

Delivering Scotland's circular economy: a consultation on proposals for a Circular Economy Bill

Circular economy strategy obligation

Proposal 1: Circular economy strategy obligation

1. Do you agree there should be a duty on Scottish Ministers to publish a Circular Economy Strategy every 5 years?

Yes

No

Neither agree nor disagree

2. Do you have any further thoughts on a statutory duty to produce a Circular Economy Strategy?

Due to the dynamic nature of the activities e.g., DRS and EPR, inputting to a circular economy, and the likelihood that revisions will be needed, particularly in the early days, consideration should be given to publishing a strategy every 2-3 years. To be reviewed going forward.

Statutory targets – consumption reduction, reuse and recycling

Proposal 2: Statutory targets – consumption reduction, reuse and recycling

3. Do you think we should take enabling powers to set statutory targets in relation to the circular economy?

Yes

No

Neither agree nor disagree

4. Do you have any comments in relation to proposals to set statutory targets?

No

Establishment of circular economy public body

Proposal 3: Establishment of circular economy public body

5. Should a dedicated Circular Economy public body be established?

Yes

No

Neither agree nor disagree

6. Please provide evidence to support your answer to question 5

In principle, as described in the documentation, there will be a requirement for a public body to undertake statutory duties. However, it is unclear what role the public body will undertake and what role ZWS will undertake. It is also unclear where ZWS Scotland's funding will come from given they have been handsomely supported by a European fund - how will Brexit affect this? Will ZWS become a public body and thus undertake this function.

There is a requirement therefore for a much clearer definition of how ZWS and the public body fit into the bigger picture and how their respective governance is defined and complimentary.

We feel that no more than a light touch public body will be required.

7. If a Circular Economy public body were to be established, what statutory functions should it fulfil?

This is impossible to answer until we know where Zero Waste Scotland (ZWS) will sit. If they remain separate to the public body then it would be natural that they continue their excellent work and undertake the "expert advice" role and continue to deliver circular economy initiatives and research programs.

Any public body would thus be a pared down organisation overseeing the delivery of statutory public functions and the meeting of targets.

Measures to ban the destruction of unsold durable goods

Proposal 4: Measures to ban the destruction of unsold durable goods

8. Do you agree that the Scottish Government should have powers to ban the destruction of unsold durable goods?

Yes

No

Neither agree nor disagree

9. Do you have any comments in relation to proposals to ban the destruction of unsold durable goods?

No

10. Are there particular product categories that you think should be prioritised?

Not specifically. We agree with the rationale to prioritise those goods that have the greatest environmental impact, and a robust system will be required to assess what are priority goods.

11. Are there product categories that should be excluded from such a ban?

Only products where destruction is the best environmental option.

There also needs to be a robust system in place to monitor retailers who use charitable options and where the final use and/or destination is unclear.

Environmental charging for single-use items

12. The previous consultation showed broad support for the proposal that Scottish Ministers should have the power to set charges for environmentally harmful items, for example single-use disposable beverage cups. Is there any new context or evidence that should be taken into account in relation to this proposal?

The overarching problem with this approach is how you define "environmentally harmful". We agree with the charge on single use beverage cups as they are largely an on the go product that is widely littered. We would support adding on the go fast food containers/packaging to this. There probably aren't too many other largely on the go products that are littered (if this is the criteria) that will not be covered elsewhere, e.g. by DRS or the ban on single use plastics.

Will ministers have the power to implement a charge for cigarettes to help prevent littering?

There is also a wider picture here. Does the charge include household products that have an environmental impact through their (general) non-recyclability.? The UK government has largely covered this in their Resources and Waste Strategy through EPR and the consistency of collections. There is some council collection systems in Scotland producing very poor quality material which requires addressing with far greater reaching legislation than environmental charging as outlined in the context of this document. How EPR money is used in Scotland will be critical.

13. Do you have any further comments on how a charge on environmentally harmful items should be implemented?

Yes, contribution through a modulated EPR as described above.

Mandatory reporting of waste and surplus

14. The previous consultation showed broad support for the proposal that Scottish Ministers should have the power to require mandatory public reporting of unwanted surplus stock and waste. Is there any new context or evidence that should be taken into account in relation this proposal?

No. It should absolutely be a mandatory requirement.

15. The previous consultation showed broad support for the proposal that food waste should be a priority for regulations. Is there any new context or evidence that should be taken into account in relation this proposal?

No. It should continue to be a priority alongside other priorities that need to be identified scientifically.

16. Are there other waste streams that should be prioritised?

Within the context of Scotland's Circular Economy ambitions outlined in this document, it is clear that methodology needs to be used/developed to provide a scientific approach to this. It is futile in our opinion asking respondents to randomly name priority waste streams.

Strengthening approach to household recycling collection services

17. The previous consultation showed broad support for the proposal that Scottish Ministers should have powers to place additional requirements on local authorities in order to increase rates and quality of household recycling. Is there any new context or evidence that should be taken into account in relation to the proposal?

No, albeit these powers now obviously have to be within the context of the forthcoming EPR system, DRS and consistency funding etc.

18. The previous consultation showed broad support for the principle that there should be greater consistency in household recycling collections. Is there any new context or evidence that should be taken into account?

UK EPR and consistency proposals as above.

It is important that the UK works in harmony in this context as the principles apply regardless of where you reside in the UK. Many collectors, processors and brokers are UK entities and it is crucial all parties in the UK are aligned so the same recyclable materials are designed, labelled, collected and processed in a consistent manner.

19. The previous consultation showed broad support for the principle of moving away from the current voluntary approach to Scotland's Household Recycling Charter towards a more mandated approach, whereby implementation of the Charter and its supporting Code of Practice becomes a statutory obligation. Is there any new context or evidence that should be taken into account?

None that we are aware of

The role of targets to support recycling performance

20. Do you agree that Scottish Ministers should have the power to introduce statutory recycling targets for local authorities?

Yes

No

Neither agree nor disagree

21. If you agree with Q.20, do you agree that Scottish Ministers should have the power to introduce and set financial incentives for local authorities to meet these targets, or penalties should these targets not be met?

Yes

No

Neither agree nor disagree

22. Please explain your answer

How local authorities use monies generated via the Scottish Circular Economy package allied to EPR revenue is absolutely crucial. A consistency approach is key to this as outlined earlier, but there are less tangible facts to consider. Wales, as outlined in the document, have been very successful in meeting recycling targets due to a number of factors - principally investment and consistency of approach which has been aided by a unitary local authority system which has had the commitment of the Welsh National Assembly. Scotland can replicate this to a significant degree,. However, there are also demographic factors in Wales and the significant amount of the population that live outside major towns and cities which has facilitated their recycling performance. The challenge for Scotland will be to address the population concentrations in cities, particularly Glasgow and in student areas such as Glasgow and towns with transient populations, as well as serving very remote communities. Getting these areas right is the key to success and requires the strong leadership of Scottish government. We are in absolute agreement though that best practice by local authorities must be strictly promoted and regulated and this should include carrots and sticks.

The Duty of Care for households

23. The previous consultation showed broad agreement that householders' existing obligations are not sufficient. Is there any new context or evidence that should be taken into account?

None that we are aware of

24. Do you agree with the principle that local authorities should have more powers to enforce recycling requirements?

Yes

No

Neither agree nor disagree

25. Please add any additional comments

EPR/consistency etc will undoubtedly have a profound effect on recycling performance. Communicating the requirements will be absolutely key. However, one of the principal reasons recycling rates have stalled in Scotland and indeed in other parts of the UK, is non-participation and incorrect participation - contamination is a huge problem and local authorities and industry has suffered as a result. Indeed often, the burden has fallen on collectors/processors/exporters to sort the problem but with a huge risk of enforcement action particularly for exporters. Scotland will continue to be reliant on the export market and compliant exporting is very healthy for the economy per se. However, markets are limited and risks are high if recyclates quality is poor and is why local authorities must have more power not only to force participation but also for correct (compliant) participation.

Innovation will be required in built up areas/flats, transient populations, HMO's and shared facilities.

Incentivising waste reduction and recycling (households)

26. Are there further powers, if any, for Scottish Ministers, and/or local authorities, that should be considered in order to incentivise positive household behaviours, to support waste reduction and increased recycling in Scotland?

None we can think of not outlined in the consultation and our response.

27. Are there any other legislative measures that you consider Scottish Government should take to strengthen recycling and reuse at a household level, helping accelerate the rate and quality of household recycling in Scotland?

None we can think of not outlined in the consultation

28. Please add any additional comments

Business recycling collection zoning

29. Do you agree with the principle of Scottish Ministers, and local authorities if appropriate, taking on the necessary powers to explore and trial commercial waste zoning approaches in Scotland?

Yes

No

Neither agree nor disagree

30. Please add any additional comments:

Commercial waste collections in Scotland are not a broken system, and smaller but efficient operators in Scotland will not want to see zones that remove competition and ensure only those with the deepest resources are able to tender for and service these zones. Zoning will reduce innovation, and the ability of all businesses to find efficiencies when providing collections to their customers.

It would also appear that the proposal to introduce zones is based on a piece of work by WRAP that claims 40% efficiency improvements. To my knowledge, no one in the industry has seen this report and been able to critically verify it, and indeed reports commissioned by industry on the subject of zoning have reported a much different situation when the full picture is taken into account. We thus believe that significant caution should be exercised when considering introducing such a massively impactful change to the current system based on one unverified piece of work. Likewise, drawing on experiences in other countries, e.g., the US is dangerous, particularly when reports for example in Los Angeles shows the scheme has been beset by problems.

The introduction of waste zoning will be catastrophic for small to medium recycling companies who are the backbone Scottish Government needs to achieve their ambitious circular economy proposals. The principle of zoning leads to massively reduced competition in the marketplace as it lends itself to the larger operators who have the capacity to invest and cover all the multitude of requirements for individual businesses at the expense of the smaller bespoke operator who are likely to lose their business as a result

If you reduce competition, you reduce choice and thus you increase price. This is why the UK operates strict competition laws and the principle of zoning, in our opinion, lends itself to a legal challenge. Notwithstanding this, it is unclear who will award the contracts to operate zones. It is assumed (as was the case in DEFRA's Consistency of Collections consultation) that this will be the local authority. This raises several significant problems, not least that the CMA and OFT have previously identified that local authority procurement processes can restrict or distort competition, leading to sub-optimal outcomes for customers. Given the unique nature of this tendering process and restraints imposed on public procurement processes, it is highly likely that the delivery model will strongly favour larger operators with the resources to participate in lengthy and cost intensive procurement processes. In this situation too, there are likely to be other unique and unprecedented challenges as local authorities would be seeking to evaluate and select waste contractors in circumstances where the local authorities were not the customers of the service in question. Furthermore, who would then be responsible for service provision in the event of default or even insolvency? Would this be the contractor delivering the service or the public body who appointed them? If a local authority exclusively controlled and operated a zone, how would you cater for industrial action that could conceivably mean no collections took place for a significant period of time, as we have recently seen elsewhere in the UK?

The principle of zoning overseen by a public body assumes that prices are fixed and follow an index related to a statutory price review. With most current arrangements, there is a significant degree of flexibility here if service requirements change. Zoning will make it very difficult to operate with any degree of flexibility to meet a plethora of potential changing service requirements e.g. The introduction of EPR and DRS and subsequent production changes,

Furthermore, the set up costs and subsequent management and administration for zoning would be huge. Who funds this?

It is also important to recognise that current waste collectors are not constrained by geographical areas and will route rounds to optimise collection efficiencies relating to improved commercial and environmental outcomes. Removing a major urban service would be catastrophic for route optimisation and the ensuing commercial and environmental performance. How would you arrange and fund rounds in orphaned areas where a contractor has to pull out because the round is no longer financially viable? Legally, this is the responsibility of the local authority as the collector of last resort. How will collections in these orphaned areas be funded?

How will you cater for seasonal rounds in a zone, such as holiday parks?

How would zoning work with current contractual arrangements? Would existing contracts be transferred to the exclusive zone contractor or would there be a transitional period where existing contracts would be allowed to continue until they expire? It is highly unlikely and a legal mine field if current contractual arrangements were terminated, so how would legacy contracts and new zone contracts sit side by side? Notwithstanding this, it is estimated that 90-95% of large national businesses contract centrally for their waste services to a single operator. Often, these are tied into a facilities management model which will also include cleaning or security for example. Flexibility and economies of scale are key to this model and it is highly likely that the award of a zone in a particular area of Scotland on the grounds of efficiency improvements, would negatively impact in an area elsewhere in Scotland or the UK as a whole. How will you assess and cater for reduced efficiencies and increased environmental impacts in other areas as a result? These national operators seek a one stop operator to deliver consistent quality to high levels of recycling and service KPI's with

comprehensive standardised reporting requirements. Zoning will likely negatively disrupt this efficient model.

We also have significant reservations as to how a trial could be set up. How would you compensate the current operators working in the trial zone, especially if the trial didn't work and they had to go back to their original arrangements? How would you overcome existing contractual obligations? What about producers that don't want to join the trial and how would you thus get a full picture? In short, we fail to see how a trial could ever work.

We also strongly believe it is counter intuitive to introduce zoning at a time when Scottish Government are introducing thousands and thousands of extra vehicle movements to facilitate DRS. Indeed, DRS will have a significant effect on the volumes of materials that are collected in zoned areas, making it very difficult to plan routes in a zone where the volumes are unknown until DRS is established.

Business collections do not need an overhaul, they just need a nip and a tuck to improve performance which might include an education/marketing programme delivered by local authorities or ZWS to improve separation and collection performance and encouragement to share facilities where appropriate, which will help to reduce vehicle movements. We also think Scottish government should take into account environmental innovations that are already rapidly coming into force, such as the electrification of vehicle fleets, smart container technology which ensures they are only emptied when full and artificial intelligence applied to compliance and the routing/tracking of vehicles and other efficiency concepts. Industry would, therefore, be very receptive to working with the Scottish Government to develop some minimum operational standards which could achieve many of the desired objectives for zoning - these could also include vehicle emission standards, duty of care and health and safety standards.

It is also very important that any changes introduced by Scottish Government are co-designed to produce a quality recyclates that complements the move to a resource efficient economy. For example, The Recycling Association, in conjunction with the Environmental Services Association, are currently working on achieving End of Waste status for paper and card. A significant part of this will be controlling the infeed to MRFs and processors. It is vital therefore that collection systems compliment this.

The concept of zoning was recently dropped by DEFRA following their Consistency of Collections consultation and we strongly urge Scottish Government to work with the research task force that will be set up by DEFRA to look at business collections in more detail, as we believe there are better outcome options out to assist businesses, which don't involve reducing competition. increasing costs, negatively impacting the environment outside of the zones and stymieing innovation.

Littering and Improving Enforcement

Littering and flytipping is a blight on local communities, damaging to the environment and a cost to taxpayers and businesses.

New penalty for littering from vehicles

Proposal 12: New penalty for littering from vehicles

31. The previous consultation showed broad support for the proposal that Scottish Ministers should have the powers to introduce a new fixed penalty regime for littering from vehicles. Is there any new context or evidence that needs to be taken into account?

None that we are aware of, but we wholly support this.

32. The previous consultation showed broad support for the principle that the registered keeper of a vehicle bears primary responsible for offences such as littering from or in relation to their vehicle (for example by passengers or people using that vehicle at that time). Is there any new context or evidence that needs to be taken into account?

None that we are aware of and don't foresee any other way of enforcing this.

Seizure of vehicles

Proposal 13: Seizure of vehicles

33. The previous consultation showed broad support for the principle that enforcement authorities should be given powers to seize vehicles linked to waste crime. Is there any new context or evidence that should be taken into account?

None that we are aware of.

Assessing impact of bill proposals

We are committed to assessing the impact of our proposals. This consultation marks the start of processes to assess the equalities, business and regulatory, and environmental impact of our plans in compliance with legislative requirements and, importantly, to inform the policy development process.

Equality

34. Taking into account the accompanying EQIA, are there any additional likely impacts the proposals contained in this consultation may have on particular groups of people, with reference to the 'protected characteristics' listed above?

None that we are aware of.

Business and regulation

35. Taking into account the accompanying BRIA, do you think that the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any business or sector?

As outlined in the section on Zoning, this strongly believe the introduction will increase costs and burdens for businesses through reducing competition and will wipe out many SME's offering collection services.

Children's Rights and Wellbeing Impact Assessment

36. Taking into account the accompanying CRWIA, do you think that the proposals contained in this consultation are likely to have an impact on children's rights and wellbeing?

Not that we are aware of.

Islands Communities Impact Assessment

37. Taking into account the accompanying ICIA, do you think that the proposals contained in this consultation are likely to influence an island community significantly differently from its effect on other communities in Scotland?

Not that we are aware of.

Fairer Scotland Duty

38. Taking into account the accompanying Fairer Scotland Assessment summary template, do you think that the proposals contained in this consultation are likely to have an impact in relation to the Fairer Scotland Duty?

Not that we are aware of.

Environment

39. Do you think that the proposals contained in this consultation are likely to have an impact on the environment?

If introduced carefully, they will have a positive overall impact on the environment. However, great care should be taken that the impact of all new proposals e.g zoning, EPR and DRS are taken into account as a full and mutually inclusive entity.

Conclusion

The focus of this consultation is to invite views on our planned approach to further developing a circular economy in Scotland. Together with the Route Map consultation responses will inform our policy on how this can best be achieved, including legislative changes which we intend to present for consideration by the Scottish Parliament.

However, in responding to this consultation, please do not feel constrained by the questions set. We appreciate some people will have a particular interest in certain areas. We would encourage you to respond to any or all of those areas where you feel you have a contribution to make.

We value your opinions and welcome your views on our proposals identified in this consultation document.

40. Do you have any other comments that you would like to make, relevant to the subject of this consultation, that you have not covered in your answers to other questions?

please specify

No

