

## Climate Change, Environment, & Infrastructure Committee Inquiry: Draft Environmental Protection (Single-use Plastic Products) (Wales) Bill

Deadline: Monday 5<sup>th</sup> September

### Whether a Bill is needed to introduce a ban on commonly littered single-use plastic items

We believe that a bill to ban commonly littered single-use plastic (SUP) items in Wales is needed. Legislation has been passed in Scotland and England to ban some commonly littered single-use plastic items with said ban having come into force in Scotland in June 2022. Wales has stood still during this time where a bill of this nature would have been a logical and timely first step in achieving the 2050 aims of our 'Beyond Recycling' strategy.

The environmental impacts of the unrestricted sale and supply of SUP items is reflected in data gathered by Marine Conservation Society (MCS) from beach cleans across Wales' coastline. Despite increasing public awareness of the impacts of SUP items, the proportion of plastic and polystyrene waste collected that the items proposed to be banned comprise remains stubbornly high:

**Table 1.** Annual averages and sums of all SUP items included in the bill and recorded during MCS beach cleans by year.

Year	Average / 100m	Total of items	Total of all Plastic/ Polystyrene Items	Percent of Total Plastic/Polystyrene Total (%)
2015	13.3	5985	28863	21%
2016	10.2	3679	23051	20%
2017	53.6	22204	56542	39%
2018	13.0	7191	33358	22%
2019	6.4	2172	17586	12%
2020	4.6	1227	8386	15%
2021	5.8	2771	21425	13%

Likewise, data from Keep Wales Tidy shows that many of the commonly littered items found on our streets, beaches, parks and rivers are partially if not wholly composed of plastic.

Whilst a ban on products is not a sophisticated policy instrument, it is clear that voluntary measures, 'nudges' and behaviour change by retailers and consumers will not fully address the problem. Further legislative measure, including this bill are an essential step on the journey to Wales achieving it's aim of becoming a zero-waste nation by 2050.

Furthermore, all of these items found on our streets are 'unnecessary' plastics for which widely available, less harmful and reusable alternatives exist and thus are appropriate to being governed by market restrictions. There are further items not considered by this iteration of the bill that also meet these criteria: we would urge that mechanisms are put in place to review the bill periodically and add both existing and emerging items if they meet the following:

- Unnecessary items or for which many affordable and sustainable alternatives exist;
- Items which are problematic for the environment;
- Items which are prevalent in the environment;
- Items which are unable to be recycled or are hard to recycle; or
- The impact of a ban on these items would not unfairly impact any protected groups.

### **The advantages and disadvantages of using a Bill rather than secondary legislation to introduce a ban**

Introducing a ban via primary legislation is commensurate with the Welsh Government's aim to 'align Government levers' to achieve the ambitions of the 'Beyond Recycling' strategy. Primary legislation goes some way to achieving the headline commitment of phasing out current unnecessary single-use items and creates a framework for adding further items. It is therefore essential that the bill is a sufficiently flexible enabling Act to allow periodic review of the list of banned items, followed by swift enacting of subordinate legislation to ensure ministers can react to emerging trends and threats.

## **Whether the provisions of the draft Bill will deliver the policy intention**

The Minister sets out the intentions of the bill to be “the first step in a programme of measures aimed at tackling plastic pollution and delivering our Programme for Government commitment to abolish commonly littered single-use plastic products.” We welcome this as a first step but believe that amendments are needed to strengthen the bill to make it as bold a first step as possible:

- We are concerned that, unlike the recent act passed by Scotland, Wales only bans the supply rather than manufacture of listed items. We think that it is important that the legislation prevents the export of known pollutants to other countries.
- We are concerned that the current definition of ‘single use’ could allow for the supply of ‘multi-pack’ or ‘family size’ products that comprise multiple individually packaged items as part of a single product. It is particularly important to ensure that this definition is clear, without loopholes, as we would like to see the same definition used in any future legislation applied to reducing the amount of single use plastic and its impact on the environment.
- We ask that the definition of single-use be amended to include the word ‘conceived’ in reflection of the EU definition of single-use plastic product<sup>1</sup>. For instance, a plastic fork would be conceived by its user to be a single use item, but it is not clear if the legislation would permit such cutlery if the packet was relabelled with the instructions to the consumer to wash and reuse. However, the consumer would perceive on viewing the item that this is a single use product.

One item that we are disappointed to see has included at this stage is plastic wet wipes, although we are pleased to note that Section 4 acknowledges that these and other materials may need to be added to the list of banned items in future. In their response to the CCERA Committee’s inquiry on microplastics, Dwr Cymru highlighted that wipes are the cause of the majority of sewer blockages and they have led initiatives to educate on this through their ‘Let’s Stop the Block’ campaign. Citizen

---

<sup>1</sup> EU definition: ‘single-use plastic product’ means a product that is made wholly or partly from plastic and that is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or re-used for the same purpose for which it was conceived;

education is helpful but, ultimately, this area needs regulatory intervention. There is currently nothing to stop companies putting 'flushable' on wipes which cause severe damage to our water systems and with no standard definition of 'biodegradable', this causes confusion to the public who will assume they've chosen an environmentally friendly alternative. Water UK can test and pass products which meet a genuinely flushable standard to use the 'Fine to Flush' labelling. 'Fine to Flush' wipes are a viable alternative to plastic-containing wipes.

Although all kinds of people use wet wipes, new parents are the key demographic here and they may not be able to afford reusable alternatives or may not be aware of their availability or how to use them. Unfortunately, reusable items usually have a higher upfront price (even though savings are made over the long-term) which poorer families cannot afford. This needs to be tackled to ensure reusable items are available to all Welsh citizens, not just those that can afford it.

We also note that trends in single-use plastic changes quickly, with recent years seeing higher rates of 'on the go' food and drink packing, face masks during the Covid pandemic, and single-use vapes, which contain batteries in addition to plastic, making them a source of chemical pollutants. Because trends in littered items change so quickly, it is important that the Bill contains clear principles for items that meet the criteria for a ban. We also support the need for the legislation to be flexible enough that it can be reviewed and amended regularly to include new items as evidence emerges.

### **Whether the powers in the draft Bill for Welsh Ministers to make subordinate legislation are appropriate;**

The powers in the draft Bill for Welsh Ministers appear sensible to the lay person, as they appear to allow flexibility for materials to be added or removed to the legislation as evidence emerges, which we believe is necessary. WEL has not taken a legal opinion on these powers, however, so please take these comments as lay interpretation.

One thing we have noted is that there is no deadline included by which the ban will definitely be enacted, as most sections of the legislation are "to come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument." We

do not know the reasons for this and would feel more confident if the statutory instrument's introduction had a deadline attached.

### **Whether there are any unintended consequences arising from the draft Bill;**

We would caution that, without the required infrastructure and regulatory clarity, many alternatives are still single use. The Plastic Recycling Charity RECOUP have recently warned against 'material switching' and the validity of some of the industry's sustainability claims. Whilst this is a concern, it is not a rationale for inaction or delay. Rather, an indication of the need for further regulation and clarity which supports our efforts to become a Circular Economy nation.

The need for a definition of 'biodegradable' and 'compostable' materials has been mentioned by the UK Extended Producer Responsibility regulations recently introduced but has so far not been forthcoming. Biodegradable materials currently have no legal definition and commonly do not degrade under naturally occurring conditions. In addition, there is some evidence that these items may be more prone to being discarded as litter (in Keep Wales Tidy's 2021-22 LEAMS surveys, the biodegradable alternatives for drinks stirrers, straws and cotton buds were found on a higher percentage of Wales' streets than the non-biodegradable alternatives) and as they are still potentially harmful and local councils do not have waste infrastructure to reuse these materials, this is an issue which needs urgent regulation.

### **The financial implications of the draft Bill (including for businesses and consumers).**

We note that businesses have warned that the costs 'may be passed on the consumer'. This Bill has come about as a result of the SUP Directive and related EU Plastics Strategy. In this document, market restrictions (eg; bans) are undoubtedly a form of Extended Producer Responsibility and therefore should be borne by the Producer. This is in alignment with the 'Polluter Pays' principle which underpins national and international regulations on reducing and mitigating polluting materials and practices.

This principle should be made more explicit in this legislation and all further environmental legislation in Wales to ensure that polluting practices are borne by the polluter, not the consumer. We need to consider the environmental costs of

attempting to remove this litter from our pipes, rivers and seas. These costs are being passed on to the public as statutory bodies need to deal with clean up and absorb those costs through public funds or water bills.

Much of our litter is picked up by volunteers – organised by NGOs like Keep Wales Tidy and Marine Conservation Society – or by council workers. Water companies have reported significant problems in sewerage systems from plastic wet wipes, which cause blockages and get into our rivers. Energy and time that could be put towards other improvements in our environment is instead spent on cleaning up. Businesses have been benefitting from the good nature of volunteers and not paying the real environmental price of their products. The more sustainable manufacturers are encouraged to be, the more sustainable alternatives will be available and the cheaper these options will become.

We would also like to see some thought given to how reusable products could be made more affordable; perhaps the Welsh Government could provide a way of making them available on an interest-free loan basis, where reusable products are paid in monthly instalments over a year so it doesn't have the unaffordable upfront price that makes it inaccessible to poorer families. We would like to see this explored for reusable menstrual products, such as absorbent underwear, period cups and reusable, washable sanitary towels, and reusable nappies, as well as wipes, so that future amendments to this legislation could go further.

**The above list is not exhaustive. Please feel free to include views on any other matters you consider relevant to the Committee's work on the draft Bill.**

WEL is also calling for the 'polluter pays' principle to be embedded in future legislation, as we will lose this from our frameworks when the EU Transition Period ends at the end of 2020. The polluter needs to bear the costs of pollution and not the consumer; this principle being included in future Environmental Governance & Principles legislation should ensure that businesses don't pass even further costs on to citizens.



Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.



#### Swyddfa Caerdydd

Tramshed Tech  
Uned D, Stryd Pendyris Caerdydd CF11 6BH  
F: 07498 228066 | E: enquiry@waleslink.org  
Trydar: @WalesLink

#### Cardiff Office

Tramshed Tech  
Unit D, Pendyris Street, Cardiff CF11 6BH  
T: 07498 228066 | E: enquiry@waleslink.org  
Twitter: @WalesLink

# www.waleslink.org