

**Newark and Sherwood District Council's Policy and Procedure on the use of Fixed Penalty Notices to tackle Enviro-crime and Antisocial Behaviour.**

This policy set out how the council responds to complaints of Enviro-crime and Antisocial Behaviour and how and when it uses Fixed Penalty Notices as an enforcement tools. It set out common principles that will be followed when-ever a complaint is being investigated to ensure that members of public, businesses and visitors receive a consistent level of service across the council.

It also follows Best Practice and Government Guidance by seeking to inform and educate the public of their legal obligations and to promote responsible behaviour that recognises and respects the rights of everyone to enjoy a clean and green environment, without being exposed to negative behaviour that has a detrimental effect on people's lives.

This policy follows Government Guidance and promotes the use of FPN's as best practice when tackling environmental crime and antisocial behaviour, because they can provide a proportionate intervention, allowing a perpetrator to avoid criminal proceedings by discharging liability through the payment of the penalty amount. This penalty charge is an alternative to lengthy & expensive court procedures. The policy sets out the following sets out the following:

- The offenses where FPN's will be offered
- Setting Penalty levels (where the LA is given discretion to fix the amount)
- The Issuing of FPN's to people under the age of 18
- Issue, Processing and Payment of FPN's
- Grounds for Appeal
- The Authorisation of Officers to issue FPN's
- Income from FPN's

**Offenses where FPN's will be issued.**

The Council has identified the use of Fixed Penalty Notices as an appropriate intervention for the following offences:

- Littering and littering from vehicles
- Graffiti
- Abandoned vehicles
- Fly tipping
- Waste transfer offences including failure to supply waste transfer notes
- Domestic waste offences
- Commercial waste offences

- Breaching a Public Space Protection Order, including dog and alcohol control
- Breaching a Community Protection Notice for low level A S B.

### **Setting Penalty Levels**

The Penalty Notice Levels are approved by committee and shown below. They are reviewed every 3 years or as required by legislation

<b>Offence</b>	<b>NSDC Penalty Statutory Max</b>	<b>Early Payment Locally decided Penalty</b>	<b>Default penalty For reference &amp; information only</b>
<b>Enforced by Waste Management</b>			
<a href="#">Fly-tipping: more than 1 black sac</a>	£400	£200	£200
<a href="#">Failure to produce a waste transfer note</a>	£300	£150	£300
<a href="#">Abandoning a vehicle</a>	£200	£120 ( Stat min)	£200
<a href="#">Littering from vehicles</a>	£150	£75	£100
<a href="#">Industrial and commercial waste receptacle offences</a>	£110	£75	£100
<a href="#">Graffiti</a>	£150	£75	£100
<a href="#">Fly-posting</a>	£150	£75	£100
<a href="#">Littering</a>	£150	£75	£100
<a href="#">Domestic waste receptacle offences</a>	£80	£40	£60
<b>Enforced by Environmental Health, Waste Management, Rangers, Police</b>			

<b>Offence</b>	<b>NSDC Penalty Statutory Max</b>	<b>Early Payment Locally decided Penalty</b>	<b>Default penalty For reference &amp; information only</b>
<a href="#">Community Protection Notice</a>	£100	£75	£100
<a href="#">Public Space Protection Orders</a>	£80	£40	£75

DEFRA has issued specific guidance on the issuing and enforcement of fixed penalty notices by Councils and their Enforcement Officers; complaint investigation procedures adhere to this guidance.

#### **Minimum Age for the service of a FPN.**

Regard has been given to the issuing of the penalty notices to people under the age of 18 and it has been decided that a robust system of support and mentoring by partner agencies is preferable to the use of FPN. Where it is identified that a person under the age of 18 has committed a relevant offence, a referral will be made via the Safer Neighbourhood Team Policing lead officer to the Youth Offending Team.

#### **How FPN's will be issued.**

FPN's will be issued "face to face" by an Authorised Officer at the time of the offence or if further investigation is required they may be served following a case review. Where enforcement patrols are being carried out the officers will be identified as Council Employees. Officers will always present ID at the time of issuing a FPN. If an FPN is served following a case review the investigating officer will arrange for proper service either in person or by first class post. If served by first class post the FPN will become operable on the day of delivery. If a Fixed Penalty Notice is not paid the offender will be contacted in writing informing them that the Council is minded to take further action including prosecution with a request that they:

- Inform the council if they believe that they have paid the FPN
- Attend an interview (which may be under a PACE caution) to offer further information regarding the offence
- Lodge an appeal if they believe they have the grounds listed below.

## **When will a decision be made not to issue a FPN**

A FPN is not a fine, it is an opportunity for the offender to discharge their liability for an offense. This means that they do not have to accept it. They do however have to provide their name and contact details to the witnessing officer. In a situation where an offender does not co-operate fully alternative enforcement action will be taken, including prosecution, injunctive action or work in default.

A FPN will only be served for a first time offense; repeat offenders or in the case of a serious incident that caused serious harm or distress a decision may be made by the Business manager or Assistant Business manager to, not offer of a FPN, as a way of discharging liability and to take formal action including prosecution, injunctive action or work in default instead, due to the seriousness of the crime.

## **Processing**

All records will be kept in accordance with the requirements of GDPR and to ensure the continuity of evidence and in accordance with PACE. Operational procedures are reviewed as necessary by the relevant Business Manager.

## **Payment**

Legislation requires that the issuing authority accept methods of prepayment as well as any other form of payment that the issuing authority may specify. Methods of payment are published on the Council web site as well as documented on the FPN when issued. The Councils Chief financial officer will provide evidence of non-payment to any court proceeding that may follow.

## **Appeals**

Once served on an individual a FPN can only be appealed if a complaint is received in writing on the following grounds

- Reasonable excuse.
- Maladministration (the officer did not follow proper procedure).
- Public Interest.

The decision to cancel the FPN will be made upon consideration of all the facts by the Business Manager or Assistant Business Manager. The timescale for payment is suspended until a decision is made.

### **Officer Authorisations**

Officers will be Authorised in accordance with the Councils Enforcement Policy. Officers will be trained in the area of enforcement that they carry out and assessed as competent by the relevant Business Manager before they carry out enforcement activities.

### **Income from FPN's**

Statutory guidance will be followed when deciding how to spend any FPN income, however it will always be reinvested in the associated provision of information, advice and education.

**Appendix 2****Including Amendments from: Statutory Instrument 2017 No. 1050****ENVIRONMENTAL PROTECTION, ENGLAND**

The Environmental Offences (Fixed Penalties) (England)

Regulations 2017

<b>Offence</b>	<b>NSDC Penalty</b>	<b>Default penalty</b>	<b>Minimum full penalty</b>	<b>Maximum full penalty</b>	<b>Minimum discounted penalty</b>
<a href="#">Littering</a>		£100	£50	£150	£50
<a href="#">Littering from vehicles</a>		£100	£65	£150	£50
<a href="#">Public Space Protection Orders</a>		£75	LA	£100	LA
<a href="#">Graffiti</a>		£100	£50	£150	£50
<a href="#">Fly-posting</a>		£100	£50	£150	£50
<a href="#">Unauthorised distribution of free literature on designated land</a>		£100	£50	£150	£50
<a href="#">Community Protection Notice</a>		£100	LA	£100	LA
<a href="#">Nuisance parking</a>		£100	£100	£100	£60
<a href="#">Abandoning a vehicle</a>		£200	£200	£200	£120
<a href="#">Fly-tipping</a>		£200	£150	£400	£120
<a href="#">Failure to produce a waste transfer note</a>		£300	£300	£300	£180
<a href="#">Domestic waste receptacle offences</a>		£60	£60	£80	£40

Offence	NSDC Penalty	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
<a href="#">Industrial and commercial waste receptacle offences</a>		£100	£75	£110	£60