

Via email to: [info@local.gov.uk](mailto:info@local.gov.uk)  
Local Government Association  
18 Smith Square  
Westminster  
London  
SW1P 3HZ

7 December 2021

Dear LGA,

**Re: Proposal for 12 Councils to adopt the use of fixed penalty notices for the following offences relating to:**

- **Highways Act 1980, in accordance with Section 8, schedule 4, London Local Authorities & Transport for London Act 2003 as amended**

Local authorities have a strong positive history in protecting their communities from anti-social behaviour and environmental crime that damages the public realm with littering, fly tipping, and flyposting.

The key way identified offenders are sanctioned for their unlawful behaviour is through the use of fixed penalty notices, administered by local authorities. That approach has seen to improve the deterrence of further offending whilst negating the need for costly litigation in a criminal court, protecting the wider-criminal justice ecosystem from a volume of cases, where:

- Payment of a fixed penalty notice provides the offender/s with an opportunity to discharge their liability to conviction, by payment of the fixed penalty notice as opposed to offenders being summonsed to court and;
- If convicted the fines can be far higher than the fixed penalty notice along with the impacts of any costs and offenders receiving criminal convictions.

### **Increased Powers Sought**

The Highways Act 1980 provides the police and local authorities the power to prosecute perpetrators through the criminal courts, where there is a identified breach of legislation. In London, the London Local Authorities & Transport for London Act provides all *London* boroughs the power to issue fixed penalty notices for certain offences relating to the Highways Act.

**The 12 Councils listed below, would like to make an application requesting that the Secretary of State extend these powers to issue fixed penalty notices as London boroughs.**

### **Need for Additional Powers**

The 12 local authorities who have co-signed this letter are experiencing dangerous highway offences such as unlicensed skips and wilful obstruction of the highways without the ability to tackle the problem. There are incidences of unlicensed skips that obscure the view of passing motorists and cyclists. The ability to deal with such offences by way of issuing fixed penalty notices would not only ensure a more efficient and effective response but would increase public confidence by better protecting our residents and businesses from environmental crime and Anti-Social Behaviour.

Council Officers outside London do not have the powers to issue fixed penalty notices at the first course of action for Highways Act offences e.g. placing skips or building materials on the public highways without a licence. The only available options to our Enforcement Officers are to consider warnings and then straight to prosecution causing an imbalance in fairness and consistency in local government.

The availability to issue fixed penalties notices immediately/on the spot, when an Enforcement Officer witnesses a Highways Act offence, would accelerate enforcement action and deter future criminal behaviour. This would be of great benefit to the residents of the 12 Councils listed below, as it will assist in keeping streets safe, clear of unscrupulous activity and any individuals placing items on the highway which causes a detriment, annoyance and danger to the road and footpath user.

**We wish to adopt the same powers as London boroughs in issuing fixed penalty notices, to persons who breach the Highways Act. 1980.**

The offences we wish to enforce are outlined in the attached Appendix 1 of the London Local Authorities Act 1990 as amended and schedule 4 of the London Local Authorities & Transport of London Act 2003 as amended. The attached appendix and schedule also provides details of associated offences and their fixed penalty values.

Yours sincerely



Cllr Rob Gledhill  
Leader of Thurrock Council - On behalf of:

Basildon Council  
Brentwood Borough Council  
Castle Point Council  
Chelmsford City Council  
Colchester Borough Council  
Essex County Council

Harlow Council  
 Luton Council  
 Maldon District Council  
 Southend Council  
 Tendring District Council  
 Thurrock Council

Encl: Appendix 1 of the London Local Authorities Act 1990

Schedule of associated offences and their fixed penalty values

## London Local Authorities and Transport for London Act 2003

Section  
8

OFFENCES IN RESPECT OF WHICH FIXED PENALTY NOTICES MAY BE SERVED  
UNDER SECTION 8 (FIXED PENALTY OFFENCES) OF THIS ACT

	(1)	(2)	(3)	Rate
	Act	Section	Description of Offence	
1	Highways Act 1980 (c. 66)	132(1)	Painting or otherwise inscribing or affixing picture etc. upon the surface of a highway or upon a tree, structure or works on or in a highway	£100
2		137(1)	Wilful obstruction of highway	£100
3		138	Erecting a building, fence or hedge on highway	£100
4		139(3)	Depositing builder's skip on highway without permission	£150
				£150

5		139(4)(a)	Failure to secure lighting or other marking of builder's skip	
6		139(4)(b)	Failure to secure marking of builder's skip with name and address	£150
7		139(4)(c)	Failure to secure removal of builder's skip	£100
8		139(4)(d)	Failure to comply with conditions of permission	£150
9		140(3)	Failure to remove or reposition builder's skip	£150
10		141(3)	Failure to comply with notice requiring removal of tree or shrub	£100
11		147A(2)	Using of stall etc. for road side sales in certain circumstances	£100
12		148(a)	Depositing material etc. on a made-up carriageway	£150
13		148(b)	Depositing material etc. within 15 feet from centre of made-up carriageway	£100
14		148(c)	Depositing anything on highway to the interruption of user	£100
15		148(d)	Pitching of booths, stalls or stands or	£100

			encamping on highway	
16		151(3)	Failure to comply with notice requiring works to prevent soil or refuse escaping onto street or into sewer	£100
17		152(4)	Failure to comply with notice requiring removal of projection from buildings	£100
18		153(5)	Failure to comply with notice requiring alteration of door, gate or bar opening outwards onto street	£100
19		155(2)	Keeping of animals straying or lying on side of highway	£100
20		161(1)	Depositing things on highway which cause injury or danger	£100
21		169(5)	Erecting scaffolding or other structure without licence or failing to comply with terms of licence or perform duty under subsection (4)	£100