

Cherwell District Council

Executive

6 June 2022

Fixed Penalty Notice level for Cycling on the Pavement

Report of Assistant Director – Regulatory Services and Community Safety

This report is public

Purpose of report

This report asks the Executive to agree the fixed penalty notice fine level for cycling on footpaths.

Action to prevent cycling on pavements will contribute towards the delivery of the council's objective to "work with partners to reduce crime and antisocial behaviour" within the Healthy, Resilient and Engaged Communities priority. It will also contribute towards the Enterprising Economy with Strong and Vibrant Local Centres priority. Tackling anti-social behaviour was also identified as one of the priorities for the council in the last residents survey.

1.0 Recommendations

The meeting is recommended:

- 1.1 To set the fixed penalty notice amount to be applied to the offence of cycling on a footpath at £50 to align with Thames Valley Police.

2.0 Introduction

- 2.1 The Council's Community Wardens and Community Safety Officer are accredited by Thames Valley Police under the Community Safety Accreditation Scheme. This accreditation provides the Community Wardens and Community Safety Officer with certain powers normally only provided to police officers.
- 2.2 Following a recent review of the powers provided to the Community Wardens and Community Safety Officer the Police have also accredited those officers with the power to issue a fixed penalty notice for the existing offence of cycling on a footpath. The relevant legislation does not specify the amount of this fixed penalty notice and therefore a policy decision is required to set the amount of this penalty.

3.0 Report Details

- 3.1 The offence for riding on a footpath is included in section 72 of the Highway Act 1835 along with other similar offences. The Police have accredited our Community Safety Team officers with the power to issue fixed penalty notices to persons identified as committing this offence normally only available to Police Constables under section 54 of the Road Traffic Offenders Act 1988.
- 3.2 The penalty for an offence under section 72 of the Highway Act 1835 is stated as “any sum not exceeding level 2 on the standard scale”. Therefore, the council can determine the level of fine to apply. Level 2 on the standard scale is £500. Thames Valley Police have set the level of fine they apply for this offence at £50.
- 3.3 It is recommended that the council applies the same level of fine for this offence as Thames Valley Police. To do so would minimise the chance of challenge on the basis that similar offences in the same location attract different penalties depending on which organisation is issuing the notice.
- 3.4 The Community Safety Accreditation Scheme is monitored by Thames Valley Police. Officers who are accredited under the scheme must undergo vetting and training for the role and be deemed suitable for accreditation by the Police. The accreditation is reviewed annually and the council required to provide information to the Police on the exercise of powers under the accreditation.
- 3.5 The accreditation of named Community Safety Team members to issue fixed penalty notices for cycling on footpaths is not in response to any specific problems. Our community wardens occasionally witness dangerous or reckless cycling on pavements and it is felt this power could be useful in some instances. The use of the power will not be targeted at any specific groups or localities. Determining the level of fine that the council will apply for this offence does not change the circumstances when the offence is committed but will enable the Community Safety Team members to take formal action when they witness inappropriate cycling on a footpath.
- 3.6 The council's normal enforcement policy will apply when officers believe they have sufficient evidence of an offence to consider issuing a fixed penalty notice. The principles of the policy include that enforcement action is unlikely when the person concerned has shown a willingness to resolve the non-compliance and that we are committed to taking a proportionate response to any breach of legislation. Therefore, our approach is intended to be that fixed penalty notices will only be issued when the officers witness deliberate dangerous or reckless cycling on pavements or if someone is deliberately cycling in a way that could cause another person concern for their safety. We would also consider issuing fixed penalty notices to individuals who have previously been warned but continue to cycle on the pavement.

4.0 Conclusion and Reasons for Recommendations

- 4.1 It is recommended that the Executive agree to set the amount for the penalty notice for cycling on the footpath at £50.

5.0 Consultation

- 5.1 It is not appropriate to consult on the level of a fine to be applied for specific offences.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Set an alternative level of penalty to apply for this offence. Since this is a new power available to the accredited officers there is no data or information available to the council at this time to support setting the fine level at a different level to that determined appropriate by Thames Valley Police.

Option 2: To not set a fine level for this offence. This would result in the council being unable to issue fixed penalty notices for cycling on the footpath despite council officers being accredited to do so by Thames Valley Police.

7.0 Implications

Financial and Resource Implications

- 7.1 There are no financial implications arising from this report

Comments checked by:

Kelly Wheeler, Finance Business Partner, 01295 221570

Kelly.wheeler@cherwell-dc.gov.uk

Legal Implications

- 7.2 It is appropriate to set the fixed penalty for cycling on a foot path to £50 to coincide with the police. The offence would arise out of the same circumstances and it would be unfair if different prosecuting authorities (councils, police) have a different fixed penalty structure. The offence would be committed within the same geographical area. It is necessary for the council to be fair, open and transparent in its enforcement decisions. Furthermore, to set the fine at a different level could open-up challenges, appeals and even judicial review, which would be costly.

Comments checked by:

Syma Akhtar, Solicitor 01295 753 701, Syma.Akhtar@Cherwell-DC.gov.uk

Risk Implications

- 7.3 There are no risk implications arising from this report

Comments checked by:

Celia Prado-Teeling, Interim Assistant Director Customer

Focus, 01295 221556 Celia.Prado-Teeling@Cherwell-dc.gov.uk

Equalities and Inclusion Implications

- 7.4 There are no equalities implications arising from this report. The council's Enforcement Policy explains how decisions on the use of enforcement powers available to the council will be made, which states that the council will carry out enforcement in a fair and considered manner, and that the council will make sure that it treats everyone equally regardless of disability, race, age, gender, sexual orientation or religion.

Comments checked by:

Celia Prado-Teeling, Interim Assistant Director Customer

Focus, 01295 221556, Celia.Prado-Teeling@Cherwell-dc.gov.uk

Sustainability Implications

- 7.5 The council is committed to active travel as a way of decarbonising transport and continues to work to put in place cycle paths to increase cyclist confidence so they won't feel the need to cycle on pavements to avoid cars.

Comments checked by:

Sandra Fisher-Martins, Programme Director Climate Change.

Sandra.fisher-martins@oxfordshire.gov.uk

8.0 Decision Information

Key Decision

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

All

Links to Corporate Plan and Policy Framework

As outlined in the purpose section in the main report.

Lead Councillor

Councillor Eddie Reeves, Portfolio Holder for Safer Communities

Document Information

Appendix number and title

- None

Background papers

None

Report Author and contact details

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