

Environmental Offences - Fixed Penalty Amounts

Report of the:	Head of Housing & Community
Contact:	Oliver Nelson
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Schedule of proposed fixed penalty amounts
Other available papers (not attached):	Epsom & Ewell Borough Council Environmental Health and Licensing Enforcement Policy (available online)

Report Summary

This report sets out the levels for fixed penalty notices for a range of environmental offences.

Recommendation

To approve the levels for fixed penalties as set out in Annexe one to this report

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 The Council's Corporate Plan key priority of "Keeping our Borough Clean and Green" applies.

2 Background

- 2.1 The Council is an enforcing authority for a range of environmental offences the majority of which contain the facility to issue a fixed penalty notice as an alternative to criminal prosecution. In contrast to civil enforcement, there are no appeal provisions to these proceedings, other than the offender opting to be prosecuted and then to defend themselves in court. The standard of evidence is also much greater requiring officers to demonstrate beyond reasonable doubt that the offence has occurred.
- 2.2 This report is aimed at adopting revised fixed penalty notice amounts. By setting appropriate amounts the Council will be able to offer a discount for early payment and ensure the fines are in step with those in surrounding areas.

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- 2.3 Despite being restricted in the level of fine the council can impose, the Environmental Health service has latterly had some success in using fixed penalty notices to address low levels of environmental crime such as fly tips, littering and waste duty of care offences. Given this experience it is now thought appropriate to make the changes proposed in this report to give the council greater flexibility and encourage early payment.
- 2.4 For certain offences, regulations have been produced which will have the effect of increasing the maximum and minimum levels of fine from April 2018. The table in annex one has been produced to reflect this.
- 2.5 It is proposed that where possible, a 20 percent reduction be applied for early payment which will provide an incentive for early settlement and is in common with most other authorities.
- 2.6 Where there is non-payment within the specified time periods, it is proposed that the Council will normally consider the offence for alternative sanction, including prosecution in line with the existing enforcement policy. No additional resource is proposed in this report to increase the levels of enforcement. It is expected therefore that very few, if any cases will require prosecution. Up to the date of this report the Council has experienced a 100 percent payment rate.
- 2.7 Officers are reviewing options for provision of future enhanced enforcement response, aimed at addressing low level environmental crime and antisocial behaviour. This review and the eventual proposal needs to be developed further and will be subject to a separate report to committee. The proposal contained in this report is independent to this review.

3 Proposals

- 3.1 The Committee adopt the fixed penalty notices levels as outlined in annex one.

4 Financial and Manpower Implications

- 4.1 This report is purely aimed at adopting an appropriate level of fines for a range of environmental and other offences and there are no additional financial commitments arising.
- 4.2 Options for funding any future proposals will be made at the time of the report.
- 4.3 There is a modest income through fixed penalty notice receipts. It is not appropriate to set an income target for these as this can lead to accusations of quotas and incentives. Receipts can be retained by the authority as long as the proceeds are used discharging the same function.

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- 4.4 **Chief Finance Officer's comments:** *There are no direct financial implications arising from this report. As paragraph 4.3 confirms, there is no budget for the income raised through these penalties and any proceeds are used to fund the function.*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 There are no legal implications for establishing fixed penalty notices provided they do not exceed the maximum or fall below the minimum amount stated in law.
- 5.2 Enforcement is carried out by properly authorised offices, presently those in the Environmental Health Service, having regard to the existing published enforcement policy. There is no current proposal to authorise additional individuals or significantly expand the amount of enforcement undertaken.
- 5.3 **Monitoring Officer's comments:** *There are various statutes and regulations that create and regulate environmental offences. The legislation sets out the fixed penalty notice provisions for the specified offences. The proposed fixed penalties come within the current prescribed amounts. When implementing the fixed penalty scheme, the council must comply with the requirements of all relevant legislation.*

6 Sustainability Policy and Community Safety Implications

- 6.1 There are no implications sustainability or community safety.

7 Partnerships

- 7.1 No partnerships are involved for the purposes of this report

8 Risk Assessment

- 8.1 There are no unacceptable risks arising from this report

9 Conclusion and Recommendations

- 9.1 The proposal to set the level of fixed penalty notices for specified environmental offences will enhance the environmental enforcement activity of the council.
- 9.2 It is not proposed to increase enforcement over existing levels of activity. The proposals are aimed at regularising the amount of fixed penalty per offence for the range of offences currently dealt with to ensure fine levels are appropriate and help deter further environmental offences.
- 9.3 It is recommended the Committee adopt the fixed penalty notices levels as outlined in annex one.

Ward(s) Affected: (All Wards);