

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 1 NOVEMBER 2016

Title:

**FIXED PENALTY NOTICE FINE LEVELS UNDER NEW FLY-TIPPING
LEGISLATION**

**[Portfolio Holder: Cllr James Edwards]
[Wards Affected: All]**

Summary and purpose:

The purpose of this report is to determine Fixed Penalty Notice fine levels for fly-tipping under the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 in force from 9 May 2016.

How this report relates to the Corporate Priorities:

Environment: The introduction of these powers will help ensure Waverley is a clean and sustainable place to live and work.

Customer Service: Use of these powers will improve the environmental cleansing service's ability to respond effectively to residents expectations by providing a strong deterrent for environmental crime.

Legal Implications

The Council is required to remain within the prescribed fine levels, being no lower than £150 and no higher than £400 (subject to the early repayment prescribed levels). There may be less reliance on the Legal Services team for prosecutions of small fly-tips if the Council issues FPNs for them instead and those fines are paid. If fines remain unpaid then reliance on the Legal Services team would likely increase. In reality, fly tipping is very rarely prosecuted by the Council and therefore the reliance would likely increase.

Financial Implications

The introduction of these penalties will enable the Council to recover some of the cost of providing a service to protect the local environment.

Background

1. Environmental Services have responded to member expectations for increased enforcement for environmental crime by recently recruiting an Environmental Enforcement Officer. In order for this officer to carry out their duties, fine levels for Fixed Penalty Notices (FPN) under recently legislated fly-tipping enforcement powers need to be agreed.

2. The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 came into force on 9 May 2016, amending Part 2 of the Environmental Protection Act 1990 (Section 33). Previously there had been no specific provision available to officers to directly pursue those responsible for fly tipping offences through the use of Fixed Penalty Notices. The new regulations provide this function.
3. The regulations state that if the fine is paid within 10 days of the date of the Notice, the default level is £120 but can be set at a higher rate. The default fine for paying beyond 10 days of the dated Notice is £200, but can be set between £150 and £400.
4. The penalty level set by most authorities is at the maximum £400, with the early payment rate set between £250 and £350, if paid within 10 days (multi-area survey by John Evans, Waste Enforcement Advisor, Kent County Council). A fixed penalty must be paid within 14 days from the date of the notice, after which the matter can be referred to the Magistrates' Court.
5. It is recommended that the level of the penalty is set at £400 with a discount to £300 if paid within 10 days.

Recommendation

It is recommended that the level of the fine for fixed penalty notices for fly-tipping be set at £400, with a discount to £300 if paid within 10 days.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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