



Chelmsford City Council Cabinet

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Environmental Crime Fixed Penalty Notices – Levels of Fine

Report by:

Cllr. Rose Moore, Cabinet Member for Greener and Safer Chelmsford

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Purpose

To approve the levels of fine for fixed penalty notices issued for littering, graffiti, fly tipping, and breach of household waste duty of care.

Options

1. Approve the proposed levels of fine.
2. Amend the proposed levels of fine.
3. Retain the current levels of fine.

Preferred option and reasons

Option 1 is the preferred option as the increased levels of fine reflect the seriousness and consequences of the offences, whilst taking into account people's ability to pay.

Recommendations

The levels of fine be increased to the amount shown in Table 3 below.

1. Background or Introduction

- 1.1 Littering, graffiti, fly tipping, and breach of household waste duty of care are all criminal offences, for which district councils, as enforcing authorities, may bring prosecutions in the magistrates' courts, or may issue fixed penalties in lieu of prosecution. If the fixed penalty notice is not paid within 14 days prosecution proceedings are commenced.
- 1.2 Fixed penalties are useful as they provide enforcing authorities with an effective and visible way of responding to environmental crimes, provide a lower-cost alternative to prosecution in the magistrates' courts, and are a useful tool in inducing behaviour change.
- 1.3 The enforcing authority does not have to issue a fixed penalty notice and for the most serious cases, or for serial offenders prosecution in the magistrates' court can be the most appropriate course of action.
- 1.4 The purpose of a fixed penalty notice is not to raise revenue but to effect a positive behaviour change.

2. Proposed Increase in Level of Fine

- 2.1 On 31st July 2023 the maximum level of fine was increased, and enforcing authorities given the discretion to set the rates that offenders should pay, up to the maximum permitted.
- 2.2 Enforcing authorities are permitted to discount the amount payable if the fixed penalty notice is paid within a set time, this cannot be longer than 14 days and is normally set at 10 days. The discounting of fixed penalty notices encourages quick payment and is accepted practice for a range of fixed penalty notice offences.
- 2.3 Table 1 shows the current level of fixed penalty notice fine and current discounted fine for littering, fly tipping, and breach of household duty of care. Table 2 shows the maximum levels now permitted.

Table 1 Current Levels of Fixed Penalty Notice Fine

Offence	Fixed Penalty Amount	If Paid Within 10 Days
Littering	£150	£100
Graffiti	£150	£100
Fly tipping	£400	£250
Breach of Household Waste Duty of Care*	£400	£180

Table 2 New Maximum Levels of Fixed Penalty Notice Fine

Offence	Fixed Penalty Amount
Littering	£500
Graffiti	£500
Fly tipping	£1000
Breach of Household Waste Duty of Care*	£600

*Residents have a duty of care to ensure their household waste is disposed of correctly, most offences occur when waste is taken by an unlicensed waste contractor (usually for a small fee) who subsequently fly tips the waste.

3.Setting the Level of Fine

- 3.1 Chelmsford City Council has the discretion to set the fine level up to the maximum permitted, and whether or not to set a discounted rate and if so at what level.
- 3.2 As discussed above, the discounting of fixed penalty notices encourages quick payment and is accepted practice for a range of fixed penalty notice offences. It can be assumed that a discounted rate set at an appropriate level reduces the amount of cases progressing to court which are resource intensive for the Council to take, whilst still encouraging behaviour change to prevent recurrence of the offence. It is recommended that a discounted rate remains for the three offences under consideration.
- 3.3 If it is accepted that a discounted rate remains, it is the level of discounted rate that is important as the maximum rate will only be paid if the fixed penalty notice is not dealt with in a timely manner, therefore the maximum rate can be set at the maximum level allowable.
- 3.4 Fly tipping, breach of household waste duty of care, and graffiti offences are serious, pre-meditated offences that require clearing or cleaning at large expense by public authorities. It is proposed that the maximum amount of fine be set at the maximum allowed with a discount to make early payment attractive without diluting too much the financial penalty for such offences.
- 3.5 Littering is a serious problem that is both unsightly and expensive to tidy up. The fixed penalty notice is in lieu of a prosecution in the magistrates' court. If the person who upon the fixed penalty notice does not agree with the service of the fixed penalty notice they can choose not to pay it and then the original offence will be heard in the magistrates' court. The risk of a high level of littering fine is that the offender ends up in the magistrates' court because they cannot afford to pay the fixed penalty notice and not because they wish to object to the service of the fixed penalty notice. There is, therefore, a risk that people facing financial hardship could be disadvantaged by a high level of fine. Heavily discounting the maximum level of fine for early payment would reduce the risk of this inequity,

whilst still maintaining an effective financial penalty that encourages behavioural change.

3.6 Table 3 shows the proposed levels of fixed penalty notices.

Table 3 Proposed Levels of Fixed Penalty Notice

Offence	Fixed Penalty Amount	If Paid Within 10 days
Littering	£500	£150
Graffiti	£500	£375
Fly tipping	£1000	£750
Breach of Household Waste Duty of Care*	£600	£450

4. Conclusion

- 4.1 The allowable maximum level of fixed penalty fine for littering, graffiti, fly tipping, and breach of household waste duty of care has been increased. As an enforcing authority Chelmsford City Council has discretion to set its fixed penalty amount for each offence up to the maximum allowed. It also has discretion to offer a discount for early payment of a fixed penalty notice.
- 4.2 The discounting of fixed penalty notices encourages quick payment and is accepted practice for a range of fixed penalty notice offences.
- 4.3 The proposed levels of fine are shown at Table 3. The discounted amount if paid within 10 days is set at a level that should act as a deterrent or help change behaviour, and reflects the seriousness and consequences of the offence whilst taking into account people's ability to pay.

List of appendices:

None

Background papers:

None

Corporate Implications

Legal/Constitutional: This decision falls to Cabinet to determine and the recommendation is consistent with the amendments to the Environmental Offences (Fixed Penalties)(England) Regulations 2017.

Financial: None

Potential impact on climate change and the environment: None

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None
Risk Management: None
Equality and Diversity: N/A
Health and Safety: None
Digital: None
Other: None

Consultees:

Legal Services

Relevant Policies and Strategies:

None
