

<b>Notice of:</b>	Deputy Leader of the Council
<b>Decision Number:</b>	PH25/2019
<b>Relevant Officer:</b>	John Blackledge, Director of Community and Environmental Services
<b>Relevant Cabinet Member:</b>	Councillor Gillian Campbell, Deputy Leader of the Council (Tourism, Economic Growth and Jobs)
<b>Date of Decision:</b>	28 February 2019

## **FIXED PENALTY NOTICES FOR LITTERING, GRAFFITI, FLY-POSTING AND DISTRIBUTION OF PRINTED MATTER**

### **1.0 Purpose of the report:**

- 1.1 To consider the change in legislation which would allow the Council to set their own Fixed Penalty Notice charges for Littering, Graffiti, Fly-Posting and distribution of Printed Matter which came into force from 1 April 2018. This increases the maximum on-the-spot fine local authorities can issue from £80 to £150. If the Council do not set their own level of fine then the default level of £100 would be required to be introduced.

To also consider the use of new powers for littering from a motor vehicle that came into force from the 1 April 2018. As per the Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018.

### **2.0 Recommendation(s):**

- 2.1 To approve an increase to the Fixed Penalty Notice fee for Littering, Graffiti, Fly-Posting and distribution of Printed Matter to £150 with effect from 1 April 2019, with reduced early payment rate of £65 if paid within 10 days.
- 2.2 To approve, in principal, the use of new powers to issue Fixed Penalty Notices at the same rate as outlined in 2.1 in relation to littering from motor vehicles under the Environmental Protection Act 1990 and the Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018.
- 2.3 To delegate to Director of Community and Environmental Services to authorise officers to issue Fixed Penalty Notices in relation to littering from motor vehicles under the Environmental Protection Act 1990 and the Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018, subject to suitable training for

officers and the continued use of the Community and Environmental Services Enforcement Policy.

**3.0 Reasons for recommendation(s):**

3.1 Due to changes in the legislation the Council needs to review the amounts levied for fixed penalty notices otherwise the default level of £100 would have to be applied.

These recommendations will support our robust enforcement approach designed to bring about behaviour change and make Blackpool measurably cleaner.

Throwing litter from a vehicle is just as unacceptable as dropping it in the street and the new powers will allow the Council to tackle this anti-social behaviour by the issuing of Fixed Penalty Notices at the increased fine levels.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

Other alternatives which are more educational and campaign led are being progressed with our Keep Blackpool Tidy campaign. Street Cleansing services actively pursue and support voluntary groups and individuals. This approach is considered a complementary to the enforcement recommendations.

**4.0 Council Priority:**

4.1 The relevant Council Priority is: "The economy: Maximising growth and opportunity across Blackpool".

**5.0 Background Information**

5.1 Blackpool is the country's number one seaside holiday destination with figures far greater than any other resort in the country; in excess of 17 million visits. Investment in the infrastructure and events programme of the town by the Council and private sector has had a huge influence. Although, this success must be seen against a cocktail of challenges the town faces as a result of deprivation and transience, which in addressing with a diminishing resource is becoming more and more difficult.

- 5.2 Following the Government's Litter Strategy review undertaken in 2017 proposals to review the Code of Practice on Litter and Refuse and more specifically the guidance on effective enforcement came into power in 2018.
- 5.3 The intention is that the level of the new Fixed Penalty Notice fee of £150 would act as a deterrent to people littering on the street and on open – spaces and that councils using them would see a decrease in littering incidents and the number of prosecutions for littering.
- 5.4 Fixed Penalty Notices can be an effective and visible way of dealing with low level environmental crime and would be supported by the public provided they are used sensibly, enforced fairly and are seen as a reasonable response to genuine problems.
- 5.5 The recent changes in legislation which came into effect in April 2018 provide local authorities with a more efficient and proportionate response to littering from a motor vehicle in the power to issue Fixed Penalty Notices to the registered keeper of a vehicle directly.
- 5.6 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 as are listed in section 96 of the Clean Neighbourhoods and Environmental Act 2005. It cannot be used as a means of generating income for other uses.
- 5.7 This alternative penalty charge would allow all witnessed incidents to be the responsibility of the registered keeper including for offences committed whether the registered keeper of the vehicle was driving or not or the littering was the cause of a passenger.
- 5.8 The civil penalty of littering from a vehicle is proposed to carry the same financial levels set by the Council for a Fixed Penalty Notice as littering, graffiti, fly – tipping and distribution of Printed Matter, including the incentive to settle the fine early to allow a discounted rate.
- 5.9 Litter and Environmental enforcement is one such tool, which the Council is proactively using to encourage all to embrace the 'Keep Blackpool Tidy' campaign.
- 5.10 Does the information submitted include any exempt information? No

**5.11 List of Appendices:**

None.

**6.0 Legal considerations:**

6.1 Consideration of the modifications to the Environmental Protection Act 1990 Code of Practice on litter and refuse and Clean Neighbourhood and Environment Act 2005.

**7.0 Human Resources considerations:**

7.1 An appropriate level of training and mentoring to staff to be maintained to maximise the efficiency and validity of fixed penalty notices issued.

**8.0 Equalities considerations:**

8.1 Community and Environmental Services Enforcement Policy takes account of vulnerable people.

**9.0 Financial considerations:**

9.1 There are no additional revenue consequences to the service.

**10.0 Risk management considerations:**

10.1 The continued use of Community and Environmental Services Enforcement Policy and a reasonable and proportionate use of the power will ensure that any risk is mitigated.

**11.0 Ethical considerations:**

11.1 The service will aim to improve the quality of the town's environment and enforce against inappropriate behaviour.

**12.0 Internal/ External Consultation undertaken:**

12.1 External consultation across all local authorities has culminated in the changes to litter and waste legislation and the proposal form part of a wider litter strategy for England.

**13.0 Background papers:**

13.1 None.

**14.0 Key decision information:**

14.1 Is this a key decision? No

14.2 If so, Forward Plan reference number:

14.3 If a key decision, is the decision required in less than five days? No

14.4 If **yes**, please describe the reason for urgency:

**15.0 Call-in information:**

15.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No

15.2 If **yes**, please give reason:

**TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE**

**16.0 Scrutiny Committee Chairman (where appropriate):**

Date informed:

Date approved:

**17.0 Declarations of interest (if applicable):**

17.1 None.

**18.0 Executive decision:**

18.1 The Deputy Leader agreed the recommendations as outlined above namely:

1. To approve an increase to the Fixed Penalty Notice fee for Littering, Graffiti, Fly-Posting and distribution of Printed Matter to £150 with effect from 1 April 2019, with reduced early payment rate of £65 if paid within 10 days.
2. To approve, in principal, the use of new powers to issue Fixed Penalty Notices at the same rate as outlined in 1 in relation to littering from motor vehicles under the Environmental Protection Act 1990 and the Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018.
3. To delegate to Director of Community and Environmental Services to authorise officers to issue Fixed Penalty Notices in relation to littering from motor vehicles under the Environmental Protection Act 1990 and the Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018, subject to suitable training for officers and the continued use of the Community and Environmental Services Enforcement Policy.

**18.2 Date of Decision:**

28 February 2019

**19.0 Reason(s) for decision:**

Due to changes in the legislation the Council needs to review the amounts levied for fixed penalty notices otherwise the default level of £100 would have to be applied.

These recommendations will support our robust enforcement approach designed to bring about behaviour change and make Blackpool measurably cleaner.

Throwing litter from a vehicle is just as unacceptable as dropping it in the street and the new powers will allow the Council to tackle this anti-social behaviour by the issuing of Fixed Penalty Notices at the increased fine levels.

**19.1 Date Decision published:**

28 February 2019

**20.0 Executive Members in attendance:**

20.1

**21.0 Call-in:**

21.1

**22.0 Notes:**

22.1