

South Kesteven District Council  
Enviro Crime Enforcement Policy

DRAFT

Version Control

Version 1.0	Date adopted- TBC	Responsible Officer Mark Jones- Neighbourhoods Manager
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## **1. Introduction**

The Council deals with a range of offences, several of which can be dealt with by way of a Fixed Penalty Notice (FPN). A FPN can be served on an individual or business for an offence. It offers the recipient the opportunity to pay a penalty rather than being taken to court and prosecuted. By paying the FPN the recipient discharges their liability to conviction for the offence for which the FPN was issued.

This Policy is designed to inform members of the public what they can expect from the Council in terms of how it serves Fixed Penalty Notices. It also sets out how we will respond to appeals and makes it clear when the Council will issue FPNs in terms of offence and age.

## **2. Aims**

This Policy will create consistency in terms of our approach to the issuing of FPNs and supports the investment made by the Council in keeping our streets clean. The implementation of this Policy and subsequent operational service delivery aims to provide a clean environment for those residing, visiting, working and investing within South Kesteven. It aims to raise the profile of environmental crime, facilitating the enforcement of offences in line with the relevant legal powers available.

## **3. Delegation**

All officers who issue FPNs shall be authorised by the Assistant Director for Commercial and Operational Services under delegated authority.

The Assistant Director for Commercial and Operational Services will have the authority to withdraw the FPN in appropriate circumstances.

## **4. Joined Up Working**

The Council will work in close partnership with external bodies such as Lincolnshire Police, The Environment Agency and Parish Councils to extend the enforcement service within the District.

## **5. Approach**

Fixed Penalty Notices provide a quick, visible and effective way of dealing with straightforward environmental crimes, and an alternative to prosecution. Normally offences resulting in a FPN will be witnessed directly by the officer. However, an officer may consider it appropriate to issue a FPN to an offender if they have not directly witnessed the offence, but have reliable witness testimony.

A FPN will be appropriate for first-time offenders and one-off incidents meaning the recipient can avoid a court appearance and possible conviction. The Council will adopt a robust approach in its use of FPNs and all other associated enforcement powers. Our officers, or those working on behalf of the Council, will be fair but firm, polite and consistent.

A FPN will only be issued when:

- an offence has been committed
- a FPN is a proportionate response
- there is evidence to support prosecution if the offender doesn't pay the fixed penalty
- the offender understands why the FPN is being issued
- it is believed that the name and address offered by the offender are correct

A FPN will not be issued if:

- there is no criminal liability
- enforcement action is inappropriate or would be disproportionate for the offence
- littering is done accidentally
- prosecution is more appropriate

## 6. Offences

This policy applies to the categories of offences set out below:

Littering	A person commits an offence if he throws down, drops or otherwise deposits any litter in any place which is open to the air and which the public have access to, with or without payment. This will also apply to littering from vehicles as of 1 <sup>st</sup> April 2018.
Public Space Protection Order (Dog Control Order)	<p>Fouling – a person commits an offence if, whilst in charge of a dog, within the SKDC area he fails to remove faeces from land which is open to the air and to which the public are entitled or permitted to have access (includes covered land that is open to the air on at least one side).</p> <p>Dogs on Leads – a person commits an offence if, whilst in charge of a dog, he fails to comply with a direction given by an authorised officer to put and keep a dog on a lead of not more than 1m in length on land which is open to the air and to which the public are entitled or permitted to have access (includes covered land that is open to the air on at least one side).</p> <p>Dogs Excluded from Designated Areas – a person commits an offence, if whilst in charge of a dog, he takes the dog on to or permits the dog to enter or remain on any land to which the order applies.</p> <p>Further detail relating to the original dog control orders can be found at <a href="#">Dog Control Orders 2010</a></p>
Fly Tipping	A person commits an offence if he deposits (or knowingly causes/permits) controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence.

Domestic Waste Offence	A person commits an offence if, without reasonable excuse, they do not present their household waste for collection in the specified manner.
Commercial Waste Offence	A person commits an offence if they store waste in a manner that causes a nuisance or is detrimental to the amenities of the locality.
Waste Transfer Offence	A person commits an offence if he fails to produce waste transfer documentation.
Public Space Protection Order (Alcohol Control)	Failing to surrender alcohol when asked to do so by an authorised officer.
Community Protection Notice	It is an offence if a person fails to comply with reasonable requirements that are imposed to prevent a detrimental effect continuing or recurring.
Graffiti	A person is guilty of an offence if they deface with graffiti any property that is not their own or that they do not have the permission of the owner to deface.
Fly Posting	A person commits an offence if he displays advertising material on buildings and street furniture without the consent of the owner.
Abandoning a Vehicle	A person commits a criminal offence if he abandons a motor vehicle or anything that has formed part of a motor vehicle on any land in the open air or on any other land forming part of a highway.
Nuisance Parking	A person commits an offence if he leaves (or causes to be left) two or more motor vehicles parked within 500m of each other on a road or roads where they are exposed or advertised for sale.

## **7. Age**

The issue of a FPN will only be considered for those persons who commit an offence and are aged 16 years or above.

Where a person under the age of 16 has committed an offence, officers will seek to work with parents and/or schools to prevent further offences and educate the young person where possible. Appropriate adults will be sought in all cases.

## **8. Fee and Payment**

The fee for each type of fixed penalty notice, where not set by law, will be set by Council during the annual budget review. Where a new offence is established or variation to existing penalty fee takes place within the budget year, then the relevant legislated default penalty fee will be adopted.

If the person either refuses to accept a FPN or, having accepted such a notice, does not pay before the end of the suspended enforcement period of 14 days, a reminder letter will be issued giving a further seven days' notice from the date of this letter. If the fixed penalty remains unpaid and to ensure

the credibility of a FPN scheme, the assumption will be that all cases involving non-payment will be considered for referral to court.

Payment of a fixed penalty by instalments will not be accepted. In cases of demonstrable hardship, consideration may be given by a senior officer to extending the suspended enforcement period and delaying the issue of summons.

## **9. Appeals**

The method of appeal will be detailed on the FPN or accompanying documentation.

The relevant appeal process will be adhered to wherever legislated for, in all other circumstances the appeal timeline below will be followed.

Appeals must be made within 5 working days of the date of issue of the FPN and will be considered on a case by case basis. Matters for consideration may be:

- Demonstrable lack of mental capacity
- Demonstrable lack of physical capacity

Appeals will not be considered on the grounds of:

- Insufficient funds to pay
- Denial of the offence

Responses to appeals will be provided within 10 working days. The FPN will be suspended during this appeal period. Should the appeal be dismissed then a further period of 5 working days will be allowed for payment. Further appeal is not available within the Council. Alleged offenders may choose to defend their case in the Magistrates' court.

## **10. Court Action**

A FPN may not be appropriate where it is known that the offender has previously been issued with a FPN for a similar offence, particularly if they have not paid. Court action will be considered in such cases as will offences where the impact of the offence upon the local environment and the cost related to rectifying is significant. Court action will be considered if:

- Payment has not been made
- the offence is major, e.g. significant fly tip, dumping of hazardous waste
- the offence is committed by a persistent offender
- the offender is violent or aggressive

## **11. Publicity**

The Council takes a positive approach to publicising enforcement work and recognises the significant impact of such publicity. The aim of this publicity is to raise the profile of the offences, increase confidence from the public and deter future offenders. The Council will also periodically publish performance information on FPNs and other enforcement action through the Council's reporting mechanisms.