

Programme and Project Management Centre of Expertise  
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# Independent Assurance

Programme: The Deposit Return Scheme (DRS)

## Assurance of Action Plan

December 2021

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<b>Report Status:</b>	Final 1.0
<b>Date/s of Review</b>	21-23 <sup>rd</sup> September 2021
<b>Senior Responsible Owner (SRO):</b>	Aidan Grisewood
<b>Draft report issued to SRO</b>	24 September 2021
<b>Final report issued to SRO and copied to PPM-CoE:</b>	29 September 2021
<b>Delivery Confidence Assessment (DCA):</b>	AMBER/RED
<b>Accountable Officer:</b>	Liz Ditchburn
<b>Scottish Government's (SG) Portfolio Accountable Officer:</b>	Liz Ditchburn
<b>Investment Decision Maker:</b>	

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This report is an evidence-based snapshot of the project's status at the time of the review. It reflects the views of the independent review team, based on information evaluated over the review period, and is delivered to the SRO immediately at the conclusion of the review.

## 1.0 Healthcheck Review Conclusion

<b><u>Delivery Confidence Assessment:</u></b>	AMBER/RED
The Review Team finds that the Delivery Confidence Assessment for the programme is confirmed as Amber-Red. Please see 'Conclusions of the AAP' at Part 3.	

The Delivery Confidence Assessment RAG status uses the definitions below:

<b>RAG</b>	<b>Criteria Description</b>
<b>Green</b>	Successful delivery of the project to time, cost and quality appears highly likely and there are no major outstanding issues that at this stage appear to threaten delivery.
<b>Amber/Green</b>	Successful delivery appears probable. However, constant attention will be needed to ensure risks do not materialise into major issues threatening delivery.
<b>Amber</b>	Successful delivery appears feasible but significant issues already exist requiring management attention. These appear resolvable at this stage and, if addressed promptly, should not present a cost/schedule overrun.
<b>Amber/Red</b>	Successful delivery of the project is in doubt with major risks or issues apparent in a number of key areas. Urgent action is needed to ensure these are addressed, and establish whether resolution is feasible.
<b>Red</b>	Successful delivery of the project appears to be unachievable. There are major issues which, at this stage, do not appear to be manageable or resolvable. The project may need re-base lining and/or overall viability re-assessed.

## 2.0 Purpose and conduct of the Assurance of Action Plan (AAP)

### 2.1 Purpose of the AAP

2.1.1 The primary purpose of an AAP Review is to provide assurance to the SRO that the action plan, produced to address the issues identified during an Independent Assurance Review, are being pursued effectively and will, if implemented, put the programme/project back on track.

2.1.2 The recommendations from the last Independent Assurance Review together with the subsequent Programme/Project Team action plan and responses are attached at Appendix A. These form the terms of reference for this Review.

2.1.3 This Report is an evidence-based snapshot of the programme/project status at the time of the Review. It reflects the views of the Review Team, based on information evaluated over a one/two-day period, and is delivered to the SRO immediately at the conclusion of the review.

## **2.2 Conduct of the AAP**

This Review was carried out from 21st September to 24th September 2021 by video conference (Microsoft Teams). The team members and the people interviewed are listed in Appendix B.

## **3.0 Conclusions of the AAP**

3.1 At the previous Review, the DRS programme was awarded a 'Red' delivery confidence, principally because the currently legislated schedule for a July 2022 'go-live' is not achievable. Whilst this legislation remains extant, this Review found that the July 22 target was now dismissed by all parties, and though a revised date had not yet been agreed, there was a universal coalescence and consensus in and around a September 2023 date for go-live. Assuming that this date will be agreed, and that this will be reflected in a revision to legislation, then this Review concludes that delivery confidence assessment for the DRS Programme has progressed from Red, at the last Review, to Amber-Red currently.

3.2 In the short period since the last Review (June 2021), there has been a significant improvement in the clarity for the direction of this Programme. This progress has been achieved through significant cooperation, effort and enthusiasm by the DRS Programme Team, and all wider stakeholders, working constructively to pursue an effective Scheme. The improving but cautious delivery assessment of this Report is reflective of the significant complexities and uncertainty that still remain in the implementation of the DRS and for which resolution is ongoing.

3.3 In addition to formally agreeing a revised go-live date and the critical path to this delivery, and subsequently amending legislation, there remain other significant ongoing issues which proffer significant risk and require continued prompt and cooperative action to bring to a positive resolution. These include, but is not limited to: VAT deposit charge resolution, confirmation of on-line take-back position and, most importantly, Circularity Scotland Limited (CSL) securing [Redacted] subsequent governance-management resource to mature and develop its corporate and operational systems. Singularly, and/or in combination, such issues could quickly bring a September 2023 target into jeopardy if not concluded timeously.

3.4 Positive conclusion of these live, ongoing actions, by the end of 2021, would support a cautious improvement of delivery confidence assessment to Amber, albeit the underlying complexity and many challenges and risks (e.g. the deposit operating system and the ICT system) of the Programme will remain.

## 4.0 Findings

### 4.1 Policy (Previous Review recommendations 1 and 2)

4.1.1 The previous Review had made two recommendations that required urgent Policy actions on the VAT charged on deposits and the policy for on-line sales, particularly on-line sales returns (take-back).

4.1.2. **VAT on Deposits.** At the time of the last Review, it was becoming increasingly apparent that a decision by HMRC, that VAT would be chargeable on container deposits, would have a significant impact to the delivery schedule as well as on the business model for the Scheme Administrator and scheme operations. The VAT requirement would require the DRS operational IT system to be significantly more complex. Clarity that VAT would be chargeable was necessary so that the IT system design can be developed and specified. Since the last Review extensive actions have been taken to seek clarity from HMRC on the VAT requirements, see Annex A. These actions are ongoing, and it was noted that this has included positive and cooperative engagement with DEFRA, HMRC and CSL. Conclusion of this discussion is required at the very earliest opportunity. Action still ongoing.

4.1.3 **On-line take-back.** The Scottish Government DRS regulations are ambitious, being, it is understood, the first in the world to try to address the issue of deposit charging and return for on-line sales. The collection (take-back) of used containers from, often very small-scale, on-line sales, is a complex logistical and economic/environmental efficiency challenge. This issue was raised and considered during policy consultation and retailers, and CSL, continue to suggest that scheme (initial) operational design would be more simple and hence more likely to be successfully delivered if on-line sales returns were removed from the Scheme or if de-minimis of similar limits were introduced. Since the last Review the Programme Team have invested significant efforts to reassess possibilities for on-line take-back. This has also included significant engagement with industry and constructive discussions with DEFRA on their developing ideas for a rest of UK DRS system. As with previous examinations of how to deliver an effective DRS for on-line sales, no simple solutions are immediately apparent. A number of interviewees noted that, in a positive approach to delivering an effective DRS, a number of industry groups were actively investigating innovative solutions to achieve this challenging issue; this is worth noting for the discussion on governance at para 4.3 below. A fine balance is required to encourage industry to innovate and support them with policy 'tweaks' to enable an effective take-back solution. To enable CSL to build on-line take-back into their emerging operational model, Scottish Government need to draw this assessment and debate to a conclusion at the earliest opportunity. Action still ongoing.

## **4.2 Project Delivery (Previous Review recommendations 3 and 4)**

4.2.1 Foremost in the recommendations of the previous Review, and central to the award of a Red delivery confidence, was Recommendation 3 for all parties to agree a critical path and start date for delivery of a viable Scheme. Pivotal to this schedule was the maturity of the recently formed CSL and its ability to make 'meaningful decisions' enabling it to form its operating and commercial models.

4.2.2 This Review understood that CSL have made significant progress in establishing its executive and management teams and initiating development of key components of its operations such as ICT systems and return handling terms. Whilst making very good progress and gaining momentum, [Redacted].

4.2.3 After CSL [Redacted] and its ability to establish itself, the VAT requirement on deposits appears as the next most significant issue in the delivery critical path (See para 4.1.2 above) as the important deposit management ICT system cannot be developed until this requirement is known (VAT introduces significantly greater complexity).

4.2.4 Currently, the legislation stipulating a July 2022 remains extant, however, the clear opinion received by this Review was that the July 22 target was not achievable and it was now dismissed by all parties. Discussion was ongoing to agree a revised suitable go-live date and whilst a revised date had not yet been agreed, there was a universal coalescence and consensus in/around a September 2023 date for go-live. September 2023 is still viewed by interviewees as ambitious and there remain significant challenges, uncertainties and risks to achieving this target (e.g. ICT system delivery, establishment of logistics, provision of RVM equipment, establishment of retail and waste management facilities, labelling). However, it was encouraging to note that all parties, including many industry partners, were eager to deliver a working scheme and saw risks and ongoing costs of further extension to go-live. Agreement of a go-live date and critical path to this delivery, as recommended by the previous Review, has not yet been achieved, though seems imminent. Agreement should be sought at the very earliest opportunity.

4.2.5 If a revised date for 'go-live' is agreed, a revision of the existing regulations will be required. It is understood that an appropriate window for parliamentary action has been determined (lay regulations 26 Oct 21). Assuming approval, this will allow for new regulations to be agreed before 01 Jan 2022; there is no significant risk to legislation delivery schedules.

4.2.6 Recommendation 4 of the last Review recommended that the Programme Team examine all delivery options and, most importantly, ensure that a full consideration of delivery options can be demonstrated. This arose from recognition that, accepted Programme-Project wisdom, would encourage the use of a

phased/soft launch of projects and programmes that are complex. Since the last Review, the Programme Team appear to have taken a serious exploration of delivery options and has presented these to the Programme Board. At the time of this Review a conclusion was not yet documented, but it was understood from interviewees that a phased or soft launch of DRS is still considered to be impractical. It is advised that this decision should be drawn to a conclusion and documented. It is also advised that throughout the implementation phase, that the option for a soft/phased launch remains a consideration as new risks, challenges and certainties emerge.

### **4.3 Governance** (Previous Review recommendation 6)

4.3.1 A significant recommendation of the last Review was for the SRO to review the governance structure for the DRS Programme. This recommendation recognised that with the completion of legislation and the appointment of CSL, the Programme was transitioning into implementation and a revision of the governance structure was required that provided appropriate representation, assurance and oversight for all stakeholders.

4.3.2 Central to an appropriate governance structure is a clear understanding of the roles of each stakeholder, such that responsibilities are clearly understood and exercised to manage risk and programme issues, and provide the appropriate decision making and assurance for efficient progression of the Programme. This governance structure should ideally evolve through a project/programme lifecycle as requirements, roles and responsibilities change. This Review was very content that this need is fully understood by the Programme Team and since the last Review much work has been expended to develop and establish a governance structure appropriate to the new phase of the Programme; a new structure was recently agreed at the Programme Board.

4.3.3 Nonetheless, most interviewees, still felt that roles and responsibilities were not yet clear. This Review saw evidence, in documentation and from interviews that there remain differing perspectives on roles and responsibilities between Government and CSL, and amongst other stakeholders. This is to be expected at this transition to a new phase of a programme. Furthermore, this is an ambitious programme, where having established the necessary legislation, government largely looks to industry to organise itself and deliver a solution. Government has a challenging role to provide assurance to ministers and the public that a viable Scheme will be delivered and operate. However, government must also recognise that if it exerts too much involvement, influence and control then by default it takes on some responsibility for delivery. The DRS Programme Team understands the need for this balance. The perspective of this Review is that (at this current time) the Programme is still taking much of the responsibility for delivery. The Programme

Team is having to reset Programme responsibility whilst also providing assurance on a deliverable go live date; therefore, it is inevitable that the Programme Team are in effect taking much of the responsibility for delivery. However, once the Programme has been re-set (CSL established) the Programme will need to repivot. The current limited resource and capacity of CSL encourages a natural reluctance for them to limit their responsibility exposure. New governance arrangements have been agreed, and an announcement on a revised go-live date imminent, so the Programme Team should now be aware to encourage a change of behaviours under the new arrangements to promote a change of responsibilities appropriate to the programme phase. A formal agreement of roles and responsibilities would help – this may yet need further discussion. The Programme Team should also maintain a recognition that this programme is born from a wider government agenda of ‘producer responsibility’ and will influence behaviour for future steps to meet this societal change.

#### **4.4 Operations (Previous Review recommendation 5)**

4.4.1 The previous Review had made a recommendation to examine the options for the go-live of SEPA operated producer registration system. Under current legislation producers of single use drinks containers sold in Scotland are to register between January and March 2022. The full registration would require producer data that will only be detailed once the CSL operational model has been determined. A minimum viable registration system had been proposed.

4.4.2 This Review received firm confirmation that SEPA was continuing to work toward the January 2022 timescale however, real-time concern was raised in interview that meeting this deadline was “tight”.

4.4.3 For other operational reasons SEPA would prefer the initial producer registration to happen in a January to March window of any year (2022 or 2023). Current legislation requires drinks producers to register, and pay a registration fee, between January and March 2022. SEPA have been expecting that most producers will be registered in a ‘block’ registration via CSL and this will ease their (SEPA’s) workload. A change of date (from January 2022) will require amendment to current legislation and/or other government/ministerial action to remove or adjust the registration requirement. Apart from this legislative action (which will go in tandem with legislation to amend the go-live date) the recommendation from the previous Review has been actively managed and mitigated.

#### **4.5 Communications (Previous Review recommendations 7 and 8)**

4.5.1 Recommendation 8 of the previous Review had recommended that the Programme Board cooperate with CSL to create a CSL centric stakeholder communications strategy. Since this last Review much activity had taken place between stakeholders, and at the Programme Board, to develop appropriate



programme wide communications. This is a significant component of the re-design of programme governance. There appeared to still be some ongoing debate as the responsibility for communications. This role will change as the Programme changes from public announcements of intent through to the communication of the delivery and operational regime. This and the previous Review believe, from our understanding of DRS and similar systems elsewhere, that the Scheme Administrator will, in the longer term, be the public face of the DRS and so should lead on communication. It is also important to recognise that the route of communication supports an understanding of responsibility in the eyes of the public and stakeholders. In-line with the continuing embedding of new governance arrangements (See 4.4), the Programme Team should continue to assess the best attribution of responsibilities for leading and contributing on communications.

4.5.2 Recommendation 7 of the previous Review had recommended that the Programme Board establish a cross-party forum that enables stakeholders to share best practice relevant to DRS. The re-design of the governance structure discussed at section 4.5 has, to an extent, addressed this recommendation. However, the initial recommendation had been in response to comment, mainly from industry stakeholders, that the previous Implementation Advisory Group had been a useful forum for industry to share ideas and best practice on DRS. This was a desire that sits outside of more formal governance and management regime, and the Programme Team may wish to consider the benefits of a further arrangement or forum that allows informal sharing of knowledge and cooperation.

#### **4.6 Risk and Assurance (Previous Review recommendations 9)**

4.6.1 Recommendation 9 of the previous Review had recommended that the SRO establish an assurance regime for both pre and post 'go-live' environments. This recommendation was being actively managed. The Programme Team had procured commercial and technology expertise to assist in their understanding of the issues to establish a credible delivery critical path.

4.6.2 The Programme Team are considering options for longer term assurance measures and support. This recognises the future need and role for government to provide assurance to ministers and the public whilst allowing industry to deliver an effective deposit scheme. It is suggested that the current renegotiation of delivery schedule allows an opportunity for the Programme Team to build-in its preferred measures that would facilitate this assurance need.

4.6.3 This Review was pleased to note an active use of risk management by both the Programme Team and CSL, and a sharing of risk assessments, to manage the ongoing schedule and implementation issues.

## **5.0 Previous Gateway Review Recommendations**

A summary of recommendations, progress and status from the previous Gateway Review can be found at **Annex A**.

## **6.0 Next Independent Assurance Review**

It is recommended that a Gateway Review 0 (Strategic Assessment) is carried out in, approximately, March 2022, when new legislation and [Redacted] should be in place, new governance arrangements should be bedded-in and the Programme will be at the early stages of implementation of its operational systems. A Review at this time will allow assessment that the implementation is going in the right direction and can deliver robust systems to schedule, whilst allowing time to adjust the implementation sufficiently in advance of go-live.

## **7.0 Distribution of the Gateway Review Report**

The contents of this report are confidential to the SRO and their representative/s. It is for the SRO to consider when and to whom they wish to make the report (or part thereof) available, and whether they would wish to be consulted before recipients of the report share its contents (or part thereof) with others.

The Review Team Member(s) will not retain copies of the report nor discuss its content or conclusions with others.

A copy of the report is lodged with the PPM-CoE so that it can identify and share the generic lessons from Independent Assurance Reviews. The PPM-CoE will copy a summary of the report recommendations to the SG's Accountable Officer, and where appropriate, to the Organisation's Accountable Officer where the review has been conducted on behalf of one of the SG's Agencies, NDPBs or Health Sector organisations.

The PPM-CoE will provide a copy of the report to Review Team Members involved in any subsequent review as part of the preparatory documentation needed for Planning Meetings.

Any other request for copies of the Gateway Report will be directed to the SRO.

## **Annex A**

### **Summary of recommendations and Update on Action Plan**

[Annex A has been redacted on the grounds of commercial sensitivity and/or internal policy discussions]

## **Annex B**

### **Review Team:**

Review Team	[Redacted]
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### **List of Interviewees:**

The following stakeholders were interviewed during the review:

<b>Name</b>	<b>Organisation/Role</b>
[Redacted]	SG
[Redacted]	SEPA
Kevin Quinlan	SG
[Redacted], [Redacted], [Redacted] & [Redacted]	CSL
Aidan Grisewood	SG
[Redacted]	SG
[Redacted] & [Redacted]	Deloitte
[Redacted]	SG
[Redacted]	SEPA

## **Annex C**

### **Scottish Government - Programme and Project Management Principles**

#### 1. Approach

- Our approach to managing programmes and projects is proportionate, effective and consistent with recognised good practice.

#### 2. Business Case

- We secure a mandate for our work; identify, record and evaluate our objectives and options for meeting them; and ensure that we secure and maintain management commitment to our selected approach.

#### 3. Roles and Responsibilities

- We assign clear roles and responsibilities to appropriately skilled and experienced people and ensure their levels of delegated authority are clearly defined.

#### 4. Benefits

- We record the benefits we seek, draw up a plan to deliver them and evaluate our success.

#### 5. Risk

- We identify, understand, record and manage risks that could affect the delivery of benefits.

#### 6. Planning

- We develop a plan showing when our objectives will be met and the steps towards achieving them, including appropriate assurance and review activities, and re-plan as necessary.

#### 7. Resource Management

- We identify the financial and other resources, inside and outside the organisation, required to meet our objectives.

#### 8. Stakeholder Management

- We identify those affected by our work and engage them throughout the process from planning to delivery.

#### 9. Transition

- We ensure that the transition to business as usual maximises benefits and that operational delivery is efficient and effective.

#### 10. Lessons

- We record lessons from our programmes and projects and share them with others so they may learn from our experience.



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