

## **The Litter Strategy for England & related issues**

Joint report of the Acting Chief Officer for Highways, Infrastructure Development and Waste and Teignbridge District Council Waste & Cleansing Manager

***Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect***

**Recommendation: It is recommended that;**

- (a) the Litter Strategy for England is noted and supported;**
- (b) further work is undertaken working across the region with partner bodies to develop behavioural change and education initiatives to help to reduce litter and fly tipping;**
- (c) further investigation is undertaken on the impact of a potential plastic bottle deposit scheme.**

### **1. Summary**

This report gives:

- A summary of the Government's Litter Strategy for England
- Discussion with regard to regional working to develop behavioural change and education initiatives to help reduce litter and fly tipping and the potential impact of the introduction of a plastic bottle deposit scheme.

### **2. Background**

At its meeting on 28<sup>th</sup> February 2017, it was minuted that 'the Committee noted that the Devon Local Government Steering Group had at its meeting on 4th November 2016, considered a briefing note from Teignbridge District Council on Litter, Street Cleansing and Enforcement in Teignbridge. In discussion, Members raised and asked questions on the potential for prevention / education and co-ordinated activities including pooled budgets and / or grant funding, stronger messages regarding prosecutions and the role of the Devon Authorities Strategic Waste Committee. Work was currently being undertaken to look at this further and a further report would be brought to the Committee in June 2017 for consideration.'

### **3. The Litter Strategy for England**

In April 2017 the Government published its Litter Strategy for England which sets out its vision for being the generation to leave the natural environment of England in a better state than it found it (document summary at Appendix I). In summary the Government proposes:-

The Strategy considers litter in three separate contexts – resource efficiency & waste management, aquatic & marine litter and fly-tipping. It also highlights the need for behavioural change and education & awareness, the need to improve enforcement and provision of better cleaning and litter infrastructure.

The Strategy also picks up on the introduction of charging at Household Waste Recycling Centres (HWRCs) for non-household waste by some councils and the guidance produced by WRAP with regard to managing HWRCs with regard to charging for DIY type waste. This guidance is due to be reviewed by WRAP and new guidance issued by the end of 2017. The County Council will review its current policy on charging for non-household waste with regard to new guidance and any changes in legislation once these are known.

The Strategy also highlights working in two tier authorities and how inefficient transfers of costs between waste collection & disposal authorities can sometimes hinder joint working and management of waste and recycling services. Government proposes to work with councils and WRAP to look at cost sharing arrangements. The Shared Savings Scheme already implemented in Devon already gives a mechanism for closer working and sharing of benefits which is beginning to deliver results.

#### **4. Review of Fixed Penalties for Environmental Offences and Introduction of Civil Penalties for Littering from Vehicles outside London'**

Alongside the Litter Strategy, Government also published a consultation document entitled 'Review of Fixed Penalties for Environmental Offences and Introduction of Civil Penalties for Littering from Vehicles outside London'. This seeks views on whether the fines for littering and related offences should be increased as well as the introduction of new legislation to allow councils to issue fixed penalty notices for littering from vehicles. Individual councils have responded to the consultation, a summary of the consultation is given in Appendix II.

Since May 2016 councils now have powers to issue fixed penalties for small scale fly-tipping offences. Under the Code of Practice on Litter and Refuse the deposit of a single black sack of rubbish should usually be considered a fly tipping offence rather than littering. These powers have already been used successfully in Devon.

#### **5. Collaborative working across Devon and the wider South West region**

Highways England host a Devon Litter Forum which has representation from the Devon councils from both street cleansing and highway departments as well as the Highways England contractor. The forum is predominantly about managing litter on the trunk road network but could be asked to consider taking on a wider remit with regard to behavioural change, education and enforcement across Devon for littering and fly tipping. In addition Cornwall Council have a similar litter forum and there is synergy between the two counties such that developing a more strategic group across the South West region to tackle litter and fly tipping could be considered & it is recommended that this be investigated further.

Any campaign to promote either a reduction in littering or fly tipping will need to be funded and hence potential sources and level of funding will also need to be considered at the budget meeting of this Committee in the autumn.

#### **6. Deposit scheme for the return of plastic bottles**

A Notice of Motion was filed at the County Council Cabinet meeting on 8<sup>th</sup> March 2017 requesting the County Council support the introduction of a plastic bottle deposit scheme and to write to all Devon MPs urging their support for such a scheme. The Motion was referred to this Committee for consideration as whilst there could be benefits from increased recycling and less littering, there could be potentially also be unintended consequences of supporting such a scheme.

It is acknowledged that plastic litter looks unsightly and can have potentially fatal consequences for animals in particular marine life. However all Devon authorities have

invested in collecting some plastics at the kerbside, the income from which helps to support delivery of these services. Little is known about how a proposed new deposit scheme may work and further details need to be obtained before any decision is made. Consequently it is recommended that further work be undertaken and a future report be presented to this Committee.

## **7. Sustainability Considerations**

The Litter Strategy for England, better enforcement and closer working across partner organisations to promote behavioural change, awareness and education all help to create a more sustainable world.

## **8. Legal Considerations**

Anti-littering and fly tipping is already covered by legislation with fixed penalty notices issued for minor litter and fly tipping offences with more serious offences punishable by hefty fines and imprisonment. The consultation on fines for littering from vehicles will need legislation to be passed before it can be implemented.

## **9. Consultations/Representations/Technical data**

The Review of Fixed Penalties for Environmental Offences and Introduction of Civil Penalties for Littering from Vehicles outside London is a consultation document.

## **10. Financial Considerations**

Any campaign with regard reducing littering or fly tipping will need financial support at some level. The Committee may wish to consider this at the budget meeting later this autumn.

## **11. Environmental Impact Considerations**

There are no known negative environmental impacts relating to the recommendations, and reduction in littering and fly tipping has a positive environmental impact.

## **12. Equality Considerations**

There are no equality considerations relating to the recommendations.

## **13. Risk Management Considerations**

There are no risks identified with the recommendations.

## **14. Public Health Impact**

Litter and fly tipping has the potential to impact negatively on public health particularly where it may be close to human activity and is not cleared in a timely manner.

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**Electoral Divisions: All**

Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Reference
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Nil

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## The Litter Strategy for England - Summary

***We want our whole country to be a great place to live in, with clean water and air; beautiful countryside to enjoy and urban areas that are prosperous, vibrant and welcoming. A littered environment is bad for our wellbeing, and bad for the economy.***

*The facts concerning litter speak for themselves:*

- *Street cleaning cost local government £778m in 2015/16. A significant portion of this will have been avoidable litter clear-up and the money could have been better spent on vital public services.*
- *The National Crime Survey has found that 28-30% of people perceive “litter and rubbish lying around” to be a problem in their area.*
- *81% of people are angry and frustrated by the amount of litter lying all over the country.*
- *In the 2016 Great British Beach Clean 802 litter items were collected per 100 metres of beach in England.*
- *Last year the RSPCA received over 5,000 phone calls about litter-related incidents affecting animals.*

*Our ambition is to be the first generation to leave the natural environment of England in a better state than it found it. We are clear that we must act now to clean up the country and change our culture so that it is no longer acceptable to drop litter. The changes in how local government is funded also make it vital for local authorities to attract business and housing growth. Keeping streets cleaner and litter-free will be of the utmost importance in their efforts to do this.*

*Our strategy is to apply best practice in education, enforcement and infrastructure to deliver a substantial reduction in litter and littering behaviour, so that in the coming years we see demonstrable improvements against the figures above.*

*We will:*

- *Send a clear and consistent anti-litter message, by:*
  - *developing, seeking funding for, and delivering a world class national anti-littering campaign*
  - *developing an anti-littering culture which aims to educate young people not to litter*
  - *inspiring and engaging local communities, and empowering them to take action, including introducing a new ‘litter innovation fund’ to pilot, implement and evaluate small scale local research projects that could be replicated more widely*
  - *making a compelling business case for businesses of all kinds to invest in anti-litter activity*
  - *exploring voluntary and regulatory measures that aim to increase recycling and reduce litter*
  - *working with stakeholders to look at innovative ‘nudge’ techniques’ to tackle littering behaviour*

- *Improve enforcement against offenders, including:*
  - *delivering on our Manifesto commitment to review the case for increasing fixed penalties for littering and related offences*
  - *introducing new regulations to help councils tackle littering from vehicles*
  - *providing improved guidance for councils on how to use their enforcement powers proportionately and appropriately, and*
  - *raising councils' and magistrates' awareness of the range of sanctions available to tackle littering and fly-tipping.*
  
- *Clean up the country, including:*
  - *supporting national clean-up days*
  - *working with Highways England to put in place measures to deliver a lasting improvement in cleanliness at 25 priority litter hotspots on the Strategic Road Network, including updating the Code of Practice on Litter and Refuse to clarify the expected standards of cleanliness on the Network*
  - *producing new guidance on "binrastructure" (the design, number and location of public litter bins and other items of street furniture) for local areas to help them reduce levels of litter*
  - *working with the relevant industries to tackle certain types of particularly problematic litter, including fast-food packaging, smoking-related litter and chewing gum*
  - *exploring the ways in which packaging and packaging design can contribute to reducing litter.*

*This is not a strategy that will just gather dust. We want everyone to step up and deliver, and one of our first actions will be to develop a new 'litter baseline' to measure the progress being made. Where voluntary approaches are not working we will continue to consider other measures which could help to achieve our strategic aims, as well as promote a more resource-efficient economy.*

*Good infrastructure and clear social expectations, supported by proportionate enforcement, will help reinforce social pressure on everyone to do the right thing. Throughout, we want to encourage innovation, and the continued development of effective new ways to reduce littering, as well as ensuring that approaches which are proven to work are implemented as widely as possible.*

*The publication of this Strategy is the beginning, not the end, of the process. We will continue to work hard to start to implement this new strategic approach, and we will report annually for the remainder of this Parliament on our progress.*

**Review of Fixed Penalties for Environmental Offences and Introduction of Civil Penalties for Littering from Vehicles Outside London. April 2017**

**Open consultation Reducing litter: penalties for environmental offences Department for Environment, Food and Rural Affairs (DEFRA)**

**The consultation closes on 18 June 2017**

**Background**

DEFRA are seeking views on increasing fines for littering, graffiti, fly-posting and introducing new fines for throwing litter from vehicles.

Littering, and associated environmental offences like dog fouling, blight our communities and impose avoidable costs on the public purse. The levels for fixed penalties under section 88 of the [Environmental Protection Act 1990](#) have not changed since 2006, but adjusting for inflation since that time means that a maximum penalty of £80 in 2006 would now be £100.

The consultation seeks views on proposals by DEFRA to:

- Increase the levels for section 88 fixed penalties in the [Environmental Protection Act 1990](#) for littering and other environmental offences;
- Change the provision for how councils can use the income from fixed penalties for environmental offences; and
- Remove the requirement for the parish council enforcement officers to attend a specified training course.

DEFRA are also seeking views on potential amendments to the default penalties for littering and related offences, which are set out in the Environmental Protection Act 1990. They propose to make any changes on these points by amending the Regulations.

The consultation also seeks views on introducing new regulations to enable councils to issue fixed penalties (civil fines) to the keeper of a vehicle from which litter is thrown, where the litterer cannot be identified. It is recognised that when litter is thrown from a vehicle it can be hard to identify the offender.

London borough councils are currently able to issue a penalty charge notice to the keeper of a vehicle from which litter is thrown, even if they cannot establish the identity of the person who threw the litter. [Section 154](#) of the [Anti-social Behaviour, Crime and Policing Act 2014](#) enables the Government to make regulations which would extend similar powers to other local authorities. Introducing these regulations will improve the suite of enforcement powers available to councils to tackle littering offences.

## Fixed Penalties for Environmental Offences

Environmental offences” include littering, graffiti, fly-posting, dog fouling and other offences which harm the public space.

Enforcement against these environmental offences is carried out primarily by local authorities (district and London borough councils and unitary authorities, rather than county councils), and also by National Park Authorities and parish councils amongst others.

Although these environmental offences do attract a criminal penalty, fixed penalty notices can be issued as an alternative to prosecution. Prosecuting an offender can be expensive, so fixed penalty notices offer councils an alternative to prosecution and enable straightforward cases to be diverted from the court system.

The default fixed penalty for each offence is set out in primary legislation. For some of the environmental offences, councils can also choose to set the level of fixed penalty locally, within a range set out in the Regulations. If a council does not set a local level, then it must use the default fixed penalty. In some cases, councils may also discount (reduce) the fixed penalty if it is paid promptly. The minimum discounted fixed penalty is also set out in Regulations.

This table shows the current minimum, default, maximum and minimum discounted fixed penalty which can be imposed for each of the environmental offences:

Offence	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
Littering	£75	£50	£80	£50
Dog control offences	£75	£50	£80	£50
Graffiti	£75	£50	£80	£50
Fly-posting	£75	£50	£80	£50
Unauthorised distribution of free literature on designated land	£75	£50	£80	£50

The full consultation document is available online at [www.gov.uk/government/publications](http://www.gov.uk/government/publications)

## **Summary of Consultation Questions**

### **Levels and Ranges of Fixed Penalties for Littering Offences**

1. Should fixed penalties for littering offences be increased (Y/N)?
2. For local council respondents only: What impact would an increase in these fixed penalties have on your authority? Please consider both costs and benefits, and provide evidence to support your response (e.g. number and level of fixed penalties that you currently issue per year and payment rate, costs of enforcement, prosecutions and implementation of any changes etc.).

### **Options for Increasing fixed penalties**

3. Which of these options do you prefer?
  - a. Option 1 - increase the minimum, default and maximum fixed penalties to £60, £95 and £100 respectively.
  - b. Option 2(a) – increase only the maximum fixed penalty to £100
  - c. Option 2(b) – increase only the maximum fixed penalty to £150
  - d. Option 3 - increase the minimum, default and maximum fixed penalty to £60, £100 and £150 respectively.Please use the free text box to tell us why.

### **Fixed penalties for graffiti, fly-posting and unauthorised distribution of free literature in a designated area**

4. Do you agree that changes to the range of and default fixed penalties for littering should be applied in the same way to the fixed penalties for:
  - a. Graffiti (y/n)
  - b. Fly-posting (y/n) and
  - c. The unauthorised distribution of free literature in a designated area (y/n)? **Yes**If you answered 'no' to any of these, please use the free text box to explain your reasoning.

### **How Income from Fixed Penalty Notices can be used by District or Unitary Councils and Parish Councils**

5. Do you agree that all councils should have the ability to spend their income from environmental offences on “any of their functions”? If not, please use the free text box to explain why.
6. For local council and parish council respondents only: Do you currently issue fixed penalty notices for environmental offences, and if so, how do you spend the income from these fixed penalty notices?

### **Transparency**

7. Should the [Local Government Transparency Code](#) be amended to make it clear that data on enforcement activities against littering and the other environmental offences should be published?
8. For local council respondents only: Do you publish this data already? If so, where?

## **Training for Parish Council Enforcement Officers**

9. Do you agree with the proposal to remove the requirement for training providers for parish council enforcement officers to be approved by the Secretary of State?

## **Littering from Vehicles**

10. Do you agree with the proposed exemption for the keeper of public service vehicles, taxis and private hire vehicles when the littering offence is committed by a passenger?

a) If no, why?

11. Should the regulations provide for any other exemptions from liability to pay a civil penalty notice (as opposed to grounds for appeal against a civil penalty notice)?

12. Should councils be able to use the income from civil penalties for littering from a vehicle in the same way as they can spend income from fixed penalties for littering offences? (Y/N)

a. If no, why do you consider that income from the two penalty regimes should be treated differently?

13. Should the default amount payable under a civil penalty notice be equivalent to the default amount payable under a fixed penalty notice for a littering offence (reflecting any changes to the default level of fixed penalty notices for littering)? (Y/N)

a. If no, why, and at what level should the default amount payable under a civil penalty notice be set?

14. Do you agree that, to encourage prompt payment, a late payment notice is issued if the amount payable under the civil penalty notice is not paid within 28 days?

a. If not, why?

15. Do you agree that the maximum increased civil penalty payable under a late payment notice should be the amount payable under the civil penalty notice increased by 100% (i.e. the amount payable under the civil penalty notice multiplied by 2)? (Y/N)

a. If no, why, and by what factor should the civil penalty be increased?

16. *For local council respondents only:* What impact would the introduction of civil penalty notices have on your council? Please consider both costs and benefits, and provide evidence to support your response.

## **Options for Increasing fixed penalties**

17. *For councils in London only:* We propose that the new powers should only be available to councils outside London, on the basis that London councils already have similar powers under the London Local Authorities Act 2007. Do you agree?

a) *If not, why?*

18. *For rental hire companies only:* The regulations will provide that a civil penalty can be appealed by a hirer if the vehicle in question was hired to another person with the effect that that person had become the 'keeper' (ie the person by whom the vehicle is kept) at the time of the littering offence. What, if any, familiarisation transitional or implementation costs would you anticipate incurring associated with the introduction of these new civil penalties (e.g. in amending standard contract forms etc.)?