



CABINET REPORT

Report Title

Fly-Tipping Update and Fixed Penalty Notices

AGENDA STATUS:

Public

Cabinet Meeting Date:

8th June 2016

Key Decision:

YES

Within Policy:

YES

Policy Document:

YES

Directorate:

Customers and Communities

Accountable Cabinet Member:

Cllr Alan Bottwood

Ward(s)

All

1. Purpose

- 1.1 To inform Cabinet of a range of initiatives to deal with Fly-tipping.
- 1.2 To inform Cabinet of new powers available to serve Fixed Penalty Notices on the persons responsible for fly tipping and to seek approval of the level at which these fixed penalties are set

2. Recommendations

- 2.1 That Cabinet notes the actions outlined in 3.1.1 – 3.1.5 being taken to deal with fly-tipping in Northampton.
- 2.2 That Cabinet agrees to set the level of Fixed Penalty Notice for fly tipping to the legally allowed maximum of £400 with a reduction to £250 if the penalty is paid before the period of 10 days following the date of the Notice.

3. Issues and Choices

3.1 Report Background

- 3.1.1 In 2014/15 local authorities in England reported 900 000 incidents of fly tipping which cost taxpayers an estimated £50 million to clear.
- 3.1.2 In Northampton the Council received 9172 reports of fly tipping during 2014/15
- 3.1.3 Following approval by Cabinet in October 2014 a scheme for the removal of fly tipping from alleyways and other private land in Northampton has removed over 100 tonnes of waste.
- 3.1.4 Targeted bulky waste collections and fly tip clearance programmes form an important part of the environmental improvement works carried out during Community Safety Weeks of Action. During a recent week of action over 14 tonnes of waste was collected in 1 day.
- 3.1.5 A number of Councillors, supported by Neighbourhood Wardens, are working with community groups in their areas to carry out fly tipping monitoring and clearance programmes.
- 3.1.6 Enforcement action has been taken to deal with the perpetrators of fly tipping and in the last three years 14 prosecutions have been taken and 7 simple cautions have been issued for fly tipping and waste offences.
- 3.1.7 However this is a complex and time consuming process which requires a significant input of staff resource and cannot be guaranteed to be successful. The fines from any successful prosecutions are paid to the court and not to the local authority.
- 3.1.8 In response to public concern about fly-tipping and the appropriateness of the sanctions available to deal with it the Government have brought forward The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 which came into force on 9 May 2016
- 3.1.9 These Regulations introduce a power enabling an authorised officer of a waste collection authority to serve a fixed penalty notice on a person found to be responsible for fly tipping offences. The Explanatory Memorandum to the Regulations explains that the Regulations provide local authorities with a more efficient and proportionate response to small-scale fly tipping of waste, instead of enforcement solely by prosecution.
- 3.1.10 Fixed penalty notices cannot be served on operators in the waste management industry, or those responsible for the fly tipping of hazardous waste. Government guidance indicates that the use of fixed penalty notice for repeat offenders is not appropriate.
- 3.1.11 Payment of a fixed penalty discharges the recipient from liability for conviction for the offence.

3.1.12 The legislation gives local authorities the power to set the level of fixed penalty within the range of £150 – £400 with the default being £200 if no other amount is specified.

3.1.13 The legislation also allows for an early payment discount to be applied to fines paid within 10 days of the issue of the penalty, setting a minimum level for discounted fines of £120.

3.1.14 Upon the issuance of a fixed penalty notice no Court proceedings can be started until after the expiry of 14 days from the date of the fixed penalty notice

3.2 Issues

3.2.1 In Northampton the average cost of dealing with a fly tip is £233.28 It is therefore considered important that any fixed penalty levied at least covers this cost.

3.2.2 As indicated above the fines levied in the case of a prosecution for fly tipping are retained by the Courts (with only the costs of bringing the case being payable to the Council, if ordered by the Court).

3.2.3 Fixed penalty receipts can be retained by the Council and used in exercising its functions in relation to fly tipping. These receipts could be used to fund increased work in detection of fly tipping and in education on the issue.

3.2.4 A number of neighbouring local authorities have recently set their fixed penalty levels with many charging £400 for the full fine and £200 - £300 for the reduced rate.

3.3 Choices (Options)

3.3.1 The level of fixed penalty can be set within the range of £150 - £400. If the Council does not set a level of fixed penalty to be applied, the default level of £200 will be applicable.

3.3.2 It is recommended that Cabinet set the fixed penalty level at the maximum level of £400 and allow an early payment discount, with a reduction to £250 if the penalty is paid before the period of 10 days following the date of the notice This would ensure that the receipts from fixed penalty notices are in proportion to the actual cost of dealing with fly tipping in Northampton

4. Implications (including financial implications)

4.1.1 Policy

4.1.1 The level of fixed penalty set for fly tipping offences will be adopted within the Councils standard schedule of fees and charges.

4.1.2 Resources and Risk

4.2.1 In order to serve a fixed penalty for fly tipping it will still be necessary to determine the identity of the person or persons responsible for the fly tip and therefore it will be necessary to continue to investigate cases of fly tipping reported to the Council and to work with communities to encourage the sharing of information about those known to be fly tipping. Given the burden of proof required to serve a fixed penalty notice it is anticipated that the number of fixed penalty notices served will be small. It is anticipated that the number of notices could be around 20 per year. Currently resources within the Neighbourhood Warden and Environmental Protection Team undertake this work and based on current workloads, it is proposed that these arrangements will continue at present.

4.2.2 The level of fixed penalty is set at £400 with reduction to £250 for payment within 10 days. This reduced rate of fine is reflective of the cost of dealing with cases of fly tipping and is therefore considered to be appropriate. Given the anticipated number of notices this would produce an income of up to £8000. If payment of the fixed penalty is not received within a reasonable period it is possible to progress the case to prosecution.

4.3 Legal

4.3.1 In determining the level of fixed penalty to be levied the Cabinet is acting in accordance with the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 which allows a fixed penalty up to a maximum of £400 to be specified.

4.4 Equality and Health

4.4.1 An equalities impact assessment has been carried out which indicates that the fixed penalty provisions will apply equally across Northampton Borough and the sanction can only be used where there is evidence available of the person responsible for the fly tipping. This has the effect of shifting the cost burden onto the person responsible rather than it being borne by Council Tax payers as a whole and is so more equitable.

4.5 Consultees (Internal and External)

4.5.1 Legal Service, Finance, Partnership Unit and Amey / Enterprise.

4.5.2 Neighbouring local authorities

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The ability to levy fixed penalty notices against those responsible for fly tipping will ensure that the real cost of dealing with this issue is passed to those responsible. It is hoped that the availability of a simple legal sanction to deal

with fly tipping will have a deterrent to potential offenders and result in a reduction in the number of cases of fly tipping occurring in the area.

4.7 Other Implications

4.7.1 None

5. Background Papers

5.1 Legislation and supporting explanatory memorandum

5.2 Equalities Impact Assessment

**Ruth Austen, Environmental Health and Licensing Manager
Ext 7794**