



Notice of a public

Decision Session - Executive Member for Housing & Safer Neighbourhoods

To: Councillor Brooks (Executive Member)

Date: Wednesday, 20 March 2019

Time: 3.00 pm

Venue: The King Richard III Room (GO49) - West Offices

AGENDA

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democracy Support Group by **4:00 pm on Friday 22 March 2019.**

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Customer and Corporate Services Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by 5.00pm on Monday 18 March 2019.

1. Declarations of Interest

At this point in the meeting, the Executive Member is asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on this agenda.

2. Minutes (Pages 1 - 4)

To approve and sign the minutes of the meeting held on 28 February 2019.

3. Public Participation

At this point in the meeting, members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Tuesday 19 March 2019**. Members of the public can speak on agenda items or matters within the Executive Member's remit.

To register to speak please contact the Democracy Officers for the meeting, on the details at the foot of the agenda.

Filming, Recording or Webcasting Meetings

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. The broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if recorded, this will be uploaded onto the Council's website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officers (contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at

https://www.york.gov.uk/downloads/file/11406/protocol_for_webcasting_film_and_recording_of_council_meetings_20160809

4. Introduction of Fixed Penalty Notice for Household Waste Duty of Care Offences (Pages 5 - 10)

This report asks the Executive Member to decide if the Neighbourhood Enforcement team should be authorised to issue Fixed Penalty Notices for household waste duty of care offences. In addition, should the FPN be agreed, it recommends the fine level.

5. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Chris Elliott

Contact details:

- Telephone – (01904) 553631
- Email - Christopher.elliott@york.gov.uk

For more information about any of the following please contact the Democratic Services Officers responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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City of York Council

Decision Minutes

Meeting	Decision Session - Executive Member for Housing & Safer Neighbourhoods
Date	28 February 2019
Present	Councillor Brooks

18. Declarations of Interest

At this point in the meeting, the Executive Member was asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which she may have in respect of business on the agenda. None were declared.

19. Minutes

Resolved: That the minutes of the previous meeting held on 25 October 2018 be approved and signed as a correct record.

20. Public Participation

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

21. Tenant Satisfaction Survey - Results

Officers reported on the 2018/19 Tenant Satisfaction Survey and asked the Executive Member to consider the results and actions and agree to carry out the process again next year.

Officers noted that they had received a 21% response to the survey, which over the total stock of properties, equated to 8% of Council tenants.

The Executive Member questioned Officers on the areas of satisfaction that had decreased and the actions related to them. In response the Officers made the following comments:

- That work was being carried out with the Complaints Team to identify the reasons behind the decrease in satisfaction in this area.
- That in response to decreased satisfaction around 'drug use or dealing', work had been started on the identification of 'hot spots' working alongside the Anti-Social Behaviour Hub.
- That the Council's 'Pet Policy' was being reviewed in an attempt to decrease dog fouling in particular.
- That it was important to keep the majority of the questions asked within the survey similar to that of previous years, in order to allow for yearly analysis.
- Officers also informed the Executive Member that around 80 car parking spaces were due to be delivered via the Housing Environment Improvement Programme (HEIP) by the end of March, helping to alleviate some tenant complaints regarding parking.

Officers did note that 31% of respondents said they did not have access to the internet and that there is a consistent trend with Tenant Satisfaction Surveys, that older residents are more likely to respond.

Officers explained that there had been a recent restructure within Housing Services, involving many new staff and staff moving to different roles and that they expected performance to improve, now that the service had settled.

The Executive Member stated that due to the importance of tenant satisfaction and in responding to the issues raised via the survey, it was important that the survey continued next year. It was therefore:

Resolved: That the Executive Member:

- Consider the results of the 2018/19 Tenant Satisfaction Survey and note the officer comments regarding future action.
- Agree to run a Tenant Satisfaction Survey for 2019/20.

Reason: To ensure that CYC has up to date information regarding customer satisfaction, enabling landlord and building services to target resources and improvements to those services prioritised by customers, and to feed into the annual Housemark benchmarking return.

22. Update on the YorProperty Accreditation Scheme

Officers introduced the item and explained that they were asking the Executive Member to approve Option 2, to close the YorProperty Accreditation Scheme.

It was explained that the YorProperty Scheme had originally been successful in helping compensate for the gaps in regulation of the private rented sector, however following the introduction of new HMO licensing laws in October 2018, many of the features associated with the scheme had become a mandatory part of licensing law.

Officers stated that since the changes, the YorProperty accreditation had only generated £2,245 and that this did not cover the costs of running the accreditation.

Officers also noted that they had informed all Landlords who were signed up to YorProperty that this paper would be brought to the Executive Member and that should it be approved, membership fees will be refunded for this year.

The Executive Member was satisfied that the loss of the scheme would not be detrimental to the quality of accommodation being provided in the City. It was therefore:

Resolved: That the Executive Member approve option 2; to close the YorProperty voluntary accreditation scheme.

Reason: To ensure that the work of the Council is focussed on tackling the worst conditions in the private rented sector and in particular on those Landlords who flout by not complying with the law in line with government policy.

Cllr J Brooks, Executive Member for Housing and Safer Neighbourhoods

[The meeting started at 2.00 pm and finished at 2.25 pm].

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Decision Session: Executive Member Housing & Community Safety

20 March 2019

Report of the Assistant Director - Housing and Community Safety

Introduction of a Fixed Penalty Notice for Domestic Waste Duty of Care Offences

Summary

1. This report asks the Executive Member to decide if the Neighbourhood Enforcement team should be authorised to issue Fixed Penalty Notices for household waste duty of care offences. In addition, should the FPN be agreed, it recommends the fine level.

Recommendation

2. The executive member is asked:
 - To authorise the Neighbourhood Enforcement team to issue Fixed Penalty Notices for household waste duty of care offences.
 - To approve a fine level of £250.00 with a reduced fee of £150.00 for early repayment within 10 days of issue.

Reason

3. To act as a deterrent against fly-tipping.

Background

4. Fixed Penalty Notices for this offence were introduced by Government in January 2019 as an alternative to prosecution.
5. The introduction of the Fixed Penalty Notice contributes towards a range of initiatives currently being undertaken by the Neighbourhood Enforcement Team to combat fly-tipping across the City of York Council boundary.

6. Latest performance figures show that the number of service calls related to fly-tipping reduced from 2276 in 2016-17 to 2151 in 2017-18. Estimated figures for 2018-19 show a further reduction in calls received. Conversely, the number of warning letters, FPNs, formal cautions and prosecutions issued by the Neighbourhood Enforcement team for fly-tipping has increased significantly between 2016-17 and 2017-18.
7. The household waste duty of care requires occupiers of domestic property to take all reasonable measures available to them to ensure that they only transfer household waste to a licensed person for removal and disposal. This reduces the chance of waste being removed by unscrupulous carriers who may then go on to fly-tip it.
8. Previously, the only enforcement action available for this offence was via the prosecution route. This seemed disproportionate in the majority of cases, particularly as in the past many householders have been unaware of their duty of care responsibilities and assumed that as they had paid for someone to take away their waste that it would be lawfully disposed of.
9. Payment of the FPN allows individuals to discharge liability for prosecution but they retain the option not to pay and allow their case to progress to court if they so wish.

Consultation

10. None

Options

11. **Option 1**
 - To authorise the Neighbourhood Enforcement team to issue Fixed Penalty Notices for household waste duty of care offences.
 - To approve a fine level of £250.00 with a reduced fee of £150 for early repayment within 10 days of issue.
12. **Option 2**
 - Not to authorise the Neighbourhood Enforcement team to issue Fixed Penalty Notices for household waste duty of care offences.

Analysis

Issuing of FPNs

13. FPNs will be issued:
 - Where fly-tipped waste can be traced back to an individual who is found to have failed to take reasonable steps to ensure that they transferred waste to an authorised person.
 - Where an unauthorised carrier is found to be carrying domestic waste that was directly transferred to them by the occupier of a domestic property.
 - Where an individual is found to have transferred their household waste to an unauthorised person at a site that does not have a permit or exemption.
14. An authorised person may still fly-tip waste, therefore tracing fly-tipped waste to a household does not necessarily demonstrate a breach of the duty of care. An individual should be given the opportunity to demonstrate that they took all reasonable steps to determine the person that took their waste was authorised to do so. If fly-tipped waste is traced to an individual and they are unable to identify who took their waste, or the carrier they identify is unauthorised, then it is reasonable to believe their duty of care was not met.
15. FPNs should not be given where prosecution through the court is more appropriate, e.g. the deliberate transfer of waste to an unauthorised person in the knowledge it would be fly-tipped, or where someone is a persistent offender with a record of not paying FPNs for environmental offences.
16. Where an individual does not pay the FPN the case will be progressed to prosecution.

Awareness Raising

17. In January 2018, the Neighbourhood Enforcement team launched the Crime Not to Care campaign in partnership with Keep Britain Tidy. The purpose of the campaign was to educate the public about their duty of care responsibilities. The campaign continues to be widely promoted via social media, in flyers included in

correspondence sent out by the team, on the council's website and on council refuse vehicles.

18. A dedicated section on Waste is currently being incorporated into the Safer York Partnership website in order to provide advice and guidance regarding to issues dealt with by the Neighbourhood Enforcement Team.
19. Neighbourhood Enforcement Team regularly use Twitter to highlight their work in tackling waste and to remind residents of their duties.

Wider initiatives to combat fly-tipping

20. The introduction of the FPN contributes towards a range of initiatives developed by the Neighbourhood Enforcement team to combat fly-tipping. In addition to the Crime Not to Care campaign, these include:
 - the development of Operation Eyeball; Together with North Yorkshire Police, the Neighbourhood Enforcement team has led on the development of cross-border working with local authorities across North Yorkshire and the East Riding in addition to: the Environment Agency, Network Rail and NFU, to share information, intelligence and best practice.
 - Regular Stop and Search operations with North Yorkshire Police, targeting unlicensed waste carriers and scrap metal dealers.
 - Issuing of Fixed Penalty Notices and prosecuting those who commit fly-tipping within the City of York boundary.
 - Ensuring that prosecution results are publicised via local and social media with the aim of deterring others from committing such offences.

Fine Level

21. The Government has asked local authorities to set fine levels between £400 and £150 for this offence, with a minimum amount of £120 for early repayment.

22. It is recommended that City of York Council sets a maximum fine level of £250, reduced by 60% to £150 for early repayment (within 10 days). The rationale for this is that:

- The proposed fine is less than our current £400 FPN for small-scale fly-tipping, given that duty of care offences can be seen as less serious than those of fly-tipping.
- The proposed fine is less than the £300 FPN for commercial duty of care offences, given that domestic offences can be seen as less serious and are usually on a smaller scale.
- There is still the potential for residents to be unaware of their duty of care responsibilities, and unknowingly transfer waste, while trying to do the right thing.
- Those who commit duty of care offences are often helpful in the investigation of fly-tippers, through the provision of evidence and/or witness statements.
- We are working with regional colleagues via the Yorkshire Environmental Enforcement Group (YEEG) to set a consistent fine level across local authorities, wherever possible.

Impact of non-introduction of the FPN

23. If the Fixed Penalty Notice was not introduced, prosecution or the issuing of an informal written warning would be the only options available to officers. The FPN provides a mid-way more proportionate response. The prosecution route is work intensive for officers and would result in the individual receiving a criminal record. An informal warning may not be adequate to deter future offences.

Council Plan

24. Contributes towards the Council Plan objective: A Focus On Front-line Services through ensuring that the city centre, villages and neighbourhoods are clean and safe environments.

Implications

- **Financial** Income from fines can only be used to support functions related to Part II of the Environmental Protection Act 1990, 'Waste on Land'. These are wide-ranging including: the collection, disposal and treatment of controlled waste, licensing and regulatory functions and the enforcement of fly-tipping, duty of care and waste presentation offences.
- **Human Resources (HR)** There are no HR implications
- **Equalities** There are no Equalities implications
- **Legal** Legal Services are aware of the contents of this report and support the view that introduction of an FPN for household waste Duty of Care offences improves the proportionality of enforcement action that can be taken for this offence.
- **Crime and Disorder** Contributes towards the Tackling Anti-Social Behaviour priority within the Community Safety Plan 2017-20.
- **Information Technology (IT)** There are no IT implications
- **Property** There are no Property implications
- **Other** There are no other implications

Risk Management

There are no identified risks associated with this proposal.

Contact Details

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**Report
Approved**

Date

Tuesday 5
March 2019

All

Wards Affected: *List wards or tick box to indicate all*

For further information please contact the author of the report