



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

24th JANUARY, 2019

THE INTRODUCTION OF FIXED PENALTY NOTICES TO DEAL WITH SMALL SCALE FLY-TIPPING

REPORT OF DIRECTOR OF HIGHWAYS AND STREETCARE IN DISCUSSIONS WITH CLLR A. CRIMMINGS CABINET MEMBER FOR ENVIRONMENT, LEISURE AND HERITAGE

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1. PURPOSE OF THE REPORT

- 1.1 To consider new legislative powers through the Amendment of the Environmental Protection Act 1990 and The Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017, introducing and setting of the level of the fixed penalty for small-scale fly-tipping to £400 with no early payment discount option.
- 1.2 To consider the range of measures to improve the approach to address fly-tipping. The report outlines the opportunities of dealing with issues associated with fly-tipping through adopting new technologies and legislative powers.

2. RECOMMENDATIONS

It is recommended that the Cabinet:

- 2.1 Set the amount of the small-scale fly-tipping FPN at £400 with no early payment scheme. This ability to issue a fixed penalty notice is an amendment under Section 33z(b) of the Environmental Protection Act 1990.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The Government has made provision to amend the Environmental Protection Act 1990 to include a fixed penalty notice as a means of disposal of a fly tipping offence instead of taking the matter to court. The amendment focuses on small scale fly tipping of up to 4 black bags. Commercial and hazardous waste would not be afforded this option and

would be taken to prosecution. The measures have been taken to avoid small scale fly tippers from attending court.

- 3.2 The advantage of utilising this disposal of offence is to avoid costly legal processes.

4. BACKGROUND

- 4.1 Fly-tipping is the illegal dumping of waste on to land. It can pollute the environment, be harmful to human health and spoils our enjoyment of our towns and countryside.
- 4.2 To tackle fly-tipping across the county, Fixed Penalty Notices (FPNs) for small-scale fly-tipping offences can be issued by an authorised officer to those who commit this offence. This new measure will enable the authority to provide a more proportionate response to low-level, high-volume offences and act as a deterrent to offenders.
- 4.3 The FPN fines for small-scale fly-tipping can range between £150 and £400. If no amount is specified by the waste collection authority, the amount of the fixed penalty is £200. Provision can be made by the waste collection authority for a discount for early payment of a fixed penalty.

5 EQUALITY AND DIVERSITY IMPLICATIONS

- 5.1 An Equality and Diversity Assessment has not been carried out in connection with the recommendation set out in this report as the contents and actions do not require a policy or service change, resulting in no reasonably foreseeable differential impacts.

6 CONSULTATION

- 6.1 No requirement for consultation to be undertaken

7 FINANCIAL IMPLICATION(S)

- 7.1 Currently action through the courts results in fines and costs being awarded. Any fines issued are sent to HM Treasury and costs awarded are given back to the local authority.
- 7.2 In the event of small scale fly tipping and a fixed penalty being issued, the revenue is given back to the local authority.

- 7.3 Any failure to pay the fixed penalty ticket will result in court proceedings and the outcome is as described above.
- 7.4 If Cabinet agree to the introduction of fixed penalties for small-scale fly-tipping as proposed, the number of fines and financial impact will be monitored by the Service and budget adjustments will be made if appropriate.

8 LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 8.1 Enforcement Officers have existing powers and authorised under S33 of the Environmental Protection Act 1990.
- 8.2 This amendment under section 33z(b) enables the officers to issue fixed penalty tickets for the offence of fly tipping

9 LINKS TO THE CORPORATE AND NATIONAL PRIORITIES AND THE WELL-BEING OF FUTURE GENERATIONS ACT.

- 9.1 The delivery of this strategy will contribute to the Council's corporate priorities:
- Economy –building a strong economy
 - People – promoting independence
 - Place – creating neighbourhoods where people are proud to live and work
- 9.2 The proposal is made in full consideration of the sustainable development principles. The proposal also will support the Council to contribute to four of the seven well being goals namely:-
- A globally responsible Wales
 - A Wales of Cohesive communities
 - A more equal Wales
 - A healthier Wales

10 CONCLUSION

- 10.1 The list below is from Natural Resources Wales and provides guidance on what constitutes small scale fly tipping and will help LA's achieve a consistent approach to issuing fly-tipping FPN's in Wales. There will be individual circumstances that will need to be considered on occasion but this list should be followed where possible.
- First time non-habitual offenders only
 - Non-hazardous waste only

- Up to 4 black bags
- One or two bulky items (e.g. furniture, white goods)

Fly-tipping and Litter

It should be counted as fly tipping if the waste is “too large to be removed by a normal hand-sweeping barrow”. In simple terms, a single full bin bag upwards would constitute a fly-tip. Similarly, several carrier bags full of rubbish dumped together would also constitute a single fly-tip.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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**Item: THE INTRODUCTION OF FIXED PENALTY NOTICES TO DEAL WITH
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Background Papers

None

Officer to contact: