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<b>REPORT TO:</b>	<b>ENVIRONMENTAL &amp; DEVELOPMENT SERVICES</b>	<b>AGENDA ITEM: 7</b>
<b>DATE OF MEETING:</b>	<b>6<sup>th</sup> MARCH 2008</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>DIRECTOR OF COMMUNITY SERVICES</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>PETER McEVOY JACK TWOMEY</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>SAFER NEIGHBOURHOOD WARDEN REVIEW CONSISTING OF FIXED PENALTY NOTICE POLICY AND SETTING FINES</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: EDS 14</b>

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## **1.0 Recommendations**

- 1.1 To approve the newly developed policy on the service of fixed penalty notices.
- 1.2 To approve the proposed charges for Fixed Penalty Notices for the remaining offences introduced in the Clean Neighbourhoods and Environment Act 2005.

## **2.0 Purpose of Report**

- 2.1 To advise members of the current progress within the Safer Neighbourhood Wardens service and the proposed areas for improvement.
- 2.2 To obtain approval for the proposed addition to the Environmental Health Enforcement Policy which specifically covers Fixed Penalty Notices.
- 2.3 To advise members of the need to set further charges in relation to powers to serve fixed penalty notices under changes made by the Clean Neighbourhoods and Environment Act 2005 and to propose charges where there is an ability to set it at a local level.

### **Detail**

## **3.0 The Safer Neighbourhood Warden Service**

- 3.1 The Safer Neighbourhood Wardens (SNW) have now been in service at full strength for approximately a year. During that time the role has been developed and elements which were initially considered to be 'additional' duties have taken a larger share of the SNWs role than expected.
- 3.2 The following is a list of duties which have formed the majority of the role to date:

- Dealing with nuisance youths and anti-social behaviour in villages, parks, Gresley Old Hall, etc.
- Serving fixed penalty notices for litter and dog fouling
- Serving fixed penalty notices for waste at recycling centres
- Collection of evidence for fly tipping investigations
- Patrolling with the potential to deal with all of the above, and being seen on the street whilst doing so. Also feeding back issues to relevant Departments to deal with if seen whilst on patrol.
- Dealing with any other issues where feasible but which may be strictly outside the scope of the role (such as clearing litter, witnessing noisy neighbours, dealing with road kill)
- Attendance at meetings (tasking meetings with Police to co-ordinate patrols in relation to ASB problems, community meetings, etc.)
- All duties which formed the previous Dog Warden role including collection and re-homing of strays, complaints about fouling and barking, inspection of dog breeding establishments, erection of fouling signage etc. However, we no longer carry out chipping.

- 3.3 It should be noted that the above list, whilst not exhaustive, is quite extensive and broad ranging. It has been a difficult balancing act in trying to give time to each area appropriate to need and priority. The SNWs have involvement with the Waste Team at the Depot, the Police and Police Community Support Officers, all sections within Environmental Health, Members, the Anti-Social Behaviour/ Community Safety Team, Grounds Maintenance and Park Attendants, Housing, Leisure, etc.
- 3.4 Progress on the service of Fixed Penalty Notices (FPNs) has led to approximately 50 FPNs being served in 2007/08. Further work with the Departments and Agencies who have information on where the hot spots are developing should lead to improvements in respect of litter and fouling. BVPI evidence relating to the cleanliness of public spaces shows an improvement on the previous year and significantly, public satisfaction with cleanliness is up a substantial 5% to 68%.
- 3.5 FPNs have been served this year in relation to unlawful disposal of waste, each case carrying a fine of £300 (or £210 if paid within 10 days). Further development of this area is being made due to improved guidance and a better understanding of the legal aspect of taking action on waste carriers and other businesses.
- 3.6 Dealing with youths, in particular during the evenings, has developed into one of the most time consuming aspect of the job. It is also an area where it is very difficult to quantify the effect the wardens are having. The Council is making significant improvements with regards to the sense of public safety, shown in a reduction in people feeling unsafe outdoors in the evening that has gone down 2.7% to 16.9 %. Anecdotal evidence from residents suggests that the SNWs are a key player in delivering this.
- 3.7 Recently acquired covert CCTV equipment will enable the SNWs to obtain evidence of a sufficient standard to take more fly tipping offences forward to prosecution.
- 3.8 The SNWs are yet to commence enforcement in a number of areas for which fine amounts remain to be set. These areas are, however, unlikely to generate many notices, due in part to the rarity of the offences but also due to the need to be in the right place at the right time and the fact that in many cases offenders (especially in the case of graffiti offences) are likely to be minors and therefore enforcement carries more potential pitfalls.

#### **4.0 Enforcement – Fixed Penalty Notice Policy**

- 4.1 The Environmental Health Department has an Enforcement Policy in place which ensures that enforcement actions undertaken are fair and effective. To ensure consistency of approach, all decisions relating to enforcement will consider this policy.
- 4.2 Section 13.B of the Enforcement Policy gives brief details on Fixed Penalty Notices and indicates that they will be used where circumstances permit, prior to proceeding to more severe enforcement action if the person concerned does not pay the fine.
- 4.3 A new appendix to the Enforcement Policy has been developed in line with Guidance from DEFRA which relates solely to the use of Fixed Penalty Notices. The Enforcement Policy including its new appendix is attached as Appendix 1 to this report and requires approval by this Committee.

#### **5.0 Fixed Penalty Notices – setting charges**

- 5.1 A number of offences for which there is now the potential to serve a FPN have yet to have fine amounts assigned to them. The following details relate to these remaining offences. To this point these offences have led to warning letter only. It should be noted though that there have been very few such offences encountered thus far.
- 5.2 This table lists the fixed penalty notice issuing powers where the full charge is determined nationally. The level of discount is still determined locally and the recommended levels are shown in the final column. It is recommended that for those penalties that we are allowed to set locally the level is set in line with the national default penalty. Additionally, the minimum allowable fine following discount together with the proposed discount for early payment is given.

<b>Description of Offence</b>	<b>Legislative Power</b>	<b>Amount Set by law</b>	<b>Minimum Fine allowed following discount</b>	<b>Proposed Charge following discount for early payment</b>
Nuisance Parking	s.6(1) CN&E Act 2005	£100	£60	£70

- 5.3 This table lists the fixed penalty notices for which the Council can set the charge at its own discretion. The table shows the recommended levels of charge and the recommended level of discount, for member consideration.

<b>Description of Offence</b>	<b>Legislative Power</b>	<b>Range in which charge can be set locally</b>	<b>Proposed Charge</b>	<b>Minimum Fine allowed following discount</b>	<b>Proposed Charge following discount for early payment</b>
Unauthorised distribution of literature	Schedule 3A, para.7(2) Environmental Protection Act 1990	£50-£80	£75	£40	£50
Graffiti and flyposting	s.43 Anti-Social Behaviour Act 2003	£50-£80	£75	£40	£50
Offences in relation to waste receptacles	s.47ZA(2) Environmental Protection Act 1990	£75-£110	£100	£60	£70

5.4 The offences pertaining to waste receptacles relate to issues of inadequate containment of waste where a business or individual fails to provide an adequate receptacle. It does not include matters relating to the location, presentation of dustbins or if a lid was not fully closed.

## **6.0 Financial Implications**

6.1 The various Acts under which fixed penalty notices are served enable local authorities to use their fixed penalty receipts to help meet the cost of certain specified functions only (except in the case of 6.2 below). These functions generally relate to the offence being committed, but in some cases are grouped with other offences. For example, receipts from Graffiti or Flyposting notices can be used to meet the cost of enforcing Street Litter Control Notices.

6.3 It would be prudent to assume that the income generated from the serving of fixed penalty notices will not significantly impact on the services enforcing them. Receipts obtained in the first half of this year amount to approximately £1,500.

## **7.0 Corporate Implications**

7.1 The proposals enable minor environmental offences to be dealt with expediently and with impact, whilst preventing the need to take the matter to court, thereby saving officer time and ensuring efficiency.

## **8.0 Community Implications**

8.1 Whilst the implementation of fixed penalty notices for these offences will certainly improve the environment, the actual penalty amounts are considered to achieve a balance between penalising anti-social behaviour and the risk of causing severe financial difficulty to offenders on low income.

## **9.0 Conclusions**

9.1 The Safer Neighbourhood Warden Service has developed since its introduction in 2006. Progress to date has been good and further improvements are proposed and will be put into place in the coming months in order to have a further impact on the general cleanliness of the district and problems with anti-social behaviour.

9.2 The proposed amendment to the Environmental Health Enforcement Policy demonstrates the use to which the Authority will put fixed penalty notices. Their use in a number of areas has already had a positive effect and proposed improvements will see this effect continue.

9.3 The further ability to serve FPNs for the additional areas outlined will add to the ability of the SNWs to act in these cases with a positive effect and increased efficiency.

## **10.0 Background Papers**

10.1 Environmental Health Enforcement Policy and Fixed Penalty Notice Appendix.