

2016-17 ENVIRONMENTAL ENFORCEMENT – FEES AND CHARGES

1. ITEM FOR DECISION

Legislation has recently been introduced to increase the powers available to local authorities to tackle environmental crime and anti-social behaviour.

In relation to environmental crime, the new measures are contained in the Environmental Protection Act 1990 (inserted by the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016) and enable local authorities to issue Fixed Penalty Notices ('FPNs') for offences relating to the unauthorised or harmful depositing, treatment or disposal of waste.

In addition, in relation to anti-social behaviour, certain provisions of the Anti-Social Behaviour Crime and Policing Act 2014 give local authorities the power to issue FPNs for failure to comply with a Community Protection Notice (issued if the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality and the conduct is unreasonable) or a Public Spaces Protection Order (which is an order made by the local authority prohibiting or requiring certain things to be done by individuals in a particular area where activities in that area have had a detrimental effect on the quality of life of those living in the locality and the effect of those activities has been persistent or continuing in nature and unreasonable).

This report seeks to add the amount of the FPNs for these legislative provisions to the current list of fees and charges and to set the discounted amount for early payment. FPNs which have not previously been included in the fees and charges for failure to produce the required waste documentation in accordance with the Environmental Protection Act 1990 and the Control of Pollution (Amendment) Act 1990 are also included for decision.

2. POLICY FRAMEWORK

The over arching enforcement policy for the issue of FPNs is already in place but a review of environmental enforcement is to be undertaken as part of the ongoing service reviews.

The approach previously taken by this Authority in the setting of FPN amounts which were not fixed by the Government was to set the fee at the maximum level and this is the approach that is recommended here. In addition, the discounted amount for early payment of the FPN has previously been set at around 75% of the full FPN amount and this principle has again been applied.

3. OPERATIONAL IMPLICATIONS

The introduction of these new provisions is welcomed and will assist officers in their ability to tackle environmental crime and anti-social behaviour in a more efficient and timely manner, particularly for smaller scale offences which would not normally warrant the instigation of court proceedings.

However, it must be borne in mind that payment of a FPN is a way of discharging the offence for which it is issued so conversely if payment is not made then prosecution for the original offence should normally follow.

4. FINANCIAL IMPLICATIONS

The enforcement of the legislation will be undertaken with existing resources and at this stage it is not known what additional income could result from the issue of such FPNs. Any potential additional income would not be the reason for their use.

5. ENVIRONMENTAL, CRIME & DISORDER AND EQUALITY & DIVERSITY IMPLICATIONS

Tackling environmental crime and anti-social behaviour is high on the Government agenda and is welcomed as it enhances the quality of life for all. Fly tipping within the New Forest area is not an uncommon occurrence and a zero tolerance policy in this regard should be supported.

6. RECOMMENDATION

That the fees and charges attached as appendix A to this report and shown in red be agreed and adopted.

Portfolio Holder's endorsement: I agree the recommendation

Signed:

CLLR S V BEETON

Cllr S V Beeton (Environment Portfolio Holder)

CLLR J L CLEARY

Cllr J L Cleary (Housing and Communities Portfolio Holder)

Date: 1 JULY 2016

Date Notice of Decision given: 1 July 2016

Last day for call in: 8 July 2016

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APPENDIX A

Legislation	Description of Offence	Amount of FPN, as prescribed by the legislation	Proposed FPN charge	Discounted amount if charge paid is paid early, as prescribed by the legislation	Proposed FPN discounted charge
S.33ZA Environmental Protection Act 1990	Unauthorised deposit of waste	£150 - £400 with a default amount of £200 if no amount is specified	£400	Cannot be less than £120	£300
S.34A Environmental Protection Act 1990	Failure to produce waste documentation (formerly waste transfer note)	£300	£300	Cannot be less than £180	£225
S5B Control of Pollution (Amendment) Act 1989	Failure to produce authority to carry waste (waste carriers licence)	£300	£300	Cannot be less than £180	£225
S.52 Anti- Social Behaviour, Crime and Policing Act 2014	Failure to comply with a Community Protection Notice	Must not be more than £100	£100	N/A	£75
S.68 Anti -Social Behaviour, Crime and Policing Act 2014	Failure to comply with a Public Space Protection Order	Must not be more than £100	£100	N/A	£75

Please note the amounts indicated in red are the amounts recommended to be included in the Council's Fees and Charges.