

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	ENVIRONMENT HEALTH AND HOUSING COMMITTEE	8 JANUARY 2019	4

### THE INTRODUCTION OF FIXED PENALTY FOR LITTERING FROM VEHICLES

#### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

#### SUMMARY

On 1st April 2018, new legislation came into force concerning littering from vehicles. The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 grant new powers to litter authorities go issue civil penalty notices to the keeper of a vehicle in respect of which there has been a littering offence. This report details the legislative changes and advises on the level of fixed penalties available to the council.

#### RECOMMENDATIONS

1. To note the new powers under the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations and that the amount of the fixed penalty under the regulations is by default is the same amount as for leaving litter under section 88(6A) of the Environmental Protection Act 1990.
2. To make provision for the purposes of regulation 6(6) for treating the penalty as having been paid in full if £50 has been paid within 14 days of issue.
3. Delegate to the Director of Resources the power under regulation 10 to authorise persons to perform the functions conferred by regulation 4 (penalty notices).

#### SUMMARY OF PREVIOUS DECISIONS

There are no previous decisions under this subject matter.

#### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	✓
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	✓
Working with all partners ( <b>Vibrant Economy</b> )	✓
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	✓
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	✓

## REPORT

1. Fylde Borough Council has a duty to keep land in its area, including highways and roads, clean, so far as practicable, under section 89(1) of the EPA 1990.
2. Fixed penalty notices are available as an enforcement option for the full range of environmental offences which are investigated by the Council's Environmental Services teams. Payment of a fixed penalty does not result in a criminal record and discharges the offender of criminal liability in connection with the offence. Fixed penalty notices provide the Council with a cost-effective and proportionate means of disposing of low level environmental offences without recourse to resource-intensive prosecutions and court proceedings.
3. The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 came into force in April 2018. They allow the council to issue a penalty notice to the owner of a vehicle when there is reason to believe that a littering offence has been committed in respect of that vehicle. This will usually be that litter was thrown from that vehicle. The penalty notice is issued to and payable by the keeper of the vehicle. It is immaterial whether the litter was thrown by the keeper of the vehicle, or even whether the keeper of the vehicle was present in the vehicle at the time.
4. The level of penalty is the same amount as applies to littering under section 88(6A) of the Environmental Protection Act 1990 unless the council specifies otherwise. If the council does decide to specify a different amount, that amount may not exceed £100. Fylde Council presently charges a fixed penalty of £100 under section 88(6A), so that level of penalty will automatically apply to the new powers unless the council decides to set a different amount.
5. The level of the penalty automatically increases by 100% if the penalty is not paid within 28 days of the penalty notice being given<sup>1</sup>. This would increase the level of the penalty to £200.
6. The regulations allow for an early payment discount to be applied to the penalty to reduce the amount payable to an amount not less than £50 if the penalty is paid within 14 days being given. It is recommended that the council applies the early payment discount and sets the amount of the penalty after applying the discount as £50.
7. In accordance with the Environmental Protection Act 1990 and The Regulations, the income received from civil penalties for littering from a motor vehicle can only be spent on functions relating to litter and refuse (including keeping land & highways clear of litter and refuse, and enforcement against littering from motor vehicles), graffiti and fly-posting, controlling and enforcing against the unauthorised distribution of free literature. It is not to be used a means of generating income for other uses.
8. Subject to approval, the Council's Environmental Enforcement Policies will be updated with the new powers. The amounts have been set in line with the other FPN amounts as approved in line with the Council's zero tolerance policy with regards to incidents of environmental crime
9. To improve the efficiency of enforcement it is recommended that power be delegated to the Director of Resources to authorise persons to issue penalty notices under the regulations.
10. Enforcement activities contribute to improving the satisfaction of residents. Where the team secures successful enforcement actions these are used in press releases and educational activities to promote responsible behaviours.
11. The proposed fees and charges for 2019-2020 schedule shall be updated as necessary should the decision be approved.

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<sup>1</sup> If the person to whom the penalty notice has been given uses their statutory right to make representations to the council or to appeal to an adjudicator, the 28 days do not start until those procedures have been exhausted.

IMPLICATIONS	
Finance	It is not possible to accurately assess the level of income that will be generated from the new charge but there is no direct cost in adopting the charge
Legal	The legal implications are set out in the body of the report
Community Safety	There are no direct community safety implications arising from the report
Human Rights and Equalities	There are no direct human rights and equalities implications arising from the report
Sustainability and Environmental Impact	There are no direct sustainability and environmental impact implications arising from the report
Health & Safety and Risk Management	There are no direct sustainability and environmental impact implications arising from the report

LEAD AUTHOR	CONTACT DETAILS	DATE
Philip Dent	<a href="mailto:Phil.dent@fylde.gov.uk">Phil.dent@fylde.gov.uk</a> ; Tel 01253 658604	November 2018

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
N/A	N/A	N/A