

Rethinking enforcement for littering and dog fouling

Keep Wales Tidy

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Enforcement can be an important ‘tool’ in the toolbox for litter prevention but increasingly, it is being over emphasised as the main instrument to ensure compliance. It is unsurprisingly, a popular solution put forward by both the public and political leaders who may consider it a ‘hard-hitting’ solution which generates a ‘quick win’. This paper outlines some of the current issues with enforcement for the purpose of litter and dog fouling and considers what is needed in order for enforcement to be delivered effectively (note that this does not extend to fly-tipping incidents which should be considered separately).

Introduction

Keep Wales Tidy has developed a holistic approach to Local Environment Quality which is based on prevention, behavioural insights, collaboration and partnership. Part of this approach includes the application of enforcement powers, but we know from our experience in communities and our work with frontline enforcement staff across Wales, that enforcement cannot work in isolation and must be part of a wider engagement and prevention strategy. This approach is largely mirrored in the Litter & Fly-tipping Prevention Plan for Wales (as drafted April 2021) but many responses to the consultation called for increased enforcement and heavier fines for perpetrators.

It is important to consider why this is the case given that the UK has some of the strongest anti-littering laws in Europe and the problem continues largely unabated.¹ Although many local authorities and councillors report repeated calls for ‘tougher enforcement’ against environmental crimes, when private contractors have been installed, their often heavy-handed approach has led to widespread public complaints and many private contracts in Wales have been terminated as a result.

Similarly, some local authorities boast of an increasing number of Fixed Penalty Notices (FPN’s) for littering and dog fouling which calls into question the efficacy of the deterrent. Issuing a large (or increasing) number of FPN’s does not mean that enforcement has ‘succeeded’ as the crime is still taking place. If any intervention is to be considered as successful, the number of instances should decrease over time.

There are some significant challenges in delivering effective enforcement for littering which are set out below. The aim of this paper is not to disregard enforcement efforts, but to review the practice to ensure that it can be an effective tool in the future and that significant resources are not wasted simply as a response to a perceived popular opinion.

Challenges

Enforcement officers in local authorities play an important and often multi-faceted role in terms of issuing penalties, education and engagement. Although each local authority is set up differently, the role of an enforcement officer often involves more complex roles such as Environmental Health and Fly-tipping. The Covid 19 period of lockdowns and restrictions in the UK surely added significant pressure to enforcement officers through increased public health regulations at a time when many also reported a significant increase in visitor numbers and correlating litter issues as a result.

For many local authorities, enforcement is a 'right time, right place' affair and it is impossible to cover all areas at all times. Numbers of enforcement officers (many with mixed responsibilities) range from 0 to 15 in a local authority, with the average of around 2-3. This is significant as the effectiveness of enforcement as a deterrent to behaviour is entirely dependent on the belief of actually being caught. Without a widespread visible presence, this belief is hard to solidify.

As environmental enforcement is less easy and tends to be more resource intensive than other similar enforcement activities undertaken by the council, there is no relevant revenue argument or pursuing it in a way that could be compared with, for example, car parking offences.* Instead, the motivations are driven by moral (it's the right thing to do) or political (it is the popular thing to do) imperatives. As private enforcement contracts claim to be cost neutral, they may provide an understandable appeal for local authorities, but the approach to catching offenders by private contractors can appear rather aggressive and may lead to a greater number of appeals and complaints. Often additional costs are not accounted for around enforcement activity, with local authorities reporting a significant level of resources needed for 'back office' roles to process fines, follow up fines and appeals and the potential court administration costs (which are not always recouped).

Still, there is little doubt that enforcement has become more publicly and politically popular in recent years. Furthermore, it is assumed by councillors to be an effective way of changing behaviour and a popular way of demonstrating that they are taking a 'strong stance' on tackling an issue. As one council officer mentioned in relation to dog fouling, *"for the past six months it has been a very high priority, we've had a lot of councillor complaints and input, and there is a pressure to 'do something about dog fouling' and particularly to do more enforcement."* ⁱⁱ

As mentioned previously, there is no correlation between enforcement and compliance unless there is a clear and visible threat of getting caught, this is the case regardless of the size of the penalty or the level of penalty information messages. This is the case with the often-cited example of Singapore where littering fines are in excess of \$1000.

Although it is extremely complex to identify due to the range of factors involved, initial research has also showed no correlation between numbers of FPN's issued and cleanliness survey data. A number of organisations have attempted to identify the effectiveness of enforcement on behaviour and cleanliness and many have drawn similar conclusions around approaches and perceptions and the need for an overhaul towards a more consistent and intelligence-led model.

Academic studies are not forthcoming on this issue as the variables are too complex to analyse and the data available is not robust enough for demonstrable conclusions. A number of reports have attempted to assess the effectiveness of fines for littering on behaviour, and whilst drawing direct correlations is too complex due to the many factors involved, it is interesting to note that these reports tend to be similar in their conclusions.

* In recent years the number of fixed penalty notices issued for littering has more than doubled, but in 2008/9, the last year for which figures are available, councils across the UK generated only £1.33m of income from litter fines. By contrast, the RAC estimates that in 2015 councils made almost £700m 'profit' on car parking fines. It certainly suggests that tackling car parking offences is seen as an easier option than dealing with enviro-crime. <https://www.isonomia.co.uk/street-smart-how-can-councils-better-tackle-litter/>

APSE – Park Life report (2017)

'There is a tendency for officers and councillors in particular to fall back on well-known approaches such as enforcement or education, and make assumptions about what works. This appears to be linked to a lack of knowledge of new techniques, and about behavioural insights in particular.'

Keep Britain Tidy (Ipsos Mori) report (2011)

Summary of findings:

- Issuing fixed penalty notices is not a shortcut to happier communities. Indeed, we found that in areas where fixed penalty notices are more frequently issued, satisfaction with levels of cleanliness is often low.
- 75% of the general public are aware that they can be issued with a fixed penalty notice for committing an environmental offence.
- Attitudes to enforcement are greatly shaped by the degree to which an individual sees them as a threat – and many do not think it is likely they will be fined for environmental offences.
- For the general public there are certainly more or less contentious environmental crimes when it comes to issuing fixed penalty notices – smoking-related litter in particular was considered the most controversial with many arguing that the built environment regularly failed to provide alternative routes to disposal.

Local authorities all use different systems and have different approaches to enforcement – this includes; capacity, magistrate's fines, administration fines, back-office systems, cultural approaches and messages. This makes the business of enforcement difficult across 'borders' and creates an inconsistent public message and an inconsistency in the Magistrates system.

Further inconsistency can be found at a regional level across the UK with varying emphasis on enforcement in different national strategies, different sets of

guidance and even legislative differences such as the amendment required to place the responsibility on to drivers for littering from a vehicle. This particular legislative change is critical if enforcement is going to be a tool to target drivers but is not simply a regulatory matter. Littering from vehicles (and any subsequent penalties) is too big a challenge to be left to local authorities alone, and must be considered as a part of an overall more collaborative approach to the issue with Trunk Road Agencies, Police and Fire services, as well as Magistrates engaged and educated on the impacts of environmental crime.



Singapore – ‘A Fine City’

Penalties issued in Singapore have increased both in the amount of the penalty (a recent increase to \$2000 for smoking litter offences), and in numbers issued.ⁱⁱⁱ Significantly, it appears that the number of repeat offenders and so called ‘recalcitrant’ offenders have also increased as an overall percentage in recent years.

Singapore’s streets are reportedly extremely clean but there are many other factors which make the city state a unique example and a poor country to use as a comparison example for the UK. For example, the cleansing budget for Singapore is around £65 million per year^{iv}² and whilst there is undoubtedly a political impetus for this, the country’s tropical location and humidity levels means that accumulated litter attracts mosquitos which spread Dengue fever and can result in a significant health concern and impact very directly on their economy and health as a nation.

There are 56,000 cleaners registered with the Singapore National environment Agency. In an article for the BBC in 2018, Liak Teng Lit, the Chairman of the Agency states:

“At first, the policy worked. A combination of public awareness campaigning and punitive measures made a difference. More people picked up after themselves. The city became cleaner. But things changed. The city became wealthier, and it became easier to use low cost labour to clean up. Nowadays, Singapore isn’t clean because locals fear fines. It’s clean because there’s an army of workers scrubbing it. Singapore is a not a clean city. It’s a cleaned city.”^v

Culturally, Singapore have been enthusiastic about extending fines to many unwanted behaviours and social ills from littering to spitting, to using someone else’s wi-fi without permission. There are signs that the ‘fine city’ joke is wearing thin and has not changed with the times or public perceptions.

Now, even in Singapore, there is a discussion around moving away from cleansing and enforcement and changing culture and behaviours. A local MP tells the BBC *“It is better to convince them, to get them to buy in, rather than just to depend on fines.”^{vi}*

Opportunities

The above challenges represent a system and approach which is in need of review, to move away from enforcement as a rather blunt tool, carried out on an ad-hoc basis to an intelligence-led model which can respond to issues and target problems accordingly. An ‘intelligent’ approach to enforcement would make

² This cost represents a higher per head cleansing cost in Singapore compared to the UK. For comparison: Singapore spends around £65 million per year and their population is around 5.7million. The UK estimates around £694 million per year for a population of around 67 million.

greater use of technology, based on spatial data and regularly reviewed for effectiveness at a local level. This approach does not represent anything new and is arguably what the police have been doing for various offences for many decades.

There is a key principle to be considered here however, that whilst the options are seemingly endless when it comes to new technology and the use of artificial intelligence, cameras and other devices, the intervention *must be proportionate to the crime* and cannot be guided by popular demands to take a 'tough approach' but as something which is a part of integrated, prevention focused strategy. Local strategies which are regularly reviewed and amended to reflect current data and trends would be an ideal solution.

The Environment (UK) Bill (due to be ratified by the end of 2021) gives more powers to the devolved nations to set out their own guidelines for issuing Fixed Penalty Notices and there is an opportunity here to overhaul our approach in this area to ensure increased consistency and efficacy. Greater consistency, particularly in terms of spatial data collection, back-office systems, public messaging and Magistrates would be key, whilst recognising that there are some local authorities in Wales who prefer to solely focus their resources into engagement and education efforts alone.

A review should also consider the role of an enforcement officer and the training required (whether local authority or private contractors) so that education and engagement can be part of the enforcement role. The establishment of standardised training for all environment enforcement officers would support this ambition and help to allay some of the public complaints in regard to heavy handedness of private contractors, whilst allowing for local authorities to operate the type of enforcement they feel works for their area.

Any enforcement decision or strategy should also consider the potential for unintended consequences and the inadvertent creation of structural barriers which dis-incentivise prevention. For example: 'outsourcing of contracts meant that some contractors "have no incentive to decrease demand or innovate".^{vii} Similarly given the delineation of officer roles very much linked to particular sorts of activities, for example 'enforcement officers' and 'education officers. There is often not an incentive for these officers to focus on more holistic preventative strategies which are outside their specified roles or outputs.^{viii} Hence, creating a multi-faceted training programme and national standard would not only remove the controversial issues of private contractors, but potentially assist in delivering a whole range of targets in the public realm. *'However, strategies such as this are not always the most effective, let alone cost-effective, way of bringing about sustained change for many behaviours, especially when used alone'.^{ix}*

Without a standard approach which is integrated into a wider prevention strategy that encompasses engagement efforts, enforcement for littering will remain ad hoc and ineffective. Littering from drivers needs to be considered separately and is unlikely to be achieved through enforcement staff and wardens. Cameras and technology are part of this solution but still require the realistic belief of drivers that they will be caught and penalised.

It should be noted that neither enforcement on the ground or technological solutions are realistic or cost-effective for rural areas and / or rural roads and this should be a consideration for every local authority depending on the geographical and demographic make-up of each area to ensure that resources are proportionally divested into areas where they will have the most effect.

Conclusion

It is evident that enforcement for littering is a popular and widespread demand from both political leaders and the public. It is less evident that current enforcement activity is maximising its potential impact as a deterrent or a tool for behaviour change.

Research suggests that there is no direct correlation between increased enforcement and happier, or cleaner, communities.^xTherefore, when applying enforcement to LEQ issues it is important to review the purpose of enforcement and to design 'intelligent' enforcement strategies which specifically address local issues for the purpose of behaviour change. This is not just so that enforcement remains focused and effective but also serves to support the work of frontline enforcement staff, many of whom have dual roles either in education, engagement or broader environmental health portfolios. Keep Wales Tidy believes that the purpose of enforcement should be to:

- Deter potential offenders.
- Punish *intentional* offenders.
- Raise awareness that a particular action is unlawful.
- Address, along with other strategies, persistent LEQ issues for which other interventions have had a limited effect.
- Promote positive behaviour change in the long term

To achieve these aims, current practice and approaches need to be reviewed.

Recommendations

Key recommendations which could form part of an enforcement review include:

- Revising enforcement across the board to broaden the scope of the role to include education and engagement to create more 'litter wardens' that can maximise resources and staff time on the ground to greater effect.
- A National training standard for all enforcement officers (whether public or private).
- Training for Magistrates and relevant legal staff on Environmental Crime.
- A standard briefing or awareness programme for relevant councillors, political leaders, policy makers and media agencies.
- A standardisation of back-office systems, data collection and reporting (with spatial capabilities).
- National regulations and guidance in regard to enforcement for littering and dog fouling which also sets out principles of proportionality and use of technology for the purpose of catching offenders.
- A requirement for local authorities to have a written strategy for enforcement (as part of a wider litter strategy) which demonstrates compliance with the above guidance.
- The development of standard public messaging and consistency in information to the public which include appeals procedures and reporting issues.
- A revision of regulations, particularly pertaining to the regulations to put the onus of responsibility for littering from a vehicle on to the driver.

Without developing these key recommendations as part of a wider strategy for litter prevention and deterrence, enforcement will remain a rather blunt instrument in the toolkit for local authorities and could easily represent significant wasted financial and human resources unless a more ‘systems’ approach is taken.

New powers through the pending Environment (UK) Bill and the Litter & Fly-tipping Prevention Plan (Wales) provide a timely opportunity for review.

Crucially given the apparent popular pressure and the increase in Artificial Intelligence technologies for enforcement purposes, Welsh Government needs to establish key principles around the ethics and use of this technology for this purpose and provide clear guidance on interventions which are proportionate to the crime committed.

Keep Wales Tidy would like to see ‘Litter Wardens’, trained in a variety of approaches and with enforcement powers being used across Wales as a means to maximise engagement, deterrence and education, trained in a number of areas to a high standard and targeted at hotspots in an intelligence led approach which applies data and spatial analysis to targeting prevention in the areas where it will have the most impact.

References

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^v *Ibid.*

^{vi} *Ibid.*

^{vii} APSE, 2017, *Op Cit*

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^{ix} Ipsos Mori (2011) ‘The Effectiveness of Enforcement on Behaviour Change’ Available at: <https://www.ipsosmori.com/Assets/Docs/Publications/sri-manchestereffectiveness-of-enforcement-kbt-2011.pdf> [Accessed 6 Oct. 2021].

^x *Ibid.*