

Report for: Cabinet

Date of Meeting:	6 March 2024
Subject:	Environment and Education Policy Review
Cabinet Member:	Cllr Josh Wright, Cabinet Member for Environment and Services
Responsible Officer:	Luke Howard, Environment and Enforcement Manager
Exempt:	N/A
Wards Affected:	All
Enclosures:	Appendix A- Stray Dog Policy Appendix B- Littering from Vehicles Policy Appendix C- Compulsory Recycling Policy Appendix D- Fly Tipping Policy Appendix E- Abandoned Vehicles Policy Appendix F- Littering Policy

Section 1 – Summary and Recommendation(s)

This report reviews current policies and recommends amendments as highlighted to the littering policy

Recommendation(s):

- (a) Litter Policy to be implemented to reflect Defra guidance on Proportionate, Effective, Targeted, Transparent and Consistent approach to littering offences (Appendix F)**
- (b) Amend the Fixed Penalty Notice (FPN) for littering to include a 50% discount for a period of 14 days from the date of the offence**
- (c) Review and approve wording simplification:
 - 1. Stray Dog Policy (Appendix A)**
 - 2. Littering from Vehicles (Appendix B)**
 - 3. Compulsory Recycling (Appendix C)**
 - 4. Fly Tipping minor wording amendment regarding FPN value (Appendix D)- Note Only- Agreed at Cabinet on 12 December 2023.****
- (d) Approve Abandoned Vehicle policy wording changes (Appendix E)**

Section 2 – Report

1.0 Introduction/Background

- 1.1 The Street Scene Environment and Enforcement Team, together with Legal Services, have undertaken an internal review of its current policies in line with existing Government legislation so that they are up to date and fit for purpose.
- 1.2 The current fixed penalty rate for the offence of littering within Mid Devon is set at £150, with no discount included. The admission of a discounted period raises questions regarding socio-economic barriers by way of the ability to pay.

2.0 Proposed amendment to the Littering Policy (Appendix F)

- 2.1 A clearer definition around the legality of littering and the environmental impact this offence has, is required. Public understanding of the detrimental impact of littering is crucial in order to change behaviours. This includes highlighting the impact of small scale littering such as dropping of crisp packets or cigarette ends, which is often disregarded as incidental by many.
- 2.2 Inclusion of Defra guidance in relation to how Mid Devon District Council apply the legislative functions of littering is made clear. An explanation regarding the proportionate approach of the authority and guidance on how to dispose of litter provides educational and preventative measures.
- 2.3 Amending the current Fixed Penalty Notice (FPN) charge would enable the authority to remove any socio-economic issues, which could currently occur. It could be seen that those of lesser financial standing or means, may be forced under the current policy into being prosecuted by a court of law due to their inability to discharge liability with the current cost of the FPN. Inclusion of a 50% discounted rate for a period of 14 days enables the authority to show proportionate measures in respect of littering. Discounted periods have shown to increase the percentage of payments against such fines. This can be seen within MDDC via the penalty charge notices issued within car parks. With a larger percentage of payments being made, there are less financial implications on the authority. The cost and time implications of preparing court documents, court fees and legal costs in bringing a prosecution can be reduced significantly. A discounted period is recommended by Defra and is in keeping with many authorities locally and nationally. The issue of proportionality also needs to be considered in relation to this. Offering a 50% discounted 14-day period, highlights the offence, but offers the offender a more proportionate rate to discharge their liability.

3.0 Fly Tipping (Appendix D)

- 3.1 The Fly Tipping policy has a minor amendment regarding the Fixed Penalty Notice value in respect of sliding scale, which is proposed to be delegated to the Environment and Enforcement Manager to determine. This was agreed at Cabinet 12 December 2023 and is for note only.

4.0 Littering From Vehicles (Appendix B)

4.1 The Littering from Vehicles policy has wording simplification improvements.

5.0 Compulsory Recycling (Appendix C)

5.1 The Compulsory Recycling policy has wording simplification improvements.

6.0 Stray Dog (Appendix A)

6.1 The Stray Dog policy has wording simplification improvements.

7.0 Abandoned Vehicles (Appendix E)

7.1 The Abandoned Vehicles Policy has minor word amendments to enable the policy to be more descriptive in approach. Legislative elements remain unchanged.

8.0 Recommendation

For members to agree recommendations (a) to (d)

Financial Implications

Recovery rate for Fixed Penalty Notices regarding littering is likely to increase with the introduction of a 50% discounted period.

Legal Implications

The Authority has a statutory duty to enforce environmental offences under the Environmental Protection Act 1990, Road Traffic Regulation Act 1984, Refuse Disposal Amenity Act 1978, Littering from Vehicles Outside of London Regulations 2018 and Anti-Social Behaviour, Crime and Policing Act 2014. If legalisation changes and MDDC policies are not updated this may leave the Council at risk of not being able to enforce infringements which could result in reputational damage for not taking the appropriate action against offenders.

Risk Assessment

Proposed amendments would see Mid Devon District Council operating in parity to other district authorities in Devon and Cornwall. The introduction of a 50% discount is in line with most enforcement authorities in England and removes the current exclusions to those who are of lesser means to pay.

Impact on Climate Change

The amendments are focussed on updating policy to provide a better understanding of the service approach to environmental crime. This should provide a positive impact of climate and awareness of such issues.

Equalities Impact Assessment

The current Littering FPN cost provides those of more affluent means the ability to discharge liability for offences, however, those of restricted or lower incomes, could be forced into prosecution due to there not being a discounted rate.

Relationship to Corporate Plan

The amendments are focused on improving the service's approach and transparency to members of the public. A direct result of these changes should realise a positive impact on environmental issues and education in respect of environmental crime.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 12 Jan 2024

Statutory Officer: Philip Langdon

Agreed on behalf of the Monitoring Officer

Date: 15 Jan 2024

Chief Officer: Richard Marsh

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 12 Jan 2024

Performance and risk: Stephen Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 15 Jan 2024

Cabinet member notified: yes

Section 4 - Contact Details and Background Papers

Contact: Luke Howard, Environment and Enforcement Manager

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Background papers: