

Public
Key Decision - No*

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Duty of Care, Section 34(2A)
Environmental Protection Act 1990

Meeting/Date: Licencing and Protection Committee –
Wednesday 24th June 2020

Executive Portfolio: Councillor Keith Prentice - Executive Councillor
for Communities.

Report by: Community Resilience Manager.

Ward(s) affected: All

Executive Summary:

The purpose of this report is to provide an update to the Licensing and Protection Committee following the request made at their 11th March 2020 meeting in relation to the Environmental Protection Act 1990. A request was made for the approval of identified officers to be delegated authority under Section 34(2A) of the Environmental Protection Act 1990 to issue Fixed Penalty Notices of up to £250 to a resident responsible for not ensuring their household waste was transferred to an authorised (reputable) waste carrier. The request was approved on the basis that an extensive awareness raising campaign would take place ahead of the power being authorised for use from 1st June 2020.

The report will detail the communications that have taken place but also recognises the need for further awareness raising.

Recommendation(s):

That the Licencing and Protection Committee approve that:

- 1. Authority is given to the District Council's Chief Operating Officer to delegate responsibility to identified Officers to issue Fixed Penalty Notices for Resident Duty of Care Offences from 1st July 2020 as opposed to the previously agreed date of 1st June 2020.**
- 2. That consideration be given to the communications that have already been issued and the acknowledgement that the team will continue to promote the messages in relation to a residents responsibilities as opposed to immediately resorting to issuing a Fixed Penalty Notice.**

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to update the Committee following the recommendations that were agreed at the meeting held on 11th March 2020. The recommendations were that following an extensive media campaign:
- a) that delegated officers of the District Council be given authority to issue Fixed Penalty Notices for the offence of Duty of Care for incorrectly disposing of household waste under Section 34(2A) of the Environmental Protection Act;
 - b) that the level of Fixed Penalty Notice be set at £250;
 - c) that authority be given to the District Council's Chief Operating officer to delegate responsibility to identified officers to issue Fixed Penalty Notices for Resident Duty of Care Offences from 1st June 2020; and
 - d) that an update be presented to the next meeting.

2. WHY IS THIS REPORT NECESSARY/ BACKGROUND

- 2.1 At the request of the Committee, an update in relation to Duty of Care is being provided to this meeting. The update also details the impact that Coronavirus has had on the planned awareness raising campaign.

3. OPTIONS CONSIDERED/ANALYSIS

- 3.1 Calls for service in relation to incidents of fly-tipping and the action taken since 2017:

No. of Reported Fly-Tips (From Ops)	No. visited by CP&E	No. of FPNs issued (excludes Littering)	No. of Prosecutions
Apr 2018 - 19 = 956	403	3	4 complete & 1 out for warrant
Apr 2019 - 20 = 1335 (improvements in recording methods)	428	4	3 complete & 2 Pending trial
Apr 2020 to date = 476 (Increase through COVID period)	177 to date	On hold until lockdown eases	On hold until lockdown eases - 14 investigations pending

4. KEY IMPACTS / RISKS

- 4.1 We recognise that it is important to manage reputational risk by ensuring that residents understand their responsibilities in relation to the correct collection and disposal of their waste. We have introduced and delivered a communication strategy that provides advice and guidance to residents wishing to have waste removed.

- 4.2 The messages given have been designed as part of the Eastern Region RECAP S.C.R.A.P campaign which the neighbouring authorities have also signed up to.

5. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION

- 5.1 It was agreed at the last Committee meeting held in March that there would be a period of focused awareness raising to highlight the responsibilities that residents had in ensuring that a person being paid to remove their waste was doing so legally. Unfortunately, Coronavirus had a significant impact on the planned media campaign due to the team being required to focus their efforts on the 'at risk' and 'vulnerable' members of our community. This meant that the awareness raising campaign did not start immediately but as officers have started to return to their normal duties, attentions have returned to this area of business. A full list of the targeted communications can be shown at Appendix 1.
- 5.2 During the Government Lockdown that commenced on 23rd March 2020, a significant increase in incidents of fly-tipping were experienced. This is believed to be due to more people spending time at home carrying out DIY and the recycling centres being closed.
- 5.3 The following forms of communication have been used to highlight the responsibilities around Duty of Care associated with the removal of waste:
- Local newspapers
 - Social media – Continuous
 - Countywide media SCRAP Campaign
 - Channel 5 documentary (Part of the District Council's input to the series of Grime and Punishment)
 - Communications through the Recognised Organisations (ROs) that have been created as part of the District Council's response to Covid-19

6. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND/OR CORPORATE OBJECTIVES

- 6.1 One of the strategic objectives of the Corporate Plan is Enabling Communities. The aim of the Enabling Communities strand of the Plan is to make Huntingdonshire a better place to live, to improve health and well-being and for communities to get involved with local decision making. Part of the work programme includes:
- Create, protect and enhance our safe and clean built and green environment; and
 - Develop stronger and more resilient communities to enable people to help themselves

- 6.2 In February 2018, Huntingdonshire District Council approved a Corporate Enforcement Policy. This policy enables delegated Council Officers to apply the policy and matrix toolkit to ensure suspected breaches are investigated and resolved in a prioritised and proportionate manner. The issuing of Fixed Penalty Notices features as part of the delivery of this policy and in turn, will help the Council meet their strategic priorities and objectives as detailed within the Corporate Plan.

7. LEGAL IMPLICATIONS

- 7.1 By an individual paying the FPN, this discharges their responsibility in relation to the offence. Failure to pay the FPN in the time given will result in a file being prepared and submitted for prosecution. This service will be provided by 3C Legal whom already support the Community Protection and Enforcement Team in court related matters.

8. RESOURCE IMPLICATIONS

- 8.1 It is believed that there will be minimal resource implications because delegated officers of the District Council already issue Fixed Penalty Notices. The only implications relate to the media campaign and the need to produce amended Fixed Penalty Notices to reflect the alterations to the fine level.
- 8.2 The intention is that by adopting the new power and setting the fine level that is proportionate to the offence and not offering an early payment option, will encourage our communities to think seriously before allowing illegal waste transfers to take place. In turn, this could reduce the amount of fly-tipped waste across the district, which will allow the Operations Division to target their resources at other more important issues.

9. REASONS FOR THE RECOMMENDED DECISIONS

- 9.1 At the Committee meeting held in March, it was agreed that delegated officers would have the authority to issue Fixed Penalty Notices for Duty of Care from 1st June 2020. Coronavirus has affected the ability of the team to communicate the intended messages and therefore it seems appropriate to extend the awareness raising campaign and defer the authority to issue Fixed Penalty Notices to 1st July 2020.
- 9.2 The importance of continuing to promote residents' responsibilities in relation to Duty of Care is recognised and this will continue for the foreseeable.

10. LIST OF APPENDICES INCLUDED

Appendix 1

Examples of social media campaign delivered to date March – June 2020

Environmental Protection Act 1990. Section 34(2A)
<http://www.legislation.gov.uk/ukpga/1990/43/section/34>

Corporate Enforcement Policy

<https://www.huntingdonshire.gov.uk/media/3595/corporate-enforcement-policy.pdf>

11. BACKGROUND PAPERS

The Environmental Offences (Fixed Penalties) (England) Regulations 2017

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