

FIXED PENALTY NOTICES

13/01/2026

GENERAL PUBLIC SERVICES AND COMMUNITY ENGAGEMENT COMMITTEE
13 JANUARY 2026

PART I

**FIXED PENALTY NOTICES
(ADE)**

1 Summary

- 1.1 This report has been requested by Members to advise of the current level of Fixed Penalty Notices (FPNs) used by Environmental Enforcement Officers and the reasons behind the levels set.

2 Recommendation

- 2.1 That:
- 2.2 The Environmental Enforcement FPN levels remain as they are, detailed in Table 1 paragraph 3.3 at the current time.
- 2.3 That during the next fees and charges process the FPNs for fly tipping (section 33) and Duty of Care (section 34) be set at £450 (reduced charge £350) and remain at that level for at least two years.
- 2.4 That during the next fees and charges process all other FPNs remain at their current level, detailed in Table 1 in paragraph 3.3 and remain set at that level for at least two years.

Report prepared by: Jennie Probert, Environmental Strategy Manager

3 Details

- 3.1 The Environmental Protection team currently has two Environmental Enforcement Officers (EEOs) who are authorised to issue Fixed Penalty Notices for a range of environmental issues.
- 3.2 During the annual fees and charges and budget setting process Members agreed the levels recommended by officers, however also requested that a committee report be brought to committee so the levels of FPNs could be discussed in further detail.
- 3.3 Current Environmental Enforcement FPNs;

Table 1. TRDC Current FPN levels

Offence	FPN	Reduced charge	Maximum allowed / Act
Abandoning a vehicle	£200	£150	£200. Clean Neighbourhoods & Environment Act 2005, section 6(8).

Depositing litter	£350	£200	Statutory range for FPN £65 - £500. Section 88 Environmental Protection Act 1990 (amended by Regulation 2(2) of the Environmental Offences (Fixed Penalties)(Amendment)(England) Regulations 2023.
Unauthorised distribution of literature	£75	£50	Statutory range for FPN £65 - £150. Section 88 Environmental Protection Act 1990 (amended by Regulation 2(2) of the Environmental Offences (Fixed Penalties)(Amendment)(England) Regulations 2023.
Failure to produce waste carrier registration documents	£300	£200	Clean Neighbourhoods & Environment Act 2005, section 38(9) confirming FPN as being £300 for this offence at 5B of the Control of Pollution (Amendment) Act 1989.
Graffiti and fly posting	£350	£200	s43 ASBA 2003, Statutory range £65-£500 (amended by Regulation 2(2)(b) of the Environmental Offences (Fixed Penalties)(Amendment)(England) Regulations 2023).
Waste receptacles (placing the wrong items in your bins)	£60	£40	£60 (EPA1990 s46B(1)(b))
Failure to produce waste transfer notes	£300	£200	£300 (EPA 1990, s34A)
Fly tipping	£447	£336	Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 inserts section 33ZA into EPA 1990 confirming statutory range for FPN for fly tipping (s33 offence) as being between £150-£1000.
Breach of Community Protection Notice	£100	£75	Maximum of £100. ASBCPA 2014 section 52(7)

Littering from vehicles	£350	£200	Amount of a fixed penalty is the amount specified by the litter authority under section 88(6A)(a) of the EPA 1990 (which relates to FPN for leaving litter) but if no amount is specified by the litter authority under that provision, the amount of the FPN is £100. (Regulation 6, The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018.
Domestic Duty of Care	£447	£336	Statutory range between £150 £600. Section 34ZA, EPA 1990.
Nuisance vehicles	£100	£60	£100 – section 6(8) Clean Neighbourhoods & Environment Act 2005

- 3.4 FPNs are a tool to deal with low level offences and therefore a balance needs to be struck when setting the levels to use these effectively.
- 3.5 As noted in Table 1 in paragraph 3.3 a number of FPNs are already set at the maximum level.
- 3.6 As there is no legal definition of fly tipping the Hertfordshire Fly Tipping Group agreed a definition to ensure reporting across the county can be measured and monitored consistently. The definition is included as Appendix A (please note in paragraph 2.5 the reference to £300 FPN is outdated)
- 3.7 In relation to section 33 fly tipping and section 34 duty of care offences a paper was taken to the Herts Waste Partnership Members meeting in January 2025. This paper explains in more detail the rationale for the introduction of section 33 and 34 FPNs, the rationale behind the levels set, Hertfordshire comparison data and the thoughts of officers in relation to the possible impact of raising these FPNs to their maximum levels. Key points from this paper are as follows;
- Prior to 2016 in cases where local authorities wished to pursue a fly tipping incident the only real course of action was to take the matter to court. The Government recognised both the burden this was creating and was also aware of the inability of councils to reflect 'proportionately' when dealing with different magnitudes of offence under the legal framework of the day.
 - In response the Government introduced Fixed Penalty Notices (FPNs) for Section 33 offences under the Environmental Protection Act 1990 – so called fly tipping FPNs. In 2020 FPNs for Section 34 offences – Duty of Care were also introduced.
 - The main purpose of the FPNs was two-fold. Firstly, to relieve pressure on the courts by giving local councils a way to deal with those committing 'low-level' fly tipping offences through issuing an FPN and avoiding court.

- The second objective was to be able to tackle low level fly tipping in a way that did not result in a member of the public ending up with a criminal record. Government guidance at the time made it clear that all cases needed to be considered on their merit but with an assumption that more serious incidents would be pursued through the courts.
- In the summer of 2023 the Government published a paper on anti-social behaviour covering a range of issues. This included new upper thresholds of £1000 and £600 for Section 33 and Section 34 FPNs respectively.
- Table 2 below shows current (January 2025) S33 FPN levels set against the number of recorded fly tipping incidents from April to November 2024; then set against the average number of households per incident per authority – the higher the number the better. The data has been expressed this way to try and make comparisons on a fair basis that takes into account differences between the partner authorities.

Table 2. Section 33 FPN level versus recorded incidents

Authority	Current S33 FPN	Total No. of Incidents Apr – Nov 2024	%age change so far	Households per incident
Broxbourne	£400	934	-0.2%	45
Dacorum	£500	1,293	-5.5%	52
East Herts	£300	483	-2.6%	138
Hertsmere	£300	723	-22.6%	64
North Herts	£400	838	-25.2%	71
St Albans	£500	585	48.9%	108
Stevenage	£400	2,063	46.7%	19
Three Rivers	£436	314	6.4%	124
Watford	£600	944	8.1%	45
Wel/ Hatfield	£500	2,179	0.1%	23

- Based on the data so far there is no clear trend or discernible pattern when it comes to trying to identify a link between the level of FPN and the impact on fly tipping numbers.
- For example, St Albans and Watford issue some of the higher FPNs across the county but with increases in both authorities of 48.9% and 8.1% respectively so far during 2024/25. In comparison Dacorum, who also issue a £500 FPN, have seen a 5.5% reduction in the number of recorded instances so far. Yet Watford and Dacorum have relatively low numbers of households per recorded incident whereas St Albans have a significantly higher number on a household basis.
- The general view from enforcement officers across the country is that the 2023 increases in the upper thresholds for both FPNs, whilst well meaning, are likely to have the opposite impact of that intended. A £1000 Section 33 FPN for fly tipping is significantly higher compared to the average fines issued by the courts.

- During its Miscellaneous Amendments consultation in the Autumn of 2023 analysis provided by the Sentencing Council noted the average court fine for fly tipping during 2022 was just £340. Whilst courts can add costs and surcharges to such fines, it is clear from a financial perspective that using maximum FPN thresholds is likely to motivate defendants to opt for court instead of an FPN; and especially so considering the chance of acquittal; the chance of a lower fine if convicted; and the lack of any resonance of issues like limitations on international travel once a person has a criminal record. As a result, the upper thresholds will likely increase the pressure on the courts, not reduce it – the opposite of that intended when FPNs were first introduced.
- It should also be noted that in response to the introduction of the original Section 33 FPN in 2016 the Herts Fly Tipping Group agreed a collective approach with respect to the level of FPN as well as things like discounts for early / quick resolutions. Since then, the partner authorities have returned towards more individual approaches.

3.8 Since April 2016 TRDC has pursued 17 prosecutions, however the breakdown of this, as shown below in Table 3, highlights the reduction in EEO resource and that of Legal in recent years.

Table 3 – TRDC Prosecutions since 2016

Year	Three Rivers
2016/17	3
2017/18	4
2018/19	4
2019/20	2
2020/21	0
2021/22	3
2022/23	1
2023/24	<u>0</u>
Totals	17

3.9 In 2024/5 TRDC issued five FPNs for section 33 offences, and one for section 34 offences. Previous years data is shown below.

Table 4 – TRDC section 33 FPNs

S33 FPNs - Historic record										
Authority	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Three Rivers	2	2	9	2	4	3	7	4	5	38

Table 5 – TRDC section 34 FPNs

S34 FPNs - Historic record								
Authority		2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Three Rivers		6	2	1	3	4	1	17

3.10 It is felt that the levels set at TRDC for section 33 and 34 are set at a reasonable level, although it would seem more sensible to agree more rounded numbers

and will suggest these are each set at £450 (and £350 for the reduced charge) in the next round of fees and charges.

- 3.11 Table 6 below highlights the number of FPNs for other offences since 2016, again noting that enforcement activity has been more limited in the past few years since enforcement resource has reduced. Note that 'depositing litter' is also used for small fly tips – one bag or less – in accordance with the Herts FTG definition of fly tipping.

Table 6 – other FPNs issued since 2016

Offence Description	Amount & Date of issue	Total issued
Breach of Community Protection Notice (CPN)	5 – 2016 4 – 2017 1 – 2018 1 – 2019	12
Depositing Litter	2 – 2016 3 – 2017 12 – 2018 8 – 2019 8 – 2020 1 – 2021 1 - 2022	35
Failure to Produce Waste Transfer Documents	23 – 2017 6 – 2018 1 – 2019 2 – 2020 2 – 2022 4 - 2023	38
Failure to Provide Authority to Transport Waste	3 - 2017	3
Offences related to Household Bins	3 – 2017 2 - 2018	5

- 3.12 It is the view of Officers that the current levels set for depositing litter, littering from vehicles, graffiti and fly posting and unauthorised distribution of litter also strike the right balance to reach a satisfactory resolution via the FPN route.

4 Options and Reasons for Recommendations

- 4.1 It is recommended that at the current time the FPN levels as outlined in Table 1 remain as they are. The reason for this recommendation is that these were agreed in the last round of annual fees and charges and new FPN books have already been purchased this year, with the policy and website updated.
- 4.2 It is recommended, in the next round of fees and charges, to set the levels for section 33 and 34 offences as £450 (reduced to £350) to have a rounded number and to set this for at least two years so new FPN pads do not require re-ordering on such a frequent basis. The rationale for keeping these levels and not set at the respective maximums are outlined in this report.
- 4.3 Using the same rationale it is recommended that all other FPNs remain as outlined in table 1 during the next round of fees and charges. And, of course, many are already set at their maximum level.

5 Policy/Budget Reference and Implications

- 5.1 The recommendations in this report are within the Council's agreed policy and budgets.

6 Financial Implications

- 6.1 Given the number of FPNs issued any change to the level of FPN will be minimal and will be monitored during the budget monitoring process.
- 6.2 Every time FPN levels are changed new FPN books require printing. Again, this is minimal and can be met within existing resources. It would however be preferable to set the FPN levels for two years at a time to make best use of the books.

7 Legal Implications

- 7.1 Maximum levels of FPNs are defined in law, as laid out in paragraph 3.3 and the Council cannot increase over these thresholds.
- 7.2 FPNs are issued to resolve minor offenses, providing an opportunity to avoid further legal action and a criminal record.
- 7.3 There is no legal right to appeal an FPN.
- 7.4 Non-payment of an FPN may result in prosecution.
- 7.5 If deemed necessary i.e. for large or repeat offences, the EEOs will not issue an FPN and will start preparing a prosecution file instead.

8 Equal Opportunities Implications

- 8.1 Relevance Test

Has a relevance test been completed for Equality Impact?	Yes /
Did the relevance test conclude a full impact assessment was required?	No

8.2 Impact Assessment

A short impact assessment is attached noting that there is an Environmental Enforcement Policy in place in relation to issuing FPNs to juveniles and in relation to residents with learning difficulties or lacking the mental capacity to understand their requirements.

9 Staffing Implications

- 9.1 The Council employs two EEOs and, although environmental crime is clearly a part of this role, their remit is wider and therefore it should be noted that enforcement action can only be taken without the resource available.

10 Environmental, Community Safety and Public Health Implications

- 10.1 A sustainability impact assessment is not needed for this report, however having FPNs acts as a deterrent to would-be perpetrators and assist Officers in dealing with the activities of irresponsible people, in a range of matters across the district.

11 Customer Services Centre Implications

- 11.1 None specific

12 Communications and Website Implications


- 12.1 If the FPN levels are amended these require updating in the Environmental Enforcement Policy and the website will require updates. (Note; the policy is on the Council's Policy Register for review every three years, however levels of FPNs are updated as and when required)
- 12.2 The Council continues to promote the #SCRAPflytipping campaign, which was designed and implemented by the Hertfordshire Fly Tipping Group in 2018. TRDC remains at the forefront of this campaign, which is now used by local authorities nationally, ensuring updates are circulated and new authorities are brought on-board as requested.
- 12.3 When enforcement action is taken the Council promotes this via its social media channels to ensure residents know action is taken and to act as a deterrent.
- 12.4 This can all be met within existing resources.

13 Risk and Health & Safety Implications

- 13.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.
- 13.2 The subject of this report is covered by the Waste & Environmental Services service plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan.

Nature of Risk	Consequence	Suggested Control Measures	Response (tolerate, treat, terminate, transfer)	Risk Rating (combination of likelihood and impact)
People may carry out environmental crime e.g. fly tipping (and all the offences listed in 3.3)	The environment looks unsightly and may be unsafe	FPN Use of CPNs	Publicise the enforcement powers of the council and the results of any enforcement action taken.	4

- 13.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely  Likelihood Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
	Impact Low -----> Unacceptable			

Impact Score

- 4 (Catastrophic)
- 3 (Critical)
- 2 (Significant)
- 1 (Marginal)

Likelihood Score

- 4 (Very Likely (≥80%))
- 3 (Likely (21-79%))
- 2 (Unlikely (6-20%))
- 1 (Remote (≤5%))

- 13.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

Data Quality

Data sources:

Herts Waste Partnership Members meeting January 2025

Data checked by:

Craig Thorpe, Waste & Environment Manager

Data rating:

1	Poor	
2	Sufficient	X
3	High	

APPENDICES

Appendix A – Hertfordshire Fly Tipping Group definition of fly tipping

