



<b>Decision Ref. No:</b>			
<b>Service Area:</b>	<b>Housing and Communities</b>	<b>Date:</b>	<b>24/4/24</b>
<b>Contact Name:</b>	<b>Sophie Sajic</b>		
<b>E-mail:</b>	<b>Sophie.sajic@bcpcouncil.gov.uk</b>		
<b>Subject:</b>	<b>Fine increase for environmental enforcement</b>		
<b>Decision taken:</b>  To increase the amount of fixed penalty notices in relation to prescribed envirocrime offences as covered by the Government’s 2023 statutory instrument, as follows: <ul style="list-style-type: none"><li>• Littering: £100 if paid within 14 days, £200 if paid within 28 days</li><li>• Fly-tipping: £500 if paid within 14 days, £1000 if paid within 28 days</li><li>• Household duty of care: £300 if paid within 14 days, £600 if paid with 28 days</li></ul>			
<b>Reasons for the decision:</b>  In July 2023, central government lay a statutory instrument to allow local authorities to increase the fine amount for certain offences, to act as a greater deterrent and penalty for such crimes.  Littering and flytipping are visible offences that have a large environmental and social impact and as such, effective enforcement should be utilised alongside education and communications tools.  Increasing fine amounts will further deter the offences.			
<b>Background:</b>  In May 2021, BCP Cabinet approved a flytipping and flyposting enforcement pilot. This pilot was extended to include littering and waste duty of care following a further decision made by Cabinet on 23 November 2022.  BCP Council are under contract with WISE Ltd who were successful for the tender of the enforcement service. Currently WISE enforce a range of environmental issues, utilising fixed penalty notices for offences. A Fixed penalty can be issued if the evidence supports enforcement action. A fixed penalty is issued in lieu of progressing enforcement action for the offence. The current fixed penalty notices are set at:			

- Littering: £75 if paid within 14 days, £150 if paid within 28 days
- Fly-tipping: £200 if paid within 14 days, £400 if paid within 28 days
- Fly-posting: £75 if paid within 14 days, £150 if paid within 28 days
- Household duty of care: £200 if paid within 14 days, £400 if paid with 28 days
- Failing to provide Waste Transfer Notes: £180 if paid within 14 days, £300 if paid within 28 days
- Commercial Waste Receptacles: £75 if paid within 14 days, £110 if paid within 28 days

If the Fixed Penalty is not paid then the offence can be prosecuted through the Court by BCP Council for the relevant offence.

Leaving litter is an offence under s87 of the Environmental Protection Act 1990; the unauthorised deposit of waste ("fly-tipping") is an offence under S33 of the Environmental Protection Act 1990 and failure to comply with the household waste duty of care is an offence under section 34 of the Environmental Protection Act 1990.

Enforcement action for Fly-Posting is covered by S.224(3) of the Town and Country Planning Act 1990 which makes it an offence for any person to display an advertisement in contravention of the Regulations. The relevant regulations are the Town and Country Planning (Control of Advertisements) Regulations 1992 (the Advertisements Regulations) or action can be taken pursuant to Section 132(2) of the Highways Act 1980 makes provision for the highway authority to remove any picture, letter, sign or other mark painted, ascribed or affixed on the surface of the highway, or any structure or works on or in the highway.

Since May 2021, WISE have issued the following fixed penalties notices and enforcement notices for environmental offences:

Offence	May 2021-31/3/2022	1/4/2022-31/3/2023	1/4/2023-31/1/2024
Littering	Littering not part of contract until November 2022	11/2022-31/3/2023 only: 471	1891
Flytipping	314	235	36
Waste Duty of Care	199	407	64
Flyposting	8	18	4

Littering enforcement did not commence until November 2022, when the contract was varied to include littering enforcement within the scope of the service. Litter

enforcement fines are undertaken over a 7 day a week period and have been issued at all times of the day, including late evenings.

Flytipping and waste duty of care offences have reduced since the commencement of the contract. There has been an ongoing education and communications piece alongside the enforcement and the community awareness of the negative impact of flytipping has increased as well as the awareness of robust enforcement. There has also been a reduction of evidence present when investigating flytipping, likely due to the awareness of pro-active enforcement. Additional investigation methods have been developed to support ongoing enforcement, for example use of CCTV footage.

WISE Ltd take a three stage approach to enforcement of issues such as waste duty of care. The contractor will work to engage and educate residents, with enforcement as a final approach if the impact is significant or wider engagement methods have not been successful. For offences such as littering, WISE Ltd offer education through the social value element of the business including education to schools. The social value department also reinvest into the local community with donations to local foodbanks and charities.

On 31<sup>st</sup> July 2023 the statutory instrument , ([The Environmental Offences \(Fixed Penalties\) \(Amendment\) \(England\) Regulations 2023 \(legislation.gov.uk\)](#) commenced which increased the upper limits for various fixed penalty notices (FPNs). This means:

- The maximum amount those caught fly-tipping could be fined will increase from £400 to £1,000
- The maximum amount those who litter or graffiti could be fined will increase from £150 to £500
- The maximum amount those who breach their household waste duty of care could be fined will increase from £400 to £600

Following discussion with the contractor as well as wider local authorities, many areas are looking to increase fines as a method of deterrent for offences. [Coverage of new higher fines for litter, graffiti and fly-tipping - Defra in the media \(blog.gov.uk\)](#) BCP Council are also looking to increase a number of enviro-crime fines in line with government guidance and alongside wider local authorities. Offences such as littering and flytipping are criminal offences that cause damage to our environments, as well as costly to the local authority to clear.

Fines are issued following an offence, with an early payment discount also offered, as per the statutory instruments. This discounted amount is set by the local authority, however, proposals have been benchmarked with wider local authorities. The new proposed fines, in line with the revised statutory instruments are as follows:

Offence	Current fine amount	Current discounted amount	New fine amount	New discount amount
Flytipping	400	200	1000	500
Littering	150	75	200	100
Duty of Care	400	200	600	300
Flyposting	150	75	n/a	n/a
Commercial	110	75	n/a	n/a
Waste Transfer	300	180	n/a	n/a

Where fines have not increased, this is because there is no change to the fine amounts within the statutory instrument.

#### **Consultations undertaken:**

##### **Consultation:**

- No public consultation has been undertaken as this is a central government statutory instrument.
- The Portfolio Holder for Housing and Regulation has been consulted and is supportive of the increases listed.
- Consultation has been undertaken with WISE Ltd, the contractor and they are supportive of the values listed and discounted amounts.

#### **Finance and Resourcing Implications:**

- BCP Council retain 17.5% income generated from WISE Ltd through collected fixed penalty notice fines.
- Expected income from the contract of £30,000 has been added to the MTFP for 24/25.

**Name:** Adam Richens

**Date:** 9 May 2024

**Signature (of Chief Finance Officer):**



#### **Legal Implications:**

The Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023 came into force on 31<sup>st</sup> July 2023. These Regulations enable Local Authorities to increase Fixed Penalty Fines for the offences referred to above. The increases are set out in the table above. This is a statutory power that enables the fine levels to be increased up to the levels set out above

**Name:** Janie Berry

**Date:** 8 May 2024

**Signature (of Monitoring Officer):**

*Janie Berry*

**Risk Assessment:**

- A risk assessment has been undertaken. When setting fine values, it is important to consider payment rates and current socio-economic climate. Proposed fines are at a level that offer suitable deterrence from offence but are set at reasonable levels for the offences.
- No risks are attached to this decision

**Name: Sophie Sajic**

**Date: 4/3/2024**

**Signature (of Officer Completing Assessment):**



**Impact Assessments:**

- A screening tool has been undertaken and there is no perceived impact on equality and diversity.

**Information for publication / not for publication**

- For publication

**Background Papers**

- [The Environmental Offences \(Fixed Penalties\) \(Amendment\) \(England\) Regulations 2023 \(legislation.gov.uk\)](https://legislation.gov.uk)
- [Report on pilot of Waste Investigations Support and Enforcement WISE 25052022 Cabinet.pdf \(bcpcouncil.gov.uk\)](https://bcpcouncil.gov.uk)
- [Public Pack\) Agenda Document for Cabinet, 26/05/2021 10:00 \(bcpcouncil.gov.uk\)](https://bcpcouncil.gov.uk)

Any declaration of interest by the Officer responsible for the decision

Nature of Interest

Yes/No\*

**Note:** No Officer having an personal financial interest in any matter should take a decision on that matter. Other interests of a non-disqualifying matter should be recorded here.

Any conflict of interest declared by a Cabinet Member who is consulted by the Officer taking the decision

Name of Cabinet Member

Nature of interest

Details of any dispensation granted by the Monitoring Officer

Yes/No\*

**Decision taken by: (print name and designation)**

**Signature:** 

**Date of Decision: 09/05/2024**

**Date Decision Effective: 9/5/2024**

**Date of Publication of record of decision: (to be inserted by Democratic Services)**

**Note: A record of this decision should be kept by the Service Area within which the decision falls.**