

# **MINUTES OF THE MEETING OF THE CABINET MEMBER SIGNING HELD ON FRIDAY, 14TH OCTOBER, 2016, 11:00**

## **PRESENT:**

**Councillor Peray Ahmet, Cabinet Member for Environment (Chair)**

### **5. FILMING AT MEETINGS**

The Cabinet Member referred those present to Agenda Item 1 as shown on the agenda in respect of filming at this meeting and asked that those present reviewed and noted the information contained therein.

### **6. DECLARATION OF INTERESTS**

No Declarations of Interest were received.

### **7. URGENT BUSINESS**

None

### **8. INTRODUCING A FIXED PENALTY NOTICE FOR FLYTIPPING**

The Cabinet Member considered a report which sought approval for the exercise of new powers under Section 33 of the Environmental Protection Act 1990; to set the value of a Fixed Penalty Notice for flytipping offences at the statutory maximum of £400, with no early payment option. The Cabinet Member noted that the current value of a Fixed Penalty Notice was set at £80 for an individual and £100 for a business, this was not felt to be a sufficient deterrent to prevent fly tipping.

### **RESOLVED**

- I. To approve the introduction of a Fixed Penalty for flytipping offences pursuant to section 33ZA of the Environmental Protection Act 1990 at the statutory maximum of £400 with no early payment option.

### **Reason for Decision**

Adopting the maximum penalty provides a clear message that LBH does not tolerate flytipping.

It would be consistent with the existing approach undertaken by LBH around maximising the risk to offenders, thereby prioritising prevention and deterrence.

It is in line with the decision taken by London Councils' Transport & Environment Committee (TEC) to recommend all London boroughs set the penalty at the maximum level; if other boroughs follow suit, there will be advantages of adopting a standard penalty in terms of it being straightforward for residents and businesses alike to understand what the flytipping penalties are across London, and assist with any pan-London communication messaging.

In terms of the rationale for the level of the penalty, in 2014/15 22 prosecutions were brought by LBH for flytipping offences, which is less than one percent of the total enforcement actions taken. A total of 18 of the 22 prosecutions resulted in a fine.

Only one of the 18 fines was issued at a mid-range level (£1,000 to £5,000), four were lower and ranged between £500 and £1,000. A total of 13 were in the low range, with nine cases receiving a fine between £200 and £500 and four cases below £200. The upper fine amount that can be levied for flytipping has, since 12 March 2015, been unlimited, but no fines were issued above the mid-range (£1,000 to £5000). These amounts awarded are relatively low compared to the cost of disposing of waste. For example, the removal of a skip-load of waste costs a minimum of £230 and can cost more than £500.

Alongside the above, there were just under 800 FPNs issued in 14/15, for waste-related offences. These penalties range from between £80 for residents and £300 for businesses, depending on the exact offence.

Given the relative infrequency of prosecution, the lower levels of fines that have been issued, and combined with the levels of the FPNs that have previously been available, on average it is cheaper to offend than to responsibly dispose of waste.

Whilst LBH is working with the magistrates to communicate to it the severity of the issue in terms of scale and impact on the local community, with the aim of increasing the deterrent factor, the use of the flytipping FPN will provide an alternative option to prosecuting fly-tippers, in particular for smaller or 'low level' fly-tipping. However, it continues to be possible to prosecute fly-tippers and it is at the Council's discretion what enforcement tool is used. LBH would still, as per existing procedure, seek to prosecute for more serious offences.

In this context, setting the flytipping FPN amount at the maximum will provide a penalty that is more in line with the lower prosecution fines, which are below £500, therefore making it a suitable alternative enforcement tool. It would also provide a penalty that is more in keeping with the cost of disposal e.g. hiring a skip or disposing of waste commercially.

It would also avoid a situation where it is 'cheaper' to risk flytipping in Haringey than another borough. We are aware that a number of our neighbouring boroughs have adopted (eg. Waltham Forest) or are planning to adopt the penalty at the maximum level.

An equality impact assessment had been produced and was attached to report. All enforcement action taken would be proportionate to the offence and each situation would be treated on an individual basis.

**Alternative options considered**

Alternative options consisted of setting the level of penalty at a lower level and/or providing an early payment discount, as allowed for under the EPA 1990 (not less than £120 if the penalty is paid within 10 days).

A lower level of penalty, and provision for an early payment discount could encourage payment, rather than potentially facing prosecution for non-payment.

However, either (and both) of these measures would dilute the seriousness with which the council wishes to treat flytipping as an offence, and the deterrent effect being sought. Linked to this, offering an early payment could have encouraged the perception that the use of the power was done to generate income, rather than the provision of cleaner and safer streets.

**9. NEW ITEMS OF URGENT BUSINESS**

N/A

CHAIR:

Signed by Chair .....

Date .....