

Gloucester City Council

Meeting:	Overview and Scrutiny Cabinet	Date:	9th January 2017 11th January 2017
Subject:	Report into Fixed Penalty Notices for the offence of Fly Tipping		
Report Of:	Cabinet Member for Environment		
Wards Affected:	All Wards		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	None		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To update Members of the recent changes in legislation to deal with the significant increase in the reported cases of fly-tipping on public land in England in 2013/2014 and to seek permission to impose Fixed Penalty Fines in line with the legislation.

2.0 Recommendations

- 2.1 Overview and Scrutiny Committee, is asked to, subject to any recommendations it wishes to make to Cabinet, to **NOTE** the contents of the report.
- 2.2 Cabinet is asked to **RESOLVE** that
- (1) Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 which came into force on 9th May 2016 be noted.
 - (2) The penalty charge for Unauthorised Deposit of Waste (Fixed Penalty Notices) be set at £400 (four hundred pounds) reduced to £300 (three hundred pounds), if paid within 10 days.
 - (3) That authority be delegated to the Strategic Director under the Environmental Protection Act 1990 (as amended) to make appropriate arrangements for the issuing of fixed penalty notices for the unauthorised deposit of waste.
 - (4) Officers be supported in investigating and utilising additional resources and new technology (mobile CCTV) to reduce incidents of fly tipping across the City.

- (5) The growing importance of partnership working (including County wide), information sharing, education and tougher enforcement to deal with the growing issue of fly tipping be recognised.

3.0 Background and Key Issues

- 3.1 There are a large number of reported incidents of fly tipping in Gloucester City annually, see table 1 below.

Table 1 No. of reported fly tips per year

Year	Number of Reported fly tips
2013	1876
2014	1787
2015	2540
2016	2144 (up to 1 st Dec)

- 3.2 It costs approximately £1m a year to keep the city clean. A significant proportion of this can be attributable to the costs associated with dealing with fly tipping from the point of contact through to the removal and disposal of waste.
- 3.3 Over the last 18 months Gloucester City Council has successfully taken 10 prosecutions for fly tipping offences. In addition a further 6 cases are being processed for prosecution.
- 3.4 There are huge environmental, social and financial impacts associated with fly-tipping and the illegal dumping of waste.
- 3.5 Fly tipping undermines legitimate waste businesses where unscrupulous operators undercut those operating within the law.
- 3.6 In 2014/15, the estimated cost of clearance of fly-tipping to local authorities in England was nearly £50 million (Defra, Fly-tipping statistics for England, 2014 to 2015).
- 3.7 Due to the national increase in fly tipping incidents and Government acknowledgement that prosecutions are difficult and costly, new powers have been introduced for local authorities in England to deal with fly tipping. District Councils can now issue fixed penalty notices for small scale fly tipping offences pursuant to the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016. In addition to the seizing of vehicles and/ or their contents because of suspected involvement in fly tipping however this will require the support of Gloucestershire Constabulary.
- 3.8 We are looking to set fines for small scale fly tipping offences at the maximum permitted level of £400 and a reduction to £300 if paid within 10 working days.
- 3.9 The Parliamentary Under-Secretary of State Communities and Local Government (Mr Marcus Jones) has described both litter and fly-tipping as: “antisocial environmental crimes that pose risks to human health and animal welfare, spoil

relationships between neighbours and their wider community, and affect the way people feel about the place that they call home”.

3.10. Why is there a problem?

3.10.1 The National Fly-Tipping Prevention Group notes that the causes of fly-tipping are many and varied including:

- financial gain or saving by the perpetrator;
- a lack of waste disposal facilities or access to them; and
- laziness and an attitude that someone else will clear up the waste.

3.10.2 Witnesses representing local councils and landowners pointed to the introduction of charges for collection of household items and garden waste by waste collection authorities.

3.11.0 What the City Council is currently doing to reduce fly tipping

3.11.1 Tri-signs are deployed in fly tip hot spot areas as an educational and enforcement tool whilst encouraging residents to report incidents and demonstrating that we are taking action to deal with the issue.

3.11.2 Depending on available resources, size of the fly tip and evidence available we will look to take a prosecution wherever possible.

3.11.3 We can issue a fixed penalty notice to those carrying trade waste without a Waste Carriers Licence from the Environment Agency (EA). Those caught carrying waste illegally will also be reported to the EA.

3.11.4 Visits and inspections of businesses which produce waste to ensure that they have a current trade waste agreement in place. Those businesses which do not have a trade waste agreement in place are given a reasonable time to comply. If they still fail to comply a staged enforcement approach will be taken, ranging from the service of a formal notice, issuing of a fixed penalty notice and ultimately prosecution.

3.11.5 Waste education visits are carried out to assist residents with managing their waste correctly.

3.11.6 The City Council is part of a new joint group consisting of District councils, the National Farmers Union, National Trust and Parish Councils looking at how we can collectively deal with fly tippers including a possible County wide fly tipping campaign.

3.11.7 The City Council is looking to make savings of £1m from our overall budget in addition to a reduction in the street cleansing and grounds maintenance budget of a further £432k. It is anticipated that the increase in FPN fines will reduce the number of fly tipping incidents and the associated cost to the authority.

4.0 Alternative Options Considered

- 4.1 **Do nothing;** it is likely that the situation would become worse resulting in increasing numbers of reported incidents of fly tipping and an increase in associated costs to investigate, remove and dispose of fly tipped waste.
- 4.2 **Doing the minimum;** introducing the minimum fine of £150 is also anticipated to result in high or increasing levels of fly tipping. There is also an expectation by residents and businesses that the City Council will reduce the number of fly tipping incidents and take robust action against those responsible.

5.0 Reasons for Recommendations

- 5.1 To reduce the number of reported fly tipping incidents across the City and County and thus reducing the overall associated costs/resources of dealing with fly tipping.
- 5.2 To work more closely with existing partners and seek out new stakeholders who can assist with reducing the number of fly tip incidents and deal with organised crime.
- 5.3 One of the City Plan's objectives is a Greener Gloucester, and to "Produce a Cleaner/Greener (Enforcement) strategy for the City" which the increase in FPN's will form part of.
- 5.4 To continue to investigate and utilise additional sources of funding and resources to deliver improvements by reducing fly tipping incidents across the City.
- 5.5 To investigate improving the effectiveness of our resources with the aid of new technology, better signposting and assisting communities with taking ownership of the problem.
- 5.6 Issuing increased FPN fines for smaller fly tipping incidents will be less resource intensive for the authority than taking a prosecution, look to focus minds and will free up valuable court time for more serious offences. Those FPN's which are not paid in full will be followed up by prosecution.
- 5.7 The local authority is also likely to come under increasing pressure to introduce fines for FPN's given the number of reported fly tipped incidents within the city.

6.0 Future Work and Conclusions

- 6.1 The City Council will continue to prioritise resources to deal with the issue of fly tipping to improve our communities and the City overall.
- 6.2 The City Council will look to invest in new technology to assist with the reduction in the number of fly tipping incidents and will use the technology to secure prosecutions wherever possible.
- 6.3 The City Council will continue to work with partner organisations to share information, knowledge and best practice to deliver improvements.

6.4 An update report will be provided for Members on an annual basis regarding; number of reported fly tip incidents, number of FPN's issued, number of prosecutions taken, update on the progress and results of the joint fly tipping group.

7.0 Financial Implications

7.1 With the ongoing constraints on the Local Authority and partner organisations budgets there is a need to investigate alternative sources of funding whilst prioritising existing resources.

7.2 The City Council will be proactive in securing additional funding from external sources for the purpose of the purchasing of mobile CCTV cameras which can be deployed at known hotspot areas.

7.3 Income generated from the issuing of the increased FPN's can and will be used to purchase mobile CCTV cameras and the ongoing associated costs.

7.4 Financial Services have been consulted in the preparation this report.

8.0 Legal Implications

8.1 Local authorities are responsible for dealing with investigating, clearing and taking appropriate enforcement action in relation to smaller scale fly-tips on public land (including public roads and highways within their responsibility).

8.2 The local authority will comply with the relevant legislation and continue to consult with legal as and when required In relation to the use of mobile CCTV cameras.

8.3 Legal Services have been consulted in the preparation this report.

9.0 Risk & Opportunity Management Implications

9.1 See table below -

Risk	Opportunities
<p>Income generated The introduction of the FPN's to deal with small scale fly tipping may be seen as an income generation driven.</p>	<p>The City Council will be able to deal with smaller scale fly tipping offences with a lesser burden of evidence than is required for a prosecution and for offences that we have not previously been able to deal with due to resources and the public interest test.</p> <p>We will be able to demonstrate to our communities that we are able and willing to take robust action against those responsible.</p> <p>Income generated from the issuing of FPN's can be used to purchase mobile CCTV</p>

<p>Managing Expectations</p> <p>There could potentially be a resource implication in relation to the number of FPN's that we are able to issue and may have to be managed on a resource based approach and/or severity of fly tip.</p>	<p>cameras and the ongoing associated costs.</p> <p>To prioritise resources on hotspot areas and to work with partners to deliver outcomes this may include the training of additional officers to issue FPN's including the Police and PCSO's.</p> <p>Press Release to raise the issue of fly tipping and the City Council's commitment to deal with the issue of fly tipping and rouge traders.</p> <p>The City Council to work with communities to promote the implementation of FPN's and to encourage participation i.e. reporting incidents and offenders, organising clean up events etc. This can also have a number of positive outcomes including residents taking ownership of their area and feeling better about the area in which they live.</p> <p>Promote a programme of community events which we could publicise through the Partnerships and Community Groups.</p>
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10.0 People Impact Assessment (PIA):

- 10.1 The introduction of fines for FPN's will not prejudice against any one group or community. Reducing fly tipping is essential to providing re-assurance and comfort to those communities and groups affected by this crime.
- 10.2 The introduction of FPN's will also support legitimate businesses who are involved with the transportation and disposal of waste.
- 10.3 The PIA Screening Stage was completed and did not identify any potential or actual negative impacts; therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

- 11.1 The reduction in fly tipping incidents has a critical role to play in relation to residents feeling safe in the areas where they live, visit and play whilst reducing the risk of attracting other low level crimes.

Sustainability

- 11.2 Given the ongoing reductions to local authority resources there is a need to support communities to become more resilient by supporting them to take ownership of their areas and the associated issues including fly tipping and low level crime.

11.3 It is anticipated that the cost of purchasing and the ongoing costs of mobile CCTV cameras can be offset by the reduction in fly tipping incidents and the associated costs involved in addition to the issuing of FPN's.

Staffing & Trade Union

11.5 The potential need to train additional staff to issue FPN's for fly tipping incidents.

Background Documents: None