

# Fixed Penalty Notices

Research Report

October 2022



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# Contents

Summary .....	4
Background .....	4
Key Findings .....	4
Introduction.....	6
Methodology.....	6
Response makeup by council type and region.....	7
Full Results.....	9
Use of FPNS .....	9
Prevalence of FPN offences.....	11
Court.....	13
Benefits of FPNs.....	15
Issuing FPNs.....	17
Further comments on FPNs .....	17
Annex A: Questionnaire.....	19

## Summary

### Background

From May 2022 to September 2022 the Local Government Association (LGA) conducted a survey across all 322 councils in England and Wales. Currently, under the London Local Authorities and Transport for London Act 2003, London boroughs can apply Fixed Penalty Notices (FPNs) to offenders who are involved in certain highways obstruction offences, such as unlicensed skips and wilful obstruction of the highways. However, all councils outside of London do not have the power to issue FPNs. The purpose of the survey was to capture the views of councils outside of London see whether they would benefit from having the same powers as London boroughs in order to deal with these types of offences. A total of 74 responses were received (23 per cent).

### Key Findings

- **Use of FPNs:** Ninety-two per cent, or 68 of the 74, councils which responded said they would use FPNs if given the same powers as London boroughs.
- **Use of FPNs:** Ninety-three per cent, or 69 of the 74 councils, which responded said they would use FPNs for the obstruction of roads.
- Eighty-eight per cent, or 65 of the 74 councils, who responded said they would use FPNs for Safety or Unlicensed skips.
- Eighty-five per cent, or 63 of the 74, councils who responded said they would use FPNs for those who fail to comply with regulations.
- Eighty per cent, or 59 of the 74 councils, who responded said they would FPNs for the careless depositing of materials on the roadside.
- Seventy-six per cent, or 56 of the 74 councils, said they would use FPNs to prevent impacting visibility for motorists and cyclists.
- **Court time:** The majority of councils (85 per cent) agreed that a lack of time and resources deters local authorities from issuing warning letters and taking offenders to court.
- **Benefits of FPNs:** Seventy-six per cent, or 56 of the 74, councils said that a more proportionate level of enforcement action would be one of the main benefits of issuing FPNs.

- Seventy-three per cent, or 54 of the 74, councils said that accelerating enforcement action would be one of the main benefits of issuing FPNs.
- Seventy per cent, or 52 of the 74, councils said that an increase of public confidence would be one of the main benefits of issuing FPNs.
- Sixty per cent, or 44 of the 74, councils said that reducing the need for costly legal action would be one of the main benefits of issuing FPNs.
- Fifty-eight per cent, or 43 of the 74, councils said that increasing officer efficiency would be one of the main benefits of issuing FPNs.
- **Issuing FPNs:** Fifty-seven per cent, or 42 of the 74, respondent councils said that the power to issue FPNs should sit within single tier, county, and district councils, whilst 35 per cent, or 26 of the 74 councils, said that the power to issue FPNs should sit with single tier and county councils.

## Introduction

From May 2022 to October 2022 the Local Government Association (LGA) conducted an online survey of councils with overall responsibility for highways/roads in England and Wales, excluding councils in London.

The purpose of the survey was to capture the views of councils on whether they would benefit from having the same powers as London boroughs under the London Local Authorities and Transport for London Act 2003<sup>1</sup> in dealing with highways obstruction offences. Topics included whether councils would use FPNs, what offences they would use FPNs for, the main benefits of using FPNs, and the prevalence of offences listed under the London Local Authorities and Transport for London Act 2003.

## Methodology

In May 2022, the LGA's Research and Information Team sent an online survey to all councils in England and Wales, excluding London. There was a total of 74 responses during the five months from May 2022 to September 2022.

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<sup>1</sup> <https://www.legislation.gov.uk/ukla/2003/3/contents/enacted>

## Response makeup by council type and region

Table 1 shows the response rate by type of council. It should be noted that a further 19 councils (one unitary council and eighteen district councils) responded saying they were not in charge of the highways/roads in their local area. This may explain why the response rate for district councils is lower than the other three types of authority.

Type of authority	Total number invited to respond	Number of responses	Response rate (%)
County	24	10	42
Metropolitan District	36	18	50
Unitary	81	22	27
District	181	24	13
Total	322	74	23

Table 2 shows the response rate by region. This shows that the region with the highest number of total responses from councils was the South East with 15 and the region with the lowest number of total responses from councils was the East Midlands with 2.

Region	Total number	Number of responses	Response rate (%)
East of England	47	14	30
East Midlands	39	2	5
North East	12	6	50
North West	41	13	32
South East	70	15	21
South West	33	5	15
West Midlands	33	6	18
Yorkshire and Humber	22	9	41
Wales	22	4	18

In addition, the following points should be noted about the research methodology:

- Throughout the report percentages in figures and tables may add to more than 100 per cent due to rounding. Percentages are rounded to the nearest whole per cent.

## Full Results

This section contains analysis of the full results from the survey.

### Use of FPNS

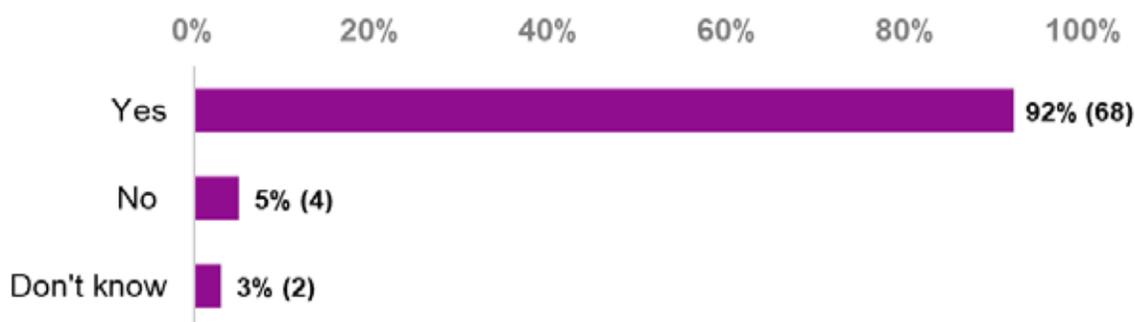
Most councils (92 per cent) said they would consider issuing FPNs if given the same powers as London boroughs under the London Local Authorities and Transport for London Act 2003. Five per cent of councils said they would not consider issuing FPNs. Of the four councils who said they would not issue FPNs, two of them said this was because their highways/roads were controlled by another party, and one council said they would use FPNs once they had received a political steer and resources had been considered. Three per cent of councils said they didn't know if they would issue FPNs. The results to this question are displayed in Table 3 and Figure 1.

**Table 3: Thinking about certain offences relating to the Highways Act, would your local authority consider issuing fixed penalty notices if given the same powers as London boroughs under the London Local Authorities and Transport for London Act 2003?**

Response	Total number of councils	Per cent of councils (%)
Yes	68	92
No	4	5
Don't know	2	4

Base: All councils who responded (74 respondents).

**Figure 1. Thinking about certain offences relating to the Highways Act, would your local authority consider issuing fixed penalty notices if given the same powers as London boroughs under the London Local Authorities and Transport for London Act 2003?**



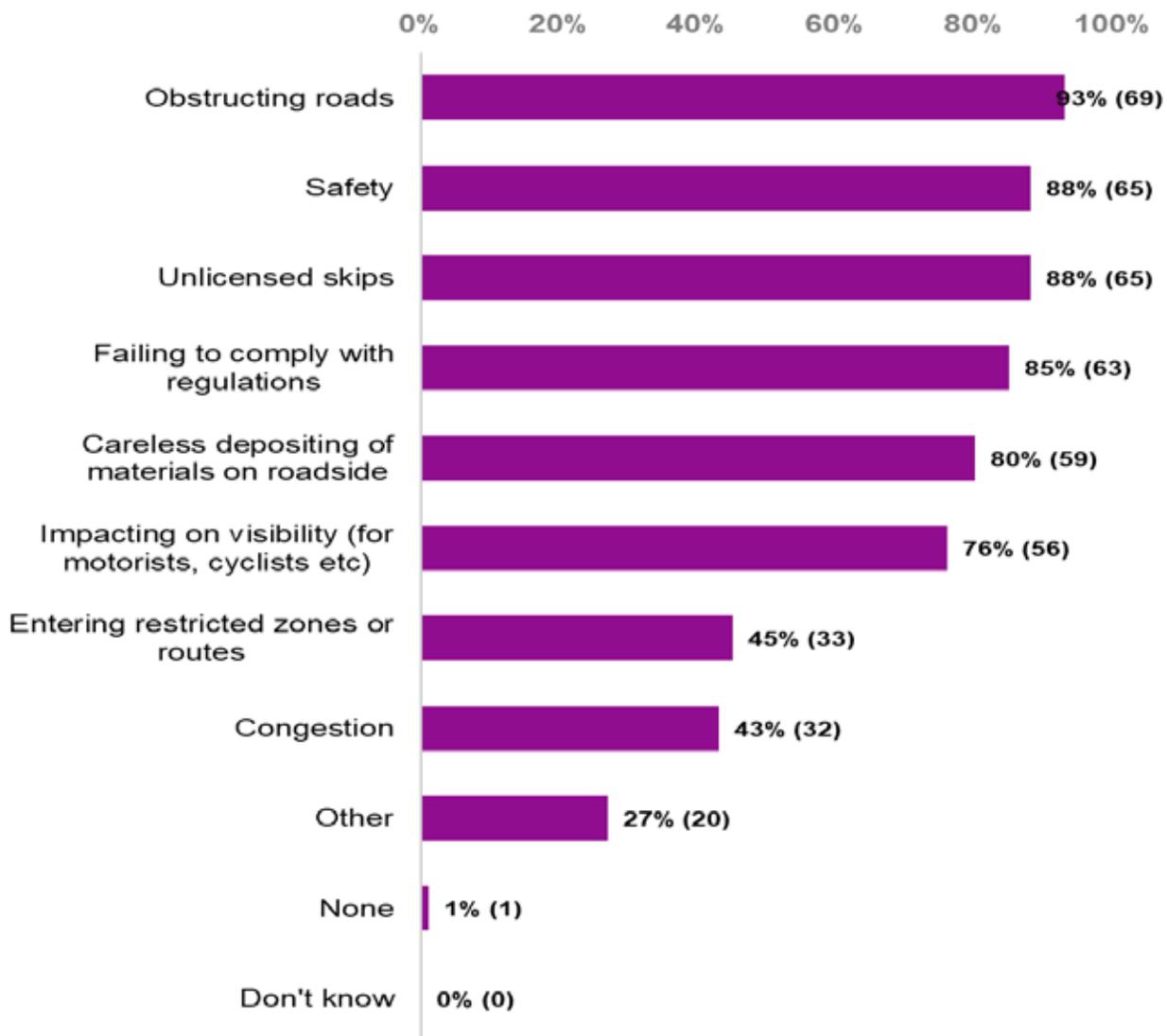
Base: All councils who responded (74 respondents).

Over nine-tenths of councils who responded (93 per cent) said they would use FPNs to tackle those who obstruct roads. Overall, 88 per cent of councils said they would also use FPNs in order to improve safety, whilst 88 per cent of councils said they would use FPNs to tackle unlicensed skips. Eighty-five per cent of councils said they would use FPNs on those

who fail to comply with regulations. An additional 80 per cent of councils said they would use FPNs to tackle careless depositing of materials on roadsides. Over three quarters of councils (76 per cent) said they would use FPNs to improve visibility for motorists, cyclists etc.

A further twenty-seven per cent of councils also discussed ‘other’ offences which FPNs would be used for in their local area. Six councils mentioned that unlicensed scaffolding was an offence that they would use FPNs for. A further four councils said that ‘parking on footways/pavement obstruction’ was an offence that they would use FPNs for. Advertising boards, fly tipping and overhanging vegetation were three offences that were mentioned at least twice by a council as an offence that authorities would use FPNs for. The results to this question are displayed in Figure 2.

**Figure 2. Based on existing evidence of your local roads, what offences would your local authority use fixed penalty notices for?**



Base: All councils who responded (74 respondents).

## Prevalence of FPN offences

Table 4 shows how councils viewed the prevalence of the 21 offences listed in the London Local Authorities and Transport for London Act 2003. Half of councils (50 per cent) felt that the wilful obstruction of highways was highly prevalent in their local authority. Just under half of councils (45 per cent) said that the offence of depositing builder's skips on highways without permission was highly prevalent in their local authority. Nearly four-tenths of councils (39 per cent) said that the offence of depositing anything on the highway to the interruption of a user was highly prevalent in their local authority, with a further 38 per cent of councils stating that the offence of depositing things on the highway which could cause injury or danger was also highly prevalent in their local authority. A third of councils (33 per cent) said that erecting scaffolding or other structure without license or failing to comply with terms of license was an offence which was highly prevalent in their local area.

<b>Table 4: To what extent do you agree or disagree with the following statement: A lack of time and resources deters local authorities from issuing warning letters and taking offenders to court?</b>				
<b>Type of offence</b>	<b>High prevalence</b>	<b>Medium prevalence</b>	<b>Low prevalence</b>	<b>N/A</b>
Wilful obstruction of highway	35 (50%)	18 (26%)	16 (23%)	1 (1%)
Depositing builder's skip on highway without permission	30 (45%)	23 (35%)	13 (20%)	0
Depositing things on highway which can cause injury or danger	26 (38%)	23 (33%)	19 (28%)	1 (1%)
Depositing anything on highway to the interruption of user	26 (39%)	20 (30%)	19 (29%)	1 (2%)
Erecting scaffolding or other structure without license or failing to comply with terms of license	21 (33%)	22 (35%)	20 (32%)	0
Failure to secure lighting or other marking of builder's skip	20 (31%)	20 (31%)	24 (38%)	0
Depositing material etc. on a made-up carriageway	19 (30%)	29 (46%)	14 (22%)	1 (2%)
Failure to remove or reposition builder's skip	18 (27%)	30 (45%)	19 (28%)	0
Failure to comply with conditions of permission	17 (28%)	25 (41%)	19 (31%)	0
Failure to secure removal of builder's skip	16 (24%)	32 (49%)	18 (27%)	0

Type of offence	High prevalence	Medium prevalence	Low prevalence	N/A
Failure to comply with notice requiring removal of tree or shrub	16 (26%)	22 (36%)	24 (39%)	0
Erecting a building, fence or hedge on highway	15 (24%)	26 (42%)	21 (34%)	0
Failure to secure marking of builder's skip with name and address	13 (20%)	25 (38%)	28 (42%)	0
Depositing material etc. within 15 feet from centre of made-up carriageway	13 (22%)	24 (40%)	21 (35%)	2 (3%)
Painting or otherwise inscribing or affixing upon the surface of a highway or upon a tree, structure or works	12 (20%)	20 (34%)	26 (44%)	1 (2%)
Failure to comply with notice requiring removal of projection from buildings	11 (19%)	13 (22%)	35 (59%)	0
Failure to comply with notice requiring works to prevent soil or refuse escaping onto street or into sewer	10 (17%)	22 (37%)	28 (47%)	0
Pitching of booths, stalls or stands or encamping on highway	9 (15%)	18 (30%)	34 (56%)	0
Using of stall etc. for road side sales in certain circumstances	4 (7%)	18 (30%)	37 (62%)	1 (2%)
Failure to comply with notice requiring alteration of door, gate or bar opening outwards onto street	1 (2%)	17 (29%)	40 (69%)	0
Keeping of animals straying or lying on side of highway	1 (2%)	7 (13%)	44 (82%)	2 (4%)

Base: All councils who responded (74 councils). It should be noted that some councils only responded to a certain amount of the 21 offences, with some of the offences being left unanswered by individual councils. This explains why the totals for each offence do not equal 74.

## Court

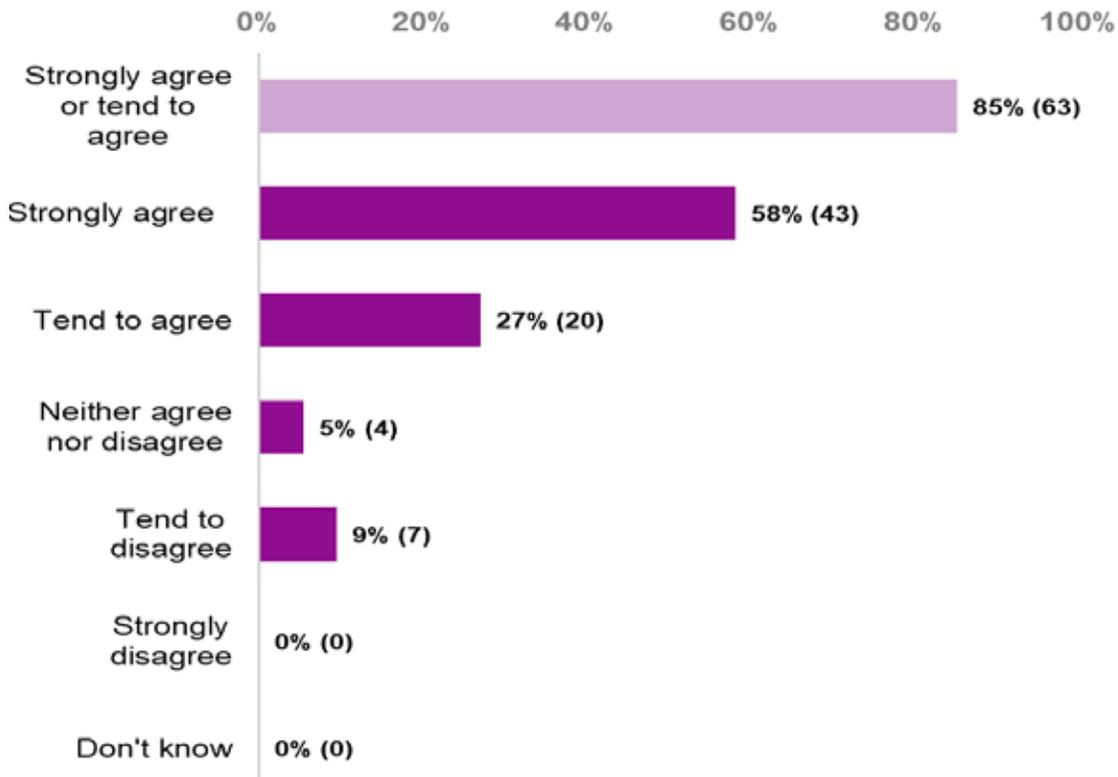
Most councils (85 per cent) agreed that a lack of time and resources was deterring local authorities from issuing warning letters and taking offenders to court. Within this, 58 per cent of councils strongly agreed and 27 per cent tended to agree with the statement. Five per cent neither agreed nor disagreed with the statement whilst nine per cent tended to disagree. The results to this question are shown in Table 5 and Figure 3.

**Table 5: To what extent do you agree or disagree with the following statement: A lack of time and resources deters local authorities from issuing warning letters and taking offenders to court?**

Response	Total number of councils	Per cent of councils (%)
<b>Strongly agree or tend to agree</b>	<b>63</b>	<b>85</b>
Strongly agree	43	58
Tend to agree	20	27
Neither agree nor disagree	4	5
Tend to disagree	7	9
Strongly disagree	0	0
Don't know	0	0

Base: All councils who responded (74 respondents).

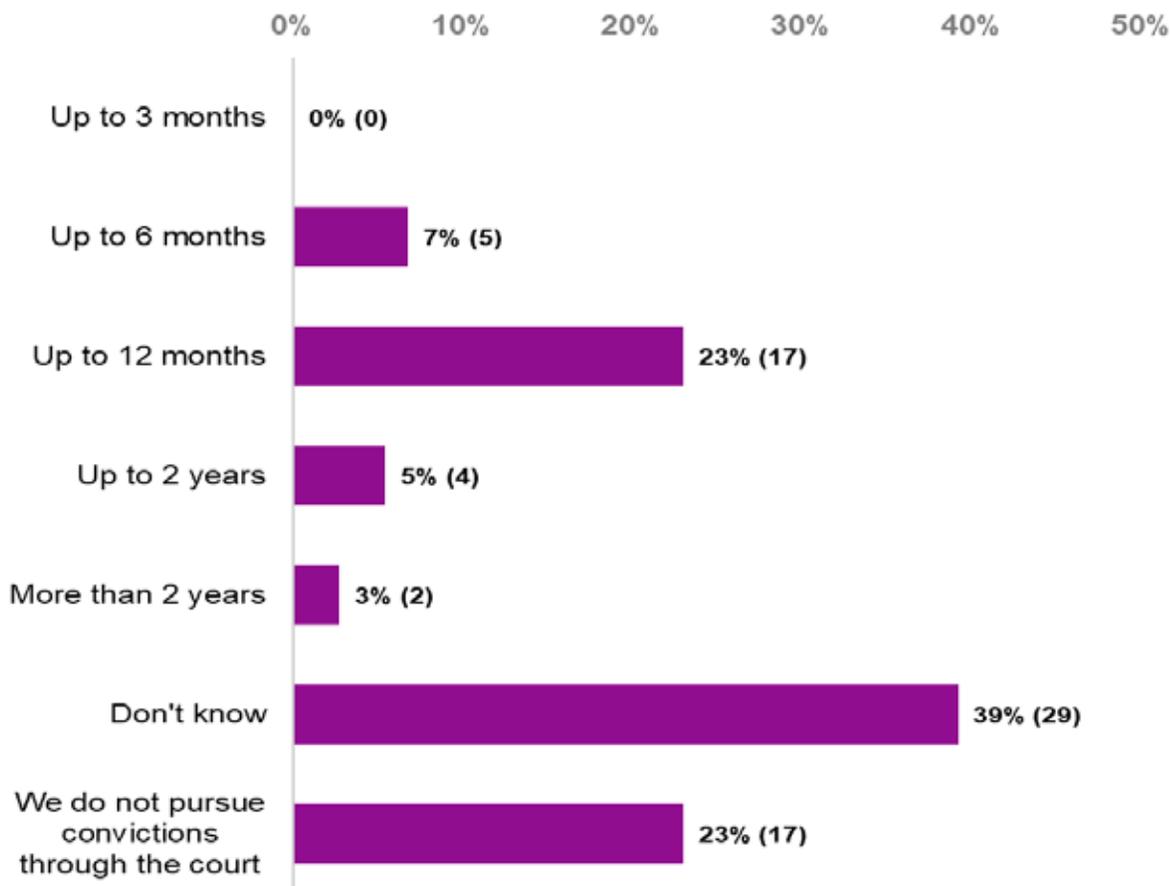
**Figure 3. To what extent do you agree or disagree with the following statement: A lack of time and resources deters local authorities from issuing warning letters and taking offenders to court?**



Base: All councils who responded (74 respondents).

Nearly a quarter of councils (23 per cent) said that convictions can take up to 12 months to be dealt with in court. Seven per cent of councils said it can take up to six months. Five per cent of councils said it can take up to two years, whilst a further three per cent said it can take more than two years for convictions of the 21 offences to be dealt with in court. Thirty-nine per cent of councils were unsure how long it can take whilst 23 per cent of councils said they do not pursue convictions through the court. The results for this question are displayed in Figure 4.

**Figure 4. Thinking about your local authority, on average, how long does it take for convictions of the 21 offences to be dealt with in court?**

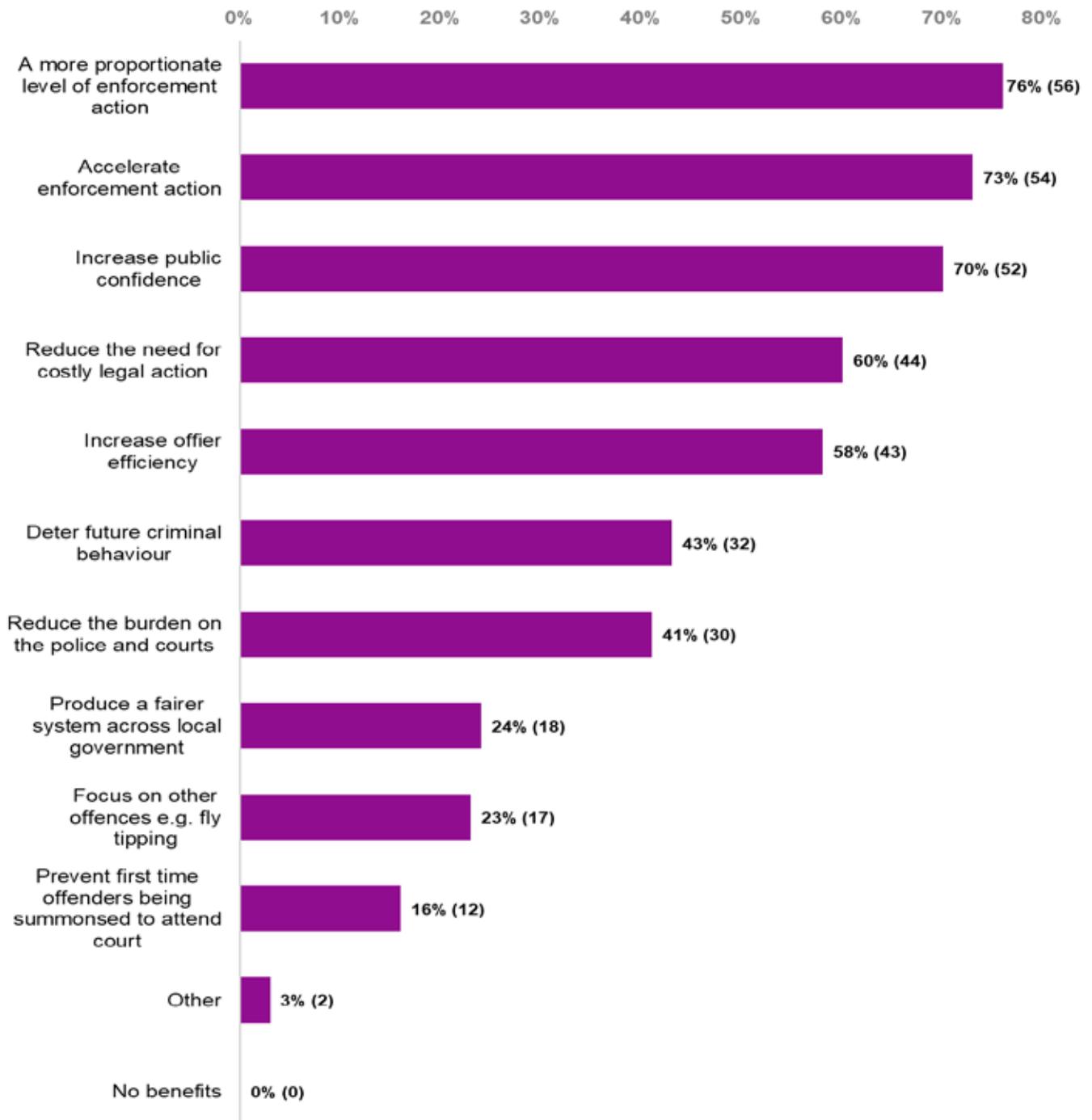


Base: All councils who responded (74 respondents).

## Benefits of FPNs

Over three quarters of councils who responded (76 per cent) said that one of the main benefits of implementing FPNs in their local authority was that they would have a more proportionate level of enforcement action. Seventy-three per cent of councils said one of the main benefits would be accelerating enforcement action. Seven-tenths of councils (70 per cent) said one of the main benefits would be increasing public confidence. Sixty per cent of councils said reducing the need for costly legal action would be one of the main benefits whilst a further 58 per cent of councils said that increasing officer efficiency would be one of the main benefits. The results for this question are displayed in Figure 5.

**Figure 5. What would be the main benefits, if any, of being able to implement fixed penalty notices within your local authority?**

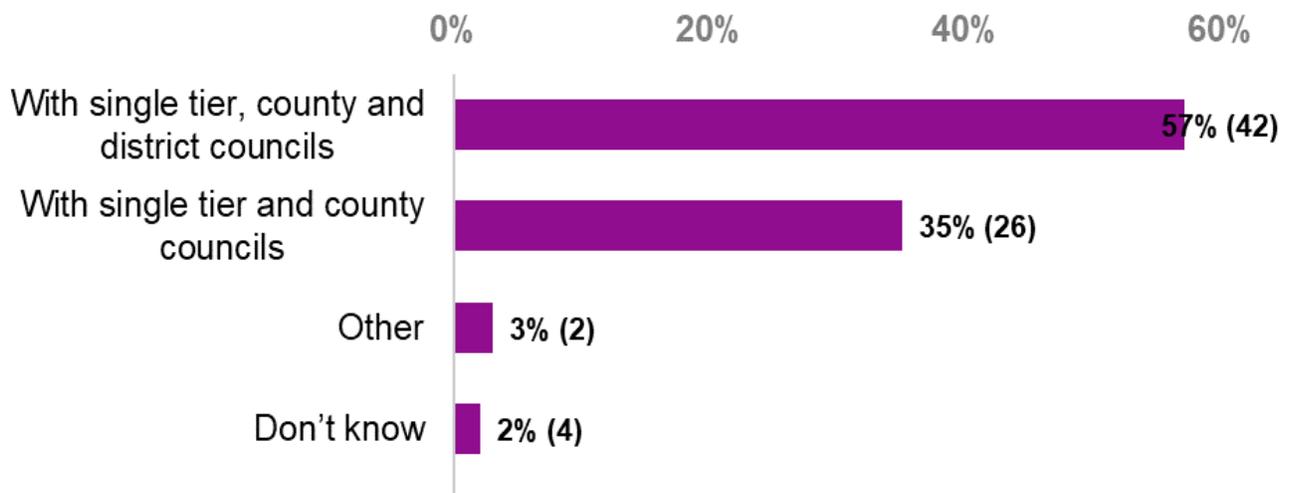


Base: All councils who responded (74 respondents).

## Issuing FPNs

Figure 6 shows how over half of the councils who responded (57 per cent) said that the power to issue FPNs should sit with single tier, county, and district councils, whilst 35 per cent of councils said that the power to issue FPNs should sit with single tier and county councils. Five per cent of councils were unsure where the power to issue FPNs should sit.

**Figure 6. If the power to issue fixed penalty notices to persons who breach the Highways Act 1980 were extended, where within Local Government should the power sit?**



Base: All councils who responded (74 respondents).

## Further comments on FPNs

Respondents were asked to provide any further comments on the topics covered by the survey which they would like to share. A total of 15 councils – 20 per cent of all who responded to the survey - provided textual comments to elaborate on their response to the survey. Their comments included themes such as those below, with illustrative quotes.

- The power to use FPNs is 'long overdue. Police have powers to deal with obstruction but rarely use them to the frustration of the council and those we serve.'
- The current system is very resource heavy and introducing FPNs would be a more cost-effective option. 'We would expect that if fixed penalties could be administered then this would assist authorities in carrying out enforcement and provide a swifter more cost-effective option whilst retaining the ability to prosecute for the more serious offences or repeat offenders'.
- An acknowledgement from one respondent that FPNs are effective in their local area. 'We have FPNs in the All-Street Permit Scheme and it works well and reduces a lot of red tape and paperwork'.

- A requirement for a law that would allow for a 'single system for FPN process nationally'. In turn ensure that there is the 'mechanism to recover FPN income to LAs in an efficient manner. And the ability to continue to recover costs in default from offenders that don't comply with FPNs'.

## Annex A: Questionnaire

Please amend the details we have on record if necessary.

If you are responding on behalf of more than one authority, please note this in the 'authority' box below, but please check with us first whether a separate return is needed for each authority.

Name (1) \_\_\_\_\_

Authority (2) \_\_\_\_\_

Job title (3) \_\_\_\_\_

Email address (4) \_\_\_\_\_

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**2. Thinking about certain offences relating to the Highways Act, would your local authority consider issuing fixed penalty notices if given the same powers as London boroughs under the London Local Authorities and Transport for London Act 2003?**

If you would like to see an overview of the offences related to the Highways Act, you can access a PDF here: [Fixed Penalty Notices - List of offences](#)

Yes (1)

No (2)

Don't know (3)

Display this question:

If Thinking about certain offences relating to the Highways Act, would your local authority consider

= No

Or Thinking about certain offences relating to the Highways Act, would your local authority consider

= Don't know

**3. Why would you not consider using fixed penalty notices, if given the power to do so?**

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**4. Based on existing evidence of your local roads, what offences would your local authority use fixed penalty notices for?**

Please select all that apply

- Safety (1)
  - Congestion (2)
  - Failing to comply with regulations (3)
  - Impacting on visibility (for motorists, cyclists etc) (4)
  - Obstructing roads (5)
  - Careless depositing of materials on roadside (6)
  - Entering restricted zones or routes (7)
  - Unlicensed skips (8)
  - Other (please state) (9)
- 
- Don't know (10)
  - None, my local authority would not use fixed penalty notices (11)

**5. Thinking about the 21 offences listed within the Act that could be enforced, which have the highest prevalence within your local authority area?**

	High Prevalence (1)	Medium Prevalence (2)	Low Prevalence (3)	Don't know (4)	N/A (5)
Painting or otherwise inscribing or affixing picture etc. upon the surface of a highway or upon a tree, structure or works on or in a highway (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Wilful obstruction of highway (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Erecting a building, fence or hedge on highway (3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Depositing builder's skip on highway without permission (4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Failure to secure lighting or other marking of builder's skip (5)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Failure to secure marking of builder's skip with name and address (6)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Failure to secure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

removal of builder's skip (7)					
Failure to comply with conditions of permission (8)	0	0	0	0	0
Failure to remove or reposition builder's skip (9)	0	0	0	0	0
Failure to comply with notice requiring removal of tree or shrub (10)	0	0	0	0	0
Using of stall etc. for road side sales in certain circumstances (11)	0	0	0	0	0
Depositing material etc. on a made-up carriageway (12)	0	0	0	0	0
Depositing material etc. within 15 feet from centre of made-up carriageway (13)	0	0	0	0	0
Depositing anything on highway to the interruption of user (14)	0	0	0	0	0
Pitching of booths, stalls	0	0	0	0	0

or stands or encamping on highway (15)

Failure to comply with notice requiring works to prevent soil or refuse escaping onto street or into sewer (16)

Failure to comply with notice requiring removal of projection from buildings (17)

Failure to comply with notice requiring alteration of door, gate or bar opening outwards onto street (18)

Keeping of animals straying or lying on side of highway (19)

Depositing things on highway which can cause injury or danger (20)

Erecting scaffolding or other structure

without  
license or  
failing to  
comply with  
terms of  
license or  
perform duty  
under  
subsection (4)  
(21)

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**6. To what extent do you agree or disagree with the following statement:  
*A lack of time and resources deters local authorities from issuing warning letters and taking offenders to court?***

- Strongly agree (1)
- Tend to agree (2)
- Neither agree nor disagree (3)
- Tend to disagree (4)
- Strongly disagree (5)
- Don't know (6)

**7. Thinking about your local authority, on average, how long does it take for convictions of the 21 offences to be dealt with in court?**

- Up to 3 months (1)
- Up to 6 months (2)
- Up to 12 months (3)
- Up to 2 years (4)
- More than 2 years (5)
- Don't know (6)
- We do not pursue convictions through the courts (7)

**8. What would be the main benefits, if any, of being able to implement fixed penalty notices within your local authority?**

Please select up to five benefits that apply

- A more proportionate level of enforcement action (1)
  - Accelerate enforcement action (2)
  - Reduce the need for costly legal action (3)
  - Prevent first time offenders being summonsed to attend court (4)
  - Increase officer efficiency (5)
  - Focus on other offences e.g. fly tipping (6)
  - Deter future criminal behaviour (7)
  - Reduce the burden on the police and courts (8)
  - Increase public confidence (9)
  - Produce a fairer system across local government (10)
  - Other (please state) (11)
- 
- No benefits (12)

**9. If the power to issue fixed penalty notices to persons who breach the Highways Act 1980 were extended, where within Local Government should the power sit?**

- With single tier, county, and district councils (1)
  - With single tier and county councils (2)
  - Other (please state) (3) \_\_\_\_\_
  - Don't know (4)
- 

**10. Would you like your local authority to be considered for any future trials of expanding powers to issue fixed penalty notices?**

- Yes (1)
  - No (2)
  - Don't know (3)
- 

**11. If there is anything else you wish to add on the subject of fixed penalty notices or issues related to the 21 offences in respect of which fixed penalty notices may be served, please do so below:**

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**12. Would you be happy for the LGA to contact you for further follow-up work? For example, we may want to support local modelling of how future implementation may work.**

Yes (1)

No (2)

Don't know (3)

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Once you press the 'Next' button below, you will have completed the survey.

Many thanks for taking the time to complete this survey. You are in control of any personal data that you have provided to us in your response. You can contact us at all times to have your information changed or deleted. You can find our full privacy policy here: [click here to see our privacy policy](#)



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