



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Net Zero, Energy and Transport Committee

Tuesday 28 November 2023

Session 6



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NET ZERO, ENERGY AND TRANSPORT COMMITTEE

34th Meeting 2023, Session 6

CONVENER

Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

*Jackie Dunbar (Aberdeen Donside) (SNP)

*Monica Lennon (Central Scotland) (Lab)

*Douglas Lumsden (North East Scotland) (Con)

*Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jocelyn Blériot (Ellen MacArthur Foundation)

Line Kikkenborg Christensen (Scottish Catholic International Aid Fund)

Toni Freitas (University of Edinburgh)

Emma Hallett (Waste and Resources Action Programme Cymru)

Dr Henry Irving (Leeds Beckett University)

Anna Larsson (ReLoop Platform)

Dr Feja Lesniewska (University College London)

Dr Melissa Marques-McEwan (Heriot-Watt University)

Professor Aileen McHarg (Durham University)

Charis Scott (Wellbeing Economy Alliance Scotland)

Brian Whittle (South Scotland) (Con) (Committee Substitute)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax-Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 28 November 2023

[The Convener opened the meeting at 09:15]

Decision on Taking Business in Private

The Deputy Convener (Ben Macpherson): Good morning, and welcome to the 34th meeting in 2023 of the Net Zero, Energy and Transport Committee. We have apologies from the convener, Edward Mountain. I welcome Brian Whittle, who is attending as his substitute.

The first item on our agenda is to decide whether to take in private agenda item 3, under which we will consider the evidence that we will hear from all the witnesses on the Circular Economy (Scotland) Bill under agenda item 2. Do members agree to take item 3 in private?

Members indicated agreement.

Circular Economy (Scotland) Bill: Stage 1

09:16

The Deputy Convener: Our next agenda item is an evidence session as part of our stage 1 scrutiny of the Circular Economy (Scotland) Bill. For our first panel, we are joined by organisations that will offer us a United Kingdom-wide and international view on the circular economy. We are very pleased to have all the witnesses with us.

I am delighted to welcome Line Kikkenborg Christensen, who is a partner advocacy officer at the Scottish Catholic International Aid Fund, and is in the room. I am also very pleased to welcome the witnesses who are joining us remotely. Jocelyn Blériot is executive lead for international institutions and policy at the Ellen MacArthur Foundation; Emma Hallett is programme lead for resource management policy at Waste and Resources Action Programme Cymru; Anna Larsson is director of circular economy development at ReLoop Platform; and Charis Scott is campaigns and communications lead at the Wellbeing Economy Alliance Scotland. I thank all of you for joining us today.

We have allocated around 75 minutes for this session. We will move straight to questions.

What are your first impressions of the bill? Does it provide an ambitious framework to support Scotland's transition to a circular economy? If not, what would make it more ambitious within the powers of the Scottish Government and the Scottish Parliament?

Perhaps Line Kikkenborg Christensen can go first, as she is in the room.

Line Kikkenborg Christensen (Scottish Catholic International Aid Fund): Thank you. We welcome the bill. We think that it is an opportunity to make Scotland's resource use more sustainable. The circular economy concept is an important one that can help to improve Scotland's environmental credentials. However, we believe that the bill needs to be strengthened to ensure that the proposed solutions have a truly global outlook. The main point that I would like to make today is that we need to think about how the bill and the strategy for which it will produce a statutory requirement can have an international, cross-border outlook.

Jocelyn Blériot (Ellen MacArthur Foundation): I thank the committee for giving us the opportunity to comment.

We very much welcome the Circular Economy (Scotland) Bill. I emphasise the need to go a bit

wider than waste management and resource management and to consider that the circular economy also entails measures that look at business models moving from outright ownership to the provision of services where applicable, and giving assets more users than the linear model does by preventing overcapacity in the system. That perhaps entails legislation that provides for fiscal incentives, or perhaps it requires looking at ways to strengthen reverse logistic systems when it comes to products that have a higher value and need to be circulated more than once to give them life cycles that are longer than the ones that we see today.

The issue is about the material side of the economy, for sure, and reducing waste is an important part of that. However, it is also important to link the bill with strategies such as the ones that pertain to climate and biodiversity, because reducing the amount of materials that we have in the market when it comes to inputs and giving consideration to the nature of products, as well as the volume of products that enter the market, have an impact on reducing the need for materials that are sourced from virgin sources, thereby reducing the environmental and climate impacts.

The Deputy Convener: So, it is about how we move to a wellbeing economy as well as a circular one, and it is about decoupling economic progress from unsustainable consumption and extraction. Perhaps Emma Hallett would like to comment on that and on the initial question.

Emma Hallett (Waste and Resources Action Programme Cymru): We welcome the bill. I am mostly able to speak about the experience of Wales, where there has been significant progress over the past 20 years in the circular economy approach and strategy. The bill contains similar measures to those that have driven the change that we have seen in Wales. One of the key drivers has been the challenge of statutory targets for local authorities, along with support for them, so that councils are able to make transformations in the services that they provide.

On the issue of the international aspects of the impacts, one of the things that we have found to be really important is ensuring that we have clear end-destination reporting, which is the duty on councils to report as best they can where their materials are being sent for recycling. They must do so in a way that is transparent and public, so that we can all see exactly what happens with that material. That helps to build confidence in the system, but it also makes people consider exactly where materials go and ensures that they can be, in our instance, kept in Wales to be recycled and remanufactured in Wales whenever possible.

The Deputy Convener: My colleague Mark Ruskell will come in with a specific question on

that shortly. However, before we move to that, Anna Larsson, what are your thoughts on and impressions of the bill overall? Does it provide an ambitious framework?

Anna Larsson (Reloop Platform): Thank you for inviting me and allowing Reloop to be part of this session. Reloop is a global organisation. Our vision is a world without waste pollution, and our mission is to implement a circular economy. As we know, global circularity is at the level of 7.2 per cent, which is very low. I read your circularity gap reports for Scotland, where the level is 1.3 per cent, so there is a lot to be done. The circular economy strategies are certainly an important policy instrument to reach the objective of a circular economy.

I read the proposed bill with great interest. I think that it is a solid platform to reach the objective of circular economy implementation. However, we have to bear in mind that we definitely need waste prevention targets. It is welcome that the bill addresses the need to reduce the consumption of materials during production and has targets for that, but we also really need to apply waste prevention targets. I acknowledge that that is difficult and that every country in the world is facing that challenge. We cannot decouple economic growth from an increase in waste generation, but we must start somewhere.

Another important element is extended producer responsibility. We have to collect materials within a circular economy, but must also look at that in the context of the fact that someone has to pay for that, and extended producer responsibility is an important policy instrument that can ensure that collection and preparation for reuse or recycling are efficient.

We must also remember that it is not enough to pay for collection, recycling and reuse if we do not have mechanisms to make those collected materials attractive to the market. We must create demand, which can be done by mandating circularity and the use of recycled content. We already know that it is possible to secure circularity of materials. One beautiful example of that is that three countries—Slovakia, Norway and Sweden—have already totally closed the loop for plastic and metal beverage containers, so we know that it is achievable.

Furthermore, we cannot proceed without bans. I know that that word is not very much liked, but we must think about banning some products and packaging, because we really do not need all the things that we are surrounded by.

I will comment in further detail when we discuss specific provisions.

The Deputy Convener: We will come back to many of those points as we answer further questions.

Charis Scott, what are your overall impressions of the bill?

Charis Scott (Wellbeing Economy Alliance Scotland): Making the transition to a circular economy, in which we reduce the amount that we extract both in Scotland and abroad, is a really key part of our transition to a wellbeing economy, which is a Scottish Government priority. WEAll Scotland welcomes many of the provisions in the bill, but we have some concerns about what is missing regarding the waste hierarchy. There is a lot of focus in the bill on recycling but there is less about reduction and repair, so we would like to see more of that in there.

We are also concerned about individuals being penalised for waste produced by companies, particularly during a cost of living crisis, because that penalty might fall on the most vulnerable households.

The Deputy Convener: We have heard those points in previous evidence. We look forward to hearing your thoughts, particularly about reduction and repair.

Members have a lot of questions and we do not have enough time for everyone to answer every question, so I ask members to direct their questions to specific witnesses.

Mark Ruskell (Mid Scotland and Fife) (Green): I have a question for Emma Hallett about the Welsh context. Wales has devolved powers that are similar to those that are available in Scotland, but it also has the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016, which seem to embed sustainable management, if not circular principles, in your thinking. How significant has the Welsh legislative framework been in driving things forward? Are there lessons that we can draw from that?

Emma Hallett: Yes. It has been key that sustainable development has been there since the very start of devolution in Wales. As one of the founding principles, it has informed decisions that have been taken all the way through and it has helped us to ensure that we look at our decisions in as broad a context as possible. The Well-being of Future Generations (Wales) Act 2015 encourages collaboration and a focus on ensuring that the environmental benefits of what we do are at the forefront of our minds when we take decisions. The legislative framework very much informs the actions that we take.

09:30

The specifics of the legislation have enabled the changes that we have seen in local authority targets for recycling, and the Environment (Wales) Act 2016 includes the ability to require workplaces to recycle. In fact, proposals for the separate collection of materials from all workplaces, which is due to start in April next year, are being discussed in the Senedd today.

Therefore, the legislative framework gives us the ability to specify what should be happening in Wales and to set targets that focus people's minds.

Mark Ruskell: Is it fair to say that that approach has brought some focus and ambition rather than requiring specific changes in the waste management area?

Emma Hallett: Yes, I think so. We have to remember that the local authority recycling targets are statutory and that local authorities risk being fined if they do not meet them. The target is 64 per cent at the moment, and it will go up to 70 per cent in the next financial year. Fines can be quite large, at £200 per tonne of material that the target is missed by, which can mean a six or seven-figure sum for some local authorities if they do not meet their target.

That is part of the push, but there has also been the support from the Welsh Government and the sense that recycling is the norm in Wales now, because 99 per cent of households have a food waste collection, and 95 per cent of people in our tracker surveys say that they recycle regularly, which is almost universal coverage. That makes it a social norm and something that people expect to do, and once you get that cultural change, it is no longer a minority interest. We recycle our food waste. That is a fact. It is nothing unusual; it is built into our everyday lives.

Mark Ruskell: Thank you.

The Deputy Convener: Could we learn anything about challenges with the quality of the recycle and contamination from your example?

Emma Hallett: We have had clear guidance about the preferred approach for collection in Wales from the Welsh Government's blueprint, which is separated collection using kerbside sort vehicles. Broadly, the materials are put into the vehicle in their separate streams, which means that the amount of contamination is substantially less than it is in the few remaining commingled collections in Wales. The compositional analysis that we did last year showed clearly that there was a stark difference between them.

Part of the reason for that is that, when the material is collected, the crews that collect it see it in the boxes and bags that they are collecting, and

anything that is grossly contaminated will be left behind with a notification that thanks the householder for trying to recycle, tells them that they put in X, Y or Z, which cannot be recycled, and tells them what they should do with it. That positive feedback to householders means that they stop doing it because they want their material to be collected. It gives us control at the first point, which means that we can get some high-quality material that has additional value for the local authorities that sell it and that can be used for higher environmental outcomes. More clothes are recycled rather than having to be either sorted further or not used because they are not suitable for such high-quality recycling.

The Deputy Convener: And there is a consistent approach across the whole of Wales, is there not?

Emma Hallett: Not across the whole of Wales. Of the 22 local authorities in Wales, 15 have the Welsh Government blueprint, two or three are moving towards it and a couple have something a bit similar, in that they collect in multiple streams but not in the format or with the vehicles that are specified in the blueprint. The blueprint is not statutory, but there is clear guidance that it is Welsh Government strategy, and the support that the Welsh Government gives is, understandably, focused towards achieving its strategies.

The Deputy Convener: Thank you for correcting me. The need for consistency of collection has been emphasised throughout our evidence taking, so thank you for the information that you have given us.

Before I bring in Monica Lennon, I understand that Jocelyn Blériot wants to contribute.

Jocelyn Blériot: It is important to look at the bio side of the economy as being potentially circular and not to focus only on technical materials such as plastics or electronic waste. The city of Milan is one of the best in class when it comes to European organic and food waste collection and its use in peri-urban agriculture. That requires an investment in infrastructure with regard to separate collection, in order to ensure that contamination does not happen, but I think that the committee would be interested in looking at that example of what has been achieved in a relatively short amount of time in terms of getting that collection level to a scale where it is actually economically interesting and the use of that waste to increase soil productivity and enhance general ecosystem services is viable.

It is also worth remembering that, on a global scale, although there are variations, 25 per cent of agriculture happens at peri-urban level, which means within 40km of city centres, so there is a great potential to enhance the quality of soil by

separate and careful collection. That emphasises the fact that not everything is about technical materials.

The Deputy Convener: Thank you—that was helpful. We will look into the example of Milan.

Monica Lennon has some questions for Line Kikkenborg Christensen.

Monica Lennon (Central Scotland) (Lab): I thank SCIAF for its submission, which highlights the impact of unsustainable consumption in Scotland on global communities, including with regard to environmental degradation and human rights. My first question is, who is gathering the evidence on that, and do policy makers and the wider public in Scotland have enough of an understanding of how our consumption in Scotland is impacting on people in other countries?

Line Kikkenborg Christensen: Thank you for that question. The people who I know of who are collecting the evidence are the partners we work with in other countries—the ones who are doing the work to protect their communities and environments from the bad mining practices that they see.

As you suggest, a lot of the material that we consume here in Scotland leaves a global footprint, and some of that footprint is, as you point out, connected to environmental damage and human rights abuses. We need to understand that impact better and to have a deeper understanding of the negative impacts of Scottish consumption overseas, and from that can flow a better understanding of how we can reduce harm. That is why SCIAF would like to suggest that we add something to the bill. I would specifically recommend that a provision—which would be section 1(3)(f)—should be added to section 1. That section is all about what the strategy needs to include, and we think that it is important to include a statement that the “do no harm” principle needs to be respected. We would also like the bill to reflect the fact that international cross-border issues should be addressed.

A way for us to deepen our understanding of the harm that our consumption causes is to include it as a mandatory instruction in the strategy, so that we can reflect on that and do deeper research into that harm. SCIAF does not necessarily look into that; our partners have the expertise to track what is happening in their countries, and they report back to us.

It is remarkable that our partners across different countries see the same thing. They see human rights abuses and conflicts. They see forced displacement of communities without any compensation. They see labour abuse, intimidation of campaigners, environmental destruction, biodiversity loss and pollution in the

mining extractive industry. That is a really sad state of affairs. We all have a role to play in trying to mitigate those issues, and the Circular Economy (Scotland) Bill also has a role to play.

Monica Lennon: Thank you for SCIAF's suggestions on how the bill could be strengthened or enhanced. It is interesting that you said that, in the main, the evidence comes from partners in countries in the global south. Does more need to be done to have a more proactive approach here in Scotland, whether that is led by the Government or others, to make it our business to find out what is happening? Could more be done through the bill or elsewhere?

Line Kikkenborg Christensen: Absolutely. Overall, we think that the Circular Economy (Scotland) Bill needs to be amended so that the circular economy strategy has an objective in relation to the extraterritorial impact of Scottish consumption. We suggest that that could be achieved partly by adding an objective for ensuring the highest possible standards in the Scottish context for human rights due diligence and environmental protection in supply chains and public procurement.

Scotland has a role to play there, and there are things that Scotland can do better. It is important—I touched on this—that we want the strategy to be informed by the “do no harm” principle. We know that that is a strategic priority for the Scottish Parliament's just transition work, and we are pleased that the policy memorandum mentions that a circular economy strategy must be consistent with the just transition plans.

Those are just some of the ways in which we could have a better understanding of what we do. It is about supply chains, procurement and, as I said, creating a deeper understanding of the harm that we cause. We can do that only through research into the harm that we do across the world.

Monica Lennon: I am keen to bring in other witnesses. It would be good to hear from Jocelyn Blériot and Emma Hallett, but if others raise a virtual hand, I will try to bring everyone in.

Data from the Scottish Environment Protection Agency, which is the regulator, has highlighted that hundreds of tonnes of waste are exported from Scotland to the least developed countries. That has been a significant amount even in the past four years. In response to that, the Scottish Government highlighted that international waste policy is a matter that is reserved to the United Kingdom Government. Do the witnesses have suggestions on how the bill could tackle that issue?

Jocelyn Blériot: It is an important issue. Following on from what Line Kikkenborg

Christensen said, the extraterritorial impact of consumption happens both upstream and downstream when you import the embedded negative externalities such as carbon. That is somewhat tackled by mechanisms such as the carbon border adjustment mechanism, which looks at the impacts that happen outside of consumption. Those are scope 3 emissions—consumption-based emissions along the supply chain. The difficulty is the availability of data and the modulation of potential fees that are imposed on those materials.

09:45

The second issue is downstream when the post-use materials and by-products are exported, in some cases back to producing countries. That is difficult to tackle, except on a sectoral basis and by looking at specific material streams that have reverse logistics chains, such as the export of waste plastics. That was a very well-established mechanism that has been somewhat disturbed by the fact that, in 2018, China imposed what it called the national sword policy. That banned imports of plastic waste, which disrupted the whole value chain and somewhat changed the material flows, because a proportion of that waste then went to countries that had even less of an adapted collection and recycling facility. Therefore, it had an impact on other countries that could not really cope with the waste, which triggered a sort of cascading effect, with those countries then refusing to get the waste back.

Therefore, the idea is, first of all, to enshrine in the bill the notion that reducing waste exports is a key priority; the European Commission's circular economy action plan did that to an extent. It is much more difficult to be granular, member state by member state and product category by product category. However, looking at how those practices impact reported recycling rates is really important, because saying that you have put a label on a container that says that it is sent for recycling and counting that as recycled is absolutely critical when it comes to being transparent and realistic about the amount that is actually recycled.

Recycling should be considered at scale and in practice, and you need to ensure that you can label a waste stream as recycled only when it is effectively recycled and not sent away to be processed in a non-transparent way.

Monica Lennon: Thank you, Jocelyn.

Emma Hallett, you will recognise that, sometimes, there is tension between reserved and devolved matters, so I am keen to get your perspective.

Emma Hallett: I will add a couple of things about the end destinations of materials that are

collected for recycling. In Wales, all local authorities have a duty to report as best as they reasonably can on where the materials that they send on for recycling end up, so transparency becomes part of their contract with their off-takers. That data is published by the regulator in Wales, Natural Resources Wales, and we put that data into a more citizen-focused format on a website called My Recycling Wales. Any consumer can click on the area where they live and click on a material and it will tell them exactly where their material was sent in any one year, how much was collected, how much plastic there was, where it went and—where we have some information about it—a little bit about the facilities that it went to.

That provides a level of transparency that allows individuals to look at where their materials go, and local journalists can be quite interested in that. The point of making that information publicly available is to be able to start to have that conversation and ask questions of councils: “If you’re reporting that your materials are going all the way across the world, why is that? Are facilities not available more locally?” On the one hand, there is transparency about where waste is going and a system that really shines a light on that.

On the other hand, it is important that we come back to the question of material quality. The aim is very much to collect, as cleanly as possible, materials that are of the highest quality, because that opens up more markets either within Wales or across the United Kingdom. That means that those materials do not carry the impacts of having travelled far and that resources that have been recycled in Wales can be turned back into materials for use there.

It is a question of balance. Transparency is important, but the aspect that I have just outlined is absolutely key. If what we collect does not have a value in a local market, we will have to look further abroad to solutions that we might not have as much control over. On the other hand, if we have the cleaner materials that paper mills or plastics facilities in the UK are keen to use, we can make the loop in the circular economy that bit smaller and closer to home. One of the answers is therefore about how materials are brought back into the recycling loop. Doing that with as much separation as possible is really important.

Monica Lennon: Thank you, Emma.

The Deputy Convener: Thank you, Monica. I will bring in Bob Doris on those points. Perhaps Anna Larsson and Charis Scott might want to answer them, but first we will go over to you, Bob.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I apologise, convener. I feel

as though I am nudging back slightly. I want to ask a little more about Ms Christensen’s aspirations to have an additional target or an additional part of the circular economy strategy, so I would like to turn to her in the first instance.

Ms Christensen, you have a very clear ask of the legislation, which does not always happen—quite often we hear about matters in general terms. It is to ensure

“the highest standards of environmental and human rights due diligence in Scottish supply chains”

and public procurement. I could not possibly disagree with any of that wording, but if it were to appear in the bill it would be reasonable to ask who should determine what a just supply chain looks like and how that would be monitored. I am interested in how we could monitor that and measure compliance with it.

Line Kikkenborg Christensen: At international level there are frameworks that point us in the right direction on matters such as deciding what a just supply chain looks like. As I am sure that many members will know, the United Nations is currently working on a piece of legislation that aims to create a binding treaty on human rights in business. I would point to that for inspiration.

The question of how we should achieve a just supply chain is such a complex one. How do we measure what “just” and “right” look like? There are frameworks in the pipeline that we are trying to get through at a more international level. Scotland should have ambitions to be at the same standard at the very least.

Bob Doris: That is a helpful answer, although it could be considered aspirational. That is not a criticism; I might be sympathetic to what you are suggesting.

As for reporting on the strategy every five years, the Government would be criticised if it had a strategy and did not measure its progress against it. Would you expect it to take reasonable steps or appropriate measures to meet those goals? Would it have to have regard to the variety of international frameworks that are out there? Could you put a wee bit more meat on the bones on that?

Just in case I do not get back in for a follow-up question, convener, may I sneak in a second point? Ms Christensen, I know that that is a big ask. I am not asking you to flesh out the whole approach, but perhaps you could give us an idea of what it might look like. Would it extend simply to the Scottish Government and its agencies on procurement, or would you like to see reporting and due diligence done in the whole of corporate Scotland?

Line Kikkenborg Christensen: I am happy that you asked that question. I am not sure that I have a detailed answer for you, but I do have another suggestion on how we could strengthen the bill.

The bill, as well as the strategy that the bill creates a statutory duty to produce, must be informed directly by and respond to global needs. When we are reviewing and measuring how well we are doing, we need to think internationally and take evidence on the global impact of consumption in Scotland from global south stakeholders. Engagement with the global south on that particular point could be part of the development of the strategy and, as you say, of the five-year strategy renewal or refresh; that could be a good time to consult international stakeholders on how well Scotland is doing. Both in the development of the strategy and in its review, we need to ask how we are doing and how Scotland can be an even better global citizen than it already is. The global south advisory panel that the Parliament has set up could have a role in that. Perhaps it would like to be consulted on this.

That brings me on to my second suggestion, which is a concrete one. In section 2, which is entitled “Consultation on strategy”, we suggest adding a subsection 2(c), which would basically say that we need to consult international stakeholders as well. That might not be the level of detail that you were hoping for, but it is important that we reflect on how we can measure and review the strategy. For me, the answer is that we need to consult international stakeholders and ask how Scotland can be a better global citizen.

Bob Doris: Thanks very much.

The Deputy Convener: Charis, do you want to come in on those points?

Charis Scott: I want to go back to Monica Lennon’s question about waste management.

For us, the point that Monica raised is one of the things that highlights the need to reduce the amount of waste. I highlight that recycling and incineration should be the last option within our approach and that we should be looking at reuse and repair as a more prominent part of that.

I have a couple of examples of that. One of our members at WEAll Scotland has a chain of charity shops that are currently trialling different things. Even in charity shops, there is a lot of waste of things that are donated but cannot then be sold on. Our member has pilot projects that involve providing textiles to colleges and universities so that textile students can turn them into other products. One of the pilots involves textiles being turned into tote bags, which are then given back to the charity shop to use for the products that it sells.

The other example is a high street retailer that tried to implement a scheme through which people could return clothes and get a discount on their purchases. However, the red tape that was involved in that meant that the business had to become a waste disposal company to implement that. That highlights the need to look at how we can remove barriers for businesses that are seeking to reduce waste or to trial new things. We also need to highlight good practice and ways of reducing waste.

The Deputy Convener: Thank you—those are important practical points for us to consider.

We will move on to specific questions on the circular economy targets. I hand over to Jackie Dunbar.

Jackie Dunbar (Aberdeen Donside) (SNP): I apologise in advance if I pronounce some of the panel members’ names wrong. If I do, please correct me. My first question is for Anna, Line and Charis—by the looks of it, I may have got some of those wrong.

My question is on statutory circular economy targets. What targets would you like to be introduced to help us drive the circular economy transition? I will go to Anna first.

Anna Larsson: Is it possible to go back to address the earlier points, or is it too late?

Jackie Dunbar: It is never too late.

The Deputy Convener: Briefly, please.

Anna Larsson: Fantastic. I will try to be short. I would like to reinforce what was said earlier about treating waste as a resource within the circular economy. As you know, in Europe the source separation of food waste is mandatory and many Nordic countries have had long experience of the separation of food waste and also of the production of biogas and fertiliser, because they go together. We have already implemented good practice with regard to that. I agree that we should treat waste as resource and address food waste, which is a very important part of the daily waste generated by citizens.

10:00

A very important point was made about transparency. I do not know whether you have a waste management database, but it is important to collect information about what is placed on the market, what is generated by citizens and what is collected through the municipalities. A very important mechanism and policy instrument that facilitates that transparency is extended producer responsibility. As you know, we have that important mechanism in continental Europe and it is obligatory for the producers, dealers and

importers in a certain proportion of the waste to report on what is placed on the market. We need to know where we are—

The Deputy Convener: I am sorry to interrupt, Anna, but we will have a question on extended producer responsibility later on.

Anna Larsson: Targets!

The Deputy Convener: Yes, we would appreciate your thoughts on targets.

Anna Larsson: I will go to the question on targets. It is important to change the approach so that targets are mandatory in order to be efficient. As I mentioned, it would be useful to add waste prevention targets and targets relating to the better management of materials in the production phase to the recycling and reuse targets. We must take into consideration the need to reduce the products and packaging placed on our markets.

Line Kikkenborg Christensen: I noticed that you had a good discussion about the importance of targets during the evidence that you took on 14 November. I would defer to those discussions on that question, especially the comments of Friends of the Earth Scotland, who made the point about the problem of not including emissions from Scotland's imports in climate targets. That is my main point: Scotland's current climate targets do not include the impact of our consumption that occurs outside of the UK, such as the extraction and production of imported goods and the management of exported waste. That gap means that Scotland can meet its climate targets by moving economic activity outside our borders, rather than reducing global demands, which makes Scotland's mitigation efforts less effective than they could be. The Scottish Government's own reporting indicates that that is actually happening: domestic emissions have fallen, but emissions due to imports have risen.

Including a carbon consumption reduction target would give decision makers such as the committee a better oversight of Scotland's global impacts. Consumption reduction targets are essential to account for the global impact of Scotland's consumption. Including consumption reduction targets would also ensure that Scotland keeps pace with the circular economy agenda internationally. In 2021, the European Parliament voted to create binding science-based targets for material use and consumption and Sweden did the same thing in 2022.

Charis Scott: We agree with what has been said already about the use of targets. Transparency of reporting is key to ensuring that targets are actually being met. It is good to have targets, but there must be accountability to ensure that they are met.

My other point goes back to the idea of reduction. There is no point in having increased recycling or management rates if there is also an increase in the amount of waste that is being produced. Everything must be included.

Jackie Dunbar: I have a second question.

The Deputy Convener: I am very conscious of time, so if you can target that question to just one or two witnesses, that would be brilliant.

Jackie Dunbar: I will ask only the two panel members that I have not asked already.

Can you share any international examples of places where circular economy targets are being adopted further up the chain and go beyond recycling? Are any other countries moving towards having consumption emission targets as well as terrestrial ones? I would like to hear from Jocelyn Blériot first and then Emma Hallett.

Jocelyn Blériot: The first example that comes to mind is the Netherlands, which is a pioneer in adopting circular economy targets. There is an aspiration for the country's economy to be fully circular by 2050, which needs to be unpacked to look at the granular detail of where targets lie and at what data provisions are made in order to meet them.

It is really clear that there is also a tension between purchasing power and the consumption of resources and products on one hand and the notion that a country's economic dynamism is measured by its level of consumption and by consumer empowerment. At some point, there is a need to ensure that access to services comes not from buying products outright but from the sharing economy, and that reselling platforms or tool libraries are also counted as part of the economy.

Some jurisdictions have targets to reduce consumption-based emissions, but it is really difficult to look at that without having the right provisions for data and transparency. A lot of countries are looking into adopting something called digital product passports, which contain embedded product information that can be reported. However, in a lot of cases, the reality is that product suppliers do not themselves know what is going on in their own supply chain, which makes transparency extremely difficult.

I refer committee members to the work that the United Nations Economic Commission for Europe has done on traceability in the textile supply chain. I can send that information to the committee after the meeting.

The Deputy Convener: Unless witnesses have any particular international examples that they want to emphasise, I will move on to Brian Whittle, who has some questions.

Brian Whittle (South Scotland) (Con): My questions are for Jocelyn Blériot and Anna Larsson. At the moment, there is a lot of focus in Scotland on single-use items, such as vapes, and we are also looking at the disposal of unsold goods. The bill would give the Scottish Government powers to tackle those issues, but are there any international examples that we should be focusing on and which we could emulate to help us develop more successful legislation? I would ask that, when you answer, you comment, please, on how we can engage with business, as it is so important that we take business with us and ensure that there is no uncertainty about how to do business.

I put that question to Jocelyn first.

Jocelyn Blériot: Thank you. I will try to be brief.

The ban on the destruction of unsold goods comes from France, which was the first country to adopt it as part of its circular economy law. I know that the European Commission has looked at such a ban with a view to extending it to other member states.

Prior to the law, the value of new products destroyed in France every year was around €800 million. The only reason for destroying them was that, obviously, it was cheaper just to incinerate them than it was to redistribute them. Moreover, tackling the issue and ensuring that unsold goods are redistributed has been seen as a way of enforcing just transition. After all, the disposal of such goods is not only a waste of embedded materials, carbon and so on; it leads, for some levels of society, to privation of access to things that could definitely be redistributed.

The difficulty lies in getting business on board, as a lot of the products come from e-commerce. The question is: who pays EPR fees in respect of what is put on the market, bearing in mind that these things come from big aggregators that do retail? As far as I am aware, the discussion on that question is a live one, and I can try to find the right people for the committee to explore it further with.

I am sorry, but I cannot remember your first question.

Brian Whittle: It was about charges for single-use products and whether we should adopt that idea.

Jocelyn Blériot: With regard to single-use products, which are mostly plastics, when the European Commission adopted its plastics strategy in 2017, it looked at a very simple metric—the collection of plastic waste on beaches. It took the 10 worst offending items and decided to ban them outright, although some member states put a levy on them instead. So far, the approach

has been pretty successful in the sense that a lot of those items have been reduced in volume.

Again, though, the difficulty lies in getting business on side. As we have seen in the latest round of discussions on the packaging and packaging waste regulation at European level, there has been a massive backlash when it comes to promoting reuse and banning single-use products, especially for food takeaways and deliveries. It is an on-going battle.

Brian Whittle: Anna, would you like to add anything?

Anna Larsson: Yes, and I will try to be brief. First, however, I want to jump to another section and say a few words about monitoring. I just think that it would probably be wise to add some provisions on the frequency of monitoring and to analyse exactly what you would like to monitor in order to make it more efficient.

As for restrictions on the disposal of single-use items and charging for such items, there is an element missing with regard to restrictions on disposal for the law to be efficient, namely penalties for economic actors that do not comply with the regulations on such restrictions.

On charges for single-use items, we know that charging producers, importers and consumers is a very successful policy instrument. The single-use plastics directive has been mentioned, and I point out that article 4 of that directive mentions that that policy instrument can be used to reduce the number of single-use plastic items for food vessels and beverage cups. It would probably be worth adding the principle in that regulation. We have to remember that the fee has to be at a level that will really function as a demotivating element for the consumer.

I can give you the example of a study that was commissioned by the Government of the Republic of Estonia on the implementation of article 4, which as I have said targets food vessels and beverage cups. In that country, it was estimated that the fee for such items would have to be set at €0.25, at least, otherwise it would not be efficient. It is therefore important to set the principle that the fee must be at a level that will really demotivate the consumer.

10:15

Brian Whittle: The focus of your answer was very much on penalising those who do not comply, but there is another side to that coin. Should we not be encouraging people to comply? Instead of just a stick, do we not need a stick and a carrot? How do we encourage rather than penalise? I think that that is always a better approach to take, if you can.

Anna Larsson: What would we like to achieve with the charge on single-use items? The objective, of course, is to see less of such items, such as the food vessels and beverage cups that are addressed in article 4 of the single-use plastics directive. We know that penalising the use of those items will still allow them to be used but I point out that citizens in Estonia, for example, will have to pay €0.25, which is a pretty high price in that market. It immediately gives an incentive for, say, collection and deposit systems for beverage cups to be implemented.

It also gives an incentive for implementing the regulation that—and I forgot to mention this—allows consumers to bring their own food vessels and beverage cups. I can do that in Sweden without any problem; we have an understanding in that respect, and we do not need a law to enable it.

In some countries, though, it would be advisable to introduce such a law. We have a very good example of that in France, where consumers are allowed to bring their own packages when purchasing goods and, in fact, are responsible for the hygienic security of those packages. It is very important that we, on the one hand, demotivate people in using single-use items and, on the other, enable the practical solutions that are already at hand.

Brian Whittle: Thank you very much.

The Deputy Convener: Thank you, Brian.

We will have some questions from Douglas Lumsden, before we move to a final couple from Mark Ruskell.

Douglas Lumsden (North East Scotland) (Con): Thanks, convener. I think that this is a question for Emma Hallett, first of all.

Some businesses have called for the alignment of UK-wide approaches in these areas. To what extent should we be aligned on this across the United Kingdom, or is this something that the Scottish Government can go it alone on in certain areas?

Emma Hallett: Are you talking about the circular economy as a whole or any specific process?

Douglas Lumsden: As a whole, yes, but also in terms of certain targets and charges—for example, on single-use items—or even potential bans.

Emma Hallett: In the past 15 to 20 years, we have seen quite a divergence in waste policies and, in turn, circular economy policies among the different nations, and that has given us an opportunity to see what has worked in those nations.

It is not necessarily a unified approach that is required. Instead, we need to draw learnings from what has happened in the different nations over the past dozen or so years and then apply them specifically to each nation. Obviously, there will be differences between the nations and the approaches that they have chosen to use.

Douglas Lumsden: Do you see any issues arising from the bill in front of us today? I am thinking in particular of the UK Internal Market Act 2020.

Emma Hallett: I do not feel qualified to comment on that. It is, as I understand it, quite a tricky piece of legislation.

Because we have had the ability to set Welsh policy in Wales, we have been able to look at supporting the Welsh circular economy and manufacturers in Wales in using Welsh products, with material then going further around the UK, if need be. Our ability to develop that slightly different approach has been key in that respect.

Obviously, some policies will need to happen at a UK level; we have heard a little about, for example, export policies, which sit well there. However, the activities of local government and so on sit well at individual nation level, because the circumstances and focuses are slightly different.

Douglas Lumsden: I would like to get a European Union perspective on the matter. Anna, how aligned are the different member states of the EU on this? Have many countries gone off and done different things, perhaps within a sort of framework?

Anna Larsson: Are you talking about a specific topic or just in general?

Douglas Lumsden: I was thinking of targets, for example. Is there alignment or divergence across the EU on those?

Anna Larsson: We certainly have a category of countries in the European Union that treats the targets as the minimum requirement, with the objective of reaching them. We also have countries that impose higher targets, and there are other countries—an example in that respect is France—that have additional targets on top of the targets by, say, imposing quotas for reusable packaging in the market. The European Union consists of many countries, so there are many differences and different levels of ambition in the different regions and individual states.

The Deputy Convener: I understand that Jocelyn Blériot wants to comment, too.

Jocelyn Blériot: Yes—thank you.

It is important to note the difference between directives and regulations in the European landscape; directives leave latitude for member

states to decide how to implement them. Indeed, that is the case for EPR schemes. However, what is interesting at the moment is the move towards using regulations in many areas, because directives are seen as limiting the level of ambition. We have the usual suspects when it comes to promoting more ambitious targets, such as the Nordics—and France, to a certain extent—but that is not what happens in all cases.

However, with regard to the EU textiles strategy, there is a potential proposal by the Commission to make EPR schemes for textiles mandatory in all member states. That is a new thing, because EPR was typically at the discretion of national jurisdictions. I think that that is more illustrative of a certain tendency; I cannot give you any figures, but there seems to be a trend towards using regulations as opposed to directives.

The Deputy Convener: The extended producer responsibility, or EPR, is our next theme. Mark Ruskell has some questions on that.

Mark Ruskell: We have already covered some aspects of the topic—Anna Larsson touched on it earlier. Emma Hallett, what is your perspective on the UK EPR schemes? We have schemes planned for textiles, bulky items, construction materials, tyres and fishing gear. How do you see EPR fitting with what the devolved Administrations can do? EPR is being driven at the UK level and it is largely reserved under the Environment Act 2021, but we are considering the matter in the context of the bill that we are talking about, and legislation might be forthcoming in Wales as well—I do not know. How does EPR mesh with what the devolved Administrations should be focusing on? I am trying to get a sense of what the jigsaw puzzle looks like.

Emma Hallett: Jigsaw puzzle is probably a good description. It is important that any EPR schemes that may be coming up mesh with local policies, and they should support what is already in place. For example, the packaging EPR will probably allow a more consistent set of materials to be collected across the whole of the UK. It needs to be developed with the differences between the nations in mind, so that it brings progress for all of them, rather than potentially holding progress back. There is a real balancing act to be done. There is potentially a role for the more difficult-to-recycle materials, many of which you have listed. An EPR scheme can potentially support development of the markets for the materials concerned. In a Welsh context, we are starting to consider the more difficult-to-recycle materials, which do not necessarily have ready-made markets for the materials that come out at the end.

Mark Ruskell: Does that mean taking a sector-based approach? We could be reusing more

construction materials, for instance. It has also been put to us in evidence that we could ensure that there is a requirement to take back unused materials in the construction sector—not just unused household goods—rather than disposing of them. Does the jigsaw puzzle look like a sectoral picture, with a whole set of actions that are devolved and wrapped up in EPR that should be driven through a particular sector?

Emma Hallett: Yes, potentially. Construction is not my area but, on the face of it, having means by which unused materials are used rather than disposed of will be essential as a general principle, I would have thought.

The Deputy Convener: Anna Larsson wants to come in on these issues, Mark.

Mark Ruskell: Yes—Anna, you were part of the way to getting on to EPR earlier.

Anna Larsson: There are indeed freedoms with regard to the European Union, and member states can decide to bring more elements and categories under EPR schemes. There are minimum requirements, at least for packaging waste, which all European countries must follow. One of the minimum requirements concerns financial data on how much producers and importers pay to the producer responsibility organisation, or PRO, which fulfils the responsibility for the producers. That data has to be publicly available, and there are various different requirements.

There are, of course, differences regarding how the extended producer responsibility works for different products and packaging in the European Union. There are organisations that act as a monopoly—that is the case in France, in practice—and there are also some PROs that are in competition. According to provisions on minimum requirements in the waste framework directive, there needs to be a clearing house in the individual market to collate information on what is being put on the market, what is collected and what is recycled and reused.

10:30

To return to what I said at the beginning, countries have freedom to cover more categories of items within extended producer responsibility schemes. We can see the distinct trend that more categories are being included in the extended producer responsibility schemes. A good example is furniture, which is a problematic waste category, as the oversized items are quite heavy, which is an issue with regard to waste collection. France has extended producer responsibility for furniture and Portugal is also planning to implement the provisions on that.

We also have a good example from the Republic of Slovenia. Scotland is not a Catholic country, so I am not sure about your customs around 1 November, but Slovenia has extended producer responsibility for the candles that are placed at cemeteries—there are lots of them, made of glass and plastic, and they create problems.

The idea of the extended producer responsibility is to tackle the problematic, numerous waste categories, and there are various examples across the EU member states.

Mark Ruskell: Those are some interesting examples, which are particularly interesting with regard to items with microelectronics and small batteries. I will move on to another issue.

The Deputy Convener: Before you do, Monica Lennon has a quick supplementary on this area.

Monica Lennon: If there is time, I want to ask Emma Hallett and Jocelyn Blériot about nappies. Every disposable nappy that has ever existed is still in landfill, and babies and toddlers will use around 5,000 nappies on average. We have some examples in Scotland of reusable nappy schemes, and I think that Wales has something similar. Could the bill do more to incentivise the use of washable or reusable nappies in order to move people away from single-use items?

Jocelyn Blériot: Although I do not have any specific figures for nappies or the volumes of the stream, the point applies more widely to all products that are disposable. It is a question of the nature and volume of what gets put on the market in the first place. If an item cannot fit anywhere, it is useful to consider alternative options and reuse. Having said that, lifecycle analysis is an important tool to bear in mind because, in some cases, the impacts that are created by the transportation and washing of those materials, as well as the added mechanisms that need to be put in place to ensure their safe and practical reuse represent, at least, a trade-off that needs to be considered.

To go back to the previous question, it is also useful to know that the intention of an EPR scheme is to have an impact upstream. Evidence shows that the fee modulation cannot be too low and the cost incentive for the producers to clean up has to be enough. It was clearly demonstrated in a report that was produced for the French Government in 2019 as part of the circular economy road map that, even though France has 25 categories of products that are covered by EPR schemes, so far, the impact upstream is almost negligible because the fees are too low. In that situation, EPR schemes become, in effect, ways for producers simply to pay towards the disposal of their products without necessarily changing their

practices. The modulation of the fee is critically important.

Emma Hallett: In Wales, we have a couple of different approaches towards nappies and absorbent hygiene products more generally, including incontinence products used by adults. We have one facility that recycles the products. A selection of our councils collect them separately for processing that way. A number of other councils use a promotion-and-support scheme to enable families to access some of the reusable nappy products that are available for children in particular. That may involve running a voucher scheme to help to reduce the up-front costs of reusable nappies; providing information and samples that people can see; or, in some instances, implementing large-scale purchasing to reduce the cost of reusable options.

We are seeing a change in the types of hygiene products that people use. For many young women, reusable sanitary products are becoming much more normal, and we would expect to see that transfer to similar practices when some of them become mothers—they will choose a reusable option for their babies, as they have done for themselves.

Monica Lennon: Thank you, Emma; we are seeing that in Scotland too.

The Deputy Convener: I bring in Mark Ruskell.

Mark Ruskell: I thank the witnesses for all those answers.

I turn to the final set of questions. We have talked about the importance of reuse and consumption, but I will focus on waste systems for household recycling and the infrastructure that is needed.

I am interested in a couple of things. First, is there international evidence of what really works? We have heard a bit about that from Wales already, but I want to focus on two specific aspects. First, if households are not complying with clear rules, do you see a role for issuing of fines for that?

Secondly, do you have experience of waste charging having been brought in successfully, and of how issues to do with equity are dealt with in schemes? I think that no such schemes are operating in the UK so—again—the question requires an international perspective.

I offer everyone the opportunity to comment on that.

The Deputy Convener: Perhaps the witnesses can indicate whether they would like to come in on those questions.

Mark Ruskell: You can stick your hands up. Anna, do you want to go first?

Anna Larsson: That is a very difficult topic. Sometimes it is necessary to penalise behaviour that is not environmentally friendly. I highlight the example of Scandinavia, where the issue was discussed a decade ago. The mechanism is efficient, but it requires a lot of work from council officials.

The Scandinavian approach is more in the “pay as you throw” direction. For example, there are penalties or extra fees on residual waste to incentivise citizens to leave smaller amounts of such waste, relative to other elements, and to leave more for recycling purposes. In general, that involves greater separation of recyclables and food waste. There are many examples of how the “pay as you throw” strategy can be implemented. In Scandinavia, containers have attached to them a fee that depends on the container’s volume. That is very efficient.

Of course, there are more extreme examples, such as weighing of waste. There are systems that do that in some municipalities in Scandinavia. However, it is an expensive exercise to weigh each bin so that citizens pay for the residual waste fractions.

The penalties should, of course, remain, but we have to be mindful that it will not be feasible to appoint a lot of full-time-equivalent council staff to go and check, so the system will be based on not-so-frequent controls.

All in all, the “pay as you throw” strategy is probably more efficient and will lead to the objective being achieved more quickly if there is proper sorting by citizens.

Mark Ruskell: I presume that there might be different cultural starting points for adopting such an approach. If you have any reflections on that, it would be good to hear them.

Jocelyn Blériot: The example that comes to my mind is Flanders, in Belgium, where weight-based pricing was introduced. One of the first observations during the first year was that the impact was quite considerable—waste was reduced by something along the lines of 20 per cent. However, the study suggests that, after the first year, the impact gradually reduces and that, at some point, the original amount of waste returns. Even though the fee remains, people get used to paying and go back to their old habits, so there is probably a limit to such systems. There is an impact in the first year, but the impact seems to decrease after that, so the question is probably which accompanying measures should be put in place.

Mark Ruskell: That is useful to know.

Charis Scott: I will highlight the often unintended consequences of such systems. There

are a couple of concerns. First of all, the differences in recycling systems across local authorities can be quite confusing for people. I live in Glasgow, but one of my closest friends lives in West Lothian. When she comes to my house, she often goes to put in a recycling bin something that is not recycled in Glasgow, so mistakes can very easily be made.

The example that I have, which I am afraid is not a good one, relates to Vienne, near Provence in France, which introduced a charge for waste bins. Once a household goes over a certain number of bins, a charge must be paid, but that has led to residents in the area travelling to other local authority areas to put their waste in bins there, rather than paying for extra bins in their area. It has also led to an increase in littering, which was not previously a problem in the area. Something might seem on paper like a good idea, but implementation is the key element.

I go back to the example from Wales that was given earlier. When somebody makes a mistake, we should highlight that by saying, “Thanks for trying, but here’s where you went wrong.” That is a much more effective approach for bringing people along on the journey.

Finally, I will highlight the problem of implementing such a strategy when so many people have shared bins: it might not be the case that one household utilises its own bin. People who live in flats might share bins with other people, so who would get the fine? Would we create a culture in which neighbours have to tell on one another? That could cause conflict between neighbours. That would be a significant problem in Edinburgh, Glasgow and many other Scottish cities.

The Deputy Convener: Before Emma Hallett comes in, Mark Ruskell might want to ask an additional specific question.

Mark Ruskell: I think that we have already covered aspects relating to Wales, but I would be interested to hear Emma Hallett’s reflections on whether consideration is being given to waste charging and, as a last resort, to household fines.

Emma Hallett: I think that I have more to contribute on the second issue. As Charis Scott said, such fines should be a last resort and should come at the end of a lengthy process.

Authorities use that approach in Wales, and they do so in a couple of different ways. The first is when people put the wrong things in the recycling and contaminate it, and do so consistently. The second is when things are the other way around and people are not doing their bit by recycling but are just putting all their recyclable material in with residual waste. In both those instances, Welsh

authorities are set up to give people fixed-penalty notices and to fine them in that way.

10:45

All the authorities that use fines would emphasise that that is the end of a multistage approach. They start off with the usual sort of communications to everybody, but when a problem is identified they try to take an educational and informative approach and say, “We saw that something was wrong; this is what you need to do.” Long before a fixed-penalty notice is issued they go through multiple phases, including having staff visit properties to talk to householders to work out whether there is an issue or difficulty, and whether assisted collection might be needed because of mobility issues and other such things.

We find, when a council goes through those phases of work, that each phase results in a massive reduction in the number of people who are not complying. At each phase, the number of households that are included in the round is often reduced by a factor of 10. If you have 1,000 households to start with, in the second round—when you have slightly more forceful communication about what people ought to be doing, which is what all their neighbours are doing—the number will come down to 100 households, and in the next it will come down to 10. The number of fixed-penalty notices that are issued is therefore usually a handful, at most.

Certainly, a fixed-penalty notice is issued only after checks have been done to ensure that the householder is not particularly vulnerable, which might mean that there are genuine reasons why they are not recycling. Such notices are not issued when someone accidentally does one little thing wrong; they are for people who continually do not participate. They are issued for gross contamination—people continuing to put nappies in recycling collections, for example—or for just not putting out any recycling at all. That can be seen very quickly from a glance at a black bin, and glass bottles and cans can be heard. People are not going through bins sorting every tiny little bit and saying, “There was a yoghurt pot in your black bin, so we’re going to fine you.”

Mark Ruskell: I am sorry to interrupt you, but, on that last point, how does that work with communal collections, of which we have a lot in Scotland due to the number of tenement properties?

Emma Hallett: That would usually be done in single-household situations. Where there are communal collections, it cannot be done unless there is obvious evidence—someone’s name and address, for example. Using FPNs could then be

possible; however, in general that is an approach that we take for single-household bin collections.

For communal properties, the approach needs to be different according to the number of flats, the size of the bins and so on. For those situations, our advice would be very much about making it easy by being clear about what needs to be done and having in place all the right labelling and containment. You should not make it easy for people to chuck a black bin bag into what should have been recycling, and you should provide the correct bins to facilitate recycling. You are absolutely right that you cannot penalise a communal group in that way.

Mark Ruskell: Thank you.

The Deputy Convener: The evidence that we have heard today has been interesting and helpful. Thank you all for your time and for sharing your insights and perspectives. We have obviously got through quite a lot today, and you have provided examples and ideas.

If, after the meeting, there are points on which you want to follow up—whether they are on more that you would like to see in the bill or on points that come to mind that you wish that you had made—please get in touch with us. Some of you made commitments to share more information with the committee; we are grateful in advance to you for providing that.

Thank you again for sharing your views and time. Our stage 1 report will be published in January next year, and the clerks will ensure that a copy of the report is shared with you.

10:50

Meeting suspended.

11:00

On resuming—

The Deputy Convener: Welcome back. I welcome our next panel of witnesses, who are academic experts in the field of circular economy policy: Toni Freitas, lecturer in circular economy and programme director for the MSc in the circular economy at the University of Edinburgh; Dr Henry Irving, senior lecturer in public history at Leeds Beckett University; Dr Feja Lesniewska—I hope that I pronounced that correctly—who is senior lecturer in sustainable transitions and environmental law at the University of Surrey and an honorary associate professor at University College London; and Dr Melissa Marques-McEwan, assistant professor in sustainable and circular businesses at Heriot-Watt University. Professor Aileen McHarg, professor of public law

and human rights at Durham University, joins us remotely.

I thank all the witnesses for their time. We have allocated around 75 minutes for this evidence session, and we will move straight to committee members' questions. As with the previous panel, given the time constraints and the number of questions that we want to get through, members should direct their questions to specific witnesses, who should not feel that they are expected to answer every question. Any witness who wants to answer a question should indicate that by signalling to me. Professor McHarg, you can raise your hand by using the Teams function.

My colleague Monica Lennon will ask the first question.

Monica Lennon: Good morning. My first question is a general one to capture witnesses' views on the bill, so not everyone might want to contribute.

Will the bill, in its current form, make a significant difference in supporting the transition to a circular economy and reducing Scotland's greenhouse gas emissions? If you think that the bill should go further, please suggest what should happen.

That question is for Melissa Marques-McEwan first; I will then work my way around the table.

Dr Melissa Marques-McEwan (Heriot-Watt University): In its current form, the bill is a step towards Scotland having a circular economy. It will particularly increase the visibility of materials, because there are some specific measures to increase clarity on how circular Scotland is and how the circular economy is advancing. For example, we will have a strategy, which will be revised every five years, there will be targets and obligations for local authorities to comply with recycling and there will be a duty for businesses to publish data about waste and unsold goods. That is a step forward.

However, I think that the bill tackles smaller issues within the economy. I am not convinced that it includes enough measures to significantly change how people and businesses in this country behave or that targets, or criminalising behaviour, will do enough. I appreciate that the bill might be limited because of the way that devolved legislation works. Perhaps the Scottish Parliament does not have all the powers that are required to change behaviours, but other measures could be more efficient. For example, instead of criminalising the behaviours of a minority, it would be better to improve the recycling and waste infrastructure in the country. Measures such as incentives for more circular and sustainable products would be much more effective in

changing how people behave compared with criminalising certain actions.

In a way, it is good to have legislation for businesses to be more transparent about their unsold goods. I read Amazon's response to the bill closely. Amazon has a number of measures to deal with unsold goods—for example, it sells them at discounted prices, and it has the big hoose project in Fife. Other businesses also do what they can to tackle unsold goods, because it is good for them; if they have fewer unsold goods, they will be more profitable.

The bill proposes a charge for cups. That will work very well for cups, but what about beyond cups? There is nothing there for takeaway containers and so on.

To summarise, the bill is definitely a step forward, but when I ask myself whether it will have a significant impact on net zero, I have to say that, in its current form, I think that its effect will be negligible.

Monica Lennon: I might come back to those points, but I will keep it general now so that I can go around the panel.

Feja, would you like to go next?

Dr Feja Lesniewska (University College London): We will keep it to "Feja" rather than "Dr Lesniewska"—that would be too complicated. It is like "Freya" without the R.

The intention of the bill—this is set out in the policy memorandum—is to align with and take forward the Climate Change (Scotland) Act 2009. We need to look at the sectors in which the bill will try to rapidly bend the emissions curve down to meet the targets for 2030 and 2045.

One area where emissions are doggedly stuck, aside from transport, is construction. Construction was identified in the road map to a circular economy by 2050. Construction is a sector with significant emissions in scopes 1, 2 and 3. It also accounts for more than 50 per cent of waste in the Scottish economy, so it is concerning that construction is not referenced in the bill, although it may be included in the strategy.

The bill talks about the strategy and targets—obviously, there is more detail on those—but it also goes into household waste and single-use charging, so it is almost a hybrid bill that combines an ambitious circular economy, which would involve a potential transformation and paradigm shift away from linearity, with a revised waste management strategy approach. However, you want to do one or the other, particularly if you want to reduce emissions rapidly. The interlinkages between emissions and material throughout the life cycle increase the values of materials in an

economy, which is where there are opportunities for a more just transition.

As the bill stands, there is a foundation, but there is work to be done and decisions to be made.

Monica Lennon: Should there be more in the bill on construction, given the point that you made, or could that be left to the strategy?

Dr Lesniewska: Indications need to be placed in the bill about the different sectors that will be covered in the strategy.

We can subsequently get into the difficulties of data gathering and of monitoring and reporting on targets, but the reality is that, when the climate change legislation was introduced in 2008 in the UK and 2009 in Scotland, it faced exactly the same problems and those have been overcome. The data gathering and cost issues have been overcome and new business opportunities have arisen. That legislation has also influenced the international scene. The 2015 Paris agreement included targets, including on national plans, which has had a transformative effect on the international approach to carbon and climate. A really good and well-crafted circular economy act could have a transformative effect globally.

Therefore, this is a big opportunity for Scotland—it really is. There are lessons to be learned internationally from other European nations such as the Netherlands, Denmark, Sweden and France. There are examples, but they have not really weaved everything together, so there is still an opportunity for Scotland to do something brilliant.

Monica Lennon: Perhaps the bill is brilliant already; I do not know—we will see what others have to say. I ask Toni Freitas to pick up on that.

Toni Freitas (University of Edinburgh): On whether the bill in its current form will make a significant difference, I agree with other panel members that it will make a difference, but there is room to make that a significant difference.

I agree that the balance between the residential and commercial aspects is not addressed enough in the bill to support a robust strategy. If we look at the basic numbers on where waste comes from in Scotland, we see that 75 per cent of it is construction, demolition, commercial and industrial waste rather than household waste. Therefore, to drill down into the specifics of household waste does not really give opportunities to address that.

Also, on balance, the bill is more about an improved waste hierarchy than a circular economy hierarchy. As a teacher, I brought a handout for everyone, which I think members already have in front of them. To improve on the carbon reduction side, we need to look at the higher-up strategies

around rethinking and reducing rather than recycling, which is at the bottom of the circular economy hierarchy. There are huge opportunities to include those higher-up strategies more, which means that there are opportunities to support innovation and product design in Scotland. As a country, we are very proud of the things that we have invented, so let us encourage that and go further on it to support a circular economy.

We also need to consider where the opportunities are to create more value retention processes. That is about creating value out of waste and about where recycled material actually goes and what we can do with it. We need to look much higher up in the circular economy hierarchy and think about reducing waste and creating more efficient ways of manufacturing, reusing, repairing and refurbishing.

We are addressing the lower part of the hierarchy, but can we look at the opportunities and introduce better provisions to create opportunities for behaviour change? A lot of what we are talking about is about behaviour change, and not just for consumers and individuals but for organisations, including on the bigger, more commercial side.

There are gaps that we can look to fill to make the bill more robust in that way.

Monica Lennon: I believe that Aileen McHarg and Henry Irving have particular expertise that might be best for other questions, so—

Dr Henry Irving (Leeds Beckett University): I am happy to come in on this one.

Monica Lennon: Go for it. I did not want to put you on the spot.

Dr Irving: In some ways, your question is speculating about what a future historian will say, and I am here as a historian and am able to look backwards. We are thinking about whether, in 100 or 150 years, people will look back at this moment and say that the bill was a decisive step. Actually, I would echo a lot of what previous panellists have said. In effect, you have a sort of two-part bill. On the one hand, it is about bringing Scotland up to a standard that is currently enforced in other parts of the United Kingdom. Scotland has real strengths in its current position, but there are some things that you are not doing that are happening elsewhere.

You are trying to do that, but you are also signalling forward, and I think that that is where the ambition is. Through the strategy, the bill provides a framework to take that forward. In some ways, it would be a mistake to express too many concerns about what that will look like at this stage. The bill is important because it gets you there—it gets the 2016 strategy updated and it gives you the potential to move forward.

However, there is huge amount of potential here, and perhaps the bill could be bolder in taking a whole-systems approach, as Feja Lesniewska and Toni Freitas have said, rather than simply reiterating things that we already know. Let us make the bill bolder; let us make it meet the historic challenge.

11:15

Monica Lennon: Okay. I will stick with you, Henry Irving, as I am keen to hear what we can learn from the past, particularly in relation to our approach to the design and life cycle of products. Toni Freitas said a little about innovation, and everyone has talked about the need for us to be a bit bolder so that we can make that transformative shift.

I want to ask about the importance of design in the circular economy, so that we can get the shift in focus further up the waste hierarchy. What can the past teach us about sustainable product design and reuse, if we are willing to learn?

Dr Irving: That is an incredibly difficult question. My expertise is more in waste management. Traditionally, Scotland has been a world leader in waste management. In the late 19th century, Glasgow was one of the leading cities in what we would now refer to as refuse collection but which, at the time, was seen as a real innovation in public health. Likewise, Edinburgh was at the forefront of recycling globally in the 1930s. There were facilities here that were simply not available anywhere else in the world. Scotland has that story to tell.

On the issue of product design, part of me is quite sceptical. As a historian, you learn to be quite sceptical. Before I came here, I was going over some notes from Edinburgh's archive. In 1950, the person responsible for waste management in this city was lamenting the fact that people were throwing away too many clothes. He was talking about the fact that, particularly among socially deprived groups, there was a tendency to pick what we would now term fast fashion—that is, cheap items that, rather than being repaired, would be thrown away. That could be seen because it was possible to trace where waste was arising in different parts of the city. That was 1950, which is a time that we associate with people making do and mending, and being much more thrifty.

We are talking about not just product design but wholesale social change. The route map to 2025 mentions

“large-scale, and rapid system change.”

It is really difficult for me to comment on what that looks like. As I said, there is a degree of

scepticism. The situation requires us to be really bold. I am hoping that other panel members might have a bit more hope than I do, particularly because they are at the forefront of things.

Monica Lennon: Does anyone else want to contribute on those points?

Toni Freitas: I am happy to come in on the issue of design. There is a huge opportunity for looking at how we can redesign not only the products but the systems. Because Scotland is a small enough country, we have the opportunity to be able to do that with the devolved powers that we have. It is not only a case of supporting innovation, although that is a key part of it. By allowing for innovations in materials and rethinking the way that we use and make things, as well as supporting and promoting more of a sharing economy, we can tackle a lot of the things that we are looking at, particularly carbon footprinting and the stalling that we have around transport.

There are lots of examples of that happening in small places, from tool libraries to repair cafes. If we can scale that up and reinvigorate the skills that may have been lost through generations, there is huge opportunity to work up that hierarchy, to look at reuse, repair and refurbishment, and to change the mindset. That is all part of looking at innovative design. It is not just a question of thinking about how we can replace one material with another; we also need to ask whether we need an object in the first place or whether there are opportunities to think about items with multiple uses, instead of having one thing for this and one thing for that. There is more of an umbrella aspect to the issue of design; it is not simply a case of looking at it on a singular level.

Monica Lennon: Thank you. I could not see, but I think that Aileen McHarg might have had her hand up earlier. I apologise if I missed that.

Professor Aileen McHarg (Durham University): That is okay.

My response relates to your first question. I must stress the level of uncertainty that surrounds this bill, because virtually all of it is enabling powers. At the moment, therefore, it is very difficult to know how the powers in the bill will be used. From that point of view, the circular economy strategy duty is the key to maintaining focus on how the powers are used and the level of ambition with which they are used. There is also uncertainty about how some provisions will interact with the United Kingdom Internal Market Act 2020, but we will probably come back to that.

I stress that I am really not an expert on circular economy policy, so my contributions will be limited.

Monica Lennon: It is great to have you here for your expertise.

While your microphone is on, I just want to ask you a question. We have had a bit of discussion about the balance between what is in the bill and what will come through the setting of targets and the strategy. From what you have seen of the Government's approach, do you have concerns about parliamentary and public scrutiny? There are a lot of unknowns, which is not uncommon with legislation, but is the balance right here?

Professor McHarg: When I looked at the bill, my first reaction was to note how much of it involves regulation-making powers. With such powers, there is always a question about the quality of scrutiny that is possible.

I focused on section 9, on charging for single-use items, which contains provision for a super-affirmative procedure to be used. Draft regulations can be laid before the Parliament, with an opportunity for consultation and committee scrutiny, and there will be a duty on ministers to explain how they have taken account of any reports or consultation responses in making the final regulations. That is definitely an improvement on the normal situation, and it is appropriate in the circumstances.

Sticking with the single-use items power, I think that it will be difficult to approach that issue other than case by case. If we were to put things on the face of the bill, we might end up with a series of specific primary legislative provisions that would need to be revisited quite often.

The recommendation on charging for single-use items came from the expert panel on environmental charging and other measures, of which I was a member. We were conscious of how contextually sensitive any regulatory strategy in that area would be; in our first report, we focused on single-use beverage cups, but in our second, we made recommendations on how to approach the regulation of single-use items in general, recognising that the way in which items are used, their ease of substitutability and recycling, the equality implications and whether they are essential necessitate a case-by-case approach.

Monica Lennon: I think that other colleagues will pick up those points. Your sound feed was variable there—maybe that could be sorted out.

Before I pass back to the convener, I see that Feja has her hand up, so I will go back to her.

Dr Lesniewska: Going back to innovation, I note that Toni Freitas talked about scaling up. Most of the time, innovation happens when there is a market opportunity. One driver that has been identified, particularly in construction, is procurement; public procurement is a major

investor in infrastructure and the built environment—for example, through hospitals and schools—and that includes maintenance, which has a very large budget in construction terms.

As was identified in the road map to 2050, and as has been identified in the Netherlands and Denmark, framework contracts for infrastructure and construction from the public sector can foster innovation in items that can be used for disassembly and things that use more recycled content. It is also about encouraging small and medium-sized enterprises to be part of a framework contract in procurement. The Government can orchestrate that framework in a way that identifies a number of projects, so that it can foster innovation over a period of five years or so, perhaps with a nudge and a push through a material target budget.

Innovation does not stand outside things. Finland has an innovation strategy as part of its circular economy planning, and the European Union includes innovation in its circular economy action plan. Innovation is part and parcel of planning, and it needs to be considered in the broader framing of the bill.

Monica Lennon: Before I hand back to the deputy convener, I remind the committee of my voluntary entry in the register of members' interests as convener of the Parliament's cross-party group on construction. I thought that it would be appropriate to mention that, as construction has been mentioned.

The Deputy Convener: Thank you. It is good that construction has been mentioned, as it is a significant aspect of these considerations.

Feja's answer helpfully leads on to the questions from my colleague Jackie Dunbar.

Jackie Dunbar: I am aware that we are getting very short of time, so I will not ask everybody to answer this next question—please just indicate if you would like to come in. I am trying to be helpful to you, deputy convener, so I will try and bunch my questions together, too.

How can the circular economy strategy ensure coherence between the different policies and legislation? How can we bring communities, businesses and policy makers together to embed practices? What skills and education are needed in the circular economy, and how should the bill and the strategy seek to support that aspect?

I see that you are nodding at me, Feja, so I will pick on you.

Dr Lesniewska: I go back to my earlier point: this is a moment of paradigm shift in our thinking about how our economy could be structured. I defer to Henry Irving on that, but I think that we are looking forward 100 years and rethinking our

relationship with the material economy. This is different from what happened previously. The industrial revolution brought transformation; however, it was rapid and cruel, and it was not thought out ahead.

In contrast to that, we are, alongside our trying to move away from a fossil fuel-based economy, looking forward and thinking, “Okay—by 2050 or so, we want the economy to move towards something. We do not know exactly what it is going to look like, but we are going to put in place the steps to get there.” We do not know entirely what skill sets will be needed in 2050, but we do know that a whole bunch of skills will probably not be needed. We need to invest in the skills that are required, not just at university level—where we have our new circular economy masters programme, for example—but in schools, too.

We also know that those skills run parallel to digital skills. In the delivery of the circular economy, there is, potentially, a lot of interaction with digital infrastructure, and a lot of digital training and skills will be linked to circular economy employment opportunities; I am thinking, for example, of skills in monitoring and reporting, in gathering evidence on supply chains and in feeding that back. We do not know what the economy is going to look like, but we know that it has to change, and part of that change is about putting in place something that can support the process into the future.

What was so encouraging about the bill’s policy memorandum was its focus on the consultation process. In order to move forward with targets and such like, you need to think about how people will respond, because this is about behaviour change. You need to bring people along with you, otherwise you will end up with—dare I say it—a situation similar to that of the ultra-low-emission zone in London and the backlash against it. You do not want a backlash; you want people to come along with you, so you have to be careful about charging or placing a criminal penalty on households, as that could quite easily create a backlash. We therefore need to really think about where the benefits and burdens lie in the transformation. There is a recognition of that process in the memorandum, and the requirement for on-going consultation should be incorporated more clearly in the bill.

I also note the proposal to make Zero Waste Scotland the public body that will put together reports, a little bit like a climate change committee. It will be an important body, but it has to be one that everybody trusts.

11:30

The Deputy Convener: There will be questions about charging later, but I understand that Melissa Marques-McEwan wants to come in.

Jackie Dunbar: Toni Freitas raised her hand too, convener.

The Deputy Convener: Melissa, do you want to go first?

Dr Marques-McEwan: Yes. Thank you.

You asked three questions. The first was about how the circular economy strategy can ensure coherence between different bits of legislation, practice and so on. In many ways, it would be easier to highlight those interrelationships between different pieces of legislation within a strategy instead of in a piece of legislation itself.

Just to focus on what the circular economy is, I would say that it is—as in the handout that Toni Freitas brought—about those four Rs: reducing, reusing, remanufacturing and recycling. It would be useful if the strategy could highlight the pieces of legislation, the targets and the initiatives that relate to each of those principles. Perhaps it could set aside an area to discuss how different pieces of legislation come into play.

Your next question was about how we bring businesses and people together to create a circular economy in Scotland. For the past five or six years now, I have been doing a lot of research and have been speaking to several dozen businesses in this country; I have, for example, looked into the oil and gas sector in the north-east and have talked a lot with remanufacturing businesses, including a lot in the third sector, and I have heard that the number 1 difficulty facing businesses is the lack of incentives. I am therefore not too convinced about the criminalising aspects of the bill, because most people—and most businesses—in Scotland want and are trying to do the right thing.

The oil and gas sector has many initiatives in place. Right now, it is dealing with decommissioning. They try to do the right thing when they can; however, most of the time, what stops them is not a lack of profitability, but the fact that, sometimes, if they choose the remanufacturing or repair route, they just cannot compete with businesses that are not doing that. That is what is stopping people. In the general population, too, most people want to do the right thing, but they do not know what the right thing is. They do not know the right bin for plastics, or whether they can recycle film plastics.

In many ways, I am looking forward more to the strategy itself than to legislation that just enables powers and discusses the strategy. So much can be highlighted in that strategy. If it just focuses on

the principles of a circular economy, which are to reduce, reuse and recycle, and on different sectors and their different needs, it can provide a significant step towards the circular economy.

Toni Freitas: It would be most appropriate to answer your third question, which was about the skills and education that are needed and how the bill can support that. Potentially, that key part is missing.

Scotland has devolved powers in respect of education and training, and there is a huge opportunity in that. According to people with whom I work, the young people whom they work with get the concept really quickly. If we are looking at the long-term historical possibilities of trying to create systems change within communities, embedding the circular economy is just about knowing what “the circular economy” means. We have created and use that concept, but in some countries—in the global south, in particular—it is just the way in which things are done and does not have to be called anything. However, we need it here, because of the consumption issues that we have.

To be able to understand what that is without setting this up to be a kind of greenwashing is a really important part of the education that is required. That will involve not only education through the education systems, but education and training for businesses—after all, 99 per cent of businesses are small businesses, and we know the support that they need—and education through the public awareness scheme. Those are three layers of opportunities that we can embed within the bill or the strategy. We need to embed circular economy knowledge not only in degrees that are to do with environmentalism, but in those where we learn how to make and create things, such as biology and engineering.

Right now, all the things that we are trying to do come from a very reactive, downstream way of looking at the circular economy. As an educator, I think that we really need to look at how we embed the circular economy in the basics that we are teaching in the amazing universities that we have in Scotland. We are reteaching the same linear mistakes over and over again, because historically that is how it has always been done, how we have always designed things or how we have always made things. There is a huge opportunity for us as education institutions to look inward and say, “Actually, if Scotland wants to move forward, we need to move forward, too, and start to embed these things.”

The Deputy Convener: Your point about the university sector being not only a sector in itself but something that impacts on many other sectors relates to a question that Mark Ruskell was going to ask, so I will bring him in now.

Mark Ruskell: I am struck by the comments that Feja and Toni were making in relation to the construction sector and, in particular, the amount of waste. I had not realised that it was such a significant part of our waste production. Are there other sectors that the strategy should zero in on, beyond household waste treatment—industrial sectors?

I am also interested in any thoughts that you have on EPR. We discussed with the previous panel the UK Government’s aspirations to put in place EPR for a number of sectors. In terms of meshing this together, what should be the priorities and what are the tools?

Dr Lesniewska: Just to be annoying, I will say that one thing to always bear in mind is that this is a systemic approach. We are highlighting construction, but construction involves multiple materials: steel, plastics and glass. It involves internal fittings, so there are textiles as well. There are different periods of the building’s constructedness: building of the building, maintenance of the building and operationalising of the building. The building goes from one use to another use and, over its life cycle, all sorts of materials will be part of construction.

I appreciate that thinking about sectors can help us, particularly with strategy. We can talk about construction, agriculture, and textiles as a whole—because textiles is an enormous sector and gets a lot of attention. Chemicals really has a big CO₂ and greenhouse gas footprint, and it also has a big material footprint.

I am part of the interdisciplinary circular economy centre for mineral-based construction materials, which is one of the UK Research and Innovation-funded centres at University College London. Melissa Marques-McEwan is a member of the interdisciplinary centre for circular chemical economy. There is a whole plethora of centres alongside the centre for mineral-based construction materials, such as the interdisciplinary circular economy centre for technology metals. Critical metals for the digital economy is an area that receives a lot of attention because of their value and the value of decarbonising the economy. I know that Scotland has an interest in critical metals and minerals.

I want to return to Jackie Dunbar’s point about coherence in regulation and pick up on something that Toni Freitas said. The organisation of law and regulation reflects the linear way that we approach the economy, so, in the circular economy, law, and even the way that we teach law and regulation, will probably have to change as well.

There are tools in the legal toolbox, but we will have to apply them differently. There are about 200 different sets of extended producer

responsibility regulations in the world. The Organisation for Economic Co-operation and Development carried out a study, and the United Nations Environment Programme is doing a comparative study at the moment. There is no doubt that those regulations vary. There are differences in where responsibility lies and how much responsibility there is, where fines are imposed and where incentives are placed—all of which determines how effective a scheme can be. Different sectors have different types of extended producer responsibility and that design works better in some sectors than in others.

Quite a lot of research needs to be done in order to develop effective EPR interventions. That comes down to creating an act of Parliament that has a strategy, targets and a view to getting somewhere by 2050 and then to learning by doing. We need to have a body that collects evidence and informs us so that we can learn by doing. Transformation will only happen if we get going. You cannot let the perfect be the enemy of the good: you must get going.

The Deputy Convener: Toni Freitas wants to come in on Mr Ruskell's question.

Toni Freitas: I will focus on construction and other industries. When we look at where our waste comes from, construction and demolition—in other words, all aspects of what we mean by construction—are the biggest source, with the second biggest source being the commercial and industrial sector. We need to drill down into what we mean when we report that type of waste, where it is coming from and what opportunities we then have to create a more circular and lower-carbon economy.

Material use is a big issue. A lot of work has been done on housing development so that houses and buildings themselves are energy efficient, which is fantastic, but there is embodied carbon in the materials that we use to build those and it is not helpful to have that locked in. We cannot recover those materials because buildings are made in a linear way.

We must re-educate builders but also set up legislation to require a more circular way of building. The classic way to do that is to build in layers so that you can get to the materials more easily. You can have building passports for those materials, so that you can reclaim them 50 or 100 years down the line. The timescales make that very challenging, but, if we acknowledge building as one of the biggest sources of waste material, we can look for opportunities. Where is the waste happening? There are lots of examples of modular, off-site building that can significantly reduce construction waste. There are quick wins there.

I looked at the waste data, which shows that the second-commonest substance going into landfill is soil. Where is all that soil coming from? How is that happening? Why is soil the second-largest waste product in landfill? What does that mean and how could that be used? When I look at matters from a circular economy perspective, I am always asking what we could do or what useful thing we could invent.

We need to encourage and support innovation by connecting dots that are not normally connected. That includes making connections between industries, which we do not do enough. The waste from one industry could be a valuable virgin material for another. We do not do enough of that, but there are some really amazing examples in places such as Rotterdam, where there are connected industries and industry clusters. Even with waste heat and waste energy, and not just with materials, we should be looking for opportunities to connect industries to create a more circular economy.

Mark Ruskell: You can take a place-based approach to create circular places.

In the earlier session today, we took a lot of evidence on the impact of consumption. Is it possible to bring a metric for consumption reduction targets into sector-based planning, or does it make more sense at a national level? I do not know where that fits.

11:45

Toni Freitas: I think that it depends on what you mean by consumption. Do we mean consumers consuming products? The “Circularity Gap Report Scotland” shows that a reduction in material consumption and everyday products can reduce our carbon footprint by 14 per cent, which is a huge amount. That is about consumerism in general. Can we build in policies or lessons to raise awareness of how we consume as a society? I think that that is part of it.

Consumption is also a big part of procurement and the way in which we use things in larger organisations and in Government organisations. There is a huge opportunity to reduce consumption through procurement.

Dr Lesniewska: One of the references in the memo is sustainable development goal 12, which is on responsible production and consumption. A major part of the circular economy strategy is servitisation, which means moving away from ownership to use. That is a real change. We do not all have to own a car, but we can use one, and adding that creates more value.

Toni Freitas talked about industrial symbiosis. Materials can move around in an organised way in

relationship to businesses where they add value to secondary materials. That also links with the definition of waste and end-of-life definitions, which is a major contentious and complex issue about liberating waste to become a resource that can have value in the economy.

Soil is defined as waste because of construction, and it is also to do with the definition of waste; a lot of the soil that ends up in landfill should not be defined as waste. There are also a lot of issues with construction methods.

The Deputy Convener: Are you finished, Mark?

Mark Ruskell: Yes.

The Deputy Convener: One of the challenges with the construction industry is that it overlaps devolved and reserved areas. That takes me to some questions from Brian Whittle.

Brian Whittle: I am going to try to dip my toe into the murky waters of the difference between devolved and reserved areas and how they could interact with the bill. I want to avoid some of the troubles that we have had in the past in developing policy in this area. I assume that my questions are for Aileen and Feja, but if I am wrong in that, please tell me.

As you said, there is a real complexity around the interactions. Although waste is a devolved policy area, it will inevitably interact with UK reserved areas, such as EPR and, as we saw recently, the United Kingdom Internal Market Act 2020 has also raised its head. I will ask a few questions about the key challenges in navigating that complex environment, especially because, as we heard earlier, divergence in policy is not necessarily a bad thing, in that one devolved nation can lead another by highlighting good practice. How do we use the common frameworks to support that policy coherence?

We have recent experience of the internal market act and its effect on the deposit return scheme and the single-use plastics ban. How do we utilise those opportunities and avoid some of the—to use a technical term—bun fighting that took place recently?

I will ask Feja to answer first. If I am going to the wrong people here, please let me know.

Dr Lesniewska: I am sure that Aileen McHarg can throw a lot more light on some of the technicalities with the internal market act.

I might not want to throw in the Retained EU Law (Revocation and Reform) Act 2023, too, but it has to be thrown in, because it has happened. We need to consider how that act manifests, what will emerge by June 2026 and the impact that that legislation may have, not just on environmental law but on other areas of law, both for the UK and

for the devolved Administrations. We should bear that in mind as the bill proceeds. I would be interested to hear what Aileen McHarg has to say about that, too.

Some of the points about divergence that were made earlier by the representative from WRAP Cymru were salient, in that there are areas of devolved powers that can easily be dealt with within the remit that you have. They tend to involve recycling at the lower end of the waste hierarchy. The way that the internal market act is framed can have a chilling effect on more ambitious regulatory framing in the devolved Administrations. I participated in a Policy Forum for Wales conference a couple of weeks ago, and a few of the participants had the view that the internal market act is having a chilling effect on ambitions in Wales to set higher targets around reuse in construction, for example.

One of the difficulties is that this is a legal issue, but one that is interpreted in a political context. Things could be interpreted in a supportive way between Westminster and the devolved Administrations so that they can pursue a more ambitious circular economy across the union, with complementary regulatory framings of circularity, but that is not the political context now.

At the moment, Scotland has to work within the powers that it has, but there are clearly opportunities to set a target and a strategy that do not conflict. You might say that there is a goal and an intention, but the specifics are not there. Those can get worked out in due course. They vary for each sector.

Going back to construction, there are different methods and, although you have control over procurement, there are aspects of construction that do not come under devolved powers. There is the market, and there is the question of who the providers are. You have only one cement factory in Scotland, I think, so you will be dealing with suppliers down in England. There are issues there around standards, which are generally UK-wide, Europe-wide or international—ISO standards under the International Organization for Standardization.

The Deputy Convener: Thank you, Feja. I think this would be a good time to turn to Professor McHarg.

Professor McHarg: There are two separate issues here. One is that certain powers are reserved to Westminster; the other is the impact on devolved competences of the United Kingdom Internal Market Act 2020. The internal market act does not make it unlawful to act in a way that is incompatible with some of the access principles; it just means that any regulation that is adopted may be ineffective or less effective. I stress “may be”

because there is a good deal of uncertainty, not just around the actual operation of the internal market act, which is still in fairly early days; there is also uncertainty around the possibility of negotiated exclusions. There is also uncertainty about the practical impact in any particular sector. It is difficult to say things in general about the effect of the internal market act.

The obvious way around that is co-ordination. The common frameworks process was intended to promote co-operation between the four Governments in areas where there are intersecting competences, or external market effects or effects on internal trade. Unfortunately, the effect of the internal market act has been to undermine co-ordination through the common frameworks process because, in practice, it privileges decisions made by the UK Government for England in particular. So, because of the internal market act, the UK Government has less incentive to co-operate with the devolved Governments, either because it can de facto impose its regulatory choices for England on the devolved nations, or because through the exclusion process, as we saw with the deposit return scheme, if it decides that a co-ordinated approach would be preferable, it can refuse to grant an exclusion or can grant a very narrow one—in the case of DRS, it was a temporary exclusion—in order to, in effect, force the devolved Governments to co-operate with UK Government policy.

The Deputy Convener: Thank you. I have two members who want to ask supplementary questions.

Bob Doris: The evidence is quite clear about the chilling effect of the internal market act. I am not going to draw you into the politics of it—that is not the purpose of my question. I want to highlight that, in October, which was just last month, a significant number of environmental organisations and Scottish non-governmental organisations wrote to the UK Government because they are deeply concerned about the implementation and operation of the internal market act. They suggested that there should be a qualified automatic exemption for public health and the environment. In other words, those two sectors should not have to go through the current processes under the internal market act. Would that seem a reasonable adjustment to make that could empower the Scottish Government and the Scottish Parliament to do some of the things that we would all like to see done?

Professor McHarg: One of the problems with the internal market act, and a key difference from the EU internal market rules that it replaces, is that there are very narrow exclusions from the market access principle and very limited opportunities to

be able to argue that, although the market access principles might be engaged in principle, nevertheless they are outweighed by some public interest objectives. One thing that would make the effects of the internal market act more palatable to the devolved Governments would be to not necessarily completely exclude regulations that have an environmental purpose, but expand those opportunities to argue that in a particular circumstance the environmental or public health objectives—public health objectives are one of the few areas that are actually included in the act—outweigh any adverse effects on competition.

There is a huge amount of uncertainty around the internal market act, not just because of how it operates at the moment, but because of how it might evolve, particularly if there is a change of Government at Westminster after the next general election.

12:00

There might be reforms to the internal market act—I hope that there will be—but, at the very least, a different approach might be taken to the agreement of ad hoc exclusions. For instance, there are two objections in relation to single-use plastics. First, the exclusion that was agreed was narrower than the one that was requested, so it was limited to a specific list of single-use plastics rather than applying to the concept of single-use plastics or single-use items in general. Secondly, the process is very slow. As we saw with the DRS, the process itself became highly contested and politicised. There was a lack of clarity about what exactly was required in order for an exclusion to be agreed. I hope that a different approach will be taken to the exclusion process, even if the internal market act itself is not amended.

Bob Doris: I deliberately tried to take all the politics out of the issue, so I will ignore the point about whether a future UK Government might be more sympathetic to the environmental aspirations of the Scottish Government and the Scottish Parliament in relation to the circular economy. Do other witnesses believe that there should be a qualified automatic exemption to the internal market act in relation to public health and the environment, irrespective of who is in charge at Westminster? It would be quite helpful to know that. Environmental groups and Scottish NGOs—not politicians—are saying that, so do other witnesses agree?

The Deputy Convener: Witnesses can come in if they have a specific position on that, but they should not feel under any pressure to do so.

Dr Lesniewska: With any exemption, the issue relates to the operationalisation of it and how it is interpreted. It reminds me of chapeau 20 of the

World Trade Organization's rules, in relation to health and the environment, which allows a country to take action to prevent the import of, for example, genetically modified organisms. The EU prevented the import of GMOs using chapeau 20.

It is all about how an exemption is interpreted. That would be quite an issue because, according to some people's perspective, the circular economy covers a broader area and is not only about health and the environment, whereas other people would say that it is about health, the environment, wellbeing and so on. I think that it would open up a can of worms, but I agree with it.

The Deputy Convener: Other NGOs in Scotland will have heard what Mr Doris has said and might want to give their own reflections in a similar way.

Mark Ruskell: Beyond the discussion about a specific exemption, I am interested in Aileen McHarg's perspective on how the common frameworks process can be used to provide certainty, so that, as policies are developed, there is the certainty that businesses can invest. It comes back to the context that you set out. The UK Government oversees an internal market for the whole UK, but it also acts as the Government of England, which is a part of the UK. There is a constitutional asymmetry in the way that the powers are used. How do we get a fair process, given that that is the constitutional settlement that we have? I am interested in your thoughts on how the process could be improved or codified.

Professor McHarg: It is difficult, given the asymmetrical context. It was expected that the common frameworks would be used differently and that they would be used to reach much more concrete agreements in areas in which divergence was acceptable or in which a UK-wide or Great Britain-wide approach was desired, but they have not really worked out that way. The common frameworks vary in their content, but they are quite heavily process oriented. There is not a great deal of concrete content to them.

As we saw with the DRS, the common frameworks seemed to accept that that was an area in which there would be divergence, but the UK Government changed its mind. Because the common frameworks process is not statutory, it inevitably can be trumped by the statutory powers or the legal powers that are available to the different parties. You could certainly do what has just been discussed and have a much fuller list of potential public interest exemptions. I am not sure that you would limit that to public health and the environment; those would certainly be key candidates, but a range of other public interest objectives would potentially be relevant.

You could have a more automatic process, whereby an agreement in a common framework forum was translated more automatically into an exclusion. You could have powers for the devolved Governments to trigger the process of making an exclusion and not leave that solely in the hands of the UK Government. You could make the consent requirements mandatory rather than optional, as they are at the moment.

However, we are in an asymmetric union, both in legal and economic terms, and that makes the operation of the mutual recognition principle in the internal market act very problematic. Because there are so few opportunities for arguing for those kinds of powers to be given for other public interest objectives as a matter of law, the channelling of that purely to the political process makes things a lot worse.

The Deputy Convener: We have a short supplementary from Brian Whittle before we move to Douglas Lumsden.

Brian Whittle: I commend my colleague Bob Doris for trying to keep politics out of this, but I am going to throw it back in again. Is the problem not that the relationship between the two Governments has never been worse, and that the lack of collaboration and the intransigence towards each other are complicating the way in which we are trying to develop the bill?

The Deputy Convener: I think that that is for the Governments to comment on, to be honest, and we will have the minister before us next week. However, Feja, you had your hand up and wanted to say something briefly.

Dr Lesniewska: An angle that has not been reflected is that the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 says that Scotland will remain aligned with EU law. The policy memorandum for this bill mentions several times developments in the EU on a circular economy, of which there are vast numbers. We have the circular economy plan from 2020 and a range of measures are being taken in the European Union.

I mentioned that the UK Government has now adopted the Retained EU Law (Revocation and Reform) Act 2023, which will have an impact on the devolved Administrations. When the Retained EU Law (Revocation and Reform) Bill was put before Parliament, Wales and Scotland recognised that it would have implications for the manner in which existing law would be interpreted and the way in which changes to regulations would happen. We need to bring that area into the discussions and considerations of the Circular Economy (Scotland) Bill.

The Deputy Convener: Professor McHarg, Mr Whittle addressed his question to you. Do you

want to add anything very briefly, just for completeness?

Professor McHarg: I agree with his starting assumption that relationships have never been worse. We could discuss the reasons for that, but that is perhaps for another time.

The point that I always try to make is that we need to look beyond Scotland. It is not just the Scottish Government that has problems with the internal market act. The Welsh Government has tried to seek judicial review of the act, as it is equally concerned about its implications. There is concern in Northern Ireland as well, although that situation is complicated by the Northern Ireland protocol. The objections to the internal market act are not just from the Scottish Government.

The Deputy Convener: Thank you all. Douglas Lumsden has questions on targets and restrictions, and then Monica Lennon has some last questions for Henry Irving.

Douglas, perhaps you could address your questions to Toni Freitas and Melissa Marques-McEwan.

Douglas Lumsden: My first question is for Melissa.

You mentioned Amazon's response. I have a question about the bill's proposals to restrict disposal of unsold goods. Do you agree with them? How far should that be aligned with the requirement on businesses to report on waste and surpluses?

Dr Marques-McEwan: I agree that, in principle, it is helpful to have a measure and to tell businesses, "Look—you must dispose of your unsold goods in a responsible manner." My criticism earlier was because the impact of the measure in practice will perhaps not be as great as the Parliament might expect, because unsold goods are already such a small proportion of waste in comparison with sold goods. If you read Amazon's submission on the bill in detail, you will see that it gives some statistics. It says that if a consumer buys a piece of clothing and it does not fit, they return it to the retailer and expect it to be resold, but most of the time it is not. In the fashion market, return rates can be as high as 20 per cent.

Businesses already try to resell those items. Amazon says that it tries to return its returned items to retailers for resale—the proportion is almost 80 per cent—and on the remainder, it offers discounts and so on. In addition, it has been working with a charity in Scotland in relation to the last items remaining.

In practice, most businesses already voluntarily undertake actions to deal with that issue. It would have been great if the bill had included measures to deal with sold goods and with the rest of the

economy, which is proportionally much more significant, given everything that is circulating.

Mark Ruskell asked about measurement earlier. I had a look at the targets. In the national performance framework, Scotland already measures the carbon footprint of products; that measure is nationwide. In addition, Scotland measures waste generated, but that data is collected by local authorities at municipal level. I think that the Department for Environment, Food and Rural Affairs also has some data regarding sectors such as chemicals, construction and demolition and so on.

If we could combine those measurements and go sector by sector, that would provide a richness of data that we currently do not have. We do not currently have those numbers—the carbon footprint data tells us how sustainable our consumption is, and the data on waste generated tells us what is happening to what we put in our bins. If we could combine the measurements at the same level, that would be great.

I am looking forward to the duty in the bill to report on data relating to waste, because that will give us so much more clarity on what happens on our consumption patterns and what happens to waste throughout Scotland. We need to account for imports and exports too, and that would be a first step.

As a warning, however, I highlight that that will cover only waste and things that we can recycle. There is a part of the economy that deals specifically with reuse and remanufacture, but that data is not captured anywhere. Scotland is a highly skilled country—I have worked with many remanufacturing businesses, but the problem is that those businesses are not registered as such. They are registered under many different standard industrial classification codes. For example, there are businesses in the hi-fi or electromechanical markets that are doing remanufacturing, but we do not have a mechanism to capture that data, so it might be the case that we are doing more remanufacturing than we currently account for.

12:15

The Deputy Convener: Toni Freitas wants to come in, so perhaps Douglas Lumsden could ask his next question and Toni Freitas can answer both. Have you finished, Dr Marques-McEwan?

Dr Marques-McEwan: Yes, I have finished. I think that the unsold goods measure is good, but I wish that we dealt more with sold goods and the majority of the materials that are flowing through the economy.

Douglas Lumsden: My other question is about charging for single-use items, whether that would

be effective and whether you support it. I think that Toni Freitas wanted to come in on this point, .

Toni Freitas: Yes. I can come in briefly on both those points about restricting the disposal of unsold goods.

There might be an opportunity to amend or make clearer section 8, because the amount of unused textiles from charity shops is not really addressed. As part of our circular economy, we have a number of charity shops that receive goods that they cannot sell. As a collective, the UK is the second-largest exporter of used clothes and textiles in the world, and we are not really capturing the opportunity there. Those could be considered as unsold goods, in a way, but we do not have a mechanism for capturing that, and there is a very high carbon footprint, material use and environmental impact with materials. There might be an opportunity to be clear about that, if all the unused materials and things that come from charity shops can be further addressed in section 8.

When it comes to textiles waste, there is an opportunity that we are not really grasping. It is a waste stream that we are not capturing right now in Scotland, because there is no real way yet for people to dispose of it. A lot of times, charity shops have to deal with that. We donate it in the hope that something can happen with it.

One of my questions about charging for single-use items is what we actually mean by that. Technically, we talk about coffee cups, disposable vapes or other things being single-use items, but, if you consider most things from grocery stores, we use the packaging once and then it is disposed of—anything that our fruit and veg comes wrapped in and things such as that. Is there clarity in the bill on, and can we identify, what we mean by single-use items? That can be misinterpreted in a lot of different ways. It was effective for plastic bags. That seemed to work, but will it work for something else? Perhaps, instead, we should be considering how to capture the waste in a different way, through a return scheme or an approach that is more fluid and joined-up instead of people being charged for it. With regard to coffee cups, the coffee is a high-end thing that people are willing to pay a lot of money for anyway, so where would be the point of behaviour change? I have a couple of question marks on that.

Douglas Lumsden: Do you think that it would not be effective because, over time, people would just get used to the higher price and pay it?

Toni Freitas: There could be a risk of that. How high do you go—25p, 30p or more—for it to be effective, when people are willing to pay for what is a high-priced item anyway and would not necessarily notice it? Are there opportunities to

capture the problem with that waste, which is the cups themselves? I might pay an extra 30p for my coffee, but I still would not have a place where I could put the cup to successfully recycle it. Again, can we encourage flipping the problem to the innovation side? Is there a way to have joined-up thinking for all the different outlets that use those types of single-use items? Can we make them of the same material and collect them so that we can actually use the material in a useful way?

Douglas Lumsden: So, with things such as coffee cups, we would be looking at not charging for them but banning them altogether.

Toni Freitas: Banning them or finding a way to innovate so that they are all of the same material and there is a way to collect them usefully. Part of the issue is that a coffee cup is a thing that we carry and shift around. However, there is a coffee shop on every corner, so does a cup have to be disposed of in the same place where you got it, or are there opportunities to collect it in a useful way and to reuse it in a useful way? There are two aspects to that.

The Deputy Convener: Professor McHarg has indicated that she would like to say something on that matter.

Professor McHarg: Yes. On charging for single-use items, I was on the EPECOM panel that recommended that approach. We were clear from the evidence that we had that it could definitely be effective in reducing the use of single-use items, in some cases significantly, but we were also clear that it should not be regarded as a silver bullet measure. It has to take its place alongside other measures.

In some circumstances, bans might well be appropriate. We were supportive of the ban that has been implemented on the use of expanded polystyrene cups, for instance. We thought that there was potential for bans on single-use cups in certain settings, but we thought that they would need to be accompanied by social marketing measures to change behaviour. There are also infrastructural issues around licensing and planning, the availability of facilities for washing and so on. It is not appropriate to see any of the proposed measures as single things that will work on their own. They are regulatory tools that should be used alongside one another.

The Deputy Convener: Thank you. Melissa, you talked about restrictions earlier. Is there anything that you want to add in response to Douglas Lumsden's questions, over and above what you have already said?

Dr Marques-McEwan: I will elaborate a little on my earlier point. In my research, I tried to measure the remanufacturing sector in Scotland, but I could not do it. We need more measurement and

reporting of data on waste, surpluses and so on. If the bill could include some provisions on data on reuse and remanufacturing, that could be really effective, given that our standard industry codes do not capture that at present. That data would really help to inform the strategy every five years.

The Deputy Convener: Dr Irvine, please feel free to relay any thoughts with regard to what we have just discussed when you answer Monica Lennon's questions, which she is now going to put to you.

Monica Lennon: I am going to put you in the spotlight, Henry. You have great expertise in this area. What lessons can we learn from historical perspectives and our approaches to waste management during the second world war? What role did public awareness campaigns play in communicating the value of materials and the need to reuse and recycle? I think that the term "sharing economy" was used earlier. Do you have anything to say on that? Is it possible for us to achieve similar public support for reuse and recycling today, without tangible pressures such as wartime shortages?

Dr Irving: That takes me back to the point about large-scale, rapid systems change, which the war exemplifies. We are talking about a really tight period of time—five years—when lots changed and people had to adjust to that incredibly quickly.

I think that I sounded quite sceptical in my answer to the first question. It is often the case that, as historians, we look for the problems, but there are also opportunities in the wartime example, which reflects very favourably on where we are now. We sometimes lose sight of the fact that, sitting here in 2023, we are doing something that is historically really important. Our current levels of recycling actually surpass what happened in many places in the 1940s—a time that we tend to associate with the idea of "Make do and mend". We are doing well, although there is more to do, and I think that the wartime example provides some clues about how to get there.

The first really important issue is service design. We need to get household recycling right. We have not spoken about it much in this session; it has been a bit of a Cinderella service, because I think that we all know that we need to go beyond it to get to a circular economy. However, if we get household recycling right—if we reframe it in terms of resource—we will have the possibility of bringing people with us. That is what happened during the war. Household recycling, which was referred to at that time as salvage, was 43 million people's connection to the war economy. The war economy completely reframed the way that Scotland and the wider UK worked. The economy had previously been dependent on imports, but that suddenly had to change, because people had

to use domestic products. That was a lot for people to get their heads around, but salvage was one way of doing it. That was delivered firstly through the council collections. There is still work to do to get that right. We heard earlier from WRAP Cymru, which has a great record of showing what can be done in a small country when there is a targeted kerbside collection.

The wartime example also shows how important communications were. There was a hugely ambitious communication strategy from 1940 onwards. We are talking about one of the most expensive wartime publicity campaigns. You might imagine that that was the "Dig for victory" or "Keep calm and carry on" campaign but, actually, the promotion of salvage was one of the most consistent and resourced campaigns of the war. In 1942-43, you could not get away from its messages. That is what changed the language and started encouraging people to think in terms of not waste but resource and salvage.

There was also the use of some penalties. That is where I differ from some of the other members of today's panel. A statutory framework was used to underpin some of the salvage campaign. More than anything, it was a way of showing how important the resources were. There was some enforcement. It was patchy but the idea was that, if people were recalcitrant, the fines might show that the Government was taking the matter seriously.

There is a three-stage approach: service design, a really ambitious communication strategy involving ordinary people and the underpinning of a statutory approach.

The Deputy Convener: That feeds into your next question, Monica.

Monica Lennon: Yes, I was not sure whether we had time for it.

Do the witnesses agree with the proposal to introduce civil and fixed-penalty notices for householders who fail to comply with their obligations in relation to household waste and recycling? What other approaches could be taken to encourage householders to reuse and repair items?

We will stick with Dr Irving. If there is time, convener, I can bring in others.

The Deputy Convener: If anyone other than Dr Irving has a strong view on the question, I ask them to indicate that they wish to speak.

Dr Irving: With fixed penalties, we are talking about not only setting the penalty but enforcement. Expense and an administrative process are associated with enforcement, so it is not simple. We heard from Emma Hallett, who explained how the Welsh authorities use penalties as a last

resort. However, each of the stages to get to that point also takes resource.

One of the big challenges is that, if we are thinking about encouraging people to re-evaluate their relationship with waste, we need to put the resource into making that possible. To go back to the wartime example, at that stage, almost every household in the UK was visited by a canvasser who knocked on the door and explained what the rules were in the area. They were volunteers and were able to do that because there was an emergency, but that is the level of effort that went into encouraging changes. The wartime public were still not perfect. They still put things in the wrong bin and littered, which is why laws were needed later on. However, the communications must come first.

The legislative basis gives councils the ability to act if they think that that is the right thing. Local authorities are really important partners in the matter. They know their areas better than most. In Scotland, you have such a wide range of different local authority areas in terms of human and physical geography. Those local authorities know what will work best in their areas and giving them the tools gives them the choice. That is why it makes sense to have that ability written into the bill, which is enabling legislation, even if it then falls on the local authority to decide whether to enforce the legislation in its area.

Monica Lennon: If you agree that penalties can be effective, local government would need to have the resources to do the work that you outlined. The example that you gave was time intensive. We have heard from colleagues in local government who are concerned that they will not have enough resources.

Dr Irving: Over and above that, everything from a waste perspective—whether it is the delivery collection methods or new receptacles—will require investment. That was necessary in the 1940s during stringent times. The situation today is similarly stringent. EPR might bring some income but it will probably not be enough to meet all those needs. Likewise, the current DEFRA “simpler recycling” policy in England will mandate food waste collections but, again, there are questions about the funding.

It comes back to those relationships between different levels of Government. Will what the UK Government is doing provide enough funding? Possibly not. How is that bolstered? How will that play out in a local area? If nothing is done about that, you will run into problems, because local authorities will find it difficult to actually do what they want to do. As we have heard from other witnesses, they have their hearts in the right place and they want to bring the change forward, but there are real material challenges in doing so.

12:30

Monica Lennon: Everyone agrees that we want polluters to pay, but the question is whether we are being proportionate. Also, are we targeting the right polluters? We probably need a sentence from each person who wants to respond about whether they agree with the civil and fixed penalty.

The Deputy Convener: Witnesses can have a couple of sentences but just not too many. *[Laughter.]*

Toni Freitas: There are many steps before we get to the point of creating a more circular economy. We need to look more at carrot—or investment—instead of stick. With regard to households in particular, we need to look at things in which we can invest in order to encourage communities and individuals.

As I did earlier, I stress that the waste that is being created is not from households. If we are spending money on a fines system, is that money better spent on changing perspectives on what is considered waste? We call it “waste”, but there is actually a huge amount of value in it. For the first couple of steps towards a more circular economy, can we use the money wisely to flip that perspective? Down the line, once everybody knows what the waste actually is but they are still perhaps misbehaving on a very small scale, then fines would be appropriate.

Monica Lennon: Thank you.

Dr Lesniewska: It is a really crucial issue because it feeds into the issues of just transition and fairness. In the earlier evidence session, we heard about the potential impact on the people who are least responsible for the generation of waste. As Toni Freitas said, most of the waste is generated upstream. There is a real issue about ensuring that regulatory initiatives are not simply performative and are just there in order to demonstrate that you are doing something. They have to be really well thought through. Who is being impacted? Who are the polluters? Who are the generators? Consumers did not design the product that they are consuming. You have to really think about regulation because, if it goes wrong, that can have a really negative, wider effect on other areas of interventions to move forward on a circular economy and on other areas of environmental, climate and biodiversity-related law.

Dr Marques-McEwan: I worry about the measure. I live in a tenement building in Edinburgh, and, when you look at places such as Edinburgh and Glasgow that have many tenement buildings with shared bins, you quickly see that the measure is unworkable.

I also worry a little about the unintended consequences. For example, I am on a visa in this country. If I got a fixed-penalty notice, would there be any repercussions if I had to report that in my next visa application? Perhaps that is not the case at the moment, but that could lead to unintended consequences in the future.

People just do not understand which rubbish goes in which bin, so perhaps our resources and efforts are best placed in educating people and in improving the waste infrastructure as well.

The Deputy Convener: Thank you. Aileen McHarg, do you want to add anything on that?

Professor McHarg: No.

The Deputy Convener: I thank you all very much for your time and insights and for being with us today and also down the line. The insights that you have given us will be really helpful in our stage 1 consideration. I let the session run on quite a bit today, but we wanted to give you time to answer on the various issues that were raised.

Our stage 1 report will be published in January, and we look forward to sharing that with you. If there is anything that you did not get a chance to feed in today or if, in the days ahead, you wish that you had said something or pointed out a specific matter, please get in touch with us.

That concludes the public part of our meeting.

12:34

Meeting continued in private until 12:57.

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