

Background Information – support of the survey to determine a Textiles Product Stewardship Scheme legal entity

Product Stewardship

Product stewardship describes 'cradle-to-cradle' methodology that helps reduce the environmental impact of manufactured products and is based on the concept that stakeholders throughout a value chain retain a level of responsibility for the social and environmental impacts of the materials produced and consumed (shared responsibility). All individuals throughout all stages of the products' life cycle, have differing but shared responsibilities for minimising that product's impact. The term 'extended producer responsibility' (EPR) is an environmental management strategy whereby a producer's responsibility for a product is extended to include the management of products in the post-consumer stage of a product's life cycle. In effect producers are allocated primary responsibility.

In 2016, The Formary established the Textile Reuse Programme, an industry leadership group, representative of all sectors of the industry, from manufacturers, designer fashion, commercial linens, charity resellers and waste management organisations etc. Providing the scale required in our small market to effect the systems change needed in reducing the environmental, economic and social impacts of textile products in Aotearoa-New Zealand. Over the last two years, The Textile Reuse Programme supported by the Steering Committee and a Product Stewardship Advisory Committee, has led the Industry engagement to define the key components of a Voluntary Textile Product Stewardship Scheme. This project has been funded by MfE and is now coming to a close (end of Stage 2).

The final stage of the Textiles Product Stewardship Project for MfE is to provide a report on the "Recommendation of appropriate vehicle for Textiles Product Stewardship to set up and administer an accredited voluntary Product Stewardship Scheme for textiles in New Zealand". The purpose of this survey is to gather Industry opinion to inform recommendations to government.

Value chain and key activities

Achieving textile circularity requires action along the entire value chain to reduce waste, pollution and emissions. Decisions made in design and production have a ripple effect that contributes to how the purchaser acquires, uses, and disposes of their textiles, how the textiles may later be reused, and whether materials can be reclaimed and recycled to enter secondary markets. Research and development currently undertaken to establish scalable onshore solutions as alternatives to textile waste going to landfill requires ongoing development funding. New waste to value supply chains are required with appropriate expertise and infrastructure.

The key functions of the ecosystem / value chain have been split into questions across the four areas in the table below:

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|--------------------------------|---|
| Design and production | <ul style="list-style-type: none">● Design● Finished goods manufacturing● Pre-production excess handlers● Raw material supply (fibre, fabric, trims and notions)● Other |
| Distribution, use and disposal | <ul style="list-style-type: none">● Brand stores and general retailers of apparel or textile products● Importers |

| | |
|-------------------------------|---|
| | <ul style="list-style-type: none"> ● Laundries and drycleaners ● Local authorities ● Purchasers (consumers and organisations) ● Waste management companies ● Wholesalers |
| End-of-life and recirculation | <ul style="list-style-type: none"> ● Collectors, sorters and aggregators (material recovery) ● Logistics, haulage and storage ● Recirculators (repair, remakers, reuse) ● Recyclers, reprocessors and remanufacturers ● Resellers (charities and for-profits) ● Other |
| Value chain supporters | <ul style="list-style-type: none"> ● Academic organisations ● Campaigning groups ● Charities ● Educators ● Iwi ● Policy creators ● Researchers ● Sustainability and circular economy consultants ● Trade associations ● Other |

Funding model for Product Stewardship

Product Stewardship (PS) and Extended Producer Responsibility (EPR) are critical policy interventions that can support circularity by incentivising the coordinated, systemic change required. It involves creating schemes that help shift the costs of managing waste from ratepayers and taxpayers back to those who benefit from the product. This ensures the costs of waste get considered when design, production, distribution and use decisions are made. In this way, product stewardship schemes can contribute to both a reduction in waste and to better recovery of materials from the waste stream. Those who benefit from the product fund the scheme and activities that may have otherwise been funded by society in general through rates or taxes are funded by the scheme.

A scan of global stewardship contributions show a range of mechanisms and rates eg. France 0.0015 - 0.062 Euros per piece (NZD\$0.024 - \$0.10) depending on the type of product, with a flat rate per annum or rate per item basis. Sweden has calculated that the introduction of EPR will lead to a T-shirt becoming SEK 0.23 (NZD \$0.04) more expensive for consumers.

Product Stewardship Organisation (PSO)

The purpose of the Textile Product Stewardship Scheme is to provide a means to manage and reduce the long term environmental, economic and social impacts of end-of-life textiles, whilst minimising the cost to key stakeholders. The opportunity for increased regional resilience, industrial & commercial autonomy, economic and social opportunity and a revitalised industry could be catalysed through the implementation of a textile product stewardship scheme.

A PSO is the entity designated by representative stakeholders across the value chain to act on their behalf to administer the product stewardship scheme. PSOs are increasingly playing an important role in harmonising industry sustainability and circularity goals, providing a mechanism which manages the material flows, and

assisting industry in measuring and reporting on progress. A well designed scheme governed by a PSO can allow industry more autonomy to meet the obligations without having to take on the obligations individually. It allows for a whole-of-system approach that links up and integrates the individual participants tackling different parts of the supply chain to ensure efficiencies and scalable solutions.

A PSO can also take on the responsibility of the design of the scheme, and then move into more of a governance and management role once the scheme is operational. Once a scheme is operational, it is important that those with Officer positions are at arms reach from those who are key participants in the scheme. They may not benefit from the funds collected for participation in the programme, nor could they make use of the aggregated data for their own commercial or professional gains.

The following are the sorts of activities that may sit within the responsibility of a PSO:

- Ensure active and engaged representative stakeholders,
- Work with government on policy and regulation aspects
- Set and periodically review strategic plans and targets for the Product Stewardship Programme, ideally supported by a cost benefit analysis
- Brand building and marketing of the Textiles Product Stewardship Scheme
- Provide oversight of the programme on behalf of participants across the value chain
- Audit participants in terms of activity, impact measurement and progress towards the targets
- Receive aggregated product data and financial reports;
- Undertake analysis and reporting functions based on that data
- Manage the use of funds against the purpose, mission and vision of the programme
- Award and monitor commercial contracts and administer payments to participants registered with the programme performing activities that receive financial support from the fund.
- Work with advisory groups which may be set up from time to time for the betterment of the programme
- Detailed design of the Scheme including clear vision of what the environmental targets are and a coordinated means of obtaining these
- Establish and maintain a directory of the eco-system and who is in each part of it.
- Advocacy – Industry/Govt Relationships
- Influence NZ regulation
- Education and Awareness Building across citizens and in organisations
- Certification

A key concern is often the privacy of sensitive information. A "Black Box" structure can be set up to receive in product declaration information from brand owners to enable accounting of fees / charges for participation in the programme. It is kept separate from the PSO; it can be involved with the internal structures and workings of the PSO, but the reverse cannot occur, the PSO cannot be involved with the internal structures and workings of the "Black Box" function. It reports only aggregated product data and financial information that does not identify the specific brand owner or product supplier. It is typically an accounting function and works under a contract arrangement.

Legal Structure of a Product Stewardship Organisation

The Waste Minimisation Act (WMA) does not specify a particular governance or legal structure for a product stewardship scheme whether voluntary or regulated. However, as part of the accreditation process, the responsible Minister will look at the programme to ensure that the governance, and if necessary, legal structure adopted is suitable for the *scheme's design and objectives*.

The legal entity-specific features include that the:

- scheme will be managed by a legally registered not for profit body (this includes an incorporated society (charitable or non-charitable), a charitable trust and a charitable company);
- board will be appointed through an open and transparent process;
- board needs to represent the interests of producers and consumers as informed by stakeholder advisory groups.

The PSO is the legal entity that owns and governs the stewardship programme on behalf of the value chain. The most appropriate legal options for a PSO for textiles in New Zealand are:

- Incorporated Society (not-for-profit by design; may or may not need charitable status)
- Charitable Trust
- Company with charitable status

1. Incorporated Society

An Incorporated Society is generally more structured. It can be incorporated under the Societies Act 2022 for certain protections for members and will have a set of rules or constitution under which the PSO operates. It:

- has a board of at least five members;
- has a membership of a minimum of 10 individuals or five corporate bodies such as other societies, charitable trusts or companies (each corporate body counts as three individuals), or a mix of both;
- can make profits and employ/contract providers but may not distribute profits to members; and
- has its income taxed although it may be eligible for a range of tax exemptions.

An incorporated society is a membership-based organisation that has registered under the Incorporated Societies Act 2022. To be able to register, the group must exist for some lawful purpose other than making a profit. By registering under the Act, the society becomes an incorporated body with a legal identity of its own, separate from the identity of its members. This means the society continues to exist as a legal entity (called “perpetual succession”) even though its membership may change. It also means the society’s members are not personally responsible for debts and other obligations that the society takes on.

The society’s activities are limited by the Incorporated Societies Act and the rules the society adopts for itself. Usually an incorporated society’s management committee and officers deal with the administration, management and control of the society.

If membership of an organisation is a necessary feature for stakeholders then an Incorporated society makes sense.

2. Charitable Trust

The alternative to an incorporated society as an industry body is a charitable trust. Charitable trusts are flexible vehicles and a membership programme could be incorporated into it in the future, or the initial document could provide for a membership programme which could be dormant until ignited in the future. Royal New Zealand Ballet, the Arts Foundation are charitable trusts with paid subscription memberships and rights attached to membership. Trusts can have AGMs and reporting obligations to members in a very similar way to an incorporated society.

- will have a trust deed under which the PSO operates;
- has at least two trustees must have charitable aims i.e. not be for private profit;
- must be registered with Charities Services to obtain or keep charitable tax-exempt status.

A trust is not an incorporated body and therefore does not have a separate legal identity. If the trustees are natural persons then they may incorporate themselves as a Charitable Trust Board to provide a means of protection to the individual trustees.

3. Charitable Company

A charitable company is an ordinary limited liability company that has been registered as a charity on the Department of Internal Affairs Charities Register, and is eligible to receive a tax exemption. In order to be registered as a charitable company on the Charities Register, the company must have exclusively charitable purposes. These charitable purposes must be set out in the company's constitution.

Charitable companies may be suitable for groups that:

- want the liability of shareholders to be limited.
- want more flexibility in decision-making (as decisions do not need to be made by all members as with an incorporated society).
- have some trading purpose.

Registering as a charity requires application to the Department of Internal Affairs Charities Services. The process is set out at the Charities' website [here](#).

Detailed Scheme Design

One of the first key projects that needs to be undertaken under the guidance of the PSO is the detailed scheme design. The following list illustrates the sort of elements that need to be considered and may influence your views on what is the best entity to manage this work.

Scheme Design elements:

- Clear, manageable and measurable targets - for example, targets for reduced consumption, increased collection rates, increased reuse, landfill diversion; reduced embodied carbon and water utilisation etc.
- Social aspects such as engagement with labour rights, modern slavery and ethical production, consumption and disposal can be supported through focused scheme design. How do we best support local social economies in the recirculation of clothing?
- Schemes should respect the waste hierarchy and prioritised reuse and resale ahead of recycling or downcycling ahead of reuse. Having said that, given the volume of unwanted textiles, reuse and resale will only go so far and at some point these products reach their end of usable life. Recognising the costs and timeframes required in the research and development of recycling solutions and the capital required for the necessary infrastructure is essential to meeting zero-waste targets.
- New business models focused on circularity that go beyond reliance on a volunteer workforce and support local social enterprise - particularly in resale, re-use, repair, rental, recycling, re-processing, etc. Models that work at a local level and are replicable nationally to ensure cohesion and scale.
- Scheme design needs to consider appropriate investment for the R-strategies (Repair, Remakers, Reuse, Recyclers, Reprocessors and Remanufacturers) especially the initial investment in infrastructure. Logistics, haulage and storage
- The "professionalisation" of 'sorting' is important to the development of the reuse sector. This includes both the expertise on fashion, trends and materials, and the infrastructure for automation where possible.
- The service and product offering of the scheme can be diverse and target many different segments, from school children to technical innovators.
- Technologies to support circularity are a growing area of business innovation globally, ranging from traceability and transparency tools, consumer-facing apps, as well as textile recycling technologies.
- Components of the Scheme can be implemented over time and a roadmap is important to the development and broadening of the scheme's scope and activities.

Where to from here?

There is still significant work ahead. For example:

- Define the details of the Product Stewardship scheme with clear expectations for participation, defined targets, incentives to improve circularity and avoid free-riders.
- Define the approach to funding the scheme through levies or membership fees; (Tyrewise refers to an ADF – Advanced disposal fee) and undertake a cost benefit analysis.
- Establish guidelines for the distribution of funding to contribute to the costs of the components required for circularity.

This work requires a dedicated focused set of expertise with appropriate funding. With the challenges experienced across Industry over the last couple of years, there is not enough resource to achieve this through working groups and part-time leadership.