

CABINET

20th November 2018

LITTERING FROM VEHICLES ENFORCEMENT POLICY

Report of the Strategic Director for Places

Strategic Aim:	Reaching our Full Potential	
Key Decision: Yes	Forward Plan Reference: FP/100818	
Reason for Urgency	N/A	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr G Brown, Deputy Leader and Portfolio Holder for Planning, Environment, Property and Finance. Mrs L Stephenson, Portfolio Holder for Culture & Leisure, Highways & Transportation and Communications	
Contact Officer(s):	Mark Loran, Senior Environmental Services Manager	01572 758430 mloran@rutland.gov.uk
	Dave Pye, Senior Transport Manager	01572 758229 dpye@rutland.gov.uk
Ward Councillors	All	

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves and adopts the Littering From Vehicles Enforcement Policy, included in **Appendix A** of this report.
2. Decides on the value attributed to the Penalty Notice, and (if any) a reduced fee for early payment, for contravention of 'The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018'.

1 PURPOSE OF THE REPORT

- 1.1 To seek Cabinet approval to adopt and utilise the new powers as described in this report and the associated Enforcement Policy.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The Litter Strategy for England, launched by government in 2017 set out an ambition to *“be the first generation to leave the natural environment of England in a better state than it found it”*. To support this ambition, the following priorities were identified:

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- Send out a clear anti-litter message
- Improve enforcement against offenders
- Clean up the country.

- 2.2 This report focuses on the new powers introduced by government to improve enforcement against offenders, ensuring the approach is fair and proportionate.

- 2.3 Historically, the littering issue has been dealt with by way of a criminal offence, issuing a Fixed Penalty Notice (FPN) in lieu of prosecution. FPN's are enforceable by police or authorised officers from a Local Authority, using provisions in the Environmental Protection Act 1990.

- 2.4 Local Authority use of criminal powers can be difficult as the evidence standards are much higher, with the aim to prove that an offence occurred. In civil enforcement, the contravention is considered to have occurred if a penalty is issued and the onus is on the person to prove that either the offence did not occur, or that one of the grounds for making representations apply (see Appendix A in the Littering From Vehicles Enforcement Policy).

- 2.5 In April 2018, 'The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018' came into effect, creating a new civil contravention for dropping or throwing litter from a vehicle and is enforced using a Penalty Notice (PN).

- 2.6 A Penalty Notice can be issued for the offence of dropping or throwing litter from a vehicle on 'relevant land', this includes not just the highway, but extends to 'any land which the local authority is under a duty to keep clear of litter'.

- 2.7 Street cleaning costs Rutland County Council £600,000 each year and clearing litter is a significant element of this. There is an impact on the environment, wildlife and is unsightly, giving a negative first impression of Rutland for visitors.

- 2.8 Use of enforcement should be a last resort, after engineering and education solutions have been exhausted. This report, and the attached policy explains how the Council intends to use the powers.

- 2.9 This report provides a policy for utilisation of the new powers, and outlines how the Council intends to use the powers for the benefit of Rutland.

3 ENGINEERING

- 3.1 It is important that the Council makes efforts to provide suitable bins, in the right location. The Environmental Protection team works with waste contractors to review the location and size of bins on an ongoing basis.
- 3.2 Signage advising of the penalties associated with dropping litter are already common in public spaces. At this time, there is no intention to provide additional signs. To signpost across the county would be expensive, increase clutter on the highway and be a further intrusion on the look and feel of the area.

4 EDUCATION

- 4.1 A communication plan is to be developed prior to enforcement, ensuring the public are aware of the new powers, and that they are used in a fair and transparent way.

5 ENFORCEMENT

5.1 Penalty

- 5.2 The Regulations provide for a Penalty Notice to be issued at a value determined by the Local Authority. The guidance note issued by DEFRA states a maximum penalty of £150.00, and a reduced limit of not less than £50.00, though there is no requirement to offer a reduced penalty for early payment. If no penalty value is chosen by the Authority, a default of £100.00 is used.

- 5.3 If the penalty remains unpaid and no challenge has been submitted within the statutory period, an automatic increase of 100% is applied.

- 5.4 Cabinet Members could decide to set the penalty to match that imposed using Fixed Penalty Notices for the same offence, or within the criteria set out in section 5.2 and further explained in the Regulations, set a different value.

- 5.5 To ensure an effective deterrent, and demonstrate the level of intolerance toward littering in the County, the Officer recommendation is that the charge should be set at £150, with no reduced fee offered for early payment.

5.6 Enforcement Officers

- 5.7 The Council can designate any Officer with the power to issue a Penalty Notice. It is proposed that those with 'enforcement' or a variation of the term included in their job description or contract, and who are employed within the Parking Services or Environmental Protection teams be trained and enabled to issue.

- 5.8 Officers acting in this capacity can do so as part of their day to day workload, there is no requirement for Officers to be deployed specifically for the purpose or to wear a certain uniform.

5.9 Administration

- 5.10 The processes and support systems used to issue Penalty Notices are already in use by the Parking Services Team when issuing Penalty Charge Notices for parking contraventions.

- 5.11 Work is progressing to update the Imperial parking system with the relevant information for Officers to issue the new penalty. It is anticipated this can be achieved within the existing budget and that no additional funds will be required.
- 5.12 Appeals and Representation
- 5.13 The grounds for making representations are included in Appendix A of the Littering From Vehicles Enforcement Policy. The Council will consider appeals based on this criteria and, if correct to do so, will be cancelled.
- 5.14 As with Penalty Charge Notices for parking contraventions, a person has the right to lodge a further appeal to the Traffic Penalty Tribunal. The TPT has been proactive in providing Councils with a template Notice of Rejection, included in Appendix B of the Littering From Vehicles Enforcement Policy. The prominence of information relating to rights for further consideration are an improvement on that used in parking contraventions and Officers are looking to incorporate this as a standard.

6 CONSULTATION

- 6.1 Consultation with the relevant Portfolio Holders has already been undertaken.
- 6.2 A communications plan will be developed and implemented prior to any enforcement action being undertaken.

7 ALTERNATIVE OPTIONS

- 7.1 To acknowledge the new powers but decide not to exercise them.
- 7.2 To proceed, but vary any part of the Policy.

8 FINANCIAL IMPLICATIONS

- 8.1 Though not ring-fenced by legislation, revenue from Penalty Notices will be used to fund cleansing operations, engineering, education and enforcement and any other costs associated with administrating the scheme. Any surplus utilised to support related Council services.
- 8.2 Where a Penalty Notice remains unpaid and no appeal submitted, the regulations provide for the penalty to increase by 100% after 28 days.
- 8.3 It is recommended the Penalty Notice charge be set at £150, with no reduced fee offered for early payment.
- 8.4 The level of income that may be generated from implementation of the policy is not known as we will be one of the first authorities taking on these new powers. Based on work undertaken by Environmental Services, several areas have been identified as littering hot spots. Assuming a cautious estimate of 4 Penalty Notices issued per month, this would return £7,500 annually, costs of circa 10% to cover DVLA and appeals should be applied.

9 LEGAL AND GOVERNANCE CONSIDERATIONS

- 9.1 The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018, the enabling powers. Also referenced is the Environmental Protection Act 1990 and codes of practice or guidance documents issued by government, a copy of these can be obtained from the Contact Officer.

10 DATA PROTECTION IMPLICATIONS

- 10.1 A Data Protection Impact Assessments (DPIA) has been completed. No Risks/issues were identified. A copy of the DPIA can be obtained from the Contact Officer.

11 EQUALITY IMPACT ASSESSMENT

- 11.1 An Equality Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found. A copy of the EqIA can be obtained from the Contact Officer.

12 COMMUNITY SAFETY IMPLICATIONS

- 12.1 No specific Community Safety Implications were identified, though it was noted that it is generally accepted that cleaner environments help in efforts to reduce crime and anti-social behaviour.

13 HEALTH AND WELLBEING IMPLICATIONS

- 13.1 Reducing litter and waste in public open areas will have a positive impact on the health and wellbeing of residents and visitors. Making open spaces more attractive will help draw people towards outdoor activities and healthier lifestyles.

14 ORGANISATIONAL IMPLICATIONS

14.1 Environmental implications

Introducing an active enforcement operation will have a positive impact on the environment, reducing litter and waste in public open areas, improving the look and feel of the area, reducing risks to wildlife and providing a revenue stream which the Council can utilise to further other environmental objectives.

14.2 Human Resource implications

Enforcement activities will be conducted only by Council Officers who have this specified within their Job Description and/or Employment Contracts. The implementation plan includes milestones, at which engagement with operational teams will be undertaken.

14.3 Procurement Implications

14.4 There are no procurement implications, all support systems and services to be used are already in place for other purposes.

15 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

15.1 The option to not utilise the powers will restrict the Councils ability to tackle littering and the effect it has on the County.

15.2 It is recommended that Cabinet approved the Littering From Vehicles Enforcement Policy, this will enable Officers to reduce the impact of litter in the County.

16 BACKGROUND PAPERS

16.1 None

17 APPENDICES

17.1 Appendix A - Littering From Vehicles Enforcement Policy

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.