

# Fixed Penalty Notice Enforcement Policy

## Overview

This policy sets out the Tunbridge Wells Borough Council Fixed Penalty Notice (FPN) procedure and has been written in accordance with the Enforcement and Prosecution Policy.

FPNs can be issued for a range of environmental offences and the purpose of the policy is to establish a standardised practice to be followed by all those with the power to issue FPNs although, each case will be decided on its own merits.

## Enforcement Objective

Tunbridge Wells Borough Council aims to take fair and proportionate enforcement action in response to the offences covered by this policy (as listed below) in order to deliver our statutory duty to keep our borough clear of litter and refuse and to tackle other anti-social behaviours (ASB).

The issuing of a FPN is used as a tool to educate the offender and change their behaviour, and to deter others from committing the same offence.

## Offences Covered by this Policy

The offences that are enforced through the issue of a FPN and covered by this policy are:

- Depositing litter
- Failure to produce waste documents
- Failure to produce authority to transport waste
- Failure to comply with a household waste receptacles notice
- Failure to comply with a commercial or industrial waste receptacles notice
- Graffiti and fly posting
- Unauthorised distribution of free printed matter
- Dog Fouling
- Rough sleeping (where ASB is occurring)
- Begging (where ASB is occurring)
- Amplified noise (where ASB is occurring)
- Unlawful deposit of waste
- Exposing vehicles for sale on a road/ repairing vehicles on a road
- Abandoned vehicles
- Dogs not on leads
- Dogs in excluded areas
- Breach of Community Protection Notice
- Littering from a vehicle

## Delegation of Authority

Tunbridge Wells Borough Council has delegated to Street Scene Enforcement Officers the authority to issue fixed penalty notices for all the above offences. Littering Enforcement Officers have been delegated the authority to issue FPNs for littering and dog fouling offences.

## Levels of Fixed Penalty Fine

Description of Offence	Amount
Depositing Litter	£150
Failure to produce waste documents	£300
Failure to produce authority to transport waste	£300
Failure to comply with a household waste receptacles notice	£80
Failure to comply with a commercial or industrial waste receptacles notice	£110
Graffiti/ Fly posting	£80
Unauthorised distribution of literature	£150
Failure to remove dog faeces	£100
Rough sleeping (where ASB is occurring)	£100
Begging (where ASB is occurring)	£100
Amplified noise (where complaints are received)	£100
Unlawful deposit of waste	£400
Exposing vehicles for sale on a road/ repairing vehicles on a road	£100
Abandoned vehicles	£200
Dogs not on leads	£100
Dogs in excluded area	£100
Breach of CPN	£100
Littering from vehicle	£150

## Fixed Penalty Notices

FPNs are one method of enforcement; they should not be used in isolation. FPNs are designed to deal with low-level offending.

### Issuing of a Fixed Penalty Notice

A FPN may be issued where a Street Scene Enforcement Officer or Littering Enforcement Officer has reason to believe that a person has committed an offence (for which a FPN can be issued) and can provide evidence of this which may be used to support a prosecution in court should the FPN go unpaid.

The Street Scene Enforcement Officer or Littering Enforcement Officer must consider each matter on its own merits when reaching a decision as to whether issuing a FPN is appropriate.

### First Offence

A FPN can be issued for a first time offence.

### Second Offence

A second FPN may be issued for a repeat offender to give the offender a further opportunity to change their behaviour and discharge liability for prosecution.

### Third and Subsequent Offences

In cases where the offender has a history of committing the same or similar offence, and the payment of earlier fixed penalties or court fines has not deterred them from re-offending, then a fixed penalty notice will be deemed inappropriate and prosecution may follow.

## Method of Issue

A FPN will normally be issued and handed to the alleged offender by a Street Scene Enforcement Officer or Littering Enforcement Officer.

In certain circumstances (for example the offender fails to wait) a FPN may be issued via post.

It is a further offence for an offender to fail to provide their name and address.

## When a FPN is not appropriate

There may be instances where issuing a FPN is not the appropriate enforcement option for example, if prosecution is more suitable due to the circumstances of the offence or because a person is uncooperative, threatening, abusive or violent. Where a FPN is not appropriate consideration should be given to alternative methods of enforcement action (for example, prosecution and/or police involvement).

FPNs should not be issued where enforcement action is inappropriate or would be disproportionate for the offence, for example, if the offender is vulnerable or it would not be in the public interest to prosecute.

## Under 18s

FPNs will not be issued to anyone under the age of 18, however the incident may be reported to the child's parents, guardian or school to act as a deterrent against repeat behaviour.

## Appeals

There is a statutory right of appeal against a FPN issued in respect of Littering from vehicles and Failure to comply with a household waste receptacles notice. This procedure is set out on the ticket.

There is no statutory right of appeal against all other offences covered by this policy but Tunbridge Wells Borough Council will give consideration to representations put forward by an alleged offender if submitted online at:

<http://tunbridgewells.gov.uk/residents/payments/pay-a-fixed-penalty-notice-fine>

### **or in writing to:**

Fixed Penalty Notice Department, Tunbridge Wells Borough Council, Town Hall, Royal Tunbridge Wells, Kent TN1 1RS.

A FPN may be cancelled following the review of the information; where this is so the recipient of the FPN will be notified in writing. Should the FPN remain payable, payment will be due within 14 days of the letter notifying the decision to the recipient.

## In the Event of Non-Payment

A FPN provides the alleged offender with the opportunity to discharge liability for prosecution by paying the penalty but there is no obligation to pay a FPN. In the event of non-payment within the time specified on the FPN the case will be passed to Tunbridge Wells Borough Council legal department for the matter to be referred to the appropriate Court for prosecution (subject to the usual evidential and public interest tests).