

Report of: Assistant Director – Public Protection

Meeting of	Date	Agenda Item	Ward(s)
Licensing Regulatory Committee	5 December 2007	B3	All

Delete as appropriate		Non-exempt
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Subject: IMPLEMENTATION OF FIXED PENALTY NOTICES (UNDER PART 4 & SCHEDULE 2 LONDON LOCAL AUTHORITIES ACT 2004 (as amended))

1 Synopsis

- 1.1 To approve the new system of fixed penalty notices for offences contrary to section 34 and section 38 London Local Authorities Act 1990 as amended.

2 Recommendations

- 2.1 To agree the introduction of the new system of fixed penalty notices for street trading offences and approve the schedule of fines (to be) determined by the London Councils acting through the Joint Committee.
- 2.2 To pass a resolution in the terms of the draft resolution contained in the Public Notice dated 27 September 2007. The draft resolution is: "That officers implement a new system of fixed penalty notices as provided for under Part 4 and Schedule 2, London Local Authorities Act 2004". The proposed system, if approved, will take effect from 1 January 2008.

3 Background

- 3.1 The London Local Authorities Act 2004 introduced the option of issuing fixed penalty notices for street trading offences including failure to comply with licence conditions. The offences for which a fixed penalty can be issued are listed in Appendix A.
- 3.2 The fixed penalty system in other areas such as waste management has been shown to improve compliance significantly.
- 3.3 A Public Notice was published in the Islington Gazette on the 27th September 2007 giving notice of the intention to introduce fixed penalties.(Appendix B)
- 3.4 If approved, the new system will be introduced on 1 January 2008 (subject to the Associated Joint Transport and Environment Committee determination of the level of fixed penalties payable).

4 Implications

4.1 Financial Implications

4.1.1 This is a trading account so any costs will be met from within this budget. The cost of implementing this new system needs to be met from the fee income received.

4.2 Legal Implications

4.2.1. Under Part 4 London Local Authorities Act 1994 (as amended) where on any occasion an authorised officer of a borough council finds a person who he has reason to believe has on that occasion committed an offence under section 34 or section 38 of the London Local Authorities Act 1990 (as amended) the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. One of these offences included in schedule 2 of the Act is the contravention of a condition of a street trading licence or temporary licence (section 34(1)).

4.2.2. The notice shall give such particulars of circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state the period during which proceedings will not be taken for the offence (28 days), the amount of the fixed penalty and the reduced amount of the penalty if paid within 14 days (to be determined by the Associated Joint Transport and Environment Committee in December 2007).

4.3. Equalities impact assessment

4.3.1. An equalities impact assessment has been undertaken on this proposal. The proposed changes do not target any minority group but aims to be inclusive of all residents and businesses in the borough. Continued evaluation and monitoring of the outcomes inclusiveness will ensure that the proposed change embodies the Council's equality policies.

5 Conclusion and reasons for recommendations

5.1 The new system will provide a simpler system of enforcement, particularly in relation to ensuring compliance with Street Trading conditions.

Background papers:

Street Trading Offences – Appendix A

Copy of Public Notice – Appendix B

Final Report Clearance

Signed by

Assistance Director, Public Protection

Date

Received by

Head of Democratic Services

Date

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APPENDIX A

FIXED PENALTIES UNDER THE LONDON LOCAL AUTHORITIES ACT 2004

Offences under Schedule 2 in respect of which fixed penalties may be given under Section 15.

Act	Section	Description of Offence	Maximum Fine Amount
London Local Authorities Act 1990 (c. vii)	34(1)	Contravention of condition of street trading licence or temporary licence	£1000
	34(2)	Making false statement in connection with application for street trading licence or temporary licence	£1000
	34(3)	Resisting or obstructing authorised officer	£1000
	34(4)	Failure to produce street trading licence on demand	£1000
	38(1)	Unlicensed street trading	£1000