ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 FIXED PENALTY NOTICE

1.0 Purpose of the report:

1.1 The purpose of the report is to facilitate the setting of the Fixed Penalty Notice (FPN) that can be issued by Authorised Officers of the Local Authority and Police. Under the recently enacted Anti-Social Behaviour, Crime and Policing Act 2014, Fixed Penalty Notices can be issued for breach of Community Protection Notices (CPN’s), and Public Space Protection Orders (PSPO’s).

2.0 Recommendation(s):

2.1 That new fixed penalties are introduced under the Anti-Social Behaviour, Crime and Policing Act 2014.

2.2 That the Fixed Penalty Notice charge be set at £100 in respect of both Community Protection Notices and Public Space Protection Orders.

3.0 Reasons for recommendation(s):

3.1 The recommendation is that the penalty is set at the maximum within the 2014 Act which enables the Local Authority to set the amount as it sees fit, but at no more than £100. It is considered that the higher the fine, the greater deterrent effect it will have. The Public Space Protection Orders and Community Protection Notices are specifically aimed at dealing with behaviour detrimental to others and a discounted penalty is not considered appropriate in either case. They would be an enforcement option in appropriate circumstances.

Consultation suggests that this level of fixed penalty is likely to be consistent that likely to be applied across the Fylde Coast and in some other parts of Lancashire.
Having different Fixed Penalty Notice rates in different areas of Lancashire would also make it more difficult for the Police as they would have to have a different book for each local authority area.

Following consultation with Wyre and Fylde Borough Councils and the Police, it is considered that it would also be appropriate to have a uniform approach across the three Council areas. This would also provide economies of scale when ordering Fixed Penalty Notice books. Penalties for the relevant offences if matters proceed to prosecution maximum fines are as set out further in this report.

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:

Not to introduce the Fixed Penalty Notices

To introduce the Fixed Penalty Notices at a different rate, not exceeding £100.

To introduce a reduction for early payment of the Fixed Penalty Notices.

4.0  Council Priority:

4.1  The relevant Council Priority is:

“Create safer communities and reduce crime and anti-social behaviour”

5.0  Background Information

5.1  Anti-social behaviour is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder that make many people’s lives a misery – from litter and vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and social landlords.

5.2  Victims can feel helpless, bounced from one agency to another and then back again. In many cases, the behaviour is targeted against the most vulnerable in our society and even what is perceived as ‘low level’ anti-social behaviour, when targeted and persistent, can have devastating effects on a victim’s life.
5.3 The reforms are designed to put victims at the heart of the response to anti-social behaviour, and give professionals the flexibility they need to deal with any given situation.

5.4 The Community Protection Notice (CPN) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community’s quality of life by targeting those responsible.

5.5 In many areas, Councils already take the lead in dealing with these kinds of issues and they will continue to be able to issue the new notice. However, the move towards neighbourhood policing and community safety teams in recent years has seen the police take a more active role in dealing with these issues, working with Councils, and so police officers and police community support officers will also be able to issue Community Protection Notices. In addition, there is a formal role for Registered Social Landlords. Where it is appropriate, local Councils can designate Registered Social Landlords in their area to issue Community Protection Notice.

5.6 A Community Protection Notice can be issued by one of the bodies above if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation:

- is having a detrimental effect on the quality of life of those in the locality;
- is persistent or continuing in nature; and
- is unreasonable.

5.7 Public Space Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community’s quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

5.8 Councils will be responsible for making the new Public Space Protection Orders although enforcement powers will be much broader.

5.9 A Public Space Protection Orders can be made by the Council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.
5.10 Payment of a Fixed Penalty Notice would discharge liability for a conviction for an offence and could be issued if appropriate in the circumstances. They would be issued by suitably authorised officers.

5.11 Does the information submitted include any exempt information? No

5.12 List of Appendices:
None

6.0 Legal considerations:

6.1 Anti-Social Behaviour, Crime and Policing Act 2014. Under s 52 of the Act, a fixed penalty may be offered to anyone who is believed to have committed an offence under section 48 of the Act. No proceedings may be taken for the offence before the end of the period of 14 days following the date of notice. A Fixed Penalty Notice may specify two amounts and specify that if the lower amount is paid within a specified period (of less than 14 days) that is the amount of the fixed penalty. The maximum fine for an offence under s48 is £2,500 for an individual or not exceeding £20,000 in case of a body. There are similar provisions under s68 of the Act in relation to offences of breach of Public Space Protection Orders under s63 or s67 of the Act. The maximum fines for offences under these sections are £500 and £1,000 respectively. As this is new legislation, there is not yet a history of sentencing. In both cases the maximum penalty is £100.


7.0 Human Resources considerations:

7.1 Authorised staff would need to be adequately trained in the issuing of Fixed Penalty Notices.

8.0 Equalities considerations:

8.1 None

9.0 Financial considerations:

9.1 None
10.0 Risk management considerations:

10.1 The consequence of the decision not being taken would prevent Fixed Penalty Notices from being issued.

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 Internal consultation has taken place through the Anti-Social Behaviour Working Group, who support the £100 threshold being set. External consultation between Blackpool, Fylde and Wyre also support the £100 Fixed Penalty Notice.

13.0 Background papers:


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? N/A

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: N/A  Date approved: N/A

17.0 Declarations of interest (if applicable):

17.1 None

18.0 Executive decision:

18.1 The Cabinet Member agreed the recommendations as outlined above namely:

1. That new fixed penalties are introduced under the Anti-Social Behaviour, Crime and Policing Act 2014.

2. That the Fixed Penalty Notice charge be set at £100 in respect of both Community Protection Notices and Public Space Protection Orders.

18.2 Date of Decision:

27th February 2015

19.0 Reason(s) for decision:

The decision is that the penalty is set at the maximum within the 2014 Act which enables the Local Authority to set the amount as it sees fit, but at no more than £100. It is considered that the higher the fine, the greater deterrent effect it will have. The Public Space Protection Orders and Community Protection Notices are specifically aimed at dealing with behaviour detrimental to others and a discounted penalty is not considered appropriate in either case. They would be an enforcement option in appropriate circumstances.

Consultation suggests that this level of fixed penalty is likely to be consistent that likely to be applied across the Fylde Coast and in some other parts of Lancashire. Having different Fixed Penalty Notice rates in different areas of Lancashire would also make it more difficult for the Police as they would have to have a different book for each local authority area.
Following consultation with Wyre and Fylde Borough Councils and the Police, it is considered that it would also be appropriate to have a uniform approach across the three Council areas. This would also provide economies of scale when ordering Fixed Penalty Notice books. Penalties for the relevant offences if matters proceed to prosecution maximum fines are as set out further in this report.

19.1 Date Decision published:

27th February 2015

20.0 Executive Members in attendance:

20.1

21.0 Call-in:

21.1

22.0 Notes:

22.1