

London Councils' Transport & Environment Committee

Consultation on Setting Fixed Penalty Notice Levels for Offences Relating to Bird Feeding, Noise in Streets and Public Urination in the City of Westminster

Item no: 09

Report by: Jennifer Sibley **Job title:** Principal Policy Officer
Date: 19 March 2015
Contact Officer: Jennifer Sibley
Telephone: 020 7934 9829 **Email:** Jennifer.sibley@londoncouncils.gov.uk

Summary:

The City of Westminster has two byelaws (one on 'noise in streets and other public places', and 'urinating etc.' and another on 'feeding of birds prohibited') under Section 235 of the Local Government Act 1972.

Any person offending against either byelaw is liable on summary conviction to a fine not exceeding level 2 on the standard scale, currently £500.00. The City of Westminster wishes to introduce the option to discharge any liability to conviction by payment of a fixed penalty. Section 15 (1) (b) of the London Local Authorities Act 2004 (LLAA 2004) permits such an option.

Under Section 17(6) of the London Local Authorities Act 2004, it is the duty of the joint committee, London Councils' Transport and Environment Committee (TEC), to set the levels of fixed penalties for byelaws.

Past practice requires London Councils to consult on the levels of the penalty.

Recommendations:

The Committee is asked to:

- Agree that London Councils consults on the levels of fixed penalties for breaching byelaws in the City of Westminster for noise in streets, public urination and feeding of birds.

Fixed Penalty Levels for breaching byelaws in the City of Westminster relating to noise in streets, public urination and feeding of birds

Background

1. On 12 October 2001 the Secretary of State confirmed the City of Westminster's byelaw on 'noise in streets and other public places', and 'urinating etc.' under Section 235 of the Local Government Act 1972, and it came into force on 8 November 2001.
2. This byelaw prohibits:

Noise in streets and other public places

No person in a street or other public place shall, after being requested to desist by a constable, or by any person annoyed or disturbed, or by any person acting on his behalf:

- i. By shouting or singing;*
- ii. By playing a musical instrument;*
- iii. By operating or permitting to be operated any radio, gramophone, amplifier, tape recorder or similar instrument*

cause or permit to be made any noise which is so loud or so continuous or repeated as to give reasonable cause for annoyance to other person in the neighbourhood.

This byelaw shall not apply to properly conducted religious services or to any person holding or taking part in any entertainment held with the consent of the council.

Urinating, etc.

No person shall urinate or defecate in any public place.

Further information on this byelaw can be found here:

http://transact.westminster.gov.uk/docstores/publications_store/Good%20Rule%20and%20Government%20No%202.pdf

3. On 17 August 2007 the Secretary of State confirmed the City of Westminster's byelaw on 'feeding of birds prohibited' under Section 235 of the Local Government Act 1972 and it came into force on 3 September 2007.

Feeding of birds prohibited

No person shall within any area in the City of Westminster identified in the Schedule to these Byelaws –

- (1) feed any bird (which shall include dropping or casting feeding stuff for birds); or*
- (2) distribute any feeding stuff for birds.*

This byelaw applies to a specified area within the City of Westminster, which can be found in the papers relating to the byelaw, here:

http://www3.westminster.gov.uk/docstores/publications_store/Byelaws%20to%20Prevent%20the%20Feeding%20of%20Birds.pdf

4. Any person offending against either byelaw is liable on summary conviction to a fine not exceeding level 2 on the standard scale, currently £500.00. The City of Westminster wishes to introduce the option to discharge any liability to conviction by payment of a fixed penalty. Section 15 (1) (b) of the London Local Authorities Act 2004 (LLAA 2004) permits such an option.
5. Sections 15-18 of the London Local Authorities Act 2004 (LLAA 2004) establish the fixed penalty notices provisions for any byelaws made by borough councils.

6. By virtue of Section 17(6) of the LLA 2004, the duty of borough councils to set the levels of fixed penalties payable must be discharged by the joint committee, London Councils' Transport and Environment Committee (TEC).

Proposed levels of fixed penalty notices for breaching the byelaws

7. Westminster council proposes that the level of FPN is set at £80 for the three offences, reduced to £50 if paid within 14 days. This is consistent with other anti-social offences such as littering, Dog Control Orders, graffiti and flyposting, in level of severity as well as time and costs incurred through administration.

Consultation with boroughs and other stakeholders

8. Past practice requires London Councils to consult on the levels of FPN for noise in streets, public urination and bird feeding.
9. It is proposed that each offence be consulted on separately, but simultaneously.
10. It is proposed that consultation on FPN levels for noise in streets, public urination and bird feeding run alongside consultation on PCN levels for offences relating to builders skips, if also agreed by TEC.
11. The proposed public consultation will be web-based. If agreed by Members, London Councils will write to and invite comments from London boroughs as well as other stakeholders with an interest in the areas covered by the consultations, seeking their comments on the proposed levels of fixed penalties.
12. The results of the consultation exercise will be reported to members at the TEC meeting of 18 June 2015. If TEC approves the fixed penalty levels, they will become available to the City of Westminster and any other London borough which has or gains a byelaw on offences relating to noise in streets, public urination and bird feeding.

Recommendations

13. The Committee is asked to:
 - Agree that London Councils consults on the levels of fixed penalty for offences relating to noise in streets, public urination and bird feeding.

Financial Implications

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

Legal Implications

15. There are no legal implications to London Councils at this stage. However, if a fixed penalty level for these offences is agreed and approved by TEC, it will become available to all London boroughs seeking to adopt byelaws for these offences.
16. Any failure to pay a fixed penalty notice is pursued through the court system.

Equalities Implications

17. If TEC agrees to consult on setting FPN levels, an equalities impact assessment will be undertaken and will form part of the report to TEC in June, alongside the consultation results.