



Please ask for Graham Ibberson
Direct Line: 01246 345229
Fax: 01246 345252
Email: democratic.services@chesterfield.gov.uk

NOTICE OF EXECUTIVE DECISION TO BE MADE

The following Executive Decisions are due to be made by the CABINET MEMBER FOR HEALTH AND WELLBEING on TUESDAY, 11 MAY 2021.

1. Amendment of current working practices to enable enforcement of littering on private land (HW300L) (Pages 3 - 8)

Reports relating to the decision(s) to be taken are attached to this notice, unless they contain confidential or exempt information. A meeting will not necessarily take place when the decision is made. Please contact Democratic Services for more information.

This page is intentionally left blank

FOR PUBLICATION

Litter report outlining the amendment of current working practices to enable enforcement of littering on private land

Meeting:	Cabinet Member for Health and Wellbeing
Date:	11 th May 2021
Cabinet portfolio:	Health and Wellbeing
Directorate:	Leisure, Culture and Community Wellbeing

1.0 Purpose of report

- 1.1 This report outlines the opportunities for continuing to improve environmental enforcement within Chesterfield.
- 1.2 To seek approval to revise the current litter enforcement working practices to enable enforcement of littering on private land, where the landowner has given permission to do so.

2.0 Recommendations

- 2.1 Approve the request to carry out litter enforcement on private land.

3.0 Background

- 3.1 Littering can be defined as what the law describes as *"throwing down, dropping or otherwise depositing litter in any place which is open to the air"*. It should not be confused with fly-tipping which is the "prohibition of authorised or harmful deposit, treatment or disposal of waste".
- 3.2 Litter affects how places look and are perceived, how safe and happy people feel in an area, and how attractive it is to workers, visitors, and existing and new business investors. Littering is a significant blight on local environments; a source of pollution, a potential danger to public health

and a hazard to wildlife, impose avoidable costs on the public purse and draws money away from other priorities.

- 3.3 Litter has an effect on residents, on people's health, on the economy, on business, on tourism, on crime, on anti-social behaviour and on the environment. It can impact wildlife, can attract vermin, and can cause damage to our watercourses. A visible presence of litter also attracts further littering. It is estimated that it costs the UK £682 million to keep the streets free from litter.
- 3.4 Not only is the effect of litter serious but it is widespread and a national issue. The organisation 'Keep Britain Tidy' believes that 62% of people drop litter (on the street and from vehicles) and 99% of town and city centre streets suffer from cigarette and chewing gum litter.
- 3.5 Under the Environmental Protection Act 1990, the Council has a duty to keep streets and public spaces clean and clear of litter and refuse. A range of powers for local authorities came into effect under the Clean Neighbourhoods and Environment Act 2005 and has extended local authority powers to deal with issues that are considered environmental crime.
- 3.6 Enforcement patrols are currently limited to "public land open to the air", for example roads, pavements, and parks/open spaces. Litter is prevalent on private land such as supermarket car parks and privately owned leisure retail/food premises, which may negatively impact how an area is perceived by residents and visitors.
- 3.7 At present, we do not carry out enforcement on private land because we require the landowner's permission to do so and we need to ensure that we are transparent and clear with any changes. Appropriate signage would need to be visible on private land as well as information on the Council's website.

4.0 **Background: Littering data**

- 4.1 Since March 2020, the Environmental Protection Team has received 146 complaints about litter in the street and has issued eight Fixed Penalty Notices.
- 4.2 Of these eight Fixed Penalty Notices, all have been paid in full apart from one. In the case of the unpaid penalty, a case file has been put together for prosecution.

5.0 **Background: Legal framework**

5.1 The key piece of legislation governing litter is Part IV of the Environmental Protection Act 1990. A person found guilty of a litter offence may be fined up to level 4 on the standard scale (currently £2,500) in a magistrate's court. Section 88 allows an "*authorised officer*" of a "*litter authority*" to issue a "*fixed penalty notice*" as an alternative to prosecution (i.e. to discharge liability).

5.2 Currently the fixed penalty level is set at £150 and reduced to £60 if paid within 14 days (as set under section 88(6)(a) of the Environmental Protection Act 1990 and the Environmental Offences (Fixed Penalties) (England) Regulations 2017. This only applies to FPNs issued for littering in the street/public places.

5.3 The Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 gives local authorities the ability to issue civil penalty notices to the registered keeper of the vehicle from which the litter has been thrown. Non-payment of fines can be pursued via the County Court.

6.0 **Enforcement**

6.1 Enforcement is carried out primarily by the officers within the Environmental Protection Team.

6.2 Occasionally, information in the form of a witness statements is provided by officers from other teams. This evidence is then acted upon by officers in the Environmental Protection Team.

6.3 Very infrequently we have received information from members of the public. The difficulty we have with using this information is validity of evidence (unless there is video footage, and even then, the imagery may not comply with surveillance regulations).

7.0 **Alternative options**

7.1 Complaints about litter on private land can be investigated and we can request the landowner clear their land of litter.

8.0 **Implications for consideration – Council Plan**

8.1 Make Chesterfield a thriving borough by ensuring that Chesterfield is the best place to live, work and visit.

8.2 Improving the quality of life for local people by ensuring that litter is addressed and minimised.

8.3 Providing value for money services by ensuring that those responsible for littering offences are dealt with appropriately.

9.0 **Implications for consideration – Financial and value for money**

9.1 There are no financial implications arising directly from this report.

10.0 **Implications for consideration - Legal**

10.1 It is essential that appropriate signage is displayed on the private land to inform those accessing the land that enforcement is carried out. Information will also have to be displayed on the Council's website.

11.0 **Implications for consideration – Human Resources**

11.1 Officers are already carrying out enforcement patrols across the Borough.

12.0 **Implications for consideration - Risk management**

12.1 The Council is responsible for patrolling the Borough and investigating waste related issues. Where there are recurring litter issues that impact on an area the Council must work with those landowners to implement mitigations measures to improve the area. Details of the risks associated with the proposed change are below in Table 1.

Table 1 – risks with the proposed change

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Non-compliance with the legislation	High	Low	Support from Regulatory Law team	Low	Low
Not having sufficient resources to patrol/issue the FPNs	High	High	Enforcement staff already issue FPNs.	Medium	Low

			Seek support from other teams.		
Offenders not being able to afford the FPN	High	High	Law allows for reduction for payment within 28 days	Medium	Medium
Offenders contest the fixed penalty notice	Medium	High	Support required from Regulatory Law team and Lead Enforcement Officer	Medium	Medium

13.0 **Implications for consideration - community wellbeing**

13.1 Improving outdoor spaces by keeping them litter-free can improve the perception of an area and ensure that Chesterfield is a healthy location to live, work and visit.

14.0 **Implications for consideration - Economy and skills**

12.1 There are no issues arising from this report.

15.0 **Implications for consideration - Climate Change**

15.1 Litter impacts on how a location looks and can impact the ecology of an area, injure wildlife and pollute water courses.

16.0 **Implications for consideration - Equality and diversity**

16.1 Local authorities can already issue fixed penalty notices for a range of issues. It is envisaged that implementing the new powers will incur a limited additional cost.

16.2 Any reduction in littering in a local area would increase the quality of life for local residents, improve the local environment, and generate improvements in public perception, health and civil pride.

16.3 The government has assessed this change in legislation and no specific equality considerations were identified. This has also been considered from a local perspective. No negative impacts have been identified.

Decision information

Key decision number	Non-key
Wards affected	All wards

Document information

Report author
<i>Esther Thelwell</i> <i>Senior Environmental Health Officer</i> <i>Leisure, Culture and Community Wellbeing</i>