

16 December 2014

Business and Town Centres Committee

Fixed Penalty Notices – ASB Crime and Policing Act 2014

Report of: *Ashley Culverwell Head of Borough Health, Safety & Localism*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 This report seeks to introduce new fixed penalty notices issued under the Anti-social Behaviour, Crime and Policing Act 2014 and to set charges for the penalties introduced.

2. Recommendation (s)

- 2.1 **Members agree to delegate authority to the Heads of Borough Health, Safety & Localism, Street Scene, Housing and Planning respectively and to such officers of the Council that are nominated by any of them to issue Fixed Penalty Notices under section 53 of the Anti-social Behaviour, Crime and Policing Act 2014**
Members agree to adopt the proposed Fixed Penalty Notice charges at the levels outlined in Appendix A to the report, which are in line with other Essex Authorities.

3. Introduction and Background

- 3.1 This report relates to fixed penalty notices served under the new powers contained in the Anti-social Behaviour, Crime and Policing Act 2014 which came into force on 20th October 2014. A report was presented to Members of this Committee on 15th October 2014 (Min. 180 refers) outlining these powers.
- 3.2 Fixed penalty notices were introduced in Brentwood to deal with offences under the Clean Neighbourhoods and Environment Act 2005, and were first issued from April 2014. These powers have not been widely used to date; we have so far issued six FPNs for litter/waste and two for failure to have waste carrier documents.
- 3.3 The new powers replace some of the powers previously contained in this legislation:

Clean Neighbourhoods Litter Clearing Notice Street Litter Clearing Notice Graffiti/Defacement Removal Notice	Replaced by Community Protection Notice
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Designated Public Place Order Dog Control Order	Replaced by Public Spaces Protection Order
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3.4 Amongst other powers, the new legislation provides for two notices, Community Protection Notices (CPN) and Public Space Protection Orders (PSPO).

3.5 **Community Protection Notice**

A CPN can be issued to an individual aged 16 or over if an authorised person is satisfied that –

- a) 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
- b) the conduct is unreasonable.

An offence is committed if a person issued with a CPN fails to comply with it, and they are liable to prosecution in the Magistrate's Court which carries a maximum penalty of £2,500 on conviction.

3.6 **Public Space Protection Orders**

A local authority may make a PSPO if satisfied that –

- a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
- b) it is likely that activities will be carried on in a public place and that they will have such an effect.

3.7 It is an offence for a person to do anything that is prohibited by, or to comply with a requirement of, a PSPO, which can result in prosecution.

3.8 Both of the offences created when a CPN or a PSPO is not complied with can also be dealt with by issue of a fixed penalty notice (FPN), which can be used where the issuing officer decides that this would be the most appropriate sanction. In making the decision to issue a FPN, the officer should be mindful that if issued, payment of the FPN would discharge any liability to conviction for the offence.

3.9 Government guidance states that a FPN should not be more than £100 and can specify two amounts, for instance, a lower payment if settled early, say within 14 days. In order to allow the individual time to pay the FPN, no other associated proceedings can be taken until at least 14 days after the issue.

- 3.10 The individual charges that are being proposed are set out in Appendix A to this report.

4. Issue, Options and Analysis of Options

- 4.1 The charges included within the scope of this report have not been previously set as these are new powers.
- 4.2 Officers have sought to benchmark against other Essex authorities; at present responses received from Braintree and Chelmsford indicate that they will both be adopting a FPN charge of £100 with a reduction to £75 for early payment.
- 4.3 It is recommended that Members adopt the charges in line with other Essex authorities.

5. Reasons for Recommendation

- 5.1 The first recommendation to authorise officers to issue FPNs will allow greater flexibility and efficiency in dealing with offences against CPN or PSPOs issued.

It is likely that there will be an agreed operating procedure for CPNs with the Police and other Essex authorities and therefore it is recommended to set the Brentwood fees for FPNs under the new powers at the same level as other Essex authorities.

6. References to Corporate Plan

- 6.1 A Modern Council – providing increased customer satisfaction in the quality of Council services
Costs of services provided based on efficient systems providing value for money to customers.
- 6.2 Street Scene & Environment – encourage all residents and visitors to take responsibility for keeping the borough clean, green and tidy
Taking stronger action against those discarding their waste irresponsibly.
- 6.3 A Safe Borough – reduce anti-social behaviour by working closely with our Community Safety partners and communities
Sustained reduction in anti-social behaviour
Increase in community's confidence in a safe borough.

7. Implications

Financial Implications

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- 7.1 This proposed charge relating to FPNs to be served under the new powers contained in the Anti-social Behaviour, Crime and Policing Act 2014 only came into force on 20th October 2014. The proposed charges are attached as Appendix A. It is not possible to quantify what income will be collected in 2015/16 through the implementation these new powers. Any costs related to the setting up and implementation of these powers will be contained within the current budget.

Legal Implications

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- 8.2 Section 53(1) of the Anti-social Behaviour, Crime and Policing Act 2014 allows the Council to issue fixed penalty notices. Section 101 of the Local Government Act 1972 permits the Council to delegate its functions to officers of the Council.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.3 Costs are applied inclusively to all sectors of the community

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

- 9.2 Home Office
Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers
Statutory guidance for frontline professionals
July 2014 Crown Copyright

10. **Appendices to this report**

Appendix A - Schedule of Fees and Charges

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