

CABINET
9 JULY 2019

FIXED PENALTY NOTICE CHARGES

**Responsible Cabinet Member -
Councillor Jonathan Dulston, Community Safety Portfolio**

**Responsible Director -
Ian Williams, Director of Economic Growth and Neighbourhood Services**

SUMMARY REPORT

Purpose of the Report

1. To update the existing charges for Fixed Penalty Notices (FPNs) with regard to environmental crime.

Summary

2. Council officers have for many years issued FPNs for environmental crime to both individuals and organisations as a way of discharging criminal prosecution. However, where it is deemed appropriate and proportionate to the offence, e.g. in the case of large fly tips, organised crime activity or persistent offences, it would be appropriate to proceed through the courts.
3. Within the report at **Appendix 1**, the proposed fees for a range of environmental crimes is included for Members to consider.

Recommendation

4. It is recommended that Members approve the proposed charges and early discount payment detailed in this report with an implementation date of October 2019.

Reason

5. To provide an effective deterrent against environmental crime within the Borough

Ian Williams
Director of Economic Growth and Neighbourhood Services

Background Papers

No background papers were used in the preparation of this report.

S17 Crime and Disorder	Environmental crime is a problem within the Borough and the Council do have the powers to issue FPNs or to prosecute and take individuals/organisations to court.
Health and Well Being	In some cases environmental crime impacts on the overall appearance of an area and can impact on an individual's health and well being.
Carbon Impact	This report does not impact on carbon emissions.
Diversity	All individuals will be treated in the same way with regard to the issuing of FPNs other than those under the age of 18 years as detailed in this report.
Wards Affected	All Wards are affected.
Groups Affected	All Groups are affected.
Budget and Policy Framework	There is no impact on the Council's Budget and Policy Framework.
Key Decision	This is a key decision as it impacts on all Wards.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	Environmental crime across the Borough has an impact on Darlington as a place.
Efficiency	There is no impact on the Council's efficiency agenda as a part of this report.
Impact on Looked After Children and Care Leavers	This report has no additional impact on Looked After Children or Care Leavers and the policy for issuing FPNs to under 18s is detailed in this report.

MAIN REPORT

Information and Analysis

6. The fees charged for FPNs have not been reviewed in recent years, alongside this new legislation has been introduced that enables the Council to issue FPNs for a wider range of offences, such as fly tipping and littering from vehicles.
7. Individuals and organisations who commit environmental crime can be prosecuted through the courts. However, the Council has the option to issue FPNs as a way of dealing with environmental crime and should the individual or organisation pay the fine then they would not be prosecuted. If they fail to pay the FPN, then prosecution will follow. Although in some situations, for significant fly tipping, organised crime activity, persistent offences, it is always appropriate to proceed through the courts as opposed to using FPNs as a way of dealing with these offences.
8. The Council's new Community Safety Unit is now set up and fully operational, which includes the Civic Enforcement Team, who have responsibility for nuisance and civil parking enforcement, anti-social behaviour and environmental crime. The team consists of an Anti-Social Behaviour and Civic Enforcement Operational Team Leader, three Senior Civic Enforcement Officers and 10 Civic Enforcement Officers working on a shift rota, covering Monday to Sunday, 8am until 10pm.

9. Staff within the Civic Enforcement Team currently issue FPNs for a range of environmental crime and will continue to carry out this role. In order to ensure that this is carried out to maximum effect, it is proposed to adopt the widest range of powers appropriate for FPNs and set the level of fine.

Proposed Fees

10. The table attached at Appendix 1 sets out the offence, an explanation of that offence, the Act that is applicable to the offence, the Council's proposed fine, what the default fine is, the minimum fine applicable and the proposed discount rate.
11. The column with 'DBC proposed fine' is the level of fine that is being proposed to be set for each offence. The final column, 'Proposed DBC discount', provides the option of a discounted rate should the individual/organisation pay within 14 days of being issued with the FPN. The default fine is only applicable if the Council has not agreed a level of fine and the minimum full fine is the least the Council can charge before applying any discount.
12. It is therefore proposed to set the FPN rate at column headed 'DBC proposed fine' in Appendix 1 and offer a reduced discounted rate if paid within 14 days as detailed in the final column 'Proposed DBC discount' of Appendix 1
13. The environmental crime covered in Appendix 1 includes littering, littering from vehicles, graffiti, fly posting, unauthorised distribution of free literature on designated land, nuisance parking, abandoning a vehicle, fly tipping, failure to produce a waste transfer note, domestic waste receptacle offences, and industrial and commercial waste receptacle offences.
14. Currently dog fouling and other dog related offences are included in Dog Control Orders. There is however a requirement to update existing Dog Control Orders with a Public Space Protection Order (PSPO). A report will be presented to Cabinet for consideration in due course with regard to introducing a PSPO for dog related offences and the fees applicable for an offence under a PSPO will be included in that report.

Fixed Penalty Notices for Under 18s

15. Different arrangements will apply to those under 18 years of age who commit offences. Those arrangements will be:-
 - (a) **10-13 year olds**

FPNs will not be issued to persons under the age of 14 where an offence is witnessed but they should still be requested to pick up the litter and both the juvenile and their parent/guardian will be sent a formal warning so that the parent/guardian is aware of the situation.
 - (b) **14 and 15 year olds**

If an offence is committed by a person who is 14 or 15, in the first instance they would be requested to pick up the litter and dispose of it in the correct manner. If the request is complied with, a formal warning would be given, verbally at the time, and followed up in writing to both the juvenile and their parent/guardian explaining the correct procedure.

If the litter is not picked up, then a FPN would be issued to the individual and the parent/guardian informed.

Note: Prior to the FPN being issued, consultation will take place with the Youth Offending Service as to whether this is an appropriate course of action.

(c) 16 and 17 year olds

If an individual who is 16 or 17 commits an offence then the individual will be issued with a FPN and the parent/guardian informed. Consultation again will take place with the Youth Offending Service as to whether this is an appropriate course of action, before the FPN is issued.

In every instance where a FPN is issued to an under 18, consideration can be given to a supervised litter pick as an alternative to payment of the FPN. This option will be communicated to under 18s and their parent/guardian at the time of the FPN being sent out to them.

Legal Implications

16. The new levels of FPNs that are suggested are all within the ranges set out in legislation. The introduction of FPNs as an enforcement tool for offences where we do not have that option currently will expand our options as an enforcement authority and would be expected to reduce the number of court proceedings that are taken forward.

Consultation

17. No consultation has taken place in the production of this report.

Implementation

18. It is proposed to implement the new charges from 1 October 2019, which will allow adequate time to publicise the new charges. An article will be placed in One Darlington magazine alongside social media posts and information on the Council's website with regard to the range of FPNs and applicable charges.