
Report To:	General Purposes Board	Date: 12 June 2019
Report By:	Head of Legal & Property Services	Report No: LP/087/19
Contact Officer:	James Douglas	Contact No: 01475 712034
Subject:	Fixed Penalty Notice Appeal Panel	

1.0 PURPOSE

- 1.1 The General Purposes Board previously remitted to the Council to delegate the hearing of appeals under the Dog Fouling (Scotland) Act 2003 and the Smoking, Health & Social Care (Scotland) Act 2005 to a panel of Officers. The Panel comprised the Head of Legal & Democratic Services, the Head of Regeneration & Planning and the Head of Property Assets & Facilities Management (or their delegated representatives). Given the reorganisation of Council services in recent years, such as the amalgamation of Legal & Democratic Services and Property Assets & Facilities Management, a new Panel is required to be created.
- 1.2 The purpose of this report is to request the Board amend the membership of the Fixed Penalty Notice Appeal Panel to comprise the Corporate Director Environment, Regeneration & Resources, the Head of Legal & Property Services and the Head of Regeneration & Planning or their delegated representatives.

2.0 SUMMARY

- 2.1 Fixed Penalty Notices served under the Smoking, Health & Social Care (Scotland) Act 2005 and the Dog Fouling (Scotland) Act 2003 (hereafter "the Acts") can be appealed by those served with such Notices. The Council is required to hear any such appeal to determine whether to uphold the Fixed Penalty Notice or withdraw it.
- 2.2 In 2010, the Council, following the matter being remitted by the General Purposes Board, delegated the hearing of such appeals to a Panel of Officers. That Panel consisted of the Head of Legal & Democratic Services, the Head of Regeneration & Planning and the Head of Property Assets & Facilities Management (or their delegated representatives).
- 2.3 In recent years the Council has reorganised certain services resulting in Legal & Democratic Services and Property Assets & Facilities Management amalgamating under Legal & Property Services.
- 2.4 A new Panel is required to be created to ensure that any person wishing to appeal the service of a Fixed Penalty Notice can do so. It is considered that the Panel would most appropriately consist of Corporate Director Environment, Regeneration & Resources, the Head of Legal & Property Services and the Head of Regeneration & Planning or their delegated representatives.

3.0 RECOMMENDATION

- 3.1 It is recommended that the Board amend the existing Fixed Penalty Notice Appeal Panel's membership to comprise the Corporate Director Environment, Regeneration & Resources, the Head of Legal & Property Services and the Head of Regeneration & Planning or their delegated representatives.

4.0 BACKGROUND

- 4.1 Fixed Penalty Notices served under the Smoking, Health & Social Care (Scotland) Act 2005 and the Dog Fouling (Scotland) Act 2003 (hereafter “the Acts”) can be appealed by those served with such Notices. The Council is required to hear any such appeal to determine whether to uphold the Fixed Penalty Notice or withdraw it.
- 4.2 The current Fixed Penalty Notice Appeal Panel is no longer capable of sitting due to reorganisation of Council Service in recent years. Nonetheless, the Council is still required, as a matter of statute, to hold appeal hearings should the need arise.
- 4.3 Having considered the matter, the Head of Legal & Property Services has determined that the Panel membership be amended to include the Head of Legal & Property Services, the Head of Planning & Regeneration and the Corporate Director Environment, Regeneration & Resources or their delegated representatives.

5.0 IMPLICATIONS

Finance

- 5.1 There are no financial implications arising from this report.

Legal

- 5.2 There are no legal implications arising from this report.

Human Resources

- 5.3 There are no HR implications arising from this report.

Equalities

- 5.4 There are no equalities implications arising from this report.

Repopulation

- 5.5 There are no repopulation implications arising from this report.

6.0 CONSULTATIONS

- 6.1 The Head of Legal & Property Services has consulted with the Corporate Director Environment, Regeneration & Resources to determine the most appropriate membership of the Fixed Penalty Notice Appeal Panel.

7.0 LIST OF BACKGROUND PAPERS

- 7.1 None