

Bolsover District Council

Executive

2nd March 2015

Anti-social Behaviour, Crime and Policing Act 2014

Report of the Chief Executive Officer

This report is public.

Purpose of the Report

- To provide guidance on the Community Protection Notice powers contained within the Anti-social Behaviour, Crime and Policing Act 2014;
- To set the level of fixed penalty payable on service of a fixed penalty notice;

1 Report Details

- 1.1 The Anti-social Behaviour, Crime and Policing Act 2014 received royal assent on 13th March 2014 although many of the anti- social behaviour provisions did not come into force until 20th October 2014.
- 1.2 One of the main provisions in the Act which is now in force is in Part 4 which is the introduction of Community Protection Notices. These are powers designed to combat environmental health style problems. They replace Litter Clearing Notices, Street Litter Control Notices and Defacement Removal Notices although they can cover a far wider range of problems. They do not however replace the existing statutory nuisance regime in the Environmental Protection Act 1990. The EPA will prevail where environmental anti social behaviour meets the threshold for a statutory nuisance
- 1.3 The test for serving notice is that there must be conduct that is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality and the conduct is unreasonable.
- 1.4 The power to issue notices is available to local authorities, the police and registered providers of social housing (if designated by the relevant local authority).
- 1.5 Notices can require an individual or body to cease doing something or to take specific steps to remove the problem and to ensure it does not reoccur.
- 1.6 Failure to comply with a notice can result in a fixed penalty notice or prosecution. On conviction the maximum fines that may be awarded are £2,500 to an individual or £20,000 to an organisation. In addition there are work-in-default powers which enable local authorities to enter upon land to undertake any work required by a notice. The cost of the works would then be recoverable by the local authority.

1.7 It is important to note that these powers do not replace the powers where on the spot fixed penalty notices may be served, e.g. for dog fouling or littering. These powers remain in force.

1.8 It is for the local authority to set the level of penalty payable on the service of a fixed penalty notice, although this must not exceed £100. The fixed penalty notice may also state a lesser amount, also set by the local authority, which may be paid if paid within 14 days of the service of the notice. It is not mandatory to set a lesser amount.

2 Conclusions and Reasons for Recommendation

It is necessary for the local authority to set the level of fixed penalties. It is suggested that the fixed penalty be £100. This is in line with the level of old fixed penalty notices replaced by the Community Protection Notice. The old fixed penalty notice did not carry a lesser early payment amount and so it is proposed that the new fixed penalty does not have an early payment reduction also.

3 Consultation and Equality Impact

Not applicable

4 Alternative Options and Reasons for Rejection

Not applicable

5 Implications

5.1 Finance and Risk Implications

As contained in the report

5.2 Legal Implications including Data Protection

As contained in the report

5.3 Human Resources Implications

None

6 Recommendations

6.1 To note the report.

6.2 The amount of fixed penalty for breach of a Community Protection Notice under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 be set at £100.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	Not applicable

8 Document Information

Appendix No	Title
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Senior Principal Solicitor	01246 242472

Report Reference –