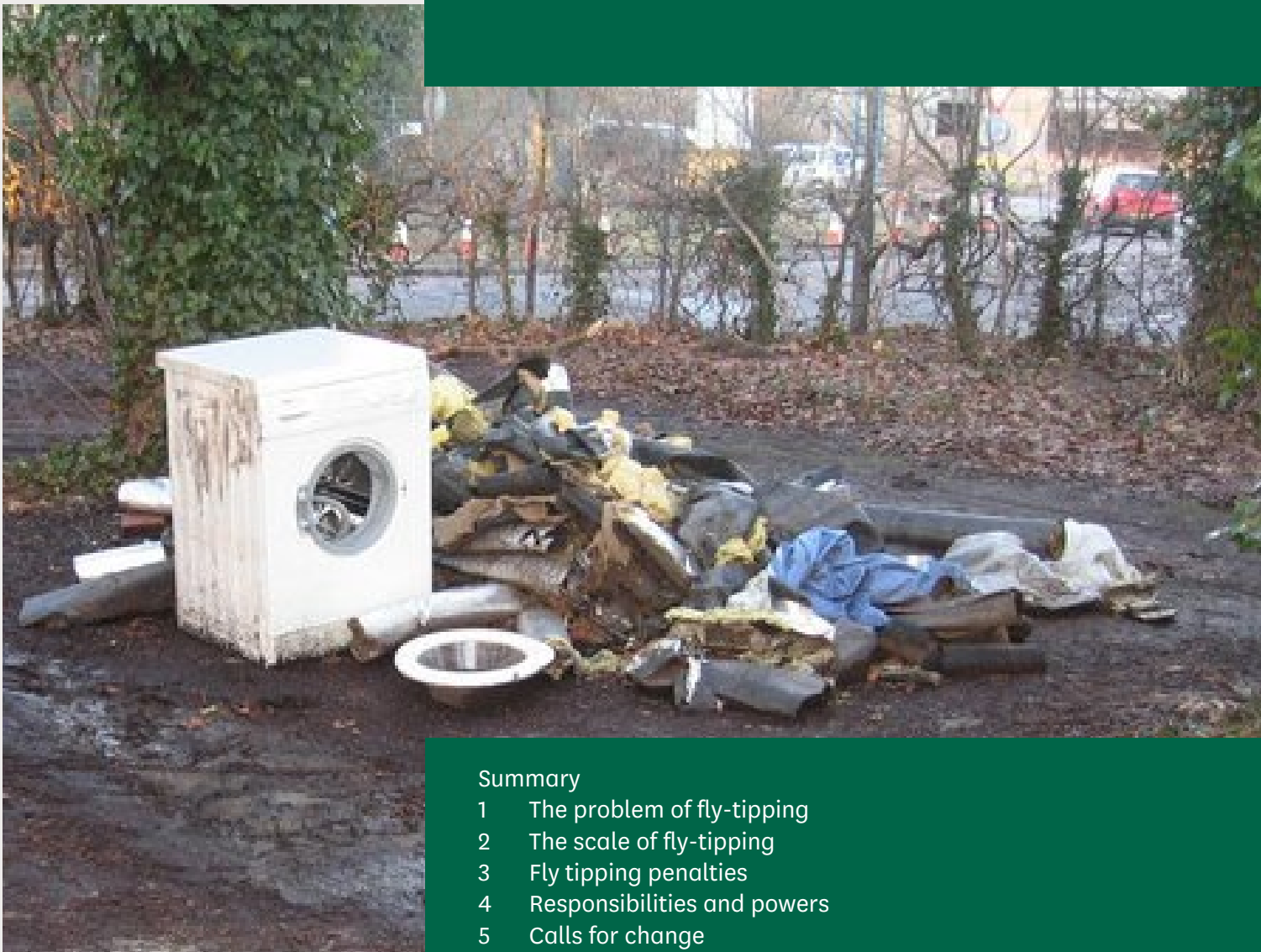


Research Briefing

19 December 2023

By Louise Smith

# Fly-tipping: the illegal dumping of waste



## Summary

- 1 The problem of fly-tipping
- 2 The scale of fly-tipping
- 3 Fly tipping penalties
- 4 Responsibilities and powers
- 5 Calls for change
- 6 Reporting fly-tipping
- 7 Government proposals for change

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## Summary

### What is fly-tipping?

Fly-tipping is the illegal disposal of household, industrial, commercial or other 'controlled' waste. The waste can be liquid or solid. 'Controlled' waste includes garden refuse and larger domestic items such as fridges and mattresses.

Fly-tipping is not the same as littering. Littering is commonly assumed to include materials, often associated with smoking, eating and drinking. More information on litter can be found in the [Commons Library briefing on litter](#).

### How big is the problem?

The most recent [Government Fly-tipping statistics for England](#), 2021/22 show that:

- For the 2021/22 year, local authorities in England dealt with 1.09 million fly-tipping incidents, a decrease of 4% from the 1.14 million reported in 2020/21.
- The percentage of fly-tips involving household waste has fallen from 65% to 61% in 2021/22. Total incidents involving household waste were 671,000 in 2021/22, a decrease of 9% from 740,000 incidents in 2020/21.

### Responsibility for fly tipping and powers to require clearance

- Local authorities are responsible for investigating, clearing and taking appropriate enforcement action in relation to small scale fly-tipping on public land.
- In England the Environment Agency is responsible for dealing with larger-scale fly-tipping (more than a lorry load), hazardous waste and fly-tipping by organised gangs.
- On private land, it is normally the responsibility of the landowner to remove the waste.

Local authorities and the Environment Agency have legal powers to require landowners to clear fly-tipped waste from their land. They also have powers to enter the land and clear it and may seek reimbursement for costs related to it.

## Penalties for fly-tipping

There is currently no minimum fine set out in law for unlawfully depositing waste under Section 33 of the Environmental Protection Act 1990. Sentencing in individual cases is a matter for the independent courts. Other available penalties include the issue of a fixed penalty notices and having a vehicle seized. Householders can be fined up to £600 if they pass their waste to an unlicensed waste carrier which is subsequently fly-tipped.

## Concern about costs to private landowners

Concern has been raised about the costs involved to private landowners of clearing fly tipped waste from their land and several campaigns have been launched calling for change in this area.

## UK Government plans for reform

The UK Government has announced plans to introduce mandatory digital waste tracking from April 2025. A digital waste tracking system would require those who produce, handle, dispose of or make products from waste, to enter information onto it. Among other things it aims to enable regulators to better detect illegal activity and tackle waste crime, including fly-tipping.

The UK Government has also [consulted on plans to reform the waste carrier, broker and dealer registration system](#) to introduce requirements for environmental permits in that sector. One of the aims of this is to ensure waste is managed by authorised persons only and in a safe manner, to reduce fly-tipping.

## Scope of this paper

Waste is a devolved issue. While this briefing paper focuses on England, it does provide links to further information in the devolved nations. Information on other UK countries can also be provided to Members and their staff on a request basis.

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# 1 The problem of fly-tipping

## 1.1 What is fly-tipping?

Fly-tipping is the illegal disposal of household, industrial, commercial or other ‘controlled’ waste. The waste can be liquid or solid; controlled waste includes garden refuse and larger domestic items such as fridges and mattresses.

Fly-tipping is a criminal offence pursuant to [section 33 of the Environmental Protection Act 1990](#):

a person shall not... deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence.

There is also an associated offence relating to the unlawful deposit of waste from a motor vehicle whereby the person who controls or is in a position to control the vehicle shall be treated as “knowingly causing the waste to be deposited whether or not he or she gave any instructions for this to be done.”<sup>1</sup>

Fly-tipping is not the same as littering. More information on litter can be found in the [Library Briefing Paper on Litter: key trends, policy and legislation in England](#).

## 1.2 What are the impacts of fly-tipping?

The Department for Environment, Food and Rural Affairs (Defra) has summarised that the range of impacts of fly-tipping includes a blight on the local environment, a danger to public health and a hazard to wildlife. It also highlighted that it undermines legitimate waste businesses.<sup>2</sup>

The UK Government currently only measures the cost of clearing larger scale fly tipping incidents, described as “tipper lorry load size or larger”. In 2021/22, 37,000 or around 4% of total incidents were of ‘tipper lorry load’ size or larger, which is a decrease of 3% from 38,000 in 2020/21. For these large fly-

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<sup>1</sup> Section 33(5), [Environmental Protection Act 1990 \(as amended\)](#).

<sup>2</sup> Defra, [Fly-tipping statistics for England, 2020 to 2021](#), Updated 8 December 2021

tipping incidents, the cost of clearance to local authorities in England in 2021/22 was £10.7 million, compared with £11.6 million in 2020/21.<sup>3</sup>

The industry body the Environmental Services Association and environmental consultants Eunomia published a report in July 2021, [Counting the Cost of UK Waste Crime](#). It broke down the estimated financial impact of different forms of waste crime from 2018/19, estimating fly-tipping to cost £392 million.<sup>4</sup>

A November 2018 government-commissioned [Independent review into serious and organised crime in the waste sector](#) set out how organised fly-tipping can turn into serious crime with significant clean-up costs:

Organised fly-tipping can accumulate into serious crime. Criminals advertise 'waste clearing services' to local households and businesses, but the waste they are paid to remove is dumped at illegal sites, which are usually situated on public or private land and accessed using force, threats, intimidation and violence. It can cost anywhere from £10,000 to £500,000 to clear a single site, and criminals often return once a site has been cleared, repeating the cycle.<sup>5</sup>

## 1.3 Why is there a problem?

The causes of fly-tipping are many and varied and may include factor such as

- financial gain or saving by the perpetrator
- a lack of waste disposal facilities or access to them
- laziness and an attitude that clearing the waste is someone else's problem

In its [Litter Strategy for England](#) (April 2017) the UK Government pointed to a number of reasons why fly-tipping occurs:

... including wanting to avoid the cost of proper waste disposal and the perceived limited availability of legal sites to dispose of material. Unlike littering, fly-tipping often also entails the deliberate transport of the waste to the place where it is dumped. Businesses caught fly-tipping have cited the reason for doing so as including lack of funds to pay legitimate waste disposal charges.<sup>6</sup>

The House of Commons Communities and Local Government Committee in its March 2015 report, [Litter and Fly-tipping in England](#) highlighted the government's view that increases in the rate of fly-tipping could have, in part, been because of more incidents being reported by local authorities due to new online reporting facilities. Witnesses representing local councils

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<sup>3</sup> Defra, [Fly-tipping statistics for England, 2021 to 2022](#), Updated 25 August 2023

<sup>4</sup> Environmental Services Association and Eunomia, [Counting the Cost of UK Waste Crime](#), July 2021, p24

<sup>5</sup> [Independent review into serious and organised crime in the waste sector](#), November 2018, p18

<sup>6</sup> HM Government, [Litter Strategy for England](#), April 2017



however, and landowners pointed to the introduction of charges for collection of household items and garden waste by waste collection authorities as being possible causes.<sup>7</sup>

In a Westminster Hall debate in February 2016 on Litter and Fly-tipping in England, Labour MP Liz McInnes argued that cuts to local government funding had been an influencing factor:

Unfortunately, cuts to local government funding are forcing many councils to make savings by closing municipal tips, which could increase fly-tipping. The closure of the local tip in Heywood in my constituency led to great concern among residents, many of whom contacted me to share their worries that such action would exacerbate the growing problem of fly-tipping.<sup>8</sup>

The then Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones) noted in his response that local authorities were being encouraged to take a tailored approach to dealing with fly-tipping in their local areas:

The Government are committed to localism and the transfer of power to local communities to deal with litter and fly-tipping problems, which require a local approach tailored to the characteristics of the area and the community in which the problems occur. Like the rest of the public sector, local authorities have worked hard over the last five years, but they still need to be thinking innovatively about how they can make litter and fly-tipping-related savings while protecting existing street cleansing services and standards.<sup>9</sup>

In an adjournment debate on 1 October 2020, Conservative MP Paul Bristow noted four main drivers of fly tipping:

There are three acknowledged drivers of fly-tipping, large and small: cost, because dumping waste means not having to pay for it; facilities, which can sometimes be difficult to access; and attitude, of the lazy and selfish who want to make their waste somebody else's problem. I would add a fourth driver, which is acceptability. When some people regularly see fly-tips, they think it is acceptable. Almost half of recorded fly-tips occur on pavements and roads, and these are often carried out by copycat offenders.<sup>10</sup>

Responding to the debate, the Minister, Rebecca Pow highlighted the complexity of dealing with fly tipping:

The Government remain absolutely committed to preventing fly-tipping, and I hope that what I am going to say will give some reassurance that measures are in place. Lots of measures have been strengthened, but there are lots more measures coming on track that I believe will help. Indeed, many of them have been mentioned by my hon. Friend, and I will touch on those shortly. Equally, however, I have discovered that, as with most things we touch in government, nothing is as straightforward as it initially appears, and it is not just a simple question of raising fines. It is more complicated than that, as I have

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<sup>7</sup> House of Commons Communities and Local Government Committee, [Litter and fly-tipping in England](#), Seventh Report of Session 2014-15, HC 607, 14 March 2015, para 20

<sup>8</sup> HC Deb 25 Feb 2016, [Col 185WH](#)

<sup>9</sup> HC Deb 15 February 2016: [Column 187WH](#)

<sup>10</sup> [HC Deb 1 October 2020 \[Fly-tipping: Penalties\]](#).

discovered, and a lot of levers need to be in place if we really are to get to grips with this—and I really hope we do get to grips with it.<sup>11</sup>

## 1.4 What has the UK Government done to tackle fly-tipping?

Current and previous governments have made various changes to the waste management regime over the last few years, with a view to tackling waste crime and fly-tipping. Some of the key consultations, reports, reviews and changes made are set out below.

### 2015 call for evidence on measures to tackle waste crime

In 2015 the Government published a [call for evidence on other measures to tackle waste crime and entrenched poor performance in the waste management industry](#). This sought views on proposals to enhance enforcement powers for the Environment Agency, Natural Resources Wales and local authorities. The [Government response](#) (PDF) contained details of the next steps and also set out future proposals, such as the introduction of fixed penalty notices (FPNs) for fly-tipping.

### New regulations 2018

The [Waste Enforcement \(England and Wales\) Regulations 2018](#) (SI 2018/369) provided for two new powers:

- the power for waste regulation authorities (the Environment Agency and Natural Resources Wales) and waste collection authorities (local authorities) to serve a notice on an owner or occupier to remove waste that is unlawfully kept or disposed of, irrespective of whether it was initially lawfully deposited.
- the power for waste regulation authorities to restrict access and importation of waste into premises that are, or were, a regulated or an exempt waste facility for up to 72 hours by issuing a restriction notice.

### 2018 Independent Review of Serious and Organised Crime in the Waste Sector

In 2018, Defra commissioned and published an [independent review of serious and organised crime in the waste sector](#). The final report set out a number of

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<sup>11</sup> [HC Deb 1 October 2020 \[Fly-tipping: Penalties\]](#).

recommendations for a more strategic approach to serious and organised waste crime.

The recommendations included the establishment of a Joint Unit for Waste Crime (JUWC) led by environmental regulators with law enforcement agencies, HMRC and the waste industry to tackle the most serious cases. It also recommended new and reformed waste legislation. This included new investigatory and disruptive powers for the Environment Agency, a tightening of the registration and duty of care requirements for carriers, brokers and dealers, mandatory electronic tracking of waste and a national database of registered brokers.

## 2018 Resources and Waste Strategy

The Government's December 2018 Resources and Waste Strategy for England contained a chapter on waste crime which also set out the ambition for a more strategic approach to waste crime, in line with many of the recommendations from the independent review. This included intention to:

- Improve the transportation, management and description of waste by reforming existing regulations
- Strengthen intelligence sharing and engagement to tackle illegal activity
- Prevent illegal activity being hidden through waste exemptions by reforming the existing regime
- Mandate the digital recording of waste movements, subject to consultation
- Create a Joint Unit for Waste Crime
- Toughen penalties for waste criminals
- Increase awareness of waste regulations and publicise positive work of enforcement bodies as they tackle waste crime.<sup>12</sup>

## January 2020: establishment of the Joint Unit for Waste Crime

In January 2020, the government announced that it had set up the Joint Unit for Waste Crime (JUWC).<sup>13</sup> The JUWC is comprised of eight partners: the Environment Agency (EA), Natural Resources Wales, the Scottish Environment Protection Agency, the Northern Ireland Environment Agency, the police, the National Crime Agency, HM Revenue & Customs (HMRC) and the British Transport Police.<sup>14</sup> A press release set out that the new unit would conduct

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<sup>12</sup> HM Government, [Resources and waste strategy for England](#), December 2018, p85

<sup>13</sup> GOV.UK, [Clock is ticking for waste criminals as new taskforce launched](#), 16 January 2020

<sup>14</sup> GOV.UK, [Successful first year for waste crime taskforce despite pandemic](#), 18 January 2021

site inspections, make arrests and prosecutions and, upon conviction, push for heavy fines and custodial sentences.<sup>15</sup>

## Budget 2020

In the Budget 2020 the Government announced £2 million to improve evidence on where fly-tipping happens and the best ways to deter it.<sup>16</sup>

## Environment Act 2021

The [Environment Act 2021](#) contains provisions that allow the government to introduce an electronic system to track waste movements. Further information about how the Government proposes that this will work is set out in section 6.1 of this briefing.

## Grant funding

In recent years the government has announced grants for councils to help fund a range of projects to tackle fly tipping. For more information see:

- [Crackdown on fly-tipping continues with new grants for councils](#), 8 April 2023
- [Government announces new crackdown on fly-tipping](#), 11 April 2022

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<sup>15</sup> GOV.UK, [Clock is ticking for waste criminals as new taskforce launched](#), 16 January 2020

<sup>16</sup> HM Treasury, [Budget 2020](#), 11 March 2020, p64

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## 2 The scale of fly-tipping

### 2.1 Fly-tipping data

Fly-tipping is likely to have increased through the 1990s to mid-2000s, although it was not until the creation of the Flycapture database in 2004 that more reliable statistics have been available.<sup>17</sup> Defra, the Welsh Government, local authorities and the Environment Agency collaborated on establishing the Flycapture database, which recorded the number, size, waste type and location type of fly-tips on public land recorded each month in each local authority area. It aimed to build evidence in order to inform policy making and to help local authorities to tackle the problem.

The Flycapture database has now closed and fly-tipping incidents in England and Wales are recorded on [WasteDataFlow](#), which is a web-based system for municipal waste data reporting by UK local authorities to government.

The data does not reflect fly-tipping on private land (see Section 4.5 below).

### 2.2 Fly-tipping trends

#### Overview and scale of fly tipping

The most recent Department for Environment, Food and Rural Affairs (Defra) statistics, [Fly-tipping statistics for England, 2021 to 2022](#), updated 25 August 2023, shows the scale of the issue:

- For the 2021/22 year, local authorities in England dealt with 1.09 million fly-tipping incidents, a decrease of 4% from the 1.14 million reported in 2020/21.
- The percentage of fly-tips involving household waste has fallen from 65% to 61% in 2021/22. Total incidents involving household waste were 671,000 in 2021/22, a decrease of 9% from 740,000 incidents in 2020/21.
- The most common place for fly-tipping to occur was on highways (pavements and roads), which accounted for over two fifths (43%) of total incidents in 2021/22, the same as in 2019/20 and 2020/21. In 2021/22, the number of highway incidents was 464,000, which was a decrease of 5% from 486,000 in 2020/21.

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<sup>17</sup> Defra, [Fly-tipping Strategy](#), February 2004

- The most common size category for fly-tipping incidents in 2021/22 was equivalent to a ‘small van load’ (32% of total incidents), followed by the equivalent of a ‘car boot or less’ (26%).<sup>18</sup>

Defra cautions that these statistics are based on fly-tipping incidents reported by local authorities in England and exclude the majority of private-land incidents and large scale incidents dealt with by the Environment Agency. Local authorities gather their data from a number of different sources, and data can often be collected and reported by separate teams, which may lead to discrepancies and some uncertainty.<sup>19</sup>

The statistics from the previous year, (2020/21), showed that there had been 1.13 million fly-tipping incidents, an increase of 16% from the 980,000 reported in 2019/20. The government explained the effect that the COVID-19 pandemic had had on increased fly-tipping numbers, due to factors such as the closure of household waste recycling centres:

The 2020/21 reporting period covers the first year of the COVID-19 pandemic. The first national lockdown introduced in March 2020 led to some local authorities being unable to maintain collections of dry recyclates, with some suspending garden and bulky waste collections. There was also a widespread closure of household waste recycling centres (HWRCs). HWRCs were later re-opened following Government guidance on managing HWRCs in England during the COVID-19 pandemic but with some restrictions in place (e.g. booking system). These factors and other factors such as changes in household consumption, travel and leisure patterns may have contributed to the increases seen in the number of fly-tipping incidents reported for 2020/21.<sup>20</sup>

## Enforcement actions

Local authorities carried out 507,000 enforcement actions in 2021/22, an increase of 52,000 actions (11%) from 455,000 in 2020/21 (note that multiple actions can sometimes be carried out on one single incident).<sup>21</sup> Enforcement actions include investigations, warning letters, inspections, fixed penalty notices and statutory notices.

In relation to enforcement actions the government noted that the 2021/22 figures may not be directly comparable to the previous year, due to the effect of the pandemic on how enforcement action could be carried out:

Staff shortages, staff being furloughed, and staff being redeployed may also have impacted on the number of enforcement actions which were carried out during 2020/21. Courts were also closed at certain points of the reporting period which several local authorities reported impacted on the number of prosecution actions undertaken.

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<sup>18</sup> Defra, [Fly-tipping statistics for England, 2021 to 2022](#), updated 25 August 2023

<sup>19</sup> Defra, [Fly-tipping statistics for England, 2021 to 2022](#), updated 25 August 2023

<sup>20</sup> Defra, [Fly-tipping statistics for England, 2020 to 2021](#), updated 25 August 2023

<sup>21</sup> Defra, [Fly-tipping statistics for England, 2021 to 2022](#), updated 25 August 2023

This may affect comparability with the 2021/22 figures, so this should be borne in mind.<sup>22</sup>

The Defra statistics provide the following figures on different enforcement actions:

- For 2021/22, 23,700 (26%) of fixed penalty notices were issued specifically for small scale fly-tipping, 42,500 (47%) in relation to littering, 5,900 (6%) in relation to household duty of care and 19,000 (21%) in relation to other waste offences.
- The number of prosecution actions has increased from 721 in 2020/21 to 1,959 in 2021/22 (172%). Costs of prosecution actions increased from £295,700 in 2020/21 to £850,700 in 2021/22 (188%).
- There were 54,000 warning letters issued in 2021/22, an increase of 11,000 (26%) from 2020/21. Warning letters accounted for 11% of total enforcement actions in 2021/22.
- The number of duty of care inspections rose by 28% in 2021/22, from 20,000 inspections to 25,000 inspections. This accounted for 5% of total enforcement actions in 2021/22.
- A total of 21,000 statutory notices were issued in 2021/22, accounting for 4% of total enforcement actions. This was an increase of 41% from the 15,000 statutory notices issued in 2020/21.<sup>23</sup>

## Devolved Administrations

For fly-tipping statistics in the devolved nations see:

- **Wales:** Local Authorities submit their fly-tipping data on a quarterly basis to [WasteDataFlow](#), an online data gathering system. This information will include details on the size and nature of the fly-tipping incident, the cost of dealing with it and any enforcement action undertaken. The data is then quality checked by [Fly-tipping Action Wales](#) and published annually on the [Welsh Government website](#). To assist in this recording process some Local Authorities use the Welsh Government funded GPS mapping system, [FlyMapper](#), which enables additional spatial and visual data to be gathered on fly-tipping incidents.
- **Scotland:** The [Litter Monitoring System](#) is the national reporting tool in Scotland for private land managers and public bodies such as local authorities to record and map fly tipping. Routine statistics on fly-tipping on levels of fly-tipping are not routinely published. Problems in capturing data from local authorities as well as the data available was most recently set out in the Scottish Government report, [Litter and](#)

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<sup>22</sup> Defra, [Fly-tipping statistics for England, 2021 to 2022](#), updated 25 August 2023

<sup>23</sup> Defra, [Fly-tipping statistics for England, 2021 to 2022](#), updated 25 August 2023

[flytipping: scale and cost](#), 28 June 2023. Several [information request and responses](#) under the Environmental Information (Scotland) Regulations 2004 have also provided statistics for Scotland. See in particular:

- [FOI/202100258306](#), 28 January 2022
  - [FOI/19/00885](#), 12 April 2019;
  - [FOI/18/00784](#), 28 March 2018; and
  - [FOI/18/00357](#), 6 March 2018.
- **Northern Ireland:** Statistics can be found in the Department of Agriculture, Environment and Rural Affairs press release, [NIEA \[Northern Ireland Environment Agency\] reveals illegal fly-tipping costs](#), 31 May 2018.



### 3 Fly tipping penalties

The penalties for fly-tipping in England and Wales are provided by section 33 of the [Environmental Protection Act 1990](#) (EPA), as amended (the prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste). There is currently no minimum fine for unlawfully depositing waste under this provision. Sentencing in individual cases is a matter for the courts.<sup>24</sup> From July 2014, [sentencing guidelines](#) have been produced by the Sentencing Council for England and Wales.<sup>25</sup> An offender is liable:

- On summary conviction in the magistrates' court, to imprisonment for a term not exceeding 6 months, an unlimited fine or both.
- On conviction on indictment in the Crown Court, to five years imprisonment, an unlimited fine or both.<sup>26</sup>

Those found guilty of fly-tipping may also have to pay legal costs and compensation, which can greatly increase the financial implications of illegal dumping.

In addition, under the [Proceeds of Crime Act 2002](#), offenders can have assets frozen and confiscated.

There are also a range of other possible penalties including:

- Fixed penalty notices: local authorities in England can issue fixed penalty notices of between £150 to £1,000 for small-scale fly-tipping offences. This may be served as a criminal penalty in lieu of prosecution for a criminal offence. It is not a civil penalty.
- In Wales, from local authorities can issue fixed penalty notices of between £150 to £400 for fly-tipping waste offences.
- Seizing property: the [Control of Waste \(Dealing with Seized Property\) \(England and Wales\) Regulations 2015](#) came into force on 6 April 2015 and apply in England and Wales. These regulations establish the procedures which a waste collection authority (most local authorities), the Environment Agency and Natural Resources Wales must follow once they have seized a vehicle and/or its contents because of suspected involvement concerning the transport or disposal of waste (such as fly-

<sup>24</sup> [PQ Fly-tipping: Fines UIN 29008, tabled on 7 July 2021](#)

<sup>25</sup> Sentencing Council, [New sentencing guideline for environmental crimes brings higher sentences for serious offenders](#), 26 February 2014 [accessed 15 September 2015]

<sup>26</sup> Practical Law, Fly Tipping, maintained resource, accessed 25 August 2021 [Subscription required]

tipping).<sup>27</sup> The power to actually seize a vehicle and its contents stems from section 5 of the [Control of Pollution \(Amendment\) Act 1989](#), as amended.

## 3.1

# Householder waste duty of care breaches

## 1 Waste duty of care

Section 34 of the Environmental Protection Act 1990 imposes a duty of care on anyone who imports, produces, carries, keeps, treats, disposes of, (or is a dealer or broker that has control of), “controlled waste”. The term “controlled waste” covers household, industrial and commercial waste. Waste is any substance or object that the holder discards, intends to discard or is required to discard. This statutory provision is accompanied by a [Waste Duty of Care Code of Practice](#), published jointly by the UK and Welsh Governments, November 2018. Further information about the householder waste duty of care responsibilities is set out section 4.1 of this paper.

Householders have a duty of care to check that anyone they use to take away and dispose of their domestic waste is registered. According to the legal resource, Practical Law, householders are not required to supply duty of care documentation, such as a waste transfer note, but they could face a maximum fine of £5,000 if they fail to take reasonable measures to ensure their domestic waste is handled by an authorised waste carrier.<sup>28</sup>

In respect of householder waste, the duty in the Code of Practice is for occupiers of domestic properties to “take all reasonable measures available to you to ensure you only transfer household waste produced on your property to an authorised person.” The term ‘reasonable measures’ is explained as follows:

5.4 What reasonable measures should you take when a private business takes your waste?

If you engage a private business (e.g. skip hire, house clearance) to take away your waste rather than the local authority, in order to meet your duty of care you should check that they are an authorised carrier with up to date and valid upper tier registration. This includes a business which approaches you and

<sup>27</sup> The powers for seizure arise under either section 5 of the Control of Pollution (Amendment) Act 1989 or section 34B of the Environmental Protection Act 1990.

<sup>28</sup> Practical Law, [Fly-tipping](#), maintained resource (accessed 13 December 2023) [Subscription required]

offers to take your waste. Each carrier should have a registration number starting CBDU, followed by a set of numbers.

In England you can check whether a waste carrier is registered on the [Environment Agency's online public register](#) of waste carriers, brokers and dealers using their registration number, business name, or postcode or call 03708 506 506. The site can also be used to find registered carriers near you.

In Wales you can check on the [Natural Resources Wales public register](#) of carriers, brokers and dealers or call 0300 065 3000.<sup>29</sup>

A householder will need to demonstrate that they have met the waste duty of care if their waste is subsequently fly-tipped and investigated by the local authority.<sup>30</sup>

In England section 34ZA of the EPA provides that the Environment Agency or local authorities have powers to impose a fixed penalty notice for a breach of the household waste duty of care in England between £150 and £600.

In Wales section 34ZB of the EPA provides that enforcement authorities can impose a fixed penalty notice of £300 for breach of the household waste duty of care.

The UK Government has issued guidance for local authorities on issuing waste duty of care fixed penalty notices: [Guidance for local authorities on household waste duty of care fixed penalty notices](#), 11 September 2023.

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<sup>29</sup> HM Government, [Waste Duty of Care Code of Practice](#), November 2018, p14-15

<sup>30</sup> HM Government, [Waste Duty of Care Code of Practice](#), November 2018, p16

## 4 Responsibilities and powers

### 4.1 Government and devolved administration policies

In England, the Department for Environment, Food and Rural Affairs (Defra) is responsible for fly tipping. Defra's online guidance on [Local environmental quality](#), (updated June 2015), set out the various roles and responsibilities of local authorities and the Environment Agency in dealing with fly-tipping. Local council responsibilities to keep land clear (including from fly-tipping) are also set out in Defra's guidance on [Litter and refuse: council responsibilities to keep land clear](#), updated July 2018.

The UK Government's [Litter Strategy for England](#) (2017) covers proposals to improve fly tipping. The January 2023 [Environmental Improvement Plan](#) summarises actions taken since the Litter Strategy and outlines remaining actions being worked on.

In Wales, the Welsh Government has published a consultation on a [Litter and fly-tipping prevention plan for Wales](#), January 2021. This provides background information about how fly-tipping is dealt with in Wales and about proposals for reform.

In Scotland, the June 2023 [National Litter and Flytipping Strategy](#) sets out how fly tipping is controlled and is accompanied by a [National Litter and Flytipping Strategy 2023-24 Action Plan](#) (PDF).

In Northern Ireland, the [NI Direct website](#) provides more information on fly-tipping, including what to do and how to report fly-tipping.

Defra set up the National Fly-Tipping Prevention Group (NFTPG) to bring private landowners together with central Government, local authorities, agencies in the devolved nations, and the police. It shares information across the UK. Information about the [NFTPG and its work](#) is hosted on the Keep Britain Tidy website, where it also provide guidance for landowners, businesses and individuals on fly tipping issues.

### 4.2 Local authority responsibility

Local authorities are responsible for dealing with investigating, clearing and taking appropriate enforcement action in relation to smaller scale fly-tipping

on public land (including public roads and highways within their responsibility).

For further information see GOV.UK guidance, [Fly-tipping: council responsibilities](#), updated July 2019 and the NFTPG guide, [Fly-tipping responsibilities: Guide for local authorities and land managers](#) (PDF), undated.

## 4.3 The Environment Agency's responsibility

The Environment Agency, in England, is responsible for dealing with larger scale fly-tips on public land involving more than a lorry load of waste, hazardous waste and fly-tipping by organised gangs. GOV.UK guidance sets out when someone should contact the Environment Agency:

... you need to contact the Environment Agency if the illegally dumped waste is:

- more than 20 tonnes (about 20 cubic metres)
- more than 5 cubic metres of fibrous asbestos or 75 litres of potentially hazardous waste in drums or containers
- possibly linked to criminal business activity or organised crime.<sup>31</sup>

## 4.4 Private landowner responsibility

Fly-tipping on private land is thought to be a major problem, although there is very little data available.

On private land it is the responsibility of the landowner to remove fly-tipped waste and dispose of it legally. Landowners should ensure that they use an [authorised waste carrier](#) to remove the fly-tipped waste. For further information see GOV.UK guidance, [Fly-tipping on private land: landowner responsibilities](#), updated July 2019. This guidance sets out the limited circumstances in which the Environment Agency will remove the waste:

The Environment Agency has no duty to clear waste. It will only consider clearing waste in limited circumstances, for example if there's an immediate and significant risk of harm to the environment or human health.<sup>32</sup>

The NFTPG has published a guide for landowners: [Advice for landowners: dealing with fly tipped waste](#), (PDF), undated. If the fly-tipper is caught and

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<sup>31</sup> GOV.UK guidance, [Fly-tipping: council responsibilities](#), July 2019

<sup>32</sup> GOV.UK guidance, [Fly-tipping on private land: landowner responsibilities](#), July 2019

prosecuted, it may be possible for a landowner to reclaim the costs involved.<sup>33</sup>

In October 2009, Defra explained why it is the responsibility of landowners to deal with fly-tipped waste on their land:

Neither the local authority nor the Environment Agency is under any legal obligation to remove the waste. Placing a duty on the authorities to remove all waste from private land would simply encourage illegal dumping rather than tackle the problem. People would not pay the costs of legitimate disposal if they knew they could fly-tip it in the nearest field and the local tax payer would foot the clearance bill.<sup>34</sup>

## 4.5 Powers available to require the clearance of fly-tipped waste

Local authorities and the Environment Agency have powers to require landowners to clear waste from their land. The local authority and Environment Agency also have powers to enter land and clear it and may seek reimbursement for costs related to this.

Relevant legislation includes:

- Section 59 of the [Environmental Protection Act 1990](#) (as amended): a local authority or the Environment Agency can issue a notice on an occupier or landowner to clear controlled waste that has been illegally deposited within a time period of not less than 21 days. It is an offence not to comply with a notice if no appeal is made. The authorities can also enter land and clear it and recover reasonable costs.
- Section 215 of the [Town and Country Planning Act 1990](#) (as amended): enables local authorities to issue a notice to landowners requiring land or buildings to be cleaned up if its “condition adversely affects the amenity of the area”.<sup>35</sup> The authorities can also enter land and clear it, and recover costs from the owner.
- Section 79 and 80 of the [Environmental Protection Act 1990](#) (as amended): this legislation deals with statutory nuisance. Nuisance can include odours, accumulations or deposits that “must be or be likely to become, prejudicial to people’s health or interfere with a person’s legitimate use and enjoyment of land”. Local authorities have a duty to investigate complaints about statutory nuisance and can serve an abatement notice on an occupier requiring them to stop causing a

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<sup>33</sup> National Fly-tipping Prevention Group, [Tackling Fly-tipping: A guide for landowners and land managers](#), April 2006 [accessed 15 September 2015]

<sup>34</sup> Defra, [Flycapture fly-tipping national database background](#), 1 October 2009 [now withdrawn]

<sup>35</sup> Office of the Deputy Prime Minister, [Town and Country Planning Act 1990 Section 215 Best Practice Guidance](#), January 2005

nuisance. Failure to comply with a notice can result in a fine of up to £5,000, with a further fine of up to £500 for each day on which the offence continues after conviction.<sup>36</sup>

Waste collection authorities and the Environment Agency also have powers under section 108 of the [Environment Act 1995](#) (as amended) to request information to assist with fly-tipping investigations. Failure to supply the information is an offence.

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<sup>36</sup> Defra, [Statutory Nuisance](#), 7 April 2015

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## 5 Calls for change

### 5.1 Local authority support

In October 2022 the House of Commons Committee of Public Accounts published a report, [Government actions to combat waste crime](#). The committee said that Defra was not doing enough to support local authorities to tackle fly-tipping. It found that local authorities were constrained by limited resources and that practice in dealing with fly-tipping varied greatly between different local authorities. The committee recommended that Defra should work with local authorities to, “set a clear national framework for tackling fly-tipping, setting overall expectations and promoting good practice, while allowing local authorities the flexibility to respond to local circumstances.”<sup>37</sup>

A [government response to the committee’s report](#) was published in December 2022. The government said that it supports local solutions for local problems and it pointed to work on the NFTP toolkit as being a future source of support for local authorities.<sup>38</sup>

### 5.2 Private landowner responsibility

Concern has been raised about the costs involved to private landowners of clearing fly tipped waste from their land. For example, the NFU (National Farmers’ Union) has called for a change in the law so that private land owners are not solely responsible for the cost of clearing it.<sup>39</sup>

The CLA (Country Land & Business Association) has published a “5 point plan” on [tackling the blight on fly tipping](#) (PDF), undated. This stated that “almost two thirds of farmers and landowners are affected each year, with some targeted multiple times each month.”<sup>40</sup> The CLA’s briefing made several proposals for reform, including, a removal of the landowner liability to clear up waste on private land and introducing a new scheme to allow any private

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<sup>37</sup> House of Commons Committee of Public Accounts, [Government actions to combat waste crime](#), 19 October 2022, p7

<sup>38</sup> Treasury minutes: [Government response to the Committee of Public Accounts on the Eighteenth report from Session 2022-23](#), 14 December 2022, p6

<sup>39</sup> National Farmers’ Union, [Fly-tipping scourge of the countryside](#), 2 March 2017

<sup>40</sup> CLA, [“5 point plan” on tackling the blight on fly tipping](#) [accessed 29 November 2023]



landowner who did not cause or knowingly permit the fly-tipping to dispose of it at a waste disposal site free of charge.<sup>41</sup>

In April 2017 Farmers Weekly launched a campaign to tackle the illegal dumping of rubbish on farms with the strapline “Stop the Blot: Fly-tipping is ruining our countryside”. For further information see Farmers Weekly article, [Farmers Weekly launches Stop the Blot fly-tipping campaign](#), 7 April 2017.

A later article from Farmers Weekly in December 2017 reported a letter received from government in response to the campaign which indicated that there would not be a change in the law in relation to responsibilities of private landowners:

But responding to the CLA in a letter, Ms Coffey [the then Defra Minister] said she saw no reason to change the legislation.

“Landowners are currently responsible for dealing with waste that is dumped on their land and enabling fly-tipped waste to be disposed of free of charge would not provide the right incentive to secure land against fly-tipping,” she wrote.

Defra believes that placing an obligation on local authorities to remove illegal waste from private land would encourage illegal dumping rather than tackle the problem.

Cost recovery

Ms Coffey said Defra expected all local authorities to investigate fly-tipping incidents on private land. Councils should work with landowners to prosecute the fly-tipper and recover costs, she added.

Mr Breitmeyer told Farmers Weekly the CLA was encouraged that Ms Coffey had acknowledged the CLA’s action plan and had stated Defra intends to take forward most of the points raised.

But he added: “We are disappointed that no effort has been made to look at how landowner liability could be reduced.

“There are alternatives the government and local authorities could explore to ease the burden of disposal costs for landowners. It is a cop-out not to look more closely at how to change the unfairness of this rule.”<sup>42</sup>

In response to a PQ (in October 2017), on the issue of private landowners being charged for dealing with fly tipped waste, the government highlighted that it would support landowners, through the work of the NFTPG, with guidance on measures that can be taken to deter fly-tipping:

All private landowners are responsible for dealing with waste that is dumped on their land. We expect all local authorities to investigate fly-tipping incidents on private land and prosecute the fly-tippers when there is sufficient evidence. On conviction, a cost order can be made by the court so that a landowner’s costs can be recovered from the perpetrator. Through the National Fly-tipping

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<sup>41</sup> CLA, [“5 point plan” on tackling the blight on fly tipping](#) [accessed 29 November 2023]

<sup>42</sup> “Defra snubs landowners’ plea to change fly-tipping laws”, [Farmers Weekly](#), 14 December 2017

Prevention Group we provide advice and guidance to landowners and businesses on measures they can take to prevent fly-tipping on their land. I will raise charging at local authority waste sites in my next meeting with the Local Government Association.<sup>43</sup>

In reply to adjournment debate in October 2020, the government set out its aim to better quantify to extent of fly tipping on private land.<sup>44</sup>

The government also set out further actions it was taking to prevent fly-tipping on private land in response to a PQ in October 2023:

We appreciate the difficulty and cost that fly-tipping poses to landowners. We are working with a wide range of interested parties through the National Fly-Tipping Prevention Group, such as the National Farmers Union, Environment Agency, Country Land and Business Association, National Police Chief's Council and local authorities, to promote and disseminate good practice, including how to prevent fly-tipping on private land.<sup>45</sup>

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<sup>43</sup> [Fly-tipping: Written question - 108972](#), answered on 26 October 2017

<sup>44</sup> [HC Deb 1 October 2020 \[Fly-tipping: Penalties\]](#).

<sup>45</sup> [PQ 202902 \[Fly-tipping: Rural Areas\], 20 October 2023](#)

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## 6 Reporting fly-tipping

Regardless of whether land is public or private, if anyone has witnessed or found fly-tipping, they can report it to the relevant authority. The relevant local authority can be found on the GOV.UK online service, [Report fly-tipping or illegal waste dumping](#), which covers England, Scotland, and Wales.

In Northern Ireland reports can be made to the Northern Ireland Environment Agency's Environmental Crime Unit: [environmentalcrime@daera-ni.gov.uk](mailto:environmentalcrime@daera-ni.gov.uk)

Reports should include as many details about the incident and type/amount of waste as possible.

The environmental charity, Keep Britain Tidy, offers the following advice about reporting fly-tipping on its website, [Fly-tipping and the law](#):

If you see someone fly-tipping, or you want to report an area where fly-tipping has taken place, take note of the following:

- Date, time and place of the incident
- What the waste looks like and how much there is
- Descriptions of any person and/or vehicles involved along with the registration number

As fly-tippers are doing something illegal, they do not want to be caught. Do not approach them or put your own safety at risk.

## 7

# Government proposals for change

### 7.1

## UK Government

### Web-based fly-tipping toolkit

The government's December 2018 Resources and Waste Strategy committed to publishing a web-based fly-tipping toolkit.<sup>46</sup> The aim of this is to increase local authority knowledge of fly-tipping and to encourage knowledge sharing. This work has been taken forward through the NFTPG, which has so far published three documents as part of this toolkit:

- [Fly-tipping Toolkit: How to Present Robust Cases to the Courts](#) (PDF)
- [Fly-Tipping Partnership Framework: How local authorities can set up and run an effective partnership to tackle fly-tipping](#) (PDF)
- [Toolkit for raising awareness of the household waste duty of care](#) (PDF)

Once finished, the toolkit is intended to cover a number of topics, including:

- How to best share intelligence within a partnership and with other partnerships;
- How to best promote the duty of care for individuals and businesses;
- Examples of existing good practice to prevent fly-tipping;
- How to use new technology to report fly-tipping;
- How to deal with fly-tipping associated with unauthorised encampments.<sup>47</sup>

### Mandatory digital waste tracking

Mandatory digital waste tracking is expected to begin from April 2025 across the UK. A digital waste tracking system would require those who produce, handle, dispose of or make products from waste, to enter information onto it.

The aim of introducing digital waste tracking is to address concerns that there is currently no comprehensive way of tracking waste produced in the UK, with various existing fragmented systems using a mixture of electronic

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<sup>46</sup> HM Government, [Our Waste, Our Resources: A Strategy for England](#), December 2018, p91

<sup>47</sup> Keep Britain Tidy, [National Fly-Tipping Prevention Group](#) (accessed 4 December 2023)

and paper-based systems. Among other things it aims to enable regulators to better detect illegal activity and tackle waste crime, including fly-tipping.<sup>48</sup>

In January 2022 the government published a consultation on the [introduction of mandatory digital waste tracking](#). This was a joint consultation from the UK Government, the Scottish Government, the Welsh Government and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, who are working together to develop a central digital waste tracking service. A [joint government response was later published](#) (21 October 2023 update).

The consultation follows on from powers provided in the [Environment Act 2021](#) to allow such a service to be established. In October 2023 the UK Government published a policy paper, [Mandatory digital waste tracking](#), which sets out next steps and confirms that a system will begin from April 2025.

## Reform of the waste carrier, broker, dealer registration system

In January 2022 the UK Government also published a [consultation on the reform of the waste carrier, broker, dealer registration system in England](#). Waste brokers are those that arrange for other businesses' controlled waste to be handled, transported, disposed of or recovered. Waste dealers are those that take waste from another business to sell on for use other than disposal. This could include waste that is exported abroad for recycling or recovery.

The consultation document expressed concern that these groups of people can operate almost out of sight of the regulator and that the current registration process allows anyone to set up and register as a waste carrier, broker or dealer without any check on their competency or background.

To address these concerns, the government wants increased checks to ensure waste is managed by authorised persons only and in a safe manner, making it harder for unregistered operators to find work in the sector. The aim, among other things, is to reduce the amount of fly tipped materials.<sup>49</sup>

A [government response was published in October 2023](#). It confirmed plans to change the terminology around these groups to:

- waste 'controllers' (those who take responsibility for classifying waste and deciding where it is taken), and
- 'transporters' (those who physically transport waste).

The aim is to simplify the terminology used. There would then be an environmental permit process introduced for these groups which will have

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<sup>48</sup> GOV.UK [Government unveils plans to crack down on waste](#), 21 January 2022

<sup>49</sup> HM Government, [Consultation on the reform of the waste carrier, broker, dealer registration system in England](#), January 2022

tiers within them to reflect different activities carried out. This aims to reflect the different responsibilities more accurately to enable better accountability. The government has not yet said when these changes will happen.

## Household waste recycling centres: DIY waste disposal charges

In April 2022 the Government published a [technical consultation on changes to allow householders to dispose of DIY waste at household waste recycling centres for free](#). Some, but not all local authorities consider that DIY waste does not fall under the heading of “household waste” and therefore impose a charge for the disposal of this type of waste. The aim of this change is to reduce the potential risk of fly-tipping, littering and backyard burning which “create additional costs for local authorities and causes environmental issues.”<sup>50</sup>

A [government response to the consultation](#) was published in June 2023. The response confirmed that the government would go ahead with the proposal to allow for the free deposit of household DIY waste, but that there would be limits on the volume of waste and frequency of visits to the household waste recycling centre that would allowed free of charge:

“We will allow for free disposal of DIY waste up to two 50L rubble bags (or one bulky or fitted item no larger than 2,000mm by 750mm by 700mm, the approximate size of a bathtub or shower screen), at a frequency of 4 visits per household over a 4-week period.”

The government has made regulations to enact this change, [The Controlled Waste \(England and Wales\) \(Amendment\) \(England\) Regulations 2023](#) (SI 2023/1243), which will come into force on 31 December 2023.

The government has not said how it expects local authorities to enforce these requirements. The explanatory memorandum to the regulations states, “Local authorities will be responsible for implementation, including how best to implement any required checks by HWRC operatives.”<sup>51</sup>

## Environmental Improvement Plan commitments

In January 2023 the UK Government published an [Environmental Improvement Plan](#). In it, the government made the following commitments in relation to fly-tipping:

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<sup>50</sup> HM Government, [Household waste recycling centres: DIY waste disposal charges and booking systems](#), 11 April 2022

<sup>51</sup> [Explanatory memorandum to The Controlled Waste \(England and Wales\) \(Amendment\) \(England\) Regulations 2023](#), para 11.1

- Award a further £800,000 available in grant funding for councils to tackle fly-tipping [awarded as grants to specific councils<sup>52</sup>].
- Continue to deliver commitments in the Litter Strategy for England (published in 2017), such as reviewing the Code of Practice on Litter and Refuse.
- Publish the remaining parts of the fly-tipping toolkit. Amongst other content, this supports local authorities to set up and run effective partnerships to tackle fly-tipping and promote duty of care around household waste.
- Bring forward further measures in due course to tackle anti-social behaviour.<sup>53</sup>

## 7.2

## Welsh Government

The Welsh Government has published a consultation, [Litter and fly-tipping prevention plan for Wales](#), 28 January 2021. The consultation sets out actions that the Welsh Government intends to take to improve fly-tipping, including:

- Working with Fly-tipping Action Wales and Local Authorities to improve fly-tipping data recording and reporting in Wales;
- Working with other land managers, owners and businesses to improve the recording and reporting of littering and fly-tipping on private land;
- Developing a common data standard to enable the spatial mapping of fly-tipping in Wales;
- Reviewing existing indicators/ performance measures/ reporting requirements for litter and fly-tipping in Wales to develop a monitoring baseline;
- Working with the construction industry and landlords to explore opportunities for reducing fly-tipping associated with these sectors;
- Working with organisations and communities to support transformation projects in areas impacted by littering and fly-tipping;
- Reviewing existing enforcement capabilities across Wales and the current fixed penalty amounts available for littering and fly-tipping offences with a view to increase levels if needed;

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<sup>52</sup> For further information about the councils receiving the grants see GOV.UK, [Crackdown on fly-tipping continues with new grants for councils](#), 8 April 2023

<sup>53</sup> HM Government, [Environmental Improvement Plan](#), January 2023, p157

- Exploring proposals to help support fly-tipping enforcement action across Wales including undertaking action on private land;
- Working with UK Government to gather evidence on current prosecution outcomes of fly-tipping offences in England and Wales to determine whether additional measures are needed;
- Supporting the establishment of an intelligence sharing database for fly-tipping in Wales; and
- Identifying and sharing examples of best practice in relation to the use of technology in the clearing and investigating of fly-tipping incidents.

A summary of responses was published in March 2022, [Litter and fly-tipping prevention plan for Wales: summary of responses](#). In it the Welsh Government confirmed that it would include litter and fly-tipping together within a single, strategic plan. Work will also be undertaken to “identify how best to support enforcement action for fly-tipping offences committed on private and common land.”<sup>54</sup> The Welsh Government also said that it would review how enforcement action was undertaken across Wales and would work with the UK Government on non-devolved enforcement matters:

As the criminal justice system is a non-devolved matter, we continue to work with our UK Government counterparts to identify areas of improvement, particularly in relation to the existing sentencing guidelines. Under the Plan, we also intend to explore ways of improving how successful enforcement is communicated to the public and how other enforcement authorities across the UK raise awareness of their activity.<sup>55</sup>

## 7.3

### Scottish Government

The Scottish Government published a [National Litter and Flytipping Strategy](#) in June 2023. This was accompanied by a [National Litter and Flytipping Strategy 2023-24 Action Plan](#). As well as seeking to improve the consistency of data collected of fly tipping, the action plan committed to the following actions:

- A new fixed penalty regime will be introduced to allow local authorities to issue Fixed Penalty Notices for breaches to householder duty of care obligations in relation to the disposal household waste.
- Raise the current value of Fixed Penalty Notices, which can be issued by local authorities, Police Scotland and Loch Lomond and Trossachs National Park, to the current maximum in Scotland of £500.

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<sup>54</sup> Welsh Government, [Litter and fly-tipping prevention plan for Wales: summary of responses](#), March 2022, p52

<sup>55</sup> Welsh Government, [Litter and fly-tipping prevention plan for Wales: summary of responses](#), March 2022, p52



- Share information and support resource sharing between key stakeholders and fora including the Litter Managers Network, Scottish Partnership Against Rural Crime and Flytipping Forum.
- Simplify existing flytipping reporting channels through the closure of Dumb Dumpers [the former service for reporting fly-tipping by telephone and online].
- Support key stakeholders to review guidance on roles and responsibility of Scottish Environment Protection Agency, local authorities, national parks and Police Scotland in investigating and enforcing flytipping offences.
- Develop guidance and carry out trials to better support private landowners to deter and deal with flytipping affecting their land.
- Increase use of digital technologies to detect and disrupt flytippers: Enhance the use of open-source research to identify unregistered waste carriers advertising on-line (as well as rogue operators operating behind a Waste Carrier Registration) and, where they are found, apply both online interventions to deter and disrupt their actions, as well as capture information to support their investigations leading to enforcement action.<sup>56</sup>

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<sup>56</sup> Scottish Government, [National Litter and Flytipping Strategy 2023-24 Action Plan](#), June 2023

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