

# Fixed Penalty Notice Enforcement Policy

**Cabinet**

**Date: 13<sup>th</sup> July 2016**

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Author:	Cabinet Member for Housing and Homelessness
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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## **1. Purpose and Reasons**

- 1.1. This report seeks to formalise and confirm the Council's approach to issuing Fixed Penalty Notices (FPNs) for 'low level' offences covered by a range of legislation.
- 1.2. An adopted policy to enforce these offences through FPNs is an essential building block in implementing Public Space Protection Orders, (PSPO's). This policy provides clarity over how FPNs will be used to deal with relevant public order offences.
- 1.3. The recommendations support the Council's Vision priority to "ensure clean and safe streets and improve our public spaces and local culture."

## **2. Recommendations**

Cabinet is recommended to:

- 2.1 Note the range and extent of offences that are appropriately dealt with through FPNs, and
- 2.2 Commend the FPN policy, attached at Appendix 1, to Full Council for approval.

## **3. Detail**

- 3.1 The Council undertakes a wide range of enforcement activities, ranging from formal action through Courts of Law to the issuing of FPNs for minor offences.
- 3.2 In recent years, FPNs have been applied elsewhere to give police and public authorities in England and Wales a realistic weapon against anti-social behaviour. FPNs are designed to reduce paperwork for police and council officers by allowing low-level anti-social behaviour to be dealt with on the spot. Newer types of notice exist for disorder, environmental crime, and noise. A fixed penalty notice does not necessarily result in a fine and does not constitute a criminal conviction, though the recipient can opt for the matter to be dealt with in court instead of through payment. However, if the recipient neither pays the penalty, nor opts for a court hearing in the time specified, the penalty may be increased and registered against the recipient as a fine. It may then be enforced by the normal methods used to recover unpaid fines, which could ultimately lead to imprisonment in the most severe of circumstances.

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- 3.3 An FPN offers the recipient a chance of a reduced fine for early payment within 14 days. This is in accordance with national guidance and reflects best practice with other local authorities, to enable the lower level offences to be dealt with out of court. This avoids lengthy and costly hearings at court for offences that the perpetrator has accepted.
  - 3.4 Currently, the Council's Licensing Section issues FPNs for smoking in public places and public vehicles such as taxis under the relevant legislation. A locally adopted enforcement policy to support this would provide additional rigour to existing and future practices regarding the issuing of FPNs.
  - 3.5 FPNs are intended to be the main tool in enforcing PSPOs, under the Anti-Social Behaviour, Crime and Policing Act, 2014. An approved FPN Enforcement Policy is essential in backing our activities in implementing PSPOs and will ensure that our enforcement activities are undertaken within the rigour of an approved framework. It is anticipated that the Policy will assist in avoiding unnecessary subjectivity around the FPN process and provide clarity to action taken. As such it will provide a robust mechanism should we resort to court action for non-compliance.
  - 3.6 The FPN policy covers the serving of FPNs for littering, smoking in public places and vehicles, breach of PSPOs and small scale fly tipping. All Enforcement Officers within the Council will be able to serve these notices and this power will also be available to Police Support Community Officers and Wiltshire Police Officers.
  - 3.7 Bespoke training will be arranged for all Officers to undertake before being authorised to serve FPNs. Wiltshire Police have been engaged in the consultation and drafting of the policy and the Chief Constable will be notified of the adopted policy in order that police officers are equipped to enforce the policy.

## **4. Alternative Options**

- 4.1 Cabinet could decide not to adopt a policy for issuing FPNs, though this would mean that a number of low level offences would not be covered by an adopted enforcement regime and would therefore either not be enforced, or would be enforced with a greater risk of successful challenge. Currently FPNs are issued through delegated authority but outwith a formal, agreed Council wide policy.

## **5. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 5.1 FPNs attract a fine as mentioned earlier. Legislation \ Guidance requires that any monies raised through FPNs are re-invested in the service that they are cover. There are small scale financial pressures associated with the administration of issuing FPNs though these will be covered by the monies raised through the issuing of the notices.

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## Legal and Human Rights Implications

- 5.2 All legal and human rights considerations have been taken fully into account in compiling this report. It is considered that the recommendations of this report are compatible with Convention rights.

## All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 The purpose of the policy is to reduce low level crime and disorder and to enable a modest re-investment in activities that deal with these offences. There are small scale staffing implications in that a range of staff will be expected to issue FPNs as part of their day to day duties and training will be provided for this purpose.

## Diversity Impact Assessment

- 5.4 A DIA has been prepared to support this Policy and is available from the report author.

## Risk Management

- 5.5 The FPN Policy seeks to reduce risks arising from enforcement activities. Any risks arising from the proposals contained within this report will be managed through their implementation.

## **6. Consultees**

- 6.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## **7. Background Papers**

- 7.1 None

## **8. Appendices**

- 8.1 Appendix 1 – Operational Policy for issuing FPNs