



CITY OF
Lincoln
COUNCIL

Fixed Penalty Enforcement Policy

Document Control

Organisation	City of Lincoln Council
Title	Fixed Penalty Notice Enforcement Policy
Author	PPASB Manager
Filename	FPN Policy
Owner	PPASB Manager
Subject	FPN Policy
Classification	
Review date	July 2028

Revision History

Revision Date	Author	Previous Version	Description of Revision
26.06.2025	PPASB Manager	2	Minor Amendments

Document Approvals

This document requires the following approvals:

Sponsor Approval	Name	Date
Executive		14/03/2016
CMT		

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Vision

To provide an effective, trusted, fair, and consistent enforcement service which contributes to protecting and promoting a cleaner and safer environment.

Policy summary

Policy area	The Council's Policy
Offences Covered	<ul style="list-style-type: none">• Littering• Dog Fouling• Breach of Public Space Protection Order (PSPO)• Breach of Community Protection Notice (CPN)• Failure to produce waste documents• Failure to produce authority to carry waste• Unauthorised disposal of waste – Fly tipping <p>The Fee for each offence is set by members annually and is often limited by national legislation.</p>
Approach	Officers will deal with offences consistently, and in line with this policy and all legal requirements.
Adults	Where offences are witnessed by authorised officers, fines will be issued. Adults are those aged over 18.
Young People	<p>Young people aged under 10 are not legally held as criminally responsible. Officers will seek to work with parent/guardian(s) to educate this age group.</p> <p>Where the young person is over 10, but under 16, details will be recorded in all cases and offences will be dealt with without the issue of a FPN, but this will be replaced by an alternative measure in line with the principles of restorative justice.</p> <p>Where the young person is between the age of 16 and 18, details will be taken in all cases. First offenders will receive a warning letter and repeat offenders may be issued fines, though this will not be done 'on-the spot'.</p>

Appeals	<p>Appeals against any fines must be made in writing to the Public Protection and Anti-Social Behaviour Manager or its deputy, who will make considerations based on any additional factors raised, balanced against available evidence.</p> <p>Lack of knowledge or available means to pay will not generally be accepted as sound basis for appeal, although extended payment terms may be offered.</p>
Going to court	<p>We will take all reasonable measures to ensure payment is received without the need to attend court. However, where persons fail to pay, the Council will bring proceedings against them.</p>

The Council will monitor the effectiveness of this policy by way of the following key performance indicators.

Statistical indicators					
	Number of tickets	Appeal Rate	Payment Rate	Prosecutions	Criminal Costs Awarded
Overall					
Yearly					

Introduction

3.1 The Council deals with a range of criminal offences, several of which can be dealt with by way of a Fixed Penalty Notice (FPN). The purpose of these is to allow individuals to avoid prosecution in the criminal courts by payment of a fee set by the Council. This policy sets out the Council's approach to dealing with the issue of FPNs to adults and young people, along with clarifying the process for appeals and providing supportive information.

3.2 This policy applies to seven offences:

- Littering
- Dog Fouling
- Breach of Public Space Protection Order (PSPO)
- Breach of Community Protection Notice (CPN)
- Failure to produce waste documents
- Failure to produce authority to carry waste
- Unauthorised disposal of waste – Fly-tipping

Aims

- 4.1 By way of implementation of this policy, and subsequent service delivery, the council aims to provide a clean environment for those residing, visiting, and working within the City of Lincoln. It seeks to raise the profile of environmental crime and enforce offences in line with legal powers.
- 4.2 In all enforcement the council aims to ensure that our powers are used fairly and consistently, and in line with all relevant legal guidance and requirements.

Policy statement

- 5.1 This policy is designed to inform members of the public what they can expect from the council in terms of how it controls, issues, and generally handles Fixed Penalty Notices. It also covers how it responds to appeals.
- 5.2 This policy also makes clear the type of circumstances where the Council will issue FPNs in terms of both offences and age.

Offences covered by this policy- legal context

6.1

Offence	Legal Provision
Littering	Section 87, Environmental Protection Act 1990
Failing to clear up Dog Fouling	Dog(s) Fouling of Land Act 1996
Breach of Community Protection Notice	Section 48, Anti-Social Behaviour, Crime and Policing Act 2014
Failure to produce waste documents	Section 34, Environmental Protection Act 1990
Failure to produce authority to transport waste	Section 5, Control of Pollution Act 1989
Breach of Public Space Protection Order	Section 63 and 67, Anti-Social Behaviour, Crime and Policing Act 2014
Unauthorised disposal of waste	Section 33, Environmental Protection Act 1990

Approach

- 7.1 The Council will adopt a consistent approach in our use of FPNs and all other associated enforcement powers. Our officers will be polite, fair and consistent.
- 7.2 FPNs may be issued at the time of witnessing an offence, or afterwards where there is a need to consider the evidence. Where a FPN is issued on-the-spot, this will be issued by an authorised officer only.
- 7.3 If the council receives information alleging offence/s have been committed, it will begin its investigation by believing any witness and will seek any supporting evidence. Officers will make decisions and take actions based only on the actual evidence available.
- 7.4 The council does not want to prosecute people for offences and recognises that the use of FPNs provides a tool for the avoidance of formal prosecution. The council will do what it can to enforce payments are made on time but, where this is not forthcoming, legal action is the default position, will be authorised by a person at Service Manager Level or above.
- 7.5 The fee for each type of fixed penalty notice, where not set by law, is set by elected members annually. This information is available, up to date, on the Councils website.

Adults

- 8.1 For the purposes of this policy, and in-line with legal standing, adults are considered to be anyone over the age of 18. FPNs will be issued by authorised officers, where the offender is an adult, and in all cases. Exceptions will only be authorised at the discretion of the service manager, or above.

Young People

9.1 Under 10s

Young people under the age of ten are not legally held as responsible, and that means that FPNs cannot be issued. Where a person under ten years of age 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 circumstance.

9.2 Aged 10 to 16

Those aged 10 to 16 are held, in law, as criminally responsible for their actions. However, the Council would not wish to deal so severely with young people and would prefer to warn, educate, and utilise restorative means. Details will be taken in all cases and appropriate interventions based on restorative justice utilised based on information, any previous offences, and any wider intelligence. FPNs may only be used when an individual has committed more than two offences, and this will be at the discretion of service manager level or above. Appropriate adults will be sought in all circumstances.

9.3 Aged 16 to 18

Those aged 16 to 18 will be issued warnings for first offences. Repeat offenders will be issued with FPNs.

The PPASB service manager, or a more senior member of staff may offer restorative justice instead of issuing an FPN.

Restorative Justice

10.1 Restorative justice is widely utilised in criminal justice cases involving low level offences, and particularly where young people are concerned.

Restorative justice should only be used when there is sufficient means to prosecute offences and with the agreement of the offender and any victims involved.

10.2 Restorative justice interventions are designed to meet one of three requirements.

- Punitive (A punishment)- This could be asking the offender to do some unrelated work in the community or agreeing to an acceptable behaviour contract (ABC) with certain conditions.
- Restorative (Reparation)- This could be cleaning up some litter in the community, doing some work to raise awareness etc.
- Rehabilitative- This could be meeting victims, talking to communities about problems with litter/dog fouling etc.

10.3 These approaches will be utilised on a case-by-case basis where appropriate. Individual need and circumstances of all involved will be considered prior to deciding on an appropriate intervention.

10.4 Should offenders refuse to take part in restorative justice activities, consideration will be given to issuing warnings to parents. Should poor behaviour become persistent, officers will work with partners to put positive interventions in place. Formal enforcement may be used as a last resort.

Appeals

11.1 Appeals must be made in writing, within seven days of the issue of the FPN, to the following.

Public Protection and Anti-Social Behaviour Team
City Hall
Beaumont Fee
Lincoln
LN1 1DD

Or via email to PPASB@Lincoln.gov.uk with FPN Appeal in the subject box.

11.2 Appeals will be considered on a case-by-case basis, and an example of matters for consideration may be

- Demonstrable lack of mental capacity
- Demonstrable ill health

11.3 Appeals will not be considered on the grounds of

- Denial of the offence
- Lack of financial means

11.4 Responses to appeals will be provided within ten working days. If an appeal is lodged, the time allowed for payment may be extended, at the discretion of the PPASB Manager or someone more senior in the line management structure. The PPASB Manager provides this function on behalf of the relevant assistant director.

11.4 Further appeal is not available within the Council. Alleged offenders may choose to defend their case in the magistrates' court, and this is done either by contacting the PPASB Manager, on the details above.

Going to court

12.1 The council will make all reasonable efforts to ensure payments of FPNs. This will include follow-up letters and, where possible, home visits. Where payment is not made, and no contact is received, the Council will take court action. This means alleged offenders will be summonsed to court.

12.2 Officers will continue to make contact throughout proceedings and will be available to clarify any of the process.

Publicity

13.1 The council takes a positive approach to publicising enforcement work, where appropriate. The aim of 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 issued through the council's reporting mechanisms.

Oversight

14.1 An oversight of officers with enforcement powers is in place. With regards to on the spot FPNs, the council will use body worn CCTV where possible, not only to help provide additional evidence for offences but also to ensure clarity of evidence gathering for both the council and the public. CCTV evidence will also be used when considering appeals.

14.2 It is important that authorised officers witnessing offences will provide absolute grounds to the Council that offences have been committed as there will be no processing of alleged offences where there is any ambiguity.

Income

15.1 Income received from FPNs will be used to support the services affected by the offence. Proposals for such expenditure will be in accordance with the government's guidance and will be at the discretion of the portfolio holder.

Legal framework

16.1 This document has been drafted in compliance with the following Acts:

- Human Rights Act 1998
- Data Protection Act 1996
- Equality Act 2010
- Environmental Protection Act 1990
- Dogs Fouling of Land Act 1996
- ASB, Crime and Policing Act 2014
- Police and Criminal Evidence Act

Relevant policies/published documents

17.1 Policies/published documents which may be relevant to the application of this document are:

- Enforcement Policy
- ASB, Crime and Policing Act statutory guidance

Monitoring/Review

18.1 Both Public Protection and Anti-social Behaviour, and Environmental Enforcement services are the responsibility of the Portfolio Holder for Public Protection and Environmental Services.

18.2 Monitoring of services provided by the council is provided by democratically elected members.

18.3 This policy will be reviewed triennially in conjunction with the relevant portfolio holder/s. Minor changes may be made at any time at the discretion of the Portfolio Holder. Any significant changes to the policy require the approval of the Executive.

Policy tracker

Policy tracker				
Authors	Responsible director	Responsible portfolio holder	Version	Date implemented
Public Protection and ASB Manager	Director of Community and Environment	Reducing Inequality	2.0	29/04/2025