



Department
for Environment,
Food & Rural Affairs



Llywodraeth Cymru
Welsh Government

Fly-tipping: powers for local authorities to issue conditional cautions to offenders

Dealing with persistent fly-tippers

August 2026



© Crown copyright 2026

This information is licensed under the Open Government Licence v3.0. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/defra

Any enquiries regarding this publication should be sent to us at cleanupsquads@defra.gov.uk.

Contents

Introduction.....	4
Responding to the consultation	6
Consultation period	7
After the consultation	7
The proposal.....	8
Consultation questions.....	12

Introduction

Dealing with fly-tipping diverts hundreds of millions of pounds each year away from other essential public services in England and Wales by placing a substantial and operational burden on our local authorities. Furthermore, fly-tipping harms human health and the health of our wildlife, and contributes to a sense of neglect that can make communities feel unsafe and undesirable to live in. Poor quality local environments can deter investment and over time may depress property values, undermining local economic growth and community pride.

People take pride in the places where they live – the parks where children play, the green spaces people cherish, and the landscapes that define our towns, cities and countryside. But fly-tippers scar our streets and organised crime groups exploit the waste sector for profit. These offences damage the environment, threaten public safety and undercut honest businesses.

With 20% of all waste estimated to be illegally managed, waste crime is costing our economy £1 billion each year¹. In 2024-25, we lost at least £240 million in revenue due to Landfill Tax evasion².

Under the Environmental Protection Act (EPA) 1990³ local authorities in England and Wales already have powers to take enforcement action against fly-tipping offenders. Anyone caught fly-tipping may be prosecuted which can lead to a significant fine, a community sentence or even imprisonment.

In England, the total number of court fines for all fly-tipping related incidents decreased by 9% from 1,378 in 2023/24 to 1,250 in 2024/25, with the combined value of these fines decreasing from £730,000 to 673,000. However, the average fine has increased from £530 in 2023/24 to £539^[06]. In Wales, 27,749 enforcement actions were taken in 2024/25, 9% more than the previous year, of which, 22,924 (83%) were investigations. In 2024/25 the number of prosecution outcomes was 70, a decrease from 102 in 2023/24; whilst the proportion resulting in a fine increased from 69% (approximately 70 fines) to 80% (56 fines).

Instead of prosecuting, in England local authorities can choose to issue a fixed penalty notice (on-the-spot fine) of up to £1,000 to fly-tippers (raising to £5000 from 1 September 2026) and £600 to householders who pass their waste to an unlicensed waste carrier. In Wales, the upper limits for fixed penalty notices for the same offences are currently £400

¹ [National Waste Crime Survey](#), statistic from 2021, not uplifted to current prices.

² [6. Tax gaps: Other taxes - GOV.UK](#); based on an illustrative HMRC methodology

³ [Environmental Protection Act 1990](#)

and £300 respectively. However, both upper limits are currently subject to [consultation](#) and may increase (to £5,000 and £400 respectively).

In England, the number of fixed penalty notices (FPNs) issued for fly-tipping was 19,196 in 2024/25, a decrease of 6% from 20,287 in 2023/24⁴. Total number of FPNs issued for all offences related to fly tipping is the second most common action after investigations and accounted for 12% of all actions in 2024/25. In Wales, the number of FPNs issued for fly-tipping did increase by 40% (from 1,086 in 2023/24 to 1,519 in 2024/25) and accounted for 5% of all enforcement actions in 2024/25.⁵

However, 41 local authorities in England and three in Wales reported in 2024/25 that they did not issue any fixed penalty notices specifically for fly-tipping.

It is clear that more needs to be done to tackle the waste crime that is all too visible on our streets. In England, the UK Government have recently bolstered its approach with [best practice guidance](#) and [case studies](#) on vehicle seizures, which will help local authorities to make the most of their existing power to seize vehicles they suspect are linked to waste crime. Using this power can ultimately lead local authorities to keeping, selling or disposing of the vehicle. In Wales, the Welsh Government continues to fund the Natural Resources Wales managed Fly-Tipping Action Wales programme, which helps to support local authorities with their enforcement action. This includes the provision of expert advice, sharing of best practice and supplying trail cameras to target fly-tipping hotspots.

In England, the UK Government have also obtained powers in the Crime and Policing Act 2026 to provide statutory fly-tipping enforcement guidance to support local authorities to consistently, appropriately and effectively exercise these existing powers. In England and Wales further powers have been obtained to allow the courts to award between three and nine penalty points on driving licences for those found guilty of fly-tipping. This will make it harder for offenders to continue dumping illegally if they are disqualified from driving and send a clear warning that fly-tipping is not tolerated.

On 20 March 2026 the UK government published its **Waste Crime Action Plan**⁶ for England, which is its toughest ever crackdown on waste criminals. It sets out our zero-tolerance approach to prevent waste crime, pursue the criminals responsible and accelerate the clean-up effort.

⁴ [Fly-tipping statistics for England, 2024 to 2025 - GOV.UK](#)

⁵ [Fly-tipping statistics for England, 2024 to 2025 - GOV.UK](#)

⁶ [Waste Crime Action Plan - GOV.UK](#)

However, in the manifesto, the UK government very clearly set out its intent to force fly-tippers and vandals to clean up the mess they have created. This consultation sets out the UK government proposals to fulfil this manifesto commitment and the Welsh Government's aim of holding polluters accountable for their actions. We are proposing to extend conditional caution powers to local authorities. Conditional cautions are one of a range of pre-court community-based sanctions. This power will give local authorities another tool to fight the blight of fly-tipping.

Audience

This consultation is open to all, but we are especially keen to hear views from authorities which:

- a) Are subject to one or both of the duties in section 89(1) and (2) of the Environmental Protection Act 1990⁷, to keep relevant land clear of litter and refuse, and to keep the highways clean; and/ or
- b) Have the power to take enforcement action in respect of littering and fly-tipping, including issuing fixed penalty notices for littering and civil penalties for littering from vehicles (in England), and the unauthorised distribution of free printed literature on designated land.

We are also inviting responses from certain other organisations including those involved in environmental enforcement, members of the research community and waste industry, non-governmental organisations and bodies representing the interests of local government.

These policy proposals relate to England and Wales only.

Responding to the consultation

Please respond to this consultation in one of the following ways:

Online using the Citizen Space consultation hub at Defra <https://consult.defra.gov.uk/>

For ease of analysis, responses via the Citizen Space platform would be preferred, but alternative options are provided below if required:

By email to: cleanupsquads@defra.gov.uk

In writing to:

Clean up squads consultation

⁷ [Environmental Protection Act 1990](#)

Defra Seacole Building
Ground Floor
2 Marsham Street
London SW1P 4DF

Please note, any responses sent by post must have arrived at the above address by the closing date of the consultation 16 October 2026 to be counted. Any responses received after this date will not be analysed. To ensure your response is included in the analysis, please consider responding online via Citizen Space.

Consultation period

This consultation will run from 20 August and close on 16 October 2026.

After the consultation

We will provide an update to all respondents on the findings of this consultation and any potential next steps, via the gov.uk website.

The proposal

What are conditional cautions?

A conditional caution issued under section 22 of the Criminal Justice Act 2003 requires an offender to comply with certain conditions, as an alternative to prosecution. The conditions that can be attached must be rehabilitative, reparative and/or a financial penalty as per the Code of Practice for Adult Conditional Cautions⁸. Conditional cautions for adults are governed by [sections 22 to 27 Criminal Justice Act 2003](#).⁹

Conditional cautions are one of a suite of Out of Court Resolutions (OOCRs) – a range of options currently available to the police to respond to low-level offending *without resorting to prosecution*. Offenders must admit guilt and accept the caution before it can be administered. If the offender fails, without reasonable cause, to comply with the conditional caution, they may be prosecuted for the original offence.

We are proposing to extend the powers to issue conditional cautions to local authorities so they can issue conditional cautions to fly-tipping offenders.

Before an OOCR can be considered, there must be sufficient evidence available to provide a realistic prospect of conviction in accordance with the Full Code Test set out in the Code for Crown Prosecutors¹⁰.

The local authority must be satisfied that a prosecution will continue to be necessary, and could go ahead, should the offer of an OOCR be declined or if the offender does not complete or comply with any conditions. Once the evidential test is met, the local authority must then consider whether a prosecution is required in the public interest, or whether they are satisfied that the public interest can be properly served by an OOCR. In issuing a conditional caution the local authority must explain the effect of the conditional caution and warn the offender that failure to comply with any of the conditions may result in prosecution for the offence. The offender must sign a document containing: details of the offence, an admission that the offender committed the offence, consent to be given a conditional caution and details of the conditions attached to the conditional caution.

Before deciding the conditions of the caution, the local authority will have a duty to consult any potential victims of the fly-tipping offence and make reasonable effort to gather their

⁸ [Code of practice for adult conditional cautions: part 3 of the Criminal Justice Act 2003](#)

⁹ [Criminal Justice Act 2003](#)

¹⁰ [The Code for Crown Prosecutors | The Crown Prosecution Service](#)

views. This requirement may not always be relevant in cases of fly-tipping offences, so local authorities will need to make an assessment on whether this is necessary on a case-by-case basis.

A conditional caution is not a criminal conviction. Cautions include conditional and simple cautions – and are considered an admittance of guilt for prosecutable offences and are placed permanently on an offender's criminal record in the Police National Computer (PNC) which can be accessed by the police and other UK law enforcement organisations. The PNC is used to carry out real-time checks, for example on a person's criminal record, missing and wanted people, and vehicle registration checks. It is usually up to a court to consider whether any conviction and/or caution is relevant to a criminal trial and whether it is relevant for consideration in sentencing. Cautions can show on basic, standard and enhanced [Disclosure and Barring Service \(DBS\) checks](#).

It is crucial that local authorities should be transparent about why a conditional caution has been issued and they must be satisfied that conditional caution is appropriate and proportionate to the circumstances of each case.

The principles of the Regulators Code¹¹ apply to any enforcement action carried out by local authorities, including conditional cautions. This includes that regulatory activity should be carried out in a way which is proportionate, transparent, accountable and consistent.

As mentioned earlier, in England the UK government have secured powers to issue statutory fly-tipping enforcement guidance. Should these proposals go ahead then guidance on conditional cautions could be included in that guidance.

Who can they be given to?

A conditional caution could be issued to anyone age 18 and over who has committed a fly-tipping offence. Fly-tipping offences are enforced under section 33 of the EPA 1990, which is the prohibition on unauthorised or harmful deposit treatment or disposal of waste ¹².

This includes the illegal disposal of household, industrial, commercial, or other controlled waste, which can be liquid or solid. Fly-tipping is usually considered to be distinct from littering, which typically involves smaller quantities of waste.

Conditional cautions would not be suitable for all types of fly-tipping offences, including the more serious ones where prosecution should be sought in the first instance (for example, repeat offenders or commercially motivated operators). Conditional cautions could provide

¹¹ [Regulators' Code](#)

¹² [Environmental Protection Act 1990](#)

a useful tool for local authorities to tackle high volumes of lower-level offences (for example electricals dumped on a street or a sofa in a public park).

What is the difference with current litter and fly-tipping fixed penalties?

This proposal differs from the current fixed penalty notice as the offender can be required to both pay a reparative condition proportionate to the clear up costs of the fly-tipping offence and be required to clear up our streets and parks. In this context this work is not the same as a court imposed unpaid work requirement. This proposal is not the same as a community sentence where an offender has been *prosecuted, convicted, and sentenced*.

What type of conditions can be included in a fly-tipping conditional caution?

A conditional caution gives local authorities the option to require offenders to:

- clean up our streets and parks¹³, and
- pay a reparative condition proportionate to cover the cost of cleaning up the waste they dumped, if this occurred on public land.

How do fly-tippers pay the reparative condition?

The condition attached to the caution would be paid directly to local authorities just like fixed penalties for fly-tipping – either electronically or in cash. Local authorities should include information on ways to pay the caution on the face of the caution.

How high can the reparative condition element included in a conditional caution be?

We are keen that the reparative condition element of the caution should be proportionate to the cost of clearing up the waste dumped by the fly-tipping offender. However, our view is that prosecution would be preferable if the reparative condition is over £5000 which, in England, is the upper limit on fixed penalty notices for fly-tipping. The Welsh Government is currently consulting on increasing the upper limit of these fixed penalty notices.

What can the local authority do with the income from conditional cautions?

Income generated from the reparative condition element of the caution should be used to cover the cost of cleaning up the waste the offender dumped, if this occurred on public land. Conditional cautions are not intended as a revenue raising mechanism.

What could be cleaned up?

¹³ Crown Prosecution Service Guidance states that OOCRs should not include more than 20 hours of unpaid work: [Out of Court Resolutions | The Crown Prosecution Service](#)

Ideally, we would want the fly-tipping offenders to clean up their own waste that they have illegally dumped. However, that means the local authority would then need to leave the fly-tip in place until the investigation was resolved and the conditional caution with the cleaning order was issued and fulfilled. This has been done before in pilots where crime scene investigation tape was used to wrap the fly-tip, explaining that the local authority was taking action, and was shown to be an effective measure to challenge perceptions that the local authority would simply clean up any fly-tipping without consequence¹⁴. However, there are likely to be circumstances where this would not be practicable or in the public interest. On public land, it could conflict with the section 89 EPA 1990¹⁵ duty on local authorities to keep their land clear of refuse. It could also attract more fly-tipping.

This decision would need to be made by the local authority on a case by case basis.

How should offenders be managed?

An organisation will be required to manage those in receipt of a conditional caution. The work of this organisation is expected to include:

- Identifying suitable work opportunities for clearing up fly-tipping and litter.
- Completing risk assessments associated with the work.
- Arranging with those in receipt of a conditional caution to attend a specified location on a given date.
- Manage and supervise the clean-up work.
- Manage the disposal of the fly-tipping or litter that has been cleared up.

How should non-payment be dealt with?

Our proposal is that if the offender does not fulfil either element of the conditional caution i.e. the reparative payment or does complete the clear up work then local authorities should consider prosecution for the original offence which means the conditional caution will cease to have effect.

Using and sharing your information

How we use your personal data is set out in the consultation and call for evidence exercise privacy notice which can be found here

<https://www.gov.uk/government/publications/defras-consultations-and-call-for-evidence-exercises-privacy-notice>

¹⁴ [Fly-tipping interventions | Keep Britain Tidy](#)

¹⁵ [Environmental Protection Act 1990](#)

Other Information

This consultation is being conducted in line with the Cabinet Office “Consultation Principles” and be found at: [Microsoft Word - Consultation Principles \(1\).docx \(publishing.service.gov.uk\)](#)

Consultation questions

About you

Q1. Would you like your response to be confidential? Yes / No

If you answered ‘Yes’, please provide your reason.

Q2. Your name?

Q3. Your email address?

This is optional, but if you enter your email address, you will be able to return to edit your consultation response in Citizen Space at any time until you submit it. You will also receive an acknowledgement email when you submit a completed response.

Q4. Which best describes you?

(Please tick one option. If multiple categories apply, please choose the one which best describes the organisation you are representing in your response.)

- Local authority
 - ☐ district councils

- unitary authorities
- county councils
- parish or community councils
- Other litter authority
 - The Broads Authority
 - national park authorities
- Local authority representative organisation
 - Business representative / Trade body
 - Charity or social enterprise
 - Community group
 - Academic / consultancy / research
 - Other

If you answered 'Other', please identify the type of organisation in the box below:

Q5. If you are responding on behalf of an organisation, please provide the name of the organisation / business you represent in the box below:

Fixed penalty notices

Q6. If you are a local authority, do you currently issue fixed penalty notices for fly-tipping?

- Yes
- No
- Not sure

If you selected no, or not sure, please explain your answer in the box below:

The proposed power

Q7. Do you think local authorities should be provided with a discretionary power to issue a conditional caution to fly-tipping offenders?

- ☐ Yes
- ☐ No
- ☐ Not Sure

Please explain your answer in the box below:

Q8. Do you think local authorities should be able to prosecute if the fly-tipping offender does not comply with the proposed conditional caution?

- ☐ Yes
- ☐ No
- ☐ Not sure

Please explain your answer below in the box below:

Q9. What action, if any, should be taken if the offender complies with part of a caution condition but not the full set of requirements? (such as paying the reparative condition but not doing clean-up work)

Please explain your answer in the box below:

Q10. Do you think the introduction of this proposed conditional power would result in local authorities reducing the number of fly-tipping prosecutions they bring to the courts?

- ☐ Yes
- ☐ No
- ☐ Not Sure

Please explain your answer in the box below:

Q11. If you are a local authority, would you consider using the proposed conditional power to issue conditional cautions?

- ☐ Yes
- ☐ Yes, but only some aspects of the proposed conditional power
- ☐ No
- ☐ Not sure

Please explain your answer in the box below:

Q12. Is there an existing organisation which is well-placed to supervise fly-tipping offenders engaged in clean up activity as part of their conditional caution?

- ☐ If yes, please name and explain in the box below:

- ☐ If no or don't know, please explain in the box below what you think an organisation charged with this task should look like?

Support needed

Q13: What support would you need to introduce this proposed conditional power effectively? Please tick all that apply

- ☐ Financial support
- ☐ Provision of supervision
- ☐ Access to sites
- ☐ Other (please explain in the box below)

Costs associated with the power

Q14. Do you think you will have to bear additional costs per offender given a caution

- ☐ Yes
- ☐ No
- ☐ Not sure

If Yes, please answer Q14a-15

Q14a. Would you like to provide annual total cost to you to administer the scheme, or would you prefer to report estimates of cost per offender?

- ☐ Annual total cost

- Cost per offender

Q14b. What is the estimated annual total cost to you?

- <£1,000
- £1,000-£1,999
- £2,000- £2,999
- £3,000-£3,999
- £4,000-£4,999
- £5,000- or more (please specify the figure)
- Not Sure

Q14c. What is the estimated cost per offender given a caution to you?

- <£1,000
- £1,000-£1,999
- £2,000- £2,999
- £3,000-£3,999
- £4,000-£4,999
- £5,000- or more (please specify the figure)
- Not Sure

Q14d - What new activities will you need to undertake annually? Please tick all that apply, and provide estimated annual costs breakdowns in brackets provided

- Training (£...)
- Guidance (£...)
- Systems changes (£...)
- Handing out caution (£...)
- Other (please explain)

Q14e - What new activities will you need to undertake per offender given a caution? Please tick all that apply, and provide estimated annual costs breakdowns in brackets provided

- Training (£...)
- Guidance (£...)
- Systems changes (£...)
- Handing out caution (£...)
- Other (please explain)

Q15. How many additional staff (FTE) do you estimate would be required to deliver the scheme? Please provide your answer in the box below:

Savings associated with the power

Q16. If an offender completed 20 hours of street cleaning work, please estimate the reduction in clean-up costs (£), if any, and specify where these savings are expected.

Please provide your answer in the box below:

Q17. Beyond clean-up costs, do you think the measure will generate additional savings for you

- ☐ Yes
- ☐ No
- ☐ Not sure

Please explain your answer in the box below:

Q17a. If you selected 'yes', please:

- ☐ Identify the specific area(s) where savings are expected, and
- ☐ Provide an estimated financial saving, where possible

Unintended consequences

Q18. Do you think there are any unintended consequences of the proposed conditional power?

- ☐ Yes
- ☐ No
- ☐ Not sure

Please explain your answer in the box below:

Q19. What, if any, environmental damage may be caused by the introduction of the proposed conditional power?

(please outline what these are and how they could be mitigated in the box below)

Alternative approaches to tackle fly-tipping

Q20. Do you think there are better ways to deter fly-tipping than the proposed conditional power?

- ☐ Yes
- ☐ No
- ☐ Not sure

Please explain your answer in the box below:

Thank you for taking the time to complete this consultation.