

Submission

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To: producerresponsibility@gov.scot

Cc:	From:	Lorna Scott
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E-mail: Lorna.Scott@nfus.org.uk	Direct dial: 07823 348963
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Duty of care: Code of practice for managing controlled waste

- NFU Scotland (NFUS) is the leading agricultural organisation in Scotland. Representing more than 9,000 farmers, growers and crofters, our members provide and support thousands of jobs and deliver significant economic, social and environmental benefits across Scotland.
- Agriculture is the lynchpin of rural Scotland and is an important part of Scotland's booming food and drink industry. Scottish agriculture generates a gross output of £3.3 billion annually. The farming and crofting sector is committed to sustainable food production, enhancing biodiversity and helping to tackle climate change.
- NFUS understands and accepts the need to shift away from a 'take, make, dispose' economy to one where we keep materials in use and adhere to principles of the waste hierarchy. The industry has repeatedly stated its commitment to leading the way on climate change and becoming more sustainable. Agricultural producers often operate on tight margins, which makes reducing waste and recycling and reusing where possible a priority.
- However, we urge policymakers to be mindful of the unintended consequences that some proposals would have on farm businesses, as well as the barriers that are currently in place to promote and foster innovation.
- **Your Obligations as a Waste Producer:** are you content with the clarity of this section and how it has changed from the current Code?

- NFU Scotland broadly welcomes the Scottish Government's efforts to clarify the obligations of waste producers within the revised Duty of Care Code of Practice. The updated section provides a more structured explanation of responsibilities and aligns more closely with the principles of the waste hierarchy and circular economy. In that respect, it represents an improvement on the current Code, particularly in setting out expectations around waste prevention, segregation, record keeping and the use of authorised carriers.
- However, while the revised wording is clearer in intent, there remains a risk that the practical implications for agricultural businesses are not fully reflected. Farmers and crofters operate in diverse and often remote settings, with limited access to licensed waste services and recycling infrastructure. The Code could therefore benefit from additional sector-specific guidance and realistic examples to help agricultural producers interpret and implement their obligations in a proportionate and workable way. Without this, there is a concern that the increased emphasis on documentation and verification may create additional administrative burdens for farm businesses already operating on tight margins.
- NFU Scotland is also concerned about the potential unintended consequences of the revised obligations in relation to fly-tipping. While strengthening duty of care requirements is important, there is a risk that increased costs and complexity in compliant waste disposal could inadvertently incentivise illegal disposal by some actors. Farm businesses are frequently victims of fly-tipping and may face additional costs and liabilities as a result. The Code should therefore more explicitly recognise fly-tipping as a systemic issue and ensure that enforcement and support mechanisms are targeted not only at compliant waste producers but also at those who deliberately evade their responsibilities.
- Overall, NFU Scotland is supportive of the direction of travel and the greater clarity offered by the revised section, but believes that further refinement is needed to ensure that the obligations are proportionate, practical and supported by adequate infrastructure. This will be essential if the Code is to achieve its objectives without undermining the viability of farm businesses or exacerbating problems such as fly-tipping.
- **Are you content with the implementation of the requirement for businesses to present plastic films recyclables for collection through the draft code?**
- While silage wrap and other agricultural plastics fall within the broad definition of plastic film, they present distinct logistical, operational and technical challenges compared with commercial packaging films generated in urban and industrial settings. Agricultural plastic film is often bulky, seasonally generated and subject to contamination from soil, moisture and organic matter, which can significantly affect its recyclability and storage requirements.

- The draft Code would therefore benefit from clearer differentiation between commercial and agricultural plastic films, alongside tailored guidance that reflects the realities of farm businesses. Without such clarity, there is a risk that obligations designed primarily for commercial waste producers will be applied in a way that is disproportionate and impractical for the agricultural sector.
- Scotland's farming and crofting businesses are already demonstrating their commitment to reducing any waste on farm, preferring to reuse, repurpose and recycle. Many are currently operating in extremely challenging circumstances, so it is in their interest to limit any waste on farm to ensure they are a viable and successful business.
- **Your Obligations as a Waste Collector: are you content with the clarity of this section and how it has changed from the current Code?**
 - No further comment.
- **Are you content with the implementation of the requirement for waste collectors to take all reasonable steps to collect and carry plastic films recyclables through the draft code?**
 - Please refer to answer regarding agricultural silage wrap.
 - Many of our members, especially those in remote rural and island areas, struggle to access recycling services due to a combination of factors such as logistical issues and high transport costs. Reports from our members state that commercial plastics sent for recycling end up in landfill due to lack of processing infrastructure. It is clear that a more coherent system throughout the country, with greater alignment between household and commercial recycling services, would bring great benefit in building trust in services and improving recycling rates.
- **Your Obligations as a Waste Manager: are you content with the clarity of this section and how it has changed from the current Code?**
 - No further comment.
- **Your Obligations in the Event of Waste Import or Export: are you content with the clarity of this section and how it has changed from the current Code?**
 - No further comment.
- **Your Obligations as a Broker or Dealer: are you content with the clarity of this section and how it has changed from the current Code?**
 - No further comment.
- **Your Obligations as a Householder: are you content with the clarity of this section and how it has changed from the current Code?**
 - No further comment.

- **Transfer Notes: are you content with the clarity of this section and how it has changed from the current Code?**
 - Yes.
- **Glossary: are all definitions clear?**
 - Yes.
- **Are there any additional terms in the document that you consider it necessary to provide a definition in this section?**
 - Under “Dry Recyclable waste, plastics” we would like a definition of plastic film to better prepare our members for the changes coming in from 31 March 2027.
- For “Food Business” we would like clarity on this definition, it does not include a mention of production of food, and so we would need clarity on whether farms in less rural areas, and so not covered by the exemption, may be affected.
- **Impact Assessments: Is there any further evidence relating to the impact on business that you would wish to be considered in updated impact assessments:**
 - We would ask that the practical implications for agricultural businesses are fully considered and reflected.
- **Is there any further evidence relating to the impact on protected characteristics that you would wish to be considered in updated impact assessments:**
 - No.
- **Is there any further evidence relating to the impact on island communities that you would wish to be considered in updated impact assessments:**
 - We agree and support the impacts identified as a part of the assessment.
 - We would recommend there would be further local consultations once the new systems of waste management are in place to ensure communities can feedback on any continuing barriers to higher recycling rates, and adjustments and improvements be made where necessary. Farming and crofting businesses should be supported to access the recycling services, and not financially penalised, if they are unable to utilise them.
- **Do you wish to make any other comments on the code as a whole?**
 - No.

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