

**4th July 2018**

## **Environment and Enforcement Committee**

### **Fixed Penalty Notices**

**Report of:** *David Carter – Environmental Health Manager*

**Wards Affected:** *All*

**This report is:** *Public*

#### **1. Executive Summary**

- 1.1 New penalty levels for littering, graffiti, fly-posting and unauthorised distribution of free literature on designated land have recently been introduced by the Government with effect from 1<sup>st</sup> April 2018, with discretionary levels that can be set by local authorities
- 1.2 This report sets out the new levels of these fixed penalty notices and summarises the powers available to authorised officers to issue penalties.

#### **2. Recommendation(s)**

- 2.1 Members approve the new recommended maximum penalty levels set out at 4.5**
- 2.2 Members to approve the additional discount levels for early payment also contained in Table 4.5.**
- 2.3 Members agree to delegate authority to the Chief Executive, Director of Operations, the General Manager Corporate Enforcement and to such officers of the Council that are nominated by any of them to issue Fixed Penalty Notices under the relevant legislation**

#### **3. Introduction and Background**

- 3.1 Fixed penalty notices can be issued by District Councils to deal with offences including littering, fly-tipping, graffiti, fly-posting, dog control offences, alarm noise (no nominated keyholder), Noise Act offences, nuisance parking, unauthorised distribution of free literature on designated land, abandoning a vehicle, waste receptacle offences, and failure to produce a waste transfer note or waste carrier's licence.

- 3.2 Brentwood Council is currently training officers to achieve the Community Safety Accreditation Scheme. Several of the powers available to our accredited officers under the scheme involve the issue of fixed penalty notices, including dog fouling on designated land, litter, graffiti and fly-posting.
- 3.3 Recommendation 2.3 is to delegate power to authorise officers to issue fixed penalty notices where they are not already authorised and have undertaken the appropriate training.
- 3.4 The Department for Environment Food and Rural Affairs (Defra) published a consultation paper in April 2017 entitled Review of Fixed Penalties and Introduction of Civil Penalties for Littering from Vehicles Outside London, which proposed to increase the default penalties and to enable councils outside London to issue a penalty charge to the keeper of a vehicle from which litter is thrown.
- 3.5 The consultation responses indicated that the penalties should be increased – the new levels are shown below:

<b>Offence</b>	<b>Default penalty</b>	<b>Minimum full penalty</b>	<b>Maximum full penalty</b>	<b>Minimum discounted penalty</b>
<a href="#">Littering</a>	£100	£50	£150	£50
<a href="#">Littering from vehicles</a>	£100	£65	£150	£50
<a href="#">Dog control offences</a>	£75	£50	£80	£50
<a href="#">Graffiti</a>	£100	£50	£150	£50
<a href="#">Fly-posting</a>	£100	£50	£150	£50
<a href="#">Unauthorised distribution of free literature on designated land</a>	£100	£50	£150	£50
<a href="#">Alarm noise: failure to nominate key-holder or to notify local authority of key-holder's details</a>	£75	£50	£80	£50
<a href="#">Nuisance parking</a>	£100	£100	£100	£60
<a href="#">Abandoning a vehicle</a>	£200	£200	£200	£120
<a href="#">Fly-tipping</a>	£200	£150	£400	£120
<a href="#">Failure to produce a waste transfer note</a>	£300	£300	£300	£180
<a href="#">Domestic waste receptacle offences</a>	£60	£60	£80	£40
<a href="#">Industrial and commercial waste receptacle offences</a>	£100	£75	£110	£60
<a href="#">Noise exceeding permitted</a>	£100	£75	£110	£60

Offence	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
<a href="#">level - domestic premises</a>				
<a href="#">Noise exceeding permitted level - licensed premises</a>	£500	£500	£500	£500 - no discount allowed

#### 4. Issue, Options and Analysis of Options

- 4.1 Local authorities have the discretion to set penalties at a level between the minimum and the maximum discounted and full penalty indicated above. For fly tipping offences, we have already set the levels at the maximum £400 with no early payment discount.
- 4.2 Members may wish to consider whether to review the penalties set by the Council and whether to allow a discount for early payment.
- 4.3 Fixed penalties that are currently set by Brentwood Borough Council are listed below:

<b><u>ASB, Crime and Policing Act 2014</u></b>	
Breach of Community Protection Notice	80.00
Early payment	50.00
Breach of Public Spaces Protection Order	80.00
Early payment	50.00
<b><u>Environmental Protection Act 1990</u></b>	
Failure to provide a waste transfer note	300.00
Littering	80.00
Dog control offences	80.00
<b><u>Clean Neighbourhoods and Environment Act 2005</u></b>	
Alarm noise - failure to nominate key-holder or to notify local authority key-holder's details	80.00
Fly-tipping	400.00

- 4.4 The Council has previously set penalty levels at the maximum full value with no discounts for early payment (i.e. fly-tipping offences) and the recommendation is to follow this principle, however Members may wish to consider a discounted penalty, which is included as an option.
- 4.5 The recommended new penalty levels are outlined in the table below

<b>Offence</b>	<b>Optional discounted penalty</b>	<b>Recommended full penalty</b>
<a href="#">Littering</a>	£75 (not currently discounted)	£150
<a href="#">Littering from vehicles</a>	£75	£150
<a href="#">Graffiti</a>	£50	£150
<a href="#">Fly-posting</a>	£50	£150
<a href="#">Unauthorised distribution of free literature on designated land</a>	£50	£150
<a href="#">Nuisance parking</a>	£60	£100
<a href="#">Abandoning a vehicle</a>	£120	£200
<a href="#">Domestic waste receptacle offences</a>	£60	£80
<a href="#">Industrial and commercial waste receptacle offences</a>	£75	£110
<a href="#">Noise exceeding permitted level - domestic premises</a>	£75	£110
<a href="#">Noise exceeding permitted level - licensed premises</a>	£500	£500

## **5. Reasons for Recommendation**

- 5.1 New penalty levels are recommended at the maximum levels in order to reflect the Council's intention to ensure that enforcement action is effective; most of these penalties are offered as an alternative to prosecution and should therefore reflect the serious nature of the offence.

## **6. Consultation**

- 6.1 The Government has already carried out a full public consultation over the proposed level of penalties and has produced the guidance values in the table at 3.3

## **7. References to Corporate Plan**

### **7.1 Environment and Housing Management**

Encourage residents to work with us to take responsibility for the environment, and improve the cleanliness of our streets

### **7.2 Community and Health**

Provide advice, support, guidance and enforcement

## **8. Implications**

### **Financial Implications**

**Name & Title: Jacqueline Vanmellaerts Interim Chief Finance Officer**

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- 8.1 All income received from the fixed penalty notices, will be allocated appropriately within the Council's financial systems, and monitored against existing budgets within the Council's Medium Term Financial Plan 2018/19 with significant variances reported to Council.

### **Legal Implications**

**Name & Title: Surinder Atkar, Legal Services**

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- 8.2 Various legislation such as Environmental Protection Act 1990. Clean Neighbourhoods and Environment Act 2005, Anti-social Behaviour Act 2003 etc. empower Councils to impose penalties for any infraction of the relevant provisions. Minimum, maximum, default and minimum discounted penalties are defined by the Government and the amounts recommended in this report are within the criteria set.

## **9. Background Papers (include their location and identify whether any are exempt or protected by copyright)**

- 9.1 None

## **10. Appendices to this report**

- None

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