

## Bath & North East Somerset Council

DECISION MAKER:	<b>Cllr Charles Gerrish, Cabinet Member for Service Delivery</b>	
DECISION DATE:	<b>On or after 17<sup>th</sup> July 2010</b>	EXECUTIVE FORWARD PLAN REFERENCE:  <b>E 2154</b>
TITLE:	Review of fixed penalty notice fines for littering issued under the Environmental Protection Act 1990	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report: None</b>		

### 1 THE ISSUE

1.1 Under the Environmental Protection Act 1990 the Council has the power to serve fixed penalty notices for littering offences. The level of this fine has been set at £50 for some time. Research undertaken with other local authorities has indicated that this level is low by comparison. In addition, the Council has sought Counsel's advice which has reinforced the view that this level is relatively low. In light of a forthcoming educational campaign to raise public awareness about litter and investment in mobile working technology for Enforcement Officers, the Council is proposing to increase this fine level to more appropriate level.

### 2 RECOMMENDATION

The Cabinet member is asked to agree that:

- 2.1 The charge for a fixed penalty notice for littering offences is increased from £50 to £75.
- 2.2 If the charge is paid to the Council within 14 days of the offence then the charge is reduced to £60.
- 2.3 If payment is not received within 28 days of the offence then the matter is referred for legal action where there is a maximum fine of £2,500.

### **3 FINANCIAL IMPLICATIONS**

- 3.1 It is anticipated that there will be a significant increase in income recovered as a result of the increased level of fine, combined with the renewed enforcement focus and use of new technology. In accordance with the Environmental Protection Act 1990, this extra income will be directed back into cleansing and enforcement.

### **4 CORPORATE PRIORITIES**

- 4.1 This decision supports the corporate priority of improving transport and the public realm.

### **5 THE REPORT**

- 5.1 In order to improve the public realm and local environmental quality, the Council must take a holistic approach to reducing the amount of litter that is deposited by the public. Such an approach should have three elements; a fit for purpose operational service for clearing litter, an appropriate level of awareness among residents and communities about the need for the responsible disposal of litter and an appropriate enforcement strategy to ensure compliance.

- 5.2 Over the past year the Council has made significant investment into its cleansing operations procuring up to date and innovative equipment solutions which have translated into better cleansing standards on the streets of B&NES. In August 2010, the Council will be launching 'Bin it!' an educational campaign where the key message to the public is that there is no excuse for failure to take personal responsibility of litter. For the holistic approach to be effective this campaign must be supported by robust enforcement. In 2010 the Council published a revised enforcement policy for environmental health and quality offences which identified fixed penalty notices as a visible and effective mechanism for dealing with environmental crimes. There is now a need to ensure that the level of these fines is appropriate to ensure the success of the Council's overall approach towards minimising litter.

- 5.3 Current DEFRA guidance identifies a default fine level of £75 for littering offences but does give flexibility to local authorities to set their own levels. In these circumstances it recommends that local authorities should have regard to fine levels in neighbouring authorities and consider what is affordable. Research shows that level of fines in adjoining authorities are; Wiltshire Council- £80, Bristol City Council- £75 South Gloucestershire- £75. This research demonstrates that the current level in B&NES of £50 is low and there is justification for it to be increased.

### **6 RISK MANAGEMENT**

- 6.1 The report author and Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

### **7 EQUALITIES**

- 7.1 An equalities impact assessment has been carried out and no negative impacts have been identified.

## 8 RATIONALE

8.1 The level of £75 fine is considered appropriate in that it acts as an effective deterrent but is not so high as to be unaffordable. The early payment option presents a cheaper alternative to the person served with the notice and should ensure that payments are made more quickly.

## 9 OTHER OPTIONS CONSIDERED

9.1 A higher level of fine of £100 was considered with an early payment option of £75 however this level was felt to be less affordable and not aligned with fine levels in neighbouring local authorities.

## 10 CONSULTATION

10.1 The following will be consulted regarding this proposal: *Cabinet members; Staff; Other B&NES Services; Local Residents; Community Interest Groups; Stakeholders/Partners; Section 151 Finance Officer; Chief Executive; Monitoring Officer*

10.2 Consultation with local residents and community interest groups has taken place through PACT meetings and through the Bath City Liaison Forum. Consultation with Council Officers will be via email.

## 11 ISSUES TO CONSIDER IN REACHING THE DECISION

11.1 Issues that have been considered in reaching this decision include: *Customer Focus; Impact on Staff; Other Legal Considerations.*

## 12 ADVICE SOUGHT

12.1 The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Divisional Director - Finance) will have had the opportunity to input to this report prior to it being cleared for publication.

<b>Contact person</b>	<i>Cathryn Humphries, 01225 477645</i>
<b>Background papers</b>	<i>Neighbourhood Environment Services Enforcement Policy DEFRA guidance 'Local Environmental Enforcement- Guidance on the use of fixed penalty notices'</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	