



# Council

## 26 July 2022

<b>Title</b>	<b>Referral from Environment and Climate Change Committee – Approval of Fees and Charges</b>
<b>Report of</b>	Chair of Environment and Climate Change Committee
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	Appendix 1 – Fees and Charges
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### Summary

The Environment Committee on the 8 March 2022 and the Environment and Climate Change Committee on the 9 June 2022 recommended several in-year fees and charges to Full Council for approval.

Article 7 (Financial Regulations) of the Constitution states that approval of fees and charges is a function of Full Council.

### Officers Recommendations

1. That Council approve the administration charge of £25 per dwelling, to be passed on to developers to cover the cost of implementing a cap on the number of parking permits in relation to individual developments and that this becomes part of the schedule of fees and charges as outlined in Appendix 1.
2. That Council approve the amendments to the sums for environmental crime offences Fixed Penalty Notices (FPN's) as set out in Appendix 2 of this report.
3. That Council approve the re-introduction of the early payment option for FPN's for the offences detailed in Appendix 2.

**4. That Council approve the introduction of a scaled approach to the level of FPN fine applied to S33 and S34(2) of the Environmental Protection Act 1990 fly tipping offences as at Appendix 2 of this report.**

**5. That Council approve and delegate authority to the Executive Director of Assurance to impose monetary penalties in relation to breaches of the Consumer Rights Act and The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014. That Council also agree that the Trading Standards Team should always consider imposing the maximum penalty for the breach of £5,000, subject to the circumstances of each case as set out in Appendix 3.**

## **1. Why this report is needed**

- 1.1 At its meeting on the 8 March and the 9 June 2022 the Environment and Climate Change Committee approved the recommendation of several in-year fees and charges to be referred to Full Council for final approval.
- 1.2 These fees and charges include an administration charge of £25 per dwelling to be passed on to developers to cover the cost of implementing a cap on the number of parking permits in relation to individual developments (report linked at item 6.1 refers).
- 1.3 Approval of amendments to the environmental crime offences Fixed Penalty Notices (FPN's), re-introduction of the early payment option for FPN's for offences detailed in Appendix 2 and introduction of a scaled approach to the level of FPN fines applied to S33 and S34(2) of the Environmental Protection Act 1990 fly tipping offences (report linked at item 6.2 refers).
- 1.4 Approval of monetary penalties in relation to breaches of the Consumer Rights Act and The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 (report linked at item 6.3 refers).

## **2. Reasons for recommendations**

- 2.1 As set out in the background reports linked at section 6.

## **3. Alternative options considered and not recommended**

- 3.1 As set out in the background reports linked at section 6.

## **4. Post decision implementation**

- 4.1 The fees and charges will be adopted as part of the Council's Fees and Charges schedules.

## **5. Implications of decision**

### **Corporate Priorities and Performance**

5.1 As set out in the background reports linked at section 6.

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 As set out in the background reports linked at section 6.

### **5.3 Legal and Constitutional References**

5.3.1 Council Constitution, Financial Regulations states '*Changes to fees and charges should be included in the budget proposals submitted by theme Committees or the relevant Committee to the Policy and Resources Committee. The budget recommended by Policy and Resources Committee to Full Council will incorporate the latest projection of income from fees and charges. Full Council will approve all fees and charges as part of the budget report.*'

5.3.2 The fees and charges referred to Council are in-year changes to fees and charges, which therefore need to be considered and approved by Council outside of the budget report.

### **5.4 Insight**

5.4.1 As set out in the background reports linked at section 6.

### **5.5 Social Value**

5.5.1 As set out in the background reports linked at section 6.

### **5.6 Risk Management**

5.6.1 As set out in the background reports linked at section 6.

### **5.7 Equalities and Diversity**

5.7.1 As set out in the background reports linked at section 6.

### **5.8 Corporate Parenting**

5.8.1 As set out in the background reports linked at section 6.

### **5.9 Consultation and Engagement**

5.9.1 As set out in the background reports linked at section 6.

### **5.10 Environmental Impact**

5.10.1 As set out in the background reports linked at section 6.

## 6. Background papers

- 6.1 Environment Committee 8<sup>th</sup> March 2022 – Controlled Parking Zone Permits Policy Position.  
<https://barnet.moderngov.co.uk/documents/s70856/Controlled%20Parking%20Zone%20Permits%20Policy%20Position%20-%20Environment%20Committee%20report%2025.02.2022%20final%20for%20.pdf>
- 6.2 Environment and Climate Change Committee 9<sup>th</sup> June 2002 – Proposed monetary penalties for offences related to letting and property management agents.  
<https://barnet.moderngov.co.uk/documents/b38615/Proposed%20monetary%20penalties%20-%20letting%20and%20property%20management%20agents%2009th-Jun-2022%2019.00%20Environme.pdf?T=9>
- 6.3 Environment and Climate Change Committee 9th June 2002 – Tackling Fly Tipping and Littering -  
<https://barnet.moderngov.co.uk/documents/g11077/Public%20reports%20pack%2009th-Jun-2022%2019.00%20Environment%20and%20Climate%20Change%20Committee.pdf?T=10>

## **Appendix 1 - Controlled Parking Zone Permits Policy Position.**

### **1.1 Table 1: Proposed maximum CPZ permits for new developments**

PTAL <sup>2</sup>	Proposed LBB Parking Standards (draft Barnet Local Plan April 2021) Maximum parking provision*		Permits	
	1 and 2 Bed Units	3 + Bed Units	1 and 2 Bed Units	3 + Bed Units
0	1.25	1.5 <sup>^</sup>	1	2
1	1.25	1.5 <sup>^</sup>	1	2
2	0.75	1	1	1
3	0.75	1	1	1
4	0.5-0.75 <sup>#</sup>	0.5-0.75 <sup>#</sup>	1	1
5	Car Free <sup>~!</sup>	Car Free <sup>~!</sup>	0	0
6	Car Free <sup>~</sup>	Car Free <sup>~</sup>	0	0

\* Metropolitan and Major Town Centres to be Car Free<sup>~</sup>; and Up to 0.5 spaces per dwelling be allowed for developments within Opportunity Areas.

<sup>~</sup> With the exception of disabled persons parking, see Part G Policy T6 .1 Residential parking.

<sup>!</sup> Where the orbital PTAL is 4 or less minimal parking for car club schemes to be considered.

<sup>#</sup> When considering development proposals that are higher density or in more accessible locations, the lower standard shown here should be applied as a maximum.

<sup>^</sup> Boroughs should consider standards that allow for higher levels of provision where there is clear evidence that this would support additional family housing.

- 1.2 There are costs associated with making the necessary amendments to the traffic orders and setting a maximum cap on permits issued to each property within the Council's permit system. It is proposed that these costs are charged to the developer on agreement of planning conditions and are set at £25 per property/unit.

## **Appendix 2 – Tackling Fly-tipping and Littering**

Offence	Known As	Current value/sum	New value/sum	Early payment 14 days minimum sum)
Environmental Protection Act 1990, Section 87/88  <i>Minimum - £65.00 Maximum - £150.00</i>	Littering	£100	£100	£70
Environmental Protection Act 1990, Section 46  Default amount - £60.00 FPN Range £40-£80 <i>Specific statutory procedure on how to issue FPN – must be notice of intent and final notice issued and right of appeal to 1<sup>st</sup> tier tribunal. Any issue of FPN must be compliant with s.46A-D EPA 1990</i>	Domestic Waste Presentation Notices	£100	£60 FPN Range £60-£80	£42
Environmental Protection Act 1990, Section 47  <i>Minimum - £75.00 Maximum - £110.00 Reduced amount – not less than £60.00 (Reg 9 - 2017 Regulations)</i>	Business and Commercial Waste Presentation Notices	£100	£100	£70
Environmental Protection Act 1990, Schedule 3A, paragraph 7  <i>Not less than £50.00 (Reg 8 – 2017 Regulations)</i>	Distributing Free Literature without Consent	£80	£50	£35
Control of Pollution (Amendment) Act 1989, Section 5B  <i>Amount of FPN is £300.00 (s.5B(9) CoP(A)A 1989)  Reduced Amount – not less than £180.00 (Reg 11 – 2017 Regulations)</i>	Failing to Produce Authority	£300	£300	£210
Environmental Protection Act 1990, Section 34 Minimum - £150.00 Maximum - £400.00 (s.34ZA(8) EPA 1990)	Failing to Produce Waste Transfer Notes	£300	£300	£210

Reduced Amount – not less than £180.00 (Reg 11 – 2017 Regulations) Payment of reduced amount period = 10 days (s.34ZA(9) EPA 1990)				
Environmental Protection Act 1990, Section 34 (2A)	Household Duty of Care Breach - Unauthorised Deposit of Waste	£400	1st Offence - <b>£200</b>  2nd Offence - £400  3rd Offence	£140  £280  Automatic court based prosecution referral
Anti-Social Behaviour, Crime and Policing Act 2014, Section 48  <i>Not more than £100.00 (s.52(7) 2014 Act) section 52(8)</i>	Community Protection Notices	£100	£100	£70  Requiring payment of lesser amount is paid before the 14 days.
Anti-Social Behaviour, Crime and Policing Act 2014, Section 63 and 67 <i>Not more than £100.00 (s.68(6) 2014 Act)</i>	Public Spaces Protection Orders	£100	£100	£70  Requiring payment of lesser amount is paid before the 14 days.
Refuse Disposal (Amenity) Act 1978, Section 2A – Abandoned Vehicles  <i>Amount of FPN = £200.00 s.2A(8) RD(A)A 1978</i>  <i>Reduced Amount – not less than £120.00 (Reg 10 – 2017 Regulations)</i>	Abandoned Vehicles	£200	£200	£140
Anti-Social Behaviour Act 2003, Section 43  <i>Minimum - £65.00 Maximum - £150.00</i>	Graffiti and Fly Posting	£80	£100	£70

<i>Reduced Amount – not less than £50.00 (Reg 8 – 2017 Regulations)</i>				
<p>Cleaner Neighbourhoods and Environment Act 2005, Section 3 &amp; 4</p> <p><i>Amount of FPN is £100.00 (s.6(9) CNaEA2005)</i></p> <p><i>Reduced Amount – not less than £60.00 (Reg 9 – 2017 Regulations)</i></p>	<p>Nuisance Vehicles</p> <p>S.3) Exposing vehicles for sale upon a road;</p> <p>(S.4) Repairing vehicles upon the road.</p>	£100	£100	£70
<p>Environmental Protection Act 1990, Section 33(1)(a)</p> <p><i>Minimum - £150.00</i> <i>Maximum - £400.00</i> <i>(s.33ZA(9) EPA 1990)</i></p> <p><i>Reduced Amount – not less than £120.00 &amp; payment of reduced amount period = 10 days (s.33ZA(10) EPA 1990)</i></p>	<p>Unauthorised deposit waste (Fly tipping)</p>	£400	<p>1st Offence £200</p> <p>2nd Offence £400</p> <p><b>3<sup>rd</sup> Offence</b></p>	<p>£140</p> <p>£280</p> <p><b>Automatic court-based prosecution referral</b></p>
Highways Act 1980 Section 137 (1)	Wilful obstruction of the highway	£100	£100	£70
Highways Act 1980 Section 148(c)	Interruption of user	£100	£100	£70



<p>Health Act 2006 Section 7 Amount of FPN is</p> <p><i>£50.00.(29 days to pay)</i>  <i>Reduced Amount = £30.00 and</i>  <i>payment of reduced amount</i>  <i>period = 15 days</i>  <i>[Payment periods within s.9 and</i>  <i>Schedule 1 of HA 2006]</i></p>	<p>Smoking in Smoke free premises or Business vehicle</p>	<p>£50</p>	<p>£50</p>	<p>£50</p>
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## **Appendix 3 - Proposed monetary penalties for offences related to letting and property management agents**

### **The Redress Schemes for Lettings Agency Work and Property Management Enforcement Process**

#### **Step 1: Notice of Intent**

The enforcement authority must give written notice of their intention to impose a penalty, setting out:

- i) the reasons for the penalty;
- ii) the amount of the penalty; and
- iii) that there is a 28-day period to make written representations or objections, starting from the day after the date on which the notice of intent was sent.

This written notice must be served within 6 months of the date on which the enforcement authority is in the position to issue the fine (have gathered sufficient evidence and satisfied any internal requirements that a fine is appropriate).

It is up to each local authority to decide who should serve the notice. The enforcement authority may withdraw the notice of intent or reduce the amount specified in the notice at any time by giving notice in writing.

#### **Step 2: Representations and Objections**

The person who the notice of intent was served on has 28 days starting from the day after the date the notice of intent was sent to make written representations and objections to the enforcement authority in relation to the proposed fine.

#### **Step 3: Final Notice**

At the end of the 28 day period the enforcement authority must decide, having taken into account any representations received, whether to impose the fine and, if so, must require the penalty to be paid within 28 days, from the day after the day on which the final notice was sent. When imposing a fine, the enforcement authority must issue a final notice in writing which also explains:

- i) why the fine is being imposed;
- ii) the amount to be paid;
- iii) how payment may be made;
- iv) the consequences of failing to pay;
- v) that there is a right to appeal against the penalty to the First-tier Tribunal and that any appeal must be made within 28 days after the imposition of the fine.

It is up to each local authority to decide who should serve the notice. The enforcement authority may withdraw the final notice or reduce the amount specified in the notice at any time by giving notice in writing.

#### **Step 4: Appeals**

If an appeal is lodged the fine cannot be enforced until the appeal is disposed of.

Appeals can be made on the grounds that:

- i) the decision to impose a fine was based on a factual error or was wrong in law;
- ii) the amount of the fine is unreasonable; or
- iii) that the decision was unreasonable for any other reason.

The First-tier Tribunal may agree with the enforcement authority's notice to issue a penalty or may decide to quash or vary the notice and fine.

#### **Step 5: Recovery of the penalty**

The penalty fines received by the enforcement authority may be used by the authority for any of its functions. If the lettings agent does not pay the fine within the 28 day period the authority can recover the fine on the order of the county court, as if payable under a court order.

Where proceedings are necessary for the recovery of the fine, a certificate signed by the enforcement authority's chief finance officer stating that the amount due has not been received by a date stated on the certificate will be taken as conclusive evidence that the fine has not been paid.