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## **Environmental Protection (Single-use Plastic Products) (Wales) Bill**

### **Annwyl Llyr Gruffydd MS / Chair,**

Thank you for your letter, and your request for the contributions of the experience of our members. Ensuring that small businesses are properly informed and empowered is crucial for the success of Welsh Government policy and for the overall well-being of the economy in Wales. As you will know, small businesses play an especially crucial role in the Welsh economy, making up 99.4% of enterprises in Wales. They offer a window into the culture of Wales, employing the most people, and generating a significant portion of our economic turnover.

Unfortunately, Wales is currently the only UK nation without a fixed SME regulatory impact assessment, while Scotland is now implementing one, and Northern Ireland and England already have one. Given this, while we await such an assessment, it becomes even more crucial to utilize all available channels to ensure small firms are aware of any legislative or regulatory changes. This will be instrumental as we progress with the regulatory agenda to enable a transition to net-zero.

FSB Wales's previous research illustrated that 73% of small businesses in Wales believe that they have a responsibility to become more sustainable, but only 24% of businesses felt they knew enough about Welsh Government's environmental policies. Therefore, providing the right guidance and raising awareness will help this acknowledged responsibility become an achievable reality and support SMEs in contributing to the Welsh Government's policy goals.

This contradiction between SMEs' acknowledged environmental responsibility and the lack of necessary policy knowledge should be addressed in any new policy changes. It is important that Welsh Government's strategy does not assume awareness of all measures, particularly where they may differ from those in England. The starting point must be grounded in a realistic assessment to ensure that changes are implemented credibly, effectively, and without being counter-productive.

Welsh Government should ensure that the messaging reflects the opportunities that small firms may gain through the changes, while also clearly evidencing the costs associated, so they are able to properly prepare. Given this, we have concerns that the awareness-raising campaign has not yet been effective among the businesses we represent – or we are unaware of any activity or mechanisms to track levels of awareness. For many, the details of what is expected of them, and why, have yet to be filtered through. Therefore, it is important that the initial changes are enforced proportionately, and that the

transition in the law is viewed as a period for learning and engagement about what the law entails and why.

As the Committee is likely aware, we have been conducting work in this area. I have attached the letter we sent to the Minister. Particularly, we have concerns about the definition of plastic and polymers used in the legislation, and how it includes compostable, biodegradable, and bio-based plastics. The same definition is also being used elsewhere in other UK legislation, such as the Plastic Tax and the Extended Producer Responsibility scheme. We are concerned that this could adversely impact small firms that are finding innovative solutions for plastic packaging and potentially have a negative impact on the Welsh economy and Welsh eco-packaging manufacturers. While discussing the issue with businesses, there is a clear sense that a lot is happening simultaneously regarding plastics legislation. There also appears to be confusion about differing policies across the UK and varying implementation dates of implementation. This has subsequently created some level of confusion at the same time as many firms may be facing a lack of awareness of the Environmental Protection (Single-use Plastics Products) (Wales) Bill.

One business we spoke to has raised concerns about the Plastic Tax. When asked about the impact of the Single Use Plastics Ban, they were completely unaware of whether this would affect them or not. This business was in the eco-packaging manufacturing sector, where the Single Use Plastics Ban has the potential to cause significant upheaval to their firm, and despite this, they were not sufficiently aware of how the legislation would affect them.

We would expect that our members not working in this sector will be significantly less aware of the intention to introduce this ban in October (in areas such as small takeaways).

As such, the publicity, information, and guidance provided by the Welsh Government do not appear to be sufficient and clear enough to enable businesses to understand their obligations under the Act. It is evident that many affected businesses are not aware of their responsibilities and obligations, nor the rationale for the changes by Welsh Government. We would suggest that committee scrutiny should cover the proportionality and consistency in implementation, engagement, and enforcement as the new regulations come in. The focus should also be on a communications strategy aimed at the huge majority of SMEs affected by the legislation, and a clear outline of how this strategy will address the need for lead in times for businesses, a long-term engagement to facilitate future changes, and a clear explanation of why these changes are happening now and what support is available. Welsh Government need to ensure that Business Wales will have links to sufficient expertise to answer questions which might come through businesses.

FSB Wales would welcome the opportunity to further contribute on behalf of our members on this very important issue.

Diolch yn fawr,

**Deputy Head of Policy**  
**Federation of Small Businesses (Wales)**

Minister for Climate Change  
Welsh Government  
Cathays Park  
CF10 3NQ

Dear Minister,

RE: Biodgradable Packaging Businesses and Single Use Plastics Legislation

I am writing to you to bring your attention to an issue FSB Wales have become aware in the last weeks relating to the Single Use Plastics legislation coming into force in the Autumn.

We would suggest that the implications are serious enough that Welsh Government investigate this, and to reassure the sector on whether the forthcoming legislation will impact on sustainability focused businesses developing and trading green packaging solutions.

FSB Wales and businesses in the sustainable packaging sector strongly support the necessity of a ban on single-use plastics.

However, the possible issue lies in the definition of plastics that has been used in the plastics tax legislation by UK Government, and the continuing use of this definition into Welsh legislation to ban Single Use Plastics.

Within the definition used, Polymer of almost all kinds is defined as plastic in the legislation - even though the plastic packaging tax aims to result in environmental benefits, compostable, biodegradable and bio-based plastics are not current exempt from the tax on plastics through this definition. So, these will also be covered by any upcoming ban on plastics covered by the same definition.

While there are issues with processes of recycling and natural based polymers, the effect of this definition appears to go against the aims of the legislation and further development of the sustainability sector, in that the issue lies with the process and not necessarily the material itself. The materials are plant-based and are geared to be sustainable. Given that we are in need of building better circularity, this should be a spur to better waste separation (as happens elsewhere) rather than a ban. Indeed, some of our members have tested this with waste management companies and experts.

It also appears to go against the hierarchy of re-use vs recycling that is the core aim in developing a circular economy in Wales.

At the very least, it appears that lumping all of these materials together as the same in the definition as 'single use plastic' is disproportionate and risks lumping the 'better' in with the 'worst' of single use plastics, on a definition that is problematic.

The Minister should note that the EU has already provided a derogation for biodegradable packaging in its own legislation which should be seen as a comparator, but also risks placing Wales under a competitive disadvantage in a sector in which its companies are leading.

**Please find attached a briefing** provided to us by leading company in the UK sustainability sector which outlines the issues and misunderstandings in the definition currently used. This has been sent by our FSB UK colleagues to DEFRA, and we are now awaiting a response. So that you are aware, this is an issue that we are looking into in England and in UK legislation too.

However, the Welsh Government legislation defines polymers as plastic in same way as the UK Government. **We would urge Welsh Government to explore how it may change this definition, as lies within the power of Welsh Ministers in the legislation, or at the very least provide a derogation over a period of time to ensure that the definition is fit for purpose and does not have an unintended consequence against the spirit of the legislation.**

It should also be noted that many businesses in this sector have been supported by Welsh Government and held up as exemplars of good businesses, and so there seems to be a disconnect here in how Welsh Government has supported this industry to develop and innovate.

As currently defined, the legislation may also not account for innovations happening in the field and close space and markets for innovation to solve the issues of re-using materials in the future. There is a danger that we will lose ethical green Welsh packaging businesses to other nations taking a lead in supporting this area, and be left behind economically as a result. Businesses in Wales who have been leaders in this field, and work to an ethical green model of sustainability, will be forced to cease operations in Wales and the UK as a result.

**We would welcome the opportunity to explore this further and would like to offer that officials meet businesses in the field of plant-based packaging who understand the issues best to further explore the problem and the impact, as well as the best way forward.**

We are currently exploring the issues further but given the timeline to the Single Use Plastics legislation coming into force, we wanted to ensure that you were aware of the issue as early as possible, and we would be happy to work with Welsh Government and the businesses in the area to find a solution.

Diolch yn fawr,

Yours Sincerely,

  
Deputy Head of Policy  
Federation of Small Businesses (Wales)

## **Solinatra position on the Proposal Environmental Protection (Plastic Plates etc. and Polystyrene Containers etc.) (England) Regulations 2023**

The environmental need for legislation on single use plastic is clear, and we welcome the UK government's proposal to ban the supply of commonly littered single-use plastic items. However, we oppose the draft legislation's inclusion of compostable plastics within the scope of the ban, which does not reflect the reality of the industry and stifles innovation.

Compostable plastics offer a sustainable solution for products and packaging that are not suitable for plastics recycling, in particular single use items that are too small to be recycled or are contaminated with food or organic waste. Compostable plastics, made without petrochemicals and which degrade without microplastics are a viable and sustainable material which offer an environmentally friendly alternative to traditional, polluting plastics.

The legislation gives three main arguments against the use of biodegradable and compostable plastics, that:

(a) "bio-based, biodegradable and compostable plastics are still plastics", (b) they are not designed for reuse and therefore are still single use in nature, (c) that there is not sufficient industrial composting capacity in England to manage with the disposal.

To counter these arguments, and to illustrate the positive contributions of compostable plastics the following arguments are laid out, with further evidence provided in the appendices.

### **Biobased, Biodegradable and Compostable Plastics**

The proposal in its current form does not distinguish between biobased, biodegradable and compostable plastics, which represents a fundamental misunderstanding of the topic and ignores the innovation undertaken in this industry. The lack of distinction also undermines the BEIS and Defra consultation "Standards for biodegradable, compostable and bio-based plastics" published in July 2019<sup>1</sup> which gave the following definitions:

**"Bio-based** – These are plastics that are made using polymers derived from plant-based sources such as starch, cellulose, or lignin. Bio-based plastics can be engineered to be biodegradable, but are not necessarily.

**Biodegradable** – These are plastics that can be broken down into water, biomass, and gases such as carbon dioxide and methane. Biodegradability depends on environmental conditions such as temperature, humidity, microorganisms present, and oxygen.

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<sup>1</sup> BEIS and Defra consultation outcome, "Standards for biodegradable, compostable and bio-based plastics", 2019 <https://www.gov.uk/government/consultations/standards-for-biodegradable-compostable-and-bio-based-plastics-call-for-evidence>



**Compostable** – Compostable plastics are a subset of biodegradable plastics that break down into water, biomass, and gases under composting conditions. Industrial composting conditions are the most optimal: temperatures of 55–70 degrees C, high humidity, and oxygen.”

Innovation in the sector has led to the development of compostable plastics, made without petrochemicals and which break down without microplastics. Such materials provide a renewable, low carbon, circular solution which have environmental and consumer benefits. Solinatra is a material that has been developed in the UK, and is a natural alternative to plastic. Possessing the positive characteristics of traditional plastics that enable it to easily be moulded and manufactured, without the detrimental environmental impact, and degrades at its end of life with zero persistent microplastics.

### Comparisons with Wooden Cutlery

The proposed legislation states that compostable plastics are not designed for reuse, and therefore are still single use in nature. However, single use wooden cutlery will continue to be allowed – a product that is single use, and not designed to be reused. Wooden cutlery is most commonly made using birchwood or bamboo, and manufactured in China from wood grown in China or Russia<sup>2</sup>. Wooden cutlery is often also coated with a thin film of wax or plastic, to prevent splinters occurring and to avoid the uncomfortable mouthfeel that is associated with the product. Wooden cutlery will also not degrade if littered in an open environment, and in a home compost or industrial compost setting will actually take longer to degrade than a material such as Solinatra, due to the wood’s high fibrous cellulose content.

The Defra impact assessment<sup>3</sup> used to inform the legislation states that wooden cutlery takes two years to compose, but this figure is based on simplified information about the degradation of plywood in an open marine environment and does not factor in the differences between decomposition in a home or industrial composting environment nor the open environment.

Furthermore, the impact assessment assumes that 10% of cutlery used in the UK is manufactured in the UK and that the manufacture of wooden alternatives will replace the plastic. However, the manufacturing process for wood requires a wholly different manufacturing set up, and there is no

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<sup>2</sup> Timber Trade Federation UK, August 2022: <https://ttf.co.uk/import-warning-birch-plywood-from-the-far-east> and Indufor, April 2022: <https://induforgroup.com/can-the-european-market-survive-without-russian-birch-plywood>

<sup>3</sup>“Impact Assessment on the proposal to ban the supply of single-use plastic plates and cutlery in England”, Defra, 2021 [https://consult.defra.gov.uk/environmental-quality/consultation-on-proposals-to-ban-commonly-littered/supporting\\_documents/Plates%20and%20Cutlery%20Impact%20Assessment.pdf](https://consult.defra.gov.uk/environmental-quality/consultation-on-proposals-to-ban-commonly-littered/supporting_documents/Plates%20and%20Cutlery%20Impact%20Assessment.pdf) (page 5, footnote 14, which refers to a NOAA pdf which is no longer listed but can be found at: <https://web.archive.org/web/20161227133518/https://marinedebris.noaa.gov/sites/default/files/publications-files/talking-trash-educational.pdf>) A response from the NOAA about why the pdf is no longer listed at the link:

*“We believe that the link originally went to an out-of-date version of [the Talking Trash & Taking Action educational curriculum](#). A previous version contained an activity that NOAA no longer supports, focused on somewhat misleading and oversimplified information about degradation rates of different marine debris materials. That version was replaced in recent years, but the report you are reviewing must have included the outdated link. For more information on the NOAA Marine Debris website, you can learn more about the complexities and problems around the use of degradation rates on our [The Mystery of How Long Until It’s Gone page](#).”*

evidence to suggest that any plastics manufacturers are going to change production lines in this regard.

Currently there are no domestic manufacturers of wooden cutlery, and very few plastics companies still produce cutlery in the UK. One of the last major manufacturers of cutlery was Plas Tech Ltd, who ceased producing plastic cutlery in 2021 when their contract with a major supermarket chain ended.

Plas Tech Ltd are now working with Solinatra to manufacture biobased cutlery in the UK: resulting in a product made with plant sources grown in Suffolk, material processed in Manchester and manufactured into cutlery in Norfolk. The domestic supply chain means that Solinatra cutlery has a much lower carbon footprint than products shipped from China, as well as far greater oversight of manufacturing conditions and compliance with regulations.

All single use wooden currently sold in the UK is imported, and the vast majority is manufactured in China. The carbon footprint of shipping the cutlery from China to the UK is one of the biggest factors in calculating the overall LCA of the materials.

### **Degradation of Solinatra Material**

Cutlery made of Solinatra has been shown to fully degrade in industrial composting facilities within 45 days, and in home compost settings within 9-12 months. Solinatra degrades to carbon, water and biomass, and leaves behind zero persistent microplastics or harmful contaminants.

In order to further evidence the degradation of Solinatra material, we include Appendix A which provides interim data from Merieux NutriSciences, an independent testing laboratory who are verifying the home and industrial compostability of Solinatra material to the TÜV standard. The TÜV OK Compost certifications are globally recognised and based on the requirements of EN13432 and other European standards and regulations. The test criteria includes measuring the metabolic, microbial conversion into water, carbon dioxide, mineral salts of any other elements present and new cell biomass; the disintegration into fragments no larger than 2mm and the absence of harmful toxic substances or ecotoxicity effects.

### **Waste Collection and Infrastructure**

The 2019 BEIS/Defra consultation on the “Standards for biodegradable, compostable and bio-based plastics” stated that “Current systems and processes should not, however, be a barrier to innovation, particularly if such innovation could have environmental benefits” (Chapter 6, Point 6.21). In regards to the current infrastructure and capacity of biowaste collections, the Environment Act 2021<sup>4</sup> legislated that all local authorities must provide weekly food waste collections by the end of 2023. This increase in household food waste collection is being matched by growth in the AD sector, as of April 2022 the UK had 660 operational facilities<sup>5</sup> and advancements in technology mean that sites currently under construction have far increased capacity in comparison to those in use in 2019.

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<sup>4</sup> Environment Act 2021, Part 3, Section 57: Food Waste Collection  
<https://www.legislation.gov.uk/ukpga/2021/30/section/57/enacted>

<sup>5</sup> Anaerobic digestion deployment in the United Kingdom, Ninth Annual Report, 2022  
<https://www.nnfcc.co.uk/press-release-ad-report-2022>

Responses to consultations on the topic have often cited concerns about the possibility of compostable plastics negatively affecting the running or results of AD plants or contaminating the supply. However, the evidence for this is scant and the concerns more frequently refer to compostable bags and caddy liners rather than rigid material items as included in the scope of the proposal.

Innovations in the material sector have led to compostable plastics that have no detrimental impact upon the operation of the anaerobic digesters nor on the quality of compost produced.

An AD plant opened in 2022 in Attleborough has tested Solinatra material, and gives the following evidence:

“There is no doubt that cutlery made from Solinatra is capable of being processed by the AD plant and will not be any concern to the operation or output and should be recommended to be collected with food waste.

The depackaging unit at Attleborough is state of the art for the food waste processing industry, whereby all solid wastes are mixed and subjected to a number of processes that are designed to reduce any solids to a size that will pass through a series of screens.

All of the digestate from the tanks, following the digestion process (45 day retention), is then pasteurised at 70+ degrees C, for an hour. This material then becomes a product, and under the PAS110 protocol, can be spread to land as a soil improver and fertiliser.” - Attleborough Eco Electric Limited

This is an excerpt from the full report which can be found in full in Appendix B.

## **Previous Legislation**

Since the introduction of a charge for single use plastic carrier bags in 2015, the use of such bags has decreased significantly, and the regulation has been heralded as a great achievement in reducing plastic waste in the UK. In this legislation, compostable bags were exempt and the use of carrier bags and food caddy liners rated to the standard EN13432 is widespread.

Concerns cited in the consultation that the labelling of products as compostable would lead to increased littering has not been evidenced in carrier bags since the change in legislation in 2015.

## **Innovation and Investment**

The UK bioplastics sector was valued at \$273.5 million in 2021, and forecast to grow to \$745.2 million in 2026<sup>6</sup>. The biomaterials sector is set to grow globally offering export market opportunities to the UK, but also meaning that not having a strong biomaterials sector in the UK sets export and jobs at risk.

Government investment in innovative materials and technologies that promote the UK’s sustainability and net zero goals accounts for more than £3billion, including £1billion in the Net Zero Innovation

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<sup>6</sup> GlobalData Industry Profile, Bioplastics in the United Kingdom, 2022. Reference code: gd0183-2940-2021, Publication Date: August 2022, Primary NAICS: 325211



Portfolio<sup>7</sup>. Government funding, including from Innovate UK, has been awarded to develop compostable plastics. Solinatra is one such recipient of Innovate UK funding, having been awarded a Smart Grant in 2022 to develop a thermoforming grade of biodegradable material. It is questionable why the government is seeking to ban the use of a material it is also funding to develop.

### **Standards and Certifications**

We propose that a standard is implemented for biodegradable and compostable plastics that are industrially compostable without microplastics, and that this standard is allowed within the proposal – and future proposals on single use products.

We propose that this standard complies with the current standards:

- EN 13432
- ASTM D6400
- PAS 9017

The UK has an opportunity to set a world standard, and be seen as a world leader in this area.

Setting such a standard that also complies with the upcoming EU Packaging and Packaging Waste Directive, would make it easier for businesses to comply across borders, and in particular in Northern Ireland and Ireland, as well as on a global scale.

A standard and certification for products that can be composted will provide clarity to businesses and consumers about the correct use and disposal.

Setting a robust standard will help to reduce greenwashing of products that are not compostable, and drive innovation in creating truly sustainable materials and products that match the standard.

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<sup>7</sup> Net Zero Innovation Portfolio, <https://www.gov.uk/government/collections/net-zero-innovation-portfolio>. UKRI Corporate Plan 2022-2025: <https://www.ukri.org/wp-content/uploads/2022/08/UKRI-190822-CorporatePlan2022to2025.pdf>

5<sup>th</sup> September 2023

By Email: [SeneddClimate@senedd.wales](mailto:SeneddClimate@senedd.wales)

Dear Mr Llyr Gruffydd MS,

**Re: ACS response on Communications Plan for Welsh Single Use Plastic Ban**

Thank you for your letter and questions on the Welsh Government's communication plan for the single use plastic products ban introduced by the Environmental Protection (Single-use Plastic Products) (Wales) Bill. We have proactively engaged with Welsh Government Officials on their guidance and communications in relations to the ban. We have answered your questions set out below.

**How effective do you believe the awareness-raising campaign has been among the businesses you represent?**

We have had positive engagement with Welsh Government Officials about the single use plastic ban. We have raised concerns about the very limited consultation on the regulations and the lead times for publishing guidance and other assets to inform retailers. The Welsh Government has shared with us a draft version of their guidance and we were able to provide feedback. However, to date we have not seen a final version of the guidance that can be shared with retailers and we are not clear on the exact implementation date. At this point we are directing our members to the information on the Welsh Government's website: [The Environmental Protection \(Single-use Plastic Products\) \(Wales\) Act](#). We recommend that the guidance associated with new regulatory changes are shared with impacted businesses at least 12 months in advance of their implementation – we are currently 3 weeks away from implementation.

**Are the businesses you represent aware of the intention to introduce the first bans of certain single-use plastics in October?**

It is difficult to provide a single view from convenience retailers on their preparedness for the single use plastic products ban. Some retailers have dedicated compliance teams that have been working on the policy change for a and other retailers will carry a small range of products that are going to be impacted. The lack of guidance from the Welsh government means that many retailers will be increasingly reliant on manufacturers of products being banned or manufacturers of alternative recyclable products for information. It should be a priority for the Welsh Government to issue their guidance to business as soon as possible.

**Is the information and guidance provided by the Welsh Government sufficient and clear enough to enable businesses to understand their obligations under the Act?**

The guidance published by the Welsh Government at present is not very detailed. The draft guidance that the Welsh Government have shared with us is comprehensive, but it is yet to be published or shared with retailers. We are also awaiting more resources to be made available, such as infographics and animations.

We hope our feedback is helpful, please contact me or [REDACTED] if you require any further information.

Yours sincerely,

[REDACTED]  
Government Relations Director  
Association of Convenience Stores