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.[1] 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:

1. Reduce the amount of packaging that is littered.
2. Increase the amount of 'on-the-go' packaging that is recycled or reused.

[1] Eunomia – WRAP (2021) Financial Cost of Packaging Litter – Phase 2 (unpublished report)

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.[2]

[2] Eunomia – WRAP (2021) Financial Cost of Packaging Litter – Phase 2 (unpublished report)

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.

- **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.

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.[3] 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.

[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/834331/pb11577b-cop-litter1.pdf

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 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 "binfrastructure" 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.

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.

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 1 - 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