

# Waste policy: no longer kicked to the kerb

Blog post by Associate Charley Roberts and Associate Michaela Smart, 18 January 2022

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The covid-19 pandemic has created a hidden problem: the sheer volume of waste generated in response to the health crisis. The environmental cost of covid-19 has been enormous, with an estimated 25,000 tonnes of covid-19 PPE alone having entered the ocean.

This pandemic waste mountain has sparked calls to recover the pre-pandemic circular economy agenda. The question is whether there might now be greater support for state action or if the pre-pandemic legislative momentum has been lost.

Global Counsel's view is that companies should prepare for stronger, broader, and more holistic measures that extend beyond focused bans on certain plastic items.

## *Targeted action: reducing consumption*

The UK government's approach to reducing single-use plastics waste has largely followed the EU's Single Use Plastic Directive (SUPD), first proposed in May 2018. The SUPD's approach centres around the banning of products that are most closely associated with marine and beach pollution as a first step, including a ban on cutlery, plates, straws, cotton bud sticks, beverage stirrers, balloon sticks, and expanded polystyrene food containers. Despite Brexit, Whitehall has sought to implement this policy in stages: first prohibiting the supply of plastic straws, stirrers, and cotton buds from October 2020, and from July 2021 prohibiting businesses from selling drinks with plastic straws attached.

The UK Department for Environment, Food & Rural Affairs (Defra) is now consulting on expanding bans to remaining items under the SUPD, with these measures planned to come into force in 2023. These moves build on plastic carrier bag charges introduced in 2015 and the banning of microbeads in rinse-off personal care products introduced in 2018 - these measures serving as a trial run on the efficacy of such bans.

The government is now looking to go beyond the SUPD. Future regulation is under consideration on single-use wet wipes, tobacco filters, sachets, and other single-use cups. Given cross-party support for tackling the plastics crisis - as evidenced by the introduction of the Private Members' Bill on Plastic Wet Wipes, sponsored by Labour MP Fleur Anderson - we expect to see some, if not all, of these items being brought under regulation or banned in the next few years.

## *Shifting the burden: from consumers to producers*

These moves focus on the commonly perceived villains of the plastic crisis. In the background, however, more holistic structural changes are underway. Though these measures were delayed by the pandemic, they are soon to come into effect.

Changes to the extended producer responsibility system (EPR) and the introduction of the deposit return system will enhance the 'polluter pays' principle, seeking to make producers financially

responsible for their waste streams. The planned measures mirror successful programmes across the EU, and, when implemented from 2023, will mean significant changes to the funding of waste treatment and removal.

More imminently, this April will see the introduction of a tax on plastic packaging containing less than 30% recycled content, with a levy of £200 per tonne. The range of businesses falling under the scope of this is significant, and although it was first announced in 2018, a survey taken in August 2021 showed that 83% of businesses were still not aware of the tax.

*Expanding the regulatory scope: capturing more than you might think*

Although covid-19 has disrupted the implementation of circular economy policy and consultations, the circular economy is still firmly on the UK government's agenda. Regulation in these areas is moving rapidly, catching up with the standards set by voluntary initiatives like the UK Plastics Pact. And, in some areas such as repairability, regulation is soon set to outstrip standards set in even the most stringent voluntary targets.

Regulatory measures are likely to continue to include targeted action, moving beyond the measures already specified in current proposals. Business should expect other single-use products associated with plastic pollution (like much of the pandemic PPE waste) to be brought under regulation in future.

The plastic tax and the EPR reforms also show a clear shift in government direction away from the consumer to businesses. Cost and compliance will fall increasingly on companies, reflecting that same 'polluter pays' principle.

With public pressure to act on the waste mountain created by the pandemic and as we move towards key 2025 and 2042 targets, companies should prepare for broader and more punitive regulation sooner rather than later. And the likelihood is that more businesses will be caught than they might think.