

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 06 June 2023

TITLE	Increase in Littering Fixed-Penalty-Notice Rate and Household Duty of Care
Ward(s)	City Wide
Author: Christopher Swinscoe / Kurt James	Job title: Neighbourhood Enforcement Team Leader/Neighbourhood Enforcement and Street Scene Manager
Cabinet lead: Cllr Dudd, Cabinet Member for Climate, Ecology, Energy and Waste	Executive Director lead: John Smith, Interim Executive Director Growth and Regeneration
Proposal origin: BCC Staff	
Decision maker: Cabinet Member Decision forum: Cabinet	
<p>Purpose of Report: To seek approval to:</p> <ol style="list-style-type: none"> 1. Increase the full Fixed-Penalty-Notice rate for littering to £150, which is the maximum permitted under the legislation, and increase the early payment rate to £75. 2. Increase the Fixed-Penalty-Notice rate for Household Duty of Care to £400 which is the maximum permitted under the legislation. 	
<p>Evidence Base:</p> <ol style="list-style-type: none"> 1. The mayor has made a pledge that Bristol will be measurably cleaner, and the Clean Streets plan which underpins the pledge is designed to change the behaviour of people in Bristol to reduce litter, dog fouling, fly tipping, graffiti, and other environmental crimes, which will be done through: <ol style="list-style-type: none"> a. Sending a clear message about expected behaviour. b. Cleaning the city, and c. Delivering a robust approach to enforcement. 2. Although the cleanliness of the city has improved in many parts as measured by our independent Local Environmental Quality scoring, more work still needs to be done particularly in relation to behaviour change. 3. Bristol's Quality of Life Survey 2022 tells us the percentage of people who think street litter is a problem remains unchanged (82%) but is slightly improved (93%) in the most deprived areas. 4. Environmental issues are often a key topic for resident groups and cause people to contact their ward councillors. 5. Environmental crime has a significant, wholly detrimental, impact on the wellbeing of people of Bristol and visitors to the city. 6. The cost of environmental crime to the city is high. In 21/22 there were 10,196 reports of fly tipping to Bristol Waste Company (BWC). Each fly tip therefore costing approximately £50 to remove and enforce, so increasing the penalty rates for certain offences sends a clear message. <p>Changes to fixed penalty rates</p>	

7. 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.
8. The Domestic Duty of Care Fixed Penalty S34 (2A) Environmental Protection Act came into force on 7 January 2019. This enables local authorities to issue a fixed penalty notice 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, with the default rate set at £200. with the rate to be reviewed in 12-18 months once it had been more widely publicised.
9. On 7 May 2019 Bristol City Council Cabinet agreed to set its fixed penalty notice rates at the maximum for all offences except littering, which was set at £100 with an early payment rate of £65, and the household duty of care which was kept at the default rate of £200. It was further agreed that the household duty of care rate be reviewed 12-18 months after this decision had been made.
10. This review did not happen within this timeframe due to the Covid pandemic.
11. To support our need to deter more people from committing environmental offences, it is proposed to:
 - a. Increase the full littering fixed penalty rate to £150 and increase the early payment rate to £65.
 - b. Increase the household duty of care fixed penalty rate to £400. There is no early payment rate for this offence.

Offences

12. A littering offence is to throw down, drop or otherwise deposit, and then to leave, litter under section 87 of the 1990 Act. The offence, as extended by section 18 of the Clean Neighbourhoods and Environment Act 2005, applies to all places that are open to the air, including private land and land covered by water. Certain discarded smoking-related materials, such as cigarette ends, and discarded chewing gum and the remains of other products designed for chewing, are specifically stated to be items of litter, though litter can include a deposit up to a single black bag of waste.
13. Householder Duty of Care requires householders to take all reasonable measures available to them in the circumstances to ensure that they only transfer household waste produced on their property to an authorised person. This reduces the chance of waste ending up in the hands of those who would fly-tip it. You can ask the person or business you transfer your waste to or who arranges the transfer for evidence of their authorisation, such as a copy of their permit or proof of their exemption registration. You should also use the public register you can check registration on the [Environment Agency's public register](#) or by calling 03708 506 506

Enforcement

14. Since 2017 Bristol City Council has issued over 30,000 fixed penalty notices for environmental offences such as littering, fly tipping or dog control, and 2,500 people have been taken to court for non-payment.
15. The council has run several publicity campaigns to discourage environmental offences on social media, buses, billboards, street bins and bins in city parks, and on electronic bus stop signs.
16. Any returns generated from fixed penalty notices fund environmental improvements as part of the clean street's strategy and in agreement with the Executive Member.

Cabinet Member / Officer Recommendations: That Cabinet:

1. Approve the increase in the full Fixed-Penalty-Notice rate for littering to £150, which is the maximum permitted under the legislation, and the increase in the early payment rate to £75.
2. Approve the increase in the Fixed-Penalty-Notice rate for Household Duty of Care to £400 which is the maximum permitted under the legislation.
3. Authorise the Executive Director Growth and Regeneration to take all steps required to implement the increases.

Corporate Strategy alignment:

1. ENV 3 A Cleaner, low-waste city

- Create a cleaner city and become a national leader in reducing waste.
- The Clean Streets Campaign will be a focus to help us improve the cleanliness of the city and focus our resources on the areas of highest need.
- Satisfaction was lower in more deprived parts of the city, and the proportion of residents who thought street litter was a problem remains high city-wide (82%).
- Creating a pleasant environment – building on the aspirations of our Clean Streets programme – remains important to us, but waste is not only about cleanliness and improving the appearance of the city.

City Benefits:

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

Consultation Details

1. Informal consultation has taken place with the following:
 - a. Mayor briefings – regular updates on enforcement and its impact. The mayor continues to show support for this approach to environmental enforcement.
 - b. Cabinet member briefings – regular updates on enforcement pilot and its impact. The Cabinet Member with responsibility for Climate, Ecology, Waste and Energy, and the mayor continue to show support for environmental enforcement and its expansion into more areas of Bristol and other environmental crime types.
2. Officer briefings – Property, Assets, and Infrastructure DMT (Divisional Management Team), and regular updates on enforcement, its impact, and the future scope of enforcement.

Background Documents:

1. [Agenda item 11, Cabinet Report 7th May 2019: The Environmental Offences \(Fixed Penalties\) \(England\) Regulations 2017: Increase in Fixed Penalty Rates](#)
2. [The Environmental Offences \(Fixed Penalties\) \(England\) Regulations 2017](#)
3. [The Domestic Duty of Care Fixed Penalty S34 \(2A\) Environmental Protection Act](#)
4. [Clean Streets Enforcement Campaign \(bristol.gov.uk\)](#)
5. [Code of Practice - Waste Duty of Care](#)

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:

1. Finance Advice: The report requests the approval of Cabinet to increase the Fixed-Penalty-Notice rate for littering to £150 and to increase the Fixed-Penalty-Notice rate for Household Duty of Care to £400. Both proposed new rates are set at the maximum level permitted under the relevant legislation.

The objective of the rate increase is to have a deterrent effect on anti-social behaviour rather than to raise additional

income. However, the £10 increase in the discounted rate, is estimated to result in an extra £50k if current levels of offences persist. Any additional funds raise will be attributed to the Cross-cutting savings targets current held withing corporate services.

The cost of implementing these changes will be met from within exiting budgets as a result there are no new financial implications for the Council.

Finance Business Partner: Kayode Olagundoye, Interim Finance Business Partner, Growth & Regeneration, 25 May 2023

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 for certain offences, where legislation affords this power.

It is within the discretion of the Council to fix the fixed penalty amounts for certain offences within the prescribed minimum and maximum amounts. Where no such amount is fixed by Councils, some penalties are subject to a default amount as set out in the legislation.

Regard should be had to the Regulators Code prior to deciding on the penalties to be imposed.

The maximum prescribed penalty permitted for littering offences is £150. It is within the Council's discretion to accept an early, lesser amount as payment (at not less than £50) resulting in liability being discharged.

The maximum prescribed penalty permitted for household duty of care offences is £400. There is no early payment rate for this offence.

Failure by an individual to discharge liability through the payment of any fixed penalty notice served, may result in prosecution proceedings being commenced.

Legal Team Leader: Kate Burnham-Davis, Team Leader Legal Services. 16 May 2023

3. Implications on IT: I can see no implications on IT in regard to this activity.

IT Team Leader: Alex Simpson – Senior Solution Architect. 29 March 2023

4. HR Advice: 'There are no HR implications evident'

HR Partner: Celia Williams, HR Business Partner – Growth and Regeneration. 28 March 2023

EDM Sign-off	John Smith, Interim Executive Director Growth and Regeneration	5 April 2023
Cabinet Member sign-off	Cllr Dudd, Cabinet Member for Climate, Ecology, Energy and Waste	17 April 2023
For Key Decisions - Mayor's Office sign-off	Mayor's Office	5 May 2023

Appendix A – Further essential background / detail on the proposal	NO
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 – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	No
Appendix J – HR advice	NO
Appendix K – ICT	NO
Appendix L – Procurement	NO