

TELFORD & WREKIN COUNCIL

CABINET – 29th JUNE 2017

FIXED PENALTY ENFORCEMENT POLICY & SETTING OF FIXED PENALTY FINES

REPORT OF: ASSISTANT DIRECTOR, CUSTOMER & NEIGHBOURHOOD SERVICES

LEAD CABINET MEMBER – CLLR RICHARD OVERTON, CABINET MEMBER FOR HOUSING AND ENFORCEMENT

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 Some environmental legislation gives Council’s the power to issue Fixed Penalty Notices as an alternative to prosecution for certain low level environmental and anti-social behaviour offences.
- 1.2 A Fixed Penalty Notice is a means to give a person who has committed a relevant offence the opportunity to pay a fine and in so doing discharge their liability to conviction.
- 1.3 The Council has flexibility to set the level of a fixed penalty charges for certain offences whilst the remaining are set in law. Before enforcing the relevant fixed penalty powers the Council must set out its enforcement policy and set the level of Fixed Penalty Fine to be levied in accordance with Regulations.

2. RECOMMENDATIONS

- 2.1 That Cabinet approves the levels of fixed penalty fines at the levels set out within Section 9 of the Environmental Enforcement Fixed Penalty Notice Policy 2017 as attached at **Appendix 1** of this report.
- 2.1 That Cabinet receive and approve the Environmental Enforcement Fixed Penalty Notice Policy 2017 as attached at **Appendix 1** of this report.

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes	<ul style="list-style-type: none"> • Ensure that neighbourhoods are safe, clean and well maintained. • Improve the health and wellbeing of our communities and address health inequalities
	Will the proposals impact on specific groups of people?	
	NO	

TARGET COMPLETION/DELIVERY DATE	The delivery date for the start of the enforcement project will be July 2017. This will continue to be monitored and reviewed in line with the updated Environmental Dashboard.	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes/No	There are no financial implications from granting the delegated powers contained within this report. Funding is required to provide suitable training to support our current investigatory procedures and policies that support the Police and Criminal Evidence Act 1984. All training costs will be met from existing budgets.
LEGAL ISSUES	Yes	As a result of recent changes to existing legislation, the creation of new statutory provisions, and for the purposes of clarifying existing delegations due to recent major restructuring of the various services carrying out enforcement duties the Assistant Director: Customer and Neighbourhood Services has recently used powers under the Council's Constitution to delegate powers to officers to issue fixed penalty notices in relation to a variety of environmental crime offences. Before enforcing the relevant fixed penalty powers the Council must set out its enforcement policy and set the level of Fixed Penalty Fine to be levied in accordance with Regulations.
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	A failure to set fixed penalty fines and approve an enforcement policy will prevent Council officers from being able to use these powers as a means of addressing incidents of anti-social behaviour and environmental crime.
IMPACT ON SPECIFIC WARDS	Yes	Borough-wide impact

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

- 4.1 Customer and Neighbourhood Services staff have been granted delegated authority to act on behalf of the Council in respect of dealing with anti-social behaviour and environmental crime, and in particular for the issue of Fixed Penalty Notices.
- 4.2 A Fixed Penalty Notice is a means to give a person who has committed a relevant offence the opportunity to pay a fine and in so doing discharge their liability to conviction. As such it is intended as a means by which Courts are prevented from being overloaded with minor offences by first time offenders.
- 4.3 Before enforcing the relevant fixed penalty powers the Council must set out its enforcement policy and set the level of Fixed Penalty Fine to be levied in accordance with Regulations.
- 4.4 The Council's current fixed penalty policy is no longer fit for purpose due to recent legislative changes. The proposed new policy was produced following a process of review carried out by the Council's Environmental Enforcement Group and Legal

Services. It takes into account new legislation and amendments that have been made in recent years to other key legislation.

- 4.5 The policy covers enforcement action for those offences that could be broadly described as environmental or related to cleaner or safer neighbourhoods. As such the areas it covers include: dog control/dog fouling, littering, fly tipping, abandoning a vehicle, and graffiti & flyposting.
- 4.6 Where legislation permits the use of fixed penalty notices, the Council will consider the use of them as an alternative to prosecution. Examples of where they may be appropriate are: to deal quickly and simply with less serious offences, to divert less serious cases away from the court process and to deter repeat offences. In considering the suitability of the issuing of a fixed penalty notice Officers will also take into consideration whether it is reasonable and proportionate to do so in the particular circumstances. Examples of when a fixed penalty notice may not be appropriate may be when the offender is elderly, vulnerable or a young person, or the individual has taken all reasonable steps to ensure they have engaged a registered waste carrier to dispose of household waste which has later been found fly-tipped.
- 4.7 Where legislation gives the local authority flexibility to set the level of a fixed penalty charge the level of the charge shall be set by the Council. The amount of fine in such cases has been set by conducting a bench marking exercise with a number of other local authorities to ensure a fair and consistent approach has been applied. Cabinet's attention is drawn to the fact that a number of environmental crimes continue to blight local communities within the Borough and we have reflected this by taking the decision where possible to use the maximum fixed Penalty levies available.
- 4.8 The table in section 9 of the Policy (**Appendix 1**) sets out the level of fines that is deemed appropriate for each particular offence listed. In each case careful consideration has been given to ensure that fine levels are proportionate to the offence. It includes provision for a reduced fine level for early payment i.e. within 7 days. If a Fixed Penalty Notice is not paid within the 14 days then normally the offender would be prosecuted.
- 4.9 The purpose of the proposed policy is to set out how the Council will enforce through the use of Fixed Penalty Notices for environmental offences. In the use of Fixed Penalty Notices the Council will always seek to follow the enforcement principles described in its overarching Corporate Enforcement Policy.
- 4.10 Any fines collected through the Fixed Penalty Notice procedure will only be spent on related functions of the Council as is required by Government guidance.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

- 5.1 An increase in enforcement and the issue of fixed penalty notices could lead to more cases being sent before the courts. However with an increase in enforcement activity and development of more face to face interventions this should be mitigated.
- 5.2 The fixed penalty provisions will apply equally across Telford & Wrekin and the sanction can only be used where there is evidence available of the person responsible for the relevant offence. This has the effect of shifting the cost burden onto the person responsible rather than it being borne by Council Tax payers as a whole and is so more equitable.

6. **PREVIOUS MINUTES**

No previous minutes.

7. **BACKGROUND PAPERS**

TWC Corporate Enforcement Policy

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