



## Policy and Resources Committee 09 July 2018

### Littering from Vehicles Outside London (Keepers; Civil Penalties) Regulations 2018

#### Purpose of report

The purpose of this report is to inform the Committee of the introduction of the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018, which allows Local Authorities the ability to issue a fixed penalty notice to the keeper of a vehicle if there is reason to believe that a littering offence has been committed from that vehicle. These regulations came into effect from 01 April 2018

#### Attachments:

**Appendix 1:** Equalities Impact Assessment

**Appendix 2:** Privacy Impact Assessment

#### 1.0 Background

- 1.1 On 1st April 2018, the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 (The Regulations) came into force and amended section 88 of the Environmental Protection Act 1990 by inserting a new section 88A granting powers to litter authorities to issue fixed penalty notices (FPNs) for littering from vehicles.
- 1.2 East Northamptonshire Council has a duty to keep land in its authority, including the highway and roads, clean, so far as practicable, under section 89(1) of the EPA 1990.
- 1.3 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.

#### 2.0 The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

- 2.1 These Regulations introduce powers to issue a fixed penalty notice to the owner of a vehicle when an enforcement officer of the litter authority is able to show that litter was thrown from that vehicle onto land that falls within the District.
- 2.2 The legislation gives local authorities the power to set the level of fixed penalty up to £150. It also allows for an early payment discount to be applied to the fine to reduce the amount payable to £75
- 2.3 The legislation also gives local authorities the power to increase the fines by 100% should payment not be received within 28 days of issue.
- 2.4 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 as a means of generating income for other uses.

2.5 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.

2.6 Enforcement activities contribute to improving the satisfaction of residents. Currently just over a third of residents feel that litter and rubbish is a big problem in the District. Where the team secures successful enforcement actions these are used in press releases and educational activities to promote responsible behaviours.

### **3.0 Equality and Diversity Implications**

3.1 An initial Equality Impact has been carried out and all equality and diversity implications are neutral. Neither a positive nor a negative impact has been identified. The Equality Impact Assessment is set out at Appendix 1.

### **4.0 Legal Implications**

4.1 Enforcement Officers who are expected to serve fixed penalty notices must be authorised in writing by the Council. All Enforcement Officers should also receive appropriate training, carry appropriate identification and a Police and Criminal Evidence Act (PACE) notebook.

4.2 The Managers within Environmental Services will ensure that all Officers who are required to serve fixed penalty notices are suitably authorised. Should a fixed penalty not be paid, the matter may be referred to legal support to consider prosecution proceedings. This is consistent with our current approach of zero tolerance for offences of this nature.

### **5.0 Risk Management**

5.1 Ongoing enforcement activities are a control measure associated with the risk 'RM ENV 001 Failure to Protect Environmental Quality in Open Spaces where appropriate'

### **6.0 Resource and Financial Implications**

6.1 There are no additional resource implications as officers within the Environmental Services already carry out this function.

6.2 The increased level of fines will slightly increase the amount of income the Council receives in respect of its environmental enforcement functions.

Year	No. of FPN's issued	No. of Prosecutions	Fines
13/14	25	0	£1,825
14/15	29	2	£6,265
15/16	31	3	£6,941
16/17	27	2	£5,184
17/18	37	2	£3,925

## 7.0 Constitutional Implications

7.1 The Authority's scheme of delegation will need to be updated to include the new Fixed Penalty Notices. Officers already have the delegated authority under the Section 88 of the Environmental Protection Act to enforce where these offences have been committed.

## 8.0 Implications for our Customers

8.1 The outcomes in this report will contribute positively to our customers as it will continue to improve environmental quality in the District and deal effectively and appropriately with those individuals who commit offences.

## 9.0 Corporate Outcomes

- 9.1 This report contributes to the following Corporate Outcomes:
- Good Quality of Life – Clean; working to promote responsible behaviours with regard to the environment
  - Effective Management – Effective and appropriate enforcement activities.
  - Knowledge of Customers and Communities – Responding to the Council's residents' survey where 46% of residents considered litter to be a problem.

## 10.0 Recommendation

10.1 The Committee is recommended to

- (1) Consider the Equality Implications relating to this report (see section 3, and Appendix 1 of this report).  
*(Reason - To accord with legislation and the policy of the Council)*
- (2) Consider the Privacy implications relating to this report (see Appendix 2 of this report).  
*(Reason - To accord with legislation and the policy of the Council)*
- (3) Approve the amendment of the Council's Enforcement Policies to include the new Regulations and to set out the changes to the fixed penalty fines  
*(Reason - To accord with legislation and the policy of the Council)*
- (4) Delegate authority to the Head of Environmental Services to introduce the new powers and to authorise the appropriate officers to issued Fixed Penalty Notices under the legislation.  
*(Reason - To accord with legislation and the policy of the Council)*

<b>Legal</b>	Power: (The Environmental Offences (Fixed Penalties) (England) Regulations 2017)				
	Other considerations:				
<b>Background Papers:</b>					
<b>Person Originating Report:</b> Name, Charlotte Tompkins ☎ 01832 742208 ✉ ctompkins@east-northamptonshire.gov.uk					
<b>Date: June 2018</b>					
<b>CFO</b>		<b>MO</b>		<b>CX</b>	

**Initial Equalities Impact Assessment**

**APPENDIX 1**

Title of proposal being assessed:	<i>Littering from Vehicles Outside London (Keepers; Civil Penalties) Regulations 2018</i>
What type of proposal is this an assessment of?	<i>Policy - Change</i>
What are the aims and/or objectives of the proposal and the intended outcomes?	<i>Adoption of new powers to issue FPNs to keepers of vehicles where it can be proven that litter has been dropped.</i>
Who is intended to benefit from this proposal?	<i>Businesses and residents</i>
Who are the main stakeholders in relation to the proposal?	<i>Businesses and residents</i>
How is the success of the proposal to be measured?	<i>This proposal simply sets new fine amounts in accordance with legislation to update penalties in line with the whole of the UK and in line with similar other offences</i>
Name of person completing Initial Screening:	<i>Charlotte Tompkins</i>
Job title / role of person completing Initial Screening:	<i>Waste Services Manager</i>
Date of Initial Assessment	<i>30/05/2018</i>

Instructions: For every category in column A, below, submit a positive, negative or neutral assessment by entering an x in the relevant cell. Add an explanation in the Reason box, where applicable, including a specification of any sub-group affected. There may be both a positive and negative impact for the same category (e.g. a policy may be positive for young children but negative for older people).

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Explanation and Evidence (e.g. description of elements of the proposal, data held, consultation results, customer feedback)
<b>Gender:</b>				
Consider Women/Girls, Men/Boys, Transgender individuals.			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
<b>Sexual Orientation:</b>				
Consider, for instance: Lesbians, gay men and bisexuals Any other sexual orientation			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
<b>Race/Ethnicity:</b>				
Consider, for instance: • White British people, • White non-British people • Asian or Asian British people • Black or Black British people • Chinese people • People of mixed heritage • Travellers (Gypsy/Roma/Irish heritage) • People from any other ethnic groups • People who do not have English as their first language			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
<b>Disability:</b>				
Physical impairment, e.g mobility issues which mean using a wheelchair or crutches.			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
Sensory impairment, e.g blind/having a serious visual impairment, deaf/having a serious hearing impairment.			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
Mental health condition, e.g depression or schizophrenia			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
Learning disability/difficulty, e.g. Down's syndrome or dyslexia, or cognitive impairment such as autistic spectrum disorder			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
Long-standing illness or health condition, e.g. cancer, HIV. Diabetes, chronic heart disease or epilepsy			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
Other health problems or impairments (please specify if appropriate)			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
<b>Marriage and Civil Partnership:</b>				
People in a Marriage or Civil Partnership			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
<b>Pregnancy and Maternity:</b>				
People who have just had a baby or who are pregnant.			X	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
<b>Age:</b>				
Older People (60+)	X			This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.

Children and Young People (see guidance for definition)	x			This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
<b>Religion/Belief:</b>				
Consider, for instance: <ul style="list-style-type: none"> <li>• Christian</li> <li>• Hindu</li> <li>• Muslim</li> <li>• Sikh</li> <li>• Buddhist</li> <li>• any other religion or belief (including holding no belief)</li> </ul>			x	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
<b>Other Potentially Affected Groups</b>				
Rural Isolation - People who live in rural areas e.g isolated geographically, lack of internet access			x	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
Socio-economic Exclusion – e.g. people who are on benefits, have low educational attainment, single parents, people living in poor quality housing, people who have poor access to services, the unemployed or any combination of these and the other protected strands			x	This policy will only affect those who have committed offences under section 88 of the Environmental Protection Act.
Any other potentially affected groups ( <i>please specify</i> )			x	

## ENC Privacy Impact Assessment – Initial Screening Form

For ease, where the term 'project' is used, it will refer equally to a project or a policy, for the purposes of the assessment.

Policy/Project Name:	Littering from Vehicles Outside London (Keepers; Civil Penalties) Regulations 2018
Reference/Identifier (e.g. Project number)	
Name of project/policy owner:	Charlotte Tompkins
Date of assessment:	27 June 2018

### Will the project/policy result in the collection/use/control of any Personal Data?

	Please tick	Next step...
<b>No</b>	<input checked="" type="checkbox"/>	If no, you need take no further steps. Save and submit this form with your policy, or save it with your project documentation.
<b>Yes</b>	<input type="checkbox"/>	If yes, answer the questions below. Submit the completed form to the Information Governance Manager.

**For projects/policies utilising personal data, please answer all questions. Please provide relevant explanations/descriptions:**

Will the project involve the collection of new information about individuals?	
Will the project compel individuals to provide information about themselves?	
Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information?	
Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?	
Does the project involve you using new technology which might be perceived as being privacy intrusive? For example, the use of biometrics or facial recognition.	
Will the project result in you making decisions or taking action against individuals in ways which can have a significant impact on them?	
Is the project likely to raise privacy concerns or expectations? For example, using health records, criminal records or other information that people would consider to be particularly private.	
Will the project require you to contact individuals in ways which they may find intrusive?	