

## ANNEX C

### RESPONDENT INFORMATION FORM for the Consultation on New Enforcement Measures for SEPA and the Relevant Offences Order

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately



#### 1. Name/Organisation

Organisation Name

Renewable Energy Association – Organics Recycling Group, Scotland

Title Mr ☐ Ms ☐ Mrs ☒ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Grant

Forename

Jenny

#### 2. Postal Address

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#### 3. Permissions - I am responding as...

Individual

☐

/

Group/Organisation

☒

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

## CONSULTATION QUESTIONS

### **Question 1 – SEPA’s Enforcement Approach**

**Are these the right aims to underpin SEPA’s enforcement approach?**

Yes ☒ No ☐

Additional comments.

ORG welcome the proposals for SEPA to take a proportionate and effective approach to enforcement. We endorse the approach to focus resources and tackle offending with the most proportionate response dependant on the level of the offence and environmental harm.

### **Question 2 – Fixed Monetary Penalties (FMPs)**

**A) Do you agree with the suggested list of ‘relevant offences’ for SEPA’s use of FMPs?**

Yes ☒ No ☐

Additional comments.

ORG feel that SEPA’s engagement with operators is key to the success. We support the use of FMP in circumstances where an operator has failed to take on board advice and guidance.

**B) Do you agree with the three proposed FMP levels of £300, £600 and £1000 to allocate across the range of offences identified as appropriate for fixed monetary penalties?**

Yes ☒ No ☐

Additional comments.

### **Question 3 – Variable Monetary Penalties (VMPs)**

**A) Do you agree with the suggested list of ‘relevant offences’ for SEPA’s use of VMPs?**

Yes ☒ No ☐

Additional comments.

**B) Do you have any further comments on the proposed approach to calculating VMPs, based on a single generalised methodology reflecting the values for financial benefit, gravity and aggravating or mitigating factors?**

Additional comments.

The calculations for VMPs need to be transparent and communicated to the recipient. There should be clear explanation of other options.

#### **Question 4 - Non-Compliance Penalties (NCPs)**

**Do you consider that a penalty set at a 40% uplift is a sufficient penalty for non-compliance with an undertaking offered in respect of a VMP?**

Yes ☒ No ☐

Additional comments.

#### **Question 5 – Enforcement Undertakings (EUs)**

**Do you agree SEPA should look more favourably on community-focussed EUs?**

Yes ☒ No ☐

Additional comments.

Guidance on what are acceptable outcomes from an EU will be essential for ensuring that this is a viable option for operators. Community engagement where appropriate should be looked on more favourably.

#### **Question 6 – Court Powers**

**Do you support the approach to relevant offences to which these new court powers and requirements apply?**

Yes ☒ No ☐

Additional comments.

#### **Question 7 – Vicarious Liability**

**Do you support the approach to relevant offences to which the vicarious liability requirements apply?**

Yes ☒ No ☐

Additional comments.

#### **Question 8 – Administration**

**Do you have any further comments on the proposed administration of the new enforcement measures?**

Yes ☒ No ☐

Additional comments.

ORG welcomes the proposals that the penalties will be paid into the Scottish Consolidated Fund.

### **Question 9 – Safeguards**

**Do you agree that the proposed safeguards for the new enforcement measures address the concerns raised through the previous consultation?**

Yes ☒ No ☐

Additional comments.

A straightforward and clear appeals system is important and the measures outlined seem to address this.

### **Question 10 – Further Comments**

**Do you have any further comments on how these proposals will impact on businesses, communities and the environment?**

Additional comments.

ORG feel that effective communication of the new enforcement system is essential and urge SEPA to provide clear guidance to operators on how it will work and what options are available throughout the process.