

Meeting: Environment, Economy, Housing & Transport Board

Date: 17 November 2022



Highways Act offences – fixed penalty notices

Purpose of report

For information

Summary

Following agreement at the March 2022 Board, the LGA surveyed its membership to help develop the evidence base to support the case for alignment of powers to deal with highways obstruction offences with London. At present, the only route for councils outside of London to deal with certain highways offences that cause obstruction or prevent the safe and smooth operation of local highways is through issuing warnings, and prosecution. London Boroughs have the powers to issue Fixed Penalty Notices. This report highlights the findings from the survey, showing strong support for alignment with London.

Recommendation

That the EEHT Board **notes** the report and proposed follow up actions

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Highways Act Offences – fixed penalty notices



Background

1. At present, as set out under the Highways Act 1980, the only route for councils outside of London to deal with certain highways' obstruction offences is through issuing warnings, and then prosecution. This is considered to be an unfair and inconsistent approach for non-London authorities and can be very time consuming and costly. The power to issue fixed penalties notices (FPNs) immediately/on the spot, when an enforcement officer witnesses a Highways Act offence, would accelerate enforcement action and deter future criminal behaviour. This can free up officer time to deal with other priority issues, such as fly-tipping.
2. From May 2022 to September 2022 the LGA conducted a survey across all 322 councils in England and Wales.
3. Real world examples of relevant obstructions are listed in appendix A.

Key findings

4. A total of 74 responses were received (23 per cent). It should be noted that a further 18 district councils (plus one unitary) said they were not in charge of the highways/roads in their local area. This may explain why the response rate for district councils is lower than other types of authority.
5. Full details can be found in the published survey on the [LGA website](#). Key headline findings from the survey are:
 - 92% (68 of the 74 councils responding to the question) said they would consider using fixed penalty notices if given the same powers as London.
 - 93% or 69 councils said they would use FPNs for the Obstruction of roads.
 - 88% or 65 councils said they would use FPNs for Safety or Unlicensed skips.
 - 85% or 63 councils said they would use FPNs for those who fail to comply with regulations.
 - 80% or 59 councils said they would FPNs for the careless depositing of materials on the roadside.

- 76% or 56 councils said they would use FPNs to prevent impacting visibility for motorists and cyclists.
- 85% or 63 councils said they agreed that a lack of time and resources deters local authorities from issuing warning letters and taking offenders to court.
 - 76% or 56 councils said that a more proportionate level of enforcement action would be one of the main benefits of issuing FPNs.
 - 73% or 54 councils said that accelerating enforcement action would be one of the main benefits of issuing FPNs.
 - 70% or 52 councils said that an increase of public confidence would be one of the main benefits of issuing FPNs.
 - 60% or 44 councils said that reducing the need for costly legal action would be one of the main benefits of issuing FPNs.
 - 58% or 43 of councils said that increasing officer efficiency would be one of the main benefits of issuing FPNs.

Implications for Wales

6. The Highways Act offences would be a devolved matter for the Welsh Assembly.

Financial Implications

7. On FPN powers, no financial implications are expected immediately for this work, and it is anticipated this would be self-financing if councils were to be given this power.

Equalities implications

8. Whilst there are no specific EDI implications the sorts of obstructions that are covered by The Highways Act can cause danger to local residents and obstruct pedestrians and wheelchair users as most offences occur on footpaths. Giving councils the ability to deal with such offences will reduce such obstruction, making roads safer for everyone.

Next steps

9. Given the strength of evidence presented by the survey findings, the Board can be confident that this is a power that English local government outside of London would support and greatly benefit from.
10. It is anticipated that a change in primary legislation is likely needed to bring about the desired changes and enable councils to issue FPNs.

11. It is proposed therefore that the next steps are for the LGA to seek the support of Government in calling for the necessary changes in legislation. This will not be straightforward. Our experience of seeking other similar alignment of powers with London (such as enforcement of moving traffic offences and pavement parking) are that it takes persistent campaigning over a long period of time.
12. The first action will be to share the findings with the Department for Transport and the relevant minister. The clearest and soonest opportunity for the required change in legislation would be the proposed Transport Bill, which has now been delayed until the next session of Parliament.
13. As for moving traffic offences and pavement parking, officers will seek support from partner organisations and interested bodies – a coalition of interested organisations stands a better chance of success.
14. We will also seek opportunities to brief MPs and Peers through the passage of the Transport Bill.

Appendix A – examples of obstructions.

- builders' skips
- scaffolding/hoardings
- builder's materials
- temporary works including traffic lights
- overhanging tree branches, hedges
- mud/debris on the road
- mixing concrete/mortar on the highway
- unauthorised traders
- encroachment of highway boundaries
- discharge of water onto the highway
- blocking rights of way
- plants and bushes
- illegal signs
- caravans and trailers (not attached to a vehicle)