

SCRUTINY COMMISSION – 16 JUNE 2016

FIXED PENALTY NOTICES FOR FLYTIPPING REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)



Hinckley & Bosworth
Borough Council

A Borough to be proud of

WARDS AFFECTED: ALL

1. PURPOSE OF REPORT

- 1.1 To advise Scrutiny Commission of the introduction of The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 which came into force on 9th May 2016. These regulations introduce new powers for local authorities to issue Fixed Penalty Notices for small scale fly tipping, providing an alternative to prosecution.

2. RECOMMENDATION

- 2.1 That Scrutiny Commission endorses the recommendation that small scale fly tips are dealt with by way of a Fixed Penalty Notice.
- 2.2 That the Fixed Penalty Notice be set at £200.00 or if paid early within 10 days the fine would be reduced to £125.00.
- 2.3 That Scrutiny Commission endorses the request to Council to delegate authority to the Lead Member for Neighbourhood Services and the Chief Officer (Environmental Health) to set the criteria for small scale fly tipping as an amendment to the Clean Neighbourhood Policy pending review by Executive later this year.
- 2.4 That Scrutiny Commission endorses the recommendation that the Chief Officer (Environmental Health) authorise suitable officers to issue Fixed Penalty Notices for fly tipping.

3. BACKGROUND TO THE REPORT

- 3.1 Under the Environmental Protection Act 1990 unauthorised deposit of waste (fly tipping) have been previously dealt with by way of prosecution which is both costly and time consuming to the Authority. Under the new amendment 33ZA, persons committing the offence of unauthorised waste disposal can be dealt with by way of a Fixed Penalty Notice. The fine amount can be set at no less than £150 and not more than £400, and if the Council adopts an early payment agreement, the fine can be no less than £120.
- 3.2 The Council currently deals with around 40 to 50 fly tips per month some of which may only be small scale waste deposits. The Council has been dealing with these small scale fly tips by use of a Littering Fixed Penalty Notice of £80.00. Within the financial year 2015/16 the Council has received payment for 15 Fixed Penalty Notices for small scale fly tips, 8 fines are already pending payment for 2016/17. We expect this increasing trend to continue
- 3.3 It is recommended that only small scale fly tips are dealt with by the Fixed Penalty Notice (to be determined by the volume of waste deposited and its hazardous nature). Offences committed by business, hazardous material, and larger deposits of waste should be dealt with by way of prosecution. A clear definition will be set out within the Clean Neighbourhood Policy on what types of deposits will warrant the use of the Fixed Penalty and which will go straight forward for prosecution. Failure to pay a Fixed Penalty Notice will result in the offender being prosecuted under the Environmental Protection Act in accordance with the Corporate Enforcement Policy.

4. FINANCIAL IMPLICATIONS (CS)

- 4.1 Amendments to fixed penalty books to include new legislation and fine amounts. Total cost £70. These costs will be met from existing Street Scene budgets.
- 4.2 It is difficult to predict the level of additional income this change will generate. However, it is anticipated that income from small scale fly tips will go from by £900 to £1875. These figures are based on offenders paying at the lower FPN amount.

5. LEGAL IMPLICATIONS (AR)

- 5.1 As set out within the body of this report Section 33 of the Environmental Protection Act 1990 has been amended with effect from the 9th May 2016.
- 5.2 This amendment is appropriate for small scale fly tipping offences. The Council will continue to be able to prosecute large-scale or repeat offences.

6. CORPORATE PLAN IMPLICATIONS

- 6.1 The introduction of the Fixed Penalty Notice for Unauthorised waste disposal will contribute to the corporate plan aims of:-
- Clean neighbourhoods
 - Protecting and improving our parks and open spaces
 - Protecting the community by creating a safer place.
 - Encourage responsible citizenship

7. CONSULTATION

- 7.1 No public consultation is required.

8. RISK IMPLICATIONS

- 8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Increasing fly tipping causes unsightly and potentially dangerous accumulations and adverse publicity for HBBC	Active enforcement of tipping and publicity to promote and deter	Caroline Roffey

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 9.1 Fly tipping is a problem particularly in our rural areas affecting farmers and other land owners. Any initiative which simplifies the enforcement of environmental legislation will assist in these areas.

10. CORPORATE IMPLICATIONS

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: None

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