

REPORT TO:		Cabinet	
DATE:		21 January 2026	
PORTFOLIO:		Councillor Stewart Eaves - Environmental Services	
REPORT AUTHOR:		Craig Haraben (Head of Environmental Services)	
TITLE OF REPORT:		Fixed Penalty Notice charges	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	Select: Y/N	Not applicable	
KEY DECISION:	Select: Y/N	If yes, date of publication:	

1. **Purpose of Report**

- 1.1 To request that Cabinet consider increasing the fines for breaching section 33 (1) (a) of the Environmental Protection Act 1990 (fly tipping on public land) and for breaching section 46(1), (3)(c) or (d), (4) of the Environmental Protection Act 1990 (not using the correct waste receptacles when disposing of waste which is a section 46 requirement)

2. **Recommendations**

- 2.1 That Cabinet notes the report
- 2.2 That Cabinet increases the fines for breaches of section 33(1)(a) and section 46 requirements of the Environmental Protection Act 1990 (EPA 1990) as set out in paragraph 3.10

3. **Reasons for Recommendations and Background**

- 3.1 Hyndburn Borough Council has for many years had a proactive approach to the waste and recycling collection service provided to Borough residents.
- 3.2 Recycling is important because it conserves natural resources, saves energy, reduces pollution and reduces the amount of waste sent to landfill or incinerated
- 3.3 The Council's waste services team is the most efficient district Council in Lancashire for the collection of dry recyclate (glass, cans, plastic, paper and cardboard) having a 26% recycling rate for those items

- 3.4 In addition to collecting glass, cans, plastic, paper and cardboard directly from residents, the Council also collects green waste, batteries and textiles. On 1 April 2026 the Council will start to collect food waste directly from residents adding another recycling stream.
- 3.5 Hyndburn also has a free bulky waste collection service whereby residents either ring the Council to book a collection or book online. The Council will collect bulky waste items directly from residents properties and collects items such as sofas, arm chairs, mattresses, fridges, freezers, electrical items, metal items and wooden items. They are collected because bulky waste items can be recycled to differing degrees.
- 3.6 During financial year 24/25 waste services handled 9,346 bulky waste jobs and collected 16,889 bulky waste items for free directly from residents properties. However, despite the bulky waste service being available during the same period (i.e. from April 24 to March 25) there were 2,631 reported incidents of fly tipping in Hyndburn. While this number was a 10% reduction of incidents from the previous year, it is still too many.
- 3.7 The 2,631 incidents varied from single black bags to loads tipped off a vehicle. However in general there are two main types of fly tipping in the Borough. Firstly, dumped items or black bags full of waste being left in back streets, and secondly fly tipped loads tipped off the back of vehicles.
- 3.8 Waste enforcement staff go out on a daily basis to deal with fly tipping and waste items being dumped in black bags. During financial year 24/25 waste enforcement staff issued 1159 advice notices, 512 targeted letters, 292 warning letters and issued 87 Fixed Penalty Notices. The current level of fixed penalty notice (FPN) issued in Hyndburn is £75 for a breach of a section 46 requirement of the EPA 1990 (typically leaving waste out in black bags as opposed to using the correct waste receptacles) and £400 for breach of section 33 (1)(a) of the EPA 1990 (larger fly tipping incidents)
- 3.9 However, despite each household having waste and recycling bins which are collected regularly and a free bulky waste collection service which will collect waste directly from residents properties there are still a significant number of fly tipping incidents in the Borough. It is believed that the level of FPN is inadequate to act as a deterrent to stop people from not adhering to the law.
- 3.10 The Council has some discretion as to what level the FPN is set at and since 1990 when the EPA was first introduced the upper level of fine has increased. It is therefore proposed that the Council increases its current level for FPNs as follows:
- (i) That for breaching a section 46 requirement of the EPA 1990 the FPN value is increased to £80 per incident (the maximum amount allowed)
 - (ii) That for breaching section 33 (1)(a) of the EPA 1990 the FPN value is increased to £1000 per incident (the maximum amount allowed)

4. Alternative Options considered and Reasons for Rejection

- 4.1 Leave the FPN value at their current levels. This is not recommended as the current levels are not acting as a deterrent to stop people fly tipping or dumping waste in black bags.

5. Consultations

- 5.1 The portfolio holder, waste services team and the Council's legal department have been consulted in the writing of this report.

6. Implications

Financial implications (including any future financial commitments for the Council)	The Council may receive more income due to the level of fines being higher, and unpaid FPNs issued for a section 46 requirement are recoverable summarily as a civil debt. However it is hoped that increasing FPN values will act as a deterrent and in fact the Council will not receive any more income as a result of this proposed change, as less people will fly tip waste.
Legal and human rights implications	The legal process for serving notice, gathering evidence and issuing FPNs remains the same, and is a process which has been agreed by the Council's legal service.
Assessment of risk	<p>Increasing the amount of the FPNs may lead to more individuals refusing to pay the FPNs, which in turn could see an increase in the amount of work required to take enforcement action.</p> <p>As mentioned above unpaid FPNs issued for a section 46 requirement are recoverable summarily as a civil debt. However, there is a right of appeal against the FPN and the Council may see an increase in the number of appeals they have to deal with.</p> <p>FPNs issued for a breach of section 33 (1)(a) do not carry a right of appeal against them, however neither are they recoverable summarily as a civil debt, and so if there is an increase in the number of these FPNs being unpaid, the Council cannot recover the FPN amount and instead would have to consider bringing a criminal prosecution for the offence.</p>

<p>Equality and diversity implications A <i>Customer First Analysis</i> should be completed in relation to policy</p>	<p>The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report Cabinet must have regard to the need to:</p> <ul style="list-style-type: none"> • eliminate unlawful discrimination, harassment and victimisation; and • advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and • foster good relations between those who share a relevant protected characteristic and those who don't. <p>For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. To assist the Cabinet in this regard a Customer First Analysis has been carried out as part of the review process and is attached as Appendix 1 to this report. Cabinet is advised to consider the Customer First Analysis and its obligations in respect of the public sector equality duty when making a decision in respect of the recommendations contained in this report.</p>
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**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

7.1 There are no background papers to this report

8. Freedom of Information

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.