

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

*PART 1 – PUBLIC DOCUMENT

Any interest to declare/ or conflict and any dispensation granted [*if applicable*]

SERVICE DIRECTORATE: LEGAL & COMMUNITY

1. DECISION TAKEN

To set the standard Fixed Penalty Notice (FPN) to £400 (reduced to £300 if paid within 10 days of issue) for both fly-tipping and household waste duty of care offences.

2. DECISION TAKER

Jeanette Thompson, Service Director: Legal & Community

3. DATE DECISION TAKEN:

16 March 2022

4. REASON FOR DECISION

- 4.1 The decision to set the fixed penalty for both fly-tipping and household waste duty of care offences to the maximum of £400 allowed under the regulations (discounted to £300 for early resolution) is in light of the continued increase in fly-tipping incidents in the district and the nationwide perception that the current enforcement framework is not sufficient to deter and punish offenders.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The Council could maintain the current level of penalties for both offences, £300 (discounted to £200 if paid within 10 days) however this does not take into consideration the significant increase in fly-tipping incidents and public feeling regarding the level of sanction administered.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

- 6.1 Consultation has taken place with both the Executive and Deputy Member for Recycling and Waste whose responsibilities include enviro-crime.
- 6.2 The Hertfordshire Fly Tipping Group have discussed the increase in FPNs for both fly-tipping and household waste duty of care offences and the Group have broadly agreed that this increase applied across the county would be beneficial. The Group includes representatives from;

- All ten district/borough Councils
- Hertfordshire County Council
- Office of the Police and Crime Commissioner
- Hertfordshire Constabulary
- Hertfordshire Fire and Rescue Service

- The Environment Agency
- National Farmers Union
- M25 Connect

6.3 There is no need to consult publicly on this increase in fixed penalty. However it is evident that public sentiment regarding general sanctions imposed on fly-tipping related offences has been extremely damning and with a strong leaning towards the need for these sanctions to be increased.

7. FORWARD PLAN

7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

8.1 Fly-tipping¹ incidents in North Herts have nearly trebled over the last 10 years and the number of incidents in 20/21 was 62% higher than in 2019/20. Recorded fly-tipping incidents for this year indicate that the level of fly-tipping remains extremely high.

8.2 In addition to this significant increase in fly-tipping incidents a common factor that has been debated nationally is the perceived deficiency in the current enforcement framework to act as a deterrent to discourage future fly-tipping events. By increasing the maximum penalty to £400 for both fly-tipping and household waste duty of care offences in accordance with the regulations the Authority is doing everything it can do to take action against these offences.

9. LEGAL IMPLICATIONS

9.1. The Council's Constitution delegates the Managing Director and the Service Directors the responsibility to set fees and charges in accordance with the Council's Financial Regulations and relevant policies, in consultation with the Executive Member (14.6.4 (a) (viii), p. 146).

9.2. The Service Director: Legal and Community has services responsibilities for Community Safety and its enforcement as per 14.6.8 (b) (v) and (vi), which includes fly-tipping and FPNs.

9.3. The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 introduced Section 33ZA to the Environmental Protection Act 1990 which permits Local Authorities to issue Fixed Penalty Notices in relation to fly-tipping offences at a range between £150-£400.

9.4. The Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018 introduced Section 34ZA to the Environmental Protection Act 1990 and permits Local Authorities to issue Fixed Penalty Notices in relation to household waste duty of care offences at a range between £150 and £400.

10. FINANCIAL IMPLICATIONS

10.1. Additional income that is raised by this increase in penalty fines will be re-invested back into the service in accordance with the relevant legislation².

¹ Fly-tipping is illegal dumping of liquid or solid waste on land or in water. The waste is usually dumped to avoid disposal costs [Fly-tipping: council responsibilities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/fly-tipping-council-responsibilities) (March 2022)

² Code of Practice on Litter and Refuse. Statutory Guidance issued by DEFRA [Litter and refuse: code of practice - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/litter-and-refuse-code-of-practice) (February 2022)

11. RISK IMPLICATIONS

11.1 It is not envisaged that there will be any risk by increasing the level of FPN. There could be a reputational risk if the Authority does not raise the FPN level to the maximum under the regulations and in accordance with recent public sentiment and the recommendations of the Hertfordshire Fly-Tipping Group.

12. EQUALITIES IMPLICATIONS

12.1 None.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Social Value Act and “go local” policy do not apply to this decision.

14. ENVIRONMENTAL IMPLICATIONS

14.1. There are no known environmental impacts or requirements that apply to this decision, other than anticipating that these increased penalty fines may act as a further deterrent against fly tipping/ illegal dumping of waste and therefore have a positive impact on the environment.

15. HUMAN RESOURCE IMPLICATIONS

15.1 None.

16. BACKGROUND PAPERS

16.1 Delegated Decision Notice Fly-tipping <https://www.north-herts.gov.uk/sites/default/files/Fly%20Tipping%20-%20Fixed%20Penalty%20Notice.pdf>

16.2 Delegated Decision Notice for Household Waste (Duty of Care) <https://www.north-herts.gov.uk/sites/default/files/6.%20Fixed%20Penalty%20Notices%20-%20Household%20Waste%20-%202028.03.19.pdf>

16.3 Corporate Statement of Enforcement Policy [Corporate Enforcement Policy | North Herts Council \(north-herts.gov.uk\)](#)

16.3 Code of Practice on Litter and Refuse. Statutory Guidance issued by DEFRA [Litter and refuse: code of practice - GOV.UK \(www.gov.uk\)](#) (February 2022)

17. APPENDICES

17.1 None

NOTIFICATION DATE

25 March 2022

Signature of Executive Member Consulted



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Date 21.03.22.....

Signature of Decision Taker ... 

Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

Call-in does not apply to NON-EXECUTIVE DECISIONS, this is a non-Executive decision.