

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO HEALTH & HOUSING COMMITTEE

Agenda Item No. 6

meeting date: THURSDAY, 25 MAY 2017
title: FIXED PENALTY NOTICES FOR ENVIRONMENTAL CRIME ENFORCEMENT
submitted by: CHIEF EXECUTIVE
principal author: HEATHER COAR – HEAD OF ENVIRONMENTAL HEALTH SERVICES

1 PURPOSE

- 1.1 To seek approval to new Fixed Penalty Notices (FPN's) charges and reaffirm FPN's as an enforcement tool for certain types of environmental crime and to outline its benefits.
- 1.2 Relevance to the Council's ambitions and priorities
 - Community Objectives – To help make peoples' lives safer and healthier and to protect and enhance the existing environmental quality of our area.
 - Corporate Priorities – To be a well-managed Council.
 - Other Considerations – None.

2 BACKGROUND

- 2.1 Issues such as litter, graffiti and abandoned cars are matters that are frequently raised by residents throughout the borough and through Ward Councillors and MPs.
- 2.2 These issues are investigated and enforced where necessary but such enforcement is limited and time consuming.
- 2.3 The Council has committed to tackle these types of anti-social behaviours through the use of FPN's as one of its five key pledges. The aim is to ensure that residents and others increasingly take control of their own behaviour to the benefit of the wider community.
- 2.4 The implementation of Fixed Penalty Notices (FPN's) delivers a firm commitment made in the corporate plan to introduce on the spot fines to help the control of litter and graffiti and abandoned cars in Ribble Valley. These notices will make a difference for communities and local businesses by addressing environmental crime and improving Ribble Valley for its residents, visitors and supporting a vibrant business environment.
- 2.5 The Clean Neighbourhoods and Environment Act 2005 widened the types of offences for which FPN's can be used and the persons that can issue them.

3 ISSUES

- 3.1 FPN's for the offences noted in this report are a reaffirmed commitment to enforcement.
- 3.2 The use of FPN's allows low level environmental crime in the borough to be tackled, using a more cost effective and proportionate response to these offences. The use of FPN's also provides a deterrent aspect, which goes towards the need to educate not just enforce.

- 3.3 FPN's can be issued to deal with environmental offences like:
- littering;
 - fly tipping;
 - dog control offences; and
 - abandoned vehicles.
- 3.4 It is intended that the implementation will commence from 1 June 2017 by way of a communication and education campaign to raise awareness followed by commencement of issuing FPN's.
- 3.5 Discount levels for FPN's are determined by the Environmental Offences (Regulation 3 Fixed Penalties (Miscellaneous Provisions) Regulations 2007). Details are given in the DEFRA Guidance.
- 3.6 The success of FPN's as part of a joint education and enforcement option is dependent on maximising publicity and use. To this end, the Council would seek to maximise the use of FPN's by:
- ensuring authorisation of the current officers in Environmental Health to issue FPNs for environmental crime offences they already enforce. This will be in addition to the normal duties they conduct and not as their sole purpose;
 - continued liaison with the police to seek their agreement to use Police Community Support Officers (PCSO's) to issue FPN's where permitted and other accredited persons.
- 3.7 Under schedule 4 of the Police Reform Act 2002 PCSO's have the power to issue FPN's for littering without any requirement for the Council's permission or authorisation.
- 3.8 Authorisation of any person to issue FPN's would follow confirmation of background checks and training. All officers, internal and external would be required to meet all Council procedures related to this.
- 3.9 The following FPN's are allowed by legislation to be delegated to officers other than those directly employed by the Council:
- Litter
 - Unauthorised distribution of literature on designated land
 - Graffiti and fly posting
- 3.10 On approval of the use of FPN's as detailed in this report, consultation will take place with the Police Inspector to address whether Police Constables will also assist in the issuing of FPN's.
- 3.11 FPN's are a valuable addition to the enforcement 'toolkit'. Benefits are:-
- Appropriate and proportionate means of dealing with low-level offending.
 - Ability to deal with infringements in a swift, simple, effective and cost effective way.

- Reduces demands on officer time such as preparing for prosecutions when an FPN can be issued instead.
- Reserves court cases for the more serious and / or persistent offenders.
- The financial penalty is a deterrent and sufficient to induce behaviour change, and similar to the fine the court might impose for minor offences.
- Some FPN's could be served by authorised non-Council officers. These include PCSO's, Police and Council contractors engaged by the Council for the purpose of issuing FPN's.

3.12 There are some limitations:

- FPN's should only be used when there is sufficient evidence to prosecute, which needs to happen for non-payment to maintain credibility.
- A FPN cannot be recovered as a civil debt, again emphasising the need to be able to prosecute in the case of non-payment.
- FPN's should not be used for fly tipping due to the seriousness of the offence, and prosecution should be used

3.13 Various legislation provides for the use of fixed penalty notices (FPN) in relation to environmental offences. The Clean Neighbourhoods and Environment Act 2005 widened the types of offences for which FPN's can be used and the persons that can issue them.

3.14 To ensure consistency of approach (as noted in the recommendations section of this report) in relation to the use of FPN's, an operational guide is to be created for officers tasked with the role of issuing and dealing with FPN's. Additionally an environmental offences enforcement policy will be developed.

3.15 Subject to Committee agreeing to the recommendations of this report to allow the Chief Executive to issue FPN's, he will then further sub-delegate this as appropriate to relevant officers of the department and the Council's constitution will be amended accordingly.

3.16 It is not intended that the FPN regime acts as an additional source of income for the authority and use of the receipts of FPN's is set out in legislation.

3.17 In general, as the success of any FPN is advertised, the public should become more compliant and fewer offences should be committed and less money will be received. The main intention of the policy is education and reducing offences through the deterrent effect of the notices.

3.18 Any income will be used to offset costs associated with issuing the fixed penalty notices and to fund environmental campaigns to increase education and compliance.

3.19 The review of FPN's will enable the Council to increase the number of enforcement actions against those individuals who disregard the environment. This in turn will improve the efficiency of the Environmental Protection Team in tackling low level environmental crime. The number of FPN's issued will be monitored.

3.20 The current Government guidelines on penalties are:

Offence	Default Penalty	Minimum Full Penalty	Maximum Full Penalty	Minimum Discounted Penalty
Littering	£75	£50	£80	£50
Dog control offences	£75	£50	£80	£50
Graffiti	£75	£50	£80	£50
Fly-posting	£75	£50	£80	£50
Unauthorised distribution of free literature on designated land	£75	£50	£80	£50
Alarm noise: failure to nominate keyholder or to notify local authority of keyholder's details	£75	£50	£80	£50
Nuisance parking	£100	£100	£100	£60
Abandoning a vehicle	£200	£200	£200	£120
Fly-tipping	£200	£150	£400	£120
Failure to produce a waste transfer note	£300	£300	£300	£180
Domestic waste receptacle offences	£60	£60	£80	£40
Industrial and commercial waste receptacle offences	£100	£75	£110	£60
Noise exceeding permitted level - domestic premises	£100	£75	£110	£60
Noise exceeding permitted level - licensed premises	£500	£500	£500	£500 - no discount allowed

3.21 The penalty limits for approval by Committee are:

Maximum full penalty with minimum discounted penalty.

3.22 It is outlined by Central Government that Council must use income from FPN's set out below:

Offence	FPN money can be spent on functions relating to:
Litter	Litter, dog control, graffiti and fly-posting
Graffiti	Litter, dog control, graffiti and fly-posting
Dog control	Litter, dog control, graffiti and fly-posting
Fly-posting	Litter, dog control, graffiti and fly-posting
Unauthorised distribution of free printed material on designated land	Litter, dog control, graffiti and fly-posting
Nuisance parking	Road traffic, litter and refuse
Abandoning a vehicle	Road traffic, litter and refuse
Fly-tipping	There are no restrictions on how councils can use income
Noise exceeding permitted levels – domestic premises	Statutory noise nuisance, noise at night and audible intruder alarms
Noise exceeding permitted levels – licensed premises	Statutory noise nuisance, noise at night and audible intruder alarms
Alarm noise - no keyholder	Statutory noise nuisance, noise at night and audible intruder alarms
Failing to show waste documents	Waste on land

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications

- Resources – There is a need to advertise the scheme in the local media and Ribble Valley Borough Council website to provide necessary equipment and to train staff where required with the service of issuing FPN's.
- Technical, Environmental and Legal – A Fixed Penalty Notice is a great enforcement tool; however alternative modes of enforcement may be used.
- Political – None.
- Reputation – None.
- Equality & Diversity – None.

5 RECOMMENDED THAT COMMITTEE

- 5.1 Approve the use of FPN's and their fine levels for the offences listed in the report (3.20).
- 5.2 Approve and delegate to the Head of Environmental Health Services that if any changes in legislation occur and subsequent fees, this can be implemented without Committee approval.

HEATHER COAR
HEAD OF ENVIRONMENTAL HEALTH SERVICES

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

None.

For further information please ask for Heather Coar, extension 4466

REF: HC/EL/25051702/H&H