

# Economy and Environment Policy Committee

## Agenda

### Members of the Economy and Environment Policy Committee:

Cllr A Dearnley (Chairman)	Cllr J Knight (Vice Chairman)
Cllr V Clifford-Jackson	Cllr F Curson
Cllr D Elmer	Cllr G Francis
Cllr L Glover	Cllr K Hurn
Cllr R Savage	

### Date & Time:

Friday 19 November 2021  
2.00pm

### Place:

Council Chamber, South Norfolk House, Cygnet Court, Long Stratton, Norwich, NR15 2XE

### Contact:

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### PUBLIC ATTENDANCE:

If a member of the public would like to observe the meeting, or speak on an agenda item, please email your request to [committee.snc@southnorfolkandbroadland.gov.uk](mailto:committee.snc@southnorfolkandbroadland.gov.uk), no later than 5.00pm on Tuesday 16 November 2021.

### Large print version can be made available

If you have any special requirements in order to attend this meeting, please let us know in advance.

## Public Speaking and Attendance at Meetings

All public wishing to attend to observe, or speak at a meeting, are required to register a request by the date / time stipulated on the relevant agenda. Requests should be sent to: [democracy@southnorfolkandbroadland.gov.uk](mailto:democracy@southnorfolkandbroadland.gov.uk)

Public speaking can take place:

- Through a written representation (which will be read out at the meeting)
- In person at the Council offices

Please note that due to the current rules on social distancing, the Council cannot guarantee that you will be permitted to attend the meeting in person. There are limited places in the Council Chamber and the numbers of public speakers permitted in the room will vary for each meeting.

All those attending the meeting in person are asked to sign in on the QR code for the building and arrive/ leave the venue promptly. The hand sanitiser provided should be used and social distancing must be observed at all times. Further guidance on what to do on arrival will follow once your initial registration has been accepted.

# AGENDA

1. To report apologies for absence and to identify substitute members;
2. Any items of business which the Chairman decides should be considered as a matter of urgency pursuant to section 100B(4)(b) of the Local Government Act, 1972. Urgent business may only be taken if, “by reason of special circumstances” (which will be recorded in the minutes), the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency;
3. To receive Declarations of Interest from Members;  
(Please see guidance form and flow chart attached – page 4)
4. To confirm the minutes of the meeting of the Economy and Environment Policy Committee held on Friday 15 October 2021  
(attached – page 6)
5. Referrals from Council  
(attached – page 17)  
  
Members of the Economy and Environment Policy Committee to consider the two motions brought before the Council on Monday 11 October 2021
  - a. “Motion to Support the Climate and Ecological Emergency Bill”
  - b. “Declaring a Climate Emergency”
6. Review of Environment Enforcement Penalties  
(report attached – page 21)

## DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

<p>Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.</p>
<p>Does the interest directly:</p> <ol style="list-style-type: none"> <li>1. affect yours, or your spouse / partner's financial position?</li> <li>2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?</li> <li>3. Relate to a contract you, or your spouse / partner have with the Council</li> <li>4. Affect land you or your spouse / partner own</li> <li>5. Affect a company that you or your partner own, or have a shareholding in</li> </ol> <p>If the answer is "yes" to any of the above, it is likely to be pecuniary.</p> <p>Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.</p>
<p>Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?</p> <p>If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but you should not partake in general discussion or vote.</p>
<p>Is the interest not related to any of the above? If so, it is likely to be an other interest. You will need to declare the interest, but may participate in discussion and voting on the item.</p>
<p>Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.</p>

**FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF.  
PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST  
INSTANCE**

## DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



**Agenda Item: 4**

## **ECONOMY AND ENVIRONMENT POLICY COMMITTEE**

**Minutes of a meeting of the Economy and Environment Policy Committee of South Norfolk District Council, held on Friday 15 October 2021 at 2pm.**

**Committee Members Present:** Councillors: A Dearnley (Chairman), D Elmer, J Knight and R Savage.

**Apologies for Absence:** Councillors: V Clifford-Jackson and K Hurn

**Cabinet Member Present:** Councillor: M Edney

**Officers in Attendance:** The Assistant Director for Regulatory (N Howard), the Assistant Director of Community Services (S Phelan) and the Senior Environmental Health Officer – Community Protection (T Garland)

### **18 MINUTES**

The minutes of the meeting of the Economy and Environment Policy Committee held on 18 June 2021 were agreed as a correct record.

### **19 ANTI-SOCIAL BEHAVIOUR POLICY CONSIDERATIONS**

The Senior Environmental Health Officer (Community Protection) introduced the report, which sought the Panel's views on the matters to be addressed when putting in place a dedicated Anti-Social Behaviour (ASB) Policy for the first time.

The Panel received a presentation that set out some anti-social behaviour policy considerations (attached at Appendix 1).

Members were advised that there had been a 30-45 percent rise in reports of nuisance and anti-social behaviour since the first lockdown and that an

estimated 70 percent of anti-social behaviour was associated with either substance misuse or mental health issues.

The Council had key statutory duties and responsibilities for tackling local anti-social behaviour and as a member of the Norfolk County Community Partnership it was part of a coordinated multi-agency approach that included the police, housing associations and adult and children's social services.

The Committee was shown a spreadsheet of anti-social behaviour service requests received by the Community Protection Team over the last 12 months in South Norfolk. Areas brought to members' attention for this period included:

- 114 - Abandoned Vehicles – Highways
- 61 - Accumulations
- 118 - Commercial Noise
- 39 - Flies – Problem Investigation
- 187 - Flytipping Enforcement
- 270 - Noise Domestic (other)
- 63 - Noise Domestic Dogs
- 53 - Nuisance – Rats
- 90 - Other Matter
- 86 - Smoke Domestic

In total there had been 1,322 requests to the Community Protection Team in the last year, which placed a heavy demand on the service.

The Senior Environmental Health Officer (Community Protection) advised the Committee that the Community Protection Team worked alongside the police, housing associations and local communities. He further explained that the Council and police were backed with statutory powers under the Crime & Disorder Act 1998 and the Anti-Social Behaviour Policing and Crime Act 2014.

Members were referred to the key principles, which were:

- 1) No one should have to experience anti-social behaviour or nuisance.
- 2) Incidents of anti-social behaviour or nuisance will be treated seriously and dealt with professionally.
- 3) Anti-social behaviour or nuisance will be dealt with firmly, fairly and proportionately.
- 4) We work with partners to deliver an effective, value for money service.
- 5) We provide a high-quality service to meet identified needs.
- 6) Underpinned by Equalities and Human Rights considerations.
- 7) We safely and professionally share information, and safeguard confidentiality.

Members discussed the 30-45% increase in ASB reports since the first lockdown and queried which service request type saw the largest increase.

The Senior Environmental Health Officer (Community Protection) explained that domestic noise from dogs saw the largest increase, he noted that this was likely due to an increase of residents staying at home during the day.

In response to a query on public awareness and/or encouragement to report ASB. The Senior Environmental Health Officer (Community Protection) explained that information was prominently displayed on the Council's website and that residents could call the team for an informal chat. It was noted that some residents might be concerned about reporting a neighbour.

Members discussed the role of youth clubs to reduce the amount of youth related ASB and queried whether the Council supported the clubs. The Senior Environmental Health Officer (Community Protection) explained that the Communities and Help Hub team worked with groups as part of ASB prevention activities.

One member queried whether there were adequate resources in place and the Senior Environmental Health Officer (Community Protection) explained that temporary additional resources had been put in place as part of the Covid response. It was intended that 2 Community Support Officers would be retained until March 2023 to manage initial contact and low level complaints, which would allow the Environmental Health Officers to work on complex or more serious cases.

After further discussion, it was;

## **RESOLVED**

To

- 1) Note the contents of the report.
- 2) That the future formal policy, take into consideration the views of the Committee, as outlined above.

## **20 REVIEW OF ENVIRONMENTAL ENFORCEMENT PENALTIES**

The Assistant Director for Regulatory introduced the report, which sought the Committee's views on the proposal to review and update the fixed penalty charges, which were imposed when fixed penalty notice enforcement was deemed appropriate for specific environmental and anti-social behaviour offences.

The Committee was advised that if the fixed penalties were set too high that public would be more likely to proceed to court, whereas if the penalty was too low it would not act as a deterrent to offending or re-offending. It was also



noted that early payment discounts offered a positive incentive to accept and resolve offences.

In response to a query on repairing or selling vehicles on the side of the road, the Assistant Director for Regulatory explained that this was typically an offence carried out by businesses and that the 25% early payment discount was a pragmatic approach and often resolved the issue.

Members discussed the parent penalties, where, if the offender was below the minimum age (16 or 18yrs depending on the offence), the parents would be held responsible during enforcement for any failure of parental control. The Senior Environmental Health Officer (Community Protection) informed the Committee that parent penalties were rare, with only 1 case at South Norfolk. The Assistant Director for Regulatory added that without a policy in place, it was difficult to carry out enforcement on offences by minors.

Members expressed support for the policy and proposed penalty charges, outlined in the report.

After further discussion It was;

#### **RESOLVED**

To

- 1) Note the contents of the report
- 2) That the views of the Committee, as outlined above, be taken into consideration in the formal policy.

## **21 EXCLUSION OF THE PUBLIC AND PRESS**

It was;

#### **RESOLVED**

To exclude the public and press from the meeting under Section 100A of the Local Government Act 1972 for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act (as amended)

## **22 REVIEW OF THE MATERIAL RECYCLING FACILITY CONTRACT**

Members considered the exempt report presented by the Assistant Director of Community Services, which summarised the negotiations on the proposals to

amend and extend the existing Joint Venture Company Material Recycling Facility contract to 2027.

Officers explained the background of the report and the reasons behind the final recommendations proposed.

A detailed discussion took place and it was,

**RESOLVED**

To amend and extend the current joint venture company contract with NEWS for three years from 2024 to 2027, accepting a shift to a variable gate fee based on actual costs from October 2021

(The meeting concluded at 3.20 pm)

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Chairman

# Anti-Social Behaviour policy considerations

Economy & Environmental Policy Committee

15th October 2021

## Key facts and points

### Commonly reported problems

- Neighbour nuisance
  - Noise, smell, smoke, flies, etc.
- Anti-social behaviour
  - from routine cases to high risk
  - from unintentional, to deliberate bullying / victimising 'neighbours from hell'
- Wastes offending
  - Neglecting household wastes often leads ultimately to dumping
  - 'Duty of care' education and fixed penalty enforcement will make a real difference

### Some numbers

- 30-45% rise in reports of nuisance and anti-social behaviour since first lockdown
- An estimated 70% of anti-social behaviour is associated with either substance misuse or mental health issues
- Our pilot 'doorstepping' service aims to offer an informal intervention to routine cases within 5 working days, and can resolve up to 75% in one visit
- Worst 5% of cases can tie up officers for around 60% of their available time (serious and/or aggravated anti-social behaviour can persist for months or years)

## The last 12 months – ASB

### Service Request Type

Abandoned Vehicles - Highways	114
Abandoned Vehicles - Private Land	29
Accumulations	61
Commercial Noise	118
Dog Fouling Problems	28
Drainage - Septic Tanks	2
Dust	2
Flies - problem investigation	39
Flytipping Enforcement	187
Fumes	5
Light Pollution	13
Noise - Bird Scarer	8
Noise - Construction Site	6

### Service Request Type

Noise - Domestic ( Loud Music)	40
Noise - Domestic (other)	270
Noise - Domestic Dogs	63
Noise - Misfiring Burglar Alarm	5
Nuisance - Rats	53
Odour - Agricultural Processes	5
Odour - Domestic	9
Odour - Drains/Sewers/Septic Tanks	8
Odour - Industrial / Comercial Processes	21
Other Matter	90
Smoke - Non-Domestic	28
Smoke Domestic	86
Vehicle Related Nuisance	32

## Key policy considerations

- We have shared responsibility: councils, police, housing associations and our communities
- Key roles for council and police with statutory powers and with responsibilities
  - Crime & Disorder Act 1998, Anti-Social Behaviour Policing and Crime Act 2014
  - Norfolk County Community Safety Partnership)
- Definition of Anti-Social Behaviour (drawn from our statutory powers)
- Links between anti-social behaviour powers, nuisance control and environmental offending
- Purpose is to prevent, minimise and nip it in the bud, intervene assertively, and coordinate closely across services and with partner agencies

## Principles (detailed in Appendix 1)

1. No one should have to experience anti-social behaviour or nuisance.
2. Incidents of anti-social behaviour or nuisance will be treated seriously and dealt with professionally.
3. Anti-social behaviour or nuisance will be dealt with firmly, fairly and proportionately.
4. We work with partners to deliver an effective, value for money service.
5. We provide a high-quality service to meet identified needs.
6. Underpinned by Equalities and Human Rights considerations.
7. We safely and professionally share information, and safeguard confidentiality.

## Any questions?

### Key discussion points

- What anti-social behaviour are we seeing and hearing about?
- The key role and responsibility for our communities
- Roles and responsibilities of the Council, alongside agencies such as housing associations
- Purpose of a published Anti-Social Behaviour Policy
- Prioritisation of risk / vulnerability: High, Medium, Routine
- Being clear about what we can and cannot do within the Council's powers and resources (preventative, regulatory, help services)
- Rapid response, 'doorstep challenge', informal and formal intervention
- Assertive use of powers to deter anti-social behaviour and offending, and to reassure our communities
- Need for a clear 'exit strategy' to manage council resources when action is not warranted



**Motion to Support the Climate and Ecological Emergency Bill**

This Council acknowledges that:

1. Humans have already caused irreversible climate change, the impacts of which are being felt in the UK and around the world. Global temperatures have increased by around 1°C from pre-industrial levels and the natural world has reached crisis point, with 28% of plants and animals currently threatened with extinction.
2. Unless we drastically change course, the world is set to exceed the Paris Agreement's safe 1.5°C limit. Pledges like the Paris Agreement and updated emissions targets are not legally binding. The gap between pledges and policies leaves the world on course for catastrophic warming of near 3%. As the 2018 report by the Intergovernmental Panel on Climate Change (IPCC) made clear, every half a degree makes a world of difference: severe climate impacts with 1.5°C of warming, such as extreme weather patterns causing flooding and heat waves, get significantly worse with 2°C. According to the IPCC, limiting heating to 1.5°C may still be possible with ambitious action from national and sub-national authorities, civil society, the private sector and local communities.
3. The UK is one of the most nature-depleted countries in the world and more than one in seven of our plants and animals face extinction and more than 40% are in decline. We have lost 95% of our hedgehogs. The UK needs a legally-enforceable nature target so that by 2030 nature is visibly and measurably on the path of recovery, in line with the Global Goal for Nature and the Leaders' Pledge for Nature.

This Council notes that:

1. Many local authorities are playing an important role in the UK taking action to achieve net zero carbon emissions, and to protect and revitalise local wildlife and natural habitats.
2. Parliament in May 2019 declared an Environment and Climate Emergency.
3. There is a Bill before Parliament—the Climate and Ecological Emergency Bill (published as the “Climate and Ecology Bill”), which, if it became law, would require the government to develop a strategy to address the emergency that would ensure:
  - the ecological emergency is tackled shoulder to shoulder with the climate crisis in a joined-up approach;
  - the Paris Agreement is enshrined into law to ensure that UK does its real fair share to limit global temperature rise to the most stringent end of the Paris agreement – 1.5°C.
  - the Leaders Pledge for Nature is enshrined into law to ensure that the UK's ecosystems are protected and restored with a focus on biodiversity, soils and natural carbon sinks;

- the UK takes full responsibility for our entire greenhouse gas footprint (i.e. consumption emissions plus shipping, flights and land-based transport) by accounting for all of the emissions that take place overseas to manufacture, transport and dispose of the goods and services we import and consume;
- the UK takes full responsibility for our ecological footprint so that we protect health and resilience of ecosystems along both domestic and our global supply chains;
- an independent, temporary Climate and Nature Assembly is set-up, representative of the UK's population, to engage with the UK Parliament and UK Government to help develop the emergency strategy.

This Council therefore resolves to:

1. Support the Climate and Ecological Emergency Bill;
2. Inform the local media of this decision;
3. Write an open letter to Richard Bacon MP and George Freeman MP, shared with our residents through local and social media, urging them to sign up to support the Bill.

**Motion: Declaring a Climate Emergency**

This Council notes:

1. Humans have already caused irreversible climate change, the impacts of which are being felt around the world. Global temperatures have already increased by 1 degree Celsius from pre-industrial levels. Atmospheric CO<sub>2</sub> levels are above 400 parts per million (ppm). This exceeds the 350 ppm deemed to be a safe level for humanity;
2. In order to reduce the chance of runaway Global Warming and limit the effects of Climate Breakdown, it is imperative that we reduce our CO<sub>2</sub>eq (carbon equivalent) emissions from their current 6.5 tonnes per person per year to less than 2 tonnes as soon as possible;
3. Individuals cannot be expected to make this reduction on their own. Society needs to change its laws, taxation, infrastructure, etc., to make low carbon living easier and the new norm. And these carbon emissions result from both production and consumption;
4. The upcoming UN Climate Change Conference (COP26) in October/November, which will aim to accelerate action towards the goals of the Paris Agreement, and the UK's commitment to working to inspire climate action ahead of COP26;
5. Unfortunately, our current plans and actions are not enough. The world is on track to overshoot the Paris Agreement's 1.5°C limit before 2050;
6. The consequences of inaction to address this emergency will include:
  - Increased risk of flooding, subsidence, and damage to buildings and infrastructure.
  - Health effects, risk of disease and severe risks from extreme weather events.
  - Higher energy and food costs and impact on food production.
  - Increases in social injustice and inequality;
7. The IPCC's Special Report on Global Warming of 1.5°C, published in October 2018, describes the enormous harm that a 2°C rise is likely to cause compared to a 1.5°C rise, and told us that limiting Global Warming to 1.5°C may still be possible with ambitious action from national and sub-national authorities, civil society, the private sector and local communities;
8. 74% of District, County, Unitary & Metropolitan Councils in the UK have now declared a 'Climate Emergency', including our neighbours Breckland, Norwich, Mid-Suffolk and East Suffolk;
9. Our responsibility to help secure an environmentally sustainable future for our residents and in relation to the global effects of climate change.

This Council believes that:

1. Climate change and sustainability are amongst the biggest issues of the 21st century and the effects of man-made and dangerous climate change are already manifestly occurring;

2. The Intergovernmental Panel on Climate Change (IPCC) detail that we are already seeing the consequences of a 1°C of global warming through more extreme weather, rising sea levels and diminishing Arctic sea ice, among other worrying changes;
3. We have a critical role to play in delivering a zero carbon future;
4. In light of the IPCCs special report on Global Warming of 1.5°C, published in October 2018, which confirmed the catastrophic consequences of man-made climate change, the Council is determined to achieve further reductions in the emission of greenhouse gases related to the district and is willing to take additional concrete steps to achieve this.

Therefore, the Council agrees to:

1. Declare a 'Climate Emergency';
2. Together as a community and with wider stakeholders, collectively work towards making South Norfolk carbon neutral by 2032, delivering impact on both production and consumption emissions;
3. Prepare a Climate Change Strategy, to complement our Environmental Strategy, in line with this pledge, and, with our partners across the community, to develop an action plan and 'route map' to a sustainable, low carbon future for our community;
4. Call on Westminster Government to provide the powers and resources to make the 2032 target possible;
5. Work with other governments and Councils to determine and implement best practice methods to limit Global Warming to less than 1.5°C;
6. Work with partners across the district and beyond to deliver this new goal through all relevant strategies and plans;
7. Launch engagement with the public to:
  - Improve "carbon literacy" of all citizens;
  - Encourage and support leadership on this issue in all sectors of society;
  - Obtain meaningful public input into the South Norfolk Climate Change Strategy;
  - Facilitate wide community engagement and behavioural change;
8. Report back to Full Council annually on:
  - progress towards becoming carbon-neutral by 2032
  - steps taken to support reduction in CO2e emissions in the district;
9. Ensure all energy supplied to council buildings is sourced via 100% renewable energy providers by 2023, with the exception of buildings where energy is generated onsite.

## **Review of Environmental Enforcement Penalties**

**Report Author(s):** Nick Howard  
Assistant Director Regulatory  
01524 533787  
nick.howard@southnorfolkandbroadland.gov.uk

**Portfolio:** Clean and Safe Environment

**Ward(s) Affected:** All wards

**Purpose of the Report:**

To determine the amounts of fixed penalty notice charges for specified environmental and anti-social behaviour offences (full charge levels and early payment reduced charge levels).

**Recommendations:**

1. Cabinet to agree the setting of fixed penalty notice charge levels for specified environmental and anti-social behaviour offences as proposed in Appendix 1.
2. Cabinet to agree that the proceeds of paid fixed penalty notice charges be reinvested in the respective service area's revenue expenditure budgets to support further service delivery.

### **1. Summary**

- 1.1 The council as a regulatory authority has arrangements in place for enforcement by way of serving fixed penalty notices (FPNs) to deal with specific offences stipulated in current legislation. This report addresses offences of an environmental and/or anti-social behaviour nature which are enforced primarily by the council's Regulatory services and Community Protection team.

- 1.2 This report proposes decisions to review and update the amounts of FPN charges for specified environmental and anti-social behaviour offences, both the full amount of charges and (where permissible in law) early payment reduced charges which are conducive to good enforcement outcomes.
- 1.3 The types of FPN charge covered by this report, and the current and proposed penalty charge levels, are set out in Appendix 1 with reference to the prevailing legal provisions. In most cases, the council has discretion to offer a reduction in the amount charged if early payment is made within a set numbers of days that vary accordingly between areas of legislation. In some cases, individual legislation has provided a default level of FPN charge which, if locally acceptable, renders it unnecessary for a local authority to make new penalty charge-setting decisions each time new or updated legislation commences.

## **2. Background**

- 2.1 Dog fouling, littering, fly-tipping and associated environmental and anti-social behaviour offences victimise our residents, blight communities and impose avoidable costs on the public purse. They also undermine the actions of legitimate residents and businesses, where unscrupulous and irresponsible operators avoid paying legitimate waste disposal costs and so undercut those that operate within the law.
- 2.2 FPN enforcement is provided in a range of legislation. UK government (through Defra) recognises that increasing the level of fixed penalties may create the public perception that fixed penalties could be used to generate income for councils. Some primary legislation, such as Part 2 of the Environmental Protection Act 1990 (Waste on Land), provides that the income received by local authorities from FPNs can only be used in relation to the same matters that are subject to the enforcement controls.

### Key legislative and policy provisions

- 2.3 The Anti-social Behaviour, Crime and Policing Act 2014 introduced both Public Space Protection Orders (such as the council's which covers dog fouling) and Community Protection Notice, and the power to enforce these by way of FPNs. Community Protection Notices (CPNs) are aimed to prevent an individual's or business's unreasonable behaviour that is having a negative impact on the local community's quality of life. The CPN will require the behaviour to stop and may include reasonable conditions or positive requirements to ensure they are not repeated in the future. To date they have been used by the council for neighbour problems and for failing to store and dispose of wastes correctly.
- 2.4 The Deregulation Act 2015 contained decriminalisation provisions and introduced a three-stage process for enforcing household waste offences under Section 46A of the Environmental Protection Act 1990. This revised process involves a written warning, followed where necessary by a notice of intent, before (if an offender still persists) a final notice can be issued containing a fixed penalty charge. The penalty for an offence relating to domestic waste receptacles is now a maximum amount of £80. Offences involving household waste receptacles can cause

amenity issues, obstruction to pedestrians or traffic, or they render originators of wastes more likely to commit offences such as fly-tipping. Defra in policy guidance to local authorities advocates particular care to avoid excessive use of FPNs in relation to household waste receptacles.

- 2.5 On 1<sup>st</sup> April 2018 the Environmental Offences (Fixed Penalties) (England) Regulations 2017 came into effect. This change in legislation gave local authorities the ability to raise FPNs from the current levels to a new maximum (which varies depending on the offence), with a reduction for early payment. This is subject to the discretion of the local authority. Prior to the 2017 Regulations, the levels for fixed penalties for commercial waste receptacles, flyposting and graffiti had not changed since 2006 and were out of line with inflation and practice in other parts of the UK.
- 2.6 The 2017 Regulations also revised FPN levels for community protection notices under the Anti-social Behaviour, Crime and Policing Act 2014 and the revised FPN levels for domestic waste offences as amended by the Deregulation Act 2015.
- 2.7 FPNs are not appropriate for repeat offenders or those responsible for large-scale environmental offences, for offences involving hazardous waste, or for dealing with people who are determinedly non-compliant or do not wish to be issued an FPN. These types of offences and offenders will continue to be subject to enforcement going directly to prosecution.

#### Fixed penalty notice enforcement and charge levels

- 2.8 Enforcement is founded on community awareness-raising and education to prevent unknowing or neglectful offending. To further discourage and minimise offending, efficient and effective FPN enforcement can be offered. FPN enforcement avoids unnecessarily lengthy, costly and criminalising prosecutions in the magistrate's court. Decisions to issue fixed penalties are delegated to experienced enforcement officers with appropriate training and direction to ensure fairness and consistency.
- 2.9 The council's present FPN charge levels and arrangements date from various times. The review completed and updating as proposed will helpfully reflect practical enforcement experience, changes in legislation, and public concern about local offending such as fly tipping and anti-social neighbours. This is also a good opportunity to take account of a Defra review of fixed penalty enforcement in 2017. (Background document: Defra review 2017)
- 2.10 The purpose of fixed penalty notice enforcement is to secure efficient, timely and decriminalised ways of addressing and dealing with offenders with the right balance of offender correction and broader deterrent effect. The formal alternative to fixed penalty enforcement is normally to prosecute in the Magistrates Court. Prosecution inevitably involves more resource-intensive and costly prosecution file building, and delays in the legal process. Prosecution can also offer less swift and direct reassurance to local communities having witnessed the offending when compared to rapid issuing of fixed penalties. There is no formal appeal against a fixed penalty notice, instead a person served with a fixed penalty notice may elect

not to pay and the local authority will then take a decision whether to prosecute for the offence.

- 2.11 In many but not all instances, the council has some discretion in setting fixed penalty charges between a legislated or legal process determined minimum and maximum range. In some cases, a default level of fixed penalty charge is provided so that local authorities can institute fixed penalty notice enforcement without a requirement for formal decision-making as to the level of charge. A reduced charge can be made for early payment of a fixed penalty where the relevant legislation permits this.
- 2.12 If a fixed penalty charge is set too low, it may fail to have the desired deterrent effect. If it is set too high, compared to the likely fine that a magistrate's court would impose in the event of prosecution, then a person served with a fixed penalty is less likely to pay a fixed penalty and more likely to leave the council to institute a more costly and cumbersome prosecution.
- 2.13 The council's existing FPN charge level(s) for specified offences are listed in Appendix 1.

### **3. Current position/findings**

- 3.1 A review has been completed of the different types of FPN charge for environmental and anti-social behaviour offences that the council is likely to consider using in local enforcement. The council's existing levels of FPN charges have been reviewed against the legal minimum, default, and maximum level that can be imposed as provided in each area of legislation and judicial practice. Similarly, the council's existing levels of early payment reduction in fixed penalty charges have been reviewed. These are listed in Appendix 1.
- 3.2 Key FPN enforcement policy considerations have been considered by the portfolio holder for Clean and Safe Environment and the Economy and Environment Policy Committee to assist the consideration of suggested approaches relating to areas of fixed penalty notice enforcement. The general view favoured robust enforcement for environmental and anti-social behaviour offences. Specific policy matters, such as the circumstances when a FPN will or will not be offered, and minimum ages for recipients of FPNs, will be brought forward in a subsequent report about the council's regulatory enforcement policy.
- 3.3 Whilst the Economy and Environment Policy Committee considered whether the maximum legally permissible levels of FPN charges should be preferred, its general view favoured the proposals contained in Appendix 1. Where any proposed FPN charge differs from the existing level, this is indicated in bold text.
- 3.4 The council's professional and enforcement officer experiences have been taken into account to inform members, based on local experience, of what may be the most helpful approach and advice when members consider the review of environmental and anti-social behaviour FPN charges. These practitioner experiences were reflected in the proposals considered by the policy panel.



#### **4. Proposed action**

- 4.1 South Norfolk and Broadland districts bear witness to similar profiles of environmental and anti-social behaviour offending, and the respective policy views on enforcement are similar. In view of these factors, the two councils' collaboration and shared single service delivery structure across the two districts, the proposals as presented offer a common set of fixed penalty charges. This reflects the broadly similar circumstances of offending in each district, the services' dealings with offenders and their impacts, and the desired corrective and deterrent effects.
- 4.2 The review has provided for reaffirmation and changes in FPN charges as proposed in Appendix 1 to reflect:
- a) Updating the council's decisions about setting levels for these fixed penalty charges to support robust engagement and enforcement with offenders.
  - b) Setting updated fixed penalty full charges at no less than existing levels (which are in some cases the legal default), or at increased levels.
  - c) Setting reduced penalty charges for early payment (where permitted by law) to maximise the decriminalised resolution of offending behaviours. Early payment reductions proposed for offences primarily committed by residents are typically in the order of 40% (less for fly-tipping which is costly to clear up). Early payment reductions proposed for offences primarily committed in the course of a trade or business are typically in the order of 20%. A pragmatic view of practical experience, informed by existing charge levels, has been taken in reaching the specific proposals in each case.
  - d) Pragmatic alignment between South Norfolk Council and Broadland District Council on the agreement of updated fixed penalty charges given the common positions in both districts and the single service structure for enforcement delivery, assuming that both councils agree the same charge levels.
- 4.3 There has been an increase in environmental and anti-social behaviour fixed penalty enforcement of late and officers expect to make use good use of FPN enforcement powers in the future. In line with Defra guidance, it is proposed that the proceeds of paid FPN charges are reinvested in the respective service area's revenue expenditure budgets to support further service delivery.

#### **5. Other options**

- 5.1 Members could choose to make no change to existing full and early payment FPN charge levels or could choose to set revised penalty charges at different levels to those proposed in this report.

#### **6. Issues and risks**

- 6.1 **Resource Implications** – The proposals take forward existing areas of FPN enforcement at no change in cost to the council and with no significant budget

implications. The reinvestment of paid penalty charges, which are not expected to total significant amounts, into service budgets would help to support future investigation/enforcement.

- 6.2 **Legal Implications** – Given the nature of the proposals, routine legal advice has been obtained and is reflected in this report. Were any different penalty charge levels to those proposed in Appendix 1 to be agreed, then it should be noted that lower charges may fail to deter offending (and ultimately could require greater resources to investigate and enforce), whilst higher charges may encourage more offenders to decide not to pay fixed penalties and instead require prosecution at greater cost. Otherwise, the review and updating of FPN charges within permissible ranges and as proposed carries no significant legal implications.
- 6.3 **Equality Implications** – Environmental and anti-social behaviour offending and enforcement by way of FPN charges does not impact differently on individuals/groups on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion/belief, sex or sexual orientation. No equality implications have been identified. It should be noted, however, that offenders on low incomes may have difficulty cooperating with fixed penalty enforcement if unable to pay, and this will be considered in a subsequent report on regulatory enforcement policy. The present proposals simply address the levels at which fixed penalty charges are set.
- 6.4 **Environmental Impact** – Enforcement by way of FPNs at the levels proposed in this report has a positive environmental impact as it provides for dealing efficiently and successfully with offenders and deterring offending.
- 6.5 **Crime and Disorder** – Enforcement by way of FPNs at the levels proposed in this report has a positive impact on crime and disorder, both in dealing efficiently and successfully with offenders and deterring offending, and in offering reassurance to local communities impacted by offending.
- 6.6 **Risks** – Local setting of FPN levels as proposed in this report will, as described, benefit communities in South Norfolk and Broadland although the fixed penalty levels will, in places, differ from other councils in Norfolk. Setting the right charge levels locally is proposed as being more beneficial than seeking consistency of charges with other local authorities, each of which will have set individual charges for their own reasons. It would require a substantial piece of work to map all prevailing penalty charges across Norfolk and, ultimately, the outcome would be unlikely to assist local decision-making greatly. Occasionally, an unwritten consistency on individual FPNs may have been discussed at officer level between councils in Norfolk however no relevant formal decisions have been taken between councils.

## 7. Conclusion

- 7.1 The proposed FPN charge levels for environmental and anti-social behaviour offending as presented in this report offer a sound review and updating, in the

interests of desirable enforcement outcomes and the drive to prevent and minimise offending.

- 7.2 If agreement is reached on a common set of FPN charge levels between South Norfolk Council and Broadland District Council, this will suitably reflect the broadly similar circumstances of offending in each district, the services' dealings with offenders and their impacts, and the desired corrective and deterrent effects.

## **8. Recommendations**

8.1 The recommendations are:

1. Cabinet to agree the setting of fixed penalty notice charge levels for specified environmental and anti-social behaviour offences as proposed in Appendix 1.
2. Cabinet to agree that the proceeds of paid fixed penalty notice charges be reinvested in the respective service area's revenue expenditure budgets to support further service delivery.

## **Background papers**

Defra [Policy paper: Guidance for local authorities on household waste duty of care fixed penalty notices](#), updated 11<sup>th</sup> December 2018.

The Anti-social Behaviour, Crime and Policing Act 2014.

The Deregulation Act 2015.

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

# Appendix 1

## Existing and proposed fixed penalty charges for environmental / anti-social behaviour offences (South Norfolk Council)

Offence	Legislation	Existing FULL penalty amount	Proposed FULL penalty amount	Existing REDUCED early payment penalty amount if paid within 10 working days	Proposed REDUCED early payment penalty amount if paid within 10 working days	Maximum / minimum / permitted and default (if any) penalty	Maximum penalty on conviction (if a fixed penalty charge has not been offered, or goes unpaid)
Littering *	Environmental Protection Act 1990 Sections 87-88	£80	<b>£100</b> <i>an increase of £20</i>	£60	£60 <i>no change</i>	Maximum: £150 Minimum: £50 Default: £100	£2,500 Level 4
Graffiti *	Anti-social Behaviour Act 2003 Section 43	The primary enforcement provision has changed	<b>£100</b>	The primary enforcement provision has changed	<b>£60</b>	Statutory Range £50-150 Minimum: £50 Default: £100	£2,500 Level 4
Flyposting *	<i>(Previously Town &amp; Country Planning Act 1990 Section 224)</i>  Anti-social Behaviour Act 2003 Section 43	<i>(£80)</i>  The primary enforcement provision has changed	<b>£100</b>	<i>(£60)</i>  The primary enforcement provision has changed	<b>£60</b>	<i>(£100)</i>  Statutory Range £50-150 Minimum: £50 Default: £100	  £2,500 Level 4
Unauthorised distribution of free literature on designated land	Environmental Protection Act 1990 Section 88	Requires confirmed charge setting now	<b>£100</b>	Requires confirmed charge setting now	<b>£60</b>	Statutory range £50 to £150 Minimum: £50 Default: £100	£2,500 Level 4
Alarm Noise: failure to nominate key holder or to notify local authority of keyholder details	Clean Neighbourhoods and Environment Act 2005 Section 73	Requires confirmed charge setting now	<b>£75</b>	Requires confirmed charge setting now	<b>£50</b>	Statutory range £50 to £80 Minimum: £50 Default: £75	

Offence	Legislation	Existing FULL penalty amount	Proposed FULL penalty amount	Existing REDUCED early payment penalty amount if paid within 10 working days	Proposed REDUCED early payment penalty amount if paid within 10 working days	Maximum / minimum / permitted and default (if any) penalty	Maximum penalty on conviction (if a fixed penalty charge has not been offered, or goes unpaid)
Abandoning a vehicle	<i>(Previously Refuse Disposal (Amenity) Act 1978 Sections 2 and 2A)</i>  Clean Neighbourhoods and Environment Act 2005 Section 10	£200	£200 <i>no change</i>	£150	£150 <i>no change</i>	Statutory range £200 Minimum: £120 Default: £200	£2,500 Level 4 and/or 3 months imprisonment
Fly-tipping	Environmental Protection Act 1990 Section 33(1)(a)	£200	<b>£300</b> <i>an increase of £100</i>	No reduction for early payment previously offered	<b>£230</b>	Statutory range £150 - £400 Minimum: £120 Default: £200	£50,000 and/or 5 years imprisonment
Household waste duty of care	Environmental Protection Act 1990 Section 34(2A)	£200	£200 <i>no change</i>	No reduction for early payment previously offered	<b>£150</b>	Statutory range £150 - £400 Minimum: £120 Default: £200	£5,000 at Magistrates' Court or unlimited fine at Crown Court
Failure to produce waste transfer note	Environmental Protection Act 1990 Section 34A	£300	£300 <i>no change</i>	£225	<b>£230</b> <i>an increase of £5</i>	Statutory range £300 Minimum: £180 Default: £300	£5,000 at Magistrates' Court or unlimited fine at Crown Court
Failure to produce documentation (waste carriers' licence)	Environmental Protection Act Section 34A	£300	£300 <i>no change</i>	£225	<b>£230</b> <i>an increase of £5</i>	Statutory range £300 Minimum: £180 Default: £300	£5,000 Level 5 or on indictment an unlimited fine
Domestic, Industrial and commercial waste receptacle offences	Environmental Protection Act 1990 Sections 34, 36 or 47(2A)	£80	£80 <i>no change</i>	£60	£60 <i>no change</i>	Statutory range £75 - £110 Minimum: £60 Default: £100	£1,000 Level 3

Offence	Legislation	Existing FULL penalty amount	Proposed FULL penalty amount	Existing REDUCED early payment penalty amount if paid within 10 working days	Proposed REDUCED early payment penalty amount if paid within 10 working days	Maximum / minimum / permitted and default (if any) penalty	Maximum penalty on conviction (if a fixed penalty charge has not been offered, or goes unpaid)
Noise exceeding permitted level – domestic premises	Noise Act 1996 Section 8a(2)(a) & (b) As amended by the Clean Neighbourhoods & Environment Act 2005 And the Anti-social Behaviour Act 2003	£80	<b>£100</b> <i>an increase of £20</i>	£60	£60 <i>no change</i>	Statutory range £75 - £110 Minimum: £60 Default: £100	£1,000 Level 3
Noise exceeding permitted level – licensed premises	Noise Act 1996 Section 8A(2A) As amended by the Clean Neighbourhoods & Environment Act 2005 And the Anti-social Behaviour Act 2003	£500	£500 <i>no change</i>	£375	<b>Remove existing reduction (because no early payment reduction is permitted)</b>	Statutory range £500 No discount permitted Default: £500	£5,000 Level 5
Breach of Public Space Protection Order (includes dog fouling)	Anti-social Behaviour, Crime & Policing Act 2014 Section 68	£80	<b>£100</b> <i>an increase of £20</i>	£60	£60 <i>no change</i>	Statutory range up to £100 No statutory minimum	Up to Level 3 fine, (or Level 2 for breach of alcohol prohibition)
Repairing a vehicle on the road	Clean Neighbourhoods & Environment Act 2005 Section 4	£100	£100 <i>no change</i>	£80	£80 <i>no change</i>		£2,500 Level 4
Exposing vehicles for sale on a road	Clean Neighbourhoods & Environment Act 2005 Section 3	£100	£100 <i>no change</i>	£80	£80 <i>no change</i>		£2,500 Level 4
Breach of Community Protection Notice	Anti-social Behaviour, Crime & Policing Act 2014 Section 52	£80	£100 <i>no change</i>	£60	£60 <i>no change</i>	Statutory range up to £100 No statutory minimum	Up to Level 4 fine, plus, costs of remedial work & forfeiture or seizure of items
Failure to comply with Litter Clearance Notice	Environmental Protection Act 1990 Sect 92 (A/C), 94	£80	<b>£100</b> <i>an increase of £20</i>	£60	£60 <i>no change</i>		£2,500 Level 4

\* A Community Protection Notice may be issued as an alternative method of enforcement where offences in the first column are marked with an asterisk.