

CLA event 27th February 2018 Briefing

Country Land and Business Association - “the impact of fly-tipping in the countryside”

Minister Coffey to provide opening and closing remarks

Contents

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[REDACTED]

- In 2016/17 the Environment Agency dealt with 218 incidents of large-scale illegal dumping of waste in England.
- [REDACTED]
- [REDACTED]
- We have enhanced Councils and the Environment Agency's ability to search and seize vehicles of suspected fly-tippers and have worked with the Sentencing Council in strengthening the Guideline for environmental offences.
- The maximum penalties for fly-tipping are imprisonment of up to five years or a potentially unlimited fine.

[REDACTED]

[REDACTED]

General Q&A on Fly-tipping

[REDACTED].

We gave councils powers to issue fixed penalty notices for fly-tipping in May 2016.

- Councils have been taking advantage of this by issuing an additional 20,000 fixed penalty notices in 2016/17 for fly tipping, littering and other antisocial behaviour.
- In January we published a consultation on a new fixed penalty notice for householders whose waste is fly-tipped by someone else. The consultation is open until 26 March and we welcome views from you all.
- [REDACTED]

What are the penalties for fly-tipping?

The penalties for fly-tipping are:

- On summary conviction: imprisonment for a term not exceeding 12 months or an unlimited fine or both; and
- On conviction on indictment: imprisonment for a term not exceeding 5 years or a potentially unlimited fine or both.

The fine for a Fixed Penalty Notice is not less than £150 and not more than £400 as specified by the waste collection authority, and £200 if no amount is specified.

[REDACTED]

- The Sentencing Guideline for environmental offences was reviewed and strengthened in 2014. The maximum penalty on indictment for fly-tipping is imprisonment of up to five years or a potentially unlimited fine.
- [REDACTED]

[REDACTED]

[REDACTED]

Whilst local authorities deal with the majority of fly-tipping, the Environment Agency investigates major fly-tipping incidents if they occur on public or private land. These include:

BIG: Large illegal waste sites (greater than 20 tonnes)

BAD: Evidence of organised tipping or criminal business practice

NASTY: Hazardous waste (over 75 litres)

[REDACTED]

What constitutes fly-tipping as opposed to littering offences?

- Statutory Code of Practice on Litter and Refuse recommends that, as a guideline – a single plastic sack of rubbish should usually be considered fly-tipping rather than litter.
- Littering is a criminal offence, with a maximum penalty on conviction of a fine of up to £2,500. Instead of prosecuting, councils may decide to issue a fixed penalty notice: from April 2018 the maximum fixed penalty will nearly double from £80 to £150

[REDACTED]

- [REDACTED]
- Section 33B of the EPA 1990 allows a court to make an order for a person convicted of fly-tipping to pay the costs of removing the fly-tipped waste or cleaning up the land to the owner or occupier of land.
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Recent Farmers Weekly article: *Defra snubs landowners' plea to change fly-tipping laws* 14 December 2017

A landowners' lobby group has hit out after Defra dismissed calls to allow landowners to remove fly-tipped waste from their land free of charge.

Under current legislation, it is the responsibility of the landowner to remove waste dumped on private land and dispose of it legally.

The Country, Land and Business Association (CLA) says the law unfairly penalises landowners, who have to cope with the time, cost and stress of removing someone else's waste.

In some cases, local authorities have threatened innocent landowners with prosecution if they fail to clear the rubbish.

However, if fly-tipped waste is dumped on public land or highways, the responsibility lies with the council to remove it.

CLA president Tim Breitmeyer wrote to Defra in November, urging the department to take more action to tackle the growing epidemic of fly-tipping on farms.

In his letter, Mr Breitmeyer outlined his organisation's five-point plan to tackle fly-tipping (below) and he highlighted *Farmers Weekly's* Stop the Blot campaign, which found that almost two-thirds of farmers have been victims of fly-tipping.

CLA five-point plan to tackle fly-tipping

- Impose penalties to better reflect seriousness of crime
- Fine home and business owners whose fly-tipped waste is found
- Develop new ways to clear up and support victims
- Promote education and working in partnership
- Appoint a national "fly-tipping tsar"

Mr Breitmeyer told environment minister Therese Coffey that “it cannot be right that landowners as the victims of a crime then become criminals themselves”.

Free disposal trials

He said some local authorities have trialled allowing free disposal of fly-tipped waste at their local waste recycling centres, but the initiative “is yet to become standard practice”.

Ensuring that free disposal of fly-tipped waste is available across the country would help encourage better reporting of fly-tipping on private land, the CLA said. It would also help build a more accurate picture of where fly-tipping occurs, allowing the police to target known hotspots.

But responding to the CLA in a letter, Ms Coffey said she saw no reason to change the legislation.

“Landowners are currently responsible for dealing with waste that is dumped on their land and enabling fly-tipped waste to be disposed of free of charge would not provide the right incentive to secure land against fly-tipping,” she wrote.

Defra believes that placing an obligation on local authorities to remove illegal waste from private land would encourage illegal dumping rather than tackle the problem.

Cost recovery

Ms Coffey said Defra expected all local authorities to investigate fly-tipping incidents on private land. Councils should work with landowners to prosecute the fly-tipper and recover costs, she added.

Mr Breitmeyer told *Farmers Weekly* the CLA was encouraged that Ms Coffey had acknowledged the CLA’s action plan and had stated Defra intends to take forward most of the points raised.

But he added: “We are disappointed that no effort has been made to look at how landowner liability could be reduced.

“There are alternatives the government and local authorities could explore to ease the burden of disposal costs for landowners. It is a cop-out not to look more closely at how to change the unfairness of this rule.”

CLA reaction to government's fly-tipping statistics for England 2016-17

19 October 2017

The CLA, whose members – landowners, farmers and rural businesses – frequently face having to clear up rubbish fly-tipped on private land, says fly-tipping is a national disgrace that blights the countryside.

CLA President Ross Murray said: “Fly-tipping is just getting worse and worse. It is a national disgrace. Prosecutions for this crime are ludicrously low, and have decreased by a further 25%. It is high time that Government took a much more active role in tackling this blight on the countryside. Today’s shocking figures don’t even include rubbish fly-tipped on private land, which landowners clear up as local authorities only clear from public land.

“Greater penalties should be imposed and enforced including seizing fly-tippers’ vehicles, and victims should be better supported. We are calling for the appointment of a national fly-tipping Tsar to co-ordinate and oversee a more pro-active effort to get to grips with this national disgrace.”

Results from a survey conducted by Farmers Weekly and CLA Insurance revealed that almost two thirds of farmers and landowners have been affected by fly-tipping and over half agree it is a significant issue in their area. Most victims surveyed said they had been targeted on multiple occasions.

CLA Article: [here](#)

[REDACTED]

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From the LGA website: *Litter and fly-tipping is environmental vandalism – it’s unpleasant, unnecessary and unacceptable. Not only does fly-tipping create an eyesore for residents, it is also a serious public health risk, creating pollution and attracting rats and other vermin.*

LGA responds to Government announcement to tackle illegal waste 14 Jan 2018

We are pleased the Government has pledged to crack down on illegal waste and fly-tipping.

It is unacceptable that councils are having to spend vast amounts each year tackling this scourge.

Councils will continue to work with residents to raise awareness of how to correctly dispose of household waste.

Positive comments about FPN's but the need for a faster, more effective legal system.

The government should consider asking manufacturers to offer take back services for items such as furniture and mattresses.

LGA responds to Government's 25-year Environment Plan 11 Jan 2018

We support the Government's ambition to tackle the scourge of unnecessary plastic waste.

Producers need to switch to recyclable items so that plastic clogging up our environment becomes a thing of the past.

We want to work with supermarkets and manufacturers so that we avoid having unrecyclable waste in the first place, and would urge them to switch to recyclable packaging where possible.

LGA responds to new litter-tackling powers announced by Defra 24 Oct 2017

Measures are a hugely positive step in the right direction. It is great that from April, councils will be able to get tough with the anti-social minority who think our roads are a repository for rubbish.

[REDACTED]