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| London Councils’ Transport & Environment Committee |
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| Fixed Penalty Notices (FPNs) for Flytipping | Item no: | 11 |
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| Report by: | Jennifer Sibley | Title: | Principal Policy Officer |
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| **Summary:** | From 9 May 2016 councils have been able to introduce Fixed Penalty Notices (FPNs) for flytipping. This report asks members whether to propose a pan-London penalty for consistency.  |
| **Recommendations:** | The Committee is asked to:* Note and discuss the report.
* Review the options at paragraph 11 and determine whether or not a pan-London penalty level for flytipping would be desirable.
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**Fixed penalty notices for flytipping**

1. From 9 May 2016 it has been possible for waste collection authorities (all London boroughs) to introduce fixed penalty notices for flytipping.
2. Flytipping, also known as rubbish dumping or the unauthorised deposit of waste, is unsightly and causes environmental damage. The introduction of fixed penalty notices provides an additional tool for councils to tackle flytipping and keep their borough clean and safe.
3. These penalties are intended as an alternative to prosecuting fly-tippers, for example for small or ‘low level’ flytipping, or for first-time offenders. It continues to be possible to prosecute fly-tippers and it is the borough’s discretion whether to use fixed penalty notices at all.
4. These penalties have been introduced by Defra nationally in England, as amendments to section 33 of the Environmental Protection Act 1990. The maximum penalty possible is £400, and the minimum £150. If authorities do not specify an amount, the amount payable is £200. It is possible to offer an early payment amount of not less than £120 if the penalty is paid within 10 days.
5. As it is not London legislation, there is no required role for TEC to play. However, members may consider it desirable to provide a steer as to the level of penalty London should adopt for flytipping. TEC did this before in 2006 for FPNs for graffiti, the authorised distribution of literature, littering, noise from dwellings, and for commercial and industrial waste receptacles enforcement.

**A London-wide penalty level**

1. TEC does not have the legal power to set a pan-London penalty level for flytipping. It could, however, agree to provide a steer to member authorities of the level that it would be desirable for boroughs to adopt. Whether boroughs opt to adopt this level would be for individual authorities to determine.
2. London Councils engaged with its Officer Advisory Panel on Waste (OAPW), asking whether their boroughs intended to introduce the flytipping penalties, whether a pan-London level would be welcome, and if so, at what level the penalty should be set. Three boroughs indicated they would be introducing the penalty at £400. Two were planning an early payment reduction to £350 and one was intending to reduce it to £250. All were supportive of a pan-London level.
3. To introduce the penalties, boroughs are not required by the legislation to consult, and the penalties are adopted by whatever means the borough normally adopts penalties. This varies from borough to borough. A borough can change the penalty level it has set and does not have to inform the Secretary of State of the level it has adopted.
4. There are a series of advantages to having a pan-London penalty for flytipping:
	1. It would send a clear message that London does not tolerate flytipping;
	2. It would be straightforward for residents and businesses alike to understand what the penalties are for flytipping;
	3. Were London to consider doing campaigns against flytipping, having a common penalty would assist in messaging;
	4. It would avoid a situation where it is ‘cheaper’ to risk fly-tipping in one borough or location than another, for example on one side of a boundary road, because the penalty if caught was less than in another location in London.
5. Disadvantages of setting a pan-London penalty level could be:
	1. The penalty level set may not reflect the priority a particular council gives to fly-tipping;
	2. There may be local factors that affect what the level of penalty should be in a borough, for example the prevalence of flytipping or the ability of individuals to pay a penalty.

**Options for TEC**

1. TEC can decide to:
	1. Provide a steer for a pan-London penalty for flytipping at this meeting and given the response from OAPW officers, set this at £400 with a reduction to £350 if paid within 10 days;
	2. Request more information via public consultation and determine at a future meeting whether to provide a steer for a pan-London penalty for flytipping;
	3. Determine that it is not necessary or desirable to provide a steer for penalties for flytipping.

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| **Recommendations:** | The Committee is asked to:* Note and discuss the report.
* Review the options at paragraph 11 and determine whether or not a pan-London penalty level for flytipping would be desirable.
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**Financial Implications**

1. There are no financial implications to London Councils arising from this report.

**Legal Implications**

1. If TEC were to agree to provide a steer to boroughs on a flytipping level, it would be just that, a steer. TEC does not have the legal basis to ‘set’ a penalty level for flytipping as TEC has no legal reference to the Environmental Protection Act 1990.

**Equalities Implications**

1. There are no equalities implications to London Councils arising from this report.