

The CIWM is the professional body for the resource and waste management sector. It represents around 6,000 waste and resource management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the sector and has various grades of membership determined by education, qualification and experience.

## **Review of Fixed Penalties for Environmental Offences and Introduction of Civil Penalties for Littering from Vehicles Outside London**

### ***Levels and Ranges of Fixed Penalties for Littering Offences***

*1 Should fixed penalties for littering offences be increased (Y/N)?*

Yes.

*2 For local council respondents only: What impact would an increase in these fixed penalties have on your authority? Please consider both costs and benefits, and provide evidence to support your response (e.g. number and level of fixed penalties that you currently issue per year and payment rate, costs of enforcement, prosecutions and implementation of any changes etc.).*

### ***Options for Increasing fixed penalties***

*3 Which of these options do you prefer?*

*a. Option 1 - increase the minimum, default and maximum fixed penalties to £60, £95 and £100 respectively.*

*b. Option 2(a) – increase only the maximum fixed penalty to £100*

*c. Option 2(b) – increase only the maximum fixed penalty to £150*

*d. Option 3 - increase the minimum, default and maximum fixed penalty to £60, £100 and £150 respectively. Please use the free text box to tell us why.*

CIWM prefers Option 3. The majority of local authorities did not set a penalty rate and so the default is the main figure used. This, as highlighted in the consultation has not changed for many years and accounting for inflation the maximum penalty would be around £80.

CIWM would like to point out that if littering was taken to court under the current Sentencing Guidelines, taking into account a negligent culpability with Category Harm 3 the level of fine would be 250% of the average weekly wage which would be over £2000!



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

*4 Do you agree that changes to the range of and default fixed penalties for littering should be applied in the same way to the fixed penalties for:*

- a. Graffiti (y/n)*
- b. Fly-posting (y/n) and*
- c. The unauthorised distribution of free literature in a designated area (y/n)? If you answered 'no' to any of these, please use the free text box to explain your reasoning.*

CIWM supports this application, distribution of free literature can lead to littering by those taking literature imposed on them and not thinking about looking for a receptacle to deposit it in.

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

*5 Do you agree that all councils should have the ability to spend their income from environmental offences on "any of their functions"? If not, please use the free text box to explain why.*

CIWM believes that the income from environmental offences should be retained to support the function of enforcement of litter and other environmental offences. Paragraph 105 also mentions that income from littering from vehicles can be used for "other functions" – again CIWM does not agree this should be the case.

*6 For local council and parish council respondents only: Do you currently issue fixed penalty notices for environmental offences, and if so, how do you spend the income from these fixed penalty notices? Transparency*

This question is not relevant for CIWM.

*7 Should the Local Government Transparency Code be amended to make it clear that data on enforcement activities against littering and the other environmental offences should be published?*

CIWM understands this will make it easier for residents to see how council tax money is being spent by their council and help local authorities show what income there is from fines and how it is being used.

*8 For local council respondents only: Do you publish this data already? If so, where? Training for Parish Council Enforcement Officers*



This question is not relevant for CIWM.

*9 Do you agree with the proposal to remove the requirement for training providers for parish council enforcement officers to be approved by the Secretary of State?*

CIWM agrees this should be removed from the Secretary of States remit. It might be prudent though to have some checks on training providers, to show they are competent to carry out that training. CIWM suggests there should be a standard level of training to

### ***Littering from Vehicles***

*10 Do you agree with the proposed exemption for the keeper of public service vehicles, taxis and private hire vehicles when the littering offence is committed by a passenger? a) If no, why?*

CIWM believes for taxis/private hire this is only relevant when the taxi/private hire is working. How this is determined would need to be considered.

*11 Should the regulations provide for any other exemptions from liability to pay a civil penalty notice (as opposed to grounds for appeal against a civil penalty notice)?*

CIWM is not aware of any other exemptions that should be considered.

*12 Should councils be able to use the income from civil penalties for littering from a vehicle in the same way as they can spend income from fixed penalties for littering offences? (Y/N) a. If no, why do you consider that income from the two penalty regimes should be treated differently?*

CIWM believes the income from littering from vehicles should be used for environmental enforcement services. See answer to question 5.

*13 Should the default amount payable under a civil penalty notice be equivalent to the default amount payable under a fixed penalty notice for a littering offence (reflecting any changes to the default level of fixed penalty notices for littering)? (Y/N) a. If no, why, and at what level should the default amount payable under a civil penalty notice be set?*

As the offence is being deemed 'littering from vehicles' CIWM believes the civil penalty should be the same as the fixed penalty notice for a litter offence.



*14 Do you agree that, to encourage prompt payment, a late payment notice is issued if the amount payable under the civil penalty notice is not paid within 28 days? 34 a. If not, why?*

CIWM agrees that having a late payment notice is likely to encourage prompt payment, especially considering the maximum proposed under question 15.

*15 Do you agree that the maximum increased civil penalty payable under a late payment notice should be the amount payable under the civil penalty notice increased by 100% (i.e. the amount payable under the civil penalty notice multiplied by 2)? (Y/N) a. If no, why, and by what factor should the civil penalty be increased?*

CIWM believes this fits with other civil penalties like parking and supports this approach.

*16 For local council respondents only: What impact would the introduction of civil penalty notices have on your council? Please consider both costs and benefits, and provide evidence to support your response.*

This question is not relevant for CIWM.

*17 For councils in London only: We propose that the new powers should only be available to councils outside London, on the basis that London councils already have similar powers under the London Local Authorities Act 2007. Do you agree? a) If not, why?*

This question is not relevant for CIWM.

*18 For rental hire companies only: The regulations will provide that a civil penalty can be appealed by a hirer if the vehicle in question was hired to another person with the effect that that person had become the 'keeper' (ie the person by whom the vehicle is kept) at the time of the littering offence. What, if any, familiarisation transitional or implementation costs would you anticipate incurring associated with the introduction of these new civil penalties (e.g. in amending standard contract forms etc.)?*

This question is not relevant for CIWM.

