



Llywodraeth Cymru  
Welsh Government

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Welsh Government  
Consultation – summary of responses

## Proposals for enforcing business, public and third sector recycling regulations in Wales

Proposals for enforcement of regulations under the Environmental Protection Act 1990, as amended by Part 4 of the Environment (Wales) Act 2016 and the Waste (Wales) Measure 2010.

Date of Issue: April 2023

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh  
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

## Overview

This document provides an overview of the responses to the consultation entitled 'Proposals for enforcing business, public and third sector recycling regulations in Wales'. In providing an overview of the responses to the consultation as they have been received, it should be noted that some contain inaccuracies in respect of the policy proposals stemming from a misunderstanding of the regulations or the underlying legislation. The details of the proposals can be found at [Proposals for enforcing business, public and third sector recycling regulations in Wales \[HTML\] | GOV.WALES](#), and the information received will be used to inform future communication and guidance on the reforms to avoid any misunderstandings going forward.

## Action Required

This document is for information only.

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

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## Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website: [Proposals for enforcing business, public and third sector recycling regulations in Wales \[HTML\] | GOV.WALES](#)

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## **1. Introduction**

This document provides an overview of the responses to the consultation entitled 'Proposals for enforcing business, public and third sector recycling regulations in Wales'. In providing an overview of the responses to the consultation as they have been received, it should be noted that some contain inaccuracies in respect of the policy proposals stemming from a misunderstanding of the regulations or the underlying legislation. The details of the proposals can be found at [Proposals for enforcing business, public and third sector recycling regulations in Wales \[HTML\] | GOV.WALES](#), and the information received will be used to inform future communication and guidance on the reforms to avoid any misunderstandings going forward.

### **1.1 Background**

The consultation ran for 12 weeks from 23 November 2022 to 15 February 2023. It sets out enforcement tools to encourage compliance with proposed regulations that will increase the quality and quantity of recycling from non-domestic premises and to reduce the amount of recyclable materials incinerated or deposited in landfill.

## 2. What we asked you

### 2.1 What is proposed

The Welsh Government acknowledges that the majority of occupiers of non-domestic premises, waste collectors, handlers and processors, and operators of incineration, co-incineration and landfill facilities will strive to comply with the new requirements. However, those who disregard the law undermine those law-abiding businesses and can gain an unfair advantage over those who do comply.

The primary aims of the enforcement proposals are to bring people into compliance with the law and ensure the outcomes sought through implementation of the regulations are fully realised.

Alongside guidance and information for those affected, an enforcement regime will be introduced. Natural Resources Wales (NRW) will regulate the requirements except for the ban on the disposal of food waste to sewer. In respect to small waste incineration plants, the Local Authority (LA) with responsibility for the area in which the relevant plant is situated will be the regulator. LAs will also regulate the ban on the disposal of food waste to sewer from non-domestic premises.

Where the regulator is satisfied beyond reasonable doubt that an offence has been committed the proposal is that, under the regulations the regulator will be able to impose a fixed monetary penalty (FMP). A FMP is likely to be most appropriate for minor offences where previous advice or guidance has failed. The following offences in table 1 would attract FMPs:

*Table 1: Offences and proposed FMPs*

<b>Offence</b>	<b>Proposed FMP</b>
An occupier of non-domestic premises in Wales fails to present waste for collection (whether by a waste collection authority or by any other person) in accordance with the applicable separation requirements.	£300
An occupier of non-domestic premises in Wales discharges food waste, or knowingly causes or permits food waste to be discharged, to the sewer.	£300
A person acting in the course of a business who collects controlled waste, or receives, keeps, treats or transports controlled waste, from non-domestic premises fails to do so in accordance with the applicable separation requirements.	£500
Operators of incineration and co-incineration facilities accept any of the specified, separately collected materials at their facilities.	£500
Operators of landfill facilities accept any of the specified, separately collected materials and/or any wood at their facilities.	£500

Where a regulator proposes to impose a FMP on a person, the regulator must serve on that person a notice of what is proposed: a notice of intent. It is proposed that the

penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received. If the person who has received a notice of intent does not discharge liability within 28 days the regulator may serve a final notice imposing a FMP.

The regulators will also have the option to impose a variable monetary penalty (VMP). These are monetary penalties which can be imposed for more serious offences. The level of the monetary penalty will be determined by the regulator, reflecting the circumstances of the offence.

Where the regulator has a reasonable belief that one of the offences in table 2 has been committed, it is proposed that the regulator will have the option to impose a stop notice.

*Table 2: Stop Notice offences*

<b>Offence</b>
An occupier of a non-domestic premises in Wales discharges food waste, or knowingly causes or permits food waste to be discharged, to the sewer.
Operators of incineration and co-incineration facilities accept any of the specified, separately collected materials at their facilities.
Operators of landfill facilities accept any of the specified, separately collected materials and/or any wood at their facilities.

A stop notice is a requirement for a person to stop carrying on an activity described in the notice until it has taken steps to come back into compliance. A stop notice may be issued with any other civil sanction except an FMP.

The civil sanctions regime outlined above is to encourage compliance with the regulations. If a person fails to comply with a final notice or stop notice, criminal proceedings may be brought in.

The Welsh Government believe this enforcement toolkit and level of fixed monetary penalties is sufficient to act as a deterrent and is appropriate and reasonable for these regulations. The enforcement regime including the level of penalties will be kept under review.

## **2.2 The questions we asked**

The following questions were asked:

- Q1 Is the proposed FMP of £300 for the offences at rows 1-2 in table 1 above proportionate? If not, why not? Please refer to other similar / comparable regimes if appropriate.
- Q2 Is the proposed FMP of £500 for the offences at rows 3-5 in table 1 above proportionate? If not, why not? Please refer to other similar / comparable regimes if appropriate.
- Q3 Is the proposal that liability for the penalty can be discharged by paying 50% of the penalty within 28 days reasonable? If not, please explain your rationale and if

appropriate, suggest an alternative approach. Please refer to other similar / comparable regimes if appropriate.

- Q4 Are the proposals for the early payment discount and late payment penalties reasonable? If not, please explain your rationale and if appropriate, suggest an alternative approach. Please refer to other similar / comparable regimes if appropriate.
- Q5 Is the proposal to allow regulators to impose VMPs for the breaches listed in table 1 reasonable? If not, please explain your rationale and if appropriate, suggest an alternative approach. Please refer to other similar / comparable regimes if appropriate.
- Q6 Do you think the proposal to allow regulators to impose stop notices for the breaches outlined in table 2 are appropriate? For example, in your view, would there be situations where such breaches would reach the threshold of presenting (or likely to present) a significant risk of causing harm to the environment? If not, why not?
- Q7 Do you agree this overall enforcement regime and the approach is reasonable and proportionate? If not, why?

### 2.3 The respondents

A total of 39 responses were received from 33 different organisations. Some organisations submitted more than one response, or different branches of an organisation responded separately. Some submissions did not include an organisation name or were submitted in a personal capacity. A list of those who responded (and agreed to share details) is provided in Annex 1 and summarised by organisation type in Table 3.

*Table 3: The number of responses by organisation type*

<b>Organisation Type</b>	<b>Response Count</b>	<b>Response Percentage (%)</b>
A business	2	5.3%
A third sector organisation	4	10.5%
A public sector organisation	6	15.8%
Local Authority waste collection service	9	23.7%
A waste management company	6	15.8%
None of the above	11	28.9%
<b>TOTAL</b>	<b>38</b>	<b>100.0%</b>
Did not answer	1	

Of the organisations that answered “None of the above” three were Trade Associations, four were organisations representing business/industry or other stakeholders and one was a professional body.

### 3. What you told us

#### 3.1 Overall impressions

There was general positivity to the principles the proposals are seeking to achieve, for instance that proposals for businesses, the public sector and the third sector to be required to separate out their different waste streams will require enforcement.

#### 3.1 An overview of the responses to the specific consultation questions.

This section provides an overview of the responses and includes the identification of the number of “Yes”, “No”, and “Other” responses, the latter being where responses are more complex and not clearly “Yes” or “No”. In some cases answers to the questions were given in a block of text and not all contained “Yes” or “No” in their answers, in which case one of the three categories has been inferred from the reply given.

Statistical analysis was undertaken as part of the response assessment to determine the proportion that responded to each question as well as identifying where organisation level responses differed to the majority response.

The main themes emerging from the responses are summarised below.

**Question 1: Is the proposed FMP of £300 for the offences at rows 1-2 in table 1 above proportionate? If not, why not? Please refer to other similar / comparable regimes if appropriate.**

Table 1 in the *Proposals for enforcing business, public and third sector recycling regulations in Wales* consultation proposes a FMP of £300 if:

- An occupier of non-domestic premises in Wales fails to present waste for collection (whether by a waste collection authority or by any other person) in accordance with the applicable separation requirements (row 1).
- An occupier of non-domestic premises in Wales discharges food waste, or knowingly causes or permits food waste to be discharged, to the sewer (row 2).

The responses to Question 1, broken down by type of organisation responding, are provided in table 4.



*Table 4: The number of responses by organisation type to Question 1: Is the proposed FMP of £300 for the offences at rows 1-2 in table 1 proportionate?*

<b>Type</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>	<b>Total</b>	<b>Did not answer</b>
A business	1	0	0	1	1
A third sector organisation	2	2	0	4	0
A public sector organisation	2	1	1	4	2
Local Authority waste collection service	4	4	0	8	1
A waste management company	3	3	0	6	0
None of the above	6	3	2	11	0
Not known	1	0	0	1	0
<b>TOTAL</b>	<b>19</b>	<b>13</b>	<b>3</b>	<b>35</b>	<b>4</b>
<b>Percent (%)</b>	<b>54.3%</b>	<b>37.1%</b>	<b>8.6%</b>	<b>100.0%</b>	

More than half (around 54%) of the respondents thought the proposed FMP of £300 was proportionate for the specified offences. Reasons for responding “Yes” included that the proposed penalty was proportionate/reasonable. Cited supporting examples included that the penalty was in line with Scottish regulations and penalties for Duty of Care offences.

Those who responded “No” or “Other” (and some that responded “Yes”) had a range of different concerns including:

- A number of respondents were concerned about the size of the penalty at £300. A majority were concerned about the potential burden on businesses - particularly small businesses and third sector/voluntary organisations. A minority were concerned that the penalty may not be a sufficient deterrent for large companies. Suggestions from respondents included:
  - Applying a sliding scale of penalties based on business size or waste volumes; and
  - Applying a sliding scale/escalation of penalties based on number of offences.
- A number of respondents thought a warning would be appropriate for a first offence, possibly including some education/training for businesses to help them comply. Some respondents also thought a national education and awareness campaign for businesses would be required.
- Some respondents were concerned about being liable for material produced/disposed of by third parties, for example service users, contractors, visitors or other persons (for instance unauthorised use of accessible/unsecured bins).

Other concerns included:

- Whether FMPs are the most appropriate instrument or whether Fixed Penalty Notices should be used instead; and
- The potential burden on regulators/inspectors.

**Question 2: Is the proposed FMP of £500 for the offences at rows 3-5 in table 1 above proportionate? If not, why not? Please refer to other similar / comparable regimes if appropriate.**

Table 1 in the *Proposals for enforcing business, public and third sector recycling regulations in Wales* consultation proposes a FMP of £500 if:

- A person acting in the course of a business who collects controlled waste, or receives, keeps, treats or transports controlled waste, from non-domestic premises fails to do so in accordance with the applicable separation requirements (row 3).
- Operators of incineration and co-incineration facilities accept any of the specified, separately collected materials at their facilities (row 4).
- Operators of landfill facilities accept any of the specified, separately collected materials and/or any wood at their facilities (row 5).

The responses to Question 2 broken, down by type of organisation responding, are provided in Table 5.

*Table 5: The number of responses by organisation type to Question 2: Is the proposed FMP of £500 for the offences at rows 3-5 in table 1 proportionate?*

Type	Yes	No	Other	Total	Did not answer
A business	1	0	0	1	1
A third sector organisation	1	2	0	3	1
A public sector organisation	3	1	0	4	2
Local Authority waste collection service	2	5	1	8	1
A waste management company	3	3	0	6	0
None of the above	8	1	1	10	1
Not known	1	0	0	1	0
<b>TOTAL</b>	<b>19</b>	<b>12</b>	<b>2</b>	<b>33</b>	6
<b>Percent (%)</b>	<b>57.6%</b>	<b>36.4%</b>	<b>6.1%</b>	<b>100.0%</b>	

The majority (around 58%) of the respondents thought the proposed FMP of £500 was proportionate for the specified offences. Reasons for responding “Yes” included that the proposed penalty was proportionate/reasonable. One respondent stated that waste collectors and operators of incineration and landfill facilities should face higher FMPs due to the potential for a larger (detrimental) environmental impact in comparison to occupiers of non-domestic premises.

Those who responded “No” or “Other” (and some that responded “Yes”) had a range of different concerns including:

- A number of respondents were concerned about the size of the penalty at £500. However, in contrast to Question 1 the majority were concerned that the penalty may not be a sufficient deterrent for large companies. A minority were concerned that the size of the penalty was too high. Suggestions from respondents included:
  - Applying a sliding scale of penalties based on business size or waste volumes; and
  - Applying a sliding scale/escalation of penalties based on number of offences.
- A number of respondents thought a warning/caution would be appropriate for a first offence, possibly including some education/training for businesses to help them comply.
- Some respondents were concerned about businesses being liable for material they do not control, for example non-compliance by occupiers of premises affecting waste collectors or incineration and landfill operators.
- Some respondents were also concerned about the potential for double jeopardy and being subject to multiple enforcement actions for the same offence. The example provided stated operators of incineration and landfill facilities could potentially be penalised twice for a single offence, for instance with a FMP and through increased annual Permit Subsistence Fees for their waste permit.
- Other concerns included:
  - Whether a FMP was the most appropriate instrument and if Fixed Penalty Notices should be used instead; and
  - The potential burden on the regulators/inspectors.

**Question 3: Is the proposal that liability for the penalty can be discharged by paying 50% of the penalty within 28 days reasonable? If not, please explain your rationale and if appropriate, suggest an alternative approach. Please refer to other similar / comparable regimes if appropriate**

The responses to Question 3, broken down by type of organisation responding, are provided in table 6.

*Table 6: The number of responses by organisation type to Question 3: Is the proposal that liability for the penalty can be discharged by paying 50% of the penalty within 28 days reasonable?*

<b>Type</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>	<b>Total</b>	<b>Did not answer</b>
A business	1	0	0	<b>1</b>	1
A third sector organisation	4	0	0	<b>4</b>	0
A public sector organisation	3	1	0	<b>4</b>	2
Local Authority waste collection service	4	5	0	<b>9</b>	0
A waste management company	3	3	0	<b>6</b>	0
None of the above	8	1	1	<b>10</b>	1
Not known	1	0	0	<b>1</b>	0
<b>TOTAL</b>	<b>24</b>	<b>10</b>	<b>1</b>	<b>35</b>	<b>4</b>
<b>Percent (%)</b>	<b>68.6%</b>	<b>28.6%</b>	<b>2.9%</b>	<b>100.0%</b>	

Approximately two thirds (around 69%) of the respondents thought the proposal that liability for the penalty can be discharged by paying 50% of the penalty within 28 days was reasonable. Reasons for responding “Yes” included:

- That the proposed time period (28 days) and discount level (50%) was reasonable.
- One respondent thought that a discount for early payment would assist small businesses.

Those who responded “No” or “Other” (and some that responded “Yes”) had a range of different concerns including:

- A number of respondents were concerned that a discount may reduce the deterrent effect of the FMP, particularly for larger businesses/organisations.
- Several respondents did not think that discount should be available to repeat offenders.
- One respondent thought that there should not be a discount available for Local Authorities, waste collectors or incineration or landfill operators.
- A number of respondents thought a lower discount rate was more appropriate, particularly if it was combined with a sliding scale for the penalties.
- One respondent thought that the 28 day period should commence after the conclusion of any challenge by an organisation to a FMP.
- Other concerns included:
  - Whether 14 days was more appropriate to align with the period used for Fixed Penalty Notices;
  - Whether the FMPs and discount rate should align with those used for Fixed Penalty Notices; and
  - The potential burden on the regulators/inspectors.

**Question 4: Are the proposals for the early payment discount and late payment penalties reasonable? If not, please explain your rationale and if appropriate, suggest an alternative approach. Please refer to other similar / comparable regimes if appropriate.**

The responses to Question 4, broken down by type of organisation responding, are provided in table 7.

*Table 7: The number of responses by organisation type to Question 4: Are the proposals for the early payment discount and late payment penalties reasonable?*

Type	Yes	No	Other	Total	Did not answer
A business	1	0	0	1	1
A third sector organisation	2	0	0	2	2
A public sector organisation	2	1	1	4	2
Local Authority waste collection service	5	4	0	9	0
A waste management company	3	2	1	6	0
None of the above	8	1	1	10	1
Not known	1	0	0	1	0
<b>TOTAL</b>	<b>22</b>	<b>8</b>	<b>3</b>	<b>33</b>	<b>6</b>
<b>Percent (%)</b>	<b>66.7%</b>	<b>24.2%</b>	<b>9.1%</b>	<b>100.0%</b>	

Approximately two thirds (around 67%) of the respondents thought the proposals for the early payment discount and late payment penalties are reasonable. The main reason for responding “Yes” was that the proposed early payment discount and late payment penalties are reasonable and in line with those used in Scotland for similar offences and with those used in other penalty systems, for example, parking enforcement. Those who responded “No” or “Other” (and some that responded “Yes”) had a range of different concerns including:

- A number of respondents were concerned that a discount may reduce the deterrent effect of the FMP, particularly for larger businesses/organisations. Of these respondents some stated they agreed with late payment penalties.
- Some respondents did not think that a discount should be available to repeat offenders.
- One respondent thought that there should not be a discount available for Local Authorities, waste collectors or incineration and landfill operators.
- A number of respondents thought a lower discount rate was more appropriate, particularly if it was combined with a sliding scale for the penalties.
- One respondent thought that the 28 day period should commence after the conclusion of any challenge by an organisation to a FMP.
- Other concerns included:
  - Whether FMP was the most appropriate instrument and if Fixed Penalty Notices should be used instead.

**Question 5: Is the proposal to allow regulators to impose VMPs for the breaches listed in table 1 reasonable? If not, please explain your rationale and if appropriate, suggest an alternative approach. Please refer to other similar / comparable regimes if appropriate.**

Table 1 in the *Proposals for enforcing business, public and third sector recycling regulations in Wales* consultation lists the following breaches:

- If an occupier of non-domestic premises in Wales fails to present waste for collection (whether by a waste collection authority or by any other person) in accordance with the applicable separation requirements.
- If an occupier of non-domestic premises in Wales discharges food waste, or knowingly causes or permits food waste to be discharged, to the sewer.
- If a person acting in the course of a business who collects controlled waste, or receives, keeps, treats or transports controlled waste, from non-domestic premises fails to do so in accordance with the applicable separation requirements.
- If operators of incineration and co-incineration facilities accept any of the specified, separately collected materials at their facilities.
- If operators of landfill facilities accept any of the specified, separately collected materials and/or any wood at their facilities.

The responses to Question 5, broken down by type of organisation responding, are provided in table 8.

*Table 8: The number of responses by organisation type to Question 5: Is the proposal to allow regulators to impose VMPs for the breaches listed in table 1 reasonable?*

Type	Yes	No	Other	Total	Did not answer
A business	1	0	0	1	1
A third sector organisation	1	1	0	2	2
A public sector organisation	2	2	0	4	2
Local Authority waste collection service	4	5	0	9	0
A waste management company	4	2	0	6	0
None of the above	7	2	1	10	1
Not known	1	0	0	1	0
<b>TOTAL</b>	<b>20</b>	<b>12</b>	<b>1</b>	<b>33</b>	<b>6</b>
<b>Percent (%)</b>	<b>60.6%</b>	<b>36.4%</b>	<b>3.0%</b>	<b>100.0%</b>	

The majority (around 61%) of the respondents thought the proposals to allow regulators to impose VMPs for the breaches listed in table 1 are reasonable. The main reason for responding “Yes” was that the proposed VMPs would be proportionate/reasonable for serious breaches and/or repeat offenders. One respondent also thought that VMPs could be an effective deterrent.

Those who responded “No” or “Other” (and some that responded “Yes”) had a range of different concerns including:

- Most respondents that said “No” did so on the basis of there being insufficient information on VMPs, such as how they would be imposed and how much they could be. Two respondents that said “Yes” did so on the basis that further information/guidance on VMPs would need to be forthcoming.
- One respondent that said “No” thought that VMPs were potentially open to abuse by regulators to raise revenue.
- One respondent thought VMPs should only apply to large businesses, Local Authorities, waste collectors and incineration or landfill operators and exclude small businesses/organisations.
- Other concerns included:
  - Whether the use of variable penalties are appropriate as they may introduce inconsistencies in how offences are penalised; and
  - The potential burden on the regulators/inspectors. In particular, the use of a notice of intent was flagged as particularly resource intensive by some respondents.

**Question 6: Do you think the proposal to allow regulators to impose stop notices for the breaches outlined in table 2 are appropriate? For example, in your view, would there be situations where such breaches would reach the threshold of presenting (or likely to present) a significant risk of causing harm to the environment? If not, why not?**

Table 2 in the Proposals for enforcing business, public and third sector recycling regulations in Wales consultation lists the following breaches:

- If an occupier of non-domestic premises in Wales discharges food waste, or knowingly causes or permits food waste to be discharged, to the sewer.
- If operators of incineration and co-incineration facilities accept any of the specified, separately collected materials at their facilities.
- If operators of landfill facilities accept any of the specified, separately collected materials and/or any wood at their facilities.

The responses to Question 6, broken down by type of organisation responding, are provided in table 9.

*Table 9: The number of responses by organisation type to Question 6: Do you think the proposal to allow regulators to impose stop notices for the breaches outlined in table 2 are appropriate?*

Type	Yes	No	Other	Total	Did not answer
A business	1	0	0	1	1
A third sector organisation	2	0	0	2	2
A public sector organisation	3	0	2	5	1
Local Authority waste collection service	4	2	3	9	0
A waste management company	4	2	0	6	0
None of the above	6	3	1	10	1
Not known	0	0	1	1	0
<b>TOTAL</b>	<b>20</b>	<b>7</b>	<b>7</b>	<b>34</b>	<b>5</b>
<b>Percent (%)</b>	<b>58.8%</b>	<b>20.6%</b>	<b>20.6%</b>	<b>100.0%</b>	

The majority (around 59%) of the respondents thought the proposals to allow regulators to impose stop notices for the breaches outlined in table 2 are appropriate. The main reason for responding “Yes” was that the proposed use of stop notices would be proportionate/reasonable for serious breaches of, or flagrant disregard for, the regulations.

Those who responded “No” or “Other” (and some that responded “Yes”) had a range of different concerns including:

- Several respondents sought more clarity on what would constitute a “serious breach” or “significant risk of causing harm to the environment”.
- Some respondents were concerned about businesses/organisations being liable for material they do not control, for example non-compliance by waste collectors affecting incineration and landfill operators.
- Some respondents thought that there is already sufficient regulation for breaches that would reach the threshold of presenting (or likely to present) a significant risk of causing harm to the environment. Examples stated include the Environmental Protection Act 1990 and waste permitting regime.
- Some respondents were concerned about the unintended consequences of a stop notice on regulators/inspectors and third parties:
  - One example provided was a stop notice for food waste to sewers requiring additional effort by regulators/inspectors to monitor implementation and to inspect new food handling and waste management procedures at non-domestic premises.
  - Another example was how a stop notice for incineration/landfill operator would have knock-on impacts on waste transfer stations, waste collectors and ultimately their customers if alternate arrangements for residual waste management could not be identified.

**Question 7: Do you agree this overall enforcement regime and the approach is reasonable and proportionate? If not, why?**



The responses to Question 7, broken down by type of organisation responding, are provided in table 10.

*Table 10: The number of responses by organisation type to Question 7: Do you agree this overall enforcement regime and the approach is reasonable and proportionate?*

Type	Yes	No	Other	Total	Did not answer
A business	1	0	0	1	1
A third sector organisation	2	1	0	3	1
A public sector organisation	2	1	1	4	2
Local Authority waste collection service	3	5	1	9	0
A waste management company	5	1	0	6	0
None of the above	6	3	1	10	1
Not known	1	0	0	1	0
<b>TOTAL</b>	<b>20</b>	<b>11</b>	<b>3</b>	<b>34</b>	<b>5</b>
<b>Percent (%)</b>	<b>58.8%</b>	<b>32.4%</b>	<b>8.8%</b>	<b>100.0%</b>	

The majority (around 59%) of the respondents thought the overall enforcement regime and the approach proposed would be reasonable and proportionate. The main reason for responding “Yes” was:

- That the proposed enforcement regime was proportionate/reasonable for the offences.
- Two respondents also thought that the proposed enforcement regime would be an effective deterrent.
- One respondent agreed that the use of civil sanctions for the specified offences would encourage compliance.

Those who responded “No” or “Other” (and some that responded “Yes”) had a range of different concerns including:

- A number of respondents thought a warning/caution would be appropriate for a first offence, possibly including some education/training for businesses to help them comply. Some respondents also thought a national education and awareness campaign for businesses would be required.
- A number of respondents were concerned about the size of the FMP penalties. Suggestions from respondents included:
  - Applying a sliding scale of penalties based on business size or waste volumes; and
  - Applying a sliding scale/escalation of penalties based on number of offences.
- Some respondents were concerned about businesses/organisations being liable for material they do not control, for example non-compliance by

occupiers of non-domestic premises affecting waste collectors or incineration and landfill operators.

- Some respondents were concerned about being liable for material produced/disposed of by third parties, for example service users, contractors, visitors or other persons (for instance unauthorised use of accessible/unsecured bins).
- Some respondents proposed a grace or lead-in period whereby businesses/organisations could be given time to comply after the legislation is enacted.
- Other concerns included:
  - NRW acting as the regulator for waste offences.
  - Whether FMP was the most appropriate instrument and whether Fixed Penalty Notices should be used instead.
  - The potential burden on the regulators/inspectors.
  - The need for further guidance for NRW and LA enforcement officers, including guidance on enforcing food waste to sewer proposals.

**Question 8: We would like to know your views on the effects that the business, public and third sector recycling regulations would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

The consultation received 10 responses to this question (approximately a quarter of the respondents).

Overall, the majority (8 respondents) felt there would be no positive or negative impacts.

Two respondents thought there may be a positive impact in terms of accessibility and providing more opportunities for businesses/organisations to communicate in Welsh.

Two respondents thought that consideration/inclusion of other languages (such as Polish, Mandarin and Turkish) was desirable so that the regulations are widely understood and complied with.

**Question 9: Please also explain how you believe the proposed regulations could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

The consultation received 10 responses to this question (around 26% of the respondents).

Overall, the majority (7 respondents) felt there would be no positive or negative impacts.

One respondent thought there may be a positive impact in terms of accessibility.

Two respondents thought that consideration/inclusion of other languages (such as Polish, Mandarin and Turkish) was desirable so that the regulations are widely understood and complied with.

One respondent was concerned the regulations could reduce Welsh language use by increasing demand for private service collectors that may not have capabilities to deal with enquiries in Welsh, or because they are dealing with collectors/brokers based outside of Wales.

**Question 10: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.**

The consultation received 18 responses to this question (around 26% of the respondents).

A number of respondents were concerned about the burden on regulators/enforcers and whether sufficient resources/budget would be available to make enforcement effective. Several respondents mentioned the need for further guidance for regulators/enforcers.

A number of respondents were concerned that the timescales were too tight for businesses and organisations to implement. Some respondents suggested a delay to the proposal's implementation. One respondent proposed a 'grace period' whereby businesses/organisation could be given time to comply after the legislation is enacted.

Some respondents were concerned about the burden on small businesses. One respondent thought that places of worship (and charity shops and premises used wholly or mainly for public meetings) should be exempt by virtue of the 2012 Waste Regulations.

Some respondents were concerned about businesses/organisations being liable for material they do not control, for example non-compliance by occupiers of non-domestic premises affecting waste collectors or incineration and landfill operators.

Some respondents were concerned about being liable for material produced/disposed of by third parties, for example service users, contractors, visitors, or other persons (for instance unauthorised use of accessible/unsecured bins).

Some respondents reiterated their view that a warning should be applied for a first offence, including some education/training for businesses to help them comply. One

respondent was concerned that there are (currently) no details about a communication plan for engagement with non-domestic premises.

One respondent suggested a need for an appeals process for businesses/organisations that believe they have been unfairly penalised.

One respondent (a Health Board) was concerned about the impact on large, complex public organisations with multiple facilities/sites. The main concern was that a Chief Executive would be liable for penalties that may be applied to different facilities/functions of an organisation which could have the following impacts:

- The penalty may take more than 28 days to reach the Chief Executive and be discharged which would reduce the organisation's ability to receive a discount and increase the probability that may receive a late payment penalty.
- The penalty is unlikely to result in behaviour change when the Chief Executive is liable rather than the unit/staff/patient/visitor that did not follow the requirements.
- Overall, their response indicated that they thought the regulations should be applied to Health Boards (and potentially other complex public organisations) more leniently, for example, by providing a longer period to pay the penalty and avoid a late payment penalty.

Other concerns included:

- NRW acting as the regulator for waste offences and how consistent application of enforcement policies would be achieved across Wales.
- Whether water companies could monitor (and potentially enforce) food waste to sewer regulations.
- How income from penalties is to be distributed between Government/NRW/Local Authorities and how the income will be used.
- That penalties could be used as a revenue raising tool by NRW/Local Authorities.

#### **4. What we will do next**

Feedback from the consultation will be considered when developing the legislation and the code of practice.

The legislation and a final code of practice, providing practical guidance on how to comply with the separation requirements, are intended to be laid before the Senedd in Autumn 2023 and the duties are intended to take effect from 6th April 2024.

We will run a national media campaign throughout 2023 and 2024 to further raise awareness of the legislation for those affected. We will also provide practical resources to support non-domestic premises and the waste sector to prepare for the legislation coming into force, such as best practice guides and case studies and downloadable posters and signage.

These reforms are a key part of how we are delivering on our Programme for Government commitments to build a stronger, greener economy based on the principles of sustainability and the industries and services of the future as well as being an essential component of action to decarbonise and respond to the climate and nature emergency.

## Annex 1: List of respondents

This list does not include those respondents who asked for their response to be kept confidential.

It also does not include those respondents who did not specifically respond to this question in their response.

<b>Name/Organisation</b>	<b>Type</b>
ASH Waste Services Ltd	A waste management company
Bevan Commission	A third sector organisation
Caerphilly CBC	Local Authority waste collection service
Cytûn (Churches together in Wales)	Organisation representing Christian places of Worship
Environmental Health Wales	A public sector organisation
ESA	Trade Association
FareShare Cymru	A third sector organisation
Foodservice Packaging Association	Trade Association
Gloddaeth United Church	A third sector organisation
Industry Council for Packaging and the Environment	A research membership organisation
Innovate Recycle Ltd	A waste management company
LARAC - Local Authority Recycling Advisory Committee	A third sector organisation
Monmouthshire Council	Local Authority waste collection service
National Federation of Independent Retailers	A third sector organisation
Newport City Council	Local Authority waste collection service
Rhondda Cynon Taf BC	Local Authority waste collection service
Re-Gen Waste	A waste management company
SUEZ Recycling and Recovery UK Ltd	A waste management company
Swansea Council	Local Authority waste collection service
Torfaen County Borough Council	Local Authority waste collection service
Transport for Wales	A public sector organisation
Welsh Local Government Association	A public sector organisation