

Title: The Environmental Offences (Fixed Penalties) (England) Regulations 2017 Changes to Fixed Penalty Rates – retention of early payment rates.	
Ward: Citywide	
Author: Kurt James	Job title: Clean Streets Campaign Project Manager
Cabinet lead: Kye Dudd	Director Lead: Peter Mann, Transport
Decision Maker: Cabinet Member Decision Forum: Cabinet	

Summary of issue / proposal:

The Environmental Offences (Fixed Penalties) (England) Regulations 2017 came into effect on 1 April 2018 increasing rates for fixed penalties payable in respect of certain offences relating to the environment. They replace the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007 (“the EOR 2007”) (except for regulation 2(2) (b) and 3(2) (b) of the EOR 2007).

- The change in legislation automatically increases the rates of some fixed penalty notices from 1 April 2018 to a default level set by the legislation. This proposal recommends that the City Council continues these default rates for fixed penalty notices.
- The further proposal is to retain the early fixed penalty payment rate tier littering, distribution of printed matter, graffiti and flyposting. where the principle of this was agreed 11 November 2014. This was originally introduced as an inducement for people to pay their fines. For the period beginning 4 April 2018 and ending with 31 March 2019, the early payment rate for these offences is recommended to be set at the lowest rate of £50.00, and from 1 April 2019, the early payment rate for these offences is recommended to be set at the lowest rate of £65.00 (regulation 5).
- Fixed penalty notices not affected by the change in legislation will remain at the existing rates, with the exception of commercial waste receptacles Fixed Penalty Notice for which we are recommending the removal of the early payment rate of £60.00, bringing it in line with other offences such as repairing vehicles on the road and selling cars on the road.

These recommendations will support our robust enforcement approach designed to bring behaviour change and make Bristol measurably cleaner by 2020.

Summary of proposal and options appraisal:

- The Mayor has made a pledge that Bristol will be measurably cleaner by 2020 and the Clean Streets Plan which underpins the pledge is designed to change the behaviour of people in Bristol in order to reduce litter, dog fouling, fly tipping, graffiti and other environmental crimes. This will be done through the following interventions:
 - Sending a clear message
 - Cleaning up the city, and
 - A robust, zero tolerance approach to enforcement.
- The enforcement approach involved establishing a partnership with a third party provider at no financial cost to the council which will increase on-street enforcement significantly. The council’s enforcement resources would then be focussed on the larger scale, more serious environmental crimes such as large scale fly tipping.
- A 9-12 month pilot project to deliver Environmental Enforcement started on 6 November 2017. This service is being delivered at zero cost to the local authority by Kingdom Environmental Services.
- Between 6 November and 31 December this new enforcement service issued 1,966 fixed penalties notices to people committing environmental crimes.
- The Environmental Offences (Fixed Penalties) (England) Regulations 2017 came into effect on 1 April 2018 and prescribe the ranges within which the amounts of certain fixed penalties that are capable of being specified by a local authority are required to fall (regulations 2 to 5).
- The ranges for littering, free distribution of printed matter on designated land and graffiti and fly-posting (see regulations 4 and 5) are different to those under the EOR 2007.
- For the period beginning with 1 April 2018 and ending with 31 March 2019, the range is not less than £50 and not more than £150 (regulation 4). From 1 April 2019, the range is not less than £65 and not more than £150 (regulation 5).
- Regulations 6 and 7 amend the Environmental Protection Act 1990 and the Anti-Social Behaviour Act 2003 in relation to England to increase the amount of the penalties for littering, free distribution of printed matter on designated land and graffiti and fly-posting where a local authority does not specify an amount. The penalty

for each is increased from £75 to £100.

- The Regulations also state a minimum lesser amount which an authority may treat as payment of the full amount if paid before the end of a period specified by the authority in relation to certain fixed penalties (regulations 8 to 11).
- Regulation 13 partially revokes the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007. Regulation 13 also revokes the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) (Amendment) Regulations 2012.
- A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.
- Regulation changes will increase the rate of fixed penalty notices to be issued by both the BCC Neighbourhood Enforcement Team and Kingdom Environmental Services.

Recommendation:

1. To continue the Environmental Offences (Fixed Penalties) (England) Regulations 2017 default rates.
2. To retain the early fixed penalty payment rate tier for littering, distribution of printed matter, graffiti and flyposting. For the period beginning 4 April 2018 and ending with 31 March 2019, the early payment rate for these offences is recommended to be set at the lowest rate of £50.00, and from 1 April 2019, the early payment rate for these offences is recommended to be set at the lowest rate of £65.00 (regulation 5).
3. To remove the early payment rate of £60.00 for commercial waste receptacles, bringing it in line with other offences such as repairing vehicles on the road and selling cars on the road.

Default Fixed Penalty Notice Rates from 1.04.2018 to 31.03.2019

Offence	Section/Act	Early	Full
Littering	S.87/88EPA'90	£ 50.00	£ 100.00
Fly-posting	S.43ASB'03	£ 50.00	£ 100.00
Graffiti	S.44ASB'03	£ 50.00	£ 100.00
Distribution of printed matter	S.3AEPA'90	£ 50.00	£ 100.00

Default Fixed Penalty Notice Rates from 1.04.2019

Offence	Section/Act	Early	Full
Littering	S.87/88EPA'90	£ 65.00	£ 100.00
Fly-posting	S.43ASB'03	£ 65.00	£ 100.00
Graffiti	S.44ASB'03	£ 65.00	£ 100.00
Distribution of printed matter	S.3AEPA'90	£ 65.00	£ 100.00

Removal of Commercial Waste Receptacle Early Payment

Offence	Section/Act	Early	Full
Commercial waste receptacles	S.47EPA'90	-	£ 100.00

Revenue Cost: £ 0	Source of Revenue Funding: n/a
Capital Cost: £ 0	Source of Capital Funding: n/a
One off <input type="checkbox"/>	Saving <input type="checkbox"/>
Ongoing <input type="checkbox"/>	Income generation <input type="checkbox"/>

Finance narrative:

This report requests that BCC increase its fixed penalties relating to the environment from 4 April 2018. These revised penalties will be within the range set out in Environmental Offences (Fixed Penalties) (England) Regulations 2017. In addition, this report proposes the retention of the fixed penalty early payment rates which are currently offered.

This environmental enforcement supports the Mayoral Clean Streets Campaign and will continue to be delivered with no financial cost impact to the Council.

Finance Officer: Jemma Prince (Finance Business Partner) 15/2/18

City Outcome:

- Making the streets of Bristol cleaner is one of the key objectives of the 2017-2022 Corporate Strategy.
- The strategy says that we will put Bristol on course to be run entirely on clean energy by 2050 and introduce a safe, clean streets campaign.
- The Clean Streets Campaign will be a main focus to help us improve the cleanliness of the city and focus our resources on the areas of highest need.
- To support the Mayoral Clean Streets Campaign working with Bristol Waste Company, community

- organisations and schools to promote behaviour change.
- Support the Mayoral Clean Streets Campaign and develop community enforcement teams which will be integral to supporting it.
- Bristol Waste Company will lead on encouraging people to change their behaviour for example stop dropping litter.
- Residents will be supported with their identified priorities in Neighbourhood Partnerships of tackling litter and fly tipping. Support communities to do things for themselves through targeted investment.

Health Outcome summary:

Improving the environment contributes to improving the mental health and wellbeing of residents reducing demand for mental health services and increase emotional wellbeing.

Sustainability Outcome summary:

The significant impacts of this proposal are:

This proposal is part of a plan to make Bristol's streets measurably cleaner by 2020 through measures taken to encourage behaviour change. The measures include education and community engagement, targeted action on particular street scene hotspots in the city and increased enforcement action. The realisation of the proposals outlined in this plan would significantly reduce environmental impact across a range of areas, in particular, the appearance of the city, pollution to land and water and wildlife and habitats. Whilst it is not possible to calculate the scale of reduction, it's likely that it would be significant in the citywide context.

The proposals include the following measures to mitigate the impacts:

The proposals are an overall positive in terms of their eco impact.

The net effects of the proposals are

Positive

Equalities Outcome summary: This proposal will be implemented as part of the Mayoral Clean Streets Plan for which a full Equalities Impact Assessment has been undertaken to identify and mitigate any potential negative impact on people with protected characteristics. The proposal does not introduce any new impacts which have not been addressed as part of the Clean Streets Plan Equalities Impact Assessment. In order to mitigate any negative impact for groups that may potentially be disadvantaged by changes proposed in the plan and related measures, promotional and educational campaigns and engagement with communities will be undertaken in advance. For example, it will be important to ensure that communities are aware of the increase in enforcement proposed and that they have access to information in an accessible format to help them to change any behaviour that would otherwise result in enforcement action.

Impact / Involvement of partners: Partners such as the Police, Bristol Waste Company, community groups and a variety of others are key to delivering the plan and supporting residents to take responsibility for improving the city themselves. All interventions have been developed with the involvement of appropriate partners through the clean streets campaign.

Consultation carried out: Consultation within the council has been undertaken with technical officers from various professional disciplines, the Bristol Waste Company, the Cabinet Member for Waste, the Senior Leadership Team and the Executive Board. External consultation has not been undertaken on this proposal.

Legal Issues: The Environmental Offences (Fixed Penalties) (England) Regulations 2017 enable the Council to specify the amount of a fixed penalty subject to prescribed minimum and maximum amounts in respect of a number of environmental offences. In the event of the Council not so specifying the amount of the fixed penalty the default penalty of £100 is automatically applied as from 1 April 2018 in respect of the following offences: -

- Littering, distribution of printed matter, graffiti and flyposting.

The Council also has a discretion to make provision for a lesser (or discounted) penalty in the event of early repayment which must not be less than the prescribed amounts

Legal Officer: Sarah Sharland 14.03.2018

EDM/DLT Sign-off	Patsy Mellor	21/02/18
CLB Sign-off	Patsy Mellor	06/03/18
Cabinet Member sign-off	Councillor Kye Dudd	02/03/18
For Key Decisions - Mayor's Office sign-off	Kevin Slocombe	26/02/18

Appendix A – Further essential background / detail on the proposal	YES
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	NO
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Exempt Information	NO