



# Issuing Fixed Penalty Notices to Juveniles

Guidance on issuing fixed penalty notices contained within the Clean Neighbourhoods and Environment Act 2005

This guidance forms part of a series on legislation and powers affected by the Clean Neighbourhoods and Environment Act 2005.

Guidance on the following topics is also available;

- Nuisance and Abandoned Vehicles
- Litter and Refuse
- Defacement Removal Notices
- Waste
- Dog Control Orders
- Noise
- Fixed Penalty Notices
- Abandoned Shopping and Luggage Trolleys
- Statutory Nuisance from Insects and Artificial Light

All parts of the guidance can be downloaded from [www.defra.gov.uk/environment/localenv/legislation/cnea/index.htm](http://www.defra.gov.uk/environment/localenv/legislation/cnea/index.htm)

or alternatively further copies are available from:

Defra Publications

Admail 6000

London

SW1A 2XX

Tel: 08459 556000

You may also find it helpful to refer to existing information and guidance on legislation relating to local environmental quality and anti-social behaviour.

This is available from the following websites:

[www.defra.gov.uk/environment/localenv/index.htm](http://www.defra.gov.uk/environment/localenv/index.htm)

[www.cleanersaferegreener.gov.uk](http://www.cleanersaferegreener.gov.uk)

[www.together.gov.uk](http://www.together.gov.uk)

# Overview

1 In law, a fixed penalty notice can be issued to anyone over the age of 10. However, authorities issuing fixed penalty notices are recommended to adopt special procedures for issuing notices to young offenders. This will ensure that they are acting in accordance with their duty under the Children Act 2004; which requires children's service authorities, including local authorities and police, to discharge their functions having regard to the need to safeguard and uphold the welfare of children.

2 Different procedures are recommended for 16 and 17 year olds, and for children between 10 and 15. Authorities are strongly advised to include an age-specific policy in both their operational and enforcement strategies, or other fixed penalty notice related documents, in order to ensure that the welfare needs, legal issues and other concerns relevant to children and young people are adequately highlighted and observed. In view of the complexity of the youth justice system, parish councils are recommended to issue fixed penalty notices to 16 and 17 year olds only.

# General Issues

3 This document offers general guidance. **However, local authorities are strongly recommended to develop, with the Youth Offending Team and police for their area, procedures and protocols for issuing fixed penalty notices to young offenders, and to produce specific guidance, based on this document, for their officers.**

4 Authorities should also bear in mind the following considerations in developing their policies on issuing FPNs to young offenders:

- parents and guardians are not responsible in law for paying fixed penalties issued to young offenders (in this respect fixed penalty notices differ from the penalty notices for disorder being piloted for 10-15 year olds in some areas);
- under the youth justice system prosecution is a measure of last resort, after other interventions have failed, so it is likely to be difficult to prosecute a young offender if a fixed penalty is not paid.

5 Authorities need, therefore, to develop, in co-operation with the Youth Offending Teams for their areas, policies for dealing with persistent young offenders and with young offenders who fail to pay fixed penalty notices. Options include Acceptable Behaviour Contracts and, with police involvement, formal Reprimands and Warnings. They also need to develop strategies in co-operation with children's service authorities, including Youth Offending Teams, for dealing with young offenders for whom fixed penalties are not suitable.

6 The Youth Offending Team for the area where the offender lives should always be informed when a fixed penalty notice has been issued to any young offender aged 10-17 years inclusive. Contact details for all Youth Offending Teams can be found on the Youth Justice Board website; [www.youth-justice-board.gov.uk](http://www.youth-justice-board.gov.uk)

# Procedure

## **Preliminary**

7 The name, address, age and date of birth of the young offender should be obtained, together with the name and address of his or her parents or legal guardian. The young offender should also be informed that this information will be shared with their local Youth Offending Team for the administration of justice in accordance with the Data Protection Act 1998.

## **16 and 17 year olds**

8 Once the age of the offender has been ascertained, fixed penalty notices can be issued to this age group using the same procedure as for adults. If there are doubts as to whether the offender is 16 or 17, the procedures for 10 to 15 year olds should be followed.

9 A fixed penalty notice will not be appropriate where the young person is suffering from a mental handicap, from a mental disorder where a young person appears to be mentally distressed or confused, or from another vulnerability that impairs his or her understanding of what goes on (including substance abuse).

### **10-15 year olds**

10 In straightforward cases, for example where the officer knows the child, or where agreement has been reached with a school to issue fixed penalty notices to pupils dropping litter during their lunch hour, a fixed penalty notice may be issued on the spot. In such cases the parents, legal guardian or school must be notified as soon as possible.

11 If there is any doubt, a fixed penalty notice should not be issued. The officer should obtain the child's details, and the name of their parents or legal guardian. If on enquiry it is decided that a fixed penalty is suitable, it is recommended that the fixed penalty notice be issued to the offender personally with a parent or legal guardian present. If for any reason it is issued in writing, a responsible adult should be notified at the same time.

12 In all other cases the local authority is recommended to discuss with the Youth Offending Team and other children's service authorities for the area where the child lives what steps should be taken.

13 In deciding whether a fixed penalty notice is appropriate, a local authority should consider whether the offender has received a fixed penalty previously (wherever possible no more than one fixed penalty notice should be issued to anyone under 16, but a Reprimand, Warning or other sanction should be considered instead), his or her family circumstances and whether he or she suffers from other vulnerabilities. It is recommended that the procedures and principles for reaching these decisions should form part of the protocols described in paragraph 3.



Department for Environment,  
Food and Rural Affairs

Nobel House  
17 Smith Square  
London SW1P 3JR

Telephone 020 7238 6000  
Website: [www.defra.gov.uk](http://www.defra.gov.uk)  
(c) Crown copyright 2006

Copyright in the typographical arrangement  
and design rests with the Crown.

This publication (excluding the logo) may  
be reproduced free of charge in any format or  
medium provided that it is reproduced accurately  
and not used in a misleading context. The material  
must be acknowledged as Crown copyright with  
the title and source of the publication specified.

Printed on material that contains a minimum  
of 100% recycled fibre for uncoated paper  
and 75% recycled fibre for coated paper.

PB number PB11577L

