Carrier Bag Offences
COSLA wrote to the Cabinet Secretary for Rural Affairs and the Environment on the issue of carrier bag charging on 20 September 2013, a copy of which is appended for information to the Committee. As can be seen from this letter we argued for more proportionate enforcement tools and therefore support the amendment to provide local authorities with the power to issue fixed penalty notices with regards to this.

Contaminated Land
COSLA has no objection to the proposed amendment to give local authorities the power to remove sites from the contaminated land register once they are satisfied they have been properly remediated. Given the extremely complex nature of this issue and the potential risks around it local authorities must have full discretion as to if and when they use this power. Moreover it must be up to the local authority to determine the evidence required to validate the remediation of a site.
20 September 2013

Richard Lochhead MSP
Cabinet Secretary for Rural Affairs and the Environment
St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Richard

Carrier Bag Charging – Fixed Penalty Notices

At the Development, Economy and Sustainability Executive Group on 5 September the issue of enforcement of the carrier bag charging when it comes into force in October 2014 was raised. It was noted that at present there are no civil penalties and therefore the only avenue of enforcement is through the criminal courts. Given the nature of the offences this action will frequently be neither proportionate nor efficient, with large costs for local authorities, businesses and an already very busy court system.

The Executive Group would suggest that the Scottish Government consider whether under these circumstances the legislation will be effective and achieve the intended outcomes. The Executive Group suggest that enabling officers to use more proportionate action, for example through fixed penalty notices, would provide local authorities with an efficient enforcement tool to facilitate meaningful compliance with the legislation. Officers have indicated that fixed penalty notices would be a welcome tool to enable effective enforcement of the legislation to deliver the intended outcomes.

You will also be aware that at the previous Executive Group on 20 May this year, the issue of fixed penalty notices was raised in relation to section 46 to support local authorities in their ability to ensure communities are taking a full and active part in available waste collection schemes. The Executive Group agreed that the provision of powers for fixed penalty notices within section 46 be considered.

The principle of providing local authorities with the power to apply fixed penalty notices within their discretion applies to wider enforcement issues such as the Tobacco and Primary Medical Services (Scotland) Act 2010. Given the Scottish Government’s commitment to the principles of better regulation, and specifically proportionality, which are clearly identified in the current Regulatory Reform (Scotland) Bill, it would seem appropriate that the Scottish Government consider the tools local authorities have at their disposal to enable compliance and enforce in a proportionate and targeted manner where appropriate.
Yours sincerely,

Cllr Stephen Hagan
COSLA Spokesperson
Development, Economy and Sustainability