

Committee(s): Epping Forest and Commons – For decision	Date(s): 20/05/2020
Subject: Authorisation of Officers to issue Fixed Penalty notices for byelaw offences under the Epping Forest Act (SEF15/20)	Public
Report of: Director of Open Spaces	For Decision
Report author: Martin Newnham, Head Forest Keeper, Epping Forest	

Summary

The City of London Corporation (Open Spaces) Act 2018 (“the Open Spaces Act 2018”) sought to modernise the management of certain offences by providing a power for authorised officers to offer a Fixed Penalty Notice as an administrative alternative to prosecution before the magistrates' court, known as an Out of Court Disposal.

This report seeks delegated authority for the Director and Superintendent of Epping Forest to authorise officers to issue Fixed Penalty Notices and require names and addresses pursuant to the Open Spaces Act 2018 (OSA).

The report also seeks authority to set the amount of the fixed penalty pursuant to the Open Spaces Act 2018 for an offence of the Epping Forest Act byelaw at £80.00, with a reduction to £50.00 if the penalty is paid within 10 days.

Recommendation(s)

Members are asked to:

- Delegate authority to the Director of Open Spaces and the Superintendent of Epping Forest to authorise officers for the purpose of issuing Fixed Penalty Notices and requiring names and addresses pursuant to the City of London Corporation (Open Spaces) Act 2018.
- Set the amount of the fixed penalty for offences in Epping Forest in respect of which a Fixed Penalty Notice may be issued under the City of London Corporation (Open Spaces) Act 2018 at a fixed penalty of £80.00 with a reduction to £50.00 if paid within 10 days.

Main Report

Background

1. Fixed Penalty Notices may be issued as an alternative to prosecution in the Magistrates Court in respect of a range of offences. Unlike conditional cautions, an admission of guilt is not a prerequisite to issuing an FPN.
2. The City of London Corporation (Open Spaces) Act 2018 provides the opportunity for Fixed Penalty Notices to be introduced for a range of offences namely breaches of Epping Forest Byelaws, carrying out commercial activity without a license contrary to the Open Spaces 2018 Act, contravention of horse-riding restrictions contrary to S.9(5) of the City of London (Various Powers) Act 1971, contravention of access restrictions to Epping Forest contrary to S.7(6) of the City of London (Various Powers) Act 1977, and littering contrary to the Environmental Protection Act 1990). The Open Spaces Act 2018 also enables authorised officers to require names and addresses to enable FPN's (or summonses) to be issued.
3. The delegation of powers to authorise officers in relation to the issue of FPN's has not yet been granted by your Committee. It is noted that The Commons received your Committee's authority to utilise FPNs in the enforcement of Public Spaces Protection Orders in September 2017.

Enforcement Protocol

4. The enforcement of breaches will take place as an Out of Court Disposal (OCD) pursuant to the City of London Corporation (Open Spaces) Act 2018. This approach reflects guidance from the Courts Service where only more serious matters are brought to Court with minor offences being dealt with by OCD through FPN's.

Appeals

5. The Head Forest Keeper will institute an appeal Process for FPNs within the existing Epping Forest charging panel arrangements.

Fixed Penalty Notices

6. The fixed penalty charges reflect the charging levels set for London Borough FPN's and the Epping Forest District Council FPN regime. The Epping Forest FPN's will be set at a comparative £80.00, with a reduction to £50.00 if paid within 10 days.

Corporate & Strategic Implications

7. This proposal is in line with the City of London's Corporate Plan 2018-23 and supports the aim of 'Contributing to a flourishing society' by pursuing the priority of ensuring 'People are safe and feel safe', and the aim of 'Shaping Outstanding

Environments' through the twin priorities of 'We have clear air, land and water and a thriving sustainable natural environment' and 'Our spaces are secure resilient and well maintained'.

Implications

8. **Legal:** A Fixed Penalty Notice, or a conditional offer of fixed penalty is an administrative alternative to prosecution before the magistrates' court. Section 11 of the City of London Corporation (Open Spaces) Act 2018 provides powers for the use of Fixed penalty notices in relation to the following offences:

(1) An authorised officer may issue a fixed penalty notice to any person who the officer has reason to believe has committed an offence in an open space under

(a) a byelaw having effect in relation to the open space.

(b) section 10(4) of the City of London Corporation (Open Spaces) Act 2018.

(c) section 9(5) of the City of London (Various Powers) Act 1971 (contravention of horse-riding restrictions in Epping Forest).

(d) section 7(6) of the City of London (Various Powers) Act 1977 (contravention of access restrictions in Epping Forest); or

(e) section 87 of the Environmental Protection Act 1990 (littering).

9. There needs to be a traceable line of delegation down from the Court of Common Council under the scheme of delegation the Director (and the Superintendent) have the following related delegations in relation to the Epping Forest Act:

13. To take any action to protect or preserve the Forest, and to report to the Epping Forest & Commons Committee, as appropriate.

14. To authorise individual officers to enforce the Byelaws relating to the Forest, subject to any decision to institute legal proceedings for any offence being made in consultation with the Comptroller & City Solicitor, if appropriate, and to the result of any such prosecution being reported to the Epping Forest & Commons Committee.

10. Further delegation is sought to authorise individual officers to issue FPNs and require names and addresses, to bring the administration of breaches of the Epping Forest byelaws and other offences into line with arrangements across other similar authorities:

8. To authorise individual officers to issue Fixed Penalty Notices and require names and addresses .

11. In order to issue an FPN, the amount of the fixed penalty must formally have been specified by the Corporation under section 11(7) of the 2018 Act. The amount of the FPN should not exceed £100.00. As specified in The City of London Corporation (Open Spaces) Act 2018.

12. **Financial:** Income from FPNs will be credited to the Epping Forest Local Risk budget for use in the management of Epping Forest.
13. **HR:** Staff at Epping Forest will undertake an FPN training course to support their already extensive experience of enforcement matters, ensure that FPN's are issued appropriately and that the non-statutory appeal arrangements are properly administered.
14. **Charity:** Epping Forest is a registered charity (number 232990). Charity Law obliges Members to ensure that the decisions they take in relation to the Charity must be taken in the best interests of the Charity.

Public Relations implications

15. The opportunity to quickly discharge offences under the FPN process may be welcomed by many offenders who wish to avoid involvement with a Magistrates Court hearing.

Conclusion

16. The delegated authority to the Director and Superintendent of Epping Forest will allow authorised officers to require names and addresses and issue Fixed Penalty Notices offering an Out of Court disposal for certain breaches including of Epping Forest byelaws, and will bring Epping Forest into line with the discharge of similar processes in other authorities. This formal delegation of powers means that valuable court time is not wasted, and effective, timely resolutions can be sought for relevant breaches.

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