

Number: WG48348



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – summary of responses

Enforcing bans and restrictions on certain single-use plastic products

Further proposals to make civil sanction regulations under the Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 – Fixed Monetary Penalties.

Date of issue: 30 October 2023

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.



**This document is
also available in
Welsh**

<https://llyw.cymru/ymgyngoriadau>

ISBN

978-1-83504-980-8

Table of Contents

Introduction.....4

Consultation responses6

Question 1. Do you agree or disagree with the proposal to use fixed monetary penalties? Please provide the reasons for your response6

Question 2. If used, we propose to set the amount of the fixed monetary penalty at £200? Do you agree or disagree the penalty should be set at that amount?8

Government response and next steps9

Introduction

Early in 2023, the Welsh Government consulted on its proposals to use the powers available under section 17 of the [Environmental Protection \(Single-use Plastic Products\) \(Wales\) Act 2023](#) (“the Act”) to introduce civil sanctions to enforce the bans and restrictions on certain single-use plastic products. The consultation ran between 17 April 2023 and 9 June 2023. The consultation document explained why we were proposing to introduce civil sanctions, how these sanctions would operate and the different types of sanctions which would be made available to local authorities. These included discretionary requirements (for example Variable Monetary Penalties (VMPs)), stop notices and enforcement undertakings. More details of these proposals can be found, along with a summary of responses received to the consultation, on the Welsh Government’s [website](#).

As part of the consultation process one respondent, a local authority, indicated a preference for using Fixed Monetary Penalties (FMPs) for enforcement rather than the proposed VMPs. The respondent considered FMPs to be less burdensome and resource intensive to use. A FMP, for example, does not require a local authority to access an offender’s financial records to calculate the level of penalty, something which may be required when issuing a VMP. To ensure local authorities had the most effective and flexible enforcement tools available, it was proposed that both FMPs and VMPs would be included in our civil sanctions regime.

Consequently, the Welsh Government undertook a further consultation to seek views on the proposed inclusion of FMPs. A short, two question [consultation](#) was undertaken between 23 August 2023 and 4 October 2023. It asked whether people agreed with the inclusion of FMPs and, if so, did they agree to the amount being set at £200.

Overview of responses to consultation

There were a total of 37 responses to the consultation. These include full and partial responses (this is where one question was left unanswered).

The consultation response forms were available in Welsh and English and with individuals able to respond in their preferred language. Responses were split between the two languages as follows:

Welsh	1
English	36

Respondents were able to respond using the Welsh Government’s consultation webpage or download a response form and submit it to a designated electronic mailbox. An overview of the split in these responses is included below.

Responses submitted online	30
Responses submitted via email	7

A breakdown of the type of respondent is provided below:

Type of organisation	Number of responses
Member of public (not affiliated with a group or business owner)	23
Business representative group/ business owner	5
Local authority/ local authority representative group	4
Waste business/ waste industry group	3
Other public sector organisation	1
Charitable/ voluntary organisation	1

Consultation responses

Question 1. Do you agree or disagree with the proposal to use fixed monetary penalties? Please provide the reasons for your response

Q1				
	Y	N	Unsure/ Neither yes or no	No answer
Numbers	27	9	1	0
Percentage	73%	24%	3%	N/A

The majority of respondents (73%) were in favour of including Fixed Monetary Proposals (FMPs) in our regulations. Of those who agreed, a large proportion supported the approach but offered no specific rationale beyond a belief they would help act as a deterrent. Several respondents advocated their use based on the view they offered a more “straightforward and efficient method” for dealing with offences, especially when part of a wider enforcement strategy. One respondent noted the use of similar charges, for example for parking offences, meant this type of enforcement approach would be easier for people to understand.

Another respondent noted their use had the potential to help reduce the need for local authorities to pursue offenders through the criminal justice system. However, the respondent suggested that for serious or multiple breaches other enforcement action should be undertaken. Other respondents agreed on their inclusion if they were issued appropriately and were reflective of the seriousness of the offence (reference was often made to their use for possible “minor” breaches of the law and for other methods to be used for more significant cases of non-compliance).

The Association of Convenience Stores agreed with their use but caveated this support with a view that any enforcement action, especially in the early stages of the bans, should be supplemented with awareness raising and communication campaigns to help improve compliance. Another respondent, McDonalds, noted the challenges their businesses had faced in removing single-use plastic products from their supply chain and sourcing alternative materials. Again, it was suggested education and working with businesses rather than immediate punitive action was preferable when seeking compliance with the legislation. As with our previous consultation some respondents also caveated their support with comments around the need for any enforcement action to be adequately resourced and funded.

Of those who opposed the use of FMPs (24%), most did so on the grounds they were opposed to the use of enforcement action, stating that their use amounted to a tax, interference by Government or that compliance should be sought through other means (education for example). Trading Standards Wales disagreed with their use for dealing with larger businesses, noting their earlier support for Variable Monetary Penalties (VMPs) in such instances.

Example responses

“Agree. Fixed monetary penalties are widely seen as a straightforward and efficient method for low-level offences. As part of a larger enforcement strategy, fixed monetary penalties can deliver a visible, effective and streamlined means of dealing with a wide range of low-level offences”. **Welsh Local Authority.**

“I agree, it adds simplicity and flexibility”. **Anonymous response.**

“Yes, I agree. This makes an offence quickly actionable when it is minor, ie a one-off offence. If it was say, a supermarket, I don't think they should be dealt with under fixed monetary penalties as they have the resources to know the law, and should abide by it. It is irksome that they used the single-use carrier bag legislation to sell bags that were made from much thicker plastic instead of offering paper carrier bags or hessian ones, and they were allowed to do so”. **Anonymous response**

“Disagree it is almost impossible to stop single use plastics it would be better to make them more easily recycled”. **Anonymous response**

“Disagree as there is already a high financial burden on businesses”. **Anonymous response**

Question 2. If used, we propose to set the amount of the fixed monetary penalty at £200? Do you agree or disagree the penalty should be set at that amount?

Q				
	Y	N	Unsure/ Neither yes or no	No answer
Numbers	13	18	3	3
Percentage	35%	49%	8%	8%

Responses to this question varied. Whilst just under 50% were opposed to the amount of £200 proposed, five responses of those (14%) were opposed to the use of any type of financial penalty or offered no alternative amount. Another five respondents (14%) who disagreed with the £200 amount proposed suggested either substantially higher fines (for example £1000) or the use of a sliding scale to set the amount. Whilst we acknowledge the strong sentiment behind these views, other civil sanctions will be available to local authorities should the offence merit a higher level of penalty.

Of the others who opposed the proposal, one respondent (3%) suggested £400 and two responses (5%) from the waste industry (Biffa and the Environmental Services Association) suggested the amount should be set at £300. The rationale for this amount was based on the need for consistency with another Welsh Government proposal currently being developed (these are regulations to enforce the separation of recycling for business, public and third sector). Three respondents (8%) felt the amount was too high (although no alternative amount was suggested).

Those respondents who supported the proposal of £200 often did so on the basis they felt this amount was a reasonable and proportionate level for the offence. One respondent suggested there should be two separate levels of FMP with a smaller amount of £100 for the first offence and another set at £200 for the second offence.

Example responses

*No 400 is better. 200 it may be cheaper to use single use and pay fine if caught. If prosecuted. **Anonymous response***

*Is it sufficient to deter? Is it per item? Or 200 pounds in general? Is this going to deter a big manufacturer/user of single use plastics? If they merely pay the fine and continue using single use plastics then I'm not sure that it is adequate. **Anonymous response***

*I agree with this amount, its enough of an incentive to comply with the rules, if it were to be varied it should be higher not lower. **Anonymous response***

*Yes. However, to be fair to small traders, the new penalty should be widely advertised. **Anonymous response***

Government response and next steps

We welcome the responses to our consultation. Whilst we recognise there were several responses opposed to their use or in disagreement with our approach, on balance, we believe the consultation responses support the proposal to include FMPs in the regulations.

Our intention is for the regulations to come into force in December 2023.