

EXPERT PANEL ON ENVIRONMENTAL CHARGES AND OTHER MEASURES ANNEX A - GENERAL PRINCIPLES APPROACH

Purpose

This aim of this framework is to provide a set of high level general principles that will

- underpin the Expert Panel's way of working
- provide a reference point to guide its consideration of key issues and options for future action

in order to ensure that the Panel's deliberations and any future recommendations are focused on delivering better outcomes for Scotland; are targeted on priority issues and measures and are proportionate; and that the work of the Panel enjoys a broad degree of public and stakeholder confidence.

Background

The general principles outlined below draw significantly on other well-established frameworks or principles, notably Scotland's National Performance Framework and waste hierarchy and Better Regulation principles; and seek to explicit how existing frameworks or principles apply in the context of the Expert Panel's consideration of environmental changes and other measures to address single use materials and tackle Scotland's throw away culture.

Whilst the general principles approach was initially suggested in the context of the Panel's work on single use plastics, the high level principles approach could underpin and inform the Panel's work on single use materials in general.

General principles approach

In summary, the Expert Panel's work will be guided and informed by the following general principles:

- **Outcomes focused and evidence informed**
- **Targeting**
- **Proportionality**
- **Transparency, integrity and accountability**
- **Consistency, coherence and context.**

The table overleaf provides additional information against each of the proposed Principles.

<p>Outcomes focused and evidence informed</p>	<ul style="list-style-type: none"> • The Expert Panel’s work will be aligned with Scotland’s National Performance Framework’s (NPF) overarching Purpose and the National Outcomes, with a specific focus on the Environment National Outcome “We value, enjoy, protect and enhance our environment” and the NPF’s link to the UN’s Sustainable Development Goals, particularly number 12 – responsible consumption and production. Although also recognising the interconnection with other Outcomes and SDGs, Further information on the NPF is provided in Annex A. • The Panel will take an outcomes based approach, and focus on the difference that issues or measures make to addressing single use materials and our throw-away society, not just the inputs or processes over which we have control. • Within that context, the Panel will consider best available evidence on key issues and the impact (and unintended consequences) of measures; and will have scope to commission new information or evidence or ‘tests of change’ to plug key knowledge gaps or enable innovation.
<p>Targeting</p>	<ul style="list-style-type: none"> • The Panel will focus primarily on those issues which give rise to the most serious risks to delivering improved outcomes within the Scottish context; and on measures that may deliver the best environmental outcome for the people of Scotland. • The Expert Panel’s considerations – and any subsequent recommendations – should be focused on key priorities, problems and opportunities, avoiding a scatter gun approach and minimising unintended consequences of any recommendations. • Whilst the Panel will consider priority items including, in the first instance, straws and disposable cups, the panel may also develop ideas for more systemic change which can support policy making longer term. • The Panel will consider well-established principles of waste hierarchy, lifecycle impact and producer/extended producer responsibility (as well as supporting guidance on these) when considering issues, potential actions or recommendations i.e. <ul style="list-style-type: none"> ○ the Panel should endeavour to first and foremost consider measures to prevent single use materials being used before considering steps that could be taken to prepare any waste from single use materials for <i>reuse</i> and support ‘high quality’

	<p>recycling before other <i>recycling</i> and <i>recovery</i> activities are considered. Further information on the waste hierarchy is set out in Annex B.</p> <ul style="list-style-type: none"> ○ given the diversity of single use materials, the Panel will take into account the different lifecycle impacts of specific material and how long they are in use. Simply put, what is relevant for one single use item may not be relevant for another. ○ Advocating the polluter pays principle, it will consider the OECD Guidance¹ on Extended Producer Responsibility (EPR), which aims to make producers responsible for their products from design to the post-consumer phase of a product's lifecycle. ● The Panel will ensure that issues of equality and economic opportunity are firmly embedded throughout its work, alongside consideration of environmental issues; and consider any differential and/or cumulative impact that proposed measures may have on different groups, including those with disabilities and small/medium sized businesses.
Proportionality	<ul style="list-style-type: none"> ● The Panel should propose additional measures only when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised. ● Proposed solutions must be proportionate to the perceived problem or risk and justify any implementation or compliance costs imposed – i.e. don't use a sledge hammer to crack a nut. ● The Panel will consider all the options for achieving policy objectives – including educational measures, not just prescriptive actions.
Transparency, integrity and accountability	<ul style="list-style-type: none"> ● The Expert Panel should be open and attempt to publish summaries of its discussions following each meeting and at key junctures. ● Effective engagement and consultation should take place before the Panel develops any proposals or makes recommendations to Scottish Ministers, to ensure that stakeholders' views and expertise are taken into account. Where at all possible, stakeholders should be given at least 12 weeks, and sufficient information, to respond to any calls for evidence or consultation documents. Calls for evidence and any subsequent proposals should be clearly defined and effectively communicated to all interested parties.

¹ <http://www.oecd.org/development/extended-producer-responsibility-9789264256385-en.htm>

	<ul style="list-style-type: none"> • The Expert Panel must be able to explain clearly how and why positions or recommendations have been reached, and be open to public scrutiny. • The Expert Panel will have a clear line of accountability to Scottish Ministers; and will regularly review and report on progress against it terms of reference.
<p>Consistency, coherence and context</p>	<ul style="list-style-type: none"> • The Panel will be mindful that any relevant current EU Directives should be transposed in Scotland but will have scope to consider how any such Directives can be delivered within the Scottish context; it will also be mindful of considerations that relate to reserved matters or wider issues of domestic, EU or international origin. • The Expert Panel will consider whether existing policy measures to address single use materials and Scotland's throwaway society work together in a joined-up way; and identify opportunities to strengthen co-ordination and coherence in order to maximise the impact of collective efforts. • Any proposals/recommendations should take account of other existing or proposed regulations, voluntary agreements and other relevant developments, whether of domestic, EU or international origin.

How might the general principles be used?

The Principles are proposed as a potential useful 'checklist' or toolkit for the Expert Panel to use when:

- setting the context for engagement and dialogue with key stakeholders
- considering key issues and the full range of alternatives for achieving policy objectives within the terms of its remit as they make recommendations to Scottish Government Ministers.

It may also provide a framework that could inform the Scottish position in discussions at EU and UK level regarding single use plastics and/or other single use materials; and making the case for Scottish specific action where outcomes for Scotland are not currently being achieved.

Limitations of general principles

The Expert Panel is aware of the diversity of single use materials and the complexity and interplay of issues contributing to Scotland's throwaway society. Therefore, it recognises that a general principles approach, whilst helpful, could have limitations and is clear that the general principles provide a reference point rather than a prescriptive or exhaustive list of principles to be considered.

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ANNEX B FURTHER INFORMATION

The draft general principles has been informed by the following frameworks and Expert Panel members may find the following additional information useful when considering the draft principles.

Scotland Performs – National Performance Framework

https://scotland.shinyapps.io/scotlandperforms_alpha/

UN’s Sustainable Development Goals

<https://www.un.org/sustainabledevelopment/sustainable-consumption-production/>

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Waste hierarchy principles

- The waste hierarchy ranks waste management options according to the best environmental outcome taking into consideration the lifecycle of the material. The lifecycle of a material is an environmental assessment of all the stages of a product's life from-cradle-to-grave (i.e. from raw material extraction through materials processing, manufacture, distribution, use, repair and maintenance, and disposal or recycling).
- In its simplest form, the waste hierarchy gives top priority to preventing waste. When waste is created, it gives priority to preparing it for reuse, then recycling, then other recovery, and last of all disposal (i.e. landfill). With the exception of tyres, the waste hierarchy ranking applies, almost universally, as described in Figure 1 below.



- In some circumstances there is justification to deviate from the waste hierarchy based on life cycle thinking. The approach taken compares the environmental impacts of managing the wastes according to different options in the waste hierarchy.

Source: *Applying the Waste Hierarchy: Guidance.* (Scottish Government, Nov 2017)

Lifecycle Assessment

- Lifecycle assessment (LCA) is a method of quantifying the whole-life impacts of a material, product or service. Typically, a lifecycle assessment will consider climate change impacts, but may also consider a range of other environmental impacts (e.g. eutrophication, ozone depletion, deforestation, air pollution etc.). You can find more information on the phases considered in LCAs at: <http://www.hydroquebec.com/sustainable-development/documentation-center/life-cycle-analysis.html>

- Lifecycle assessment is a useful tool because it:
 - allows impact comparison between different materials, products or services
 - identifies high-impact phases within a lifecycle for targeted intervention
 - supports a holistic approach to environmental impact mitigation.

Use-phase categorisation approach

CIWM published a report in June 2018 ‘Eliminating avoidable plastic waste by 2042: a use-based approach to decision and policy making’². This report introduced a new framework – Use-phase categorisation. The use phase of a product represents the functional lifetime of that product. A set of products with a similar use phase typically has a similar lifecycle and, as a result, similar impacts associated with different phases of the lifecycle. For plastics that remain in use for a short period of time (‘single use’ or ‘disposables’), the relative impact of production and end-of-life (more likely to be littered) is more significant. Furthermore, an intervention that is relevant for a single or short use product is likely to be different to one which is appropriate for products which are in use for longer periods. Consequently, there is benefit in considering the use phase as a framework for assessing the relative impacts of different products and defining the range of potential interventions. More information on this report can be accessed on: <https://ciwm-journal.co.uk/wordpress/wp-content/uploads/2018/06/Eliminating-avoidable-plastic-waste-by-2042-a-use-based-approach-to-decision-and-policy-making.pdf>

Relevant frameworks and principles

The general principles has been informed by the following frameworks and Expert Panel members may find the following publications useful when considering the draft principles:

[Applying the Waste Hierarchy: Guidance \(Scottish Government, Nov 2017\)](#) [OECD - Extended Producer Responsibility Guidance](#)
[Better Regulation - Principles of Good Regulation](#)
[UNDP - Sustainable Development Goals](#)
[Resourcing the Futures Conference 2018](#)
<http://nationalperformance.gov.scot/>
https://scotland.shinyapps.io/scotlandperforms_alpha/?page=Environment