

Proposed Increasing Fly-tipping & Waste Crime Fixed Penalty Notices	
Executive Summary	The report is being brought forward following a Member Motion at Full Council regarding increasing of fees and charges. No separate public consultation has been undertaken because this report concerns the operational level at which statutory fixed penalties are set.
Options considered	Option 1: retain the current FPN levels at the present time. Option 2: increase the FPNs to the statutory maximums.
Consultation(s)	The report is being brought forward following a Member Motion at Full Council regarding increasing of fees and charges. No separate public consultation has been undertaken because this report concerns the operational level at which statutory fixed penalties are set.
Recommendations	To increase the Fly-tipping & Waste Crime Penalty Notices (FPNs) to the statutory maximums.
Reasons for recommendations	The recommendations are intended to deter the perpetrating of environmental waste crime, maintain a proportionate and effective enforcement framework for lower-level environmental offences, support consistency in the Council's approach, avoid creating unnecessary incentives for cases to proceed to court.
Background papers	North Norfolk District Council Corporate Plan 2023 to 2027. Environmental Enforcement Policy.

Wards affected	All wards. The report relates to environmental enforcement powers and fixed penalty levels that may be applied across the district.
Cabinet member(s)	Cllr Callum Ringer, Portfolio Holder for IT, Environmental & Waste Services.
Contact Officer	David Addy, Environmental Protection Team Leader.

Links to key documents:	
Corporate Plan:	This report links principally to the following priorities in the North Norfolk District Council Corporate Plan 2023 to 2027: Our Greener Future; Developing Our Communities; and A Strong, Responsible & Accountable Council. These priorities support action to protect the environment, maintain clean and safe public spaces, work with communities, and ensure that the Council uses proportionate and effective regulatory powers.

Medium Term Financial Strategy (MTFS)	The recommendations are within existing policy and budget provision. Any change in income arising from amendment to FPN levels is expected to be minimal and can be managed through normal budget monitoring. No intention to use preprinted FPN books, and hence no cost.
Council Policies & Strategies	North Norfolk District Council Corporate Plan 2023 to 2027; Environmental Enforcement Policy; Waste & Environmental Services service planning arrangements; the Council's Risk Management Strategy; and the statutory framework governing environmental fixed penalties.

Corporate Governance:	
Is this a key decision	No
Has the public interest test been applied	Yes
Details of any previous decision(s) on this matter	None known, or referred to.

1. Purpose of the report

The purpose of this report is to propose increasing the level of Fixed Penalty Notices (FPNs) used by Environmental Enforcement Officers, to the statutory maximums, following a Member Motion at Full Council regarding increasing of fees and charges.

Current position

The Council has a range of statutory powers to issue Fixed Penalty Notices for environmental offences, the law has changed, allowing much higher FPN levels.

2. Introduction & Background

The Environmental Protection Officers currently issue Fixed Penalty Notices for a range of environmental offences. During the annual fees and charges process, Members requested that a separate report be brought forward so that the current levels could be considered in greater detail.

Role of Fixed Penalty Notices

Fixed Penalty Notices are intended to provide a proportionate means of dealing with lower-level offences. In setting the level of any penalty, a balance is required between deterrence, fairness and the practical aim of securing an early resolution without the need for prosecution.

Enforcement activity

The available evidence demonstrates that the Council continues to use a range of enforcement tools, including formal notices and, where appropriate, prosecution. The history of prosecutions and FPN issue levels also reflects the staffing resource available to the service and the need to target activity effectively.

3. Proposals and Options

The in accordance with the Full Council Motion, the proposed, current, and statutory maximum FPN levels are outlined below, along with the options.

Proposed, current, and statutory maximum FPN levels:

Offence	Proposed FPN maximum (and reduced fee)	Current FPN maximum (and reduced fee)	Statutory Maximum
Depositing Litter	£500 (£350)	£80 (£60)	£500
Fly-tipping	£1,000 (£750)	£300 (£200)	£1,000
Household Waste duty of care	£600 (£450)	£200 (£150)	£600

Option 1: retain the current FPN levels at the present time.

Option 2: increase the FPNs to the statutory maximums.

Preferred approach

On balance, officers consider that increasing the FPNs to the statutory maximums would send out a strong message to deter the perpetration of environmental waste crime in North Norfolk, by maintaining a proportionate and effective enforcement framework for lower-level environmental offences, supporting consistency in the Council's approach, and avoiding creating unnecessary incentives for cases to proceed to court.

4. Corporate Priorities

The recommendations in this report support the Council's Corporate Plan priorities by helping to protect and enhance the local environment, support clean and safe communities, and ensure that the Council applies its regulatory powers in a responsible, proportionate and accountable manner.

Our Greener Future

An effective environmental enforcement framework helps deter fly tipping, littering and related offences that harm the appearance and quality of the district. In this way, the report supports the Corporate Plan priority of delivering a cleaner, greener future for North Norfolk.

Developing Our Communities

Clean and well-managed public spaces contribute to confident, resilient and inclusive communities. Timely and proportionate enforcement action supports residents and communities by addressing behaviour that undermines local amenity.

A Strong, Responsible & Accountable Council

The report also supports the objective of maintaining a strong, responsible and accountable council by ensuring that statutory enforcement powers are exercised consistently, transparently and with due regard to value for money and good governance.

5. Financial and Resource Implications

The financial and resource implications arising from this report are limited. Given the relatively small number of FPNs issued, any change to the level of a penalty is expected to have only a minimal impact on income and can be managed through the usual budget monitoring process.

Income and expenditure

Any variation in income associated with revised FPN levels is expected to be relatively minor, and have a neutral to beneficial impact on Officer time, if the proposed increased FPNs are a deterrent.

Comments from the S151 Officer:

The financial implications of the proposal are expected to be limited. Given the relatively low number of Fixed Penalty Notices issued, any additional income arising from the revised penalty levels is not expected to be material and should not be relied upon for budget-setting purposes. Any variation in income or officer time arising from implementation can be managed through the Council's normal budget monitoring arrangements.

6. Legal Implications

A number of legal implications arise from the use of environmental Fixed Penalty Notices. These relate both to the statutory thresholds that apply to each offence and to the circumstances in which an FPN is, or is not, the appropriate enforcement response.

Statutory framework

The maximum level of each FPN is prescribed by legislation. The Council may exercise discretion within the applicable statutory range but cannot set a penalty above the legislative maximum.

Purpose and effect of an FPN

An FPN provides an opportunity to dispose of a lower-level offence without prosecution, provided that the notice is paid. There is no statutory right of appeal against an FPN.

Relationship with prosecution

Where an FPN is not paid, prosecution may follow. Equally, where an incident is considered too serious, repeated or otherwise unsuitable for disposal by FPN, officers may proceed directly to preparing a prosecution case.

Comments from the Monitoring Officer

The council can exercise discretion as to amount payable for Fixed Penalty Notices, up to a maximum amount, permitted in legislation. The table in paragraph 3 reflects the statutory maximums set out in the Environmental Protection Act 1990 and related legislation. A reduced fee is proposed (in

brackets, para 3) and having discussed with the report writer this would be in circumstances where payment is made within 10 days.

7. Risks

No significant risks are anticipated in accepting the report recommendations. The statutory powers for such FPNs have been in operation for several decades, without any significant issue or reputational impact on the Council. It is proposed that there is a greater risk in terms of reputation, or increase waste crime within the district (perhaps being seen as a less expensive FPN risk by potential perpetrators), and if the Council did not increase the FPN levels following the legislative changes.

8. Net ZeroTarget

These proposals have been assessed and tested for consistency against the Net Zero 2030 Strategy & Climate Action Plan. This has been summarised and scored in the output table for the tool below.

Project Brief

Ensure all fixed penalty notices for littering, fly-tipping, and environmental waste crime are increased to the legal maxima, or as appropriate.

Criteria	Score	Justification	Mitigation
GHGs	4	The project should encourage less illegal uncontrolled deposition of waste, and instead increase more sustainable legal waste management, such as re-use, recycling and energy recovery.	Co-ordination and data-sharing with other LAs to avoid unintended consequences of moving the problems to other districts.
GHGs 2045	4	Lasting behavioural changes towards waste treatment, and less decomposing illegal, uncontrolled waste tipped in the environment, contributing to GHGs emissions.	Public communications work. Co-ordination and data-sharing with other LAs to avoid unintended consequences of moving the problems to other districts.
Air quality	2	The project should encourage more/continued use of local beaches and green spaces, instead of travelling by vehicles, due to reduced concern about uncontrolled dogs and faeces. The signage and resources are already in existence, and so minimal resources will be required.	Public communications work. Co-ordination and data-sharing with other LAs to avoid unintended consequences of moving the problems to other districts.
Sustainable Transport	0	N/A	N/A
Land use change	0	N/A	N/A
Biodiversity	4	Sustained reduction of the indirect impacts of litter, fly-tipping and rubbish deposited on land.	Public communications work. Co-ordination and data-sharing with other LAs to avoid unintended

			consequences of moving the problems to other districts.
Soil and waterway health	8	Sustained reduction of the direct and indirect impacts of litter, fly-tipping and rubbish deposited on land, and run-off/deposition into waterways.	Public communications work. Co-ordination and data-sharing with other LAs to avoid unintended consequences of moving the problems to other districts.
Climate Change Adaptation	4	Awareness raising of the risks from fires littering e.g. glass and metal igniting fields, or fly-tipped waste, due to climate change.	Awareness raising of the risks from fires littering e.g. glass and metal igniting fields, or fly-tipped waste, due to climate change.
Energy Use	4	Due to using correct and legal waste streams, waste will be transported and processed more efficiently and with less energy use, than ad hoc illegal disposal.	Public communications work. Co-ordination and data-sharing with other LAs to avoid unintended consequences of moving the problems to other districts.
Energy Use 2045	4	Due to using correct and legal waste streams, waste will be transported and processed more efficiently and with less energy use, than ad hoc illegal disposal.	Public communications work. Co-ordination and data-sharing with other LAs to avoid unintended consequences of moving the problems to other districts.
Sustainable Materials	0	This is a policy and legal change to existing enforcement activities, utilising Council resources that are already in existence, and so minimal resources or changes will be required.	Identify the Council's appropriate approved suppliers who have less impacts.
Waste	8	The financial consequences of non-compliance with waste legislation, should encourage and facilitate the use of legal waste re-use, treatment, recycling, recovery and disposal mechanisms.	Coordinate with other districts in sharing intelligence on environmental crime, to ensure that our enforcement activities do not displace fly-tipping and other waste crime into other districts.

As outlined in the above table, this project is projected to have a slight net positive effect on energy use with respect to the Council's 2030 and/or 2045 Net Zero targets

9. Equality, Diversity & Inclusion

The proposals have been examined regarding the Council's Equality, Diversity and Inclusion Strategy, and appears to be consistent principles set out in this document.

10. Community Safety issues

The proposals are unlikely to impact upon community safety issues.

Conclusion and Recommendations

This is a resolution for Cabinet to make. We are asking Cabinet to agree to adopt the following recommendations:

Increase the FPNs to the statutory maximums.

The recommendations are intended to deter the perpetrating of environmental waste crime, maintain a proportionate and effective enforcement framework for lower-level environmental offences, support consistency in the Council's approach, avoid creating unnecessary incentives for cases to proceed to court.