

Report to Cabinet

23rd November 2017

By the Cabinet Member for Community and Wellbeing

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt

Policy for issuing Fixed Penalty Notices

Executive Summary

This report seeks approval for the formal adoption of a policy for issuing Fixed Penalty Notices.

The Policy identifies the offences for which fixed penalties can be issued and sets out the scale of the penalties, the procedures for the issuing of Fixed Penalty Notice's and how an offender will be taken to Court if the Fixed Penalty Notice remains unpaid.

This Policy aggregates existing departmental policies into a single policy for the authority following changes to the legislation available to local councils.

Recommendation

Cabinet is recommended to agree and adopt the new Policy for issuing Fixed Penalty Notices attached as Appendix 1.

Reasons for Recommendations

To allow authorised Council staff to enforce legislation by means of a fixed penalty notice applying a standardised procedure.

Background Papers: Policy for issuing Fixed Penalty Notices

Wards affected: All

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Background Information

1 Introduction and Background

- 1.1 Local Councils enforce a range of legislation to protect the individual and the community as a whole. The Council has been accredited by the Chief Constable of Sussex with a range of powers under the Police Reform Act 2002, which can be exercised by individually accredited members of staff. The police powers also allow for Officers to stop and obtain details from suspected offenders and to seize alcohol and tobacco in certain circumstances.
- 1.2 These powers complement existing powers available to the Council under the Clean Neighbourhoods & Environment Act 2005, the Environmental Protection Act 1990 and other specific legislation which allows some of these powers to be dealt with by the issue of a Fixed Penalty Notice (FPN) in lieu of prosecution.
- 1.3 Horsham District Council has issued previous guidance to staff issuing Fixed Penalty Notices and some departments such as Environmental Health have individual Policies, however there has not to date been a council wide policy covering all staff able to issue Fixed Penalty Notices.
- 1.2 This report seeks approval for the formal adoption of the Policy for issuing Fixed Penalty Notices.

2 Relevant Council policy

- 2.1 The Council's Clean Neighbourhoods (Prevention/Enforcement) Strategy (S.3) reads "The Council accepts that enforcement action will form part of its strategy for improving local environmental quality and will apply this fairly and consistently and only where an awareness campaign has previously been undertaken".
- 2.2 The Council has also approved a District wide Public Space Protection Order with a number of prohibited activities in certain locations. To enable this order to be suitably policed, a policy for the issuing of Fixed Penalty Notices is required.

3 Details

- 3.1 The Policy identifies the offences for which fixed penalties can be issued and sets out the scale of the penalties, the procedures for the issuing of Fixed Penalty Notice's and how an offender will be taken to Court if the Fixed Penalty Notice remains unpaid.
- 3.2 This Policy aggregates existing departmental policies into a single policy for the authority following changes to the legislation available to local councils.

4 Next Steps

- 4.1 A Fixed Penalty Book will be issued and carried by all accredited staff and other council staff who have been appropriately trained.
- 4.2 A Payment Procedure has been established and will be followed by action in the Magistrates Court if fines remain unpaid within the statutory time limit.

5 Views of the Policy Development Advisory Group and Outcome of Consultations

- 5.1 The Community and Wellbeing PDAG has been advised of the proposed Policy and has supported the content.
- 5.2 The Policy has been created through dialogue with a number of internal Horsham District Council departments to whom it is relevant as well as the Council's senior Solicitor. Sussex Police have also been consultees in its development. The Policy sets out a fair and equitable approach to enforcement across the District.

6 Other Courses of Action Considered but Rejected

- 6.1 None

7 Resource Consequences

- 7.1 There is an ongoing requirement to ensure that all staff authorised to issue Fixed Penalty Notices receive training refreshers for legislative changes. This training would be delivered by an outside provider
- 7.2 There are no staffing consequences in respect of establishment at this stage, however this Policy is intrinsically linked to the Neighbourhood Wardens and therefore any growth to the Warden programme would need to be a consideration for training purposes.
- 7.3 Although Horsham District Council is able to keep any monies raised from the issuing of Fixed Penalty Notices, they are not seen as a way of raising income and any receipts will be used to support relevant awareness raising activities.

8 Legal Consequences

- 8.1 There may be some legal consequences if a Fixed Penalty Notice is appealed and the matter goes to court. In this situation legal resource would be required to support the officer who has issued the notice.
- 8.2 The process outlined in this policy will assist in reducing crime and disorder by sending clear signals that environmental crimes and anti-social behaviour will not be tolerated in the District and will be dealt with effectively by means of Fixed Penalties, written warnings and court action. In this regard there may be instances where problems which otherwise may have escalated will be reduced and therefore this could have a positive impact on reducing the requirement for legal resource.

9 Risk Assessment

- 9.1 There is no significant change in direction as a result of this strategy but there has been concern expressed about reputational risk by some members when low value play areas have been recommended for decommissioning. No decommissioning will take place unless evidence is produced demonstrating ongoing access to other proximate facilities.
- 9.2 There is also a risk that the production of an action plan could make the Council hostage to fortune. It should be noted that many leisure related action plans, whilst setting direction of travel and priorities, still remain couched within the context of competing agendas and scarce resources. Several of the identified projects do not yet have approved funding and thus have to be considered aspirational until s106 or CIL is identified.

10 Other Considerations

- 10.1 The Council must have regard to the Public Sector Equality Duty in section 149 of the Equality Act 2010. An Equalities Impact Assessment can be found attached to this report.