

13. LITTER POLICY

CABINET: 24 JULY 2008

MEMBER REPORTING: COUNCILLOR RAYNER & COUNCILLOR GREY

1. PURPOSE OF REPORT

To update Members, of the Council's commitment to continue to improve the levels of street cleanliness and to seek approval of a more robust approach to tackling littering offences.

2. MEMBER'S RECOMMENDATION:

- a) **That the Council aims for an even cleaner Borough and Cabinet approves a zero tolerance approach to littering offences. Members' views are invited with respect to implementing a charge of £75 for Litter Fixed Penalty Notices with a £25 discount if paid within 10 working days.**
- b) **Members Views are invited with respect to implementing a charge of £75 for Litter Fixed Penalty Notices with a £25 discount if paid within 10 working days.**
- c) **Approval is given to appoint two dedicated Litter Enforcement Officers as set out in para 3.2.14.**

3. SUPPORTING INFORMATION

3.1 Wards Affected

All

3.2 Relevant Matters Upon Which Decision is Based & Reasons Supporting Recommendation

3.2.1 This Council regards the cleanliness of its streets as a high priority. The visual appearance of the borough is important to our residents and the many visitors to the area. The introduction of a "Zero Tolerance" approach to littering will incorporate the following:

Education

- Informing the public and businesses that littering detracts from the amenity of the borough.
- Awareness campaigns that littering attracts more littering.
- Awareness that litter removal costs money.

Enforcement

- A "Zero Tolerance" approach will be adopted to litter.
- Fixed Penalty Notices will be issued to offenders.
- That this approach is supported by the Police.

3.2.2 The Council has an excellent track record in keeping the Borough clean. For example, the Council is in the upper quartile for the best performing councils with regards street cleaning. It is ranked 28th out of the top 41 best performing local authorities. Similarly the Council is ranked 10th out of 41 in the upper quartile for graffiti removal. In addition, the Council is proactive in addressing fly tipping, fly posting and abandoned vehicles.

- 3.2.3 The Council works with its partners on a range of initiatives, these have included:
- Regular multi-agency Borough Blitz and Neighbourhood Clean Ups, all of which are featured in the local press and regularly in Borough magazines.
 - Litter campaigns with police – Windsor & Maidenhead town centres.
 - Ditton Spinney clean up, partnership approach with local residents.
 - Joint clean-up event with the Army (Broom Farm).
 - Assist Church & Waterways Restoration groups with regular clean-ups of York Stream.
 - Dog fouling campaign - jointly with Windsor & Maidenhead Housing Associations.
 - Donation of litter bins to schools.
 - Neighbourhood Action Groups partner (NAG).
 - Education of businesses, that they have a duty to clear up litter that is caused by their business activities and awareness of the consequences of not complying with legislation.
- 3.2.4 The Council continually seeks ways to tackle specific problem areas. In this respect Cabinet in May 2008 approved the introduction of a shopping trolley initiative to address the problem of abandoned trolleys being left on the street. This initiative includes the adoption of powers to penalise supermarkets financially that do not respond to abandoned trolley reports.
- 3.2.5 In addition to routine and proactive measures the Council undertakes enforcement where appropriate using the followings powers under the Environmental Protection Act 1990:
- Sect 33. Illegal deposit of waste (fly-tipping)
 - Sect 34. Duty of Care with respects to waste and its disposal
 - Sect 87 & 88 Illegal deposit of litter and FPN's
 - Sect 93. Street Litter Control Notice
 - Sect 47. Commercial waste
- 3.2.6 Illegal dumping of waste at a number of recycling bring-sites has been addressed through a "Zero Tolerance" approach to enforcement and by use of litter fixed penalty notices. The Council also undertakes joint investigations with the Environment Agency regarding fly-tipping incidents.
- 3.2.7 In 2003 the Council adopted Sections 87 and 88 of the Environmental Protection Act 1990 enabling it to issue Fixed Penalty Notices (FPN's) for the offence of depositing litter. The Council decided at that time to issue offenders initially with a verbal warning. FPN's would be issued if the offender refused to pick up the litter.

- 3.2.8 In the past, the Council's approach to litter enforcement has been that of education. If an offence is committed, officers have approached the offender and asked that they pick up the offending item and dispose of it properly.
- 3.2.9 Following the introduction of the smoking ban in public buildings in July 2007, cigarette ends and chewing gum are now officially classified as litter. It is an offence to deposit such items on the street and is punishable by a FPN. There has been a significant increase in the number of "cigarette butts" in the street adjacent to several public buildings and additional disposal units are required to prevent the problem becoming more acute.
- 3.2.10 The Streetcare Inspectors have been issuing warnings to people they have caught depositing litter, with the exception of litter thrown from moving vehicles, and small-scale fly-tipping incidents for which FPN's are automatically issued. During the past four years, 93 FPN's have been issued for these offences.
- 3.2.11 In order to further reduce the level of litter deposited on the street; the Council will adopt a "Zero Tolerance" approach by automatically issuing FPN's to anyone caught in the act of depositing litter. Enforcement will send a clear message that littering is unacceptable and anti social. A high profile publicity campaign will need to be implemented to ensure that the public are aware in advance of the Council's "Zero Tolerance" approach and the benefits this will have in improving the appearance of the streetscene. This is essential if adverse and negative publicity are to be avoided.
- 3.2.12 Initially, the Council's Streetcare Officers who are empowered and trained to comply with the requirements of the Police And Criminal Evidence Act (PACE) to issue FPN's will carry out robust enforcement in support of a zero tolerance approach. This will be carried out in conjunction with other agencies on a "blitz basis" and will initially be focused on the main town centre areas, working alongside the Police and PCSO's in targeted areas. Police support is essential to ensure that an FPN can be issued to a correctly identified offender. It is proposed that other Council staff be used to facilitate this approach. In addition other staff will be encouraged to report any moving vehicle littering offences for prosecution by authorised officers.
- 3.2.13 During the lead in period, which is programmed to take approximately six months, the Council will work with other members of staff and the Police in ensure compliance with the requirements of PACE, health & safety legislation and employment policies.
- 3.2.14 The Lead Member recommends two suitably qualified officers be employed to carry out enforcement work in the interim 6 month period. This will allow the council to comply with the issues raised in paragraph 3.2.13 and to consider further groups of officers that can be utilised for the purposes of enforcement.
- 3.2.15 The Council will work with the shops, pubs and businesses to ensure that they take adequate precautions to prevent their staff intensifying the problem and educate those businesses as to the best means of preventing their staff and customers committing an offence. This will entail educating them as to the effects and consequences of their clientele or employees breaking the law and giving advice on best methods of controlling it themselves. If this fails the Council will use it current powers to force businesses to clear up litter left by its customers.

3.2.16 The current value of a litter FPN is £50. However, the Council is entitled to increase the value to £75 with the option of allowing discount for early payment. It is proposed that the FPN is set at a rate at £75 and that the early payment incentive of £25 reduction be adopted.

3.2.17 Although FPN's can be issued to juveniles over the age of 10, it is proposed that all under 16's be given a warning on the first offence and a letter sent to their legal guardians. It is further proposed that over 65's be given a warning on the first offence.

3.3 Options Available and Risk Assessment

	Option	Comments
1	Do nothing	This option will send a message to offenders that this council does not take seriously the issue of littering and the detrimental effect this has on the area.
2	Approval of the report with immediate implementation	Immediate implementation of the report will not allow the council to adequately warn and inform the public of its intentions and could lead to adverse publicity.
3	Approval of the report and staged implementation of the policy This option is recommended	This will allow full consultation with the Police and other professional partners to ensure their full cooperation in instigating this approach. It will allow sufficient time for the council to signify its intention of a zero tolerance approach to littering through a high profile publicity campaign.

3.4 Relevant National / Regional Guidance

DEFRA guidance on the use of fixed penalty notices for litter offences.

3.5 Relevant Council Policies/Strategies

	Relevant? Yes / No
Key Themes:	
Supporting Children & Younger People	No
Supporting Adults & Older People	No
A Thriving, Cleaner, Greener Borough	Yes
Safer & Stronger Communities	Yes

4. CONSULTATION CARRIED OUT

In order to establish best practice in litter enforcement Sandwell and Southwark Councils who are recognised as leaders in this area were contacted. Both employ dedicated Enforcement Officers who deal solely with environmental offences. These have proved successful in reducing levels of litter.

Bracknell Forest, Wokingham and Reading unitary authorities were contacted to ascertain their current practice. All confirmed that they currently do not currently operate a zero tolerance approach.

5. COMMENTS FROM OVERVIEW AND SCRUTINY PANEL

To be inserted following the meeting of the Planning & Environment Overview & Scrutiny panel meeting on 30th June 2008.

6. IMPLICATIONS

6.1 Financial

There is very little income currently generated from Litter Fines. Fines obtained through the robust approach to enforcement, together with the incentive for early payment, could fund other litter reduction initiatives. There will be costs associated with the training of officers to comply with the requirements of PACE.

6.1.2 It is anticipated that the publicity campaign associated with this report will amount to approx. £5K. This will include publicity for residents via the local newspapers, Around the Royal Borough and the Council's web-site. A focused campaign with local businesses will also be required via the Chamber of Commerce and Town Partnership etc., who will be contacted for their input on the best methods to achieve this.

6.2 Legal

The power to issue fixed penalty notices to persons for dropping litter is contained in Section 88 of the Environmental Protection Act 1990. By virtue of the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007, the Council can specify the fixed penalty amount for its area within the range of £50 - £80. The Council may also treat the fixed penalty notice as being paid if a lesser amount is paid within a specified time limit. This lesser amount shall be not less than £50.

All new licences issued by the Council, where appropriate e.g. tables and chairs on the highway can have litter conditions attached to the licence.

6.3 Human Rights Act / Sustainable Development, Planning & Diversity and Equality

None

6.4 Planning

The Council can impose Planning conditions where appropriate, on developments likely to lead to litter management issues.

Background Papers: The Council's Enforcement & Prosecution Policy