

# London Councils

The voice of London local government

## Deregulation Bill - Clause 44

### Household waste: de-criminalisation

#### Summary

**London Councils asks Peers to support amendments 18 and 19 to Clause 44 in the name of Baroness Hanham. We take this position for the following two reasons:**

- The government provisions make unwelcome and unnecessary changes to the existing decriminalised enforcement regime in London as initiated in private legislation. The London Local Authorities Act 2007 (LLAA 2007) provides its own system of penalty notices and includes an appeals procedure. There are many cases and precedents where legislation in London differs from that in the rest of the country and we believe that we should retain our existing system.
- The government's provisions, far from deregulating anything, would in London add more stages and regulations in the enforcement of waste collection. This would bring in an inferior system than currently exists in the capital, adding both costs and time to the work that boroughs must do before a penalty notice can be issued. It would also not help increase recycling rates and lower the fixed penalty to £60 in London which, we believe, would not act as a disincentive to anti-social behaviour in the capital.

#### The London legal context regarding waste

While the Government's plan to decriminalise the waste enforcement regime nationally is sensible, as far as London is concerned, it affects the innovative powers London's authorities already have through the LLAA 2007. London is therefore adversely affected as the provisions of the LLAA 2007 which have been in force many years allowing boroughs to operate a decriminalised system or use the national legislation through the Environmental Protection Act.

It is flattering that the government has seen the advantages of this London system and is now rolling it out nationwide, but there are distinct disadvantages to London in these new provisions. It would bring in a new time-consuming process, limit the penalties and give the Secretary of State unnecessary and wide-ranging powers. The system proposed in the Bill's provisions is over-complex, time and cost-consuming for boroughs to operate and, in London, halves the penalty for this anti-social and unhygienic behaviour.

The Bill's provision also state that although appeals in London would continue to be administered by London Councils, the Bill's explanatory notes state that there will be 'consequential changes to the appeal procedure'. This is not spelt out and we see the existing system in London as being preferable. Overall, the proposed changes represent a step backwards for the London boroughs and we see no good reason to change the system already in place in the capital.

## Waste issues in London

Waste is the third largest item of expenditure for London boroughs, with £733m being spent in 2012/3. The collection and management of waste is a critical issue for councils in both financial and environmental terms. With London's rapidly rising population (up to ten million in 2030), it will be a challenge for boroughs to publicly fund this service and to ensure high standards of public health.

Councils currently have the ability to operate and enforce a collection regime which helps to keep costs down and increase recycling rates. In a densely-populated urban environment like London, this is important. Boroughs also use the current powers to help incentivise recycling and rates are increasing across London. Boroughs are already doing good work to encourage residents to change their behaviour in respect of not only where the waste should be left but also what goes into the recycling collection. Often knowing that these provisions exist assists in getting the desired results. Boroughs believe that incentives are the best way to change behaviour, but do require some penalties in hard-to-change situations. The system in London is proportionate and has an appeals system built in for those wishing to challenge a penalty charge. To date there have been no waste appeals.

This is under threat from the new provisions in the Bill. If passed as drafted it would put in place a much more complicated set of provision that would mean London councils could not react as quickly to the situation in their area and would cost more to implement. This is not deregulation by any definition and will be both slower and less efficient at a time when authorities are hard-pressed. The Secretary of State would also have wide powers to amend the level of fixed penalties and to dictate to councils the range of fine levels that can be used. This is adding regulation, not deregulating and is just further centralising powers at a time when they should be more localised.

We have consulted borough officers who work in the waste collection services in the boroughs and they said *'If boroughs cannot specify collection points, some residents will leave bins by the front door and demand they are collected from there. We will have to put extra crews on and it will impact heavily on other frontline services which may have to be reduced'*.

All this seems to fly in the face of the EFRA Select Committee inquiry into waste management (published October 2014) which recommended that *'local authorities should remain responsible for addressing the specific challenges and barriers to increasing recycling rates that they face at a local level.'* We would agree with this and hope the government agree too.

## Effect of the proposals

In all the Bill debates, we have had no proof from the government that London's authorities are using the powers in a disproportionate manner. Unless there are a number of instances where this is the case, why should the system be changed? The responses to the government consultation on waste said 'leave it alone', so why are the government going in the opposite direction? We do not believe, as the minister suggests, that the current system increases the burden on householders - Londoners have been living with this system for eight years since LLAA 2007 was passed. London waste system already runs effectively for councils and residents and we believe we should be able to continue to do so.

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*London Councils represents all 32 London boroughs and the City of London. The Mayor's Office for Policing and Crime and the London Fire and Emergency Planning Authority are also in membership*