material than the average reference price applied to the per tonne payment. Such an arrangement would also inherently factor in any costs of onward sorting as the price paid by the market for a tonne of material would reflect any further sorting required at the front end of the reprocessing plant.

8.39 Government also considered 'retained material ownership' by the Scheme Administrator, whereby local authorities would be paid collection costs only. The Scheme Administrator could either arrange for sorting and reprocessing directly,

owning and arranging the sale of materials once reprocessed, or make 'set price' payments to sorters and reprocessors to manage the sale of materials. Government was concerned that such approaches could present significant issues regarding competition and could undermine collectors and sorters interest in quality.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Support for lower performers

8.40 Recycling performance across local authorities is varied. Some of this is the result of unavoidable structural differences (such as rurality and deprivation that can be accounted for through a modelling approach), while in others this may be the result of local policy decisions, under investment or long term contracts which have tied authorities into a particular approach. It will be important to recognise these factors in designing and implementing an appropriate payment mechanism. If applied incorrectly it could deny local authorities the investment needed to improve their services and performance, and in turn limit producers' ability to meet their targets.

8.41 Government believes it is in both producers and local governments' best interests to support low performers to improve. As a result, Government will expect the Scheme Administrator to work closely with local authorities, individually and collectively, to ensure such authorities are supported to meet, and where possible exceed their performance benchmarks. In this context, it will be important for the Scheme Administrator to form relationships with all UK local authorities to fully understand their local circumstances and tailor payment arrangements accordingly.

8.42 Government recognises that some local authorities may be 'locked in' to existing contracts that may delay the roll out of more efficient and effective systems. In such circumstances, choices may need to be made between implementing changes earlier (which may result in costs to renegotiate or amend contracts) or delaying the introduction of reforms (which may result in higher costs through inefficient systems). These choices may need to be taken in the context of local authorities' wider household waste collection systems and contracts as some changes, such as the introduction of plastic film collection, may only be viable alongside wider waste service changes, such as introducing food waste collections. They would also need to take account of the benefit to producers of renegotiating or breaking contracts early, particularly if this results in significant longer-term savings

8.43 Where this is the case, it may be reasonable to expect the Scheme Administrator to work with a local authority and other partners to transition to an effective and efficient system at the earliest opportunity, with payments made at a modelled rate, unadjusted for performance, until such time as the service changes were introduced. Agreements could include other reasonable expectations of a local authority such as the provision of data, involvement of the Scheme Administrator in the procurement process and the achievement of key milestones during procurement and roll out.

8.44 Equally, Government would expect to see any incentive adjustments applied in a proportionate and balanced way, with the goal of achieving Extended Producer Responsibility objectives. Government may want to set a limit on how much could be deducted from a local authority's payment (e.g. Government may expect all local authorities to be guaranteed at least 80% of their payment regardless of their performance).

Incentives for high performers

8.45 The degree of incentive necessary will depend on the scale of contribution needed from local authorities for producers to achieve their recycling targets and the degree of challenge in achieving these targets. Ultimately, this will be a choice for producers through the Scheme Administrator.

8.46 Discussions with stakeholders to date have identified additional ways local authorities could be rewarded for high performance above recycling benchmarks:

- Payment per tonne above their modelled benchmark tonnage.
- A payment that takes local circumstances into account, e.g. the modelled cost for collecting their benchmark tonnage plus a reward for collecting material in excess of their modelled tonnage.
- Retention of the full value of material collected in excess of their modelled tonnage benchmarks. Under full net cost arrangements, the value of collected materials would be subtracted or 'netted-off' from a local authority's payment (detailed earlier in this section).
- Increased market material value by collecting high quality material that attracts a higher price than the material value benchmark used in the netting off process.
- Quality related incentive payments, where considered necessary to meet Extended Producer Responsibility targets and quality outcomes.

Q44. Do you agree or disagree that the Scheme Administrator should have the ability to apply incentive adjustments to local authority payments to drive performance and quality in the system?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Q45. Do you agree or disagree that local authorities should be given reasonable time and support to move to efficient and effective systems and improve their performance before incentive adjustments to payments are applied?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

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

Please provide the reason for your response.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Innovation and investment funding

8.47 Payments for capital investment and innovation are considered a necessary cost, where it can be shown to increase performance and help producers to meet Extended Producer Responsibility targets and objectives. As such, local authorities transitioning to efficient and effective systems, or replacing existing capital infrastructure would see their capital costs met as part of their core modelled costs. This, combined with the arrangements for supporting lower performers during their transition to more effective and efficient systems, should mean that improvements in

packaging waste management are fully funded by producers, while also reducing costs to producers in managing packaging waste in the longer term.

8.48 However, when recycling performance payments are introduced, unallocated (i.e. withheld) payments may start to accumulate within the system. Government believes these unallocated payments should not be returned to producers in the first instance, but instead be re-invested to support lower performing local authorities to continue to improve, but acknowledges that this may not always be appropriate, particularly where lower performance results from the failure on the part of the authority to implement good practice.

8.49 Where this is the case, Government can see a strong case for the Scheme Administrator to use these unallocated payments to support innovative approaches to support investment and innovation to increase performance across all local authorities. This could include, but is by no means limited to, new technologies, or support for collaborative procurement of collection services that will deliver economies of scale and reduce costs. It is proposed that such opportunities should be identified and discussed with local authorities (i.e. opt in). It would also be expected that any unallocated funding be ring-fenced separately for England, Northern Ireland, Scotland and Wales.

8.50 This requirement should not seek to constrain the Scheme Administrator. The Scheme Administrator would be able to increase payments to a local authority(s), including beyond the minimum modelled costs of an efficient and effective system, at their discretion if it was considered necessary to achieve system outcomes, objectives and targets, or to improve efficiency and reduce costs.

Q48. Do you agree or disagree that unallocated payments should be used to help local authorities meet their recycling performance benchmarks, and contribute to Extended Producer Responsibility outcomes through wider investment and innovation, where it provides value for money?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Residual waste payment

8.51 The payment for household packaging collected and disposed of by local authorities through the residual waste stream would cover both the collection and the disposal costs (e.g. landfill or energy from waste) with the expectation that these costs would be apportioned according to costs incurred (i.e. for only the costs related to packaging).

8.52 Government considered linking payments to the actual volume of packaging remaining in the residual stream based on local authority by local authority compositional data, and facility by facility compositional data. However, Government believes this approach would require a disproportionate level of residual waste composition analysis and risks rewarding local authorities with low recycling rates.

8.53 Basing payments on the modelled costs of efficient and effective systems and average content of packaging in residual waste is considered a proportionate and balanced approach. If a modelled approach is taken, local authorities performing below their recycling benchmark would receive their modelled residual payment, despite potentially having more packaging, proportionately, in their residual stream. As a result, they may receive less than their actual cost. Equally, a local authority performing above their recycling performance benchmark could benefit through higher than full net cost payment, incentivising higher recycling performance.

8.54 In two-tier local authority areas (England only), the costs of managing residual waste are usually split⁵², with the lower tier, the waste collection authority, bearing the cost of residual waste collections, and the upper tier, the disposal authority, bearing the cost of disposal. WRAP modelling suggests that of the modelled £238m residual costs in 2023 (England), £106m relates to collection and £132m relates to disposal. Given this breakdown, we propose that all residual disposal cost payments are made direct to the disposal authority in two tier areas.

8.55 A disposal authority may have little direct influence over the packaging content of residual waste and the recycling performance of collection authorities in the area. With this in mind, and to ensure a fair payment to disposal authorities, it is proposed that the Scheme Administrator should consider and factor in, where appropriate, the performance of recycling authorities when determining payments.

Q49. Do you agree or disagree that residual payments should be calculated using modelled costs of efficient and effective systems based on the average composition of packaging waste within the residual stream?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Q50. Do you agree or disagree that a disposal authority within a two-tier authority area (England only) should receive the disposal element of the residual waste payment directly?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

⁵² This is not always the case and is considered further in the two-tier arrangements section below.

Proposed process for payments to local authorities

8.56 Government wants to ensure local authorities are given a reasonable degree of certainty of their payments, both on an annual and longer-term basis, and that payments are frequent and timely. It is proposed that local authorities will receive their household waste payments directly from the Scheme Administrator. Government will expect a transparent process to be put in place between the Scheme Administrator and local authorities.

8.57 In 2023, subject to this consultation, partial payment to local authorities for household waste is expected to be made initially based on modelled full net costs of efficient and effective systems using data from the previous year, 2022. No adjustments would be applied for collection of core materials or incentives to meet or exceed performance benchmarks or to increase quality. Full net cost payments will be made from 2024, the second phase of Extended Producer Responsibility implementation (see the implementation timeline section for further detail).

8.58 Following the first year or two of implementation, Government would expect to see the Scheme Administrator begin to phase in payment incentive adjustments based on performance benchmarks. Government would like to see this happen as early as is feasible, and in line with the proposals on supporting low performers. However, the extent to which payments take account of incentive adjustments will also depend on the speed at which necessary sampling and reporting arrangements for local authorities and material facilities can be put in place, and are considered to be providing robust data (further detail on data and reporting requirements is provided later in this section). This should not however prevent the Scheme Administrator from placing other reasonable expectations on local authorities, such as adhering to reporting and monitoring arrangements, or introducing the collection of additional packaging materials at the earliest reasonable opportunity, which would be funded by producers as necessary costs.

8.59 Once sampling and reporting arrangements are in place, payment decisions for individual local authorities would be made by the Scheme Administrator. These decisions would account for factors such as whether the authority already has a good practice system in place (so incentive adjustments can be introduced quickly and fairly), or whether existing contracts will delay the introduction of a good practice system, and therefore warrant incentive adjustments being phased in. We would expect close engagement between the Scheme Administrator and local authorities, whereby local authorities are informed of their projected payments for the coming year, how this compares with their modelled full net cost estimate and, where necessary, what steps they can take to increase their performance to receive their full net cost payments.

8.60 It is anticipated that service design, costs and good practice will need to be periodically reviewed by the Scheme Administrator to ensure they remain relevant, especially where the expected levels of performance are not being achieved or system costs have significantly changed. Such a review may result in a decision that the service model needs to be revised or that additional training, support or communications are required in order to enable the targets and objectives to be met. Such changes would be considered necessary costs.

8.61 In single tier or unitary authorities (all authorities in Scotland, Wales and Northern Ireland, and 125 in England) it is envisioned that the Scheme Administrator will make one payment to the authority, which will include a breakdown of the various household payment elements (e.g. recycling, residual, HHWRC/bring-sites). For two tier authorities (England only), it is envisioned that the payment process will take account of the regulatory responsibilities undertaken by the two authorities for the specific locality, set and agreed under the Environmental Protection Act 1990 (EPA) and Waste and Emission Trading Act 2003 (WETA).

8.62 Further consideration of the reporting and payment cycle is discussed later in this Payments section.

Cooperation and partnership working

8.63 Through this emerging payment framework, Government would expect the Scheme Administrator to encourage and support co-operation and partnerships between local authorities to provide opportunities to meet their performance benchmarks and the wider Extended Producer Responsibility objectives through efficient and effective systems.

8.64 It is proposed that local authorities could also involve or consult the Scheme Administrator in reviewing, amending or developing their waste management plans to reflect the requirements of Extended Producer Responsibility, given the Scheme Administrator's role in contributing funding towards the implementation of these plans. This would ensure a strategic, cooperative approach is taken, aligned with the Scheme Administrator's own Extended Producer Responsibility investment plan related to the above payment approach and the meeting of targets. Equally, where plans involved key investment decisions, a local authority may wish to make producers (through the Scheme Administrator) a party to any investment agreement, to confirm the Scheme Administrator's long-term commitment to the investment.

Payments for management of packaging waste arising from businesses

8.65 Commercial and industrial packaging waste accounts for approximately 61% of all packaging waste placed on the market, with approximately half (31%) being

'household like' packaging and the other half (30%) 'other' commercial and industrial packaging such as transit and industrial packaging. At present we estimate approximately 56% of 'household like' and 73% of 'other' packaging is recycled.

8.66 Given the more homogenous nature of 'household-like' and 'other' commercial and industrial packaging, and that it makes up over 60% of packaging placed on the market, its effective management to ensure high levels of recycling will be important if producers are to meet more stretching targets and increase quality of materials to achieve the intended outcomes of the scheme. Its inclusion within the scope of full net costs would also increase the incentive on producers to minimise the use of packaging, either through reducing unnecessary packaging or increasing the use of re-useable packaging.

8.67 Following the 2019 consultation, further analysis and discussions with stakeholders, Government remains of the view that we should work towards a system of full net cost payment for the collection, sorting and recycling of household-like packaging. This will help support the achievement of our stated outcomes and objectives for packaging Extended Producer Responsibility and is in line with international best practice. It is also a requirement in Northern Ireland under the Northern Ireland protocol. However, estimated costs have increased significantly to £1.5bn per annum since the last consultation. This is explored further below.

8.68 Government also recognises the complexities of the household-like packaging collection system and that we are seeking to bring in reforms to an already mature market. Views are sought on the potential introduction of three different models of payments as soon as is feasible, and the potential to transition to a fourth toward the end of this decade.

8.69 This section explores the potential scale of costs, scope of costs, outcomes and objectives sought through the payment mechanism, potential payment mechanisms, and whether transitional arrangements may be necessary. This includes the costs associated with managing packaging arising in public sector organisations (e.g. schools and hospitals), charities and not for profit organisations.

Scale of cost to producers

8.70 The Impact Assessment that accompanied the first consultation attempted to estimate the scale of packaging waste management costs currently incurred by businesses. Due to data limitations the estimate was restricted to packaging waste from hospitality businesses and assumed current collection arrangements. It suggested that these costs could be in the region of £249m-£375m depending on the policy option.

8.71 Since the previous consultation, Government has sought to improve this analysis, widening the scope to all businesses and organisations that dispose of household-like packaging, given packaging waste is just as likely to arise in other types of business such as offices, shops and manufacturers. Our updated analysis also takes account of wider business waste recycling proposals, that will be set out shortly in our consultation on consistent recycling collections proposals (England) and also being progressed in Scotland, Wales and Northern Ireland, which will require all businesses to separately present materials for recycling.

8.72 Taking account of these changes, our current estimate of the cost to producers, once consistency proposals are fully in place, is projected to be in the region of £1.5bn per annum. This cost remains uncertain for several reasons:

- **The lack of robust data on the tonnages of commercial and industrial waste arising from businesses, the proportion of which is packaging, and the costs of managing this.** This is a well-known, longstanding issue for the sector that Government is seeking to address through mandatory electronic waste data tracking.
- **The number of businesses in scope of producer full net cost payments under packaging Extended Producer Responsibility and the costs of managing this.** WRAP has undertaken analysis for England and Northern Ireland to improve data and cost estimates, but it remains a key sensitivity, partly due to the challenge of obtaining commercially sensitive cost data.
- **The baseline service profiles of businesses in scope of obligations for consistent recycling collections.** There is very limited reporting on the collection services businesses presently have in place and the how they sort waste for collection. The data gaps include limited understanding of container sizes and collection frequencies. These datasets would be useful to refine baselines and help the forecasting of service profile changes to introduce or capture more packaging. Government is reviewing the opportunities to capture more of these datasets.
- **Whether separate recycling requirements for businesses in England will be extended to micro businesses and when this might occur.** The Environment Bill provides powers to introduce requirements on businesses and non-domestic premises to arrange for a core set of materials to be collected for recycling or composting. The consultation on consistent recycling collections in England that will be published shortly will propose that this should commence from 2023 and will seeks views on options to reduce the costs for micro-sized firms. These include either a full exemption or phasing micro-firms into the requirement two years after the recycling consistency go-live date. Our analysis suggests that microbusinesses account for approximately 48% of the projected cost and 31% of the projected tonnage of packaging we expect to be collected from businesses for recycling to meet future targets. This is due to the high numbers of micro-businesses in the UK

and waste collection costs primarily driven by the time taken to empty bins (c. 70% of cost) and not the tonnages collected (c.30% of cost).

- **The extent to which the packaging is household-like or transit and industrial.** When collected from businesses, particularly those that are not obligated producers, it can be difficult to determine whether packaging is household like or not, by those disposing of the packaging and by those collecting it. As a result, where producers do not currently backhaul and/or self-manage transit and industrial packaging, our analysis does not attempt to differentiate these costs.
- **Current and future efficiency of collections.** Unlike household collections, where economies of scale are achieved through having a single collector for any given area, and where there has been significant pressure to minimise costs, business collections, while competitive, have seen less pressure to optimise services. The £1.5bn per annum cost estimate is a baseline estimate for future packaging provision i.e. it assumes no steps are taken by businesses or waste collectors to optimise bin use following the introduction of consistent recycling requirements (England) and comparable requirements in Northern Ireland, Scotland and Wales. Initial analysis by WRAP suggests it may be possible to reduce overall costs by 20% at an individual business level through optimising the use of containers, their capacity and collection frequency. WRAP analysis also suggests that up to a further 20% reduction may also be possible through approaches such as collaborative procurement of collection services, bin sharing by businesses, and more formal zoning approaches. As a result, it may be possible to reduce the estimated baseline cost to producers by £300-600m per annum depending on the starting point. Government therefore believes very careful consideration needs to be given to the relative effectiveness of potential payment mechanisms to drive the required actions to deliver efficient and effective collections and in doing so reduce the cost burden on businesses separating packaging for recycling.

8.73 While Government acknowledges this is a significant additional cost to place onto producers, it believes this remains in line with the stated aims and objectives of Extended Producer Responsibility, in particular the polluter pays principle, and the incentive this places on producers to minimise packaging use and increase recyclability. Government also recognises that this is a transfer of cost from one business to another, which will create incentives to minimise this cost to the economy and society more widely, and on balance will result in a net transfer of cost burden from small and micro-businesses to medium and larger businesses. As a result, Government remains of the view that the costs associated with the management of packaging arising from businesses should remain in scope of producer payments.

Q51. Do you agree or disagree that there remains a strong rationale for making producers responsible for the costs of managing packaging waste produced by businesses?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Scope of packaging included in the payment mechanism

8.74 In the 2019 consultation, Government proposed that producers should only be responsible for the management of ‘household-like’ packaging and not ‘other’ commercial and industrial packaging as producers already bear the cost of the management of this packaging. However, upon further consideration Government does not believe this to always be the case. This would be particularly so under the proposed single point of compliance (see the Obligated Producers section), as the producers disposing of packaging would not always be the same producers as those who placed it on the market.

8.75 As a result, the producers of ‘other’ non-household-like commercial and industrial packaging may not be exposed to the market incentives to reduce the use and increase the recyclability of their packaging. This may not be an issue for recyclability, given already high levels of recycling in this part of the sector, but it may decrease the incentive to reduce packaging and move towards re-useable packaging in a part of the sector where there may be more scope to do so.

8.76 Equally, at the point of disposal, it could be difficult for businesses to distinguish between ‘household-like’ and other commercial and industrial packaging. This may be because the same item of packaging might be classified differently depending on the business disposing of it, the volume / weight of the product contained in the packaging, and because all producers will likely be disposing of a mix of household like and other commercial and industrial packaging. As a result, it is quite possible, if not likely, that household-like and other commercial and industrial packaging could be placed in the same bin. This risks misclassification of packaging. Such misclassification would affect the fairness and effectiveness of the payment system for both the packaging producer (in particular producers of household-like packaging who could be paying for the management of transit and industrial packaging), and the waste producer.

8.77 Through discussions with Government’s Advisory Committee on Packaging and other stakeholders it has also become evident that it is very difficult to distinguish between household, household-like, and transit and industrial packaging when placed on the market. In countries that already offer ‘free’ collection of household-like packaging from businesses, such as Germany and Austria, detailed

methodologies have been developed to seek to define 'household-like' packaging from both a placed on the market and collection perspective. These appear complex and resource intensive to develop, administer and monitor. Furthermore, a UK system would require reporting of both tonnages of packaging placed on the market and tonnages of household, household-like and transit and industrial packaging waste collected in each of England, Northern Ireland, Scotland and Wales.

8.78 As noted above, Government is also conscious that transit and industrial packaging typically is more homogenous than household and household-like packaging; corrugated cardboard, plastic film shrink-wrap and pallets being key packaging materials. Under the current system some producers backhaul packaging waste to distribution centres or self-manage significant tonnages as separate streams, arranging for reprocessing directly and using the Packaging Recovery Note/Packaging Export Recovery Note evidence generated to offset their own obligations and/or receive a rebate for the material value⁵³. Given such systems generate clean, high quality recyclate, Government wants to ensure a reformed system retains and builds upon appropriate incentives on producers to use such source separated systems as their preferred approach to waste management.

8.79 For these reasons, Government proposes that where producers collect and arrange for the recycling or disposal of some of their own packaging waste (such as back hauling of secondary and transit packaging to local distribution centres), this would be eligible to be offset against their Extended Producer Responsibility obligations subject to necessary reporting, evidencing and compliance monitoring.

8.80 Equally, Government is aware that producers are exploring and implementing self-managed and funded systems for the take-back of household and household-like packaging such as in-store take-back and post-back. Where such provision involves producers funding the management and collection of this packaging waste for disposal, this would also be eligible for offsetting against their obligations or alternative arrangements, as appropriate.

8.81 Government believes such an approach would:

- Encourage the continued separation of packaging where feasible but provide producers with an alternative option where it is not.
- Be fairer for producers of household-like packaging as it ensures that, where transit and industrial packaging is not back hauled, producers of that packaging contribute to its collection costs.

⁵³ <https://www.valpak.co.uk/news-blog/blog/offset-compliance-cost-with-own-waste-prns-are-you-taking-advantage-of-high-prn-rates-and-being-paid-a-fair-rate-for-your-packaging-waste>

- Provide a clear system for the offsetting of household and household-like packaging managed through producer takeback systems.
- Help guard against fraud in the system.
- Simplify considerably the reporting and monitoring arrangements for producers, the Scheme Administrator and regulators.
- Help facilitate and simplify business facing support to achieve much better economies of scale by targeting all businesses within an area.

8.82 There are likely to be detailed considerations in designing such an exemption system to ensure the fair treatment of producers. One consideration may be that such evidence can only be used to offset equivalent packaging placed on the market. For instance, only using transit and industrial packaging waste to offset obligations for transit and industrial packaging placed on the market. This would ensure that some producers, such as retailers (where they have a 'brand owner' obligation), cannot use tonnages of 'lower cost to manage' transit packaging to offset 'higher cost to manage' household and household-like packaging.

8.83 Consideration also needs to be given to avoiding unintended consequences, for example the potential to create advantages for certain producers or businesses over others, such as for larger businesses that are better able to facilitate backhauling or in-store collections in comparison to smaller businesses.

Q52. Do you agree or disagree that all commercial and industrial packaging should be in scope of the producer payment requirements except where a producer has the necessary evidence that they have paid for its management directly?

- Agree
- Disagree
- Neither agree nor disagree

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

Payment mechanisms for Packaging Waste collected from Businesses and other relevant organisations

8.84 In developing the payment mechanism for packaging waste generated by businesses and other relevant organisations, we are seeking to embed the polluter pays principle to ensure producers meet full net cost obligations, but the payment mechanism will also need to:

- **Improve the effectiveness of packaging waste collection services**, incentivising increased recycling and quality.
- **Increase the efficiency of packaging waste collection services**, seeking to minimise producer costs where possible, but not to such an extent that undermines the achievement of targets

- **Be fair and transparent**, ensuring costs are borne by those who place the packaging on the market, and all businesses, regardless of their size or location have the potential to have their packaging taken away for free, via a reasonable and proportionate service, provided they use it in the manner it was intended.
- **Be deliverable and enforceable on the ground**, tracking the tonnages, composition and quality of materials collected from business in a manner which is enforceable by regulators.

8.85 In order to legislate for the new Extended Producer Responsibility system and initiate the procurement of the Scheme Administrator, Government will need to decide on its preferred approach shortly after the end of the consultation. Given the importance of this area for delivery, the scale of potential cost and the risk of fraud, Government will undertake targeted engagement with producers and waste collectors during the consultation period, with the aim of developing a broad consensus around a preferred approach.

8.86 Government is working on the assumption that payments for business waste recycling will be introduced from 2024, but recognises that this will be dependent on the approach taken and the measures that may be necessary to ensure it can be implemented in a robust manner that minimises the risk of misreporting or fraud. Government has identified three payment mechanisms, broadly based around current waste collection practices. Retention of the current Packaging Recovery Note system for business packaging is not included as an option beyond any transitional arrangements as Government does not believe it would achieve the overarching outcomes and objectives for the future packaging scheme.

Option 1 – A Scheme Administrator led, producer funded, business packaging waste management cost rebate system (referred to by stakeholders as ‘the per tonne approach’)

8.87 Under this approach businesses disposing of packaging waste would receive a rebate from producers for recycling. This would result in a heavily discounted / free packaging waste collection service, where businesses used it as intended. This approach would operate within the existing collection framework, with waste management companies competing for customers.

8.88 To enable this the Scheme Administrator would set a per tonne rate, or multiple rates to reflect different ruralities, business types and sizes. The per tonne rate(s) set by the Scheme Administrator would broadly encompass the collection and sorting costs for mixed dry recyclables, net of material value.

8.89 To ensure transparency and the transfer of producer payments, waste collectors would have to state the financial value of the rebate provided by producers

on a business's invoice. This value would take account of that business's performance and whether their dry recyclable service includes non-packaging materials. For instance, reporting requirements may require a business to be informed through their invoice of:

- the cost of the dry packaging collection service;
- how much of a rebate from producers they are eligible for (taking account of non-packaging materials collected in the same bin), and;
- the steps they could take to secure their full rebate (e.g. recycling more, reducing bin collection frequency, or contracting jointly with neighbouring businesses for shared bins etc.).

8.90 Government would want to explore further what steps may be necessary to ensure all eligible businesses benefit from a free (or close to free service), that is both reasonable and fair to the business and producers. As such, Government would expect reassurance that either system optimisation measures, or multiple payment rates that reflect business rurality, size and type could be implemented. To enable monitoring of this, waste management companies would be required to report what proportion of their business customers' packaging costs had been met (by business size).

Option 2 – A compliance scheme led, producer funded, business packaging waste management cost rebate system (a variation of 'the per tonne approach' described above)

8.91 Under this approach the Scheme Administrator would set a per tonne rate, or multiple rates to reflect different ruralities, business types and sizes. The per tonne rate(s) set by the Scheme Administrator would reflect collection costs only, net of material value, with sorting costs being subject to agreement between the compliance scheme and the first receiver.

8.92 The compliance scheme would pay waste collectors this rebate, who would then be required to pass the rebate back to their customers, detailing this on their invoice. The compliance scheme would then take responsibility for arranging any further sorting necessary before arranging the reprocessing to secure evidence to meet their members targets. Compliance schemes would also be responsible for meeting their members' or the system's need for higher quality materials through their original sourcing of recyclate and subsequent investment in sorting and reprocessing. As such, it may be possible for them to offer reprocessed materials 'at cost' to their members provided access to this material was equitable between members.

8.93 This approach would require a 'balancing mechanism' as a backstop measure to ensure that all target material collected received the per tonne rebate, even when

producer recycling targets had been met. This requires further development but could be through the Scheme Administrator acting on the collective behalf of compliance schemes, making the initial per tonne payment. The Scheme Administrator could then auction off the right to manage this material to compliance schemes with both collection and net sorting/reprocessing costs equitably split between compliance schemes based on market share.

8.94 Government would want to ensure all eligible businesses benefit from a free or very close to free service that is both reasonable and fair to the business and producers and ensure reporting by waste management companies enables this.

Option 3 – A compliance scheme led, producer funded, ‘free bin’ approach

8.95 Under this approach all businesses would be entitled to free collection of packaging waste. Any waste collector offering a packaging waste collection service to a business would have to offer that business a ‘free service’ for all its packaging waste. It would be for individual waste collectors to specify the frequency, bin size and/or bin sharing requirements that may be necessary to for them to offer a free service in any given area and to compete with other collectors on this basis. Businesses would then be able to choose to upgrade or enhance their service beyond what had been offered, for instance if they wanted a more frequent collection service than was on offer or did not want to share a bin. Waste management companies would continue to be able to charge for the collection of non-packaging materials where co-collected. However, they would be required to state the proportion of packaging collected (this could be by round, area or business type and requires further consideration) so it was transparent to a business what proportion of their mixed dry recycle service had been provided at no charge.

8.96 Producers would have an obligation to fund this service. This would be met through compliance schemes entering into commercial arrangements with waste collectors to provide a collection service and in doing so would take ownership of the collected materials. The compliance scheme would be responsible for the onward management of this material, using this material to meet its members’ targets and their members’ or system’s need for higher quality materials. This would be through their original sourcing of recycle and subsequent investment in sorting and reprocessing. As such, it may be possible for compliance schemes to offer reprocessed materials ‘at cost’ to their members, provided access to this material was equitable between members.

8.97 This approach would require a ‘balancing mechanism’ as a backstop measure to ensure that all target material collected was purchased by compliance schemes at a fair rate, even when producer targets had been met. This requires further development but could be achieved through requiring a compliance scheme to negotiate a single price for all of the packaging waste collected by a single waste

collector and not just buying material from their 'lower cost to collect from' locations. Another alternative may be to have local authorities operate as the collector of last resort and be paid at cost by the Scheme Administrator, acting on the collective behalf of compliance schemes.

8.98 If the situation arose where one or more compliance scheme had excess evidence, this evidence could be sold to other compliance schemes where needed. If more evidence was purchased by compliance schemes than required to meet national targets the cost of this evidence would be shared across all compliance schemes based on market share. This could be facilitated by the Scheme Administrator. In such a situation an 'average' price could be paid. In addition, if necessary, to ensure compliance schemes were not intentionally buying more material than necessary in an attempt to profit (or otherwise gain an unfair advantage), a reasonable threshold / cap could form part of the scheme approval and monitoring process.

8.99 Government would like to explore further the extent to which such an approach would incentivise waste management companies to optimise service delivery. For example:

- The provision of larger bins and less frequent service in more rural areas where it may take longer and therefore cost more to collect but where storage may be less limited, so frequency can be reduced; or
- Encouraging bin sharing for smaller businesses or in more urban areas where space may be more limited and therefore more frequent collection is required. Such bin sharing could be facilitated through Business Improvement Districts, waste management companies, compliance schemes or businesses themselves.

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

- a. Option 1
- b. Option 2
- c. Option 3
- d. All could work
- e. I do not know enough to provide a view

Q54. Do you disagree strongly with any of the approaches above?

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

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

Potential longer-term options

8.100 As part of the recycling consistency proposals (in England), the UK Government has been exploring the benefits of moving towards an integrated waste collection zoning/franchising approach for non-household municipal waste. This would allow local authorities or other organisations to issue contracts for the collection of commercial waste in a given region, reducing the number of vehicle movements and increasing efficiencies in the provision of collection arrangements for non-household municipal waste.

8.101 There are several approaches to zoning, but the basic concept is that businesses use a jointly procured waste and recycling collections service that is designed to improve economies of scale in delivery. Although UK examples are limited, internationally zoning has been shown to have the potential to reduce recycling and waste collection charges for businesses and alleviate traffic in busy town centres or arterial routes, thereby contributing to reducing urban air pollution and improving road safety.

8.102 The economic and environmental benefits of zoning depend on a wide range of factors. These include the model adopted, the size of the zone or number of zones within a local authority or geographic area, the geographic area in which the zone might operate and the contract period. The core options can be summarised as:

- Co-collection – the contractor for household waste services also delivers the non-household municipal (NHM) services
- Framework zoning – selected suppliers are licensed to offer services in the zone
- Material specific zoning – one contractor is contracted for food waste collection, one for packaging, one for residual waste services
- Exclusive service zoning – one contractor delivers the core recycling and waste services for the zone

8.103 The principle of joint procurement is also reasonably well established in the UK on a voluntary basis. It can be as straightforward as neighbouring businesses sharing the same containers under a joint contract or shared facilities on a retail park. Survey data suggests that some small businesses are already following this approach to keep costs down. On a larger scale there are good practice examples of Business Improvement Districts or regional partnerships that have undertaken tendering to offer businesses in their area a preferential rate on an opt-in basis. In these examples, Government could prepare and disseminate guidance to encourage more small businesses to identify joint procurement opportunities and so realise economies of scale and local benefits.

8.104 The potential benefits of adopting such an approach across the UK are being considered such as whether it could deliver significant savings for businesses and significant environmental, health and efficiency benefits to society more widely. This will be explored further in the second consultation on consistent recycling collections (England), alongside other cost reduction options for businesses and other organisations. That consultation will also be seeking views on materials in addition to packaging materials (such as food waste) that could be included in a zoning system (which is out of scope of this Extended Producer Responsibility consultation).

8.105 A formal zoning approach would require a significant change from the collection arrangements we have at present and require new primary legislation. As a result, if Government were to progress such an approach, it would take time to implement, possibly not until the late 2020s.

8.106 This approach would provide an alternative means of providing a free packaging bin service and could offer significant savings to producers. In such an approach, producers, either through the Scheme Administrator or compliance schemes, would need to be involved in the procurement of the collection contract for each zone, given that they would be responsible for funding the packaging element.

8.107 If such an approach were not adopted by Government, there may be merit in a zoned service for business packaging waste only. This would also represent a significant reform of the system and take many years to implement. As a result, Government would only consider such an approach if it decided not to progress a fully integrated zoning approach and if none of the three options above proved viable, or if the Scheme Administrator / compliance schemes / producers were able to make a compelling case for it.

Underpinning system requirements

8.108 Robust, compliance monitored, and enforced waste composition sampling and weighbridge data will need to be established to ensure that producers are only paying for the management of packaging material. The data and reporting section below sets out Government's proposals for this.

8.109 Unlike local authority payments, that could operate initially on a modelled cost basis, these arrangements will need to be in place before business waste payments can be implemented, to provide robust evidence of collection. It is also possible that these reporting arrangements will need to have been in place for some time to establish necessary time series data to ensure composition analysis data is statistically robust. Government is undertaking further analysis and engagement but is working towards implementation of business payments in 2024.

8.110 Arrangements may also need to be put in place for waste collectors who wish to access producer payments via the payment mechanism, in order to limit the risk of fraud and ensure they have the necessary measurement, reporting and invoicing processes in place. Such measures could include, depending on the payment mechanism: on-board weighing; geo-tagging; and standardised business profile reporting (e.g. size and type of business, number and size of bins, cost data etc.). Such data would help to better understand where packaging waste is arising and the costs of collecting it to inform any per tonne payment rates that may underpin the system.

8.111 To ensure transparency and the pass through of producer payments, under all the proposed payment mechanisms, waste collectors would need to include on a business's invoice the financial value of the rebate provided by producers, taking account of that business's performance and whether their dry recycle service includes non-packaging materials. For instance, reporting requirements may require a business to be told the cost of the dry packaging collection service, how much of a rebate from producers they are eligible for (taking account of non-packaging materials collected in the same bin) and what steps they could take to secure their full rebate (which could involve recycling more, reducing bin collection frequency, or entering into joint contracts with neighbouring businesses for shared bins).

Data reporting

8.112 Reporting of placed on the market packaging and recycled packaging waste data separately for England, Northern Ireland, Scotland and Wales is a requirement of the new Extended Producer Responsibility system. It is therefore important that a business payment mechanism, whether Scheme Administrator or compliance scheme led can provide the data that will enable this reporting.

8.113 For household-like packaging collected from businesses and other organisations, waste collectors, either via electronic waste data tracking or by reporting to compliance schemes or the Scheme Administrator, would need to report tonnages of packaging collected in each nation.

8.114 This level of reporting would also extend to producers who manage their own packaging waste and use evidence of this to offset their obligations. In such circumstances, especially where transit packaging is backhauled, Government believes an apportionment methodology, based on placed on the market data, could provide a means to estimate collection and recycling tonnages for each of England, Northern Ireland, Scotland and Wales, where vehicles or depots serve more than one part of the UK.

Transitional arrangements

8.115 Government's intention is that the business payments mechanism should be implemented in Phase 2 of Extended Producer Responsibility, from 2024. This is contingent on feedback through this consultation and further development of the options. However, Government recognises the challenges related to implementation; in particular, having enough time to implement processes and systems that guard against misreporting and fraud. If the introduction of a full cost payment mechanism is not achievable in 2024, Government will consider further whether the Packaging Recovery Note/Packaging Export Recovery Note system should continue to operate alongside full cost payments to local authorities beyond Phase 1 of Extended Producer Responsibility.

8.116 If this were to be the case Packaging Recovery Notes and Packaging Export Recovery Notes would continue to be issued as evidence of the recycling of all types of packaging waste in scope of packaging Extended Producer Responsibility, including that which is collected from households. While producers would be making payments for the costs of the collection and sorting of this packaging waste Government does not believe this would result in producers paying for the same material twice. This is because the value of a Packaging Recovery Note/Packaging Export Recovery Note is reflected in the market rate a reprocessor or exporter is willing to pay for a tonne of recyclate. As a result, the payment to a local authority would be net of material value including the value of the Packaging Recovery Note for different materials.

8.117 In considering the case for continuing with Packaging Recovery Notes/Packaging Export Recovery Notes to demonstrate compliance with recycling targets, Government would take account of the time required to introduce the business packaging waste payment mechanism. For instance, if this was less than a compliance year, Government may accept a short period without full cost payments or requirement to obtain Packaging Recovery Notes/Packaging Export Recovery Notes. This may result in a transitional year in which producers would not have recycling target obligations.

Q55. Do you think there will be any issues with not having either Packaging Recovery Notes/Packaging Export Recovery Notes or the business payment mechanism (and as a result recycling targets) in place for a short period of time?

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

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

Data and reporting required to support both local authority and business payment mechanisms

8.118 The payment and recycling target framework will rely heavily on data and evidence being provided from across the waste management system including from local authorities, material transfer, bulking and sorting facilities, reprocessors and exporters. A clear understanding of the mass flow of packaging will be essential in order to accurately and robustly monitor the quantity and quality of packaging that is moving through the waste management system, the costs and value associated with that packaging material, and to guard against fraud and misreporting.

8.119 The sections below detail the data and reporting requirements for 'local authorities' and 'packaging waste receivers and handlers. Reprocessor and exporter data and reporting requirements are covered in Section 11 but are important in providing evidence in support of Extended Producer Responsibility payments for packaging waste management and recycling targets. The costs of data collection and reporting are covered under necessary costs.

Local authorities

8.120 To support the payment mechanisms proposed local authorities will need to report data to the Scheme Administrator. This will include data on their collection and disposal services and facilities, the types of households and businesses they service, the tonnages collected through their systems and local communications activities. Local authorities already report most of this data through Waste Data Flow quarterly and/or annually, with specific requirements detailed in relevant waste management regulations. Existing local authority data frameworks, portals and supporting tools may need to be amended or updated, to ensure the data collected, provided to, and used by the Scheme Administrator, is of sufficient granularity, quality and consistency to base full net cost payments on.

8.121 WRAP has been working closely with local authorities over the past two years to test new data capture tools and has proposed new questions in Waste Data Flow to help gather the right level of data granularity from which to derive more accurate collections costs. Suggested evidence gaps in local authority cost and service data, for example data on flats and household waste recycling centres, will need to be addressed to inform payments and any modelling outputs from 2024.

Packaging waste receivers and handlers

8.122 Material facilities that receive, sort and/or transfer waste containing household, household-like and C&I packaging would be considered a packaging evidence point under Extended Producer Responsibility. It is proposed that these facilities will be required to undertake sampling and compositional analysis to identify and report the tonnages, composition and quality of packaging waste received,

processed, lost and/or sent to other facilities or exported for further sorting and recycling.

8.123 It is proposed that under Extended Producer Responsibility, a facility that is a First Point of Consolidation of packaging will be required to be accredited by a regulator. It is expected that the First Point of Consolidation will be required to report the tonnages and composition of packaging waste received and processed, in accordance with agreed Extended Producer Responsibility sampling and reporting requirements (detailed later in this section). In meeting these requirements, First Points of Consolidation will be able to provide evidence on packaging waste received, bulked and sorted. Accreditation would also provide these facilities the ability to reimburse business payments, depending on the business payment mechanism adopted.

8.124 The proposed definition of a First Point of Consolidation is:

'A material facility or transfer station that receives packaging waste directly from a waste collector, that undertakes the first weighing, consolidation, sorting and/or bulking of the packaging waste before sending onto another material facility, reprocessor or to export'

8.125 A First Point of Consolidation can be a local authority if they consolidate, bulk and sort packaging waste using their own facilities, or could be a waste management company. Reprocessors or exporters could also be a First Point of Consolidation if they receive the packaging directly from a waste collector (these requirements would need to work in alignment with any reprocessor and exporter reporting requirements).

8.126 The First Points of Consolidation are an important evidence point, as the data provided will determine the tonnage, composition and quality of packaging collected, received and accepted from local authorities and businesses, before the sorting, mixing, and bulking of loads occurs. This data will be used by the Scheme Administrator and/or compliance schemes to calculate waste management costs and make payments to local authorities and businesses in accordance with the proposed payment approaches, from 2024.

8.127 To support compliance monitoring of the system, Government proposes that First Points of Consolidation be required to secure proof of recycling from reprocesses and exporters. This evidence would need to be sufficient to justify reported collection tonnages and quality, taking account of reasonable system losses. Once embedded, this reported data may reduce the intensity of the sampling regime set out below. We do not envision this evidence having a tradable market value as the Packaging Recovery Note does at present. Instead, we expect it to form part of contractual arrangements that would see this evidence flow back through the value

chain from the reprocessor to First Points of Consolidation. Such an approach should strengthen feedback through the system on both quality and contamination.

Sampling and compositional analysis

8.128 Sampling and compositional analysis methodologies that reflect Extended Producer Responsibility packaging requirements on material facilities are proposed to be set to ensure that data evidence is being collected and reported consistently and accurately. Sampling and compositional analysis of packaging is considered a necessary cost.

8.129 An initial project has been commissioned by Defra to identify and develop a potential sampling and compositional analysis approach that would support the consistent collection and reporting of packaging data by packaging waste receivers and handlers for Extended Producer Responsibility purposes. The objective of the sampling and compositional analysis would be to identify the quantity and proportions of target packaging, from loads received at sorting and transfer facilities in order to underpin Extended Producer Responsibility payments.

8.130 A separate objective would be to apply minimum output standards by packaging material, to help identify the quality of packaging that leaves a material facility after it has been bulked and sorted.

Sampling and measurement of collected obligated packaging

8.131 One option under consideration for providing evidence and data to support Extended Producer Responsibility related payments would in part, require a new consistent assessment and sampling regime to be implemented at both materials recovery facilities (MRFs) and waste transfer stations (WTS) as the receivers of both household and commercial packaging material.

8.132 The objective would be to determine the proportion of packaging material and contamination within the material stream and whether the output materials following sorting processes meet a minimum quality standard. This would require analysis of packaging available within the waste stream and sampling and measurement of collected materials. From the assessment, the data would be used to inform the level of payment. Materials collected as part of a two-stream or co-mingled collections would be required to be sampled and sorted to determine the composition of packaging.

8.133 Sampling and measurement methods have been assessed in determining a way to accurately measure collected packaging types, including both manual sampling techniques and automated technologies. The assessment of sampling methods considered the feasibility of the approaches, the additional time and

resources required to effect sampling, and the potential for inconsistency in sampling or measurement.

8.134 One option proposed is to introduce additional manual sampling through amendments to the existing material facility sampling regulations in England, Wales (Part 2 of Schedule 9 of the Environmental Permitting Regulations (England and Wales)⁵⁴ 2016, and Scotland (Code of Practice on Sampling and Reporting at Materials Recovery Facilities)⁵⁵ and for incorporation into new or existing regulations in Northern Ireland (hereafter referred to collectively as the ‘MF Regulations’).

8.135 This proposal would require sampling and reporting at all First Points of Consolidation, as defined earlier in this section, including all MRFs and WTSs where recyclable waste materials are bulked following collection from waste producers. Data on the tonnages and composition of packaging material collected from households and businesses by local authorities and waste collectors is needed in order to inform payments to those local authorities, businesses and/or waste management companies that incurred packaging waste management costs. Under this proposed approach, the existing MF Regulations’ de-minimis threshold of facilities that receive 1000 tonnes of mixed waste per annum, would need to be removed or changed and the scope of obligated facilities widened to reduce gaps in collection data for Extended Producer Responsibility payment purposes.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

⁵⁴ Part 2 of Schedule 9 of the Environmental Permitting Regulations (England and Wales)
<https://www.legislation.gov.uk/ukxi/2016/1154/schedule/9>

⁵⁵ Code of Practice on Sampling and Reporting at Materials Recovery Facilities Practice (<https://www.zerowastescotland.org.uk/sites/default/files/MRF%20Code%20of%20Practice%20Guide%20ine.pdf>); The Waste (Recyclate Quality)(Scotland) Regulations 2015 (<https://www.legislation.gov.uk/ssi/2015/101/contents/made>)

Q57. Do you agree or disagree with the proposal to require all First Points of Consolidation to be responsible for sampling and reporting in accordance with a new packaging waste sampling and reporting regime?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Q58. Do you agree or disagree that the existing MF Regulations' de-minimis threshold of facilities that receive 1000 tonnes or more per annum of mixed waste material would need to be removed or changed to capture all First Points of Consolidation?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Manual sampling as an amendment to the MF Regulations

8.136 Manual sampling is a tried and tested method of measurement that, if designed correctly, will provide the robust data needed to support payment calculations. The MF Regulations sampling regimes already report the proportion of input weights for target fibres, plastics, glass, metals, non-target, and non-recyclable materials for each MRF and WTS from each supplier. It also requires reporting on proportion of output weights for specified output materials, at a minimum by reference to the grade of glass, metal, paper or plastic material, non-target and non-recyclable materials. A future sampling regime to determine the proportions of packaging should take place at the point the materials are first received and consolidated. For example, input materials to WTSs and MRFs, and would include measuring in-scope packaging, other recycling, and non-target materials.

8.137 The rigour of sampling under the future packaging regime will also need to reflect that it will underpin producer waste management payments in excess of £2bn per year. The MF Regulations currently require one sample every 125 tonnes. WRAP has considered what sampling frequencies may be necessary given the importance to Extended Producer Responsibility payment mechanisms. This included a range of sampling frequencies from one sample every 25 tonnes to one sample every 8 tonnes. Sampling arrangements would also need to be more detailed than at present, establishing the proportion of materials collected against the following proposed categories:

- Paper and card packaging - No separation by form.

- Metal packaging (steel and aluminium; cans, aerosols, foil/foil containers) - No separation by ferrous or non-ferrous or form.
- Plastic packaging (PP, PET, HDPE; bottles, pots, tubs, trays, cups) - No separation by polymer or form.
- Glass packaging (bottles and jars)
- Food and beverage cartons
- Other packaging
- Other recycling by material stream
- Non-recyclable

8.138 Depending on decisions taken in relation to payments for DRS containers remaining in kerbside, a further category to cover DRS containers may need to be added.

8.139 Depending on decisions taken in relation to payments for DRS containers remaining in kerbside, a further category to cover DRS containers may need to be added.

8.140 Proposed changes to the MF Regulations requirements would likely increase the time needed to sort sampled materials and require additional sampling to take place. Additional impacts on WTS and MRF operations would be in terms of sample sorting time, space required for sorting, additional staff and administrative costs, and health and safety considerations. However, some facilities may already go further than the minimum sampling regime requirements within the existing MF Regulations, so for those facilities these additional impacts may be minimal.

8.141 Based on these sampling categories, the tonnages of reported household dry mixed recyclate, and estimates of NHM dry mixed recyclate for England for the year 2018/19, WRAP has produced initial estimates of the potential costs of the manual sampling regime based on staff time in England. These range from £10.5m per year to sample once every 25 tonnes, to £33m per year to sample once every 8 tonnes. For comparison, sampling and sorting dry mixed recyclate once every 125 tonnes (in line with existing MF regulation guidance) is estimated to be £2.1m per year. These costs do not include management time, set up costs, additional space, sampling equipment and PPE, validation, or auditing. For higher testing frequencies the costs associated with additional space and equipment could be significant and this requires further investigation. In addition, these costs are based on the time it takes to sample at a given frequency using the proposed categories above but could increase if more categories were added. It is proposed that any new input material sampling categories should align with output material sampling categories where possible.

8.142 Acknowledging these limitations, Government will undertake further research and analysis to understand current and future UK costs of undertaking these

sampling and reporting activities. This will include an initial review of existing MF and WTS infrastructure to understand the constraints and the costs of providing additional space and equipment under this manual sampling proposal. It will also include analysis of existing MF Regulation data to support determination of sampling frequencies and the development and the testing of a sampling regime, for incorporation into existing or new regulations. Consideration will also be given to whether higher frequency sampling could be used initially to obtain a robust dataset and then reduced subsequently.

8.143 To inform implementation planning, Government would like to better understand the time it may take MF and WTS operators to implement more frequent and robust sampling. This will need to balance practical feasibility, costs on the sector, and tight timelines for delivery. At present Government anticipates providing a 6 to 12-month implementation period for a new sampling regime to be introduced.

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

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

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

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

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

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

Automated visual detection

8.144 As detailed, additional manual input sampling in conjunction with MF Regulation requirements will likely add more time to the existing sampling and sorting processes and take up additional space when sorting. To address or reduce these impacts, it is further proposed that automated visual detection technology is developed as a means of automating and standardising the future collection of data on collected obligated packaging.

8.145 Automatic visual detection has the potential to detect items in terms of material type, object type, object colour, object size, product, and brand whilst material is being sorted over a conveyor belt. This technology has the potential to gather this data while reducing the additional time, cost, or safety issues, relative to

manual sampling. Reported detection accuracy can range between 85% and 95%, but items must be visible to the detectors.

8.146 Defra and WRAP have commissioned a further review of existing visual detection technologies and believe that visual detection could be an efficient and accurate method of measurement. Automatic sampling technology is commercially available, but only one automatic sampling solution is currently in commercial operation. Automatic sampling would need to be tested further and is presented here as a medium to longer term solution.

8.147 Subject to successful piloting, it is suggested that this could be widely adopted by 2025 with a corresponding reduction in manual testing where appropriate. Manual sampling will still be required to some degree to back up visual detection techniques.

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

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

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

Arrangements for source segregated material

8.148 Government believes it may be possible to use existing or new protocols, similar to those used at present by reprocessors, to apply assumed 'proportion of packaging' rates for source segregated materials. For instance, the mixed paper protocol assumes that 34.5% of material received by a reprocessor or exporter is packaging and so is eligible for Packaging Recovery Notes/Packaging Export Recovery Notes.

8.149 Where a 'First Point of Consolidation' was to diverge from these protocols, for instance, if it believed there were greater than assumed packaging levels in the source segregated materials handled, then they would be expected to follow the sampling regime requirements for twin stream or co-mingled packaging detailed above.

8.150 Government will consider this further and will need to be assured the protocols are sufficiently detailed and robust to guard against fraud but believe they would provide a proportionate means for estimating the packaging content of source segregated materials.

Q62. Do you think existing packaging proportion protocols used by reprocessors would provide a robust and proportionate system to estimate the packaging content of source segregated materials?

- a. Yes
- b. Yes, with refinement
- c. No
- d. Unsure

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

Minimum output material quality standards

8.151 It is proposed that minimum output material quality standards for packaging materials should be set and used by material facilities that receive, bulk or sort packaging waste to assess and report on the quality of their packaging material outputs. Setting quality output standards would help ensure tonnage was not unduly prioritised over quality and help reduce the risk of poor-quality material being exported.

8.152 Assessment and reporting against these minimum standards could apply to all material facilities that manage packaging where sorting has occurred, including where there has been contamination or non-target material removed as part of bulking processes. In addition to making an assessment and reporting against the output quality standards, it is proposed that MRFs that sort packaging materials before sending them for recycling or export should be required to show they have met the minimum output quality standards. The introduction of these standards would not preclude reprocessors or exporters, requiring higher specifications of output material to be met. The standards would be intended to be used for the assessment of packaging material quality following sorting and will not be used for assessing whether waste is acceptable for export.

8.153 In setting minimum output material quality standards for material facilities, the data reported could be used as further evidence to support Extended Producer Responsibility payment mechanisms and quality performance incentives. It would also help to better understand the flow of quality through the value chain and provide opportunities to provide evidence of material quality to waste generators and collectors.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Q64. Do you agree or disagree that material facilities that undertake sorting prior to sending the material to a reprocessor or exporter should have to meet those minimum standards in addition to just assessing and reporting against them?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

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

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

Reporting and payment cycles

8.154 Under the current packaging system, producers report packaging placed on the market data annually and are required to meet recycling obligations annually on a calendar year basis. As a result, reprocessors also report on a calendar year basis. In the new Extended Producer Responsibility system, there will be new reporting requirements on those collecting, sorting and reprocessing packaging materials as set out above and, in the reprocessor and exporter section. Some of this data is already submitted by local authorities quarterly via Waste Data Flow, but this submission and validation process can take up to 4 to 6 months. Similarly, for data submitted quarterly by material facilities, it is suggested that it currently takes 9-12 months to validate.

8.155 In proposing a reporting and payment cycle, important considerations include:

- Existing financial and reporting cycles (e.g. local authorities and businesses typically budget and report on a financial year basis).
- Deployment of new data solutions, including Government's new waste data tracking system that could speed up data reporting.
- Enhanced compositional analysis requirements as part of Extended Producer Responsibility that may allow for the quicker validation of data.
- The speed at which material evidence and data flows through the system to allow for collection data to be substantiated against reprocessing data.
- The degree of flexibility in the system to accommodate in year corrections or adjustments.

8.156 It is proposed that producers pay according to the tonnage of packaging they place on the market in the previous calendar year as they currently do, and that local

authorities are paid on a financial year basis, based on previous years tonnage data, quarterly in arrears. Figures 4 and 5 provide an overview of the process and timings of reporting and payments. In effect this means that local authorities will receive payments a year in arrears, and therefore no adjustment will be made for inflation. This reporting and payment cycle should allow the time necessary to submit and validate data, calculate producer fees, take receipt of payments and then make payments to local authorities and other waste managers and businesses.

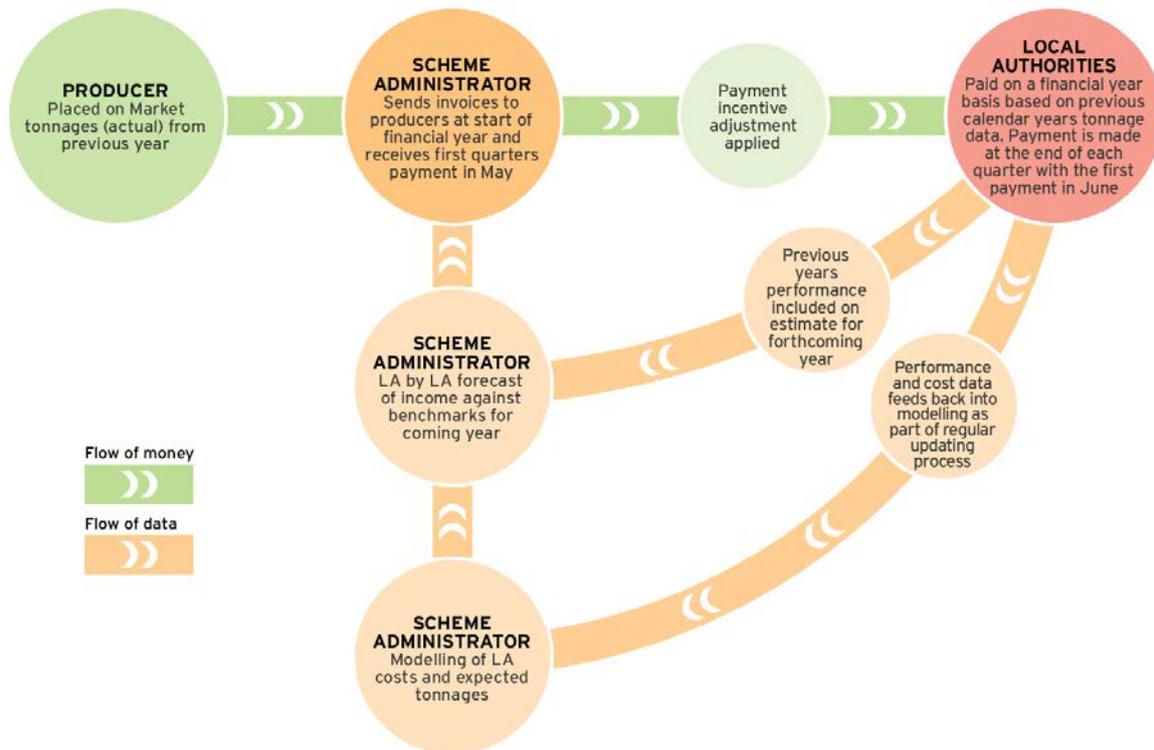


Figure 4 - Proposed reporting and payment cycle

QUARTER 4			QUARTER 1		
JAN	FEB	MAR	APR	MAY	JUN
PRODUCERS Report data	SCHEME ADMINISTRATOR Validates data and calculates modulated fees		SCHEME ADMINISTRATOR Invoices producers	PRODUCERS Pay their first quarter fees	LOCAL AUTHORITY Paid their first quarter payments

Figure 5 - Proposed reporting timeline

8.157 The extent to which data may need to be validated, and therefore the time to do so, will depend on the robustness of the sampling regime outlined earlier in this

section. The material facility issuing the evidence, the local authority and the Scheme Administrator may all expect to see and approve such data so a 3-6-month submission and validation period may be needed.

8.158 Government believes this approach would provide both the Scheme Administrator, local authorities and businesses with greater cost certainty, reduce risk in having to project system performance and costs, and have local authority and business collection tonnages and costs align with what producers had placed on the market in the same year. It would also allow modulated fees to be more easily set.

8.159 This approach may be more difficult to make work for business payments for the following reasons:

- It could act as a barrier to entry for new waste collectors as they would need to generate a years' worth of data before they could access and therefore pass on producer payments to their customers (either as rebates or in the form of a free bin)
- It could create barriers to businesses switching between waste collectors.

8.160 It may be possible to overcome these challenges. Average performance rates could be assumed for new entrants. Waste management companies could also be required to provide monthly, quarterly or annual weight data for their customers on their invoices and this could be used as evidence if a business switched collectors.

8.161 Thought also needs to be given to the handling of in year and end of year corrections to reported data. This may occur due to genuine human error or fraudulent activity and could be identified through internal audit by a local authority or waste management company or be identified by a regulator. This happens within the current system, but at present does not negatively impact producers. This is because where evidence is incorrectly issued it is not revoked. As a result, errors in the current system result in lower producer compliance costs. Under the new Extended Producer Responsibility system, producers will be required to fund all packaging waste management costs. If inaccurate data is reported and used to set fees and make payments, the ability to recover costs from the liable parties, including producers, should exist within the Extended Producer Responsibility system. The risk of erroneous data is higher if using current year data given the limited scope for audit and correction before being used to inform payments.

8.162 Given these issues, Government can see merit in basing payments on the previous year's performance data provided such an approach could be made to work for business payments but would like to explore this further through this consultation.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Implementation and timings

Table 8 - Indicative implementation timeline for the introduction of payments for managing packaging waste.

Activity	Time	Description
Confirm packaging collection and processing data requirements, methodologies and timings	2021	Undertake further assessment into data collection and provision protocols and frameworks, sampling regimes, and IT requirements and systems for transfer stations, material facilities and reprocessors.
Legislate and develop guidance for the new sampling and compositional analysis regime	2021/ 2022	Government will consider further whether this needs to occur in 2021 through a revision of MF regulations or can be progressed in 2022 as part of Extended Producer Responsibility regulations. This will be dependent on the time necessary to implement new reporting requirements and collect and validate the data.

Legislate for key definitions such as necessary costs and wider governance arrangements	2022	Extended Producer Responsibility regulations to include scope of necessary costs for household payments
Agree arrangements with Scheme Administrator	2022	Procurement to be launched in 2021 and complete by the end of 2022 so the Scheme Administrator can be appointed in January 2023.
Payments to local authority under Phase 1 of Extended Producer Responsibility (subject to consultation)	2023	Local authorities would receive a partial payment for the 6-month period October 2023 to March 2024. This would be based on modelled full net costs for the previous year (2022).
Payments introduced under Phase 2 of Extended Producer Responsibility	2024	From 2024 local authorities would receive their full costs for managing packaging collected from households. This may include the introduction of incentive linked payments if feasible. Business payments also introduced from 2024 if feasible.

9. Litter payments

9.1 This section sets out Government’s proposals regarding the requirements for litter payments through Extended Producer Responsibility. The 2019 consultation sought views on the inclusion of litter in the scope of the costs of managing packaging waste, and 72% of respondents either agreed with this or felt it did not go far enough. Government’s summary of consultation responses confirmed that Government was minded to include litter in the scope, subject to further work to determine the scale and associated costs of managing packaging waste that is generated ‘on-the-go’ and is littered.

9.2 Litter costs broadly can be split into three categories:

1. Prevention activity;
2. Provision and management of receptacles for refuse or litter (referred to as “bin litter” in this consultation); and
3. Clearance of litter or refuse from the ground (referred to as “ground litter” in this consultation).

9.3 Government has now completed this further review of costs. This indicates that total litter costs for local authorities and duty bodies per annum (in England in 2018/19, Wales and Scotland in 2017/18 and Northern Ireland in 2016/17) were estimated to be in the region of £662m, with £384m attributed to littered packaging, of which £212m relates to packaging in scope of Extended Producer Responsibility.⁵⁶ Of these Extended Producer Responsibility costs, approximately £74m was attributed to ‘bin litter’ and £138m to ‘ground litter’. These cost estimates have been established by apportioning costs to different types of litter (including packaging) based on the most relevant cost drivers. For instance, the ground litter costs are more heavily weighted to number of items as this is the predominant cost driver, bin litter more heavily weighted to volume in the bin, and disposal costs more heavily weighted to the weight of the littered items. There are also environmental and disamenity costs associated with littered packaging including restricting economic growth and harming the environment and wildlife.

9.4 Taking account of this analysis, responses to the first consultation, and subsequent discussions with stakeholders, Government has concluded that litter should remain within the scope of the full net costs of managing packaging waste. Government believes this aligns well to the overarching scheme outcomes and objectives, and specifically for litter will help:

⁵⁶ Eunomia – WRAP (2021) Financial Cost of Packaging Litter – Phase 2 (unpublished report)

1. Reduce the amount of packaging that is littered.
2. Increase the amount of 'on-the-go' packaging that is recycled or reused.
3. Ensure that, in accordance with the polluter pays principle, producers cover the costs associated with packaging that is disposed of in the litter stream.

9.5 This recognises that it is producers, not local authorities and other litter authorities, that have developed and profit from the sale and on-the-go consumption of products. It also recognises that the sale of 'on-the-go' products is a large and growing market. The packaging waste that arises from this market comes with logistical challenges and environmental impacts and is often disposed of in the litter stream. It is the main, though not only, source of packaging litter.

9.6 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. This could be through measures such as:

- Reducing the amount of single use packaging they use and promoting re-use models;
- Using messaging on packaging, intelligent packaging design and national communication campaigns to discourage littering;
- Funding outreach activities in schools and communities; and
- Increasing bin provision to make it easier for people do the right thing.

9.7 The remainder of this section considers the scope of litter costs producers should be obligated for, which producers should be obligated for these costs, the recipients of payments for litter costs, and the framework for paying these costs.

Scope of payments

9.8 As noted above litter costs broadly can be split into three categories: 1) prevention activity; 2) provision and management of receptacles for 'bin litter'; and 3) the clearance of 'ground litter'. In the previous consultation a minority of respondents disagreed with the scope of full net costs on the basis that producers should not be made responsible for 'ground litter' costs resulting from the illegal activity of their customers.

9.9 Government has considered this point further and believes obligating producers for such costs to be in line with the polluter pays principle and provisions in the Environment Bill. In addition, if producers were only obligated for 'bin litter' it could introduce a perverse incentive to under invest in bin management and communication, as positive outcomes (i.e. reduced 'ground litter') would result in higher bin management costs. Our current estimate is that 35% of costs relate to 'bin

litter' and 65% relate to 'ground litter' so including both incentivises both prevention and investment in bin management.⁵⁷

9.10 Furthermore, not all 'ground litter' is illegally disposed of as a result of poor consumer behaviour, for instance it can be blown out of bins or be moved by animals if bins are full or overflowing. Producers placing on-the-go packaging on the market should acknowledge the costs to others associated with packaging that is consumed and disposed of outdoors.

9.11 As a result, we propose that producers should be required to cover the costs of all littered packaging, including packaging in litter bins and ground litter. This 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.

9.12 It is proposed that the Scheme Administrator be required to develop and implement a funding mechanism that takes account of expenditure on cleansing services across all departments of in-scope organisations. This will ensure that all necessary capital and revenue costs are included to allow effective cleansing services for packaging materials.

9.13 This mechanism would ensure that producers are paying the full costs associated with managing their packaging waste at end of life. This will require the development of a funding mechanism and the ongoing review of service costs to ensure effective services are provided and there is efficiency in their delivery. This is considered further below.

Scope of obligated producers

9.14 Some packaging types are more likely than others to be disposed of on-the-go or appear in the litter stream. An underpinning governance principle is that the costs placed on producers should be fair and transparent. Therefore, there is a need to ensure the costs of managing packaging waste in different contexts are paid by the relevant producers. This ensures producers are paying fair costs associated with their products and these producers are motivated to take steps to reduce the likelihood of their packaging being littered.

9.15 Government considered three options for which producers should be obligated for litter costs.

⁵⁷ Eunomia – WRAP (2021) Financial Cost of Packaging Litter – Phase 2 (unpublished report)

- **Option 1** - Share the costs of litter amongst all producers, regardless of whether their litter is commonly littered.
- **Option 2** (preferred option) - Establish, 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.
- **Option 3** - As option 2 but also taking account of the prevalence of individual brands (and unbranded items) to reward those producers that act to significantly reduce the prevalence of their own packaging in bin and/or ground litter.

9.16 Government has concluded that option 1 is unlikely to meet the governance principle of fairness, and while option 3 is likely to meet the principle of fairness, the level of compositional analysis necessary to implement it robustly (and therefore fairly) may not be feasible.

9.17 As a result, Government proposes to obligate producers according to option 2 but remains open to progressing option 3 should the Scheme Administrator develop and propose a suitable approach. The Scheme Administrator would be responsible for establishing the frequency and granularity of composition analysis, funding this analysis, and developing and maintaining the system for allocating fees to producers.

9.18 The Scheme Administrator would also be responsible for developing a methodology against which producers would self-assess to determine whether the packaging they place on the market is 'commonly littered'. Producers would be obligated to follow this methodology to assess and report the amount of packaging they have placed on the market that they have assessed to be commonly littered.

Q68. Do you agree or disagree that the costs of litter management should be borne by the producers of commonly littered items based on their prevalence in the litter waste stream as determined by a composition analysis which is described in option 2?

- Agree
- Disagree
- Neither agree nor disagree

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

Scope of recipients

9.19 The effective management and clean-up of litter involves a broad range of organisations:

1. **Local authorities** have statutory duties to keep publicly accessible land clear of litter and refuse as far as possible and are subject to response times set out in the Code of Practice on Litter and Refuse in respective administrations.⁵⁸ Local authorities are the first point of contact for members of the public to clean up a very wide range of areas (from tenement/high rise areas to beaches) and authority budgets have historically been very strained in meeting their statutory duties.
2. **Other duty bodies, litter authorities** and **statutory undertakers** have a legal responsibility to keep land clear of litter including schools, highways, railway land, canals, national parks etc. The costs associated with litter can be significant, particularly where littered items pose health and safety risks.
3. **Some non-governmental organisations (NGOs)** have responsibility for large spaces that are open to and managed for the public good, such as the National Trust. Land status for these organisations is varied with some managing publicly accessible land, others charging entry to private land, or a mix of the two.
4. **Some private landowners** whose land is freely accessible to the public through national rights of way for pedestrians and cyclists.
5. **Voluntary groups / private individuals** – associated costs for these groups are often met by one of the above, particularly local authorities who often provide litter-picking equipment and disposal.

9.20 Government proposes that producers should bear the costs of managing littered packaging currently borne by all publicly funded organisations with a legal duty to keep land clear of litter and refuse within scope for cleansing payments, not just local authorities. This proposal would ensure that producers are contributing a significant portion of cleansing costs to enable effective clean-up currently borne by the public purse.

9.21 The litter costs identified earlier primarily relate to local authority costs. This is due to two reasons. First, they are responsible for litter management over far greater areas than other litter bodies; and secondly, there is better recording of costs by local authorities.

9.22 There is also considerable uncertainty surrounding the respective responsibilities for street cleansing between litter authorities, particularly between local authorities and highway authorities, often with local authorities assuming responsibility by default. Scotland has sought to address this by zoning public land following the Code of Practice which outlines that local authorities and highway

⁵⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/834331/pb11577b-cop-litter1.pdf

authorities comply with Section 89(6) of the Environmental Protection Act 1990. Undertaking similar work across England, Wales and Northern Ireland, it will be important that producers are not charged more than once. We propose that local authorities take responsibility within their areas for determining responsibilities at a local level with the support of the Scheme Administrator to provide a national geo-mapping system.

9.23 Given the highly mobile nature of littered packaging and the impact it can have on the natural environment, Government also believes there is a strong case for producers to contribute to the costs of litter management on other land that is publicly accessible.

9.24 Government has considered two options for this:

- **Option 1:** producer payments cover the full cost of litter management on land owned by charities or not for profit organisations that is accessible to the public free of charge, subject to further analysis, and accepting that this may take longer to implement; or,
- **Option 2:** producer payments to contribute to costs incurred by 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.

9.25 Given the potential scope and scale of cost, the complexity of land access rights generally and how these apply across the UK, and the cost and length of time it could take to implement, Government proposes to proceed with option 2.

9.26 Under this approach it is proposed that the Scheme Administrator establish and manage a ‘litter fund’ that eligible bodies could bid into to support litter management activities on relevant land. Provision would then be made for a suitable contribution from producers, based on an agreed proportion of funding received by local authorities and other litter authorities (e.g. an agreed percentage of these costs), so that the scale of funding over time reflects and responds to general litter trends in society.

9.27 Government believes producers, through the Scheme Administrator, should be given a degree of freedom to decide which bodies receive funding and the application process for that funding. Funding would be allocated and ring-fenced for initiatives within England, Northern Ireland, Scotland and Wales. Such an approach would provide greatest flexibility to allow for innovative approaches provided they were appropriate. For example, it may not be appropriate for the Scheme Administrator to fund litter management activity on or around producers’ premises typically undertaken by producers.

Q69. In addition to local authorities, which of the following duty bodies do you agree should also receive full net cost payments for managing littered packaging? Selecting multiple options is allowed.

- a. Other duty bodies
- b. Litter authorities
- c. Statutory undertakers
- d. None of the above
- e. Any other(s) - please specify.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Payment mechanism

Types of litter and where it accumulates

9.28 The costs of litter management in different areas varies considerably, influenced by local demographics, geography, land use and land type as these factors impact on the ease, frequency and intensity of cleansing activity required to keep an area clear of litter and refuse. As such, key costs drivers are likely to include factors such as:

- Footfall (including tourism, shoppers and commuters)
- Rurality
- Deprivation

9.29 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, Government accepts that it 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.

9.30 Such an approach could draw on available data or commission further analysis where necessary to establish broad reference payments for local authorities. Over time Government would expect this analysis to become more granular, better reflecting local characteristics and outcomes. As such, Government would expect the Scheme Administrator to set out a timetable and plan to implement payments based on improved data, service criteria for cleansing, and outcomes.

9.31 The primary barrier to this is the variation across the UK and between local authorities on data monitoring and reporting requirements. For instance, in Scotland, local authorities are required to use a Local Environmental Audit and Management System (LEAMS), using independent Keep Scotland Beautiful surveyors to monitor local cleanliness standards, while a number of other approaches are used by local authorities in England, Wales and Northern Ireland. Such approaches could provide the broad basis for future monitoring arrangements across the UK. The cost associated with this is estimated to be approximately £9,000 per annum per local authority.

9.32 Government believes that there is a good case to review these measures and develop best practice monitoring systems that would become a prerequisite to access producer payments. Producers would be responsible for funding this additional monitoring and reporting. Over time, such an approach would generate the information necessary to allow payments to be better linked to local characteristics and challenges, but also the delivery of outcomes, incentivising local authorities to adopt best practice approaches and effective and efficient systems.

9.33 Government therefore proposes that from the introduction of Extended Producer Responsibility producer payments to local authorities and litter authorities, there should be a requirement on these authorities to report, including on costs and local cleanliness.

Prevention

9.34 Any payment mechanism should encourage litter prevention measures as well as incentivise effective and efficient services. As such, Government has considered the option for full net costs payments for a given organisation to be made up of:

- A core litter management payment that provides the majority of the full net costs for eligible organisations; and
- A prevention payment that increases the total payment to 100% of the full net cost for each organisation. This would be added on condition of having a publicly available litter prevention strategy and prioritised actions to reduce littering at source. Where organisations did not wish to access the prevention payment, this would be allocated to specific grant funds for England, Northern Ireland, Scotland and Wales, allowing all other eligible organisations to bid for additional prevention funding, subject to detailed proposals.

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

- a. Agree
- b. Disagree

- c. Neither agree nor disagree

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

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Data and monitoring requirements

Reporting and enforcement requirements for producers

9.35 In order to progress with a full-net-cost approach with performance-based payments and independent monitoring in the future, data and reporting systems that currently do not exist will need to be developed. Potential payment mechanisms which account for full net costs have not yet been considered to the same level of detail as the proposed payment approach for household packaging waste. Similar work needs to take place with regards to litter payments and Government will engage stakeholders over the consultation period to determine how best to initiate this work ahead of the appointment of the Scheme Administrator.

Timings and pathway to implementation

9.36 Table 9 sets out an indicative timetable for litter payments:

Table 9 - Indicative timeline for the introduction of litter payments

Activity	Indicative Timeline
Establish packaging in scope of litter payments	2021
Establish data requirements, methodology and timings – local authorities	2021
Review/update relevant codes of practice on litter and refuse	2022/23
Develop proposals for costing tools and incentive payment framework that could be adopted by Scheme Administrator.	2022
Develop producer self-assessment tool for reporting commonly littered items	2022
Extended Producer Responsibility regulations in force	End of 2022
Scheme Administrator mobilised	2023

Non-incentive-based payments introduced for local authorities	2024
LAs required to report against cleanliness standards	2024
Incentive-based payments to local authorities introduced	2025/26

10. Scheme Administration and Governance

Introduction

10.1 The governance and administration arrangements need to meet the principles established for packaging Extended Producer Responsibility and support producers in complying with their obligations. With upwards of £2.7bn being managed through the system, arrangements need to be robust and financial flows and outcomes transparent.

10.2 Respondents to the first consultation were invited to provide feedback on four governance approaches. These were developed based on experience from the existing UK producer responsibility schemes, evidence and advice from stakeholders including the Advisory Committee on Packaging, and international approaches to Extended Producer Responsibility.

10.3 The consultation did not lead to an overall (majority) preference for any one of the approaches. Two approaches however were preferred more by respondents. 43% of respondents who indicated a preference expressed a preference for a single management organisation. In a follow up question, 62% of respondents indicated a preference for this to be a not-for-profit sector-led organisation run by those obligated to fund and deliver packaging Extended Producer Responsibility, including producers, retailers, local authorities and reprocessors.

10.4 27% of respondents expressed a preference for a competitive compliance scheme approach; and in a follow up question, 78% thought that a level of oversight of these schemes at UK level would be necessary by a Packaging Board or Authority. Respondents proposed a variation to this approach recognising that the relationship with local authorities may be better managed through a single organisation.

10.5 Taking account of the consultation feedback, further development of the overall approach to Extended Producer Responsibility and engagement with our industry stakeholder groups, these two approaches have been considered further. This section sets out the two approaches and Government's proposal for consultation.

Approaches

10.6 The two broad approaches are:

1. **Single Management Organisation / Scheme Administrator (Option 1):**
Under this approach a single Scheme Administrator (or management

organisation) appointed jointly by the Ministers of each administration would be responsible for managing and administering the packaging Extended Producer Responsibility scheme on behalf of producers. Functions would be conferred on the Scheme Administrator via the Extended Producer Responsibility regulations, and how the Scheme Administrator would fulfil its functions and deliver agreed outcomes and targets would be set out in a contract with Government. This would include both the 'packaging waste management cost' requirements and producer compliance with packaging waste recycling obligations.

The Scheme Administrator would have control over the key levers that would allow it to manage and oversee packaging Extended Producer Responsibility and drive optimal performance. This would include calculating the packaging waste management costs to be recovered from producers, setting modulated fee rates, determining the payments to be made for packaging waste management and distributing those payments to local authorities and others deemed eligible to receive payments. It would introduce systems and competition across the value chain to deliver cost-efficient and effective services for packaging waste and take a strategic approach to identifying future infrastructure needs, solutions and investments required to deliver targets and outcomes.

Under this approach, producers could choose to employ experienced companies to assist with their data management and reporting, like the services offered by compliance schemes currently, but compliance schemes would not be required by the Extended Producer Responsibility Regulations.

- 2. Scheme Administrator and compliance schemes (Option 2):** With this approach, delivery of the Extended Producer Responsibility 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.

Compliance schemes would be responsible, on behalf of their producer members, for managing compliance with packaging waste recycling target obligations and packaging waste management cost obligations for packaging waste produced by businesses. They may also administer payments from their producer members to the Scheme Administrator for household packaging waste. The Scheme Administrator would inform compliance schemes of their obligation and hence the costs they would need to recover from their members. Compliance schemes would compete for members based on features such as the products and services they offer, their operational efficiency and their charges. Obligated producers would join a compliance scheme of their choice. As compliance schemes would take on a wider role and have additional responsibilities to those required by the current Packaging Waste Regulations (2007), stakeholders have suggested that they are known as Packaging Recovery Organisations ⁵⁹.

10.7 The functions that it is proposed that the Scheme Administrator and compliance schemes would be responsible for, as far as they can be defined at this stage, are set out in Annex 2 for the single Scheme Administrator approach (Option 1) and in Annex 3 for the Scheme Administrator and compliance scheme approach (Option 2). In Annex 4, the two approaches are compared against the governance and overarching principles for Extended Producer Responsibility set out in section 4.

Government's position

10.8 Government has not identified a preferred approach to scheme administration and governance and is not consulting on a preferred approach. **Through this consultation Government is seeking feedback on both approaches to scheme governance and administration** having considered all the requirements of packaging Extended Producer Responsibility set out in the previous sections.

10.9 However, Government is firmly of the view that there are certain functions that are better suited to being managed on a UK-wide basis rather than through multiple compliance schemes. As local authorities are required to provide household waste services, Government sees no benefits to producer obligations in respect of household packaging waste and litter being managed by compliance schemes. The approach to determining the packaging waste management costs to be paid by

⁵⁹ Compliance schemes are defined in the Environment Bill Schedule 4 4(3) – as a scheme ‘under which producer responsibility obligations of members of the scheme are discharged by the scheme operator on their behalf’. As described, under EPR, compliance schemes would also take on certain functions in relation to the administration and management of their producer members’ obligations for the payment of packaging waste management costs. The powers relating to producer responsibility for packaging waste management costs (disposal costs) are set out in the Environment Bill Schedule 5.

producers for household waste and litter, the fee rates that would apply, the modulation mechanism, and the arrangements for making payments to local authorities must be consistent and transparent with the same approach being adopted for all authorities. Therefore, this would benefit from being undertaken by a single organisation. Government believes there is a broad consensus from stakeholders for this approach.

10.10 Government also recognises that feedback on proposals regarding the delivery of producer obligations for 'non household' packaging and payments to businesses and other organisations for the management of this packaging waste will need to inform the scheme governance arrangements. As this element of packaging Extended Producer Responsibility will require commercial arrangements to be established with the waste management and reprocessing sectors, Government wants to understand if a compliance scheme approach may bring benefits.

10.11 Ultimately, the arrangements that are put in place must meet the governing principles established for packaging Extended Producer Responsibility and constitute good governance for the scheme as a whole. Government will make a final decision on scheme administration and governance following the conclusion of the consultation process and further stakeholder engagement during the consultation period. It will set out its final decision in its response to the consultation which it expects to publish in autumn 2021.

Q73. Do you agree or disagree that the functions relating to the management of producer obligations in respect of household packaging waste and litter including the distribution of payments to local authorities are managed by a single organisation?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

Q74. Overall which governance and administrative option do you prefer?

- a. Option 1
- b. Option 2
- c. Neither option 1 nor option 2

Please provide the reason for your response.

Managing cost uncertainty

10.12 Through engagement with stakeholders, Government understands that certainty in the cost of compliance within each compliance year is important to producers. In the current producer responsibility system producers face uncertainty

in the availability, and therefore cost, of evidence notes⁶⁰. Under a reformed system most of the costs that producers will be covering through their fees will be predictable on an annual basis, particularly costs related to collection and management of packaging waste.

10.13 However, cost uncertainty will remain to some extent. Material prices, that will be netted off the costs that producers pay, will continue to fluctuate depending on supply and demand and other economic factors. The risk of fraud in the system, especially in the initial years as the new system is established, will remain. Approaches to managing this risk was considered in the payments section (section 8).

10.14 Despite less uncertainty, variations in costs will still impact producers. This is because the total cost of compliance to producers will increase significantly. For instance, in the current system a 10% increase in Packaging Recovery Note prices may result in producers' compliance costs increasing by £30m (assuming the total compliance cost for the year was, say, £300m). Under the Extended Producer Responsibility system, with annual costs of approximately £2.7bn, a 1% increase in the full net costs of managing packaging waste would result in a similar additional cost to producers, despite being a much smaller variation in the overall cost.

10.15 Government understands that compliance schemes in the current producer responsibility system offer a range of approaches to producers to address in-year cost uncertainty. These include both using fixed prices, or by setting conservative (high) budget estimates for the year, and then working to minimise these throughout the year. The latter comes with more risk for producers, but Government understands that many producers prefer this option. Equally, Government appreciates that different producers will have different views on the level of risk they are willing to accept.

10.16 In the reformed system, the Scheme Administrator and/or compliance schemes will need to manage this risk on behalf of their members. As with current practices, this could be done through either in-year adjustments to producer payments or by establishing a reserve fund against which they can draw.

10.17 While ultimately a choice for the Scheme Administrator and/or compliance schemes, Government would like to better understand producers' preference as this may influence scheme design considerations.

⁶⁰ Producers purchase Packaging Recovery Notes (packaging recovery notes) and PERNS (packaging export recovery notes) as evidence of recycling and to demonstrate they have met their recycling obligations. As an example, the cost of plastic Packaging Recovery Notes rose from around £60 in 2018 to £400 in 2019.

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

- a. A reserve fund
- b. In-year adjustments to fees
- c. Giving individual producers flexibility to choose between options 1) and 2)
- d. No preference
- e. Need more information to decide

Appointment of a Scheme Administrator

10.18 Government agrees with stakeholders that a Scheme Administrator (in either option) should be a not-for-profit organisation that is owned and operated by the value-chain. The functions of the Scheme Administrator would be established in the Extended Producer Responsibility regulations. The Scheme Administrator would be able to decide how to fulfil its functions and achieve outcomes and targets in the most cost-effective manner and would be accountable for delivering or contributing (in option 2) to the delivery, of scheme outcomes.

10.19 It is proposed that the appointment of the Scheme Administrator would be through an open competitive process. Interested parties who consider they could fulfil the role of the Scheme Administrator and can demonstrate how they propose to comply with the requirements of the Extended Producer Responsibility regulations, would be able to apply. These could be existing organisations or new entities forming to deliver the functions of the Scheme Administrator. Submissions would be assessed in accordance with the procedures set out as part of the procurement process. A competitive approach to the appointment of the Scheme Administrator would help to deliver a well-managed scheme whilst ensuring the Scheme Administrator is appointed as an independent organisation.

10.20 The Scheme Administrator would operate in accordance with the Extended Producer Responsibility regulations and its contractual agreement with Government.

10.21 As part of the appointment process, applicants would be asked to set out how they plan to fulfil the role of Scheme Administrator by demonstrating in their response such as:

- How it would deliver the required functions and meet the stated outcomes.
- How it would operate both across the UK and in England, Northern Ireland, Scotland and Wales.
- The ownership, governance and management structure – the Scheme Administrator is likely to be made up of individual companies and trade bodies which represent the range of obligated producers. It would need to demonstrate it had the support of producers and show how other parts of the packaging value chain would be represented, such as local authorities and waste management companies.

- Producer registration, account management and data processes including how it proposes to monitor and audit data reported by producers.
- How it would approach determining the packaging waste management costs to be paid by producers and the fee structure for recovering these costs from producers, ensuring that these reflect cost-effective and efficient services.
- How it would approach making payments to local authorities for the management of household packaging waste, to local authorities and other duty bodies for managing littered packaging; and depending on the governance option adopted, payments for packaging waste produced by businesses.
- How it would approach attracting producer members and reducing 'free-riders'.
- Overall financial plan and how value for money will be maximised – and outcomes delivered at the best cost. How it would fund its set up costs and ensure that the costs it charges its producer members for operating and running the scheme do not exceed those necessary to deliver their functions cost effectively and efficiently.
- Dispute resolutions pathway that would be accessible to potentially affected parties (e.g. a producer challenging the costs that it is required to pay or a local authority challenging a payment).
- How it might deploy innovation to maximise the effectiveness of the scheme.
- Mobilisation plan including for IT solutions.
- How its performance would be evaluated.

10.22 It is proposed that the appointment is made for an initial period of 8-10 years, with the option for the contract to be extended for subsequent 5-year periods subject to performance including satisfactory feedback from producers and other key parties.

Q76. Under Option 1, does the proposed initial contract period of 8-10 years (2023 to 2030/32) provide the necessary certainty for the Scheme Administrator to adopt a strategic approach to the management and delivery of its functions and make the investments necessary to deliver targets and outcomes?

- Yes
- No
- Unsure

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

Q77. Under Option 2, does the proposed initial contract period of 8-10 years (2023 to 2030/32) provide the necessary certainty for the Scheme Administrator to adopt a strategic approach to the management and delivery

of its functions and make the investments necessary to deliver targets and outcomes?

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

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

Appointment process and mobilisation timeline

10.23 Earlier in this document we indicated that Government is considering a phased implementation of Extended Producer Responsibility starting from 2023 and through this consultation is seeking feedback on the desirability and feasibility of a phased introduction. Proposals for the phased introduction of packaging Extended Producer Responsibility from 2023 are set out in section 14. The Scheme Administrator would both need to be appointed and operational in 2023 to enable roll out of Phase 1 of Extended Producer Responsibility. This would require the Scheme Administrator to have mobilised and to have established the systems and processes required to raise costs from producers and make payments to local authorities.

10.24 The process to appoint a Scheme Administrator would start in the autumn of 2021, subject to parliamentary passage of the Environment Bill. This would follow the publication of Government's response to the consultation and at a point at which the draft Extended Producer Responsibility regulations should be sufficiently developed to inform the process. The appointment would be made in early 2023 after the Extended Producer Responsibility regulations have come into force. Table 10 sets out an indicative timetable for the appointment process. Due to the expected complexity of the procurement process, and to provide interested parties with enough time to bring together partners, establish consortia and prepare their bids, a period of up to 14 months to complete the process is proposed.

Table 10 - Scheme Administrator appointment process and indicative timeline

Activity	Indicative Timeline
Launch procurement process	Autumn 2021* (early November)
Interested parties prepare bids	Autumn 2021 – Summer 2022 (November 2021 – late June 2022)
Evaluation of submissions	Summer 2022 (July – end September 2022)
Award Report – preferred bidder announced	Autumn 2022 (End September – Mid November 2022)
2-week standstill – this is standard practice for WTO and EU terms	Autumn 2022 (Mid to late November 2022)
Post Award Negotiations	Winter 2022/23 (Late November 2022 – January 2023)
Scheme Administrator appointed	Early 2023

* Subject to parliamentary passage of the Environment Bill

10.25 Following appointment in early 2023 the Scheme Administrator would need to start mobilising and preparing for the delivery of Phase 1 of Extended Producer Responsibility. It is assumed that in order to mobilise it would need to secure initial funding and premises, recruit staff and establish any necessary IT and finance systems in order to support the management of its operations and to be able to receive payments from producers and make payments to local authorities.

10.26 It would need to determine the approach to calculating the costs to be recovered from producers for managing household packaging waste and any investment required in services, as well as the approach to making payments to local authorities for this packaging waste. Given that it is likely to take at least six months for the Scheme Administrator to mobilise and put in place the necessary systems we recognise that payments to local authorities may only be feasible from October 2023.

10.27 During mobilisation in 2023, the Scheme Administrator would also need to be preparing to implement Phase 2 of Extended Producer Responsibility, which would incorporate the expansion of payments to recover all local authority costs, including litter. Depending on decisions on scheme governance arrangements post consultation it may also need to determine the approach to making payments to businesses for the costs of managing the packaging waste they produce.

Table 11 - indicative timeline for scheme mobilisation

Scheme Administrator Activity	Indicative Timeline*
Mobilisation starts	February 2023
Producers invoiced for packaging waste management fees (for 2023)	June 2023
Payments made to local authorities	From October 2023

* Subject to parliamentary approval of the Environment Bill

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Q79. If the Scheme Administrator is appointed in January 2023 as proposed, would it have sufficient time to mobilise in order to make payments to local authorities from October 2023?

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

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

Accountability and compliance

10.28 Holding the Scheme Administrator to account for its performance will be essential to the success of the scheme. There will be three mechanisms by which the Scheme Administrator will be held to account. It will be accountable to its producer members on whose behalf it will act when fulfilling many of its functions and in managing their obligations. It would be a matter for the Scheme Administrator to determine its governance structure and how it reports to its producer members and other stakeholders, but Government would expect this to be clear and transparent and reflective of the packaging value chain. It would be required to have appropriate dispute resolution processes in place that would be accessible to potentially affected parties (e.g. a producer challenging the costs it is required to pay or a local authority challenging a payment it received) with recourse to an appeals process set out in the Extended Producer Responsibility regulations.

10.29 The Scheme Administrator would have contractual obligations with Government, that is the UK Government and the Devolved Administrations and each Government individually where specific local requirements are set. A cross

Government contract team would be established to manage the contract and appropriate monitoring arrangements would be put in place and performance reviewed against key performance indicators. The Scheme Administrator would also have annual reporting requirements (as outlined later in this section).

10.30 The third level of accountability will be through the Extended Producer Responsibility regulations, for example, where the Scheme Administrator takes on the legal obligation on behalf of producers to meet packaging waste recycling obligations and these obligations are not met. The proposed monitoring and enforcement framework is outlined in Section 12.

10.31 Further work will be undertaken to ensure the right balance of the Scheme Administrators accountability between the contract and the Extended Producer Responsibility regulations, taking account of the decision on scheme governance arrangements and the role of the Scheme Administrator.

Approval of compliance schemes

10.32 If there is a role for compliance schemes, then processes would be put in place to approve compliance schemes and to enable them to exercise certain scheme administrator functions such as recovering packaging waste management costs from producers. Whilst these schemes could evolve from those approved under the Packaging Waste Regulations (2007), thereby providing a degree of continuity, knowledge and experience, a compliance scheme wishing to operate under the Extended Producer Responsibility scheme would need to be approved to operate under the Extended Producer Responsibility scheme.

10.33 Criteria for approval and registration of compliance schemes under the current Packaging Waste Regulations are limited to details of the applicant, and the presentation of information that the compliance scheme is likely to subsist for at least 5 years and be able to meet the expected recycling obligations of its members. The criteria would be more rigorous under Extended Producer Responsibility given the extended range of functions and responsibilities as described in paragraph 10.6 (2) and in Annex 4. The conditions of approval would be set out in the Extended Producer Responsibility regulations.

10.34 It is proposed that if compliance schemes form a part of the Extended Producer Responsibility governance and administrative arrangements then approval could include:

- Presentation of a viable 3-year operating plan, with a requirement to update annually, covering:
 - Details of its corporate governance structure
 - The geographical scope of its operations and how it would deliver both across the UK and in England, Northern Ireland, Scotland and Wales

- Approach to recruitment of members and general awareness raising activities of the Extended Producer Responsibility regulations and producer obligations
- How it would discharge the legal liability for meeting targets and other regulatory requirements on behalf of its members, including payments to businesses
- Financial assessment to demonstrate its financial stability
- Resources and expertise to carry out required functions
- IT and internal reporting systems
- Quality control measures and approach to risk management
- Proposals for monitoring and auditing their members' data
- Proposals for monitoring and auditing data / evidence of recycling obtained from the supply chain
- Reporting arrangements to Government and the regulator and to their members

10.35 Applications for approval would be submitted to the Government where the business (compliance scheme) is located (and not the regulator as required by the current Packaging Waste Regulations). This is because compliance schemes would be taking on some scheme administrator functions. Once a scheme is approved it would be required to register with the appropriate regulator. Conditions of registration would apply. Government would not specify the number of compliance schemes; if an organisation applied for approval and was assessed as meeting the criteria it would be approved.

10.36 Engagement with existing compliance schemes has raised two issues in relation to requirements of schemes for which Government invites feedback. The first is a new 'fit and proper persons' test for key personnel of compliance schemes to demonstrate they have the ability to comply with the conditions of their registration.

10.37 The second, is the issue of a Code of Practice for Packaging Compliance Schemes. There is a voluntary Code of Practice currently which was designed to provide a benchmark for compliance schemes against which they could assess their operating procedures and to give the regulators a basis against which to assess scheme standards. It was intended to provide one mechanism against which the regulators could assess compliance risk and determine appropriate levels of monitoring of schemes. However, over time support for it has diluted and its impact has been limited in part because it was not enforceable. Whilst Government would want to set out in the Extended Producer Responsibility regulations the conditions that compliance schemes would be required to operate to and would be regulated against, a code of practice could usefully set out minimum standards for compliance schemes such as for auditing their members for data reporting accuracy and supply chain partners for proof of recycling evidence to assist in ensuring on-going compliance. It could also set out agreed common methodologies where there is benefit to schemes adopting a common approach.

Accountability and compliance

10.38 As with the Scheme Administrator, a compliance scheme will be accountable to its producer members. It would be a matter for each scheme to determine its governance structure and how it reports to its members on its performance and how it has managed and met their obligations, but Government would expect this to be done in a clear and transparent manner.

10.39 If an operator of a scheme fails to comply with any of its obligations under the Extended Producer Responsibility regulations and is deemed to be guilty of an offence by the regulator, for example, it fails to meet recycling obligations, then appropriate enforcement action could be taken.

10.40 Finally, if a scheme breaches the conditions of its approval or its registration, then this could be withdrawn. The conditions under which its approval and registration could be withdrawn would be set out in the Extended Producer Responsibility regulations. Further discussion of the monitoring and enforcement framework is in Section 12.

Q80. Do you agree or disagree with the approval criteria proposed for compliance schemes?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

- a. A Compliance Scheme Code of Practice
- b. A 'fit and proper person' test for operators of compliance schemes
- c. Both
- d. Neither
- e. Unsure

Please provide the reason for your response.

Reporting requirements

10.41 A recurring criticism of the current producer responsibility regime is a lack of transparency in how income from the sale of evidence of packaging waste recycled (i.e. Packaging Recovery Notes/Packaging Export Recovery Notes) has contributed to the development of more collection and reprocessing infrastructure and of reporting more generally. Through the 2019 consultation, and subsequent stakeholder engagement, there has been a consistent call for a much greater level of reporting to be incorporated into the new Extended Producer Responsibility system. In setting out the proposals in this document this has been fully considered and the

opportunities for greater transparency and increased reporting have been highlighted. It follows that clear reporting requirements must also be placed on those organisations responsible for administering the scheme and supporting producers in meeting their obligations.

10.42 Under the scenario of a single management organisation (option 1) it is proposed that the Scheme Administrator would be required to prepare and publish an annual report. The contents of the report would cover progress such as its achievements, overall performance, performance in England, Northern Ireland, Scotland and Wales, progress against objectives and targets, financial analysis (costs paid by producers, payments made to local authorities and others) and outcomes achieved, strategic investments and system improvements, support for consumer engagement and communications activities, and its future plans/proposals/priorities and forward look. It would produce the report drawing on data from producers, local authorities, businesses, waste management companies and material reprocessors.

10.43 Under the multiple compliance scheme option (option 2) there would be a reporting requirement on both the Scheme Administrator and individual compliance schemes. Individual schemes would be required to publish an annual report setting out progress such as their overall performance and performance in England, Northern Ireland, Scotland and Wales, progress against targets/obligations, investments and support for an improved infrastructure for recycling packaging waste, collaborations across the sector. This would mean that each schemes performance would be transparent to stakeholders in addition to its members.

Q82. Do you agree or disagree with the proposed reporting requirements for Option 1?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

Q83. Do you agree or disagree with the proposed reporting requirements for Option 2?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

11. Reprocessors and Exporters

Introduction

11.1 Government wants to ensure that packaging waste is managed in an environmentally sustainable way, whether that be in the UK or where it is exported for recycling. In earlier sections of this consultation, proposals have been set out that will lead to improvements in the quality of materials being made available for recycling occurring further up the value chain. This will reduce the burden on UK reprocessors of cleaning up materials ahead of reprocessing and the likelihood of lower quality contaminated material being exported for recycling. These wider proposals under packaging Extended Producer Responsibility will help resolve many of the inherent issues with packaging waste exports.

11.2 Proposals have also been set out that will require those who receive payments for managing packaging waste (via the Scheme Administrator or compliance schemes) to provide evidence that the packaging waste they have collected and/or sorted has been recycled. This means that once the packaging Extended Producer Responsibility system is fully operational, there will no longer be a role for Packaging Recovery Notes (PRNs) and Packaging Export Recovery Notes (PERNs).

11.3 This section sets out Government's proposals for reprocessors and exporters under packaging Extended Producer Responsibility, including establishing a consistent position for UK reprocessors and exporters in reporting packaging waste recycled. It also considers the implementation of various measures that were proposed in the 2019 consultation to strengthen and improve the compliance and monitoring regime for packaging waste exports.

Regulatory framework for waste exports

11.4 The export of packaging waste takes place within the wider regulatory framework provided by the relevant regulations⁶¹ on international waste shipments, notably the procedures known as Annex VII or "Green List" controls.

11.5 The Waste Shipment Regulations have been amended to incorporate changes to the Basel Convention to strengthen controls on the export of waste

⁶¹ The "relevant regulations" in this section refer to the retained [Regulation](#) EC No 1013/2006 as amended by the International Waste Shipments (Amendment) (EU Exit) Regulations 2019 in respect of Great Britain, and Regulation EC No 1013/2006 as it applies by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement in respect of Northern Ireland.

plastics. These amendments came into force on 1st January 2021⁶². The changes mean that only plastics destined for recycling operations, and which consist almost exclusively of one type of plastic and are almost free from contamination, can be exported as 'Green List' waste. Mixtures of polypropylene (PP), polyethylene (PE) and polyethylene terephthalate (PET) can also continue to be exported under Green List controls on the proviso that they will be recycled separately. All other waste plastic exports must be notified and receive consent for export prior to the movements.

11.6 The UK Government has also committed to introduce additional measures to tighten controls on waste exports. This includes a commitment to ban the export of plastic waste to non-OECD countries and a commitment in the 2018 Resources and Waste Strategy to undertake a wider review of the regulatory framework for all waste exports to improve the quality of wastes exported for recycling and to ensure recycling occurs at sites operating to standards equivalent to those in the UK.

11.7 The UK Government is intending to consult separately on its proposals to implement these reforms. The timescale for this consultation is to be confirmed but is anticipated to be in 2022, with revised regulations being introduced in 2023 or 2024. These reforms are expected to include placing additional requirements on exporters such as:

- to submit information on the waste they export in advance of shipment; to include completed Annex VII forms for 'green list' exports
- to pay a fee to the regulators to meet the costs of compliance monitoring of non-hazardous waste shipments; at present the costs for most waste exports are met by the taxpayer
- to have the financial resources necessary to meet the cost of repatriating waste shipments
- to provide appropriate evidence of environmentally sound management at overseas sites; as there is no requirement currently on exporters to make evidence available to the regulators to enable this assessment to be made.

Current requirements of UK reproprocessors and packaging waste exporters

11.8 Under the existing Packaging Waste Regulations 2007 domestic reproprocessors and exporters are required to apply annually to the regulator to be accredited in

⁶² As amended by for Great Britain by [The International Waste Shipments \(Amendment of Regulation \(EC\) No 1013/2006\) Regulations 2020](#); and for Northern Ireland by [Commission Delegated Regulation \(EU\) 2020/2174 of 19 October 2020](#)

order to issue evidence of recycling (i.e. Packaging Recovery Notes and Packaging Export Recovery Notes). The decision to become accredited is voluntary.

11.9 The application process and conditions of accreditation are set out in Regulation 24 and Schedule 5 of the Packaging Waste Regulations 2007. One of the requirements is that reprocessors and exporters are required to submit data to the appropriate regulator regarding what packaging waste has been received and processed each quarter by the final reprocessor (either an overseas company or domestic reprocessor).

11.10 Accreditation requirements also include the submission of a business plan containing information on how the funds acquired from the issue of Packaging Recovery Notes or Packaging Export Recovery Notes are to be applied and a requirement to sample and report on the tonnage of packaging waste, excluding contamination and non-target material, that enters their reprocessing processes.

11.11 Exporters are required to sample and report on the tonnages of packaging waste that meet the requirements for export in compliance with the regulations on international waste shipments, as well as any specific conditions linked to the producer responsibility system.

11.12 Under current accreditation requirements, the input and output quality of the material is not reported and as a result quality is not monitored. A key requirement of packaging Extended Producer Responsibility is not only to understand the amount of packaging that is collected and reprocessed but to determine the quality of packaging materials as they move through the waste management system.

Mandatory registration of UK reprocessors and exporters

11.13 As Packaging Recovery Notes and Packaging Export Recovery Notes will not be issued under the Extended Producer Responsibility system, reprocessor and exporter **accreditation will not be required**. However, as reprocessors and exporters will play a key role in contributing to scheme outcomes and targets including by reporting on packaging waste recycled, **it is proposed that all reprocessors and exporters handling packaging waste will be required to register with a regulator** and meet registration requirements. This would include reporting requirements.

11.14 As discussed in section 8, the framework for the payment of packaging waste management costs will rely on data and evidence provided by participants across the packaging value chain, including from reprocessors and exporters. This means that additional points along the value chain will be required to capture data and provide proof of recycling/reprocessing in support of payments. Proof of recycling is also required for reporting against packaging waste recycling targets. The key reporting points are detailed in the Figure 6 below.

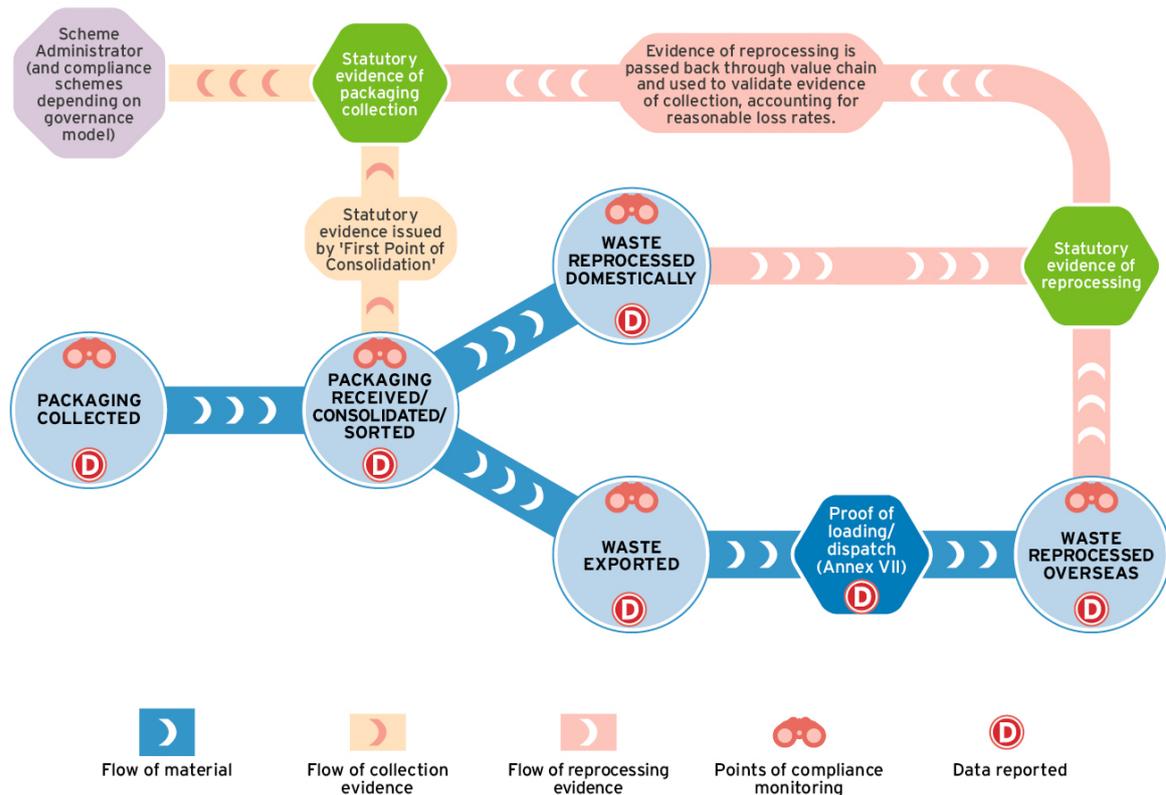


Figure 6 - Key reporting points and flow of evidence through the system

11.15 These additional reporting points mean that there will be a measurement of recycling that represents the weight of packaging waste after all sorting steps and removal of contamination (cleaning) have been completed prior to reprocessing. This will be the point at which ‘proof of recycling’ will be required for reporting against targets (as set out in para 4.20) These additional reporting points will provide more certainty that waste has been presented for reprocessing to a broadly equivalent standard and help to ensure that packaging waste that is exported is of the same or similar standard to that which is reprocessed in the UK.

11.16 It is anticipated that over time, the scrutiny of collection/sorting and reprocessing data will increase, to monitor process-loss and ensure that data can be reconciled.

Registration requirements

11.17 It is proposed that the requirement for registration would be the same for reprocessors and exporters. This requirement relates to packaging waste only:

- To report the type, form and weight of packaging materials they are permitted to receive and reprocess
- To report the quantity (tonnages) and quality of packaging waste received and who the waste was received from
- To report the tonnages and quality of materials reprocessed, rejected, sent to other reprocessors or exporters, or exported directly.
- To provide destination information for all packaging waste sent to other operators
- To report on quantity and quality of packaging waste received, apportioned and supplied to value chain participants
- To pay a fee/charges to cover regulator costs

11.18 It is also proposed that reprocessors will assess and report on the quality of packaging material received for recycling, taking account of the levels of non-target material and contamination, as this can impact the final product that can be produced from the recycling process. For instance, a reprocessor may need to report on the proportion of recyclable material they received which was reprocessed to the standards required for food contact packaging. Further work would be required to establish a quality grading and monitoring system, that factored in different material types and reprocessing standards, including for packaging waste due to be exported for recycling.

11.19 The requirement to provide data on packaging waste that has been reprocessed overseas, rather than just receipt of the material at an approved site, has proved difficult for exporters. Overseas receiving sites tend to receive material from multiple suppliers, often bulking loads prior to reprocessing. The receiving site also may not process the waste directly on receipt, depending on their feedstock and capacity. This means that overseas reprocessors cannot always supply suitable proof to the UK exporter of the quality of any given load or that it has been reprocessed.

11.20 In order to make this an effective mechanism, the Environment Agency is exploring with exporters what data is readily available from overseas reprocessors and how best to demonstrate that packaging waste has undergone a recycling process. This will give an indication on what types of data may be available and what checks could be done to ensure that waste has been reprocessed. This work is being undertaken currently. Depending on the outcomes it may be included in the regulator's guidance under the current Packaging Waste Regulations (2007) and become a condition of accreditation under the current system from the 2022 compliance year. This would then inform requirements for the packaging Extended Producer Responsibility system from 2024.

11.21 If it is not possible for exporters to provide the required data on the output of the recycling process for overseas sites, it could be feasible and acceptable to

assess and report on the quality of the waste prior to export. This would use the same process and standards applied to domestic reprocessors to ensure that the waste is of appropriate quality. Additional conditions could be applied, for example additional sampling and auditing. It has been suggested that to address the issue of poor-quality export material, only waste that has met an agreed end of waste protocol (and so is no longer waste) should be allowed to be exported and in turn count towards packaging waste recycling targets. There would be a need to develop criteria where end of waste criteria does not already exist.

11.22 Reprocessor and exporter material quality data reported could also be linked back to sources of material through the packaging value chain, potentially supported by methods being developed for digital waste tracking. This could allow tonnage and quality 'proof of recycling' data to be apportioned to those collectors supplying the material recovery facilities, to pass back down the value chain. This proof of recycling data could then be used to inform payment mechanisms, whether this was through a refinement of the performance benchmarks for collectors or incentives to support higher quality outputs at sorting facilities. The provision of quantity and quality packaging recycling data could form part of contractual arrangements between participants within the value chain.

Additional registration requirements on exporters

11.23 We expect Extended Producer Responsibility measures to drive up the quality of packaging materials suitable for recycling which means that packaging waste that is exported will be of a higher standard. Whilst the same level of information will be required of UK reprocessors and exporters, it is proposed that additional requirements will be placed on exporters as part of registration to help provide assurances that materials exported have been suitably recycled or reprocessed.

11.24 Industry have suggested that the mandatory submission of the Annex VII form, which is currently required to be completed and maintained by all exporters of Green List Waste, could also be used to obtain evidence of packaging waste exported for reprocessing. Therefore, **Government proposes that all registered packaging waste exporters submit fully completed Annex VII forms**, contracts and other audit documentation as part of the supporting information when reporting on the export of packaging waste under Extended Producer Responsibility.

11.25 As mentioned above, mandatory submission of Annex VII forms is likely to become a requirement as part of wider regulatory reforms to the International Waste Shipments regime but could be implemented earlier for exported packaging waste if considered necessary.

Overseas inspections to strengthen monitoring arrangements for packaging waste exports

11.26 The main criticism of the existing regime is that the regulators are unable to inspect the specific overseas sites and verify the information provided as part of the current accreditation process. It has been suggested that the regulators inspect various “high risk” locations, to ensure that the sites are legitimate and are operating to an acceptable standard. As well as the issue of the limit of jurisdiction of UK regulators and appropriate powers, it would also have safety and cost implications and so is not regarded as a viable option.

11.27 Working with the relevant regulators we will continue to explore alternative options to increase the level of monitoring at destination sites. This could include partnering with the relevant Competent Authority of the receiving country and possibly funding additional national inspection and monitoring to provide the data needed for the UK-wide regime. It may also be possible to use independent 3rd party inspectors/auditors in the receiving country, through appointment/approval of such companies. This could be certification companies who are already based at overseas destinations and are aware of the regulatory regime.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

Q87. Do you think contractual arrangements between reprocessors and material facilities or with waste collectors and carriers are a suitable means for facilitating the apportionment and flow of recycling data back through the system to support Extended Producer Responsibility payment mechanisms, incentives and targets?

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

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

Q88. Do you agree or disagree that exporters should be required to provide evidence that exported waste has been received and processed by an overseas reprocessor?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Q89. Do you agree or disagree that only packaging waste that has achieved end of waste status should be able to be exported and count towards the achievement of recycling targets?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

Q90. Do you agree or disagree that there should be a mandatory requirement for exporters to submit fully completed Annex VII forms, contracts and other audit documentation as part of the supporting information when reporting on the export of packaging waste?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

12. Compliance and enforcement

Introduction

12.1 This section sets out who Government proposes will regulate the packaging Extended Producer Responsibility system, their powers, regulated stakeholders and how regulators will monitor and enforce the Extended Producer Responsibility regulations.

12.2 Delivery of the outcomes expected of the proposed system mean effective compliance monitoring and enforcement will be essential. The monitoring and enforcement regime will seek to ensure a level playing field for legitimate businesses, bring non-compliant businesses into compliance, stop illegal activity and punish those undermining the system. Sanctions and penalties will be sufficiently punitive to motivate compliance throughout the packaging value chain.

Summary of previous consultation

12.3 The 2019 consultation considered how a packaging Extended Producer Responsibility system could be monitored and enforced based on lessons learned from the regulation of the current packaging regime. It established that monitoring compliance and enforcing the Extended Producer Responsibility regulations are key to the system functioning as it should and that to achieve the ambitious outcomes of the proposed system, compliance and enforcement must be fit for purpose.

12.4 A majority of respondents to the 2019 consultation indicated that other enforcement mechanisms to those used in the current packaging producer responsibility regime should be considered to bring producers into compliance. It further provided that higher penalties should be proposed for non-compliance along with backdating the payment of compliance costs, increasing penalties over time and higher enforcement costs than the cost of compliance.

12.5 There was strong support (89%) for broadening of legally enforceable notices to obtain required information and acknowledgement that Civil Sanctions and Enforcement Undertakings have proven to be an effective mechanism and should be continued.

Enforcement authorities

12.6 Government proposes that most of the provisions in the Extended Producer Responsibility regulations would be enforced by the environmental regulators (the Environment Agency (EA), Natural Resources Wales (NRW), the Scottish Environment Protection Agency (SEPA) and the Northern Ireland Environment Agency (NIEA)).

12.7 It is important that the compliance and enforcement framework satisfies the requirements of the UK Government and the Devolved Administrations, working within devolved powers and has regard to accountability to Ministers of each administration.

12.8 Government is considering the appropriate regulator for the mandatory labelling obligations and packaging product requirements on producers and is doing this alongside the post implementation review of the Packaging (Essential Requirements Regulations) 2015.

12.9 Government is also considering the appropriate regulator for the enforcement of a mandatory cup takeback scheme if taken introduced.

12.10 The environmental regulators will not be responsible for the monitoring of and enforcement against local authorities under the Extended Producer Responsibility system except where local authorities have obligations as collectors or operators of material facilities.

Regulation of the system

12.11 Government proposes to draw on compliance monitoring and enforcement powers provided in the Environment Bill and set these out in the Extended Producer Responsibility regulations to enable regulators to exercise their functions. This includes the possibility of introducing charges so that regulators can recover the cost of their compliance monitoring and enforcement activity considered necessary by Government for them to carry out their functions under the Extended Producer Responsibility regulations. This might include supervising those that are subject to the Extended Producer Responsibility regulations placed on them, engagement and sharing of data with other enforcement bodies, and relevant market surveillance activity. This list is not exhaustive.

12.12 Regulator fees and charges will be paid by the producer, most likely directly to the appropriate regulator, but some fees may be payable via the Scheme Administrator or compliance schemes depending on registration requirements. Regulator fees and charges from other packaging Extended Producer Responsibility system participants with registration and/or accreditation obligations will be paid directly to the regulator. When setting charges regulators will need to factor in the resource and challenges that regulation of certain producers or stakeholders might pose, e.g. the regulator charges for Online Marketplaces may need to be higher than for a different type but equivalent sized producer. This is because of the unique challenge that Online Marketplaces could pose to the regulators given the amount of packaging data being submitted by one Online Marketplace is likely to be more than that being submitted by another type of, but similar sized, producer because it will comprise of data from many smaller businesses.

12.13 There are three regulatory elements of the system:

- Regulation of the Scheme Administrator (or compliance schemes)
- Regulation of all the sectors in the value chain based in England, Northern Ireland, Scotland and Wales
- Other organisations that cross boundaries

12.14 It is proposed that oversight of the Scheme Administrator will be through a combination of regulatory activity undertaken by the regulators as described in this section, along with the contractual arrangements underpinning the appointment of the Scheme Administrator by Government.

12.15 The Scheme Administrator will be responsible for the operation of all, or part of, the system (depending on final governance arrangements) and have obligations to report performance data and meet statutory recycling targets across all parts of the UK. These obligations will be monitored and enforced by the relevant environmental regulator.

12.16 The regulation would operate as it does under the current regime with each regulator responsible for enforcing the regulations for the obligated parties based within each of their areas. Regulators currently carry out their regulatory activity without undertaking monitoring and enforcement in another part of the UK, this will continue.

Regulator responsibilities

12.17 The environmental regulators are to become the primary scheme regulators for the system and would monitor compliance and enforce the obligations of the following:

- Obligated Producers
- Scheme Administrator
- Compliance schemes, if they are part of the governance arrangements (as described in Section 10)
- Reprocessors and exporters
- First Points of Consolidation which may be materials facilities and transfer stations, or reprocessing facilities.
- Waste collectors

12.18 Obligations required by the Extended Producer Responsibility regulations will be scrutinised through a robust system of monitoring and inspection, ranging from data analysis to on site auditing and inspection. Obligations monitored and enforced will include:

- Meeting of statutory targets
- Registration by producers
- Reporting of accurate and complete data

- Accreditation or registration of packaging Extended Producer Responsibility system participants to perform functions or issue evidence within the system

12.19 Given the critical importance of compliance monitoring and enforcement of the reformed system, transparency by regulators will be key. Government proposes enhancing the existing duty on environmental regulators to prepare and publish monitoring and inspection plans for producer responsibility schemes. This would include requiring the regulators to engage stakeholders in the development of these plans and report annually on the implementation of these plans, including how fees/charges received from those being regulated have been spent in the delivery of the activities set out in these plans. However, Government recognises that regulators will need to have sufficient flexibility to enable them to adapt swiftly when enforcement priorities change during the course of a compliance year.

12.20 This requirement may extend to any other regulators with a role in compliance monitoring aspects of the packaging Extended Producer Responsibility scheme.

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

- Agree
- Disagree
- Neither agree nor disagree

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

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

Enforcement response options

12.21 Civil sanctions, as described in the 2019 consultation, have proven successful as an enforcement measure since they were introduced through the Regulatory Enforcement Sanctions Act 2008 (RESA) in England and Wales and through the Regulatory Reform (Scotland) Act 2014. Northern Ireland does not have powers currently to use civil sanctions.

12.22 In England and Wales, a RESA civil sanction can be applied in relation to an offence as an alternative to criminal proceedings, where allowed under specific legislation. RESA civil sanctions have been used under the current packaging regime, however, to date only for offences committed by producers and have not yet been required for compliance schemes.

12.23 Extended Producer Responsibility regulations can make provision for civil sanctions of a kind found in RESA in relation to a failure to comply with requirements

in the Extended Producer Responsibility regulations or for obstruction etc. Provision will only be made for criminal offences where there is a failure to comply with a civil sanction or obstruction etc.

12.24 The civil sanctions that can be imposed under the Extended Producer Responsibility regulations are discretionary requirements. This could take a form similar to a variable monetary penalty (VMP) under RESA. The maximum amount of an Extended Producer Responsibility VMP for a particular breach would be set out in the Extended Producer Responsibility regulations. Regulators would determine what an appropriate Extended Producer Responsibility VMP should be based on their enforcement policy, which is itself based on the Environmental Sentencing Guidelines. The regulators can calculate Extended Producer Responsibility civil penalties, and the equivalent in Scotland, by adjusting the maximum penalty according to the size and culpability of the organisation in breach, followed by consideration of specified aggravating and mitigating factors.

12.25 Government proposes the use of civil sanctions in England and Wales and equivalent civil sanctions in Scotland by regulators under the Extended Producer Responsibility system in conjunction with offences for breach of those sanctions. For Northern Ireland, and in line with the requirements of the Northern Ireland Protocol, transposition of the EU Packaging and Packaging Waste Directive under the powers granted by the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) will also include the laying of appropriate legislation to allow for civil sanctions to be imposed under Extended Producer Responsibility. Failure of the Scheme Administrator, or a compliance scheme if they have a role in the new Extended Producer Responsibility system, to meet statutory targets would be regarded as a significant breach under packaging Extended Producer Responsibility and therefore the penalty imposed would be appropriate and proportionate. A civil sanction could be applied for this breach and calculated using a prescribed formula considering the extent to which targets have been missed.

12.26 Government proposes that civil sanctions will be used in the first instance for breaches under packaging Extended Producer Responsibility, however regulators will be able to choose from the response options available to them for each breach. Regulators could have a combination of the following enforcement response options available to manage non-compliance. Offences will be available for breaches of those sanctions.

- Advice and guidance – lowest level of intervention usually used with the objective of bringing an operator or producer into compliance and remaining compliant.
- Warning – either via a letter or a site warning.
- Notices, powers and orders – the service of specific enforcement or information notices require actions to get back into compliance, or supply information, or

take any actions deemed necessary to secure compliance, or investigate as necessary.

- Civil sanctions can be imposed to achieve the outcomes desired including:
 - Fixed monetary penalty - a low-level fixed penalty for minor offences.
 - Discretionary requirements (variable monetary penalty) - a notice requiring an offender to pay a proportionate monetary penalty to the regulator of such amount as the regulator may determine up to a limit set in the Extended Producer Responsibility regulations.
 - Enforcement Undertakings - a voluntary offer from an offender containing actions dealing with the cause and effect of their offending. The regulator can accept or reject the offer following a full criminal investigation.
- Formal Caution – where an offender admits the offence and consents to a caution, a caution may deter future offending.
- Prosecution under criminal law.

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

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

13. Digital Design

13.1 The collection, handling and use of data required by packaging Extended Producer Responsibility will need to be underpinned by digital infrastructure.

13.2 This infrastructure is likely to be required to facilitate registration and possibly accreditation processes, to support the administration of the payment framework, the submission of evidence on packaging placed on the market and its flow through the waste management system, together with associated costs.

13.3 This digital infrastructure will need to be designed around the needs of its users. Extended Producer Responsibility users will include, but are not limited to, the Scheme Administrator, the regulators in England, Northern Ireland, Scotland and Wales, obligated producers, local authorities, organisations across the waste management chain, consumers and NGOs, and possibly compliance schemes.

13.4 Some of this digital infrastructure will be owned and operated by the Scheme Administrator. Section 8 proposes that the Scheme Administrator will process producer data, apportion packaging waste management costs amongst packaging materials and formats, and invoice producers. This, and related administration of the payment framework, is central to the Scheme Administrator's role. It is therefore preferable that it implements the digital infrastructure required to fulfil it, provided this does not delay implementation.

13.5 Other aspects of the required digital infrastructure need to be in place before the Scheme Administrator is established. They will also need to facilitate the collection of data required by multiple parties, including the regulators. This includes the provision of services similar in scope to those provided by the National Packaging Waste Database including:

- All registration and any accreditation services
- Submission of evidence on packaging placed on the market
- Submission of evidence of waste packaging subject to Extended Producer Responsibility payments and associated costs

13.6 The submission of evidence of waste packaging includes the tracking of packaging waste through the system, from the point it is collected to the point it is reprocessed, ensuring payments are only made against eligible material. This infrastructure will underpin around £2.7bn of payments per annum and will be a key tool used by regulators to enforce a critical element of the system. In parallel to the work on Extended Producer Responsibility and a deposit return scheme Government is progressing work to introduce the electronic tracking of waste which will be subject to a separate consultation. Consideration will be given to the extent to which waste tracking can support some elements of the submission of evidence on waste

packaging subject to Extended Producer Responsibility, or whether a separate system needs developing.

13.7 Local authority cost and performance data will also need to be collected and monitored. Depending on the approach to business payments some waste management company data will also need to be collected. This will inform the development and updating of payment mechanisms, their auditing and enforcement. Waste Data Flow currently collects some of the necessary local authority data, but additional data reporting will be necessary. A new digital solution may be required to collect the cost and performance data necessary to underpin the business payment framework.

13.8 In some regards the digital infrastructure required to support Extended Producer Responsibility and the England, Wales and Northern Ireland deposit return schemes will be similar (for example registration and submission of evidence on packaging placed on the market). In these circumstances, Government will look for opportunities to provide simple, consistent digital services that could support the needs of users under both sets of reforms (e.g. potentially a single registration portal).

13.9 Government is considering taking the lead on the design and development of some of this digital infrastructure where it considers this best meets the needs of users or is required to meet implementation timelines. In this scenario Government could own and run these digital services, but the costs would be recovered from Extended Producer Responsibility charges. Data collected through these services would be made accessible to users such as the Scheme Administrator and regulators to process and utilise in accordance with their roles.

13.10 There was strong support (92%) from respondents to the previous consultation to make more information on packaging use and trends available to consumers, both at a system and individual producer level. Government would therefore want the Scheme Administrator to operate a public facing data portal, which would allow consumers and NGOs to access packaging data, whilst ensuring that commercially sensitive data is not shared. Government is giving consideration to how this could integrate with the other service capabilities described above.

14. Implementation timeline

14.1 In response to the 2019 consultation, Government indicated its intention to implement packaging Extended Producer Responsibility in 2023. In developing the proposals set out in this consultation document, further consideration has been given to the steps to implement packaging Extended Producer Responsibility and the timescales required. This section sets out a phased approach to implementing packaging Extended Producer Responsibility.

Phased approach

14.2 The scale of the reforms means that meeting the 2023 date for implementation is ambitious. There are two critical steps that must be in place to commence roll out of packaging Extended Producer Responsibility. The first is for Government to put in place the Extended Producer Responsibility regulations. The second critical step is to appoint the Scheme Administrator. Our current timeline is to appoint the Scheme Administrator in early 2023, but these timings are subject to parliamentary approval of the Environment Bill. We set out the process and timeline for the appointment of the Scheme Administrator in Section 10 and invited feedback.

14.3 Figure 7 presents the proposed phased approach to the introduction of packaging Extended Producer Responsibility and key milestones for each phase. It also shows when other measures that interface with packaging Extended Producer Responsibility will be introduced by Government.

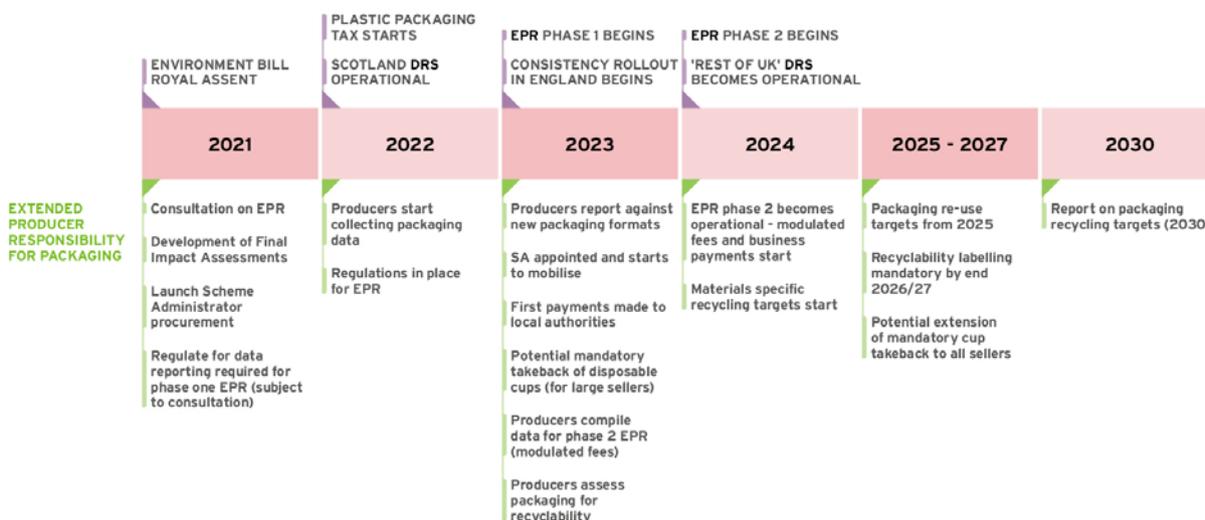


Figure 7 - Phased introduction of Extended Producer Responsibility - indicative timeline

Phase 1 (January 2023 – April 2024)

14.4 Once appointed, 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 Extended Producer Responsibility regulations would not be in force until late 2022. This data SI would place new data reporting obligations on producers obligated under the Extended Producer Responsibility 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. The requirements of this data SI are discussed below.

14.5 The Scheme Administrator would also need to determine the costs to be paid by producers for the management of household packaging waste and put in place payment and reporting arrangements with local authorities. This would require the Scheme Administrator to contact and establish relationships with every local authority in the UK. As well as the requirements on the Scheme Administrator during this period, producers would be adapting to new packaging data reporting requirements and new systems for managing and reporting data. Government recognises the scale of change involved and that it will take time for these new systems and arrangements to become established and for data to improve.

14.6 For these reasons we are not proposing that the full costs of managing household packaging waste would be recovered from producers in 2023 and hence local authorities would not receive full cost payments. We propose that payments in 2023 should support those local authorities 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. These payments could also fund other underpinning activities such as waste compositional analysis. It is proposed that of the order of £250-300m subject to final analysis is raised in year 1, which is around a third of the estimated net total cost of collecting and recycling packaging waste from households in 2023. All local authorities would receive a payment. Payments would not be performance-based.

14.7 It would be for the Scheme Administrator to determine how these costs would be paid by producers and the fee rates that would apply. Government is proposing that modulated fees are introduced in 2024, which may mean some materials cross subsidising others in the first phase of packaging Extended Producer Responsibility. Government considers this reasonable, as producers of widely recycled packaging have benefitted from public sector investment, including by local authorities, in the infrastructure necessary to recycle these materials over the past two decades.

14.8 The current packaging producer responsibility system would operate in parallel with Phase 1 of packaging Extended Producer Responsibility. This would mean that in this transition year some producers would be obligated under both the new packaging Extended Producer Responsibility regulations for payments for household packaging waste, and the existing Packaging Waste Regulations 2007, for meeting packaging waste recycling obligations.

14.9 During Phase 1 other activities would be happening such as the approval and appointment of compliance schemes, if they are a part of the final governance arrangements and packaging labelling requirements would come into force.

Phase 2 (From April 2024)

14.10 Phase 2 would see the introduction of the other key elements of packaging Extended Producer Responsibility as shown in Figure 7, above. 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. Producers would continue to report packaging placed on the market data and the costs paid by producers would be based on data reported from 2023 onwards. Reporting of packaging data from 2023 onwards would be covered by the Extended Producer Responsibility regulations. This includes the requirement on 'sellers' to report packaging placed on the market data. More detailed timelines for the introduction of these measures are highlighted in the relevant sections of this document.

Q96. Do you agree or disagree with the activities that the Scheme Administrator would need to undertake in order to make initial payments to local authorities in 2023 (as described above under Phase 1)?

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

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

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

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

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

Q98. Do you prefer a phased approach to implementing Extended Producer Responsibility starting in 2023 with partial recovery of the costs of managing

packaging waste from households or later implementation, which could enable full cost recovery for household packaging waste from the start?

- a. Phased approach starting in 2023
- b. Later implementation
- c. Unsure

Please provide the reason for your response.

Data reporting Statutory Instrument

14.11 If responses to this consultation indicate that the Scheme Administrator could be mobilised in sufficient time to enable it to make payments to local authorities in Autumn 2023, suitable packaging data would need to be available to determine costs to be paid by producers and payments to local authorities sooner than the planned Extended Producer Responsibility regulations will allow for. In this scenario, Government proposes to introduce new reporting requirements on producers obligated under Extended Producer Responsibility for the packaging they place on the UK market from January to December 2022, to be reported in 2023.

14.12 The requirements of this new data regulation would apply in addition to obligations already in place under the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 ('the Packaging Waste Regulations') and equivalent legislation in Northern Ireland. In other words, as noted above, the two systems would operate in parallel in 2023.

14.13 If required, Government could provide to the Scheme Administrator modelled data on the collections of packaging waste expected to be made by local authorities in 2023. The Scheme Administrator could use this in conjunction with packaging data from producers to inform its approach to calculating the costs to be paid by obligated producers in 2023. In this first phase of Extended Producer Responsibility, we anticipate that the costs paid by producers would be based on the total tonnages of packaging placed on the market by material (excluding packaging covered by existing and planned deposit return schemes) and would not be modulated based on the recyclability of packaging. As indicated above modulation would be introduced in Phase 2 of Extended Producer Responsibility.

The new Data Reporting regulation would set out the following:

14.14 **The class(es) of producers obligated to compile data** in 2022. This would be the producers outlined in Section 5 of this consultation document who would be obligated to pay packaging waste management costs, namely: Brand Owners and Importers, Distributors, Online Marketplaces and Service Providers above any new de minimis threshold (if adopted).

14.15 **The data which needs to be compiled and reported.** We have identified two possible approaches to collecting the data from producers to enable the sums to

be paid by those producers to be determined, and to provide the basis of local authority payments in Phase 1. Option 1 would require those producers placing consumer facing products on the market to pay packaging waste management costs in 2023. This is because payments in 2023 would go to local authorities for managing household packaging waste. Under option 2 producers would be required to report on all packaging placed on the market and packaging waste management costs would be shared across all obligated producers, irrespective of the type of packaging they place on the market. In terms of data reporting Option 2 is what is proposed from 2024; although reporting would be at a much more granular level.

Option 1

14.16 Obligated producers would need to report data on packaging that is most likely to end up in household waste and therefore be managed by local authorities.

- Primary packaging. This is the layer of packaging in immediate contact with the product or the first packaging layer in which the product is contained. It is used to contain, preserve and protect the product and can include important information about the product. The primary packaging can have several components, e.g. for a 'ready meal' this would include the container, the lid and the card sleeve. It includes all packaging up to the point of sale but does not include, for example, carrier bags and delivery boxes.
- Shipment packaging. Packaging that enables or facilitates the transportation of goods to private households or the final/end consumer (this would not include business to business tertiary/transit packaging). Such a category could be defined to capture the likes of carrier bags and packaging associated with online sales (whether delivered directly to home or via 'click and collect').

Option 2

- Obligated producers would report *all* packaging, including transit and industrial. This is the same data as required under the Packaging Waste Regulations 2007. However, in addition producers would report quantities of packaging waste that they have 'self-managed' (e.g. packaging waste generated on site that they manage directly or any packaging waste that is back-hauled to distribution centres for recycling). This would provide clear evidence that this packaging waste was not ultimately collected by local authorities.

14.17 Examples of the data requirements are:

Company data:

- Producer name
- Company number, VAT number
- Contact details

- Legal entity address – registered office
- Audit location / packaging handling location
- Company structure (holding company, subsidiaries etc.)

Packaging Handled Data:

- By material type, e.g. paper, glass, aluminium, steel, wood, plastic (by polymer type) and fibre-based-composites (split by cups and other) and 'other'.
- Quantity in weight by material type
- Packaging re-used/packaging repaired
- Any self-managed packaging waste, tonnages by material type

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

- Option 1
- Option 2
- Neither

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

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

- Yes
- No
- Unsure

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

14.18 Reporting process. It is proposed that obligated producers would report the required packaging data for 2022 to the environmental regulator where their registered head office or main place of business is based by the end of January 2023. The data would then be made available to the Scheme Administrator in March 2023, for the purpose of calculating the total costs to be recovered from producers, the sums to be paid by individual producers and the amounts to be paid to local authorities. This reporting would happen in parallel to reporting under the current packaging producer responsibility system, which would continue to operate until the new Extended Producer Responsibility system is fully implemented in 2024.

14.19 Compliance. It is proposed that the UK environmental regulators would be responsible for enforcing the Data regulation. Offences under this regulation would include late reporting, not providing the information required by the regulation and information that was found to be incorrect. Failure to meet legal obligations could be subject to civil sanctions such as fixed penalty fines for minor offences, higher fines for more serious offences or an enforcement undertaking; or a fine levied by the courts.

15. Costs and benefits of proposals

Summary of estimated costs and benefits from the Impact Assessment

15.1 An initial impact assessment accompanied our 2019 consultation on reforming the producer responsibility system. Our second Impact Assessment accompanies this consultation. It considers the costs and benefits on the economy, environment and society from the proposals to reform the packaging producer responsibility system. It is intended to provide an updated assessment of the potential impact of the proposed policies. This section provides a brief summary, for further details please refer to the Impact Assessment document.

15.2 Beyond this consultation, the Impact Assessment will be revised to account for the consultation responses, any further evidence that is obtained prior to finalising our policy proposals and any feedback received from the Regulatory Policy Committee (RPC). This final impact assessment will be published alongside the publication of Government's response to the consultation.

15.3 Below are some of the evidence gaps that would need to be further analysed for the final IA:

- Further assessment of the impact of modulated fees across all packaging materials and the rates at which these would need to be set to drive the desired behaviour change.
- Baseline to include cost estimates for England, Northern Ireland, Scotland and Wales separately.
- Additional data on the expected number of businesses that will be obligated.
- Analysis of the additional compliance monitoring costs that will arise from the proposed reforms.
- The cost of setting up new IT systems.

Impact assessment approach and methodology

15.4 Given the linkages between the policy proposals on consistent municipal recycling collections in England and the introduction of a deposit return scheme for drinks containers in England, Wales and Northern Ireland subject to consultation, the Impact Assessment has taken a layered approach.

15.5 The Impact Assessment assesses a single regulatory option with three scenarios for that option, against a baseline scenario for the period 2023-2032. The baseline assumes that the measures detailed in both the consistent municipal recycling collections Impact Assessment (which we will publish shortly) and deposit return scheme Impact Assessment are in place and the associated costs, benefits

and recycling rates for packaging materials are reflected in this baseline. This allows us to consider the impacts of introducing Extended Producer Responsibility for packaging on top of introducing the measures set out in these proposals. Whilst the baseline has assumed the implementation of deposit return scheme, it is important to note that 85% of obligated deposit return scheme materials are captured by the scheme and as they are captured through deposit return scheme, they are out of scope of Extended Producer Responsibility. This amount of packaging is therefore removed from the baseline option, as well as the remaining three scenarios that are modelled in the Impact Assessment.

15.6 Scenario 1 looks at the costs and benefits of producers meeting higher recycling targets whilst funding the full net costs of managing municipal packaging waste (through cost transfer). It also looks at the costs and benefits of applying modulated fees. In contrast to the previous Impact Assessment which only accounted for producer switches from PVC and polystyrene packaging in favour of more easily recyclable alternatives, this updated Impact Assessment models switches for *all* materials in scope of Extended Producer Responsibility. This marks an improvement on our previous modelling efforts.

15.7 Scenario 2 is extended to include *plastic film packaging* collected for recycling in kerbside collections from households and non-household municipal waste collections in addition to the packaging materials assumed in Scenario 1, with producers responsible for the full net costs of managing this packaging waste. Due to a lack of infrastructure to collect and sort plastic film packaging with existing technology and less well-developed end markets, Scenario 2 for the purpose of the Impact Assessment analysis is projected to be implemented in full in 2025⁶³.

15.8 Scenario 3 is equivalent to Scenario 2, with the addition of mandating all sellers of disposable paper cups to i) report what they place on the market and ii) facilitate their separate collection for recycling. Scenario 3 is our preferred option as it goes one step further than the other options and includes a material that is currently not recycled and would therefore meet the policy objective to increase packaging that is recycled.

15.9 While this analysis covers all packaging waste (household, household-like and commercial and industrial packaging), we assumed no change in the commercial and industrial packaging recycling rates given the lack of evidence on further recycling potential.

⁶³This is to say that whilst EPR will be implemented in 2023 (as per above), the incorporation of plastic film packaging under this scenario was assumed for the purpose of the IA to be 2025.

Summary of monetised costs and savings under each policy option over the appraisal period (£m)

Table 12 - Summary of monetised costs and savings under each policy option over the appraisal period (£m)

Change over 2023-2032 (discounted, against baseline)	Option 1	Option 2	Option 3
Transition costs			
Extended Producer Responsibility and labelling packaging technologist and familiarisation costs to producers	£82.5	£82.5	£82.5
IT Investment costs	£13.6	£13.6	£13.6
Coffee cup familiarisation and bin costs to businesses			£9.4
Costs			
Additional administrative cost of running a Producer Responsibility Organisation	£98.0	£98.0	£98.0
Landfill Tax loss to HMT (transfer)	£70.9	£90.5	£98.1
Compliance costs to producers (HH recycling and residual, NHM recycling, litter and HWRC waste collection and treatment)	HH: £8,318.5 NHM: £2,665.2 HWRC: £331.2 Litter: £758.7	HH: £8,349.8 NHM: £2,768.6 HWRC: £331.2 Litter: £758.7	HH: £8,349.8 NHM: £2,768.6 HWRC: £331.2 Litter: £758.7
Loss of funding benefiting current Packaging Recovery Note beneficiaries	£3,889.8	£3,889.8	£3,889.8
Extended Producer Responsibility and labelling training costs to producers	£26.4	£26.4	£26.4
Extended Producer Responsibility communications campaign costs	£4.4	£4.4	£4.4
Cost to producers of coffee cup bins and collection			£74.6

Coffee cup training costs to businesses			£6.2
Benefits			
Greenhouse gas emissions savings	-£214.8	-£364.1	-£371.7
Additional material revenue for recycling sector	-£119.0	-£202.5	-£226.5
Savings to LAs (HH, HWRC and litter packaging collection and treatment) and businesses (NHM recycling collection and disposal) due to waste management costs transferred to packaging producers	Savings to LAs HH: -£8,318.5 HWRC: -£331.2 Litter: -£758.7 Savings to businesses NHM: -£2,665.2	Savings to LAs HH: -£8,349.8 HWRC: -£331.2 Litter: -£758.7 Savings to businesses NHM: -£2,768.6	Savings to LAs HH: -£8,349.8 HWRC: -£331.2 Litter: -£758.7 Savings to businesses NHM: -£2,768.6
Reduced (or increased) net recycling and residual costs under each option as a result of efficiency savings (or costs) accruing to producers.	HH: -£45.8 NHM: -£73.4	HH: £67.7 (net cost) NHM: -£34.3	HH: £67.7 (net cost) NHM: -£34.3
Savings to packaging producers from removing current Packaging Recovery Note compliance costs	-£3,889.8	-£3,889.8	-£3,889.8
Coffee cup litter and residual savings (incl. landfill tax savings)			-£116.0
Net present societal value	£157.2	£218.0	£275.4
Total cost to business (present value)	£16,331.8	£16,754.2	£16,836.7

15.10 There are several non-monetised costs and benefits included in this Impact Assessment. They are non-monetised because they are either impossible to monetise or because underpinning evidence is still being developed, not because they are less important. The non-monetised costs and benefits include those listed below. Further work is being undertaken to try and ascribe a monetary value to some

of these costs. However, it will not be possible to do this for all the costs highlighted above.

Table 13 - Non-monetised costs and benefits

Non-monetised costs	Non-monetised benefits
Increased monitoring and enforcement	A more vibrant domestic reprocessing market
Obligated producer changes	Reduced littering
Business transition	Reduced use of virgin materials
Consumer prices	Reduced contamination of recyclate
Effort(s) taken by consumers to correctly dispose of paper cup(s)	Incentives for long-term innovation and strategic planning
	Increased transparency
	Reduced packaging
	Impact of clearer recyclability labelling and communications on consumer behaviour
	Increased recycling rate of disposable paper cups

Annexes:

Annex 1: Refillable/reusable packaging

Definitions

Before we can set any reuse/refill targets in the Extended Producer Responsibility regulations, a definition of reuse needs to be established. Re-use is not defined in the Packaging Waste Regulations 2007. Several definitions however do exist including in UK regulations:

The Packaging (Essential Requirements) Regulations 2015 define reuse as⁶⁴:

“...any operation by which packaging, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled, and reused packaging shall be construed accordingly; such reused packaging will become packaging waste when no longer subject to reuse”

The European Packaging and Packaging Waste Directive (PPWD) was amended in 2018 and defines reusable packaging as:

“packaging which has been conceived, designed and marketed to carry out multiple trips in its lifetime by being refilled or reused for the same purpose for which it was conceived”

Annex II of the PPWD states that to be classified as reusable, packaging must meet the following three criteria:

- A number of rotations are possible in ‘normally predictable conditions of use’
- Processing meets the health and safety requirements for the workforce
- The packaging is recoverable when it becomes waste

The UK Plastics Pact has a target of 100% of plastic packaging to be reusable, recyclable or compostable by 2025 and adopts the Ellen MacArthur Foundation’s definition of reuse and reusable packaging⁶⁵:

⁶⁴ https://www.legislation.gov.uk/uksi/2015/1640/pdfs/ukxi_20151640_en.pdf

⁶⁵ ‘Reuse Rethinking Packaging’ Ellen MacArthur Foundation 2019
<https://www.ellenmacarthurfoundation.org/publications/reuse>

“Reuse is the operation by which packaging is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products⁶⁶ present on the market, enabling the packaging to be refilled.

Reusable packaging: Packaging or packaging component which has been designed to accomplish or proves its ability to accomplish a minimum number of trips or rotations in a system for reuse.”

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

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

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

Target and other approaches to incentivising use of reusable and refillable packaging

One of the main themes identified in discussions with the UK Plastic Pact, is that any target needs to capture packaging that is being re-used; not just the amount of reusable packaging that is placed on the market. There is no benefit to be gained from switching to reusable packaging if a packaging item is only used once and then discarded.

Reuse systems can be defined as consumer-owned, where the consumer owns the reusable packaging and is responsible for washing and using that packaging time and time again, or business-owned, where businesses are responsible for encouraging consumers to return packaging items to them and take responsibility for their cleaning and refill.

Several of the large UK supermarket retailers have introduced reuse systems in their stores, with most of these following the consumer-owned model.

However, the increase in online shopping could mean a move towards more business owned reuse systems, although this is a more costly option. Developments by the main UK retailers are currently focused on instore reuse/refill systems. In considering any target/obligation on producers, both trends in purchasing practices and behaviour, and different approaches to reuse/refill will need to be considered.

⁶⁶ An auxiliary product is a product used to support the refilling/loading of reusable packaging; - such as a detergent pouch used to refill a reusable container in the home. These auxiliary products are not considered reusable packaging

It is also essential that any packaging product that is designed to be reusable is also designed to be recyclable at end of life.

The PPWD lays out the following options for how targets can be set:

- Quantitative or qualitative reuse/refill targets
- Adjusting recycling targets to account for reusable packaging, by up to 5% per annum
- Setting a minimum percentage of reusable packaging placed on the market every year for each packaging stream, with the obligation placed on the producer

In the review of the *Effectiveness of the Essential Requirements for Packaging and Packaging Waste and Proposal for Reinforcement (2020)*, Eunomia considers that the final option would not provide a clear demarcation of what can and cannot be placed on the market, as reaching a prescribed minimum percentage of reusable packaging placed on the market would depend on the amount of non-reusable packaging placed on the market.

However, if the reduction in single use-packaging this led to could be calculated, it could be possible to set this target alongside a reduction target.

Eunomia suggest placing a mandate on reusable packaging being required for certain products as an alternative option for placing obligations on producers.

The Eunomia review gives three possibilities for reuse systems:

- A closed loop system – in which packaging is circulated by a company or group of companies
- An open loop system – in which packaging circulates amongst unspecified companies
- A hybrid system – in which the end-user retains the reusable packaging and uses auxiliary one-way packaging to refill it. Any target being set around prevention or reuse/refill will need to be long-term, to allow infrastructure to develop to meet any targets.

The Table below sets out various ways in which a reuse/refill target could be introduced:

Table 14 - Possible approaches to setting reuse/refill targets

Possible approach to targets	Pros	Considerations
A certain percentage of packaging that producers place on the market each year by packaging material or format must be reusable	The obligation would apply to individual producers – so would not require complex reporting requirements that national targets demand	May need to be complemented by a reduction target How to measure

Set a packaging reduction target. This could be achieved by producers implementing reuse systems in stores, recording data on their uptake and using this to calculate the amount of single use packaging reduced as a result	Would allow the amount of reuse to be measured	Would require time to set up and requires investment in the infrastructure
Adjust the annual packaging waste recycling target for each packaging material by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and subsequently reused		This creates the same issues; how do you measure if it has been reused unless businesses have the infrastructure in place to do so
Mandate that certain products must be packaged in reusable or refillable packaging	Potentially easier to implement, with the obligation on the pack filler	How to measure if the packaging is being reused as intended

Reuse/ re-fill targets – examples international approaches

Several European countries have introduced re-use and refillable packaging policies and have set targets based on the definition of reuse in the PPWD. Most of these schemes are for drinks containers, where perhaps the basic infrastructure may already be in place in some countries.

- Romania: from the 1st January 2020, businesses that put packaged goods on the market must demonstrate an annual average of 5% reusable packaging across all packaging formats, increasing by 5% per annum every year until 25% in 2025.
- Spain (Navarra region): A regional law introduced in 2018 requires businesses in the hotel, retail and catering sectors (HORECA) to serve 80% of beer, 70% of soft drinks and 40% of bottled water in reusable containers by 2028. Also, by 2028 15% of filled beverage containers sold in shops must be reusable.
- France: introduced a law in 2020 to increase the proportion of reusable packaging on the market to 5% by 2023 and 10% by 2027. The reusable packaging must be recyclable at end of life.
- Germany: has set a target of 80% of beverage packaging to be reusable

Alongside the law mentioned above, in July 2020 France launched a consultation to reform parts of their Extended Producer Responsibility system. One of these reforms included an obligation on some sectors to operate and contribute funds that are dedicated to financing repair, reuse and refill operations.

Q.102 Do you have any views on the above listed approaches, or any alternative approaches, for setting reuse and refill targets and obligations?

Please provide evidence where possible to support your views.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

Please provide the reason for your response.

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

- a. Agree
- b. Disagree
- c. Neither agree nor disagree

Please provide the reason for your response.

Annex 2: UK-wide single management organisation

Scheme Administrator Functions

It is proposed that the Scheme Administrator would have responsibility for the following functions:

1. *Strategic & operational planning:*

The Scheme Administrator will be responsible for developing a longer-term strategic plan of how producer compliance will be achieved, and outcomes and targets met and for day-to-day operational planning and delivery.

2. *Achieve producer statutory recycling targets:*

Packaging waste recycling targets will be placed on producers in the Extended Producer Responsibility regulations. The Extended Producer Responsibility regulations will require producers to discharge these obligations through a compliance scheme, with flexibility to provide evidence where they have managed their packaging waste themselves. The Scheme Administrator would fulfil the role of a compliance scheme and take on this responsibility⁶⁷. Other obligations may, in due course, be set in Extended Producer Responsibility regulations which the Scheme Administrator could take responsibility for discharging on behalf of producers.

3. *Producer registration, data management & provision of digital infrastructure:*

As indicated in Section 13 Government is considering developing the means by which those producers with obligations under packaging Extended Producer Responsibility scheme can register and submit packaging data. Data collected in this way would be made accessible to users such as the Scheme Administrator to process and utilise in accordance with its functions. If, this approach was not pursued then the Scheme Administrator would be responsible for putting in place an appropriate registration system for those producers obligated to report packaging placed on the market data, meet recycling obligations and pay packaging waste management ('disposal cost') fees. It would also be responsible for registering its members with the regulators, for recovering the regulator fees from producers and passing these onto the regulators.

The Scheme Administrator will be responsible for implementing the necessary digital infrastructure to support the administration of the payment framework both the fees paid by producers and payments made to local authorities and other

⁶⁷ Under the Producer Responsibility Obligations powers in Clause 49 and Schedule 4 of the Environment Bill

parties, including the processing of producer data to determine payments due. It is also expected that the Scheme Administrator will provide guidance/advice/technical support/training to producers on packaging data and reporting requirements and take an active role in auditing data submitted.

4. *Determine the packaging waste management ('disposal') costs to be paid by producers:*

The Extended Producer Responsibility regulations will set out the packaging on which packaging waste management costs are to be paid and the necessary costs that producers will be required to pay. The Scheme Administrator will be responsible for determining how the costs of managing packaging waste subject to these payments are to be calculated and the total costs that will need to be recovered from producers annually in order to deliver a cost effective and efficient system.

5. *Set packaging waste management ('disposal cost') fees to be paid by producers (i.e. modulated fees):*

The Scheme Administrator will be responsible for establishing, monitoring and reviewing the approach to setting the fees to be paid by producers; this to include establishing the packaging material / format categories against which producers will be required to report data and against which packaging waste management fees will be raised, the approach to apportioning these costs between and within these packaging categories, and the approach to modulating these costs to achieve the desired outcomes (e.g. to encourage the use of more recyclable packaging).

6. *Raise packaging waste management ('disposal cost') fees from producers & make payments to local authorities and other service providers for managing packaging waste*

The Scheme Administrator will be responsible for recovering these fees from individual producers; for determining the basis on which payments for the cost of packaging waste management will be made to local authorities and other organisations responsible for providing packaging waste management services and for making these payments according to a fair cost allocation methodology covering necessary costs for the delivery of efficient and effective services and for incentivising good service delivery. It would need to put in place appropriate account management arrangements with producers and with service providers, as well as systems for managing and tracking payments through the system.

7. *Strategic oversight & allocation of funding for communications campaigns:*

The Scheme Administrator will be responsible for deciding how producer funding is used and allocated across the UK on communications and behaviour change initiatives to help achieve scheme outcomes and support consumers to recycle packaging waste correctly, not to litter packaging and to understand packaging

recycling labels. It may choose to deliver its own campaigns, or it may choose to fund new initiatives and / or support existing campaigns.

8. *Report performance:*

The Scheme Administrator will be accountable to and report to its members (producers) as well as to the UK Government and Devolved Administrations on overall system performance. It will collate producer, local authority, business and reprocessor data, and report on its performance annually (covering such as overall performance, achievements by nation, progress against targets, overall system improvements as a result of producer funding, future developments, etc).

9. *Liaise with other packaging producer schemes:*

The Scheme Administrator would be encouraged to liaise with the businesses with responsibility for managing the deposit return schemes (Scotland and England, Wales and Northern Ireland scheme) to minimise opportunities for fraud, maximise learnings and ensure the schemes remain aligned as necessary.

Obligated producers

Producers obligated to report packaging placed on the market data, pay packaging waste management ('disposal cost') fees and meet packaging waste recycling obligations would be required to:

- Take actions regarding the packaging they use and place on the market (e.g. follow design for recyclability guidance, change packaging formats to those that can be recycled, reduce the amount of packaging they use on products)
- Register with the packaging Extended Producer Responsibility scheme either through a Government established portal or directly with the Scheme Administrator
- Report data on tonnage of packaging placed on the market by agreed packaging categories/formats and at agreed frequencies
- Provide data on packaging placed on the market that they have 'self-managed' (e.g. by back-hauling to distribution centres) and paid directly for waste management services or where they have put in place facilities for consumer to return their packaging for recycling
- Pay packaging waste management ('disposal cost') fees – for the packaging they have placed on the market and not self-managed
- Pay regulator charges/fees and Scheme Administrator charges
- Communicate with customers about packaging and how to recycle/ dispose of packaging using messages and materials developed through producer funded initiatives including labelling,
- Provide feedback to the Scheme Administrator on its operation and management, contribute to strategic planning and horizon scanning initiatives, etc.

Scheme Administrator costs

Informed by estimates provided by WRAP and Valpak⁶⁸ the overhead and management costs of a single management organisation approach have been estimated at around £20m per year. The number of obligated businesses was assumed to be the same as obligated under the current Packaging Waste Regulations 2007 (just less than 7,000 in 2019). This estimate makes some provision for the costs of administering producer obligations in relation to packaging waste management produced by businesses and public organisations. The costs included for are:

- *Staff costs* - The roles assumed to be required include account managers for producer members, for local authorities and commercial collectors, technical specialists, data analysts, financial professionals (raise invoices, credit control, process payments), administration, management, HR, audit, marketing and communications, and digital operations. 248 full time equivalents are assumed once the Scheme Administrator is fully operational.
- *Officer premises* – rent, rates, etc
- *Professional fees & other overheads* – e.g. legal, tax, insurance, etc.

⁶⁸ WRAP's work was informed by their experience of running large voluntary industry programmes such as Courtauld 2025 and Valpak's from their experience of operating a producer responsibility compliance scheme for packaging, batteries and waste electronic and electrical equipment.

Annex 3: UK-wide administrator and compliance schemes

Under this approach delivery of the producer responsibility regime for packaging would fall to:

- i) a UK-wide administrator appointed by the UK Government in England and Devolved Administrations to provide oversight and deliver those elements of the Extended Producer Responsibility system which require a consistent approach across the UK.
- ii) a number of packaging compliance schemes approved by Government who would manage compliance on behalf of their producer members. Depending on the final design of packaging Extended Producer Responsibility, there could be different ways of delivering this model of scheme administration and governance. The split of functions described here is one possible scenario, rather than a definite approach.

Scheme Administrator Functions

1. *Determine the packaging waste management ('disposal') costs to be paid by producers:*

The regulations will set out the packaging on which packaging waste management costs are to be paid and the types of costs that producers will be required to pay (the 'necessary' costs). The Scheme Administrator will be responsible for determining how the costs of managing packaging waste subject to these payments are to be calculated and the total costs that producers will be required to pay annually. This will include packaging managed through household collection services and litter, but possibly also payments for non-household packaging, depending on approach agreed for payments to business producing packaging waste.

2. *Set packaging waste management ('disposal cost') fees (modulated fees):*

The Scheme Administrator will be responsible for establishing, monitoring and reviewing the approach to setting fees: by establishing the packaging material / format categories against which producers will be required to report data and against which packaging waste management fees will be levied, the approach to apportioning costs between and within these packaging categories/format, and the approach to modulating fees to help achieve the desired outcomes including the approach to determining packaging recyclability. The Scheme Administrator would establish these fee rates for household packaging waste but could also have a role in establishing the rates and/or modulation mechanism for business packaging waste.

3. *Raise packaging waste management ('disposal cost') fees from compliance schemes and make payments to local authorities for managing packaging waste.*

The Scheme Administrator would inform compliance schemes of the level of their obligation and hence the fees they would need to recover from their members for household packaging waste; for determining the basis on which payments will be made to local authorities providing packaging waste management services (e.g. incentive-based payments); and for making these payments according to a fair cost allocation methodology. The Scheme Administrator would need to put in place appropriate account management arrangements with compliance schemes for the management and tracking payments and evidence/data through the system and for providing evidence/proof of packaging waste recycling to compliance schemes so they can demonstrate compliance to their members.

4. *Strategic oversight & allocation of funding for communications campaigns:*

The Scheme Administrator will be responsible for deciding how producer funding is best used and allocated across the UK to support communications and behaviours change initiatives to help achieve scheme outcomes and get consumers recycling packaging waste correctly, understand packaging labels and not to litter packaging. The Scheme Administrator may choose to deliver its own campaigns, fund new initiatives and/or support existing campaigns. The payments made to the Scheme Administrator by compliance schemes on behalf of their producers' members would include funding that will contribute to national communications initiatives.

5. *Reports performance:*

Collates relevant local authority and other data and reports transparently on the outcomes achieved by producer funding of local authorities annually.

6. *Liaise with other packaging producer schemes & compliance schemes:*

The Scheme Administrator would be encouraged to liaise with those businesses with responsibility for managing the deposit return schemes (Scotland and England, Wales and Northern Ireland schemes ') and the compliance schemes to minimise opportunities for fraud, maximise learnings and to ensure the schemes remain aligned where necessary.

Compliance scheme functions and responsibilities

These organisations would provide producer compliance, registration and data reporting services and assume the legal responsibility to meet recycling obligations on behalf of their producer members. They would be required to carry out a number of functions, some of which would be similar to those provided by compliance schemes under the current packaging producer responsibility regime. However, they would also take on some scheme administrator functions relating to the administration of packaging waste management ('disposal') cost obligations. Specifically, arrangements for the recovery of these costs from their producer

members, and subsequent payments for packaging waste management costs to businesses and public organisations.

1. *Achieve statutory packaging recycling targets:*

Packaging waste recycling targets will be placed on producers in the Extended Producer Responsibility regulations. The Extended Producer Responsibility regulations will require producers to discharge these obligations through a compliance scheme⁶⁹.

2. *Producer registration and data services:*

As explained in Section 10 Government is considering developing the means by which producers can register and submit packaging data. A key role for compliance schemes will be supporting their producer members to register and submit data; and depending on the digital solution, compliance schemes may be responsible for completing this process on behalf of their members, alongside collating, auditing and reporting producer packaging data. Compliance schemes may choose to offer guidance/advice/ technical support/training to their members on packaging data management and reporting.

3. *Manage producer payments to achieve compliance with obligations:*

Compliance schemes will calculate the costs to be paid by their members based on the quantity and type of packaging they place on the market. For some packaging, such as household packaging waste managed by local authorities the costs to be paid by producers will be based on packaging waste management ('disposal cost') fee rates established by the Scheme Administrator. Depending on the approach to payments for business packaging waste, compliance schemes could determine the fees to be raised from their members for other packaging subject to packaging waste management fees. They will invoice their members and manage producer fees to ensure obligations are met. This will include making payments on behalf of their members to the Scheme Administrator for household packaging waste who in turn will manage the payments to local authorities. Compliance schemes will need to put in place appropriate account management arrangements for managing and tracking payments and evidence/proof of recycling of packaging waste.

4. *Obtain evidence and directly fund the collection and recycling of packaging waste from businesses and public sector organisations:*

Specifics will depend on the agreed approach that will be determined following further work and consultation. This may require compliance scheme to negotiate arrangements with waste management companies and reprocessors to support investment in collection, sorting and reprocessing of packaging waste. In return,

⁶⁹ Under the Producer Responsibility Obligations powers in Clause 49 and Schedule 4 of the Environment Bill, the regulations can require producers to become members of a compliance scheme.

compliance schemes obtain evidence of recycling to meet their members' recycling obligations.

5. *Report performance:*

Compliance schemes will be accountable to their members for their performance and will need to report to their members. As a greater level of reporting transparency is required for all stakeholders, compliance schemes will be required to publish an annual report setting out its achievements and how it invested and supported an improved infrastructure for recycling and managing packaging waste.

6. *Liaise with Scheme Administrator:*

Compliance schemes will need to develop a good working relationship with the Scheme Administrator and their producer members will be required to contribute to the Scheme Administrator's administrative and running costs.

Obligated producers

Key requirements of producers obligated to report packaging placed on the market data, pay packaging waste management ('disposal cost') fees and meet recycling obligations would be:

- Join a compliance scheme of their choice.
- Report data on tonnage of packaging placed on the market by agreed packaging categories/formats and at agreed frequencies.
- Provide data on packaging placed on the market that they have 'self-managed' (e.g. by back-hauling to distribution centres) and paid directly for waste management services or where they have put in place facilities for consumer to return their packaging for recycling.
- Take actions regarding the packaging they use and place on the market (e.g. follow design for recyclability guidance, change packaging formats to those that can be recycled, reduce the amount of packaging they use on products).
- Pay packaging waste management ('disposal cost') fees – for the packaging they have placed on the market by packaging category/format and not self-managed.
- Pay regulator fees & charges, compliance scheme membership charges and contribute to the administration and running costs of the Scheme Administrator.
- Communicate with customers about packaging and how to recycle/dispose of packaging using messages and materials developed with Extended Producer Responsibility funding.
- Provide feedback to the compliance scheme on its operation and management.

Scheme Administrator and compliance scheme costs

Informed by estimates provided by WRAP and Valpak,⁷⁰ the overhead and management costs of a single management organisation and compliance scheme approach have been estimated at a total of around £25m per year. The number of obligated businesses was taken as being the same as obligated under the current Packaging Waste Regulations (just less than 7,000 in 2019). This estimate makes some provision for administering producer obligations in relation to packaging waste management produced by businesses and public organisations. The costs included for are:

- *Staffing costs* - The roles assumed to be required include account managers for: producer members, local authorities and commercial collectors, technical specialists, data analysts, financial professionals (raise invoiced, credit control, process payments), admin, management, HR, audit, marketing and communications, and IT /digital systems. Two hundred and seventy two Full Time Equivalentents are assumed to be required once fully operational – split 57 Scheme Administrator and 215 PROs.
- *Officer premises* – rent, rates, etc
- *Professional fees & other overheads* – e.g. legal, tax, insurance, etc.

⁷⁰ WRAP's work was informed by their experience of running large voluntary industry programmes such as Courtauld 2025 and Valpak's from their experience of operating a producer responsibility compliance scheme for packaging, batteries and waste electronic and electrical equipment.

Annex 4: Comparison of the two approaches against Extended Producer Responsibility principles

√ = meets; √? = in principle but elements need confirming pending outcome of consultation

Table 15 – Comparison of the two Scheme governance approaches against Extended Producer Responsibility principles

	Single Management Organisation (Scheme Administrator - SA)	Scheme administrator (SA) & Compliance schemes (CS)
Governance principles		
<i>UK-wide approach that provides government-level accountability and supports delivery of the wider policy context in England, Northern Ireland, Scotland and Wales; that provides the flexibility to tailor scheme implementation to different parts of the UK where this is necessary; and which enables broad parity in the distribution of producer funding and treatment of local authorities and businesses across the UK.</i>	<p style="text-align: center;">√</p> <ul style="list-style-type: none"> Appointed by and reports to the UK Government and the Devolved Administrations. Operating presence in each England, Northern Ireland, Scotland and Wales; with local account management arrangements (producers, local authorities, businesses). Activities and performance reported for each part of the UK and UK as a whole. Communications funding /initiatives tailored to the needs of different parts of the UK. 4 existing environmental regulators - responsible for regulation of the different players in the value chain based in their areas. 	<p style="text-align: center;">√</p> <ul style="list-style-type: none"> SA appointed by and reports to the UK Government and the Devolved Administrations – can require operating presence in England, Northern Ireland, Scotland and Wales. CS approved by each government; they would register with the regulator where their head office is based. SA and CS report activity/ performance for each part of the UK and UK overall. Communications funding /initiatives tailored to the needs of different parts of the UK. 4 existing environmental regulators - responsible for regulation of the different players in the value chain based their areas.
<i>Clear outcomes and UK-wide targets for packaging Extended Producer Responsibility to be set by Government to encourage long-term investment and innovation across the packaging value chain.</i>	<p style="text-align: center;">√</p> <ul style="list-style-type: none"> Recycling targets set to 2030 – targets set on UK basis with a requirement to meet in England, Northern Ireland, Scotland and Wales. Punitive penalties for not meeting targets - would provide a strong incentive to plan long term investment. SA required to prepare long-term strategic plan setting out how it 	<p style="text-align: center;">√?</p> <ul style="list-style-type: none"> Recycling targets set to 2030 – responsibility for delivery split across compliance schemes. The role of the SA in contributing to targets would need to be confirmed. It could have a legal responsibility for helping producers to meet their targets i.e.it is responsible for the share of the targets relating to household packaging waste – or it could split evidence of household packaging waste

	<p>intends to achieve compliance etc.</p> <ul style="list-style-type: none"> • Single organisation provides for a joined-up strategic approach to compliance and delivery of outcomes and targets – it can decide where investment is required to deliver targets. 	<p>recycling across compliance schemes depending on their total obligation.</p> <ul style="list-style-type: none"> • Lack of an overall strategic view as to how targets are best met and where investment is required as decisions would be made by several organisations • Reporting of targets for England, Northern Ireland, Scotland and Wales whilst more challenging should be feasible. • Punitive penalties on CS for not meeting recycling obligations – but further work required to determine how this could be applied if targets not met for all parts of the UK.
<p><i>Scheme governance arrangements to be approved by Government in accordance with established procedures and procurement processes.</i></p>	<p style="text-align: center;">✓</p> <ul style="list-style-type: none"> • Agreement in place under the Resources & Waste Common Framework setting out how the UK Government and the Devolved Administrations will work together. • All administrations involved in development of procurement strategy and selection process • Appointment approved by Ministers of each administration. • SA accountable to the 4 governments – appropriate contract management arrangements would be put in place to ensure this. 	<p style="text-align: center;">✓</p> <ul style="list-style-type: none"> • Agreement in place under the Resources & Waste Common Framework setting out how UK Government and the Devolved Administrations will work together. <p>SA</p> <ul style="list-style-type: none"> • All administrations involved in development of procurement strategy and selection process • Appointment approved by Ministers of each administration • SA to report to the UK Government and the Devolved Administrations – appropriate contract management arrangements to be put in place. <p>CS</p> <ul style="list-style-type: none"> • Approval criteria agreed by Government • Applications assessed by Government/regulator and approved by the UK Government and the Devolved Administrations • Register with the regulator where head office or main place of business is located.
<p><i>Those involved in scheme governance to have a fiduciary duty to obligated producers in line with best business practice.</i></p>	<p style="text-align: center;">✓</p> <ul style="list-style-type: none"> • Expectation that SA would be governed and managed in line with good business practice. • Accountable to its producer members for its performance and through its contract with Government. 	<p style="text-align: center;">✓</p> <ul style="list-style-type: none"> • Expectation that SA and CS would be governed and managed in line with good business practice. • SA accountable to its producer members for its performance and through its contract with Government.

	<ul style="list-style-type: none"> • Appropriate regulatory and contract management processes in place in the event of poor performance or inappropriate management. 	<ul style="list-style-type: none"> • Proposal for 'fit and proper person' test for key personnel in CS proposed as a condition of approval. • Appropriate regulatory and contract management processes in place in the event of poor performance or inappropriate management.
<i>All sectors in the value chain to be clear on their roles and responsibilities in contributing to the delivery of an efficient and effective system.</i>	√	√
	<p>This will be achieved through a combination of:</p> <ul style="list-style-type: none"> • Extended Producer Responsibility regulations. • Contractual agreements. • Payment arrangements/ conditions. 	<p>This will be achieved through a combination of:</p> <ul style="list-style-type: none"> • Extended Producer Responsibility regulations. • Contractual agreements. • Payment arrangements/ conditions.
<i>Measures put in place to:</i>	√?	√?

<ul style="list-style-type: none"> • <i>increase transparency of material and financial flows</i> • <i>encourage effective competition, drive efficiency and improve quality along the value chain.</i> <p><i>This so that costs to producers do not exceed those necessary to provide packaging waste services in a cost-efficient way, and that payments to local authorities and other service providers are fair and transparent and they understand any conditions that apply.</i></p>	<ul style="list-style-type: none"> • Transparency on ‘packaging waste management cost’ fees and how these are set; transparency in flow of funding to LAs and criteria that would apply; • Costs paid to LAs – based on benchmark costs for effective and efficient services in a range of local contexts. • Producers will expect a high degree of transparency of financial flows and auditing to ensure value for money. Reporting requirements would be placed on SA – reinforcing the need for transparency. • As a producer-funded organisation there would be an incentive to keep running costs down – estimates suggest costs would be lower than for the multi scheme approach. • Receipt of payments by LAs and others dependent on performance linked to quality and quantity of packaging waste collected/recycled – helping to de-risk supply chain and drive a more efficient system. • Arrangements for business waste payments to be decided. SA would be incentivised to strike competitive arrangements with waste management companies/ sorters/ reprocessors. However, this may exclude some of the proposed approaches such as ‘free bin’ and ‘packaging waste only zones’. • No choice for producers in how they comply. 	<ul style="list-style-type: none"> • Transparency in setting of ‘packaging waste management cost’ fees and in the total net costs for producers of household packaging waste as determined by SA; • Central distribution of payments to LAs through SA using consistent, transparent, performance-based criteria and informed by benchmark costs. • Receipt of payments by LAs linked to quality and quantity of packaging waste/ collected – helping to de-risk supply chain and drive improvements. • Reporting requirements would be placed on the SA and compliance schemes – CS operations not as transparent as SA as they are operating in a competitive market. • Retains market-based elements of current system - CS would compete to access packaging from businesses in order to meet obligations – but specifics depend on approach to business payments. • Compliance scheme providers compete to provide choice to producers, incentivising service quality and value for members • Allows for a broader range of business waste payment approaches.
<p><i>Measures put in place to promote compliance and limit opportunities for fraud and waste crime and ensure packaging waste is managed in an environmentally responsible way both in the UK and when exported.</i></p>	<p style="text-align: center;">√?</p> <ul style="list-style-type: none"> • In SA interests to reduce free-riders and encourage producers into compliance 	<p style="text-align: center;">√?</p> <ul style="list-style-type: none"> • Less incentive for CS to encourage producers into compliance • More players to compliance monitor
<p>Overarching principles</p>		
<p><i>Producers are incentivised through the fees they pay or by other complimentary measures to reduce</i></p>	<p style="text-align: center;">√</p> <ul style="list-style-type: none"> • Main mechanism is modulated fees. 	<p style="text-align: center;">√?</p> <ul style="list-style-type: none"> • Main mechanism is modulated fees.

<p><i>unnecessary and difficult-to-recycle packaging, to design and use packaging that is recyclable and to promote reusable or refillable packaging where it is a feasible option.</i></p> <p>(Note: under both approaches incentivising reusable/ refillable packaging to follow)</p>	<ul style="list-style-type: none"> Requirement for SA to modulate costs paid by producers would be in regulations. Framework/principles for modulation could be set in contract between Government and SA. SA would determine approach to modulation and set fee rates (this could include for secondary/ tertiary packaging). 	<ul style="list-style-type: none"> Requirement to modulate costs paid by producers would be in regulations. Framework/principles for modulation could be set out in contract with SA. SA would determine approach to modulation and set fee rates – CS would apply these rates to recover costs from their producer members for household packaging waste managed by LAs. How modulation would work for business packaging waste under a multi CS model requires further consideration in the context of a final decision on approach to payments for packaging waste produced by businesses. However, there are examples of fee modulation in countries with multiple compliance schemes. Good practice guidance advises that where CS do set packaging waste management fees, the magnitude of fee modulation for given packaging formats is set centrally so that CS do not compete on modulation element, just the base fees. This to ensure a consistent incentive for change across all producers.
<p><i>Producers pay into the system either directly or through the price they are charged by others in the supply chain consistent with the ‘polluter pays’ principle.</i></p>	<p style="text-align: center;">✓</p> <ul style="list-style-type: none"> Modulated fees would be set to recover costs of managing packaging waste. Regulations would set out the types of costs that producers are required to pay and who is required to pay these costs. Expectation that costs will be passed on to others in the supply chain. 	<p style="text-align: center;">✓</p> <ul style="list-style-type: none"> Modulated fees and other mechanisms would be used to recover costs of managing packaging waste. Regulations would set out the types of costs that producers are required to pay and who (i.e. which producers) pays. Expectation that costs will be passed on to others in the supply chain.
<p><i>Producers bear the full net cost of managing the packaging they handle or place on the market including at end-of-life to achieve agreed targets and outcomes.</i></p>	<p style="text-align: center;">✓</p> <p>As above.</p>	<p style="text-align: center;">✓</p> <p>As above.</p>
	<p style="text-align: center;">✓</p>	<p style="text-align: center;">✓</p>

<p><i>Costs paid by producers will support a cost-effective and efficient system for managing packaging waste, including the collection of a common set of packaging materials for recycling from households and businesses.</i></p>	<ul style="list-style-type: none"> • Can take a single strategic approach to system improvement. • Adopts incentive-based payment mechanisms to drive improvements. • Can incentivise those producers who can, to manage their own packaging waste or those who want to provide take-back services. 	<ul style="list-style-type: none"> • SA adopts incentive-based payment mechanisms to drive improvements with LAs. • Efficiency and innovation in business collections supported by compliance schemes. • Can incentivise those producers who can, to manage their own packaging or those who want to provide take-back services.
<p><i>Actions by producers will enable consumers to play their part and correctly manage packaging waste through access to good services, labelling and other means that tell consumers how to recycle and dispose of packaging, and enhanced communications campaigns</i></p>	<p style="text-align: center;">✓</p> <ul style="list-style-type: none"> • Government would require recyclable packaging to be collected/minimum service standards to be met and clear labelling on packaging. • SA would allocate a proportion of producer fees to fund communications to increase participation – how much and for what activities would be at the discretion of SA and producers. • SA could take additional steps to incentivise their members to communicate with customers using agreed messages, national comms materials, etc. 	<p style="text-align: center;">✓</p> <ul style="list-style-type: none"> • Government would require recyclable packaging to be collected/minimum service standards to be met and clear labelling on packaging. • Element of producer fees passed to SA for consumer communications in England, Northern Ireland, Scotland and Wales– distributed at discretion of SA. • CS could choose to do additional activities themselves and take steps to incentivise their members to communicate with customers.

Annex 5: Plastic film and flexible packaging

This Annex provides further background to the proposals presented in section 7.

According to WRAP's Plastics Market Situation Report 2019⁷¹ total plastic packaging placed on the UK market in 2017 (including both consumer [household and household-like packaging] and non-consumer [commercial and industrial and agricultural packaging]) was estimated to be around 2.4 million tonnes/year, of which approximately 760,000 tonnes were film and flexible packaging.

Our 2019 consultation⁷² recognised that a plastic packaging recycling rate of greater than 55% by 2030 would require consideration of hard to recycle plastic packaging, such as films and flexibles. It remains the case that it is unlikely that more ambitious recycling targets can be achieved without finding a means to increase the recycling rate of this packaging. Government therefore wishes to see the recycling of plastic film/flexible packaging increase.

Government is engaging directly with stakeholders from across the plastic film and flexible packaging value chain on the topic. This has included through Defra engaging in a UK Plastic Pact (UKPP) facilitated 'sprint group' focused on the issues related to introducing films and flexibles into household recycling collections.

Stakeholder engagement has confirmed broad support for increasing recycling of this packaging from across the packaging value chain. Such support is demonstrated by collaborative projects, including the UKPP roadmap for film and flexible packaging⁷³, and the European scale project 'Circular Economy for Flexible Packaging' (CEFLEX)^{74, 75}. However, stakeholders also recognise that there are a series of challenges to achieving this at the present time. These include^{76, 77}:

- Post-consumer plastic film and flexible packaging is collected at low rates in the UK, with around 17%⁷⁸ of local authorities collecting some types of plastic film from households (only c.10% when plastic carrier bags⁷⁹ are excluded). No collections

⁷¹ WRAP (2019) Plastics Market Situation Report

⁷² [Reforming the UK Packaging Producer Responsibility System](#)

⁷³ UK Plastics Pact (2020) Creating a circular economy for flexible plastic packaging: www.wrap.org.uk/flexiblepackaging

⁷⁴ CEFLEX (2020) Designing for a circular economy. Recyclability of polyolefin-based flexible packaging.

⁷⁵ Other industry led collaborative projects to increase film plastic recycling include www.ape-uk.com, a voluntary UK national collection scheme that aims to increase the quantity of non-packaging agricultural plastics.

⁷⁶ WRAP (2020) Initial research into the collection of plastic film in England. *Unpublished report for Defra*

⁷⁷ WRAP (2015) Dry recyclables: improving quality, cutting contamination. A practical guide for local authorities

⁷⁸ WRAP (2021) A report to the Defra Packaging Collections Recycling Working Group on the implementation of plastic film/flexibles recycling within consistency policy. Available at: www.wrap.org.uk/resources/report/defra-collections-implementation#

⁷⁹ Single use plastic carrier bags are classed as packaging. More durable 'bags for life' are not. Estimates are not available for the % of film and flexible packaging that is collected which excludes bags for life.

from businesses are currently recorded⁸⁰ and new collection vehicles may be needed.

- Many materials recovery facilities (MRFs) currently lack the storage space, baling and sorting equipment/technologies needed to separate it from other materials and hence typically manually exclude it.
- There are limited domestic recycling facilities available for plastic film and even fewer that are capable of recycling more complex formats⁸¹.
- There are no mechanical recycling processes that are currently accepted by the UK Food Standards Agency as suitable for producing recyclate for incorporation into food contact plastic film packaging. This is an important issue as a significant proportion of film and flexible plastic packaging is food contact⁸².
- Non-mechanical recycling technologies have the potential to offer benefits such as recycling of complex formats and even heavily contaminated film and other plastics,⁸³ but more work is needed to ensure they can be used for recycling over energy recovery and to assess any possible unintended consequences of the available technologies. Government's Advisory Committee on Packaging has initiated a task force on chemical / non-mechanical recycling.
- End markets for recycled plastic film are limited and largely represent 'down cycling' (e.g. film/flexible plastic packaging recycled into construction materials⁸⁴).
- Given the above factors, the current recycling rate of plastic film and flexible packaging is estimated to be just 5%⁸⁵. This means that a large proportion of this packaging type is disposed of as residual waste.
- There has been some investment in recycling facilities capable of accepting plastic films in the UK in recent years⁸⁶ but such investment has been limited overall. However, there are encouraging developments in local authorities and industry-led collaboration to identify and deliver solutions to the challenges to increasing plastic film and flexible packaging recycling. For example, the UKPP road map for flexible packaging⁸⁷.

The UK Government and the Devolved Administrations are seeking to establish arrangements to ensure consistency in material collected for recycling from households and from businesses as follows:

- Recycling Consistency in England consultation will set out our plans for the collection of plastic film and flexible materials to be introduced no later than the end of the financial year 2026/7

⁸¹ These include multi-layered (e.g. aluminum and plastic pouches) and metallised packaging (e.g. crisp packets).

⁸² UK Plastics Pact (2020) Creating a circular economy for flexible plastic packaging: www.wrap.org.uk/flexiblepackaging

⁸³ WRAP (2019) Non-Mechanical Recycling of Plastics available at www.wrap.org.uk and UK PP (2020) Non-mechanical review (unpublished report for Defra)

⁸⁴ WRAP (2019) Plastics Market Situation Report:

⁸⁵ Recoup (2018) UK Household Plastics Collection Survey 2018

⁸⁶ For example, in 2019 a new plant at Birmingham became operational, accepting 40k tonnes/yr. of high-quality post-consumer LDPE film (with potential for c.80kt/yr.) to make LDPE bags for life

⁸⁷ UK Plastics Pact (2020) Creating a circular economy for flexible plastic packaging: www.wrap.org.uk/flexiblepackaging

- Work following on from the Future Recycling and Separate Collection of Waste of a Household Nature in Northern Ireland 2020 consultation is establishing what changes would be needed to increase recycling rates of difficult to recycle packaging, including plastic film and flexible material.
- The Scottish Recycling Charter is under review, and as part of this review the inclusion of plastic film and flexible materials is under consideration for inclusion in local authority household collections.
- The Welsh Recycling Collections Blueprint is to be updated regarding inclusion of household collection of plastic film and flexibles.

Government agrees that more time is needed to allow for progress in addressing the identified challenges for plastic films/flexibles, compared to other materials with more mature collection, sorting, recycling and end markets. Doing so is intended to avoid unintended consequences such as overwhelming sorting facilities with material they are unable to store, bale and sort and avoid confusion over which materials consumers can expect to be recycled once placed in recycling bins.

It is proposed that all parts of the UK will work towards introduction of household and business collection of this material as early as possible (acknowledging however that 2023 is the earliest point from which Extended Producer Responsibility fees can start to contribute to the costs of managing the material). However, potential changes to collection vehicles and methods, sorting and recycling infrastructure and development of end markets for film and flexible packaging, including for food contact grade recycled film, will require time. **It is therefore proposed that introduction of collection of plastic films from households will be phased in up to the end of financial year 2026/27 and from businesses by the end of financial year 2024/25.**

This proposal is based on available evidence and feedback from stakeholder engagement, including from the dedicated sprint group described above, and seeks to take account of the following additional considerations:

- Some local authorities are already collecting this material for recycling and should receive payments for this service under Extended Producer Responsibility arrangements.
- Adopting a defined end point provides a clear signal to industry to invest in the necessary infrastructure (including avoiding losing interest from investors from outside of the UK), and so will help stimulate end markets.
- The introduction of Extended Producer Responsibility, deposit return schemes and Recycling Consistency will give rise to a need for changes to waste management service contracts (collection contracts and any covering, for example, sorting and off-take of material). Avoiding local authorities and businesses needing to make repeated changes to contracts (or negotiate new ones) would be preferable.

- WRAP modelling indicates that 71% of local authorities that contract out their waste management services in the UK have contracts ending between 2021-2026⁸⁸. For those local authorities that operate in-house collections, the number that would potentially be able to change to introduce new materials rises to 89% across the UK over the same period.
- Waste collection contracts between waste collectors and businesses are typically shorter in duration than contracts with local authorities and so are expected to be able to change to introduce film collections sooner than local authorities.
- Following introduction of a new material into household recycling collections, 2 to 3 years is typically needed for new recycling services to mature (allowing for new or revised recycling service contracts to fully adopt revised collection methods, capture rates to be optimised and for sorting and recycling facilities to adapt).
- Providing clarity on the expectation for film and flexible packaging to be part of collections by a defined end date will allow for service contracts to be renegotiated, and necessary changes made.
- A phased approach allows time for collection methods to be developed that are appropriate for local circumstances and can avoid quality issues related to contamination of other recycling streams (for example by identifying and trialling methods to ensure collection of film and flexible packaging does not contaminate paper and card collected for recycling).

Given the above, Government considers seeking to introduce film and flexible packaging into recycling collections by the dates outlined above gives sufficient time for industry and local authorities to make progress in addressing the issues that currently limit recycling of this packaging in the UK. Recognising the proportion of packaging placed on the UK market annually that is comprised of this packaging type, this policy will help to ensure that the plastic packaging recycling targets are achieved.

⁸⁸ WRAP (2021) A report to the Defra Packaging Collections Recycling Working Group on the implementation of plastic film/flexibles recycling within consistency policy. Available at: www.wrap.org.uk/resources/report/defra-collections-implementation#Report of Sprint Group

Annex 6: Biodegradable and compostable plastic packaging

Definitions

Bio-based plastics are materials that have been manufactured using feedstocks derived from bio-based sources, for example plants, rather than conventional fossil-fuel sources. They can be biodegradable but are not necessarily.

Biodegradable plastics are materials that are capable, when conditions are right, of being broken down to a significant extent through the action of micro-organisms (bacteria and fungi) into simple compounds, such as water and carbon dioxide.

Compostable plastics are a subset of biodegradable plastics which can biodegrade as above, but within suitable composting situations.

Background

Compostable plastic is currently estimated to account for around 0.5% of consumer plastic packaging in the UK (equating to approximately 8,000 tonnes [$\pm 1,000$]), split between 80% expected to be flexible plastics and 20% rigid⁸⁹. While this is a small share of the plastic packaging market currently, the 2019 report *Plastics in the Bioeconomy* estimates that the UK biodegradable/compostable packaging market has the potential to expand tenfold by 2025, to more than 100,000 tonnes. This assumes a relatively wide range of conventional plastic packaging items would be substituted and would be dependent on the degree of market uptake.

Respondents to the 2019 consultation on reforming the UK producer responsibility system for packaging that provided views on this type of packaging largely either sought to highlight its market potential and propose that it be considered recyclable within the new system, or highlighted issues (including that these materials do not biodegrade in all conventional facilities, often contaminate other waste-streams and cause consumer confusion).

The UK Government and the Devolved Administrations continue to monitor developments in biodegradable plastics where they may represent the best environmental and economic outcome. For example, through UK Research and Innovation and other channels, Defra has supported and will continue to support research and innovation in plastics.

Government policies will take into consideration the benefits of biodegradable plastics in situations where they do not have adverse effects on the environment including on the soil and the ocean (such as from microplastics) and the recycling system or wider circular economy aims.

⁸⁹ Ricardo (2019) *Plastics in the Bioeconomy*, Report for Biomass Biorefinery Network and WRAP (2018) *Plastic Flow 2025 Plastic Packaging Flow Data Report*.

This annex expands on the issues, updates on relevant actions taken since the previous consultation and provides further context to the proposal outlined in section 7.

Recyclability of biodegradable and compostable packaging

Evidence base

A recent report for the European Commission (EC) on the relevance of biodegradable and compostable consumer plastic products and packaging in a circular economy⁹⁰ includes an analysis of available evidence to determine whether compostable plastics meet the criteria of Article 6a (4) of the Packaging and Packaging Waste Directive (94/62/EC). These criteria enable an assessment of whether compostable plastic can be deemed to be recyclable and so capable of contributing to packaging recycling targets. Article 6a (4) is worded as follows:

“For the purposes of calculating whether the targets laid down in points (f) to (i) of Article 6(1) have been attained, the amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, Member States may count it as recycled only if this use results in benefits to agriculture or ecological improvement.”

The report found that existing research is insufficient to allow confidence that compostable packaging, when used alongside other organic material to create compost or digestate⁹¹, results in benefits to agriculture or ecological improvement⁹². This could be because most research to date has focussed on demonstrating absence of adverse (principally ecotoxic) impacts, rather than demonstrating benefits. Tests to determine biodegradability in order to assess whether specific biodegradable/compostable packaging can be certified as such are also predominantly conducted under laboratory conditions, rather than in industrial composting situations or the wider environment. It is therefore still unclear whether the material provides benefits to soils or agriculture⁹³.

In July 2019, Defra launched a call for evidence on Standards for biodegradable, compostable and bio-based plastics. This sought evidence on the suitability of existing industrial and home composting standards, and on the questions of whether a home composting standard would be desirable and the potential unintended consequences that could arise as a result of a growth in use of compostable plastics. A wide variety of

⁹⁰ Eunomia (2020) Relevance of biodegradable and compostable consumer plastic products and packaging in a circular economy. Report for European Commission, DG Environment

⁹¹ Digestate is a biofertiliser product used for agricultural purposes. It is produced by anaerobic digestion facilities that breakdown organic material without oxygen at 37 – 44°C. Biogas is also produced and captured for heat, fuel and electricity.

⁹² For example, by ‘feeding’ microorganisms that subsequently assimilate carbon within plastic monomers into their cellular structure, such that benefits are achieved for aspects of soil health.

⁹³ Eunomia (2020) Relevance of biodegradable and compostable consumer plastic products and packaging in a circular economy. Report for European Commission, DG Environment

responses were received that are considered helpful for policy development and a formal Government response will be published in due course.

To date, members of industry and academia have raised strong concerns that many current standards rely on laboratory testing in ideal conditions, which may not accurately predict how products will behave in the real world. Concerns persist that compostable packaging, for instance, will not fully break down into compost or digestate within the current UK infrastructure.

Further research is required to establish the full environmental impacts of the materials, including to establish whether biodegradable and compostable plastics fully degrade in real world conditions without leaving behind microplastics. An emerging body of evidence suggests that microplastics pose risks to animal health and the natural environment, and more work is required to establish if they have an impact on human health. Furthermore, concerns have been raised over the potential for biodegradable and compostable plastics to encourage littering if citizens consider them to be in some way environmentally friendly⁹⁴.

Based on the current state of evidence, there cannot be reasonable certainty over whether benefits for the final digestate and compost products result from the use of biodegradable/compostable plastic packaging feedstock. Should the majority of the material break down into only water and gases with no or little biomass contributed to compost or digestate, this would not accord with circular economy principles as it would be more akin to a form of disposal. As outlined, there also cannot be reasonable certainty that all biodegradable and compostable plastic packaging placed on the UK market can break down fully in the current UK infrastructure or in the wider marine and terrestrial environments. The status of current collection arrangements and UK infrastructure is considered in the following sections.

Treatment infrastructure

A further consideration as to whether biodegradable/compostable plastic packaging is recyclable is the ability of domestic industrial composting and anaerobic digestion facilities to treat the material.

The most prevalent route for treatment of separately collected food waste in the UK is anaerobic digestion (AD). However, while a small number of AD plants use combined composting/AD and can accept compostable plastic, it is not generally suitable for AD and is consequently removed as contaminant, and taken for energy from waste, or landfill⁹⁵. Industrial composting facilities may also class the material as a contaminant and remove it

⁹⁴ <https://www.unep.org/resources/report/biodegradable-plastics-and-marine-litter-misconceptions-concerns-and-impacts>

⁹⁵ POSTNOTE 606 July 2019 Compostable Food Packaging: <https://researchbriefings.files.parliament.uk/documents/POST-PN-0606/POST-PN-0606.pdf> and UK Plastics Pact (2020) Considerations for compostable plastic packaging

alongside conventional plastics. This is often in the interests of ensuring the highest possible quality of compost^{96, 97}.

Due to their similar appearance and properties to conventional plastics, consumers can also confuse biodegradable/compostable packaging and place them in conventional recycling bins along with other plastic packaging. However, it can be difficult to detect at recycling plants and when not removed will reduce the quality of the final plastic recyclate, even contributing to rejection of batches alongside other conventional plastic recycling contaminants^{98, 99}.

Collections

Through our proposals for recycling consistency in England, English local authorities and businesses will be required to arrange for the collection of a core set of materials for recycling, including metal, plastic, paper and card, glass, and food waste. Garden waste will also be required to be collected from households in England. The mandatory collection of biodegradable and compostable packaging (either as a separate waste stream or as part of another stream) is not proposed unless the following are met:

- There can be confidence that the biodegradable/compostable material placed on the market complies to standard/s that ensure it safely biodegrades:
- In all likely destinations (including composting and AD facilities and the wider environment);
- Over a reasonable timeframe, and;
- Without significant adverse environmental consequences.
- It can be ensured that compostable plastic can be treated at the end destination (such as AD or composting facilities) in a way that does not increase plastic contamination in the digestate or compost products;
- The environmental benefit of separate collection¹⁰⁰ or co-collection of compostable packaging with food and/or garden waste can be shown, particularly through ensuring that by collecting these materials contamination from plastics does not increase, and the digestate and compost can reach end of waste status through the relevant quality protocols
- All Waste Collection Authorities in England can make provision for compostable plastics to be collected, either separately or as part of another waste stream

For the reasons outlined in the preceding sections, at the present time there cannot be certainty over any of the above criteria being achievable for biodegradable or compostable packaging. Consequently, its mandatory collection from households and businesses in

⁹⁶ Standards exist for assessing quality of compost, such as British Standards Institute PAS 100, which requires zero or near zero levels of any plastic. See: www.wrap.org.uk/sites/files/wrap/TD%20Surface%20treatment%20Final.pdf

⁹⁷ UK Plastics Pact (2020) Considerations for compostable plastic packaging

⁹⁸ Eunomia (2016) The impact of the use of 'oxo-degradable' plastic on the environment. *Final report for the European Commission*, <https://publications.europa.eu/en/publication-detail/-/publication/bb3ec82e-9a9f-11e6-9bca-01aa75ed71a1>

⁹⁹ Environmental Services Association evidence to EFRA committee on plastic packaging (2019): PPP0012

¹⁰⁰ While it is understood separate collection would be difficult to justify given the small proportion of compostable packaging presently on the UK market the distinction is made for completeness

England is not currently proposed. Similarly, no timescale for the introduction of mandatory collections of compostable materials is yet proposed in Northern Ireland, Scotland or Wales.

It is not possible to place a timescale on establishing each of the above considerations at the present time. Government will continue to engage with stakeholders to remain apprised of industry progress on the above issues and review the status of the material with regard mandatory collection accordingly.

Potentially beneficial applications for biodegradable and compostable plastic packaging

Notwithstanding the above outlined issues related to the current state of evidence and treatment infrastructure, Government recognises there are potentially beneficial applications for biodegradable and compostable plastic packaging where evidence suggests negative environmental impacts associated with conventional plastics would be greater. Based on recent analysis of available evidence at a European scale such applications are suggested to be those used in closed loop situations¹⁰¹ where a reuse option is unavailable, as set out in the recent report to the EC¹⁰².

¹⁰¹ Such as events where packaging such as food trays cannot be reused or made available for recycling and waste compostable packaging can be collected to be taken to be composted at a facility that accepts the material.

¹⁰² Eunomia (2020) Relevance of biodegradable and compostable consumer plastic products and packaging in a circular economy. Report for European Commission, DG Environment