

CYFARFOD PENDERGYNIADAU AELOD Y BWRDD GWEITHREDO DROS DIOGELU'R CYHOEDD

13 MAI 2019

Yr Aelod o'r Bwrdd Gweithredol:	Portffolio:
Y Cyngorydd Philip Hughes	Diogelu'r Cyhoedd

DIWYGIAD I'R DDYLETSWYDD GOFAL AR BRESWYLWYR

Y Pwrpas:

Galluogi Swyddogion Gorfodi Materion Amgylcheddol i gael y cyfle i roi hysbysiad cosb benodedig am drosedd yn ymwneud â'r ddyletswydd gofal ar breswylwyr yn lle mynd â'r troseddwr i'r llys.

Yr argymhellion / penderfyniadau allweddol sydd eu hangen:

Cymeradwyo'r gosb benodedig mewn perthynas â'r ddyletswydd gofal o ran gwastraff y cartref, sef £300, neu £150 os caiff y gosb ei thalu o fewn 10 diwrnod. Mae'r gallu i roi tocyn cosb benodedig yn ddiwygiad o dan Adran 34(2A) o Ddeddf Diogelu'r Amgylchedd 1990.

Y Rhesymau:

Mae'r Llywodraeth wedi gwneud darpariaethau i ddiwygio Deddf Diogelu'r Amgylchedd 1990 i gynnwys rhoi tocyn cosb benodedig fel ffordd o ymdrin â throsedd yn ymwneud â'r ddyletswydd gofal ar breswylwyr yn lle mynd â'r mater i'r llys.

Mae'r ddyletswydd gofal o ran gwastraff yn gofyn bod meddianwyr eiddo domestig yn cymryd yr holl gamau sydd ar gael iddynt, fel sy'n rhesymol yn yr amgylchiadau, i sicrhau os ydynt yn trosglwyddo unrhyw wastraff y cartref a gynhyrchwyd yn eu heiddo, eu bod yn ei drosglwyddo i berson awdurdodedig.

Nod y gofyniad hwn yw lleihau'r siawns y bydd y gwastraff yn mynd i ddwylo'r rheiny a allai ei waredu'n anghyfreithlon.

Y Gyfarwyddiaeth: Yr Amgylchedd Enw Pennaeth y Gwasanaeth: Ainsley Williams Awdur yr Adroddiad: Paul Morris	Swydd: Pennaeth Gwasanaethau Amgylcheddol a Gwastraff Rheolwr Gorfodaeth Amgylcheddol	Rhifau ffôn: / Cyfeiriadau E-bost: 01267 224500 AIWilliams@sirgar.gov.uk 01554 784164 PMorris@sirgar.gov.uk
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Declaration of Personal Interest (if any):

None

Dispensation Granted to Make Decision (if any):

N/A

DECISION MADE:

Signed: _____ DATE: _____
EXECUTIVE BOARD MEMBER

The following section will be completed by the Democratic Services Officer in attendance at the meeting

Recommendation of Officer adopted	YES
Recommendation of the Officer was adopted subject to the amendment(s) and reason(s) specified:	
Reason(s) why the Officer's recommendation was not adopted:	

EXECUTIVE SUMMARY

EXECUTIVE BOARD MEMBER DECISION MEETING FOR PUBLIC PROTECTION

13TH MAY 2019

AMENDMENT TO DUTY OF CARE TO HOUSEHOLDERS

The fixed penalty notice for breaches of the household waste of duty of care provides authorities with an alternative enforcement option to prosecuting offenders through the court. It allows an individual to discharge liability for the duty of care offence by payment of a fixed penalty ticket.

The offences of duty of care relate to householders who do not dispose of their waste correctly and does not apply where waste is collected by the principle waste authority which is in this case is Carmarthenshire County Council.

The FPN fines for a breach of householder duty of care is £300 and an early payment of £150 is offered if paid within 10 days. The amounts stated are fixed following recommendations from the Welsh Government to have a consistent approach across Wales.

A fixed penalty notice may be issued where it appears to authorised officers that an occupier of a domestic property has failed to comply with their duty under S34(2A) of the Environmental Protection Act in Wales. Examples of this include;

- Fly-tipping

Where fly-tipped waste can be traced back to an occupier of a domestic property who is found to have failed to take such measures as were reasonable in the circumstances to ensure that they transferred the waste to an authorised person

- Unauthorised carrier

Where an unauthorised carrier is found to be carrying waste that was directly transferred to them by the occupier of a domestic property who is found to have failed to take such measures as were reasonable in the circumstances to ensure that they transferred the waste to an authorised person.

- Failing to take reasonable measures

Where an occupier of a domestic property is found to be transferring their waste to a site that does not have a permit or exemption, and the occupier is found to have failed to take such measures as were reasonable in the circumstances to ensure that the operator of the site in question was an authorised person.

Any action taken will be subject to the Corporate Enforcement Policy.

DETAILED REPORT ATTACHED?

NO

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Ainsley Williams** Head of Waste & Environmental Services

Policy and Crime & Disorder	Legal	Finance	ICT	Risk Management Issues	Staffing implications	Physical Assets
NONE	YES	YES	YES	NONE	NONE	NONE

Legal

Enforcement Officers have existing powers and authorised under S34(2A) of the Environmental Protection Act 1990.

Finance

Currently action through the courts results in fines and costs being awarded. Any fines issued are sent to the treasury and costs awarded are given back to the authority.

In the event of a breach of householder duty of care and a fixed penalty being issued the revenue is given back to the authority.

Any failure to pay the fixed penalty ticket will result in court proceedings and the outcome is as described above.

ICT

The back office systems are already in place to deal with other fixed penalty tickets and would require no change.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: **Ainsley Williams** Head of Waste & Environmental Services

1. Scrutiny Committee - N/A
2. Local Member(s) - N/A
3. Community / Town Council - N/A
4. Relevant Partners - N/A
5. Staff Side Representatives and other Organisations - N/A

Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Guidance for Welsh Authorities on Household Waste Duty of Care fixed penalty notices	Welsh Government	https://www.gov.uk/government/publications/household-waste-duty-of-care-fixed-penalty-notice-guidance/guidance-for-local-authorities-on-household-waste-duty-of-care-fixed-penalty-notices