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EXECUTIVE DECISION RECORD

A1 Service Area	Regulatory Services
A2 Title	To approve fixing the penalty charge for the Unauthorised Deposit of Waste (Fixed Penalty Notices)
A3 Decision Taken By	Leader/ Deputy Leader/ Chief Officer
A4 Chief Officer	Please print name: Paul Costiff Please sign name: [Redacted]
A5 Leader / Deputy Leader	Please print name: JACQUELINE M JONES Please [Redacted]
A6 Date of Decision	[12/1/11]

Confidentiality

A7 Is this Decision confidential by containing exempt information as described in Schedule 12A of the Local Government Act 1972?	No
A7.1 If yes, please state relevant paragraph from Schedule 12A LGA 1972.	Paragraph []

Scrutiny

A8 Which Scrutiny Committee should this decision be submitted to?	(Please tick as appropriate) ✓
Scrutiny (Promoting Local Economic Growth) Committee	<input type="checkbox"/>
Scrutiny (Value for Money Council Services) Committee	<input type="checkbox"/>
Scrutiny (Protecting and Strengthening Communities) Committee	<input checked="" type="checkbox"/>
Scrutiny (East Staffordshire Health) Committee	<input type="checkbox"/>


B1 What is the Decision?	To approve fixing the penalty charge for the Unauthorised Deposit of Waste (Fixed Penalty Notices) at £400 reduced to £250 if paid within 10 days.
B2 What are the reasons for the Decision?	From 9 May 2016, a waste collection authority in England are allowed to issue a fixed penalty notice for fly tipping, a contravention of the Environmental Protection Act 1990. This provides local authorities with a more efficient and proportionate response to small scale fly tipping of waste. The new provisions provide for a fine of not less than £150 and not more than £400 as specified by the waste collection authority, and £200 if no amount is specified by the authority.
B3 What are the contributions to Corporate Priorities?	Protecting and Strengthening the Communities
B4 What are the Human Rights considerations?	There are no Human Rights issues arising from this decision.

Financial Implications

B5 What are the financial implications?	Whilst the new provisions may have a positive financial effect, this is difficult to quantify with any certainty at present and therefore it is not considered that a budget be set at this stage.
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Revenue	2016/17	2017/18	2018/19

Capital	2016/17	2017/18	2018/19

The finance section has been approved by the following member of the Financial Management Unit:	Please print name: Lisa Turner Please sign 
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Policy Framework

B6 Is the Decision wholly in accordance with the Council's policy framework?	Yes
B6.1 If No, does it fall within the urgency provisions (Part 3 of the Constitution)?	NA
B6.2 Has it got the appropriate approvals under those provisions?	NA
B7 Is the Decision wholly in accordance with the Council's budget?	Yes

B7.1 If No, does it fall within the urgency provisions (Part 3 of the Constitution)?	NA
B7.2 Has it got the appropriate approvals under those provisions?	NA

Equalities Implications

B8 What are the Equalities implications:
B8.1 Positive (Opportunities/Benefits): N/A
B8.2 Negative (Threats): N/A
B8.3 The subject of this decision is not a policy, strategy, function or service that is new or being revised. An equality impact assessment is not required.
B8.4 [The equality impact assessment identified the following actions to be carried out:]

Risk Assessment

B9 What are the Risk Assessment implications:
B9.1 Positive (Opportunities/Benefits): This regulation adds to the tools for addressing fly tipping offences
B9.2 Negative (Threats):
B9.3 The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

Legal Considerations

B10 What are the Legal Considerations:

B10.1 The main legal issues arising from this decision are as follows:

The Environmental Protection Act 1990 section 33 is amended by the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 with effect from 9 May 2016.

It is important that those that are identified as committing the offence of fly tipping receive a sanction that properly reflects the damage to the environment and local community, the cost to the local authority in clearing waste material and detecting the offence, and also acts as a deterrent against future offending, both for the identified offender and, if suitably publicised, for others who may be minded to fly tip.

Government has recognised these issues and introduced the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 which provide for a fine of not less than £150 and not more than £400 as specified by the waste collection authority, and £200 if no amount is specified by the authority. The regulations are intended to provide local authorities with a more appropriate tool to tackle small scale fly tipping.

Investigations into fly tipping are resource intensive and can be lengthy and complex, requiring Enforcement Officers to analyse tipped waste material and establish a chain to trace the material back to offenders. It is recommended that the Council sets the penalty charge for Unauthorised Deposit of Waste (Fixed Penalties) at £400 and offers a discount to £250 if paid within 10 days.

The new higher threshold for fixed penalty notice will provide a more proportionate and expeditious approach for the Council to deal with small scale fly tipping of waste offences and act as a deterrent for would be offenders. The scale of penalty helps to differentiate the offence from that of casual street littering and large scale fly tipping. The Council will continue to consider prosecution in respect of serious cases, and repeat offenders through the court, together with those that fail to pay a fixed penalty notice.

This section has been approved by the following member of the Legal Team:

Please print name: Angela Wakefield

Please sign name:



Sustainability Implications

B11 What are the Sustainability implications: N/A
B11.1 The proposal [would/would not] result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures). The positive/negative impacts are set out below (please refer to guidance notes).
B11.2 Positive (Opportunities/Benefits):
B11.3 Negative (Threats):

Health & Safety Implications

B12 What are the Health & Safety implications: N/A
B12.1 [A Risk Assessment has been carried out and entered into Harriet for all significant hazards and risks.] [A Risk Assessment has not been carried out and entered into Harriet for all significant hazards and risks because there are no significant hazards or risks arising from this decision.]
B12.2 [The significant hazards and risks have been identified in the Harriett Risk Assessment numbered []. Any financial implications to mitigate against these hazards and risks are considered above.]
B12.3 [Control measures and an action plan have been identified for any significant hazards and risks identified in the risk assessment. The positive/negative impacts are set out below]
B12.3.1 Positive (Benefits)
B12.3.2 Negative (Threats)

Key Decision

B13 Is this a Key Decision?	Yes/No (please delete as appropriate)
Note: A Key Executive Decision is one where:	
<ol style="list-style-type: none"> 1. REVENUE – Any contract or proposal with an annual payment or saving of more than £100,000 2. CAPITAL – Any capital project with a value in excess of £150,000 3. A decision which significantly affects communities living or working in an area comprising two or more wards. 	
B13.1 If this is a Key Decision, is this an urgent decision such that a delay caused by use of the Call-in Procedure would seriously prejudice the public interest?	NA
B13.2 If yes, has the Mayor or in his/her absence the Deputy Mayor or in his/her absence the Chair of the relevant Scrutiny Committee agreed that the decision will be exempt from Call-in?	NA

NOTE: If this decision is subject to the Call-in Procedure it will come into force, and may then be implemented, on the expiry of 3 working days after publication – unless 10 Members of the Council call in the decision.

Please send the original signed document to andrea.davies@eaststaffsbc.gov.uk