

**TO: JOINT WASTE DISPOSAL BOARD**  
**17<sup>th</sup> June 2021**

---

**Environment Bill - Resources and Waste Strategy**  
**Report of the re3 Project Director**

**1 INTRODUCTION**

- 1.1 The purpose of this report is to provide a briefing for the Joint Waste Disposal Board (JWDB) on two consultations, under the Resources and Waste Strategy sections of the forthcoming Environment Bill.
- 1.2 It was not possible to report to the JWDB prior to the submission of the two consultation responses, though some separate Member briefings were arranged.
- 1.3 This report provides an opportunity to record the response made by the re3 partnership and explore the opportunities for the councils to prepare for future compliance.

**2 RECOMMENDATION**

- 2.1 That Members note the contents of this report and acknowledge the responses made on behalf of the re3 partnership of councils.**
- 2.2 That Members note the three key areas of the partnership responses, reviewed specifically in this report from paragraph 5.36.**

**3 ALTERNATIVE OPTIONS CONSIDERED**

- 3.1 The content of the recommended responses is drafted following consideration of a range of sources. These include: national associations, trade bodies, Defra, consultation with neighbouring councils, our principal contractor, FCC, and not least an understanding of arrangements at the three councils.

**4 REASONS FOR RECOMMENDATION**

- 4.1 The Environment Bill is a significant piece of legislation, part of which is devoted to waste management. The re3 councils are partners who have recently made significant steps towards early compliance with the measures required in the Environment Bill.
- 4.3 The content of the responses has been drafted in consideration of the perspectives of other local authorities (individually, or as associations) but also from consultations with private sector stakeholders. Throughout the proposed answers, the over-riding principle has been to assess and reflect what is best for the re3 councils and their residents.

**5 BACKGROUND INFORMATION**

- 5.1 This Government's stated rationale for the package of legislative changes, incorporated in the Environment Bill is described, in a quote from the Resources

and Waste Strategy (2018) as follows:

*The Government's ambitious new Resources and Waste Strategy seeks to redress the balance in favour of the natural world. Our goal is to move to a more circular economy which keeps resources in use for longer – for that to happen, we must all reduce, reuse and recycle more than we do now.*

- 5.2 The elements that relate to waste are separated into four discreet but inter-related elements. They are:
1. Extended Producer Responsibility
  2. Deposit Return Scheme
  3. Consistency in Waste Collection
  4. Plastic Tax
- 5.3 This note deals with the first two elements, whose second consultations close on June 4<sup>th</sup>. Consultation on the third element is now belatedly open, though for a shorter period, and closes on July 4<sup>th</sup>. The fourth element, a plastic tax directed principally at producers and importers of packaging, is discussed herein but is not a matter upon which the re3 councils need to respond.
- 5.4 Together, the four elements will prompt a revolution in the way that waste is managed in the UK (specifically England, Wales and NI). The nature and funding of waste management will be fundamentally changed. Waste collection is likely to be largely prescribed initially through legislation and statutory guidance and, in future, by a new organisation which collects and distributes funding from global producers and packaging companies. The universality of scope and comprehensive public utility, of council waste collections, will be reduced by the introduction of a Deposit Return Scheme. New performance targets will be set – relating to municipal waste rather than household waste.
- 5.5 The New Burdens doctrine will be applied to net costs, but more clarity is needed over the likely method of calculation. In none of the 3 elements which relate to local authorities are any 'consequential costs' recognised by Defra, such as where the new legislation may cause councils to breach contractual undertakings.
- 5.6 Alongside considerable uncertainty, there is also potential opportunity for the re3 councils. Through developments in our partnership, the councils are already compliant with many aspects of the changes. The co-collection of household and business waste, as municipal waste, may present opportunities for councils and local businesses. Finally, collaboration, through partnerships such as re3, is going to be more important as time goes on, meaning that Bracknell Forest, Reading and Wokingham Borough Councils have some potential time advantages over other councils.

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

- 5.7 This element of the legislation is aimed at reforming existing systems for recording and incentivising the recycling of packaging, in the UK. It aims to do that by ensuring that producers pay the full costs of dealing with the waste they produce. Hitherto local government has funded the collection and reprocessing of household waste.

## UNCLASSIFIED

- 5.8 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 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 and introduce clear and consistent labelling for recyclability.
- 5.9 Government estimates that costs will be in the region of £2.7bn in the first full year of implementation.
- 5.10 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
- 5.11 Government intends to procure a Scheme Administrator who will receive payments from Producers and distribute payments to local authorities, based on factors such as the quantity and quality of packaging waste collected and recycled. Procurement will commence in late 2021, with the successful Scheme Administrator appointed in early 2023.
- 5.12 As part of full net cost payments, producers of commonly littered packaging, such as fast food packaging and single use cups, will also 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.
- 5.13 Subject to parliamentary approval of the Environment Bill, Government proposes that 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.

### **Deposit Return Scheme (DRS) for the UK**

- 5.14 DRS will encourage the removal of some higher value recyclable materials from council collections and residents/consumers will be required to take them to a separate place, for recycling, incentivised by the opportunity to retrieve a deposit they have previously paid at the point of sale.
- 5.15 To make the scheme work, Producers of consumable products will be required to place a redeemable deposit on certain in-scope packaging (branded products in containers) that they place for sale.
- 5.16 Retailers who sell in-scope packaging will be obligated to accept all deposit return scheme containers returned to their store and ensure the deposit price is added to the purchase price of an in-scope product at the point of purchase.
- 5.17 A Deposit Management Organisation (DMO) will administer the entire scheme, including paying Retailers the amount needed to directly refund consumers when they return packaging to a DRS, reverse vending terminal or manual return points. The DMO will also own packaging material collected through a DRS.
- 5.18 Government proposes that the scheme captures PET plastic bottles, glass

bottles, and steel and aluminium cans.

- 5.19 HDPE bottles (e.g. milk and cleaning products), beverage cartons and pouches and sachets will not be in-scope.
- 5.20 Government favours an 'all-in scheme' which would include all drinks containers up to 3L in size. The alternative DRS option, an 'on-the-go' scheme for products often consumed outside or whilst travelling, and drinks containers under 750ml in size and excluding those containers sold in multipacks, is not favoured by Government.
- 5.21 Government has assumed a deposit level of 20p on each item (even individual items in multi-packs), though the DMO will have scope to change the deposit in order to manage scheme effectiveness. Returns will likely be via reverse vending machine or manual return points, but the regulations will apparently be broad in nature, to ensure alternative methods of return are not ruled out if the Deposit Management Organisation wish to explore these.
- 5.22 The DRS is expected to achieve a minimum 85% collection rate for the containers in scope and is scheduled to commence in 2024.
- 5.23 The DMO will make payments to local authorities for any packaging which is not processed through the DRS.
- 5.24 Defra has not included, in its impact assessments, the cost to local authorities for consequential costs arising from the removal of valuable materials from current council services, where many waste management contracts include revenue sharing and/or minimum tonnage or composition guarantees. In such cases, councils may be powerless to comply with their existing commitments and would likely be due to compensate their contractors. At present no recognition of that issue is present in Defra impact assessments or plans for New Burdens funding.
- 5.25 To assess these consequential costs, a formal notice was issued to the Contractor, for modelling to be undertaken. Based on historical data for the 2020/21 year, the cost to the re3 partnership for one year was assessed conservatively as being £676k (at a 90% DRS capture scenario).

**Consistency in Waste Collection (for information only, councils to submit separate responses)**

- 5.26 This consultation was initially delayed by Government and has a shorter consultation period, with a response deadline of 4<sup>th</sup> July 2021. A brief description of its main characteristics is included below, to help in the process of briefing ahead of a response to this consultation.
- 5.27 The Waste Collection Consistency sections of the Environment Bill will require all local authorities to arrange for the collection of:
- glass bottles and jars
  - metal – will include foil and aerosols
  - plastic – will ultimately include plastic film and cartons
  - paper and card – likely requirement to collect separately for quality
  - food – must be collected weekly

UNCLASSIFIED

- garden waste – will likely be a free service to residents
- 5.28 Alongside prescribing what materials must be collected by local authorities, the legislation will also prescribe how it is collected. Three service archetypes have been developed. While there are some conditions around the end of existing contractual arrangements, the archetypes will be an expectation on councils and relative adherence is likely to impact on funding. The archetypes are:
- Multi-stream collections – effectively separate collection of, or receptacle for, each material type.
  - Two-stream dry recycling collections – e.g. one bin for paper and card, another bin for plastic and metal and/or glass. Separate collections for food and garden waste.
  - Comingled collections – e.g. mixed paper and card, plastic and metal. Likely separate collections of glass, food and garden waste.
- 5.29 In the previous (2019) consultation, there was high support from the public for a free, minimum collection service for householders producing garden waste. If implemented, this would be a limited free collection service, with local authorities retaining the provision to charge where the service exceeds a fortnightly collection or is in a receptacle over 240 litres in volume. If the service is totally free, it would remove over £3m in service subscriptions from the three councils – revenue which currently supports the provision of services. The consultation seeks views on whether a ‘reasonable’ charge could be retained, research having identified such a level to be in the range £18-£30 per annum (compared with a UK average of £43pa).
- 5.30 the Environment Bill will also require all businesses and non-domestic premises to arrange for the collection of glass, metal, plastic, paper and card and food waste for recycling or composting. This collection of what is termed ‘non-household municipal’ waste will broaden the performance regime for recycling. How this wider classification of waste will be measured, and to whom targets will be applied, is yet to be clarified.

**Plastic Tax (consultation response unnecessary by councils)**

- 5.31 Government wishes to stimulate circularity in UK supply chains – meaning that resources are not used and then disposed of, but instead used and then reprocessed for further use.
- 5.32 Accordingly, Government has proposed, and will introduce, a tax on plastic packaging produced in, or imported into, the UK.
- 5.33 The tax will be levied at a rate of £200 per tonne for any plastic packaging which does not include at least a 30% recycled content.

**Key Issues from the draft re3 Consultation Responses**

- 5.34 There is a large amount of detail contained within the respective consultation documents and the draft Environment Bill.
- 5.35 To assist with understanding the main factors relating to EPR and DRS, which

UNCLASSIFIED

need to be widely understood, three key issues are described below. They are:

1. There is considerable duplication between the measures on Waste Collection Consistency, which, for example, require councils to collect glass from all households (amongst other materials) and an 'all-in' DRS which, Government predicts, will capture 85% of available glass packaging.

A statutory requirement upon councils, and their contractors, to invest in obvious duplication, increases the risk of inefficient purchasing and legacy/asset-redundancy issues.

Along with the Local Authority Recycling Advisory Committee (LARAC) and the Environmental Services Association (ESA), re3 is advocating: (i) a delay in the introduction of DRS and, (ii) a review of its scope ahead of any future planning for its introduction. Our reasoning is summarised as follows:

- We do not believe that DRS should be introduced at the same time as the other measures, for reasons of scale, avoidance of duplicated costs and national infrastructure preparedness.
  - We consider that the extended producer responsibility (EPR) and Consistency measures should make considerable improvements in recycling on their own and, crucially, give effect to the genuine producer responsibility principles that Government wishes to introduce.
  - We believe that a review of DRS following the successful implementation of EPR and Consistency will allow a much less disruptive form of DRS to be introduced, if it is needed at all.
  - Finally, we highlight the absence of any consideration of consequential costs, caused where DRS removes value and/or tonnage from existing contracts, forcing councils to breach composition and/or revenue sharing conditions. These have been assessed as costing at least c£676k per annum (based on 2020/21). These costs must be addressed by Government.
2. Assuming DRS is introduced at some point, we have indicated strong support for the use of technology in potentially enabling redemption of DRS deposits by residents at home, and via their existing council collections. Officers have spoken with the providers of our successful re3cyclopedia App, which may have some potential for further development, in this area. Such arrangements could preserve the current service utility offered by council collections and thus also the integrity of council collections.
  3. We have concerns that the proposals overlook access and storage issues. These are:
    - There is no recognition how frail, elderly and/or those residents with disabilities will practically comply with regular requirements to take items back to a reverse vending machine. Equalities issues are not reflected in the consultation documents or impact assessment. For any residents who have concerns about, or

## UNCLASSIFIED

difficulties with, access, the practical requirements on residents, of these proposals, may prove to be disenfranchising. Such residents *will* face a financial burden, as the deposit on 'in-scope' items will be unavoidable at the point of purchase but, because of factors relating to their age or disability (which are protected characteristics under the Equalities Act) they may not be able to regularly redeem the deposits they've made.

- No clear consideration has been given to how residents who live in multi-occupancy dwellings, or flats, will store items of packaging before they can return them and redeem the deposit. Items of packaging with an unredeemed value (the deposit) may not be able to be stored securely outside the home. Accordingly, residents with space constraints, as above, may find it is more difficult to make DRS work for them, than it is for householders.

5.36 Elsewhere in the draft responses to these consultations, the re3 partnership is advocating payments being linked to efficient and effective collections systems, which is effectively no different than the current market conditions. We have also indicated support for payments relating to 'in-scope' items which are collected by local authorities as litter.

5.37 We are disagreeing that payments to local authorities should be net of an average price per tonne for materials collected, and that material values should be retained by local authorities.

5.38 We are also advocating that local authorities must be represented on the board of the Scheme Administrator for EPR. This is important as, without meaningful representation, the interests of packaging producers (which will already be highly influential) may over-rule our continuing interests.

## 6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

### Borough Solicitor

6.1 Not applicable

### Borough Treasurer

6.2 not applicable

### Equalities Impact Assessment

6.3 Not applicable

### Strategic Risk Management Issues

6.4 There are noted risks (as identified in the report) for local authorities. Service Officers have been briefed and consulted. Risks will be reviewed upon confirmation of the final legislative package, with between 2 and 5 years for specific elements to be delivered at that point.

## 7 CONSULTATION

Principal Groups Consulted

7.1 Not applicable

Method of Consultation

7.2 Not applicable

Representations Received

7.3 Not applicable

Background Papers

Not applicable

Contacts for further information

**re3 Project Team**

Oliver Burt

re3 Strategic Waste Manager

0118 937 3990

[oliver.burt@reading.gov.uk](mailto:oliver.burt@reading.gov.uk)