

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO HEALTH & HOUSING COMMITTEE

Agenda Item No. 9

meeting date: THURSDAY, 26 MAY 2016
title: REGULATIONS INTRODUCING FIXED PENALTY NOTICES AS CIVIL SANCTIONS FOR SMALL SCALE FLY TIPPING OFFENCES
submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE
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1 PURPOSE

1.1 To consider the introduction of new fixed penalty charges for small scale fly tipping offences.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives – To help make people's lives safer and healthier. To support health, environment, economic and social wellbeing of people who live, work and visit Ribble Valley.
- Corporate Priorities – To enable the delivery of effective and efficient services.
- Other Considerations – None.

2 BACKGROUND

2.1 Fly tipping is an offence under Section 33(1) of the Environmental Protection Act 1990 (EPA 1990) which provides that it is an offence to deposit controlled or extra active waste in or on any land without a permit or in breach of a permit. A person who commits an offence under Section 33(1) is liable on conviction:

- In the Magistrates court - to imprisonment for a term not exceeding 6 months, an unlimited fine or both.
- In the Crown court - to imprisonment for a fine not exceeding 5 years, an unlimited fine or both.

2.2 The Government in 2015 called for evidence on enhancing powers to tackle waste crime. Waste crime within the Ribble Valley is on the increase. This report recommends the proposal for the introduction of a £400 on the spot fixed penalty notice to anyone caught illegally dumping waste.

3 ISSUES

3.1 The Council currently offer a fixed penalty notice under Section 33(1) of the Environmental Protection Act. However, this is differentiated from littering as being equal to or greater in volume than a single black bag. The Council at the moment recover a large amount of costs for clearance and disposal.

3.2 The offence of fly tipping and additional offences of 'knowingly causing' or 'knowingly permitting' fly tipping are set out in Section 33(1)(a) of the Environmental Protection

Act. The maximum penalty for fly tipping on summary conviction are £5,000 fine and/or 12 months imprisonment. On conviction in a Crown Court the maximum penalties are an unlimited fine and/or 5 years imprisonment.

- 3.3 From Monday, 9 May 2016 local authorities have been given the power to tackle crime by issuing fixed penalty notices between £150 and £400 for those caught in the act of fly tipping, anything from old fridges or sofas to garden waste or rubble.
- 3.4 The regulations introduce a new Section 33(a) to the EPA 1990 to allow waste collection authorities in England to issue fixed penalty notices of fly tipping offences in the breach of Section 33(1)(a) of EPA 1990. The fixed penalty notices will be for either:
 - Between £150-£400 as specified by the English Waste Collection Authority; or
 - £200 if no amount is specified.
- 3.5 The Government has indicated that fixed penalty notices will only be appropriate for small scale fly tipping. Waste collection authorities such as the Council will also continue to be able to prosecute large scale and/or repeat offenders. At this time there is no supporting guidance to the Council when the regulations come into force as to the amount of penalty that should be paid.
- 3.6 The fine of £400 will act as a deterrent and we will continue to work with local businesses and home owners to tack the root cause of the crime and to change the mentality for the few that commit it.
- 3.7 Whilst acting as a deterrent the fixed penalty notices will also save the Council time and money in punishing offenders as they will provide a quicker alternative to prosecuting fly tippers through the Courts. However prosecutions will remain an option for the Local Authority in punishing largescale waste criminals.
- 3.8 Latest figures show the number of recorded incidents has risen almost 9% for 2015/16 compared with 2014/15, whilst the clear up costs have increased proportionately.
- 3.9 Within the rural borough of Ribble Valley landowners are often liable for any waste that is fly tipped on their land and can be prosecuted if they do not clear this away, often at a huge cost to business. The problem seems to have worsened recently in certain areas, possibly as a result of Ribble Valley making changes to our household recycling operations.
- 3.10 The fixed penalty notices will not solve the problem of fly tipping but it is a positive step in tacking an issue that costs rural businesses, rural residents and the Council up to £150m in clean-up costs every year or an average £800 to rural businesses per incident across the country.
- 3.11 The new powers have been introduced under The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016.
- 3.12 Due to the lack of guidelines and guidance provided by DEFRA as to what level of fixed penalty notice costs should be, alternative Council's such as Daventry District Council has set its fixed penalty notice for fly tipping at £400, and reduce this to £300 if it is paid within 10 days of the offence.

3.13 Committee is therefore asked to consider what level of fixed penalty should be applied; whether provision should be made for a lesser amount to be paid and what period of lesser payment should be made with it.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – The report has financial generation implications as set out above.
- Technical, Environmental and Legal – There are implications as fly tipping not only creates an eyesore for residents, it is a potential serious public health risk, creating pollution and attracting rats and other vermin.
- Political – None.
- Reputation – The report represents the Borough Council engaging and improving services as well as a potential financial increase.
- Equality & Diversity – N/A.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Endorse a charge of £400 for each fixed penalty notice served and consider whether the charge is made if the fixed penalty notice is paid within 10 days.

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CHIEF EXECUTIVE

BACKGROUND PAPERS

None.

For further information please ask for Heather Coar, extension 4466.

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