

Somerset Waste Board meeting
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Report for information



National Consultations Update

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Forward Plan Reference:	
Summary:	<p>National Government is consulting on a Waste Prevention Plan and three other major consultations (collectively the 'collection and packaging reforms'):</p> <ul style="list-style-type: none">• Deposit Return Scheme (DRS)• Extended Producer Responsibility for Packaging (EPR)• Consistency in household and business recycling (Consistency) <p>The short consultation deadlines have closed for the DRS and EPR consultations, and this report updates members on SWP's response. The consistency consultation closes on 4 July and this report sets out the key aspects of SWP's proposed response.</p>
Recommendations:	<p>The Joint Waste Scrutiny Panel considers and comments on the following recommendations in this report.</p> <p>That the Somerset Waste Board notes the responses (submitted or proposed) to the national consultations and the potential impact on Somerset.</p>
Reasons for recommendations:	<p>Taken together the consultations will have profound implications for the waste and resources sector, and major financial, operational, customer and environmental implications for Somerset. All three consultations are inextricably linked - they aim to reduce waste and increase recycling by incentivising producers to reduce the amount of packaging (particularly hard to recycle packaging) that they place on the market, by increasing the financial burden brands will face for doing so. The consultations also aim to increase the ease by which consumers and businesses</p>

	are able to separate recyclable waste from non-recyclable waste through a combination of approaches, notably consistent waste collections, clearer labelling on packaging and the provision of return points for DRS drinks containers. National Gov't expects this to increase the proportion of municipal waste that is recycled to 61% by 2032 (compared to 45% nationally now) and increase the proportion of packaging recycled from 61% to 78% nationally.
Links to Priorities and Impact on Annual Business Plan:	Action 10.5 in the Business Plan 2021-26 (influencing national policy) set out that <i>"With major central government consultations expected, it will be crucial that SWP uses its reputation as a sector leader, and by working through national bodies and regionally."</i> Action 10.6 is about SWP's long-term strategy which as the board have noted, cannot be meaningfully developed until the national policy landscape is clearer.
Financial, Legal and HR Implications:	The consultations will have legal implications by requiring all local authorities to do different things. The legal status of statutory guidance is not clear. The financial implications of the changes will be significant, and SWP has worked closely with the sector and local government colleagues to raise our concerns about the financial implications of his package of policies, as set out more fully in section 1.2.
Equalities Implications:	Not applicable
Risk Assessment:	The risks and opportunities from the package of changes are significant, and are highlighted in sections 1.2 and 1.3.

1. Background

1.1. Context

In addition to the Waste Prevention Plan, Defra have published three major consultations (collectively the 'collection and packaging reforms') which will have profound implications on the waste and resources sector. These are the second consultations on these topics, and all flow from the Resources and Waste Strategy, which members may recall features SWP as a case study. One-page summaries of the content of these consultations are attached in appendix 1:

- 1) Deposit Return Scheme (DRS) for England, Wales & Northern Ireland
- 2) Extended Producer Responsibility for Packaging (EPR)
- 3) Consistency in household and business recycling in England (Consistency):

4) Waste Prevention Plan (Prevention)

All three collection and packaging reform consultations are inextricably linked, but government published them separately and on different timescales. With over 600 pages and almost 300 questions, the issues raised are complex. The DRS and EPR consultations are only 10 weeks long (they ended on 4 June) and the consistency consultation is only 8 weeks long (ending 4 July). SWP have fed back our concerns about the short and mis-aligned consultation timescales.

Whilst much of this paper focuses on what we think government should do differently, this should not distract from the fact that SWP are in a very strong position compared to many areas given our focus on quality kerbside sort, keeping materials in the UK, collecting food waste, and the range of materials we will collect once Recycle More is implemented. Whilst government is minded to require a maximum residual waste frequency of fortnightly, it is notable that this is not being consulted on, is not likely to form part of regulations, but instead will be in statutory guidance. As set out below, SWP is confident that the evidence from Recycle More shows that lower frequency residual waste collection, when combined with comprehensive weekly recycling services, can deliver better environmental outcomes at lower cost – something which we expect the producers paying for packaging recycling are unlikely not to support.

1.2. Key points of SWP's responses on DRS and EPR

The underlying principles of Extended Producer Responsibility (of which a DRS is a part) SWP supports – producers should pay the full net costs (but not have to overpay), the system should focus on quality not just quantity, resources and carbon rather than tonnage of waste should be at the heart of thinking, all parts of the system (from brands through local authorities to re-processors) are part of one system, modulated fees should drive better packaging design, and simple binary labelling (recyclable or not-recyclable) and consistency in what can be recycled should make things simpler for residents.

However, the detailed proposals do not always reflect these principles – everyone but producers is shut out of the governance model proposed, there is no clarity on whether net costs (especially transitional costs) will be funded, DRS offers poor value for money and is unlikely to increase quality or quantity significantly compared to kerbside sort. The key areas where we disagree with the Government's proposal are summarised below. Part 5 of Appendix 1 has a one-page summary per consultation of what we like and don't like.

1) Fair (and certain) funding

Whilst government has committed itself to funding the new burdens on local authorities and ensuring that producers pay the full net costs related to packaging, the consultation is very light on detail and it proposes that a producer led

organisation (the scheme administrator) has virtually full control of over £1bn payments to local authorities, and does not provide local authorities with the certainty of funding early enough to enable us to plan changes. There are no proposals to compensate local authorities like Somerset who could lose c£800k per annum from the sale of the high quality materials we currently collect which might be within scope of a DRS (despite the DRS scheme administrator potentially have hundreds of millions in unclaimed deposits). SWP has fed through our concerns to s151 officers of all partners, especially as some funding clarity will come through the Autumn CSR, where it appears that Government may offset the additional EPR funding (even though it is not certain) against future grant, and despite limited detail of the new burdens funding for consistency being available. SWP has also been instrumental in ensuring a joined-up approach across the local government family to challenging the approach proposed to be taken on funding.

2) Governance: meaningful LA involvement

It is proposed that a scheme administrator will run EPR and a Deposit Management Organisation will run DRS. There is no meaningful role for local authorities in the governance of either body, who together may be responsible for up to c£2bn of funding to local authorities. The long timescale for establishing these bodies (and hence providing certainty on the payments/details) leaves local authorities with limited time to plan the implementation of any changes. It should be noted that, once Recycle More is rolled out, SWP will collect all the materials (and more) required under EPR and DRS, other than plastic films where implementation is not expected until 2026/27. This puts SWP in a much stronger position than many other authorities. Whilst the DRS and EPR schemes will have significant impact on businesses across Somerset, there is no local accountability. There will be no visibility of a Somerset recycling rate, only a national one. Should take-up of DRS in shops be lower in parts of Somerset (e.g. our deeply rural areas) there is no accountability/involvement of local authorities.

3) DRS: delay and focus on litter

SWP remains constant in the position that we adopted in the first consultation and agreed with members, that a DRS is not necessary and as a minimum should be deferred. This position has hardened because a DRS looks particularly anachronistic in a post-Covid world (requiring people to visit a reverse vending machine/queue to redeem a deposit on something they can already recycle at home, especially when post-Covid habits and behaviours are unknown). The initial concerns we had – a lack of focus on the problem of litter, the risk of ‘packaging poverty’, ‘bin-diving’, the inflexibility and huge costs to businesses of the scheme, and the lack of evidence that it will drive higher recycling than EPR/consistency alone or deliver greater quality. It is also apparent from Government’s own Impact Assessment that the negative financial impacts on kerbside sort authorities from DRS will be much more significant than for other collection systems, despite government encouraging others to take up kerbside sort. There is no recognition that the losses of income

we would face are within the scope of the Government's 'New Burdens Doctrine'.

SWP already has a higher capture rate for glass (93%) than the DRS scheme aims to achieve (85%) and the glass reprocessing industry is clear that kerbside sort is likely to deliver higher quality overall than a DRS scheme. Gov't are also proposing a digital-DRS, and SWP in common with most LA associations will be recommending that this is more fully explored alongside the success of consistency and EPR before a DRS is considered.

If a DRS scheme is introduced an on-the-go scheme focussed on litter is the least worst option. Defra's own research highlights that whilst the public initially like it (74% in focus groups), but once they got into further detail, most questioned the benefits when there is already kerbside recycling – reflecting the position of much of the waste and resources sector.

1.3. Key points of SWP's proposed response on Consistency

SWP supports many of the proposals:

- having consistent collections of a core set of dry recyclable materials across the Country should reduce resident confusion and remove excuses from brands for mislabelling/not designing for recyclability. Recycle More includes all the materials (and more) that local we are expected to collect from 2023,
- an ambitious timescale should be set for adding further materials into the core set of dry recycling (particular films and flexible plastics),
- new burdens introduced by government should be fully funded,
- food waste collection should be the norm (like it is in Somerset) not the minority nationally,
- kerbside sort (like Somerset does it) should be what everyone does unless they can justify through a robust process why it isn't suitable in their local area,
- businesses should recycle much more than they currently do, and again the default should be to separate materials and recycle food (like SWP are proposing through the public sector waste project)
- local authorities have a potentially important role in zoning and other initiatives to support better and more cost-effective business recycling

However, not all aspects of the consistency consultation will work towards our aim of improved environmental outcomes, and so SWP's response will reflect the following concerns:

Free Garden waste

Whilst gov't is consulting on some other options (e.g. price-capping/encouraging home composting) their preferred option remains a free garden waste collection

service. In common with most other local authorities SWP oppose this because it moves away from 'polluter pays' principles, reduces incentive to compost at home, will divert garden waste from HWRCs, is inequitable in that it makes homeowners with no garden pay for those with a garden, is driven by weight chasing rather than focussed on carbon reduction.

SWP notes that restricting residual capacity will have a significant impact on driving garden waste from the refuse bin, combined with increased promotion and subsidy of home composting.

The concerns about a free garden waste service are strongly and consistently held across the Local Government family and we are working hard with others to build the evidence that:

- Government's impact assessment overstates the carbon benefit of a free garden waste service (e.g. due to capture rate assumptions, no assumed diversion from home composting, comparing it to landfill rather than the reality of EfW or other treatment options for most local authorities)
- That government's impact assessment understates the real costs of providing a garden waste service, and appears to only look at the direct costs (in effect subsidising a free garden waste service from other taxpayer/producer funded services)
- Challenging government's assumptions on the reduction in residual waste that could come from a free garden waste service
- Quantifying the inequity in making those without gardens subsidise those with who would make use of a free garden waste service
- Demonstrating that the cost per tonne of carbon saved from a free garden waste service offers very poor value for money compared to other potential uses of this funding. Looking only at what is in our residual waste, if you targeted materials based on carbon you would target textiles and not garden waste.
- Demonstrating that restricting refuse capacity can have a greater impact on recycling rates (and at much lower cost).

Statutory guidance (inc on residual waste frequency)

Government are asking for more evidence on the costs/vfm (though notably not the environmental outcome) but are minded to make two-weekly refuse collections the maximum set out in statutory guidance. It is opaque as to whether the costs that statutory guidance results in will be funded – either up-front when investment is needed or an ongoing basis (without other funding being removed), or the extent to which Local Authorities simply have to have due regard to it or must follow it. SWP, in common with most LA sector organisations will be highlighting that this should be a local decision, and sharing the considerable evidence that restricting refuse capacity (combined with comprehensive weekly recycling) is a very effective way of driving material up the hierarchy efficiently and effectively, and also sharing the results of our customer survey in Mendip to

provide evidence to fill the vacuum in evidence in the Govt's consultation paper.

Mis-alignment between the three consultations

There are a number of areas where the proposals between the DRS, EPR and Consistency consultations are potentially misaligned or not clear:

- Alignment between the written assessments required of local authorities under the consistency consultation to collect materials separately where 'technically, environmentally and economically practical' and the EPR scheme isn't clear. Whilst consistency sets out the legal requirements and the process to justify differences, it is not clear whether this will align with the scheme administrators view of what is 'efficient and effective' – i.e. they may disagree that something compliant with consistency is efficient and effective or alternatively may wish to be involved in the review of written statements which justify alternative approaches. Either way this will slow down the certainty of funding for local authorities and make it harder for LAs to deliver on the desired timescale. An example of this might be three weekly refuse collections – a producer led organisation may share the views of local authorities that as they are proven to deliver more quality recycling, that this is both efficient and effective, but such a refuse frequency may not be compliant with statutory guidance.
- The lack of detail provided means there may be a funding gap between what is legislatively required, what is deemed by producers to be 'efficient and effective' and an expectation gap for the public between what is set out in statutory guidance and what may be funded by central government or producers to deliver. This is particularly true when it comes to the transitional funding/funding certainty needed by LAs to commit investment. Local Authorities will not be able to judge what is economically impractical if they do not have clarity on their possible future funding streams.
- If an all-in DRS scheme is introduced and is effective reaching high capture rates, then this will significantly reduce kerbside tonnages and change the mix of materials. This will have fundamental implications and may mean that it is not economically practical for some authorities to move away from a commingled system – i.e. an effective DRS may result in fewer authorities moving to quality kerbside sort collections and have detrimental impacts on Gov't's ambitions as set out in the consistency consultation and the overall waste and resources strategy.

Recycling credits

The consultation invites views on the future of Recycling Credits. SWP will discuss this further with partners but our initial view is that if costs of collection and disposal are covered by EPR funding or new burdens (and that funding is provided to the partner that bears the cost) then this removes most of the rationale for recycling credits. Local arrangements for other materials should be adequate, especially as we expect more materials to be added into the gov't's core set in the future.

Other points of detail

There are other areas of detail SWP in which will set out our evidence of why the government's proposals are sub-optimal:

- The evidence that high food waste capture can be achieved without providing free compostable liners to all residents in perpetuity (especially when this proposal is only likely to be in non-statutory guidance – and hence an unfunded burden which raises public expectations),
- The proposal to require a compost stage in Anaerobic Digestion when the outcome could be better met by revising the relevant standards for compost (PAS110),
- Rejecting the assumption that cartons (Tetrapaks) should be in with plastics when we can collect them as a separate stream,
- Concerns about the timetable for introducing plastic film. Whilst this is something SWP are determined to do as quickly as realistically possible, the slow pace of funding confirmation/requirements on producers to ensure end markets are likely to slow this down.
- The issues that will come from a misalignment of business waste and household waste implementation timings,
- A lack of recognition of challenges in rolling out food waste to communal properties and hence the time it takes,
- A lack of a holistic view on the role of local authorities in supporting and enabling businesses to recycle more and better.

2. Options Considered and reasons for rejecting them

- 2.1.** SWP could not respond to the consultations of take a different position on key consultation questions, however to do so would not be in line with SWP's vision or business plan and is hence rejected.

3. Consultations undertaken

- 3.1.** Following consultation with SMG, Board and Scrutiny members, SWP's Managing Director took a non-key decision on our responses to the DRS and EPR consultations. SWP are also engaged nationally to influence the agenda – being invited to speak at numerous events on the consultations, attending discussions with Defra, and leading on the consistency collection response for Adept (the association of Directors of Environment, Planning and Transport – in turn working closely with other parts of the waste sector and the local government family. SWP has shared summaries of the consultations with all partners, encouraging other relevant parts of the public sector to engage in this, and also shared information with the FSB locally to encourage their members to respond.

4. Implications

- 4.1.** Should the consultation package result in policy/legislation/statutory requirement

on local gov't then there will be considerable contractual change as a result of EPR, DRS and elements of consistency (free garden waste, the introduction of films and flexibles, restrictions on local decision making around residual frequency. The package of reforms will also have significant financial implications – but there is too little detail in the consultations (or what funding might consequently be withdrawn from central gov't funding to Somerset authorities) to quantify this.

5. Background papers

5. Resources and Waste Strategy: [Click Here](#)

Consultations first round: [Click Here](#)

Appendix: include appendices from board briefing paper circulated on Friday 21st