

Delegated decision report

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE 16 SEPTEMBER 2019

Title **SETTING OF FIXED PENALTY NOTICE FEE FOR BREACH OF COMMUNITY PROTECTION NOTICES**

Report of **COUNCILLOR TIG OUTLAW CABINET MEMBER FOR COMMUNITY SAFETY AND PUBLIC PROTECTION**

EXECUTIVE SUMMARY

1. This report outlines the provisions to issue Fixed Penalty notices under section 52 of the Anti-Social Behaviour, Crime and Policing Act 2014.
2. The proposal is to introduce the use of this provision for breaches of Community Protection Notices (CPN) and set the fee level at £100 or £75 if paid for within 14 days.

BACKGROUND

3. Powers have been introduced under the Act to deal with anti-social behaviour, including the ability to issue fixed penalty notices (FPN's) for various breaches of the legislation.
4. The level of fines requires approval and authorisation before the new powers can be used.
5. A Community Protection Notice can be issued to an individual aged 16 or over if an authorised person is satisfied that:
 - a) the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and
 - b) the conduct is unreasonable.
6. Accredited Community Support Officers (ACSO) were given delegated powers to issue Community Protection Notices in 2015 and have powers to issue Fixed penalty notices as stated within the Neighbourhoods Directorate enforcement policy. CPNs may also be issued by a police officer, Police Community Support Officer (PCSO) or delegated council officer.

7. An offence is committed if a person (or body) issued with a Community Protection Notice fails to comply with it and they are liable to prosecution in the Magistrate's Court which carries a maximum penalty of £2,500 (or not exceeding £20,000 for a body) on conviction.
8. Breach of a CPN can also be dealt with by the issue of a fixed penalty notice (FPN), which can be used where the issuing officer decides that this would be the most appropriate sanction. In making the decision to issue an FPN, the officer should be mindful that if issued, payment of the FPN would discharge any liability to conviction for the offence.
9. Home Office guidance specifies that in issuing a FPN when a CPN has been breached the maximum payment could be no more than £100, but that a lower payment could be included for early payment.
10. Following research into other areas within Hampshire Constabulary area, that have already started using the FPNs, many had chosen £100 for the maximum payment, with £75 being charged for early repayment.

STRATEGIC CONTEXT

11. With reference to the 2019-2022 Corporate Plan this decision supports several core outcomes, particularly the following:
12. The community feels safe and the island is resilient and vulnerable people are supported and protected - the decision assists in keeping the Island safe by issuing fines for those who deliberately cause Anti- social behaviour which is detrimental to the most vulnerable in our society.
13. The decision also supports our core values of:
 - engaging with partners to maximise integrated working;
 - being efficient and effective in everything we do and spending money wisely;
 - putting customers and our community at the heart of everything we do;
 - transparent decision making based on the effective use of data and evidence;
 - working as a team for the Isle of Wight.

CONSULTATION

14. There is no requirement to consult on this matter.

FINANCIAL / BUDGET IMPLICATIONS

15. Any costs relating to the setting up and implementation of these powers will be within current budget provision.

LEGAL IMPLICATIONS

16. Fixed penalty notices can be served under the powers contained within the Anti-Social Behaviour, Crime and Policing Act 2014, which came into force on the 20th October 2014.
17. The delegation of the use of these powers were approved by the Executive on 14 May 2015. The function now sits with the Director of Neighbourhoods in accordance with the constitution.
18. Section 52(1) of the Act allows the Council to issue FPN's in appropriate circumstances.

EQUALITY AND DIVERSITY

19. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
20. An equality impact assessment has been completed which indicates that the decision does not have a negative effect on the protected characteristics.
21. This decision advocates that all enforcement decisions will be fair, independent and objective. They will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will not be affected by improper or undue pressure from any source.

SECTION 17 CRIME AND DISORDER ACT 1998

22. Section 17 of the Crime And Disorder Act 1998 (as amended by Police and Justice Act 2006) provides that: "...it shall be the duty of each authority ... to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent, crime, disorder, anti-social behaviour adversely affecting the environment, and substance misuse in its area".
23. This decision directly assists the local authority in meeting its statutory duty under section 17 in determining further enforcement action to achieve compliance and reduce criminal behaviour.

OPTIONS

24. Option 1: To approve the fee level for Fixed Penalty Notices for breach of Community Protection Notices and set the fee level at £100 or £75 if paid for within 14 days.

Option 2: To approve an alternative fee level.

Option 3: Not to approve an FPN fee level and therefore only consider prosecution for breach of a Community Protection Notice.

RISK MANAGEMENT

25. Currently there is no approval to issue a FPN when a CPN is breached and therefore the only option would be to progress a prosecution through the Magistrates Court. This can have high cost implications in terms of resources and therefore the option to impose an FPN would be of benefit.

EVALUATION

26. The option to offer an alternative to prosecution is in line with the Neighbourhoods Enforcement Policy where there is a graduated approach to enforcement and an option to accept responsibility by the offender and discharge the offence. This is consistent with other enforcement options such as a simple caution.

27. This will not replace prosecution but is seen as a useful tool in some cases.

RECOMMENDATION

28. To approve the fee level for Fixed Penalty Notices for breach of Community Protection Notices and set the fee level at £100 or £75 if paid for within 14 days.

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COLIN ROWLAND
Director of Neighbourhoods

(CLLR) TIG OUTLAW
Cabinet member for Community Safety and Public Protection

Decision

Signed

Date
