

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Cabinet

9 October 2018

TITLE:	Enforcement of Environmental Crime
PORTFOLIO HOLDER:	Councillor Mike Bowen – Portfolio Holder for Communities, Leisure, Sport, Parks, Countryside and Housing
CONTACT OFFICER:	Executive Director (People) and Monitoring Officer
WARDS INVOLVED:	All

Appendices Attached

Appendix A: Enforcement Activity

1. Reason for the Report

The report provides an update on environmental enforcement and proposes changes the levels of the fixed penalty notices set by the Council.

2. Recommendation

2.1 It is recommended that the Cabinet:

- i) notes the content of the report.
- ii) approves the proposed changes to the fixed penalty payments and arrangements.

3. Executive Summary

3.1 Staffordshire Moorlands District Council adopted a revised policy on the enforcement of environmental crime in October 2017. This has resulted in increases in the number of fixed penalty notices issued for littering and dog fouling. The number of littering fixed penalties issued in 2017/18 was 48 compared to 30 in 2016/17 and one fixed penalty notice was issued for dog fouling compared to 2 in the previous year.

- 3.2 Between 1 April and 31 August 2018, there were 51 fixed penalties issued for littering and 1 for dog fouling.
- 3.3 The Government published its Litter Strategy for England in April 2017 and subsequently consulted on increasing the level of fixed penalty notices for environmental offences. This led to the introduction of the Environmental Offences (Fixed Penalties) (England) Regulations 2017 on 1st April 2018. This increased the amounts for certain fixed penalty notices. The Government has also introduced new fixed penalty notices for fly-tipping and littering from vehicles. It is proposed that the Council increases its fixed penalty notice charges and introduces the new powers to tackle fly-tipping and littering from vehicles.

4. How this report links to Corporate Priorities

- 4.1 The provision of high quality public amenities, clean streets and environmental health is a key priority under Aim 4 (To protect and improve the environment) of the Staffordshire Moorland District Council Corporate Plan 2015-19.

5. Options and Analysis

- 5.1 The Council is able to set its fixed penalty notice charges within certain statutory bands governing maximum and minimum levels. The maximum full penalties for littering, graffiti, fly-posting and unauthorised distribution of free printed matter have been increased from £75 up to £150. The minimum permitted early payment discount charge (the “lesser penalty”) is being increased from £50 to £65 from 1st April 2019.
- 5.2 It is proposed that the Council adopts a fixed penalty amount of £150 for each offence to deter environmental crime.
- 5.3 It is also proposed that the Council set the ‘lesser amount’ at £100 if paid within 10 days to encourage early payment.

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

The approach to environmental enforcement assists the authority to address behaviour that adversely affects the environment.

6.2 Workforce

None.

6.3 Equality and Diversity/Equality Impact Assessment

Not applicable.

6.4 Financial Considerations

The report proposes changes to the levels of certain fixed penalty notices.

6.5 Legal

The report responds to recent legislative changes, specifically the introduction of the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016, the Environmental Offences (Fixed Penalties) (England) Regulations 2017, and the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018.

6.6 Sustainability

No specific implications.

6.7 Internal and External Consultation

Not applicable.

6.8 Risk Assessment

Not applicable.

7. Background and Detail

Introduction

- 7.1 Staffordshire Moorlands District Council adopted a revised policy on the enforcement of environmental crime in October 2017. The delivery of the policy was supported by the adoption of a revised approach for responding to environmental crimes involving education, enforcement and cleansing. Enforcement activity is primarily carried out by the Council's Environmental Enforcement Officers.
- 7.2 The officers carry out the patrols across the district and often work in isolated areas. There have been a number of incidents in recent years where the Council's Enforcement Officers have been threatened or assaulted but fortunately such occurrences are rare. In response, a new lone worker system is being introduced to manage the risk. This provides the officers with access to a 24/7 monitoring service via an emergency button on their mobile phone with GPS tracking.
- 7.3 Training has been provided for the Environmental Enforcement Officers, Street Scene Supervisors and others in January 2018. All supervisors were subsequently delegated the power to issue fixed penalty notices and issued with an authorisation card. The Street Scene Supervisors have also been asked to provide a monthly report on environmental

issues to allow the work of the Enforcement Team to be more effectively focussed.

- 7.4 Additional training has also been provided for those Council officers who work in the District's parks. This was delivered through team briefings to raise awareness of how to respond to problems in the parks, such as nuisance dogs. In terms of the latter, horticultural operatives will request that nuisance dogs are put on a lead and will escalate to their Supervisor (or police) as appropriate.
- 7.5 A new reporting book for Operational Services staff members is being introduced, which will make it easier for officer to report problems to the enforcement team. This will include reporting litter from vehicles (see below for legislative changes in relation to this). The number of reports will be monitored to check on effectiveness of the approach.

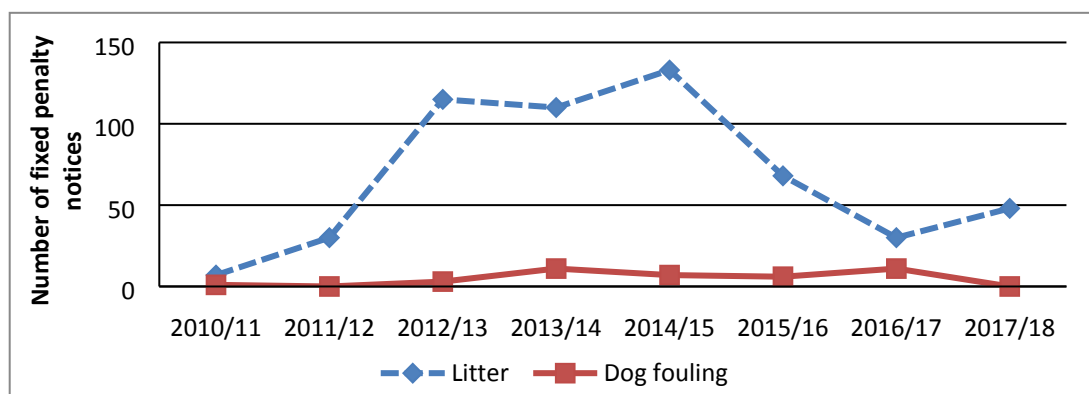
Legislative Changes

- 7.6 The Government published its Litter Strategy for England in April 2017 and, alongside, published a consultation document seeking views on whether the fines for littering and related offences should be increased given that the amounts had remained the same since 2006. Adjusting for inflation since 2006 means that a maximum penalty of £80 in 2006 would now be £100.44. In Wales, the maximum fine for littering offences is already £125.
- 7.7 This led to the introduction of the Environmental Offences (Fixed Penalties) (England) Regulations 2017 on 1st April 2018. This increased the amounts for certain fixed penalty notices. The maximum full penalties for littering, graffiti, fly-posting and unauthorised distribution of free printed matter have been increased from £75 up to £150. The minimum permitted early payment discount charge (the "lesser penalty") is also being increased from £50 to £65 from 1st April 2019.
- 7.8 It is recommended that the Council increases the fixed penalty notice charges for the above offences to £150 to help to deter people from committing environmental offences. In cases of demonstrable hardship, this amount could be paid in three equal instalments of £50 over three months.
- 7.9 It is also recommended that the Council adopts a lesser penalty amount of £100 if the penalty is paid within 10 days to encourage prompt payment.
- 7.10 The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 introduced the power for Councils to issue fixed penalties for small-scale fly-tipping offences. The maximum permitted penalty is £400 and lesser penalty must not be less than £120 for payment within 10 days of receipt of the notice. The only other enforcement route available is prosecution, which is both costly and burdensome (although littering fixed penalties can be issued for very minor offences).

- 7.11 It is recommended that the Council introduce the new power to issue fixed penalty notices for £400 with a lesser penalty amount of £300.
- 7.12 Littering from vehicles is a problem across the District. Although the Council is often able to identify the registered keeper from the vehicle registration, it is not always possible to identify who within the car discarded the litter. The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 came into force on 1st April 2018. This allows the Council, subject to certain conditions, the power to issue a penalty notice to the keeper of the vehicle in respect of any litter discarded from that vehicle.
- 7.13 The amount of the penalty would be the same as that set by the authority for littering. If a fixed penalty is not paid in full within the fixed penalty payment period (normally 28 days), the amount of the fixed penalty increases by 100% with effect from the day after the last day of the fixed penalty payment period. Any unpaid amounts would be recovered as a civil debt. An individual may appeal against a notice and has the right for any rejection of their appeal to be heard by an adjudicator. The Council would need to pay the costs associated with the adjudication process.
- 7.14 There are some practical barriers in introducing the new approach within the District. In particular, the Traffic Penalty Tribunal, who would act as adjudicators in the case of appeals, requires all authorities to operate an electronic system for issuing fixed penalty notice. It is recommended that the Council adopts, in principle, the new powers for responding to littering from vehicles and that the Portfolio Holder be given authority to approve the commencement of issuing notices under the new regime provided a cost-effective mechanism for operating the system can be identified.

Litter and Dog Fouling

- 7.15 The number of fixed penalties issued for littering and dog fouling are shown in the figure below.



- 7.16 The number of littering fixed penalties issued in 2017/18 was 48 compared to 30 in 2016/17 (a 38% increase). One fixed penalty notice was issued for dog fouling compared to 2 in the previous year.
- 7.17 From 1 April to 31 August 2018, there were 51 fixed penalties issued for littering and 1 for dog fouling.

Fly-tipping

- 7.18 There were 403 reported fly-tips in the District in 2017/18 compared to 464 in the previous year.

Abandoned Vehicles

- 7.19 In 2017/2018, the Council received 18 reports that a vehicle had been abandoned. Of these:
- 6 were subsequently removed by the owner;
 - 6 were not present when the officer visited.
 - 2 were not deemed to have been abandoned;
 - 2 were removed by the Council; and
 - 2 cases are on-going.
- 7.20 The webform for reporting abandoned vehicles has been updated to encourage complainants to provide additional information to assist with the investigation of their complaint. In particular, the form now asks additional information about the condition of the vehicle, which links to Defra guidance on the common characteristics of abandoned vehicles. There is no legal definition of abandoned and local authority officers must use their discretion when making decisions on abandonment. This new webform will hopefully reduce the need for repeated visits to a reported vehicle to obtain background information.
- 7.21 A webform has also been created to allow the registered keeper of vehicles that have been reported to the Council as abandoned to inform the Council about their intention with regards the vehicle. The webform asks the following questions to assist the Council to appropriately respond to the complaint:
- How long has the vehicle remained stationary in its current location?
 - How often is the vehicle used?
 - What is the vehicle used for?
 - Who uses the vehicle?
 - Is the vehicle roadworthy?
 - What do you intend to do with the vehicle in the future?

Mark Trillo

Executive Director (People) and Chief Monitoring Officer

Background Papers**Location****Contact details**

Litter Strategy for England

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630999/litter-strategy-for-england-2017-v2.pdf

David Smith x 4165

The Environmental Offences
(fixed Penalties) (England)
Regulations 2017
The Littering From Vehicles
Outside London (Keepers: Civil
Penalties) Regulations 2018

<https://www.legislation.gov.uk/uksi/2017/1050/contents/made>
<http://www.legislation.gov.uk/uksi/2018/171/contents/made>

Appendix A: Enforcement Activity

Type of Action	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
<i>Dog Fouling FPN</i>	2	10	30	20	12	5	2	1	1
<i>Litter FPN</i>	7	30	115	110	133	68	30	48	51

2018/19 figures show activity from 1st April 2018 to 31st August 2018.