

**REPORT FROM: ENVIRONMENTAL SERVICES MANAGER**

**TO: NELSON, BRIERFIELD AND REEDLEY COMMITTEE**

**DATE: 28<sup>TH</sup> FEBRUARY, 2022**

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**FOR INFORMATION  
ENFORCEMENT LITTER AND DOG FOULING**

**PURPOSE OF REPORT**

To provide Members with a response to the question raised in relation to the issuing of fines for environmental crime offences.

**ISSUE**

1. Following receipt of the environmental crime report which was presented to the Committee at its meeting on the 31<sup>st</sup> January 2022, the Environmental Services Manager was asked to provide clarification on the remit of issuing fines by the Enforcement Team.
2. The Environmental Services Manager advises that the Council and its current enforcement partner use Section 87 of the Environmental Protection Act 1990 to enforce against offences such as littering. We additionally use Part 1 Paragraph 3 of the Public Space Protection Orders and Section 67(2) of the Anti-social Behaviour Crime and Policing Act 2014 to enforce against offences which include the failure to clear fouling forthwith.
3. The Committee were advised on the powers of the Public Space Protection Orders when it met in early January 2022.
4. In relation to littering Section 87 of the Environmental Protection Act 1990 states that a person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any place to which this section applies and leaves it.
5. Section 87 states that it applies to any place in the area of a principal litter authority which is open to the air, this includes private carparking areas. In England and Wales the following are "principal litter authorities" a county council, a county borough council or a district council
6. Section 87 however does not apply to a place which is "open to the air" if the public does not have access to it, with or without payment.
7. A place on land shall be treated as "open to the air" notwithstanding that it is covered if it is open to the air on at least one side

8. It is immaterial for the purposes enforcing against a littering offence whether the litter is deposited on land or in water.
9. No offence is committed under the Act where the depositing of the litter is authorised by law; or done by or with the consent of the owner, occupier or other person having control of the place where it is deposited.
10. A person may however only give consent in relation to the depositing of litter in a lake or pond or watercourse if he is the owner, occupier or other person having control of all the land adjoining that lake or pond or watercourse; and all the land through or into which water in that lake or pond or watercourse directly or indirectly discharges, otherwise than by means of a public sewer.
11. Litter authorities can now authorise 'any person' (or the employee of any such person) to issue fixed penalty notices.
12. Where a person is given a fixed penalty notice no proceedings may be taken within 14 days of the notice being served, and the person cannot be convicted of the offence if payment of the fixed penalty is made within this time period.
13. Whilst issuing a fixed penalty notice an authorised officer can require a person to whom he proposes to give a fixed penalty notice to give him his or her name and address. It is an offence to fail to provide these details, or to give a false or inaccurate name or address.
14. A person who is guilty of an offence under this section and fails to pay the Fixed Penalty shall be liable on summary conviction to a fine not exceeding level 4 (currently £2500) on the standard scale.
15. On conviction a local authority, with a view to promoting the abatement of litter, may take such steps as the authority think appropriate for making the conviction known to the public in their area.

## **IMPLICATIONS**

**Policy:** None arising directly from this report

**Financial:** None arising directly from this report

**Legal:** None arising directly from this report.

**Risk Management:** None arising directly from the report

**Health and Safety:** None arising directly from the report

**Sustainability:** None arising directly from the report.

**Community Safety:** None arising directly from the report.

**Equality and Diversity:** None arising directly from the report.

**APPENDICES**      None

**LIST OF BACKGROUND PAPERS**      None