

<b>Key Decision Required:</b>	<b>Yes</b>	<b>In the Forward Plan:</b>	<b>Yes</b>
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## CABINET

13 NOVEMBER 2020

### REPORT OF THE PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE

#### A.7 FIXED PENALTY NOTICES – SETTING FINES

(Report prepared by Russ Cole)

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

**To seek approval from Cabinet for a new set of Fixed Penalty Notices (FPN's) for the list of offences and fines, set out in Appendix A.**

##### **EXECUTIVE SUMMARY**

A review of the Council's Fixed Penalty Notices has been undertaken and a new set of refreshed Fixed Penalty Notices (FPN's) are being proposed using current legislation to format the offences and set the fines associated with them.

The set of offences detailed are set apart from the FPN process used by the Civil Environment team within Public Realm where principally these notices are used against parking infringements within carparks owned by TDC.

The offences considered in this set of recommendations are largely person and problem related, are not always linked to a motor vehicle. Often wider considerations such as checking with other agencies to establish if warnings have previously been given, need to be made as part of the decision making process in these set of offences, thus needing a more local, less automated approach.

The Anti-Social Behaviour legislation was updated in 2014, it can be useful in managing a whole range of issues ranging from neighbour disputes through to instances of persistent nuisance caused by fly tipping of rubbish.

In 2015 a set of Tendring District Council and Essex Police Fixed Penalty Notices were produced. Over time their use diminished. Supplementary systems including a suitable I.T platform is now accessible, a useful component in managing, providing an inventory of occurrences, and a repository of management decisions often needed prior to taking the step to issuing an enforcement ticket.

##### **RECOMMENDATION(S)**

**That Cabinet:**

- (a) Supports the use of enforcement powers where necessary and adopts the associated fines for the set of offences and the Fixed Penalty Notices, as set out in Appendix A; and**
- (b) Delegates authority to the Portfolio Holder responsible for Corporate Enforcement to revise the fees for Fixed Penalty Notices upon future reviews in consultation with Officers.**

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

The Council's has a statutory role in managing Anti-Social Behaviour including the development of effective partnership working.

The current Corporate Plan includes a priority regarding effective partnership working and enforcement forms a very useful tactic in this approach.

It will support wider initiatives both within the Local Authority and local professionals across other organisations such as the police, fire service and other community safety partners.

### **FINANCE, OTHER RESOURCES AND RISK**

#### **Finance and other resources**

The recommendations will be delivered within existing resources, particularly with regard to back office functionality and processing of information.

The implementation of these recommendations will bring some additional income to the Council, however income is not the driving force behind this intended set of actions.

The creation and maintenance of pleasant and appealing town centres, communities and spaces across the district whilst retaining an attractive environment, free from the blight of Anti-Social and unsightly occurrences for residents, visitors and holiday makers is also of consideration

#### **Risk**

The level and volume relating to the issuing of FPN's will be monitored and assessed over an initial 6 month period. To scope the effectiveness of the activity along with options linked to streamlining the process and considering a more automated solution if achievable.

### **LEGAL**

The Police Reform Act 2002 gives 'Accredited Persons' i.e. those within the Authority who are likely to be issuing FPN's, powers including the issuing of them.

The intention set by government with regard to FPN's is to provide an additional deterrent, supplementing those powers invested in the police to additionally help improve Community Safety.

'An accredited person, employed by an organisation (other than a police force) in a community safety role, who has been accredited by the Chief Officer of Police under Section 41 of the Police Reform Act 2002'.

The ability for officers to use this tactic safely is of importance, as is ensuring that current operational risk assessments driven by current Covid working considerations are made.

It is noted that Accredited Persons are additionally protected with a set of additional offences including assault, obstruction and prevention of impersonation, where tickets are issued and officers are acting lawfully in the execution of their duties, should any hostilities arise.

#### **OTHER IMPLICATIONS**

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.**

**Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.**

- The new Fixed Penalty Notices (FPNs) will cover all wards. Due regard will be taken in relation to the Council's Inclusion and Diversity policies in the application of FPNs.
- Additionally there is a 14 day period of appeal built into these offences. It is intended that any subsequent management considerations that would be required should these eventualities arise be retained within current Community Safety back office functions.
- It is noted that currently the existing byelaws covering Tending are particularly disjointed having been last refreshed in 1979. Tending District Council officers are in the process of reviewing and refreshing these regulations to bring the offences and penalties more in line with current protocols thus ensuring a better fit with the FPN's detailed in this recommendation.

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

The current position of criminal behaviour particularly Anti-Social behaviour in Tending is one of a continued upward trend, this is reflected across Essex and in turn wider country.

In the last quarter there have been in excess of 2000 reports of ASB to partners in the District, this is an increase of 70% previous quarter.

It is apparent issues often linked to local and neighbourly problems may become magnified by Covid issues, notably the past and potentially future requirements for groups to isolate and remain in their home settings for extended periods of time, genuinely does put considerable pressure on those people and the communities in which they live.

The good news is that crime in general has fallen in Tending by around 25% over the same period. There are signs that there are some exceptions to this such as drugs offences. Here the potential use of ASB / PSPO powers and in some instances the ability to issue fixed penalty tickets would be beneficial.

With regard to litter, the ability to issue FPN's, coupled with more detailed investigations is one of note. Fly tipping and nuisance associated with waste appears to be on the increase, with greater frequency, scale and accompanying community concern all being raised from

the instances we see and hear about around the district. The ability to issue FPN's will be of benefit to tackling these issues more effectively.

A review is being undertaken of the Local Authorities ASB policy the tactical ability to make more use of FPN's and enforcement in general will be reflected in this process.

### **CURRENT POSITION**

The last set of FPN notices available to TDC officers consisted of a set of 13 ASB / offence types. The refreshed and recommended set of FPNS as detailed in the attachment see a broader base of offence types and in turn will be a significant step towards establishing a more lawfully compliant approach to enforcement in Tendring.

Options and tactics with regard to FPN's in other districts have been considered. A refreshed approach to current powers and legal position has been undertaken locally to compile the attached set of offences which comply with current laws and policy.

It is not recommended that a reduction is offered in relation to the fines should a payment be made within 14 days. Warnings and encouragement to desist are likely to have been attempted before the use of FPN tickets.

A process is achievable with support of the TDC accounting team which allocates a unique number to each FPN tickets which can be paid through various means, including by telephone remote from council buildings.

### **FURTHER HEADINGS RELEVANT TO THE REPORT**

**Not Applicable**

### **BACKGROUND PAPERS FOR THE DECISION**

**Not applicable**

### **APPENDICES**

Appendix A - Draft set of FPN offences, legislation and penalty amounts