

NATIONAL WASTE STRATEGY CONSULTATIONS

Head of Service:	Ian Dyer, Head of Operational Services
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	Yes
If yes, reason urgent decision required:	Deadline for EPR and DRS consultation responses is 23:45pm on Friday 4 June 2021. Deadline for Consistency consultation response is 23:45pm on Sunday 4 July 2021 – see report recommendation 4 re. separate approval arrangements
Appendices (attached):	Annexe 1: summary of EPR consultation responses. Annexe 2: summary of DRS consultation responses

Summary

The Government is consulting on elements of its Waste and Resources Strategy for England (the 'national waste strategy').

This report summarises the consultations for Extended Producer Responsibility (EPR) and Deposit Return Scheme (DRS), and the Council's proposed responses to them.

The report also notes a recently-published, third consultation, Consistency of Collections (Consistency), for which responses have not yet been compiled.

Recommendation (s)

The Committee is asked to:

- (1) Comment on the summaries to the Council's EPR and DRS consultation responses, as annexed to this report.**
- (2) Authorise the Head of Operational Services to submit the Council's EPR and DRS consultation responses, taking account of the Committee's comments and subject to the final approval of the Chair and Vice Chair.**
- (3) Note the Consistency consultation.**
- (4) Authorise the Head of Operational Services to draft and submit the Council's Consistency consultation response subject to the delegated approval of the Chair and Vice Chair.**

Environment and Safe Communities Committee

1 June 2021

1 Reason for Recommendation

- 1.1 These are statutory public consultations on elements of the national waste strategy that have direct and significant relevance to local authorities responsible for waste management.
- 1.2 The EPR and DRS consultations were published on 24 March and have deadlines for response of 23:45pm on Friday 4 June.
 - 1.2.1 The substantive EPR and DRS responses are complete. Summaries are annexed to this report.
- 1.3 The Consistency consultation was published on 7 May and has a deadline for response of 23:45pm on Sunday 4 July.
 - 1.3.1 Because it was only recently published, the Consistency response remains in progress, and has a later deadline. Therefore, a summary cannot be annexed to this report, and a separate approval process is proposed as per recommendation (4).
- 1.4 These consultations are full, public consultations to which any person or body may respond.
- 1.5 Links to the consultations, and to the full national waste strategy, are provided at the end of this report (section 7 'Background papers').
- 1.6 It may be noted that the standard twelve-week consultation period has been shortened to just over ten weeks for the EPR and DRS consultations, and to just eight weeks for Consistency. The government has stated that it is not possible to extend the consultations because time is tight to launch the initiatives concerned. Therefore, the government has refused repeated requests (including from the Surrey Environment Partnership) to provide the full twelve-week consultation period.

2 Background

- 2.1 Government published its national waste strategy ('Our Waste, Our Resources: a Strategy for England') in December 2018. It included two elements in line with the 'polluter pays' principle – Extended Producer Responsibility (EPR) and the Deposit Return Scheme (DRS):
 - 2.1.1 **EPR:** producers of packaging are to pay for its subsequent collection in councils' recycling, refuse and litter collections.

A 'modulated payments' system will incentivise low-volume, easy-to-recycle packaging with a high content of recycled materials.
 - 2.1.2 **DRS:** producers place deposits on drinks containers – cans, glass bottles and certain plastic bottles. Consumers will be able to redeem the deposits after use via 'Reverse-Vend Machines' in supermarkets and shops, etc.

Environment and Safe Communities Committee

1 June 2021

In a modern twist on the old 'pop man' idea, online retailers may be obligated to collect used drinks containers that they sold you, and give you the deposit.

Government is consulting on two potential versions of DRS:

- 'On-the-go': designed to combat littering.
- 'All-in': also covering drinks containers consumed at home.

2.2 Government first consulted on EPR and DRS in 2019. The Council's responses were approved by the Chair under delegated authority. In summary:

2.2.1 **EPR:** supported overall, subject to councils receiving full payments for packaging waste collected, via simple and transparent payment systems that are sympathetic to the needs of two-tier council areas.

2.2.2 **DRS:** neither supported nor unsupported overall.

DRS is complex, expensive and unproven in a UK context. High current kerbside recycling capture rates for drinks containers mean that 'all-in' would be largely substitutional for a system that works well already, and could prompt an increase in car journeys.

DRS runs counter to the waste hierarchy (reduce, reuse, recycle) by placing a financial incentive on recycling and thereby stimulating consumption rather than discouraging it.

Consequently, the Council response was equivocal, calling for a UK pilot before any decision and arguing that, if any DRS were introduced, it should be confined to 'on-the-go' and not 'all-in'.

2.3 These second, more technical, consultations on EPR and DRS were due in 2020 but were heavily delayed by the pandemic. However, we note that launch timelines are relatively unchanged, and many timelines are now very aggressive.

2.3.1 **EPR:** this second consultation asks many questions. It is largely technical, but also adds detail on some elements such as a retailer take-back scheme for disposable coffee-cups, and proposals for mandatory labelling (do or don't recycle).

Again, officers propose that the Council is largely supportive, while repeating the need for full, independent, simple and transparent cost mechanisms, and questioning launch timelines.

Annexe 1 provides a summary of the EPR consultation and proposed responses.

Environment and Safe Communities Committee

1 June 2021

- 2.3.2 **DRS:** officers remain sceptical of its efficacy in a UK context, and concerned by cost, complexity and potential for confusion (to consumers, producers, retailers and councils).

DRS has been described by the Environmental Services Association as 'the Emperor's new clothes'. Some feel that the effects of EPR and the 'Consistency of Collections' element of the national waste strategy (see below para. 2.4) should be assessed first before any potential need for DRS is considered.

The proposed Council responses reflect these concerns and assert the need for efficient and effective systems if any DRS scheme is introduced. Again, our proposed responses reflect the belief that the case for DRS is yet to be proven. But, if any DRS is introduced, we have argued again that it should be 'on-the-go' and not 'all-in'.

Annexe 2 provides a summary of the DRS consultation and proposed responses.

- 2.4 As noted above, Consistency is a third, major element of the national waste strategy. It is important that the Council also responds to this:

2.4.1 Consistency deals with what, and how, councils should collect for recycling. It proposes, for example, to obligate collections of foil, foil trays, plastic films/flexible packaging (e.g. crisp packets/pet food pouches) and cartons (e.g. TetraPak®) – none of which are easily recyclable now. And it consults on proposals for 'free' garden waste collections.

2.4.2 Regrettably, the Consistency consultation was further delayed and was only finally published on 7 May (with a response deadline of 4 July). This is problematic because there are synergies between all three strategies. For example:

- EPR underlines the Consistency strategy of councils collecting foil/plastic films etc.
- Combined, EPR, DRS and Consistency could significantly affect how much, and what types of, waste councils are required to collect in the future (and therefore how we should structure and resource our collections).
- EPR and Consistency will have a major impact on the need for reprocessing capacity, especially for newly-obligate waste (foil etc.) that is currently hard to recycle now, and hopefully within the UK.

Environment and Safe Communities Committee

1 June 2021

2.4.3 Because of the heavily-delayed Consistency consultation, and the sheer size of the consultations (all combined amount to over 600 pages and some 260 questions), at the time of writing it has not yet been possible to fully assess where any adjustments may be pertinent within EPR and DRS responses in order to properly synchronise with Consistency. Officers are continuing that exercise in order to ensure that responses to EPR and DRS are as fully-formed as possible before submission on 4 June.

2.4.4 The delayed publishing and 4 July response deadline of the Consistency consultation does synchronise with the Committee's schedule. Therefore, this report proposes that the Council's Consistency consultation response, which will be drafted by officers in due course, is instead approved by the Chair and Vice Chair by delegated authority (see recommendation 4).

2.5 Summaries of the consultations: Annexes 1 (EPR) and 2 (DRS):

2.5.1 Full draft consultation responses have been provided to the Chair and Vice Chair. However, because of the significant size of the consultations; the number and technical nature of the questions and the issue highlighted in para. 2.4.3, above, the full draft consultation responses are not reproduced here. Instead, they are summarised in the Annexes so that the Committee can understand and comment on the key themes.

2.5.2 Therefore, this report proposes that officers are authorised to respond to the consultations in detail, in line with the summaries and any Committee comments, with the approval of the Chair and Vice Chair.

3 Risk Assessment

Legal or other duties

3.1 Impact Assessment

3.1.1 It is not yet possible to fully understand the impacts of these changes. Proposals remain in consultation. For DRS in particular, we believe that there is a great deal to be understood about its efficacy. Some bodies believe that DRS will drive high recycling; others consider it will be confusing and regressive.

3.2 Crime & Disorder

3.2.1 None for the purposes of EPR.

3.2.2 However, our proposed DRS responses include reference to the threats of theft and fraud. These arise from digital-DRS proposals ('scan and throw') and the possibility of theft of DRS containers from residents' bins.

Environment and Safe Communities Committee

1 June 2021

3.3 Safeguarding

- 3.3.1 In respect of DRS, vulnerable residents may feel threatened by theft of DRS containers from bins. As mentioned above, this is commented on in our responses.

3.4 Dependencies

- 3.4.1 EPR, DRS and Consistency will combine to drive consumer behaviour and changes to council waste collections and funding.

3.5 Other

- 3.5.1 All councils will need to consider how these strategies might, and will, change the types and volumes of waste we collect. All impacts and risks flowing from this – such as the health and safety of operatives – will be considered in the normal way.

4 Financial Implications

- 4.1 Both EPR and DRS propose alternative funding methods for council collections of packaging waste and drinks containers. Government expects business to take over funding portions of our collections, rather than that money coming from Council Tax.
- 4.2 It is important to note that this is not new, or more, money. It is simply money from a different source with the purpose of stimulating less waste and more recycling.
- 4.3 Our consultation responses stress the need for councils to be fully funded by the EPR changes. We have highlighted the risk that government's modelling approach to calculating producer payments (as opposed to calculating the actual costs for each council) risks a shortfall versus current funding.
- 4.4 In any event, a key risk of both EPR and DRS is that councils may collect less recycling, and so be able to obtain less income from recycled materials. There may be a balancing benefit from reduced collection costs, but:
 - 4.4.1 The effect on collection costs cannot be assessed until we see the outcomes and actual effects of EPR, DRS and Consistency.
 - 4.4.2 We will still need to visit each household to collect some recycling. The overheads (vehicles, fuel, staff, bins) needed to do so mean that a % reduction in packaging waste may not result in the same % reduction in collection costs.

Environment and Safe Communities Committee

1 June 2021

- 4.5 We note the proposed obligation to collect new packaging materials (plastic pouches, etc.). In principle, any additional costs arising from new burdens such as this would be accommodated by the government's New Burdens doctrine. The impacts of any such changes will need to be assessed within any overall changes to collection services (including any requirements within Consistency).
- 4.6 We note that government proposes to pay councils that offer "efficient and effective" collections, but has yet to state what this means. We have also argued for a minimum payment to be made in any event, in view of our statutory obligations and need for budgetary stability.
- 4.7 **Section 151 Officer's comments:** The Government's Waste and Resources Strategy is expected to result in a significant change to the way in which local authorities receive funding for recycling, refuse and litter collection. The Finance team will work with Waste colleagues to ensure that the financial impact of any change is quantified and built into the budget setting process. The Council's consultation response will include feedback that any new responsibility ought to be supported by appropriate funding. Legal Implications

5 Legal implications

- 5.1 The waste strategies will be introduced by way of a series of primary and secondary legislation on waste resource efficacy. That includes the Environment Bill that, by the time the Committee meets, is expected to have passed the Parliamentary Report stage. The Council will comply with new and changing requirements once they become law.
- 5.2 These are public consultations. There is no obligation to respond; however, the Government's waste strategies have important implications for the Council. By participating in the consultations and tracking the passage of the Bill through Parliament the Council will gain important insight into, and contribute to the debate about, future changes in waste management requirements.
- 5.3 **Monitoring Officer's comments:** None arising from the content of this report.

6 Policies, Plans & Partnerships

- 6.1 **Council's Key Priorities:** The following Key Priorities are engaged: Green and vibrant.
- 6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan, which will require review once we know the outcomes of the national waste strategy.

Environment and Safe Communities Committee

1 June 2021

6.3 **Climate & Environmental Impact of recommendations:** The national waste strategy aims to increase recycling and reduce waste:

6.3.1 While the proposed consultation responses express reservations in some areas, it seems reasonable to expect that the strategy will achieve those aims.

6.3.2 But that does not necessarily mean that councils' recycling rates will rise. It follows that, if there is less packaging waste, and if DRS does divert drinks containers away from our bins, councils could actually see lower recycling rates than we see now.

6.3.3 Government will need to measure all of the strategy elements, combined, in order to measure success.

6.4 **Sustainability Policy & Community Safety Implications:** As above, the national waste strategy aims to improve sustainability. However, we must again assess the wait to see the combined effects will be, and how the Council will be affected individually.

6.5 **Partnerships:** As well as compiling Borough consultation responses, officers have worked with the Surrey Environment Partnership (SEP) to compile overall SEP responses.

It may be noted that, while there are some differences reflecting local views or interpretations, in general the responses are very closely aligned and are not different on overall thrust or direction.

As for the first consultations in 2019, SEP has been very clear in its recommendation that all boroughs and districts should also submit individual responses, so that the full range of views can be represented.

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- None.

Other papers:

- Government's has published its full national waste strategy paper online:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765914/resources-waste-strategy-dec-2018.pdf

Environment and Safe Communities Committee

1 June 2021

- Government has published its full consultation and Impact Assessments online:

EPR:

<https://www.gov.uk/government/consultations/packaging-and-packaging-waste-introducing-extended-producer-responsibility>

DRS:

<https://www.gov.uk/government/consultations/introduction-of-a-deposit-return-scheme-in-england-wales-and-northern-ireland>

- The New Burdens doctrine is also published online:

<https://www.gov.uk/government/publications/new-burdens-doctrine-guidance-for-government-departments>