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Mark James LLM, DPA, DCA
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County Hall, Carmarthen. SA31 1JP

TUESDAY, 7 MAY 2019

TO: THE EXECUTIVE BOARD MEMBER FOR PUBLIC PROTECTION

I HEREBY SUMMON YOU TO ATTEND A MEETING OF THE **EXECUTIVE BOARD MEMBER DECISIONS MEETING FOR PUBLIC PROTECTION** WHICH WILL BE HELD IN **REGENERATION MEETING ROOM, COUNTY HALL, CARMARTHEN** AT **2.00 PM, ON MONDAY, 13TH MAY, 2019** FOR THE TRANSACTION OF THE BUSINESS OUTLINED ON THE ATTACHED AGENDA.

Mark James CBE

CHIEF EXECUTIVE



PLEASE RECYCLE

Democratic Officer:	Emma Bryer
Telephone (direct line):	01267 224029
E-Mail:	ebryer@carmarthenshire.gov.uk
Ref:	AD016-001

A G E N D A

1. DECLARATIONS OF INTEREST
2. AMENDMENT TO DUTY OF CARE TO HOUSEHOLDERS 3 - 6
3. TO SIGN AS CORRECT THE DECISION RECORD OF THE MEETING HELD ON THE 18TH JANUARY, 2019 7 - 8

Note:-

*The press and public are not be entitled to attend the meeting.
The decision record will be published normally within 3 working days.*

EXECUTIVE BOARD MEMBER DECISION MEETING FOR PUBLIC PROTECTION

13TH MAY 2019

Executive Board Member:	Portfolio:
Cllr. Philip Hughes	Public Protection

AMENDMENT TO DUTY OF CARE TO HOUSEHOLDERS

Purpose:

To enable Environmental Enforcement Officers the opportunity to issue a fixed penalty for the offence of Householder duty of care instead of taking the offender to court.

Recommendations / key decisions required:

To endorse the fixed penalty for household waste duty of care at £300 with an early repayment within 10 days of £150. This ability to issue a fixed penalty ticket is an amendment under Section 34(2A) of the Environmental Protection Act 1990.

Reasons:

The Government have made provision to amend the Environmental Protection Act 1990 to include a fixed penalty ticket as a means of disposal of a householder duty of care offence instead of taking the matter to court.

The waste duty of care requires occupiers of domestic property to take all measures available to them as are reasonable in the circumstances to ensure that any transfer by them of household waste produced on their property is to an authorised person.

This requirement aims to reduce the chances of the waste ending up in the hands of those who could potentially dispose of it illegally.

Directorate: Environment Name of Head of Service: Ainsley Williams Report Author: Paul Morris	Designation: Head of Waste & Environmental Services Environmental Enforcement Manager	Tel Nos. / E Mail Addresses: 01267 224500 AIWilliams@carmarthenshire.gov.uk 01554 784164 PMorris@carmarthenshire.gov.uk
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Declaration of Personal Interest (if any):

None

Dispensation Granted to Make Decision (if any):

N/A

DECISION MADE:

Signed: _____ DATE: _____
EXECUTIVE BOARD MEMBER

The following section will be completed by the Democratic Services Officer in attendance at the meeting

Recommendation of Officer adopted	YES
Recommendation of the Officer was adopted subject to the amendment(s) and reason(s) specified:	
Reason(s) why the Officer's recommendation was not adopted:	

EXECUTIVE SUMMARY

EXECUTIVE BOARD MEMBER DECISION MEETING FOR PUBLIC PROTECTION

13TH MAY 2019

AMENDMENT TO DUTY OF CARE TO HOUSEHOLDERS

The fixed penalty notice for breaches of the household waste of duty of care provides authorities with an alternative enforcement option to prosecuting offenders through the court. It allows an individual to discharge liability for the duty of care offence by payment of a fixed penalty ticket.

The offences of duty of care relate to householders who do not dispose of their waste correctly and does not apply where waste is collected by the principle waste authority which is in this case is Carmarthenshire County Council.

The FPN fines for a breach of householder duty of care is £300 and an early payment of £150 is offered if paid within 10 days. The amounts stated are fixed following recommendations from the Welsh Government to have a consistent approach across Wales.

A fixed penalty notice may be issued where it appears to authorised officers that an occupier of a domestic property has failed to comply with their duty under S34(2A) of the Environmental Protection Act in Wales. Examples of this include;

- Fly-tipping

Where fly-tipped waste can be traced back to an occupier of a domestic property who is found to have failed to take such measures as were reasonable in the circumstances to ensure that they transferred the waste to an authorised person

- Unauthorised carrier

Where an unauthorised carrier is found to be carrying waste that was directly transferred to them by the occupier of a domestic property who is found to have failed to take such measures as were reasonable in the circumstances to ensure that they transferred the waste to an authorised person.

- Failing to take reasonable measures

Where an occupier of a domestic property is found to be transferring their waste to a site that does not have a permit or exemption, and the occupier is found to have failed to take such measures as were reasonable in the circumstances to ensure that the operator of the site in question was an authorised person.

Any action taken will be subject to the Corporate Enforcement Policy.

DETAILED REPORT ATTACHED?	NO
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IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Ainsley Williams** Head of Waste & Environmental Services

Policy and Crime & Disorder	Legal	Finance	ICT	Risk Management Issues	Staffing implications	Physical Assets
NONE	YES	YES	YES	NONE	NONE	NONE

Legal

Enforcement Officers have existing powers and authorised under S34(2A) of the Environmental Protection Act 1990.

Finance

Currently action through the courts results in fines and costs being awarded. Any fines issued are sent to the treasury and costs awarded are given back to the authority.

In the event of a breach of householder duty of care and a fixed penalty being issued the revenue is given back to the authority.

Any failure to pay the fixed penalty ticket will result in court proceedings and the outcome is as described above.

ICT

The back office systems are already in place to deal with other fixed penalty tickets and would require no change.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: **Ainsley Williams** Head of Waste & Environmental Services

1. Scrutiny Committee - N/A
2. Local Member(s) - N/A
3. Community / Town Council - N/A
4. Relevant Partners - N/A
5. Staff Side Representatives and other Organisations - N/A

Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Guidance for Welsh Authorities on Household Waste Duty of Care fixed penalty notices	Welsh Government	https://www.gov.uk/government/publications/household-waste-duty-of-care-fixed-penalty-notice-guidance/guidance-for-local-authorities-on-household-waste-duty-of-care-fixed-penalty-notices

EXECUTIVE BOARD MEMBER DECISIONS MEETING FOR PUBLIC PROTECTION

18 JANUARY 2019

PRESENT: Councillor P.M. Hughes (Executive Board Member).

The following officers were in attendance:

Mr. R. Edgecombe, Legal Services Manager;
Mrs. J. Owen, Democratic Services Officer.

Regeneration Meeting Room, County Hall, Carmarthen: 9:00am - 9:25am

1. DECLARATIONS OF INTEREST

There were no declarations of personal interest.

2. REGULATION OF INVESTIGATORY POWERS ACT

The Executive Board Member considered a report which provided an overview of the use of covert surveillance activity undertaken by the Authority in 2017/18 along with the written procedures for the conduct of covert surveillance by staff and for the use of such surveillance.

The report included information in relation to the following:

- Directed Surveillance
- Covert human Intelligence Sources
- Interception of Communications Data
- Statistical Returns
- Training
- Council Procedures

The Executive Board Member noted that no authorisations had been issued under this Act for the conduct of directed surveillance, covert human intelligence sources and interception of communications data during the period 1st April 2017 to 31st December 2018.

The Legal Services Manager stated that he was pleased to report that 68 Council staff attended an arranged training session which took place on 5th December 2018. Furthermore, delegates included not only representatives of the main regulatory enforcement teams, but also other services including;

- Human Resources
- Adult Social Care/Care homes/Domiciliary Care
- Finance/Accountancy
- Internal Audit
- Children's services

In addition, training notes would be circulated to all relevant staff.

Reference was made to the Covert Surveillance Council procedures, section 5 – Authorisation Process. The Legal Services Manager highlighted that as stated within the procedures, should an application be granted, the authorising officer must specify the following:

- The scope of the authorisation
- The duration of the authorisation
- The date (not more than 28 days) for review of the authorisation.

Appendix 1 of the abovementioned procedure provided a list of authorising officers under the regulation of Investigating Powers Act.

A discussion ensued with regard to the use of personal social media accounts for Council purposes. The Legal Services Manager explained that the Council's 'Use of Social Media Policy' was available for staff to view on the intranet which included a section on the Monitoring of Social Media which quoted: *"If a social media account is to be used to view or monitor another account, care must be taken to avoid inadvertently conducting covert online surveillance which is covered by the Council's Covert Surveillance Policy. Advice should be sought from Legal Services"*.

However, in addition to the Council's 'Use of Social Media Policy, it was the Executive Board Member's view that it would be prudent to further highlight to staff the dangers of using their own personal social media accounts for this purpose. The Legal Services Manager agreed to discuss this further with Human Resources and report to the Executive Board Member accordingly.

RESOLVED that:

2.1 the covert surveillance activity undertaken by the authority in 2017/2018 be noted;

2.2 the amendments to the corporate procedure on the conduct of such surveillance be approved for 2019.

3. DECISION RECORD - 12TH APRIL 2018

RESOLVED that the decision record of the meeting held on 12th April, 2018 be signed as a correct record.

EXECUTIVE BOARD MEMBER

DATE