

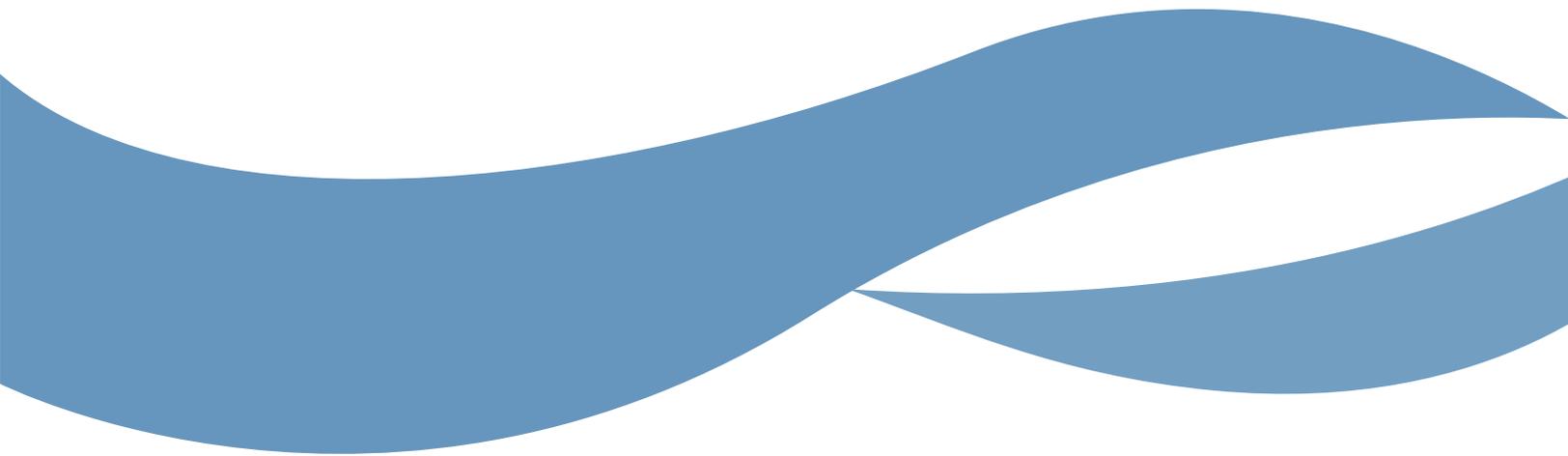
## Consultation Response to the Scottish Government's National Litter and Flytipping Strategy

Our consultation response is divided into two sections, in line with the Scottish Government's structured separation between litter and flytipping. Litter is covered in pages from 2-7, with flytipping from pages 7-16.

29 March 2022

### **About Scottish Land & Estates**

At Scottish Land & Estates (SLE) our work helps to ensure that rural Scotland thrives. We are a membership organisation for landowners, rural businesses, and rural professionals. We promote the wide range of benefits land-based businesses provide: tourist attractions, leisure facilities and landscapes enjoyed by the public, as well as housing, employment, tourism & enterprise and farming opportunities. We represent the interests of our members and wider rural Scotland to the UK and Scottish Governments to help ensure that policy and legislation reflects the unique requirements of rural Scotland and its communities.



## **LITTER**

### **1. (a) Do you support the proposed action to conduct research to understand the full range of influences on littering behaviours (action 1.1)? Yes / No / Do not know**

Yes

#### **(b) Please give reason(s) for your answer.**

Research was already published in 2014, and a review of this output strategy was completed in November 2019. Since this time very little progress has been made to deliver the action points. The new consultation document appears to indicate that the key actions and themes of behavioural change, improvements to service and infrastructure, and considerable toughening of the existing punitive penalties will not be implemented until after the new research has been undertaken and then presented for the consideration of new laws that will prevent this criminal activity. This is totally unacceptable. The delay will result in a further two years of inadequate legislation by the Scottish Government before effective deterrents and actions from this consultation might be put into place. The range of influences on littering behaviours are already well known and documented, particularly following the impact of COVID lockdown since 2020. Further actions and powers are required during 2022 to address the current problems. Scotland cannot wait until at least 2024 for new measures to come into force.

### **2. (a) Do you support the proposed action to develop and adopt a national anti-littering campaign (action 2.1)? Yes / No / Do not know**

Yes

#### **(b) Please give reason(s) for your answer**

We support this action in partnership with other stakeholders. However, the glaring omission from the key action themes is one of education. Scotland's residents and visitors need to understand the true cost of littering and fly tipping which is costing approx. £43m of public money to address the problem and pulling important financial resources away from other deserving needs in our communities. The proposed timescale of four years for the adoption of such a campaign to be put in place is far too slow and is clear evidence that the Scottish Government does not consider these problems to be a priority. Action needs to be taken during 2022 in an effort to reduce the scale of these issues. Leaving it until 2026 will create greater problems in the interim period, and significantly increase the financial burden of addressing the problem in the future.

### **3. Which topics should be a priority to address by behaviour change interventions?**

- Education. This theme needs to be highlighted and quite separate from behavioural change
- Cultural behaviour...take you litter home. People need to be told to comply, not asked
- Effective deterrents. The existing deterrents, and those proposed in this consultation are far too weak and punitive. Without adequate deterrents, offenders will have little fear of the consequences of being caught.
- Enforcement. By the time this stage has been reached, it is evident the preventative strategies have been ineffective. Where enforcement is required, such resulting penalties should be sufficiently severe to discourage further offending.

**4. Is there a need to develop a standard definition for litter that can be used across Scotland?**

**Yes / No / Do not know**

Yes

**5. Do you support the following proposed actions to:**

**Action 3.1: Review available litter data and reach an agreement between stakeholders on a common approach to data collection? Yes / No / Do not know**

Yes

**Action 3.2: Identify commonly littered items and litter hotspots and work with local authorities to develop targeted interventions? Yes / No / Do not know**

Yes

**Action 3.3: Increase the use of citizen science to support data levels and composition of litter? Yes / No / Do not know**

Yes

**(b) Please give reason(s) for your answer.**

Using an informed approach to identify effective strategies and actions is essential. Such data already exists from research published in 2014, with the resulting output strategy completed in 2019. There have been some changes in relation to volume and type of litter (in particular human waste) since 2020. However, since 2019 there appears to have very little in the way of effective strategic actions to address the litter problems identified and which we see every day. The output from the 2014 research and resulting strategy therefore appears not to have been effectively put into action. The future collection of data to inform our understanding and thinking must be results and action driven, and not simply another information gathering exercise.

**6. What would encourage increased participation in citizen science data collection?**

The greatest factor which would encourage such participation would be for the data to be seen to be used for positive effect, and not only to inform.

Unfortunately the latter of these elements has constantly been lacking since the Scottish Government's 2014 Strategy was published.

The work line is simple...inform, plan, act.

The proposals set out within this consultation remain consistently too slow and too weak to deliver the changes that are required. A successful blunt message campaign in England was *#Your Rubbish, Your Responsibility*. We already know that is correct based upon current data, and citizens want to see action, not further delays

**7. (a) Do you support the proposed actions to:**

**Action 4.1: Review of CoPLaR (2018) and its implementation by duty holders? Yes / No / Do not know**

Do not know

**Action 4.2: Explore the use of flexible and innovative interventions to support litter prevention and removal? Yes / No / Do not know**

Yes

4.2 Such measures are already in place at many visitor facing attractions, the concepts of which could be utilised as the basis for more rural and urban locations.

**Action 4.3: Establish an action focused group to encourage collaboration and share best practice between local authorities, national parks and other duty bodies? Yes / No / Do not know**

Yes

**(b) Please give reason(s) for your answers**

4.1 (cont.) The decision to introduce a further review of CoPLaR following the 2018 review with updated statutory guidance, should primarily be based upon its perceived success. The concern is that this consultation confirms a further review could take up to two years, when appropriate actions to reduce such problems need to be in place by the end of 2022, not from 2024 and beyond.

4.2 Such measures are already in place at many visitor facing attractions, the concepts of which could be utilised as the basis for more rural and urban locations.

4.3 Such summary discussions already take place within Scotland's Visitor Management Strategy (VMS) group, with meeting minutes being forwarded to the appropriate Scottish Minister. A further action group could be developed, but evidence and ongoing concerns remain that the findings and recommendations from such groups are not taken forward as national initiatives due to the lack of Scottish Government support and infrastructure funding.

**8. Please provide examples of flexible or innovative interventions that have or have not worked well.**

- Successful:
  - Removal of litter bins, but with add signage at key managed locations to encourage a 'take your rubbish with you' culture. The NT in England have had a lot of success with this, as have some NTS attractions such as Haddo House and Estate.
  - Don't allow litter to build up alongside full waste bins...overflowing litter will encourage more litter
  - Use of strong messaging. Explain the real cost of littering in peoples communities, and how a saving of £xx,000 could be better put to good use in their locality
- Not Successful:
  - The belief that litter is the problem of someone else. It affects us all
  - Installing larger refuse bins and more infrequent emptying, as it encourages their increased use for household waste and flytippers

## **9. How can increased collaboration and information sharing across local authorities, national parks and other duty bodies be achieved?**

Such collaboration and information sharing can potentially be achieved by developing a compact and relevant strategic group with representatives drawn from those bodies who actually understand the real problems of littering across Scotland. It is clear from this consultation and recent conversations with Scottish Ministers that the Scottish Government's real understanding of the problems and how to resolve them are wide of the mark.

Much has previously been mentioned about the financial cost of addressing litter problems across Scotland, but this mindset needs to change. The future solutions which need to evolve in identifying and recommending strategies need to be considered by their value, and not simply their cost.

## **10. (a) Do you support the proposed actions to:**

**Action 5.1: Create a national litter hub to provide information to community groups? Yes / No / Do not know**

Yes

**Action 5.2: Create a community-focused litter education programme? Yes / No / Do not know**

Yes

## **(b) Please give reason(s) for your answer.**

The success of any community groups will be largely dependant upon various factors including location, population and demographics. As a minimum all such groups would require :

- The willingness of communities and individuals to participate
- Support from a national or regional group or body will be required to support the efforts of the local communities who are unlikely to have any empowerment roles, physical resources or funding to support their aims

## **11. What advice, information and support should be included in a national litter hub?**

- This initiative needs to be driven and supported by central Government. It should not be an initiative to devolve all responsibility for litter problems to communities
- Public educational, physical and communication resources
- Adequate financial investment to support community initiatives

## **12. What topics should be included in a community-focused litter education programme?**

- What constitutes litter and littering
- The genuine cost of litter problems for our communities, including financial, well-being, environmental, social
- Educating communities how they can reduce the levels and impact of littering in their area
- Bringing the importance of reducing litter into the classrooms as part of the national curriculum
- Making littering as unacceptable within society as drink-driving

**13. (a) Do you support proposed actions on enforcement of litter offences to:**

**Action 6.1: Conduct an evidence review of barriers to enforcement? Yes / No / Do not know**

Yes

**Action 6.2: Explore raising current fixed penalty notice amounts? Yes / No / Do not know**

Yes

**Action 6.3: Explore potential alternative penalties to monetary fixed penalties? Yes / No / Do not know**

Yes

**(b) Please give reason(s) for your answers.**

- The National Litter Strategy of 2014 already offered suggestions and proposals that would overcome barriers to enforcement, but the continued inaction by the by the Scottish Government has not seen these adequately delivered.
- The suggested timeline of 2024 for the completion of a further review will delay the process further and is not acceptable. Action is needed now which can be based upon existing recommendations.
- The existing fixed penalty notice (FPN) fines are far too lenient and do not even represent the true costs of administering this process. The penalty process is therefore a further drain on public funding. Significantly higher penalties are required, particularly for repeat littering offenders to act as an adequate deterrent. Suggestions are £250 minimum for a first offence, and great than £1,000 for subsequent offences. The non-payment of fines could potentially be address via additional council tax charges targeting the offender.
- The provision of evidence to support the enforcement process has been overcome in some areas of England through the increased use of body-cameras by appropriate individuals and special fast-track courts, together which have been shown to reduce litter in cities and larger towns
- Additional powers are required to enable the potential prosecution of vehicle drivers when litter is thrown from their vehicle. Similar such powers already exist for the non-wearing of seat belts by passengers in a vehicle.

**14. (a) Do you support the proposed action to review and further develop guidance on enforcement best practices (action 7.1)? Yes / No / Do not know**

Yes

**(b) Please give reason(s) for your answer.**

- There are many examples of good practice around the England which deal with the problem of littering. We should assess those as potential solutions, but unfortunately Scotland is considerably behind the curve on this, despite the review, findings and recommendations from the Scottish Government's 2014 National Litter Strategy review.
- Our primary concern is that a further review, the findings of which would not be completed until 2024, will place Scotland further behind in its battle to tackle the blight of litter. Such delay is further evidence that the Scottish Government are unaware or unwilling to appreciate the severity of the problem across here.

- **14 (b) cont...** Action is needed now to address these problems and it is likely that any proposals coming from the 2024 report will take further years to put into action. It feels as though the initial stages of the current timetable are far too slow in their aspirations.

**(c) What should be included in this guidance?**

- Any future guidance should include robust plans and objectives which will significantly reduce the problems of litter across Scotland. Our communities, our businesses and our environment deserve this.
- The three themes highlighted as part of this process are Behaviour Change, Services & Infrastructure and Enforcement, but Education is clearly missing as a separate but vital element.
- Deterrents must be at a level that they are seen as such, and not the punitive 'telling off' which currently exists

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## **FLYTIPPING**

**15. (a) Do you support the proposed action to conduct research to understand behaviour that leads to flytipping (action 8.1)? Yes / No / Do not know**

Do not know

**(b) Please give reason(s) for your answer.**

- The behaviour that leads to flytipping is already very well understood and has demonstrated over many years. The severity of the problem has unfortunately become even more prevalent since COVID lockdown restrictions came into force, with a continuing lack of adequate support for those who are feeling the impact of such criminal activity on a regular basis.
- A further review is unlikely to reveal anything of significance which is not already known, and this consultation confirms that a further review could take a further two years to 2024, during which time this blight which scars Scotland's landscape will continue. The type of people who are committing flytipping crimes are known, as are their reasons for committing them, where the crimes are being committed, and why detection and effective punishment is currently so ineffective. The Scottish Government is aware this knowledge exists, but continually there is no effective deterrent or process to bring the offenders to account.
- Therefore, whilst further research for completion by 2024 could be progressed, this should not in any way prevent actions taking place much earlier based upon existing information to address these problems and effectively start to reduce this criminal activity.

**16. (a) Do you agree with the proposed actions to:**

**Action 9.1: Develop a sustained, evidence based, national anti-flytipping behaviour change campaign?**

**Yes / No / Maybe**

Yes

**Action 9.2: Create a single information point containing advice on disposal of commonly flytipped materials? Yes / No / Maybe**

Yes

**(b) Please give reason(s) for your answer. Are there topics that should be a priority to address in this campaign?**

- 9.1 The objective to develop such a national campaign is strongly supported. However, there exists significant silo thinking across many bodies, groups and industries which will need to be overcome. There is considerable concern this action has been timetabled by the Scottish Government as a medium priority, which would place the targeted delivery point as far away as 2026. This is totally unacceptable and as a campaign needs to be brought forward to 2022.
- 9.2 The timetable for this action is far too slow and needs to be brought forward to 2022, if not earlier, particularly as again the information already exists.

A core standardised system across Scotland would need to be appropriate for both urban and rural situations, although it should be recognised that the type of flytipped material does differ across such environments. This action point is however unlikely to deliver a reduction in the frequency of flytipping crimes where adequate recycling options are not available, or represent a challenging option for public access which can ultimately lead to an increase in flytipping.

**17. Are there topics that should be a priority to address in behaviour change interventions?**

- Local information to highlight the availability and access to recycling options needs to become more prevalent across Scotland.
- For those who cannot access recycling points, advice for how to obtain easy access to legitimate and licensed operators should be made available.
- Highlight the penalties for flytipping, regardless of whether a person is the source of the material, or the person committing the flytipping offence.
- In England, the Environmental Protection Act 1990 contains a Householder Duty of Care which confirms they are obliged to check and verify any carrier of their material is licensed and possesses an appropriate waste transfer certificate for their waste. Non-compliance can result in the householder facing prosecution, a fine and a criminal record. Therefore, quite rightly, the householder and flytipper are considered jointly liable for the crime under the 'polluter pays' principal. This same position is urgently needed in Scotland, as currently we do not have such laws and for flytipping offences, the victim and not the offender is frequently made to pay.

**18. What information should be included in the single information point?**

- How to access legitimate waste and recycling resources, including locations and times of opening
- The penalties for not disposing of your waste correctly
- The cost of flytipping to your local community, and across Scotland, and what that money could otherwise have been used for as a public benefit

**19. Is there a need to develop a definition of flytipping that can be adopted across Scotland?**

**Yes / No / Do not know**

Yes

**20. (a) Do you support the proposed actions to:**

**Action 10.1: Create a data sharing agreement to support gathering of data and work with stakeholders to improve consistence of data collection? Yes / No / Do not know.**

Yes

**Action 10.2: Explore incorporating data into a national database? Yes / No / Do not know**

Yes

**Action 10.3: Review the Dumb Dumpers system and ensure a fit for purpose mechanism for citizen reporting of flytipping exists in Scotland? Yes / No / Do not know**

Yes

**Action 10.4: Explore the development of a live picture of flytipping across Scotland? Yes / No / Do not know**

Yes

**(b) Please give reason(s) for your answers.**

- 10.1 - It is widely acknowledged the sharing of flytipping data is inconsistent and largely fragmented which demonstrates examples of current silo thinking and action. This has to change in order that Scotland can get a grip on the issue of flytipping at a national level.
- 10.2 - Whilst we support the creation of a national database, the critical question is how this information would be used effectively to reduce the frequency of flytipping and bring offenders to account through an agreed process. The risk, as had been demonstrated by the Scottish Government's 2014 National Litter Strategy, is that such a database could remain just a source of information. Any new knowledge resource must be seen and used as an effective tool to tackle the problems we are increasingly facing.
- 10.3 - Dumb Dumpers is not fit for purpose, and has not been so for years. There are countless examples of its ineffectiveness from the provision of incorrect telephone numbers for reporting, to the non-recording of incidents and lack of subsequent action. It is a resource that has failed at so many levels.
- 10.4 - We support an initiative that will provide a live picture of flytipping across Scotland. It should be considered as an integral part of other monitoring and reporting initiatives to demonstrate trends and patterns of offences which could potentially lead to serial offenders being brought to justice.

**21. (a) Do you support mandatory reporting of flytipping incidents for statutory bodies? Yes / No / Do not know**

Yes

**(b) Please give reason(s) for your answer.**

Such reporting should be mandatory, although this could be achieved through an integrated approach linked to the suggested 'live picture' resource. Regardless, the reporting should be possible of being undertaken quickly and effectively, and even out on location at flytipping sites through the use of IT. Such measures would result in the quicker identification of flytipping hotspot areas, greater opportunities to identify and prosecute offenders, and more efficient removal of such waste

**22. (a) Do you think we should continue to use Dumb Dumpers as the national reporting tool?**

No

**(b) Please give reason(s) for your answers.**

- Absolutely not. Dumb Dumpers is not fit for purpose. There are countless examples of its ineffectiveness from the provision of incorrect telephone numbers for reporting, to the non-recording of incidents and lack of subsequent action.
- Dumb Dumpers now carries a legacy of failure which cannot be overcome. A totally new system needs to be introduced that can be used as an effective tool for the future, and not simply an inaccurate database. Of significant concern is that this action has been highlighted within this consultation as a medium term priority, meaning that it may not be delivered until 2026. This again demonstrates the Scottish Government's lack of understanding with regard to resources available, and what is now urgently required. This therefore needs to be a top priority if the public are to get behind any anti-flytipping campaigns and messaging.
- The totally new system needs to be introduced that can be used as an effective tool for the future, and not simply an inaccurate database. Of significant concern is that this action has been highlighted as a medium term priority, meaning that it could not be delivered until 2026. This needs to be a top priority if the public are to get behind any anti-flytipping campaigns and messaging

**(c) What are barriers to reporting flytipping incidents that occur on private land?**

- Where flytipping incidents are reported on private land, the greatest majority of land managers receive absolutely no support, either financially or logistically, to resolve the issue. In many cases such incidents are never reported as it is more expedient for the land manager to simply dispose of the material at their own cost. Any request for assistance or support by a local authority or other such body is normally rejected out of hand. This is primarily because the local authority will be able to absolve themselves of the cost and logistical problems for the removal of the waste, and therefore such incidents are seldom officially recorded.
- There is no legal obligation for local authorities to assist with the removal of flytipped material, and therefore no incentive for them to address the problem. If reported independently, the land manager is frequently given notice by the local authority or other relevant body to remove and dispose of the waste at their own cost. If hazardous materials are present, a 7 day warning can be issued, with the land manager additionally being threatened of possible prosecution. This appears to now be an established process across Scotland where the victim is made to pay, and not the offender or the local body responsible for such waste.

- There is therefore little incentive for the reporting of such incidents when there is overwhelming evidence of the unfair transfer of responsibility to private land owners, and low confidence in the existing procedures and willingness of the Scottish Government to address such issues.

**(d) Who would you report flytipping to?**

If any reporting were to take place, it would usually be to the local authority or other responsible body such as a National Park

**23. (a) Do you agree with the proposed actions to:**

**Action 11.1: Support and encourage information and resource sharing between stakeholders? Yes / No / Do not know**

Yes

**Action 11.2: Explore how to support and encourage more reuse and repair of products that are commonly flytipped? Yes / No / Do not know**

Yes

**Action 11.3: Explore a flexible approach to waste disposal with a view to trial interventions? Yes / No / Do not know**

Do not know

**(b) Please give reason(s) for your answers.**

- 11.1 - We support the concept of sharing appropriate and relevant information between stakeholders in order to develop consistent, innovative and effective waste services and infrastructure
- 11.2 - We support the concept of exploring how Scotland can encourage the reuse and repair of all material, but not only those that have been flytipped in city centre and urban areas. The use of limited amnesties for this purpose could be considered, however the extension of such schemes, and the proposed extension of these measures during different times of the year, would potentially be difficult to administer and implement and we are not confident this could be achieved. Further suggestions to support city centre and urban private land owner locations to keep areas clean is an example of how little understanding exists within Scottish Government in relation to the problems of flytipping across rural Scotland. The objective acknowledges the problem of flytipped asbestos is predominantly a rural problem, but other than seeking to understand the barriers of its disposal (which are already well known) there is nothing to support innocent rural land managers to deal with the problem if they are to avoid prosecution.
- 11.3 - There is a deeper fundamental issue in relation to this point. A more flexible approach could be considered to assist with a limited number of cases, although this will not address the underlying problems. Additional detail would be required in order for us to make any additional comment

## **24. How can we support and encourage sharing of data and joined up services and infrastructure?**

The development of a Scotland wide flytipping data resource would appear to be the most effective method to creating a single reference information point which can be used to monitor and track the occurrence of such crimes, common issues, and patterns of behaviour. It should not however be simply an information database, but a tool that will additionally aid detection and support the prosecutions of offenders

## **25. Please provide examples of interventions (for example, amnesties or recycling groups) that have or have not work well?**

From what we have been told by Police Scotland's experts on this topic, flytipping is often part of serious organised crime activities, and therefore amnesties again will not impact the main culprits of flytipping. To be clear, flytippers are not interested in such interventions, and to believe so would demonstrate the Scottish Government's distinct lack of understanding regarding the motivations of the offenders. Such amnesties therefore would be seen by habitual flytippers as 'open season' to dispose of greater amounts of flytipped waste, with a reduced fear of prosecution.

## **26. What are the barriers to disposing of asbestos?**

The greatest barriers and challenges of asbestos disposal are three-fold:

1. Environmental. To remove the risk from contamination it can currently only be buried in a carefully managed way, and it takes a very long time (if ever) to safely degrade. This means that landfill is the only viable option.
2. Financial. The well managed and regulated removal and disposal of asbestos is highly expensive. Specialist companies can, and do, charge high fees for removing it from buildings or other locations, and they in turn pass on the subsequent land fill disposal costs to their clients.
3. Lack of deterrent. For an unscrupulous individual or business, the offer from a flytipper to dispose of the material for a few hundred pounds can be very attractive, especially as the risk of either party being caught and prosecuted is exceedingly low. Consequently, there is no effective deterrent to the unlawful disposal of asbestos. Local authorities are very quick to pass on such responsibility to the land manager under the threat of prosecution where asbestos has been flytipped, and thereby disassociate themselves from the problem. The flytipping of asbestos should carry additional severe penalties, including on the first offence.

## **27. (a) Do you agree with the proposed actions to:**

**Action 12.1: Explore the role of technology in assisting private landowners and land managers deter flytipping on their land? Yes / No / Do not know**

Yes

**Action 12.2: Produce updated guidance for private landowners on dealing with flytipping? Yes / No / Do not know**

Yes

**Action 12.3: Explore alternative financial support mechanisms available to private landowners and land managers? Yes / No / Do not know.**

Do not know

**(b) Please give reason(s) for your answer.**

- 12.1 - Flytippers, and in particular those for whom this is part of their business, have many ways of avoiding detection when committing their crimes. This includes the simple use of false vehicle registrations, carry out the offences during the hours of darkness and wearing disguises. Because of their nature and location, rural land holdings can include hundreds of access openings and miles of tracks which cannot all be monitored. Signs and cameras are torn down and added to the flytipped waste. Kent Police have in the past used innovative technology to identify and bring offenders to prosecution, but such resources are unlikely to be within the available means of land owners or managers without significant financial assistance.
- 12.2 - Land owners and managers are themselves perhaps some of the most knowledgeable people when it comes to tackling the problem of flytipping within their local environment. Whilst additional information and guidance is appreciated, what they most require is practical support to remove the waste from their land at minimal costs, and without the fear of prosecution. Habitual flytippers are very frequently involved other significant criminal activities and it is acknowledged by the Police that if a land owner or manager were to approach a flytipper, there is a danger to their safety. We are therefore unsure what updated guidance would be forthcoming.
- 12.3 - Existing effective financial support mechanisms to private landowners and land managers do not exist, so we are perplexed by the suggestion that 'alternative' options may be available. Financial support is greatly needed as these groups are very much covering the cost of Scotland's ineffective strategies to address flytipping. Flytipping is perhaps one of the only crimes in Scotland where the victim is enforced to pay for the crimes of others, and this situation must be urgently and entirely reversed.

**28. What support mechanisms need to be in place to help private landowners that are victims of flytipping?**

- Land owners and managers are covering the cost of managing and disposing of waste that would otherwise have been the responsibility of local authorities or other bodies. Financial resources need to be made available across Scotland which will eliminate these additional and irrecoverable costs at the earliest opportunity. In no other situation is such responsibility and cost transferred by the relevant authority to that of an innocent individual or business who is the victim of crime. Land owners and managers must not be held legally liable for offences that they have not committed.
- Where flytipping has occurred across across local authority boundaries, there needs to be a method of collaborative working, as opposed to the silo thinking that currently exists. An example is if flytipped material is proven to have been taken from one area local authority area, but tipped in another, neither authority will investigate and consequently no investigation or prosecution takes place. Consequently, both local authorities will be confident the removal problem and cost is off their hands, but they are prepared to prosecute the land owner if he/she doesn't remove the waste.

**29. (a) Do you support the proposed actions to:**

**Action 13.1: Conduct an evidence review of barriers to enforcement of flytipping offences? Yes / No / Do not know**

Yes

**Action 13.2: Initially raise current fixed penalties issued by local authorities, Police Scotland, Loch Lomond and Trossachs National Park for flytipping to the maximum (£500) and explore possibility of raising the maximum further at a later date? Yes / No / Do not know**

Yes

**Action 13.3: Explore the possibility and benefits of enabling local authorities and national parks to use civil penalties to enforce flytipping offences? Yes / No / Do not know**

Do not know

**Action 13.4: Explore raising current fixed monetary penalties that can be issue by SEPA for flytipping offences to the maximum (£1000) and explore possibility of raising the maximum further at a later date? Yes / No / Do not know**

Yes

**Action 13.6: Review existing legislative powers for enforcing flytipping offences? Yes / No / Do not know**

**(b) Please give reason(s) for your answers.**

None of the recommendations here are sufficient in their own right or collectively to act as a sufficient deterrent to habitual flytippers whose activities account for a significant proportion of such problems across Scotland. As a consequence, these proposals are very weak and uninspiring in their aspirations.

- 13.1 - A review of the barriers to enforcements would be welcome, although many of these are already well understood by Police Scotland, SEPA and local authorities. This review should be conducted at the earliest opportunity and ideally during 2022.
- 13.2 - An immediate increase for minimum fines to £500 across Scotland would be a good starting point, but a flytipper can easily earn more than twice this in a day carrying out these activities. This should therefore be the minimum fine for a first offence, with a proportion of this and any subsequent penalties being used to increase further deterrents and support the costs of future prosecutions.
- 13.3 - The use of civil penalties could be used as an initial options whilst further deterrents are formulated. However, a consistent and adequate Scotland wide approach should be sought to enable clarity for both offender and victim
- 13.4 - Raising existing fixed monetary penalties up to a maximum of £1000 will be a welcome short term action. However, such levels will still be insufficient to deter committed flytippers who have built such activities into already established criminal portfolio. If £500 were to be the fine for a first offender, then £2000 for a second offence, and unlimited fines for subsequent offences, plus the crushing of the offender's vehicle and a possible prison term.

- 13.6 - We would fully support a long overdue review of existing legislative powers for enforcing flytipping offences. In England, the Environmental Protection Act permits unlimited fines, up to five years imprisonment, the crushing of vehicles and the seizure of other property from offenders, which covers the person who engaged the flytipper, and the person committing the flytipping offence. The Scottish Government urgently needs to drive forward the replication of such penalties in Scotland if we are to similarly see a reduction in flytipping.

**30. (a) Do you support proposed actions to:**

**Action 14.1: Come to an agreement and develop guidance on role and responsibilities in enforcing flytipping offences? Yes / No / Do not know**

Yes

**Action 14.2: Develop guidance on enforcement best practices, including on private land and seek for this to be voluntarily adopted by statutory bodies? Yes / No / Do not know**

Yes

**(b) Please give reason(s) for your answers.**

14.1 - SLE would be willing to support an initiative that reduces the variability and inconsistency of designated roles and responsibilities to tackle the problems of flytipping on a national basis. This would potentially bring additional benefits in relation to enforcement penalties

14.2 - SLE would be willing to support this action and suggest that examples of best practice are sought from across the UK, such as the successful activities being utilised by Kent Police

SLE strongly believe however that significant deterrents are a better tool in all attempts to resolve flytipping that only enforcement. By the time the offenders are brought to justice, the crime has already been committed, so prevention is better than just punishment

**31. Are there any additional proposals you think should be considered for the National Litter and Flytipping Strategy?**

- Unfortunately, the 2014 Strategy 'Towards a Litter Free Scotland' and associated 2019 output strategy objectives have not been fully implemented, and therefore it requires greater commitment to reducing littering and flytipping than we have previously seen. There is a genuine risk that a new strategy or framework will again see a lack of action on the ground and ultimately not produce worthwhile outcomes to the problems of litter and flytipping that have increased significantly since that time.
- It would appear from this consultation that this position is to be repeated as the proposals contained within this draft National Litter and Flytipping Strategy are exceedingly and concerningly weak in their aspirations and proposals to address what is a serious and escalating blight across Scotland.

- Flytipping increasing affects us all in some way regardless of sex, age, demographics or other factors. The opening comment within the BRIA highlights the significant negative environmental, economic, and health implications for us all, be that someone in a city high rise development, or a crofter who is farming in the islands.
- The delivery timescale for many aspects of this Strategy are woefully inadequate to deal with what remains this increasing problem. The reasons for such proposed delays are not evident, but the lack of urgency and commitment to deliver solutions will reduce the impact of any measures in the future. Action is need by the Scottish Government during 2022 in order that our communities and visitors to Scotland do not have to endure the blight of litter and flytipping that we see every day.
- The current default position that the victim of flytipping must pay has to be overturned at the very earliest opportunity, and certainly within 2022. It is, to the best of our knowledge, the only situation of such an unjust and discriminatory penalty that can be imposed on an individual or business in Scotland, with the threat of prosecution for non-compliance.

**32. (a) Do you agree that the accompanying Impact Assessments (BRIA, EQIA, ICIA, FSDA) are an accurate representation of core issues and considerations? Yes / No / Do not know**

No

**(b) If not, please provide detail and evidence.**

- The glaring omission from the key action themes is one of education. Scotland's residents and visitors need to understand the true cost of littering and fly tipping which is impacting upon us all, our environment and our wildlife. Scotland is a 'less clean' country in terms of litter and flytipping than it was just five years ago. The battle is being lost and this is not adequately made evident in the additional papers.
- Additionally, and to reaffirm our earlier comments, the current default position that the victim of flytipping must pay has to be overturned at the very earliest opportunity, and certainly within 2022. It is, to the best of our knowledge, the only situation of such an unjust and discriminatory penalty that can be imposed on an individual or business in Scotland, with the threat of prosecution for non-compliance.

**33. (a) Do you agree with the recommendations and conclusions within the Strategic Environmental Assessment Environmental Report? Yes / No / Do not know**

Yes

**(b) If not, please provide detail and evidence**

N/A