

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	Designation: Head of Waste & Environmental Services	Tel Nos. / E Mail Addresses: 01267 224500 AIWilliams@carmarthenshire.gov.uk
Name of Head of Service: Ainsley Williams		01554 784164 PMorris@carmarthenshire.gov.uk
Report Author: Paul Morris	Environmental Enforcement Manager	

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