



PR.22 14/15
Policy & Resources Committee
6 November 2014

Subject: Anti-Social Behaviour, Crime and Policing Act 2014

Report by:

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Purpose / Summary:

To finalise decisions relating to fixed penalty notices created under the Anti-Social Behaviour Crime and Policing Act 2014, and highlight resource pressures and concerns resulting from implementation of the Act.

RECOMMENDATION(S):

- 1. That members resolve to adopt fixed penalty notices under this Act at the levels recommended in section 2**
- 2. That members recommend to full council that this be considered as part of the budget setting process for 2015/16**
- 3. That members note the information contained in section 3**

IMPLICATIONS

Legal: Anti-Social Behaviour is a statutory function under the Crime and Disorder Act 2008. The Act does not require that we implement the new fixed penalty notices nor does it specify an amount except giving an upper limit of £100.

Financial : FIN/73/15 Amended fixed penalty notices will be effective from 1st April 2015, as detailed in Section 2, and will be incorporated within the fees and charges schedule, subject to approval by P&R through the budget setting process for 2015/16.

Staffing : Staff will require training – there should be no associated cost. HR to be consulted on any impact on staff grades however this is unlikely.

Delegation of powers will be required to use the fixed penalty notices.

There may be an impact on resource due to wider range of problems the new powers will cover, publicity surrounding the new powers and higher expectation internally and externally.

Equality and Diversity including Human Rights :

Risk Assessment :

Climate Related Risks and Opportunities :

Title and Location of any Background Papers used in the preparation of this report:

Home Office Report: Anti-social Behaviour, Crime and Policing Act 2014:
Reform of anti-social behaviour powers. Statutory guidance for frontline professionals.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332839/StatutoryGuidanceFrontline.pdf

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

X

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

X

1. Introduction

The Anti-Social Behaviour, Crime and Policing Act was given Royal Assent on 13th March 2014. The Act has rewritten much of the legislation currently in use by local authorities for dealing with matters of anti-social behaviour, environmental crime and other enforcement. The new legislation comes in to force on 20th October 2014.

2. Proposal

The Act introduces two new pieces of legislation for which fixed penalty notices may be used as an alternative to prosecution; the legislation does not prescribe the amount of each fixed penalty except to give an upper limit of £100, nor does it make use of the fixed penalties compulsory. We are able to make the decision as to whether we adopt and use the new fixed penalty notices and set the amount locally.

The current amounts of fixed penalty used which will be affected are as follows:

- Failure to comply with a Litter Clearing Notice or Street Litter Clearing Notice	£100
- Graffiti and fly posting	£75
Early Payment (within 10 days)	£50

These are both replaced by Community Protection Notice.

- Failure to comply with the requirements of a Dog Control Order	£75
Early payment (within 10 days)	£50

This is replaced by Public Space Protection Order

Fixed penalty notices are a valuable tool to our enforcement officers, enabling us to take clear action on an offence without a full court action, but also leaving the door open to prosecution if not paid. They are a good deterrent to others. As such we recommend that these fixed penalty notices are adopted.

It is also recommended, to avoid confusion or error, that fixed penalty notices for both CPNs and PSPOs are set at £75, with an early payment incentive to reduce cost to £50 if paid within 10 days.

This is recommended to become live from 1 April 2015.

Prosperous Communities heard these proposals on 2nd September 2014 and have made the recommendation to Policy and Resources to adopt fixed penalty notices for these new powers as detailed above.

3. Resources

The implementation of the new legislation does raise some concerns about management of potential increased numbers of cases and raised expectations internally and externally. For this reason a short review of resources is given below.

3.1 Benchmarking

The current resource at West Lindsey to deal with anti-social behaviour (excluding statutory nuisance), environmental crime and waste enforcement is 2 full time officers, managed by a Community Action Officer.

Enquiries with other Lincolnshire authorities have found that resource for the same work at East Lindsey is 6 full time officers, while at North Kesteven the resource is 13 (including statutory nuisance).

3.2 Pressures

The new ASB legislation widens a number of the tests used which enable us to take action. This may increase workloads and expectation. Publicity surrounding the new legislation is also likely to increase workloads.

Currently the ASB team is not able to deal with waste enforcement due to lack of capacity. Reports are being forwarded to the waste service team, however as waste services do not have a waste enforcement officer this is far from ideal to address problems affecting communities.

Caseloads have recently increased to the highest level in over a year, sitting at just under 50 open cases. This is partly due to the summer period which results in higher numbers of reports. Average case length varies as all cases are different, however as an example, a case involving dumped rubbish in a garden may be resolved within 7 days, or it may have to go through to prosecution which takes a minimum two months. Higher level cases will be open and active for usually a minimum of two months and have been known to go on for several years.

This means an increase in workload due to the new legislation may be difficult to absorb in the current team.

Fixed penalty notices are a valuable and versatile deterrent and enforcement tool, however the potential increase in fixed penalties issue under this Act has its own resource implications, requiring administration, follow up and potentially court action. Failure to follow up and enforce fixed penalties soon becomes widely known and may result in reputational harm.

3.3 Opportunities

In order that West Lindsey can implement, utilise and enforce the new legislation effectively there are options which would enable us to improve capacity, impact and proactive action:

- Use of e-forms to feed new cases directly into systems to free up a limited amount of officer time from inputting. This is currently being developed with customer services.
- Appointment of a dedicated officer to tackle low level offences in the priority area of Gainsborough South West Ward. This would allow direct action in this priority area, including proactive work and patrols, plus community engagement and building trust. This would also free up resource from the two current officers to allow better and fuller management of high and medium risk cases across the District.
- Allocation of an admin resource/apprentice to assist with some of the team admin tasks, and enable officers more time to work directly with victims and within the community.

4. Conclusion

Agreeing the use of fixed penalty notices under this new legislation will enable West Lindsey to have a wider and more flexible toolkit with which to tackle anti-social behaviour. West Lindsey is already leading the way in the county as one of only two authorities to have amended its constitution to enable use of the powers, and the only one to have got so far in establishing use of and amount of these fixed penalties.

However, to ensure we can use the powers and fixed penalties, and to ensure that these can be followed up with court action when appropriate, resource must be considered and reviewed on an on-going basis.