



**Corporate Policy and
Resources Committee**

**Thursday 21st September
2023**

Subject: Fixed Penalty Increase - Fly-Tipping, Household Waste Duty of Care, Littering and Graffiti.

Report by:

Director of Change Management, ICT &
Regulatory Services

Contact Officer:

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Purpose / Summary:

To seek approval for an increase in Fixed
Penalty Notices relating to fly-tipping, littering
and graffiti.

RECOMMENDATION(S):

Committee are asked to approve the Recommendation made by Prosperous Communities Committee on 12th September 2023 that:

- a) The fixed penalty charge for fly-tipping is increased to £1,000, with no reduction offered for early payment.
- b) The fixed penalty charge for a household waste duty of care offence is increased to £600, with no reduction for early payment.
- c) The fixed penalty charge for a littering or graffiti offence is increased to £500, with no reduction for early payment.
- d) That the amended charges will come into effect from 1st October 2023.

IMPLICATIONS

Legal:

The Statutory Instrument to bring about these changes was laid on the 31st of July 2023 and will come into effect 28 days later.

Financial: FIN/52/24/SL/CPR

Fixed Penalty Notices (FPNs) provide an additional income for the Council, which helps to offset some of the costs incurred in delivering the services that are relevant within this report. The additional income gained via any approved increase of fees will only further help the Council to cover additional costs that are incurred.

The FPNs are not factored into the overall budgets within the service and there is no in year target as such for the issuing of these.

Upon approval, the Fixed Penalty Notices fees and charges schedule will be updated to reflect the amended rates.

Staffing:

Existing Enforcement Officers would be delegated to issue FPNs at the amounts agreed. Any increase in FPN amounts is not proposed to increase the number of employees that are available to issue them.

Equality and Diversity including Human Rights:

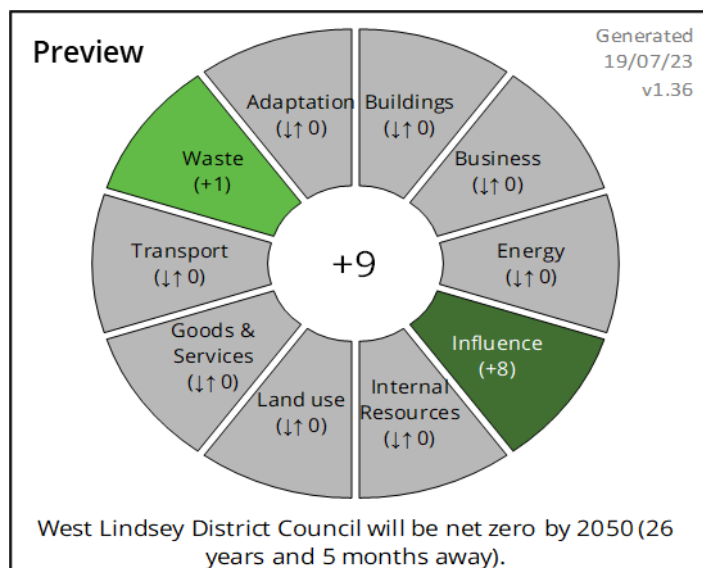
Any FPNs issued would be done so in line with the relevant legislation and the Councils Corporate Enforcement Policy. Any equality, diversity and human rights issues would be addressed on a case by case basis in line with the offence occurred.

Data Protection Implications:

None noted.

Climate Related Risks and Opportunities:

Seeking to increase the fees related to the offences within this report will mainly have a positive influence on the profile of the work that the Council does in relation to fly-tipping and littering. Enhancing this approach will raise its profile and in turn, it is hoped continues to keep these key issues at the forefront of people's minds.



Section 17 Crime and Disorder Considerations:

The receipt of an FPN is not a criminal offence in itself, however if left unpaid the Council can take action to recover the costs via the Court through what is known as the "Single Justice Procedure".

Health Implications:

Reducing the amount of fly-tipped waste, litter and graffiti in the district helps to ensure that it continues to remain a place that residents can be proud of and enjoy without disturbance. In some cases, fly-tipped waste can pose an immediate health risk and the steps that the Council takes to deal with this help to ensure that this is significantly minimised.

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

The Councils Environmental Crime Commitment is here:

<https://www.west-lindsey.gov.uk/communities-safety/community-safety/environmental-crime-policy-commitment>

Risk Assessment:

Non-payment of increased charges: this is a risk to the Council; however it is currently a risk even at the existing lower amounts. Whilst the risk is real, there are believed to be more benefits in terms of increasing the amounts overall which offset this. The Council retains the right to recover any unpaid amounts through the courts should this occur.

Cost of Living: an increase in FPN charges in the current climate may be perceived negatively by the community. The mitigation for this is that the majority of persons will not attempt to or even consider committing an offence, therefore the vast majority of the population will remain unaffected. The impact that this will have on those that offend is aimed at being greater, which in regard to the Councils approach, is proportionate.

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

x

No

1. Introduction

- 1.1. On 7th June 2023 the Department for the Environment, Food and Rural Affairs (Defra) announced that on the spot fines for litter, graffiti and fly-tipping are set to rise <https://www.gov.uk/government/news/bigger-fines-possible-for-littering-and-fly-tipping>
- 1.2. These proposals form part of the Prime Minister's Action Plan to clamp down on these sorts of crimes and build stronger communities. It is broadly acknowledged the blight that littering, and fly-tipping offences have on areas and the increase in scope for these fines reflect this.
- 1.3. To help equip councils with everything they need and strengthen their arm, government is laying a statutory instrument increasing the upper limits for various fixed penalty notices (FPNs) on Monday 10 July 2023. This means:
 - The maximum amount those caught fly-tipping could be fined will increase from a range of £400 to £1,000.
 - The maximum amount those who litter or graffiti could be fined will increase from a range of £150 to £500.
 - The maximum amount those who breach their household waste duty of care could be fined will increase from a range of £400 to £600.
- 1.4. Councillors have the freedom to set rates that offenders should pay, within the limits above and therefore needs to agree whether it wishes to increase the charges so that any increase can then be ratified accordingly and added to the fees and charges schedule.
- 1.5. Councillors are permitted to approve an amount that falls within the ranges stated and the reasons for the officer recommendations are set out below.

2. Fly – Tipping Offence

- 2.1. In West Lindsey there were 1,825 reported fly-tipping incidents in 21/22. This was below the national Local Authority average of 3,500, however is still a significant amount and one that the Council is committed to endeavour to continue to reduce.
- 2.2. In 21/22 it was estimated that fly-tipping clearance cost the authority £147,381. This figure is generated via the Governments monitoring system based on the number of incidents reported and dealt with by each Local Authority.
- 2.3. The Council has taken positive steps over the last 12 months to improve how it deals with fly-tipping and its Environmental Crime Commitment was agreed by Prosperous Communities Committee in March 2023. Alongside this the Council has invested in mobile fly-tipping cameras, which are deployed at various hotspots across the district. Out of hours

patrols have also been initiated which cover issues such as fly-tipping and steps have been taken to ensure that the work relating to fly-tipping and, indeed the blight it has on our communities, is highlighted via the media.

2.4. 18 fixed penalty notices for fly-tipping were issued in 22/23 at £400. In the first quarter of 23/24 six have been issued at £400.

2.5. Given the blight that fly-tipping causes and the costs the Council incurs in clearing it, it is proposed that the FPN amount for this is increased to the maximum of £1,000, with a reduction to £600 if paid within 14 days.

2.6. The Council do not have to offer a reduced payment incentive; however, it is often more cost effective to offer this, rather than seek the higher amount through the courts Single Justice Procedure. This is the process the Council undertakes if the recipient of an FPN does not pay.

3. Household Waste Duty of Care Offence

3.1. This offence is committed by a person who allows their waste to be removed from their property but does not undertake any duty of care checks in regard to the company or individual/s who remove it. This collected waste can then be fly-tipped and traced via evidence back to its original owner.

3.2. This power is aimed at ensuring that all persons who arrange for household waste to be cleared are obliged to do this in the correct manner, via a licensed waste carrier and to ensure that they do all the necessary checks prior to arranging for disposal of waste.

3.3. The current FPN amount for this offence is £400 and it is proposed to increase this to £600, with a reduction to £400 if the payment is made within 14 days.

4. Littering and Graffiti

4.1. The Council does not proactively seek out littering or graffiti FPNs. The Council will monitor littering hotspots that get reported, however it does not routinely issue FPNs for this offence. Likewise, the graffiti offence relies on being able to evidence or catch someone in the act of carrying out graffiti.

4.2. A relatively small number of littering and graffiti incidents are reported to the Council and the previously agreed Environmental Crime Commitment sets out the Council's approach to this issue. A robust approach to the setting of the FPN in this area sends a clear message that the Council do not wish for it occur and in instances where it does allow a significant charge to be issued.

4.3. On that basis it is proposed that the littering FPN is increased to the maximum of £500, reduced to £250 if paid within 14 days.

4.4. Likewise, it is proposed that the graffiti FPN is set at £500, reduced to £250 if paid within 14 days.

5. Prosperous Communities Committee

5.1. At the Prosperous Communities Committee meeting on 12th September 2023 the proposed recommendations were amended for all three fixed penalty offences to remove the reduction offered for early payment.

5.2. Committee were unanimous in their view that these matters are serious and as such should be treated in that way by the maximum penalty being levied and no offer being made for reduced payment.

5.3. Officers advised that whilst there is a risk in relation to levels of non-payment, that this risk is not deemed to be significant and should it prevail that non-payment of the amounts becomes a concern, a further report could be brought back to committee to address this.

5.4. The Council will bring the revised charges, if agreed, into effect from the 1st of October 2023.

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