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<b>Report To:</b>	<b>Environment &amp; Regeneration Committee</b>	<b>Date:</b>	<b>31 August 2023</b>
<b>Report By:</b>	<b>Director, Environment &amp; Regeneration</b>	<b>Report No:</b>	<b>ENV044/23/SJ/KL</b>
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<b>Subject:</b>	<b>Circular Economy (Scotland) Bill</b>		

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## **1.0 PURPOSE AND SUMMARY**

1.1  For Decision  For Information/Noting

1.2 The purpose of this report is to make Committee aware of the Circular Economy (Scotland) Bill introduced on 13 June 2023 and the potential implications for Inverclyde Council.

## **2.0 RECOMMENDATIONS**

2.1 It is recommended that Committee note the contents of this report.

**Stuart Jamieson**  
**Director Environment & Regeneration**

### **3.0 BACKGROUND AND CONTEXT**

- 3.1 The Scottish Government introduced the Circular Economy (Scotland) Bill on 13 June 2023. The bill is currently at stage 1.
- 3.2 The Scottish Government recognises that sustainable consumption and production are to a low-carbon and green economy and to support Scotland's obligations to tackle the impact of climate change and enhance and protect biodiversity.
- 3.3 Government estimates suggest around four fifths of Scotland's carbon footprint comes from the products we manufacture, consume and throw away, and the services we use. The bill identifies that creating a circular economy based on reducing waste, carbon emissions, and pressures on the natural environment, provides an alternative economic model. The purpose of the Circular Economy (Scotland) Bill is to introduce measures as part of the transition to a circular economy that require primary legislation, and to modernise Scotland's waste and recycling services.

### **4.0 PROPOSALS**

The Bill includes the following provisions:

#### **4.1 National**

- Circular economy strategy: duty on Ministers to publish or refresh a circular economy strategy at least every 5 years.
- Circular economy targets: developing statutory targets across circular economy policy.
- Restrictions on the disposal of unsold consumer goods: providing powers to limit the disposal/destruction of unsold goods
- Charges for single-use items: creating a power to set a minimum charge for certain throwaway items eg disposable beverage cups.
- Reporting on waste surpluses etc: obtaining information about where waste is occurring through a power to require information which would lead to public reporting of waste and surpluses by businesses (the intention is for this initially to be applied to information about food).
- Householder's duty of care in relation to waste: making it a criminal offence for a householder to breach their existing duties of care under the Environmental Protection Act 1990, in relation to the transfer of waste, and creating a new fixed penalty regime to enforce these duties.
- Ministers will have powers to set recycling targets for LAs from 2030 onwards to help drive further improvements in local recycling performance. Requires Scottish Ministers to consult local authorities. Power for Scottish Ministers to enforce targets, with monitoring role for SEPA, and, where targets not met, to seek explanation from an LA, where appropriate an improvement plan, and set financial penalties (as a last resort).

#### **4.2 Local Authority**

- Household waste: requiring local authorities to comply with a code of practice on collection and recycling and giving local authorities a package of new responsibilities and powers, including powers for the Scottish Ministers to set recycling targets for local authorities.

- Establishing a new fixed penalty notice procedure and concurrent civil penalty regime for local authorities to tackle recycling contamination.
  - Littering from vehicles: establishing a new civil penalty regime that will make the keeper of a vehicle liable to pay a civil penalty charge in respect of a littering offence committed from that vehicle.
  - Enforcement powers in respect of certain environmental offences: improving enforcement against fly-tipping and other waste crime through a power allowing the Scottish Environment Protection Agency (“SEPA”) and local authorities to seize vehicles involved in specified waste crime.
- 4.3 The performance of household recycling collection services to be improved and optimised in order for households to make easy/correct choices. To ensure high standards across Scotland and maximise the diversion of waste from landfill.
- Make recycling easier than disposal.
  - Design and deliver services that maximise recycling performance and achieve more consistent local services.
  - Share best practice and support local authorities to drive local improvements and achieve consistently high recycling rates.
  - Embed decisions about recycling in the design and sale of products.
  - Increase transparency and generate more confidence in the recycling process.
- 4.4 To support the measures outlined above, the Scottish Government propose to make it a criminal offence for a householder to breach their existing duty of care under the Environmental Protection Act 1990, in relation to waste whereby householders must ensure that any transfer of waste is to an authorised person, or to a person for authorised transport purposes. The Scottish Government will create a new fixed penalty regime, granting LAs new powers to enforce breaches to householders’ duty of care obligations in line with provision in place for England and Wales.
- 4.5 The Bill will also establish a new fixed penalty notice procedure and civil penalty regime for LAs to improve household recycling behaviours and tackle recycling contamination including a stepped approach with written warnings and penalty charges backed up by fixed penalty notices to households under specified circumstances. Enforcement of the new provisions will either require additional enforcement capacity or a partial reduction in other enforcement activities, such as parking to compensate. The latter could obviously potentially impact on income. The financial memorandum indicates that the costs of enforcement will be more than recovered from income from FPNs however this seems over optimistic.
- 4.6 A Statutory Code of Practice identifying standards expected and steps to be taken by LAs to provide high-performance household waste services. Ministers will consult with LAs/SEPA before publishing or revising the code. Local authorities’ integrated waste management plans must set out how the local authority in question intends to perform its functions consistently with the code.
- 4.7 The Code of Practice and Integrated Waste Management Plan aims to provide more consistent approaches to household recycling and ensuring householders are clearer about what they can recycle and how to do so. This to be underpinned through communication, engagement, and behavioural change strategies.
- 4.8 The guidance does not provide a Business and Regulatory Impact Assessment (BRIA) which details the financial impacts of the measures outlined. Rather the guidance makes assessments that the increased costs of service provision or enforcement could be met by reduction in landfill or increased penalties.

4.9 Guidance is also being developed in relation to persistent organic pollutants (POPs). This is material previously used in upholstery to make it fire retardant. The guidance will require these items (sofas, armchairs upholstered seating etc), to be collected and kept separate from other material. Collected items must then be transferred separately to a facility where it will require to be shredded prior to incineration. Previously this material would be landfilled as part of the Council's bulky waste stream. Council officers will develop a procurement strategy to manage this material on a short to medium term basis. Further controls may also be required such as the direct streaming of this material to one site and review of collection methods. Members should note that while the actual volume of this type of material appears to be low, the indicative processing costs are higher than current landfill charges.

## 5.0 IMPLICATIONS

5.1 The table below shows whether risks and implications apply if the recommendation is agreed:

SUBJECT	YES	NO
Financial	X	
Legal/Risk	X	
Human Resources	X	
Strategic (Partnership Plan/Council Plan)	X	
Equalities, Fairer Scotland Duty & Children/Young People's Rights & Wellbeing		X
Environmental & Sustainability	X	
Data Protection		X

## 5.2 Finance

### One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report (£000)	Virement From	Other Comments

### Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact (£000)	Virement From (if Applicable)	Other Comments

## 5.3 Legal/Risk

A statutory code of practice and identified targets with penalties may expose the Council to legal challenge in the future.

## 5.4 Human Resources

Additional enforcement requirements may require additional staffing withing public Protection

## 5.5 Strategic

An Integrated Waste Management Plan would be required under the Circular Economy (Scotland) Bill.

## 5.6 Equalities, Fairer Scotland Duty & Children/Young People

### Equalities

5.7 This report has been considered under the Corporate Equalities Impact Assessment (EqIA) process with the following outcome:

	YES – Assessed as relevant and an EqIA is required.
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, assessed as not relevant and no EqIA is required. Provide any other relevant reasons why an EqIA is not necessary/screening statement.

### (a) Fairer Scotland Duty

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO – Assessed as not relevant under the Fairer Scotland Duty.

### (b) Children and Young People

Has a Children's Rights and Wellbeing Impact Assessment been carried out?

	YES – Assessed as relevant and a CRWIA is required.
X	NO – Assessed as not relevant as this report does not involve a new policy, function or strategy or recommends a substantive change to an existing policy, function or strategy which will have an impact on children's rights.

### (c) **Environmental/Sustainability**

Has a Strategic Environmental Assessment been carried out?

X	YES – assessed as relevant and a Strategic Environmental Assessment is required.
	NO – This report does not propose or seek approval for a plan, policy, programme, strategy or document which is like to have significant environmental effects, if implemented.

## 5.8 Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO – Assessed as not relevant as this report does not involve data processing which may result in a high risk to the rights and freedoms of individuals.

## 6.0 CONSULTATION

6.1 Consultation has been undertaken with the relevant services and CMT in the preparation of this report.

## 7.0 BACKGROUND PAPERS

7.1 <https://www.parliament.scot/bills-and-laws/bills/circular-economy-scotland-bill/introduced>