### Relevant Background Information

1.1 The Clean Neighbourhoods and Environment Act 2011 received Royal Assent in March of this year. The new Act strengthens the legislative powers to deal with a wide range of environmental crimes such as dog fouling, litter, graffiti and fly-posting, nuisance vehicles, statutory nuisance and noise.

1.2 Members will be aware that the Council had the opportunity to comment on a number of consultations on guidance that has been developed to help councils make appropriate use of the new powers when the Act comes into force in April 2012. At the September Committee meeting, Members were advised of the “Consultation on Guidance relating to the Use of Fixed Penalty Notices” which details the significant changes that the Clean Neighbourhoods Act 2011 makes to the Fixed Penalty Notice regime.

1.3 In particular, the new Act introduces a number of new offences which can be dealt with through the use of Fixed Penalty Notices, as well as giving councils the options of varying the fine levels, within a defined range, for some new and existing offences, such as litter and dog fouling.

1.4 A number of Council Services will be responsible for enforcing the various elements of the new Act and are developing the processes that must be in place to enable effective use of the new powers. As part of this process, it is now necessary for the levels of fines and discount periods to be determined by Members, so that arrangements can be made for the implementation of the new Clean Neighbourhoods Act when it comes into force on 1st April 2012.

### Key Issues

2.1 For seven offences in the Clean Neighbourhoods and Environment Act 2011, there is now an option for councils to specify the amount of the fine, within a defined range. If the Council does not wish to make use of this power, the legislation allows the council to apply a default amount.
The proposed fixed penalty ranges for the following five offences are from £50 to £80 with a default amount of £75;

- Litter
- Unauthorised distribution of literature on designated land
- Graffiti and fly-posting
- Dog Control Orders
- Failure to nominate key holder within an alarm notification area.

2.2 The proposed fixed penalty ranges for the following two offences are from £75 to £110 with a default amount of £100.

- Street Litter Control Notices and Litter Clearing Notices
- Noise from Domestic premises.

2.3 The 2011 Act also introduces a power for councils to offer a discount for early payment of a fixed penalty fine. The standard period within which payment of a fixed penalty notice must be made is set in legislation at 14 days. The guidance recommends that the discount period should be applied if the Fixed Penalty Notice is paid within ten days of issue. The guidance issued by the Department advocates the use of discount periods as a means of improving payment rates.

2.4 The following table summarises the offences under the Clean Neighbourhood and Environment Act 2011, which allows the Council to set the fine levels, the discount rates for early payment and the time limits for the discount period. It should be noted that some fines cannot be set at local level but there is still discretion to offer a discount period. The table is configured into three parts to reflect:

1. Offences which can be set at local level with a discounted period allowed;
2. Offences where there is no local setting of fines but discount periods are allowed;
3. Offences where there is no local level setting and no discount period allowed.

2.5 For each offence listed in the table, there is a proposed amount for the fine and a proposed discount amount for early payment. In most cases the discount equates to approximately 25% reduction for early payment. Members are asked to consider the proposed fine levels and early discount rates. A proposed discount period of 10 days has been proposed as standard for all of offences.
### Framework of Fixed Penalty Notices applicable under Clean Neighbourhoods and Environment Act (NI) 2011

#### 1: OFFENCES WITH LOCAL LEVEL SETTING AND DISCOUNTING ALLOWED:

<table>
<thead>
<tr>
<th>Description of offence</th>
<th>Legislation</th>
<th>Amount allowed</th>
<th>Proposed FPN amount</th>
<th>Proposed discounted amount for prompt payment</th>
<th>Proposed discount period (days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audible Intruder Alarms - Notification of nominated key Holders.</td>
<td>CNEA (NI) 2011 s.52(2)</td>
<td>£50 - £80</td>
<td>£80</td>
<td>£60</td>
<td>10</td>
</tr>
<tr>
<td>Failure to nominate key-holder (within an alarm notification area) or to notify district council in writing of nominated key-holder’s details.</td>
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</tr>
<tr>
<td><strong>Refer to Note 1</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Noise from domestic premises. Exceeding noise of a permitted level.</td>
<td>Noise Act 1996 s.8(1)</td>
<td>£75 - £110</td>
<td>£110</td>
<td>£85</td>
<td>10</td>
</tr>
<tr>
<td>Litter. Dropping litter in the open air.</td>
<td>Litter (NI) Order 1994 A.6(1)</td>
<td>£50 - £80</td>
<td>£80</td>
<td>£60</td>
<td>10</td>
</tr>
<tr>
<td>Street litter control notices. Failure to comply with a Street Litter Control Notice.</td>
<td>Litter (NI) Order 1994 A.14A(2)</td>
<td>£75 - £110</td>
<td>£110</td>
<td>£85</td>
<td>10</td>
</tr>
<tr>
<td>Litter clearing notices. Failure to clear land of litter when required by Notice.</td>
<td>Litter (NI) Order 1994 A.12A</td>
<td>£75 - £110</td>
<td>£110</td>
<td>£85</td>
<td>10</td>
</tr>
<tr>
<td>Unauthorised distribution of literature on designated land.</td>
<td>Litter (NI) Order 1994 A 14B of Schedule 1A</td>
<td>£50 - £80</td>
<td>£80</td>
<td>£60</td>
<td>10</td>
</tr>
<tr>
<td>Graffiti and fly-posting. Applying graffiti.</td>
<td>CNEA (NI) 2011 s.26(1)</td>
<td>£50 - £80</td>
<td>£80</td>
<td>£60</td>
<td>10</td>
</tr>
</tbody>
</table>
Putting up fly posters. | £75

**Dog Control Orders - Failure to comply with a Dog Control Order**
Allowing a dog to foul.
Allowing a dog off lead in an on-lead area.
Allowing a dog into an area where dogs are excluded.
Exceeding the number of dogs which a person may take on a lead.

***Refer to Note 3***

### 2: OFFENCES WITH NO LOCAL LEVEL SETTING BUT WITH DISCOUNTING ALLOWED:

<table>
<thead>
<tr>
<th>Description of offence</th>
<th>Legislation</th>
<th>Amount allowed</th>
<th>FPN amount</th>
<th>Proposed discounted amount for prompt payment</th>
<th>Proposed discount period (days)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nuisance Parking.</strong> Advertising 2 or more cars in the same street within 500 m. Repairing cars in the street as part of a business.</td>
<td>CNEA (NI) 2011 s.4(1)</td>
<td>£100</td>
<td>£100</td>
<td>£75</td>
<td>10</td>
</tr>
<tr>
<td><strong>Abandoning a vehicle.</strong> Abandoning a vehicle in open air.</td>
<td>Pollution Control &amp; Local Government (NI) Order 1978 A.29A(1)</td>
<td>£200</td>
<td>£200</td>
<td>£150</td>
<td>10</td>
</tr>
</tbody>
</table>

### 3: OFFENCES WITH NO LOCAL LEVEL SETTING AND NO DISCOUNTING ALLOWED:

| Noise from offending premises. Exceeding noise of a permitted level. | Noise Act 1996 s. 8(3) | £500 | £500 | None | None |

***Refer to Note 4***
Note 1
Offences in relation to Audible Intruder Alarms will only apply to those areas of the city where the Council has designated the area as an “Alarm Notification Area”

Note 2
Offences in relation to the distribution of free literature will only apply to those areas of the city where the Council has by Order designated specified areas where the distribution of leaflets is only permitted by consent of the Council.

Note 3
Offences under the Dog Control Orders will only apply to specified areas of land that have been designated by Order of the Council. In all other areas of the city, dog fouling offences will be dealt with by the issue of a £50 fixed penalty notice under the current Litter (NI) Order 1994 regime.

Note 4
Definition of Offending Premises includes:

(a) any premises in relation to which an exhibition licence has effect;
(b) any place in relation to which an entertainments licence has effect;
(c) any licensed premises;
(d) a place at which the sale of intoxicating liquor is for the time being authorised by an occasional licence;
(e) any premises where meals of refreshments are supplied whether for consumption on or off the premises; and
(f) any premises occupied by a registered club.

3 Resource Implications

3.1 The income that will be generated through the use of Fixed Penalty Notices will provide some income towards funding the implementation of the Act but it will not be a cost neutral exercise, as the Department has previously indicated in correspondence to councils. Committee is aware that there are resource implications associated with the implementation of the Act and the Council has raised these concerns with the Department. In the meantime, the Council Services responsible for the implementation of the Act are currently examining the resource implications and will bring a separate report to Committee regarding this matter.

4 Equality Implications

None.

5 Recommendation

5.1 It is recommended that the Committee adopts the proposed fine levels for the offences under the Clean Neighbourhoods and Environment Act 2011 listed in the attached table together with the discount rates and discount periods for each offence.

6 Decision tracking

N/A.
<table>
<thead>
<tr>
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<th>Key to abbreviations</th>
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<tr>
<td></td>
<td>None.</td>
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<tr>
<td></td>
<td>Documents attached</td>
</tr>
<tr>
<td></td>
<td>None.</td>
</tr>
</tbody>
</table>