

# London Councils' Transport & Environment Committee

## Setting Penalty Levels for Waste Receptacles – Deregulation Act 2015

Item no: 14

**Report by:** Jennifer Sibley      **Job title:** Principal Policy Officer  
**Date:** 18 June 2015  
**Contact Officer:** Jennifer Sibley  
**Telephone:** 020 7934 9829      **Email:** Jennifer.sibley@londoncouncils.gov.uk

---

**Summary:** The Deregulation Act 2015 made changes to the enforcement of waste receptacle offences under the London Local Authorities Act 2007. This included specifying the maximum level of penalty that could be set, which is lower than the level currently set by TEC. This report asks members to set a new level of penalty to enable boroughs to use the powers.

**Recommendations:** The Committee is asked to:

- Agree a PCN level of £80, which is the maximum permitted.
- Agree an early payment reduction to £48, if paid within 14 days.

## Setting a penalty level for waste receptacle offences under the London Local Authorities Act 2007

1. Provisions in the Environmental Protection Act 1990 (EPA 1990) allow local authorities to issue Fixed Penalty Notices (FPNs) to enforce requirements on the use of waste receptacles for household and commercial waste.
2. The London Local Authorities Act 2007 (LLAA 2007) created new enforcement routes for waste receptacles, which allow London local authorities to issue Penalty Charge Notices (PCNs) for household and commercial waste.
3. The Deregulation Act 2015 has changed the enforcement process for *household* waste under both the LLAA 2007 (see Schedule 12) and the EPA 1990 (see Section 58).<sup>1</sup> This information is set out in a member briefing, attached at Appendix A.
4. Regulations set by the Secretary of State for the Deregulation Act 2015 set a scale of penalty from £60-£80 for both FPNs and PCNs. Regulations also specify that an early payment amount must not be less than £40.<sup>2</sup>
5. Boroughs and the City of London set their own FPN levels for breaches of the EPA 1990 (within the range permitted).
6. TEC, as the joint committee, must set the PCN levels for breaches under the LLAA 2007 (within the range permitted). The Deregulation Act 2015 does not change this.
7. The Deregulation Act 2015 changes come into force on 15 June 2015. It is therefore prudent for TEC to set a PCN level as soon as possible so that boroughs can use the provisions if they wish to.
8. Normally TEC would consult before introducing a new penalty level. TEC previously consulted on the PCN level for waste receptacles and set it at £110, reduced to £66 (40 per cent reduction) if paid within 14 days, on 11 June 2009. The government, through the Deregulation Act 2015, now require the penalty level to be set at a much lower level. Officers do not consider it necessary to undertake a public consultation as TEC already has a mandate to set a much higher level.
9. Officers suggest that TEC set the penalty at the highest possible level of £80 with an early payment reduction of 40 per cent, setting this at £48.

### Deregulation Bill lobbying

10. London Councils strongly opposed these changes throughout the passage of the Deregulation Bill. We secured cross-party support from members of the House of Lords, and proposed amendments that would effectively exempt London from the legislation at several stages during the Bill's passage in Parliament. We met and discussed the issues with the minister who refused to allow a London exemption. We therefore tabled an amendment at the final stage in the Lords to make the changes we believed were desirable, but despite strong support, it was defeated.

### Recommendations

11. The Committee is asked to:

- Agree a PCN level of £80, which is the maximum permitted.
- Agree an early payment reduction to £48, if paid within 14 days.

---

<sup>1</sup> Both section references are to the Deregulation Act 2015.

<sup>2</sup> The Household Waste (Fixed Penalty and Penalty Charge) Regulations 2015  
<http://www.legislation.gov.uk/ukxi/2015/969/contents/made>

### **Financial Implications**

12. Given the lower level of penalty and the likely higher costs of enforcement, the PCNs for waste receptacles are unlikely to allow boroughs to cover their costs.

### **Legal Implications**

13. The decriminalised appeals route provided by PATAS remains unchanged.
14. The LLAA 2007 has been amended. The Second Further Variation to the ALGTEC Agreement permits TEC to set the penalty charges as required by the legislation.

### **Equalities Implications**

15. There are no equalities implications arising from this report.