

Fairness and Equalities Impact Assessment (FEIA)

Version 3.6 May 2017

The purpose of this assessment is to provide balanced information to support decision making and to promote better ways of working in line with equalities (Equalities Act 2010), Welsh language promotion (The Welsh Language (Wales) Measure 2011), sustainable development (Wellbeing of Future Generations (Wales) Act 2015), and the four parameters of debate about fairness identified by the Newport Fairness Commission (NFC Full Report to Council 2013).

Completed by: Scott Coughlan **Role:** Team Leader (Cleansing) Manager

Head of Service: Streetscene and City Services **Date:** 03/04/2019

I confirm that the above Head of Service has agreed the content of this assessment

Yes

When you complete this FEIA, it is your responsibility to submit it to

impact.assessments@newport.gov.uk

1. Name and description of the policy / proposal being assessed. Outline the policy's purpose.

Waste Offences (Duty of Care) New Fixed Penalty Powers

In February 2019, new powers have been given to local authorities to issue Fixed Penalty Notices for breaches of duty of care in relation to fly-tipped waste where a third party was employed, using a third party that do not have a Waste Carriers Licence and domestic fly-tipping (where a householder has directly deposited waste on a site that does not have a permit or exemption).

Up until February 2019, NCC currently prosecute through the courts or issue a caution for the offence. The only difference now is that NCC has a third enforcement option that would be more cost-effective and more proportionate to many offences. Large scale fly-tippers will still be able to be prosecuted through the courts if the size of the fly-tip is disproportionate to the FPN.

In summary, the proposal is the following:

- Introduce the new FPN under S.34 of The Environmental Protection Act
- Agree to apply fixed amounts in line with maximum penalties included in legislation as listed
- Not to offer a discount for early payment for offences under the legislation listed

Purpose of this policy is to help tackle waste offences and give NCC a choice of enforcement methods that would be proportionate to the offence.

2. Outline how you have/ will involve stakeholders who will be affected by the policy/proposal

The provision to use FPN derives from national legislation, and the introduction to changes to legislation always includes a consultation phase with all stakeholders before the new legislation gets approved.

During October/November 2018 the Council undertook a city wide survey on the waste and recycling services, which included a question on whether the Council should pro-actively issue FPN for litter/flytipping. Of a total of 1,066 residents answering this question, 1,014 responded favourably (95%), with only 19 (2%) saying no; this shows support from residents for the Council to act on offenders by issuing FPN is strongly supported.

A public consultation held by DEFRA on the introduction of the new FPN for flytipping revealed overwhelming support in favour of the new powers, see:

<https://consult.defra.gov.uk/waste/consultation-household-waste-duty-of-care/>

3. What information/evidence do you have on stakeholders? e.g. views, needs, service usage etc. Please include all the evidence you consider relevant.

We also get feedback on flytipping and littering issues from residents and other stakeholders via our contact centre, and statistics show these are some of the main issues residents complain about, so we know it's a worry that impacts our communities negatively

We also draw information from the Newport community well-being profiles, as they provide an overview of the population using data including population, diversity, households, health, education, housing, benefits and levels of deprivation. Full profiles:





<http://www.newport.gov.uk/atlas/en/Profiles/Newport-community-wellbeing-profiles.aspx>

4. Equalities and Welsh language impact

Protected characteristic	Impact:			Provide further details about the nature of the impact in the section below. Does it: 1. Promote equal opportunity 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation?
	Positive	Negative	Neither	
Age	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The legislation states that FPN's are not to be issued to anyone that has any age related illnesses. Similarly NCC do not issue FPN's to under 18's.
Disability	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The legislation states that FPN's are not to be issued to anyone that has any physical or mental disability.
Gender reassignment/ transgender	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No impact

Protected characteristic	Impact:			Provide further details about the nature of the impact in the section below. Does it: 1. Promote equal opportunity 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation?
	Positive	Negative	Neither	
Marriage or civil partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No impact
Pregnancy or maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No impact
Race	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Negative Despite being a fine and only incurred when an individual has engaged in illegal activity, it should be noted that an increase in penalty fees will have a proportionately greater impact on those with lower incomes. Newport's Community Wellbeing Profile suggests that there is strong correlation between areas of the city with lower incomes than the Newport average and areas with a higher than average number of residents from ethnic minority backgrounds. It is therefore reasonable to assume that any increase in fines will have a greater impact on the protected characteristic of race.</p> <p>Positive Conversely, it has also been identified that the areas where this proposal would have the greatest positive impact to the environment such as Pill and Maindee and city centre in general (as described in section 6 below), have higher proportion of residents from ethnic minority groups when compared to the rest of Newport, so potentially these groups could be impacted positively by the proposal</p>
Religion or Belief or non-belief	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact
Sex/ Gender Identity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No impact
Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No impact
Welsh Language	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No impact. FPN books available in Welsh.

5 How has your proposal embedded and prioritised the sustainable development principle in its development?

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? Describe how.
 <p>Long Term</p> <p>Balancing short term need with long term needs</p>	<p>Flytipping, littering and flyposting are behavioural issues; any long term strategy needs education and engagement programs in place; however part of the behavioural change will necessarily come from enforcement action –this will motivate change in some sectors of the population and will serve as example so engagement activities are more effective.</p>
 <p>Collaboration</p> <p>Working together to deliver objectives</p>	<p>We have involvement with several community groups across Newport and work in partnership with agencies such as police and fire brigade or Keep Wales Tidy. We also have the Pride in Newport Campaign where we try to raise awareness on issues linked to littering, flytipping and antisocial behaviour, in partnership with South Wales Argus and organisations such as Newport City Homes. We also work with businesses so they can pledge to help keep our communities litter free</p>
 <p>Involvement</p> <p>Involving those with an interest and seeking their views</p>	<p>We keep our engagement campaign via Pride in Newport and direct contact with community groups; also liaise with residents on an ongoing basis via our Contact Centre to solve their requests/complaints. We also take part in consultation campaigns held nation-wide.</p>
 <p>Prevention</p> <p>Putting resources into preventing problems occurring or getting worse</p>	<p>The causes of the wider problem have been considered, and although this is a behavioural issue that can only be changed long-term via a continued engagement activity, the issue of Fixed Penalty Notices has proven to have a very strong deterrent effect in the past, thus preventing other people from doing the same, with an overall reduction in the number of offences. This is therefore seen as part of a “carrot and stick” approach were only combined activities will have the expected result.</p>
 <p>Integration</p> <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p>Enforcement activities are part of wider communications, engagement and educational programmes to avoid flytipping, littering and antisocial behaviour also adds to this. They also contribute to make our city a more attractive place to live, work and invest and to act on deprived communities where local environment quality is poorest (littering and flytipping spots). There is an overall contribution to some of the WFG goals: healthier, more equal and globally responsible Wales.</p>

Will the proposal/policy have a disproportionate impact on a specific geographical area of Newport?

We have identified certain areas that can be classed as hotspots for flytipping – they are Pill ward in general and more specifically Commercial Road, also Maindee car park, Tregwilym Road recycling station and some rural locations such as the Wentloog and Caldicot levels (where we predominantly see commercial flytipping).

This information has allowed us to get some insight into the specific characteristics of the main areas thanks to the information provided in the Newport wellbeing profiles mentioned above. The areas where we see resident's litter/flytipping (Maindee, Pill and city centre in general), which will experience a higher impact of this proposal, have a population with a lower income profile and tend to rank higher in the deprivation index, and also have a preponderance ethnic minority groups as stated above

6 How does the proposal/policy relate to the parameters of debate about Fairness identified by the Newport Fairness Commission

The 4 parameters of fairness have been considered in relation with this proposal:

Equal treatment while recognising difference: the proposal would be applicable to all people regardless their background, as it has to do with law infringement- in this regards we cannot take into account differences as law abidance is equally applicable and we could not treat different groups of people differently. (Note the exceptions stated above). We do however take certain circumstances into account when preparing wider engagement campaigns – for instance we are aware that people from different race may, depending on their background, have additional difficulties in understanding legal requirements issued in English, so we issue instructions on how to deal with waste in other languages and work with pictorial designs to ensure the message gets across.

Mutual obligations between citizens and LA: residents and businesses have a duty of care for waste generated by them an obligation not to litter/flytip, as these are illegal activities that can be prosecuted, and the Council has both power to enforce on these activities and also the duty to improve the environment to ensure it is safe and healthy for its communities, and to provide green and clean spaces. By issuing FPN we ensure duty of care is observed and by having a deterrent effect help keep our streets and leisure areas clean.

Reciprocity and interdependency within relationships – we have a moral obligation to provide green spaces, and by doing so we contribute to improve our communities. They in turn come to us to help deal with issues arising, so we have stablished good relationships within the community, which also helps build mutual trust and strengthens the Council-community ties and builds up on synergies. Enforcement activity is often welcome by the wider community as people are aware of the negative impact activities such as flytipping have in their areas and helps set up an example when developing wider engagement/education campaigns.

Transparency and accountability – by undertaking this assessment we are being open and transparent about the council policies and their impact on the communities; we are communicating the rise in the fines to be applied and the intention to continue not applying early payment discounts. This can have a detrimental impact on those sectors of the population on the lower income spectrum but it is believed the impact of the enforcement activity in the community as a whole will be beneficial and outweigh these potential negative impacts.

7 Taking this assessment as a whole, what could be done to mitigate any negative impacts of your policy and better contribute to positive impacts?

The potential negative impact on certain groups as identified in this assessment cannot be easily mitigated within the enforcement activity background, as the proposal would be applied to all offenders regardless of their background (Note exceptions above). However, it has to be taken into account that the adoption of a tough stance against flytipping goes a long way in tackling this issue; the adoption of lower fines could therefore have a negative impact on those same groups, as a less successful Council strategy to deal with flytipping will impact the target areas the most, resulting in residents living in worse conditions as a result of excessive littering, flytipping etc. However the Council has other mitigation steps already in place to ensure minimisation of flytipping and littering and to enhance engagement and limit enforcement action. For instance, we ensure we issue communications with text translated into other languages (as an example, see Wastesavers' website with info on recycling in several languages <http://wastesavers.co.uk/at-home/>) or use pictorial leaflets so there is no language barrier when it comes to. We also ensure people have alternatives to dispose of their waste, so in addition to standard collections (weekly or fortnightly) and the provision of a Household Waste Recycling Centre, all of them free of charge, the Council offers a special collections service where residents can receive a booked collection where they can get rid of bulky items, house clearances etc., for a small fee.

So in a sense, although potentially negative to certain groups, this proposal will also lead to better conditions for all groups in the longer term, plus additional activities are in place to ensure people have enough information and council services to dispose of their waste by using the right channels.

8 Monitoring, evaluating and reviewing

This proposal is driven by external factors due to changes in legislation; however we monitor the number of flytipping incidents and number of enforcement actions, including the issue of FPN, as part of our performance monitoring regime; it also gets reported nationally by inputting figures into the flytipping national database. We will therefore be able to assess the impact on this proposal.

9 Involvement

This change is being considered due to new powers to issue FPN's using existing legislation, which needs to be considered as part of our statutory obligations. All this comes as part of the Council standard procedures so no communications campaign has been considered. However the Council issues statements etc. on the negative impact of littering and flytipping regularly, see attached latest statements from the relevant Cabinet Member on the use of Fixed Penalty Notices, as an example.



Comment on litter for
Argus 6 August (2).docx



Council gets tough
on litter louts - march

10 Summary of Impact (for inclusion in any report)

Equality Act 2010 AND Welsh Language

This proposal could potentially have both positive and negative impacts on the protected characteristic of 'Race', as there is correlation between areas of low income within the city and higher proportions of ethnic minority groups. However these areas are also more likely to be 'fly tipping hot spots' and therefore more likely to see the benefits in any reduction in littering and fly tipping. Therefore the proposal has a deterrent effect which will help tackle these issues, and long term will have a positive impact on hotspot areas, which have also been identified as linked to these target groups.

Wellbeing of Future Generations (Wales) Act 2015

- Long term: Flytipping is a behavioural issue; any long term strategy needs education and engagement programs in place; however part of the behavioural change will necessarily come from enforcement action –this will motivate change in some sectors of the population and will serve as example so engagement activities are more effective.
- Prevention: The issue of Fixed Penalty Notices has proven to have a very strong deterrent effect in the past, thus preventing other people from doing the same, with an overall reduction in the number of offences.
- Integration: Enforcement activities are part of wider communications, engagement and educational programmes to avoid flytipping, littering and antisocial behaviour also adds to this. They also contribute to make our city a more attractive place to live, work and invest and to act on deprived communities where local environment quality is poorest (littering and flytipping spots). There is an overall contribution to some of the WFG goals: healthier, more equal and globally responsible Wales.
- Collaboration: n/a
- Involvement: wider engagement activities are delivered in partnership with other organisations/community groups