



# Civil Enforcement of Littering and Waste Offences

This briefing explains the scope of the two provisions in the 2007 Act which give London boroughs new enforcement powers in relation to littering from vehicles and waste receptacles related breaches and summarises the key points from London Councils' good practice guides.

## Overview

From June 2012, London boroughs have been able to issue civil fines - Penalty Charge Notices - for two environmental offences: littering from vehicles and waste receptacles ('bin fines'). Introduced in the London Local Authorities Act 2007 (the 2007 Act), this decriminalised regime aims to establish a more streamlined enforcement process for low level environmental crimes. To aid boroughs' understanding and implementation of the regime, London Councils has recently updated its step-by-step good practice guides on these two provisions.

The 2007 Act introduced a new decriminalised enforcement regime in London for the following environmental offences:

## Analysis

### Section 23 - Receptacles for waste related breaches

Section 23 allows councils to set standard regulations for householders and businesses about rubbish collection, including where to place bins and what to put into different recycling containers. Councils are able to impose a civil fine, using the Penalty Charge Notice (PCN) regime, on those who fail to comply.

It should be noted that councils still have the option to proceed with the criminalised route, using the Fixed Penalty Notice (FPN) regime under the Environmental Protection Act 1990, if they so choose. The main advantages of using the new PCN regime compared to the criminalised route are described below:

	<b>Criminalised route - Fixed Penalty Notice (FPN) regime set out in the Environmental Protection Act 1990</b>	<b>Civil route - Penalty Charge Notice (PCN) regime set out in the London Local Authorities Act 2007</b>
Waste receptacles	A local authority must serve a notice for non-compliance and wait until the time limit for non-compliance has expired before the FPN can be issued.	Once regulations have been made regarding rubbish collection, there is no need to serve a notice and wait for non-compliance of that notice before issuing the PCN.

## Section 24 – Littering from vehicles

Section 24 enables councils to serve a PCN on a vehicle owner when a littering offence has been committed by somebody inside the vehicle e.g. by throwing rubbish through a car window into the road. This makes the owner of the vehicle responsible for littering from his/her vehicle. Exemptions apply to buses, coaches, taxis and private hire vehicles.

This offence is now totally decriminalised in London and only enforceable through the 2007 Act PCN route. The main advantages of using the new civil regime compared to the criminalised route are described below:

	<b>Criminalised route* - Fixed penalty notice (FPN) regime set out in the Environmental Protection Act 1990</b>	<b>Civil route - Penalty charge notice (PCN) regime set out in the London Local Authorities Act 2007</b>
Littering from vehicles	Under the fixed penalty notice regime, the offender would have had to be identified. <i>*This option is not available anymore.</i>	There is no need to identify the person discarding litter from inside the vehicle as the owner* of the vehicle is held responsible. <i>*presumed to be the registered keeper.</i>

One of the factors for choosing a civil route to enforce low-level anti-social behaviour is the cost to the local authority. The criminal route can become a very expensive and long winded process for boroughs, especially when FPNs are unpaid or the offender chooses to go to court rather than discharge his/her liability by paying the fixed penalty.

Instead, the civil route affords a more streamlined and familiar procedure, similar to the one for parking enforcement, making the fine recovery process more cost-effective. Any appeals are facilitated by the [Parking and Traffic Appeals Tribunal Service \(PATAS\)](#). The cost to a local authority to use this appeals system is much lower than the costs involved when preparing a case for the magistrates' court.

Information on the steps to take to implement these PCNs is available on London Councils' [good practice guidance on littering from vehicles and waste receptacles](#).

## Case Study: Wandsworth time-banded trade waste collection initiative

The London Borough of Wandsworth is using Section 23 of the 2007 Act to designate areas for time-banded collections of trade waste in the town areas of Tooting, Balham, Battersea, Putney and Wandsworth. Time-banding sets two-hour time bands at the start and end of the day when trade waste can be left on public footways in town centres.

Previously, shops and other businesses placed rubbish on the public highway in a variety of unmarked containers at all times of day and night. While checks by the council's enforcement officers had established that the vast majority of these businesses had collection contracts with licensed waste carriers, much of the waste was put out too early and many of the collection contractors were unreliable, leading to large accumulations of trade waste and the spillage of litter.

It was also difficult to distinguish trade waste awaiting collection by private contractors from either fly-tipped trade waste or household waste awaiting collection by the council's nightly household service. The council ended up collecting much of the trade waste, leading to significantly increased costs.

While the Environmental Protection Act 1990 can still be used to control the placement of trade waste on the highway, this criminal route required serving individual notices on the occupants of premises and to enforce against breach of the notice requirements via prosecution in the magistrates' courts which made using this power cumbersome and impractical, involving substantial officer time.

Introducing time-banded collections locally went smoothly and most businesses complied from the start, likely owing to the fact that waste enforcement officers engaged with every business and waste carrier before the time ban was introduced. One of the challenges faced by the council had to do with the changes to the appeals process which took longer than anticipated, but it should be simpler for other councils in the future.

The main benefits as a result of this initiative include:

- street litter and refuse have been significantly reduced
- problems identifying the originators of trade waste on the highway have been eliminated
- fly-tipping of trade waste has been greatly reduced
- following the scheme's introduction, the amount of waste collected by the council's nightly household refuse collection service for town centres was reduced by over 200 tonnes per month
- public highways are now clear of trade refuse awaiting collection at all times except 10am-noon and 10pm-midnight / 9am-11am and 9am – 11pm, depending on area.

To date, Wandsworth has issued several warnings but no PCNs. The council is also planning to use this new civil power for littering from vehicles for the first time in a week long enforcement operation conducted borough wide at the end of January 2014.

## Commentary

Keeping London's streets clean is becoming harder in the current context of reduced budgets for street cleansing and environment enforcement teams. The 2007 Act provisions on littering from vehicles and waste receptacles represent an opportunity for boroughs to establish a more cost-efficient process for tackling these offences although, as the example from Wandsworth shows, it may require some changes to current enforcement practices and an initial push for awareness and information campaigns.

For waste receptacles related breaches, boroughs can choose between the criminalised route (FPNs) and the civil route (PCNs). Ultimately, the aim is to get people to change their behaviour and to stop anti-social activity. For the majority of people receiving a PCN or FPN, it is likely they will not differentiate between the two and see both as a fine to be paid. Therefore, it is the decision of each individual borough to establish the procedure that better suits them. In the case of Wandsworth's time-banded trade waste collection, the civil route has brought broader benefits for the council.

For littering from vehicles, the only option available for London boroughs is the civil route introduced by the 2007 Act. The results of the pilot operation in Wandsworth this January will be of particular interest to the government as it considers Lord Marlesford's Private Member's Bill, currently going through the House of Lords. This Bill proposes extending the powers on littering from vehicles that are now available to London boroughs to all local authorities in England.

While it might be too early to confirm the success of these provisions, London Councils will monitor this Bill to assess potential impacts on the 2007 Act. To this end, we welcome members' feedback on the effectiveness and practicalities of implementing this civil regime that can help improve our knowledge base and inform any discussions with government and interested parties.

**Author:** Jorgina Cuixart, Principal Project and Policy Officer (T: 020 7934 9829)

[Click here to send the author a comment or query](#)

### Links:

[London Councils' good practice guides on littering from vehicles and waste receptacles](#)

[London's Parking and Traffic Appeals Service \(PATAS\)](#)

[Wandsworth Council trade waste collections - time banding](#)

### This member briefing has been circulated to:

Portfolio holders and those members who requested policy briefings in the following categories: Devolution; Environment and Transport; Local Government Finance