

REPORT TO: Cabinet Member - Environmental
DATE: 6 May 2009
SUBJECT: **LITTER ENFORCEMENT POLICY AND PRACTICE**
WARDS AFFECTED: All
REPORT OF: W.T. Milburn Environmental Protection Director
CONTACT OFFICER: Robert Monks, Principal Environmental Health Officer
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**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

To seek the endorsement of the Cabinet Member Environmental for changes to the Council's enforcement policy and practices in relation to Littering offences.

REASON WHY DECISION REQUIRED:

A high level of concern exists amongst members of the public in relation to littering. It is therefore considered appropriate to re-examine the Council's enforcement policy and practice in relation to this issue.

Changes to the enforcement policy will create a consistent approach to issuing of Fixed Penalties for both littering and dog fouling offences.

RECOMMENDATION(S):

That the Cabinet Member - Environmental endorses the changes proposed to the Council's enforcement policy and practice in relation to Littering offences.

KEY DECISION: No
FORWARD PLAN: Not appropriate
IMPLEMENTATION DATE: Following the expiry of the "call" in period for this report

ALTERNATIVE OPTIONS:

The Council could decide not to change its enforcement policy and practices and instead continue to provide a warning for offenders who pick up litter when approached, this might limit the effectiveness of enforcement and the ability to tackle littering issues.

IMPLICATIONS:**IMPLICATIONS:****Budget/Policy Framework:****Budget/Policy Framework:****Financial:**

<u>CAPITAL EXPENDITURE</u>	2006/ 2007 £	2007/ 2008 £	2008/ 2009 £	2009/ 2010 £
Gross Increase in Capital Expenditure	Nil	Nil	Nil	Nil
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure	Nil	Nil	Nil	Nil
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal: None**Risk Assessment:** None**Asset Management:** Not relevant**CONSULTATION UNDERTAKEN/VIEWS**

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CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Creating Safe Communities	✓		
3	Jobs and Prosperity		✓	
4	Improving Health and Well-Being	✓		
5	Environmental Sustainability	✓		
6	Creating Inclusive Communities		✓	
7	Improving the Quality of Council Services and Strengthening local Democracy	✓		
8	Children and Young People		✓	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Report to Cabinet Member Environmental 30th July 2008 Dog Fouling Sanctions and Penalties Policy

Report to Cabinet Member Environmental 5th December 2007 Dog Fouling Enforcement Policy and Practice.

Report to Cabinet Member Environmental, 30th August 2006, *Enforcement Policy, Fixed Penalty Notices – Litter and Dog Fouling.*

BACKGROUND:

1. The Clean Neighbourhoods and Environment Act 2005 (CNEA) along with the Environmental Protection Act 1990 (EPA) provides statutory powers to issue Fixed Penalty Notices (FPN's) for various environmental offences i.e. littering, dog fouling and waste related offences.
2. The Cabinet Member Environmental endorsed the report Enforcement Policy – Fixed Penalty Notices, Litter and Dog Fouling on the 30th August 2006.
3. This report outlined the approach to enforcement by offering the offender, in the first instance, an opportunity to remove the litter that had been discarded or the dog fouling. Co-operation by the offender resulted in service of a notice of intention on site followed by a warning letter being sent in the post.
4. Under the original policy a Fixed Penalty Notice was only issued if the offender failed to remove the litter or dog fouling or was subsequently found to be a persistent offender.
5. The original approach was initially adopted to reflect a desire to change behaviour through education in the first instance and also in recognition of the relative novelty of Fixed Penalty Notices as a sanction for this type of offence in Sefton. The general framework for action is set out in the Department's Enforcement Policy (general enforcement policy) that aims to ensure that enforcement is carried out in a fair and consistent manner. This general enforcement policy is supported by a specific enforcement policy relating to the use of Fixed Penalty Notices for littering offences (specific FPN enforcement policy), endorsed by the Cabinet Member in August 2006 (the relevant part of that report is provided at Annex 1 to this report).
6. Subsequently, the Cabinet Member will recall reports on 5th December 2007, Dog Fouling Enforcement Policy And Practice, and 30th July 2008, Dog Fouling Sanctions and Penalties Policy, which in order to increase the effectiveness of enforcement and in recognition of an increased public awareness of both the dog fouling offence and the Fixed Penalty Notice sanction amended the Council's enforcement policy and practice in relation to dog fouling offences by:
 - i) Ceasing to provide the opportunity to receive a warning letter instead of a Fixed Penalty Notice by cleaning up dog fouling when challenged; and
 - ii) Issuing a Fixed Penalty Notices at the earliest practicable opportunity to the offence being committed rather than a notice informing the offender that they may be issued with a Fixed Penalty Notice.

LITTER PROJECTS:

7. Since 2006 a number of litter projects have taken place across the Borough using a combination of education and enforcement to provide a clear message on the consequences of discarding litter. These projects have targeted schools, retail and licensed premises, town centres etc. and have been based on intelligence, which identified these locations as hotspots for litter.
8. An integral part of all projects has been engagement with the local community. This has been carried out by establishing focus groups in schools, partnerships with businesses, market research questionnaires, door knocking exercises etc. to gain

understanding of the communities perceptions of litter and to canvas their comments on our approach over promotional messages and enforcement techniques.

9. The overwhelming tone of feedback from the project evaluations has been:
 - Given the extensive publicity afforded to this issue via the media over the years in its various formats and the work carried out by the local authority, it is hard to believe that the general public would not be aware that dropping litter was an offence for which the offender could be fined; and
 - Enforcement action against offenders who discard litter is warranted.

PROPOSED CHANGES TO ENFORCEMENT POLICY / PRACTICE:

10. Given the changes to the enforcement policy regarding dog fouling offences and the standard practice of issuing Fixed Penalty Notices for vehicle litter that has been discarded from a moving vehicle, [offenders who discard litter from parked vehicles are subject to warning letters etc as detailed above] it is proposed that the following changes occur for littering offences:
 - Ceasing to provide the opportunity to receive a warning letter instead of a Fixed Penalty Notice where the offender when challenged has removed the litter.
 - Issuing a Fixed Penalty Notices at the earliest practicable opportunity to the offence being committed rather than a notice informing the offender that they may be issued with a Fixed Penalty Notice.
11. Offenders would still be encouraged to remove the litter, but doing so would not prevent them from receiving a Fixed Penalty Notice.
12. The main reasoning behind these proposed changes are:
 - The level of concern that this offence causes to the residents of Sefton.
 - In failing to remove the litter immediately, prior to being challenged, the offender has demonstrated no intention to comply with the law.
 - There is lack of evidence that issuing offenders with a warning instead of a Fixed Penalty Notice, if they elect to clean up when challenged, produces a desired change in behaviour preventing further offences.
 - The current process introduces an unnecessary level of complexity and bureaucracy.
 - The proposed change provides consistent enforcement in line with dog fouling offences.
13. If approved appropriate publicity and promotional methods would continue to be used to raise awareness of littering issues and to promote this changed approach to the residents of Sefton.

RISK ASSESMENT:

14. There is a potential for aggression or even violence towards the officer issuing Fixed Penalty Notices. Merseyside Police will be made aware of the Policy and may be called upon to assist in an emergency situation. Police officers have the power to require personal details and will be able to assist where an offender fails to give information or is obstructive.
15. Officers will be given adequate training to enable effective enforcement to be carried out following the above changes being endorsed.

Annex 1 – Extract from Report to Cabinet Member Environmental, 30th August 2006.

NB: REFERENCE TO DOG FOULING HAS NOW BEEN SUPERCEDED BY THE REVISED ENFORCEMENT POLICY REFERED TO IN PARAGRAPH 6 ABOVE.

“Fixed Penalty Notices for environmental offences (primarily littering and dog fouling)

19. Fixed Penalty Notices (FPNs) may be issued to persons dropping litter or allowing their dog to foul. Before issuing a FPN officers will offer the offender the opportunity of picking up the litter and placing it in the nearest bin or removing the dog faeces. Should the offender decline this opportunity they will be issued with a Fixed Penalty Notice or letter informing them they will be sent a Fixed Penalty Notice.

20. Where the opportunity to pick up litter or dog fouling is accepted the consequences of their initial actions will be explained to the individual, their details will be taken and a warning letter sent outlining these consequences and the possible future actions for re-offending.

21. In the case of offenders where it can be demonstrated that the person has been stopped previously for a similar offence a Fixed Penalty Notice will be automatically issued. Where there are persistent offenders who have previously received Fixed Penalty Notices the matter will proceed direct to prosecution.

Serving Fixed Penalty Notices

24. Where a person is seen dropping litter or allowing a dog to foul within the Borough and they decline the opportunity to pick it up, or they are identified as a persistent offender, personal details will be taken. This will include full name, full address and date of birth.

25. It will then be explained to that person that a FPN or letter informing them they will be sent a FPN will be issued. They will be advised that on receipt of the FPN that they have 14 days to pay and the consequences of failing to pay. Details of how to pay will be included with the notice.

26. If a person refuses to take the letter or FPN, the matter will proceed to prosecution and the lack of co-operation brought to the Court's attention.”