

Blaby District Council

Cabinet Executive

Date of Meeting	4 November 2024
Title of Report	Environmental Crime Fixed Penalty Notices This is a Key Decision and is on the Forward Plan.
Lead Member	Cllr. Les Phillimore - Housing, Community Safety and Environmental Services
Report Author	Environmental Health, Housing & Community Services Group Manager
Strategic Themes	All Themes: Enabling communities and supporting vulnerable residents; Enhancing and maintaining our natural and built environment; Growing and supporting our economy; Keeping you safe and healthy; Ambitious and well managed Council, valuing our people

1. What is this report about?

- 1.1 To advise Cabinet Executive of the proposed new Fixed Penalty Notice (FPN) amounts for specified environmental crime offences following a change in the legislation allowing these to be increased/changed.

2. Recommendations to Cabinet Executive

- 2.1 For Cabinet Executive to approve the proposed revised fixed penalty notice (FPN) amounts for specified environmental crime offences as shown in Table 1 below.
- 2.2 That delegated authority be granted to the Group Manager for Environmental Health, Housing & community Services, in consultation with the Portfolio Holder, to make any changes to fixed penalty notice amounts and early repayment discounts moving forwards via the Schedule of Charges.

3. Reason for Decisions Recommended

- 3.1 Environmental Crime has a negative impact on the local environment and have a financial for the authority to remedy this impact.
- 3.2 Fixed Penalty Notices provide a proportionate approach to be able to deal with offences in an expedient and cost-effective way.

4. Matters to consider

4.1 Background

Fixed penalty notices (FPNs) are an alternative to taking a prosecution for specified offences. This report concerns the new potential maximum FPN amounts for specified environmental crime offences, and those that are proposed to be enforced within the District.

Blaby District Council have previously set FPN amounts for these offences and they are confirmed annually as part of the fees and charges review. The Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023 increased the maximum levels that specified FPNs can be set at. It is proposed that Blaby District Council make significant changes to FPN amounts in light of the new Regulations and these proposals are being brought before Scrutiny Commission for comment prior to be taken Cabinet Executive for approval in November.

Fixed penalty notices are offered as a way of a defendant discharging an offence as an alternative to prosecution. They benefit the offender in that they do not receive a criminal record, there are no Court costs and the fine amount is usually lower than a Court would set.

FPN's benefit the Council and the Courts as they provide a more expedient process, reducing the amount of both officer and Court time saving public money and provide a resolution to all parties at a faster rate. Any income from environmental crime FPNs is retained by the Council and should be used to support awareness raising and enforcement work in the field.

Fines issued should a case go to Court are retained by central government and although legal / investigation costs are claimed, it is the Court's decision on whether these costs are awarded to the Council, and they are often not recouped in full.

For serious cases such as tipping of a large amount of waste, or depositing harmful waste, prosecution is seen as a more appropriate option than an FPN.

If a defendant has been served a FPN for an environmental offence previously, a further FPN would not be offered, as they should only be offered, if appropriate, in the first instance. In a case of this nature the case would proceed to court and the defendant would be prosecuted.

The Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023 set new maximum and minimum levels for these FPNs. FPN amounts should be set at a level that they are a sufficient deterrent and punishment. However, if set too high, defendants may opt for Court as although the overall fine and costs may be higher, they can be paid in small instalments whereas FPNs are paid in a single payment.

The Council can also set banding of levels for the same offence depending on severity, provided there is no ambiguity. The advantage of banding is that it allows for a differential in fines to be offered in cases such as trade and domestic fly tipping incidents, and an increased littering fine for a bag of waste (multiple items) versus a single cigarette butt.

4.2 Proposal(s)

For Cabinet Executive to approve the proposed revised fixed penalty notice (FPN) amounts for specified environmental crime offences as shown in Table 1 below:

FPN Type	Current amount	New maximum amount	Recommendation
Fly-tipping	£400 no reduction for early payment	£1000	Trade Waste £800 reduced to £600 for early payment Domestic waste £500 reduced to £300 for early payment
Littering	£150 reduced to £100 for early payment	£500	Single item £200 reduced to £150 for early payment Multiple items £400 reduced to £250 for early payment
Graffiti	£150 no reduction for early payment	£500	£300 reduced to £200 for early payment
Duty of Care	£400 reduced to £300 for early payment	£600	£500 reduced to £350 for early payment
Fly posting	£150 no reduction for early payment	£500	£300 reduced to £200 for early payment

4.3 Relevant Consultations

Discussed at the Countywide Liaison and Enforcement forum and benchmarked against the amounts charged by other authorities within the County. See appendix

The proposed FPN amounts were consulted on with Scrutiny Commission in September 2024, and Members agreed with the officer recommended amounts.

4.4 Significant Issues

Any enforcement action taken in relation to the investigation of the offences covered by this legislation and subsequent formal sanctions will be undertaken in line with the Environmental Health, Environmental Services & Community Services Enforcement and Compliance Policy 2025 – 2028 (subject to its approval on 4th November 24).

In setting FPN charges consideration must be given to the deterrent effect of different levels and the likely fines imposed by the Magistrates Court.

- 4.5 In preparing this report, the author has considered issues related to Human Rights, Legal Matters, Human Resources, Equalities, Public Health Inequalities and there are no areas of concern.

5. Environmental impact

- 5.1 The Environmental Crime offences covered by the proposed FPN's can have a significant detrimental impact on the environmental conditions of the District.

Any ability to raise the profile, public awareness and possible sanctions for breaching these regulations should be taken to help improve the overall compliance with the legislation.

6. What will it cost and are there opportunities for savings?

- 6.1 The new FPN amounts will complement existing activities, so is unlikely to incur any additional cost. Payment of the FPN can be retained by the Council to offset the cost of providing the service

7. What are the risks and how can they be reduced?

7.1

Current Risk	Actions to reduce the risks
Appropriateness of enforcement option (i.e. FPN or prosecution)	Training programme for Officers to ensure enforcement is both reasonable and proportionate. Clear procedures and processes.
Over zealous enforcement	Training programme for Officers to ensure enforcement is both reasonable and

