

Fixed Penalty Notice (FPN) Policy for environmental offences

Summary

The attached policy has been revised and updated to reflect changes in legislation and sets out the Council's commitment to take enforcement action against environmental crime perpetrators.

Portfolio: Community

Date Portfolio Holder signed off report: 4 March 2016

Wards Affected: All

Recommendation

The Executive is advised to resolve to accept the proposed changes to the Fixed Penalty Notice policy

1. Resource Implications

- 1.1 Following CMT approval in March 2015, the new Counter Fraud and Corporate Enforcement Team was launched on 1st September, 2015. Made up in the main of existing resources, the team provides a dedicated resource and have the necessary skills and competencies to investigate these cases thoroughly.

2. Key Issues

- 2.1 The implementation of an updated Fixed Penalty Notice Enforcement Policy delivers on the Corporate Plan Objectives. By issuing on the spot fines for low level crimes such as litter and dog fouling it will help change behaviour of potential offenders and help keep the Borough safe and clean. This will make a difference for communities and local businesses by addressing environmental crime and improve Surrey Heath for its residents, visitors and support a vibrant business environment. Two significant changes to the current regime are proposed, these are:

- (i) **Abolish the early repayment option for the offences of Failing to Produce Waste Documents and Failure to produce Waste Carriers Licence**

By law businesses that transport waste or buy sell or dispose of waste must register with the Environment Agency, they must also be able to produce waste transfer notes relating to the transfer of all their commercial waste over the preceding two years. FPN's for both these offences are £300, reduced to £180 if paid within 10 days. It is hoped that the withdrawal of an early payment discount will encourage

businesses to be properly licensed and dispose of their waste correctly, rather than risk a hefty fine.

We receive more complaints about fly tipping than any other type of Environmental Crime and it costs the authority tens of thousands of pounds a year.

(ii) Introduce a flexible policy that is fit for purpose and allows officers issuing FPN's discretion to issue to juveniles between the ages of 10 and 17.

The law allows for FPN's to be issued to anyone over the age of 10. Currently Surrey Heath does not issue FPNs to anyone under the age of 18. This policy has been written to enable authorised officers to issue FPNs to juveniles between the ages of 10 and 17, under 16's as an exception.

3. Options

- 3.1 The Executive may adopt this proposal and/or suggest amendments

4. Proposals

- 4.1 To agree changes to the Fixed Penalty Notice scheme

5. Supporting Information

- 5.1 Fixed Penalty Notice – Enforcement Policy

6. Corporate Objectives And Key Priorities

- 6.1 The policy underpins Corporate Objectives 1 and 3, we will do this by:
- (a) Keeping the Borough clean by delivering good recycling and refuse collection and street cleansing services
 - (b) Protecting the general health and wellbeing of the community through our services, our health promotion and community development work.

7. Policy Framework

- 7.1 The policy has adopted the framework issued by DEFRA using the default penalty amounts, guidance and good practice.

8. Legal Issues

- 8.1 If a person refuses to accept a Fixed Penalty Notice or does not pay within the specified period, the case will be referred to Legal Services who will apply the evidential and public interest tests before issuing proceedings for prosecution.

9. Governance

- 9.1 Fixed Penalty receipts for environmental offences may only be used to meet the cost of undertaking specific functions or enforcement action.

10. Equalities Impact

- 10.1 The policy has incorporated clearly defined guidelines to deal with vulnerable people.

11. Human Rights

- 11.1 Officers authorised to issue Fixed Penalty Notices are fully trained in legislation directly affecting human rights, specifically Articles 6 & 8.

12. Consultation

- 12.1 All Executive Heads have been consulted on the changes to the Policy.

13. PR and Marketing

- 13.1 Since its inception, the Counter Fraud and Corporate Enforcement Team has embarked upon a number of educational campaigns with a view to reduce fly-tipping in the Surrey Heath area. The Team will actively promote the abolishment of the early repayment scheme specifically relating to the disposal of waste in the hope that it will discourage would be fly tippers.

14. Officer Comments

- 14.1 Issues such as litter, graffiti, abandoned vehicles and dog fouling are matters that are frequently raised by residents, Borough and Parish Councillors. This is not only an environmental issue that costs money to clear up but lack of enforcement creates an impression amongst offenders that they can get away with it and amongst residents that the Council does not care.

Annexes	Fixed Penalty Notice Enforcement Policy
Background Papers	
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Consultations, Implications and Issues Addressed

Resources	Required	Consulted
Revenue	✓	
Capital		
Human Resources		
Asset Management		
IT		
Other Issues	Required	Consulted
Corporate Objectives & Key Priorities	✓	
Policy Framework		
Legal	✓	
Governance		
Sustainability		
Risk Management		
Equalities Impact Assessment		
Community Safety		
Human Rights		
Consultation		
P R & Marketing	✓	

Review Date:

Version: