

Introducing Market Restrictions on Problematic Single-Use Plastic Items in Scotland

Partial Equality Impact Assessment

October 2020



Scottish Government
Riaghaltas na h-Alba
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DESCRIPTION OF POLICY

Title of policy/ strategy/ legislation	Introducing Market Restrictions on Problematic Single-Use Plastic Items in Scotland
Minister	Cabinet Secretary for Environment, Climate Change and Land Reform
Lead Official	Don McGillivray, Deputy Director, Environmental Quality and Circular Economy Division
Directorate	Environment and Forestry
New policy and/or legislation	The Scottish Government intends to lay regulations before the Scottish Parliament to introduce market restrictions on problematic single-use plastic items in 2021.

Policy Aim

1. This review considers potential equality impacts associated with a market restriction on those single-use plastic products included in Article 5 of the *EU Directive on the reduction of the impact of certain plastic products on the environment (2019/904)*¹ (referred to as “SUP Directive hereafter”).
2. The following single-use items are included:
 - Plastic cutlery (forks, knives, spoons and chopsticks)
 - Plastic beverage stirrers
 - Plastic plates
 - Plastic straws (with some exemptions)
 - Plastic balloon sticks
 - Food and beverage containers and cups for beverages made of expanded polystyrene (EPS/XPS), including caps, covers and lids
3. The market restriction would also extend to all products made from oxo-degradable plastics. Specific items made using this material have not been identified. However, research suggests they are used primarily to make mulching films and some plastic bottles and bags². Considering these items as part of the screening exercise indicates they are unlikely to have a significant impact for any of the protected characteristics groups.

¹ <https://eur-lex.europa.eu/eli/dir/2019/904/oj>

² <https://www.european-bioplastics.org/bioplastics/standards/oxo-degradables/>

4. Note that plastic-stemmed cotton bud sticks are also included in Article 5 of the SUP Directive. However the Scottish Government has already applied measures to restrict the manufacture and sale of these items. Therefore, this item will not be considered in this impact assessment.

5. The following definitions, taken from the Directive are applied to this equality assessment:

- 'plastic' means a material consisting of a polymer as defined in point 5 of Article 3 of Regulation (EC) No. 1907/2006³, to which additives or other substances may have been added, and which can function as a main structural component of final products, with the exception of natural polymers that have not been chemically modified;
- '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;
- 'oxo-degradable plastic' means plastic materials that include additives which, through oxidation, lead to the fragmentation of the plastic material into micro-fragments or to chemical decomposition

6. Plastic straws used for containing granular medicines may be considered as packaging and are not used for drinking⁴. They are therefore not considered here. Similarly, exemptions for medical purposes and in relation to implantable medical devices are not included⁵⁶.

Who will it affect?

7. The following nine protected characteristics are considered⁷.

- Age;
- Disability;
- Gender reassignment;
- Pregnancy and maternity;
- Race;
- Religion
- Sex;
- Sexual orientation; and

³ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:31994L0062>

⁴ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:31994L0062>

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31993L0042>

⁶ <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A31990L0385>

⁷ <http://www.legislation.gov.uk/ukpga/2010/15/contents>

- Marriage and Civil Partnership;
8. The purpose of focussing on these protected characteristics is to:
- Eliminate discrimination, harassment and victimisation;
 - Advance equality of opportunity; and
 - Foster good relations.

What might prevent the desired outcomes being achieved?

9. Achieving the desired outcomes will be dependent on businesses and consumers adopting new behaviours. The measures are designed to stimulate this behaviour change but are not the only factors which influence business and consumer behaviour.

10. Consideration has been given as far as possible to potential impacts based on the evidence gathered during this partial equality impact assessment (EQIA) process leading up to the public consultation.

STAGE 1: FRAMING

Results of framing exercise

11. The following data and evidence have been utilised to frame the assessment:
- Evidence from existing surveys
 - Data gathered from a range of other evidence and sources.

Initial summary reflection

12. As this is a partial EQIA, it is not intended to be a definitive statement or a full assessment of impacts. It presents a preliminary assessment and indicative impacts that will require further consideration by the Scottish Government to inform the consultation and implementation of the proposed policy.

13. It is important to note that the protected characteristics are not independent of each other and some people may be affected by complex and interconnected issues related to disadvantage at any one time.

14. A restriction on the availability of the specified single-use plastic products may impact on some people with certain protected characteristics more than others. Initial analysis has highlighted that a market restriction on straws could have a more significant impact on disabled people, the very old and very young.

15. The remainder of the other items investigated do not appear, at this stage, to raise significant equality-related issues. However, this may be due to a lack of available published information and the individual circumstances of those impacted. Direct engagement with equality groups and individuals may identify further impacts.

Interaction with other policies (draft or existing)

16. The proposed market restrictions form part of a suite of measures being taken by the Scottish Government to reduce our reliance on single-use items, including the introduction of an environmental charge on single-use cups and an increase to the charge placed on single-use carrier bags.

17. This policy also has the potential to interact with the work underway to implement a new UK-wide Extended Producer Responsibility (EPR) scheme for packaging.

Extent/Level of EQIA required

18. The evidence captured in the next section entitled '*Data and evidence gathering, involvement and consultation*' has been drawn from a range of sources. Primarily, evidence has been gathered from existing large national and UK surveys, particularly the results of the Department for the Environment, Food and Rural Affairs (Defra) Summary on proposals to ban the distribution and/or sale of plastic straws, plastic stemmed cotton buds and plastic drink stirrers in England (2018). In addition, some information on protected characteristics, demographics and other relevant statistics is included.

STAGE 2: DATA AND EVIDENCE GATHERING, INVOLVEMENT AND CONSULTATION

19. This section includes the results of evidence gathering, the framing exercise and a qualitative and quantitative data review. The table details areas where data or evidence indicative of an equality impact has been identified.

Characteristic	Evidence gathered	Source	Data gaps identified and action taken
AGE	All items – littering – People aged between 16 to 24 are more likely (35%) to report neighbourhood littering as very common or common, compared to 27% for those aged 60 to 74. The evidence suggests that litter is a social problem that particularly affects young people’s perceptions of their own neighbourhood. Measures that could reduce littering, such as market restrictions on single-use plastic items, could reasonably be predicted to have a positive impact on people’s sense of neighbourhood generally, and particularly for young people.	Scottish Household Survey, 2017 ⁸	Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement events during the consultation will identify more impacts. We are not aware of further relevant existing evidence at this time on age for the following items: plastic cutlery (forks, knives, spoons, stirrers and chopsticks), plastic plates, food, beverage containers and cups for beverages made of expanded polystyrene, products made from oxo-degradable plastics.
	All items – littering – At least 250 million easily visible litter items are cleared by local authorities in Scotland each year.	Scotland’s Litter Problem, 2013 ⁹	
	Plastic Straws – young children – young children who also have disabilities may be particularly impacted by the removal of plastic straws. 10% of children had a long-term	Scottish Household Survey, 2017 ⁸	

⁸ <https://www.gov.scot/publications/scotlands-people-annual-report-results-2017-scottish-household-survey/>

⁹ <https://www.zerowastescotland.org.uk/sites/default/files/Scotland%27s%20Litter%20Problem%20-%20Full%20Final%20Report.pdf>

	limiting mental or physical health condition or disability in 2017.		
	Plastic Straws – older people – older people may be more likely to suffer from medical conditions and ill health and therefore may be more likely to be impacted by market restrictions on plastic straws. People aged 75 and over are projected to be the fastest growing age group in Scotland. The number of people aged 75 and over is projected to increase by 27% over the next ten years and by 79% over the next 25 years.	Projected Population of Scotland (2016-based) ¹⁰	
	Plastic Straws – older people: delivery of granular medicines – Straws may be used for pre-dosed granular medicines, or for packaging for powders. A market restriction would therefore disadvantage users of such objects, many of whom are elderly. Straws used for this purpose will therefore be considered exempt.	Summary on proposals to ban the distribution and/or sale of plastic straws, plastic stemmed cotton buds and plastic drink stirrers in England (2019) ¹¹	
	Balloon sticks – young children – impacts on enjoyment of parties and events. A respondent suggested that ‘A ban would reduce children’s pleasure since the balloon is not presented vertically as if it were floating’. However the significance of this way of	Preliminary assessment of the impacts of a potential ban on plastic cutlery, plates plastic balloon sticks, Resource Futures (2018) ¹²	

¹⁰ <https://www.nrscotland.gov.uk/files//statistics/population-projections/2016-based-scot/pop-proj-2016-scot-nat-pop-pro-pub.pdf>

¹¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803259/plastics-consult-sum-resp.pdf

¹² <http://sciencesearch.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=20144>

	enjoying a balloon opposed to activities with a stickless balloon was not presented.		
DISABILITY	<p>Straws – Muscular Dystrophy UK presented the results of a survey they conducted:</p> <p>1.) Of the disabled people they surveyed, 43% have a requirement to use straws all the time, and 34% some of the time.</p> <p>2.) Nearly 77% of those surveyed were against the straw ban. Only 23% were in favour of the straw ban.</p>	Muscular Dystrophy UK (as cited in the Summary on proposals to ban the distribution and/or sale of plastic straws, plastic stemmed cotton buds and plastic drink stirrers in England (2019)) ¹¹	<p>Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement during the consultation will identify more impacts.</p> <p>We are not aware of further relevant existing evidence at this time on disability for the following items: Plastic cutlery (forks, knives, spoons, stirrers and chopsticks), balloon sticks, plastic plates, food containers, beverage containers and cups for beverages made of expanded polystyrene, products made from oxo-degradable plastics.</p>
	<p>Straws – Medical – Straws are considered essential for a wide range of temporary (following surgery or dental work), and longer-term medical conditions and disabilities. A response from Nestlé UK to the Defra consultation indicated that people with the following conditions could be impacted, although this list should not be considered exhaustive: neurological diseases, people who experience tremors or poor dexterity, dementia, gastro-intestinal issues, cerebral palsy, stroke, dysphagia, spinal injuries, paralysis, and patients recovering from surgery, chemotherapy or radiotherapy. NHS Scotland reports that it uses 3.8 million</p>	<p>Nestlé UK and others, as cited in the Summary on proposals to ban the distribution and/or sale of plastic straws, plastic stemmed cotton buds and plastic drink stirrers in England (2019)¹¹</p> <p>EPECOM Paper 2.2 (2018)¹³</p>	

¹³ <https://www.gov.scot/binaries/content/documents/govscot/publications/foi-eir-release/2019/03/foi-19-00582/documents/foi-19-00582-information-released/foi-19-00582-information-released/govscot%3Adocument/FoI-19-00582%2BInformation%2Breleased.pdf?forceDownload=true>

	drinking straws each year (EPECOM Paper 2.2).		
	Straws – Independence – the use of plastic straws allows disabled people to maintain a level of independence which could be compromised by the implementation of market restrictions, with direct influence on quality of life.	Nestlé UK and others, as cited in the Summary on proposals to ban the distribution and/or sale of plastic straws, plastic stemmed cotton buds and plastic drink stirrers in England (2019) ¹¹	
	Straws – Dignity and Gatekeeping – an exemption for medical-enabling use and other specialist uses could present an unfair burden for disabled users. Concerns were expressed about “gatekeeping”, i.e. having to prove a disability. Responses also suggested that there were concerns about indignity related to having to use alternatives to plastic straws (e.g. ‘sippy cups’).	Summary on proposals to ban the distribution and/or sale of plastic straws, plastic stemmed cotton buds and plastic drink stirrers in England (2019) ¹¹	
	Straws – Scale of Impacts – 28% of adults in Scotland have a long-term physical or mental health condition. In 2011, the proportion of people in Scotland with a long- term activity-limiting health problem or disability was 20% (1,040,000 people), the same proportion as reported in 2001 (1,027,872 people).	Scottish Household Survey, 2017 ⁸ , 2011 Census ¹⁴ , Disabled People Employment Action Plan, 2017 ¹⁵	

¹⁴ <http://www.scotlandscensus.gov.uk/>

¹⁵ <https://www.gov.scot/publications/fairer-scotland-disabled-people-employment-action-plan/>

	In 2017 there were fewer than 40,000 unemployed disabled people but 321,000 disabled people classed as economically inactive		
SEX			<p>Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement events prior to, and during the consultation will identify more impacts.</p> <p>We are not aware of any relevant existing evidence at this time on sex in relation to the items included in the policy.</p>
RACE			<p>Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement events during the consultation will identify more impacts.</p> <p>We are not aware of any relevant existing evidence at</p>

			<p>this time on race in relation to the items included in the policy.</p>
<p>PREGNANCY AND MATERNITY</p>			<p>Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement events during the consultation will identify more impacts.</p> <p>We are not aware of any relevant existing evidence at this time on pregnancy and maternity in relation to the items included in the policy.</p>
<p>GENDER REASSIGNMENT</p>			<p>Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement events during the consultation will identify more impacts.</p> <p>We are not aware of any relevant existing evidence at this time on gender reassignment in relation to</p>

			the items included in the policy.
SEXUAL ORIENTATION			<p>Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement events during the consultation will identify more impacts.</p> <p>We are not aware of any relevant existing evidence at this time on sexual orientation in relation to the items included in the policy.</p>
MARRIAGE AND CIVIL PARTNERSHIP			<p>Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement events during the consultation will identify more impacts.</p> <p>We are not aware of any relevant existing evidence at this time on marriage and</p>

			civil partnerships in relation to the items included in the policy.
RELIGION OR BELIEF			<p>Evidence gaps likely exist where there is no published information on the impacts. Direct engagement with equalities representatives and targeted engagement events during the consultation will identify more impacts.</p> <p>We are not aware of any relevant existing evidence at this time on religion or belief in relation to the items included in the policy.</p>

STAGE 3: ASSESSING THE IMPACTS AND IDENTIFYING OPPORTUNITIES TO PROMOTE EQUALITY

20. At this stage of the partial equality impact assessment, the qualitative scoring of the potential impacts (negative, positive and neutral) have been considered for each of the protected characteristics already listed in this partial EQIA. This qualitative scoring has been undertaken using the data and evidence available and gathered to date. This is a preliminary and indicative assessment of the potential impacts at this interim stage of the EQIA and will be subject to further review and revision after the consultation has taken place.

STAGE 4: DECISION MAKING AND MONITORING

Identifying and establishing any required mitigating action

<p>Have positive or negative impacts been identified for any of the equality groups?</p>	<p>Negative impacts have been identified for the following equality groups; Age (straws, balloon sticks), Disability (straws). We initially considered whether a market exemption extending to chopsticks may negatively impact the East Asian community but consider that re-usable alternatives or single-use substitutes should be readily available in much the same way as is the case for other cutlery.</p> <p>Positive impacts may be identified in relation to the potential for reduced littering associated with a ban on selected single-use plastic items. Whilst this will create a benefit for all age groups, it may be more significant for younger people (16 -24) whose perceptions of their area are more likely to be negatively impacted by littering.</p> <p>In addition to the impacts considered, it is important to note that the protected characteristics considered within this partial EQIA are not independent of each other and some people may have to deal with complex and interconnected issues.</p>
<p>Is the policy directly or indirectly discriminatory under the Equality Act 2010?</p>	<p>If market restrictions were to be implemented without suitable exemptions in relation to single-use straws, there is a risk that the policy could be considered indirectly discriminatory. The Scottish Government is consulting on such exemptions and will ensure the policy is shaped to reflect feedback received</p>
<p>If the policy is indirectly discriminatory, how is it justified under the relevant legislation?</p>	<p>Suitable alternatives are available for the majority single-use items considered in this partial EQIA.</p> <p>An exemption for straws will be designed for those reliant on them for medical purposes, or for maintenance of dignity and independence.</p>
<p>If not justified, what mitigating action will be undertaken?</p>	<p>N/A</p>

Describing how Equality Impact analysis has shaped the policy making process

21. The partial EQIA has helped to highlight areas where there may potentially be impacts on certain protected characteristics. It can help us to design accessible communication and engagement during the consultation with those people potentially affected, along with relevant equality representative groups. This will help to ensure that there are no unintended consequences.

22. Evidence available and gathered during the consultation will help inform the final EQIA which will be completed at the end of the consultation period.

Monitoring and Review

23. This partial EQIA has identified areas where mitigation measures may be required. The full EQIA, informed by the consultation process and engagement events will draw upon a wider evidence base in order to identify measures. A strategy for monitoring and evaluation will be devised, based on this information. This will include details of when the monitoring and evaluation will take place and who will be responsible for undertaking it.

STAGE 5 - AUTHORISATION OF EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the partial equality impact assessment that has been undertaken for *Introducing Market Restrictions on Problematic Single-Use Plastic Items in Scotland* and give my authorisation for the results of this interim assessment to be published on the Scottish Government's website.

Name: Don McGillivray

Position: Deputy Director, Environmental Quality and Circular Economy

Authorisation date: October 2020



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