

## Inquiry on Waste

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### Climate Change, Environment and Infrastructure Committee

#### FSB Wales

June 2024

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### About FSB

Celebrating its 50<sup>th</sup> anniversary, FSB Wales is the authoritative voice of businesses in Wales. It campaigns for a better social, political, and economic environment in which to work and do business. With a strong grassroots structure, a Wales Policy Unit, and dedicated Welsh staff to deal with Welsh institutions, media and politicians, FSB Wales makes its members' voices heard at the heart of the decision-making process.

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### Introduction

FSB welcome the opportunity to provide evidence on waste policy and SMEs. Climate change is a key policy priority, and the majority of SMEs responding in FSB surveys agree that we are in a climate emergency.

FSB Wales's previous research illustrated that 73% of small businesses in Wales believe that they have a responsibility to become more sustainable, but only 24% of businesses felt they knew enough about Welsh Government's environmental policies. Therefore, providing the right guidance and raising awareness will help this acknowledged responsibility become an achievable reality and support SMEs in contributing to the Welsh Government's policy goals.

FSB's UK 'Accelerating Progress' report<sup>1</sup> found that 64% of small businesses have increased recycling in their business and 50% have taken steps to eliminate waste wherever possible. This highlights that small businesses are recognising their role in tackling climate change and are working hard to make changes in their businesses.

The contradiction between SMEs' will to help and the lack of necessary knowledge to do so should be a starting point in any new policy changes. It is important that Welsh Government's strategy does not assume awareness of all measures by time poor businesses balancing a multitude of different priorities. This is particularly so where they may differ from wider discussions on such policy at UK or England level. The starting point must be grounded in a realistic

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<sup>1</sup> [Accelerating Progress | FSB, The Federation of Small Businesses \(FSB: 2021\)](#)

assessment to ensure that changes are implemented credibly, effectively, and without being counter-productive.

Devolution allows for Wales to carve out its own bespoke agenda to address much of this, harnessing decision making that will enact and influence overall policy outcomes. It is important that it retains and develops on its strong record on recycling, and that residential recycling achievements are matched and implemented with businesses in ways that they can best achieve results. Doing so requires bringing small businesses with the agenda, engaging with them to understand the pressures they face in order to, as the Climate Change Minister put it, 'make it easy to do the right thing'. It is also important to engage with SMEs on the opportunities arising from transition as well as the regulatory aspects, and this is a key part of the success of policy.

Alignment with UK policy and messaging are important to success, with many levers remaining at a UK level, and within Wales it is important that policy timelines are aligned with England as much as possible to ensure that communications are effective and possible confusion mitigated. Where things are done differently it is important that we look at an engagement model that works for SMEs.

As an organisation, FSB has been clear in its support for the transition towards a low carbon, and environmentally sustainable economy. In general, our approach to environment policy starts from the following principles:

- 1) Small businesses recognise and support the broad, long-term objectives of climate change and environmental sustainability policies.
- 2) Small businesses want to do the right thing and play their part.
- 3) A long-term, strategic approach to environmental policy making is far better than a short-term, reactive approach.
- 4) Policy solutions must be evidence led.
- 5) The impact of policies on small businesses must be understood in granular detail.
- 6) Small businesses should be given adequate time to adapt to new requirements.
- 7) Those small businesses that are particularly impacted, or least able to adapt, should be identified and provided with additional support/time to adapt.

We believe that approaches to environmental policy should follow the above principles. By doing so, we can ensure SMEs are properly brought in to the transition towards a low carbon and sustainable economy, and help to translate our ambitions into practice.

### **Welsh Government's 2025 targets –**

- **70% recycling for waste from households, commercial and industrial businesses,**
- **26% overall reduction in waste, zero waste to landfill,**
- **50% reduction in avoidable food waste.**

We are not the experts in the field to understand the data and the realism of the targets, nor how this is going.

We note that SMEs take their responsibilities seriously but often do not know what is the best way for them to have an impact that counts. This is important as 99.4% of Welsh businesses are SMEs – and 95% are microbusinesses or smaller, which means when one employer must often deal with everything from regulatory matters, employment, skills and so on, that there is less capacity to deal with added regulatory burden, including recycling and waste management. Research in other parts of the UK suggests that SMEs spend 8 hours – a full working day – a week on compliance.

It is therefore important that the support (whether financial, service based, or in terms of expert advice) and advice systems in place are easy to navigate and accessible . This where our focus is here.

### **Actions undertaken to date aimed at:**

- **driving innovation in materials use;**
- **upscaling prevention and re-use;**
- **building on our recycling record;**
- **investing in infrastructure;**
- **enabling community and business action;**
- **and aligning Government levers.**

We do not have evidence on all these matters, but some will be dealt with in later themes addressed in this document.

We note at UK and Welsh level that there are some problems with the definition of single-use plastics when it comes to driving innovation, as it may be that some innovative practices are being placed within the definition so as to make those materials illegal. We are told by businesses in the specialist field that some of the problems to do with these are apparently also due to the lack of recycling separation hubs that are available in other countries. As such the role of investing in infrastructure in this context may be something to explore.

This also appears to have banned products in sustainable packaging sector that were developed with receipt of government funding as innovative packaging solutions, which does suggest that some different parts in legislation and policy were misaligned.

It is also to be noted that for many SMEs dissemination of process innovation is more valuable in this context, with a look to how savings and auditing of efficiency needs can be built into small businesses across Wales, and not just on the products developed.

FSB supports the aims for better recycling for business, recent waste and recycling legislation for businesses, but have expressed concerns on ways some of the requirements affect certain businesses. This included concerns relating to businesses being worried that they'll be liable for contaminated waste in bins on streets space for separation in small areas of work; the fact that it could be contaminated by a single worker not knowing the regime and putting in wrong box and so on. Some of these may be teething issues, but it needs to be monitored.

On the plus side, alongside government guidelines and support from agencies such as WRAP and NRW, we have been impressed by some examples of waste companies' correspondence and advice to businesses and how they would respond to initial mistakes. This is based on a random selection of examples we have come across, and is likely to be patchy dependent on providers locally. However, this indicates an area and approach that may work best with providers who are already in contact with businesses they service.<sup>2</sup>

The question of alignment and enabling action is the key one for SMEs. We would note that a consistency at national regional and local level, and the support structures of advice, finance and funding, and supplies and services are key to support SMEs in transition to Net-Zero, in terms of recycling and waste but also in terms of the wider transition to net-zero. Implementation and engagement, as well as understanding the material benefits and opportunities

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<sup>2</sup> A good example is here: [Government Regulations for Businesses in Wales - Biffa](#)

are an intrinsic part of policy success, and not an add-on to be brought in after the policy discussion.

When it comes to alignment and enabling SME business action, Wales is currently the only UK nation without a fixed SME regulatory impact assessment, while Scotland is now implementing one, and Northern Ireland and England already have one. Given this, while we await such an assessment, it becomes even more crucial to utilize all available channels to ensure small firms are aware of any legislative or regulatory changes. This will be instrumental as we progress with the regulatory agenda to enable a transition to net-zero. Our call for an Economic Development Bill targeted at the Small Business Economy, was in order to provide a clearer regulatory framework that accounts proportionality for SMEs, but also ensures we are building the capacity and capability of firms to address their net-zero needs whether through skills or efficiencies, in a way which will also help them develop and grow as firms. It remains a concern that the 'story' around net zero has focused on regulation and mitigating risk, and not on opportunities too in a way that would resonate with SMEs.

### **Delays to the introduction of a Deposit Return Scheme and Extended Producer Responsibility Reforms.**

The UK Government's Deposit Return Scheme for England, Wales and Northern Ireland will play an integral role in recycling more plastic and expanding the UK's circular economy. The UK's 5.5 million small businesses and sole traders will play a vital role in ensuring the success of this scheme. However, if not appropriately implemented, they will also disproportionately be affected by it. While many larger businesses will have a member of the team dedicated to ensuring compliance with regulation, SMEs will have to dedicate extra resources to engage with the regulation. As such, it is important that getting it right is prioritised rather than getting there first.

As noted above, businesses overall support the UK Government's Net Zero and sustainability agenda. However, COVID-19 took a heavy economic toll and the continuing pressures since mean businesses – particularly in sectors affected by this policy – are in a less resilient position than may have been the case before. The proposed deposit return scheme risks placing additional burdens on small businesses such as the extra space required on business premises, the scheme's additional cost, and the time it will take for firms to set up and administer the scheme.

We would recommend a number of exemptions for small businesses, but these require a full analysis of the best way forward. Our main asks are:

- Exempt the smallest businesses and producers from being required to participate in the scheme where appropriate, in order to minimise both the clear practical problems for small retailers and hospitality businesses, as well as the barriers to small food and drink producers.
- Guidance tailored to SMEs, and duties placed on Tier 1 suppliers to support SMEs in their supply chains.
- Keep the system simple to use for producers, retailers, consumers and regulators
- Introduce a fund to support smaller businesses to adapt and comply with a DRS to minimise the economic impact of the scheme
- Ensure consistency and compatibility of a scheme UK-wide

Given the significant risks of the scheme to SMEs viability, and subsequent risk to the credibility of net zero transition policies in general if implemented badly, we welcome the delay. This provides the opportunity to bring the SME sector in line and up-to-date with government policy, and to work with them to address the main issues.

In looking at some of the granular detail needed and therefore why a delay is sensible, the following examples show the need for aligning the local needs and UK level strategy, alongside the diverse needs of businesses affected:

- FSB advocates a mixture of both 'take-back' to a place that sells drinks and designated drop-off locations. Transport terminals, schools, sports clubs and other civic spaces should all have facilities for consumers to return their empty drinks containers. We are particularly keen to ensure that such locations are accessible and do not drive footfall to out-of-town locations.
- Empty units in town centres, for example, could also be brought back into use by being turned in to designated drop off points for communities. This

would use these as opportunities to increase footfall, and also provide shared designated spaces for smaller businesses to administer the recycling more effectively where possible, by providing areas for businesses drop off too.

- Small retailers, particularly convenience stores, will be crucial in making a return to retail DRS work. In many of these stores space is at a premium and, considering the range of practical concerns of the smallest businesses, we strongly recommend that premises under 200sqft should be exempt from being required to take back returns (though there would be nothing to prevent those who wished to participate from doing so). For those who do, engaging locally to help provide drop off points would be best.
- Restaurants, bars and other sit-in only hospitality businesses should also be exempt from taking back returns and should instead only manage the bottles and cans sold within their premises. The drinks containers sold within these businesses are unlikely to leave the premises. Taking this into consideration, it may be sensible to exempt these businesses from charging their customers a deposit on the bottle altogether, instead letting them (instead of the customer) become the consumer in the DRS supply chain and be covered through other new waste regulations for businesses in Wales.

In any case, while FSB advocate a UK alignment of policy across the nations, it is too important that DRS scheme aligns with other regulation that is Wales-only in terms of business waste and recycling.

All of this adds complexity, and getting it right is important. As such we welcome the delay in implementation.

### **Roll out of the ban on single-use plastic products and business waste separation requirements.**

FSB is in favour of the removal of single-use plastics from the economy.

The ban facilitates the shift away from disposable products towards cleaner, more sustainable alternatives, supporting the transition to a circular economy. However, we believe that small businesses require enough time, information and support to transition their businesses away from using these items. As such our evidence will discuss this part.

According to FSB research released in October 2021, more and more businesses seek to minimise single-use plastics in their products and services. Nearly half of small businesses (47%) at that time already avoided plastic products where an alternative is available. This number increases to 60 per cent among firms in the accommodation and food services sector.<sup>3</sup>

### Definitions and Understanding

However, we have found concerns around the definition of 'single use plastic', and this has had an impact on SMEs' understanding of the change.

This is not a devolved area, as the Welsh definition of 'single use plastic' derives from the UK legislation – and it would be problematic to have different definitions. However, these are matter that have caused confusion and uncertainty, particularly for businesses in the biodegradable packaging sector. We would encourage Welsh Government to work with other governments to check if the definitions disincentivise the development of new renewable packaging, while also ensuring that these products are in fact recyclable. There are a few examples we have seen of businesses being in receipt of innovation funding or Development Bank of Wales funding who have subsequently found that their sustainable packaging may fall foul of this legislation and may in fact force them to work elsewhere. One business was considering moving to Canada – which provides funding support in this area also, to now continue their business. So capital flight is a concern where the regulation may capture too many materials, which then may hinder sustainability-led innovation.

There may also be issues around circular economy hubs and recycling points that may be relevant here. As this is a technical area we (at Welsh and UK level) have suggested that discussion happen between businesses affected and government to understand the tensions, and to ensure the balance between

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<sup>3</sup> Accelerating Progress (FSB: 2021)

innovation for future sustainability in products, and the need for action now is correct.

We have previously outlined our concerns in this regard in a letter to the Minister and we also provided this information to the Chair of the Committee.

At the 'consumer' business sector we have also found confusion caused by the definitions, with some small retailers and food businesses believing they had already moved to sustainable products for takeaways etc, now unsure as to whether they were or were not breaking the law. On the one hand this may be better of course, if the packaging created is not actually sustainable, but it means they require advice and support and clarity on sustainable ethical supply chains.

#### Advice and support

Our anecdotal engagement suggests that this has been patchy, and at times poor.

The food retailer above was not sure where advice could be found on this area that would help her business. We also have an example of someone who was unable to get any advice from his local Trade Standards on whether he could manufacture particular products, which suggests that key advice is not forthcoming.

On the other hand, while more on sustainability in general than single use plastics in particular, we have had some businesses mentioning in recent roundtables that they are accessing advice on sustainability from Business Wales – this contrasts with surveys in 2020 suggesting that none had received advice on this topic (but many said they wanted it). This suggests that their new sustainability advisers are having some impact.

It is important that business support is resourced to provide expertise in this agenda in future and the capacity of advice infrastructure for SMEs is important as we transition.

## Lessons from rollout

As is well understood, there is a lack of Welsh media, and when there is an overlap of policy at England, or UK level and a divergent Welsh approach, there is more likelihood of confusion as SMEs in Wales will hear about England legislation, but may not be aware of the Welsh differences. We are hopeful that this lesson has been learned and where possible that timelines are aligned across the nations and general messaging produced that can serve SMEs in Wales, alongside simple messages going forward.

There is going to be another rollout of single use plastics in the next few years, dealing with products such as wet wipes alongside other materials. Again, we are supportive of these measures in principle. It is important that engagement on any issues that may arise (for example with small SME cleaning companies needing to source supplies and will need to be appraised of exceptions in health settings) be made early.

On the plus side, we are supportive of the grace period following the enactment of legislations allowing companies to be taught where they are going wrong inadvertently rather than a presumption of intent and guilt. It is also useful that where companies have stock overflow they are encouraged to use these rather than put into landfill, which is a more sensible option. FSB support this for future such activity, and as an important part of ongoing engagement and learning. This does need to be balanced with ensuring a level playing field for everyone and ensuring there aren't perverse incentives for businesses NOT do the right thing.

We would also note that for businesses selling products, broadly speaking addressing issues higher up the supply chain so that liability is upheld at production makes things easier than needing to understand every area of packaging rules.

Finally, we would note that there are times where the presumption of knowledge of policy issues has undermined the intent of policy. It was not helpful to hear a

Minister say that one 'had to be living under a rock' to not know of single use products being problematic. Even if true in a broad level, this does not mean that how this is implemented at a firm level, how one understands how to transition to new supply chains, whether those products will then be affordable and available, as well as lack of clarity on the responsibility and opportunities involved to SMEs, are still legitimate question. Understanding beyond that the diverging legislation and expectation at the devolved level and support institutions in place for advice would require quite a high level of knowledge by people outside policy circles.

### **Preparedness of the waste sector and infrastructure investment requirements.**

As noted above, we have seen good examples of engagement from waste companies, although these are examples rather than a universal review. It appears that the campaign coordination with Welsh Government was relatively successful in this regard, and ensuring local relationships being a key part of engagement is a key part of success. So far – and tentatively- this appears to have worked better in new recycling regime than was the case with single use plastics.

The best links through to companies should be set out from the outset – for example, we have previously found using accountants for tax devolution (a field where we would expect confusion) was largely successful.<sup>4</sup> Where there may be capacity issues (such as capacity to provide green audits for example), plans should be prepared to address capacity issues and address any market failures.

In terms of infrastructure, as noted above, we have heard from some sustainable packaging companies that the separation of recyclable items in the UK is not on a par with others. However, this is not an area where FSB has sufficient expertise except to pass on the claim from experts in the industry.

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<sup>4</sup> See Dr Helen Rogers & Sara Closs-Davies, 'Funding Prosperity: Creating a New Tax System in Wales' (FSB: 2019)

In terms of business recycling, one thing that we would want to monitor is any cost implications arising from the new regime. Unlike residential recycling provided by council, businesses pay directly for the services and often the choices are limited leading to high prices and sometimes bad services. It is important to keep a monitor on any rising costs as well as time issues involved in businesses themselves implementing the regime. We would note that businesses separating waste does also reduce the cost needed at the collection points to separate waste, and so should be seen as a valuable activity.

## **Waste policy and UK Internal Market Act**

FSB welcomed the introduction of mutual recognition and non-discrimination as underpinning principles for the UK Internal Market across goods and services. Both principles are critical to the proper functioning of the UK Internal Market for small and micro businesses. However, all four administrations must ensure that the transposition of these powers is done neatly and cohesively. The principles should complement one another, though need not apply jointly in all cases. The changes must be made to work equally for businesses operating across all four localities, they must also be clearly communicated to businesses across all jurisdictions in a manner which distinguishes between the requirements for each jurisdiction where these exist.

Waste illustrates some of these issues at their most acute. Clearly if Welsh government brings harder legislation on packaging but mutual recognition means that competitors in another polity in the UK can sell without the same regulation, this means that Welsh Government would effectively be legislating for comparative disadvantage, and displacing any unsustainable practice to another part of the UK to basically take advantage of the new market.

So while we note possible issues with the definition in the legislation on 'single-use plastics' having a different definition in Wales would not address the problem, and our view is that with the principles of non-discrimination and mutual recognition clearly articulated, it is vital that all four UK administrations work together to develop proposals for the UK Internal Market's regulation that provide confidence and stability to smaller businesses. As such, the process of developing common frameworks should be the starting point for the operation of the UK Internal Market, with the measures set out in the consultation to be used to provide stability to that framework over the longer-term.

FSB supports a three-tier model of enforcement and oversight bodies for the UK Internal Market. The first is the Four Nations Independent Body as was outlined in the White Paper. This body must adopt an equitable approach to decision

making for all four administrations. The investigations and enforcement powers must be conferred upon a new or existing regulatory body such as the Competition and Markets Authority. Finally, there is need for a wider engagement forum for businesses and representative bodies to feed into the aforementioned bodies. Any such body requires adequate enforcement powers to hold all entities to account in the event of a violation. In order to achieve this, the independent body must not be accountable to any government within the UK Internal Market.

This provides a necessary balance between policy divergence and a broad consistency, and would provide a four-nation approach while avoiding undue pulling back of devolved competencies to the centre. The current outcomes from the differing policies across the UK - while imperfect - do not appear yet to have caused a warping of the market across the different parts of the UK on the basis of internal market principles. It may be that it has stopped activity that may otherwise have been possible, but in this context that is a judgement for policy makers to make, rather than FSB.

## **Conclusion**

For SME employers it is vital that schemes start from understanding the pressures upon them, in terms of capacity (time and costs). Therefore, any aim to move must start from a basis of looking to provide headroom for SMEs to transition through alleviating costs and/or time in any schemes proposed, and that SMEs have fair access with schemes shaped to include their needs in a just transition. As noted, this also makes sense in terms of sustainable growth, prioritising growth from community businesses embedded in their local areas.

As such there are numerous opportunities in this agenda, if we get the frameworks right. It is important that the Welsh Government accentuate the positives and develop a strategy and narrative that focuses on tangible benefits for businesses and communities, be they in terms of lower costs or supply chains or new business opportunities. Currently the story SMEs hear are added costs and obligations, or at best mitigations of risks, rather than the numerous opportunities.

There are lessons – both on the good and bad practice – on how this has been done to date and we hope this evidence provides some useful initial insights.