

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FIXED PENALTY NOTICES

Submitted by: Head of Environmental Health Services

Portfolio: Environment and Recycling

Ward(s) affected: All

Purpose of the Report

To advise the Committee of action taken in respect of Littering offences within the borough and to seek authorisation to institute legal proceedings against the Fixed Penalty Notice holders listed in the attached appendix.

Recommendations

That legal proceedings be instituted in the relation to the cases detailed in the attached appendix.

Reasons

The Government has amended and extended the powers available to local authorities through the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005), to tackle environmental crime. It contains new statutory provisions for Fixed Penalty Notices (Fines), and Litter.

1. Background

- 1.1 Officers of the Council are continually conducting litter patrols through the town centre and Borough of Newcastle-under-Lyme. The aim of the patrols being to identify any person who is throwing, dropping or depositing litter in the street or public area. It is an offence under the Environmental Protection Act 1990 to discard litter (including smoking materials or chewing gum) in this manner, however to avoid a conviction in the courts offenders are given the opportunity to discharge their liability by payment of a fixed penalty.
- 1.2 The individuals below were issued with such a penalty during September and October 2012 but have failed to make any payment to the Council. All the alleged offenders have been written to regarding the outstanding non payments, with little or no response.
- 1.3 In order to conclude these cases in a satisfactory manner authority is sought to institute legal proceedings.

2. Issues

- 2.1 Consistent enforcement is needed to challenge people who choose to ignore the law and the Department for Environment, Food and Rural Affairs (DEFRA) guidance states clearly that "pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success".

3. Policy Considerations

There are none arising from this report.

4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

4.1 Creating a cleaner, safer and sustainable Borough.

- Streets and open spaces are clean and the community have pride in the borough and take responsibility for seeing that it is clean and pleasant by reducing waste.
- The community is not put at risk from pollution or environmental hazards.

5. **Legal and Statutory Implications**

5.1 The Environmental Protection Act 1990 and CNEA 2005 place duties on the Council and provide powers.

6. **Equality Impact Assessment**

There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

7.1 The Council seek to recover costs during any court proceedings.

8. **Major Risks**

8.1 **Non payment**

The non-payment of fines needs to be considered seriously. If a non-payment culture were allowed to develop the Council would be in disrepute with the residents and members, undermining confidence in a service which aims to improve the quality of the environment.

9. **Human Rights Implications**

Article 6(i) guarantees an applicant a fair hearing.
Article 14 guarantees no discrimination