

# Detailed guide: Litter and refuse: council responsibilities to keep land clear

*Updated:* Section on 'Dealing with litter from businesses' added to explain Community Protection Notices and what councils must do with existing street litter control notices.

District councils and some other authorities must keep land in their area clear of litter and refuse (including dog mess), [as far as is practicable](#).

## **Authorities who must keep land clear**

The councils that are litter authorities are:

- county councils
- district councils
- single-tier councils (unitary authorities)
- London borough councils
- the Common Council of the City of London
- the Council of the Isles of Scilly

Other authorities are responsible for litter on all or parts of their own land. These include:

- Crown authorities
- educational institutions
- Network Rail and rail and tram operators
- water companies

## **Land councils must keep clear**

Council litter authorities are responsible for land where all of the following apply:

- it's open to the air on at least one side
- it's under their direct control
- it's publicly accessible (with or without payment)

This is called 'relevant land'. Relevant land includes beaches (above the average high water mark).

## **Highways**

Councils must also keep any highway they're responsible for both clean and clear of litter and refuse (as far as is practicable).

# Code of practice on litter and refuse

Litter authorities must 'have regard to' the [code of practice on litter and refuse](#) which explains how different types of land should be kept clear.

This means they must consider the code, and they must follow it unless there are clear, justifiable reasons not to do so in specific circumstances.

## How to deal with littering

It's an offence to drop litter on land or into water that's accessible to the public even if it's private land. This applies to private land that the public can access, for example a right of way.

Offenders can be prosecuted in a magistrates' court and fined up to £2,500.

Litter droppers can get [fixed penalty notices \(FPNs\)](#). If they don't pay the FPN they can be prosecuted.

FPNs aren't appropriate for:

- people who leave their rubbish out for collection at the wrong time
- someone who drops litter accidentally
- cases where it's not in the public interest
- repeat offenders (they should be prosecuted)

## Public space protection orders

Councils can issue public space protection orders (PSPOs) for problems in public spaces, including [the control of dogs](#).

PSPOs can make it an offence if dog owners do any of the following:

- don't clean up after their dogs
- allow their dogs to enter particular places that have a PSPO, like playgrounds or parks

## Dealing with litter from businesses

Councils can issue community protection notices (CPNs) to require businesses or individuals to:

- clear litter from around their premises
- take steps to prevent future littering

Failure to comply with a CPN is an offence.

CPNs have replaced street litter control notices (SLCNs). SLCNs also gave councils the power to require businesses to clear litter from around their premises. Councils can no longer issue SLCNs, but they must keep a public register of existing SLCNs as long as they're in force.

Members of public must be able to do both of the following:

- inspect the register free of charge
- copy the register for a reasonable charge

## **Litter abatement orders**

A litter authority can be taken to court if they don't keep publicly accessible land that they're responsible for clear of litter and refuse.

A litter authority can be ordered by a court to pay the complainant's costs.

A litter authority can avoid court action if they clear the land within 5 days of being notified.

Courts can issue a litter abatement order (LAO) requiring the litter authority to clear land of litter within a certain time.

A litter authority is breaking the law if they don't comply with an LAO and can be fined up to £2,500. They can also get further fines of up to £125 a day for each day the offence continues after conviction.

## **Cleaning and clearing roads**

When clearing or cleaning roads, councils must do both of the following:

- warn approaching traffic using signs and barriers
- follow instructions from highways authorities about when cleaning can be done

If they need to restrict traffic, councils must apply to the highway authority for a traffic regulation order.

## **Removing refuse that blocks roads**

If there's an object on the road, councils (or the Highways Agency if it's a trunk road) should either:

- remove it immediately if it's a danger to road users
- issue the owner of the object with a notice to remove it within a set time, if it's not an immediate danger

It's an offence to leave anything on the road that could interrupt its use – offenders can be fined up to £1,000, if convicted.

If the owner doesn't remove the object, councils can do one of the following:

- remove the object and apply to the magistrates' court for a disposal order

- apply to a magistrates' court for a removal and disposal order

## Other ways to keep land clear

Councils have other powers to keep land clear by:

- [removing abandoned vehicles](#)
  - [removing abandoned shopping trolleys](#)
  - [controlling leafleting](#)
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## Detailed guide: Fixed penalty notices: issuing and enforcement by councils

*Updated:* Updated what the fly-tipping fixed penalty notice money can be spent on to 'waste on land'.

Fixed penalty notices (FPNs) can be issued to deal with environmental offences like:

- littering
- fly-tipping
- dog control offences
- graffiti
- fly-posting
- nuisance parking (people selling or repairing cars on the road)
- abandoned vehicles
- leafleting without permission on land where leafleting is restricted ('designated land')
- failing to nominate a key holder or give the council key holder details in an alarm notification area
- failing to provide a [waste carrier licence](#) (for businesses transporting their own waste)
- failing to provide a [waste transfer note](#) when moving non-hazardous waste
- [household bins causing or likely to cause a nuisance to the local amenity](#)

## Who can issue fixed penalty notices

Different authorities have the power to issue FPNs for specific offences.

Authority	Offence
District council, London Borough council, Council of the City of London, Unitary authority	Littering, fly-tipping, graffiti, fly-posting, dog control offences, alarm noise (no nominated keyholder), Noise Act offences, nuisance parking, unauthorised distribution of free literature on designated land, abandoning a vehicle, waste receptacle offences, failure to produce a waste transfer note or waste carrier's licence
County council	Unauthorised distribution of free literature on designated land Only if designated: littering, graffiti, fly-posting
Common Council of the Isles of Scilly	Littering, graffiti, fly-posting, dog control offences, alarm noise (no nominated keyholder), Noise Act offences, nuisance parking, unauthorised distribution of free literature on designated land
Parish council	Littering, graffiti, fly-posting, dog control offences (under its own Dog Control Orders)
Police Community Support Officers (on behalf of district council or unitary authority)	Littering, dog control offences Only if authorised: graffiti, fly-posting
Environment Agency	Failure to produce a waste transfer note or waste carrier's licence
Broads Authority	Littering, graffiti, dog control offences
National Park Authority	Littering, abandoning a vehicle (in areas where the National Park authority is also the planning authority)

## What to include on fixed penalty notices

FPNs must state all of the following:

- the alleged offence, for example, littering or graffiti
- details about the offence, for example, what sort of litter was dropped
- where and when the offence took place
- how the FPN has been issued (in person or by post)
- the fine imposed (and if there's a discount for paying early)
- when the fine must be paid by (this must be at least 14 days)
- how the fine can be paid

If you have an appeals process, you should also include instructions for how to appeal.

## Set penalty levels

Depending on the offence, you can charge penalties within certain limits.

Offence	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
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Offence	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
<a href="#">Littering</a>	£100	£50	£150	£50
<a href="#">Littering from vehicles</a>	£100	£65	£150	£50
<a href="#">Dog control offences</a>	£75	£50	£80	£50
<a href="#">Graffiti</a>	£100	£50	£150	£50
<a href="#">Fly-posting</a>	£100	£50	£150	£50
<a href="#">Unauthorised distribution of free literature on designated land</a>	£100	£50	£150	£50
<a href="#">Alarm noise: failure to nominate key-holder or to notify local authority of key-holder's details</a>	£75	£50	£80	£50
<a href="#">Nuisance parking</a>	£100	£100	£100	£60
<a href="#">Abandoning a vehicle</a>	£200	£200	£200	£120
<a href="#">Fly-tipping</a>	£200	£150	£400	£120
<a href="#">Failure to produce a waste transfer note</a>	£300	£300	£300	£180
<a href="#">Domestic waste receptacle offences</a>	£60	£60	£80	£40
<a href="#">Industrial and commercial waste receptacle offences</a>	£100	£75	£110	£60
<a href="#">Noise exceeding permitted level – domestic premises</a>	£100	£75	£110	£60
<a href="#">Noise exceeding permitted level – licensed premises</a>	£500	£500	£500	£500 – no discount allowed

Parish councils can set their own level for dog control offences, but must use the levels set by their district council for other offences.

## Getting payment

You can demand payment within 14 days.

You can also accept payment in instalments, if people can't afford to pay the full amount.

## Sending reminder letters

If you decide to send out reminder letters to ask for payment you should wait at least 7 days from the date the FPN was issued.

These should tell the recipient all of the following:

- how much they must pay
- when they must pay by
- what happens if they don't pay

- how they can appeal (if they can appeal)

## **Authorising enforcement staff**

Enforcement officers must be authorised in writing by the authority they issue FPNs for.

Parish council enforcement staff must also complete a suitable training course.

All enforcement officers should also:

- receive appropriate training
- have a uniform, identification and a Police and Criminal Evidence Act (PACE) notebook

They should follow guidance on [how to issue FPNs](#).

## **Appeals**

If you have an appeals system, include the following information about how to appeal against the FPN:

- how, when and where to appeal
- what happens if the appeal is successful (no further action will be taken and the FPN will be cancelled)
- what happens if the appeal is rejected and the offender doesn't pay
- how to complain

## **Taking offenders to court for non-payment**

You should take offenders to court if penalties aren't paid.

You must wait 14 days after issuing an FPN before you can take legal action.

You must begin legal proceedings within 6 months of the offence.

## **Keeping records**

You must keep records of both:

- FPNs issued, from issue through to payment or prosecution
- any evidence in case the FPN goes to court

## **Issuing FPNs to young people**

You can't issue FPNs to anyone younger than the age of 10.

You can contact the parents or legal guardians of offenders younger than the age of 10, to make them aware of their child or ward's behaviour.

Your enforcement officers should use special procedures for offenders aged

younger than 18 and work with both the youth offending team and children's services. Find out about special procedures for juveniles in the [guidance for authorised enforcement officers](#).

## Income from FPNs

There are rules for how different authorities can use income from FPNs.

### Councils

Councils must use income from FPNs as set out in this table.

Offence	FPN money can be spent on functions relating to:
<a href="#">Litter</a>	Litter, dog control, graffiti and fly-posting
<a href="#">Graffiti</a>	Litter, dog control, graffiti and fly-posting
<a href="#">Dog control</a>	Litter, dog control, graffiti and fly-posting
<a href="#">Fly-posting</a>	Litter, dog control, graffiti and fly-posting
<a href="#">Unauthorised distribution of free printed material on designated land</a>	Litter, dog control, graffiti and fly-posting
<a href="#">Nuisance parking</a>	Road traffic, litter and refuse
<a href="#">Abandoning a vehicle</a>	Road traffic, litter and refuse
<a href="#">Fly-tipping</a>	Waste on land
<a href="#">Noise exceeding permitted levels – domestic premises</a>	Statutory noise nuisance, noise at night and audible intruder alarms
<a href="#">Noise exceeding permitted levels – licensed premises</a>	Statutory noise nuisance, noise at night and audible intruder alarms
<a href="#">Alarm noise – no keyholder</a>	Statutory noise nuisance, noise at night and audible intruder alarms
<a href="#">Failing to show waste documents</a>	Waste on land

### Exceptions

There are no restrictions on how the following councils can use income from these FPNs:

- councils rated as 'excellent', 'good' or 4, 3 or 2 stars
- a parish council approved as a Quality Parish Council

There are no restrictions on how councils can use income from fly-tipping FPNs.

### Other authorities

National Park authorities can use FPN receipts for their own litter enforcement.



The Broads authority can use FPN receipts for functions relating to litter and anti-social behaviour.

The Environment Agency must pay its FPN receipts to the Secretary of State.

PCSOs must pay their FPN receipts to their local authority.

## **Publishing your enforcement strategy**

You should make your enforcement strategy publicly available and include details of:

- offences included in your FPN scheme
- how much you'll fine people for each offence
- details of any early payment discounts
- how FPNs are issued
- how you deal with juvenile offenders
- what you'll do if offenders don't pay
- how to appeal (if you offer that option)
- how you'll spend money received from FPNs
- records you'll keep

## **Legislation**

This legislation relating to fixed penalty notices includes:

- [Environmental Protection Act 1990](#)
- [Clean Neighbourhoods and Environment Act 2005](#)
- [Anti-social Behaviour Act 2003](#)
- [Anti-social Behaviour, Crime and Policing Act 2014](#)
- [Refuse Disposal \(Amenity\) Act 1978](#)
- [Environmental Offences \(Fixed Penalties\) \(Miscellaneous Provisions\) Regulations 2007](#)
- [Environmental Offences \(Fixed Penalties\)\(England\) Regulations 2018](#)
- [Unauthorised Deposit of Waste \(Fixed Penalties\) Regulations 2016](#)

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## **Detailed guide: Carrier bag charges: retailers' responsibilities**

*Updated:* Updated the amount of money generated for good causes and the amount of bags distributed under the 'Dealing with the proceeds' heading.

You must charge a minimum of 5p for single-use carrier bags in England if you're a large retailer. If you don't, you could be [fined](#).

A large retailer employs 250 or more full-time equivalent employees (in total and not just in retail roles) in a year.

[Work out if you count as a large retailer.](#)

You must charge if you:

- sell goods in England
- deliver goods to England

As a retailer:

- the charge is for non-reusable bags (single-use bags)
- you must charge for bags used for collections and deliveries
- you don't need to charge an extra 5p if you're already charging 5p or more for bags

If you're a small or medium-sized business, you can charge and follow the scheme voluntarily. You don't have to report or keep records for carrier bag use.

[Read why there's a charge for carrier bags.](#)

## **Bags you charge for**

You must charge a minimum of 5p a bag (including VAT) for carrier bags that are all of the following:

- unused – it's new and hasn't already been used for sold goods to be taken away or delivered
- plastic and 70 microns thick or less
- it has handles, an opening and isn't sealed

## **Monitor self checkouts**

You must do all you can to make sure that you charge for bags at self checkouts. For example, the checkouts ask shoppers how many bags they used and charges for them.

## **Charging for deliveries and click-and-collect bags**

You must charge for plastic bags used for deliveries and online sales, including click-and-collect (and similar) collections.

The number of bags used isn't always known until delivery takes place. This means you can charge for an average number of bags for multi-bag deliveries, as long as 5p or more is charged per bag overall.

You can also offer bagless delivery as an option – this will cut down on waste.

## **Bags you're not required to charge for**

Some bags are exempt – you don't have to charge for these, but can if you want to.

You don't have to charge if the bag only contains certain items, but if you add other items then you must charge.

For example, you're not required to charge for a bag containing an unwrapped blade and unwrapped loose seeds. But if you add a box of cornflakes then you would have to charge.

## **Returnable bags and bags for life**

You're not required to apply the 5p charge for:

- woven plastic bags
- multiple reuse bags (bags for life), when replaced, if originally sold for 5p or more

You can still charge for these bags but you don't need to record sales and proceeds as you do with single-use carrier bags.

A returnable multiple reuse bag must be all of the following:

- sold for 5p or more
- suitable for reuse
- replaced free of charge if returned to you when worn out

## **Food and plants**

You're not required to charge for plastic bags that are for:

- uncooked fish and fish products
- uncooked meat, poultry and their products
- unwrapped food for animal or human consumption – such as chips, or food in containers that aren't secure enough to prevent leakage during handling
- unwrapped loose seeds
- flowers
- bulbs, corms or rhizomes (roots, stems and shoots, such as ginger).
- goods contaminated by soil (like potatoes or plants)

## **Products**

You're not required to charge for bags:

- for unwrapped blades, including axes, knives, and knife and razor blades
- for prescription medicine
- used for a service, but there is no sale of goods, for example dry cleaning

## **Live fish and aquatic creatures**

You're not required to charge for bags holding live fish or other aquatic creatures.

## **Packaging, transport and promotions**

You're not required to charge for bags:

- for goods in transport, such as at an airport or on a train, plane or ship
- considered as sealed packaging for mail order and click-and-collect orders
- used to give away free promotional material

## **Work out if you're a large retailer**

You need to work out how many full-time equivalent employees you have at the start of each reporting year.

The reporting year runs from 7 April each year to 6 April in the following year.

(The first reporting period – for the first 6 months of the scheme – ran from 5 October 2015 to 6 April 2016.)

## **Work out your number of employees**

On the first day of the reporting year calculate how many full-time equivalent employees you have:

1. Work out how many hours a full-time employee would work in a year (for example 40 hours by 52 weeks is 2,080).
2. Multiply this by the amount of full-time workers there for the full year (for example 200 workers by 2,080 is 416,000).
3. Work out part-time and seasonal workers' hours by multiplying their weekly hours by the weeks worked (for example 100 workers by 20 hours by 10 weeks, added to 100 workers by 40 hours by 25 weeks is 20,00 plus 100,000, giving 120,000).
4. Add the full-time and part-time or seasonal workers' hours together (for example 416,000 plus 120,000 is 536,000).
5. Divide this by the amount of hours a full-time employee would work in a year (for example 536,000 divided by 2,080 is 257.7)

If this number is 250 or more, then you must charge for bags.

## **Franchises and symbol groups**

If your store is part of a franchise or symbol group (an independent retailer that shares a brand-name shop and products) you only count employees in your business.

You don't count the franchise or symbol group as a whole.

For example if you're part of a symbol group and you own:

- 10 stores in a symbol group and have more than 250 employees in total – you must charge
- 2 stores with 15 employees – you don't have to charge

## Records you must keep and submit

You must keep a reporting year's records for 3 years from 31 May in the following reporting year. For example, you must keep the records for 5 October 2015 to 6 April 2016 until 31 May 2019. You can be [fined](#) if you don't.

You'll also need to consider [HM Revenue and Customs guidance on VAT](#).

You must record for the whole reporting year:

- the number of single-use carrier bags you supplied
- the gross and net proceeds of the charge
- any VAT in the gross proceeds
- what you did with the proceeds from the charge
- any [reasonable costs](#) and how they break down

## Register and report your records

The deadline for submitting your records was 31 May 2018.

1. Before you can report your records, you need to [register to create a username and password](#).
2. When you've completed the registration process, you'll be able to [use the carrier bag reporting website](#) to submit your records.

If you're a large retailer, you must report on the period from 7 April 2017 to 6 April 2018 or you could be [fined](#).

Small or medium businesses can voluntarily submit records on the period from 7 April 2017 to 6 April 2018.

Email Defra at [PlasticBagCharge@defra.gsi.gov.uk](mailto:PlasticBagCharge@defra.gsi.gov.uk) for more information about submitting records.

The data retailers submit will be published as Open Government Data under the Open Government Licence.

## Reasonable costs

Reasonable costs include new costs you incurred by following the law on charging. This might include:

- the cost of changing till systems

- training staff
- communicating the policy to staff and customers
- getting expert advice
- administering donations to good causes

You can't include existing costs, such as the cost of the bags.

## **Replying to public enquiries**

Members of the public can ask you for copies of your carrier bag records. You must give them copies within 28 days.

## **Dealing with the proceeds**

Once you've deducted reasonable costs, it's expected that you'll donate all proceeds to good causes, particularly environmental causes.

Since the government introduced the charge:

- it's generated approximately £146.2 million for good causes
- the seven key retailers have distributed around 15.6 billion fewer bags

We [publish a summary](#) which includes the results reported to us by retailers, and the amounts of money given to good causes.

## **Getting inspected**

Your local authority inspects you to check you are following the law. Inspectors can:

- visit your shop or store
- make test purchases
- speak to staff
- demand records

Inspectors don't have to give you warning but can carry these out as 'secret shopper' exercises. If they find a problem they can:

- issue a non-compliance notice stating what you must do to fix the problem
- impose a fixed penalty
- impose a variable penalty
- order you to publicise (such as adverts in local papers or posters in your store) that you've broken the law, what your penalty was and how you're now complying

Inspectors can order you to cover the cost of the investigation if you break the law.

## **Trading across different regions**

If you trade across different regions of the UK, you can [apply for a Primary](#)

[Authority agreement](#). You can then choose to deal with just one local authority rather than the authorities in each area you trade in.

## How much you can be fined

Your local authority must publish details of fine levels, and when it will impose them, on its website.

You can't receive a variable fine if you've already received a fixed fine for the same problem, unless you've received a non-compliance notice for the problem.

### Fixed penalties

Problem	Penalty
Not charging for bags appropriately	£200
Not keeping records	£100
Not supplying records	£100

### Variable penalties

Problem	Maximum penalty
Not charging for bags appropriately	£5,000
Not keeping records	£5,000
Not supplying records	£5,000
Giving false or misleading information to, or otherwise obstructing or failing to assist the local authority	£20,000

### Paying fines on time

Fines are:

- reduced by 50% if you pay within 28 days
- increased by 50% if you fail to pay within 56 days

### Appeals and objections

You can object within 28 days of you receiving a fine, the fine or letter will tell you how to do so.

You can appeal a penalty if you feel your fine was wrong, unreasonable or based on an error. You can also appeal if you feel that your non-monetary requirement is unreasonable, or if the variable amount penalty is too high.

## Further information

You can read the [policy on the carrier bag charge](#) and [Defra's view on biodegradable bags](#).

You can also [get artwork explaining the charges](#) to use in your shop or store.

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## **Statutory guidance: RLE1 form and guidance**

*Updated:* How to check and change your hedge information v3.0 added

### **How to check and change your hedge information**

This guidance explains how to check the information RPA holds about hedges on your land and what to do if you need to make changes.

### **Notifications in the Rural Payments service**

RPA will send you a notification in the Rural Payments service when:

- a land transfer request is completed
- an entitlement transfer request is completed
- RPA has made updates to digital maps that you didn't tell them about

Land and entitlement transfer notifications will be visible to anyone with the correct permission level for the business making the transfer and the business receiving the transfer.

RPA will not send notifications to confirm mapping changes that you have told them about or that have been made following an inspection.

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## **Collection: Cycling**

*Updated:* Cycle City Ambition baseline and interim evaluation published.

The government is encouraging more people to cycle more safely and more often.