

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith /
Climate Change, Environment and Infrastructure Committee
Bil drafft Diogelu'r Amgylchedd (Cynhyrchion Plastig Untro) (Cymru)/
Draft Environmental Protection (Single-use Plastic Products)(Wales) Bill
SUP_29

Ymateb gan Cymdeithas Llywodraeth Leol Cymru / Evidence from Welsh Local Government
Association

Climate Change, Environment and Infrastructure Committee : 5th September 2022

Draft Environmental Protection (Single-use Plastic Products) (Wales) Bill

INTRODUCTION

1. The Welsh Local Government Association (WLGA) is a politically led cross party organisation that seeks to give local government a strong voice at a national level. The Association represent the interests of local government and promotes local democracy in Wales. The 22 councils in Wales are all members of the WLGA and the 3 fire and rescue authorities and 3 national park authorities are associate members.
2. The WLGA believes that the ideas that change people's lives, happen locally. Communities are at their best when they feel connected to their council through local democracy. By championing, facilitating, and achieving these connections, we can build a vibrant local democracy that allows communities to thrive.
3. The main aim of the Association is to promote, protect, support and develop democratic local government and the interests of councils in Wales. This means:
 - Promoting the role and prominence of councillors and council leaders
 - Ensuring maximum local discretion in legislation or statutory guidance
 - Championing and securing long-term and sustainable funding for councils
 - Promoting sector-led improvement
 - Encouraging a vibrant local democracy, promoting greater diversity
 - Supporting councils to effectively manage their workforce.

General Points and comments

4. The WLGA welcomes the opportunity to comment on the Draft Environmental Protection (single use plastics) (Wales) Bill.
5. The Committee have asked a series of specific questions in their call for evidence, and these are set out below alongside the WLGA response.
6. ***Whether a Bill is needed to introduce a ban on commonly littered single-use plastic items;***
7. It is essential that businesses and the public understand what is required, why and how to comply with this. A Senedd Bill certainly has the profile to encourage this civic debate and ensure visibility on the issue. From an enforcement point of view having clear statute with paths of enforcement that are proportionate and suitable is also essential. It is vital that there is a reduction in microplastic entering the environment and the food chain and therefore it is agreed that this Bill is necessary.
8. ***The advantages and disadvantages of using a Bill rather than secondary legislation to introduce a ban;***
9. This is a technical legal issue and the WLGA does not have a view on this. The legal advice to government would clarify this and set out the pro's and con's of various approaches. Again, the outcome sought is clarity about the what, the why and the how and what is the most effective route to deliver that.
10. ***Whether the provisions of the draft Bill will deliver the policy intention;***
11. Clearly the intention of the Bill is to reduce the inappropriate use of plastics within society and minimise the wider environmental impacts of their misuse and disposal. The draft Bill would seem to deliver on this ambition subject to several caveats.
12. Welsh Parliament committees themselves have in the past noted the porous border with England and the impact that can have on Wales only legislation. It can also potentially cause confusion in the public's mind and for retailers. The WLGA have views on the implementation to counter this which is set out in a later question

response. There would need to be a substantive engagement and communications campaign to get the public to understand the reasons for this legislation alongside how to comply.

13. A critical issue is what will retailer behaviour be considering the bans. A concern remains of perverse outcomes where equally environmentally damaging materials are substituted in to allow technical compliance with the bans but not the ethos. At this stage it is very difficult to predict these behaviours.
14. An area that has caused problems in the past is around biodegradable materials especially cutlery and so forth. The committee will be aware that all LAs in Wales send food waste to AD plants to process the material and turn into digestate which can then be applied to the land in agricultural practice. Often this biodegradable material is disposed of through the food waste route however it is not suitable for AD plants and is a contaminant. This jeopardises the outputs from these plants which are rigorously tested by NRW to achieve PAS 100 certification to ensure that the material spread back to land is safe. This is just one example of the need to remain vigilant to unsuitable outcomes or substitutions especially where people feel they are 'doing the right thing'.
15. There have been instances in plastic free communities where the switch to this type of material has been well intentioned but caused problems. Therefore, these materials need to be fully considered in their life cycle and their carbon impacts. The future potential impact of UK wide Extended Producer Responsibility schemes also needs to be planned for, especially where the scope of such schemes may be widened beyond packaging. In essence these whole systems view to consider the impact of different policy levers and their impact is a difficult but essential part of this committee's work.
16. A good example of this is where LAs supply corn starch plastic bags which are biodegradable for food waste caddies in households. These now need to be stripped out of food waste to enable it to go to AD (and the bags often go to EfW) and generally cost more than double 'normal' plastic bags. Because these corn starch bags by definition cannot contain recycled plastic, they are captured by the plastic tax which further increases their cost. The difficulty is that the public see these bags as the more environmentally friendly options and are concerned at LAs who seek to move to a traditional plastic bag supply for household caddies (which incidentally are easier to strip out of the food waste than corn starch bags because they are not as stretchy). This is a roundabout way of demonstrating that any issue is often not as clear and straightforward as it appears.
17. ***Whether there are any potential barriers to the implementation of the draft Bill's provisions (including the United Kingdom Internal Market Act 2020);***

18. ***Whether the powers in the draft Bill for Welsh Ministers to make subordinate legislation are appropriate;***
19. These are complex legal issues which we understand are still being tested through the UK legal system. Therefore, the WLGA do not have a view on this other than to restate our position of subsidiarity in that decision making should be devolved to the lowest appropriate level (whilst ensuring necessary consistency and clarity). Given the need for the legislation to develop and respond to changing practice and circumstance the level of subordinate powers seem appropriate.
20. ***Whether there are any unintended consequences arising from the draft Bill;***
21. There is potential for law abiding citizens and retailers to fall foul of this inadvertently if there is not a significant campaign of awareness raising, information and supported enforcement. The roll out of smoking bans and so on in the past began with an emphasis on support to enable compliance and this would be an essential element of this process. A recent example of the minimum unit price for alcohol is set out below as an indication of the level of implementation required. After this initial implementation period it is likely that Las will take a more reactive approach to enforcement in line with several other policy areas and the need to prioritise very limited resources.
22. Another area highlighted above is the potential for retailers to substitute materials that are also damaging to the environment but not covered by this ban. At this stage it is impossible to predict this behaviour and what 'new' materials may come onto the market to fill this gap. Hence the need for legislation to remain responsive to the potential issues.
23. ***The financial implications of the draft Bill (including for businesses and consumers).***
24. In relation to the local authority costs for an effective implementation of a new policy such as this, local authorities would relate their recent experience of the introduction of the minimum unit price of alcohol regime, under the Public Health (Wales) Act.
25. For a period of approximately two years prior to implementation, the Welsh Government and local authorities planned a communications strategy, mailings to businesses, and training for enforcement officers. Once the legislation was implemented, local authorities (trading standards teams) conducted targeted education and inspection work. This allowed for face-to-face discussion with businesses, who could obtain further advice and help to secure compliance with the new requirements.

26. The Welsh Government agreed to provide £300,000 of funding to local authorities to ensure the legislation was embedded into businesses' daily compliance activity. The targeted approach was split over three years, with an agreed front-loaded inspection regime of 3013 visits made to businesses during the three months of the first year of the new legislation.
 27. After the first 3 months, the noncompliance rate was found to be at 6% (176 premises). Follow up compliance visits were made, and a total of 6 Fixed Penalty Notices were subsequently issued for repeated contravention.
 28. Inspection and enforcement activity is now reactive, based on intelligence received by the services.
 29. **Conclusions**
 30. The WLGA supports this piece of legislation as a necessary step to reduce environmental harm and improve local environmental quality. The legislation does need to be backed by the necessary resources to ensure compliance and enforcement is effective and that the public understand the outcomes sought. It will need to be kept under review to determine how effective it has been in light of potential material substitutions and/or changes. It will need to also reflect as other legislation/policy comes forward such as EPR, Plastic tax, non-domestic recycling regulations and possible extension of Emissions Trading Scheme to Energy from Waste as just some examples.
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