

Consultation on National Litter and Flytipping Strategy

Public Consultation

December 2021

Executive Summary

In June 2014, the Scottish Government published the country's first National Litter Strategy "*Towards a Litter Free Scotland: A Strategic Approach to Higher Quality Local Environments.*" A review of this strategy was completed in November 2019 which highlighted that significant progress had been made and identified key successes of the strategy. However, it also recognises that litter and flytipping still pose a significant challenge that require further concerted actions; and identified opportunities for potential future action.

The landscape within which the previous strategy was written has evolved significantly, and a number of new policy areas are now linked to the impact of litter and flytipping. The COVID-19 pandemic has also posed a number of new challenges in regards to litter and flytipping. It was decided that this strategy would be updated as a National Litter and Flytipping Strategy, recognising that these are separate issues, to allow a tailored approach to be taken to each of them.

Further to the review that was conducted on the previous strategy, targeted stakeholder engagement has focused on the current challenges and future priorities for action. This consultation reflects these discussions and proposes actions that can be taken to prevent litter and flytipping from occurring and effectively deal with it, when it does. It also provides an opportunity to further engage with stakeholders on proposed actions which will help to shape and deliver the final strategy.

This strategy sets out our vision for a future where Scotland's environment is unblighted by litter and flytipping. To achieve this vision, some potential actions have been identified for litter and flytipping under key themes:

- Behaviour change
- Services and infrastructure
- Enforcement.

Data and research is seen as a crosscutting element of this strategy, underpinning these three themes.

Litter

Data collected through the national Local Environmental Auditing and Monitoring System for 2020/21 demonstrates that litter continues to be a challenge for communities across Scotland, and highlighted the effects of the pandemic on local environmental quality. This consultation proposes actions under the three themes, which aim to ensure:

- Behaviour change: Individuals and organisations have greater awareness of the problems caused by litter, understand their responsibility in preventing litter and are motivated to behave responsibly.
- Services and infrastructure: Scotland's services and infrastructure are fit for purpose, encourage responsible behaviour and make it easier for individuals to make the right choices; and prioritise action and innovation that proactively prevents litter and supports a circular economy.
- Enforcement: There is a strong and consistent enforcement model across Scotland that is fit for purpose, promotes positive behaviours, acts as a proportionate deterrent and effectively stops people from littering.

Examples of proposed actions under each of these themes include:

- Conduct research to understand the full range of influences on littering behaviours.
- Develop a sustained, evidence based, national anti-littering behaviour change campaign that is delivered consistently across Scotland.
- Improve the consistency and quality of data collection to allow targeted interventions to be developed.
- Encourage collaboration and share best practice among duty bodies to optimise services.
- Create a national litter hub to provide information and advice to community groups.
- Conduct an evidence review of barriers to enforcement, with a view to make necessary legislative changes subject to the outcome.

Flytipping

Flytipping is a blight on local communities and comes at a financial cost to the taxpayer and to businesses. Private landowners and land managers are also particularly adversely affected as they can often be left paying the cost to clear and dispose of any material flytipped on their land. There has been increased media coverage of flytipping as a result of the COVID-19 pandemic with concerns that many of these existing issues had been exacerbated by the pandemic. This consultation proposes actions under the three themes, which aim to ensure:

- Behaviour change – National flytipping messaging is improved to ensure individuals and businesses are confident in understanding their responsibilities in disposing of waste appropriately and are fully informed on the potential consequences of not doing so.
- Services and infrastructure – There is a resilient national framework which provides consistent and joined up services that are effective for both preventing flytipping where possible and tackling it effectively when it does occur.
- Enforcement – There is a strong, consistent enforcement model that is fit for purpose and acts as an effective deterrent for flytipping behaviour.

Proposed actions under each of these themes include:

- Conduct research to understand the full range of influences on behaviour that leads to flytipping.
- Develop a sustained, evidence based, national anti-flytipping behaviour change campaign that is delivered consistently across Scotland.
- Improve the consistency and quality of data collection, including exploring establishing a national database and ensuring that there is a fit for purpose mechanism for citizen reporting of flytipping.
- Explore a flexible approach to waste disposal and targeted interventions.
- Support private landowners and land managers by exploring the role of technology, producing updated guidance and exploring alternative financial support mechanisms.
- Conduct an evidence review of barriers to enforcement of flytipping offences.

- Initially raise fixed penalties to the maximum and explore the possibility of raising the maximum further.
- Explore the possibility of enabling local authorities and national parks to use civil penalties to enforce flytipping offences.

Conclusion

Further proposed actions can be found within the consultation document. Responses to this consultation are essential to developing the National Litter and Flytipping strategy, details of how to respond can also be found within the document.

It is our intention to publish the final strategy in early 2022, taking account of views expressed during this consultation. It is important that collaborative work continues to deliver this new strategy; Scottish Government will work with key partners to develop the strategy and identify system-wide action to drive further progress on litter and flytipping.

Contents

Responding to this consultation	8
1. Introduction.....	11
1.1 Background	11
1.2 Themes.....	12
1.3 Monitoring and Evaluation	13
1.4 The bigger picture	14
2. Litter.....	17
2.1 Behaviour Change	18
2.1.1 Context	18
2.1.2 Aim.....	18
2.1.3 Proposals.....	18
.....	20
2.2 Services and Infrastructure.....	20
2.2.1 Context	20
2.2.2 Aim.....	20
2.2.3 Proposals.....	20
2.3 Enforcement.....	26
2.3.1 Context	26
2.3.2 Aim.....	26
2.3.3 Proposals.....	26
3. Flytipping	30
3.1 Behaviour Change	31
3.1.1 Context	31
3.1.2 Aim.....	32
3.1.3 Proposals.....	32
3.2 Services and Infrastructure.....	34

3.2.1	Context	34
3.2.2	Aim.....	34
3.2.3	Proposals.....	35
3.3	Enforcement.....	41
3.3.1	Context	41
3.3.2	Aim.....	43
3.3.3	Proposals.....	43
4.	Next Steps	49
5.	Abbreviations.....	50
6.	Annexes.....	51
	Annex A: Respondent Information Form	51
	Annex B: Summary of actions on littering.....	53
	Annex C: Summary of actions on flytipping.....	56
	Annex D: Summary of consultation questions.....	59

Responding to this consultation

We are inviting responses to this consultation by 31 March 2022.

Please respond to the consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). You can view and respond to this consultation online at: <https://consult.gov.scot/environment-forestry/national-litter-and-flytipping-strategy> You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the **closing date of 31 March 2022**.

If you are unable to respond through the online platform, please complete the Respondent Information and send to: NLFS@gov.scot

Handling of your response

If you respond using consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in Annex A of this document. This can be sent via email to NLFS@gov.scot.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

NLFS@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- Indicate the need for policy development or review
- Inform the development of a particular policy
- Help decisions to be made between alternative policy proposals
- Be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

1. Introduction

This consultation, which was drafted in partnership with Zero Waste Scotland, Keep Scotland Beautiful and Scottish Environment Protection Agency (SEPA), is seeking views on the aims, objectives and actions that will sit under, the new National Litter and Flytipping Strategy for Scotland. The responses to this consultation will help shape and deliver the final strategy which will be published in 2022. The consultation will run until 31 March 2022.

The Scottish Government's overarching vision, which is shared by our partners, Zero Waste Scotland, Keep Scotland Beautiful and SEPA, is one where Scotland's environment is unblighted by litter and flytipping. It is also to encourage and support positive behaviours, enabling individuals and businesses to choose the correct route of waste disposal and therefore improve the quality of their local environment.

Achieving this will require cohesive, sustained efforts for all partners and affected parties, including local authorities, national parks, Police Scotland, SEPA, the third sector, businesses and the public. Engagement and consultation with a wide range of stakeholders is a crucial aspect of the new strategy development.

1.1 Background

Scotland's first National Litter Strategy "*Towards a Litter-Free Scotland: A Strategic Approach to Higher Quality Local Environments*¹" was published in 2014. A review of this strategy (Litter Strategy- five years on: review²) and the activity that took place as a result, was completed in 2019.

The review of the 2014 strategy concluded that significant progress has been made in a number of areas, but acknowledged that litter and flytipping continue to pose a significant challenge. In particular, it noted that there is a need to treat litter and flytipping as two separate issues that require tailored strategic intervention.

¹ <https://www.gov.scot/publications/towards-litter-free-scotland-strategic-approach-higher-quality-local-environments/>

² <https://www.gov.scot/publications/five-years-review-scotlands-national-litter-strategy/>

Therefore, this consultation and the draft strategy have separate and distinct sections, with equal weighting.

In early 2021, the Scottish Government engaged with stakeholders through a flytipping roundtable discussion and litter summit to better understand how priorities have shifted since the publication of the original strategy and in the context of COVID-19. In March 2021, the Scottish Government then committed to developing a new strategy for tackling litter and flytipping.

The review also noted the need for clearer strategy direction and ownership to help partners and stakeholders understand the implication for them. In developing the new strategy, the Scottish Government has worked closely with a range of organisations, including at two workshops held in summer 2021, to ensure a common understanding and has prepared a list of actions that will sit beneath the strategy to help deliver its vision. The final strategy, which will be delivered in 2022, will outline ownership and deliverables for each of the actions.

This strategy will have a six year life-span and actions will include short (2 years), medium (4 years) and long (6+ years) term timescales for completion.

1.2 Themes

The actions will sit within three strategic themes that were agreed by stakeholders through the review of the 2014 strategy and subsequent engagement:

- Behaviour Change
- Services & Infrastructure
- Enforcement.

These themes, which will be discussed in more detail in the following sections, will help to ensure that individuals and organisations:

- Understand the harm (environmental, social, economic, wellbeing) that litter and flytipping cause and their responsibilities for prevention;
- Have the tools and incentives to effectively prevent litter and flytipping by making it easier for people to do the right thing at the right time

- Are aware of the consequences of not taking responsibility for their waste.

Evaluating the progress and effectiveness of the strategy is also acknowledged to be of vital importance. Data and research was originally identified as a fourth strategic theme during the review of the 2014 strategy. Through engagement and development, it has been recognised that it is cross-cutting and comprises an integral and essential part of the other three themes. It is important to understand the behaviours and drivers behind littering and flytipping and to ensure that evidence gathering, monitoring and evaluation are used to continually inform action and understand its impact

It is also recognised that many of these actions overlap different themes, a summary of this can be found in Annexes B and C.

1.3 Monitoring and Evaluation

Improved data is crucial if we want to fully understand the root causes of litter and flytipping, evaluate the success of any interventions, collaborate successfully and monitor change and get insights into key audiences and how to influence their behaviour. This includes reporting of issues by the public and communities, national reporting and monitoring by bodies³ with a statutory duty to clear litter and flytipping, citizen science and measuring outcomes.

Communities and regions in Scotland should not operate in silos, therefore having a common language to record and understand when, where, what and why littering and flytipping occur, will help us to build a local, regional and national picture to underpin and facilitate action.

This can be done by increasing the amount, consistency and quality of quantitative data collected continuing to develop the Litter Monitoring System (LMS), and utilising

³ <https://www.gov.scot/publications/code-practice-litter-refuse-scotland-2018/pages/2/>

the public flytipping reporting system, Dumb Dumpers⁴, and/or developing new tools and resources.

Further quantitative and additional qualitative data can be collected through citizen science. We can learn from the success of the Marine Conservation Society's Beach Watch⁵ and Keep Scotland Beautiful's Upstream Battle.⁶ Data has been collected for decades through Beach Watch and it has helped to influence policy such as the development of Scotland's Deposit Return Scheme (DRS)⁷ and the Scottish Government's work on legislation to prohibit the supply and manufacture of certain single use plastics⁸ items which was made in November 2021. This will essentially mean a ban from June 2022 on the sale of single use items such as straws, plastic cutlery, plates and expanded polystyrene cups and food containers which have all been identified as commonly littered items.

Ongoing data collection and monitoring will enable future evaluation of policy. It is intended that this strategy will be reviewed at the mid-point (3 years) and end of the strategy's life (6 years) to ensure progress is being made and continues to align with wider priorities and policy.

1.4 The bigger picture

The new strategy will take into account existing commitments and frame the pollution caused by litter and flytipping within the context of contributing to the climate and biodiversity crisis. Building a Circular Economy is a key mechanism for tackling this, and preventing litter and flytipping is essential in achieving this. The Scottish Government is committed to bringing forward a Circular Economy Bill this parliamentary session. With Scotland declaring a climate emergency in 2019 and

⁴ <https://www.zerowastescotland.org.uk/DumbDumpers>

⁵ <https://www.mcsuk.org/what-you-can-do/join-a-beach-clean/the-importance-of-data/>

⁶ <https://www.keepsotlandbeautiful.org/upstream-battle/citizen-science/>

⁷ <https://depositreturnscheme.zerowastescotland.org.uk/>

⁸ <https://www.gov.scot/publications/draft-environmental-protection-single-use-plastic-products-oxo-degradable-plastic-products-scotland-regulations-2021-discussion-paper/>

hosting COP26 in November 2021, it should not be underestimated that preventing litter and flytipping can contribute to protecting our climate and biodiversity.

Feedback from the previous strategy review also sought to position the issue of litter and flytipping as a broader social concern. This includes its impact on health and wellbeing, and its contribution to local environmental quality, with particular relevance in deprived areas.

It is important to acknowledge the influence that robust litter and flytipping data can have on policy decisions (as mentioned above), as well as the effect (both positive and negative) that wider policy can have on the amount of litter and flytipping that occurs.

The Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021 were laid before the Scottish Parliament on 11 November 2021. They come into force on 1 June 2022. The UK Internal Market Act 2020, however, means that the ban will not apply to any items which are produced in, or first imported into, another part of the UK, and which are not banned in that part of the UK. We are working with UK Government to consider ways to ensure the integrity of the ban.

The aim of the Regulations is to reduce the environmental impact of single-use plastic products and contribute towards the move to a more circular economy. The single-use plastic products banned are some of the most commonly littered items on European beaches. They constitute the majority of marine litter in the EU and these regulations will have a positive impact on terrestrial litter too, as well as tackling some of the items at the heart of our throwaway culture.

The proposed strategy should therefore also be viewed in the context of the work being carried out to examine how Extended Producer Responsibility (EPR)⁹ for a number of items- including packaging, mattresses, fishing gear and chewing gum- could potentially reduce their prevalence as both waste and littered and flytipped

⁹ <https://www.zerowastescotland.org.uk/our-work/extended-producer-responsibility>

items. EPR is a 'polluter pays' principle and places responsibility for covering the full net cost of waste on producers as it ensures that those responsible for creating waste are paying for it. It is a potent tool to change our habits of production and consumption and it incentivises further benefits, such as increased recyclability and design for reuse and long life, which will aid in the reduction of litter and flytipped materials.

In developing new EPR requirements, the Scottish Government will consider product impacts holistically in order to promote products that support a more circular economy. Again, data and research on littered and flytipped items can contribute to this by identifying those products and materials with the greatest impact and opportunity.

Scotland is set to be the first country in the UK to introduce a deposit return scheme for drinks containers. This means people will pay a 20p deposit when they purchase a drink in a can, glass or PET bottle, and they will get money back when they return the bottle to a local shop or collection point. The DRS for Scotland is also expected to have a significant impact on litter, with estimates that it could reduce litter by up to a third¹⁰.

The wider impact of terrestrial litter and flytipping also needs to be taken into account. The majority of the unwanted material that ends up in the marine environment originated on land. This new strategy, focussing on land-based litter and flytipping, will align closely with Marine Scotland's updated Marine Litter Strategy.

The continuing challenges posed by COVID-19 must also be acknowledged, both in terms of stretching public sector resources and introduction of new items into the waste and litter streams (such as face coverings and other personal protective equipment). However, any actions taken with regard to personal protective items must be balanced with the importance of public safety.

¹⁰ <https://depositreturnscheme.zerowastescotland.org.uk/litter>

2. Litter

The review of the 2014 National Litter Strategy identified a wide range of positive work has been undertaken by Scottish Government in partnership with other organisations. However, challenges still exist. Keep Scotland Beautiful published a report, *“Time for a new approach to tackling litter¹¹,”* in December 2020 that evidenced the ongoing decline in local environmental quality across Scotland and highlighted the effects of the pandemic on public perceptions of litter in their local area.¹²

The national Local Environmental Auditing and Monitoring System (LEAMS) data for 2020/21 demonstrates that litter continues to be a challenge for communities across Scotland, showing an increase in the number of locations with significant amounts of litter present, with urban local authorities observing the biggest decline in local environmental quality.¹³

Keep Scotland Beautiful conducted the Scottish Litter Survey, which assessed public attitude and perceptions to litter and littering behaviour. The survey highlighted that 88% of people agreed that litter is a problem across Scotland, and that 70% agree that it is a problem in their local area.

This survey also found that when people were asked who was responsible for preventing litter, 63% of respondents deemed individuals and consumers ‘entirely responsible’ for the prevention of littering. Furthermore, the results demonstrated significant support for initiatives focused on preventing littering, especially improved waste disposal facilities and education and awareness campaigns.

This strategy will have a six year life-span and actions will include short (2 years), medium (4 years) and long (6+ years) term timescales for completion.

¹¹ <https://www.keepsotlandbeautiful.org/media/1566897/leq-2020-report-final-041220.pdf>

¹² <https://www.keepsotlandbeautiful.org/media/1566897/leq-2020-report-final-041220.pdf>

¹³ <https://www.keepsotlandbeautiful.org/environmental-services/leams/>

2.1 Behaviour Change

2.1.1 Context

The National Litter Strategy (2014) outlined interventions to improve messaging about litter, including using consistent messaging that encourage the public and motivate behaviour change. The published review of this strategy in 2019 outlined the actions that were carried out under this strategy, including communications campaigns, litter prevention communication toolkit and improved resources for schools.

Since the review of the National Litter Strategy in 2019, Zero Waste Scotland in partnership with Scottish Government and Keep Scotland Beautiful have developed a national anti-littering campaign, Scotland is Stunning. This campaign had two phases, which ran in summer 2020 and summer 2021 to address litter challenges that arose during the pandemic. “Scotland is Stunning – let’s keep it that way” aimed to inspire people getting out and about to enjoy the outdoors and urged them to bin their litter or take it home. The campaign also included a tool kit which allowed stakeholders to tailor resources to their local area.

Zero Waste Scotland, in partnership with Keep Scotland Beautiful and Scottish Government also developed messaging to address litter that occurred as the result of the pandemic, including messaging around disposing of face coverings responsibly and encouraging the use of reusable face coverings.

2.1.2 Aim

Individuals and organisations have greater awareness of the problems caused by litter, understand their responsibilities in preventing litter and are motivated to behave responsibly.

2.1.3 Proposals

Objective 1: Understand litter perceptions and behaviour to allow targeted approaches to be developed.

Research is necessary to underpin any behaviour change interventions that are developed under the strategy and having further Scottish specific information would

help to identify behaviours and audiences that are a priority to reach with targeted actions.

Action 1.1: Conduct research to understand the full range of influences on littering behaviours across various contexts and audience groups Short Term

1. (a) Do you support the proposed action to conduct research to understand the full range of influences on littering behaviours (action 1.1)? Yes / No / Do not know

(b) Please give reason(s) for your answer.

Objective 2: Develop and adopt a shared approach between Scottish Government, local authorities, public agencies and the third sector, to litter prevention and behaviour change across Scotland

We want to build on the successes of previous successful campaigns, whilst learning from these experiences and responding to stakeholder feedback that there is a need to develop new more effective and targeted campaigns and interventions that effectively encourage responsible disposal of litter. This can be achieved through the development of a national anti-litter behaviour campaign, run over a number of years and supported by shorter life campaigns targeted at specific issues, regions, areas or audiences. This shared approach would include the development of common aims, more strategic communications and use of common language to effectively communicate the environmental, health and economic cost of littering and what can be done to prevent it.

Action 2.1: Develop a sustained, evidence based, national anti-littering behaviour change campaign and deliver this consistently and collaboratively with stakeholders across Scotland Medium Term

2. (a) Do you support the proposed action to develop and adopt a national anti-littering behaviour change campaign (action 2.1)? Yes / No / Do not know

(b) Please give reason(s) for your answer

3. Which topics should be a priority to address by behaviour change interventions?

4. Is there a need to develop a standard definition for litter that can be used across Scotland? Yes / No / Do not know

2.2 Services and Infrastructure

2.2.1 Context

Services and infrastructure capture the suite of interventions that ensure facilities and services are accessible and make it easy for people to appropriately dispose of their waste to prevent it becoming litter. This theme includes services and infrastructure offered by local authorities and other statutory bodies, but also more widely recognises the role that is played by businesses, communities and the third sector.

2.2.2 Aim

Scotland's services and infrastructure are fit for purpose, encourage responsible behaviour, and prioritise action and innovation that proactively prevents litter and supports a circular economy.

2.2.3 Proposals

Objective 3: Improve our understanding of the sources, amount and composition of litter

A better understanding of the sources, amount and composition of litter will enable a picture of the current situation in Scotland to be developed and aid in the monitoring and evaluation of strategy actions. This knowledge base will allow targeted interventions to be developed and trialled and inform service optimisation. The

review of the National Litter Strategy identified the consistency of data collection as an area that needs to be strengthened.

In 2013, Zero Waste Scotland published a report¹⁴, which estimated the scale and cost of litter and flytipping in Scotland. It was estimated that public bodies spend approximately £43 million per year on preventing, clearing and enforcing litter, with a further £10 million spent on flytipping. Scottish Government has commissioned research to provide updated estimates on the direct and indirect costs to public bodies and private landowners as well as updated estimates on litter composition.

The Scottish Government is also working with other administrations on the introduction of an extended producer responsibility scheme for packaging, which is intended to recover from producers the full net cost of handling packaging when it becomes waste. As part of this, consideration is being given to the inclusion of some element of the cost of handling litter.

Data and research on the composition and spatial distribution of litter is essential for developing essential services and infrastructure. The review of the National Litter Strategy identified that the consistency of data collection needs to be improved and strengthened.

Currently, many different organisations hold data on litter. LEAMS has been used since 2003 in Scotland to collect data on local environmental quality, including litter. This data is collected by local authorities and administered by Keep Scotland Beautiful. This will be integrated with the new Litter Monitoring System which will provide greater consistency, increase transparency in cleanliness grades and provide more granular data on the levels of litter. Other organisations hold data on litter in Scotland and a review of this available data will identify and aid a comprehensive understanding of the data available.

¹⁴ <https://www.zerowastescotland.org.uk/sites/default/files/Scotland%27s%20Litter%20Problem%20-%20Full%20Final%20Report.pdf>

A standard approach to collecting data will ensure data consistency across organisations, maximise use of data and help to build a national picture of littering. It will also support longer term aims to identify commonly littered items, development of targeted interventions and support enforcement activity.

Citizen science is a powerful tool that can contribute to achieving this aim, which has been evidenced by existing citizen science projects such as the Marine Conservation Society's Beach Watch. We therefore propose to support and encourage citizen science initiatives that build on the success of these existing projects.

Action 3.1: Review the available litter data and approach to data collection across Scotland and reach an agreement between stakeholders on a common approach to collecting data. Medium Term

Action 3.2: Identify commonly littered items and litter hotspots and work with local authorities and other duty bodies to develop targeted interventions to reduce litter, Long Term

Action 3.3: Increase the use of citizen science to support data on the amount and composition of litter in Scotland. Long Term

5. Do you support the following proposed actions to:

- Action 3.1: Review available litter data and reach an agreement between stakeholders on a common approach to data collection? Yes / No / Do not know
- Action 3.2: Identify commonly littered items and litter hotspots and work with local authorities to develop targeted interventions? Yes / No / Do not know
- Action 3.3: Increase the use of citizen science to support data on the amount and composition of litter? Yes / No / Do not know

(b) Please give reason(s) for your answer.

6. What would encourage increased participation in citizen science data collection?

Objective 4: Encourage a shared approach to services that will effectively support litter prevention

The review of the National Litter Strategy suggested that there needs to be greater sharing of services, resources, aims and objectives across local authorities, national parks and other bodies with a statutory duty to clear litter in Scotland.

Under the previous strategy, the Code of Practice for Litter and Refuse¹⁵ (CoPLaR) 2006 was reviewed, updated and a new statutory guidance document was published in June 2018, along with training on how to implement it. It aimed to improve clarity around the balance that should be taken between prevention and clean up within the duties stated in section 89 of the Environmental Protection Act 1990 to ensure that the land is kept clear of litter and refuse. In order to understand whether CoPLaR 2018 has been successfully implemented by duty holders, a review will take place.

¹⁵ <https://www.gov.scot/publications/code-practice-litter-refuse-scotland-2018/>

The review and engagement process suggested that there needs to be a more flexible approach to managing cleansing and waste activities to prevent litter, including: smart bins and temporary bins at hotspots or linked to seasonal activity (for example at festivals). The use of technology to identify litter and collect data will also be explored.

Action 4.1: Carry out a review of the development, implementation and progress of the Code of Practice for Litter and Refuse (2018) Short Term

Action 4.2 Explore the use of flexible and innovative interventions to support litter prevention and removal Medium Term

Action 4.3: Establish an action focused group to encourage collaboration and share best practice between local authorities, national parks and other duty bodies to optimise services. Medium Term

7. (a) Do you support the proposed actions to:

- Action 4.1: Review CoPLaR (2018) and its implementation by duty holders? Yes / No / Do not know
- Action 4.2: Explore the use of flexible and innovative interventions to support litter prevention and removal? Yes / No / Do not know
- Action 4.3: Establish an action focused group to encourage collaboration and share best practice between local authorities, national parks and other duty bodies? Yes / No / Do not know

(b) Please give reason(s) for your answers

8. Please provide examples of flexible or innovative interventions that have or have not worked well.

9. How can increased collaboration and information sharing across local authorities, national parks and other duty bodies be achieved?

Objective 5: Empower community groups to take action

We recognise the important work carried out by community groups to tackle litter across Scotland. Establishing a national litter hub will provide an online resource that can provide advice and support to communities, in their efforts to prevent and clear litter, and improve local environmental quality. This would include opportunities to access funding, litter picking equipment, campaign materials, citizen science resources and health and safety information.

Creating a community-focused litter education programme would enable communities to develop the capacity and capability to tackle litter and littering behaviour, engage with local stakeholders and effectively utilise the resources available through the national litter hub to plan and undertake action in their area.

Action 5.1: Create a national litter hub to provide information and advice to community groups Short Term

Action 5.2: Create a community-focused litter education programme to enable communities to develop the capacity and capability to tackle littering behaviour at a local level Medium Term

10. (a) Do you support the proposed actions to:

- Action 5.1: Create a national litter hub to provide information to community groups? Yes / No / Do not know
- Action 5.2: Create a community-focused litter education programme? Yes / No / Do not know

(b) Please give reason(s) for your answer.

11. What advice, information and support should be included in a national litter hub?

12. What topics should be included in a community-focused litter education programme?

2.3 Enforcement

2.3.1 Context

Section 87 of the Environmental Protection Act 1990 defines the criminal offence of leaving litter as throwing down or dropping an item in any public open space or certain other designated places. If an authorised person has reason to believe that a person has littered, they can issue that person with a Fixed Penalty Notice (FPN). Under the National Litter Strategy (2014), the fixed penalty amount for littering was raised to £80 and could be raised by secondary legislation to a maximum amount of £500. Powers to issue FPNs were extended in Loch Lomond and Trossachs National Park in 2015. Currently, local authorities, Police Scotland and Loch Lomond and Trossachs National park have powers to issue FPNs for littering and to undertake any follow up.

If an FPN is rejected or is not paid within the notice period, the issuing authority can refer the matter to the Crown Office and Procurator Fiscal Service (COPFS) who will make a decision as to any further action. COPFS has the direction to make a conditional offer of fixed penalty, compensation, or unpaid work as a means of discharging criminal liability. If the matter is prosecuted and the person convicted, they may be fined up to £2500.

2.3.2 Aim

There is a strong and consistent enforcement model across Scotland that is fit for purpose, promotes positive behaviours and acts as a proportionate deterrent and effectively stops people from littering.

2.3.3 Proposals

Objective 6: Develop a more effective enforcement model

The review of the previous National Litter Strategy has highlighted a number of challenges in the enforcement process, including: ability to gather appropriate evidence, identify offenders and recover fines. This poses challenges in issuing fines and prosecuting offenders as evidenced in Table 2. Data on the number of FPNs issued is held by individual issuing authorities.

Table 2: People proceeded against in Scotland for court flytipping offences (where the main charge is offences under Environmental Protection Act 1990, section 33).¹⁶

Year	Total prosecuted	Total convicted
2014-15	14	11
2015-16	5	5
2016-17	7	6
2017-18	3	3
2018-19	7	3
2019-20	-	-

It has also been suggested that a lack of a consistent approach to enforcement across Scotland is a barrier to deterring behaviour. An evidence review of the barriers to current enforcement practices will help to inform what changes are needed to ensure that Scotland’s enforcement model is effective and deters people from littering. This review will inform further action, including any necessary legislative changes, that will need to be taken.

The review of the National Litter Strategy and engagement with stakeholders has identified areas where enforcement could be strengthened. This includes raising fines, alternative penalties (such as litter picks and education courses) to FPNs, extending powers to other organisations to issue FPNs and using civil penalties to enforce littering offences (making it easier to collect unpaid fines). These actions will be explored, with a view to make necessary changes subject to the review process.

Roadside litter poses a number of challenges; removing litter from the main road network is costly and disruptive as roads often need to be closed to facilitate litter picking safely and this often has to be co-ordinated with other services. Over a six month period in 2021, 5396 black bags and 1853 large items were collected from the M8 and M74.

¹⁶ Criminal Proceeding in Scotland, 2019-20 - <https://www.gov.scot/publications/criminal-proceedings-scotland-2019-20/>

Littering is already a criminal offence under section 87 of the Environmental Protection Act 1990 and this can include littering from a vehicle. However, it can be difficult to ascertain who is responsible for the act when littering from a vehicle. Introducing new powers that will allow an FPN to be issued to the registered keeper of a vehicle from which littering occurs would increase the deterrent effect and the options available to enforcement officers.

Action 6.1: Conduct an evidence review of barriers to enforcement of litter offences Short Term

Action 6.2: Explore raising current fixed penalty notice amounts for a litter offence Medium Term

Action 6.3: Explore potential alternative penalties to monetary fixed penalties for a litter offence Medium Term

Action 6.4¹⁷: Create powers to issue fixed penalty notices to registered keepers of a vehicle from which littering occurs Medium Term

13. (a) Do you support proposed actions on enforcement of litter offences to:

- Action 6.1: Conduct an evidence review of barriers to enforcement? Yes / No / Do not know
- Action 6.2: Explore raising current fixed penalty notice amounts? Yes / No / Do not know
- Action 6.3: Explore potential alternative penalties to monetary fixed penalties? Yes / No / Do not know

(b) Please give reason(s) for your answers.

¹⁷ This action was consulted on for the Circular Economy Bill. Unfortunately, due to the COVID-19 crisis, the Bill was not introduced.

Objective 7: Improve the consistency of enforcement practices

Feedback from stakeholder is that identifying offenders and collecting sufficient evidence is a barrier to enforcing littering offences. Providing practical guidance for statutory bodies on collecting evidence and enforcement, in conjunction with other actions to help identify offenders, will help improve conviction rates.

Action 7.1: Review and further develop guidance on enforcement Long Term best practices and seek agreement for this to be voluntarily adopted by local authorities and national parks.

14. (a) Do you support the proposed action to review and further develop guidance on enforcement best practices (action 7.1)? Yes / No / Do not know

(b) Please give reason(s) for your answer.

3. Flytipping

Flytipping covers a range of incidents from bulky items such as mattresses and sofas left near bins to several van loads of construction waste dumped in a layby with serious and organised crime groups sometimes involved. It's a blight on local communities and environments and comes at a financial cost to the taxpayer and to businesses. Private landowners and land managers are also particularly adversely affected as they can often be left paying the cost to clear and dispose of any material flytipped on their land.

Tackling flytipping is a joint responsibility of Local Authorities and SEPA. Most reports of flytipping from the public are made directly to Local Authorities and it is local authorities that investigate the majority of incidents. It is recognised that resources across both these organisations (and partner organisations Police Scotland and National Parks) to investigate these incidents are stretched.

Discussions with stakeholders also suggest there is a need for greater clarity regarding each organisation's role in tackling flytipping, and that there is also a lack of clarity from the public's point of view on how and where to report flytipping and how such incidents are dealt with.

On top of this it is recognised that a lack of evidence of who dumped the waste or who the waste belongs to often means that the people responsible for flytipping face no consequences. Even when individuals or businesses are identified it can remain challenging to seek effective enforcement action to deter this type of behaviour. This is felt most prominently by local authorities as their key enforcement options require court proceedings where cases of flytipping must compete with more serious criminal offences, for limited court time and be deemed by the Procurator Fiscal as being in the public interest to pursue.

Even if enforcement action is successfully applied, it is recognised that it may not always be an effective deterrent with the level of fine not necessarily comparable to the time spent investigating the offence or the financial benefit to the offender of flytipping the material.

There has been increased media coverage of flytipping as a result of the COVID-19 pandemic with concerns that many of these existing issues had been exacerbated by the closure of Household Waste and Recycling Centres (HWRCs) during the early stages of the pandemic. National polling (undertaken on behalf of Keep Scotland Beautiful in June 2020 at the end of the first lockdown) showed 30% of people felt the condition of their neighbourhood had declined during the first lockdown – 39% felt there had been an increase in the amount of flytipping in this period¹⁸.

This strategy offers the opportunity to tackle the issues contributing to this situation and restore public confidence that appropriate measures are being taken to prevent and address flytipping.

This strategy will have a six year life-span and actions will include short (2 years), medium (4 years) and long (6+ years) term timescales for completion.

3.1 Behaviour Change

3.1.1 Context

The National Litter Strategy (2014) outlined interventions to improve messaging about flytipping, including using consistent messages that encourage the public and motivate behaviour change. The review of the strategy outlines actions that were carried out in the first five years of the strategy.

Since the review of the National Litter Strategy in 2019, Scottish Government developed communications in partnership with Zero Waste Scotland to address flytipping that occurred as the result of the pandemic. This includes the Managing our Waste campaign¹⁹.

SEPA also use social media to directly target individuals looking to dispose of household waste, and businesses offering waste collections. They focus on

¹⁸ Polling undertaken by Mark Diffley Consultancy and Research using the Scotpulse online panel, on behalf of Keep Scotland Beautiful.

¹⁹ <http://managingourwaste.scot>

websites, such as Facebook Marketplace and Gumtree, where these services are advertised. SEPA have also initiated an enforcement campaign targeting the illegal carrying and disposal of waste, particularly the flytipping of bulky and garden waste. This campaign has a joint aim of educating the public on their Duty of Care responsibilities through social media channels.

However, flytipping continues to be a problem in Scotland. Although much has been done to address flytipping on a local/regional basis there is still no consistent national campaign or cohesive action plan to tackle this issue.

3.1.2 Aim

Improve national flytipping messaging to ensure individuals and businesses are confident in understanding their responsibilities in disposing of waste appropriately and are fully informed on the potential consequences for not doing so.

3.1.3 Proposals

Objective 8: Understand behaviours that lead to flytipping to allow targeted approaches to be developed.

Research is necessary to underpin any behaviour change campaigns interventions that are developed under the strategy and having further Scottish specific information will help to identify behaviours and audiences that are a priority to reach with targeted interventions.

Action 8.1: Conduct research to understand the full range of influences that result in flytipping behaviour across various contexts and audience groups and use this to design effective policy interventions Short Term

15.(a) Do you support the proposed action to conduct research to understand behaviour that leads to flytipping (action 8.1)? Yes / No / Do not know

(b) Please give reason(s) for your answer.

Objective 9: Develop and adopt a shared approach and common language between Scottish Government, local authorities, public agencies and the third sector to flytipping behaviour change across Scotland.

The review of the National Litter Strategy and subsequent engagement with stakeholders has suggested that there is a need to develop, implement and maintain a national anti-flytipping campaign that is targeted at householders, waste carriers and businesses over a number of years. This national campaign should be supported by shorter-life campaigns which target commonly flytipped materials, flytipping hotspots and a range of audiences.

Managing waste and recycling is the responsibility of local authorities; as a result measures in place to dispose of materials differ across Scotland. A single information point which brings together guidance and advice on reusing, recycling and disposing of waste will help ensure individuals understand their responsibilities and lead to less flytipping.

Action 9.1: Develop a sustained, evidence based, national anti-flytipping behaviour change campaign and deliver this consistently and collaboratively across Scotland. Medium Term

Action 9.2: Create a single information point containing advice on disposal of commonly flytipped materials. Medium Term

16. (a) Do you agree with the proposed actions to:

- Action 9.1: Develop a sustained, evidence based, national anti-flytipping behaviour change campaign? Yes / No / Maybe
- Action 9.2: Create a single information point containing advice on disposal of commonly flytipped materials? Yes / No / Maybe

(b) Please give reason(s) for your answer.

17. Are there topics that should be a priority to address in behaviour change interventions?

18. What information should be included in the single information point?

19. Is there a need to develop a definition of flytipping that can be adopted across Scotland? Yes / No / Do not know

3.2 Services and Infrastructure

3.2.1 Context

Services and infrastructure capture the suite of interventions that ensure facilities are accessible enabling easy reuse, recycling or disposal of commonly flytipped materials, and provision of other services which prevent flytipping from happening. Where these interventions fail to prevent flytipping from occurring, there needs to be adequate services in place for the public to report incidents and for authorities to investigate and clear them in a timely manner.

3.2.2 Aim

There is a resilient national framework which provides consistent and joined up services that are effective for both preventing flytipping where possible and tackling it effectively where it does occur.

3.2.3 Proposals

Objective 10: Improve our understanding of the sources, amount, spatial distribution and composition of flytipping

It is recognised that the data that is currently collected on flytipping contains gaps and does not provide a strong evidence base for building policy or developing interventions. Further understanding of the sources, levels, spatial distribution and composition of flytipping will enable the development of targeted interventions that can prevent flytipping from occurring. To achieve this, there needs to be greater consistency of the data that is collected. Mandatory reporting of flytipping by local authorities and other duty bodies would help to achieve this. More granular data will also allow problematic materials to be identified.

Currently, data is collected via a number of different mechanisms and there is no central database, making it more difficult to develop a full picture of flytipping across Scotland. These mechanisms include local authorities' own internal systems, use of the LMS (formerly known as Flymapper) and reporting via Waste Data Flows. The public can reporting flytipping incidents through the national reporting service, Dumb Dumpers,²⁰ which can be accessed on the Zero Waste Scotland website or by calling the Dumb Dumpers hotline. The public can also report incidents directly to their local authority, which each have their own, separate system (either an app, an online form, a specific email address or a phone number) for receiving reports of flytipping from the public.

This raises a number of challenges in building a robust data set, such as inconsistencies of data and double counting incidents. Many incidents reported through Dumb Dumpers are triaged to local authorities, this double handling, makes it more challenging for members of the public to follow up or receive any feedback on the issue they have raised.

²⁰ <https://www.zerowastescotland.org.uk/DumbDumpers>

A robust national database could help to overcome some of these barriers to achieve the aim of improving our understanding of flytipping. We propose explore the use and development of such a system and the current available sources of data and look to form a baseline.

Developing a live picture of flytipping across Scotland, which partner bodies work off of, could go further with all reports being added to the database in real time rather than uploaded at a later date and information captured on whether material is being cleared or investigated further. This could provide significant operational benefits for SEPA, Local Authorities, Police Scotland and others. It could also help to support these authorities to work collaboratively on enforcing flytipping offences.

It is also worth noting the development of electronic waste tracking. Electronic waste tracking is a UK project to develop a single digital service that will make it easy to track waste and resources in real time throughout the economy. This will provide additional details on materials which have been fly tipped and subsequently enter the waste chain, including location, quantities, waste type, and end fate.

Action 10.1: Create a data sharing agreement to support gathering of data and work with local authorities, other duty bodies, national parks, private landowners, businesses and the third sector to improve consistency of data collected in Scotland. Short Term

Action 10.2: Explore incorporating data into a national database. Short Term

Action 10.3: Review the Dumb Dumpers system and ensure that a fit for purpose mechanism for citizen reporting of flytipping exists in Scotland. Medium Term

Action 10.4: Explore the development of a live picture of flytipping across Scotland. Medium Term

20. (a) Do you support the proposed actions to:

- Action 10.1: Create a data sharing agreement to support gathering of data and work with stakeholders to improve consistence of data collection? Yes / No / Do not know.
- Action 10.2: Explore incorporating data into a national database? Yes / No / Do not know
- Action 10.3: Review the Dumb Dumpers system and ensure a fit for purpose mechanism for citizen reporting of flytipping exists in Scotland? Yes / No / Do not know
- Action 10.4: Explore the development of a live picture of flytipping across Scotland? Yes / No / Do not know

(b) Please give reason(s) for your answers.

21. (a) Do you support mandatory reporting of flytipping incidents for statutory bodies? Yes / No / Do not know

(b) Please give reason(s) for your answer.

22. (a) Do you think we should continue to use Dumb Dumpers as the national reporting tool?

(b) Please give reason(s) for your answers.

(c) What are barriers to reporting flytipping incidents that occur on private land?

(d) Who would you report flytipping to?

Objective 11: Support the development of consistent, innovative and effective waste services and infrastructure

Through the engagement and review process, it has been suggested that the lack of a consistent approach in waste services and infrastructure across Scotland can be a barrier to the appropriate disposal of items, leading to flytipping. We propose to encourage operational data and information sharing between key organisations. The flytipping forum, which will begin meeting in early 2022, is one area where stakeholders will be brought together to identify and delivery priority action in this area.

It has also been suggested that a flexible approach is needed to tackle commonly flytipped materials. This could include mobile recycling centres, technology or amnesties to encourage responsible disposal of commonly flytipped materials at certain times the year or to support the removal of flytipping.

The term amnesties has been used to encompass a number of different interventions. It could include exploring a different approach to waste flytipped on private land with some local authorities trialling an amnesty approach that allows some flytipped material into HWRCs after an investigation has taken place. It could also include the removal of flytipping in city centre areas to support businesses, who are then tasked with keeping these areas clean. The aim will be to work with local authorities who have trialled similar schemes in the past to understand what worked and to design more detailed proposals or trials.

Through engagement with stakeholders, asbestos has been identified as a problematic material, as it can only be landfilled. It is often found in materials that have been flytipped, particularly in rural locations and on private land. Due to its hazardous nature, it poses a threat to environment as well as to the health and safety of landowners. In developing the strategy, we would like to further understand the barriers to disposing of asbestos to help develop targeted interventions.

We propose to explore how to support and encourage more reuse and repair of products to support a circular economy. This could include signposting to existing opportunities (such as third sector organisations offering opportunities to reuse items), investigating where the gaps lie with items that are not easily dealt with and investigate opportunities that could fill these gaps.

Action 11.1 Support and encourage information and resource sharing between local authorities, waste sector, SEPA and other organisations through the flytipping forum. Short Term

Action 11.2: Explore how to support and encourage more reuse and repair of products that are commonly flytipped. Medium Term

Action 11.3: Explore flexible approach to waste disposal (such as mobile HWRCs and targeted amnesties), and targeted interventions with a view to running trials. Medium Term

23. (a) Do you agree with the proposed actions to:

- Action 11.1: Support and encourage information and resource sharing between stakeholders? Yes / No / Do not know
- Action 11.2: Explore how to support and encourage more reuse and repair of products that are commonly flytipped? Yes / No / Do not know
- Action 11.3: Explore a flexible approach to waste disposal with a view to trial interventions? Yes / No / Do not know

(b) Please give reason(s) for your answers.

24. How can we support and encourage sharing of data and joined up services and infrastructure?

25. Please provide examples of interventions (for example, amnesties or recycling groups) that have or have not work well.

26. What are the barriers to disposing of asbestos?

Objective 12: Provide support to private landowners and land managers that experience flytipping on their land

We will work with private landowners to support them in flytipping prevention activities; we propose to do this through exploring the use of technology and signposting to guidance. Existing technology such as GPS Mapping and CCTV could be used to help us obtain better data on flytipping whilst simultaneously acting as a deterrent - sending a clear message to potential offenders that authorities are closely monitoring key areas and taking action. Trackers in waste could also be used to support investigations where there is a suspicion of an individual/business collecting and flytipping waste.

When flytipping does occur, we also propose to provide support on reporting incidents, provide guidance on clearing flytipping. and to investigate financial support options that could assist private landowners deal with flytipping.

Action 12.1: Explore the role of technology in assisting private landowners and land managers deter flytipping on their land. Short Term

Action 12.2: Produce updated guidance for private landowners on dealing with flytipping. Short Term

Action 12.3: Explore alternative financial support mechanisms available to private landowners and land managers. Short Term

27.(a) Do you agree with the proposed actions to:

- Action 12.1: Explore the role of technology in assisting private landowners and land managers deter flytipping on their land? Yes / No / Do not know
- Action 12.2: Produce updated guidance for private landowners on dealing with flytipping? Yes / No / Do not know
- Action 12.3: Explore alternative financial support mechanisms available to private landowners and land managers? Yes / No / Do not know.

(b) Please give reason(s) for your answer.

28. What support mechanisms need to be in place to help private landowners that are victims of flytipping?

3.3 Enforcement

3.3.1 Context

Section 33 of the Environmental Protection Act 1990 defines the criminal offence of flytipping. Waste criminals profit at the expense of legitimate businesses, undercutting them by not paying to dispose of waste at approved sites and competing unfairly. This can often lead to large scale flytipping, particularly in rural locations.

Where an authorised person reasonably believes that a person has committed the offence of flytipping, they may issue that person with a fixed penalty notice (FPN) as an alternative to prosecution. Under the National Litter Strategy (2014), the fixed penalty amount for flytipping was raised to £200 and could be raised by secondary legislation to a maximum of £500. Powers to issue FPNs were extended in Loch Lomond and Trossachs National Park in 2015. Local authorities, Police Scotland and Loch Lomond and Trossachs National Park currently have the powers to issue FPNs and undertake any follow up.

SEPA has enforcement powers under the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015. Where satisfied on the balance of probabilities that a person has committed the offence of flytipping, SEPA has the power to issue fixed monetary penalties (FMP) of £600, a variable monetary penalty up to £40,000. The fixed penalty amount for flytipping could be raised by secondary legislation to a to a maximum of £1,000.

SEPA has established a new waste campaign which brings together a range of FMPs for flytipping and related offences (duty of care, burning of waste, not having a waste carrier licence), creating a more effective suite of FMPs that can be applied simultaneously to individuals/businesses who breach more than one of these offences.

If an FPN is rejected or is not paid within the notice period, the issuing authority can refer the case to COPFS who will make a decision as to any further action. COPFS has the discretion to make a conditional offer of a fixed penalty, compensation or unpaid work as a means of discharging criminal liability. If the matter is prosecuted and the person convicted, they may be fined up to £2,500.

There are other enforcement tools that are available to local authorities, Police Scotland and SEPA. They can refer a case to COPFS to pursue a criminal prosecution, if deemed appropriate. Local authorities and SEPA can also require the removal of unauthorised deposits of waste (in certain conditions) under Section 59 of the Environmental Protection Act (1990).

SEPA also has the ability to receive enforcement undertaking from an individual or business that has flytipped waste. These often contain financial and other proposals to offset the damage their actions have caused. These enforcement undertaking offers have to be put forward by the offender and SEPA will then decide if they are appropriate.

3.3.2 Aim

Create a strong, consistent enforcement model that is fit for purpose and acts as an effective deterrent for flytipping behaviour.

3.3.3 Proposals

Objective 13: Develop a more effective enforcement model

The review of the previous National Litter Strategy has highlighted a number of challenges in the enforcement process, including: ability to gather appropriate evidence, identify offenders and recover fines. This poses challenges in issuing fines and prosecuting offenders as evidenced in Table 1. Data on the number of FPNs issued is held by individual issuing authorities.

Table 1: People proceeded against in Scotland for court flytipping offences (where the main charge is offences under Environmental Protection Act 1990, section 33).²¹

Year	Total prosecuted	Total convicted
2014-15	18	13
2015-16	11	10
2016-17	11	7
2017-18	6	5
2018-19	8	8
2019-20	2	2

It has also been suggested that a lack of a consistent and coordinated approach to enforcement across Scotland is a barrier to deterring behaviour. An evidence review of the barriers to current enforcement practices will help to inform what changes are needed to ensure that Scotland's enforcement model is effective and deters people from flytipping. This review will inform further action, including any necessary legislative changes, that will need to be taken.

²¹ Criminal Proceeding in Scotland, 2019-20 - <https://www.gov.scot/publications/criminal-proceedings-scotland-2019-20/>

The review of the National Litter Strategy and engagement with stakeholders has identified areas where enforcement could be strengthened. This includes raising fines, extending powers to other organisations to issue FPNs, using civil penalties to enforce flytipping offences and bring powers for local authorities in line with those available to SEPA. These actions will be explored, with a view to make necessary changes subject to the review process.

In line with the Lord Advocate's Guidelines²² the civil measures cannot be pursued solely on the basis that a lower burden of proof is required, it must be deemed the most appropriate level of enforcement action.

In order to transport waste or arrange the transport of waste for others, individuals need to register with SEPA as a waste carrier or broker. Currently, a waste carrier's registration can only be removed if the individual or company has been prosecuted for flytipping. We propose to explore ability to extend this to those who have been fined for flytipping as well as looking at applying a fit and proper person test to individuals or companies and consider whether this will act as an appropriate deterrent and reduce waste crime.

The Scottish Government previously consulted on powers to enable environmental regulators to seize vehicles that are involved in waste crime including: Unauthorised or harmful depositing, treatment or disposal of waste, breaches in duty of care, as respect to waste and handling or storing waste without an environmental permit. We propose to also explore the ability to impound, sell and/or destruct these vehicles. The Scottish Government is committed to bringing forward a Circular Economy Bill this parliamentary session and these additional enforcement measures will be revisited.

Action 13.1: Conduct an evidence review of barriers to enforcement of flytipping offences

Short Term

²² <https://www.copfs.gov.uk/publications/prosecution-policy-and-guidance?showall=&start=4>

Action 13.2: Initially raise current fixed penalties issued by local authorities, Police Scotland, Loch Lomond and Trossachs National Park for flytipping to the maximum (£500) and explore possibility of raising the maximum further at a later date.	Short Term
Action 13.3 Explore the possibility and benefits of enabling local authorities and national parks to use civil penalties to enforce flytipping offences	Short Term
Action 13.4 Explore raising current fixed monetary penalties that can be issue by SEPA for flytipping offences to the maximum (£1000) and explore possibility of raising the maximum further at a later date.	Short Term
Action 13.5²³: Explore the ability to remove or deny Waste Carrier's Registration to individuals/companies fined for flytipping	Medium Term
Action 13.6: Review existing legislative powers for enforcing flytipping offences	Medium Term
Action 13.7 Take powers to enable seizure of vehicles by SEPA used in flytipping ²⁴	Long Term

²³ This action will be brought in as part of transitioning waste regulation into the Integrated Authorisation Framework

²⁴ This action was consulted on for the Circular Economy Bill. Unfortunately, due to the COVID-19 crisis, the Bill was not introduced.

29. (a) Do you support the proposed actions to:

- Action 13.1: Conduct an evidence review of barriers to enforcement of flytipping offences? Yes / No / Do not know
- Action 13.2: Initially raise current fixed penalties issued by local authorities, Police Scotland, Loch Lomond and Trossachs National Park for flytipping to the maximum (£500) and explore possibility of raising the maximum further at a later date? Yes / No / Do not know
- Action 13.3: Explore the possibility and benefits of enabling local authorities and national parks to use civil penalties to enforce flytipping offences? Yes / No / Do not know
- Action 13.4: Explore raising current fixed monetary penalties that can be issue by SEPA for flytipping offences to the maximum (£1000) and explore possibility of raising the maximum further at a later date? Yes / No / Do not know
- Action 13.6: Review existing legislative powers for enforcing flytipping offences? Yes / No / Do not know

(b) Please give reason(s) for your answers.

Objective 14: Improve consistency of enforcement practices across Scotland

As mentioned in previous sections the variety of partners (SEPA, Local Authorities, Police Scotland, Loch Lomond & Trossachs National Park) involved in investigating and taking enforcement action on flytipping and the range of measures and resources available to each, has led to an inconsistent approach to flytipping across Scotland. The lack of a central system for managing incidents of flytipping across organisations, also adds to this as there is no simple way for the partner organisations to communicate which incidents they are investigating or seeking to take enforcement action on. This can make it particularly challenging to identify repeat offenders and those involved in serious organised crime, particularly when committing offences across local authority boundaries.

Part of the proposal outlined in Section 3.2 is to explore developing a national system for gathering data on reporting of flytipping incidents including whether a live picture of flytipping should be sought. A live system could bring significant operational benefits including enforcement agencies being able to see where other agencies are investigating incidents and looking to take enforcement action, offering the opportunity for more collaboration and more effective enforcement outcomes.

Local authorities have also taken action in their communities, through actions such as bringing in new, more effective CCTV cameras and investing in community clean-up schemes. Police Scotland have also launched more local SPARC (Scottish Partnership Against Rural Crime) groups to encourage collaborative working across organisations, such as in the Borders.

It was recognised in the review that there needs to be clear guidance on the roles and responsibilities of the organisations involved in tackling flytipping. We propose to look to get agreement between the key partners on this and publish guidance to support individuals and businesses understanding of this.

Action 14.1: Come to an agreement and develop guidance on roles and responsibility of SEPA, local authorities, national parks and Police Scotland in enforcing flytipping offences Short Term

Action 14.2: Develop guidance on enforcement best practices, including on private land and seek for this to be voluntarily adopted by statutory bodies. Long Term

30. (a) Do you support proposed actions to:

- Action 14.1: Come to an agreement and develop guidance on role and responsibilities in enforcing flytipping offences? Yes / No / Do not know
- Action 14.2: Develop guidance on enforcement best practices, including on private land and seek for this to be voluntarily adopted by statutory bodies? Yes / No / Do not know

(b) Please give reason(s) for your answers.

4. Next Steps

The focus of this consultation is to invite views on our planned approach to tackle litter and flytipping in Scotland. Consultation responses will inform our policy on how this can best be achieved.

In responding to this consultation, please do not feel constrained by the question set. We appreciate some people will have a particular interest in certain areas. We would encourage you to respond to any or all of those areas where you feel you have a contribution to make.

We have also published partial versions of relevant impact assessments that have helped inform policy development as well as an Environmental Report as part of the Strategic Environmental Assessment process. We would value views and evidence to continue to develop these into final documents and to address any key areas for further work.

We value your opinions and welcome your views on our proposals identified in this consultation document. Your views will be considered in the final development of the National Litter and Flytipping Strategy, which will be published in early 2022.

31. Are there any additional proposals you think should be considered for the National Litter and Flytipping Strategy?

32. (a) Do you agree that the accompanying Impact Assessments (BRIA, EQIA, ICIA, FSDA) are an accurate representation of core issues and considerations? Yes / No / Do not know

(b) If not, please provide detail and evidence.

33. (a) Do you agree with the recommendations and conclusions within the Strategic Environmental Assessment Environmental Report? Yes / No / Do not know

(b) If not, please provide detail and evidence

5. Abbreviations

CoPLaR	-	Code of Practice for Litter and Refuse
DRS	-	Deposit Return Scheme
EPR	-	Extended Producer Responsibility
FMP	-	Fixed Monetary Penalty
FPN	-	Fixed Penalty Notice
LEAMS	-	Local Environmental Auditing and Monitoring System
LMS	-	Litter Monitoring System
SEPA	-	Scottish Environment Protection Agency
SPARC	-	Scottish Partnership Against Rural Crime

6. Annexes

Annex A: Respondent Information Form

Consultation on National Litter and Flytipping Strategy

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

Annex B: Summary of actions on littering

Objective	Action	Timeline ²⁵
1. Understand litter perceptions and behaviour to allow targeted approaches to be developed	1.1 Conduct research on full range of influences on littering behaviours across various contexts and audience groups	S
2. Develop and adopt a shared approach between stakeholders to litter prevention and behaviour change across Scotland	2.1 Develop a sustained national anti-littering campaign and deliver this consistently and collaboratively across Scotland	M
3. Improve our understanding of the sources, amount and composition of litter	3.1 Review the available litter data and approach to data collection and reach agreement on common approach to collection	M
	3.2 Identify commonly littered items and litter hotspots and work with local authorities and duty bodies to develop targeted interventions to reduce litter	L
	3.3 Increase the use of citizen science to support data on the amount of and composition of litter in Scotland	L

²⁵ S = Short (2 years), M = Medium (4 years), L = Long (6 years)

4. Encourage a shared approach to services that will effectively support litter prevention	4.1 Carry out a review of CoPLaR (2018) ²⁶	S
	4.2 Explore the use of flexible and innovative interventions to support litter prevention and removal	M
	4.3 Establish an action focused group to encourage collaboration and share best practice between local authorities, national parks and other duty bodies to optimise services	M
5. Empower community groups to take action	5.1 Create a national litter hub to provide information and advice to community groups	S
	5.2 Create a community-focused litter education programme to enable communities to develop the capacity and capability to tackle littering behaviour at a local level	M
6. Develop a more effective enforcement model	6.1 Conduct an evidence review of barriers to enforcement of litter offences	S
	6.2 Explore raising current fixed penalty notice amount for a litter offence	M
	6.3 Explore alternative penalties to monetary fixed penalties for a litter offence	M
	6.6 Create powers to issue fixed penalty notices to registered keepers of a vehicle from which littering occurs	M

²⁶ Code of Practice for Litter and Refuse

7. Improve consistency of enforcement practices	7.1 Review and further develop guidance on enforcement best practices and seek agreement for this to be voluntarily adopted by local authorities and national parks	L
-------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------	---

Annex C: Summary of actions on flytipping

Objective	Action	Timeline ²⁷
8. Understand behaviours that lead to flytipping to allow targeted approaches to be developed	8.1 Conduct research to understand the full range of influences that result in flytipping behaviour across various contexts and audience groups and use this to design effective policy interventions	S
9. Develop and adopt a shared approach between stakeholders to flytipping prevention and behaviour change across Scotland	9.1 Develop a sustained national anti-flytipping campaign and deliver consistently and collaboratively across Scotland	M
	9.2 Create a single information point containing advice on commonly flytipped materials	M
10. Improve our understanding of the sources, levels and composition of flytipping	10.1 Create a data sharing agreement to support gathering of data and work with stakeholders to improve consistency of data collected in Scotland	S
	10.2 Explore incorporating data into a national database	S
	10.3 Review the Dumb Dumpers system and ensure that a fit for purpose mechanism for citizen reporting of flytipping exists in Scotland	M

²⁷ S = Short (2 years), M = Medium (4 years), L = Long (6 years)

	10.4 Explore the development of a live picture of flytipping across Scotland	M
11. Support development of consistent, innovative and effective waste services and infrastructure	11.1 Support and encourage information and resource sharing between stakeholders through the flytipping forum	S
	11.2 Explore how to support and encourage more reuse and repair of products that are commonly flytipped	M
	11.3 Explore a flexible approach to waste disposal (such as mobile HWRCs and targeted amnesties), and targeted interventions, with a view to trial these.	M
12. Provide support to private landowners and land managers	12.1 Explore role of technology in assisting private landowners to deter flytipping	S
	12.2 Produce update guidance for private landowners and land managers to deter flytipping on their land	S
	12.3 Explore alternative financial support mechanisms available to private landowners and land managers	S
13. Develop a more effective enforcement model	13.1 Conduct an evidence review of barriers to enforcement	S
	13.2 Raise current fixed penalties issued by Local Authorities, Police and Loch Lomond and Trossachs National Park to the maximum (£500) and explore raising further	S
	13.3 Explore the possibility and benefits of enabling local authorities and national	S

	<p>13.3 parks to use civil penalties to enforce flytipping offences</p>	
	<p>13.4 Explore raising current fixed penalties that can be issued by SEPA to the maximum (£1000) and explore raising further</p>	S
	<p>13.5 Explore the ability to remove or deny waste carriers license to individuals/companies fined for flytipping</p>	M
	<p>13.6 Review existing powers for enforcing flytipping offences</p>	M
	<p>13.7 Take powers to enable seizure of vehicles used in flytipping</p>	L
14. Improve consistency of enforcement practices across Scotland	<p>14.1 Come to an agreement and develop guidance on roles and responsibility of SEPA, local authorities, national parks and Police Scotland in enforcing flytipping offences</p>	S
	<p>14.2 Develop guidance on enforcement best practices and seek for this to be voluntarily adopted by statutory bodies</p>	L

Annex D: Summary of consultation questions

Litter

1. (a) Do you support the proposed action to conduct research to understand the full range of influences on littering behaviours (action 1.1)? Yes / No / Do not know

(b) Please give reason(s) for your answer.

2. (a) Do you support the proposed action to develop and adopt a national anti-littering campaign (action 2.1)? Yes / No / Do not know

(b) Please give reason(s) for your answer

3. Which topics should be a priority to address by behaviour change interventions?

4. Is there a need to develop a standard definition for litter that can be used across Scotland? Yes / No / Do not know

5. Do you support the following proposed actions to:

- Action 3.1: Review available litter data and reach an agreement between stakeholders on a common approach to data collection? Yes / No / Do not know
- Action 3.2: Identify commonly littered items and litter hotspots and work with local authorities to develop targeted interventions? Yes / No / Do not know
- Action 3.3: Increase the use of citizen science to support data levels and composition of litter? Yes / No / Do not know

(b) Please give reason(s) for your answer.

6. What would encourage increased participation in citizen science data collection?

7. (a) Do you support the proposed actions to:

- Action 4.1: Review of CoPLaR (2018) and its implementation by duty holders?
Yes / No / Do not know
- Action 4.2: Explore the use of flexible and innovative interventions to support litter prevention and removal? Yes / No / Do not know
- Action 4.3: Establish an action focused group to encourage collaboration and share best practice between local authorities, national parks and other duty bodies? Yes / No / Do not know

(b) Please give reason(s) for your answers

8. Please provide examples of flexible or innovative interventions that have or have not worked well.

9. How can increased collaboration and information sharing across local authorities, national parks and other duty bodies be achieved?

10.(a) Do you support the proposed actions to:

- Action 5.1: Create a national litter hub to provide information to community groups? Yes / No / Do not know
- Action 5.2: Create a community-focused litter education programme? Yes / No / Do not know

(b) Please give reason(s) for your answer.

11. What advice, information and support should be included in a national litter hub?

12. What topics should be included in a community-focused litter education programme?

13.(a) Do you support proposed actions on enforcement of litter offences to:

- Action 6.1: Conduct an evidence review of barriers to enforcement? Yes / No / Do not know
- Action 6.2: Explore raising current fixed penalty notice amounts? Yes / No / Do not know
- Action 6.3: Explore potential alternative penalties to monetary fixed penalties? Yes / No / Do not know

(b) Please give reason(s) for your answers.

14. (a) Do you support the proposed action to review and further develop guidance on enforcement best practices (action 7.1)? Yes / No / Do not know

(b) Please give reason(s) for your answer.

(c) What should be included in this guidance?

Flytipping

15. (a) Do you support the proposed action to conduct research to understand behaviour that leads to flytipping (action 8.1)? Yes / No / Do not know

(b) Please give reason(s) for your answer.

16. (a) Do you agree with the proposed actions to:

- Action 9.1: Develop a sustained, evidence based, national anti-flytipping behaviour change campaign? Yes / No / Maybe
- Action 9.2: Create a single information point containing advice on disposal of commonly flytipped materials? Yes / No / Maybe

(b) Please give reason(s) for your answer. Are there topics that should be a priority to address in this campaign?

17. Are there topics that should be a priority to address in behaviour change interventions?

18. What information should be included in the single information point?

19. Is there a need to develop a definition of flytipping that can be adopted across Scotland? Yes / No / Do not know

20. (a) Do you support the proposed actions to:

- Action 10.1: Create a data sharing agreement to support gathering of data and work with stakeholders to improve consistence of data collection? Yes / No / Do not know.
- Action 10.2: Explore incorporating data into a national database? Yes / No / Do not know
- Action 10.3: Review the Dumb Dumpers system and ensure a fit for purpose mechanism for citizen reporting of flytipping exists in Scotland? Yes / No / Do not know
- Action 10.4: Explore the development of a live picture of flytipping across Scotland? Yes / No / Do not know

(b) Please give reason(s) for your answers.

21. (a) Do you support mandatory reporting of flytipping incidents for statutory bodies? Yes / No / Do not know

(b) Please give reason(s) for your answer.

22. (a) Do you think we should continue to use Dumb Dumpers as the national reporting tool?

(b) Please give reason(s) for your answers.

(c) What are barriers to reporting flytipping incidents that occur on private land?

(d) Who would you report flytipping to?

23. (a) Do you agree with the proposed actions to:

- Action 11.1: Support and encourage information and resource sharing between stakeholders? Yes / No / Do not know
- Action 11.2: Explore how to support and encourage more reuse and repair of products that are commonly flytipped? Yes / No / Do not know
- Action 11.3: Explore a flexible approach to waste disposal with a view to trial interventions? Yes / No / Do not know

(b) Please give reason(s) for your answers.

24. How can we support and encourage sharing of data and joined up services and infrastructure?

25. Please provide examples of interventions (for example, amnesties or recycling groups) that have or have not work well?

26. What are the barriers to disposing of asbestos?

27. (a) Do you agree with the proposed actions to:

- Action 12.1: Explore the role of technology in assisting private landowners and land managers deter flytipping on their land? Yes / No / Do not know
- Action 12.2: Produce updated guidance for private landowners on dealing with flytipping? Yes / No / Do not know

- Action 12.3: Explore alternative financial support mechanisms available to private landowners and land managers? Yes / No / Do not know.

(b) Please give reason(s) for your answer.

28. What support mechanisms need to be in place to help private landowners that are victims of flytipping?

29. (a) Do you support the proposed actions to:

- Action 13.1: Conduct an evidence review of barriers to enforcement of flytipping offences? Yes / No / Do not know
- Action 13.2: Initially raise current fixed penalties issued by local authorities, Police Scotland, Loch Lomond and Trossachs National Park for flytipping to the maximum (£500) and explore possibility of raising the maximum further at a later date? Yes / No / Do not know
- Action 13.3: Explore the possibility and benefits of enabling local authorities and national parks to use civil penalties to enforce flytipping offences? Yes / No / Do not know
- Action 13.4: Explore raising current fixed monetary penalties that can be issued by SEPA for flytipping offences to the maximum (£1000) and explore possibility of raising the maximum further at a later date? Yes / No / Do not know
- Action 13.6: Review existing legislative powers for enforcing flytipping offences? Yes / No / Do not know

(b) Please give reason(s) for your answers.

30. (a) Do you support proposed actions to:

- Action 14.1: Come to an agreement and develop guidance on role and responsibilities in enforcing flytipping offences? Yes / No / Do not know

- Action 14.2: Develop guidance on enforcement best practices, including on private land and seek for this to be voluntarily adopted by statutory bodies?
Yes / No / Do not know

(b) Please give reason(s) for your answers.

31. Are there any additional proposals you think should be considered for the National Litter and Flytipping Strategy?

32. (a) Do you agree that the accompanying Impact Assessments (BRIA, EQIA, ICIA, FSDA) are an accurate representation of core issues and considerations?
Yes / No / Do not know

(b) If not, please provide detail and evidence.

33. (a) Do you agree with the recommendations and conclusions within the Strategic Environmental Assessment Environmental Report? Yes / No / Do not know

(b) If not, please provide detail and evidence



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2021

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

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.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80201-788-5 (web only)

Published by The Scottish Government, December 2021

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS990826 (12/21)

W W W . g o v . s c o t