



January 27th, 2023

Chairman: Councillor M Gregg

Vice-Chairman: Councillor C McCready

Aldermen: J Baird, D Drysdale, M Henderson MBE and S P Porter

Councillors: F Cole, A P Ewing, A Givan, S Lee, S Lowry, A McIntyre, R McLernon, T Mitchell and S Skillen

Ex Officio:

The Right Worshipful the Mayor, Councillor S Carson

Deputy Mayor, Councillor M Guy

Notice Of Meeting

A meeting of the Environmental Services Committee will be held on **Wednesday, 1st February 2023 at 6:00 pm** for the transaction of the undernoted Agenda.

For those Members attending this meeting remotely, the Zoom details are included in the Outlook invitation that has been issued.

David Burns
Chief Executive

Agenda

1.0 Apologies

2.0 Declaration of Interests

- (i) conflict of interest on any matter before the meeting (Members to confirm the specific item)
- (ii) pecuniary or non-pecuniary interest (Member to complete disclosure of interest form)

3.0 Report by the Head of Service (Environmental Health)

3.1 Changes to Fixed Penalties for illegal dumping, littering, dog fouling and other environmental crime as set out in The Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations (Northern Ireland) 2022

📄 *Item 3.1 The Environmental Offences (Fixed Penalties) (Miscellaneous Provisions).pdf* Page 1

📄 *Item 3.1 Appendix 1 EH - The Environmental Offences comparison table.pdf* Page 5

3.2 Commencement of Sections 1-12 of the Private Tenancies Act (Northern Ireland) 2022

📄 *Item 3.2 Commencement of Privacy Tenancy Act (NI) 2022.pdf* Page 6

📄 *Item 3.2 Appendix 2 EH - Private Tenancies Act (NI) 2022 Guidance.pdf* Page 9

4.0 Confidential Report from the Director of Environmental Services

4.1 OPSS Grant Funding For The Capacity and Capability Building Programme In Northern Ireland: Non-Food Products 2022/2023

Confidential due to containing information relating to the financial or business affairs of any particular person (including the Council holding that information).

4.2 Cemetery Provision Update

Confidential due to containing information relating to the financial or business affairs of any particular person (including the Council holding that information).

4.3 Residual Waste Update

Confidential due to containing information relating to the financial or business affairs of any particular person (including the Council holding that information).

4.4 Collection, Recycling and/or Recovery of Mattresses from Council Household Recycling Centres

Confidential due to containing information relating to the financial or business affairs of any particular person (including the Council holding that information).

4.5 Tender for the Haulage of Residual and Green Waste from Council Household Recycling Centres

Confidential due to containing information relating to the financial or business affairs of any particular person (including the Council holding that information).

5.0 Any Other Business



Environmental Services Committee

1st February 2023

Report from:

Head of Service - Environmental Health

Item for Noting

TITLE: **Item 3.1 Changes to Fixed Penalties for illegal dumping, littering, dog fouling and other environmental crime as set out in The Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations (Northern Ireland) 2022**

Background and Key Issues:

1. During the Christmas break the Environmental Health Service Unit has been informed of changes to the fixed penalty regime for a number of environmental offences such as illegal dumping, littering, dog fouling, dog control orders, audible intruder alarms and graffiti/flyposting through the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations (Northern Ireland) 2022.
2. The commencement date for these changes was 30 December 2022, with councils only receiving notification on 22 December 2022.
3. In addition, Council has been informed that they have been given authority under the Waste and Contaminated Land (Amendment) (2011 Act) (Commencement No.3) Order (Northern Ireland) 2022 to enforce Articles 4 and 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997.
4. The commencement date was 2 January 2023, with councils only receiving notification at the end of December 2022.

5. Taken together these changes will make a significant impact to enforcement of illegal dumping and litter.
6. There is an opportunity to increase Fixed Penalty tariffs available to Councils for both littering and dog fouling.
7. The purpose of this report is to advise Members of the amendments to the existing statute and the discharge of new provision.
8. Prior to setting the level of Fixed Penalty fines for detected offences, officers will liaise with representatives of the other 10 Councils to ensure consistency and uniformity of approach.
9. Some of these new functions are being transferred to councils with no additional budgetary provision or resource. It is hoped that any income generated from the increase in Fixed Penalty charges will offset any enforcement work carried out by Environmental Health Service Unit.
10. The changes are detailed in **Appendix 1 EH** for Members' information.

Recommendation:

It is recommended that Members note the report in relation to changes to Fixed Penalty levels for environmental crime as set out in The Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations (Northern Ireland) 2022.

Furthermore, that Members note the authority given to Council to enforce Articles 4 and 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997.

Finance and Resource Implications:

The increase of Fixed Penalty charges for environmental crime offences may result in the generation of additional income going forward depending on the number of offences detected.

The new enforcement responsibility relating to Articles 4 and 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997 transferred to Council from DAERA with no budgetary provision or resource. This may have an impact on the Environmental Health Service Unit resources.

Screening and Impact Assessment

1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

N/A

If no, please provide explanation/rationale

Will be considered when additional report is tabled next month.

If yes, what was the outcome?:

<p>Option 1 Screen out without mitigation</p>	<div style="border: 1px solid black; padding: 5px; width: 60px; margin: 0 auto;">N/A</div>	<p>Option 2 Screen out with mitigation</p>	<div style="border: 1px solid black; padding: 5px; width: 60px; margin: 0 auto;">N/A</div>	<p>Option 3 Screen in for a full EQIA</p>	<div style="border: 1px solid black; padding: 5px; width: 60px; margin: 0 auto;">N/A</div>
--	--	---	--	--	--

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

<p>Has consideration been given to Rural Needs?</p>	<div style="border: 1px solid black; padding: 5px; width: 60px; margin: 0 auto;">N/A</div>	<p>Has a Rural Needs Impact Assessment (RNIA) template been completed?</p>	<div style="border: 1px solid black; padding: 5px; width: 60px; margin: 0 auto;">N/A</div>
---	--	--	--

If no, please give explanation/rationale for why it was not considered necessary:

If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:

SUBJECT TO PLANNING APPROVAL:

N/A

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

APPENDICES:

Appendix 1 EH - The Environmental Offences Comparison table.

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

N/A

If Yes, please insert date:

Enactment	Previous Legislative 2012 FPN	Present LCCC FPN	New enactment FPN limits
Litter & Illegal Dumping			
Paragraph 7(4)(a) of Schedule 1A to, the Litter Order ; Free Distribution of Printed Matter On Designated Land No land has been designated in LCCC	not less than £50 and not more than £80.	Presently £75	not less than £50 and not more than £80
Sections 27(1) and 53(2) of the 2011 Clean Nieghbourhoods & Environment Act (CNEA) , Penalty notices for graffiti and fly-posting	not less than £50 and not more than £80.	Presently £75	not less than £50 and not more than £80
Article 6(6A)(a) of the Litter Order ; Offence of leaving litter	not less than £50 and not more than £80.	£80 (£50 if paid within 14 days)	not less than £50 and not more than £200*
Article 14A(4)(a) of the Litter Order ; Failure to comply with litter clearing notice (12C) & Street Litter (14)	not less than £75 and not more than £110.	Presently £100	not less than £75 and not more than £110
Article 4 offences under The Waste and Contaminated Land (Northern Ireland) Order 1997 as amended re waste deposited in or on any land	Not available to Council	None	not less than £100; and (b) not more than £400
Noise			
Sections 27(1) and 53(2) of the CNEA 2011 , Audible Intruder Alarms	not less than £50 and not more than £80		not less than £50 and not more than £80
Dog Control			
Section 44(1)(a) of the CNEA 2011 insofar as it relates to an offence under a Dog Control Order set out in Schedules 2 to 5 to the 2012 Regulations. Dog off lead, exclusion from land, specified no. of dogs on land	not less than £50 and not more than £80	£80 (£50 if paid within 14 days)	shall be not less than £50 and not more than £80
Section 44(1)(a) of the CNEA 2011 insofar as it relates to an offence under a Dog Control Order set out in Schedule 1 to the 2012 Regulations, Dog Fouling	not less than £50 and not more than £80.	£80 (£50 if paid within 14 days)	not less than £50 and not more than £200*

*This fixed penalty must be same for both offences.



Environmental Services Committee

1st February 2023

Report from:

Head of Service - Environmental Health

Item for Noting

TITLE: Item 3.2 Commencement of Sections 1-12 of the Private Tenancies Act (Northern Ireland) 2022

Background and Key Issues:

1. The Environmental Health Service Unit has received confirmation of changes to the Private Tenancies Act (Northern Ireland) 2022 and that the commencement date for these will now be 1 April 2023.
2. In advance of this commencement date, Lisburn and Castlereagh City Council will have to set the level for the Fixed Penalty Notices relating to offences within Sections 1 to 6.
3. The purpose of this report is to advise Members of these changes and to confirm that an additional report will be tabled to the Environmental Services Committee meeting in March 2023.
4. Prior to setting the level of Fixed Penalty fines for detected offences, officers will liaise with representatives of the other 10 Councils to ensure consistency and uniformity of approach.
5. These new functions are being discharged to councils with no budgetary provision, however, it is hoped that any additional income generated will offset enforcement work carried out by the Environmental Health Service Unit.

6. The changes are that Landlords:
- must provide tenant with Tenancy Information Notice;
 - must provide tenant with written receipt for any payment made in cash;
 - cannot require a tenancy deposit that is more than one month’s rent.
7. Councils are required to specify the level of Fixed Penalty charges and details are attached in **Appendix 2 EH** for Members’ information.

Recommendation:

It is recommended that Members note the above report relating to the commencement of Sections 1-12 of the Private Tenancies Act (Northern Ireland) 2022 and that a further report will be tabled to the March 2023 meeting of the Environmental Services Committee.

Finance and Resource Implications:

By imposing Fixed Penalty fines under the Private Tenancies Act (Northern Ireland) 2022 may result in the generation of additional income going forward depending on the number of offences detected.

The new enforcement responsibility is to be implemented by Council with no budgetary provision or resource from the Department of Communities. This may have an impact on Environmental Health Service Unit resources.

Screening and Impact Assessment

1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy? N/A

If no, please provide explanation/rationale

Will be considered when additional report is tabled next month.

If yes, what was the outcome?:

Option 1 Screen out without mitigation	N/A	Option 2 Screen out with mitigation	N/A	Option 3 Screen in for a full EQIA	N/A
--	-----	---	-----	--	-----

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

N/A

Has a Rural Needs Impact Assessment (RNIA) template been completed?

N/A

If no, please give explanation/rationale for why it was not considered necessary:

If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:

SUBJECT TO PLANNING APPROVAL:

N/A

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

APPENDICES:

Appendix 2 EH - Private Tenancies Act (Northern Ireland) 2022 Guidance Sections 1-6

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

N/A

If Yes, please insert date:

Private Tenancies Act (NI) 2022

1. Tenancy Information Notice.

A Tenancy Information Notice is an important document which provides the landlord and tenant with information on their respective rights and responsibilities. The Notice provides tenants with the landlord's (and, if appropriate, agent's) contact information.

The landlord must provide this information to the tenant within 28 days of granting the tenancy and it must be free of charge.

The Tenancy Information Regulations require landlords to provide the tenant with a Notice of Variation if there is any change to the information contained in the original Tenancy Information Notice.

The landlord must provide this within 28 days of any changes made and the Notice must be free of charge.

Any landlord who fails to give the required Tenancy Information Notice or Notice of Variation within the required 28-day period is guilty of an offence. If a landlord continues to fail to provide either of these notices for more than 14 days after conviction, then they are deemed to have committed a further offence.

If the landlord is convicted of an offence, the council will issue a fixed penalty notice, not exceeding £500. If the landlord is convicted by a court the penalty will be a fine not exceeding level 4 on the standard scale (currently £2,500).

2. Receipts

It is now a requirement for a landlord to provide a written receipt for any payment made in cash in relation to a tenancy detailing:

- the payment date;
- what the payment was for; and
- the amount paid, including:
- if any amounts remain outstanding, and
- if the payment was made in full.

The receipt must be provided free of charge and be in a written form, so that both the landlord and tenant are able to keep a copy.

A landlord must provide the receipt at the time the payment is made and, where possible, a tenant should only make a cash payment when a written receipt is available.

It is an offence if a landlord or his representative fails to provide a receipt, if the receipt provided does not contain the correct information or if the receipt is not provided as soon as reasonably possible.

If the landlord or his/her representative is convicted of an offence the council will issue a fixed penalty notice, not exceeding £500. If the landlord is convicted by a court the penalty will be a fine not exceeding level 4 on the standard scale (currently £2,500).

Fixed Penalty Notices can be given for both offences:

- failure to provide a receipt containing the correct information, and
- not providing a receipt in a reasonable time.

If after the conviction the landlord's failure to provide a receipt continues for a further 14 days, the landlord is deemed to have committed a further offence.

3. Changes to Tenancy Deposits

Deposit limited to 1 month's rent.

A landlord cannot ask for or retain a tenancy deposit that is more than one month's rent.

A tenancy deposit is a payment that a landlord or agent can ask a tenant, or a relevant person (i.e., someone acting on a tenant's behalf) to make. This provides a landlord with security if the tenant causes damage to a property, does not return it in its original condition, does not pay the rent or breaks the terms of a tenancy agreement.

Any landlord or other person who requires a tenancy deposit in excess of 1 month's rent to be paid or retained in connection with a private tenancy (after the commencement date) is guilty of an offence under this Order.

A council can issue a fixed penalty notice or fine for this offence. The amount of the fixed penalty notice will be determined by councils and cannot exceed £500. The fine will not exceed £2500.

If a landlord is convicted of requiring or retaining a deposit in excess of one month's rent, the court may order the excess to be repaid to the person who paid it.

4. Increase in time for requirements relating to tenancy deposits

The time limit for a deposit to be protected in an approved scheme has changed from 14 days to 28 days and landlords have additional time to provide the prescribed information to the tenant as this has changed from 28 days to 35 days.

The landlord must also provide the tenant with the required written information within 35 days of the deposit being paid.

It must include:

- a. details of the amount of the deposit protected in an approved scheme and the full tenancy address;
- b. the landlord or agents' name, address and contact details;
- c. the name and contact details of the scheme protecting the deposit including how the tenant can let the scheme know about a disagreement over the return of the deposit;

- d. the reasons why part of, or all of, the deposit might be withheld at the end of the tenancy; and
- e. what happens when the tenant cannot be contacted at the end of the tenancy.

Landlords living outside Northern Ireland who receive a deposit for a private tenancy in Northern Ireland must still follow the law. They must supply the scheme administrator protecting the deposit with a Northern Ireland contact address.

If the landlord does not protect the deposit within 28 days or if the tenant does not receive the written information within the 35 day time limit they may contact the Environmental Health Officer at their local council then they will be guilty of an offence **liable to a fixed penalty of three times the actual tenancy deposit**. If convicted of this offence, they may be liable for a fine. This fine may not exceed £20,000.

5. **Removal of the 6-month time barrier to prosecution of tenancy deposit offence**

An offence is committed where a landlord fails to protect a tenancy deposit or give the prescribed information within the required time.

This Private Tenancies Act (Northern Ireland) 2022 makes the failure to protect a tenancy deposit a continuing offence and removes the 6-month time limit on prosecutions. This legislation provides that those offences continue to be committed throughout any period during which the failure to protect a deposit, or supply the required information to the tenant, continues. The result of this is that there will be no time barrier on prosecuting a person who fails to comply with the requirements.