



Department
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Jo Churchill MP

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Dear councillor,

The use of enforcement powers to tackle litter

As councils, you play a key role in tackling issues such as littering, and I am grateful for all you do to keep our streets clean. To help in your duty to keep public land clear of litter and refuse, Government has provided a range of enforcement powers. Most recently increasing the maximum value of fixed penalties for littering and introducing new penalties for littering from a vehicle and fly-tipping. In partnership with the National Fly-Tipping Prevention Group, we have also recently released the first part of the fly-tipping toolkit, a guide on how local authorities and others can present robust cases to court which is available here: <https://www.tacklingflytipping.com/Documents/NFTPG-Files/FlyTipping-Toolkit-Cases.pdf>

In 2019, we published enforcement guidance as part of the Code of Practice on Litter and Refuse, which advises on best practice for litter enforcement. You might have recently seen worrying reports which suggested some councils were using private contractors, incentivised on the level of fines issued.

The guidance makes clear that in no circumstances should enforcement activity be considered a means to raise revenue. Any perception that enforcement activity is being used intentionally to generate income is likely to undermine the legitimacy of the enforcement regime in the eyes of the local community, which in turn may diminish the deterrent effect.

The guidance explains that you are expected to combine enforcement with education to change behaviour and balance the need for consistency with an approach which remains targeted and proportionate. A blanket 'zero-tolerance' approach when issuing penalties is unlikely to achieve this. In particular, enforcement action should not be taken if it would be disproportionate to the offence, for example against accidental littering.

I would find it very hard to accept any authority could set a future budget which assumed income from fines. This would be to predicate your future budget on the assumption that littering offences would be committed.

In addition to enforcement action, authorities should aim to reduce littering and other environmental offences through communications, and the provision, and regular emptying of, litter bins. Local authorities remain responsible for the whole enforcement process, whether it has been contracted out or not. Authorities that outsource any area of enforcement to private companies should ensure that the contractor fulfils all the requirements set down for the authority itself.

The enforcement guidance can be found online at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054015/Part_1A_-_Effective_enforcement.pdf.

New powers under the Environment Act 2021 will allow us to ensure that enforcement powers are used with a high degree of professionalism, whether by council staff or private contractors, and to place this enforcement guidance on a firm statutory footing, giving those to which it applies a clear and explicit duty to have regard to it when exercising their enforcement functions. We will provide further details on this in due course.

Kind regards,

A handwritten signature in black ink, appearing to read 'Jo Churchill', written in a cursive style.

JO CHURCHILL MP