



Mr Steve Wade
Head of the Office of the
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Reply to:
Mr Duncan Jones
Herts Fly Tipping Group
c/o Hertfordshire County Council
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County Hall
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Hertford
SG13 8DN

e-mail: duncan.jones@hertfordshire.gov.uk
My Ref: FTG-SC-03
Your Ref:
Date: 22nd March 2022

Dear Mr Wade,

Review of the Environmental Offences Definitive Guideline (2014)

Thank you for your letter of the 15th October 2021 and the detailed response to the points we raised in our letter of the 2nd August 2021.

As you will no doubt appreciate your detailed response required conversations with a range of stakeholders in order to determine whether from our perspective there are grounds for any further dialogue on the matter.

Those deliberations have been completed and as a result we wish to highlight the following points with a view to the Sentencing Council (SC) reconsidering the potential for a review of the Environmental Offences Definitive Guideline (2014):

- a) Whilst we appreciate the SC drawing to our attention to the guidance to magistrates on fixed penalty notices which appears in essence to require magistrates to ignore the availability of an FPN, we note this is guidance. Therefore this suggests that guidance can be updated to take into account current realities in relation to fly tipping and the lack of deterrent impact court judgements are having.
- b) Linked to point a) we note in your letter of the 15th October 2021 reference to Section 57 of the Sentencing Council Act 2021. Section 2b explicitly refers to reducing crime including by deterrence. In contrast however, given our consultations with those that represent the majority of frontline enforcement capability across the country, it would be difficult to find anyone that thinks typical court judgements in response to successful prosecutions represent any form of effective deterrent; and on that basis it would appear advisable to revisit this to ensure that the intention is matched by the reality

- c) Community Orders. We note the SC's reference to community orders being available for offences in band D and F fines. However, the point raised in our letter was for more use of such powers based on making such orders available across more bands. Stakeholders do not feel this issue has been addressed and therefore urge you to revisit this to help ensure that the optimum across bands is evident to all.

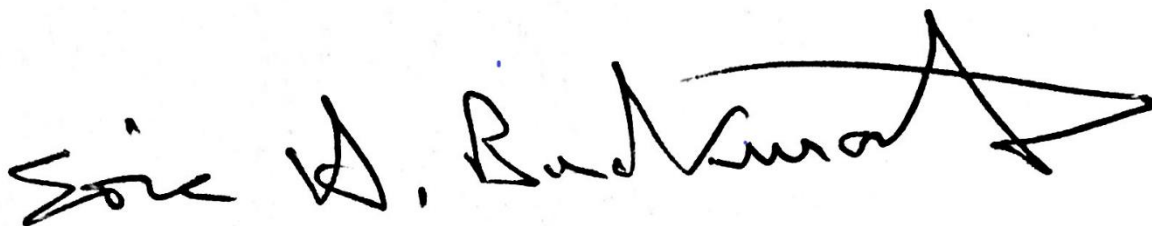
In addition to the above we thank the SC for clarity in relation to means testing as well as the involvement of the National Probation Service with respect to deciding the specifics of work to be undertaken during community service. We will look to advance both issues with the relevant bodies.

In conclusion we are of the view that whilst the SC has addressed the specific points in our letter of the 2nd August 2021 we feel that the response does not address the main theme of our efforts, which is that court judgements for fly tipping in no way represent an effective deterrent.

We would further suggest that the SC's response appears not to recognise the strength of feeling in this regard as evidenced by the 158 local authorities, numerous waste partnerships and 10 professional bodies that between them represent both the majority of the enforcement capability in this country as well those stakeholders that continue to have to deal with the scourge of fly tipping.

We look forward to your response.

Yours sincerely,

A handwritten signature in black ink, reading "Eric W. Buckmaster". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Cllr Eric Buckmaster
Chair – Hertfordshire Waste Partnership

CC: DEFRA – Under Secretary of State Jo Churchill MP
DEFRA – National Fly Tipping Prevention Group (Thomas Parrot / Pippa Harper)
Environment Agency (Peter Kellet / Lee Rawlinson / Simon Hawkins / Alex Chown)
HM Courts & Tribunals Service (South East) (Suzanne Gadd)
Keep Britain Tidy (Rachel Scarisbrick)
London Councils (Katharina Winbeck)
Magistrates Association (Tom Franklin)
National Farmers Union (Philippa Arnold / Josh Redford)
CLA (Tim Woodward)