

PURPOSE: Key decision

MEETING: Cabinet

DATE: 07 May 2019

TITLE	The Environmental Offences (Fixed Penalties) (England) Regulations 2017: Increase in Fixed Penalty Rates		
Ward(s)	all		
Author: Lindsay Hay	Job title: Neighbourhood Services Manager		
Cabinet lead: Cllr. Steve Pearce	Executive Director lead: Colin Molton		
Proposal origin: BCC Staff			
Decision maker: Cabinet Member			
Decision forum: Cabinet			
Purpose of Report:			
To seek approval for:			
<ol style="list-style-type: none"> 1. increasing fixed penalty charges for certain environmental offences 2. removal of the early payment rate for certain fixed penalties 3. the introduction of a new fixed penalty for Domestic Duty of Care. 			
Evidence Base:			
<ol style="list-style-type: none"> 1. 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: <ul style="list-style-type: none"> ○ Sending a clear message ○ Cleaning up the city, and ○ A robust, zero tolerance approach to enforcement. 2. Although the cleanliness of the city has improved in many parts much more work needs to be done particularly in relation to behaviour change. An independent environmental quality survey completed in November 2018 found that Bristol needed to do more to tackle litter, fly posting and graffiti. 3. Environmental crime has a significant, wholly detrimental, impact on the wellbeing of people of Bristol and visitors to the city. 4. The cost of environmental crime to the city is high. In 17/18 there were 8206 reports of fly tipping to Bristol Waste Company (BWC) – costing £392,551 to remove. Each fly tip therefore costing approximately £50 to remove and enforce. In the same year we spent £100,000 on removing graffiti. 5. Removing early payment rate and increasing the penalty rates for certain offences sends a clear message. 6. Any returns generated from fixed penalties and due to the Council will resource environmental improvements as part of the clean streets strategy and in agreement with the Executive Member 			
Changes to fixed penalty rates			
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 environmental offences. The change in legislation automatically increased the rates of some fixed penalty notices from 1 April 2018 to a default level set by the legislation. One year after the changes we have reviewed the penalty rates and propose a number of changes either to increase the			

penalty charge or to remove existing early payment rates. The current and proposed penalty rates are detailed in Appendix A background information.

There is no proposal to increase the penalty rate for littering or to remove the reduced rate for early payment.

Domestic Duty of Care The Domestic Duty of Care Fixed Penalty S34 (2A) Environmental Protection Act came into force from 7th January 2019. This enables local authorities to issue a FPN to a person who has failed to comply with the duty relating to the transfer of household waste. The range of the penalty is £150- £400. The default rate is £200. As this is a new measure and, in consideration that the business rate is a maximum of £300 and, in line with other core cities, it is proposed to set the fixed penalty rate at £200. The rate to be reviewed in 12-18 months once it has been more widely publicised.

More information about Domestic Duty of Care and the responsibility of householders is detailed in Appendix A.

The Clean Streets publicity and communications plan will include a campaign to highlight householders responsibilities when making private arrangements to dispose of domestic waste as well as low cost / free options for getting rid of unwanted household goods. Plans to focus messages to more deprived areas of the city are detailed in the equalities impact assessment (Appendix E)

Dog fouling

Fixed penalties relating to dog fouling and dogs off lead are governed by separate legislation and are set at the highest level currently available.

Cabinet Member / Officer Recommendations: That Cabinet:

1. Approve the increase the fixed penalty charges as set out in the table below

The following penalty schedule to take effect from 14/05/2019.

Offence	Section/Act	Early Payment	Existing Full £	Proposed Full £
Littering	S.87/88EPA'90	retain £65.00	100.00	100.00
Fly-posting	S.43ASB'03	remove	100.00	150.00
Graffiti	S.44ASB'03	remove	100.00	150.00
Distribution of printed matter	S.3AEPA'90	remove	100.00	150.00
Household duty of care	S.32(2A)EPA'90	-	n/a	200.00*
Commercial waste receptacles	S.47EPA'90	-	100.00	110.00
Fly-Tipping	S.33EPA'90	-	200.00	400.00
Fail to produce waste transfer notes	S.34(5)EPA'90	remove	300.00	300.00
Fail to produce waste carriers licence	S.5COPA'89	remove	300.00	300.00

2. Approve the removal of the early payment rate for certain fixed penalties as set out in the table below.

Offence	Section/Act
Fly-posting	S.43ASB'03
Graffiti	S.44ASB'03
Distribution of printed matter	S.3AEPA'90

Fail to produce waste transfer notes	S.34(5)EPA'90
Fail to produce waste carriers licence	S.5COPA'89

3. Approve the introduction of a new fixed penalty for breach of Domestic Duty of Care of £200.

4. Notes that the new penalty rate in recommendation 3 will be reviewed in 12-18 months' time.

Corporate Strategy alignment:

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.

The Clean Streets Campaign includes developing a robust approach to environmental enforcement.

City Benefits:

This proposal is part of a plan to make Bristol's streets measurably cleaner by 2020 through measures taken to encourage long term 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.

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

Evidence from the annual Quality of Life survey noted above indicates that equalities groups and people living in more deprived parts of the city currently tend to be more adversely affected by streetscene issues than the population in general. These findings are supported by more general research by groups such as Keep Britain Tidy who have also noted that deprived areas tend to suffer the most from poor local environmental quality and that those living in more deprived areas are less likely to feel satisfied with the appearance of their local area than those living in more affluent areas.

A reduction in fly tipping would reduce the incidents of obstructions to pavements and public highways which can have a negative impact on older people and disabled people.

Graffiti can be racist, homophobic or otherwise offensive. Graffiti can also have an impact on older and more vulnerable residents as it can make an area feel less safe.

Consultation Details:

Bristol Waste Company is supportive of the proposals as are representatives of parks, estate management and highways who have been consulted.

BWC fully supports taking a zero-tolerance approach to environmental crime and using the full powers available for enforcement is key in ensuring that the city is kept clean and free from litter and fly tips, as well as other environmental crimes. BWC's educational campaigns and communications plan work alongside the increases in the fines to ensure that people are encouraged to make the right choices for their waste and litter

Revenue Cost	£nil	Source of Revenue Funding	n/a
Capital Cost	£nil	Source of Capital Funding	n/a
One off cost <input type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:		
<p>1. Finance Advice: This report requests that BCC increases its fixed penalties relating to the environment from 1 June 2019. These revised penalties will be within the range set out in Environmental Offences (Fixed Penalties) (England) Regulations 2017. In addition, this report proposes the removal of some of the fixed penalty early payment rates which are currently offered.</p> <p>This environmental enforcement supports the Mayoral Clean Streets pledge and will continue to be delivered with no financial cost impact to the Council. This proposal is not linked to any listed savings initiative.</p> <p>Finance Business Partner: Jemma Prince 5/3/2019</p>		
<p>2. Legal Advice: 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. It is within the discretion of the Council not to discount the penalty in the event of early repayment. Regard should be had to the Regulators Code prior to deciding on the penalties to be imposed.</p> <p>Legal Team Leader: Sarah Sharland 17/4/2019</p>		
<p>3. Implications on IT: There are no IT implications arising from this report</p> <p>IT Team Leader: Ian Gale 28/2/2019</p>		
<p>4. HR Advice: No anticipated HR implications evident</p> <p>HR Partner: Celia Williams 5/3/2019</p>		
<p>Background Documents: The Environmental Offences (Fixed Penalties) (England) Regulations 2017 The Domestic Duty of Care Fixed Penalty S34 (2A) Environmental Protection Act</p>		
EDM Sign-off	Colin Molton/Patsy Mellor	13/03/2019
Cabinet Member sign-off	CLlr Steve Pearce	19/03/2019
For Key Decisions - Mayor's Office sign-off	Mayor's Office	08/04/2019

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	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	NO
Appendix J – HR advice	NO

Appendix K – ICT	NO
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