

Extended Producer Responsibility on Packaging (pEPR)

Summary and Recommendations

This paper informs members of the UK wide Extended Producer Responsibility on Packaging (pEPR) and its anticipated impact on Councils.

The Board is invited to:

- i. Note that pEPR is expected to bring revenue to Councils;
- ii. Agree the position in paragraphs 11-16 and especially:
 - request that pEPR income recognises the geographical and local complexities of Scotland and presents full net cost recovery for Councils on relevant services; and
 - request that the powers of a System Administrator for pEPR provide for maximum respect for local decision making.

References

Previous relevant reports include:

- Environment and Economy Board April 2021 – Waste Management
- Environment and Economy Board February 2022 – Waste Policy
- Environment and Economy Board April 2022 – Waste Policy Environment and Economy Board October 2022 – Waste and the Circular Economy
- Environment and Economy Board November 2023 - Extended Producer Responsibility (Packaging)

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Extended Producer Responsibility on Packaging (pEPR)

Purpose

1. This paper provides an update on the UK wide Extended Producer Responsibility ¹on Packaging (pEPR) and its anticipated impact on Councils.

Current COSLA Position

2. A UK wide Extended Producer Responsibility on Packaging (pEPR) provides for all UK local authorities receiving revenue from a UK wide System Administrator for costs incurred in managing packaging waste, and for this to be funded through a levy on producers that use packaging for the sale of their products. The development of pEPR is overseen by all four UK nations.
3. The Board adopted a position on pEPR in November 2023 on the role of local authorities in a new pEPR. It asked that local authorities are fairly reimbursed for their processing their packaging waste and raised concerns around the proposed powers of a System Administrator that will be established to run the scheme. The Board also our endorsed our formal response to the UK Government's consultation on the Statutory Instrument (Draft producer responsibility obligations (packaging and packaging waste) regulations), which is based on the general policy principles of this Board and the 'Waste Thinkpiece' that was approved by the Board in 2023. The Board received a further verbal update in December 2023.
4. Importantly, the Board decided that any revenue from pEPR is paid directly to Councils and that this must not be deducted from the Scottish Local Government Settlement.

What is Changing?

5. Design work on the new pEPR is now under way, along with cost modelling across UK local authorities. Relevant notices have been lodged with the European Union and the World Trade Organisation. We have worked with Defra and Scottish Government to ensure that sample Scottish authorities chosen for this exercise present a fair representation. We are currently awaiting the draft outcome of the UK wide modelling and will probe this with the help of Directors of Finance for representing fair assessment of net costs for all Scottish Councils.
6. A recent Impact Assessment by UK Government put the Net Benefit (Present Value) across the UK at £12m over 10 years and the associated Local Authority benefit across the UK at £9,573m, resulting from a transfer of Local Government costs for the collection, sorting, treatment and disposal of packaging waste to producers.

¹ [Packaging and packaging waste: introducing Extended Producer Responsibility - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/packaging-and-packaging-waste-introducing-extended-producer-responsibility)

7. The principle of direct reimbursement of any payments from the pERP System Administrator has now been established, and this was an important ask of this Board. We have also been reassured that the administrative costs incurred by Councils in running the scheme and providing relevant data to the System Administrator will be reimbursed through pEPR payments, and this is part of our ask for comprehensive reimbursement to Councils.
8. There are important remaining issues of importance to Councils in two elements of the scheme. Firstly, local authorities across the UK will be reimbursed for their costs according to what is deemed an effective and efficient service. Secondly, the System Administrator will have powers in future to withhold up to 20% of payments to Councils, where these provide services that are deemed to lack in effectiveness and efficiency. The System Administrator would also in such cases issue improvement plans.
9. COSLA has had significant engagement with DEFRA, Scottish Government and our sister associations LGA, WLGA and NILGA, to ensure that this Board's position and local government interests are strongly represented. Given that pEPR is a UK wide system, we had a specific focus on ensuring that the particular challenges faced by Scottish Councils are taken account of, both in terms of geography and housing type.
10. Defra has set 2025 as the date for the scheme's commencement. We understand that Councils will be provided with indicative funding amounts later in 2024, with first direct payments being made by the Scheme Administrator during 2025-26. The introduction of reimbursements to Councils in line with effective and efficiency metrics is planned for 2028. Important decision will be taken between the four UK nation's governments on the establishment of the System Administrator, models of cost reimbursement to Councils.

COSLA Position

11. We welcome, as stated previously, pEPR as a means to drive waste reduction, increased recycling, circular economy practices and as an implementation of the 'polluter pays' principle and we are clear that any such system requires compromise across industry, producers, waste management companies and local authorities.
12. We welcome the decision amongst the four nations that ensures that all efficient and effective calculations must take account of national policy requirements. We are reassured that the cost of administering the system within Councils is part of cost recovery.
13. We believe that all Councils are entitled to full net cost recovery. If any modelling or effective and efficiency calculations are used, these must take account of:
 - geographical and local circumstances and potentially higher costs arising here;
 - effectiveness and efficiency across all waste streams that Councils deal with;
 - material quality arising from kerbside collections;
 - the Scottish Household Recycling Charter and its Code of Practice;
 - local decision making.
14. We believe that the powers of a System Administrator with respect to Councils should be kept to a minimum, and that it must not duplicate local government audit and improvement functions already in place. We object to a System Administrator

issuing improvement notices, especially where these do not take account of how packaging waste is managed across the wider waste and recycling stream. Equally, there needs to be a straightforward and inexpensive way that allows individual local authorities to challenge decisions by the System Administrator. The burden of proof should lie with the latter, given the significantly different level of expertise and the resource intensity that a challenging a decision by the System Administrator would involve.

15. Any gap in finance between full net costs incurred by Councils, and pEPR payments received by Councils, will reduce our scope in contributing to the policies and actions set out for the Scottish Government's Circular Economy route map, and might, at times, run contrary to our recently agreed joint improvement focussed action programme.
16. We remain firm in our position previously adopted that all revenue received from pEPR must not be taken off the Local Government Settlement.

Next Steps

17. We will continue to work at officer level to seek traction for our position, and work across the four nation's local government associations for impact, and liaise with Directors of Finance, SOLACE, Waste Managers and Scottish Government and Defra.
18. With members' agreement of the above position, the spokesperson for this Board will seek a meeting with the relevant Minister to relay the position of this Board and press home the potential impact on the quality of waste and recycling performance in Scotland.