



Department
for Environment
Food & Rural Affairs

UK Waste Electrical and Electronic Equipment Regulations 2013

**Summary of consultation
responses and the UK
government's response to
proposed amendments**

May 2018



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1. Introduction

1. This document combines the summary of responses and the formal government responses to the consultation, UK Waste Electrical and Electronic Equipment (WEEE) 2013 proposed amendments, published on 20 October 2017. It sets out how the government intends to take forward each of the issues on which views were sought. It will be accompanied by a final Regulatory Triage Assessment.
2. The consultation invited comments in three broad areas:
 - i) proposals for the implementation of the WEEE Directive requirements to introduce "Open Scope" in which all items of electrical and electronic equipment (EEE) would in future fall within the product scope of the regulations unless subject to a specific exemption or exclusion.
 - ii) other proposed regulatory amendments in relation to:
 - Producer Compliance Scheme (PCS) obligations to collect WEEE from local authorities under Regulation 34; and
 - the allocation of producer fees between the UK environment agencies.
 - iii) stakeholder views on the extent to which the 2013 WEEE Regulations have delivered the government's policy objectives to improve the environment at a proportionate cost to businesses ahead of the Post Implementation Review due to be completed by January 2019.

2. Help with policy enquiries

3. Questions about the policy issues raised in the document should be addressed to:

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Producer Responsibility

Department of Environment Food and Rural Affairs

Nobel House

Smith Square

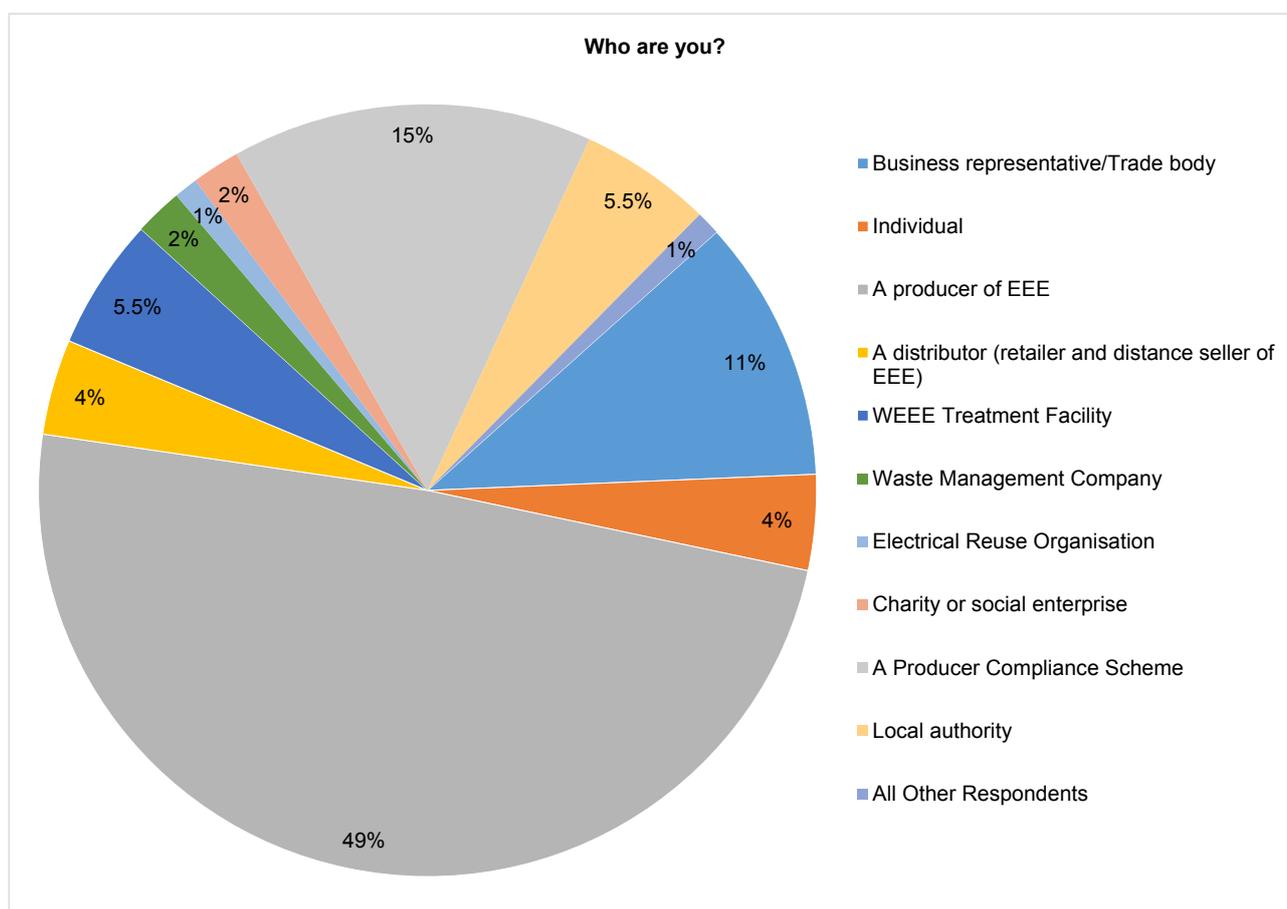
London 17 Smith Square, London SW1P 3JR

Tel 020 8225 6700

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3. Summary of the consultation responses and government response

4. We received 107 responses to the consultation. The largest number came from producers of electrical and electronic equipment (EEE) with 53 respondents (49%) identifying themselves as producers. This was followed by Producer Compliance Schemes (PCSs) with 16 responses (15%). 12 trade bodies (11%) responded, along with 4 (4%) distributors of EEE, 6 (5.5%) local authorities, 6 (5.5%) WEEE treatment facilities, 2 (2%) waste management companies (WMCs), 2 (2%) charities or social enterprises and 1 (1%) electrical reuse organisation. There were 4 (4%) responses from “individuals”. The remainder came from 1 (1%) respondent identified as “other”. It is worth noting that some respondents selected more than one category and have been counted as a single response in each case. For example, some producers identified themselves as distributors and some PCSs also identified themselves as WMCs.



5. The government welcomed the extensive input and volume of responses in each of these key stakeholder groups and in particular the responses received from bodies that represent those groups. The government has considered the views expressed by each of these stakeholder groups. A particular emphasis was placed on the views expressed by representative bodies whose responses have a multiplier effect insofar as they express the views of their membership. However, it should be noted that some representative bodies

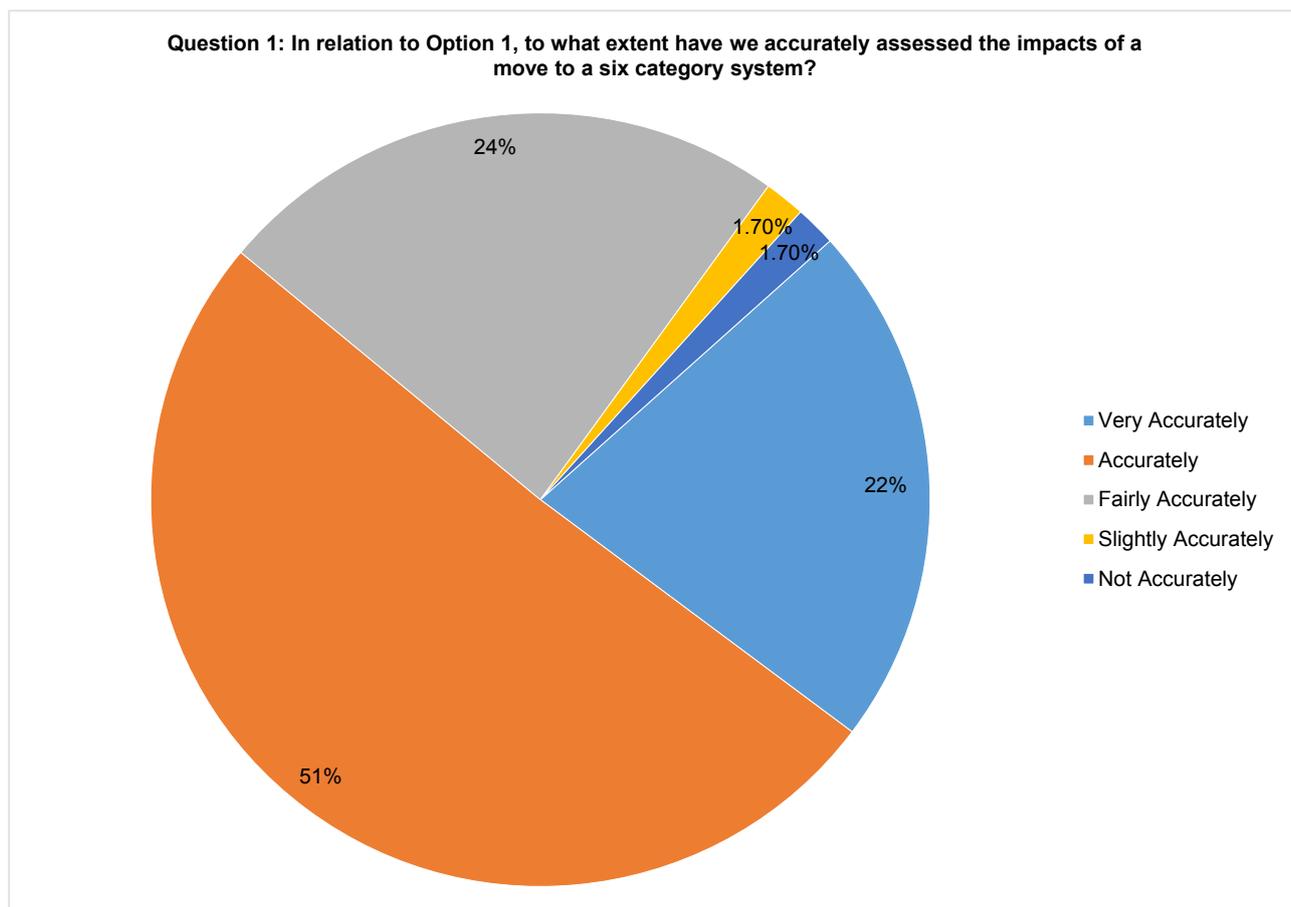
also encouraged members to respond individually on some key aspects of the consultation where views differ significantly among their members. Therefore, the views of individual organisations across stakeholder groups were also carefully considered.

6. This section contains a summary of the responses to each question followed by the government’s response to the question.

3.1. Analysis of consultation responses to Open Scope Questions

Question 1: In relation to Option 1, to what extent have we accurately assessed the impacts of a move to a six category system?

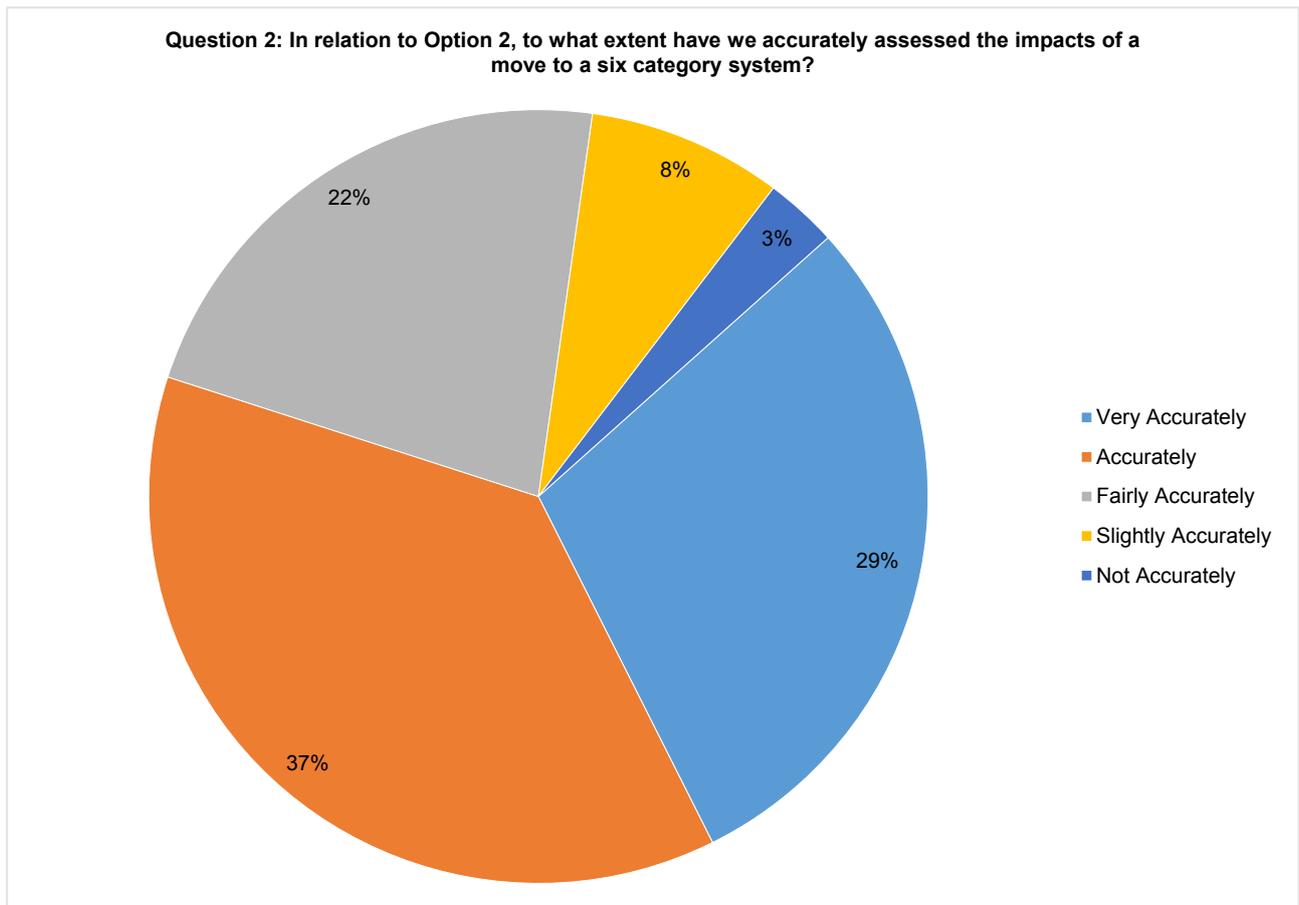
7. We received 59 responses to this question. 13 respondents (22%) expressed the view that we have assessed the impacts of a move to a six category “Very accurately”, 30 respondents (51%) answered “Accurately” while 14 respondents (24%) answered “Fairly Accurately”. Only one producer of EEE indicated that we had not undertaken an accurate assessment in relation to this option.



Overall, responses across all the stakeholder groups indicated that we have accurately assessed the impacts of a move to six category system described in in Option 1.

Question 2: In relation to Option 2, to what extent have we accurately assessed the impacts of a move to a six category system?

8. We received 59 responses to this question. 17 respondents (29%) agreed that we have “Very accurately” assessed the impacts of a move to a six category system in relation to Option 2. 22 respondents (37%) indicated that our assessments were accurate. 13 respondents (22%) answered “Moderately Accurately” while 5 respondents (8%) answered “Slightly Accurately”. One waste treatment facility and a PCS indicated that our assessments in relation to Option 2 were not accurate.

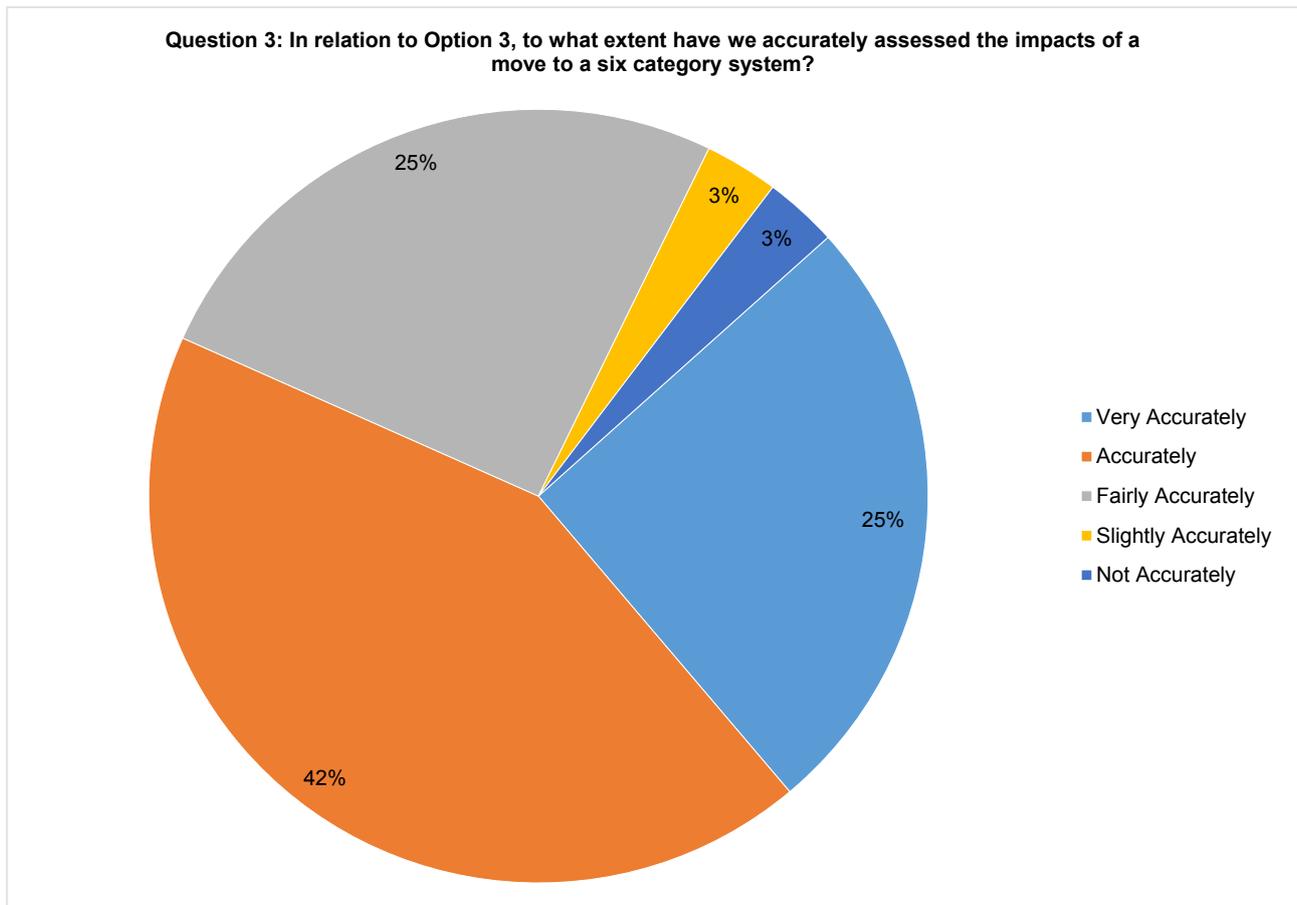


9. Many respondents across all stakeholder groups supported our assessment of the impacts of moving to a six category system in relation to Option 2.

Question 3: In relation to Option 3, to what extent have we accurately assessed the impacts of a move to a six category system?

10. Of the 59 respondents who answered this question, 15 (25%) agreed that the government’s assessments of the impact of a move to a six category system in relation to Option 3 were “Very accurate”. 25 respondents (42%) said that the impacts were assessed “Accurately”. 15 respondent (25%) judged the assessment to be “Moderately Accurate” while 2 respondents (3%) said that our assessments in relation to this option were only

“Slightly accurate”. Two PCSs expressed the view that the assessments contained in the RTA were not accurate in relation to Option 3.



Question 4: Please rank each of the 3 options in your order of preference:

11. The proposed options were developed in response to the feedback received by the government from discussion with key stakeholders including the Industry Council for Electrical Recycling (ICER), which represents a broad assembly of producers of electrical and electronic equipment, Approved Authorised Treatment Facilities (AATFs) and Producer Compliance Schemes (PCSs).

The 3 options proposed in the consultation are as follows:

- Option 1 - Do nothing - Allow the existing WEEE Regulations to take effect, with the requirement to categorise and report EEE and WEEE in the 6 revised categories;
- Option 2 - Amend the 2013 WEEE Regulations to retain the current system of 14 categories with new flexibility to allocate products previously out of scope to one of the 14 categories. Develop protocols that will allow the UK to report – if necessary – to the EU under the 6 WEEE Directive categories; and

- Option 3 - Amend the 2013 WEEE Regulations to move to the 6 categories, but utilise three additional sub-categories.

First choice (preferred option) as ranked by respondents:

- 16% respondents ranked Option 1 as first choice;
- 75% respondents ranked Option 2 as first choice; and
- 9% ranked Option 3 as first choice.

12. There were 90 responses to this question. 68 respondents (75%) expressed their support for the government's preferred option, Option 2. This was followed by Option 1 (Do Nothing), with 14 respondents (16%) recommending that the government should allow the existing WEEE Regulations to take effect providing for the revised 6 WEEE categorisation and reporting. 8 respondents (9%) ranked Option 3 as their first choice.

13. Respondents were also invited to rank the three options in terms of their second choice. 41 respondents (45%) selected Option 1 as their second choice while 17 respondents (19%) rated Option 2 as their second choice. 32 respondents (35%) selected Option 3 as their second choice.

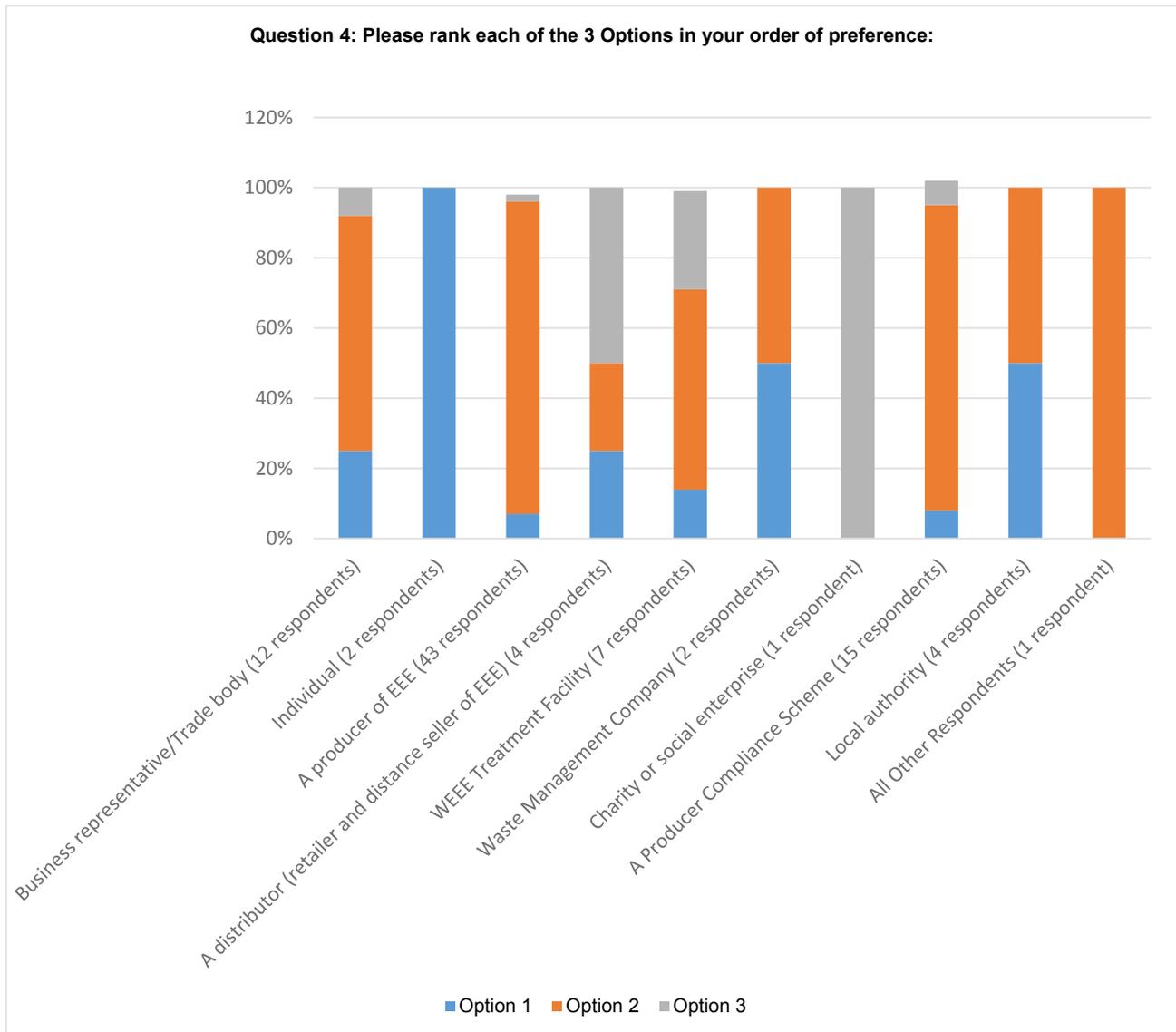
14. Overall, 94% of respondents have ranked Option 2 as either their first or second choice.

15. **Business representative organisations/trade bodies:** It should be noted that whilst trade bodies submitted their preferred options in their capacity as representative bodies, there were differentials in opinions across memberships. Therefore, members were encouraged to respond to the consultation with their individual perspectives. Of the 12 trade bodies that responded, 8 (67%) supported Option 2 as their overall first choice. 3 trade bodies (25%) stated Option 1 as their overall first choice.

16. **Treatment facilities:** 6 treatment facilities responded to the consultation. 4 (67%) supported the government's preferred option (Option 2) which is to retain the existing 14 WEEE categories. The views of these treatment facilities were supported by ICER. It should be noted that while ICER's overall first choice was Option 1, the view from its dedicated treatment facility group was that the government should implement Option 2.

17. **Producers:** There was widespread support for Option 2 from the electrical and electronic equipment producer community. 39 (89%) of the 44 producers that responded to the consultation selected this option as their first choice. Their views were supported by the Joint Trade Association (JTA), an umbrella body of nine Trade associations representing the views of electrical and electronic producers regarding their producer responsibility obligations in the UK. Of those 44 producers, 3 (7%) selected Option 1 as their first choice.

18. Producer Compliance Schemes (PCSs): We received 15 PCSs responses to this question. 13 (87%) selected Option 2 as their first choice. This represents an overwhelming majority of leading PCSs registering their support for Option 2.



19. Local Authorities: 8 responses to this question from local authority and their representative associations were split evenly (50%) between Options 1 and 2 ranking for their first and second choice.

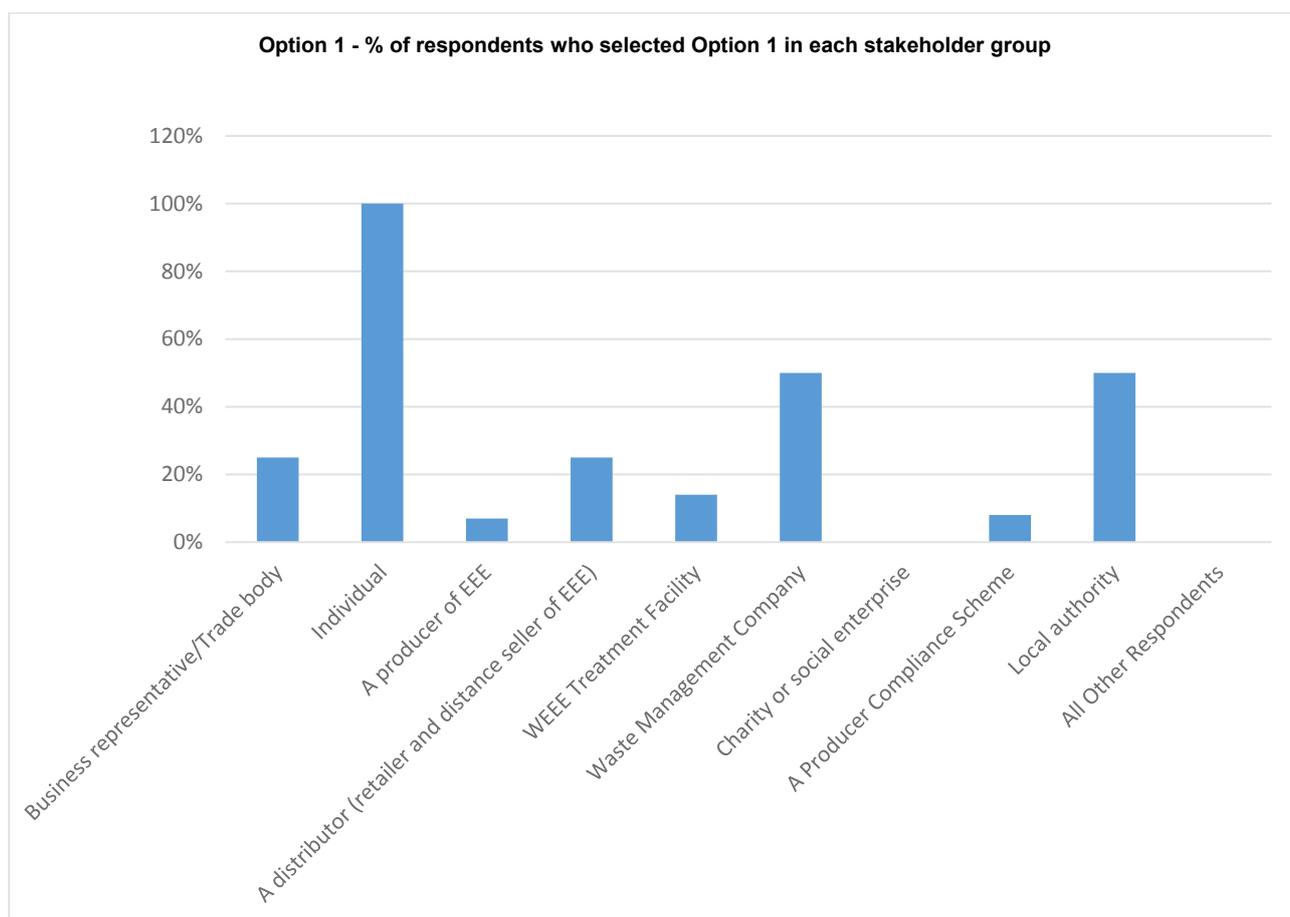
20. Other Respondents: Two individuals who also stated their preferences both supported Option 1 as their first choice. There was only one response to this question from a charity organisation which stated support for Option 3 as their first choice. Two waste management companies were evenly split in support of Options 1 and 2 as their first choice.

Question 5: Please provide any further comments. We are particularly interested in comments on transition to Options 1 and 3 and information or evidence in support of your answers to questions 1-4.

21. We received 90 responses to this question.

Option 1 – Do Nothing

22. 14 (15%) of 90 respondents selected “Do nothing”, Option 1, as their preferred choice. Out of the three options, this was the second favoured option among respondents. Opposition came mainly from producers, PCSs, trade bodies and some treatment facilities. Respondents who opposed Option 1 largely agreed with the Regulatory Triage Assessment (RTA), but said that IT, administration and familiarisation costs had been underestimated. There was a shared view from opponents of Option 1 that the cost of changing IT systems could be significant to businesses and that allowing the 6 category system to take effect could be very disruptive to the UK WEEE system. The chart below indicates the percentages of respondents that selected Option 1 as their first choice in each stakeholder group.

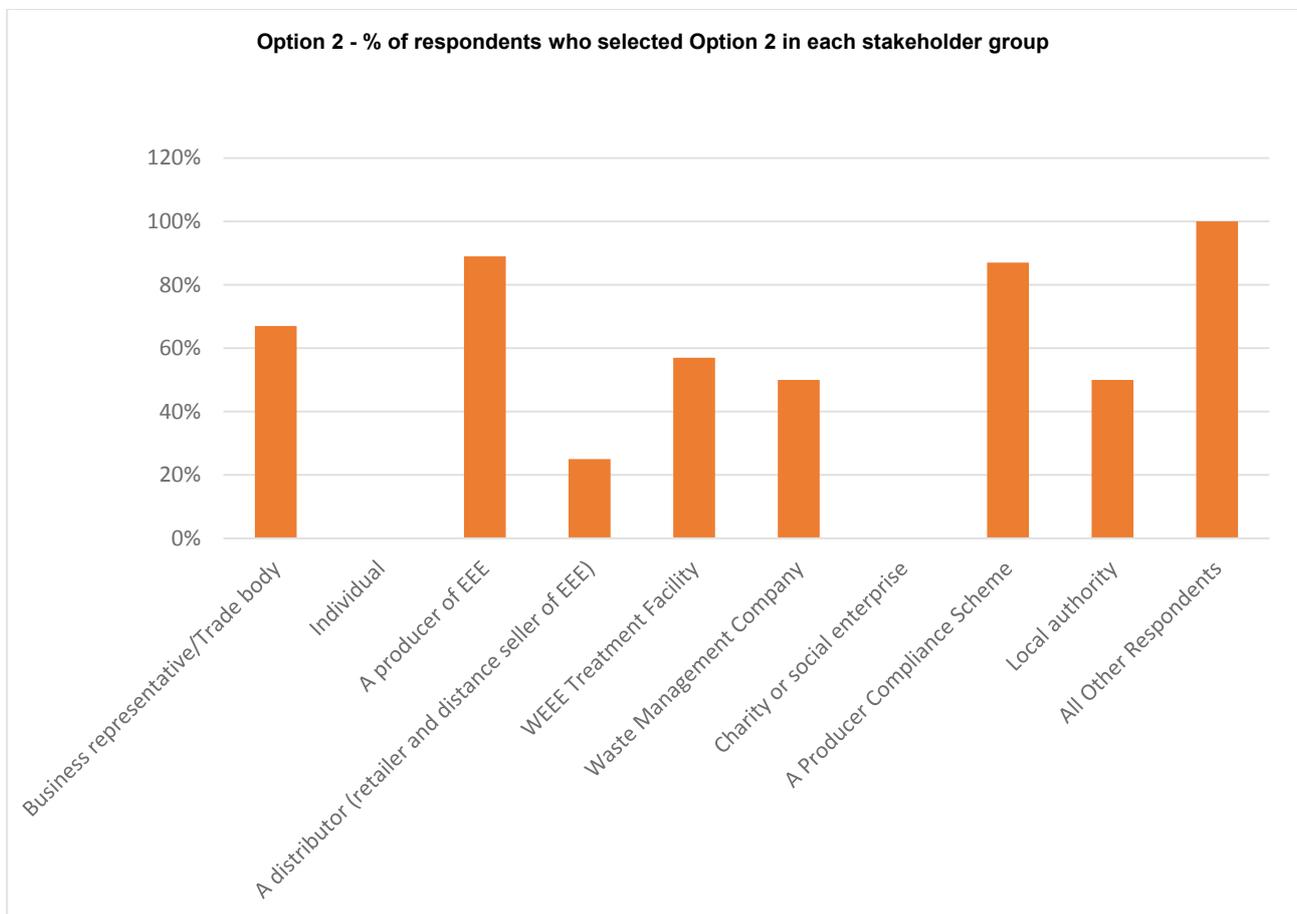


23. Stakeholders who favoured Option 1, “Do nothing”, expressed the general view that it would reduce red tape for businesses and allow harmonised reporting for those producers

running multi-national operations across several EU countries. This view was also supported by some trade bodies who stated that they would welcome a UK WEEE categorisation system which aligns with other EU countries. However, some producers, trade bodies, PCSs, and treatment facilities argued that harmonised reporting across the EU is not a possibility as different countries operate different WEEE regimes.

Option 2 – Retain the current system of 14 categories

24. This is the governments preferred option. The proposal to retain the exiting WEEE categorisation system received considerable support , with 68 respondents (75%) choosing this as their first choice and a combined total of 94% stating it as either their first or second choice of the three options. Some producers, PCS, trade bodies, distributors, and local authorities who objected to this option raised concerns about complexity and inaccuracies in data reporting. The chart below indicates the percentages of respondents that selected Option 2 in each stakeholder group.



25. The majority of producers selected Option 2 as their first choice with most remaining producers supporting Option 1 as their first choice. Many producers stated that Options 1 and 3 would lead to unfair cost allocation as they might be face the burden of financing the treatment of products with higher recycling costs when compared to their own products. Producers also raised concerns around costly change to IT systems, administration and familiarisation costs associated with implementing either Option 1 or 3. Whilst most producers recommended Option 2 as the fairest and most cost effective, there was a

common view that this should be reviewed post EU exit should harmonised reporting become a possibility in future.

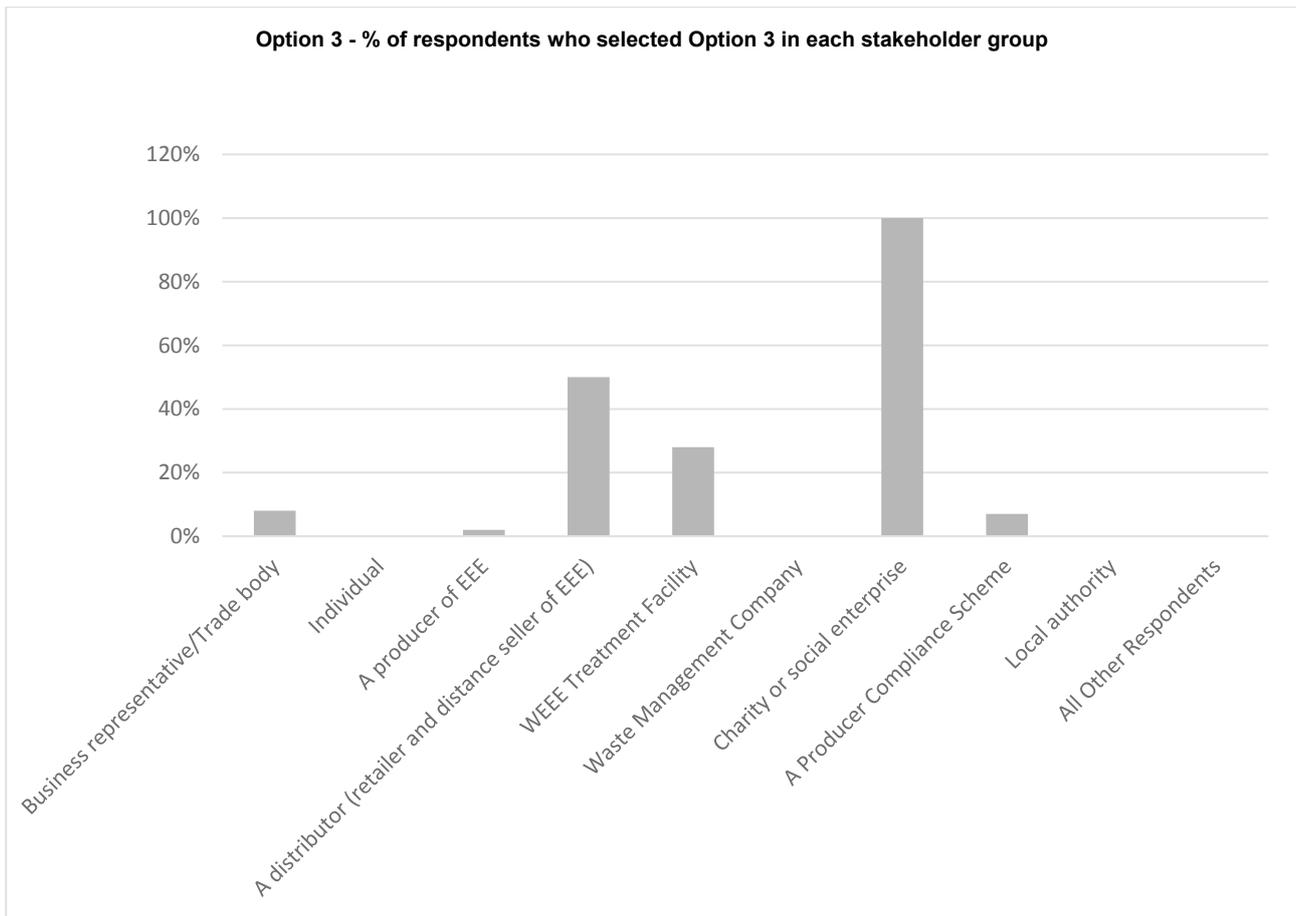
26. PCSs were predominantly in favour of Option 2, similar to producers. Many felt that the RTA failed to accurately estimate IT costs, administration and familiarisation costs associated with other options. 13 (87%) of the 15 PCSs that responded selected Option 2 as their first choice. As well as arguments put forward about maintaining stability in the current system and costs of changing IT reporting systems, PCSs felt that the current WEEE system reflects a fair allocation of recycling costs of different electrical products.

27. Whilst trade bodies were mostly supportive of the Option 2, there was still significant support for Option 1 from this group with some viewing it as a workable solution towards harmonised reporting for their members who operate multi-nationally given the wide range of WEEE systems introduced by EU member states. The majority of trade bodies who supported Option 2 as their first choice felt that it would maintain stability in the WEEE system and provide the most cost effective position for their members. Others argued that harmonised reporting was not likely across all 28 EU member states, and therefore recommended no change to the existing UK 14 category WEEE system.

28. Treatment facilities were mostly in support of Option 2 as their first choice. They shared similar views with most trade bodies, producers and PCSs that Options 1 and 3 would mean additional cost burden and disruption to the current WEEE reporting system. Concerns were also raised around the distribution of recycling costs under options 1 and 3 as differing treatment technologies might apply to waste electricals categorised by dimensions or placed in sub-categories.

Option 3 - Move to 6 categories, but utilising three additional sub-categories.

29. Option 3 attracted minimal support across all stakeholder groups in terms of the numbers of respondent who showed support for this proposal as their first choice. 8 out of 90 respondents (9%) indicated it was their first choice of the three options. The chart below indicates the percentages of respondents that selected Option 3 in each stakeholder group, as their first choice.



30. Only 1 charity organisation responded in support of Option 3. The other substantial support for Option 3 came from 2 distributors of electrical and electronic equipment who represented 50% of total respondents from this group. Comments made by supporters of this option were that the use of subcategories would improve reporting accuracies due to fewer categories compared to the existing system, and also that it would keep the UK WEEE system in line with some other EU countries.

31. The general view from most producers, trade bodies, treatment facilities and PCSs were similar for Option 3. A risk they highlighted under Option 3 was around the possibility of unfair treatment cost distribution. They argued that some producers might see their recycling costs diluted due to products being allocated to a category with lower treatment costs while others would most likely experience increase in recycling costs.

32. The introduction of household luminaires is likely to be the most significant household product that enters scope from January 2019. It is however likely that they are currently collected at local authority recycling centres, in which case, the cost of treatment is already met by producers of electrical and electronic equipment. Therefore, there will be no new recycling costs attributed to producers. Rather, the existing cost will be redistributed to include producers of luminaires with the introduction of Open Scope.

Question 6: Please list any products that you believe would be brought into scope of the Regulations following the move to open scope.

33. We received a list of products which respondents believed would be brought into the scope of the Regulations following the move to Open Scope in 2019. The list has been passed to the environment agencies who are undertaking a review with the view to update the WEEE product scope guidance. The environment agencies will work with industry to assess the list with the aim to determine which products meet the definition of EEE and are likely to fall into scope.

Government response to Open Scope questions

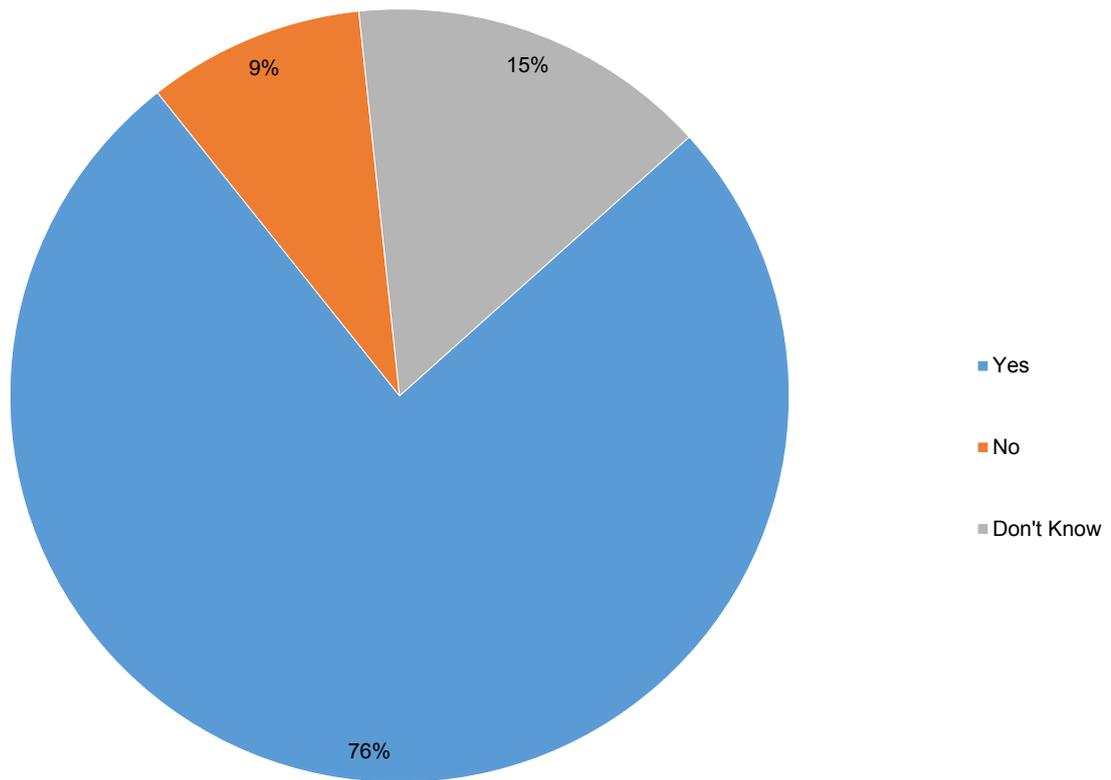
34. We will implement Option 2 and retain the current system of 14 categories with new flexibility to allocate products previously out of scope to one of the 14 categories, and plan to bring amending legislation into force with effect from 1 January 2019. There is high level of support for this option in the responses we received to the consultation across various stakeholder groups.

3.2. Analysis of consultation responses to Regulatory Amendment questions

Question 7: Do you support the government's proposal to amend the Regulations to make membership of the PCS Balancing Scheme (PBS) a mandatory requirement?

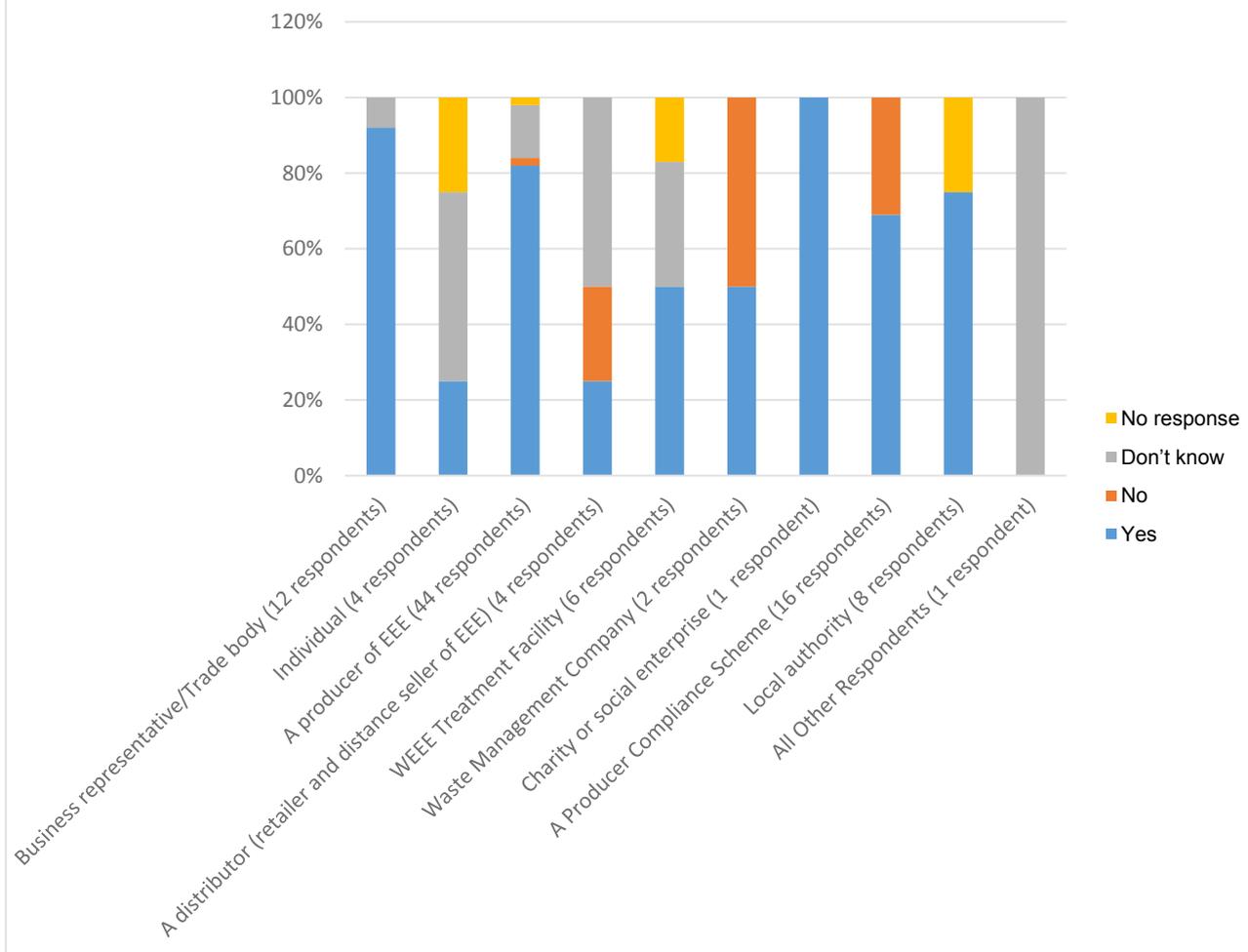
35. We received 92 responses to this question. 70 respondents (76%) were supportive of a regulatory amendment to make membership of the PBS a mandatory requirement. 8 respondents (9%) were not supportive and 14 respondents (15%) were not sure. The majority of substantive comments came from producers, trade bodies, local authorities and PCSs.

Question 7: Do you support the Government's proposal to amend the Regulations to make membership of the PBS a mandatory requirement?



36. There was a high level of agreement across stakeholder groups that making membership of a PBS a mandatory requirement with possible adjustments to its current form would be beneficial to PCS WEEE collections from local authority Designated Collection Facilities (DCF). The general view from a vast majority of respondents was that the PBS has worked well in ensuring that local authorities without collection contracts with PCSs were able to get their WEEE collected under Regulation 34. However, they felt that the mechanism is undermined by those PCSs who have chosen to opt out of the PBS, and that this presents a threat to the sustainability of the PBS. There was also shared view that if made mandatory, the government should take over or appoint an independent body to oversee the activities of the PBS. Some respondents put forward the suggestion that the government should set a minimum of 3 – 4 years PBS contract length backed by indicative advance WEEE collection targets for the same length of time.

Question 7: Do you support the Government's proposal to amend the Regulations to make membership of the PBS a mandatory requirement? Shown by stakeholder group.



37. There was strong support among producers for the proposal to make membership of the PBS a mandatory requirement. However, some producers expressed the view that cost redistribution to PBS members should be reviewed, particularly with respect to the impact on producers and distributors who operate take-back schemes for household WEEE.

38. Responses from distributors indicated that they were mostly unconvinced of the merits of making membership of the PBS mandatory, and were unable to reach a consensus on this proposal.

39. Local authorities and their representative associations were generally supportive of the proposal, in particular that it provides a safety net to support local authority collections. They emphasised the need for safety measures to ensure the collection of WEEE arising at DCFs even if PCSs collection targets were reached or the option of a compliance fee existed. Whilst they expressed support for the proposal, they voiced concerns that its existence might be mitigated if changes are made to the WEEE Regulations in the future. They also pointed out that reliance on the PBS might leave many local authority DCFs out of PCS collection contracts, consequently causing sites which have reached their WEEE storage capacity waiting until a PBS arrangement is implemented. There was a suggestion

that the government should consider an adjustment to the Regulations to create a robust market for WEEE as a way of increasing demand and incentivising PCSs.

40. Views among PCSs were mostly in favour of the proposal to make membership of a PBS mandatory. 69% of PCS that responded supported the principle, stating that it has worked well since its inception and provided a fair and efficient way of safeguarding collections of less attractive local authority WEEE. Among PCSs, there was also shared view that management of the PBS should be transferred to the government or an independent body for transparency and fairness. PCSs serving Business to Business (B2B) producers argued that they should be exempted from being part of the PBS if membership becomes a mandatory requirement. 31% of PCSs who opposed the proposal felt that the PBS in its current form is either ineffectively managed or serves as a temporary fix to local authority WEEE collections. Ideas put forward as alternatives to the proposal, by those who responded in opposition, included:

- the removal of national targets, and mandating all obligated WEEE recycling within the system;
- only mandating PBS membership for those PCSs that have failed to meet their WEEE obligations; and
- the appointment of multiple PBSs.

41. Views among AATFs and waste management companies were also mixed, with 50% of each these respondents supporting the proposal. A key concern was that the proportion of costs distributed to PBS members often exceeded the costs of entering into direct collection agreement with local authorities. There was also a view that larger PCSs benefited from lower cost advantages at the expense of smaller schemes who are subsidising the costs of expensive local authority contracts, and that those who have opted out of the PBS have “Low impact” or “No impact” on the workability of the system.

42. Trade bodies were mostly in support of the proposal to make membership of the PBS a mandatory requirement. They commented on its effectiveness in ensuring surplus WEEE arising at local authority DCFs were collected and treated. Some trade bodies however expressed a concern that micro PCSs might be disadvantaged as their share of redistributed costs in the PBS were sometimes higher than when contracted directly by local authorities for collections. A suggestion was put forward to review the PBS administration and management structure. One trade body highlighted that the existing PBS only provides for WEEE arising through local authority routes and ignores significant amount of WEEE generated through other sources.

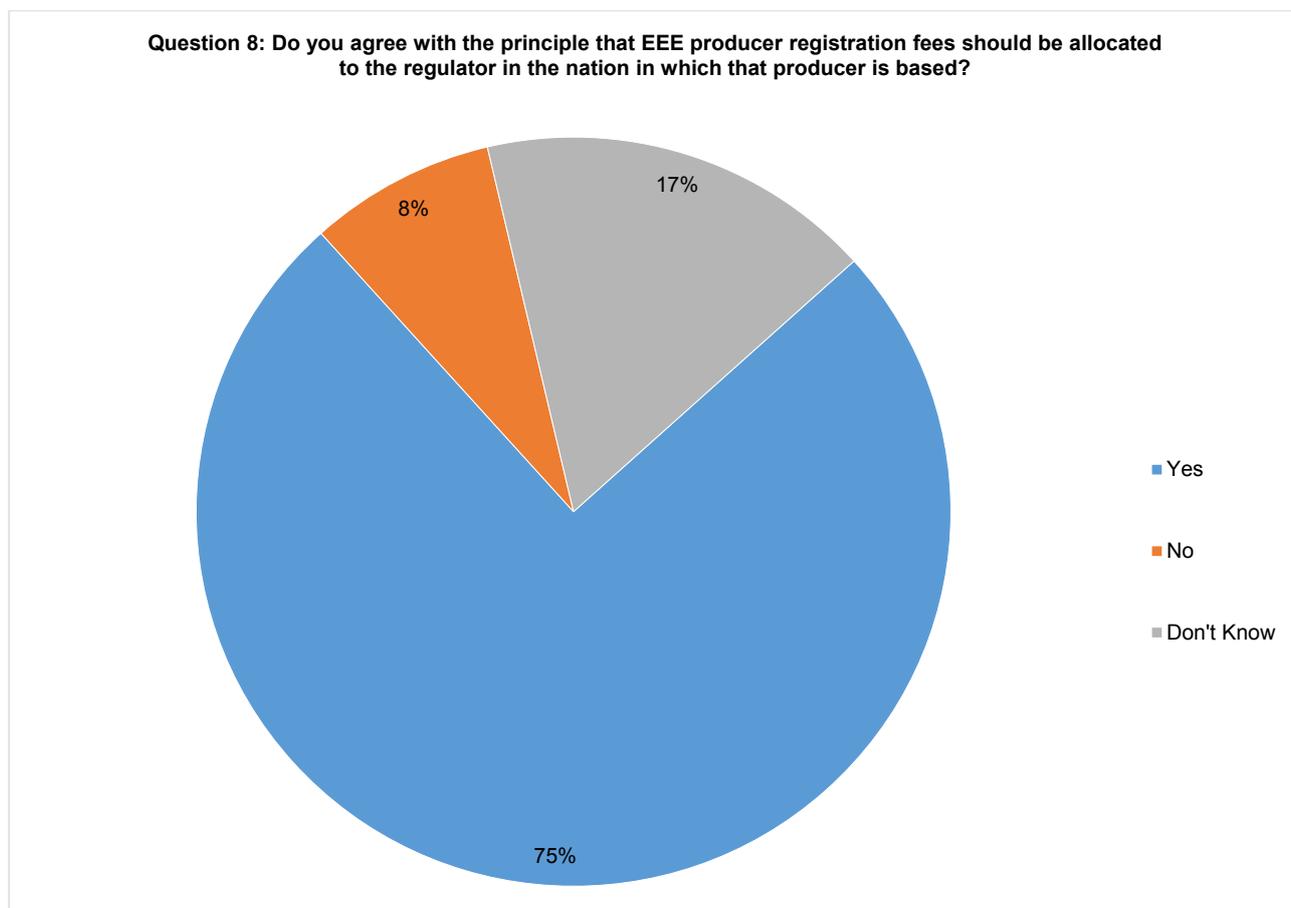
Government response to the PCS Balancing Scheme question

43. We will amend the WEEE Regulations to introduce a mandatory requirement for PCSs to be part of a scheme whereby costs of collecting WEEE when requested by local authorities are shared amongst all PCSs. This is to ensure that Regulation 34 requests are fulfilled and collection services are provided to local authorities in circumstances where

they have no collection contracts with PCSs. Any such scheme would be subject to consultation before its approval.

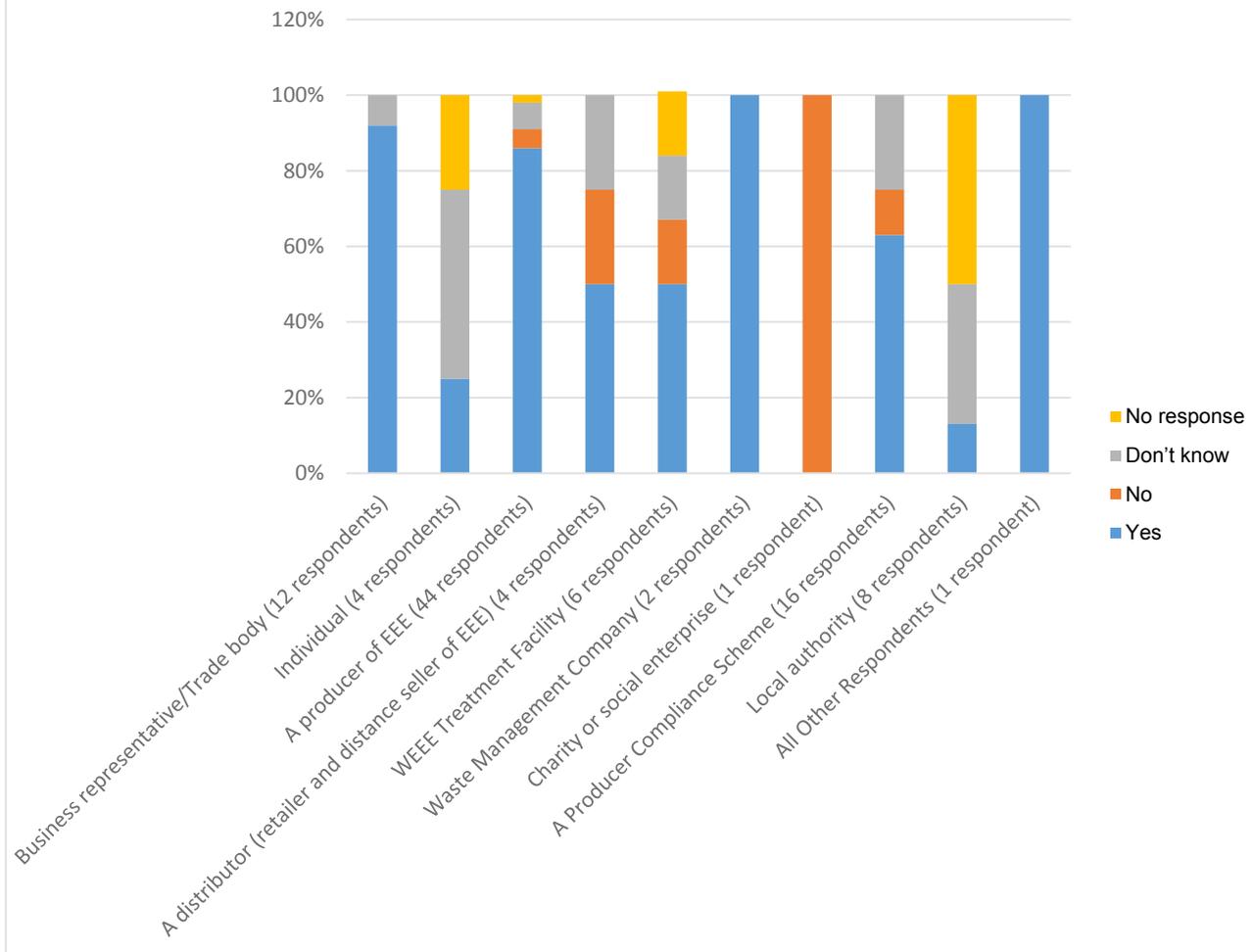
Question 8: Do you agree with the principle that EEE producer registration fees should be allocated to the regulator in the nation in which that producer is based?

44. We received 90 responses to this question. 68 respondents (75%) supported the principle of allocating EEE producer registration fees to the regulator in the nation in which that producer is based, 7 respondents (8%) did not support the proposal and 15 (17%) were not sure.



45. There was widespread support from key stakeholder groups for the proposal that EEE producer registration fees proposal should be allocated to the regulator in the nation in which that producer is based. However, there were mixed views on the level the fees should be set at in each of the UK nations. Many producers and trade bodies that selected "Yes" generally agreed that the proposal will result in a fair distribution of funds among the four UK environment agencies. Suggestions were also put forward that fees should be harmonised across all four UK nations or paid into a central fund and shared equitably.

Question 8: Do you agree with the principle that EEE producer registration fees should be allocated to the regulator in the nation in which that producer is based? Shown by stakeholder group



46. Whilst this proposal was popular among producers, trade bodies, WMCs, and PCSs, their views were that any charging regime adopted should take into account the following:

- the administrative complexity of complying with different charging regimes of the four UK environment agencies;
- the extent to which the level of fees will reflect the enforcement activities undertaken by the relevant agency in the nation in which a particular producer is based; and
- the recognition that some work will be carried out by the regulator in the nation where the relating PCS is registered.

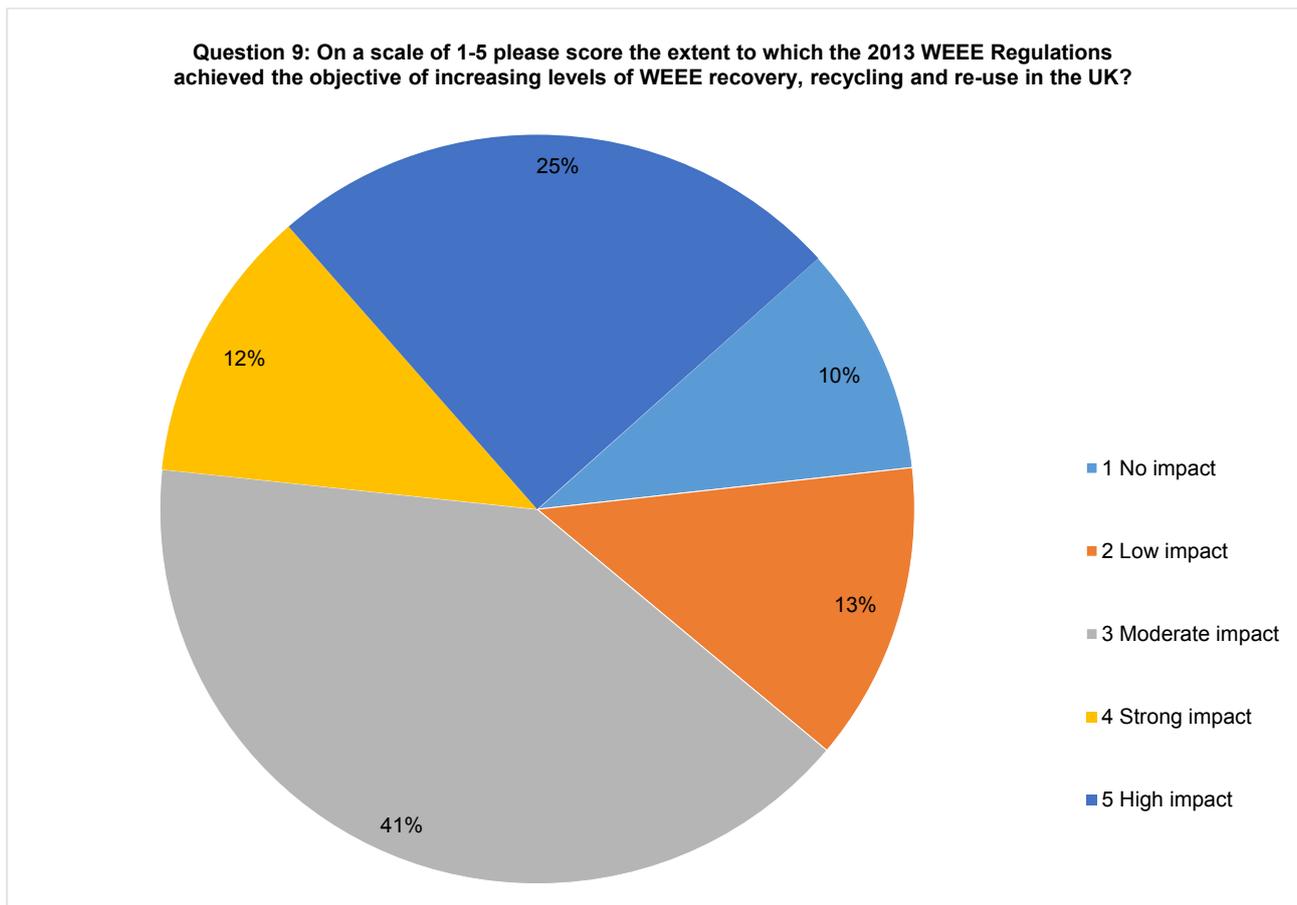
Government response to distribution of fees between regulators

47. We will amend the legislation to ensure that in future PCSs will have to pay the fees for their producer members to the agency in the nation in which those producers are based. This approach will apply regardless of where the PCS itself is based, and is reflective of views from majority of respondents to this consultation question.

3.3. Analysis of general comments and responses to Post Implementation Review questions

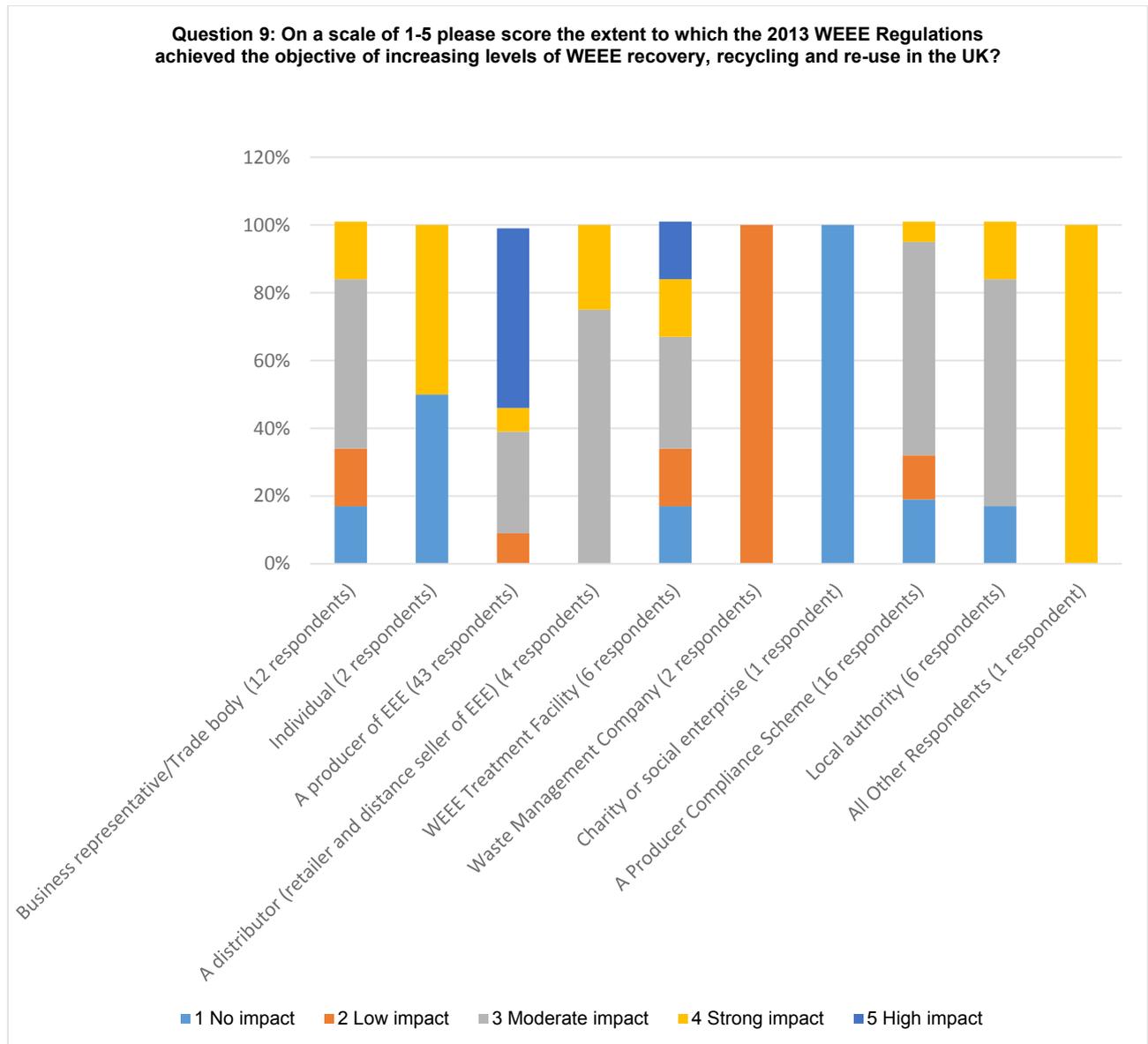
Question 9: On a scale of 1-5 please score the extent to which the 2013 WEEE Regulations achieved the objective of increasing levels of WEEE recovery, recycling and re-use in the UK?

48. We received 93 responses to this question.



49. The views across stakeholder groups for this question were mixed. Producers mostly expressed that the 2013 WEEE Regulations have increased levels of WEEE recovery, re-use and recycling were producers. A total of 60% from this group agreed that the Regulations have had “Strong impact” or “High impact” on WEEE recycling. Many producers in the lighting sector reported seeing a rise in recycling rate following the

implementation of the WEEE Regulations but there was a drop between 2013 and 2014 when LED lamps sales increased. Majority of PCSs, local authorities, treatment facilities, distributors, and trade bodies answered neutrally with most indicating that the Regulations have had “Moderate impact”. Charities and waste management companies felt that the impacts have been low.



50. Some producers expressed that the volume of WEEE recovered, re-used or recycled has risen only as a result of corresponding increment in the volume of EEE placed on the market through the producer network. They felt that a significant amount of WEEE is treated outside of the official producer responsibility system due to its positive net economic value. Whilst the volume of recycled WEEE has increased, some producers felt that there was no evidence that re-use rate has improved. They suggested incentivising more WEEE collections through the Distributor Take-Back Scheme (DTS) or similar routes to increase the amount of WEEE re-used.

51. Views among trade bodies were mixed. Whilst they believed that the WEEE Regulations have increased recycling and recovery rates year on year, they were

unconvinced that the substantiated estimates of WEEE diverted through other channels have been reasonably accounted for in annual WEEE figures published by the Environment Agency.

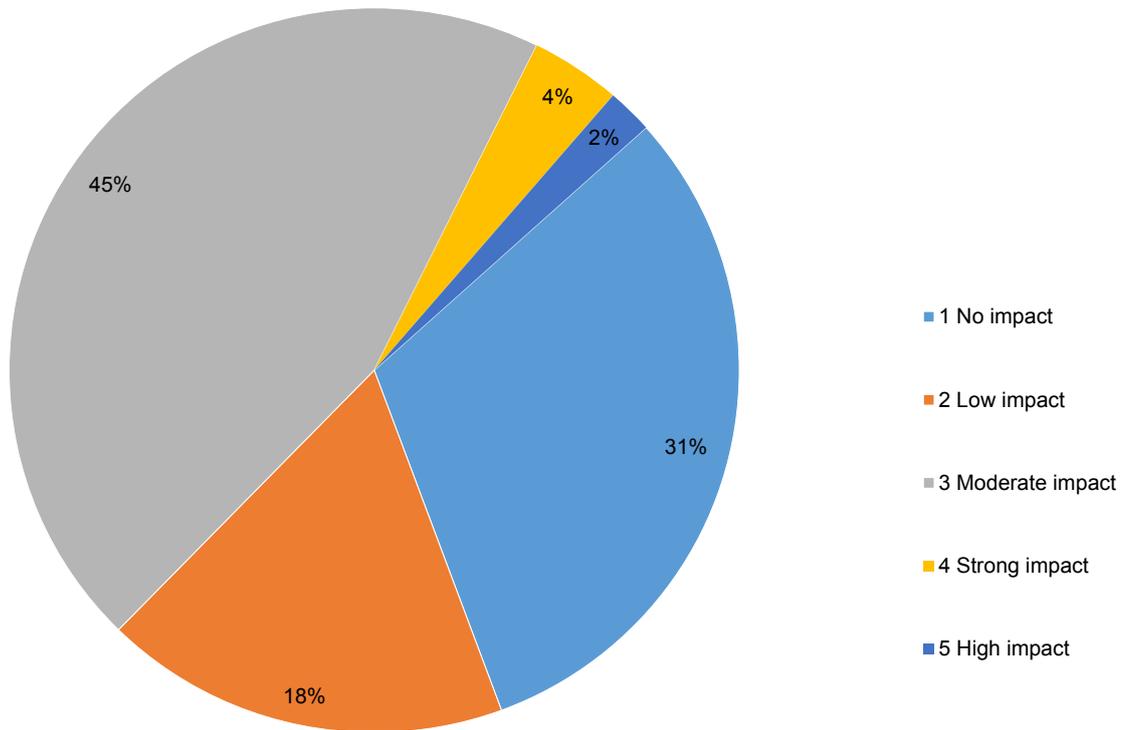
52. Local authorities were mostly undecided about the extent to which the WEEE Regulations have achieved their intended recycling, recovery and re-use objectives. Some who agreed that the tonnage of recycled WEEE has increased since the Regulations came into force also felt that incentives for PCSs to collect surplus WEEE arising at DCFs once collection targets are met have diminished. They felt that the WEEE Regulations have not promoted sustainable relationships between PCSs and DCFs with regards to long-term WEEE collection contracts. One local authority suggested that investment in national awareness projects through national television/radio campaigns will also increase the rate of WEEE re-use and recycling.

53. PCSs and treatment facilities also provided mixed responses. Most agreed that the tonnage of recycled WEEE has increased since the Regulations were introduced but pointed out that disincentives for surplus collections have led to loss of investments, and adversely affected the achievement of the targets. They argued that the 2013 WEEE Regulations have removed the element of competition between PCSs and the possibility of longer-term WEEE collection contracts with local authority DCFs. A major PCS expressed concern around illegal WEEE treatment and exports which are not accounted for within the system but impact on schemes' ability to meet their recycling targets. It was also mentioned that recycling targets have been affected by waste crime involving the extraction of valuable parts from WEEE items and leaving behind materials which are costly to producers to recycle. This particularly impacts on the WEEE put on market tonnage versus tonnage recycled and recycling costs. One PCS suggested the introduction of specific targets for WEEE re-use.

Question 10: To what extent have the 2013 WEEE Regulations acted as a stimulus to investment in WEEE re-use, recycling and reprocessing capacity?

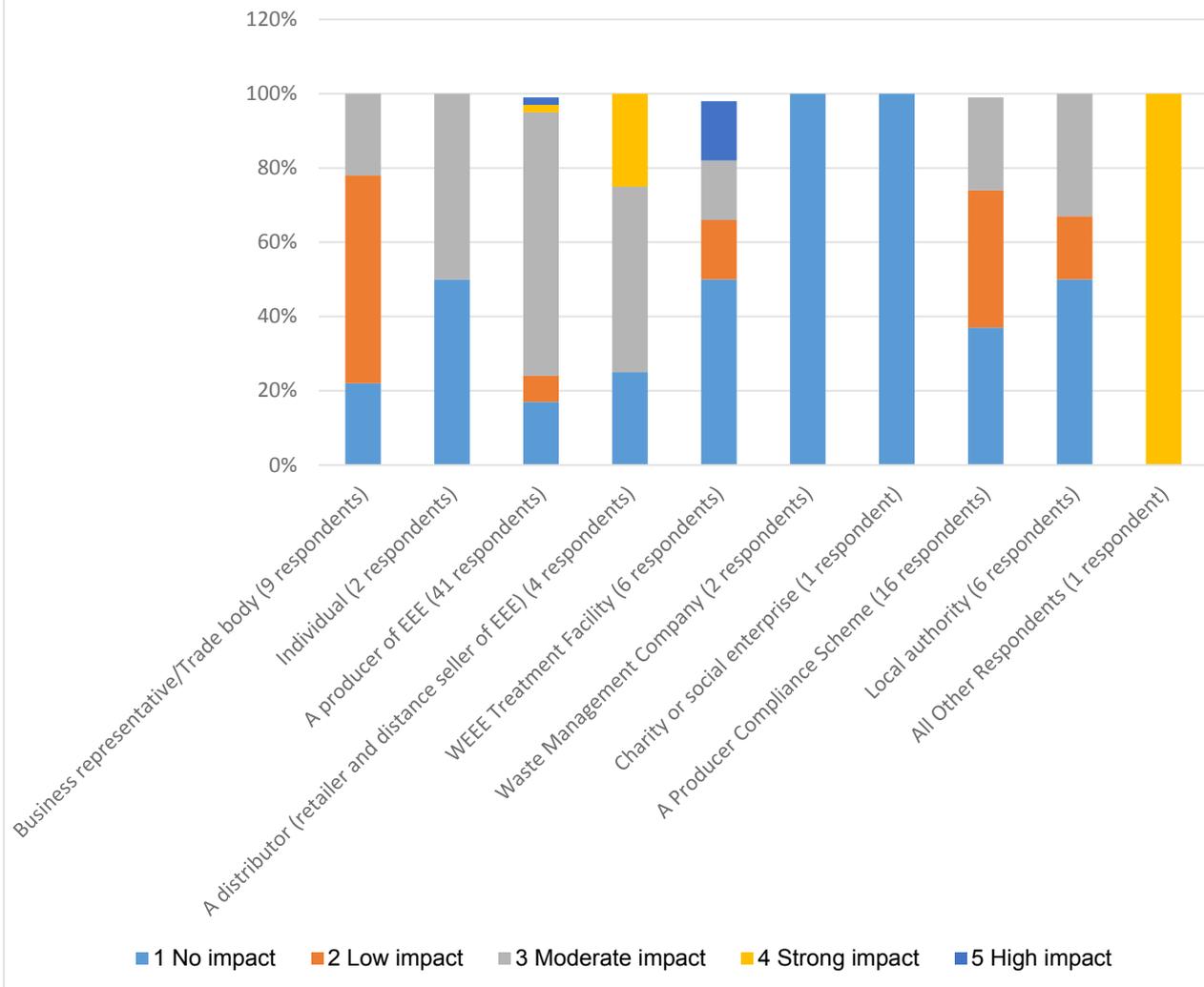
54. We received 88 responses to this question. 5 respondents (6%) agreed that the WEEE Regulations have stimulated investment in WEEE re-use, recycling and reprocessing capacity. 40 (45%) answered "Moderate impact" whilst 43 respondents (49%) felt that there had been "Low impact" or "No impact".

Question 10: To what extent have the 2013 WEEE Regulations acted as a stimulus to investment in WEEE re-use, recycling and reprocessing capacity?



55. Mixed views were expressed by respondents regarding the Regulations' impact on the level of investment in the UK WEEE system. Some, particularly PCSs and treatment facilities, mostly stated that the Regulations were not designed to encourage investment but to implement EU WEEE Directives and control EEE producer compliance costs. A number of producers who constituted the majority of respondents to this question felt that investment had been somewhat stimulated. However, the general view from producers in the lamp sector was that staff numbers and capital investment have increased across the six companies that recycle lamps in the UK.

Question 10: To what extent have the 2013 WEEE Regulations acted as a stimulus to investment in WEEE re-use, recycling and reprocessing capacity? Shown by stakeholder group.



56. All stakeholder groups' comments underlined constraints to investment and in some instances suggested ideas for increasing WEEE re-use, recycling and reprocessing capacity.

57. 50% of treatment facilities felt that the WEEE Regulations have had virtually no impact on investment growth. Some mentioned that the level of investment had in fact diminished since 2013 when the recast WEEE Regulations were introduced. One treatment facility believed that while the PBS has served the interest of local authorities, the knock-on effect had been a lack of security on potential capital investments. Another treatment facility also shared the view that instability, due to short-term contracts from PCSs, had discouraged potential investors.

58. Whilst many producers (71%) believed that there had been a moderate level of investment in the UK WEEE system, there was a shared view among some producers that the creation of an investment bank, to support WEEE recycling projects which are not attractive to traditional lending institutions, coupled with an incentive for producers who commit to longer-term contracts with PCS would precipitate investment. Concerns raised by some producers included:

- lack of smelters that extract minerals from Printed Circuit Board (PCB), where these are sent abroad for treatment and adding to costs of transporting expensive waste;
- shortage of treatment facilities who are able to process cooling waste such as fridges and freezers, as some have ceased operation due to unsustainability. It was however noted that a small number of new fridge plants have become operational since 2014 to ease the shortage caused by lack of capacity in the market; and
- lack of investment in plastic plants capable of separating Flame Retardant Plastics (FRP) or preparing WEEE plastic to high standard which has been highlighted by the recent change in China's plastic export restrictions.

59. 74% of PCSs stated that there had been low or no stimulation by the WEEE Regulations to investment. Comments received from this stakeholder group were similar to those of treatment facilities and some producers. One PCS noted that uncertainties in the industry have been further compounded by uncertainties surrounding the UK Brexit issues, making it difficult to assess the long-term commercial viability of an investment in WEEE recycling capacity. There was also a suggestion that the government should set indicative targets for future compliance periods to mitigate uncertainties.

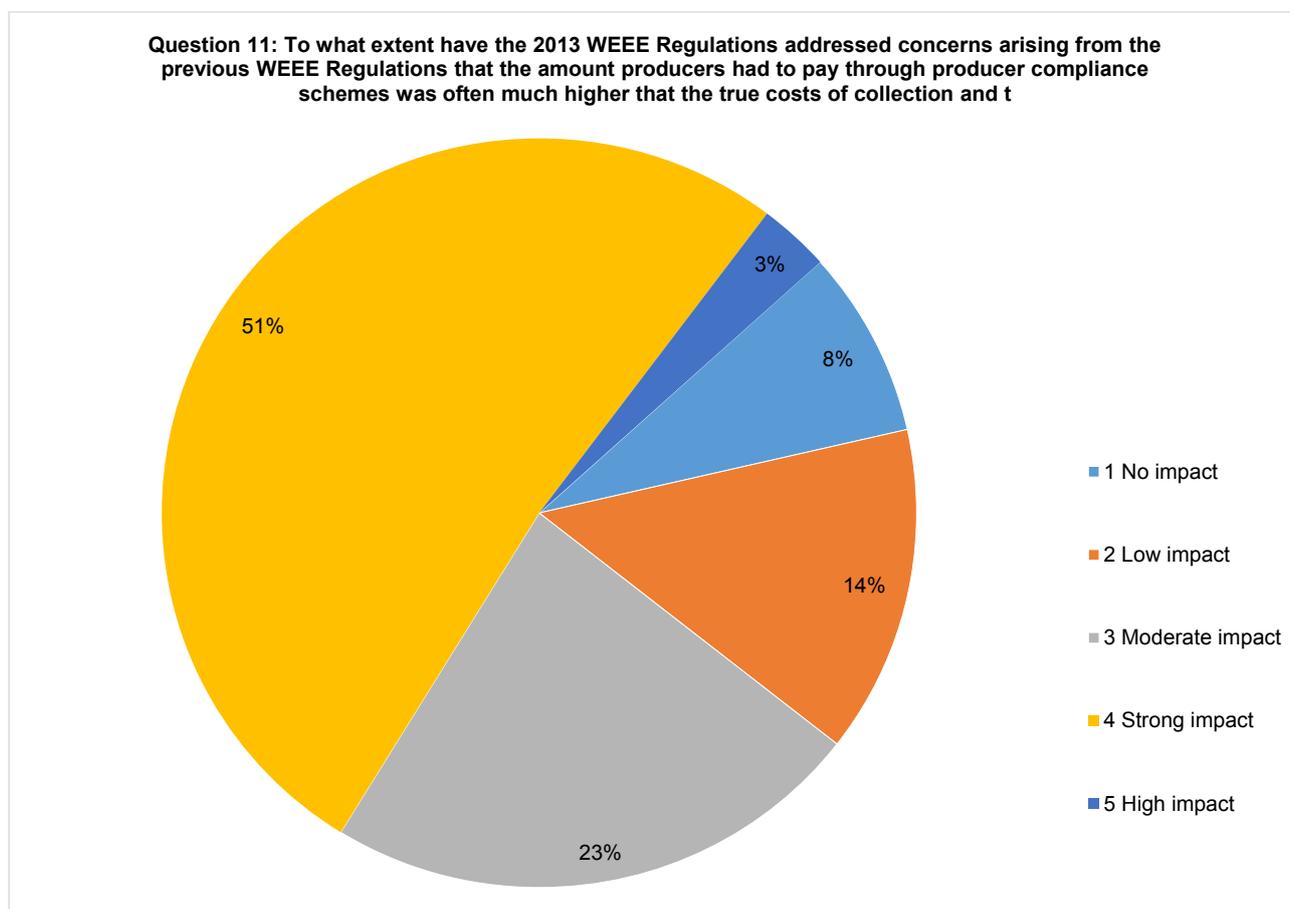
60. 67% of local authorities felt that there had been "Low impact" or "No impact" on investment stimulation. 33% expressed that growth in investment had been "Moderate". A general view from this stakeholder group including their representative associations was that the UK WEEE system operates on a 12 month target-based cycle, thereby creating uncertainties for PCSs and treatment facilities who are unable to make longer-term contract commitments. They noted that these short-term contracts have hindered investments in the UK WEEE recycling and reprocessing capacity since the 2013 WEEE Regulations were introduced. One local authority respondent raised a concern around the closure of a Small Domestic Appliances (SDA) reprocessing plant in Wales leading to resource inefficiency as SDAs are being transported to other parts of the UK for treatment.

61. The views from trade bodies, business representatives, waste management companies charities and individuals who provided comments were reflective of those put forward by producers, PCSs and treatment facilities. However, one trade body noted that there is currently over-capacity in the lighting sector but further investment is required to improve reprocessing efficiency. One major trade body that replied on behalf of its producer, PCS and treatment facility members expressed that investment had been driven by external factors such as the China waste ban and other legislation. It argued that those investment decisions could not be attributed to the 2013 WEEE Regulations as the uncertainties of short-term contracts between PCSs and treatment facilities had discouraged investors and lending institutions. It also noted another factor restricting investment had been treatment facilities' dependence on volatile commodity prices.

62. Some trade bodies also reiterated the point that collection targets should be set for a period longer than the current one year period. Another suggestion was to make funding more easily accessible to treatment facilities through the creation of a bespoke funding source. It was also suggested that an in-depth review of the WEEE Regulations should be undertaken whilst also examining the use of other legislation and policy instruments, for example, the recently announced Resources and Waste Strategy.

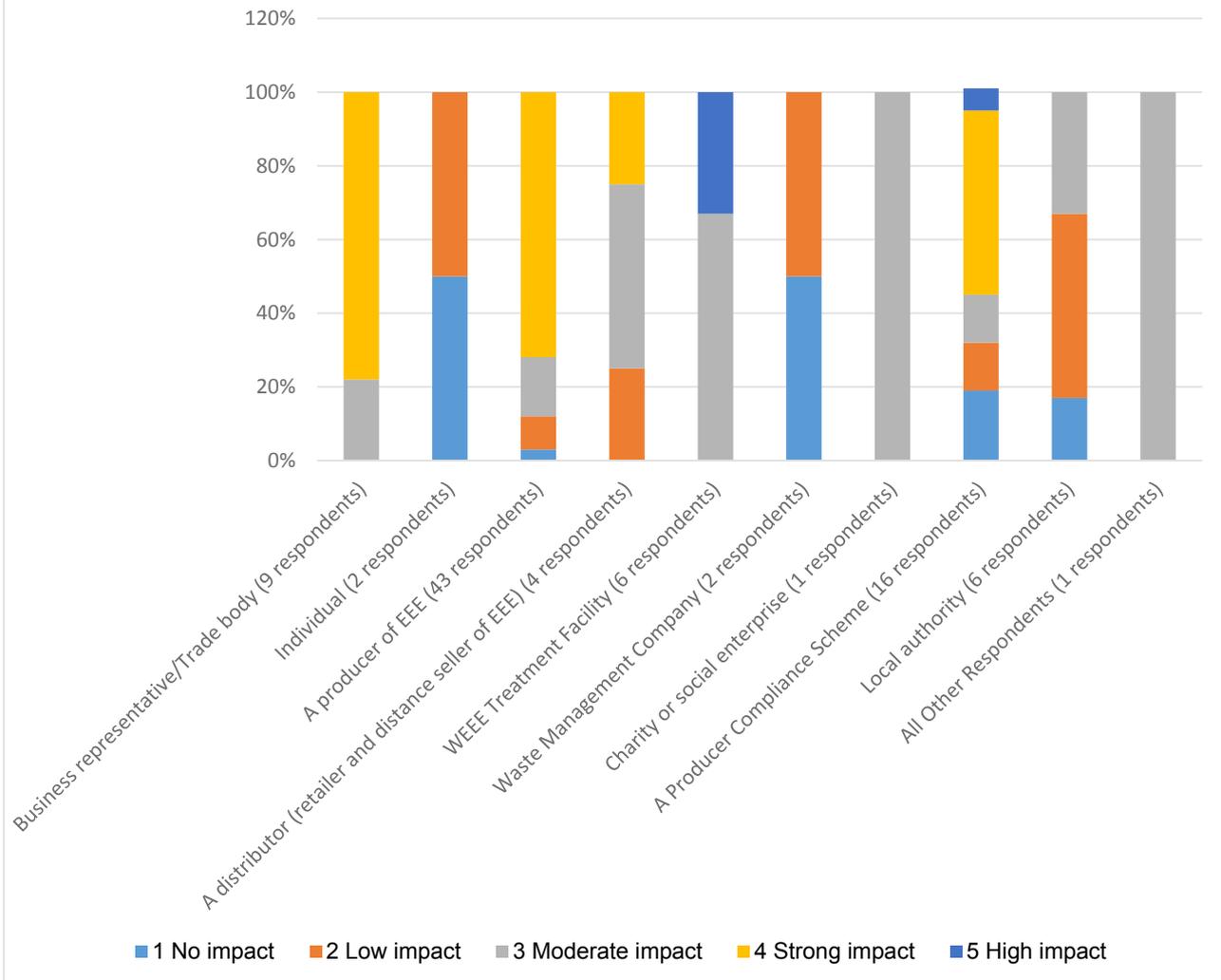
Question 11: To what extent have the 2013 WEEE Regulations addressed concerns arising from the previous WEEE Regulations that the amount producers had to pay through producer compliance schemes was often much higher than the true costs of collection and treatment of WEEE?

63. We received 90 responses to this question. A total of 49 respondents (54%) answered “Strong impact” or “High impact”, 21 respondents (23%) said that the impact had been moderate and 20 respondents (22%) thought there had been either “Low impact” or “No impact”. Overall, comments showed broad agreement that the 2013 WEEE Regulations have significantly tackled disproportionate costs producers had to pay under the previous WEEE Regulations.



64. Most of the respondents to this question were producers, with 71% agreeing that the 2013 WEEE Regulations have addressed the disproportionate compliance cost issues which existed under previous Regulations. 78% of trade bodies and 50% of PCSs expressed similar views to producers. 67% of treatment facilities felt that the Regulations have had “Moderate impact” on producer compliance cost adjustments. 50% of distributors expressed comparable views to treatment facilities. 83% of local authorities selected “Low impact” or “Moderate impact”.

Question 11: To what extent have the 2013 WEEE Regulations addressed concerns arising from the previous WEEE Regulations that the amount producers had to pay through producer compliance schemes was often much higher than the true costs of collection and treatment?



65. Comments made by producers argued that although the introduction of WEEE Compliance Fee and collection targets were instrumental in facilitating costs correction, the government should explore further avenues to create more costs efficiencies in the WEEE system. A substantial majority of producers expressed a view that collection and treatment costs are now fairer than under previous Regulations. Suggestions put forward for further cost re-alignment included taking regulative actions to address “free-riding” by non-compliant distance sellers and preventing illegal WEEE operations which are not captured in the WEEE collection figures, such as theft of fridge compressors and other valuable materials.

66. PCSs were mixed in their views. While some PCSs believed that costs were inflated under the previous WEEE Regulations, they expressed that the view that the new Regulations have swung costs to a point where producers now pay much lower compliance costs and that this has in turn removed the incentives for further investment in WEEE recycling and reprocessing infrastructure.

67. A number of PCSs noted that producer compliance costs are now aligned with the true cost of collection and treatment in many of the EEE categories but some categories did not see positive costs adjustments. For example, Large Household Appliances.

68. Some PCSs were concerned that redistributed costs under the PBS have been higher than the true costs of WEEE collection and treatment, with these higher costs passed to producers. They felt that costs correction objectives of the 2013 Regulations have been nullified by inflated redistributed PBS costs and volatility in commodity prices. A suggestion was also made to review the market implications of vertical supply chains in the system, for example, where a single organisation provides multiple functions in the collection and treatment stages.

69. Some PCSs felt that producer compliance costs have remained unchanged since the current WEEE Regulations were introduced and added that the government should only intervene in the aspect of WEEE innovations and allow the industry to set prices by competing innovatively in the free market.

70. Local authorities were unanimous in their views. The universal view was that although the Regulations are about producer responsibility, producers are not covering the true costs of collections incurred by local authorities for operating DCFs. A number of local authorities suggested that a fixed amount should be paid to each local authority DCF from the DTS funds to make up for the shortfall in WEEE operational costs, rather than continuing with the current approach where local authorities submit bids each year for WEEE projects. There was also the shared view that whilst the Regulations have lowered compliance costs to producers, the deficits are borne by local authorities running the DCF sites. They stressed the importance of DCFs to the UK WEEE system and proposed to engage with the UK government to explore further ideas and options.

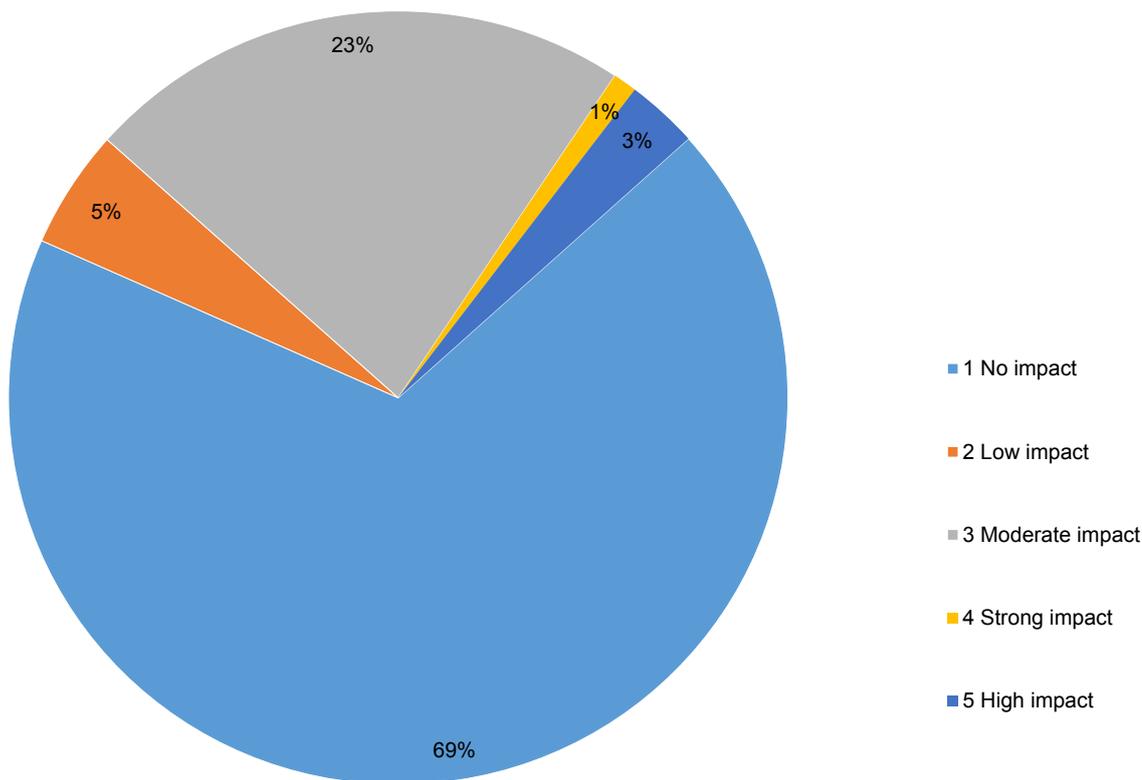
71. Views from trade bodies were similar to those from producers and PCSs. Some trade bodies noted that the introduction of Compliance Fee has had significant impact in capping inflated compliance cost levied on producers under the previous WEEE Regulations. A number of trade bodies recommended that the government should continue to apply the Compliance Fee to limit disproportionate compliance costs to producers arising from over-collection of household WEEE and trading of evidence notes to under-collectors at an uneconomically high premium.

72. Whilst general comments from treatment facilities were similar to those from other stakeholder groups, some felt that producer compliance costs have not changed significantly. They expressed a view that the Regulations have resulted in a number of PCSs abandoning their contracts with treatment facilities and utilising the Compliance Fee as an alternative to meet their WEEE recycling obligations.

Question 12: To what extent has the introduction of “authorised representatives” addressed the challenge of ensuring internet sellers based outside the UK are registered as producers in the UK?

73. We received 83 responses to this question. 61 respondents (73%) selected “Low impact” or “No impact”. 19 respondents (23%) said that impact have been “Moderate. A total of 3 respondents (4%) selected “Strong impact” or “High impact”.

Question 12: To what extent has the introduction of “authorised representatives” addressed the challenge of ensuring internet sellers based outside the UK are registered as producers in the UK?



74. Comments across all stakeholder groups were mostly analogous. A large majority stressed that the total number of appointed Authorised Representatives in the UK since 2013 has been very low, and have therefore not addressed the challenge of ensuring internet sellers based outside the UK are registered as producers in the UK. It was noted that some overseas producers have chosen to register with UK PCSs, mitigating the need to appoint an Authorised Representative.

75. Many respondents, particularly producers, PCSs and trade bodies, said that the low uptake of authorised representatives has had significant impact on producer costs, as they are subsidising the compliance costs of WEEE “free riders”. To substantiate their claim, a number of producers and PCSs made reference to aspects of a report prepared for the Organisation for Economic Cooperation and Development (OECD) on the impact of free-riding through non-compliant online sellers and fulfilment houses. One producer felt that there is currently a lack of comprehensive guidance on the role and benefit of using authorised representatives.

76. A major trade body commented that it had established a subgroup to investigate and feed back measures to address the issue of non-compliant internet sellers and fulfilment houses, and plans to write to the government in due course. Another major trade body proposed to engage with the government and establish a dedicated working group to focus on creating bespoke and simplified registration and reporting process for internet sellers and fulfilment houses.

77. Producers, PCSs, distributors and trade bodies conveyed a common suggestion that the WEEE Regulations should be amended to require online sellers and fulfilment houses to take on the responsibility of “producer” for the product they sell or stock on behalf of internet sellers.

78. Local authorities, treatment facilities, waste management companies, and other stakeholder groups largely felt this was a matter on which they were unqualified to comment. However, those that did comment generally stressed similar points to those made by producers and PCSs.

Question 13: Please tell us if there is anything else you wish to say in relation to Open Scope, the regulatory Post Implementation Review, or other possible regulatory amendments proposed in this consultation?

79. We received 71 responses to this question many of which used this question to reinforce points made elsewhere in their responses.

80. Local authorities across the UK shared similar concern that there is a lack of established and controlled WEEE market, and adequate incentives to collect most of the WEEE arising at DCFs. They suggested changes to the WEEE Regulations that will ensure WEEE has a commercial value. They also shared a concern that the WEEE Regulations have not made adequate provisions for producers to cover the true costs of operating local authority DCFs. Many were concerned that they continually bear the costs of dealing with WEEE that are either deemed to be out of scope such as fridges from caravans, or not the liability of PCSs (e.g. fly-tipped commercial WEEE). They suggested an amendment to the Regulations to attribute all WEEE recycling costs to producers and distributors. There was also a shared concern that the guidance for businesses on how to deal with Business to Business (B2B) WEEE lacks details and clarity, leading to fly-tipping at the expense of local authorities. They suggested that a revised comprehensive but user-friendly guidance should be published that businesses of any size will find easy to follow. There was another suggestion that an adequate network of take-back point for B2B WEEE should be established to prevent travel distance becoming a reason for B2B fly-tipping.

81. Producers and distributors were concerned that reliance on other countries to receive UK WEEE plastics needs to be addressed. There was a call for government intervention for investment in more recycling plants capable of treating hazardous plastics and waste cooling appliances, or a system that will drive up internal demand for UK WEEE plastics. There was a suggestion that the Compliance Fee funds should be used to fund research projects for a more accurate WEEE target setting mechanism involving producers, PCSs, trade associations, treatment facilities, local authorities and key relevant stakeholder groups. A review of the bidding process by local authority for DTS funding was suggested as some local authorities have reported insufficient contributions were received for DCF development and WEEE collection, recycling and re-use projects. Some producers emphasised the impact of free-riding by online sellers, sometime through fulfilment houses, is damaging to legitimate and compliant businesses, and risks undermining the sustainable financing of the WEEE system.

82. A PCS put forward and supported its members' view to amend the WEEE Regulations to include provision of the "Delegated Authority" process that exists in the Packaging and Battery Regulations. They suggested obligating EEE manufacturers (or Producers) that

batteries contained within EEE must be designed to be easily removable. Another PCS reiterated the point that fixed WEEE charges should apply to Producers and PCSs to prevent the compliance tourism that will arise if the four UK environment agencies set differing charges.

83. Some PCSs suggested the removal of the difference between B2C and B2B WEEE and give all EEE a target and obligation to address issues arising from inappropriate applications of producer responsibility principle particularly for dual use EEE.

84. A number of PCS shared views from their members that the 5 tonne De Minimis threshold for small producers have not been reviewed since the 2013 Regulations came into force, and members were concerned that this will result in increasing levels of non-compliance and under-reporting. They felt that compliant producers are likely to be paying more for their WEEE as a consequence of those who under-report. They suggested a review, and possibly reducing the 5 tonne threshold, at least for higher cost streams.

85. Some PCSs expressed a concern that there is limited guidance on cost responsibilities to producers for the extra costs of dealing with the disposal of WEEE plastics containing brominated flame retardants such as Deca-BDE when they arise at DCFs and treatment facilities.

86. There was also a PCS suggestion to increase the five day limit which is imposed under the guidance in relation to Regulation 34 of the 2013 WEEE Regulations (i.e. five days between the request being made and the collection taking place). It noted that the five day deadline is insufficient time to complete proper due diligence and site-safety checks and should be extended.

87. A number of PCSs noted that the civil sanctions regime currently operating in England and Wales for packaging have been successful in allowing companies a route to register to ensure they have fulfilled their producer responsibility for previous years. They suggested that a similar civil sanctions be extended to the WEEE and batteries regimes.

88. One PCSs commented that the Regulations do not currently allow evidence to be raised when WEEE is exported outside the UK for treatment. It explained that this may become important in future should UK treatment capacity be insufficient or costs too high, and suggested a review of the process for issuing evidence notes.

89. A PCS noted the relation between the WEEE regulations and the Circular Economy, suggesting the introduction of a mandatory re-use channel for WEEE rather than the recycling route to better manage items which are not waste. There was also an idea put forward to drive up WEEE demand by amending the Regulations to include measures such as minimum required recycled content in relevant goods and packaging.

90. Additional comments received from trade bodies and waste management companies were very similar to those of producers, local authorities and PCSs. However, there was a trade body view that grey areas still exist for industrial components manufacturers and that the RTA did not assess the resource, time and financial impacts for large multi-national companies.

91. One major trade body with memberships across multiple stakeholder groups noted that the consultation raised several important issues which need to be reviewed in greater

detail and therefore suggested an in-depth review of the 2013 WEEE Regulations and associated legislation which impacts on the WEEE system.

92. Charities and re-use organisations generally felt that emphasis on re-use in the Regulations should be given more attention. They suggested a wider promotion of legitimate re-use channels among local authorities and consumers.

93. Some treatment facilities felt that they would be hardest hit by any changes to collection and reporting systems. There was a suggestion to classify all WEEE as hazardous as done in some EU countries to ensure all WEEE is collected and treated.

Government response to general comments on Open Scope, the regulatory Post Implementation Review, or other possible regulatory amendments proposed in this consultation

94. The response to this part of the consultation will be fully evaluated in the Post Implementation Review that we will publish by the end of 2018. The response will also inform the wider review of producer responsibility that is being undertaken as part of our Resources and Waste Strategy. However, in advance to that we recognise the specific issues with internet sellers and will organise a roundtable with key stakeholders to explore this issue.

4. Comments on Regulatory Triage Assessment (RTA)

96. The introduction of household luminaires is likely to be the most significant household product that enters scope from January 2019. It is however likely that they are currently already collected at local authority recycling centres as small mixed WEEE, in which case, the cost of treatment will already be met by producers of electrical and electronic equipment. Therefore, there will be no new recycling costs attributed to producers. Rather, the existing cost will be more fairly redistributed to include producers of luminaires with the introduction of Open Scope. Analysis by the Environment Agency on other items list by respondents that may enter scope was undertaken. Besides luminaires the other suggested items were deemed to not have an impact. Either they were exempt prior to the recast and shall continue to be exempt or did not conform to the definition of EEE and as there is no change to this definition in the recast continue to not be counted as EEE.

5. Annex A: Final Regulatory Triage Assessment

97. The final Regulatory Triage Assessment is published along with this document as annex A.

6. Annex B: List of organisations that responded to the WEEE consultation

360 Environmental Ltd
Alpha-Cure Limited
Amitex LED Lighting Co. Ltd
AO Retail Ltd
Arch21
B2B Compliance
Baro Lighting UK Ltd
BCS Luminaires Ltd
BEAMA Ltd
Belmont Trading UK Ltd
Biffa
Blackpool Council
Boots
BOSE UK Ltd
British Heart Foundation
BSH Home Appliances Limited
Caerphilly County Borough Council
CIWM (Chartered Institution of Wastes Management)
Comply Direct
Crystals Limited
Danfast Ltd
Dell Corporation Ltd.
Dencon Accessories Ltd
Devon County Council
Dextra Group
Diamond LED Lighting Ltd
Dixons Carphone Plc
Ecosurety Ltd
EGLO UK Ltd
Environmental Services Association
ERP UK Ltd
Eschmann Holdings Ltd
European Metal Recycling Ltd
Fujifilm UK Ltd
Furzefield
GAMBICA
GDC Group
GE Lighting Limited
Genuine Solutions
Halfords Ltd
ICER
International lamps
Joint Trade Association (JTA)
JVC Kenwood
Kill Germ
Local Authority Recycling Advisory Committee (LARAC)
LED Eco Lights Ltd
Led hut
LEDVANCE LTD
Limitless Digital Group
Lutron EA Ltd
Mercury Recycling Limited
MG Lites Energy Saving Solutions Limited
Monarch Education Furniture Ltd
National Association of Waste Disposal Officers (NAWDO)
Northern Ireland Local Government Association (NILGA)
Noble Systems UK Ltd
Northern Compliance Limited
Panasonic UK
Pelsis Ltd
Pestwest Electronics limited
Philips Lighting UK LTD
Policy Connect
Poole Lighting Limited
Procure Direct
Recolight
REPIC Ltd
REPSCOT Ltd
Resource Efficiency Wales
RJW Ltd
Samsung Electronics UK Ltd
Sellafield Ltd
Sharp Electronics GmbH
Sky
Sony Europe
SWEEEP Kuusakoski
take-e-way GmbH

Takex Europe Limited
TechUK
The British Toy and Hobby Association
The Lamp Company Ltd
The Lighting Industry Association /
Lumicom
The Magstim Company Lol
The Wastepack Group Limited
Toshiba Medical Systems Ltd
UK Cartridge Remanufacturers
Association
Valpak Limited

Veolia ES WEEE Compliance Scheme
(UK) Ltd
VOLTACON UK LIMITED
WasteCare Group Ltd
WEEE Scheme Forum
WEEE3R
WeeeCare Plc
WEEECOMPLY Ltd
WERCS Producer Compliance scheme
Ltd
Whirlpool UK Appliances Ltd
Xerox UK
Xtronix Ltd