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**Decision Session - Executive Leader  
(incorporating Housing and Safer  
Neighbourhoods)**

**20 June 2016**

Report of the Assistant Director - Housing and Community Safety

**Granting of additional powers for the Neighbourhood Enforcement  
Team and changes to existing Fixed Penalty Notice Charges**

**Summary**

1. This report asks the Executive Leader, Housing and Safer Neighbourhoods to consider granting additional enforcement powers to the Neighbourhood Enforcement team. The requested powers are :
  - To issue a Fixed Penalty Notice (FPN) for low level fly-tipping.
  - To issue an FPN for advertising for sale or repairing vehicles on the public highway.
  - The power to enforce the Micro-chipping of Dogs (England) Regulations 2015 (when related to incidents of anti-social behaviour only).
2. In addition, this report asks the Executive Leader, Housing and Safer Neighbourhoods to consider changes to two existing FPN charges issued by the Neighbourhood Enforcement team. These are the FPNs issued for dog fouling and for breach of Community Protection Notice (CPN).
3. Additional powers have been requested as a result of a review of offences commonly reported to the Neighbourhood Enforcement team and the available enforcement powers, to ensure that the team have the relevant powers at their disposal.

**Recommendations**

4. The Executive Leader, Housing and Safer Neighbourhoods, is asked to approve Option 1, to:

- Grant the power for issue of an FPN for low level fly-tipping with a penalty of £400, reduced to £240 for early repayment.
- Grant the power to issue an FPN for advertising for sale two or more vehicles within 500m of each other or repairing vehicles on the public highway, with a penalty of £100, reduced to £75 for early repayment.
- Grant the power to enforce the Micro-chipping of Dogs (England) Regulations 2015 when related to incidents of anti-social behaviour.
- Raise the FPN charge for dog fouling to £75.
- Introduce an early repayment charge of £75 for breach of Community Protection Notice.

Reason: Additional powers have been requested as a result of a review of offences commonly reported to the team against the enforcement powers available to address them. This is to ensure the team have all the necessary enforcement powers at their disposal. The FPN for small scale flytipping is a new power, made available to local authorities from May 2016.

## **Background**

5. In considering the powers that the Neighbourhood Enforcement Team has at their disposal to effectively tackle ASB, the nature of the problem that our communities are facing is paramount. It is also important to consider the impact of the enforcement action has on individuals, its proportionality and its effectiveness in modifying behaviour.
6. The ability to issue Fixed Penalty Notices provides a swifter response to the issue and less costly alternative to prosecution and avoids a potential criminal record for the perpetrator. However, failing to comply with a Notice is a criminal offence and can lead to prosecution.
7. Additional FPN powers have been requested with the following rationale:

### Small-scale Fly-tipping

8. From 9<sup>th</sup> May 2016, under the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016, Local Authorities will be given the power to issue FPNs for small-scale fly-tipping/dumping of waste.
9. The definition of small scale fly-tipping to be adopted will be anything from a single bag to a small van load. Prosecution will continue to be sought for fly-tipping on a larger scale or of a hazardous nature. The

Environment Agency is responsible for enforcement of fly-tipping larger than a lorry-load.

10. Between April 2015 and January 2016, 1298 cases of fly-tipping were reported across York. This is an 11% increase on the reported 1164 cases of fly-tipping during the same period last year. This reflects the national trend. Local authorities across England dealt with 900 thousand cases of fly-tipping in 2014/15 ranging in size from an individual black bag to a small van load, at a cost of almost £50 million for clearance.<sup>1</sup>
11. Tackling fly-tipping is a priority area of work for the team. The Neighbourhood Enforcement Officers (NEOs) work closely with the Public Realm team who pass on any evidence they find before clearing away dumped rubbish, to allow further investigation and possible enforcement action. The team also work with North Yorkshire Police (NYP) Safer Neighbourhoods Officers to target known hotspots through covert patrols and operations.
12. The ability to issue an FPN will provide officers with a swifter response to this offence, avoiding the longer, more costly and resource intensive, prosecution route. This will hopefully lead to an increase in enforcement action and act as a deterrent to those who may consider committing this offence.
13. The maximum penalty charge available to local authorities for this offence is £400. In order to maximise the deterrent value it is proposed that this is level of charge adopted, with an early repayment reduction to £240. Public Realm report that average cost for clearance of fly-tips is in the region of £400 when the tipping charge, labour costs and removal of any hazardous waste is taken into account.
14. CYC Public Realm would be able to recharge the Community Safety Hub, to recover the cost of clearance from income received through payment of the FPN.

#### Advertising Vehicles for Sale/Repairing vehicles on the Public Highway.

15. The Executive Leader, Housing and Safer Neighbourhoods is asked to grant Neighbourhood Enforcement Officers with the power to enforce Sections 3 & 4 of the Clean Neighbourhoods and Environment Act 2005. This will enable the team to issue an FPN for the offence of carrying out restricted works to a vehicle on the highway (repair, maintenance, servicing, improvement or dismantling of the vehicle or any part of the

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<sup>1</sup> Flycapture 2014/15, DEFRA, 2015

vehicle, installation, replacement or renewal of parts) unless the repair is within 72 hours of a breakdown or accident.

16. In addition, to issue an FPN for the offence of exposing or advertising for sale, two or more vehicles parked within 500 metres of each other on a road or roads.
17. The proposed penalty charge for both the above offences is £100, with a reduction to £75 if paid within 10 days.
18. The team investigated 16 reports of this nature during 2015/16. Comparative data is only available for 2013/14 when 2 reports were investigated.

#### Micro-chipping of Dogs (England) Regulations 2016

19. The Executive Leader, Housing and Safer Neighbourhoods is asked to provide the Neighbourhood Enforcement team with the power to enforce the Micro-chipping of Dogs (England) Regulations 2015.
20. From 6<sup>th</sup> April 2016 every keeper of a dog must ensure that their dog is micro-chipped. The responsibility of dealing with non-compliance of this Regulation rests with the Local Authority.
21. The power will be restricted for use only in relation to incidents involving wider anti social behaviour (ASB) enforcement action involving a dog, such as action in respect to dog fouling, dog attack or breach of any Public Space Protection Order (PSPO) placing a restriction on dogs. The new power would allow the Neighbourhood Enforcement Officer to serve a Notice on the dog owner, requiring that they have the animal chipped in addition to other enforcement action.
22. Under the new regulations, details relating to all dogs and their keepers are required to be kept on one of UK's authorised micro-chipping databases. Details stored on the database include: full name and address of the keeper, if the keeper is also a breeder, original name of dog, contact telephone number of keeper, any new name given to the dog by the current keeper, sex of dog, estimated date of birth of dog, colour, and micro-chip number. When a dog is transferred to a new keeper, the new keeper must (unless the previous keeper has already done so) ensure that the database details are updated. It is possible to trace which database a dog's details are stored on, by undertaking an online search of the microchip number. The keeper is then able to register with the database and if necessary, download or print off the record relating to their dog.

23. The Neighbourhood Enforcement Team have access to scanners for detection of dog-chips. They will carry a scanner for all planned dog-related enforcement work (e.g. patrols of dog-related PSPOs, dog fouling hot-spot areas). A scanner will be routinely kept in each of the 3 NEO vehicles and dog owners may be required to accompany the NEO to the vehicle or office for the purpose of scanning the animal.
24. If the person in charge of the dog at the time of the incident is not the registered keeper, the registered keeper would be issued with the Notice to get the animal chipped. Depending of the nature of the associated anti-social behaviour, enforcement action is likely to be targeted at the person in charge of the dog at the time of the incident. However, action may also be taken against the keeper when related to more serious cases of ASB such as a dog attack or if they have left the dog in the care of someone who is not a fit and proper person (someone who cannot control the dog(s)).
25. In addition, the Council's contracted Dog Warden service, will request that the Neighbourhood Enforcement team serve a Notice to the owner of any un-chipped stray dogs they collect.
26. A number of animal welfare organisations, such as the RSPCA, PDSA and Dogs Trust provide free or discounted services for low income pet owners, including micro-chipping.

### **Neighbourhood Enforcement Team - Existing & Proposed FPN powers and charges**

27. The following table sets out the current and proposed FPN powers and charges.

<b>OFFENCE</b>	<b>EXISTING CHARGE</b>		<b>PROPOSED CHARGE</b>	
	<b>Penalty</b>	<b>Early Repayment</b>	<b>Penalty</b>	<b>Early Repayment</b>
Dog Fouling	£50	£50	<b>£75</b>	No change
Littering	£75	£50	No change	No change
Advertising or Repairing vehicles on public highway	No existing power	No existing power	<b>£100</b>	<b>£75</b>
Low Level fly-tipping	No existing power	No existing power	<b>£400</b>	<b>£240</b>
Graffiti	£75	£50	No change	No change
Flyposting	£75	£50	No change	No change
Breach of PSPO	£100	£75	No change	No change

<b>OFFENCE</b>	<b>EXISTING CHARGE</b>		<b>PROPOSED CHARGE</b>	
Breach of CPN	£100	No existing early repayment charge.	No change	<b>£75</b>
Failure to produce a waste transfer note	£300	£300	No change	No change

## Consultation

28. The request for the additional powers is a direct result of the nature of the problems that our communities are facing.

## Options

29. Option 1 – to:

- To grant the power for issue of an FPN for low level fly-tipping with a penalty of £400, reduced on £240 for early repayment.
- To grant the power to issue an FPN for advertising for sale two or more vehicles within 500m of each other or repairing vehicles on the public highway, with a penalty of £100, reduced to £75 for early repayment.
- To grant the power to enforce the Microchipping of Dogs (England) Regulations 2015 when related to incidents of anti-social behaviour.
- To raise the FPN charge for dog fouling to £75.
- To introduce an early repayment charge of £75 for breach of Community Protection Notice.

30. Option 2 – to:

- Not to grant the power for issue of FPN for low level flytipping.
- Not to grant the power for issue of FPN for advertising for sale two or more vehicles or repairing vehicles on the public highway.
- Not to grant the power to enforce the Microchipping of Dogs (England) Regulations 2015 when related to incidents of anti-social behaviour.
- Not to raise the FPN charge for dog fouling to £75.
- Not to introduce and early repayment charge of £75 for breach of Community Protection Notice.

## Analysis

31. Contained in the report.

## Council Plan

32. The adoption of additional powers for the Neighbourhood Enforcement Team strongly supports the priority within the Council Plan of 'A focus on Frontline Services.' To ensure that residents are protected from harm, with a low risk of crime.

## Implications

33. The implications arising from the report are:

- **Financial** In respect of FPNs, officers may choose to use this enforcement route rather than prosecute for the original offence where a consequence for offenders is a criminal record. Increasing the penalty for dog fouling would reflect the severity of this offence. In relation to breach of Community Protection Notice (CPN) the sum of £100 is the maximum amount that can be set via FPN. An introduction of an early repayment charge of £75 will align this penalty with that of breach of PSPO.
- **Human Resources (HR)** There are no HR implications.
- **Equalities** There are no Equalities implications.
- **Legal** The Council's Legal Services department have advised on the powers contained in this report and have also given training to officers in relation to use of the powers including issuing of FPNs. If these powers are readily available to officers of the Local Authority and are not utilised, this could give rise to challenge from individuals seeking solutions to problems concerning anti-social behaviour.
- **Crime and Disorder** The proposals in this report support Safer York Partnership's priorities to Reduce Crime and Anti-Social Behaviour and to Protect Vulnerable People.
- **Information Technology (IT)** There are no IT implications.
- **Property** There are no Property implications.
- **Other** There are no other implications.

## Risk Management

34. There are no known risks associated with this report.

## Contact Details

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Report  
Approved



Date 6<sup>th</sup> June 2016

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## Wards Affected:

All

## Background Papers

None

## Annexes

Annex 1 – Community Impact Assessment

## Abbreviations used in report:

ASB	Anti Social Behaviour
CPN	Community Protection Notice
FPN	Fixed Penalty Notice
NEO	Neighbourhood Enforcement Officer
NYP	North Yorkshire Police
PDSA	(a charity which provides free veterinary care to the sick and injured pets of people in need and promotes responsible pet ownership)
PSPO	Public Space Protection Order
RSPCA	Royal Society for the Prevention of Cruelty to Animals