

**TO: JOINT WASTE DISPOSAL BOARD**  
**11<sup>th</sup> January 2024**

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**re3 CONTRACT 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 Simpler Recycling.

**2 RECOMMENDATIONS**

- 2.1 **That Members note the contents of this report.**
- 2.2 **That Members agree to establish a working party, as described from 5.40, and request reports from each working party at every JWDB meeting.**

**3 ALTERNATIVE OPTIONS CONSIDERED**

- 3.1 The report explores the range of headline options but recommends that the re3 partner councils should work together to identify specific options and, ultimately, a preferred option.

**4 REASONS FOR RECOMMENDATIONS**

- 4.1 The recommendations reflect the briefing provided and ask the Board to establish a working party, from which future decision reports will emerge.

**5 BACKGROUND**

- 5.1 In December 2018, the Government published its Resources and Waste Strategy which revealed plans for a wholly new approach to waste management. A series of consultations followed.
- 5.2 In 2020, Government published its Circular Economy Package. It established the objectives of recycling 65% of Municipal Waste by 2035 and of reducing (to no more than 10%) the amount of Municipal Waste being sent to landfill by the same year.
- 5.3 The Environment Act was passed in November 2021. It incorporates a host of changes, for waste management, including: (i) the introduction of Extended Producer Responsibility (EPR) to fund recycling, (ii) the introduction of a deposit return scheme (DRS) for England, to capture plastic bottles and drinks cans, and (iii) originally under the banner of Waste Collection Consistency, now called Simpler Recycling, changes to improve the consistency of the way recycling is collected and the types of materials captured.

**Simpler Recycling**

- 5.4 On 21st October 2023, Government published its response to the consultation on Simpler Recycling.
- 5.5 Simpler Recycling is intended to provide a national standard for recycling which will remove some of the differences between council services and, it is hoped, lead to greater clarity for residents.

- 5.6 The Government response confirms the type of materials that will need to be made available for collection. It confirms the type of collection service that Government will support. It also confirms timescales for local authorities and for businesses (with exemptions for micro-businesses) to engage in the new collections. The specific details are shown at Appendix A.
- 5.7 Simpler Recycling will be supported by the Extended Producer Responsibility (EPR) regime (previously reported to the re3 Board). EPR is the mechanism which will generate funding for the services covered by Simpler Recycling. Under EPR, producers of 'in scope' packaging will be charged for the material they place on the market. The intention of the charge will be to cover the efficient and effective capture, for recycling, of as much of that material as possible.
- 5.8 It is widely expected that EPR will not cover full costs. The formulae that will be used to allocate costs and the mechanisms for assigning councils into broad 'nearest neighbour' cohorts will be supplemented by an assessment regime. It is understood that any authority that is not assessed as the 'best in class' will be at risk of receiving an improvement notice. Any authority receiving an improvement notice will be at an increased risk of receiving deductions in its allocated funding (of as much as 20% of the allocation). Any deduction would almost certainly hamper an authority in seeking to improve performance and may impact on corporate finances.
- 5.9 However, at present, councils in England do not know the scale of funding for the collection and processing of in-scope materials. They cannot compare future funding with their current financial status. They cannot scrutinise the formulae that will determine their allocation, nor assess how best to ensure their services meet the criteria for 'efficient' and 'effective'.
- 5.10 Defra has made some undertakings in relation to future funding. They include the following:

<b>Defra undertaking</b>	<b>re3 Commentary</b>
<i>Continue to engage [with stakeholders], with the aim to communicate to individual LAs a final estimated amount for the 2025/26 financial year by 1 November 2024</i>	Budget-setting is well underway, if not largely complete, by November, each year. This timescale is asking councils (already under financial pressure) to make considerable investments to achieve compliance, without an understanding of the relative levels of current and future funding. It may also compress the period within which investment can be made, so there is a mismatch between market capacity (vehicles, engineers, materials, receptacle) and market demand.
<i>Final payment will be confirmed in 2025</i>	This would leave about 1 year between funding and the commencement of the new compliance regime. As above, that may not be enough time to undertake works or buy vehicles. If there are adverse changes to the 'estimated amount' that may cause significant financial problems to councils.
<i>LAs will receive their first payments by the end of December 2025</i>	This is 8-9 months into the year to which the funding applies. Retrospective payment terms are not necessarily a problem, but

	they increase short-term financial uncertainty for local authorities.
<i>Payments intended to be made quarterly in arrears on a financial year basis (from year 2 of EPR)</i>	As above, retrospective payment terms are not necessarily a problem, but they only add to financial uncertainty for local authorities. Any inconsistency and/or inaccuracy of funding will represent a risk to local government.

5.11 The re3 Project Team has been working, with colleagues across the re3 councils, to prepare an annual Net Cost of Waste assessment. The re3 Project Team is also working with the Data Intelligence and Policy Team at the Administering Authority. In both cases there is an intent to move towards a state of readiness, for the re3 partnership, in relation to the reporting of data and ensuring an effective claims process for EPR funding.

5.12 Alongside the financial arrangements, described above, the principal elements of Simpler Recycling are focused on: (i) the type of items the councils must collect, and (ii) how those items are to be collected from residents and businesses.

5.13 Appendix 1 shows the range of materials that must be collected. This will, over time, ensure that all residents in England will have access to the same services.

5.14 There were previously three service archetypes, to guide the decision on how recycling is collected. That has been simplified, to an extent, in Simpler Recycling. Waste for recycling can now be collected comingled (all mixed together), which is how the re3 councils currently collect dry mixed recycling (DMR).

5.15 Government has also specified the frequency of collection for non-recyclable waste (or waste that is presented for disposal). The recent Government response says:

*We intend to include in statutory guidance that the minimum service standard should be that local authorities provide a fortnightly collection for residual waste (alongside a weekly food waste collection).*

5.16 The status of statutory guidance is understood. Authorities must have regard to statutory guidance (should take it into account). However, the parallel process of assessing 'efficient and effective' collections for the allocation of funding, through EPR, may penalise any authorities exceeding a collection of residual waste once every two weeks – despite a three-week cycle potentially being the source of enhanced efficiency and effectiveness. This is something to monitor closely.

5.17 The two material types for which a collection is not currently offered by the re3 councils are glass and flexible plastics. This report will now focus on the options for compliance relating to those materials.

**Kerbside Collection of Glass (packaging)**

5.18 Glass is a heavy material and a challenging material type, in terms of its properties and their impact on other materials and vehicles/facilities. Broken and ground glass is a known contaminant for other materials (fibre and plastics notably) and can cause damage to collection vehicles and sorting machinery.

5.19 As reported to the re3 JWDB in September 2023, the re3 Partnership is currently

capturing an estimated 77% of available glass. The re3 councils are collecting 8,000 tonnes per annum and the recent composition analysis estimates that 2,300 tonnes of glass bottles and jars remain within residual waste.

- 5.20 The task for the re3 Partnership will be to comply with the expectations of Simpler Recycling in a way which best balances: (i) the financial impact of the new service, (ii) the funding that is ultimately available (through Extended Producer Responsibility (EPR)), and (iii) the associated service outcomes such as resident utility, quality of recycling and sustainability.
- 5.21 There is likely to be considerable supply chain pressure, as councils across the country try to purchase new processing capacity, vehicles, receptacles.
- 5.22 The principal, headline options for the re3 councils are shown in the table, below (with more detail provided at Appendix 2).

1	2	3	4	5
Retain bottle banks only (no kerbside collection), until it is economic to change collection/ sorting	Separate collection of glass from the kerbside	Separate collections of Glass from the kerbside, arranged through the re3 PFI Contract.	Collect Co-mingled and undertake retrospective engineering to allow new mix of dry recycling to be sorted.	Collect Co-mingled but send all dry recycling to a merchant MRF that already sorts that material.

- 5.23 Option 1 recognises that Simpler Recycling will be based upon statutory guidance. statutory guidance is not legally binding and therefore a local authority would need to have regard for the guidance in service delivery but would not necessarily need to follow it. This is a genuine option because, as noted above, it is not expected that funding through EPR will cover all costs. If the re3 Partnership cannot identify a compliant solution that it can confidently invest in, the status quo should remain an option for an interim period.
- 5.24 Option 2 relates to the separate collection of glass. This would require the provision of additional vehicles and receptacles. Existing services would remain unchanged and so would the quality of the dry material collected. This option would likely be the best in terms of recycling outcomes, and for the optimisation of sales revenues, but would have an ongoing revenue cost.
- 5.25 Option 3 relates to the provision of a collection service through the mechanism of the re3 contract. There would need to be certainty, in procurement and legal terms, that this could be delivered but from a practical perspective it has some merit. It could be a single service, thereby avoiding the potential for excess provision (relative to three separate new glass collection services). It would reflect the fact that glass is the only material for which the re3 contract already provides the *collection* service (via bottle banks) and may be helpful in addressing any qualifying change in law (QCIL) complications that may arise from the new legislation.
- 5.26 Option 4 relates to the comingled collection of dry recyclables, including glass. This option would require considerable retrospective engineering of the re3 material recycling facility (MRF). The MRF would need to expand in size, with the addition of a mechanical glass-breaking process, new conveyor belts and optical sorting units. Those elements would significantly reduce (by as much as 50%) the space in which

recycling is received from the councils. It is likely that the comingled collection of glass would moderate some wear and tear on collection vehicles but would increase maintenance costs at the MRF. Material values and, for fibre and plastics particularly, the recyclability of dry recycling would likely be downgraded. From a resident perspective this would be the simplest option.

- 5.27 Option 5 assumes that dry recycling is collected comingled, including glass, but that the re3 councils and Contractor, send the mixed recycling to another MRF for sorting. Commissioning the sorting process from a merchant MRF, which already sorts glass, would avoid the initial capital cost of retrospective amendments but would have revenue and likely environmental costs. However, the space currently occupied by the re3 MRF may be repurposed to address other local imperatives – it would comfortably house a generously sized reuse and repair shop, alongside other activities. Storage of materials, shredding items that contain persistent organic pollutants (POPs), parking vehicles (that require charging), or a host of other potential activities, could all make purposeful use of the space.
- 5.28 Detailed assessment of the broad options will be required before the re3 partner councils can determine how to proceed. This is discussed in more detail, towards the end of this report.

#### **Kerbside Collection of Soft Plastics**

- 5.29 After glass, flexible plastics are the remaining material class that the re3 Partnership currently does not collect or process.
- 5.30 However, the re3 Partnership is currently one of 8 trials as part of a national programme to assess the impacts from collecting and treating flexible plastics. The trials, under a programme called Flex Collect, began in Reading for September 2023 and will extend to Bracknell Forest early in 2024.
- 5.31 There is insufficient capacity in the UK for processing flexible plastics, at present. The requirement to collect this material stream will inevitably prompt an increase in UK processing capacity and/or a change in its use as a packaging material.
- 5.32 The trials allow for some accurate data capture on processes and costs to be generated. At present the cost of recycling flexible plastics, as estimated by our Contractor, could be as much as £500 p/t. For comparison, that price is about three times the cost of disposal and would, at a national level be uneconomic to continue (and is most unlikely to be covered by EPR). If high costs remain, and recycling is unaffordable, a change in the use of the material/s is a potential outcome.
- 5.33 The learning from the 8 trials will be invaluable in preparing for the second phase of Simpler Recycling for households, from March 2027. The direct experience of collecting flexible plastics, and feedback from residents, will also be most helpful to the councils.
- 5.34 Unlike for glass, the impact on the MRF from processing flexible plastics will be more moderate. There is likely to be a need for some investment in sorting capability (more optical sorting technology and/or robotics) but it is unlikely to have the impact on the MRF that would be required to sort glass.

#### **Associated Developments**

- 5.35 On December 28<sup>th</sup> the Government published a consultation on reforms to the Waste Electrical and Electronic Equipment Regulations (WEEE) 2013. The consultation will

explore initiatives which may further extend Producer responsibilities (which are long established in terms of WEEE). The consultation closes on 7<sup>th</sup> March 2024.

- 5.36 Of specific interest to the re3 Partnership is the potential for there to be collections of WEEE from households across the UK. It is unclear whether that would be an obligation upon local authorities. Other measures include the potential for retailers to make ‘drop-off’ points available, in-store, for residents (apparently without the need to have bought a replacement product) and to extend the widely available offering of taking away an old item when delivering a new one.
- 5.37 Proposals emerging from the consultation will also extend to vapes, an area of interest for the re3 Board and the re3 councils.

### **Next Steps**

- 5.38 Given the complexity and uncertainty that remains, not least in relation to finances, the re3 Partnership may be well advised to approach compliance more as a journey than a single destination. Full compliance by the dates shown in Appendix 1 may not represent the best outcome for the councils and may not be possible, given the timescales that exist at the time of writing this report.
- 5.39 Of secondary, though still considerable, importance to the services delivered by the councils will be the need to report, backed by detailed evidence, council performance. This aspect will be important in supporting the councils in securing future funding.
- 5.40 It is advised that the re3 Partnership works together to assess options and identify actions and outcomes which are appropriate for residents and the councils. An intra-partnership working party could draw-in the experience and capacity of the full re3 partnership, maximising the potential for complementary and coherent solutions to be adopted by the partners.
- 5.41 Clause 6 of the Constitution of the Joint Waste Disposal Board reads as follows:
- The Committee may appoint working parties as it considers necessary to advise it in the discharge of its functions or to exercise those functions.*
- 5.42 In respect to the *functions* of the Committee, Clause 7 of the Constitution explains the following:
- The function of the Committee is to administer the operation of the waste disposal arrangements of the Councils in accordance with the Joint Working Agreement and in accordance with the Principal Contract...*
- 5.43 Accordingly, the establishment of any working party by the re3 Board (The Committee) might normally be contained only within the remit of the re3 Board. If consideration of issues outside the remit of the Board was required, as in the case of Simpler Recycling, it should be resolvable by the development of clear terms of reference for any working party, and with the agreement of the partner councils.
- 5.44 In the case of Simpler Recycling, the terms of reference would need to reflect the inherent fact that our waste services are a system and that, especially for unitary councils, the best outcomes have regard to both statutory functions, in balance. The Board could then consider system-wide evidence in the delivery of its function and (in any case) identify where any recommendations would be ‘plugged-into’ the existing decision-making structure at each council.

- 5.45 It is recommended that the three Assistant Directors, working together and with appropriate support from across the partnership, be tasked with developing a working party on re3 Partnership compliance with Simpler Recycling.
- 5.46 The working party should report to each meeting of the re3 Board and, in parallel to the senior leadership of the three councils. It will require dedicated officer time to undertake research and development and may need to call upon external support.
- 5.47 In parallel the re3 Project Team should continue its current work on data analysis, and the annual Net Cost of Waste assessment, to prepare the re3 partners for reporting requirements under EPR. This too should be reported to each meeting of the re3 Board and should feed into the preparations.
- 5.48 The WEEE consultation will close on the same day as the next JWDB (7<sup>th</sup> March). Officers will include a draft response for internal consultation, within reports to the Board.
- 5.49 At the previous re3 Board meeting (Sept 2023), Members asked the re3 Project Director to write to appropriate Government Ministers to enquire about plans for Extended Producer Responsibility (EPR). Most of the detail Members sought has been provided within the information released by Government on Simpler Recycling (such as the timings of payments, shown at 5.10, and in terms of the commencement dates shown in Appendix 1).
- 5.50 It is advised that any gaps in information that emerge through the work of the working parties be incorporated into future correspondence from the Board to Ministers.

## **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**

### Principal Groups Consulted

Not applicable.

### 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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## Appendix 1 – Simpler Recycling (When and When)

	<b>Paper and Card</b>	<b>Metal</b>	<b>Glass</b>	<b>Plastics</b>	<b>Food Waste</b>	<b>Garden Waste</b>
Included materials/items	All paper and card except: Paper and card that contains glitter or foil, is laminated, stickers and sticky paper, padded lined envelopes, paperback and hardback books, wallpaper.	<b>steel and aluminium tins and cans</b> , aerosols, foil, food trays, jar and bottle lids, tubes.	Glass packaging including bottles and jars.	Plastic bottles, ( <b>PET, PP</b> , HDPE), pots,tubs,trays (PET, PP, PE), plastic tubes larger than 50mm x 50mm, cartons, plastic film packaging (mono-PE, mono-PP, mixed polyolefins (PE and PP).	all food intended for human or household pet consumption and/or from the processing or preparation of food, including inedible food parts such as bones, eggshells, fruit and vegetable skins, tea bags and coffee grounds.	All organic material from the garden, except:  Ash, full-sized trees, invasive weeds and species, soil, turf cuttings and waste products of animal origin.
Non-household Municipal Premises:	31 <sup>st</sup> March 2025	31 <sup>st</sup> March 2025	31 <sup>st</sup> March 2025	31 <sup>st</sup> March 2025 (Film from March 2027)	31 <sup>st</sup> March 2025	-N/A-
Households	31 <sup>st</sup> March 2026	31 <sup>st</sup> March 2026	31 <sup>st</sup> March 2026	31 <sup>st</sup> March 2026 (Film from March 2027)	31 <sup>st</sup> March 2026	31 <sup>st</sup> March 2026
Micro-firms (those with fewer than 10 FTE employees)	31 <sup>st</sup> March 2027	31 <sup>st</sup> March 2027	31 <sup>st</sup> March 2027	31 <sup>st</sup> March 2027	31 <sup>st</sup> March 2027	-N/A-
Other comments			Options for this new collection are discussed within the report.	Cartons (e.g., Tetrapak) now to be included within plastics. This is now a most complex class of materials. It has been identified by Gov't as one: Plastics. It is actually 6-10 different materials across many different items.		Duty to collect garden waste only arises once the householder has requested its collection and has paid any charge. May recover a reasonable charge for collection under the Controlled Waste (England and Wales) Regulations 2012.

Materials shown in bold type (steel and aluminium tins and cans, PET and PP plastic bottles) are those which will also be targeted by a Deposit Return Scheme for England.

## Appendix 2 - Simpler Recycling - Implications of Compliance (Glass)

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	<b>Retain bottle banks only (no kerbside collection), until it is economic to change collection/sorting</b>	<b>Separate collection of glass from the kerbside</b>	<b>Separate collections of Glass from the kerbside, arranged through the re3 PFI Contract.</b>	<b>Collect Co-mingled and undertake retrospective engineering to allow new mix of dry recycling to be sorted.</b>	<b>Collect Co-mingled but send all dry recycling to a merchant MRF that already sorts that material.</b>
Compliance	Would not comply with Simpler Recycling. However, statutory guidance is not legally binding.	Separate collection is permissible under Simpler Recycling.	Separate collection is permissible under Simpler Recycling.	Co-mingled collection is permissible under Simpler Recycling.	Co-mingled collection is permissible under Simpler Recycling.
Extended Producer Responsibility (payments)	TBA. Possible this option would prompt a reduction in future re3 EPR payment. However, that may still be less costly than other options (within time window for contract change)	TBA dependent on criteria, which are unknown. Potential for partner councils to maximise efficiency of collection assets by working together. Possibility of some revenue costs being covered by New Burdens.	TBA dependent on criteria, which are unknown. Procurement advice needed. Glass is Contract Category A waste and the collection from bottle banks is part of the Services. May moderate contract change costs (Gov't is not going to support those).	TBA. Co-mingling would comply with the wording of Simpler Recycling (so may avoid any principled reductions in EPR payment. But the re3 partnership may take-on debt which has no compensatory EPR benefit.	TBA dependent on criteria, which are unknown. Business case to assess whether higher haulage costs and alternative use of existing facilities (this option) outweighs the avoidance of high capex cost of option 4.
Residents	No change from current service (77% capture). Would require justification, and may be a temporary step, but may help avoid impacts to other corporate services.	Additional to current 'dry collection' (which would be unchanged). Removal of most bottle banks. Frequency of collection TBA but increased utility for residents as glass collected directly from them. Extra receptacle.	Current services unchanged (with exception of bottle banks). Frequency of collection TBA but increased utility for residents as glass collected from them. Extra receptacle.	Increased service utility for residents, as glass collected directly from them.  Would likely require wheeled bins for recycling.	Increased service utility for residents, as glass collected directly from them.  Would likely require wheeled bins for recycling.
Facilities	No impact. Storage already in place at both sites.	No impact. Storage already in place at both sites.	No impact. Storage already in place at both sites.	Upgrade to current function of MRF. Retrospective works will use more space, reducing capacity to receive material. Likely reduction in quality of outputs (and income). Higher maintenance cost for MRF.	Use of current facilities for alternative treatment: POPs, shredding for EfW, Re-use shop, repair functions, material storage.
Collections	No additional collection vehicles needed. Potentially some additional haulage cost.	New collection fleet needed. Opportunity to moderate costs through frequency and/or by working together.	Single collection arrangement across re3 area (avoids potential duplication). Cost estimated and agreed alongside any QCiL negotiations.	TBA. Additional mass (of heavy glass) may require marginal expansion of fleet but some balancing loss of material via DRS. Working together essential.	TBA. Additional mass (of heavy glass) may require marginal expansion of fleet but some balancing loss of material via DRS. Working together essential.