



Delivering Scotland's circular economy – A consultation on proposals for a circular economy bill

CONSULTATION RESPONSE

Introduction to Scottish Environment LINK

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 40 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Its member bodies represent a wide community of environmental interest, sharing the common goal of contributing to a more sustainable society. LINK provides a forum for these organizations, enabling informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for the environment. Acting at local, national and international levels, LINK aims to ensure that the environmental community participates in the development of policy and legislation affecting Scotland.

LINK works mainly through groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits. This consultation response was written by LINK's Economics Group and is supported by the members listed at the end of end of the response. Individual LINK members are also submitting responses, which will contain additional detail in specific areas.

Summary of key points

LINK members welcome the Scottish Government consultations on a circular economy bill and route map subject to our detailed responses. We welcome the acknowledgement in the consultation documents of the impact that our over consumption of raw materials is having on climate and nature and that this is urgent. We also welcome the suggestion that Scottish Government is willing to use all levers available to steer our economy to one that is more circular, and would urge you to follow through on this; noting the positive precedent of the exclusion to the UK Internal Market Act (2020) in the banning of single use plastic items. Summary of key points:

- **Circular economy targets and strategy.** LINK members are pleased to see consumption based targets and a 5 yearly strategy proposed. We would like to see more ambition with the CE Bill introducing statutory targets to reduce Scotland's material footprint to 8 tonnes per person per year by 2045 and Scotland's carbon footprint to zero by 2045. The proposed CE Strategy must set out the policies and proposals by which Scottish Ministers intend the consumption-related targets to be met. Ministers should also be required to report regularly on the implementation of the strategy and progress towards the targets.
- **A duty on public bodies.** The Bill must include a duty on public bodies to act in such a way as to contribute to the new CE targets.



- **Procurement.** There needs to be a more robust approach to the role that procurement plays, ensuring that it is the norm for public spending to align with CE principles. This may require changes to procurement legislation.
- **Soils and primary production.** Renewable materials and the food we eat need to be produced in a circular way, which means attention to soils and the inputs to food and fibre production. A commitment to restoring and looking after our soils and a Soils Plan must be included in the Circular Economy bill.
- **Embedding re-use.** The proposals are lacking in how to embed re-use and encourage repair. We make several suggestions for incentivising repair and mainstreaming re-use.
- **Harmful materials and substances.** Upstream measures are required to tackle the leakage of micro-plastics and harmful chemicals into the environment. The proposals should provide pathways to addressing these problems.
- **Urgency.** Although, we want to see policy based on science, this needs to be balanced with the urgency of climate change and biodiversity loss; and we would therefore ask the Scottish Government to introduce more ambitious time frames where possible.

Circular economy bill consultation questions

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

- A) Yes
- B) No
- C) Neither agree nor disagree

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

LINK members think that such a Strategy should be on a par with the Climate Change Plan in terms of scrutiny. The Strategy must set out how consumption and other CE targets are going to be met, measures to address harmful materials and chemicals and obligations on different sectors. Sector level plans should be included as part of the Strategy and align with Just Transition Plans. There needs to be associated investment and the first strategy should be published by the end of 2023.

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

- A) Yes
- B) No
- C) Neither agree nor disagree

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

LINK members think that statutory consumption targets need to be set as soon as possible. New targets should include material and carbon footprint targets to drive policy to reduce our overall consumption of raw materials, especially those that have the biggest carbon impacts. These targets should be set in legislation as part of this bill.



Scotland should adopt a target to reduce Scotland's carbon footprint to zero by 2045¹, with an interim target to reduce Scotland's carbon footprint by 75% by 2030 based on 1998 levels.

Scotland should adopt a materials-based target to reduce Scotland's material consumption by 57% (to 8 tonnes per person, considered sustainable levels and already achieved by the Netherlands²) by 2045, with an interim target to reduce material consumption by 30% (13 tonnes per person) by 2030 based on 2017 levels, using Scotland's annual publication of its Material Flow Accounts.

LINK members would also like to see a reuse target and a more ambitious food waste target of 50% by 2030.

The Bill must include a duty on the relevant minister to report annually on the new CE targets.

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

- A) Yes
- B) No
- C) Neither agree nor disagree

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

Transitioning to a circular economy is critical for many reasons as outlined in the consultation document. It therefore warrants a dedicated and fully accountable public body with the associated governance.

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

It is important that advisory, regulatory and delivery powers should be separated – see LINK publication Governance Matters³. LINK members think that the Circular Economy public body should be an advisory body, like the Scottish Land Commission. Regulation and executive functions should be carried out by Scottish Government, Local Authorities and SEPA.

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

- A) Yes
- B) No
- C) Neither agree nor disagree

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

The scope should be widened to include a ban on destroying any returned goods that are reusable.

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

This should be implemented as widely as possible. If a phased approach is necessary, the product groups with the highest life-cycle carbon impact and other environmental and social impacts should be prioritised.

¹ The carbon footprint is distinct from the territorial emissions for which we have the existing net-zero target. The footprint includes the emissions that go into producing the goods and materials we use and consume, irrespective of where they occur – many of these emissions occur in other countries where materials are mined and processes and products we use are manufactured.

² <https://ec.europa.eu/eurostat/web/sdi/responsible-consumption-and-production>

³ <https://www.scotlink.org/publication/governance-matters-the-environment-and-governance-in-scotland/>



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

No, nothing should be excluded unless the products is unsafe to use for some reason.

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?

Other countries have moved ahead and introduced charges on single-use cups and food containers such as Estonia and Spain (upcoming).⁴

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

Given the purpose of introducing such a charge is to influence consumer behaviour and reduce the consumption of particular products, care needs to be taken to prevent consumers from switching to equally or more environmentally harmful alternatives. This may involve parallel interventions to complement the charge in achieving its aims. For example, LINK members think that in parallel with introducing a charge on single-use cups, there needs to be government led intervention to encourage re-useable cup deposit schemes, and, further, single-use crockery and cutlery needs to be banned from closed settings.

When a charge is implemented, it should be done so as comprehensively as possible.

Given this was consulted on previously and the urgency we face, secondary legislation should be introduced in this bill to implement the above measures.

As a general principle, if a charge is for packaging or something that is typically sold together with something else, the charge should be applied in a cost neutral way, such that the total cost remains the same but is split between the cost of the package and the cost of the contents.

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?

LINK members think it is important that this requirement is extended to supply chains to reveal more of the life cycle impact of products and encourage businesses to work with their supply chains to reduce waste.

Given this was consulted on previously and the urgency we face, secondary legislation should be introduced in this bill to implement the above measures.

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?

As in our response to the previous consultation, we ask that this requirement is expanded to include full supply chain reporting. We also ask for mandatory scope 3 emissions reporting for businesses which includes emissions associated with waste.

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

⁴ <https://rethinkplasticalliance.eu/wp-content/uploads/2021/06/SUP-Assessment-Design-final.pdf>



This should be rolled out to all waste streams. Order of priority should align with the life-cycle impact of the waste stream being considered and the direct harm that the waste might cause where it leaks into the environment. Textiles are likely to be a high priority as are micro-plastics. Individual LINK members have expertise on various waste streams and information is given in their respective consultation responses.

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?

Latest household recycling figures⁵ show a small decline in recycling rates, highlighting the imperative of interventions to improve household recycling.

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?

Latest household recycling figures⁶ show a small decline in recycling rates, highlighting the imperative of interventions to improve household recycling. Scottish Government should learn from the approach taken in Wales.

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?

LINK is aware that the code of practice might need revising before it is suitable to be mandated across Scotland given the variations in population densities/ housing type.

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

- A) Yes
- B) No
- C) 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?

- A) Yes
- B) No
- C) Neither agree nor disagree

22. Please explain your answer

LINK members agree with these propositions with the condition that Local Authorities have sufficient resource to provide the services to meet the targets.

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?

⁵ <https://www.sepa.org.uk/environment/waste/waste-data/waste-data-reporting/household-waste-data/>

⁶ <https://www.sepa.org.uk/environment/waste/waste-data/waste-data-reporting/household-waste-data/>



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

- A) Yes
- B) No
- C) Neither Agree nor Disagree

25. Please add any additional comments

LINK members would add that this must be exercised fairly and additional needs people might have taken into account. Additionally, people need to have access to clearly identifiable recycling facilities, and products and bins must be clearly labelled in a consistent fashion before such powers are used.

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?

LINK members support powers to introduce charges or other incentives to increase recycling and reduce household residual waste. Charges or other incentives are successfully used in many European countries⁷. They should not be introduced until all households have access to comprehensive recycling infrastructure/ collection and should be implemented fairly, for example, any standard charge associated with residual waste collection be accompanied by a reduction in council tax.

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?

LINK members think that local authorities should be required to facilitate increased re-use through a comprehensive re-use service driven by a 're-use charter'.

28. Please add any additional comments

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?

- A) Yes
- B) No
- C) Neither agree nor disagree

30. Please add any additional comments:

LINK is aware of concerns around commercial zoning in terms of impact on local SME providers. We support efforts to reduce air pollution, emissions and noise, but would like to see this balanced with the above.



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?

We welcome a fixed penalty regime for littering from vehicles, and urge that this should extend to littering from boats at sea. As highlighted in the EU Port Reception Facilities Directive on their pre-2019 revision⁸ on which the existing current UK legislation is based “discharges of waste at sea still occur at substantial environmental, social and economic costs. This is due to a combination of factors, namely inadequate port reception facilities, enforcement often being insufficient and there being a lack of incentives to deliver the waste onshore”. The Scottish Government needs to ensure that adequate port reception facilities are available, but should also enforce penalties to prevent littering at sea.

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?

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?

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?

No35. 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 noted in the BRIA, the proposals are largely enabling and, as such, impacts on businesses or sectors will depend on future proposals for delivery. We would anticipate that such future proposals would impact both positively and negatively on costs, and likely impose burdens on some businesses. Likewise, sectors will face new opportunities as well as some restrictions on current practice. It is important that training is available and workers are involved changes such that workers in affected sectors benefit from new opportunities.

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?

The accompanying CRWIA could not be found. In general, sustainable production and consumption is our duty to future generations. What’s more, our current linear system has negative impacts on children in other countries, for example children involved in mining and waste. In a more circular system, with more attention to sustainable and socially responsible supply chains and less export of waste, these direct impacts would be reduced.

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?

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0883>



As outlined in the ICIA, the proposals and subsequent secondary legislation could impact island communities differently and care will need to be taken in the design of secondary legislation to mitigate against adverse effects where needed.

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?

As outlined in the Fairer Scotland Assessment, attention will need to be paid in the development of follow on legislation or schemes in several areas.

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

If the powers proposed as part of this bill are used and secondary legislation introduced, the proposals should have a positive impact on the environment. LINK members would urge Scottish Government to maintain the aim of reducing both overall consumption and the consumption /use of harmful substances and design policies to prevent consumers switching from one harmful product to another harmful product.

For example:

- Proposed targets and CE strategy should have a positive environmental impact if the targets are legally binding and the strategy includes sector plans which map out how the targets are to be met, there is accompanying budget and regular reporting to parliament.
- Measures to ban the destruction of unsold durable goods should have a positive environmental impact; but care will need to be taken in the definition of 'durable' and that the policy does not encourage retailers to switch to less durable alternatives as a way of avoiding this requirement.
- Proposed charges should have a positive impact on the environment through reducing the use of single use beverage cups and an associated reduction in litter and waste. However, the extent that it will result in an overall reduction in material and carbon footprints, depends on reusable alternatives being readily available and used many times. The impact of the charge will be enhanced if charges are accompanied by reusable cup schemes (ideally with a uniform cup). The impact also needs monitoring; and targets for reduction introduced.
- Reporting on surplus stock and waste could potentially have a positive environmental impact, but this would be enhanced if it was accompanied by other measures to encourage uptake of surplus stock and its use as a substitute for raw materials.
- Enhancing recycling services should have a positive environmental impact through diverting waste from landfill and increasing the range and quality of recycle. Impact would be further ensured with measures to incentivise recycled content in new goods (S 82 of the Climate Change Act could be used)
- Stronger enforcement (and accompanying budget to do so) should have positive environmental impact regarding reduced littering and waste crime.

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?

The bill should introduce powers for the Government to require public bodies and all other organisations over a certain size to report on their scope 3 emissions annually.

Sector level plans, including farming, fishing and aquaculture, should be included as part of the proposed Strategy. Plans should include targets, outcomes, milestones and aligned budget resource. Sector Plans must look at supply chains and inputs to the sectors as well as making best use of the products/materials and reducing waste. A protein strategy and its implementation has an important function in reducing our environmental



footprints and needs to be linked to a Sector Plan for farming, fishing and aquaculture; and other relevant sectoral strategies like the Future Fisheries Management Strategy.

Care for our soil is the corner stone of a circular economy. . There are a myriad of pressures on Scotland's soils, as identified by the Scottish Environmental Protection Agency's position statement on planning and soils⁹, yet there is no overarching piece of legislation in place which provides protection for all soils from all threats. Soils are a renewable resource that needs careful stewardship and management, underpinned by a regulatory framework. The bill must include a commitment to measures to take care of our soils to ensure they are regenerated, not polluted and not eroded. This bill must require Ministers to produce a Soil Plan, either as part of the proposed 5 yearly strategy or separately, which details how to nurture and regenerate our soils The Plan must include ambitious targets to increase soil carbon; mechanisms to monitor soil loss/ health, and a requirement to report on a 5-year cycle on the state of Scotland's soils. There needs to be a commitment to nutrient budgets including a phosphorus balance sheet, and there needs to be a Chief Soils Officer in Government. There needs to be a duty on land managers to maintain and enhance soil carbon levels and prevent soil erosion. Lastly, there needs to be a specific and sizeable levy paid on any activity (for example types of paving or artificial grass) which seals soil, therefore destroying its regenerative capacity; and any soil sealing activity must also require planning permission.

The Bill must include a duty on public bodies to act in such a way as to contribute to the new CE targets. All funding, investment, public procurement, and policies and plans should be scrutinised against circular economy principles and material impacts, and opportunities sought to reduce such impacts.

Measures to address procurement, to ensure that all public spending aligns with the circular economy, need to be stronger and may require changes to legislation. Procurement decisions need to be based on the long term cost of the purchase, including operating and end of life costs, and carbon and material footprint considerations, as well as other criteria such as supporting local supply chains. Public bodies must be required to report on the impact of procurement including its footprints. The European Green Public Procurement Guidelines should be followed.

Data and data access is important. Data collected needs to be accessible to the public.

If satisfactory measures on chemical traceability are not introduced at a UK level, Scotland must use powers under the Environment Act to introduce clear traceability.

There should be a requirement on public spaces to provide a free water fountain so people can fill up water bottles.

Virgin plastic pellets and recycled plastic pellets are lost across the supply chain. There should be a statutory requirement for those who produce and handle plastic pellets to be independently audited and certified against pellet loss in line with OSPAR guidance.

Micro-plastics also leak into the environment from various sources. Washing machines sold in Scotland must have microfibre filters by 2024; and sources of micro-plastics, such as textiles, tyres and paints need to be addressed through improved design and handling¹⁰.

⁹ <https://www.sepa.org.uk/media/138611/position-statement-on-planning-and-soils.pdf>

¹⁰ https://media.mcsuk.org/documents/MCS_sewage_sludge_paper_june_2021_final.pdf



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