



CABINET REPORT

Report Title	Fixed Penalty Notice Levels
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	17 October 2018
Key Decision:	Yes
Within Policy:	Yes
Policy Document:	No
Directorate:	Customers & Communities
Accountable Cabinet Member:	Cllr Mike Hallam
Ward(s)	all

1. Purpose

- 1.1 To gain Cabinet approval for the amendment of the level of fixed penalties payable for environmental offences.

2. Recommendations

- 2.1 That Cabinet agree the following levels of fixed penalties to apply for fixed penalty notices issued from 1 November 2018.

Fixed penalty for fly tipping offences
Full Penalty £400
Reduced penalty for payment within 10 days £300

Fixed penalty for depositing litter, littering from vehicles, graffiti, fly posting
Full penalty £120
Reduced penalty for payment within 10 days £75

Fixed penalty for failure to comply with a Waste Receptacle Notice (Commercial)
Full penalty £110
Reduced penalty for payment within 10 days £75

3. Issues and Choices

3.1 Report Background

- 3.1.1 Fixed Penalty Notices (FPNs) can be served for a range of environmental crimes including littering, fly tipping and waste offence. Payment of the fixed penalty discharges liability for prosecution for the offence. FPNs should only be issued where there is evidence that the offence has been committed e.g. the officer witnesses the offence or there is clear evidence linking to the person responsible.
- 3.1.2 Neighbourhood Wardens, Park Rangers and the Kingdom Environmental Enforcement Team are authorised to issue fixed penalty notices.
- 3.1.3 Minimum and maximum levels of fixed penalty charge are set in legislation with flexibility to charge a reduced rate for quick payment.
- 3.1.4 The table below summarises the maximum and minimum level of fixed penalty charges and the levels set in neighbouring local authorities.

Table 1

	Littering FPN level	Fly tipping FPN	Reduced rate fly tipping FPN
Levels set in legislation	Maximum £150 Minimum £50 increasing to £65 from 1 April 2019 Default £100	Maximum £400 Minimum £150 Default £200	
Local authority			
Daventry DC	£150	£400	£300
Corby BC	£80	£400	£300
South Northants Council	£75	£250	£125
East Northants Council	£75	£400	No reduction
Kettering BC	£75	Not yet adopted power	
Borough Council of Wellingborough	£75	£400	£300
Northampton Borough Council current levels	£80 reducing to £50 for quick payment	£400	£250
Proposed levels for Northampton	£120 reducing to £75 for quick payment	£400	£300

3.2 Issues

- 3.2.1 Legally, the income from littering, graffiti and fly posting fixed penalty notices can only be spent on functions relating to these matters. There is no legal restriction of the use of income from fly tipping fixed penalties.

3.3 Choices (Options)

- 3.3.1 Cabinet can decide to approve the following fixed penalty rates to apply from 1 November 2018

Fixed penalty for fly tipping offences
Full Penalty £400
Reduced penalty for payment within 10 days £300

Fixed penalty for depositing litter, littering from vehicles, graffiti, fly posting
Full penalty £120
Reduced penalty for payment within 10 days £75

Fixed penalty for failure to comply with a Waste Receptacle Notice
(Commercial)
Full penalty £110
Reduced penalty for payment within 10 days £75

- 3.3.2 The suggested levels are based on maintaining a level of parity with neighbouring areas.
- 3.3.3 Cabinet can opt to adopt any level of fixed penalty within the range specified in table 1 including the default fixed penalty rates as follows:
- Fly tipping default rate £200
Littering, graffiti and fly posting default rate £100
With no discount for early payment.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The Council's enforcement policy includes the use of fixed penalty notices. This proposal updates the level of these charges.

4.2 Resources and Risk

4.2.1 Financial Implications

Provided that the number of fixed penalty notices issued remains approximately constant, the proposed increase in fixed penalty levels will result in an increase in the income received from fixed penalty notices. This increase in potential revenue will also apply to fixed penalty notices issued by the Council's contractors. The use of this income for the majority of fixed

penalty notices is restricted to the funding of functions relating to environmental offences as outlined above.

- 4.2.2 Based on the level of fixed penalty notices issued by NBC staff during the first quarter of 2018/19, the proposed change in levels would have increased income by approximately 40%. The income from the fixed penalty notices issued by the Environmental enforcement contractor is used to fund the delivery of that service covering the costs of staffing, equipment and support systems. Increased income will be used to provide enhanced services. Based on the payment rates it is likely that there would be a similar proportionate increase in income to the contractor. They will be required to use increased income to provide the delivery of enhanced services.

4.3 Legal

- 4.3.1 The minimum, maximum and default levels of fixed penalties (FP) are prescribed in legislation. The Environmental Offences (Fixed Penalties) (England) Regulations 2017 introduced amended penalty levels applicable from 1 April 2018 to 31 March 2019, other than for fly-tipping offences and waste receptacle offences. The levels for fixed penalties proposed in this report are in accordance with these requirements (which set a minimum FP level of £65 for littering, graffiti and fly posting offences). The Environmental Protection Act 1990 sets the minimum, maximum and default levels of fixed penalties for fly-tipping offences and waste receptacle offences if no figure is set by the Council.

4.4 Equality and Health

- 4.4.1 Fixed penalty notices are issued where environmental offences have been committed and will apply equally to any such offender. See attached Community Impact Assessment

4.5 Consultees (Internal and External)

- 4.5.1 Legal Services, Finance, Kingdom Environmental Enforcement Team

4.6 How the Proposals deliver Priority Outcomes

- 4.7.1 The issue of fixed penalty notices is in accordance with the Council's zero tolerance approach to litter and environmental crime.

5. Background Papers

- 5.1 The Environmental Offences (Fixed Penalties) (England) Regulations 2017
5.2 The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016
5.3 The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

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