

gunnercooke

**Association for Public Service
Excellence**

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House of Lords Waste Crime Enquiry



House of Lords response from EA

- “It is completely untrue that we prioritise compliance over non-compliance. That is a complete misreading of the situation.”



Response when reported

- 'Responsibility for fly tipping does not rest solely with the Environment Agency, rather it is led by the local authority with support provided by the EA where appropriate. Fly tipping in the area has no bearing on the requirement for XX to comply with the conditions of their permit(s).
- We are aware that you have raised this issue on several occasions previously and we have repeatedly clarified our position on this. We therefore do not intend to address this point in any further correspondence with you'.

Kidlington

- We were first notified about the site at the end of June.
- We first visited the site on 2 July together with our council partners to corroborate reports and evidence. We immediately declared the site as a high risk illegal waste site and opened a criminal investigation
- We then began regular visits to the site and work to identify the landowner.
- Once the suspected landowner was identified, we issued a cease-and-desist letter on 31 July ordering them to stop all activity at the site and remove the waste.
- We then received notification of further tipping on 10 September, so immediately visited again the following day on 11 September and began the process of obtaining a restriction order and vehicle seizers to close the site and prevent any further activity.
- A restriction order was then granted on 23 October.

Restriction Orders

[F1 109D. Power of court to make restriction orders: England and Wales

- (1) An application to a magistrates' court for a restriction order—
 - (a) must be made by the appropriate agency when it has issued a restriction notice (unless the notice has been cancelled);
 - (b) may otherwise be made by the appropriate agency at any time.
- (2) The application must be heard by the magistrates' court—
 - (a) where subsection (1)(a) applies, **not later than 72 hours after service of the restriction notice**;
 - (b) where subsection (1)(b) applies, not later than 7 days after the application is made.
- (3) Where an application is made under subsection (1), the appropriate agency must serve a notice stating the date, time and place of the hearing of the application on—
 - (a) the occupier and the owner of the premises;
 - (b) the occupier and the owner of any other premises to which the appropriate agency believes access will be impeded if a restriction order is made.
- (4) The court may make a restriction order in relation to premises where there is, or was, a regulated facility or an exempt facility if the court is satisfied that the conditions in subsection (5) or (6) are met.
- (5) The conditions are that—
 - (a) there is a risk of serious pollution to the environment or serious harm to human health which is a result of the treatment, keeping, deposit or disposal of waste in or on the premises, and
 - (b) the order is necessary to prevent that risk from continuing.

Restriction Orders

- (6) The conditions are that—
 - (a) in relation to the treatment, keeping, deposit or disposal of waste in or on the premises, a person has—
 - (i) contravened section 33(1) of the Environmental Protection Act 1990,
 - (ii) contravened regulation 12(1) of the Environmental Permitting Regulations or knowingly caused or knowingly permitted the contravention of regulation 12(1)(a) of those Regulations,
 - (iii) contravened or failed to comply with an environmental permit condition, or
 - (iv) failed to comply with the requirements of an enforcement notice, a landfill closure notice, a mining waste facility closure notice, a suspension notice, or a notice served under section 59, 59ZA, 59ZB or 59ZC of the Environmental Protection Act 1990,
 - (b) the conduct referred to in paragraph (a) has caused, is causing or has failed to prevent from continuing—
 - (i) pollution to the environment, or
 - (ii) harm to human health, and
 - (c) the order is necessary to prevent that pollution or harm from continuing.
- (7) A restriction order is an order prohibiting access to, and the importation of waste into, the premises or a specified part of the premises.
- (8) A restriction order has effect for a period specified in the order, which may not exceed 6 months.

When have they been used?

- letsrecycle did an EIR (FOI) and found 6 times between 2018 and 2025
- Since October 2025, however, seen the power used at least 11 times (Kidlington, Isle of Sheppey, Yorkshire, Wigan and Essex)

New 'powers'/legislation

- Drones
- More staff at the JUWC
- LGA calling for Sentencing Guidelines to be amended.
- Emma Reynolds told H of L EA needs police-style powers to inspect/seize.....
- And only has powers on 'permitted sites'.

Not necessary...

- Not sure we need any more legislation
- EA has more powers than the police
- Sentencing guidelines give power for unlimited fines
- Josh Simons, MP, told by EA: 'we can't close sites when there is a criminal investigation ongoing.' ????
- Need the legislation and powers we have to be properly implemented and enforced.
- IMO.....

Environmental Sentencing Guidelines

Small	Starting Point	Range
Deliberate		
Category 1	£100,000	£45,000 – £400,000
Category 2	£45,000	£17,000 – £170,000
Category 3	£17,000	£10,000 – £70,000
Category 4	£10,000	£5,000 – £40,000
Reckless		
Category 1	£55,000	£24,000 – £220,000
Category 2	£24,000	£10,000 – £100,000
Category 3	£10,000	£5,000 – £40,000
Category 4	£5,000	£3,000 – £24,000
Negligent		
Category 1	£30,000	£13,000 – £120,000
Category 2	£13,000	£6,000 – £55,000
Category 3	£6,000	£3,000 – £23,000
Category 4	£3,000	£1,500 – £14,000
Low / No culpability		
Category 1	£5,000	£2,500 – £20,000
Category 2	£2,500	£1,000 – £10,000
Category 3	£1,000	£700 – £5,000
Category 4	£700	£400 – £3,500

Deliberate

Offence category	Starting Point	Range
Category 1	18 months' custody	1 – 3 years' custody
Category 2	1 year's custody	26 weeks' – 18 months' custody
Category 3	High level community order	Medium level community order or Band E fine – 26 weeks' custody
Category 4	Medium level community order	Low level community order or Band D fine – Medium level community order or Band E fine

Reckless

Offence category	Starting Point	Range
Category 1	26 weeks' custody	High level community order or Band F fine – 12 months' custody
Category 2	High level community order	Medium level community order or Band E fine – 26 weeks' custody
Category 3	Medium level community order	Low level community order or Band D fine – Medium level community order or Band E fine
Category 4	Low level community order	Band C fine – Low level community order or Band D fine

Negligent

Offence category	Starting Point	Range
Category 1	High level community order	Medium level community order or Band E fine – 26 weeks' custody
Category 2	Medium level community order	Low level community order or Band D fine – Medium level community order or Band E fine
Category 3	Low level community order	Band C fine – Low level community order or Band D fine
Category 4	Band C fine	Band B fine – Band C fine

Low / No culpability

Offence category	Starting Point	Range
Category 1	Band D fine	Band C fine – Band D fine
Category 2	Band C fine	Band B fine – Band C fine
Category 3	Band B fine	Band A fine – Band B fine
Category 4	Band A fine	Conditional discharge – Band A fine

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