



Borough of Telford and Wrekin

Strong Leader Decision

24 January 2023

Fly Tipping Fixed Penalty Notices – Revision of Penalty Fees

Cabinet Member:	Cllr Richard Overton, Deputy Leader and Cabinet Member: Housing, Enforcement and Transport
Lead Director:	Dean Sargeant, Director: Neighbourhood & Enforcement
Service Area:	Neighbourhood & Enforcement Services

1.0 Recommendations:

It is recommended that:

- 1.1 The Leader approves the reduction to the early payment discount for Fixed Penalty Notices relating to fly tipping from £200 to £50 if the penalty is paid within 10 days of the notice being issued, so that the new fees are as set out in Table 1.2 of this report.
- 1.2 The Leader approves the revised early payment charge takes effect from 1st February 2023.

2.0 Purpose of Report

- 2.1 The purpose of this report is to approve the reduction to the discount afforded for the early payment of fixed penalty notices for fly tipping from £200 to £50. Instead of a penalty fee of £200 being offered for early payment, the new penalty fee would be £350 for payment within ten days. Failure to pay within the first ten days would lead to the maximum penalty fee of £400 being charged.

3.0 Background

- 3.1 Telford & Wrekin Council is on the side of residents and will utilise necessary powers and policies to tackle those who don't abide by the rules. The Neighbourhood Enforcement team have a number of key priorities, tackling problem parking through civil parking enforcement as well as tackling the growing problem of environmental crimes such as littering, fly tipping, dog fouling and abandoned vehicles.
- 3.2 Since January 2022 the team have investigated approximately 3,500 fly tips, issued 138 fixed penalty notices and issued over 270 warning letters for fly tipping. This focus, including partnership working with Town and Parish Councils via the Community Action Teams as well as the Building Safer & Stronger Communities programme has seen an overall reduction of 43% in fly tipping since April 2021. However, whilst this is positive, there were still over 4,800 fly tips reported in November 2022.
- 3.3 Telford & Wrekin Watch was launched in 2022; this platform aims to promote awareness of the impact of fly tipping while seeking community engagement to report those who fly tip and support our teams with on-going investigations. Engagement continues to grow alongside regular promotion via social media.
- 3.4 Telford & Wrekin Council has flexibility to set the level of fixed penalty charges for certain offences whilst the remaining are set in law. Before enforcing the relevant fixed penalty powers, the Council must set out its enforcement policy and set the level of Fixed Penalty Fine to be levied in accordance with Regulations.
- 3.5 Cabinet, at their June 2017 meeting, approved the level of fixed penalty fines as set out in the Fixed Penalty Notice Policy 2017. This policy details the penalty amount for fly tipping as noted in table 1.1; it should be noted that the maximum penalty the council can apply is £400 as outlined in the Environmental Protection Act 1990.

FIXED PENALTY POWER	DESCRIPTION OF OFFENCE	LEGISLATIVE GUIDANCE			ADOPTED BY TELFORD & WREKIN	
		RANGE OF FULL FIXED PENALTY	DEFAULT PENALTY	MINIMUM DISCOUNTED PENALTY	AMOUNT	AMOUNT IF EARLY PAYMENT RECEIVED
Section 33ZA: Environmental	Fly tipping (Section 33)	£150 - £400	£200	£120	£400	£200 (if paid within 10 days)

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Protection Act 1990						
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Table 1.1: Fly Tipping Fixed Penalty Notice, Existing Payment Structure

3.6 The current discounted fixed penalty notice associated with fly tipping is no longer fit for purpose. On review of the approach taken by neighbouring local authorities and relevant legislation, the Council does not need to offer a reduced amount for early payment. Resident feedback and research has suggested that the current early payment fee is insufficient to sufficiently deter fly tipping when compared to other methods of waste disposal such as skip hire.

3.7 Therefore, it is proposed to increase the early payment fee as set out in table 1.2:

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		RANGE OF FULL FIXED PENALTY	DEFAULT PENALTY	MINIMUM DISCOUNTED PENALTY	AMOUNT	AMOUNT IF EARLY PAYMENT RECEIVED
Section 33ZA: Environmental Protection Act 1990	Fly tipping (Section 33)	£150 - £400	£200	£120	£400	£350 (if paid within 10 days)

Table 1.2: Fly Tipping Fixed Penalty Notice, Proposed Payment Structure

3.8 An increase in the early payment fee provides a minor incentive for payment within 10 days but is above the average price of a typical domestic waste skip. The revised early payment fee, if approved, will be reviewed annually as part of a wider review of associated fees and charges.

4.0 Summary of main proposals

4.1 Legislation permits the use of fixed penalty notices and the Council considers its use as an alternative to prosecution. In considering the suitability of issuing of a fixed penalty notice, Enforcement Officers take into consideration whether it is reasonable and proportionate to do so in the particular circumstances.

4.2 Where legislation gives the local authority flexibility to set the level of a fixed penalty charge, the level of the charge shall be set by the Council as is the case for penalties associated with fly tipping. The amount of fine, if payment for a fly tipping offence is paid within 10 days, has been set by conducting a bench marking exercise with a number of other local authorities as well as a review of waste disposal alternatives such as skip hire.

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4.3 In noting the above, it is recommended that the discounted amount for early payment associated with fly tipping is increased from £200 to £350 with implementation from the 1st February 2023.

5.0 Alternative Options

5.1 The alternative is to keep the existing early payment fee at £200 however, this may not be sufficient to deter fly tipping and build on the progress made to date.

5.2 As with other local authorities, there is the option to not offer a reduced charge if payment is received within 10 days. However, offering a reduced payment for early payment can incentivise payment and avoid additional costs and protracted engagement to ensure payment is received.

6.0 Key Risks

6.1 If the revised early payment charge is not approved, there is a risk that fly tipping will start to increase and undo the significant progress made to date.

7.0 Council Priorities

7.1 This policy supports the following priorities:

- Every child, young person and adult lives well in their community;
- Everyone benefits from a thriving economy;
- All neighbourhoods are a great place to live:

8.0 Financial Implications

8.1 Costs associated with fly tipping are met from existing budgets with the income received from issuing fixed penalty notices used to offset associated costs. There are no further financial implications arising from this report.

9.0 Legal and HR Implications

9.1 Enforcement Officers have delegated powers under a wide range of legislation relating to environmental offences. This enables them to carry out investigations, issue fixed penalty or other statutory notices, or to refer offences for prosecution where appropriate. The recommendations as set out in this report do not impact on these powers or the approach taken to executing them.

9.2 The Council has the power to determine whether it offers any discount in relation to the early payment of a Fixed Penalty Notice for fly tipping.

9.3 The Leader has strong leader powers under the Council's Constitution to take any decision which has been reserved to the executive and consequently is able to make this change to the penalties applied for these offences.

10.0 Ward Implications

10.1 This report covers the whole Borough with all wards being affected.

11.0 Health, Social and Economic Implications

11.1 Fly tipping has detrimental impact on the environment and the location where it occurs. Tackling fly tipping is a priority for the Council and important to residents where it occurs. If left untouched, fly tipped waste can impact on the environment and attract vermin.

11.2 Alongside continued engagement and promotion of Telford & Wrekin Watch, an increase in the early payment amount will act as a deterrent for fly tipping and complement the continued focus on this by enforcement teams.

12.0 Equality and Diversity Implications

12.1 Data suggests that fly tipping within the borough typically occurs in rural locations or within residential areas mostly in south Telford. Proposals set out in this report alongside seek to deter fly tipping in these areas and ensure such waste is disposed correctly.

13.0 Climate Change and Environmental Implications


13.1 Tackling fly tipping to ensure waste is disposed appropriately via the correct channels minimises wider environmental impact and reduces the risk of land contamination.

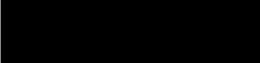
14.0 Background Papers

- 1 Fixed Penalty Enforcement Policy & Setting of Fixed Penalty Fines – 29 June Cabinet Report

15.0 Appendices

None

As Lead  I agree the recommendations as set out in the Report

Signed 

Cllr Shaun Davies, Leader, Telford & Wrekin Council

Date: 24 January 2023