



Derby City Council

**NEIGHBOURHOODS & PUBLIC
PROTECTION CABINET MEMBER MEETING
27 June 2017**

ITEM 6

Report of the Strategic Director of Communities
and Place

Fly Tipping Fixed Penalty Notice Charge

SUMMARY

- 1.1 The reports sets out the provisions introduced by the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 to issue a Fixed Penalty Notice (FPN) against any person responsible for fly-tipping. It also proposes a recommended penalty level and early payment discount.

RECOMMENDATION

- 2.1 To approve the introduction of a fly tipping fixed penalty charge at the maximum level, £400, and offer an early payment discount to £250 if paid within 10 days.

REASONS FOR RECOMMENDATION

- 3.1 The introduction of the fly tipping fixed penalty charge at the maximum level will strengthen the range of sanctions available to deal with fly tipping and act as a deterrent to would-be offenders.
- 3.2 The offer of an early payment discount provides for a proportionate approach to be taken in relevant circumstances.

SUPPORTING INFORMATION

- 4.1 In 2014/2015 DEFRA statistics collected from local authorities in England reported around 900,000 incidents of fly tipping, which is estimated to have cost taxpayers £50 million to clear. This represented a 5.6% increase on the previous year.
- 4.2 In response to public concern about fly tipping and the appropriateness of sanctions to deal with it effectively, the Government introduced The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 (the Regulations).
- 4.3 Section 33 of the Environmental Protection Act 1990 makes it an offence to deposit controlled waste in or on any land, unless a waste management license is in force. This section is intended to deal with the offence of fly-tipping. The penalty for such offences is by prosecution, and this can be through the Magistrates or Crown Court, with an unlimited level of fine or up to a 5 year custodial sentence. It is considered as one of the most serious environmental crimes.

- 4.4 The Regulations introduce a new power to serve a Fixed Penalty Notice (FPN) on any persons found to be responsible for fly tipping offences (this excludes operators in the waste management industry, those responsible for the fly tipping of hazardous waste or repeat offenders).
- 4.5 Payment of a FPN discharges the recipient from any liability for further action or conviction for the offence. However, Officers can still opt to pursue prosecution of large scale and significant incidents if it is felt that is a more appropriate sanction.
- 4.6 The legislation gives local authorities the power to set the level of FPN charge to not less than £150 and not more than £400. The default charge is £200.
- 4.7 The proposal is to recommend that the FPN charge be set at £400 with a reduction to £250 if paid within 10 days. This will complement existing powers available to Officers who are already able to issue a FPN for offences such as litter, fly posting and dog fouling.
- 4.8 In setting FPN charges, consideration must be given to the deterrent effect of different levels and the likely fines imposed by the Magistrates Court. The proposed level is therefore considered appropriate having regard for this and the often serious environmental impact caused by fly tipping.
- 4.9 For comparison purposes, Birmingham City Council has set their fine at the maximum level with no early repayment option. Plymouth's is at the maximum level with a reduction to £300 if paid within 10 days. Both Dartford and Blaby Council's is at the maximum level with a reduction to £250 if paid within 10 days.

OTHER OPTIONS CONSIDERED

- 5.1 Not to introduce FPNs for fly tipping offences. This is disregarded as a FPN is considered to be an additional and effective tool for the Council in tackling fly tipping. The new powers also permit a proportionate approach to such incidents.
- 5.2 To apply the default charge amount of £200. This is disregarded as it is considered to be too low and does not reflect the necessary financial incentive for us to see a reduction in the amount of fly tipping.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Olu Idowu Amanda Fletcher - - - Michael Kay
For more information contact: Background papers: List of appendices:	Nicola Cokayne 01332 641940 nicola.cokayne@derby.gov.uk None Appendix 1 – Implications

IMPLICATIONS

Financial and Value for Money

- 1.1 The new power will complement existing activities, so is unlikely to incur any additional cost. Payment of the FPN will be retained by the Council to offset the cost of providing the service.

Legal

- 2.1 As set out in the report.

Personnel

- 3.1 None arising from this report.

IT

- 4.1 None arising from this report.

Equalities Impact

- 5.1 None arising from this report.

Health and Safety

- 6.1 None arising from this report.

Environmental Sustainability

- 7.1 None arising from this report.

Property and Asset Management

- 8.1 None arising from this report.

Risk Management

- 9.1 None arising from this report.

Corporate objectives and priorities for change

- 10.1 The proposals set out in the report contribute to promoting health and well-being.