

## For General Release

<b>REPORT TO:</b>	<b>CABINET 19 March 2018</b>
<b>SUBJECT:</b>	<b>Safety Enforcement Policy</b>
<b>LEAD OFFICER:</b>	<b>Shifa Mustafa, Executive Director, Place Andy Opie, Director of Safety</b>
<b>CABINET MEMBER:</b>	<b>Councillors Hamida Ali, Alison Butler, Stuart Collins</b>
<b>WARDS:</b>	<b>All</b>

### **CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:**

Croydon Council recognises the importance of exercising its various enforcement powers to ensure that people and businesses comply with the law so that residents, businesses and visitors are protected. The Safety Division is collectively responsible for enforcing a vast array of legislation relating to housing, safe practices, rogue trading, anti-social behaviour and the environment. We ensure that officers are competent and properly authorised to carry out their duties in a fair, consistent and equitable manner.

These considerations accord with Croydon Council's Corporate Plan 2015-18 independence priorities, namely:

To create a place where people and businesses want to be.

To provide a decent, safe and affordable home for every local resident who needs one.

To help families be healthy and resilient and able to maximize their life chances and independence.

To protect children and vulnerable adults from harm and exploitation.

To create a place that communities are proud of and want to look after as their neighbourhood.

To be innovative and enterprising in using available resources to change lives for the better

To drive fairness for all communities, people and places

A place where people feel safe and are safe.

Using our enforcement powers effectively is a key part of the Council's campaign to clean up Croydon '**Don't Mess With Croydon – Take Pride**' and is an important addition to the council's current strategic approach to improving standards for private sector tenants, tackling rogue landlords, improving ASB and environmental nuisance.

### **FINANCIAL IMPACT:**

The current volume of Fixed Penalty Notices is below that forecast in the existing budget. As a result of the proposed charge, income could potentially increase, based on the number of fixed penalty notices currently served, by £14,000 - £20,000 per annum. It is anticipated that this will reduce the current shortfall, therefore no budget adjustments are anticipated.

**KEY DECISION REFERENCE NO.:** This is not a key decision

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

## **1. RECOMMENDATIONS**

- 1.1 The Cabinet is recommended to note the extent of the enforcement work carried out within the Safety Division and formally adopt the new Safety Enforcement Policy;
- 1.2 Agree the new proposed charge for Fixed Penalty Notices (FPN) for litter offences, which is to increase from £80 to £150 with a reduction to £100 if the FPN is paid within two weeks of receipt;
- 1.3 Agree to increase the charge for Fixed Penalty Notices (FPN) for fly posting from £75 to £100, breach of a Community Protection Notice from £80 to £100 and Trade Waste receptacle offences (S47) from £100 to £110;
- 1.4 Delegate to the Executive Director of Place the ability to update the Safety Enforcement Policy in conjunction with the relevant Cabinet Member where such changes are necessitated by changes to legislation or government guidance.

## **2. EXECUTIVE SUMMARY**

- 2.1 The purpose of the report is to outline the extent of the enforcement carried out by officers within the Safety Division, agree an increase in certain fixed penalty notice charges, and to obtain formal adoption of the new enforcement policy which covers, for the first time, all enforcement within the Division.

## **3. DETAIL**

- 3.1 Enforcement is carried out by the following services:

Public protection:

- Houses in multiple occupation
- Selective licensing and housing
- Trading standards
- Anti-social behaviour
- Pollution
- Food and safety

Neighbourhood operations:

- Neighbourhood safety
- Environmental enforcement

3.2 The public protection service consists of approximately 65 staff who between them have responsibility for enforcing over 200 pieces of legislation. Notable achievements during the last 3 years include:

- The implementation of a borough-wide selective licensing scheme which makes it a requirement for all privately rented properties to be licensed with the council. Since the scheme was implemented we have licensed over 31,000 properties (95% of our estimated total), served over 600 improvement notices on properties in disrepair and 15 prohibition orders on properties unsuitable for habitation;
- 16 prosecutions for trading offences, with the maximum sentence handed down of 4 years and 3 months imprisonment;
- The outstanding work of the Trading Standards team on knife sales was mentioned in the Mayor of London's knife crime strategy in June 2017;
- 42 voluntary closures of food premises, 11 food and/or health and safety prosecutions, 45 health and safety improvement or prohibition notices;
- Maintenance of 24 hours service for emergencies, including out-of-hours noise complaints;
- The Pollution team won a national award for their work in air quality and freight – Logistics Champion of the Year for Public Services – from the Freight Transport Association in December 2017;
- Over 13,000 complaints about noise investigated;
- Development, consultation and implementation of a new Air Quality Action Plan;
- The ASB team have successfully applied for 30 premises closures, 34 injunctions (including 12 youth injunctions), 18 outright possession orders and 3 criminal behaviour orders (CBO) – these were the first CBOs to be led by a local authority;
- Almost 500 houses in multiple occupation inspected and licensed.

3.3 The neighbourhood operations service consists of approximately 50 staff who carry out a wide range of duties related to 'Green and Clean', including taking enforcement action and prosecutions. Notable achievements during the last 3 years include:

- Issuing around 850 fixed penalty notices per year for fly tipping/littering;
- Successfully prosecuted over 180 people for environmental offences, including one for a large accumulation of waste where the defendant was given a fine and costs totalling £10,000 and a prolific fly tipper who was given a custodial sentence of 12 months;
- Seized 34 vehicles for environmental offences and are a national leader in using this power providing advice to DEFRA and other local authorities;
- Issuing almost 1,000 Community Protection Notice (CPN) warning letters, and 52 actual CPNs;
- 345 street champions have been recruited and 191 community clean-ups carried out.

3.4 Since the creation of the Safety Division in 2015, services have worked increasingly well together to share information and work jointly to improve efficiency and obtain more effective results. Examples of this are the implementation of an information sharing portal, the development of excellent working relationships between the various teams/services and increased recognition of work carried out by other teams and the advantages of joint working. The division has also carried out specific exercises between several teams, eg area action relating to selective licensing and targeting specific areas where a number of issues, involving several teams, were prevalent. The increased awareness of the work of other teams led to recognition that officers had many similar methods of working but there were also differences in processes used to carry out similar tasks. Housing enforcement, regulatory services and neighbourhood operations all had their own enforcement policies. The combination of these 3 separate enforcement policies into one new document will lead to further improvements and ensure consistency.

3.5 The current rate of a fixed penalty notice (FPN) for litter offences is £80. From 1 April 2018, the Environmental Offences (Fixed Penalties) (England) Regulations 2018 will increase the maximum fixed penalty for littering from £80 to £150, with an increase in the default level of penalty from £75 to £100. Despite the council issuing more FPNs than ever before for these offences over the last 3 years the borough still experiences high levels of littering and low level fly tipping, for which these fines are used. They are therefore not acting as a deterrent to offenders. It is therefore recommended that the council adopt the highest level of fine permitted and to increase the charge to £150. This will send out a clear message that Croydon will not tolerate people who are ruining the borough with the illegal deposit of waste. In addition, it is proposed to introduce an early payment option for such littering offences so that where the FPN is paid within two weeks of receipt the amount payable will be reduced to £100. If it is not paid within the early repayment period, the full sum will be due.

3.6 In addition to the increase in FPN charge for littering offences this report proposes that we increase charges for three other offences as follows:

- Fly posting would increase from £75 to £100;
- Breach of a Community Protection Notice from £80 to £100;
- Trade Waste receptacle offences (S47) from £100 to £110.

These changes mean that Croydon has adopted the statutory maximum FPN amount for each offence that it currently enforces with the exception of a breach of a Public Space Protection Order (PSPO). It is not possible to change this charge at the current time given that we consulted on the FPN amount for the current PSPO in the town centre. It would require further consultation on amendments to the PSPO before a change in the FPN amount could be agreed. It is therefore recommended to leave this one as it is until such a time that it becomes necessary to review the PSPO.

3.7 The new enforcement policy and FPN levies will enable the council to work more effectively in the future to improve the borough, making it a safer and more attractive place to live, work and visit. This is such a priority that the council have agreed to increase the number of enforcement officers in our neighbourhoods by 50%. Funds to recruit 20 additional enforcement officers have been agreed and will boost the current 40-strong enforcement service to help increase public confidence and community engagement, reduce fear of crime, prevent and deal with anti-social behaviour and to protect the quality of

the local environment. These enforcement officers will be additional 'eyes and ears' around the borough and will be equipped to deal with a range of concerns, from fly tipping to trade waste, litter, dog fouling and other anti-social behaviour.

#### **4. CONSULTATION**

- 4.1 Specific consultation has not been carried out regarding the information in this paper.

#### **5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1 At present there are no future savings/efficiencies currently anticipated.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk and Deputy s151 officer.

#### **6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

- 6.1 The Solicitor to the Council comments that it is appropriate to review and update the Council's Safety Division Enforcement Policy to accord with legislative changes and reflect new approaches to Council enforcement in this area. Any enforcement policy and subsequent use of enforcement powers by the Council will need to be undertaken in a responsible, consistent, appropriate and proportionate manner.

Approved by: Sandra Herbert, head of Litigation and Corporate Law, on behalf of Jacqueline Harris-Baker, Director of Law and Monitoring Officer

#### **7. HUMAN RESOURCES IMPACT**

- 7.1 There are no immediate human resources issues identified, however if any arose these will be dealt with under Human Resources policies and procedures.

Approved by: Jennifer Sankar, Head of HR Places on behalf of Sue Moorman, Director of Human Resources.

#### **8. EQUALITIES IMPACT**

- 8.1 An Equality Analysis was undertaken to assess the potential of an adverse positive or negative impact the new Safety Enforcement Policy and related powers would have on protected groups. The analysis recommended that no further detailed analysis is required.
- 8.2 The enforcement policy sets out a range powers available to the Council and how these will be legally applied. The policy largely reflects national legislation and the various powers will have been assessed for their impact on equality as part of the consultation and development process before the legislation was enacted. Although the policy is likely to have a positive impact on certain

protected groups, it will apply to the whole population and its use will be determined by the behaviour occurring rather than the protected group.

- 8.3 The new policy includes measures which officers take into consideration when taking enforcement action to ensure that all action is fair and proportionate.

## **9. ENVIRONMENTAL IMPACT**

- 9.1 The various services within the Safety division, and the enforcement work carried out, have a significant impact on the environment through improving the energy efficiency of residential dwellings and ensuring that our neighbourhoods are maintained clean and green. These changes to the Policy and FPN amounts alone are not expected to make a significant change to the results already being achieved, but are intended to boost the current arrangements, and support and enhance the current stance against environmental incidents.

## **10. CRIME AND DISORDER REDUCTION IMPACT**

- 10.1 These changes to the Policy and FPN amounts alone are not expected to have a significant impact but are intended to continue to raise awareness of a combined and joined up approach to enforcement activities across the Borough and to ensure that any information will be better shared between departments within Safety and referrals to related departments can be clearly defined.

Many other crimes are linked to or committed by offenders who commit environmental crimes, especially the upper tier, large scale offences (which can sometimes be evidenced to be “organised”) and so these changes are anticipated to support the Councils obligation under Section 17 of the Crime and Disorder Act in reducing overall crime in the borough.

## **11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 11.1 The enforcement policy requires updating to take account of changes in legislation and to ensure that enforcement is being carried out consistently across the division.
- 11.2 Despite the council issuing more FPNs than ever before for these offences over the last 3 years the borough still experiences high levels of littering and low level fly tipping, for which these fines are used. There are therefore not acting as a deterrent to offenders. It is therefore recommended that the council adopt the highest level of fine permitted and to increase the charge.

## **12. OPTIONS CONSIDERED AND REJECTED**

- 12.1 Do not update the enforcement policy and carry on using three separate ones.
- 12.2 Do not increase the level of FPN.
- 12.3 Increase the level of FPN but not to the statutory maximum.
- 12.4 Increase the level of FPN but do not include a discount for early payment.
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<b>CONTACT OFFICER:</b>	Shayne Coulter, Head of Public Protection, 65631
<b>APPENDICES TO THIS REPORT:</b>	Appendix A – Safety division enforcement policy Appendix B – Financial Penalties Rent Repayment Orders
<b>BACKGROUND PAPERS:</b>	None