

TONBRIDGE & MALLING BOROUGH COUNCIL

STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD

11 February 2019

Report of the Director of Street Scene, Leisure & Technical Services

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 FIXED PENALTY NOTICES FOR LITTERING

Summary

This report seeks to advise Members on the recently amended limits for Fixed Penalty Notices for littering following last year's review by Central Government and subsequent legislation.

1.1 Background.

1.1.1 For certain environmental offences, such as littering, Fixed Penalty Notices (FPNs) are an alternative option to criminal prosecution. The levels that can be charged for an FPN for littering were set in 2006 - under Section 88 of the Environmental Protection Act - with an upper tier limit of £80, to be paid within 14 days, and a suggested early payment level of £50 if paid within 10 days. TMBC adopted these levels at that time and have not changed them since, adhering to government guidance. This approach is in line with our zero-tolerance approach to littering and other environmental offences.

1.2 Litter Strategy for England

1.2.1 In April 2017, the Government launched a new Litter Strategy for England with an ambition to be "*the first generation to leave the natural environment of England in a better state than it found it*". Environmental issues such as littering were identified as being a high priority amongst residents, and there was a clear drive for enforcement action to be taken, as well as a view that existing FPN levels were not high enough to be an actual deterrent. It was also noted that FPN charging levels had not changed since 2006, and that if this level was adjusted for inflation, it would now be around £100.

1.2.2 Following consultation, new legislation was introduced in order for local authorities to be able to increase their FPN charging levels. In April 2018, The Environmental Offences (Fixed Penalties)(England) Regulations 2017 came into force. The legislation allows local authorities to revise their FPN charges, with existing levels being allowed until 31 March 2019. After that date the higher levels should be

taken into account when setting maximum and early payment charges. This table shows the current and revised limits:

Table 1:

	Lower limit	Upper limit	Default rate as recommended by Government
Current TMBC charge	£50	£80	£80
National limits from 1 April 2019	£65	£150	£100

1.3 Proposed FPN Charges

- 1.3.1 Revised guidance from Defra on setting the charges for FPNs has not yet been published, but it has made reference to them needing to be proportionate in their notes accompanying the new legislation.
- 1.3.2 Given that the new legislation was introduced in order to provide an increased deterrent against littering and that levels set should be proportionate, it is proposed that the new default level of £100 be adopted by this Council as its standard charge, as per government guidance. In order to assist in maintaining this Council's high level of collecting payments, it is proposed to retain a reduction level for early payment (within 10 days of issue), but that this be increased to £65.
- 1.3.3 Currently there are a considerable number of anti-litter signs at fixed locations around the borough. Most of these currently indicate the maximum FPN level of £80 for littering offences. Rather than remove these signs wholesale and replace them with brand new signs (an initiative for which there is currently no allocated budget), it is proposed that they be amended with stickers over the coming months, and replaced with permanent signs as and when necessary. Members should be advised that it is not necessary to have any such signage, nor for existing ones it to be updated, in order for FPNs to be issued and enforced correctly. This means that a challenge against an FPN for not having signage in place, or without updated charges, would not be successful.

1.4 Legal Implications

- 1.4.1 The proposals will assist TMBC in complying with The Environmental Offences (Fixed Penalties)(England) Regulations 2017.

1.5 Financial and Value for Money Considerations

- 1.5.1 The 2019/20 income estimate for FPN's is £6,250. Whilst revised charges could be seen to generate additional income, the primary purpose is to act as a deterrent and reduce littering. Based on this it is not proposed to amend the income estimate at this stage, but to review it at revised estimates.

1.6 Risk Assessment

- 1.6.1 It is important that the Council responds to the views of residents with regard to addressing the issue of littering. The proposed revised charges are in line with Government guidance.

1.7 Equality Impact Assessment

- 1.7.1 The decisions recommended through this paper have a remove or low relevance to the substance of the Equality Impact. There is no perceived impact on end users.

1.8 Policy Considerations

1.8.1 Communications

1.8.2 Community

1.8.3 Customer Contact

1.9 Recommendations

1.9.1 It is RECOMMENDED TO CABINET that:-

- i) this Council's revised charge for Fixed Penalty Notices for littering offences be set at £100 from 1 April 2019;
- ii) a revised early payment charge (within 10 days) for Fixed Penalty Notices for littering offences be set at £65 from 1 April 2019; and
- iii) the proposed approach to updating existing signage be approved.

The Director of Street Scene, Leisure & Technical Services confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

Nil

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