

Finance and Public Administration Committee

26th Meeting 2023, (Session 6), Tuesday 24
October 2023

Circular Economy (Scotland) Bill – Financial Memorandum

Purpose

1. The Committee is invited to take evidence in relation to its scrutiny of the Financial Memorandum (FM) for the Circular Economy (Scotland) Bill from:
 - Charlie Devine, Service Manager - Waste Partnership, Dundee City Council;
 - Jim Jack, Head of Operational Services, West Lothian Council; and
 - Kirsty McGuire, Waste Manager, South Lanarkshire Council.
2. This session will provide an opportunity to review the potential costs associated with the measures introduced by the Bill, as set out in the [Financial Memorandum](#), and to explore the issues raised by stakeholders in written evidence to the Committee. Annex A sets out the information that should be included in a Financial Memorandum.

Background

3. The [Circular Economy \(Scotland\) Bill](#) was introduced on 13 June 2023 and requires Scottish Ministers to adopt measures to help develop a circular economy.
4. The Bill includes the following provisions, as highlighted in the [explanatory notes](#):
 - Circular economy strategy: placing a duty on Scottish Ministers to publish or refresh a circular economy strategy at least every 5 years.
 - Circular economy targets: developing statutory targets for the Scottish Ministers.
 - Restrictions on the disposal of unsold consumer goods: providing powers to limit the disposal of unsold goods.
 - Charges for single-use items: creating a power to set a minimum charge for certain throwaway items.
 - Householder's duty of care in relation to waste: making it a criminal offence for a householder to breach their existing duties of care under the Environmental Protection Act 1990, in relation to the transfer of waste, and creating a new fixed penalty regime to enforce these duties.

- Household waste: requiring local authorities to comply with a code of practice on collection and recycling and giving local authorities a package of new responsibilities and powers, including powers for the Scottish Ministers to set recycling targets for local authorities.
 - Littering from vehicles: establishing a new civil penalty regime that will make the keeper of a vehicle liable to pay a civil penalty charge in respect of a littering offence committed from that vehicle.
 - Enforcement powers in respect of certain environmental offences: improving enforcement against fly-tipping and other waste crime through a power allowing the Scottish Environment Protection Agency (“SEPA”) and local authorities to seize vehicles involved in specified waste crime.
 - Reporting on waste, surpluses, etc: obtaining information about where waste is occurring through a power to require information which would lead to public reporting of waste and surplus by businesses (the intention is for this initially to be applied to information about food).
5. The Presiding Officer has ruled that the Bill requires a financial resolution. Crown consent is also needed. The Parliament has agreed that Stage 1 should be completed by 26 January 2024. A SPICe briefing on the Bill has been published and is available on the [Parliament’s website](#).
6. The [policy memorandum](#) explains that—
- “Building a more circular economy requires all parts of Scottish society to play their part. This Bill addresses that by placing requirements on, or enabling further action by, central and local government, businesses and householders. The Bill will primarily deliver enabling powers that will set a framework for taking action into the future. Where the Scottish Government is choosing to introduce powers to make regulations, rather than placing specific provisions on the face of the Bill, its intention is to take the opportunity to use public consultation and co-design processes (particularly for recycling provisions) that will take views from all relevant parts of society to ensure that effective regulations are developed.”
7. On 18 September, the Net Zero, Energy and Transport (NZET) Committee, which is lead committee for scrutiny of the Bill, [wrote to the Cabinet Secretary for Transport, Net Zero and Just Transition](#) highlighting concerns in relation to the level of detail included in the Bill—
- “The Committee notes that the Bill as drafted sets out high-level principles on the face of the Bill, leaving much of the details around proposed measures to be set out in secondary legislation. Whilst I recognise that some explanation behind the policy objectives can be found in the Policy Memorandum for the Bill, such framework legislation poses challenges for parliamentary scrutiny.”
8. The Minister for Green Skills, Circular Economy and Biodiversity [responded to the lead committee’s letter](#) on 13 October, stating that “the Bill provides a combination of detail on the face of the Bill with a framework for future action in certain areas supported by delegated powers, the use of which will be underpinned by co-design with stakeholders including local authorities,

businesses and householders”. The Annex to the Minister’s letter provides a list of provisions requiring secondary legislation, including the Scottish Government’s reasoning for the approach taken.

9. The lead committee’s call for views on the general principles of the Bill received 99 responses, which are available on the [Citizen Space](#). The lead committee took evidence on [26 September](#) from a panel of representatives from Scotland’s business community and on [3 October](#) from a panel of environmental regulators. It intends to continue taking evidence from stakeholders throughout the autumn and to also undertake fact-finding visits and an engagement event.
10. The Parliament agreed, on 8 February, that consideration of the Bill at Stage 1 be completed by 26 January 2024. As required by [Standing Orders](#) (Rule 9.6, 3A), the lead committee is required to publish its report on the Bill no later than the fifth sitting day before the Bill’s Stage 1 debate on the Bill, taking into account the views submitted by any other Committee, including those provided by this Committee on the Financial Memorandum.

Financial Memorandum

11. The [Financial Memorandum](#) (FM) for the Bill provides estimates of potential costs and savings arising from the Bill, applying to the Scottish Administration, Local Authorities, SEPA, individuals and businesses, as summarised on pages 26-30 of the FM.
12. Costs on the Scottish Administration are estimated at £1,557,000 over the first three years of implementation. Costs on Local Authorities are expected to amount to £227,000 (per local authority other than littering from vehicles) for the first 3 years, with total estimated savings ranging from £430,366 to £990,952 arising in total across Years 2 and 3. Costs to other bodies (SEPA) are estimated to reach £888,488 over the first three years, while costs to individuals and to businesses are not directly quantified in the FM “given the number of variables”. A number of costings remain subject to design of secondary regulations.
13. For example, in terms of the costs to local authorities of implementing charges for single-use items, the FM states that—

“Depending on the approach taken to introduce a minimum charge on single-use cups, there may also be a role for, and associated additional cost to, local authorities in enforcing the regulations. These costings will be subject to the scope of any secondary legislation following further assessment and consultation, and therefore calculated as part of impact assessments undertaken in advance of secondary legislation.”
14. Similarly, the FM explains it is not possible to provide estimates about the extent of any additional costs or benefits to local authorities that would be associated with the introduction of enforcement tools for local authorities in relation to householders’ recycling obligations, which are also subject to secondary legislation and guidance from Ministers. It also states “however, it is expected

that there would be both costs and benefits to local authorities in the use of these powers.”

15. Other examples include:

- on costs to other bodies, businesses and individuals, in relation to restrictions on the disposal of unsold consumer goods, the FM states that “Data on costs to business is limited and development of regulations would need to be underpinned by further research and engagement with businesses”.
- on charges for single-use items, the FM states that “The costs on businesses will vary, depending on the regulations. It has not been possible to ascertain the level of these costs on businesses at this stage, but full consultation with affected parties would be carried out before the introduction of any environmental charge.”

Written submissions

16. As usual, the Committee ran a call for views on the FM, which closed on 21 August and included the following standard questions that this Committee asks on all Financial Memorandums:

- Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?
- If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?
- Did you have sufficient time to contribute to the consultation exercise?
- If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
- Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
- If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?
- Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

17. The call for views received [eight responses](#), from:

- Aberdeen City Council
- Aberdeenshire Council
- Dundee City Council
- Glasgow City Council
- South Lanarkshire Council
- West Lothian Council
- COSLA

- Scottish Courts and Tribunals Service

18. Most of the submissions received highlight potential underestimates in terms of expected costs, as well as significant uncertainty in relation to the financial implications of the Bill. Aberdeen City Council highlights, in their submission, that “The financial memorandum presents very high-level estimates with much of the costs still to be properly ascertained. This is especially true for the section on household waste and development of the new code of practice.” West Lothian Council’s submission argues that “Costs for Local Authorities will be highly dependent on the review of the code of practice, which is linked to the outcome of Packaging Extended Producer Responsibility (EPR) and consequent funding for packaging waste, which will be determined from what is deemed an ‘efficient and effective service’, which is also currently unknown at present.” Similar concerns were raised by Dundee City Council—

“The broad principles of EPR are to cover costs associated with collection, treatment and disposal of packaging and to drive more sustainable design for packaging, therefore this cannot be used to offset any costs occurring from compliance with the Code of Practice. Whilst the RIF fund [Recycling Improvement Fund] is intended to cover capital costs for required infrastructure changes, we feel that timing and profiling of this fund has been disjointed. £54 million of the fund has already been committed, however the new Code of Practice has not been agreed making it difficult for currently compliant LAs to assess future compliance and impact of any new model.”

19. The FM explains that—

“The Scottish Government is making available £70 million capital funding over 5 years through the Recycling Improvement Fund for local authorities to apply for funds to support improvements in the quantity and quality of recycling and reuse. Funds have so far been allocated to projects to provide new bins to support collection of multiple types of recycling, to upgrade vehicles or collection technology or to build facilities to sort and process recycling. [...] The Fund, which runs from 2021 to 2026, has so far allocated over £53 million to projects in 17 local authorities.”

20. It further states that “the potential financial impact of the new code can only be fully assessed once it is developed. However, if any future mandatory code did incur additional costs for local authorities, this should be viewed in the context of work that the Scottish Government is taking forward, in partnership with the other UK administrations, to introduce EPR schemes across a range of products and materials.”

21. All Councils submitting written evidence highlight enforcement costs, which appear to them to have been underestimated. The FM suggests that, to deliver the Bill’s household waste requirements, additional Full Time Equivalent (FTE) enforcement officers may be required. The FM identifies this as a minimum of 2 extra officers per 150,000 population per local authority, costing £35,000 – £45,000 each and 1 FTE enforcement administration officer costed at £22,000 - £28,000 per local authority. However, Councils and COSLA note that a more

realistic figure for the cost of an enforcement officer, including on-costs, is in the region of £55,000. South Lanarkshire Council, for example, currently employs “no enforcement administration officers so this would likely be an additional enforcement officer. Given the geography of South Lanarkshire, 2 enforcement officers per 150k population would be insufficient.”

22. While this Committee did not receive any submissions on the FM from the business community, [written submissions to the lead committee’s call for evidence](#) do raise questions regarding the financial impact of the Bill. The [Federation of Small Businesses](#), for example, concludes in their submission to the lead committee, that “while [the Bill] offers various environmental and economic benefits, the associated obligations and costs can disproportionately affect smaller enterprises. Mitigation measures, including financial assistance, incentives, and support for adaptation, are essential to ensure that small businesses can thrive in a more circular economy.” The [Scottish Beer & Pub Association](#) raises concerns regarding “the potential impact of charges on single-use items, such a coffee cups on some of our members, particularly if there is additional requirements attached to a charge which equate to added costs for business (reporting functions/hypothecation of funds/administrative issues/additional collection facilities).”
23. The submissions received on the FM raised questions regarding the potential for the Bill to deliver savings to local authorities, particularly from littering fines, where “income assumptions appear to be based on 100% payment rate which is unlikely” (South Lanarkshire submission). Aberdeenshire Council argues that savings in relation to disposal costs are not relevant, “as the litter bins still require to be emptied and the streets still require to be cleaned therefore there would be no reduction in staff, vehicles or resources so the collection costs would remain the same.”
24. In their submission to the Committee, COSLA also notes that “The delays to the implementation of the Deposit Return Scheme and Extended Producer Responsibility inevitably impact on the objectives of the Bill and its impact. The margins of uncertainty are now greater as a result of delays to key Scottish and UK policies.”
25. In relation to the costs and savings within this Bill, the Committee will also be aware that a revised Fiscal Framework between the Scottish Government and Local Government is being developed, following the publication of the [Verity House Agreement](#) (VHA) on 30 June 2023. That agreement sets out—
- “The default position will be no ring-fencing or direction of funding, unless there is a clear joint understanding for a rationale for such arrangements ... [and] additionally, current funding lines and in-year transfers will be reviewed ahead of the draft 2024-25 Budget Bill, with a view to merging into General Revenue Grant Funding.”
26. The VHA goes on to say that the Fiscal Framework will include “a presumption in favour of local flexibility where national approaches are being progressed, so far

as is possible and effective” and highlights that “existing strategic and service level plans and associated reporting will be streamlined and refined.”

Next steps

27. The Committee will take further evidence on the FM for the Circular Economy (Scotland) Bill at its meeting on Tuesday 7 November, when it will hear from the Minister for Green Skills, Circular Economy and Biodiversity. The Committee will then report its views to the NZET Committee later in November, in order that they can inform the lead committee’s Stage 1 report.

Committee Clerking Team
October 2023

Information to be included in FMs

1. [Rule 9.3 of Standing Orders](#) states in relation to Financial Memorandums that:
“2.A Bill must on introduction be accompanied by a Financial Memorandum which sets out best estimates of the costs, savings, and changes to revenues to which the provisions of the Bill would give rise, and an indication of the margins of uncertainty in such estimates. The Financial Memorandum must also include best estimates of the timescales over which such costs, savings, and changes to revenues would be expected to arise. The Financial Memorandum must distinguish separately such costs, savings, and changes to revenues that would fall upon—
 - (a) the Scottish Administration;
 - (b) local authorities; and
 - (c) other bodies, individuals and businesses.”
2. The accompanying [Guidance on Public Bills](#) notes that: “the Financial Memorandum should explain how these costs, savings, and changes to revenues arise, and what the implications are for the Scottish Consolidated Fund. For example, provision for a new or modified tax raising power could, assuming the power is used, significantly increase or reduce the amount of revenue paid into the Scottish Consolidated Fund. The discontinuation of a service or dissolution of an organisation could present potential savings to budgets and the Financial Memorandum should set out best estimates for these savings.”

Written Submission from Dundee City Council

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Dundee City Council responded to the previous consultation. Where possible, comments were made regarding any financial assumptions or concerns however these were high-level comments as there has been insufficient financial detail provided to date.

We recognised the essential part which Local Authorities(LA's) must play in delivering the key functions of this bill and noted that adequate funding would be required to enable LA's to act as both the enabler and regulator of statutory functions. We also requested that Scottish Government should consider the impact of additional capital and revenue costs required to implement, manage and maintain the required changes at a time of considerable budgetary pressure for LA's.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

Whilst the Financial Memorandum (FM) sets out estimated costs and savings, this is not detailed enough to provide sufficient clarity for LA's. The FM indicates that there is still significant research required in certain areas and that at this stage, costs are not known.

Comments made in the previous consultation were initially based on forthcoming legislative changes such as Deposit and Return Scheme (DRS) for single use beverage containers (in its previous form) and the Extended Producer Regulations (EPR) in relation to packaging, which are both subject to delays. Therefore, some of our responses to the initial consultation are now irrelevant or require further review and updating.

3. Did you have sufficient time to contribute to the consultation exercise?

Sufficient time was given for the original CE Bill consultation, however, there was cross over with this and the Routemap to 2025 which was also out for consultation at the same time and required additional time to assess the areas of commonality and to ensure that both consultations were responded to on their own merits.

4. If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

Further details are required, in relation to the impact on LA's in the following areas:

Restrictions on the disposal of unsold consumer goods

The impact to Local Authorities is not included in this section of the FM. The FM indicates that data on costs to business is limited. Consideration should also be given to how LA's will be affected in terms of schools, community centres, leisure facilities and other LA owned premises.

Charges for single use items

As an approach for introducing a minimum charge on single use cups is yet to be agreed and the FM is vague when discussing LA's role in enforcement on this issue, further information and decisions are required to enable LA's to consider any impact. The FM suggests costings will form part of the introduction of secondary legislation and it is crucial that Scottish Government consult on any secondary legislation related to the CE Bill. Further clarification is required on any potential enforcement savings from FPN's and whether this can offset staffing costs associated with enforcement.

Our Environmental Health and Trading Standards staff have been liaising with businesses throughout this year to-date providing advice and information on single use plastics (cutlery, cups etc.). The approach being taken by business is generally accepting the run-down/phasing-out of single use plastic and move to recyclable items and based on the responses experienced, enforcement action is not anticipated.

The FM refers to potential savings relating to waste disposal costs, however given that disposable coffee cups are relatively light in weight and compostable cups are subject to local recycling markets, it would be difficult to realise consequential savings in waste disposal. It would also be difficult to distinguish how much of this saving would be directly attributable to LA's vs businesses. Further clarity would also be required as to who the recipient of the charges or funds raised through the levy would be. We would therefore advocate that an extension to the single use plastic ban, would be more suitable. The practicalities of charging for single use items would require further evaluation at the secondary legislation stage.

Householders' duty of care

The FM indicates that there is no consistent approach to fly tipping and that the data is limited, therefore it is difficult to assess the actual requirements to undertake this activity. Costings outlined in the FM relating to staff and number of anticipated FPN's

are insufficient and will require further review. Consideration should also be given to lack of compliance with FPN's and how this impacts cost recovery and escalation. The FM does not refer to cross-boundary issues or responsibilities and a financial assessment on this would be required.

The costings do not make provisions for communication, awareness and education for the public relating to the introduction of this ability to instigate fixed penalties to householders. The FM should consider ongoing preventative activities and education to prevent householders breaching their duty of care in the first instance. This would alleviate pressure on already stretched enforcement teams.

Although the principle of householders ensuring that any waste uplifted from their residence by contractors is correctly recycled/disposed of is welcomed. This message would be best delivered to the public by media messages. Tracing unlawfully deposited waste is time consuming and often left unresolved, even more so where communal collection systems are in place. However, if this strategy were to be pursued, additional resources would be required.

Household waste requirements

FM indicates that costs cannot be ascertained at this point, and this will be included in and form part of the scope of future secondary legislation, although there is expected to be both costs & benefits to LA's.

Again, there have been no considerations given to engagement and education activities to make householders aware of requirements in the first instance and then consequences of non-compliance thereafter. Any future funding would be best place to enhance this area of work. FPN's are not an effective means by which contamination issues can be fixed and should not be factored in as an achievable income source as the overall aim would be to reduce the numbers issued through better education and behaviour change. Wholesale enforcement in this area of work is not practical, especially in cities such as Dundee where more than 50% of properties are flatted. This makes it difficult to single out offenders without extraordinary levels of resources. Longstanding experience of FPN's within the Council is that a proportion will always remain unpaid, therefore the cost of recovery becomes more than the income generated.

Regulatory Services have concern with the practicalities of such an approach to encouraging recycling. Identifying and establishing clear evidence of deliberate contamination is difficult, time consuming and unlikely to provide a benefit commensurate with the time and effort invested.

The health & safety of the officers who would be involved from both a risk of exposure to confrontation and health hazards associated with waste must also be considered.

There is also the possibility of the council/s being the subject of adverse publicity due to the difficulties in practice with the proposed approach.

However, if the expectation of Scottish Government is that an enforcement approach is to be taken, then additional resources will be required.

Code of practice on household waste recycling

Whilst DCC is compliant with the code of practice in its current form, we cannot make any assessment on future financial implications until we have a clearer understanding of what the new/revised code of practice includes. Further consultation is required throughout the co-design process.

The FM states that future costs are expected to be offset by enhanced funding delivered through the Extended Producer Responsibility scheme and support from the Recycling Improvement Fund (RIF). The broad principles of EPR are to cover costs associated with collection, treatment and disposal of packaging and to drive more sustainable design for packaging, therefore this cannot be used to offset any costs occurring from compliance with the Code of Practice. Whilst the RIF fund is intended to cover capital costs for required infrastructure changes, we feel that timing and profiling of this fund has been disjointed. £54 million of the fund has already been committed, however the new Code of Practice has not been agreed making it difficult for currently compliant LA's to assess future compliance and impact of any new model. LA's such as DCC have only marginally benefited from this fund and will require further investment to maximise opportunities to improve the service. As with the other CE Bill provisions, there requires to be more funding available to enforce positive behaviour change to avoid missed opportunities and promote unnecessary enforcement activities.

The FM does not specify how the removal or alteration to services which are currently charged for i.e., garden waste and bulky waste collections will be accounted for financially. Charging for these services have been essential for LA's to generate income and invest in maintaining services over the last few years and within the current financial climate. Scottish Government will require to consider how these changes are implemented and alleviate any additional budget pressures or cost burdens on LA's. If garden waste and bulky uplifts can no longer be charged for, it will have a severe budgetary impact. Lost revenues would require to be replaced by Government funding in order to maintain waste services and ensure councils operate a balanced budget.

Targets for waste collection authorities relating to household waste recycling Household waste recycling targets will require to be in line with an LA's ability to meet them i.e., considerations for social demographics, housing types, population etc. Targets should be fair and clear on how they are derived. A more appropriate way of supporting improved recycling would be to offer incentives and enhanced support for LA's in conjunction with Zero Waste Scotland to maximise recycling rates and participation as well as reducing contamination and non-compliance. Financial penalties will be counter-productive, leaving LA's with less money to invest in waste & recycling which in itself is counterintuitive.

Littering from vehicles: Civil penalties

Estimates provided in the FM are tenuous and in reality, most situations require more than one enforcement officer to be present for corroboration and safety reasons. We require further information on how this would work in practice to be able to consider whether this is a productive use of officer time. There has been no methodology outlined on how offending vehicles would be approached, whether this would involve other organisations such as Police Scotland & SEPA, how other organisation's time and costs would be accounted for and whether the offence applies to both stationary and moving vehicles.

Amongst the difficulties with targeting persons who discard of litter from vehicles include identifying and providing clear evidence of the offence. By comparison, and for context, where speeding fines are issued, they are usually accompanied by photographic evidence of the offence. Witness statements alone on behalf of the regulatory officer are likely to be subject to challenge and this would not be a productive use of officer time. However, if the expectation of Scottish Government is that an enforcement approach is to be taken on this aspect, then additional resources will be required.

Enforcement powers to search and seize vehicles in respect of certain environmental offences

This proposal would likely require the support of Police Scotland and would not be viewed as a practical option unless in the most serious of cases and would additional resources.

Reporting on waste, surpluses etc.

There is no consideration for LA's under this section. LA's would also be impacted in terms of catering and retail.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

We do not consider the estimated costs and savings to be complete, reasonable and accurate. Firstly, the costs provided within the FM are high level and therefore would require to be tailored to individual LA's There are also several assumptions made throughout with regards to staffing required and the costs this would incur. These costs are based on 21/22 and do not reflect accurate future costs. In most cases these figures are insufficient and are offset by waste savings and penalty notice income of which there is no certainty. The FM is silent on significant cost implications, for example lost revenue streams and communication costs.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

We are not content that financial costs relating to the bill can be met. There has not been enough information presented and there is still uncertainty surrounding systems design, resource requirements and assumptions that any FPN's would be repaid in full and to the Council.

Further government funding will be required to address additional costs to LA's, alongside efficiencies, greater participation from householders and enhanced market opportunities. Any additional funding provided from Scottish Government in relation to the CE Bill should be preserved for that relevant Council function. As previously highlighted, Scottish Government will also require to consider how it plans to alleviate any loss of income sources as a result of the Bill.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

No. The margins of uncertainty are now greater as a result of delays to key legislation for example, the redesign and delay of DRS and delay to EPR. LA's require more definitive timelines which Scottish Government is committed to meeting in order to properly prepare and deliver future changes as part of the response.

General Note – Whilst any additional resources would be welcomed, it firstly requires to established and clarified as to how these resources would be deployed and that the task they would be allocated to are realistic and achievable.

It should also be noted that the issuing of FPN's alone is only part of the system for penalising offenders and often pursuing cases is time consuming and can displace other competing requirements.

Written Submission from South Lanarkshire Council

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

No.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

N/A.

3. Did you have sufficient time to contribute to the consultation exercise?

N/A.

4. If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

The Local Authority estimates of financial implications would appear to be lower than those comparable costs of enforcement within South Lanarkshire Council.

For example, the financial memorandum for the Bill suggests that the household waste requirements section of the Bill may require additional FTE additional enforcement officers (min. 2 per 150k population) per local authority at £35,000 – £45,000 and 1 FTE enforcement admin. officer at £22,000 - £28,000 per local authority.

The average cost of an enforcement officer in SLC including on-costs is in the region of £55,000. There are no enforcement admin officers so this would likely be an additional enforcement officer.

Given the geography of South Lanarkshire, 2 enforcement officers per 150k population would be insufficient.

In terms of littering from vehicles, income assumptions appear to be based on 100% payment rate which is unlikely.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

The Local Authority estimates of financial implications would appear to be lower than those comparable costs of enforcement within South Lanarkshire Council.

For example, the financial memorandum for the Bill suggests that the household waste requirements section of the Bill may require additional FTE additional enforcement officers (min. 2 per 150k population) per local authority at £35,000 – £45,000 and 1 FTE enforcement admin. officer at £22,000 - £28,000 per local authority.

The average cost of an enforcement officer in SLC including on-costs is in the region of £55,000. There are no enforcement admin officers so this would likely be an additional enforcement officer.

Given the geography of South Lanarkshire, 2 enforcement officers per 150k population would be insufficient.

In terms of littering from vehicles, income assumptions appear to be based on 100% payment rate which is unlikely.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

South Lanarkshire Council is supportive of the aims of the Bill. However, it is likely to require significant additional funding to implement the new powers fully. The Council will not be in a position to absorb these costs and it is expected that these should be met fully either through additional block grant settlement from the Scottish Government or some other mechanism.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

The memorandum presents high level estimates and as described previously, we believe underestimates potential additional costs. These costs will vary from local authority to local authority and further work is required to determine these costs at a more granular and accurate level.

For the Bill to be implemented successfully it is important that costs are fully understood and that these are met by the Scottish Government.

Written Submission from West Lothian Council

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes, but we did not comment on the Financial Assumptions made as they were unclear.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

N/A.

3. Did you have sufficient time to contribute to the consultation exercise?

No.

4. If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

There are so many areas of uncertainty about costs, income and savings in the Bill, it is not possible to determine if the costs, income and savings and timescales reflect what will actually arise.

Costs for Local Authorities will be highly dependent on the review of the code of practice, which is linked to the outcome of Packaging Extended Producer Responsibility and consequent funding for packaging waste, which will be determined from what is deemed an 'efficient and effective service', which is also currently unknown at present.

With likely additional costs on the horizon for local authorities, from the impact of legislative changes such as DRS, ETS on EFW and POP's in many common waste items, the future costs of running a waste management service and therefore their impact on the Bill and its aims are also unknown and a concern.

It is noted that the potential saving (based on reduced clean-up costs) presented in the FM Table 'Summary of potential additional costs / savings arising from the Bill where quantifiable' are for the whole of Scotland, whereas other costs and savings

for Local Authorities are presented per Local Authority, so this skews the Savings to appear disproportionately high in this table. This saving should also have been presented estimated per Local Authority.

It should be noted that even if there are fewer disposable cups littered, staff will still need to walk over the same areas at similar frequencies to clean up other littered items and cameras may be purchased and installed to capture littering from vehicles.

Income is small, but the investment in ability to enforce this may well be high compared to any income. We believe the net costs to local authorities should be fully funded by the Scottish Government.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

There are so many areas of uncertainty about costs, income and savings in the FM about predicted costs for current Bill and duties arising from consequent secondary legislative requirements, it is not possible to determine if the costs, income and savings and timescales reflect what will actually arise.

It is also impossible to determine whether the new duties will be self-funding and therefore would require longer term funding than identified in Years 1 to 3. We believe the net costs to local authorities should be fully funded by the Scottish Government.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

As the new powers of enforcement and other work such as the developing the code of practice are additional to current duties, they should be funded by the Scottish Government to ensure that they happen and other work is not impacted.

The new powers of enforcement will require initial funding to ensure enforcement can be launched via training, public education and to determine whether they can be progressed easily through the legal process. For example, what measures will be put in place when fines are not paid? Also does the legal system has capacity to cope with additional work timeously?

Funding should continue until is proven that the new duties demonstrate that they are self-funding. If they are not, then top up funding should be made available to ensure the aims of the Bill are realised.

The work on the code of practice appears to be 0.5 FTE over 2 years, so we would require to recruit resource for that post to ensure current duties are fulfilled. Funding for this extra resource should come from the Scottish Government, as although the

code of practice could produce savings in the longer term, these will not pay for this additional resource during the development stage.

The costs will be real, but saving and income are currently unknown and may not be realised.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

As in response to Question 5. There are so many areas of uncertainty about costs, income and savings in the FM about predicted costs, income and savings for current Bill and duties arising from consequent secondary legislative requirements, it is not possible to determine if the costs, income and savings and timescales reflect what will actually arise and therefore margins of uncertainty.

It is also impossible to determine whether the new duties will be self-funding and therefore would require longer term funding than identified in Years 1 to 3.