

Cheltenham Borough Council

Cabinet Member for Customer and Regulatory Services – 2

October 2023

Revised Fixed Penalty Fees for Enviro-crimes

Accountable member:

Councillor Martin Horwood - Cabinet Member for Customer and Regulatory Services

Accountable officer:

Louis Krog – Head of Public Protection

Ward(s) affected:

All

Key Decision: No

Executive summary:

The Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023 introduced revised penalty fees for a number of enviro-crimes. Each increase gives the authority discretion to set fixed penalty fees within a statutory minimum and maximum amount.

This report seeks approval from the Cabinet Member for Customer and Regulatory Services to increase the maximum permitted fixed penalty fees as outlined in this report.

Recommendations:

The Cabinet Member for Customer and Regulatory Services is recommended to approve the revised proposed fixed penalty fees as outlined at 2.6, effective from the date of the decision.

1. Implications

1.1 Financial, Property and Asset implications

The increased fixed penalty amounts is aimed at deterring anti-social behaviour and environmental crime associated with litter, graffiti, fly tipping and refuse bins not properly presented. Although the aim is not

income generation, increased levels of fixed penalty amounts will also serve to recover the costs associated with the enforcement of anti-social behaviour and environmental crime as outlined in the report.

Signed off by: Jon Whitlock, Jon.Whitlock@cheltenham.gov.uk

1.2 Legal implications

There are no legal implications in amending the level of the penalties. The legislation clearly allows and encourages Local Authorities to do so.

Signed off by: Rachael Baldwin, Lawyer, Rachael.baldwin@onelegal.uk

1.3 Environmental and climate change implications

None arising from this report.

1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Being a more modern, efficient and financially sustainable council

1.5 Equality, Diversity and Inclusion Implications

The authority will monitor the broad demographics of those receiving FPNs. It data shows that any people from one of the nine protected characteristic groups are seen to be disproportionately receiving FPNs, it will carry out further monitoring to ensure the system is being applied fairly and in a non-discriminatory way.

1.6 Performance management – monitoring and review

Performance and the effectiveness of the proposed changes will be measures in the number of fixed penalty notices issued and the impact this is having on reducing the number of relevant enviro-crimes occurring that requires formal enforcement action to be taken.

2 Background

2.1.1 In March 2023, under the regulations set out in the Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023, the upper limits for fixed penalty notices relating to litter, graffiti and fly-tipping changed as outlined below:

2.1.1.1 The maximum amount for fly-tipping will increase from £400 to £1,000;

2.1.1.2 The maximum amount for litter or graffiti will increase from £150 to £500; and

2.1.1.3 The maximum amount those who breach their household waste duty of care will increase from £400 to £600.

2.2 The Regulations sets the upper limits, giving the authority discretion to set its own levels locally.

2.3 The current FPNs for each of the offences above are:

2.3.1 Fly-tipping - £250 if paid within 10 days otherwise £400

2.3.2 Graffiti/Littering - £90 if paid within 10 days otherwise £150

2.3.3 Duty of Care breach - £300 if paid within 10 days otherwise £300

Volumes

2.4 The number of reports and complaints relating to the FPN categories above are:

	2021	2022
Fly-tipping	1064	1652
Litter	173	107
Graffiti	164	225
Household waste duty of care	64	28

2.5 For the last financial year, the authority’s income from FPNs issued was £5,740.00.

Proposals

2.6 It is proposed that the authority increase the maximum level for FPNs as follows:

2.6.1 The maximum amount for fly-tipping will increase to £1,000;

2.6.2 The maximum amount for litter or graffiti will increase to £500; and

2.6.3 The maximum amount those who breach their household waste duty of care will remain unchanged.

2.7 In line with the wider policy ambition to equip local authorities with the tools “to tackle the blight of anti-social behaviour facing communities”, it is proposed that the maximum permitted fine(s) be imposed for fly-tipping, litter and/or graffiti.

2.8 The circumstances relating to household waste duty of care is more complex and currently subject of a review between the authority and Ubico in relation to delegations and areas of responsibilities. As such, it is proposed that the maximum amount those who breach their household waste duty of care remains unchanged pending the outcome of the review. This will be kept under review by the cabinet members with responsibility for customer services and for recycling.

Delegation

2.9 Part 3E of the adopted constitution (0/06/23 updated version) delegates authority to the Cabinet Member to set fees and charges relevant to their portfolio areas.

3 Reasons for recommendations

3.1 To ensure the authority fully utilise the extent of the tools and sanctions available to it to deal with anti-social behaviour facing communities.

4 Alternative options considered

4.1 The Cabinet Member can decide to keep the maximum level of FPN at its current rate. This will however mean that the authority is not fully taking advantage of the tools and sanctions available to it.

5 Consultation and feedback

5.1 There is not explicit requirement to consult or need to do so under the circumstances. Informal consultation has been undertaken with cabinet and the finance business partner.

6 Key risks

6.1 As outlined in Appendix 1.

Report author:

Louis Krog, Head of Public Protection

Appendices:

- i. Risk Assessment

Background information:

1. [The Environmental Offences \(Fixed Penalties\) \(Amendment\) \(England\) Regulations 2023](#)
2. [Anti-Social Behaviour Action Plan](#)

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
	If the Cabinet Member does not approve the increase, the authority may be less effective in dealing with the range of anti-social behaviour and environmental crimes outlined in the report.	Head of Public Protection	3	3	9	Accept	Approve recommendation.	Head of Public Protection	Report Date
	If the Cabinet Member does not approve the increase, the authority's ability to recover costs associated with the enforcement of with the range of anti-social behaviour and environmental crimes outlined in the report.	Head of Public Protection	2	3	6	Accept	Approve recommendation.	Head of Public Protection	Report Date