

Report

Subject : Street Care – Enforcement of Regulations

Report to : The Cabinet

Date : 7 June 2006

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Cabinet Member: for Environment & Transport Councillor Dennis Brown

1. Summary:

1.1 The purpose of this report is to:

- 1.1.1 Apprise Members of the necessary steps to be taken to implement the enforcement procedures within Clean Neighbourhoods & Environment Act 2005 ["the Act"] that affect the council's waste management and street care functions.
- 1.1.2 Apprise Members of the amounts of fixed penalties as prescribed by Regulation for offences where a person is offered the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the local authority.
- 1.1.3 Propose amounts of fixed penalties for offences where the council can specify such a penalty in accordance with the Act.

2. Steps to Implementation of Enforcement Procedure

2.1 Resources will become available to commence the project in July 2006.

2.2 In preparation, a project plan will be submitted to the Improving Waste Management Board at the June meeting. This plan will identify and co-ordinate actions that affect:

- 2.2.1 Staff and Staff Training Arrangements
- 2.2.2 Procedures and Operations
- 2.2.3 Publicity and Education

2.3 Staff and Training Arrangements.

- 2.3.1 The implementation of the Enforcement Procedure will require existing council officers to undertake additional duties. All staff affected will be consulted and fully involved in the process.
- 2.3.2 New or amended job descriptions will be prepared to reflect the new duties and the Change of Duties procedure implemented. This will involve completion of Job Review Questionnaires to be submitted to a Job Review Panel. Although not anticipated there are potential employee relations issues that could arise in such situations that can be difficult and timely to resolve.
- 2.3.3 All staff will undertake formal training in relation to the Police and Criminal Evidence Act 1984 (PACE) and the Regulation of Investigatory Powers Act 2000 (RIPA). Operational, procedural and safety training will also be provided.

2.4 Procedures and Operations

- 2.4.1 To comply with Regulations, and for operational consistency, all procedures will be documented. Details of the procedures and amounts of fixed penalties will be published on the council's website.
- 2.4.2 Visits to neighbouring and other authorities will be undertaken to establish good practice guidelines.
- 2.4.3 Authorisations, documentation and standard forms are to be developed and printed.
- 2.4.4 An administrative infrastructure including secure database will be developed within Environmental Services M3 software system.

2.5 Publicity and Education

- 2.5.1 Work with the council's marketing and PR team to develop a public relations and educational campaign for the implementation of the enforcement procedure.
- 2.5.2 Consult and involve other stakeholders. (City Centre Management, Area Committees, Parish and Town Councils)
- 2.5.3 Identify budget source.

3. Fixed Penalty Notices

- 3.1 The amounts of fixed penalties as prescribed by Regulation, or that may be specified by a local authority, for offences where a person is offered the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the local authority are as attached at Appendix 1. Failure to make full payment within 28 days renders the offender liable to prosecution for that offence
- 3.2 Of the four offences for which a local authority may specify the amount of fixed penalty the prescribed range is between £50 and £80. The council can offer a reduced amount of penalty if paid within ten days. The Clean Neighbourhoods & Environment Act 2005 states that: The principal litter authority (local authority) shall specify the amount of the fixed penalty, if no amount is so specified the penalty is £75.
- 3.3 There is no opportunity for an offender to discharge any liability to conviction for a fly tipping offence by payment of a fixed penalty. The Government view fly tipping as a serious environmental offence that should be dealt with through the courts.

4. Recommendations

- 4.1 That Members endorse the steps to implementation of the Enforcement Procedure.
- 4.2 That a further report be presented to Cabinet at the September meeting to determine sources of funding for a public relations and educational campaign. (s2.5.3)
- 4.3 That Members specify £80 as the fixed penalty for offences for which the authority can specify the amount of fixed penalty.
- 4.4 That Members specify £50 as the fixed penalty for offences, for which the authority can specify the amount of fixed penalty, if paid within a period of 10 days from the date of issue as permitted within the Act. If the offender does not pay within this timescale, then upper level of £80 shall be imposed.

5. Background Papers: None

6. Implications:

Key decision:	??
Financial:	With the exception of funding for the public relations and educational campaign (subject to an additional report) it is anticipated that additional costs will be contained within existing budgets.
Legal:	Contained in report
Human Rights:	The exercise of any adopted powers in accordance with the Enforcement Concordat should mean that any interference could be justified
Personnel:	This may affect employment and terms & conditions of staff and may require consultation with staff and unions. There may be redundancy implications.
Community Safety:	Contained in report
Environmental:	Contained in report
Council's Core Values:	Excellent service, environmentally conscious, willing to be an open learning council and a willing partner
Wards Affected:	All

Clean Neighbourhood & Environment Act 2005

Fixed Penalty Notices

Description of Offence	Council discretion to set Penalty	Penalty if paid within 10 days	Full amount Of Penalty	Maximum Penalty upon conviction
Nuisance Parking	No		£100	N/a
Abandoned Vehicles	No		£200	N/a
Depositing litter	Yes	£50 - £80	£50 - £80	£2,500
Failure to comply with Street litter control notice	No	£60	£100	£2,500
Failure to comply with Street litter clearing notice	No	£60	£100	£2,500
Failure to produce waste documents	No	£180	£300	£5,000 or on indictment an unlimited fine
Failure to produce authority to transport waste	No	£180	£300	£5,000
Fly-posting & Graffiti	Yes	£50 - £80	£50 - £80	£2,500
Unauthorised distribution of free printed matter	Yes	£50 - £80	£50 - £80	£2,500
Failure to comply with waste receptacles notice	No	£60	£100	£1,000
Failure to comply with dog control order	Yes	£50 - £80	£50 - £80	£1,000

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