

AGENDA ITEM

REPORT TO CABINET

19 APRIL 2018

**REPORT OF SENIOR
MANAGEMENT TEAM**

CABINET DECISION

Access, Community and Community Safety – Councillor Steve Nelson

LITTERING FIXED PENALTY NOTICE TARIFF

1. Summary

The purpose of this report is to outline some of the changes around legislation relating to littering and in particular how the offence is dealt with in Stockton on Tees. Cleaning up our streets and countryside currently costs the taxpayer almost £800 million a year and so maximum on-the-spot fines for dropping litter will almost double from April next year - from the current limit of £80 to £150 - in order to deter and punish the anti-social minority who continue to drop rubbish.

In future councils will also be able to impose these fines on the owners of vehicles from which litter is thrown, even if it was discarded by someone else. The government is clear these fines should not be abused simply as a means of raising money, so guidance on how fines should be applied will be issued to councils

2. Recommendations

1. Set the Fixed Penalty for littering at £130.00.
2. Set the minimum Fixed Penalty for littering at £90.00 if paid within 7 days.

3. Reasons for the Recommendation(s)/Decision(s)

This sets a clear deterrent factor to would be offenders whilst also taking into account the time and money spent on investigating and removing littering from our communities and town centre areas.

The use of a fixed penalty notice should be used instead of Court action, with the exception of the following instances;

- The offender has relevant past convictions for related offences
- The offender has shown no sign of remorse, acceptance or correcting behaviour

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct

and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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RECOMMENDATIONS

1. Set the Fixed Penalty for littering at £130.00.
2. Set the minimum Fixed Penalty for littering at £90.00 if paid within 7 days.

DETAIL

Background

1. The changes to fines for littering follow a public consultation as part of the launch of England's first ever Litter Strategy in April 2017. These new findings showed the vast majority of respondents were in favour of increasing on-the-spot fines.
2. More than 85% were in favour of increasing fixed penalties for littering, while local authorities agreed that new penalties to tackle littering from cars would help to improve environmental quality in their area. The government is today confirming that it will proceed with these measures, with legislation introduced by the end of this year and the new fines in place by April next year, subject to parliamentary approval.
3. The government is clear however that councils must not abuse the power to impose fines. Councils should take into account local circumstances, like local ability to pay, when setting the tariff for these fines.
4. In Stockton on Tees, the current littering powers have been used extensively since the introduction of enforcement in 2004. In terms of performance, the Civic Enforcement Service have issued a total of 454 over the past three years for littering. This accounts for

58% of the total fixed penalty notices (788) that were issued in the same period illustrating how widely used this mechanism of enforcement is.

- Income generated from the issuing of fixed penalty notices for littering can be spent on functions relating to litter, dog control, graffiti and fly-posting.

IMPLEMENTATION

- A fixed penalty notice is a way in which an offender can discharge his/her liability for an offence by paying a set amount to avoid Court action. We currently issue a range of FPN's for offences such as littering, dog fouling, vehicle abandonment and to deal with matters relating to the licencing of waste carriers and fly tipping. It is not an admission of guilt to pay a fine, providing the full amount is paid within the set term.
- The fixed penalty for littering offences is currently between £50-£80, depending on individual Local Authority discretion based on local circumstances. In Stockton on Tees, the current rate is set at £70 which is reduced to £50 if paid within 7 days. The levels of fixed penalty notices have not changed since 2006, but adjusting for inflation since that time means a maximum penalty of £80 in 2006 would now be £100. In Wales, the maximum fine for littering offences is already £125.
- In terms of FPN cost for littering, the government have set new guidelines for Councils to work to;

Offence	Default Penalty	Minimum Full Penalty	Maximum Full Penalty
Littering	£100	£65	£150

- In terms of the local picture, we have no current indication on what other Local Authorities are intending to set their respective fine rate at after April, as no decision has yet been made by them. Their present rates of fines are largely in line with ours currently.

COMMUNITY IMPACT IMPLICATIONS

- The recommended tariff which has been suggested in this report has been done so with due regard to the general public which it will effect. The tariff, as requirement by Central Government, has fully taken into account the socio-economic demographic of our Borough and as such, the maximum penalty has been avoided in this instance based on a person's ability to pay.

FINANCIAL IMPLICATIONS

- Income levels will be directly related to the number of FPN issued. Exact numbers are difficult to forecast as the purpose of implementing these fines is to reduce the likelihood of these offences occurring. Any income raised can be reinvested in additional education and the promotion of appropriate waste disposal.

LEGAL IMPLICATIONS

- Under section 87 of the Environmental Protection Act 1990 Act it is an offence to throw down, drop or otherwise deposit, and then leave, litter. The offence, applies to all places that are open to the air, including private land and land covered by water. A covered place which is open to the air on at least one side and to which the public have access is also subject to this section. A person found guilty of the litter offence may be fined up to level 4 on the standard scale (currently £2,500) in a magistrates' court.

13. Section 88 allows an “authorised officer” of a “litter authority” to issue “fixed penalty notices” as an alternative to prosecution. Litter includes cigarette ends and discarded chewing gum etc. Large items including a single plastic sack of rubbish will usually fall outside the scope of section 87 and should be dealt with as fly tipping.

RISK ASSESSMENT

14. No risk assessment required.

COUNCIL PLAN POLICY PRINCIPLES AND PRIORITIES

15. Developing strong and healthy communities

CORPORATE PARENTING IMPLICATIONS

16. There are no corporate parenting implications.

CONSULTATION INCLUDING WARD/COUNCILLORS

17. Cabinet Member: Access, Communities & Community Safety
Cabinet Member: Environment & Transport

Name of Contact Officer: Marc Stephenson
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Education related

No

Background Papers

None

Ward(s) and Ward Councillors:

All

Property

None