



Councils working together

**Dorset Waste Partnership Joint Committee**

Date of Meeting	11 June 2018
Officer	Gemma Clinton, Head of Service (Strategy)
<b>Subject of Report</b>	<b>Updated Enforcement Fixed Penalty Notices</b>
Executive Summary	<p>On 1<sup>st</sup> April 2018 the Government introduced the Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018. These regulations allow a civil penalty notice to be issued to the keeper of the vehicle from which litter is thrown. It is recommended that the DWP adopt a civil penalty charge of £100, reduced to £75 if paid within 14 days.</p> <p>The Environmental Offences (Fixed Penalties) (England) Regulation 2017 came into force on 1<sup>st</sup> April 2018. This allows local authorities to charge a range of £50 - £150 for littering offences under s 87 / 88 of the Environmental Protection Act 1990. It is recommended the DWP adopt the default charge of £100, reduced to £75 if paid within 7 days.</p>
Impact Assessment:	Equalities Impact Assessment: Yes – as presented at Joint Committee on 6 <sup>th</sup> November 2017.
	<p>Use of Evidence:</p> <p>Various pieces of environmental legislation - (Environment Protection Act 1990, Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018, Environmental Offences (Fixed Penalties) (England) Regulations 2017)</p>
	Budget: N/A

## Updated Enforcement Fixed Penalty Notices

	<p>Risk Assessment: N/A</p>
	<p>Outcomes:</p> <p>To enable littering from vehicles to be enforced where appropriate.</p> <p>To ensure current levels of fixed penalty notices are following national best practice and guidelines</p>
	<p>Other Implications: None</p>
Recommendation	<p>That the Joint Committee:</p> <ol style="list-style-type: none"> <li>1. adopt a civil penalty charge for litter thrown from a moving vehicle of £100, reduced to £75 if paid within 14 days</li> <li>2. revise the fixed penalty notice for littering to £100, reduced to £75 if paid within 7 days</li> <li>3. revise the discounted payment for failure to produce a waste carriers licence or failure to produce Duty of Care documentation to £180.</li> </ol>
Reason for Recommendation	<p>To enable littering from vehicles to be enforced where appropriate.</p> <p>To ensure current levels of fixed penalty notices are following national best practice and guidelines.</p>
Appendices	<p>None</p>
Background Papers	<p>DWP Joint Committee paper 6<sup>th</sup> November 2017 – Review of Enforcement Policy, Procedures and Guidelines</p>
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## Updated Enforcement Fixed Penalty Notices

### 1. Background

- 1.1 The Enforcement team now has 4 full time staff and the results over the last 6 months are showing the impact of this. Table one illustrates the number of enforcement actions taken across the range of offences covered:

Table one: Number of enforcement actions taken:

Enforcement actions	April 17 – Sept 17	Oct 17 – March 18
Verbal warnings	0	3
Written warnings	68	86
FPN's	0	14
Prosecutions	0	3
Total enforcement actions	68	106

- 1.2 The team have also launched the anti-flytipping campaign 'tip off' across the county. This has been well received and has included a series of roadshows, information flyers and leaflets, radio advertising and social media campaigning.
- 1.3 Table two details the offences where FPN's can be issued by the DWP, and the current charges levied.

Table 2: Offences we currently issue FPN's for

Offence	Legislation	Maximum fixed penalty	Default fixed penalty	Current DWP Fixed penalty	Current DWP discount (7Days) fixed penalty
Depositing litter	S87 / 88 Environmental Protection Act 1990	£80	£75	£75	£50
Abandoning a vehicle	S2A (1) Refuse Disposal Amenity Act 1978	£200	£200	£200	£150
The unauthorised depositing of waste (flytipping)	S33 Environmental Protection Act 1990	£400	£200	£400	£200
Failure to comply with a waste receptacle notice (Domestic)	S46 Environmental Protection Act 1990	£80	£60	£75	£50

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Offence	Legislation	Maximum fixed penalty	Default fixed penalty	Current DWP Fixed penalty	Current DWP discount (7Days) fixed penalty
Failure to comply with a waste receptacle notice (Commercial)	S47 / 47ZA / 47ZB Environmental Protection Act 1990	£110	£100	£100	£75
Failure to produce Waste Transfer Notes	S34A (2) Environmental Protection Act 1990	£300	£300	£300	£150
Failure to produce Waste Carriers License	S5 / 5B (2) Control of Pollution Act (Amendment) 1989	£300	£300	£300	£150
Failure to comply with a Community Protection Notice	S52 Anti – social Behaviour and Policing Act 2014	£100	£100	£100	£75

### 2. Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018

2.1 On 1<sup>st</sup> April 2018 the Government introduced the Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018. These regulations allow a civil penalty notice to be issued to the keeper of the vehicle from which litter is thrown. This removes the need to identify precisely who threw the litter before taking enforcement action.

2.2 A civil penalty is a civil fine which, unlike a criminal penalty, does not carry the risk of a criminal prosecution. The civil penalty charge can be levied between £50 - £150, with a default level set at £100. It is recommended that the DWP adopt a civil penalty charge of £100, reduced to £75 if paid within 14 days as this is at a proportionate level compared to other fixed penalty notices that the DWP currently issue. If the civil penalty is not paid within the 28-day payment period given, then the fine level liable will double. Any income from these civil penalties can only be used for functions relating to litter and refuse, graffiti and flyposting, and controlling and enforcing against the unauthorised distribution of free literature.

2.3 In order to issue a civil penalty notice for littering from a moving vehicle, evidence will need to be gathered, this will include:

- The circumstances alleged to constitute the littering offence, including the registration mark (if known) of the vehicle concerned.
- The make of vehicle, model and colour
- The opening from which the litter was thrown (e.g. driver's side window)

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- 2.4 If there is sufficient evidence and either a S9 witness statement or a report from a council employee, then the DVLA WEE system will be accessed to obtain details of the registered keeper of the vehicle. The civil penalty notice will be issued to the registered keeper of the vehicle unless it can be proven that the vehicle was 'kept' by someone else at that time.
- 2.5 However, if it can be proved which specific individual was responsible for littering from a vehicle, then the criminal proceedings will be followed under the Environment Protection Act 1990 (EPA 1990) section 87.
- 2.6 The information regarding these changes has been added to the Enforcement Procedures and Guidelines.

### 3. Changes to current Fixed Penalty Notices

- 3.1 The Environmental Offences (Fixed Penalties) (England) Regulation 2017 came into force on 1<sup>st</sup> April 2018. This allows local authorities to charge a range of £50 - £150 for littering offences under s 87 / 88 of the Environmental Protection Act 1990, with a default penalty now being £100. Currently the DWP has a fixed penalty of £75 for littering.
- 3.2 It is proposed that the amount is revised to £100, reduced to £75 if paid with 7 days, to fit with the revised default amount for the offence. It is also necessary for the civil penalty charge for litter from moving vehicles to be at the same level as the criminal fixed penalty charge for littering, this level of fine would ensure this happens.
- 3.3 The DWP also issue fixed penalty notices for failure to produce a waste carriers licence and failure to produce waste transfer notes. These are set at £300, with a discount to £150 if paid within 7 days. The reduced amount does not fit with government guidelines and it is therefore recommended to amend this to £180 if paid within the 7-day discount period.

**Karyn Punchard**

**Director, DWP**

June 2018