



Policy and Resources Committee – 5 September 2016

The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016

Purpose of report

To inform members of new powers available under the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016, including the ability to use Fixed Penalty Notices against persons responsible for fly-tipping. The report also includes an update on initiatives that have been implemented to tackle fly-tipping.

1.0 Background

- 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.
- 1.2 In East Northamptonshire, the Council received 437 reports of fly tipping over the same period, at a cost of £21,000 to remove and clear.
- 1.3 Over the past three years, a number of community groups supported by Councillors and Waste Services officers have undertaken targeted clearance programmes, which have included 'waste amnesties'. These initiatives have been undertaken in Rushden (Hayden and Pemberton Wards), Raunds and Irthlingborough.
- 1.4 Since 2013, successful enforcement action has been taken against the perpetrators of fly tipping. Over this period there have been eleven prosecutions, there are three outstanding warrants and over forty fixed penalty notices have been issued for failing to produce the correct authority to transport waste. This has resulted in over £17,000 of fines for these offences.
- 1.5 Members are asked to note that not all enforcement action is successful and that a significant level of waste officer time is invested in preparing cases whilst carrying out regular waste contract monitoring duties.
- 1.6 In the first quarter of 2016/17, the average time taken to investigate reported fly – tipping incidents is 0.98 days against a target of 2 days.

In the same period, the contractor response time for clearance of reported fly –tipping is 1.97 days against a target of 2 days.
- 1.7 In response to public concern about fly-tipping and the appropriateness of the sanctions available to deal with it, the Government has brought forward The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016.
- 1.8 These regulations introduce a power to serve a fixed penalty on a person found to be responsible for fly tipping offences (this excludes operators in the waste management industry, those responsible for the fly tipping of hazardous waste and repeat offenders).
- 1.9 Payment of a fixed penalty discharges the recipient from liability for conviction for the offence. However, the local authority can still opt for prosecution of large scale and significant incidents.

- 1.10 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. It 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.

2.0 Issues to consider

- 2.1 In addition to the clearance costs, the Council employs waste management officers who spend a significant portion of their time working on enforcement actions against the perpetrators of environmental crimes. This range of offences which are covered by this team are;
- Unauthorised transport, storage, deposit, treatment, or disposal of Controlled Waste.
 - Failure to produce evidence of the authority to transport, store, deposit, treat or dispose of Controlled Waste.
 - Failure to comply with the requirements of the waste collection arrangements in the area.
 - Abandoning a vehicle (or any part of)
 - Repairs to vehicles on the highway where the repair is for gain or reward.
 - Graffiti

Legal costs for prosecutions can vary dependant upon the complexity of the case, but are generally between £500 and £1,500.

- 2.2 The table below indicates the level of activity undertaken by Waste Management officers in relation to the incidents of fly tipping.

Year	No of incidents investigated	No of FPN's issued	No. of Prosecutions	Fines
13/14	416	25	0	£1825
14/15	393	29	2	£6265
15/16	411	31	3	£6941
16/17*	64	10	3 (and 3 awaiting court)	£2025

*16/17 figures are up to date at the time of writing the report.

- 2.3 Northampton Borough Council and Daventry District Council have recently set their fixed penalty levels at £400 for the full fine and £200 - £300 for the reduced rate.
- 2.4 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 offset existing costs and fund increased work in detection of fly tipping and in education on the issue.

It is important to note that this is a regulatory service and officers are not in a position to operate a full cost recovery for this work activity.

3.0 Equality and Diversity Implications

- 3.1 There are no equality and diversity implications as a result of this paper.

4.0 Legal Implications

- 4.1 In determining the level of fixed penalty to be levied, the Council is acting in accordance with the provisions of the appropriate legislation

5.0 Resource and Financial Implications

- 5.1 There are no additional resource implications as a result of this paper, as the officers are already in post to provide enforcement against these offences. Any additional FPN

income will be retained by the Council.

5.2 Cost Summary

Year	Environmental Services Staff Costs	Corporate Costs & Overheads	Contractor Costs	Fines
13/14	£16,630	£20,182	£20,003	-£1825
14/15	£16,612	£19,165	£21,604	- £6265
15/16	£31,932	£23,864	£20,963	- £6941
16/17	£35,440	£52,640	£22,630	- £2025 (to date)

5.3 At the time of writing this report the current income from fines already stands at £2025 and it is expected that income will surpass the initial expectations, as the enforcement activity remains a Council priority.

6.0 Customer Services Implications

6.1 There are no additional customer services implications as a result of this paper.

7.0 Corporate Outcomes

7.1 The Corporate Outcomes affected by this policy review are:

- Good Quality of Life – Safer Communities
- Effective Management
- High Quality Service Delivery

8.0 Recommendations

8.1 The Committee is recommended to:

- (1) Note the activities that have been taking place to deal with offences of fly tipping.

8.2 The Committee is recommended to resolve to Full Council:

- (1) That The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 be adopted;
- (2) The setting of the level of Fixed Penalty Notice to be the legally allowable maximum of £400 and £200 - £300 for the reduced rate.
- (3) To delegate authority to the Executive Director, Head of Environmental Services, Waste Services Manager, Environmental Protection Manager, Health Protection Manager, Waste Management Officer and Environmental Services Officer for the powers as described in para 1.7

(Reason - to ensure legislative compliance and the appropriate governance framework is in place within the Constitution.)

Legal	Power: The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016				
	Other considerations:				
Background Papers:					
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