

**TO: JOINT WASTE DISPOSAL BOARD**  
**21<sup>st</sup> September 2023**

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**Re3 ENVIRONMENT ACT REPORT**  
**Report of the re3 Project Director**

**1 INTRODUCTION**

- 1.1 The purpose of this report is to provide Members of the re3 Board with a briefing on the status of the three principal, waste management related, elements of the Environment Act 2021.

**2 RECOMMENDATIONS**

- 2.1 That Members note the contents of this report.
- 2.2 That Members indicate whether they would like officers to pursue the actions on DRS described at 5.17, or any others that the Board identifies.
- 2.3 That Members indicate their preference for actions designed to assist the consideration of a partnership policy on glass collections, as described at 5.36 to 5.38.

**3 ALTERNATIVE OPTIONS CONSIDERED**

- 3.1 None for this report.

**4 REASONS FOR RECOMMENDATIONS**

- 4.1 The purpose of this report is to provide a briefing for Members of the re3 Board, and the re3 Councils, on the status of the waste related elements of the Environment Act 2021.
- 4.2 Members are invited to consider whether to continue to pursue clarification on the impacts of a deposit return scheme (DRS). Seeking further detail may assist the councils in supporting residents, particularly those for whom DRS may represent specific access challenges.

**5 BACKGROUND**

- 5.1 The three principal elements of the Environment Act 2021 are as follows: (i) Extended Producer Responsibility (EPR), (ii) Deposit Return Scheme (DRS), and (iii) Consistency of Waste Collection. They are collectively named the Collection and Packaging Reforms (CPR).
- 5.2 At the time of writing, there remains considerable uncertainty about the status of each element of the CPR suite of changes.
- 5.3 Secondary legislation and statutory guidance, containing crucial details on operational requirements and funding, for all three elements, is awaited. The outcome of a 2021 consultation on the Consistency of Waste Collection element is also awaited.
- 5.4 On 20<sup>th</sup> July 2023, the Government's Infrastructure and Projects Authority (IPA) published its Annual Report on Major Projects for 2022/23. Alongside a wide range of major projects from across the range of Government Departments, the report describes

the CPR elements of the Environment Act as having a 'red' rating for its likelihood of achieving its aims and objectives. The report says that with a 'red' rating, the successful delivery of the project 'appears to be unachievable'. The relevant entries from the IPA report are copied at Appendix 1.

- 5.5 Despite the above judgement on the project status, the Environment Act represents a piece of prevailing legislation and has prompted considerable background work, in both public and private sectors, to prepare for a series of operational 'go live' deadlines. Officers therefore consider that it remains prudent to continue preparing for the introduction of the aforementioned three elements, whilst also ensuring that the re3 partnership continues to pursue local service improvements which meet corporate policy commitments and financial sustainability objectives.
- 5.6 This report provides the re3 Board with a status update, drawing upon salient information available to officers at time of writing, and identifying any actions for the councils now.

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

- 5.7 On 25<sup>th</sup> July 2023, the Government announced that it was deferring the commencement of EPR by a year, from October 2024 to October 2025.
- 5.8 A recently emerging detail, on EPR, relates to the payments, which are expected to be made to local authorities for the effectiveness and efficiency of the waste management process - principally the waste collection service and how the authority manages what it collects.
- 5.9 The Scheme Administrator, which will initially be a public sector body, will be able to reduce payments to an authority by up to 20% of the value it deems to represent an efficient and effective service cost. This would be triggered in the event of a local authority failing to adhere to an improvement notice – issued to authorities who fall below the best-in-class level of either 'efficiency' or 'effectiveness'. Such a facility, for payments to councils for a statutory service to be reduced by the Scheme Administrator, arguably creates an imbalance.
- 5.10 Private sector stakeholders, principally it seems the Reprocessors who will be paying for the material they place into use (they will be the 'Producers' in Extended Producer Responsibility (EPR)) have reportedly been lobbying Government to make it a condition of the EPR scheme that payments from them must be ring-fenced for use in waste management. This could mean a reduction in council autonomy.
- 5.11 Prompted by the mechanism of the 20% reduction, a council may find it is compelled to draw funding into waste management that would otherwise have been allocated to other services. Should ring-fencing of funds paid to councils, via the Scheme Administrator, the same council may be unable to reallocate resources in the opposite direction.
- 5.12 If the Scheme Administrator eventually becomes a private sector body, which is a distinct possibility, it is foreseeable that other contradictions and complexities could emerge. Where the public sector is a client, such as in the re3 contract and many other local authority arrangements, the differing perspectives of public and private sectors have demonstrably been able to work effectively. It remains to be seen what will happen if roles are reversed, with the private sector as effective client to local authority waste collection. It may be difficult for councils to achieve recognition for the delivery of services at a local level, in conditions where cost, whilst important, is often not the sole factor.

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

- 5.13 Members will recall that the DRS element of the Collections and Packaging Reforms (CPR) will see a c£0.20 deposit being added to the sale price of all in-scope plastic and metal drinks containers, at the point of purchase. To redeem the deposit, consumers will need to return the empty container to a reverse vending machine, for example at a store.
- 5.14 The government aspires to capturing over 90% of qualifying packaging by the DRS route, rather than via existing council collections. An early estimate of the impact, by the Contractor, indicated that the financial impact for the re3 councils from DRS could be as much as £654kpa.
- 5.15 Earlier this year, the re3 Board wrote to Rebecca Pow MP, Minister for Environmental Quality and Resilience, to raise a number of queries about DRS. They were as summarised, below:
- The apparent absence of an equalities impact assessment (EqIA) for DRS and concerns about fairness and accessibility for residents who are elderly and/or disabled.
  - Cost of living concerns relating to the application of a 'deposit' on top of the current sale price for items of packaging that fall within the planned scope of DRS.
  - Fair funding queries on behalf of councils.
  - Queries about the potential complexity for service users.
  - The environmental impacts of DRS, such as relating to litter.
- 5.16 The response from Minister Pow only superficially engaged with the reasonable queries raised by the re3 Board. Recognising this, at the June 2023 re3 Board meeting, Members asked officers to consider what more could be done to seek answers for re3 residents, and to enable the re3 councils to prepare for the commencement of a DRS.
- 5.17 The re3 Project Director made enquiries with senior colleagues within national bodies, related to local government and waste management. Their advice was as follows:
- (i) That the response from Minister Pow confirms that an EqIA is being undertaken and could therefore be investigated via a Freedom of Information (FOI) request, asking when it was, or will be, completed, and requesting a copy.
  - (ii) That the re3 councils could undertake to collect their own feedback on DRS, via our own surveys (e.g., using online forms) and/or via existing local forums and stakeholder groups.
- 5.18 Both suggestions could help the councils in seeking further understanding, on behalf of residents, and continue preparing for the DRS element of the Environment Act 2021.
- 5.19 The status of DRS remains unclear, it seems unlikely that it could operate in isolation from the delayed EPR element (discussed above). Furthermore, as is highlighted by the absence of reassurance to the re3 Board queries, it is not objectively clear that DRS has a functional and performance advantage when compared to existing, and optimised, local authority services. It may even have some disadvantages from the perspective of residents, taking into consideration the cost impacts of the deposit and the requirement to take items to a reverse vending terminal that can currently be collected, by the council, from home.
- 5.20 Members are asked to consider whether they would like officers to go ahead with the

two suggestions at 5.17, or whether there are other actions Members would like to pursue.

- 5.21 In a [report on the letsrecycle.com](https://www.letsrecycle.com) website (August 22<sup>nd</sup>, 2023), the British Retail Consortium (BRC), has been critical of the planning, preparation and deliverability of DRS.

- 5.22 The Director of Food and Sustainability at the BRC, Andrew Opie, is quoted as saying the following:

*“The proposed Deposit Return Scheme is costly, complicated and cannot deliver the step change in recycling needed to justify it. By driving up costs by almost £2 billion per year the government risks pushing up prices for ordinary households, just as inflation is coming down. Government must first introduce its household collection and packaging levy reforms so that it can assess the best way forward on a DRS. On its current course, it will be consumers who will pay the price of this unnecessarily hasty, expensive and complex scheme.”*

- 5.23 Retailers are a key stakeholder in the planning for DRS. It is at the point of sale that the deposit will be levied, and retailers will be required to host reverse vending machines. It is significant that the BRC has commented so directly about DRS because without their full involvement, it will be incredibly difficult for DRS to be introduced.

### **Waste Collection Consistency**

- 5.24 The Government has yet to publish the results of its consultation (in 2021) on the waste collection consistency element of the Collections and Packaging Reforms (CPR).

- 5.25 This element was intended to reduce variations in the method of service delivery between councils, and to make it a statutory requirement for councils to collect a wide range of materials for recycling at the kerbside. The list of required materials reads as follows:

- **Paper and card**
- **Plastic bottles, pots, tubs and trays**
- **Steel and aluminium tins and cans**
- **Food waste**
- **Garden waste**
- Glass
- Plastic wrappers, film, bags
- **Cartons**

N.B. Materials listed in **bold type** are those *already* processed through the re3 contract and collected by the councils. Members will be aware that a trial collection of ‘soft’ plastics (wrappers, film and bags) is commencing within the re3 area.

- 5.26 At its meeting on 2<sup>nd</sup> September 2021, the re3 Board reviewed the partnership position on the kerbside collection of glass. The text of the report and Minute are copied at Appendix 2. The re3 Board was concerned about how a glass collection could be funded and resolved to await further detail from Government on funding through the CPR.

- 5.27 At that time, it was considered only a matter of time before the Government would provide stakeholders (the wider waste management industry, local authorities, residents, producers etc.) with specific detail on how the full suite of changes under CPR will work. However, that has not yet proven to be the case and as described

above, the EPR elements are being delayed by Government for an additional year, to the winter of 2025.

5.28 EPR is the key to the waste collection consistency element, through the funding for collections that will flow through to local authorities (ultimately replacing existing funding sources). Accordingly, without EPR, the re3 councils remain in an uncertain position, no more informed than when they last considered the deliverability of a kerbside glass collection.

5.29 The composition of residual waste (for disposal) was analysed in 2022. It assessed the proportions of recyclable items that remained in waste for disposal, made available for collection by residents. Analysing residual waste is helpful in identifying where scope for improvement exists, alongside the collections of items that are successfully recycled.

5.30 The analysis showed how much glass remained within the residual waste. The results were as follows:

	(1) Residual Waste (t)	(2) Glass (%)	(3) Glass (t)
BFC	17,274	5.08	878
RBC	24,170	5.31	1,312
WBC	26,814	4.62	1,240

5.31 In aggregate, the re3 councils are collecting 3,400t (Column 3) of glass within the waste residents have put out for disposal. We know, from the amount collected from bottle banks, through the re3 contract, that residents are diligently recycling around 8,500t every year. Adding the two figures together provides a working estimate for the total amount of household glass bottles and jars, in the re3 area. We estimate that up to 71% of available glass is being recycled via the existing arrangements.

5.32 A further composition analysis exercise is being undertaken in 2023 and the results will be reported at the next Board meeting.

5.33 There are two ways that glass could be processed through the re3 facilities.

5.34 Firstly, it may be possible to make significant amendments to the material recycling facility (MRF) at Smallmead, in Reading. This could enable the councils to collect glass alongside other materials, such as plastics and metals. The Contractor estimates that such amendments would cost between £4 – 5m. The change would require sections of the material recycling facility (MRF) to be dismantled, and would require it to be expanded, this would reduce the storage capacity available to the councils (potentially impacting on business continuity). There would also be increased running costs from maintenance and likely a loss in income from the sale of glass and from other materials such as fibre (paper and card).

5.35 Secondly, glass could be collected separately and unloaded at the re3 facilities in both Bracknell and Reading - as happens with glass collected via the bottle banks. This approach would require no amendments to the facilities but may involve increased collection costs.

5.36 Providing an estimate of the cost of a glass collection would depend on several factors. If the councils wished to collect glass alongside other materials, it would probably require a significant change in collection method from those currently employed by the three councils. Glass could be collected with plastics and metals, from the kerbside,

with no concerns about quality. Assuming the engineering amendments had been made, those materials could then be sorted by the MRF. Fibre items (paper and card, and cartons) would need to be collected separately from the glass/plastic/metal collection, however. That is because glass (ground glass and shards) contaminates fibre products to the extent that it cannot be recycled. The waste collection consistency measures recognise that and specifically seek the separation of glass from fibre products. So, it is not likely that glass could simply be added to the existing kerbside collections. If glass was collected separately, it might be possible to collect it monthly, reducing costs. It may also be possible for the three services to work together, to some extent, to further manage the costs of collection.

- 5.37 It is clear that there is both: (i) considerable uncertainty surrounding the legislative status of a statutory glass collection and, (ii) the potential for considerable costs from introducing a collection, particularly in advance of any 'New Burdens' funding that may be available to the councils.
- 5.38 Accordingly, Members are invited to indicate the steps they would prefer officers (both from the re3 Project Team and the respective councils) to take in advance of the next re3 Board meeting in January.
- 5.39 Steps could include:
- Assessing what other councils, in a similar position, are doing.
  - Estimating costs for glass collection/s across the re3 area.
  - Assessing alternative means of delivery of a glass collection service.
  - Assessing the likely retention of current bottle banks.
  - Pursuing further information from the Government on the likelihood of glass collections being required, and when.
  - Assessing the potential for glass to be added to a DRS, thus duplicating and at the same time reducing the potential demand for a council collection service.
- 5.40 The outcome of the steps above, and any others identified by the re3 Board, would be presented to the re3 Board at its next meeting. This would allow the three councils to assess options and compare the benefits of providing that service against financial sustainability.

## **6 ADVICE RECEIVED FROM ADMINISTERING AUTHORITY**

### Head of Legal Services

- 6.1 None for this report.

### Corporate Finance Business Partner

- 6.2 None for this report.

### Equalities Impact Assessment

- 6.3 None.

### Strategic Risk Management Issues

- 6.4 None

### Climate Impact Assessment

6.5 None.

## **7 CONSULTATION**

### 7.1 Principal Groups Consulted

Not applicable.

### 7.2 Method of Consultation

Not applicable.

### 7.3 Representations Received



Not applicable.

### Background Papers

JWDB Legislation Update Report – 2nd March 2023

### Contacts for further information

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 	<b>Collection and Packaging Reforms</b>	<b>DEFRA</b> The three projects included within the Collection and Packaging reforms programme: Extended Producer Responsibility for packaging (pEPR), Deposit Return Scheme for drinks containers (DRS) and Consistency in Recycling Collections (Consistency) - will deliver significant changes to the waste collection and recycling sector including bringing benefits such as the creation of green jobs and significant carbon savings, contributing to Net Zero and outcomes in Defra's 25 Year Environment Plan.
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The red squares denote the rating for 2021/22 and 2022/23

The key for the ratings describes 'red' as follows:

**Red** Successful delivery of the project appears to be unachievable. There are major issues with project definition, schedule, budget, quality and/or benefits delivery, which at this stage do not appear to be manageable or resolvable. The project may need re-scoping and/or its overall viability reassessed.

## **Appendix 2 - re3 Board Meeting (2<sup>nd</sup> September 2021)**

## Kerbside Glass Recycling

5.8 At the re3 Board meeting on 23<sup>rd</sup> January 2020, Members undertook to consider kerbside glass collection following the important roll-out of new kerbside waste collections, for recyclables and food, that were planned for Bracknell Forest and Reading (earlier changes having been made in Wokingham).

5.9 Those service introductions were, as with the progress of the Environment Bill, delayed for a short period of time due to the Covid-19 pandemic. They have been successful in many regards and the appropriate focus of resources has undoubtedly been a factor. They are now nearing completion.

5.10 There remain many important aspects of the likely local authority obligations, from the Environment Act, that are still unclear.

5.11 As an example, it is not obviously apparent, from the impact assessments appended to the Government consultations, earlier this year, that protected characteristics such as age and disability have been given consideration in relation to DRS. The concern articulated in the re3 consultation response (and potentially other responses), was that there may be a large number of residents for whom accessing a reverse-vending location, and/or using a reverse-vending terminal, may be quite difficult.

5.12 It is hoped that when the consultations are fully analysed and their findings incorporated into future Secondary Legislation, such considerations will be addressed.

5.13 A business case for procuring vehicles and staff sufficient to serve all households in the three-council area, alongside a comprehensive DRS, would be unlikely to represent value for money. The two services would seek to capture the same source of material and would overlap, and duplicate effort, to a great extent.



5.14 It will be important for the re3 councils to ensure that any new service can be efficiently specified – both to ensure it serves the genuine needs of local residents but also to manage the potentially significant financial impacts.

5.15 As described above at 5.7, secondary legislation, drafts of which have yet to be made public, will determine the scale of any DRS. The legislative and strategic detail will need to be considered in a local context, alongside the specifics and timing of any ‘new net burdens’ funding. Once those essential pre-requisites for the re3 councils (and no-doubt many other local authorities across the country) can be put together, it will be possible to prepare a programme for a kerbside glass collection service.

5.16 In the interests of clarity, Members of the Board, on behalf of the re3 councils, are recommended to re-state their commitment to exploring kerbside glass collection when the aforementioned pre-requisites have been clarified by Government.

### **Minute of Meeting on re3 Board Meeting (2<sup>nd</sup> September 2021)**

RESOLVED that:

- i. Members note the contents of this report.
- ii. Members restate their commitment to preparing a service development programme, for kerbside glass collection, once there is clarity over the strategic status, scale and funding for such a service, as described at 5.15 in the report