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Edward Mountain MSP  
Convener  
Net Zero, Energy and Transport Committee  
Scottish Parliament  
Edinburgh  
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4 April 2024

Dear Edward

**Circular Economy Bill: Household waste contamination enforcement and financial penalties for waste collection authorities relating to household waste recycling targets**

Thank you for your contribution to the Stage 1 debate on the Circular Economy Bill on 20 March.

Following the debate, I wrote to Sarah Boyack, Douglas Lumsden and Liam McArthur to clarify the effect of provisions relating to Household waste contamination enforcement and our ongoing work with CoSLA on Financial penalties for waste collection authorities relating to household waste recycling targets. I thought the content of those letters would be of interest to you and the NZET Committee and I am therefore including below the same information.

Household waste contamination enforcement

I thought it would be helpful to clarify the changes that are being proposed in relation to the powers available to local authorities to tackle persistent contamination of household waste. As you are aware, section 11 of the Bill introduces a provision to allow more effective enforcement by local authorities of household recycling contamination through a written warning/civil penalty regime and fixed penalty notices (FPNs). This is not the first time that enforcement powers have been given to local authorities in this area. As I noted in the Chamber, it is *already* a criminal offence under section 46 of the Environmental Protection Act 1990 if households ignore notices from their local authority requiring waste to be placed in the appropriate bin.

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However, the provisions in the Bill respond to local authority feedback that criminal enforcement is expensive and time-consuming. The Bill introduces less severe means of enforcement that are easier and more cost-effective for local authorities. This fills a gap in local authority powers that are currently available to local authorities in England (written warnings and civil penalties) and Wales (FPNs).

I would emphasise that these enforcement powers would be for persistent and deliberate lack of compliance, and a last resort for local authorities when communication, support and corrective action is not acted on. I would draw your attention to evidence in the NZET Committee's Stage 1 Report on the Bill from circular economy experts WRAP Cymru that local authorities with similar penalties in Wales only used them at the end of a prolonged period of engagement with the householder. You may also be interested in the guidance issued by Defra on how and when local authorities can and cannot use penalties for householders not complying with waste receptacle requirements, and the stages to be followed before any penalty is applied: [Household waste bins: when and how councils may issue fixed penalties - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/household-waste-bins-when-and-how-councils-may-issue-fixed-penalties).

I recognise, and agree, that these powers should not be used to penalise well-intentioned householders for occasional contamination of their household waste, or where they are not directly responsible for that. I also recognise that specific consideration will need to be given to the approach to enforcement where, for example, there are communal collections.

Guidance under the new section 46ZE (being inserted by the Bill into the Environmental Protection Act 1990) on the use of these powers and procedures to be followed by local authorities will be produced in partnership with local authorities, and I envisage that this will set out steps that should be taken to communicate with and support householders before a local authority can pursue enforcement. In the guidance it will be possible to set out reasonable enforcement steps local authorities would be expected to take, and scenarios for when penalty charges and/or FPNs may or may not be issued. Following the recommendations of the DPLR and NZET Committees, I intend to bring forward an amendment to require consultation with local government on this guidance.

### Financial penalties for waste collection authorities relating to household waste recycling targets

In my opening speech, I referred to ongoing engagement with CoSLA about local authority financial penalties for missing recycling targets, based on the current Welsh approach. We have explored whether a collaborative programme of work with local government to develop plans to meet targets, to establish funding requirements and to share evidence and best practice could be equally effective at meeting the aims to improve recycling and assure accountability.

While there remain some details to finalise and agree with CoSLA, if we can continue to jointly progress development and agree a robust and effective collaborative programme, I would be willing to amend the Bill at Stage 2 to remove provisions relating to imposition of financial penalties for local authorities for missing recycling targets. This progress has been based on strong collaboration with CoSLA, and I agree with CoSLA spokesperson Councillor Macgregor that this is "a leading example of working in the spirit of and implementing the Verity House Agreement."

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Supporting high quality recycling is everybody's responsibility and it is important that all reasonable steps are taken to ensure that householders can play their full part, and that the right choices are as easy as possible to take. I hope this clarifies Scottish Government intentions in relation to certain provisions and reassures you that our primary focus continues to be on support for local authorities to improve local recycling performance and supporting positive behaviours by householders.

I look forward to further engagement ahead of Stage 2.

Kind regards

**LORNA SLATER**

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