

## **Scotland's Circular Economy and Waste Route Map to 2030 Consultation**

**March 2024**

1. Environmental Standards Scotland (ESS) welcomes the opportunity to respond to this consultation.
2. ESS is a non-ministerial office directly accountable to the Scottish Parliament. Since 1 October 2021, it has been part of the system of environmental governance in Scotland following the UK's exit from the European Union. Its remit is to:
  - ensure public authorities, including the Scottish Government, public bodies and local authorities, comply with environmental law
  - monitor and take action to improve the effectiveness of environmental law and its implementation
3. ESS' Strategic Plan 2022-2025 sets out a range of analytical priorities which we have identified as being the focus for work over the next three years. One of the priority areas is considering progress against waste and recycling targets and the development of the circular economy.
4. Some of the information we submit here reiterates what has already been submitted to the Scottish Parliament's Net Zero, Energy and Transport Committee [in their initial call for views on the Circular Economy \(Scotland\) Bill](#). Having followed the progress of the Bill through Stage 1 and considering how this relates to the substance of the route map, we consider that it is important to restate some of our key points.

5. We note that the route map is designed to lay out measures which will contribute to Scotland's transition to a circular economy and will be supported by the Circular Economy (Scotland) Bill, which is currently reaching the end of Stage 1 considerations in the Parliament. We will continue to track the progress of the Bill, noting that much of the detail is currently anticipated to be laid out in secondary legislation following the current parliamentary scrutiny of this Bill.
6. It will take time to build up a sufficient evidence base to allow the effectiveness of the circular economy legislation, and compliance with it, to be fully assessed. In this response we set out the principles we consider to be important for the development of future work, and also seek assurances about what happens in the interim period before new targets and strategies are implemented.

## **Targets**

7. ESS recognises the importance of establishing a circular economy, and the need for legislative change to drive its development. We welcome the ambition to move towards a more comprehensive and wide-ranging suite of indicators to measure progress towards a circular economy. It is important that existing targets and measures integrate with any future metrics which are developed. This will help to provide continuity of monitoring and an indication of the direction of travel, as well as useful background context. We recognise the need to take a more holistic view and welcome measures that drive promotion of (and further embed) the waste hierarchy, particularly the principles of prevention and reuse.
8. In principle, we welcome the move which would allow for national circular economy statutory targets and, separately, for local authority targets for recycling and reuse to be embedded on a statutory footing. Linked to this, there needs to be a mechanism for collecting data and monitoring progress towards any targets which are established.

9. As we set out in our response to [Scotland's Strategic Framework for Biodiversity](#), statutory targets help to ensure that there is a legal duty to act for relevant public bodies and establish a long-term approach. Targets have to be ambitious, but credible, in order for them to drive progress and to provide the public with realistic expectations of these being achievable.
10. Experience from the existing suite of non-statutory waste targets presents a mixed picture. While some targets have been achieved or are on track, progress against several has not been sufficient, including the household recycling and re-use target which is likely to form the basis of the future local authority statutory target. The latest data<sup>1</sup> demonstrates that there is room for considerable learning in relation to setting and achieving credible future targets:
- a. Nationally, the proportion of household waste which is recycled has increased between 2011 (39.6%) and 2022 (43.3%) but continues to be considerably below the 2020 target of 60%. This target was missed, and subsequently not extended or renewed.
  - b. There is variation in performance across Scotland's local authorities, with recycling rates varying between 20.7% and 57.8%. Only two local authorities (East Renfrewshire and West Lothian) have ever recycled more than 60% of their household waste but neither of them have achieved this since 2019. A quarter of local authorities reported lower recycling rates in 2022 than they did in 2011.
11. It is important that any interim position on setting and achieving future targets does not result in stagnation. Given the lead-in time to co-design new targets, lay the required

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<sup>1</sup> [SEPA Household Waste Discover Data Application](#), last accessed 12 March 2024

regulations and implement the legislation, there will be a period of time where existing practices continue. ESS would welcome a public commitment from the Scottish Government as to the status of the remaining 2025 targets (and the 2020 household recycling target) and whether these will be extended in the interim period between 2025 and any new circular economy targets being introduced.

12. To date there has been relatively slow progress towards moving up the waste hierarchy beyond landfill and incineration. To ensure effective progress will require a robust process for establishing, verifying, reviewing, monitoring and reporting on any new or continuing targets. This should be evidence-based, independent and appropriately resourced to ensure that the framework and the targets are effective. Building realistic and reasonable interim targets to check progress is also vital to instil public confidence and ensure that policy progress is being made steadily throughout the process to improve performance.

## **Monitoring**

13. We note that the route map and Bill provide for progress to be tracked in three main ways:
  - a. A circular economy strategy, subject to a five-year publication cycle (with interim reviews at 2.5 year point).
  - b. National statutory circular economy targets.
  - c. Local authority statutory targets on recycling and reuse.
14. The Circular Economy route map and the current draft of the Circular Economy (Scotland) Bill have not considered any monitoring and reporting requirements in detail that would scrutinise these measures, once they come into force. The Policy Memorandum accompanying the Bill states that the content of this Bill and any further

associated regulations are likely to fall into the scope of ESS' (and ZWS') statutory functions (para.131). The route map does not explicitly mention ESS.

15. As we previously noted in our response to the [Scottish Government's Environmental Governance Review](#), there remain some gaps in environmental governance functions in Scotland which were previously performed by the European Commission and the European Environment Agency, notably around the monitoring and reporting against environmental progress. Should the Scottish Government intend for an independent monitoring and reporting function to take on a systematic and scheduled role in monitoring and evaluating government progress across a national strategy and the various targets, then this needs to be factored into the design of policy and legislation at the earliest possible opportunity.
16. ESS does not currently have a systematic monitoring and reporting function. We can look at individual environmental topics which have been identified within our strategic plan through our analytical work, or as a result of receiving a representation. However,, this is not the same as providing a systematic monitoring function in respect of specific targets or strategies. If there was to be a requirement for ESS to take on an additional function, with regular reporting, it would need to be adequately resourced to ensure it could be fully delivered alongside our existing remit and functions.
17. Effective scrutiny, monitoring and reporting is an important part of developing and implementing environmental targets. There is limited detail in the route map and draft Bill on how the various elements of the circular economy work is going to be scrutinised. Further development of the proposed approach for monitoring and reporting is an essential part of the progress of this Bill.

## **Wider context**

18. ESS recognises the complexity of the legislative landscape that influences the development of a circular economy in Scotland. The measures delivered through this Bill (and subsequent regulations) must complement and integrate with wider legislative developments, including:

- the Integrated Authorisation Framework (Environmental Authorisation (Scotland) Regulations 2018)
- Deposit Return Scheme (The Deposit Return Scheme for Scotland Regulations 2020)
- UK Mandatory Digital Waste Tracking
- revision of EU Waste Framework Directive (specifically focusing on textiles and food waste) (2023/0234)
- EU Waste Shipment Regulation (2021/0367)
- EU Ecodesign for Sustainable Products Regulation (2022/0095)
- EU Packaging and Packaging Waste Regulation (2022/677)
- EU Batteries and Waste Batteries Regulation (2023/1542)
- EU Critical Raw Minerals Act (2023/0079)
- EU Circularity Requirements for Vehicle Design and Management of End-of-Life Vehicles Regulation (2023/0284)
- revision of EU Waste Electrical and Electronic Equipment Directive (2023/0025)
- EU Right to Repair Directive (2023/0083)
- EU Regulation on Persistent Organic Pollutants (2022/2400)

19. Considering the degree of change in this area, careful monitoring and (where necessary) implementation of further measures not currently proposed under the Bill will be necessary to ensure Scotland maintains alignment with wider legislative developments and is well-placed to establish a circular economy in Scotland.