

# Environment and Sustainability Committee

Thursday 18 January 2018 at 7.30pm

**Council Chamber**  
**Runnymede Civic Centre, Addlestone**

## Members of the Committee

Councillors J J Wilson (Chairman), Mrs G Warner (Vice-Chairman), T J F E Gracey, Mrs M T Harnden, D J Knight, M T Kusneraitis, Mrs Y P Lay, P I Roberts, Miss J K Sohi and M L Willingale.

In accordance with Standing Order 29.1, any Member of the Council may attend the meeting of this Committee, but may speak only with the permission of the Chairman of the Committee, if they are not a member of this Committee.

## AGENDA

### Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Mrs C Holehouse, Democratic Services Section, Law and Governance Business Centre, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425628). (Email: [carol.holehouse@runnymede.gov.uk](mailto:carol.holehouse@runnymede.gov.uk)).**
- 3) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on [www.runnymede.gov.uk](http://www.runnymede.gov.uk).

4) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

5) **Filming, Audio-Recording, Photography, Tweeting and Blogging of Meetings**

Members of the public are permitted to film, audio record, take photographs or make use of social media (tweet/blog) at Council and Committee meetings provided that this does not disturb the business of the meeting. If you wish to film a particular meeting, please liaise with the Council Officer listed on the front of the Agenda prior to the start of the meeting so that the Chairman is aware and those attending the meeting can be made aware of any filming taking place.

Filming should be limited to the formal meeting area and not extend to those in the public seating area.

The Chairman will make the final decision on all matters of dispute in regard to the use of social media audio-recording, photography and filming in the Committee meeting.

**LIST OF MATTERS FOR CONSIDERATION**  
**PART I**

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(b) Confidential Information

(No reports to be considered under this heading)

1. **FIRE PRECAUTIONS**

The Chairman will read the Fire Precautions, which set out the procedures to be followed in the event of fire or other emergency.

2. **NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP**

3. **MINUTES**

To confirm and sign, as a correct record, the Minutes of the meeting of the Committee held on 28 September 2017. The Minutes of this meeting were included in the October 2017 Council Minute Book.

4. **APOLOGIES FOR ABSENCE**

5. **DECLARATIONS OF INTEREST**

If Members have an interest in an item, please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Democratic Services Officer at the start of the meeting. A supply of the form will also be available from the Democratic Services Officer at meetings.

Members are reminded that a non pecuniary interest includes their appointment by the Council as the Council's representative to an outside body and that this should be declared as should their membership of an outside body in their private capacity as a director, trustee, committee member or in another position of influence thereon.

Members who have previously declared interests, which are recorded in the Minutes to be considered at this meeting, need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have interest becomes the subject of debate, in which event the Member must leave the room if the interest is a disclosable pecuniary interest or if the interest could reasonably be regarded as so significant to prejudice the Member's judgement of the public interest.

6. **INCREASE IN FINES FOR ENVIRONMENTAL SERVICES (ENVIRONMENTAL SERVICES)**

**Synopsis of report:**

**To inform the Committee of the increase in fixed penalties payable in respect of offences relating to the environment coming into effect from 1 April 2018 and 1 April 2019 and the coming into force of Section 154 of the Anti-social Behaviour, Crime and Policing Act 2014 i.e. littering from vehicles**

**In addition to seek Members approval in setting fixed penalty fines payable to Runnymede Borough Council in respect of offences relating to the environment from 1 April 2018 and 1 April 2019.**

**Recommendation(s):**

- i) Members note the increase in fixed penalties payable in respect of offences relating to the environment and the coming into force of the Section 154 provisions of the Anti-Social Behaviour, Crime & Policing**

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| <p>ii) <b>Act 2014 and;<br/>Approve the amount of fixed penalties fines payable, early repayment fees and specified early repayment periods in respect of offences relating to the environment from 1 April 2018 and 1 April 2019 as detailed in paragraph 7.1 of this report</b></p> |
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## 1. Context of report

- 1.1 In April 2017 along with its Litter Strategy for England the Government published a consultation document seeking views on whether the fines for littering and related offences should be increased. At its meeting in June 2017 the Committee endorsed the Government's proposals for increasing Fixed Penalty Notice (FPN) fines for littering and other environmental offences supporting increasing minimum, default and maximum fines.
- 1.2 The Environmental Offences (Fixed Penalties) (England) Regulations 2017 which came into force on 1 November 2017 prescribe the ranges within which the amounts of certain fixed penalties that are capable of being specified by a local authority in respect of littering, free distribution of printed material on designated land, graffiti, fly-posting and other environment matters are required to fall. This report seeks determination from the Committee as to what, if any, amounts of fixed penalties are to be specified.
- 1.3 Section 154 of the Anti-social Behaviour, Crime and Policing Act 2014 (which relates to littering from vehicles in England) came into force on the 23 October 2017. Section 154 amended the Environmental Protection Act 1990 by inserting a new littering from vehicles: civil penalty regime under Section 88A.

## 2 Report

- 2.1 The Litter Strategy for England document published by the Government in April 2017 detailed the Government's plans to apply best practice in education, enforcement and infrastructure to deliver a substantial reduction in litter and littering behaviour in England in order to improve the natural environment and bring about a change of behaviour such that it is no longer acceptable to drop litter.
- 2.2 Members will recall the strategy was based on three broad themes of education, enforcement and infrastructure providing a range of options and choices aimed at changing the behaviour of those who feel it is acceptable to drop litter. In relation to the enforcement strategy theme, Section 154 of the Anti-social Behaviour, Crime and Policing Act 2014 (which relates to littering from vehicles in England) came into force on the 23 October 2017. Section 154 amended the Environmental Protection Act 1990 by inserting a new Littering from vehicles: civil penalty regime under Section 88A. Penalty charges under this Section are subject to future regulation and central guidance yet to be issued.
- 2.3 In addition under the enforcement strategy, the Government having carried out a consultation in 2017 has increased the levels of fines for littering and other environmental offences that maybe specified by a local authority.

**New penalty range: litter, distribution of printed matter, graffiti and fly-posting**

- 2.4 The amount of fixed penalty capable of being specified for the period 1 April 2018 and ending 31 March 2019 is not less than £50 and not more than £150. From 1st April 2019, the range is not less than £65 and not more than £150. If a Local Authority does not specify an amount the default penalty of £100 applies. In addition if the local authority makes provision for treating a fixed penalty as having been paid if a lesser amount is paid within a specified period that amount must not be less than £50.
- 2.5 Currently, the Council issues FPN for littering offences in the sum of £75 (the present default amount). This is due to the fact that the Council has not specified a penalty charge for littering offences or made provision for payment of a lesser amount or set specified periods for payments. Likewise the default payment for distribution of printed matter is also £75 again, no provision for early payment or specified periods have been made. Fines for graffiti and fly-posting offences under the Anti-social Behaviour Act 2003 are set at £50.
- 2.6 Should the Council not specify any penalties the fines for all the above offences will effectively rise to £100 on 1 April 2018. The Council could still set a lesser amount for early payment (which must not be less than £50) and set a specified time limit for that payment to be made.
- 2.7 Members are reminded that other than the current trial enforcement of the littering provisions, the Council is not actively engaged in enforcing printed material, graffiti or fly posting offences. However, the setting of specified penalties by the Council would be prudent should enforcement priorities change going forward.
- 2.8 Given that both the minimum charge is set to rise (£50 up to £65) and the lesser amount charge is set to rise (£50 up to £60) in April 2019 officers recommend if a minimum penalty is to be set, it would be appropriate to set the charge from 1 April 2018 at £65 (or above) rather than look to set two different charges within twelve months of each other.
- 2.9 In June 2017 Members gave their support to the Government increasing the fines on the basis that an increase in the minimum, default and maximum fines would give the Council the greatest flexibility and bring the level of fines back in line with inflation. 4 options are available to the Council as follows;
- i. Do nothing; penalties will rise to the default level of £100. Does not address early repayments option.
  - ii. Accept default level of £100, set early repayment level (not less than £50) and early repayment time limit (Officers recommend 10 days in line with other areas of environmental enforcement).
  - iii. Set a penalty fee between £65 and £150 (Officers would recommend £100 similar to Anti-social behaviour fine levels and taking some account of ability to pay). Does not address early repayments option.
  - iv. Set a penalty fee between £65 and £150 (Officers would recommend £100 similar to Anti-social behaviour fine levels and taking some account of ability to pay). Early repayment fee of £80 (20% reduction as applied in other areas of environmental enforcement) and a 10 day early repayment period.

**New penalty range: audible intruder alarms**

- 2.10 The amount of fixed penalty capable of being charged for audible intruder alarm offences is regulated for the first time as not less than £50 and no more than £80.

RBC has not specified any amount at present so the default level of £75 applies. No early repayment levels have been set by RBC.

- 2.11 Officers recommend specifying a penalty of £80. Early repayment fee of £64 (20% reduction as applied in other areas of environmental enforcement) and a 10 day early repayment period.

**New penalty range: commercial etc. waste receptacles and noise**

- 2.12 The amount of fixed penalty capable of being charged for commercial waste offences and noise offences is regulated for the first time as not less than £75 and no more than £110. RBC having not specified an amount at present so the default level of £75 for waste offences and £100 for noise offences applies. No early payment levels have been set by RBC.

- 2.13 Officers recommend specifying a penalty of £100 for commercial waste offences and an early repayment fee of £80 (20% reduction as applied in other areas of environmental enforcement) and a 10 day early payment period in relation to both of these offences. In respect of noise offences under the Noise Act 1996 Officers recommend specifying a penalty of £80 (in line with noise from audible intruder alarms at 2.11). Early repayment fee of £64 (20% reduction as applied in other areas of environmental enforcement) and a 10 day early repayment period.

**New lesser penalty: abandoning vehicles**

- 2.14 The amount of fixed penalty for abandoning a vehicle is set by statute at £200. The Council can set an early payment fee of not less than £120 and specify a payment period. Officers recommend specifying an early repayment fee of £160 (20% reduction as applied in other areas of environmental enforcement) and a 10 day early payment period.

**New lesser penalty: transporting waste and duty of care for waste**

- 2.15 The amount of fixed penalty for the above offences is set by statute at £300. The Council can set an early payment fee of not less than £180 and specify a payment period. Officers recommend specifying an early repayment fee of £240 (20% reduction as applied in other areas of environmental enforcement) and a 10 day early payment period.
- 2.16 Members are reminded there are a number of other fixed penalty fines where the RBC has previously specified a penalty amount or alternatively the amount has been set by statute (nuisance parking and domestic waste issues) in most of these cases the Council has specified early repayment options or time periods. Officers recommend that in all cases, where allowed to do so, an early payment charge and payment period be specified i.e. a 20% reduction of the set or specified charge and a 10 day payment period. This would ensure a consistent and uniform penalty setting regime across all the relevant areas.

**3. Policy framework implications**

- 3.1 FPNs are one of many enforcement mechanisms that are utilised within the RBC, EH&L Enforcement Policy, which is designed to address a range of aspects of environmental crime and to help make RBC a cleaner, greener and safer environment to live, work and play. The Enforcement Policy is used to help to ensure that resources are focused on priority areas and problems and that an appropriate balance is struck between the use of FPNs and other existing enforcement tools.

#### **4. Resource implications**

4.1 There are minimal resource implications for RBC at this stage in relation to the present littering and dog control enforcement trial as the increased fines do not commence until April 2018. However, any enforcement via service of a FPN unless paid will have both a financial and legal resource implication associated with recovery of costs and/or in exceptional cases possible court action. Disposal of offences utilising FPN provisions are catered for in the Council's Environmental Health Enforcement Policy and are seen as part of a graduated and proportionate response to dealing with non-compliance.

#### **5. Equality Implications**

5.1 There are no Equality Implications arising from this report.

#### **6. Legal Implications**

6.1 The legal implications associated with the proposals are covered in the body of this report.

#### **7. Conclusions**

7.1 Members are asked to endorse the following proposals for increasing FPN fines for littering and other environmental offences in the RBC area.

- i) Penalty fines for litter, distribution of printed matter, graffiti and fly-posting: A penalty fee of £100 with an early repayment fee of £80 and a 10 day early repayment period.
- ii) Penalty fines for audible intruder alarms: A penalty fee of £80 with an early repayment fee of £64 and a 10 day repayment period.
- iii) Penalty fines for commercial receptacles: A penalty fee of £100 with an early repayment fee of £80 and a 10 day early payment period.
- iv) Penalty fines for noise: A penalty fee of £80 with an early repayment fee of £64 and a 10 day early repayment period.
- v) Lesser penalty fines for abandoning vehicles: An early repayment fee of £160 and a 10 day early payment period.
- vi) Lesser penalty fines for transporting waste and duty of care for waste: An early repayment fee of £240 and a 10 day early payment period.
- vii) In all cases, where allowed to do so, the early payment charge and payment period be specified as being a 20% reduction of the set or specified fee and a 10 day payment period.

#### **(To Resolve)**

#### **Background papers**

Litter Strategy for England HM Government April 2007

<https://www.gov.uk/government/consultations/reducing-litter-penalties-for-environmental-offences>

E&S committee report 25 May 2017 Consultation for increasing fines for environmental offences

E&S committee report 23 March 2016 Fixed Penalty Notices

The Environmental Offences (Fixed Penalties) (England) Regulations 2017

The Environmental Health Enforcement Policy (Current edition April 2015)

The Anti-social Behaviour Crime and Policing Act 2014 (Commencement No.10) Order 2017



7. **EXCLUSION OF PRESS AND PUBLIC**

**OFFICERS' RECOMMENDATION that –**

**the press and public be excluded from the meeting during discussion of the following reports under Section 100A(4) of the Local Government Act 1972 on the grounds that the reports in question would be likely to involve disclosure of exempt information of the description specified in paragraph 3 of Schedule 12A of the Act.**

**(To resolve)**

**PART II**

**Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection**

a)	<u>Exempt Information</u>	<u>Para</u>
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(No reports to be considered under this heading)