

Report to Cabinet/ Portfolio Holder for: increasing fixed penalty notice (FPN) charge levels for littering under the Environmental Protection Act 1990 from £65 to £150

Subject: Litter fixed penalty notice (FPN) level of payment

Date: 22nd July 2025

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Wards Affected:

Whole of Borough

Purpose

This report seeks approval to raise the Fixed Penalty Notice (FPN) for littering in Gedling Borough from £65 to £150, in line with powers under the Environmental Protection Act 1990. The change aims to deter littering, align Gedling with neighbouring authorities, and support enforcement via contracted services. A discount to £100 is proposed for early payment.

Key Decision

This is not a key decision

Recommendation(s)

THAT:

Authorisation is given to increase the Fixed Penalty Notice Charge for Littering from £65 to £150. with a reduction to £100 if paid within 7 days.

1 Background

1.1 Section 88 of the Environmental Protection Act 1990 allows Councils to set the level of Fixed Penalty Notices (FPN) for littering. Currently the FPN is set at £65 in Gedling and has been unchanged since 2019. In 2023, the Government increased the maximum fines for littering from £150 to £500.

- 1.2 In order to deter potential offenders, Officers believe that this level of FPN should be increased from £65 to £150 as a minimum with a view to reducing the amount of litter across the Borough. At its current state, £65 is relatively low in comparison to other authorities in England. It is recognised that an increase to £150 represents an increase in excess of 100%. However, It is officers view that anything less than £150 as an initial fine would not represent a sufficient deterrent.
- 1.3 The PSPO for dog fouling took effect on 20th October 2020. On 7th September 2023, Cabinet approved an extension of a further three years to the current order taking effect on 20 October 2023. This PSPO was made under the Antisocial Behaviour, Crime and Policing Act 2014.
- 1.4 The Fine for breaching the PSPO is currently £100 which is the maximum the legislation will allow us to charge.
- 1.5 Despite the dog fouling fine being capped at £100, fines for littering offences can be higher. As a result, it's the officers view that a higher fine (£150) would act as more of a deterrent, and the opportunity to reduce the fine by paying earlier will increase the rate of payment and therefore lower the number of prosecutions the Councils legal department will be required to take on. It is recognised this would cause some inconsistency between dog fouling and littering fines, but officers believe the benefits outweigh the negatives.
- 1.6 The Council is seeking the services of environmental enforcement agents. These agents will rely on the revenue from the fixed penalty notices as income and provide the Council with a minimum of a 5% share.

2 Proposal

- 2.1 It is proposed that the Portfolio Holder authorises the increase of the Fixed Penalty Notice Charge for Littering from £65.00 to a minimum of £150, with the option to reduce the charge to £100 if paid within 7 days.

3 Alternative Options

- 3.1 To not increase the charge, Keeping the charge at £65 would not act as a sufficient deterrent to littering, and it would also not be financially viable for environmental enforcement agents to work with the Council at this level of fine.

- 3.2 Increasing the FPN for litter to a higher figure than £150, for example £200 or £250. The Council could charge as much as £500 for a littering offence. For example, as of April 2025, Broxtowe Borough Councils fine for littering is now £500, reducing to £100 if paid early. Broxtowe have also employed the services of Environmental Agents as of April 2025. See Appendix A for a breakdown of 3 other similar local authorities Fixed Penalty Notice rates.

This would in theory generate more revenue for the environmental agents and thus generate more income for the Council to put back into tackling littering. However, it is felt, at this time, that this level of financial penalty is disproportionate to the offence, it is also possible that setting the level too high will lead to a higher rate of non-payment and therefore a larger burden on the Councils legal department to prosecute.

It is therefore felt the level of £150 with a reduction to £100 if paid within 7 days is reasonable and proportionate.

- 3.3 Removing or changing the rate of payment reduction if paid within 7 days. It is not required to offer a reduction in the FPN if paid within 7 days, and this reduction could be removed, reduced or increased. For example, the reduced fee could be £75 or £125.

Officer's view is that a reduction in fee if paid within 7 days will increase the number of FPNs that are paid as it acts as an appropriate incentive. A fee of £100 should be the minimum fine amount available to pay.

4 Financial Implications

- 4.1 There will be an additional income to the council. However, it is not possible to predict how many FPNs will be issued and therefore how much income will be received at this time.
- 4.2 The Environmental agents will rely on the revenue from the fixed penalty notices as income and provide the Council with a minimum of a 5% share. Therefore, setting the FPN level at a more reasonable and proportionate amount of £150 helps ensure that the Environmental Enforcement Agents Contract is economically attractive and viable for a contractor to take on as they don't charge a fee to the Council. It also ensures that Council benefits from the percentage share income.
- 4.3 It has not yet been determined where this income will be directed, however it will be used to bolster existing public services regarding street cleaning and litter removal.

5 Legal Implications

- 5.1 The Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023 commenced on 31 July 2023 and amended both the Environmental Protection Act 1990 and the Environmental Offences (Fixed Penalties) (England) Regulations 2017, in respect of the maximum level of fixed penalties that Councils can issue for fly tipping and littering offences respectively.
- 5.2 Section 2 of the Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023 amends Regulation 5 of the Environmental Offences (Fixed Penalties) (England) Regulations 2017, firstly in setting the amount of a fixed penalty for littering offences at a minimum of £65 and a maximum of £500.
- 5.3 Section 88(b)(i) of the Environmental Protection Act sets the standard rate if none is specified, this is currently set at £100, so this increase would be higher than the legislative recommendation, however it is line with other authorities and officers are of the view that this level of fine will act as a necessary deterrent.
- 5.4 This increase could result in a higher number of Fixed Penalty Notices not being paid and resulting in summary of proceedings through the Magistrates Court, which could result in additional pressure on the Council's Legal Services team. It is hoped that the offer of reduced FPN's if paid within a certain time frame would help to mitigate this.
- 5.5 Section 88(7) Environmental Protection Act 1990 allows for the Council to make provision for treating a fixed penalty notice for littering as having been paid if a lesser amount is paid before the end of a period specified by the authority

6 Equalities Implications

- 6.1 Higher fines could affect individuals in lower income brackets, as the loss of the maximum proposed value of £150 to their income would represent a higher proportion of their income than those in higher income brackets To mitigate this, depending on the successful tender applicant, they offer payment plans and can use their discretion to increase time scales for payment.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 Increased fines for littering will in theory lead to a reduction in littering across the borough.

8 Appendices

- 8.1 Appendix A

Authority	Maximum Litter FPN	Early Payment
Proposed Gedling Borough Council	£150	£100
Broxtowe Borough Council	£500	£100
Rushcliffe Borough Council	£150	£80
Newark and Sherwood	£150	£75

9 Background Papers

9.1 There are no Background Papers

10 Reasons for Recommendations

10.1 To ensure that Gedling Borough Councils enforcement penalties are in line with other authorities and are acting as a sufficient deterrent to those who may commit environmental crime such as littering.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer

