



WEST OXFORDSHIRE
DISTRICT COUNCIL

WEST OXFORDSHIRE DISTRICT COUNCIL

Name and Date of Committee	EXECUTIVE – 15 NOVEMBER 2023
Subject	FIXED PENALTY NOTICE LEVEL INCREASES FOR FLY TIPPING AND WASTE CRIME OFFENCES.
Wards Affected	ALL
Accountable Member	Councillor Lidia Arciszewska – Executive Member for the Environment. Email: lidia.arciszewska@westoxon.gov.uk
Accountable Officer	Jon Dearing – Assistant Director, Resident Services. Email: jon.dearing@publicagroup.uk
Report Author	Philip Measures – Service Leader, ERS. Email: philip.measures@publicagroup.uk
Purpose	To set out the new maximum level fines proposed by the Government, to deter and punish the offences of littering, fly-tipping, householder duty of care, flyposting & the distribution of free printed matter, and to seek approval to introduce these new fine levels.
Annexes	Nil.
Recommendation(s)	That the Executive Resolves to: <ol style="list-style-type: none">1. Note the content of the report;2. Recommend to Council to agree to an increase in the fine levels to the maximum levels permissible, as outlined in Table 1;3. Recommend to Council to agree an early payment discount as outlined in Table 1;4. Delegate authority to the Chief Executive to increase levels of fines, subject to the resolutions of Council on 29 November 2023.
Corporate Priorities	A Better Environment for People and Wildlife
Key Decision	NO
Exempt	NO
Consultees/	Interim Head of Legal Services, Director of Governance, Chief Executive,

Consultation	Director of Finance, Executive Portfolio Holder, Assistant Director – Resident Services, Executive Finance Director (Publica)
--------------	---

1. BACKGROUND

- 1.1** West Oxfordshire, as a rural area suffers from the criminal behaviour of fly-tippers and people who litter or fly-post. To be successful in finding and punishing those responsible we have to investigate to find evidence linking a suspected offender to the waste and we include the help of the public to provide us with further evidence, whether that's witness accounts, CCTV/video footage or pictures. Often those identified from the physical evidence within the fly-tip are not always the actual fly-tippers, but they may still be guilty of a failure of a Duty of Care for having passed waste to an unlicensed person. We therefore aim to make it wider public knowledge that it is everyone's responsibility to mitigate the transfer of waste to unlicensed handlers and failure to do so is an offence. We are increasing our use of surveillance at identified fly-tip hotspots throughout the district in order to catch those responsible. Many fly-tip offences are dealt with by Fixed Penalty Notice, so the cost of fines issued is critical in deterring people from committing these offences.
- 1.2** The Government has laid a statutory instrument increasing the upper limits for various fixed penalty notices (FPNs). This means that in West Oxfordshire, 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.

2. Legislative Amendments

- 2.1** Under The Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023, section 33ZA(9)(a) of the Environmental Protection Act 1990 is amended such that the maximum fine for fly-tipping is increased from £400 to £1000. In section 34ZA(8), the maximum fine for household waste duty of care offences is increased from £400 to £600.
- 2.2** Under The Environmental Offences (Fixed Penalties) (Amendment) (England) Regulations 2023, The Environmental Offences (Fixed Penalties) (England) Regulations 2017(1) are amended as follows.
- 2.2.1** For regulation 5 the amount of a fixed penalty capable of being specified by the Council for the offences of littering and graffiti is now increased to not less than £65 and not more than £500, as the principal litter authority under section 88(6A)(a) of the Environmental Protection Act 1990 and the relevant local authority under section 43A(1)(a) of the Anti-social Behaviour Act 2003.
- 2.2.2** For the distribution of free printed matter on land designated by the Council, the amount of a fixed penalty capable of being specified by a principal litter authority under paragraph 7(4)(a) of Schedule 3A to the Environmental Protection Act 1990 is now not less than £65 and not more than £150. Currently there is no such designation within the District of West Oxfordshire.
- 2.3** The Council has the option of lowering the fines to encourage early payment. Officers from Oxfordshire Districts have discussed this issue, but there is no proposed agreed rate between

the Councils. 50% discounts are recommended, but the Council could consider alternative options such as a lower discount of 25% across all offences or to offer no discount at all.

2.4 The proposals for the revised fine levels are set out in the report recommendations and TABLE I below.

Offence	Existing Fine	Fine with Discount for early payment	New fine (Payment in 28 days)	Fine with proposed % discount (Payment within 14 days)
Fly-tipping	£400	£200*	£1,000	£500
Duty of Care	£400	£200*	£600	£300
Littering and graffiti	£80	£60 **	£500	£250
Distribution of printed matter	£80	£60**	£150	£75

* Payment within 10 days

**Payment within 14 days

3. ALTERNATIVE OPTIONS

3.1 To remove the early payment discount. This is not recommended in order to encourage and provide an incentive for early payment.

3.2 To offer a discount of 25% for all early payments.

3.3 To consider different fine levels than those proposed. This is highlighted should Members have different views on the fine levels recommended.

4. FINANCIAL IMPLICATIONS

4.1 Increasing the fine levels is intended to discourage potential offenders and support the costs of dealing with illegal waste disposal. Within between 10 to 15 FPNS served in a year the fines received will be between £8,000 and £15,000.

5. LEGAL IMPLICATIONS

5.1 The legislation outlined in Section 2 defines the fine level range that Councils can set. Councils cannot set fine levels outside the ranges specified.

6. RISK ASSESSMENT

6.1 The risk in increasing the fine level is that offenders will not be prepared to pay the fine, or they will be unable to afford the fine. This will increase the number of cases being referred to Court for prosecution. This is mitigated by having an early payment discount. It is also hoped that this risk is mitigated by the deterrent effect of promoting higher fines for these offences.

7. EQUALITIES IMPACT

7.1 Under equality legislation, the Council has a legal duty to pay 'due regard' to the need to eliminate discrimination and promote equality in relation to:

- Race
- Disability
- Gender, including gender reassignment.
- Age
- Sexual Orientation
- Pregnancy and maternity
- Religion or belief

7.2 The recommendations of this report has no particular impact on any of the above groups. It does not introduce a new service or policy requiring an accompanying EIA.

8. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS

8.1 None

9. BACKGROUND PAPERS

9.1 None

(END)