


<p>Non-Executive Report of the:</p> <p>General Purposes Committee</p> <p>10th January 2022</p>	
<p>Report of: Director Health, Adults and Community</p>	<p>Classification:</p>
<p>Use of Fixed Penalty Notices for Breaches of Byelaws and Setting of Penalties. Sections 15 – 18 London Local Authorities Act (LLA) 2004 – Facilitated Through London Councils’ Transport and Environment Committee (TEC)</p>	

Update Summary

1. At the Committee’s Chair’s pre-meeting on the 3rd of March 2022, officers were asked to provide this summary of the changes that have been made to the report first submitted on the 10th of January and that will now be discussed again at the Committee’s 22nd March meeting.

2. This proposal was first discussed at the General Purpose Committee meeting on the 10th of January 2020. In principle the proposal was accepted for the formal approach to be made to London Councils to facilitate the authority from the secretary of state to allow the issue of Fixed Penalty Notices for the breach of some byelaws. More detail on this process is in the full report.

3. Before finally approving the proposal, the Committee raised an issue about the names of some parks being different now from how they are currently shown on the schedule to the Byelaws. They also queried whether if, in future, new parks and open spaces were created, which are not reflected in the current schedule to the Byelaws,

- i) could those Byelaws be enforced in those parks and open spaces too or
- ii) only those in existence at the time the Byelaws were made.

LBTH Legal provided the following opinion on these matters.

4. In reference to the issue of there being the possibility of additional parks and open spaces since the byelaws were adopted in 2013 –

“The use of FPNs, if approved, will apply only to those parks and open spaces listed in Schedule 1 to the byelaws approved in 2013. Any parks and open spaces not named in that Schedule... would not be covered by the byelaws and the use of FPNs for breaches would not be available until such time as further byelaws were approved in respect of those areas.”

5. In reference to the issue of a park or open space still in existence but with a variation in its name now, as opposed to how it is shown on the Byelaws schedule –

“If a park or open space named in the Schedule to the byelaws has since changed name, those byelaws will continue to apply to that area and enforceable by way of FPN. Any FPN issued in that area should make reference to any other name by which it was known”.

6. At the Chairs meeting on 3 March 2022 another issue was raised requiring clarification by Legal before the next full meeting of the committee. It was whether the use of fixed penalty notices can be authorised just for only a number of and not all Byelaw offences. The opinion of Legal is as follows:

“The proposed use of FPNs will apply to all the byelaws approved by London Councils TEC and not simply those proposed to be used by the THEOs. The specific extent to which the power is delegated to THEOs will be dealt with under their operating procedures”.

Barry Scales
Community Safety
9 March 2022