

Environment Quality & Regulation Branch
People & Environment
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Wednesday, 05 April 2017

Dear Sir or Madam

Welsh Government Consultation on Fixed Penalty Notices for Small Scale Fly-tipping

We have received a copy of the above draft for comment as part of your consultation process.

The Chartered Institution of Wastes Management (CIWM) is the professional body which represents over 6,000 waste and resources management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the waste and resources management industry and has various grades of membership determined by education, qualification and experience.

CIWM is recognised as the foremost professional body representing the complete spectrum of the waste and resources management industry. This gives the Institution the widest possible view and, perhaps more pertinently, an objective rather than partial view, given that our goal is for improvement in the management of all wastes and resources.

The Cymru Wales Centre Council of the Chartered Institution of Wastes Management welcomes the opportunity of contributing to the Consultation on proposals for fixed penalty notices for small scale fly-tipping.

CIWM Cymru Wales supports the introduction of regulations to allow enforcing authorities to issue fixed penalty notices for small scale fly-tipping offences.

Our points are provided below and on the next page, as responses to the specific questions raised, in relation to the information received.

Question 1: Do you think introducing Fixed Penalty Notices for small scale fly-tipping will be a useful tool for Local Authorities to tackle small scale fly-tipping?

Yes, in principle. There is a requirement to think about many of the issues that using Fixed Penalty Notice will generate, for example is it acceptable for an offender to be issued with more than one Notice without requiring formal prosecution in a court?

The investigation of fly-tipping on Private land is not consistent across Wales. Often Fly-tipping on Private land is not investigated. This would lead to a two-tier system with Fixed Penalty Notice being used for Public Land and not for Private land.



Question 2: Do you believe the proposed amount for the fixed penalty (between £150 and £400) will act as a sufficient deterrent for small scale fly-tipping?

The Notice should be priced to the real costs of clean up. This should be the amount that Waste Operators in Wales would charge to deal with the problem.

If there is any Hazardous Waste in small quantities, then a Fixed Penalty Notice may be still used but the price must reflect the more dangerous nature of the waste and the higher costs of disposal.

In the circumstances where the fly-tipper is working for or on behalf of a company then there is a need to make sure both the Fly-tipper and the company are issued with notices. Ideally, in such a situation both should be expected to pay.

There also may be merit in the authorities being able to issue a fixed penalty notice initially and then being able to pass the clear up costs on when the cost is known as a two stage response to the offence. Being able to pass on the costs to the flytipper would assist with deterrence particularly if the authority also ensures press coverage for both the fixed penalty and the costs.

Question 3: Do you agree with inclusion of an option for early payment of the fixed penalty and with the lowest amount suggested?

Yes. We believe that this is an effective way to promote payment, with the caveat that the reduced amount must cover reasonable clean-up costs. The costs of specialist waste contractors should be met where necessary.

Question 4: Should the power to issue FPNs for small scale fly-tipping be extended to other authorised officers besides those designated by Local Authorities, for example officers in Natural Resources Wales (NRW)?

We believe that the power to issue Fixed Penalty Notices could also be given to Natural Resources Wales, Community Support Officers, and the Police. There also exists the question of those working as contractors to these bodies. Some Local Authorities have contracted out some of their enforcement functions to contractors. Would they be able to issue Fixed Penalty Notices? As they may be paid on a commission basis then this would influence the cost of the Notices and especially with regards to the early payment of the notices.

Question 5: What training and guidance support, if any, do you believe enforcing authorities require when implementing FPNs for small scale fly-tipping? Please provide details.

There is a need for clear guidance on how the Fixed Penalty Notices should be issued. This should include a definition of what "Small scale fly-tipping" actually is. This needs to make clear the procedure for the Issue of the Notices including the collection of the resulting income and how the offender should be treated if they do not pay the Fixed Penalty Notice. The procedures for administrating the notices need to be consistent for whoever is issuing the Notice.



There is a need for extensive training. Waste Legislation is complex. Any officers should know how to deal with fly-tipped waste in a manner which is legal and demonstrates best practice for the disposal of waste.

Question 6: Are the figures used in the impact assessment an accurate reflection of the costs incurred by Local Authorities when investigating/ prosecuting/ clearing small scale fly-tipping incidents? If not, please provide further details.

We believe that the costs of disposal are somewhat out dated. The Chartered Institute of Wastes Management(CIWM) through its members would be in a position to assist with the benchmarking of actual costs. The costs of waste management have risen over the last ten years. The gate fee at landfill sites also includes landfill tax. This increase in this cost is meant to encourage the management of wastes by more sustainable means. Any cost of disposal must reflect the real world cost with an escalator in the price of FPN's that continues to be representative of the real world costs into the future.

Question 7: We have asked a number of specific questions. If you have any related issues which we have not been specifically addressed, please use this space to raise them:

- Our members may provide a specialist Fly-tipping Clean up Service If a landowner reports Fly-tipping on their land. As such they would not wish to be delayed in this work while waiting for the issue of a Fixed Penalty Notice.
- The introduction of FPNs for small scale fly tipping in England seems to have increased the level of monitoring by local authorities. This has generally been positive, highlighting not only deliberate fly tipping but also insecure waste storage, eg people removing items from bins and skips and leaving them nearby. It should be recognised however that sometimes the waste producer will be unaware of the problem, especially larger organisations, which manage waste contracts centrally. In these cases a constructive approach would be to ensure the appropriate person is warned about any concerns and given an opportunity to address them before issuing FPNs.
- In general, this is an initiative that we support. The legal and correct management of waste and resources is our primary concern.

Should you have any query with regards to our response, please do not hesitate to contact us.
Kind regards

Celine Anouilh
CIWM Regional Development Officer for Wales

For CIWM Cymru Wales

