

## FIXED PENALTY NOTICES FOR WASTE CRIME

Cleaner & Greener Advisory Committee – 10 October 2023

Cabinet – 12 October 2023

**Report of:** Deputy Chief Executive & Chief Officer - Finance & Trading

**Status:** For Decision

**Key Decision:** Yes

**Executive Summary:** This report updates members on the changes from a Statutory Instrument issued by the Government to increase on-the-spot fines levels for littering and fly tipping.

**This report supports the Key Aim of:** a green environment and safer communities

**Portfolio Holder:** Councillor McArthur

**Contact Officer:** Trevor Kennett, Ext. 7407

Adrian Rowbotham, Ext. 7153

**Recommendation to Cleaner & Greener Advisory Committee:** That the recommendations as detailed in this report be considered by the Committee, and its views be submitted for consideration by Cabinet.

**Recommendation to Cabinet:** That the recommendations in this report along with any proposals submitted by the Cleaner & Greener Advisory Committee be considered and approved.

**Reason for recommendation:** Sevenoaks District Council has a dedicated investigation and enforcement team for waste crime who use a number of different FPNs to help tackle waste crime including littering and fly-tipping offences. It is therefore important, as a deterrent FPN levels are set to the maximum level.

### Introduction

1. The UK Government have announced that on-the spot fines for litter and fly-tipping have risen as part of a crackdown on anti-social behaviour.
2. To help strengthen councils in their fight against waste crime, government has placed a statutory instrument increasing the upper limits for various fixed penalty notices (FPNs) from 31 July 2023. These changes will come into force 21 days after the laying of the Statutory Instrument, so are active from 21 August 2023.

3. FPNs provide a quick, visible and effective way of dealing with low-level straightforward environmental crimes, and an alternative to prosecution. However, non-payment rates are reasonably high, so consideration to the discounted level and ability of communities to pay, to make them effective.
4. A fixed penalty is not a fine. Payment of the penalty by the recipient discharges their liability to conviction for the offence for which the FPN issued. It does not constitute an admission of guilt, but removes the possibility of the creation of a record of criminal conviction.
5. Currently, the council has a framework in place to ensure that offenders be prosecuted if they choose not to pay the fine. This gives a powerful message to the community that such crimes will not be tolerated.
6. The maximum amount those caught fly tipping could be fined will increase from £400 to £1,000. The maximum amount those who litter fined will increase from £150 to £500.
7. In addition to increasing the upper limit on fines, the government has launched a consultation on ring fencing the receipts from FPNs for litter and fly-tipping to fund local authorities' enforcement and clean-up activities, such as spending the money raised from fining criminals on further enforcement officers. This would see the money paid by criminals go directly into repairing the damage from their crimes, or into enforcement efforts to prevent similar incidents from happening again.

#### **Current FPN levels for Littering & Fly-tipping.**

8. The Councils current approved level of FPNs for Fly-tipping are set at £400 discounted to £300 if paid within 10 days. The current level for Littering set at £100 with no discount.
9. The following table shows how many FPN's have been issued by the Waste Enforcement team in recent years:

Calendar Year	FPN's issued for waste crimes
2021	17
2022	37
2023 (to 31/07/23)	20

#### **Recommendations**

10. The FPN levels for the Council to change as follows:
  - Fly tipping - increasing the maximum level from £400 to £1,000. Maintaining the current discounted rate, if paid within 10 days at £300.

- Littering – Increasing the level from £100 to £500 with no discount level set.
11. Setting the rate at £1,000 for the fly-tipping offence will act as a strong deterrent and the rationale for a 70% discount for early payment is to encourage the offender to accept responsibility for their actions and to pay the fine. Non-payment, the offender will be prosecuted for the original offence of fly tipping.
  12. Fly tipping is a serious criminal offence which carries a fine of up to £50,000 (unlimited if the case goes to the Crown Court) or an offender can even be sent to prison. Littering offences can lead to a fine of up to £2,500 and a criminal record.

## **Key Implications**

### Financial

All options that contain financial implications detailed within this report.

### Legal Implications and Risk Assessment Statement.

The Council are the enforcement authority for offences of waste crime under the Environmental Protection Act 1990.

### Equality Assessment

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

### Net Zero Implications

Members reminded of the Councils stated ambition to be Net Zero concerning reducing carbon emissions by 2030. The decisions recommended in this paper directly impact on this ambition. The impact reviewed and there will be a very slight increase on carbon emissions produced in the district because of this decision, given resources used to remove fly tipped waste.

### **Appendices**

None

### **Background Papers**

<https://www.legislation.gov.uk/ukpga/1990/43/section/33ZA>

<https://www.legislation.gov.uk/ukpga/1990/43/section/88>

**Adrian Rowbotham**  
**Deputy Chief Executive and Chief Officer - Finance & Trading**