

Littering & Fly-tipping

Fly-tipping and litter incidents can be a common occurrence at bring sites, whether located on public or private land. Discarded litter and refuse makes an area look neglected, undermines the legitimate bring recycling service and tends to encourage the recurrence of anti-social behaviour.

Local authorities have a responsibility to remove fly-tipped waste and litter from public land. Littering and fly-tipping are criminal offences and local authorities have a range of enforcement options for deterring and managing such incidents. This sheet summarises those options.

Issues to consider

If you do have incidences of fly-tipping or littering to deal with, the first essential step is to try to understand why it is taking place. In many cases, it may be due to misuse of the facilities rather than deliberate. If this is the case, it should be addressed via service improvements and provision of better information on how to use the site and what materials can be recycled at the site.

Common factors that can lead to fly-tipping and littering at bring sites include:

- containers are full, so potentially recyclable materials are left on the ground;
- removal of banks for a specific material – site users may leave material they have brought even if that material is no longer collected at the site and there is no container available. This tends to be a short term issue following the removal of banks, but different materials collected at different locations within an area can cause similar issues due to a lack of user awareness;
- container apertures not suitable for the materials (size or shape) to be deposited, which again can result in valuable material being left on the ground as the user cannot fit the material through the aperture. Cardboard is often left out of containers for this reason; and
- poor site design, meaning that access to a particular bank or banks is restricted, resulting in material being placed in any accessible container or on the ground.



If containers are full, it can mean that people will leave material on the ground – making the site untidy and making it harder to access other containers.

In addition to these factors which make it harder for people who want to recycle to use bring sites, there are other factors which can result in fly-tipping and littering at bring sites by those who do not intend to recycle. These include:

- proximity to highways;
- poorly lit areas, or areas hidden from the view of passers-by; and
- poor or irregular servicing of sites, which can result in them looking untidy – encouraging further opportunistic fly-tipping, based on the view that the authority will be obliged to clear it up.

Legislation

Powers to deal with fly-tipping and littering incidents are set out under two key pieces of legislation:

- **Environmental Protection Act 1990** – Section 59 of this Act provides powers to local authorities and the Environment Agency to issue a notice requiring “removal of waste unlawfully and knowingly deposited”. Section 87 of the same Act describes littering as a criminal offence. Section 88 outlines fixed penalty notices for littering. Also under this Act, businesses have a ‘Duty of Care’ to ensure that waste from commercial operations is managed and disposed of within the law. Householders have a ‘Duty of Care’ to check that any company they commission to remove domestic waste is an authorised waste carrier.
- **Clean Neighbourhoods and Environment Act 2005** – this Act updates the Environmental Protection Act 1990 and gives local authorities increased enforcement powers around fly-tipping and littering. Under this Act, littering offences were expanded, to encompass “all places open to the air”, including both private and public land and water. Litter clearing notices replaced litter abatement notices and can require landowners or occupiers to clear land of litter and refuse and take steps to discourage further littering. Courts are allowed to order offenders to meet costs for clearance, enforcement and investigation. The 2005 Act also brought in fixed penalty notices for fly-tipping.

Enforcement options

The two pieces of legislation summarised above offer local authorities potential enforcement options to deter littering and fly-tipping. In the main these options are applicable to traders or ‘rogue’ operators who fly-tip or illegally deposit waste materials at bring sites. If there is evidence that members of the public are not using the site correctly then the first step would be to check all signage at the site and labelling on containers/banks and make sure that the public can recycle materials in appropriate containers with adequate capacity.

- **Informal written notices** to businesses and members of the public – normally for a first littering offence, where no legal action is taken;
- **Fixed penalty notices**, can be issued if an offence is witnessed by an authorised person. The offender has fourteen days to pay the fine. Failing to do so can lead to further action in a magistrates’ court;
- **Femoval notices**, which require individuals and businesses to remove litter and fly-tipping from their land;
- **‘Duty of Care’ visits**, where authorised personnel in a local authority visit businesses to ensure waste is properly disposed of; ‘simple cautions’ (previously known as a formal caution) can be given. These deal quickly and simply with less serious offences, where the offender has admitted the offence, without the need for court proceedings. Simple cautions are designed to provide a record of an individual’s criminal conduct for possible reference in future criminal proceedings and are designed to reduce the likelihood of re-offending; and
- **Prosecutions for serious offences**, these require sufficient evidence to prove incidents, such as CCTV footage recording the incident, or when a fixed penalty notice is not paid or when items with business or other addresses on them are found at the site. The Information Commissioner’s Office has produced guidelines that apply to the use of CCTV to monitor public

spaces¹. Key considerations include making the public aware that CCTV may be used, through appropriate signage: this is known as overt surveillance and means images can be used in line with the Data Protection Act 1998. If insufficient signage is provided, the surveillance would be considered covert and therefore subject to different regulations under The Regulation of Investigatory Powers Act 2000 (c.23) (RIP or RIPA)².



Milton Keynes Council had on-going fly-tipping incidents at one of its busier bring sites, located adjacent to a private retail park on local authority land. It tried a range of deterrent and enforcement activities, including coning off the area but this had little impact. Instead, a collection crew was used to photograph the site and CCTV was deployed on site for one week in November 2011. Eleven incidents were recorded that ranged from littering to Duty of Care breach by businesses. All incidents are currently being pursued. To continue monitoring the site, the collection crew now photographs the condition of each the site each day prior to clean up.

Most local authorities have policies that set out their procedures for dealing with fly-tipping and littering offences, and these will vary depending on the nature and scale of the offence. It is important to ensure that any action taken is appropriate to the type of offence.

To bring a case to prosecution, substantial evidence, gathered via a systematic and documented process, is vital. This can include CCTV footage of the event occurring, photographs of the incident showing the impact on the bring site and evidence tracing the fly-tipped materials back to the offender. Successful prosecutions provide an opportunity for local authorities to recover the costs incurred in clearing an incident and for officer time.

Rogue banks

Rogue banks, sited on bring sites without permission, are increasing, especially for textiles. The following process is recommended for dealing with rogue banks:

1. Identify the bank's owner. Normally, contact details or a charity registration number is printed on the bank. This can then be checked with the Charity Commission or Companies House – or it may be possible to contact the bank's owner directly.
2. Request removal of the bank within a stated timescale.
3. If the bank is not removed within this timescale, local authorities can arrange for the removal of the bank themselves. Before doing this, make sure that the intention to remove the bank is published to a wide audience (i.e. in a local or regional newspaper, online, and/or on notices at the site). Take care not to damage the bank.
4. At any stage, it is also worth contacting your trading standards department for advice. If you suspect that the company associated with the rogue bank is involved in criminal activity contact the local police and/or the National Fraud Intelligence Bureau (NFIB).

¹ http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/cctv.aspx

² <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/code-of-practice-covert>

Deterrents

Signage and stickers on containers that notify site users of the potential penalties for fly-tipping and littering can discourage such activities, and if a site is monitored by CCTV then this should be made clear. Providing information at a site on the penalties that apply to fly-tipping and littering can help with prosecutions as it is harder for offenders to claim lack of knowledge.

Frequently asked questions

How can site location and design deter fly-tipping/ littering?

By carefully planning the location of new sites and improving or relocating existing sites, fly-tipping and littering can be minimised or avoided. Issues to consider include:

- understand the area – speak to other departments such as housing, parks or social services to establish if there are any issues that could have an impact on the provision of a bring site;
- make sure the site is clearly visible and accessible, is attractive and looks permanent, and is located in a safe, well-lit area; encourage local community ownership or recruit a 'recycling champion' to help monitor the site and report any issues;
- maintain the appearance of the site as a place to recycle rather than leave waste.

Preventative measures: A local authority was experiencing recurrent littering at a bring site. The cost and time spent clearing the site prompted the authority to provide a large wheeled bin on site for litter, etc. The problem has stopped and the residual bin is collected as part of the regular refuse collection round saving time and cleaning costs.

A relatively concealed bring site run by Cambridge City Council was experiencing regular fly-tipping and littering. The council decided to place node units in an open forecourt area in clear view of passers-by. Since introducing the node units, incidents of fly-tipping and littering have decreased.



Cambridge City Council's node units

How can rogue banks be removed from sites?

Check for contact details on the bank(s) and contact the organisation via formal channels. Once adequate notice (e.g. 28 days) is provided, banks can be removed by the local authority. If you suspect that the rogue bank is involved in criminal activity contact the local police and/or the National Fraud Intelligence Bureau (NFIB).

Are local authorities responsible for clearing fly-tipping and litter from bring sites on private land?

Incidents on private land are ultimately the responsibility of the landowner, unless specific arrangements are in place. For example, a business such as a pub or supermarket is responsible for the bring sites that it operates on its own land including car parks, unless the local authority has agreed to manage the site in exchange for being able to place banks on their land.

How can modifying bank design reduce littering/fly-tipping?

Blocked or inaccessible banks can encourage fly-tipping and littering. If apertures are too small or too high, or containers too full, some people may simply leave materials on the ground. By replacing or modifying banks to make them easier to use, many incidents can be deterred and enforcement activities can then be focussed on persistent fly-tipping incidents. Please see [Site design](#) sheet.

Check list

Management of sites

- Identify any gaps in provision and make users are aware of alternative sites nearby.
- Ensure the banks have adequate capacity for residents to deposit materials.
- Ensure any recyclable (or other) material left around the banks is cleared quickly to deter further littering.
- Review servicing and site cleaning regimes – are they frequent enough?
- If a specific material is causing problems, check container and aperture size to make sure they are appropriate.
- Review site design, layout and accessibility to deter incidents.
- Consider working more closely with trusted third parties providing textile collections to minimise rogue banks appearing on or adjacent to sites.
- Check for fly-tipping incidents within a certain radius of the bring site to establish patterns and assess any enforcement measures required.

Signage and monitoring

- Ensure sites have clear concise signage that shows: what materials are accepted for recycling/reuse; alternative bring sites which accept other materials; warning notices and details of penalties for littering; and contact details for the authority.
- Identify/record specific materials littered/fly-tipped, to see if there is any correlation between fly-tipping and materials currently not collected at the site, or problems with particular containers.
- For sites with recurrent fly-tipping particularly of commercial waste, consider occasional CCTV monitoring or signage to explain that sites are being inspected.

Administration

- Consider the time and costs involved in enforcement activity, and make sure any action is appropriate to the size, scale and severity of the potential offence.

Logistics

- Where possible, plan or request site servicing to be undertaken by the same operatives that empty containers to encourage a high level of service delivery.