

Fly-tipping: powers for local authorities to issue conditional cautions to offenders
Response from the Countryside Alliance
August 2026

About you

Q1. Would you like your response to be confidential?

No

If you answered 'Yes', please provide your reason.

N/A

Q2. Your name?

David M Bean

Q3. Your email address?

david-bean@countryside-alliance.org

This is optional, but if you enter your email address, you will be able to return to edit your consultation response in Citizen Space at any time until you submit it. You will also receive an acknowledgement email when you submit a completed response.

Q4. Which best describes you?

(Please tick one option. If multiple categories apply, please choose the one which best describes the organisation you are representing in your response.)

☐ Charity or social enterprise

If you answered 'Other', please identify the type of organisation in the box below:

N/A

Q5. If you are responding on behalf of an organisation, please provide the name of the organisation / business you represent in the box below:

Countryside Alliance

Fixed penalty notices

Q6. If you are a local authority, do you currently issue fixed penalty notices for fly tipping?

☐ Yes

☐ No

o Not sure

If you selected no, or not sure, please explain your answer in the box below:

[No response]

The proposed power

Q7. Do you think local authorities should be provided with a discretionary power to issue a conditional caution to fly-tipping offenders?

o Not Sure

Please explain your answer in the box below:

As the consultation document acknowledges, the aim of this proposal is to fulfil the Labour Party Manifesto 2024 pledge, *“Fly-tippers and vandals will also be forced to clean up the mess they have created.”* The Countryside Alliance was sceptical about this idea from the outset. We recognised that forcing fly-tippers to clean up the waste that they personally had dumped would present significant logistical and legal challenges that we expected would prove insurmountable. One of these is raised in the consultation document: the necessity of leaving waste uncleared throughout the investigatory and enforcement process, which in many cases will be undesirable. Another is that it could not be used for any incidents involving hazardous waste, since forcing individuals to clear such waste who are incompetent and unqualified to do so would conflict with health and safety and human rights laws, and would likely be ineffective in any case.

The current proposal, therefore, does not meet the original pledge. It is perhaps more realistic, but its scope is far more limited than the pledge suggested. Employing a mechanism of conditional cautions necessarily restricts its application to less serious cases, since in those that are more serious it could not reasonably be judged in the public interest not to prosecute.

Regardless, we respond ‘Not Sure’ because we can conceive of certain limited circumstances where a caution conditional on cleaning streets and parks might be of value as a deterrent. These would be of minor offences not involving a commercial motive. We note that the work requirement is intended to be additional to the reparative element (functionally equivalent to a fine), so to that extent it goes further than the current option to issue a fixed penalty notice. We therefore tend to agree with the consultation document’s statement, *“Conditional cautions could provide a useful tool for local authorities to tackle high volumes of lower-level offences (for example electricals dumped on a street or a sofa in a public park).”*

We believe, however, that the impact of this proposal on the overall effort to reduce fly-tipping and waste crime will likely be extremely limited.

Q8. Do you think local authorities should be able to prosecute if the fly-tipping offender does not comply with the proposed conditional caution?

☐ Yes

Please explain your answer below in the box below:

Local authorities should not only be able but be obliged to prosecute any offender who accepts a conditional caution but does not fully comply with the associated conditions, exactly as though the conditional caution had not been offered or accepted. The incentive structure faced by local authorities should be carefully considered to ensure that they are not inadvertently disincentivised, for reasons of cost, staff workload or otherwise, from diligently pursuing the strict fulfilment of conditional caution requirements and from prosecuting in the event the requirements are not met.

Q9. What action, if any, should be taken if the offender complies with part of a caution condition but not the full set of requirements? (such as paying the reparative condition but not doing clean-up work) Please explain your answer in the box below:

Compliance with all requirements of a caution condition should be a requirement for the caution to remain as the final disposal of the case and for the offender to avoid prosecution.

Q10. Do you think the introduction of this proposed conditional power would result in local authorities reducing the number of fly-tipping prosecutions they bring to the courts?

☐ Not Sure

Please explain your answer in the box below:

Given that the acceptance of a conditional caution would be an alternative disposal of the case to a prosecution, the objective of this policy would seem to be to reduce the number of prosecutions brought to the courts. All other things being equal, that would be the result. It is possible that the prospect of a conditional caution being accepted may motivate local authorities to prepare more cases for possible prosecution, and if enough of those offers are not accepted then the number of prosecutions (assuming they are taken forward) might increase. There are, however, a great many unknown factors including what the overall cost impact on local authorities will be and as such, to what extent they will be incentivised to seek conditional cautions.

Q11. If you are a local authority, would you consider using the proposed conditional power to issue conditional cautions?

☐ Yes

☐ Yes, but only some aspects of the proposed conditional power

☐ No

☐ Not sure

Please explain your answer in the box below:

[No response]

Q12. Is there an existing organisation which is well-placed to supervise fly-tipping offenders engaged in clean up activity as part of their conditional caution?

o If yes, please name and explain in the box below:

[No response]

o If no or don't know, please explain in the box below what you think an organisation charged with this task should look like?

While we do not profess expertise in restorative criminal justice, we imagine it would look very much like an organisation that supervises court-imposed public work requirements. We would have expected the same organisations to be used.

Support needed

*Q13: What support would you need to introduce this proposed conditional power effectively?
Please tick all that apply*

- o Financial support*
- o Provision of supervision*
- o Access to sites*
- o Other (please explain in the box below)*

[No response]

Costs associated with the power

Q14. Do you think you will have to bear additional costs per offender given a caution

- o Yes*
- o No*
- o Not sure*

[No response]

If Yes, please answer Q14a-15

Q14a. Would you like to provide annual total cost to you to administer the scheme, or would you prefer to report estimates of cost per offender?

- o Annual total cost*
- o Cost per offender*

[No response]

Q14b. What is the estimated annual total cost to you?

- o <£1,000*
- o £1,000-£1,999*
- o £2,000- £2,999*
- o £3,000-£3,999*
- o £4,000-£4,999*
- o £5,000- or more (please specify the figure)*
- o Not Sure*

[No response]

Q14c. What is the estimated cost per offender given a caution to you?

- o <£1,000*
- o £1,000-£1,999*
- o £2,000- £2,999*
- o £3,000-£3,999*
- o £4,000-£4,999*
- o £5,000- or more (please specify the figure)*
- o Not Sure*

[No response]

Q14d - What new activities will you need to undertake annually? Please tick all that apply, and provide estimated annual costs breakdowns in brackets provided

- o Training (£...)*
- o Guidance (£...)*
- o Systems changes (£...)*
- o Handing out caution (£...)*
- o Other (please explain)*

[No response]

Q14e - What new activities will you need to undertake per offender given a caution? Please tick all that apply, and provide estimated annual costs breakdowns in brackets provided

- o Training (£...)*
- o Guidance (£...)*
- o Systems changes (£...)*
- o Handing out caution (£...)*
- o Other (please explain)*

[No response]

*Q15. How many additional staff (FTE) do you estimate would be required to deliver the scheme?
Please provide your answer in the box below:*

[No response]

Savings associated with the power

Q16. If an offender completed 20 hours of street cleaning work, please estimate the reduction in clean-up costs (£), if any, and specify where these savings are expected.

Please provide your answer in the box below:

[No response]

Q17. Beyond clean-up costs, do you think the measure will generate additional savings for you

- o Yes*
- o No*
- o Not sure*

Please explain your answer in the box below:

[No response]

Q17a. If you selected 'yes', please:

- o Identify the specific area(s) where savings are expected, and*
- o Provide an estimated financial saving, where possible*

[No response]

Unintended consequences

Q18. Do you think there are any unintended consequences of the proposed conditional power?

- o Not sure*

Please explain your answer in the box below:

Based on the consultation document we are unclear as to how this proposal would interact with the recent introduction of an environmental permitting regime for waste carriers. The consultation document suggests that conditional cautions would most likely be offered in cases not involving a commercial motive, but whether such a motive (if any) is identified may depend upon the diligence of the investigation. We are concerned that the proposal risks opportunities being missed to identify criminals operating under a waste carrier's, broker's or

dealer's registration that ought to be revoked. We understand that the Environment Agency can remove an operator from its register in the event of a relevant criminal conviction, but since a conditional caution does not constitute a conviction, it is unclear whether the same would apply when these are used.

We would argue that, at minimum, local authorities should be required to liaise with the Environment Agency to determine whether someone being considered for an offer of a conditional caution is operating under a waste registration or is connected to a business operating as such. If they are, this may suggest a concealed commercial motive for the offence, which may mitigate in favour of prosecution. If the decision is nevertheless made to offer a conditional caution which is accepted, the Environment Agency should be empowered to consider whether it is appropriate for the offender to retain their waste registration despite the absence of a criminal conviction.

Q19. What, if any, environmental damage may be caused by the introduction of the proposed conditional power?

(please outline what these are and how they could be mitigated in the box below)

As discussed in response to Q18, we are concerned that the use of conditional cautions might reduce opportunities to prevent future environmental damage from fly-tipping by identifying rogue waste operators and removing them from the register. We have suggested how this risk might be mitigated.

Alternative approaches to tackle fly-tipping

Q20. Do you think there are better ways to deter fly-tipping than the proposed conditional power?

o Yes

Please explain your answer in the box below:

In June 2026, Future Countryside and the National Rural Crime Network published a report authored by the Countryside Alliance, *Breaking the Cycle: Tackling Fly-Tipping and Waste Crime – A Roadmap for Reform*. The report made a total of 18 evidenced recommendations for tackling fly-tipping and waste crime and we are seeking their full consideration. With specific relevance to deterrence, it and we recommend that the government:

- Remove barriers to legitimate waste disposal by introducing a national policy framework for local authority waste disposal sites, establishing minimum standards of accessibility and pricing aimed at raising those of the worse-performing councils. Require annual reporting of identified accessibility metrics and impose funding penalties for compliance failures. (Recommendation 5)

- In addition to new measures under the Crime and Policing Act 2026 to add penalty points to fly tippers' driving licences, introduce strict liability offences of being the registered owner of any

vehicle proven to be associated with a fly-tipping incident or for being the driver of a vehicle apprehended in the act. This will prevent such owners and drivers from benefitting from excuses that they had no knowledge of the offence, they were ignorant about the legality of their activities or were simply following instructions. (Recommendation 6)

- Review companies law to determine whether limited liability protections are being abused by rogue operators to form subsidiaries of otherwise legitimate companies that act unlawfully, are penalised and then enter liquidation without any attachment of penalties to the parent company or its directors. Consider reforming companies law so that debts arising from penalties levied against firms for waste violations cannot be limited by law and/or are attached automatically to any parent company. ((Recommendation 7)

- Ensure that registered waste carriers that do go on to commit serious violations are de-registered and that the directors of such companies are, as individuals and in addition to criminal penalties, barred from being persons of significant control over any other registered waste carrier for a period measured in multiples of years. (Recommendation 11)

- Make it easier for householders and businesses to comply with their duties of care to avoid consigning waste to unregistered operators. Review the public Register of Waste Carriers, Brokers and Dealers for useability by busy non-experts to determine whether improvements to the user interface and/or user experience could make the process of checking a registration could made easier and more frictionless. (Recommendation 12)

- Once outcomes from the above recommendation have been implemented, institute a public 'relaunch' campaign to raise awareness of the household and business duties of care and how to comply with them by checking the Register before making a contract involving waste handling. Engage participation by online advertising platforms, such as Checkatrade, that are commonly used when seeking a contractor. (Recommendation 13)