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Consultation outcome

Government response

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Executive summary

Simpler Recycling is a reform to the recycling system which means that people across England will be able to recycle the same materials, whether at home, work or school, putting an end to the confusion over what can and cannot be recycled in different parts of the country.

In this targeted consultation we sought views on:

- proposed exemptions to the requirement to collect the core recyclable waste streams separately from each other
- statutory guidance for the legislation related to Simpler Recycling

The government wants recycling to be as simple as possible for citizens, to give local authorities as much flexibility as possible, and to avoid a proliferation of different bins causing 'bin blight'.

We consulted on an exemption to allow the co-collection of any combination of recyclable plastic, glass, metal, and paper and card together in one bin in all circumstances, without the need for a written assessment. We will proceed with this exemption as proposed.

We consulted on an exemption to allow the co-collection of garden waste and food waste together in one bin in all circumstances, without the need for a written assessment. We will proceed with this exemption as proposed.

We also consulted on statutory guidance that will be issued in accordance with new section 45AZE of the Environmental Protection Act 1990, once it comes into force. As policies are subject to the parliamentary process, the statutory guidance will be published after the regulations are made. In this document, we have provided a summary of consultation responses and corresponding policy decisions that will feed into the final guidance.

Summary of the consultation

The targeted consultation on exemptions and statutory guidance for Simpler Recycling in England opened on 21 October 2023 and closed on 20 November 2023.

Defra consulted all English waste collection and disposal authorities and the Environment Agency. We also engaged with key membership organisations across the waste sector during the consultation period. We also received feedback from a range of stakeholders, including packaging producers, material producers, reprocessors and environmental non-governmental organisations (eNGOs).

There were 202 respondents to the consultation:

- 170 local authorities
- 18 representative trade bodies
- 14 others

Government response on the proposed exemptions

Question 6: Do you agree with the provision of an exemption to allow for the co-collection of paper and card, plastic, metal and glass in one bin without needing a written assessment?

76% of consultation respondents agreed with this proposed exemption, while 17% disagreed, 6% were unsure and 2% did not respond.

We received mixed opinions regarding the impact of co-collecting dry recycling on the ability of the materials to be recycled. 28% of respondents considered that co-collection in one mixed recycling bin leads to higher recycling yields because it is easier and less confusing for households. This was supported by 33 local authority responses that noted they already co-collect dry recycling and consider that it works well. 62% of responses noted that councils are best placed to know how to deliver effective local services and need flexibility.

9% of responses argued in favour of the exemption as they consider the written assessment required to co-collect recyclable waste streams in the existing policy as an unnecessary burden on local authorities and other waste collectors. Some local authorities were concerned that the written assessment process may have been complicated or involve burdensome sign-off procedures. 33% raised concerns about funding and how the proposed exemption would interact with the extended producer responsibility (EPR) for packaging scheme.

16% of responses considered that technology is sufficient for separating materials after collection. However, 6% of responses noted concerns about the capacity and widespread availability of this technology in England. Accordingly, 22% of responses argued that the quality or value of co-collected recycling materials is lower.

Respondents highlighted concerns with mixing glass (8%) and paper and card (6%) in particular, as glass can contaminate other materials if it breaks during collection and sorting, and paper and card are vulnerable to contamination from liquids on other materials, both of which can reduce the quality of materials.

4% of responses queried the evidence base on which the decision regarding the exemption will be made, noting that care should be taken when comparing recycling rates because it is important to understand contextual factors, for instance the proportion of garden waste.

The Consultation Impact Assessment (<https://consult.defra.gov.uk/waste-and-recycling/consistency-in-household-and-business-recycling/>) for Simpler Recycling, informed by analysis from the Waste and Recycling Action Programme (WRAP), assumes a 4% contamination rate for separately collected dry recyclables: 9.5% for twin-stream collections and 13.5% for co-mingled mixed dry recyclable collections^[footnote 1]. The Collection and Packaging Reforms (EPR for packaging, a deposit return scheme for drinks containers, and Simpler Recycling in England) will support behaviour change to reduce contamination rates and better preserve material value. Simpler Recycling in England will make recycling clearer and easier, as people will no longer need to check what their specific council will accept for recycling. As part of EPR for packaging, producers will be required to label packaging to state whether it is recyclable or not. This will help reduce confusion and support the Simpler Recycling measures to ensure the correct materials are captured for recycling.

Because of this, the Secretary of State is satisfied that co-collection of dry recyclable materials will not significantly reduce their potential to be recycled, so long as dry recycling is collected separately from residual and organic waste. We will proceed with this amended exemption to allow for the co-collection of these dry recyclable waste streams in one bin, without the need for a written assessment. This means that there will always be a minimum of 3 bins – dry recycling, organic waste, and residual (non-recyclable) waste.

Allowing local authorities and other waste collectors to make these decisions locally will ensure a commonsense approach to delivering recycling services and avoid a proliferation of unnecessary bins.

Question 7: Do you agree with the provision of an exemption to allow for the co-collection of food and garden waste in one bin without needing a written assessment?

62% of respondents agreed with the proposed exemption, while 18% disagreed, 14% were unsure, and 5% did not give an answer.

In support of the exemption, 51% of stakeholders stated that the exemption would provide flexibility for local authorities to choose which system works best to allow them to provide an effective service for their local area. Respondents cited available infrastructure and the geographic and demographic nature of their local authorities as reasons why the ability to co-collect food and garden waste would be preferable.

The primary concerns from respondents over the exemption related to:

- the higher cost of co-collecting food and garden waste
- the belief that co-collection leads to lower yield and quality of food waste – although evidence about the effectiveness of their own systems, from local authorities that currently co-collect food and garden waste, countered this position
- worse environmental outcomes when co-collected garden and food waste is sent for industrial composting, as opposed to anaerobic digestion

Our proposal allows local authorities to co-collect food and garden waste together without the need for a written assessment, where it is deemed the preferable mode of collection. It does not impose co-collection on any local authority, which mitigates these concerns.

Some respondents (12%) expressed concern that it would be difficult to manage a chargeable garden waste collection and a free food waste collection where food and garden waste are co-collected^[footnote 2], as it would be confusing for residents and make it difficult to provide transparent data on the performance of both systems. We will provide non-statutory guidance for local authorities to support the provision of chargeable garden waste collections and free food waste collections, where these collections are co-mingled, to mitigate this concern.

In line with the responses to the consultation, we will proceed with the proposed exemption to allow food and garden waste to be co-collected in one bin from households and non-household municipal premises.

Government response on proposed statutory guidance

We consulted on statutory guidance that will be issued in accordance with new section 45AZE of the Environmental Protection Act 1990, once it comes into force. We intend to commence the relevant legislation and make relevant regulations in 2024, subject to the parliamentary process. The final statutory guidance will then be published after the regulations relating to Simpler Recycling have been made. The draft guidance we consulted on was therefore

written on the assumption that the regulations will be made as per the approach proposed in Section 1 of the consultation, regarding proposed exemptions. However, as policies are subject to the parliamentary process, the final guidance will be amended as necessary to reflect the regulations as they are eventually made. The final guidance text may also be amended for clarity. Below, we have provided a summary of consultation responses and corresponding policy decisions that will feed into the final guidance.

We received many questions from consultation respondents and wider stakeholder engagement regarding the legal status of statutory guidance. All relevant waste collection authorities, waste disposal authorities and other waste collectors must have regard to the statutory guidance when carrying out waste management duties, in accordance with sections 45 to 45AZD of the Environmental Protection Act 1990. This means that parties must read the statutory guidance and take it into account when making relevant decisions. They should follow the statutory guidance unless they have good reason not to. We will ensure the guidance clearly differentiates between legal obligations, what government is advising parties should do unless they have good reason not to, and suggestions and advice which government considers will assist parties in implementing Simpler Recycling but which they are not required to have regard to.

Proposed guidance on materials in scope of the recyclable waste streams

Question 8: The guidance advises that waste collection authorities should build flexibility into their contracts to ensure materials can be added/removed to the recyclable waste streams as new recycling technologies develop. Do you agree or disagree with the content of this section?

34% of respondents agreed with the proposed statutory guidance, 27% disagreed, 35% were unsure and 4% gave no answer.

While several respondents stated that flexibility in contracts is needed to be able to recycle more materials as the technology becomes available (19%), allowing for continuous improvement (8%), 61% of respondents noted that building flexibility into contracts increases upfront contract costs, and making use of flexible contract arrangements will have an impact on operational costs, such as upgrading infrastructure or procuring new vehicles or containers.

Furthermore, 18% of respondents stated that any changes to future materials in scope would not just impact waste collection contracts, but also others including disposal and processing contracts, and so any changes to materials in scope would need to involve consultation of the whole value chain.

Some respondents (5%) also stated that given the cost of amending an existing contract to incorporate flexibility, this expectation should only apply to future contracts.

Given respondents' concerns over the costs of building flexibility into contracts and the cost of amending contracts, we will provide suggestions and recommendations for local authorities to assist with building flexibility into future waste contracts, to ensure they can keep pace with any changes to the recyclable waste streams, but we will not include this in statutory guidance. We plan to support local authorities to incorporate this flexibility in a way that suits their particular needs and contracts.

Question 9: Do you agree or disagree with the contents of the list above, detailing the materials that are out of scope of the recyclable waste streams?

43% of respondents agreed with this proposal, while 44% disagreed, 9% were unsure and 4% did not give a response.

33% of responses requested that we align the lists of materials in and out of scope so that they can be viewed together on the same page. Others queried why some of the exclusions published in the [government response to the 2021 consultation](https://www.gov.uk/government/consultations/consistency-in-household-and-business-recycling-in-england/outcome/government-response) (<https://www.gov.uk/government/consultations/consistency-in-household-and-business-recycling-in-england/outcome/government-response>) were not reiterated in this document, for instance for the paper and card and garden waste stream descriptions.

The proposed list of materials out of scope sought to clarify their exclusion, where they are commonly confused with the materials in scope of recyclable waste collection, for the avoidance of doubt. This list supplements the descriptions of the recyclable waste streams referred to in the government response to the 2021 consultation, which will be put into regulations to ensure the separate collection duties are clear and enforceable.

18% of responses requested support to communicate this list to the public. Defra recognises the need for clear and communicable lists. Mandatory recyclability labelling on all packaging will be introduced through the [extended producer responsibility for packaging regulations](https://www.gov.uk/government/consultations/draft-producer-responsibility-obligations-packaging-and-packaging-waste-regulations) (<https://www.gov.uk/government/consultations/draft-producer-responsibility-obligations-packaging-and-packaging-waste-regulations>). Further work to develop public facing communications across the Collection and Packaging Reforms is underway and will precede the introduction of the Simpler Recycling obligations.

Respondents raised various specific materials or items which they considered should be included or excluded from scope. We are currently working with relevant stakeholders to refine the draft regulations and statutory guidance to ensure that the materials descriptions are as clear and accurate as possible. The Secretary of State may add to the materials in each recyclable waste

stream set out in the regulations in the future, once there is confidence that the materials are recyclable.

24% of responses flagged concerns with bulky waste or big items, noting that it is not technically feasible to collect materials over a certain size at kerbside. In accordance with existing legislation in section 46 of the Environmental Protection Act 1990, local authorities can require householders to present waste in any specified receptacles. In addition, per the Controlled Waste (England and Wales) Regulations 2012, local authorities can charge for the collection of:

- any single article of household waste which does not fit or cannot be fitted into any provided receptacles, or, where no such receptacle is provided, a cylindrical container 750mm in diameter and 1m in length
- any single article of household waste which weighs over 25kg

6% of responses sought clarification that the lists of materials in and out of scope of the recyclable waste streams will not restrict what is collected at household waste and recycling centres. This is correct: the separate collection requirements only apply to collections of household waste from households and relevant non-domestic premises, and relevant commercial and industrial waste.

Proposed guidance on dry recyclable waste collections from households

Question 10: Guidance is provided regarding the requirement to collect dry recycling from premises and the use of communal bins. Do you agree or disagree with the content of this section?

53% of respondents agreed with this proposal, while 29% disagreed, 13% were unsure and 5% did not give a response.

Many responses emphasised the need for local authority flexibility, particularly for various 'difficult to access' properties (18%) or to provide innovative, communal 'bring bank'-style collections in certain circumstances (12%). The requirement for waste collection authorities to arrange for the collection of household waste in their area stems from existing legislation in section 45 of the Environmental Protection Act 1990. New section 45A applies only where the duty in section 45(1)(a) arises. Section 45(1)(a) sets out that each waste collection authority must arrange for the collection of household waste in its area, except where both of the following conditions apply:

- the waste is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high

- the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste

The same parameters will apply for collecting the recyclable waste streams. For example, if a property is in a particular remote location that it has been deemed not feasible to provide a residual waste collection, and the council is satisfied that adequate alternative arrangements can be made by the householder, then the council would similarly not be expected to provide a recycling collection.

The final guidance document is intended to assist local authorities with understanding their legal obligations, as well as providing statutory guidance which they must have regard to and further advice and support.

20% of responses raised concerns that local authorities have limited power to require new building developments or renovations to incorporate appropriate space for waste receptacles, per relevant planning legislation and guidance. We recognise that space for receptacles is essential for providing efficient waste and recycling services, and the government recently consulted on [permitted development rights](https://www.gov.uk/government/consultations/changes-to-various-permitted-development-rights-development-rights-consultation/changes-to-various-permitted-development-rights-consultation) (<https://www.gov.uk/government/consultations/changes-to-various-permitted-development-rights-consultation/changes-to-various-permitted-development-rights-consultation>).

Proposed guidance on organic recyclable waste collections from households

Question 11: Is there any additional guidance that would be useful regarding the provision of caddy liners?

66% of respondents answered yes to this question, 8% answered no, 18% were unsure, and 8% gave no answer. Most of the additional detail provided by respondents focused on whether caddy liners should be provided alongside food waste collections, as opposed to what additional guidance would be useful.

18% of respondents suggested additional guidance should address quality standards and labelling to ensure the most appropriate liners are used. 10% of respondents asked for additional guidance on the preferred liner materials, if their use is to be mandated. 8% of respondents would appreciate additional guidance on practical considerations, including the quantity of liners that should be provided, the frequency and method of provision, and consideration of different property types.

Engagement with WRAP and the sector suggests that local authorities and food waste recycling plant operators benefit from a flexible approach to caddy liner use, which is appropriate to varied local circumstances and treatment facility requirements.

Local authorities are able to provide caddy liners if preferred, however, there are currently no plans to fund local authorities to provide caddy liners to households. We continually review the evidence base and policy around caddy liner use.

Question 12: Guidance is provided regarding the requirement to collect food waste from premises and the use of communal bins. Do you agree or disagree with the content of this section?

53% of respondents agreed with this proposal, while 29% disagreed, 11% were unsure and 7% did not give a response. We received similar feedback as for question 10 regarding the need for local authority flexibility and planning regulations: please refer to the answer for question 10.

Additionally, 17% of responses queried how food waste collections will be funded as a new burden on local authorities. We wrote to local authorities on 9 January 2024, detailing the indicative capital funding allocation for each local authority and when other sources of funding can be expected. It also detailed that funding will be provided through section 31 grants on a non-ringfenced basis.

Question 13: The guidance provides advice on collection frequency of garden waste. Do you agree or disagree with the advice on collection frequency of garden waste?

50% of respondents agree with this proposal, while 34% disagreed, 7% were unsure and 9% did not give a response. 29% of respondents stated that there should be scope for waste collection authorities to decide both the frequency and portion of the year in which to provide a garden waste collection. 6% asserted that there should be clarity over what is meant by 36 weeks, with some suggesting that the growing season varies depending on the year and area of the country. It was also raised that a frequency has not been provided.

5% of respondents said they would like further clarification on the requirements around the provision of a garden waste collection service within a local authority area, and whether garden waste collection services must be made to all households who request it, or whether local authorities can determine whether some properties are unable to be serviced, due to inaccessibility or cost.

We plan to recommend in statutory guidance that to maximise garden waste yields, garden waste collections are offered to all households with gardens over a period no less than 36 weeks in any calendar year and that, as a minimum, collections are offered during March to October (inclusive). We will make clear that this may vary on local circumstances and that frequency of collections is for

waste collection authorities to determine with regard to their local circumstances.

We will make clear in statutory guidance that under section 45(1)(a) of the Environmental Protection Act 1990, waste collection authorities are required to arrange for the collection of household waste, unless it is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste. This applies even where a garden waste collection service has been requested. Where there is a duty to collect waste under section 45(1)(a) of the Environmental Protection Act 1990, new section 45A will apply in England.

Question 14: The guidance outlines that anaerobic digestion is the preferred method for treating food waste, where suitable, but composting is also permitted. Do you agree or disagree with the content of this section?

66% of respondents agreed with the content of this section, 18% disagreed, 8% were unsure and 8% gave no answer.

In line with the responses received, anaerobic digestion continues to be our preferred treatment option for food waste, while composting remains permitted. We will review the terminology around treatment types used in the guidance and clarify if appropriate. We will also consider adding guidance on the treatment of separately collected garden waste, and on best practice minimum standards for treatment of organic waste, including the quality of digestate or compost.

Proposed guidance on residual waste collections from households

Question 15: The guidance outlines a backstop on the frequency of collection of residual waste, to protect householders' local amenity. Do you agree or disagree with the content of this section?

80% of respondents disagreed with the content of this section, while 10% agreed, 5% did not give an answer and a further 4% responded that they were unsure.

58% of total respondents expressed a view that that reducing the frequency of residual waste collections increases recycling rates, with 47% considering that without the flexibility to reduce the frequency of residual waste collections, both local and central government will not meet their recycling rate nor Net Zero

ambitions. 44% were of the view that reducing residual waste frequency is important in changing householder behaviour, to encourage them to recycle more and, particularly, to use their food waste collection service.

54% of respondents expressed that local authorities are best placed to make decisions about the frequency of residual waste collections, tailored to the needs of their local residents. 33% of respondents pointed out that residual waste collections once every 3 weeks were working successfully in areas where they are currently offered.

40% of respondents stated that the frequency of residual collections should be determined by taking into account what delivers the highest performance and best quality of materials at the best value – particularly for obligated producers who are paying for EPR packaging materials.

Government wants to ensure that householders can dispose of putrescent or odorous non-recyclable waste frequently to avoid malodour and attracting vermin. Government expects a minimum service frequency for residual waste collections of at least fortnightly in England. Our statutory guidance will state that local authorities therefore should provide a minimum standard of a fortnightly collection for residual waste (alongside a weekly food waste collection), which means they should not provide a residual waste collection service any less frequently than fortnightly. The government actively encourages councils to collect residual waste more frequently than fortnightly; this minimum standard provides a backstop, not a recommendation. This policy will continue to be kept under review.

Proposed guidance on food waste collections from non-household municipal premises

Question 16: The guidance outlines that anaerobic digestion is the preferred method for treating food waste, where suitable, but composting is also permitted. Do you agree or disagree with the content of this section?

63% of respondents agreed with the content of this section, 17% disagreed, 7% were unsure and 13% gave no answer.

Responses to this question were very closely aligned with those for question 14 on household food waste treatment.

In line with the responses received, anaerobic digestion continues to be our preferred treatment option for food waste, while composting remains permitted. We will review the terminology around treatment types used in the guidance and clarify if appropriate. We will also consider adding guidance on best

practice minimum standards for treatment of organic waste, including the quality of digestate or compost.

1. WRAP's analysis (unpublished). As noted in the Impact Assessment, reporting of inputs and rejects from MRFs (Materials Recycling Facilities) shows reasonable variation and inconsistency between data sets such as Waste Data flow and the MF Portal, and so standardised contamination rates are applied in the Impact Assessment's modelling. A contamination rate is then applied to the tonnage collected and varies by collection approach.
2. All household food waste collections must be provided for free under new section 45A of the Environmental Protection Act 1990, as amended by the Environment Act 2021.

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