

National Litter and Flytipping Strategy

Final Business and Regulatory Impact Assessment (BRIA)

June 2023

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1.0 Title of Proposal: National Litter and Flytipping Strategy

This document is the Final Business and Regulatory Impact Assessment (BRIA) for the proposed National Litter and Flytipping Strategy. The final BRIA further develops the partial BRIA published 13th December 2021, and it is written subject to the best available information at the time.

2.0 Purpose and Intended Effect

2.1 Background

Litter and flytipping are well-documented indicators of local environmental quality and have significant negative environmental, economic, and health implications.

Litter and flytipping are defined as follows:

Litter is waste in the wrong place: The Environment Protection Act (1990) defines littering as 'throwing down or dropping an item in any public open space'.¹

Flytipping is illegal dumping of waste – from a bin bag of household waste to large quantities of domestic, commercial, or construction waste.²

Research indicates that at least 15,000 tonnes of litter is disposed of into our urban and rural environment - and is subsequently cleared - by local authorities every year. This is comprised of around 250 million easily visible items.³

A further 26,000 tonnes of waste are flytipped each year and dealt with by local authorities, with over 60,000 incidents occurring per year. This estimate excludes the majority of cases on private land⁴. For both litter and flytipping, these figures are likely to represent an underestimate due to data limitations.

Litter and flytipping have both direct and indirect costs for society. In 2013, Scotland spent at least £53 million⁵ of public money on litter and flytipping in direct costs (for clearance, education and enforcement activities). Indirect costs are the negative impacts or consequences of litter that impact on society more widely, for example encouraging other crimes, mental health and wellbeing. Further indirect costs due to environmental, economic and social impacts to the terrestrial and marine environments were estimated to exceed £196.7 million in 2019 according to recent research undertaken to update the figures referenced in the previous strategy on the

¹ Environmental Protection Act 1990 – Section 87
<https://www.legislation.gov.uk/ukpga/1990/43/section/87>

² Environmental Protection Act 1990 – Section 33
<https://www.legislation.gov.uk/ukpga/1990/43/section/33>

³ Zero Waste Scotland (2013) - Scotland's Litter Problem: Quantifying the scale and cost of litter and flytipping <https://www.zerowastescotland.org.uk/resources/scotlands-litter-problem>

⁴ Zero Waste Scotland (2013) - Scotland's Litter Problem: Quantifying the scale and cost of litter and flytipping <https://www.zerowastescotland.org.uk/resources/scotlands-litter-problem>

⁵ Zero Waste Scotland (2013) - Scotland's Litter Problem: Quantifying the scale and cost of litter and flytipping <https://www.zerowastescotland.org.uk/resources/scotlands-litter-problem>

cost and scale of litter and flytipping in Scotland.⁶ The availability of data, which is often limited and inconsistently collected or reported, was a significant barrier to this research project and so these overall figures have to be treated with some caution but, based on available evidence, are the best estimate of the scale and cost of litter and flytipping in Scotland.

Items littered or flytipped represent resources and value lost to the Scottish economy. It is estimated that 80% of the litter stream consists of potentially recyclable material, and 50% of material could be easily recycled, had it been properly disposed of.⁷

A proportion of items littered and flytipped on terrestrial land will make their way into the marine environment. Whilst there is no exact figure for the direct and indirect costs of litter and flytipping into the marine environment, it is estimated that items littered on land now constitute 90% of plastic in Scottish seas.⁸

Beaches are one of the main routes for terrestrial litter to enter the marine environment, and survey data indicates that there are, on average, 160 items of litter on every 100 metres of beach in Scotland. Plastic and polystyrene pieces were the most common litter item found, with wet wipes second, and packets (crisp, sweet, lolly and sandwich) third.⁹

Understanding the most common types of litter found in terrestrial and marine environments will help target resources at the highest priority areas. There are several studies which aim to quantify the prevalence of litter in Scotland and the UK.

Looking first at terrestrial litter, the most recent data comes from Keep Scotland Beautiful's 2021/2022 audit undertaken through the Local Environmental Audit and Management System (LEAMS).¹⁰ This data, shown below in table 1, shows that cigarette-related litter and food and drink packaging make up over 74% of litter by item count in Scotland. This data is based on total item count and is a useful way of demonstrating best the visual disamenity of litter as, for example, cigarette stubs will have a very low individual weight but can be very visually prevalent in the local environment.

Table 1. Most common terrestrial litter items in Scotland by item count (2021-22)

Item	Prevalence (%)
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⁶ Eunomia (2023) – Scale and Cost of Litter and Flytipping Scotland
<http://www.gov.scot/ISBN/9781805251538>

⁷ Zero Waste Scotland (2013) - Scotland's Litter Problem: Quantifying the scale and cost of litter and flytipping <https://www.zerowastescotland.org.uk/resources/scotlands-litter-problem>

⁸ W.R. Turrell (2020) - Estimating a regional budget of marine plastic litter in order to advise on marine management measures, Marine Pollution Bulletin, Volume 150
<https://www.sciencedirect.com/science/article/pii/S0025326X19308811>

⁹ Marine Conservation Society (2022) - Great British Beach Clean 2022 Results
<https://www.mcsuk.org/what-you-can-do/join-a-beach-clean/great-british-beach-clean/gbbc-2022-results/>

¹⁰ Keep Scotland Beautiful – 2021/22 LEAMS Audit
<https://www.keeptoscotlandbeautiful.org/environmental-services/leams/>

Cigarette litter	53
Cans, bottles and cartons (drinks)	9
Confectionary litter	8
Fast food litter	4
Paper	9

Another method of measuring the prevalence of terrestrial litter in Scotland is to measure by total weight. This approach will be more accurate in gaining a picture on the costs of managing terrestrial litter in Scotland, as public bodies and businesses will have to consider the total weight of litter when deciding what to clean up. This data comes from Zero Waste Scotland in 2013¹¹. Table 2 below shows the top ten terrestrial item types by weight.

Table 2. Most common terrestrial litter items in Scotland by weight (2013)

Item	Proportion of total weight (%)
Food/kitchen waste	15
Other combustible items	11
Cardboard	9
Newspaper and magazine	9
Packaging glass	9
Plastic bottles	9
Other materials	8
Other paper	8
Plastic film	7
Metal cans	4

Quantifying the prevalence of litter in Scotland in the marine environment is challenging. Beach litter provides a measure of litter types and can be used to

¹¹ Zero Waste Scotland (2013) - Scotland's Litter Problem: Quantifying the scale and cost of litter and flytipping <https://www.zerowastescotland.org.uk/resources/scotlands-litter-problem>

identify sources (from both marine and terrestrial environments). Recent data from the Marine Conservation Society’s 2022 Great British Beach Clean¹² identified the top five most littered items. As Table 3 shows, plastic and polystyrene pieces (0-50cm) are the most common item found littered in beaches by a large margin. This emphasises the wider issue of plastic pollution in the marine environment.

Table 3. Most common beach litter items in Scotland by average item count (2022)

Item	Average number (per 100m of beach)
Plastic and polystyrene pieces (0-50cm)	168
Wet wipes	63
Packets (crisp, sweet, lolly, sandwich)	38
Cotton bud sticks	19
Plastic caps and lids	17

2.2 Objective and Rationale for Government intervention

Litter and flytipping contributes to climate change in two main ways, firstly as wasted resources that have been lost from the circular economy and secondly, through the energy required to collect and process the litter or flytipped waste, most of which can then only be sent to energy from waste or landfill, due to the poor quality of the material.¹³ Reducing litter and flytipping will help accelerate Scotland’s transition from a ‘linear’ economy which is environmentally unsustainable and energy and resource intensive to a more resource efficient and sustainable circular economy.

The Scottish Government is introducing a new National Litter and Flytipping Strategy which follows on from the 2014 five-year strategy ‘Towards a litter-free Scotland: a strategic approach to higher quality local environments’.¹⁴ This initial strategy was subject to a five-year review, which was due to be published in 2019, but was instead published in March 2021¹⁵, due to a delay as a result of COVID-19. It provides a snapshot of the activities that took place within the first five years of the

¹² Marine Conservation Society (2022): Great British Beach Clean 2022 Results <https://www.mcsuk.org/what-you-can-do/join-a-beach-clean/great-british-beach-clean/gbbc-2022-results/>

¹³ Scottish Government (2021)– Litter Strategy, five years on: review <https://www.gov.scot/publications/five-years-review-scotlands-national-litter-strategy/>

¹⁴ Scottish Government (2014) - Towards a litter-free Scotland: a strategic approach to higher local environments <https://www.gov.scot/publications/towards-litter-free-scotland-strategic-approach-higher-quality-local-environments/>

¹⁵ Scottish Government (2021) – Litter Strategy, five years on: Review <https://www.gov.scot/publications/five-years-review-scotlands-national-litter-strategy/pages/1/>

strategy and acknowledges that whilst progress has been made, litter and flytipping still pose a significant challenge.

Despite current efforts and strategies, the problem of littering and flytipping in Scotland has not improved in recent years.¹⁶ This was the conclusion of a Keep Scotland Beautiful (KSB) report in 2020, which evidenced an ongoing decline in local environmental quality; and is backed by the most recent KSB annual Scottish Litter survey, which assessed public attitudes and perceptions to litter and littering behaviour. The latest survey results showed that 67% of respondents believe that litter is a problem in their local area while 87% believe that it is a problem across Scotland.¹⁷

Engagement and partnership working with key stakeholders has been central to the development of this Strategy and will be crucial for effective delivery of its outcomes and specific objectives going forward. The overarching ambition of the Strategy is to prevent littering and flytipping behaviour in Scotland. This will be achieved through the application of a systems approach, to identify where the necessary incentives are not in place to ensure a product is disposed of legally and in a way which maximises the value of that product or the materials within it. This involves looking at the entire lifecycle of products in question and those actors who are involved in influencing individuals at the point of disposal.

Actions are then based on the Individual, Social and Material (ISM) model¹⁸, which identifies the need to address a broad range of influences on behaviour in order to achieve behaviour change. For the purposes of the strategy these are divided into the following themes:

- **Behaviour change**

This theme recognises the need for improved communications and engagement, but also the need to take a holistic approach to behaviour change; understanding key audiences, issues and developing a framework to identify solutions that enable behaviours to be changed. It should also be noted that the key behaviours related to littering will differ from those for flytipping. Successful measures under this theme would improve the accessibility, consistency and nature of messaging that motivates people to change their behaviour.

- **Services and infrastructure**

In order for the prevention of litter and flytipping to be effective there needs to be services and infrastructure in place to support people to behave responsibly. This includes services offered by local authorities, but also more widely looking to businesses and community groups. Successful measures under this theme would ensure Scotland's services and infrastructure are fit for purpose and prioritise action

¹⁶ Keep Scotland Beautiful (2020) – Time for a new approach to tackling litter
<https://www.keeptscotlandbeautiful.org/media/1566897/leq-2020-report-final-041220.pdf>

¹⁷ Keep Scotland Beautiful (2022) - Scottish Litter Survey 2022
<https://www.keeptscotlandbeautiful.org/media/1570921/littering-in-scotland-survey-2022-final-301122.pdf>

¹⁸ Scottish Government (2013) – Influencing behaviour, moving beyond the individual: ISM user guide <https://www.gov.scot/publications/influencing-behaviours-moving-beyond-individual-user-guide-ism-tool/pages/2/>

and innovation that proactively prevents litter and flytipping and supports a circular economy.

- **Enforcement**

Enforcement and deterrents have been identified as important in preventing litter and flytipping. This stems from numerous stakeholder calls to review the enforcement process and procedures, and to attempt to understand if alternative solutions are available (such as education), with collaborative measures seen as crucial. Success in relation to this theme would ensure there is a strong and consistent enforcement model across Scotland that acts as a proportional deterrent.

- **Data and Evidence**

Underpinning any next steps, improved data and evidence is crucial to successfully understanding the root causes of the issue, evaluating the success of any interventions, collaborating successfully and monitoring progress. This includes reporting of issues by the public and communities, national reporting and monitoring, citizen science and measurable outcomes. Success for this theme would include an improved understanding of the behaviours, attitudes and drivers behind both littering and flytipping and develop an evidence base that can facilitate the implementation and monitoring of effective interventions.

The Strategy has a lifespan of six years. It will be reviewed at its mid-point and at the end of its lifespan. It will be published with an associated action plan, which will be reviewed annually through the governance and delivery framework which will comprise of a high-level strategy delivery group to drive implementation, agree priorities, review progress and adapt plans. This will be supported by topic-focused delivery working groups and other mechanisms for engaging key stakeholders and sectors to ensure a wide level of input into and scrutiny of future action plans.

3.0 Consultation

3.1 Consultation Within Government

The Scottish Government Environment and Forestry Directorate has engaged with other relevant teams across the Scottish Government regarding the potential impacts of the policy on, for example:

- Socio-economic inequality issues such as low income, low wealth, and area deprivation;
- Different geographic communities including island communities;
- Protected characteristics (age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex, and sexual orientation);
- Businesses, including the food and drink industry and the hospitality sector.
- Local Authorities and other public bodies with a duty regarding litter and flytipping

3.2 Public Consultation

A partial BRIA document was published alongside the Scottish Government consultation paper on the aims, objectives, and potential actions for this new strategy, with questions aligned to the three strategic themes.

Consultation questions were drafted by the Scottish Government in partnership with Zero Waste Scotland, Keep Scotland Beautiful, and the Scottish Environment Protection Agency (SEPA). The consultation was open for 15 weeks from 13 December 2021 to 31 March 2022.

A total of 978 responses to the consultation were received. The consultation findings were analysed by Pye Tait Consulting and are presented in the full consultation analysis report.¹⁹

Broadly, there were high levels of support for the proposed actions within the consultation documents. Where concerns were raised, it was from those who did not see the benefits of the supporting actions and instead wanted a focus on cleansing and enforcement activity.

3.3 Business Consultation

Businesses, like many organisations, participated in the above public consultation and expressed broad support for the proposed actions. There is a recognition of the impacts on different types of businesses including landowners who have to deal with flytipping on their land, businesses who suffer losses due to either direct damage or the decline in amenity from litter and flytipping and those whose products are associated with litter or flytipping.

The Strategy sets out a vision and set of outcomes and objectives to reduce litter and flytipping in Scotland with an accompanying action plan that outlines how we will achieve this vision over the strategy's six-year lifespan. Whilst setting a clear direction of travel, both the strategy and the action plan are high level in nature and as such cannot be assessed in detail. Individual actions will be co-designed through the governance and delivery framework to ensure key stakeholders and sectors are appropriately engaged.

The publication of the National Litter and Flytipping Strategy and associated action plan, which is the subject of this Business Regulatory Impact Assessment, does not have any direct impacts on businesses. Instead, the detailed design and implementation of individual actions under the strategy, to deliver the aim of preventing litter and flytipping, will require consideration of the impacts on different types of business, when under development.

Any policy interventions within the action plan would be subject to further proportionate impact assessment including the Business Regulatory Impact Assessment, to ensure that impacts on businesses are considered in the interventions' design and implementation.

¹⁹ Scottish Government (2022)– National litter and flytipping strategy: consultation analysis
<https://www.gov.scot/publications/national-litter-flytipping-strategy-consultation-analysis-report/>

4.0 Options

As described above, the scope of this Business Regulatory Impact Assessment (BRIA) is the publication of the strategy and associated action plan. The detailed development of actions will follow and each relevant policy action will be required to have an individual BRIA conducted.

4.1 No policy change – business as usual

Business as usual is the baseline against which the costs and benefits of the implementation of each of the policy actions will be assessed. It assumes the continuation of the 2014 litter strategy; “Towards a litter-free Scotland”.

It is anticipated that the annual costs of litter and flytipping to public bodies would rise annually in relation to future labour and landfill tax costs to maintain the status quo in the absence of a strategy. Those costs have potential to decrease in the context of the litter and flytipping strategy successfully delivering longer-term litter and flytipping prevention interventions.

The recent COVID-19 pandemic has led to an increase in the use of at least some disposable items, which will likely lead to a rise in littering and flytipping. The cost of living crisis is likely to impact on stakeholders across the economy. While difficult to predict, these impacts are likely to include: influencing consumer behaviour, changes in business practices, local authority, other duty body and government spending allocations.

Disposable items are still imported, made, bought and used in Scotland. Significant numbers of these items occur as litter (thereby creating societal disamenity costs) and enter Scottish waters (threatening the health of the marine environment). Under this scenario, consumers and businesses would not be incentivised further to prevent litter and flytipping and manage them effectively, other than through their own motivations to protect the environment and existing measures to prevent littering and flytipping.

4.1.1 Costs and Benefits

It is unlikely that additional financial costs or burdens will be placed on local authorities and enforcement bodies in Scotland due to a lack of any new activity to tackle litter and flytipping being implemented through a national litter and flytipping strategy. The cost of littering and flytipping will continue to be borne by public bodies, businesses, and communities. It can however be expected that this will change with other similar future policy developments such as extended producer responsibility (EPR) being developed for areas such as packaging, batteries, waste electricals and electronics equipment (WEEE), as well as the forthcoming deposit return scheme (DRS). Without further action to encourage behaviour change and prevent littering and flytipping, the costs of the problem will continue to rise and burden society.

4.2 Option 1: Implementation of the litter and flytipping strategy

The launch of the new strategy and action plan is intended to present a new approach to litter and flytipping prevention – one which considers the whole life cycle

of commonly littered and flytipped items in recognition of the loss of resources from the circular economy and the resulting contribution to the twin crises of climate and biodiversity loss.

The overarching ambition of the Strategy is to prevent littering and flytipping behaviour in Scotland. This will be achieved through the application of a systems approach, to identify where the necessary incentives are not in place to ensure a product is disposed of legally and in a way which maximises the value of that product or the materials within it. This involves looking at the entire lifecycle of products in question and those actors who are involved in influencing individuals at the point of disposal.

The Strategy has a lifespan of 6 years. It will be reviewed at its mid-point and at the end of its lifespan. It will be published with an associated action plan, which will be reviewed annually through the governance and delivery framework which will comprise of a high-level strategy delivery group to drive implementation, agree priorities, review progress and adapt plans. This will be supported by topic-focussed delivery working groups and other mechanisms for engaging key stakeholders and sectors to ensure a wide level of input into and scrutiny of future action plans.

In addition to undertaking BRIAs, through our Equalities Impact Assessment we will work with different groups across society to consider impacts on medical, health and wellbeing, as well as independent living.

4.2.1 Sectors and Groups affected

The following sectors and groups may be directly or indirectly impacted by the National Litter and Flytipping Strategy to varying degrees depending on type, uptake, involvement and locations of interventions:

- Governments
- Environmental Regulator / enforcement agencies
- Delivery organisations
- 3rd sector and environmental charities
- Duty Bodies
- Private landowners
- Local Authorities
- Producers
- Retailers
- Hospitality & Quick Service Restaurants
- Volunteers & Community Groups
- Infrastructure operators
- Universities & Colleges
- Technology Providers
- Marine stakeholders
- Re-use networks
- Waste Management sector

- Business Improvement Districts
- National parks

The span of the strategy and associated actions will impact on a range of individuals and organisations that engage in activities that contribute to littering and flytipping. At this stage it is not apparent to what extent different sectors and groups would be impacted. The results from the public consultation process have been used to inform our understanding in this area and further proportionate assessment of how these groups are impacted by the interventions set out in the high-level action plan will be undertaken during the design and implementation of individual actions, which will be taken forward through the governance and delivery framework to enable a wide range of input from key stakeholders and sectors.

4.2.2 Costs and Benefits

The detailed development of actions will follow and each policy action will be required to have an individual BRIA conducted which will address costs and benefits.

5.0 Scottish Firms Impact Test

Normally, we would engage up to 12 businesses of varying sizes to be consulted on the proposed changes to affected businesses from the proposed changes set out in the Strategy. At this stage it is not apparent to what extent businesses would be impacted by the Strategy and accompanying action plan as these are both high level in nature. The participation in the interviews normally conducted would represent a greater burden than the proposed change and therefore it has been determined that it is not necessary to undertake this engagement

As this test relates to the publication of the strategy document and associated action plan, no impacts on businesses are anticipated. Following development of more detailed and specific actions, proportionate further assessment of impacts on businesses will be undertaken.

6.0 Competition Assessment

This section assesses the potential impacts of the preferred option on competition among producers, wholesalers, retailers and importers in the Scottish market.

The assessment will follow the Competition and Market Authority guidelines²⁰ which outline how to determine any competition impact. These guidelines recommend considering four key questions in order to assess whether a proposed policy would have an impact on competition. These are:

Will the measure directly or indirectly limit the number or range of suppliers?

²⁰ UK Government – Markets: detailed information
<https://www.gov.uk/topic/competition/markets>

The publication of the strategy and associated action plan will have no impacts on the number or range of suppliers.

Will the measure limit the ability of suppliers to compete?

No.

Will the measure limit suppliers' incentives to compete vigorously?

No.

Will the measure limit the choices and information available to consumers?

No.

7.0 Consumer Assessment

The Scottish Government definition of a consumer is "anyone who buys goods or digital content or uses goods or services either in the private or public sector, now or in the future".

Scottish Government specifies the following questions when determining the impact of proposed legislation on consumers:

Does the strategy affect the quality, availability or price of any goods or services in a market?

No, the publication of the strategy document and associated action plan will not have any impact on the quality, availability or price of any goods or services

Does the policy affect the essential services market, such as energy or water?

No.

Does the policy involve storage or increased use of consumer data?

No.

Does the policy increase opportunities for unscrupulous suppliers to target consumers?

No.

Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?

No.

Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues?

No.

8.0 Test Run of Business Forms

The publication of the strategy and associated action plan will not result in the creation of new forms for businesses or result in amendments of existing forms.

9.0 Digital Impact Test

Changes to policy, regulation or legislation can often have unintended consequences, should government fail to consider advances in technology and the impact this may have on future delivery. This digital impact test is a consideration of whether the changes being made can still be applied effectively should business/government processes change – such as services moving online. The below details the evaluation of the proposed market restrictions on current and future digital developments. The impacts of individual policy interventions on digital technology developments will be dealt with in subsequent BRIAs.

9.1 Digital Impact Test Questionnaire

Question 1. Does the measure take account of changing digital technologies and markets?

Potential changes in digital technologies and markets will not impact on the publication of the new strategy and associated action plan

Question 2. Will the measure be applicable in a digital/online context?

N/A – the publication of the strategy and associated action plan will not require application by business in either the physical or real world.

Question 3. Is there a possibility the measures could be circumvented by digital/online transactions?

N/A – the publication of the strategy and associated action plan will not require application by business in either the physical or real world so there is no need to circumvent

Question 4. Alternatively, will the measure only be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses?

N/A – the publication of the strategy and associated action plan will not require application by business in either the physical or real world.

Question 5. If the measure can be applied in an offline and online environment will this in itself have any adverse impact on incumbent operators?

No.

10.0 Legal Aid Impact Test

There is no impact on Legal Aid resulting from the publication of the strategy and associated action plan.

11.0 Enforcement, Sanctions and Monitoring

The strategy document and action plan will have no enforcement or sanctions attributed to them.

The impact of individual actions and the combined suite of actions will be assessed on an annual basis, as part of the annual action plan review. This will allow determination of whether the aims and objectives of the strategy are being achieved or if additional actions are required. The strategy will be reviewed at 3 years and again after 6 years.

Subsequent BRIAs will set out in more detail the enforcement, sanctions and monitoring actions associated with relevant individual interventions.

12.0 Implementation and Delivery Plan

A governance structure, involving key stakeholders, will be established to manage and support delivery and development of the action plan, to ensure that the aim and objectives of the strategy are achieved.

13.0 Declaration and Publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: 

Date: 28 June 2023

Minister's name Lorna Slater

Minister's title Minister for Green Skills, Circular Economy and Biodiversity

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