

SUBMISSION TO REGULATORY AND LICENSING COMMITTEE

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Agenda Item: 4

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SUBMISSION BY STRATEGIC DIRECTOR – HOUSING, HEALTH AND ENVIRONMENTAL PROTECTION

PROPOSED ADOPTION OF POLICY FOR ISSUING FIXED PENALTY NOTICES TO JUVENILES

1. Purpose

- 1.1 To approve and adopt the policy, 'Policy for Issuing Fixed Penalty Notices to Juveniles'.

2. Summary

- 2.1 The policy relates to environmental crime committed by young people. It has been written in consultation and will work in partnership with Staffordshire Young People's Service (SYPS) and Staffordshire Police.
- 2.2 For minor offences under the youth justice system, prosecution is usually regarded as a last resort after other intervention measures have failed. This policy introduces interventions that the Council can use similar to those used by SYPS for juvenile criminal matters.
- 2.3 Our alternative measures include education, awareness and enforcement. An alternative punishment to paying a fixed penalty notice is offered. This gives parents / guardians the opportunity to nominate their child's attendance at a none-criminal restorative justice litter pick.

3. Detail of Report

Introduction

- 3.1 The law considers that people under the age of 10 years are below the threshold at which criminal behaviour is understood, and are not 'responsible' for their actions. Accordingly, under tens cannot be prosecuted. However, juveniles aged ten to seventeen can be prosecuted but are treated differently to adults by the youth justice system. Government guidance recommends age-specific enforcement policies for this age group so Authorities comply with the 2004 Children Act.
- 3.2 'Issuing fixed penalties to juveniles' guidance issued by the Department for the Environment, Food and Rural Affairs (DEFRA) relates to envirocrime matters under the Clean Neighbourhoods and Environment Act 2005. This document offers general guidance, but also states:

'...local authorities are strongly recommended to develop, with the Youth Offending Team and Police for their area, procedures and protocols for issuing fixed penalty notices to young offenders, and to produce specific guidance, based on this document, for their officers'.

- 3.3 A juvenile or young person is someone between the age 10 and 17 years of age, inclusive.
- 3.4 To undertake effective enforcement on young people we need to demonstrate that we have taken reasonable steps to ensure that young people are not criminalised for minor offences.
- 3.5 The use of fixed penalty notices is an appropriate way of dealing with minor environmental offences, however dealing with young people differently to adults constitutes a proportionate approach to enforcement.

Working In Partnership

- 3.6 A partnership approach has been taken between Lichfield District Council, other Staffordshire Local Authorities, Staffordshire Police, and Staffordshire Young People's Service (SYPS).

Why Implement A Specific Policy

- 3.7 DEFRA guidance states that it is sensible practice to develop separate approaches to those aged 10-15 years and those 16 and 17 years.
- 3.8 Criminal prosecutors already have intervention policies in place and a support network through SYPS. The Councils envirocrime legislation does specify measures for juvenile offenders. Without a juvenile offender policy young persons may receive a criminal record for relatively minor offences. This criminal record could be disproportionate in respects to its impact on future employment prospects or applying for University places or travel visas etc.
- 3.9 Should a young offender refuse to discharge their liability through the restorative justice policy, it is more likely that any resultant court action would be deemed acceptable by the Youth Court and therefore successful.

How Will The Policy Be Used And Who Will Use It

- 3.10 The policy will act as an extension to the existing Community, Housing & Health and Operation Services enforcement policy and is to be used in conjunction with it. The 'Policy for Issuing Fixed Penalty Notices to Juveniles' is a reflection of current thinking about how best to deal with young people.
- 3.11 The policy document sets out the general principles to be followed in relation to the issuing of fixed penalty notices to young people including the introduction of a none financial, none criminal, restorative justice alternative punishment.
- 3.12 The policy will apply to both officers of the council and officers of any other enforcement agencies, such as the police, with whom the Council enters into any agreement for the purposes of enforcement.

Education

- 3.13 An education and awareness programme will be rolled out at secondary schools across the district so that young people will understand what is expected of them in order to comply with the law and what the penalties will be for non-compliance.

The Policy

- 3.14 The policy separates juveniles into two age groups, 10-15 year olds and 16 and 17 year olds.
- 3.15 The policy outlines upon witnessing an offence and challenging an offender who is likely to be a youth that the officer must obtain the name, address, age and date of birth of the young

offender, together with the name and address of his or her parents or legal guardian and which school they attend.

- 3.16 The letter sent to 10-15 year olds will be addressed to their parents 16 and 17 year olds will be written to directly in the same manner as adults.
- 3.17 The policy will introduce a scheme of restorative intervention for 10-17 year olds. The youths will be offered the opportunity to discharge liability for an offence by payment of a fixed penalty notice or undertake a litter pick. However, failure to attend the litter pick or pay the fixed penalty notice may result in us initiating prosecution proceedings.
- 3.18 Youths will be offered the opportunity to discharge liability for payment of the fixed penalty notice in the form of a restorative justice litter pick. The restorative justice litter pick will be held for up to 3 hours facilitated by Lichfield District Council and SYPS- Targeted Youth Support Team and supported by local police and schools. A parent or guardian will be required to supervise their child during the litter pick.
- 3.19 The policy states that if youth repeat offenders are caught:
 - Twice in a two year period they will offered the fixed penalty notice and restorative justice litter pick and they will be referred to the Targeted Youth Support Team for an individual assessment and intervention.
 - On more than two occasions in a two year period advice on how to proceed will be obtained from the Targeted Youth Support team.

4. Financial Implications

- 4.1 Since 2003, local authorities have been permitted to retain receipts from FPNs for litter offences under section 119 of the Local Government Act 2003. Local Authorities are permitted to use sums of money it received only for functions under Part IV of the Environmental Protection Act 1990 i.e. relation to litter enforcement. There will be minimal costs incurred with the education of secondary school pupils and the supervision of litter picks.

5. Environmental Issues

- 5.1 One of the key objectives of the proposed policy in the increased protection of Lichfield's environments and the creation of secure neighbourhoods for local people to reside and enjoy leisure time in.

6. Strategic Plan Implications

- 6.1 To provide a sustainable, clean, and safe environment is the council's ambition a principal factor in helping to deliver this is effective and efficient enforcement.

7. Recommendation

- 7.1 That the Policy for 'Issuing Fixed Penalty Notices to Juveniles' is adopted.