

Notice of Non-key Executive Decision

Subject Heading:	Change to the (early repayment amount for) Littering fines.
Decision Maker:	Councillor Barry Mugglestone, Cabinet Member for Environment
Cabinet Member:	Councillor Barry Mugglestone, Cabinet Member for Environment.
SLT Lead:	Helen Oakerbee – Director of Planning and Public Protection
Report Author and contact details:	Chris McAvoy – Head of Enforcement Community Safety
Policy context:	Modification of Fixed Penalty Notice (early repayment) amount
Financial summary:	<p>The current Fixed Penalty Notice (FPN) amount for Littering is set at the statutory maximum of £150. This is not being changed as part of this decision.</p> <p>However, the current early repayment amount is set at £100. The intention is to increase the early repayment amount from £100 to £125.</p> <p>It is anticipated this will apply to circa 1000-2000 FPNs annually which therefore equates to an additional income of £0.025m - £0.050m annually</p>
Relevant OSC:	Place OSSC
Is this decision exempt from being called-in?	Yes, it is a Non-Key Decision by Cabinet member

Non-key Executive Decision

The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents **x**

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

Place an X as appropriate

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Recommendations

It is recommended that:

- 1) The Council agree to an early repayment amount on Litter FPNs of £125.

AUTHORITY UNDER WHICH DECISION IS MADE

3. 2.5 The following Functions may be delegated to individual Cabinet members by the Leader.

- (x) To approve all in year changes to both fees and charges.

STATEMENT OF THE REASONS FOR THE DECISION

For several years the Council imposed an early repayment amount for Littering Fixed Penalty Notices for the amount of £100 to encourage compliance at an early stage. The Council now wishes to formalise the position. Having reviewed fees and fines and considering the financial position of the council, it has been deemed appropriate to raise the early repayment amount on the Littering Fixed Penalty Notices due to the large disparity between the current statutory maximum amount of £150 and the lower early repayment amount.

It is felt that the lower early repayment amount could be raised from £100 to £125, thereby keeping an early repayment discount of £25 to encourage prompt payment, whilst raising the level to an appropriate amount

It is anticipated the value of this decision will be circa £0.025m - £0.050m to the Council annually.

OTHER OPTIONS CONSIDERED AND REJECTED

To do nothing and keep the early repayment amount at £100.

Rejected as there has not been any increase to this fine for several years and it is deemed appropriate to raise the early repayment amount at this time.

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PRE-DECISION CONSULTATION

Councillor Barry Mugglestone, Cabinet member for Environment

No formal consultation with the public is required or undertaken

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Chris McAvoy

Designation: Head of Enforcement and Community Safety

Signature: *C McAvoy*

Date: 18th June 2023

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Under section 88 (1) of The Environmental Protection Act 1990 (the Act) where an authorised officer of the Council has reason to believe that a person has committed an offence of littering under Section 87 of the Act, a fixed penalty notice may be given discharging any liability for conviction for that offence. There are statutory limits for the amount of the fixed penalty notice. There is no express provision within the Act for Councils to impose a reduced amount to encourage early repayment, this is at the discretion of the Council. The increase from £100 to £125 may not appear marginal in the current climate however the government is laying a statutory instrument increasing the upper limits for various fixed penalty notices which includes those for littering. This means the maximum amount those who litter could be fined up to £500 which is a considerable increase.

Defra's enforcement guidance, as part of the Code of Practice on Litter and Refuse, advises on best practice for litter enforcement from Councils.

Councils will still have the freedom to set the rates that offenders should pay, within the limits above. It is advised to keep the early repayment amount under review. The legislative changes will come into force around the 22nd August 2023.

FINANCIAL IMPLICATIONS AND RISKS

The littering fine is set by the Corporate Charging Policy and has been at the maximum it can be for a number of years. The proposed increase in the early repayment amount, based on the number of Fixed Penalty Notices currently issued (1,000) should result in increased income.

It is anticipated the Council will double the amount of Fixed Penalty Notices issued in 2023/2024 with the addition of National Enforcement Solutions (NES) also issuing notices on the Council's behalf.

By increasing the early repayment amount, but by still keeping an early repayment incentive, will continue to encourage payment rates.

The table below shows anticipated increase income:

No. of FPN's issued	Increased Additional Early Repayment Amount (£)	£(m)
1,000	25	0.025
2,000	25	0.050

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HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no human resource implications.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

There are not believed to be any implications from making this decision.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

Guidance on completing this section can be found on this link:

» [Climate Change Committee Guidance \(havering.gov.uk\)](https://www.havering.gov.uk/council/council-services/committees-and-panels/climate-change-committee)

No implications from this decision

BACKGROUND PAPERS

None

APPENDICES

None

Non-key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed

Barry Mugglestone

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

14/08/2023

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____