

Annexe 1: summary of EPR consultation responses

Overview

Extended Producer Responsibility (EPR) follows the 'polluter pays' principle, and extends existing producer responsibility rules. There was much support for EPR in its first consultation in 2019.

Through EPR govt wants to achieve:

- Less unnecessary packaging.
- Packaging design improves: it becomes easier to recycle and is made of more recycled materials.
- People find it easier to know if they can recycle it (better labelling, easily-understood recycling options).
- Less litter from discarded packaging.
- The people who create the packaging (the producers) pay for it to be collected after use.

EPR is designed to complement other elements of the national waste strategy, in particular the Deposit Return Scheme (**DRS**)¹ and Consistency of Collections (**Consistency**)², and the Treasury's separate Plastic Packaging Tax, which has already been approved.

¹ Deposit Return Scheme (DRS) is a separate proposal that many types of drinks containers should be returnable via special recycling machines (e.g. in supermarkets), with the consumer getting a small deposit back (likely to be around as 20p per container) as a reward. Like EPR, the consultation for DRS was published on 24 March, with responses due by 4 June.

² Consistency of Collections (Consistency) is the part of the national waste strategy that deals with what, and how, councils should collect recycling. A second consultation on Consistency was published on 7 May (six weeks after the consultations for EPR and DRS), with responses due by 4 July.

The Council's response to the first consultation in 2019

The Council supported EPR 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.

What packaging is covered by the proposals?

The current producer responsibility system already covers **consumer-facing packaging** i.e. primary packaging (what touches or wraps the product) and household delivery packaging (e.g. Amazon boxes).

EPR proposes to extend that to include **transit packaging** as well (e.g. business to business bulk shrink-wrapping), and plastic films. And it proposes to extend EPR to **disposable cups** via a take-back scheme (i.e. coffee shops forced to have a take-back scheme both inside and outside each shop that would accept any cup, not just their own brand).

EPR does not propose to cover drinks containers that will be in scope of the Deposit Return Scheme (**DRS**). DRS will bring its own requirements to those containers (see separate consultation).

The key proposals

The proposals cover both household and business packaging waste.

Producers will pay for councils to collect packaging in recycling, refuse and litter collections. Producers will pay less if their packaging is easier-to-recycle and/or has greater recycled content. This is designed to increase recycling and reduce overall packaging waste.

Producers will be able to net the value of the recycled waste off their payments to councils. Essentially, this mirrors current arrangements whereby councils pay for the costs of collections but are able to reduce the cost by selling the collected recycling (see below for a further comment on this aspect within Surrey in particular).

There will be mandatory new labelling – including stating whether the packaging is not recyclable. The Environmental Services Association has stated that clear, mandatory labelling – that is consistent across EPR and the proposed, new Deposit Return Scheme – is one of the most important factors for the success of these new strategies. Consumers must find it easier to know what, and how, to recycle if we are to move forward substantially.

There is a proposal for mandatory take-back schemes for disposable cups (e.g. take-back points both inside and outside coffee shops).

There is an overlap with the Consistency of Collections strategy: through EPR councils will be paid to start collecting foil, plastic films (bags, crisp packets, pet/baby food pouches) and cartons. But there are questions over when that will be reasonable.

Will residents pay less?

EPR means that producers will pay the majority (but possibly not all) of councils' packaging collection costs (packaging in kerbside recycling, refuse bins and litter.). So there should be less Council Tax burden for residents for packaging waste collections.

That doesn't mean residents will pay less overall. Prices in the shops may rise to accommodate producers' EPR costs. What residents might gain in Council Tax they'll probably pay at the point of purchase. And some have raised concerns that EPR's contributions to litter-collection costs in some key locations (e.g. around dual carriageways, on private land and the coast) may add significant extra cost that consumers will pick up at the point of purchase.

Such features could make EPR regressive, with product price rises greater than benefit-discounted Council Tax reductions for the poorest. However, EPR does aim to reduce overall costs by reducing overall levels of packaging and making it more recyclable.

How will this impact the Council?

EPR is likely to work alongside gov't's Consistency and DRS strategies to reduce the amount of waste councils must collect, and make what we collect more recyclable. It seems that gov't expects EPR to do much of the work in this respect, through better packaging design – indeed, the word 'opportunity(ies)' appears in the EPR consultation ten times more than it does in the Consistency consultation (which speaks much more of burdens).

It is important to remember that EPR will only fund that portion of councils' collection costs associated with packaging waste. Other types of collections, such as food waste, garden waste or non-packaging refuse and recycling, will still need to be funded from traditional sources e.g. Council Tax. And this is not new, more money. It's just money coming from a different source.

What's in this second consultation?

The index of sections below highlights the subject areas being consulted on.

The consultation covers a very wide and detailed spectrum. Some questions are technical, and of fairly low direct relevance to councils, e.g. how producers interface with the regulator, or assessing the burdens on online marketplaces. We do not always have sufficient knowledge (or, in some cases, reason) to respond.

Other questions are highly relevant to councils, e.g. proposals on mandatory labelling; how should councils be paid?; should councils get paid for collecting packaging waste within litter?; should council payments be linked to recycling quality, or street-cleansing standards?; should councils be forced to collect plastic film?

Throughout the responses, we are arguing for simplicity, transparency and for councils to be paid as fully as possible for their packaging collection operations (in recycling, refuse and litter). It is essential that councils' finances are not impacted negatively by these changes.

Index of question sections

- Section 1. What government wants to achieve: packaging waste recycling targets
- Section 2. Producer obligations for full net cost payments and reporting
- Section 3. Producer obligations: disposable cups takeback
- Section 4. Modulated fees, labelling and plastic films recycling
- Section 5. Payments for managing packaging waste: necessary costs
- Section 6. Payments for managing packaging waste from households
- Section 7. Payments for managing packaging waste from business
- Section 8. Payments for managing packaging waste: data and reporting requirements
- Section 9. Payments for managing packaging waste: reporting and payment cycles
- Section 10. Litter payments
- Section 11. Scheme administration and governance
- Section 12. Reprocessors and exporters
- Section 13. Compliance and enforcement

General themes of the Council's responses

1. We remain generally supportive. The proposals follow the 'polluter pays' principles and are reasonable in intent. We agree that both domestic and business waste should be in scope of EPR.
2. Government is promising 'Full Net Cost Recovery' whereby producers pay the Borough's packaging collection costs. But it acknowledges that doing so will be complex, so proposes a payment modelling process. We are concerned this could lead to less than Full Net Cost Recovery and a continuing burden on Council Tax payers.
3. We are generally supportive of proposed payment processes, and what they might cover:
 - a. We have stressed the need for simplicity, timeliness and transparency in payments to councils. And for the Scheme Administrator to be independent of producers (as opposed to a business-run compliance scheme).
 - b. We need to understand how process for the netting of material values off the money producers pay to councils will work in Surrey's two-tier situation, where currently the Borough collects the waste but Surrey County Council owns the risk and reward of its market value.
 - c. Government says payments will be made for "efficient and effective" collections. It seems reasonable that producers would not wish to pay for collections that are not. But we need clear guidance on what "efficient and effective" means. We assume a link to the Consistency strategy, but that is not explicitly stated.
 - d. We have argued that, in any event, councils should be guaranteed a minimum proportion of their costs in view of our statutory duty to collect and need for budgetary stability.
 - e. We are concerned that proposed street cleansing quality thresholds for litter collection payments could require significant resources to measure.
 - f. We agree that community litter-picking groups should be able to bid for funds from EPR.
4. We are generally supportive of proposal for how EPR should be administered:
 - a. But we have argued that the Scheme Administrator should be independent of producers.
 - b. And we have argued that its functions should be largely dictated by government (as opposed to a heavy reliance on tendered proposals). We have responded that we need to know more before we can comment authoritatively.
 - c. We have argued that the term of the Scheme Administrator contract should be long enough to provide certainty for it, producers and councils.
 - d. We have expressed concern that the timeline for setting up the Scheme Administrator is highly ambitious (see also point 13).

- e. We are concerned about longer-term 'zoning/franchising' proposals for the collection of business packaging waste (certain waste collections contractors being permitted to operate in specified geographical zones). These seem anti-competitive and ignore councils' own business waste collections.
5. We have argued for strong, transparent, regulated compliance enforcement with meaningful penalties.
6. We support proposals to obligate online marketplaces under EPR, because they have significant market impact.
7. We support proposals that certain products must be sold in reusable packaging, and that the Scheme Administrator must invest in the development of reuse systems.
8. While we support the introduction of a mandatory disposable paper cup (e.g. coffee cups) retailer take-back scheme, we comment that these remain hard to recycle so would be better banned in favour of easier-to-recycle products.
9. We support proposals for mandatory labelling (do/do not recycle) on the proviso that they are consistent across all producers and across the Deposit Return Scheme as well.
10. We are concerned to ensure that the difficulties of recycling bio-plastics are reflected in labelling regulations:
 - a. Consumers understandably see them see them as similar to standard plastics, and recycling confusion can arise. But their recycling processes are not complementary and they must be disposed of separately.
 - b. Therefore, labelling must be clear (do not recycle).
 - c. We are concerned by proposals for the recycling of bio-plastics at 'closed-loop' events such as bounded music festivals, which present the threat of bio-plastic 'leaking' into standard plastic recycling systems.
11. We are concerned that new materials, such as cartons and plastic films/pouches, should become in scope of EPR until stable and cost-effective recycling markets have been developed. We should not collect something 'for recycling' if it actually can't be. And any new collections (including effects of the Consistency strategy) must be subject to assessment under the New Burdens doctrine.
12. EPR will require new waste sampling regimes (to identify what packaging is being collected, including with refuse and litter) but we have been unable to offer views on some questions around this until more detail is known and cost/operational implications can be assessed. Note: this will affect Surrey County Council more than the Borough, because sampling is suggested to take place at tips.
13. We are concerned by the launch timeframes. This is a big, complex project that involves new legislation, the setting up of a brand-new Scheme Administrator and has many implications for producers and councils. Government has (understandably) delayed this second consultation by over a year, but the project timescales have not

changed. One industry body has called the timescales “absolutely bonkers”. We, too, are concerned that the lead times are simply too short to be practicable.

END.