

INFORMATION

THE USE OF THE ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014 AND COMMUNITY PROTECTION NOTICES TO ISSUE FIXED PENALTY NOTICES FOR CERTAIN WASTE AND DOG RELATED OFFENCES

On 15 June 2015 the offence of failing to comply with a s46 notice under the Environmental Protection Act 1990, was decriminalised. This introduces new challenges and requirements in order to enforce illegally deposited household waste (dumped black bags). The implications of this change in legislation was discussed by Members at the September meeting of the Operational Management Committee and the Waste Prevention Team were tasked with investigating alternative pieces of legislation that may be utilised to tackle illegally deposited waste. The Anti-Social Behaviour Crime and Policing Act 2014 (ASBCP) allows for the issuing of Community Protection Notices (CPN) which may be considered as an option for enforcing illegally deposited waste and could also be useful in tackling certain issues in the Dog Enforcement Service. A CPN can require an individual/business/organisation to: stop or start doing specified things or to take reasonable steps to achieve specific results, where their actions are deemed to be having a detrimental effect on the quality of life of those in the locality. Failure to comply with a CPN is a criminal offence. Prior to progressing to prosecution a fixed penalty notice (FPN) maximum £100, may be issued which would provide the opportunity of discharging any liability to conviction for the offence by payment of the FPN within 14 days.

Under the Fylde Council Constitution, the Chief Executive and the Director of Resources have delegated powers to authorise Community Protection Notices in relation to waste and dog control in consultation with the Chairman of the Operational Management Committee. A CPN can be issued to an individual or body, provided there are reasonable grounds that:

- The conduct is unreasonable and is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality

Examples could include instructions to stop placing waste out in black sacks/too early, only presenting waste in the correct containers/at certain times for collection, stop allowing a dog to escape and/or fixing fences to secure the dog.

The Legal team at Fylde Council have confirmed that CPNs could be used for illegally deposited waste however, a Magistrate may deem that sacks presented out too early or refuse presented in the incorrect coloured sacks is not detrimental to a locality. Significant consideration will be given to the wording of any warnings/notice to demonstrate detriment to locality, but if rejected by the Magistrates court, alternative options for enforcement may require investigation.

FURTHER INFORMATION

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