

# Brighton & Hove City Council

## Cabinet

## Agenda Item 145

**Subject:** Environmental Enforcement Service

**Date of meeting:** Thursday, 19 March 2026

**Report of:** Cabinet Member for Net Zero & Environmental Services

**Lead Officer:** Corporate Director- Operations

**Contact Officer:** Louise Lawrence

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**Ward(s) affected:** (All Wards);

**Key Decision:** No

**For general release**

### **1. Purpose of the report and policy context**

1 This report seeks approval for a proportionate, prevention-focused Environmental Enforcement model, including a revised Fixed Penalty Notice (FPN) schedule for minor fly-tipping and littering, refocusing the team to work proactively alongside our city's businesses, and other supporting measures (e.g. CCTV) to ensure our enforcement activity is focused on more serious offences. The proposals support the delivery of our Council Plan, and a city to be proud of with cleaner places, community wellbeing and inclusive place-making. As a council, and in response to feedback from our residents and businesses, we are shifting our emphasis from punitive action to positive behaviour change and intelligence-led enforcement.

### **2. Recommendations**

2.1 That Cabinet approves a set of changes that will introduce a fairer system of environmental enforcement, with a shift towards early engagement, prevention and collaboration with residents and businesses to improve the look and feel of the city, whilst ensuring a robust approach to tackle persistent and more serious offences.

2.2 That Cabinet approves the introduction from 1<sup>st</sup> April 2026 of a lower-tier, proportionate FPN schedule for minor fly-tipping (residential and commercial) and littering, as set out in appendix A.

2.3 That Cabinet approves taking the high-profile none payers to court, to get a clear message out to businesses, that they have a legal duty to ensure that their waste is disposed of correctly and that failure to do so could result in them having a criminal record.

2.4 That Cabinet delegates authority to the Corporate Director, City Operations, in consultation with the Cabinet Member for Net Zero & Environmental

Services, to finalise operational policies and procedures, and to make minor amendments to the FPN schedule within national parameters.

### **3. Context and background information**

- 3.1 The Environmental Enforcement Service is responsible for tackling a range of environmental offences including littering, fly-tipping, waste duty of care breaches and waste container offences.
- 3.2 The Environmental Enforcement Framework has been in place since 2022 and was last substantively updated in 2023. Since then, several strategic, operational and policy changes have created a need to refresh the approach to ensure it remains proportionate, sustainable and aligned with the Council's priorities. In particular, the council has listened to feedback from residents and businesses who feel the current system penalises minor issues disproportionately, whilst not having sufficient focus on more serious issues of environmental crimes that significantly impact the look and feel of our place. Feedback from businesses has also been that the council has been too quick to issue fines when there was instead an opportunity to support and educate.
- 3.3 The previous Framework Update (2023) highlighted the need to balance deterrence with fairness, introduce clearer pathways for early engagement, and strengthen evidence gathering to support investigations. The review builds on that direction of travel and will accelerate the changing model for our environmental enforcement service.
- 3.4 At a national level, DEFRA's updated guidance on Fixed Penalty Notices and environmental crime enforcement has emphasised the importance of proportionality, early intervention, and graduated enforcement responses. This aligns with a broader shift towards supporting behaviour change and away from over reliance on punitive measures, especially for minor waste-related offences. Councils are increasingly adopting lower-tier penalties, early-payment incentives and improved evidence gathering (such as integrated CCTV) to increase fairness and payment rates while retaining the ability to take robust action against persistent or deliberate offenders.
- 3.5 An independent Enforcement Review completed in 2025 highlighted several structural issues within the existing model, including a high proportion of FPNs issued for minor, one-off residential incidents, limited early engagement with residents and businesses, and a lack of supporting evidence infrastructure such as CCTV. The review also identified that a relatively small number of repeat and commercial offenders account for a disproportionately large share of environmental harm and continuing offences, including non-payment of fines, which requires court action to progress.
- 3.6 The review found that the current approach does not align strongly enough with the council's strategic priorities, including our Net Zero ambition, the City Environment Modernisation Programme, and the wider shift toward community-centred, preventative public services. A revised, more

proportionate enforcement model is therefore required to support behavioural change, encourage voluntary compliance, and enable the service to operate in a financially sustainable way.

- 3.7 Benchmarking with comparable councils shows a growing trend towards tiered FPN schedules, early-payment incentives and integrated CCTV and intelligence-led approaches to improve fairness and recovery. These models focus on positive behaviour change, ensuring that punitive action is reserved for repeat or deliberate offences, while still maintaining visible deterrence and community confidence.
- 3.8 Local data indicates that minor fly-tipping and littering make up the majority of offences but are often low-level behaviours that can be addressed effectively through early intervention, education and clearer communication. Introducing a lower-tier FPN option for these offences supports proportionality and reduces the risk of disproportionate impact, particularly on vulnerable residents and small businesses
- 3.9 To improve outcomes, the proposed model integrates a prevention-focused approach with strengthened enforcement where necessary. This includes removing unnecessary barriers to payment, introducing business-facing Environmental Compliance Surgeries, and improving investigation through access to the corporate CCTV suite. Together, these changes will enhance the council's capacity to tackle persistent offenders, and ensure that enforcement activity is fair, targeted and financially sustainable, and for more serious offences, supported by legal action where necessary.
- 3.10 A core part of the preventative work would involve contacting the large number of businesses identified as not currently have a Duty of Care Transfer Notice – a legal requirement – and supporting them to ensure they have appropriate provision in place. We would also seek to improve the advice and guidance provided when new businesses register for business rates in order to reduce the number of offences committed.
- 3.11 The proposed enforcement model reflects the learning framework principles by:
  - introducing Environmental Compliance Surgeries to support businesses before issues escalate
  - strengthening officer training on conversational compliance, de-escalation and early intervention
  - improving data analysis and intelligence-led deployment
  - reducing punitive responses for first-time, low-level incidents
  - applying structured learning from the 2023 Enforcement Review, including the findings on payment barriers and repeat offender patterns
- 3.12 This ensures the service becomes not only more effective but more reflective, responsive and community-centred in line with the Learning Framework.
- 3.13 Since the last framework update in 2023, evidence has shown:

- a substantial proportion of FPNs were issued for minor, one-off residential incidents
- some fines were disproportionately high relative to the behaviour
- commercial and repeat offenders are responsible for a high share of unpaid penalties
- the current structure does not sufficiently differentiate between low-level and high-impact offences.

3.14 The revised fines structure seeks to:

- introduce proportionality through a lower-tier option for minor offences
- retain deterrence for repeat or deliberate waste crime
- reduce the risk of disproportionate impacts on vulnerable residents
- improve payment rates by reducing financial barriers
- focus officer time on higher-risk offenders rather than minor, one-off incidents

3.15 This supports fairer outcomes, strengthens community confidence, and better aligns enforcement activity with strategic priorities.

#### 4. Analysis and consideration of alternative options

Option	Description	Impact / Considerations
<b>4.1 No change</b>	Maintain current approach	Would result in continued concerns raised with the council about proportionality.
<b>4.2 Early settlement (50% discount across the board)</b>	Apply a universal 50% discount for early payment.	Improves proportionality but doesn't make the further changes that shift the service significantly towards prevention and focus on more serious crimes.
<b>4.3 Cautions for first-time offences</b>	Issue cautions rather than penalties for first-time offenders.	Significantly reduces revenue, improves proportionality but doesn't make the further changes that shift the service significantly towards prevention and focus on more serious crimes.
<b>4.4 Preferred option</b>	<ul style="list-style-type: none"> <li>• Reduce Environmental Enforcement Team to four officers with greater focus on preventative activity.</li> <li>• Introduce lower-tier FPNs for minor fly-tipping.</li> <li>• Retain 50% early-payment discount for littering.</li> <li>• Expand CCTV capability and</li> </ul>	Supports a fair, proportionate and prevention-focused approach to tackling environmental crime.

Option	Description	Impact / Considerations
	strengthen targeted prosecution pathways.	

- 4.1 A stronger prevention and behaviour-change emphasis will be embedded within daily operations, including the use of early intervention, education and de-escalation for first-time or low-level offences, and intelligence-led deployment to target higher-risk locations and repeat offenders. This supports the council’s aim to become a learning organisation, reducing reliance on punitive measures while still maintaining visible deterrence.
- 4.2 The model introduces enhanced engagement with local businesses through dedicated *Environmental Compliance Surgeries*. These sessions will provide practical guidance on waste duty of care, legal responsibilities, and how to avoid common pitfalls that lead to enforcement action. They will also help clarify that waste-related offences fall under Criminal Law, meaning that cases must be taken to court before any formal action or penalties can be imposed. By improving understanding of this process, the surgeries create an opportunity to resolve issues earlier, reduce misunderstanding about the implications of non-compliance, and encourage compliance and avoid legal action.
- 4.3 Financial modelling indicates that this combined approach—lower-tier penalties, improved engagement, strengthened prevention, alongside projected CCTV income uplift, is forecast to rebalance the enforcement budget sustainably

**5. Community engagement and consultation**

- 5.1 Engagement has taken place with local businesses via meetings with North Laine traders, who have been able to feed in their views about how the current service operates, and how this impacts the relationship between businesses and the council, who all have shared aims to keep our city clean and address more serious environmental crime. This feedback has driven the changes being made, alongside the priorities in the Council Plan to ensure we have a clean, safe and accessible city.
- 5.2 Engagement with our Environmental Enforcement Service staff is ongoing, alongside engagement with our recognised Trade Unions as we discuss changes to the service to support the change of approach outlined in the report. The feedback of the team has been fully embedded in the changes, as we seek to co-design the service with residents and staff.
- 5.3 Wider staff, resident and business engagement will continue as operational policies are finalised.

**6. Financial implications**

- 6.1 Environmental Enforcement is forecasting a £0.141m overspend in 2025/26, compared with the budgeted deficit of £0.051m. This position is driven primarily by a significant income shortfall of £0.242m, partially offset by £0.152m of reduced expenditure. The continued under-recovery of income reflects lower activity levels than assumed in the budget and represents an ongoing structural pressure for the service.
- 6.2 For 2026/27, the approved budget includes a small deficit of £0.027m, based on planned expenditure of £0.586m and income of £0.559m. The latest forecast indicates a £0.135m overspend before mitigations, with the variance again attributable to reduced income performance (forecast £0.285m). Although expenditure is forecast to be £0.166m lower than budget, this does not fully offset the reduced income base.
- 6.3 The service has identified £0.135m of mitigations for 2026/27 to eliminate the forecast overspend. These comprise:
- £0.075m new income from the introduction of CCTV enforcement,
  - £0.060m from improving the collection rate of fines
- 6.4 Delivery of these mitigations would return the service to a balanced financial position for 2026/27. However, there are material delivery risks, including the timing of CCTV implementation, operational readiness, and the achievability of the assumed improvement in payment rates. Any slippage or under-delivery would result in an in-year budget pressure and may require further corrective action.
- 6.5 Without sustained improvement in income recovery, the service will continue to face structural financial pressures that may need to be addressed through future budget-setting processes or service redesign.

Name of finance officer consulted: Craig Garoghan Date consulted:  
03.03.2026

## **7. Legal implications**

- 7.1 FPN levels for relevant environmental offences must comply with national legislation and guidance. The proposed lower-tier schedule aligns with national parameters, including DEFRA minimum discounted penalties. Legal Services will confirm compliance and drafting of any necessary amendments to the Fees & Charges schedule and enforcement policy.
- 7.2 Reference is made to CCTV. This will have to be assessed on a case by case basis. CCTV can be use for evidence gathering if the evidence is neither covert and/or is ancillary to the CCTV use. If the cameras are marked and clear it is not covert. Covert surveillance is not permissible under the Regulation of Investigative Powers AC 2000 for a crime that carries less than 6 months in prison. Covert surveillance always has to be authorized. This is likely to include getting a warrant from the Magistrates Court.

7.3 2.1 and 2.2 are both lawful and permissible. Legal can assist with 2.2 and if any policy revisions are more significant than anticipated then the point can be brought back to cabinet for approval.

Name of lawyer consulted: Simon Court      Date consulted (10/03/2026):

## **8. Risk implications**

- 8.1 Payments from fines don't improve – Mitigation: retain early-payment discount; targeted follow-up; stronger court pathways; data-led prioritisation.
- 8.2 CCTV and recovery income below forecast – Mitigation: phased implementation; monthly performance review; reallocate capacity to high-yield hotspots and illegal operators.
- 8.3 Disproportional impacts of enforcement – Mitigation: lower-tier penalties for minor offences; education and de-escalation for first-time/low-level cases; monitor outcomes via Equalities Impact Assessment.

## **9. Equalities implications**

- 9.1 A review of the Equalities Impact Assessment (EIA), drawing on learning from the 2023 assessment, indicates that environmental enforcement activity can affect some groups disproportionately. These include residents on low incomes, people with disabilities or long-term health conditions, people with limited English or low digital literacy, and some minority ethnic groups who may already experience higher levels of enforcement nationally. The decline in payment rates under the current model increases the risk of escalation into court processes, which can further disadvantage these groups.
- 9.2 The proposed enforcement model has been designed to reduce disproportionate impacts through a prevention-focused approach. Introduction of a lower-tier penalty for minor offences, retention of the 50% early-payment discount, and increased emphasis on education and early intervention all reduce financial burden and avoid unnecessary escalation. Improvements to communication materials including the use of plain English, visual guidance, and translated or accessible formats will support residents with additional language or literacy needs. Business-facing Environmental Compliance Surgeries will provide proactive support to smaller or more vulnerable businesses to help them understand and meet waste-duty obligations.
- 9.3 Access to support will form a key part of the model. Where appropriate, officers will signpost vulnerable residents to relevant council services or advice organisations, ensuring that enforcement remains proportionate and sensitive to individual circumstances. Intelligence-led deployment will help ensure that enforcement activity is targeted at high-impact behaviours and repeat offenders, rather than concentrated disproportionately in specific neighbourhoods.

9.4 Equalities impacts will be monitored through quarterly performance reviews, including analysis of payment rates, prosecution pathways, and geographic patterns of enforcement. Where protected characteristics can be captured lawfully and proportionately, anonymised data will be used to identify trends and respond promptly to emerging risks. The full EIA will be finalised before implementation of the revised model in April 2026 and reviewed again after the first year of operation.

## **10. Sustainability implications**

10.1 Enhanced deterrence of fly-tipping and littering supports a cleaner local environment, reduces waste management burdens, and contributes to wider climate and place-making objectives. Any CCTV-related procurement will consider lifecycle and energy impacts

## **11. Health and Wellbeing Implications:**

11.1 Cleaner public spaces and reduced environmental crime contribute positively to physical and mental well-being and support safer, more inclusive neighborhoods.

## **Other Implications**

## **12. Procurement implications**

12.1 None

## **13. Crime & disorder implications:**

13.1 The Council has a statutory duty under s17 of the Crime and Disorder Act 1998 to prevent crime and disorder across its services. The recommendations in this report directly support this duty by strengthening deterrence, improving intelligence-led enforcement and reducing environmental crime such as fly-tipping, littering and duty-of-care offences.

13.2 Evidence from the Enforcement Review shows that the current model is increasingly unsustainable because of low payment rates and limited visibility, while a small number of persistent offenders account for a disproportionate share of unpaid fines. Targeted enforcement, CCTV-supported investigation and a strengthened prosecution pathway are identified as measures that will reduce repeat offending and support community safety.

13.3 The preferred option also incorporates a prevention-focused approach, including working with residents and businesses, providing education and early intervention, and offering Environmental Compliance Surgeries for businesses to reduce unintentional non-compliance. This supports long-term behavioural change and reduces the conditions that allow environmental crime to occur.

- 13.4 The introduction of a Top 20 Unpaid FPN Recovery provides an additional structured approach to tackling repeat offenders, including prioritised case progression to court, enhanced follow-up, and alignment with corporate debt recovery processes, all of which help prevent re-offending and strengthen community confidence.
- Overall, the proposals contribute positively to community safety, neighbourhood appearance, public confidence and reduced antisocial behaviour.

## **14. Conclusion**

- 14.1 The Environmental Enforcement Review demonstrates a clear and urgent need to modernise the service in response to feedback from businesses and the limitations of the current enforcement model. A prevention-focused, proportionate approach supported by lower-tier penalties, a right-sized workforce, CCTV evidence gathering, strengthened prosecution pathways and proactive engagement with residents and businesses provides a balanced and sustainable solution.
- 14.2 The recommended option improves fairness, reduces disproportionality, enhances public confidence, and supports cleaner, safer neighbourhoods, while moving the service toward a financially sustainable position. Approving the recommendations will allow the Council to implement the revised model from 1 April 2026, ensuring that the Environmental Enforcement Service operates in a financially responsible way, prevention-led, community-focused and aligned with corporate priorities.

## **Appendices**

1. Proposed Lower-Tier FPN Schedule

