

Business Support Overview and Scrutiny Committee

Briefing Note – No 8

Date: August 2016

To: All Members of the Business Support Overview and Scrutiny Committee

Purpose: At the meeting of the Business Support Overview and Scrutiny Committee held on 7 July 2016 an undertaking was given to clarify the range of fines applicable for flytipping.

Heading: **Fly Tipping Fixed Penalty Notices**

Background

Medway Council's Environmental Enforcement Team investigates all fly tipping and usually attends by the next working day at the latest. In most cases there is no evidence and we are left with the task of clearing and disposing of the rubbish.

Where we can establish a link between the rubbish and an individual, we will always follow the evidence and take the appropriate action against offenders.

Sometimes this will be a caution. Sometimes it will result in prosecution at court. Maximum penalty on conviction at Magistrate's Court is £50,000 fine and/or up to 6 months imprisonment. At Crown Court, the fine is unlimited and the prison sentence can be up to 5 years.

In some cases it is more appropriate to issue a fixed penalty notice. These are usually issued for low level fly tips consisting of no more than one or two sacks. In every case where a fixed penalty is offered, the offender will have admitted guilt, will be contrite and have no previous offences.

The fixed penalty is used to obtain justice with little burden on the public purse. Payment of a fixed penalty means that the offender discharges their liability for prosecution for the offence in question. They consequently do not have to attend court and they do not risk a criminal conviction.

It also means that the Council does not spend officer time on writing statements and preparing a case file for court. Neither does it have to engage the services of our legal department to issue summons, nor send a solicitor to court. It also avoids taking up valuable court time with low level offences.

Offenders in cases involving large fly tips are never offered a fixed penalty and are always prosecuted because it is in the public interest to do so.

Further information: Tim England, Head of Safer Communities. Tel 01634 333534