



Department
for Environment
Food & Rural Affairs

Review of fixed penalties for environmental offences and introduction of civil penalties for littering from vehicles outside London

Summary of responses

August 2017



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Introduction

This document contains the UK Government's summary of the responses to the consultation on "Review of fixed penalties for environmental offences and introduction of civil penalties for littering from vehicles outside London".

This consultation was held between 10 April and 18 June 2017

(<https://consult.defra.gov.uk/environment/litter-penalties/>)

The consultation sought views on:

- the levels for section 88 fixed penalties in the Environmental Protection Act 1990 for littering and other environmental offences i.e. graffiti, fly-posting and the unauthorised distribution of free literature in a designated area;
- how district or unitary and parish councils should be able to use the income received from fixed penalty notices;
- on amendments to the Local Government Transparency Code;
- changes to the legal requirement for the Secretary of State to approve training courses for parish council enforcement officers; and
- draft regulations introducing a new power for councils outside London to issue a civil penalty to the keeper of a vehicle from which litter has been thrown.

As in the consultation document, this summary refers to:

- penalties issued in lieu of prosecution under section 88 in the Environmental Protection Act 1990 as 'fixed penalties'
- fixed penalties issued to the keeper of a vehicle from which litter is thrown (which would be issued under the proposed new regulations made under section 88A in the Environmental Protection Act 1990) as 'civil penalties'. These are not issued in lieu of a criminal prosecution.

Overview of responses

We received a total of 181 separate responses. Of these 67 were from councils. We also received three responses from waste or resource partnerships, representing the views of a further 16 councils between them. We also received two responses from parish councils.

An overwhelming majority of responses (87%) agreed that the fixed penalties for littering should be increased. Similar majorities also agreed that the fixed penalties for graffiti, fly-

posting and the unauthorised distribution of free literature in designated places should be increased in line with changes to the fine for littering.

Respondents' preferences for how to increase the fixed penalties were as follows:

Option	Respondents
Option 1: Option 1 increase the minimum, default and maximum to £60, £95 and £100	11 %
Option 2(a): increase only the maximum fixed penalty to £100	12 %
Option 2(b): increase only the maximum fixed penalty to £150	16 %
Option 3: increase the minimum, default and maximum fixed penalty to £65, £100 and £150	61%

Respondents were more divided on the question of whether councils should be able to spend their income on any of their functions, with a small majority in favour.

38 councils answered the question on how they spent their current income from fixed penalties. Of these only 7% stated that the income went into their general budget, while 92% specified that they reinvested the income into enforcement or other activities relating to litter and fly-tipping.

A clear majority of respondents agreed that the Local Government Transparency Code should be amended to make it clear that councils are under an obligation to publish data on enforcement activities against littering and other environmental offences under the [INSPIRE Regulations](#)¹. Councils were also asked if they already published the data which the consultation document suggested should be published under the [INSPIRE Regulations](#). A total of 48 councils responded to this question. 48% said yes, while 52% said no.

Just over three quarters of respondents (77%) also agreed that the current requirement for providers of training for parish council enforcement officers to be approved by the Secretary of State should be removed.

The consultation document asked for views on the provisions in the draft Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations. The overwhelming majority of councils who responded to the consultation welcomed the new proposed power

¹ <http://www.legislation.gov.uk/ukxi/2009/3157/introduction>

to issue civil penalties to the keeper of a vehicle from which litter is thrown. The majority of respondents also agreed with the proposed exemptions for keepers of public service vehicles, taxis and private hire vehicles when the littering offence was committed by a passenger. A small number of other suggestions were made for additional exemptions.

90% of respondents agreed that councils should be able to use the income from civil penalties for littering from cars in the same way as fixed penalties for littering. An even larger majority (95%) also agreed that the default amount payable under a civil penalty should be the same as the default amount payable under a fixed penalty notice for littering.

Since a civil penalty is not an alternative to prosecution, the consultation document suggested that if the civil penalty is not paid within 28 days a late payment notice should be issued. This late payment notice would double the amount of the original civil penalty. The majority of responses agreed with these proposals, both in respect of the late payment notice process, and the amount by which the penalty should increase.

We also asked about the new proposed powers to issue civil penalties for littering from vehicles only being given to councils outside London on the basis that London councils already have similar powers. Two thirds (68%) of respondents agreed.

No vehicle rental/hire company responded to the question about what, if any, familiarisation, transitional or implementation costs related to the new proposed civil penalty might be anticipated by these companies.

We received two late responses to the consultation. These have been read and noted, but not included in this Summary of Responses. A number of respondents also wrote separately to the department offering comments outside the framework provided by the online questionnaire. Their comments have been noted, but are not included in this summary.

Review fixed penalties for littering offences

Review levels and ranges of fixed penalties

172 responses were received to the question on whether fixed penalties for littering offences should be raised. Of these 87% agreed that they should be increased, while only 13% were opposed.

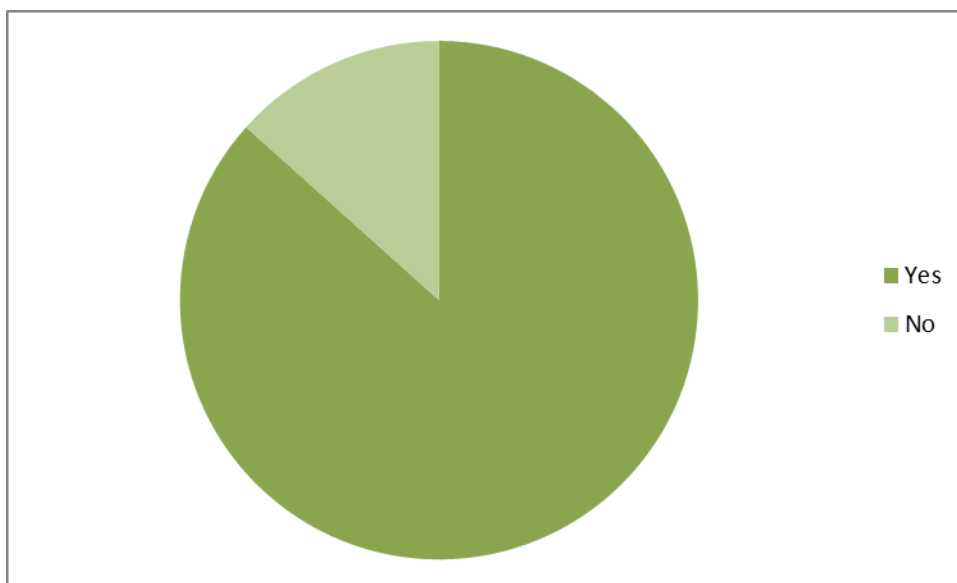


Figure 1: Should fixed penalties for littering offences be increased?

Local councils were also asked to provide information what impact an increase in fixed penalties might have on their council.

Councils who responded yes made the following points:

- Fourteen councils felt that increasing the fixed penalties would help to maintain or increase the deterrent effect. An increase in fixed penalties would send a tougher message to those who continue to litter and could mean that a fixed penalty notice is viewed as more than just a minor offence.
- Eight councils said it would lead to reductions in litter, change littering behaviour and generally lead to a better quality environment.
- Five councils stated that, if the income is ring-fenced for litter related activities it would help them to reduce the pressure on other budgets within councils and allow them to carry out more proactive activities on litter and fly-tipping. In contrast, three councils thought that the potential higher income would not be enough to cover the costs of their enforcement regime.

- Five councils said it would result in minimal costs of replacing signs/pre-printed notices/electronic notices and changes to IT systems. One council also stated that enforcement officers would not require additional training to handle an increase in the level of fixed penalties.
- Four councils stated that an increase in the level of fixed penalties would entail increased administrative costs associated with an increase in non-payment rates or increases in requests for paying the fixed penalty in installments. Increased cases of non-payment would lead to councils incurring higher costs for prosecution.
- One council, which has outsourced its enforcement against litter, supported the flexibility to raise fixed penalties, but stated that its fixed penalty of £75 was sufficient at the moment and any increase could incite further disquiet from external organisations and the media.
- Five councils said that they did not issue enough fixed penalties for the higher income to have an impact on their budgets, while six stated that they do not currently use the legislation which allows them to issue fixed penalty notices. One of those said it was due to lack of evidence. Another said it is in the process of piloting a trial using these powers.

Comments made by councils that opposed an increase in the level of fixed penalties included:

- There would be no benefit in increasing the fixed penalties as the success rate depends on the council's ability to investigate / prosecute offences.
- An increase would lead to higher rates of non-payment which would force the council to prosecute and lead to higher administrative costs.
- An increase would lead to slightly higher income.
- Higher penalties would not be in line with court fines, which take into account the offender's ability to pay.
- It would increase costs for changing signage and notices.
- Any increase could cause concern in the media and from interested groups.
- An increase in fixed penalties would also lead to an increased levels of complaints.

None of these points were made by more than one respondent.

Options for Increasing fixed penalties

Councils currently have the discretion to set the level of fixed penalties locally between £50 and £80, with a default of £75. 163 respondents answered this question.

Option 1: Option 1 increase the minimum, default and maximum to £60, £95 and £100	11%
Option 2(a): increase only the maximum fixed penalty to £100	12 %
Option 2(b): increase only the maximum fixed penalty to £150	16 %
Option 3: increase the minimum, default and maximum fixed penalty to £65, £100 and £150	61%

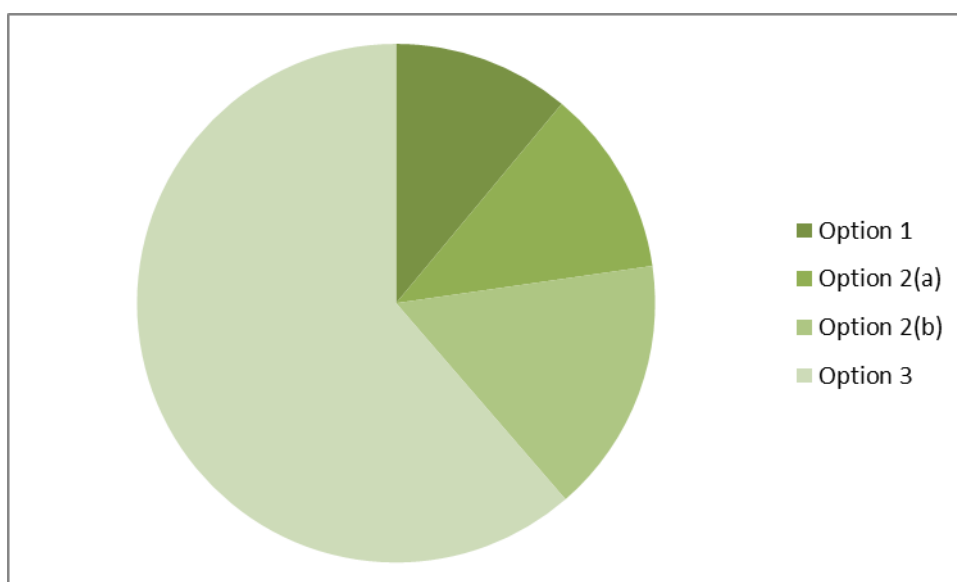


Figure 2: All respondents: which option do you prefer?

Responses from council respondents (65) showed a slightly different balance. ²

Option 1: Option 1 increase the minimum, default and maximum to £60, £95 and £100	12%

² Where waste partnerships indicated that they were responding on behalf of all their members, we have weighted their responses accordingly throughout this summary of responses. Likewise one council provided a joint response on behalf of two councils. ³ <http://www.legislation.gov.uk/ukxi/2009/3157/introduction>

Option 2(a): increase only the maximum fixed penalty to £100	23%
Option 2(b): increase only the maximum fixed penalty to £150	12%
Option 3: increase the minimum, default and maximum fixed penalty to £65, £100 and £150	52%

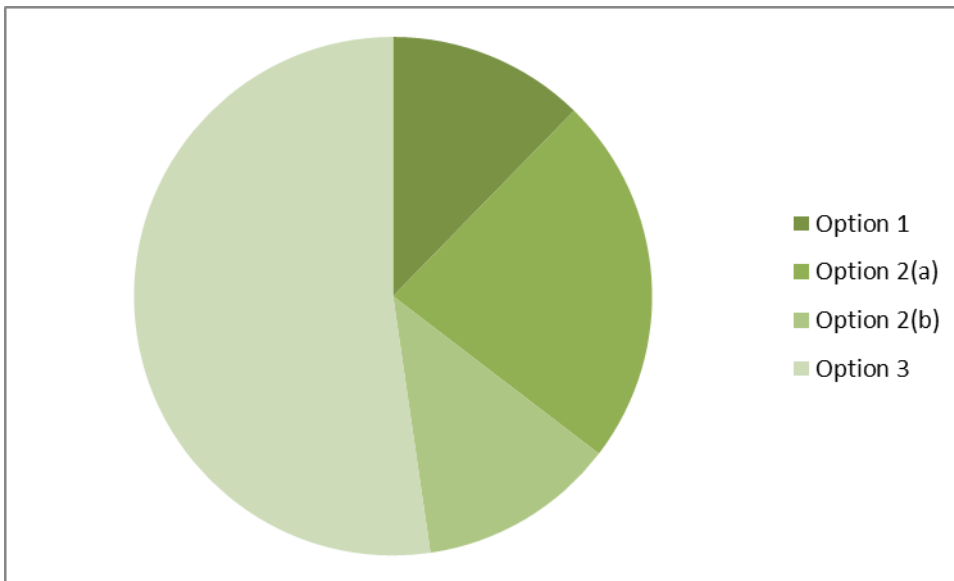


Figure 3: Council respondents only: which option do you prefer?

Respondents' main reason for supporting option 3 was that the higher the amount, the greater the deterrent. Respondents preferring this option also thought that the level of fixed penalties should be brought in line with inflationary increases.

The reasons given for preferring options 2(a) and 2(b) were that these options give councils the maximum to retain their current levels or choose to raise them within the upper limit of either £100 or £150.

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

Currently the fixed penalties for littering offences are at the same level as fixed penalties for graffiti, fly-posting and unauthorised distribution of free literature in a designated area. Consultees were asked if this practice should continue in the future.

Graffiti

160 respondents answered the question on whether possible changes to fixed penalties for littering should also apply to fixed penalties for graffiti. 88% agreed, while 12% disagreed.

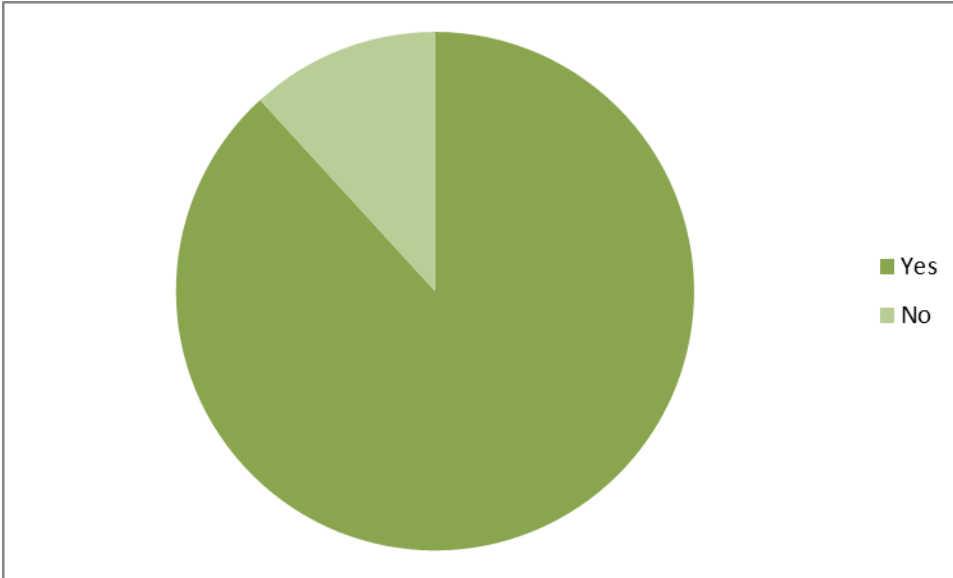


Figure 4: Should fixed penalties for graffiti be raised?

Fly-posting

A total of 160 responded to the question whether any changes to fixed penalties for littering offences should also be reflected in fixed penalties for fly-posting. 87% agreed, while 13% disagreed.

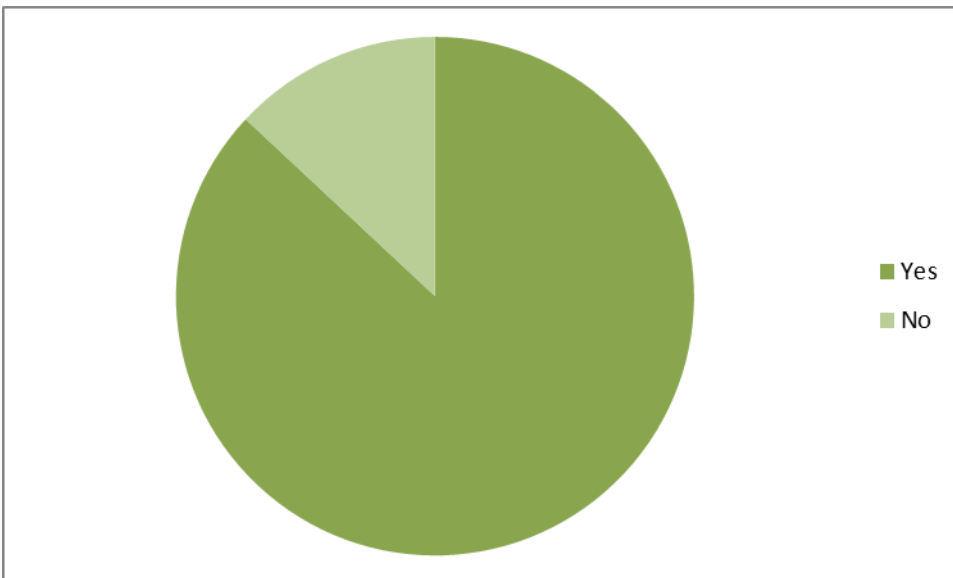


Figure 5: Fly-posting fixed penalties

Unauthorised distribution of free literature in a designated area

A total of 159 responded to the whether any changes in fixed penalties for littering offences should also apply to the unauthorised distribution of free literature in a designated area. 78% of respondents agreed, while 22% opposed.

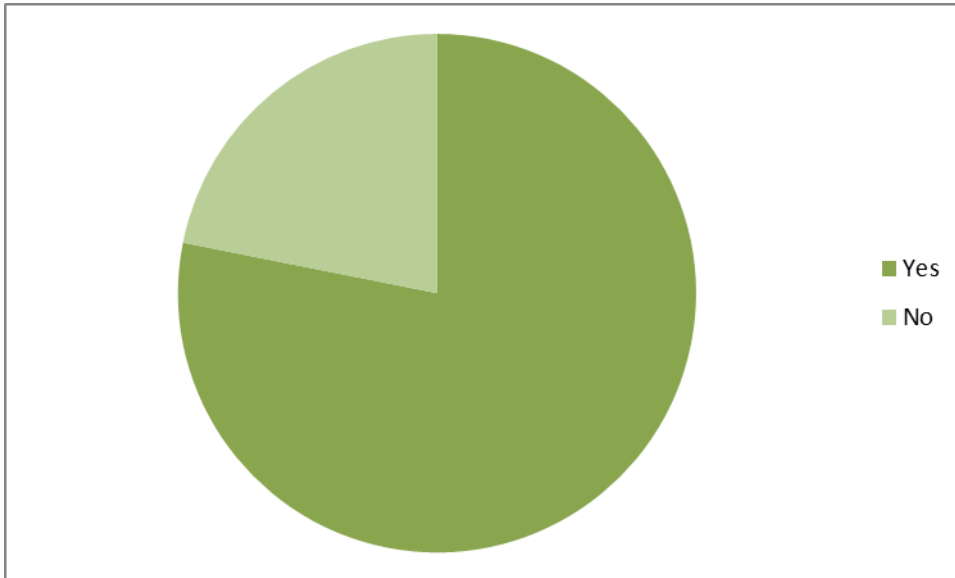


Figure 6: Should we increase the fixed penalties for unauthorised distribution of free literature

Respondents were able to offer reasons for saying no to aligning any of the fixed penalties for graffiti, fly-posting and the unauthorised distribution of free literature in designated areas. The following comments were made:

- Three respondents thought that these offences were distinctively different from littering offences. Ten respondents specifically felt that distributing free literature in a designated area without authorisation is not the same as littering. One commented that the levels of impacts of these offences should be compared.
- Two commented on the need for enforcement policy to recognise the artistic contribution made by some graffiti, while another stated that fixed penalties for graffiti should be much higher to reflect the costs of removing it.
- Three opposed increases on the basis that the current system of using fixed penalties does not seem to work: one suggested that it would be better to educate people. A further respondent thought that raising these fixed penalties would lead to higher levels of non-payment.

Other respondents offered additional comments unrelated to the proposals, relating to free leaflets put through letter boxes such as election information material or about changing councils' existing powers to control leafleting.

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

162 responded to the question on whether all councils should have the ability to spend their income from fixed penalties on “any of their functions”. Of these 56% agreed and 44% disagreed.

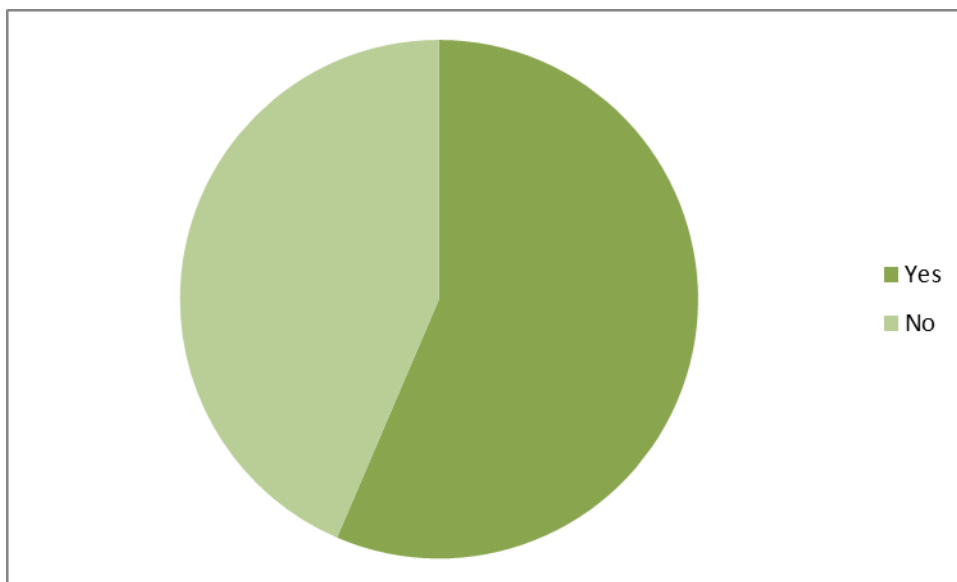


Figure 7: All respondents: should all councils be able to spend their income from fixed penalties for littering offences on "any of their functions"?

We asked people who disagreed to explain why.

The most common reason, given by seventy one respondents, was that councils should be obliged to spend their income from fixed penalties on either enforcement of environmental offences or other litter related work such as cleaning, raising awareness etc.

Two respondents were worried that if councils were allowed to use their income on any of their functions, it may encourage them to use fixed penalties to raise more revenue.

A total of 65 councils responded to this question. Their responses showed a greater proportion (75%) in support of the proposal compared to the responses from all respondents..

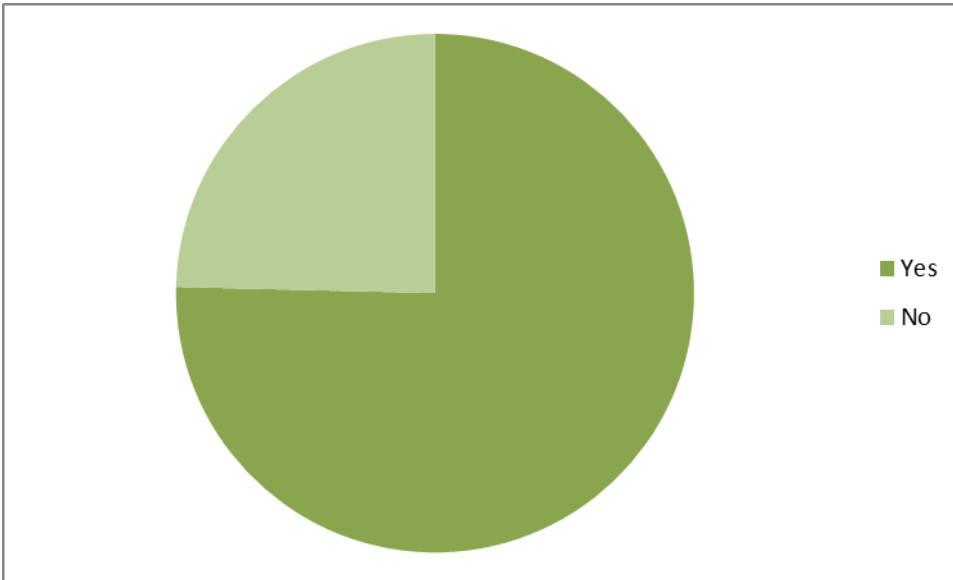


Figure 8: Only councils: should all councils be able to spend their income from fixed penalties for littering offences on "any of their functions"?

We also asked whether councils currently issue fixed penalty notices. 49 councils responded to the question, of which 84% said yes, while 16% said no.

38 councils answered the question on how they spent their current income from fixed penalties. Of these only 7% stated that the income went into their general budget, while 92% specified that they reinvested the income into enforcement or other activities relating to litter and fly-tipping.

Transparency

We asked for views on whether the Local Government Transparency Code should be amended to make it clear that councils are under an obligation to publish data on enforcement activities against littering and other environmental offences under the INSPIRE Regulations³.

161 respondents answered this question. Of those 86% agreed that the Code should be amended in this way and 14% disagreed.

³ <http://www.legislation.gov.uk/ukxi/2009/3157/introduction>

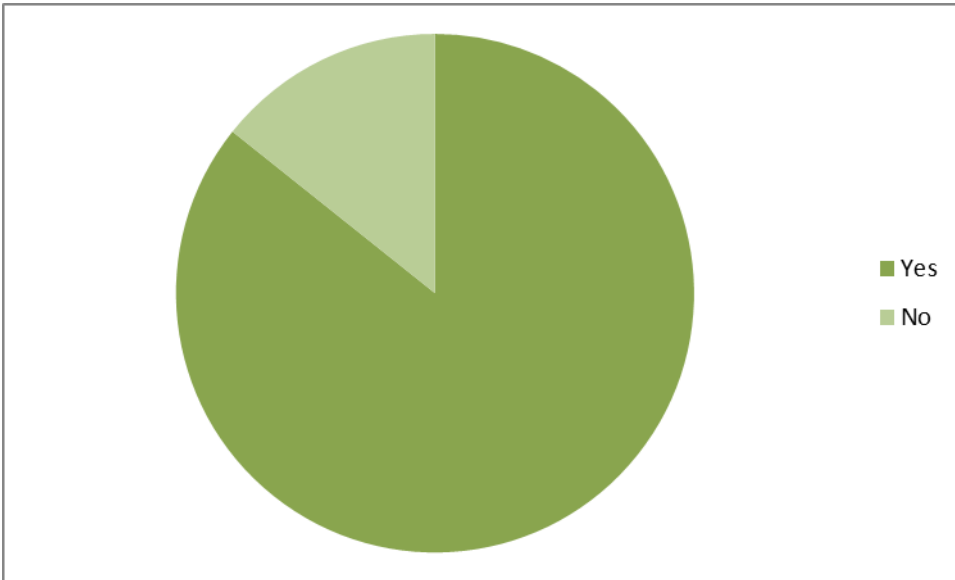


Figure 9: All respondents: should the Local Government Transparency Code be amended to make it clear that data on enforcement activities against littering and the other environmental offences should be published?

Once again, council responses alone showed a slightly different balance. A total of 63 councils responded to this question. 71% agreed, while 29% disagreed.

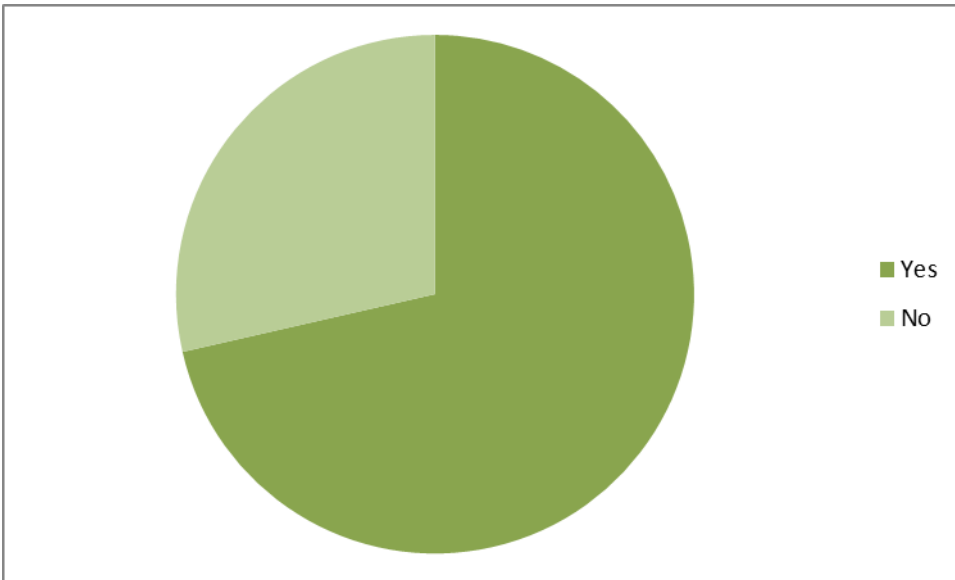


Figure 10: Only councils: should the Local Government Transparency Code be amended to make it clear that data on enforcement activities against littering and the other environmental offences should be published?

Councils were also asked if they already published the data which the consultation document suggested should be published under the INSPIRE Regulations. A total of 48 councils responded to this question. 48% said yes, while 52% said no.

Five councils added comments stating that they strongly supported the principle of transparency, and were comfortable with the proposed amendment to the Local Government Transparency Code.

Reasons given for opposing the amendment of the LGTC included:

- They disagreed that the INSPIRE Regulations require councils to publish data on litter enforcement.
- This would be an additional data burden beyond the national Single Data List⁴, since it would require councils to report specific data about enforcement activity against environmental offences, rather than just repeating data provided to meet the INSPIRE Regulations. It would be better to just ring fence the income from fixed penalties instead of burdening councils with this requirement
- It could undermine the deterrent effect if a council published figures which showed low levels of fixed penalty notices issued.

Councils were also asked where they currently publish this data. 25 councils answered this question.

- Thirteen councils said in response to FOI requests
- Six said as monthly reports available on their websites
- Three stated that they recorded enforcement activity on WasteDataFlow⁵
- Two said as press releases
- One council said the information was published on the Defra website (although this has not been the case for some years).

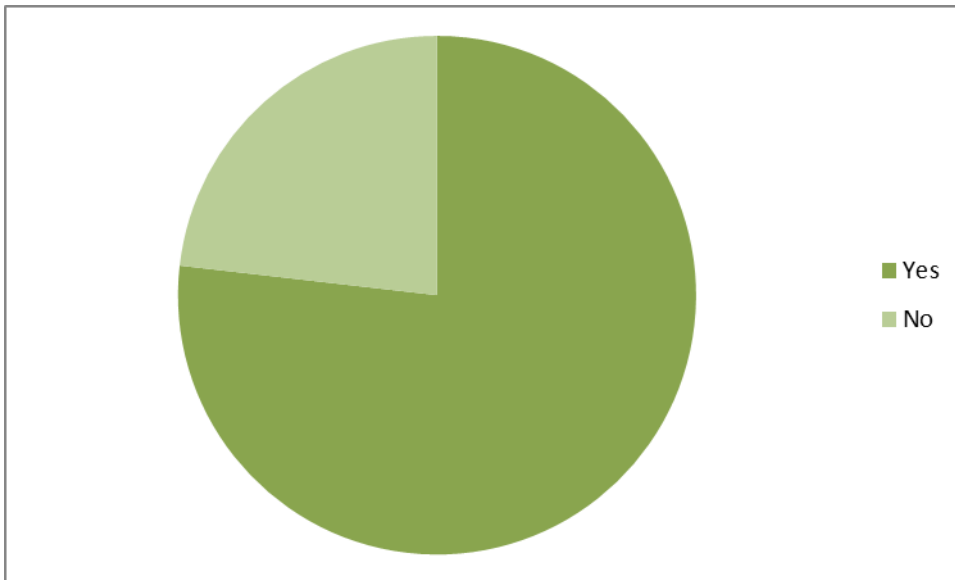
⁴ <https://www.gov.uk/government/publications/single-data-list>

⁵ WasteDataFlow is the system used by local authorities to report incidents of fly-tipping and the actions they have taken in relation to fly-tipping

Training for Parish Council Enforcement Officers

The consultation document asked whether the current requirement that the Secretary of State approve providers of enforcement training for parish councils should be removed.

150 respondents answered this question. Of those 77% responded yes and 23% responded no.



Littering from Vehicles

[Section 154](#) of the [Anti-social Behaviour, Crime and Policing Act 2014](#) amends the [Environmental Protection Act 1990](#) to introduce a new section 88A: “Littering from vehicles: civil penalty regime” (“S88A”). This section provides the power for Government to introduce regulations in England to tackle littering from vehicles. We proposed to bring this power into force and introduce new regulations to allow councils outside London to issue a civil penalty notice to the keeper of a vehicle from which litter is thrown, requiring the keeper to pay a civil penalty. The keeper would not assume any criminal liability for the littering offence: failure to pay the civil penalty would result in a civil debt, not prosecution for the littering offence.

The proposal would introduce a new default civil penalty equivalent to the existing fixed penalty (currently £75). It would also similarly reflect the fixed penalty regime by giving councils the flexibility to select an alternative penalty from a wider range (currently £50 to £80), taking into account what they think is appropriate, including peoples’ ability to pay. We propose that the civil penalty notice must be paid within 28 days. We also propose to allow the offender to discharge liability for the full amount by making an earlier payment of a lesser amount within 14 days of receiving the civil penalty notice.

[Section 154](#) of the [Anti-social Behaviour, Crime and Policing Act 2014](#) makes the person using the vehicle the ‘keeper’. Councils could consider all available avenues to identify a keeper, whilst taking care not to enforce against an innocent party.

Those receiving a civil penalty notice would be able to challenge their liability to pay on a number of grounds, including cases where the vehicle has been hired to someone else, or the keeper can prove that the vehicle had been stolen at the time the littering offence was committed. In the first instance, keepers will be able to make representations in writing against the civil penalty notice to the council. If this does not resolve the matter, they would then have a right to appeal the civil penalty notice to an independent adjudicator. The [Traffic Penalty Tribunal England and Wales](#) would act as the independent adjudicator for the civil penalty notice regime, funded by the relevant councils.

Exemptions

The consultation document asked if respondents agreed that keepers of public service vehicles, taxis and private hire should be exempted from the new proposed civil penalty where the litterer was a passenger.

170 respondents answered this question. Of these 61% answered yes and 39% responded no.

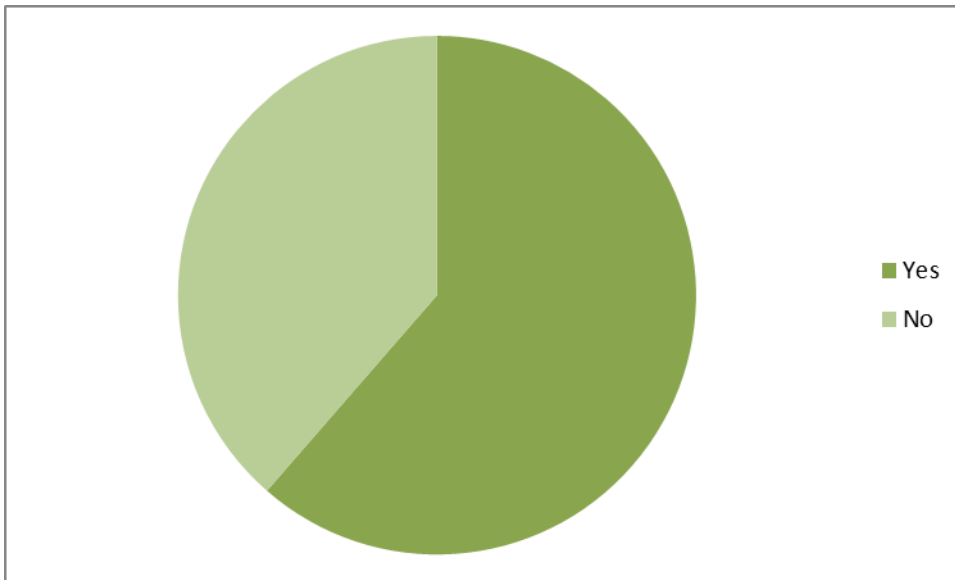


Figure 11: Do you agree with the proposed exemptions?

32 respondents felt that all drivers should be subject to this civil penalty to achieve the maximum deterrent effect, and some also argued that the drivers of taxis and private hire vehicles have the same influence and responsibility over their passengers as owners of private vehicles.

Seven respondents specified that they agreed with an exemption for public service buses, but not for taxis and private hire vehicles. Two respondents also added bus drivers with passengers as possible exemptions under the next question. One respondent added that perhaps a de-minimus limit of 10 or fewer seats could apply to buses.

In addition to the above reasons the following views were given for not agreeing with the proposed exemptions:

- Holding taxi drivers responsible it will act as an incentive for them to discourage their passengers from littering. Taxi and private hire vehicle drivers are already responsible for passengers wearing seatbelts, and not eating or smoking in their vehicles. Taxis could have clear signs on-vehicle stating that littering is prohibited and that offenders will be asked to leave the vehicle.
- One response noted that taxi /minicab drivers have control of the windows in most vehicles and can therefore easily prevent littering.
- Other responses suggested that taxi drivers often impose additional charges for passengers that cause damage to the vehicle, and that similar charges could be imposed on passengers that litter from the vehicle. Alternatively, if passengers litter then taxi or private hire vehicle drivers should stop and collect it. If this results in a more expensive bill for the taxi drive, then that will help to discourage littering behaviour.

- One response suggested that the exemption would undermine current efforts by enforcement officers to tackle littering by taxi drivers. They suggested that all taxis and buses now have internal CCTV and so it should be possible to prove who actually committed the littering offence: if the driver wishes to claim that the offence was committed by a passenger, they should have to provide CCTV evidence to prove it.

One respondent also commented that the proposed Regulations should be made future proof by not exempting Uber and driver-less cars etc. In the future more and more people will be 'passengers'.

Other exemptions

The consultation document asked if any other exemptions should be considered from liability to pay the civil penalty. 107 respondents answered this question. Of these 87 responded no. Three respondents remarked that the including “other compelling reasons” as a ground for appeal provides enough flexibility to deal with unforeseen circumstances.

Suggestions for additional exemptions included:

- If no public litter bins are available within a certain designated area, then a person littering should be exempt from the civil penalty since they effectively have no other option. Depending on the item, it is not always reasonable to expect an individual to carry litter with them for miles hoping to find a bin.
- There should be an exemption for all cases where it cannot be proved that the littering was deliberate, or where photographic evidence of the actual offender is not available to the keeper of a vehicle
- Exemptions should be limited to instances where littering is accidental, or obviously unavoidable, to prevent unreasonable enforcement.
- Passenger Boats and keepers of hire boats – they also provide a public transportation service, so these operators should benefit from the same exemptions as on road vehicles. Private individuals operating a hire boat or as a passenger should be liable for the civil penalty if seen littering.

Four respondents said yes to this question, but did not give any further details. Some respondents also submitted ideas for exemptions in situations where littering offences would not have been committed in the first place, meaning that a civil penalty could not be issued anyway.

How income from civil penalties for littering from vehicles can be used

The consultation document sought views on whether councils should be able to use income from the proposed civil penalties in the same way as they can spend the income from fixed penalties. 164 respondents answered this question. Of these 90% responded yes and 10% responded no.

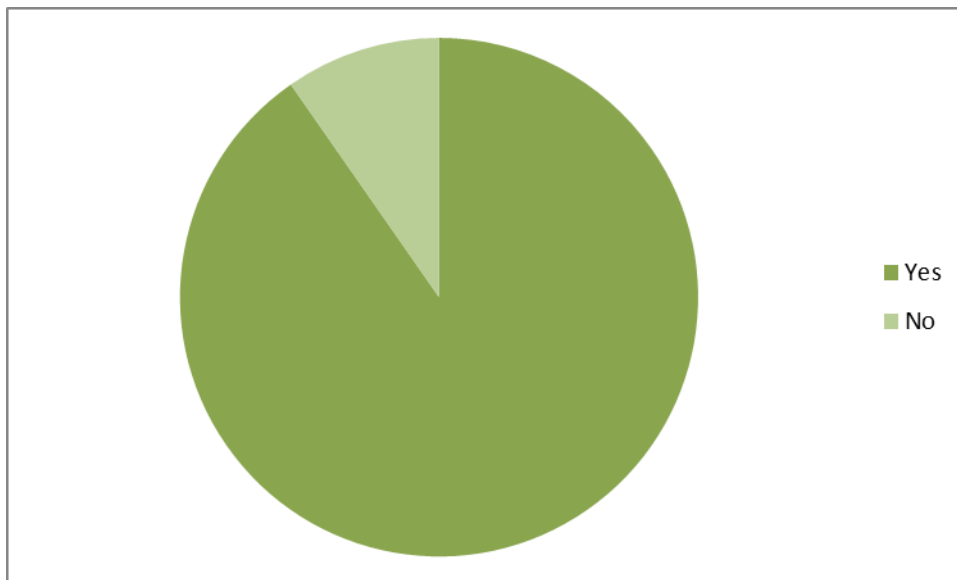


Figure 12: All respondents: should councils be able to use income from the proposed civil penalties in the same way as they can spend the income from fixed penalties.

Support for this proposal was even stronger among the 65 councils that responded to this question (97%).

Some respondents reiterated their opposition to this income being not being ring-fenced for littering and fly-tipping activities. One responded stated that the income should be used for improvements to road surfaces and tackling potholes.

Default amount payable under the civil penalty notice

Consultees were asked if the default amount to be paid under the civil penalty should be the same as the default amount to be paid under a fixed penalty.

159 responded to this question. Of these 95% (including all council respondents) responded yes and 5% responded no.

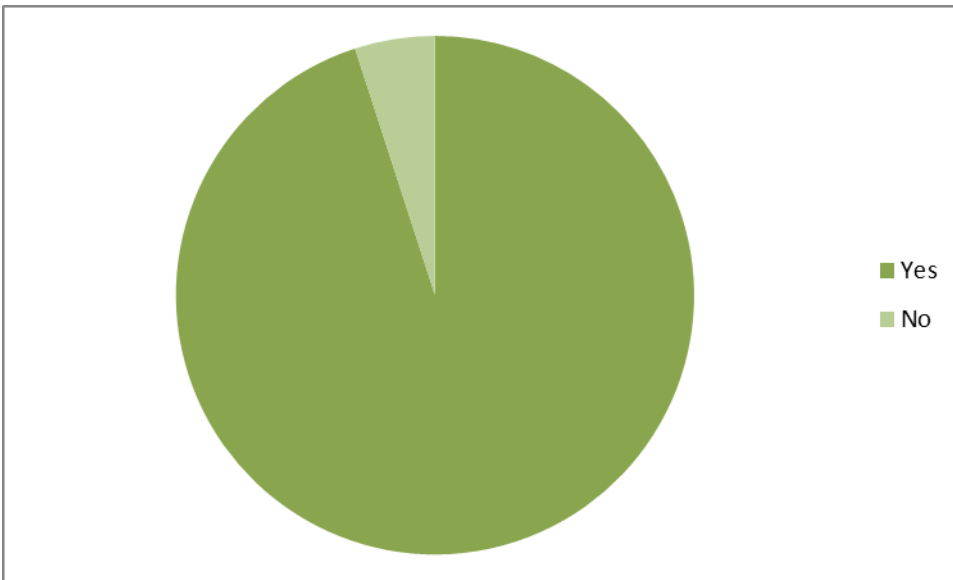


Figure 13: Should the default amount to be paid under the civil penalty be the same as the default amount to be paid under a fixed penalty.

Five respondents thought that civil penalties for littering from vehicles should be higher than fixed penalties for environmental offences. Three said this was because it is difficult and unsafe to clean roadside litter.

Four respondents answered no, but also stated that there should be consistency with fixed penalties for environmental offences.

Late payment notice and maximum increased civil penalty payable

As a civil penalty is not an alternative to prosecution, we proposed that councils could issue a “late payment notice” to encourage offenders to pay promptly. This would not affect defendants’ ability to pursue an appeal against the civil penalty notice.

We asked respondents if they agreed that councils should be able to issue a late payment notice to encourage prompt payment.

161 responded to this question. Of these 94% responded yes and 6% responded no.

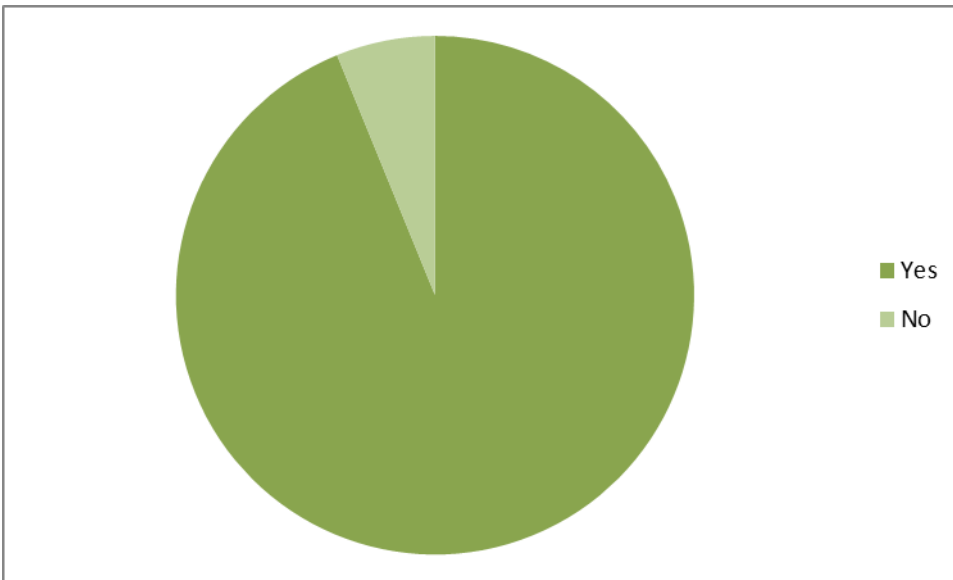


Figure 14: Should councils be able to issue a late payment notice to encourage prompt payment?

Two respondents stated that this proposal is consistent with parking fines.

One responded suggested that failure to pay a civil penalty should be a criminal offence.

One respondent expressed concern that 28 days might not be long enough if, for example people were away on holiday, ill, in hospital etc.

We also proposed that the amount of civil penalty payable under the late payment notice (the “increased civil penalty”) should be the civil penalty payable under the civil penalty notice increased by 100 percent (i.e. the amount of the civil penalty multiplied by 2). We asked if respondents agreed with this approach.

160 people responded to this question. Of these 89% agreed with the proposal and 11% disagreed.

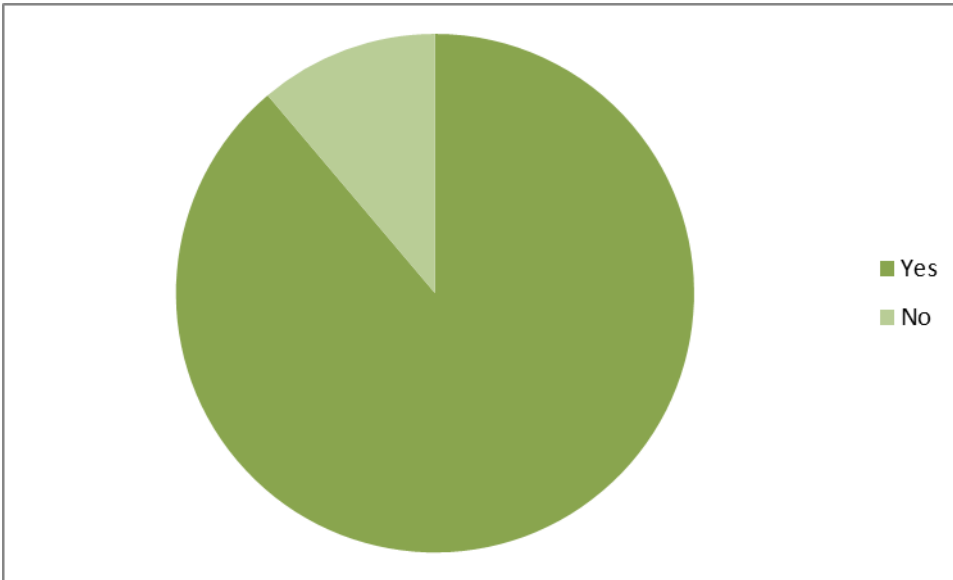


Figure 15: Should the amount of civil penalty payable under the "increased civil penalty" be the civil penalty notice increased by 100 percent?

Six respondents recommended that the civil penalty should not increase at all. Five respondents suggested that the amount payable under the civil penalty should only increase by 50%. Another suggested that after 28 days, the penalty should increase by 10% for each day it remains unpaid, while another suggested that there should be no limit to the maximum civil penalty imposed on businesses.

Costs and benefit to councils from civil penalties for littering from vehicles

Councils were asked what impact the introduction of the new proposed civil penalty would have on their council. A total of 55 councils responded to this question. Two councils noted that they have already prosecuted offenders who had dropped litter from vehicles despite difficulties involved in identifying the offender.

The new proposed powers would help councils to:

- Pursue more complaints about littering from vehicles as the burden of proof is lighter. Under present enforcement powers it costs too much to investigate and prosecute incidents involving low level of littering (i.e. cigarette butt thrown out of window).
- Justify carrying out more enforcement activities. The income should be ring fenced for street cleaning and other litter related activities.
- Enforce in situation where cars are full of people and fast food litter is deposited out of the window

- Use evidence from dash cams. A number of residents have offered this evidence to councils in the past, but they have not been able to use it.
- Tackle fast food litter when the items were purchased at drive through outlets which generally record vehicle details.
- Send a clear no tolerance message to offenders. One council stated that its evidence shows the higher rate fines reduce cases of re-offending.

Respondents felt that the new proposed powers would act as a deterrent to littering from cars resulting in a less amount of litter having to be cleared from roadsides and generally improve environmental quality. They indicated that implementation costs would either be met from existing income from the fixed penalty enforcement scheme or be self-funding from the new civil penalties.

A group of councils provided a joint response stating that the impact on resources was unlikely to be covered by the increased income from fixed penalties or civil penalties.

One council said that the new proposed powers seems to require more back office support than using fixed penalty notices, but it still supported the new approach to deal with littering from vehicles.

Another council expressed concern that treating unpaid civil penalties as a civil debt may increase the likelihood of non-payment.

Consistency with London

We asked councils in London whether they agreed that the new power should only be available to councils outside London on the basis that London councils already have a similar power under the London Local Authorities Act 2007.

Two London boroughs responded saying that London councils should be given the same new proposed powers, as this would mean greater consistency across England.

Other London respondents argued that there existing enforcement system should remain in place in London. It was felt that changing the legislative basis for this enforcement regime would be time consuming and costly, for no noticeable benefit.

Familiarisation, transitional or implementation costs to rental hire companies

We asked vehicle rental/hire companies to tell us if they anticipated any costs with the introduction of the proposed new civil penalty. Eight respondents answered this question, but none identified themselves as a vehicle rental/hire company.

Annex A: List 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)?

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.

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' (i.e. 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.)?

Annex B: List of respondents

Councils

Ashford Borough Council

Birmingham City Council

Braintree District Council

Busbridge Parish Council

Chelmsford City Council

Chesham Town Council & Chiltern District Council

Cheshire East Council

Chesterfield Borough Council

Chichester District Council

Colchester Borough Council

Coventry City Council

Croydon Council

Dartford Borough Council

Daventry District Council

Derby City Council

East Lindsey District Council

East Sussex County Council

Eden District Council

Epping Forest District Council

Goring Heath Parish Council

Gravesham Borough Council

Kent Resource Partnership on behalf of 13 local authorities in Kent

London Borough of Camden

London Borough of Merton

London Borough of Redbridge

London Boroughs of Wandsworth and Richmond – joint response

Metropolitan Borough of Doncaster

Newcastle City Council

North Devon Council

North Warwickshire Borough Council

Pendle Borough Council

Portsmouth City Council

Preston City Council

Reigate & Banstead Borough Council

Runnymede Borough Council

Salford City Council

Southampton City Council

South Staffordshire Council

South Somerset District Council

Surrey Waste Partnership on behalf of 11 councils

Swale Borough Council

Teignbridge District Council

Tonbridge & Malling Borough Council

Tunbridge Wells Borough Council

Uttlesford District Council

Vale of White Horse District Council

Walsall Council

Warwick District Council

Wealden District Council

Wyre Forest District Council

Other organisations

British Marine

Campaign to Protect Rural England

CCRI (Countryside and Community Research Institute), University of Gloucestershire

Chartered Institution of Wastes Management

Countryside Alliance

Country Talk

CPRE Avonside

CPRE Northamptonshire

District Councils' Network

Dogs Trust

Friends of Shepley

Keep Britain Tidy

Keep Whitworth Tidy

Local Authority Recycling Advisory Committee

London Councils

London Forum of Amenity and Civic Societies

Local Government Association

McAuliffe Environmental Ltd

National Association of Local Councils

National Association of Waste Disposal Officers

National Parks England

Parks for London

Pupils 2 Parliament

Road Haulage Association

Save Newcastle Wildlife

Tew Brithers Ltd

The AA

The RAC

The Traffic Tribunal

West Sussex Waste Partnership

Yorkshire Environmental Enforcement Group

We also received 94 responses from private individuals