



**British Metals Recycling Association – Response
May 2018
SEPA Consultation – Metals Sector Plan**

The British Metals Recycling Association (BMRA) is the trade association representing the £7 billion UK metal recycling sector. With over 250 businesses, which between them handle over 90% of the metal recycled in the UK, we process over 12million tonnes of metal annually into secondary raw material. We help support the wider metals recycling industry that comprises an estimated 2,500 businesses in the UK, employing some 15,000 people. Our materials are traded on global commodities markets and supply valuable resources to metal manufacturers.

Within membership there are 27 companies with facilities located in Scotland ranging from small family-owned enterprises to large multi-national companies. They operate from approximately 50 sites, processing a wide range of materials, including end-of-life vehicles (ELV); waste electrical and electronic equipment (WEEE); and packaging wastes, as well as household, business and industrial waste arisings. As such, the industry is a substantial contributor to the delivery of European and domestic targets on recycling and the sustainable use of resources.

BMRA welcomes the opportunity to comment on the draft Metal Sector Plan ('the Plan'). We are committed to working closely with SEPA and other government officials to help develop and realise opportunities to promote and secure a thriving and long-term metals sector in Scotland. From this perspective, our comments will focus only on the recycling and reprocessing aspects of the Plan. They are based on discussions with our Scottish members and previous engagement with key stakeholders and an event held in North Queensferry in January 2018.

1. We want to be a world-class regulator, adopting innovative and novel approaches that help as many operators as possible to move beyond minimum legal standards and create economic and social success for Scotland from environmental excellence. Do you think these first three sector plans set the right level of ambition to achieve this goal?

BMRA is encouraged by, and supportive of, SEPA's desire to be a world-class regulator and its stated ambition to help operators strive for excellence in the environmental performance of their businesses. However, in the case of the Plan, we feel the level of ambition and SEPA's commitment to the sector falls some way short of achieving such global status. This is especially disappointing given what the sector believed were very encouraging and fruitful discussions at the face-to-face meeting in January.

We believe that the Plan does not adequately address how SEPA's vision for the metals sector will be delivered. None of the proposals are costed nor is it clear how they will be funded. This undermines the Plan considerably. Moreover, there is no indication of how SEPA will measure the success of the Plan or its individual components.

Specifically, we had hoped that the Plan would provide commitments from SEPA to help provide incentives and business certainty for metal recyclers and others in the supply chain. With regard to promoting its Circular Economy ambitions, the Plan should have included the following:

- initiatives to stimulate 'green procurement';
- fiscal incentives for metal manufacturers to use greater proportions of recovered metals/high recycled content;
- consideration for lowering net energy prices (or tax rebates) for the recycling sector; and,
- encourage partnerships with government on research and development for advanced waste treatment and materials separation (for example, to end Scotland's dependence on export or landfill for automotive shredder residues (ASR)), and capital investment.

Instead, the Plan focuses on compliance. This is an area of major concern for both SEPA and the regulated-business community. Illegal operators pose a significant threat to the environment and undermine the 'level playing field' that legitimate operators and regulators seek to create and maintain.

Therefore, and whilst we welcome the Plan's focus given to illegal businesses, the actual commitments detailed in the compliance outcome table (pages 22-23) and priority actions for 2018/19 are disappointing for several reasons. Firstly, there appears to be a disproportionate enforcement focus on licensed operators where compliance is generally high or very high (e.g. 96% of ELV depollution facilities in Scotland are consistently depolluting vehicles to the appropriate standard). Secondly, given the size and number of illegal operators known or suspected to be operating in metals recycling in Scotland may be as high as the number of legal operators (e.g. SEPA has previously quoted that it estimates there are over 100 illegal ELV sites in Scotland, compared to 153 licenced ELV Authorised Treatment Facilities), a commitment to close 10 unauthorised sites operating illegally is viewed by the sector as unambitious.

However, BMRA is realistic in what SEPA can achieve with reduced budgets from Grant-in-Aid and is sympathetic to the funding constraints placed on it. In particular, we note the limitations on how it can spend monies generated via permit subsistence charges. However, many legitimate operators pose a very low risk to the environment. Neither they nor SEPA benefit significantly from regular inspections. Instead, BMRA would like to see a proportion of their monies being used to specifically target the illegal and persistently poor-performing operators. We understand that under Treasury rules for managing public money, SEPA cannot use income generated from charges, including that from waste permits, on enforcement or waste crime activities. However, we would be keen to work

with SEPA in any way possible to explore options for changes to charging rules, which could allow for the use of permit income to tackle waste crime in the future.

The priority actions concerning the enabling of 'end-of-waste' and seeking alternatives to landfill for ASR, are welcomed and we look forward to continuing our discussions with SEPA officials on both topics.

2. Do you think that the plans set the right level of ambition for the sector?

BMRA considers that much of what is detailed in the Plan as 'what SEPA will deliver' should already be delivered by SEPA. Therefore, the overall feel of the Plan is more of a marketing/promotional piece than a detailed strategy document.

The Plan's level of ambition for the sector also appears lack-lustre for many of the same reasons it sells SEPA short (see response to Question One).

However, it is difficult to envisage how a more ambitious vision for the sector could be articulated given the number of illegal operators that undermine it. SEPA's priority, and that of Scottish Government, for supporting the legitimate metals recycling sector must be to bring all operators into legal compliance (both environmentally and regarding the metal dealer provisions of the *Air Weapons and Licensing Act (Scotland) 2015*), and eradicating the illegal sector and those persistent, poor performers.

3. Do the plans contain the right actions to: (a) tackle non-compliance and (b) to help businesses go beyond compliance?

BMRA welcomes the approach. However, we believe SEPA's primary focus should be on tackling non-compliance whilst providing light-touch enforcement and inspections for compliant businesses.

- **(a) Tackling non-compliance**

We believe that this requires a sympathetic response. Specifically, SEPA should support and engage with those non-compliant operators that demonstrate a positive attitude and genuine willingness to move towards compliance. Conversely, those operators that refuse to be brought into compliance should be prosecuted and closed-down.

Moreover, BMRA would recommend SEPA/Scottish Government implement action to prevent individuals or families from deliberately closing companies through bankruptcy, prosecution or liquidation, that leaves environmental liabilities or burdens to taxpayer or landlord. It is not uncommon for such individuals to immediately recommence operations via a new business. There appears no continued SEPA monitoring of a company's financial performance or method of recouping costs. SEPA should play a role in controlling and addressing such preventable scenarios. Victims in such instances can include taxpayers, suppliers, hauliers and SEPA itself.

- **(b) Helping businesses go beyond compliance**

SEPA must act to encourage those that want to go beyond compliance. Operators should be supported. However, getting all operators to the legal minimum standard would provide a more level playing field.

Stating that compliance is 'non-negotiable' is commendable. However, it seems powerless when SEPA are seen to target only registered operators, whilst companies that operator outside their control can flourish unabated.

When assessing whether a business is 'beyond compliant', external factors need to be considered. Would a company that is considered today to be 'beyond compliant' continue to enjoy this status were residential housing or some other encroachment beyond its control to occur?

BMRA offers the following comments/observations on the compliance outcome tables (pages 22-23 and beyond compliance outcome tables (page 29)) and the actions sought:

Compliance Outcome table:

- **Illegal / Unauthorised activities are eradicated.** '[SEPA will] *Characterise the scale and extent of illegal activity within the sector by interrogating SEPA data and cross-referencing...*' SEPA should be undertaking this work as a matter of course. It should not be considered novel or included as a specific action within this Plan. How will SEPA fund the inspection and subsequent enforcement activities against illegal (i.e. non-fee paying) facilities?
- **Supply Chain requirements to incentivise compliance.** Our 'supply chain' includes householders. Given that householders sit outside of the waste regulation, how does SEPA propose to ensure their metals only enter legitimate routes?
- **Risk of fire at shredder sites.** Combustible items, such as those listed, do not always enter the supply chain concealed in ELV. Others may enter via civic amenity mixed scrap or discretely. It should be noted that certain types of WEEE, such as mixed small domestic appliances containing lithium-ion batteries, also increase the fire risk at shredder sites (and other metal recycling facilities). Poorly or incompletely depolluted ELV are another possible cause of fires. BMRA is currently undertaking a study with *SLR Consulting Ltd* to identify the sources of fires at metal recycling facilities. We will share our findings with SEPA officials to help address this action point.
- **Review producer responsibility schemes.** An opportunity exists for SEPA to add its support to legislate for compulsory extended producer responsibility covering the disposal of end-of-life and 'orphan' gas cylinders. Given the problems these items pose to many metal recycling facilities (and potentially steelworks or aluminium smelters), together with a flawed voluntary collection scheme administered by the manufacturers of gas cylinders, placing obligations on gas cylinder producers at Directive level would be of considerable benefit to the metals sector. The current recasting of the Packaging Directive presents such an opportunity.
- ***Air Weapons and Licensing (Scotland) Act, 2015.*** Since 2014, BMRA has supported SEPA in its role to host a national registered of licensed metal dealers. However, Scottish Government has consistently failed to approve secondary legislation to enable the database to be published. This register is desperately needed for members of the public, the police and other enforcement bodies and the industry itself to ensure dealers are appropriately licensed.

Beyond Compliance table:

- **End-of Life-Vehicles (ELV).** BMRA welcomes the opportunity to discuss how changing vehicle design and propulsion methods may affect depollution practises and its potential to affect our ability to achieve the 95% recycling and recovery targets. A more immediate issue is whether

the UK will be able to achieve target for 2016 and beyond as the revised protocol weight of a typical ELV increased in 2016.

- **Establish markets for the productive use of ASR.** This is an issue of critical importance to BMRA. We are currently undertaking a pilot study to determine whether ASR is hazardous based on current European Commission guidance on the classification of waste (published April 2018). Depending on the findings, which will be shared with SEPA, this may influence downstream processing options. Noting the Scottish landfill ban from 2021, together with the current lack of post-shredder technologies and advanced materials separation in Scotland, a potential opportunity exists to extract value from this material domestically to add value within a Scottish circular economy. However, it is unclear whether Scotland produces sufficient ASR for any single company to invest in separation or treatment technologies.
- **Oil and gas decommissioning.** What role does SEPA envisage for BMRA and its members with regards to the decommissioning of North Sea Oil and Gas infrastructure? A significant volume of the estimated 500,000 tonnes of waste to be brought onshore will be metal-bearing. Therefore, some Scottish BMRA members may be ideally positioned to provide these services to decontaminate, process and recycle these metals.

Although there are organisations such as *Decom North Sea* and *Oil and Gas UK*, BMRA is keen to be a key stakeholder in future discussions around setting a decommissioning strategy or sector plan.

- **‘Improving the quality and reducing contaminant levels...’** The issue for the sector about improving quality and reducing contamination levels is not a capability issue, but an economic one. Where the economics allow, a very high level of sort and segregation is possible.

In addition to the uneven playing field between the legitimate industry and illegal operators, there are also inconsistencies between secondary metal and primary ore. This is due to the high costs of regulatory compliance built into the selling price of secondary metals, which is not reflected in the selling price of the primary ore.

It is ironic that the more environmentally friendly option of using secondary metal is disadvantaged by the cost of environmental legislation (this is true right across Europe).

This is where SEPA and Scottish Government could lead by example. A commitment to promoting green procurement policies with incentives and pull mechanisms would help redress the balance with primary ore and allow secondary metals to compete on a level playing field. Encouraging eco-design will also be important to ensure products are only made from readily recyclable materials, and those materials can be easily separated at end of life. Unfortunately, the current manufacturing philosophy of ‘design for manufacture’ often precludes the above and intervention may be required to further support the Circular Economy.

4. Are there opportunities that SEPA should be taking, or partners that we should be working with, that have not been referenced?

BMRA already maintains a good relationship with SEPA at a senior policy level. However, more dialogue with SEPA management/board to advance the more strategic elements of the Plan may be necessary. This will become apparent as the various elements are worked through.

We also consider that further details are necessary on timings, resourcing and measurement of deliverables before the Plan is finalised and implemented later in the year.

5. Do you have any other comments?

BMRA suggests that the artwork, and specifically the cover page, does not promote any particular company in the metals sector. The current presentation makes the document look like a promotional brochure for Liberty rather than a SEPA publication covering the entire supply chain.

If you wish to discuss any aspect of this response, please contact Howard Bluck on 01480 455249 or email howard.bluck@recyclemetals.org, or write to:

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