
**CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005
FIXED PENALTY NOTICES**

**Responsible Cabinet Members - Councillor Stephen Harker,
Consumer and Environmental Services Portfolio
Councillor Bill Dixon,
Community and Public Protection Portfolio**

Responsible Director - Cliff Brown, Director of Community Services

Purpose of Report

1. To amend the Council's Scheme of Delegation to the Director of Community Services following Cabinet's agreement to implement changes within the Clean Neighbourhoods and Environment Act 2005.

Information and Analysis

2. Individuals or organisations who commit environmental crimes can be prosecuted through the Courts. The Clean Neighbourhoods and Environment Act 2005 extends the use of Fixed Penalty Notices (FPNs) as a way of dealing with these environmental offences, in particular low level crime. For a particular crime, if a FPN is issued and the individual or organisation pays that fine, then they cannot be prosecuted. If they fail to pay the FPN then prosecution will follow. In some situations, such as major fly tipping, it is always appropriate to proceed through the Courts as opposed to using FPNs as a way of dealing with this type of offence.
3. FPNs do provide an effective and visible way of responding to low level environmental crimes. Generally, experience has shown that the public welcome the use of fixed penalty notices provided that they are issued sensibly, are enforced even-handedly and are seen as a response to a genuine problem.
4. FPNs are not new to Darlington and have been used for a number of years for environmental crimes relating to litter, dog fouling and placing refuse out too early for collection.
5. The Clean Neighbourhoods and Environment Act 2005 has been implemented in stages from April 2005 up to April 2006. During this period, a review of the Council's Uniformed Warden Service was undertaken to ensure that the Council were best placed to utilise the new powers that were being implemented. The new structure of the Uniformed Warden Service now includes:

- (a) A dedicated Manager
 - (b) Two dedicated Anti Social Behaviour Officers
 - (c) Two Supervising Uniformed Wardens covering ASB and environmental crime
 - (d) Eight Uniformed Wardens mainly dedicated towards anti social behaviour
 - (e) Three Uniformed Wardens focusing on environmental crime
6. In addition, the recent Review of Community Safety has resulted in the Council's Abandoned Vehicles Officer and Dog Wardens transferring to the new team.
7. To be able to implement the range of powers in the Clean Neighbourhoods and Environment Act, it is necessary to review the delegated powers to the Director of Community Services and Assistant Director – Environmental Services. The existing delegation is as follows:

Appoint officers or agents with the relevant qualifications to enforce the provisions of and institute proceedings with regard to the following:

- (a) *Dogs (Fouling of Land) Act 1996*
 - (b) *Dog Fouling (Fixed Penalties) Order 1996*
 - (c) *Anti Social Behaviour Act 2003, Section 43, 44 and 45*
 - (d) *Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002*
8. It is proposed to amend the delegated powers to the Director of Community Services and Assistant Director - Environmental Services to include the following:

Appoint officers or agents with the relevant qualifications to enforce the provisions of and institute proceedings with regard to the following:

- (a) *Environmental Protection Act 1990*
- (b) *Refuse Disposal (Amenity Act) 1978*
- (c) *Road Traffic Regulations Act 1984*
- (d) *Removal and Disposal of Vehicles Regulations 1986*
- (e) *Clean Neighbourhoods and Environment Act 2005*
- (f) *Dog Control Orders (Prescribed Offences and Penalties) Regulations 2006*
- (g) *Dog Control Orders (Procedures) Regulations 2006*

Outcome of Consultation

9. No formal consultation has taken place on extending the use of fixed penalty notices.
10. It is proposed that the Council take a pro-active approach to awareness and publicity of FPNs, in particular where extending the range of crimes FPNs will be applied to.

Legal Implications

11. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

12. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
13. Environmental crime has a significant, negative impact on the quality of the local environment. By implementing the new powers under the Clean Neighbourhoods and Environment Act, issuing FPNs where appropriate, will demonstrate that the Council is taking action to improve the quality of life for residents.

Council Policy Framework

14. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

Recommendation

15. It is recommended that Council amend the Scheme of Delegation with respect to the Director of Community Services to incorporate the powers in paragraph eight.

Reasons

16. The recommendation is supported to allow the new powers under the Clean Neighbourhoods and Environment Act to be implemented.

Cliff Brown
Director of Community Services

Background Papers

Clean Neighbourhoods and Environment Act 2005.

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