

WELWYN HATFIELD BOROUGH COUNCIL  
ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE – 4 JULY 2016  
REPORT OF THE DIRECTOR (FINANCE AND OPERATIONS)

ENVIRONMENTAL ENFORCEMENT

**1 Executive Summary'**

- 1.1 The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016; “the regulations” came into force on the 9<sup>th</sup> May 2016, amending s33 of the EPA 1990. This regulations permit statutory authorities to issue a “Fixed Penalty Notice” for fly tipping offences.
- 1.2 The Council’s Environmental Enforcement Strategy was first introduced in March 2007 implementing the following regulations to enable the issuance of “Fixed Penalty Notices” (FPNs) and to pursue misdemeanours in court:
- Clean Neighbourhoods and Environment Act (CNEA) 2005
  - Environmental Protection Act (EPA) 1990
  - Refuse Disposal (Amenity) Act 1978
  - Anti-Social Behaviour Act 2003
  - Control of Pollution (Amendment) Act 1989
- 1.3 The intention of the Environment Enforcement Policy was and continues to be for those individuals and businesses who persistently commit environmental offences would face stricter enforcement, including “Fixed Penalty Notices” (FPNs).

**2 Recommendation(s)**

- 2.1 The Environment Overview and Scrutiny Committee recommend to Council the addition of a “FPN” for fly tipping offences to the current offences for which “FPNs” are issued. The “FPN” would be issued after investigation(s) to individual(s) who the investigating officer(s) concluded were not regularly fly tipping offender(s) or were part of criminal activity.
- 2.2 The Environment Overview and Scrutiny Committee recommend to Council the level of penalty to be set at £300 or a reduced penalty of £180 if the “FPN” is paid within 10 days.
- 2.3 The Environment Overview and Scrutiny Committee recommend to Council “FPN” to be issued by current authorised officers (Community and Environment Officers and Street Wardens).

### **3 Explanation**

- 3.1 Since the introduction of Environmental Enforcement, the Environment Team have developed and implemented a range of processes to enable the council to tackle more prolific environmental offences.
- 3.2 The main area of focus has been section 46 offences under the Environmental Protection Act 1990. This essentially covers offences relating to waste receptacles and the presentation of waste, for example, excess dumped bags/side waste.
- 3.3 A number of “FPNs” have been issued for littering as permitted under the definition of littering. This is where residents are dumping a small number of bags away from home.
- 3.4 The Secretary of State under designated powers has made an amendment of the Environmental Protection Act 1990, which allows statutory authorities to issue an “FPN” for fly tipping in cases where the statutory authority believes a “FPN” is more appropriate than taking the offence to Court. The Government has indicated that an “FPN” for fly-tipping will only be used for small scale fly-tipping offences.
- 3.5 A fine for the fly tipping “FPN” has been set at a higher level than all other offences covered under the legislation. Prior to the regulation fly tipping offences could only be prosecuted through the Courts.
- 3.6 The Regulations allows the Council to set the full amount of the penalty between £150-400, with an option of a reduced payment if paid within 10 days. - The Regulations provide that the full amount of the penalty is between £150 - £400 and £200 if not amount is specified
- 3.7 Officers, consider that the “FPN” penalty should be set at £300, with a 60% reduced penalty payment of £180 if paid within 10 days. This level of penalty demonstrates the seriousness of the fly tipping offence, but is set at a level, that makes the option to pay the penalty, preferable to going to Court.

#### **Implications:**

### **4 Legal Implication(s)**

- 4.1 There are no known legal implications associated with the recommendation.
- 4.2 However, the introduction of the new penalty “FPN” for some fly tipping offences would reduce the involvement of Legal Services.

### **5 Financial Implication(s)**

- 5.1 The report has no financial implications.

### **6 Risk Management Implication(s)**

- 6.1 The report has no risk implications.

## **7 Security and Terrorism Implication(s)**

7.1 There are no known security and terrorism implications associated with the recommendation.

## **8 Procurement Implication(s)**

8.1 The report has no procurement implications.

## **9 Climate Change Implication(s)**

9.1 There are no known climate implications associated with the recommendation.

## **10 Link to Corporate Priorities**

10.1 Meets the Council's core promises to provide high quality, value for money services that respond to people's needs; to maintain the environment of our Borough.

## **11 Equality and Diversity**

11.1 An Equality Impact Assessment (EIA) has not been carried out in connection with the recommendation set out in this report as the contents and actions do not require a policy or service change, resulting in no reasonably foreseeable differential impacts.

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Date	17 <sup>th</sup> May 2016

### **Background papers:**

- Welwyn Hatfield Borough Council Environment Enforcement Policy – Report to Environment Overview Scrutiny Committee 27.11.06
- Welwyn Hatfield Borough Council Environment Enforcement Policy – Report to Environment Overview Scrutiny Committee 11.06.07
- Welwyn Hatfield Borough Council Environment Enforcement Policy – Report to Environment Overview Scrutiny Committee 09.03.09
- Welwyn Hatfield Borough Council Environment Enforcement Policy – Report to Environment Overview Scrutiny Committee 28.06.12
  
- Defra, Fixed Penalty Notices, updated November 2006
- Clean Neighbourhoods & Environment Act 2005
- Environmental Protection Act 1990
- Refuse Disposal (Amenity) Act 1978
- Anti-Social Behaviour Act 2003
- Control of Pollution (Amendment) Act 1989
- Defra, Interim Changes To Local Authority Enforcement Powers: Household Waste Collection, updated May 2012
- Defra, Code of Practice on Litter and Refuse (<http://archive.defra.gov.uk/environment/quality/local/litter/code/documents/cop-litter.pdf>)
- 2016 No. 334 Environmental Protection, England (The unauthorised Deposit of Waste (Fixed Penalties) Regulation 2016