



Briefing 07/01

January 2007

TO: All Chief Executives, main and email contacts (England)

CC: All Chief Executives, main and email contacts (Wales, Scotland and Northern Ireland)

Briefing – Use of Fixed Penalty Notes since introduction of Clean Neighbourhoods and Environment Act

Key issues:

- The number of fixed penalty notices being issued according to DEFRA statistics rose by 31% last year.
- Approximately 80% of notices are for litter with a further 10% for dog fouling
- Payment rates have increased to 57% with the major reason given for non payment being through offenders giving incorrect personal details.
- Indications are that over 70% of local authorities had expanded or are planning to increase their enforcement teams. The majority of funding for this has in most cases come from the authority's own resources with some further allowance made for extra income from enforcement.

1. Introduction

The Clean Neighbourhoods and Environment Act (CNEA) gave both new powers and promoted greater use of fixed penalty notices (FPNs). Recently a number of reports have been published relating to how local authorities have been using the new powers. This briefing informs members on the main points from these reports.

2. Issue of Fixed Penalty Notices

Figures released from DEFRA indicate that even before the April 2006 implementation date the number of fixed penalties were increasing. The number issued from April 2005 – March 2006 show that 38,062 fixed penalty notices were issued for local environmental offences. This is a 31% increase from 2004/05 when 29,086 were issued. The same release showed that the number of local authorities using FPNs to tackle littering increased from 136 in 2004/05 to

197 in 2005/06. There is further evidence that almost all councils have started to or are proposing to use FPNs.

A more recent survey carried out by the Local Government Association (LGA) shows that from April to end of August 2006 local authorities have issued an estimated 17,019 FPNs under the CNEA legislation. This would equate to almost 41,000 in the year to March 2007. It is difficult to compare the two annual figures because the LGA figures relate only to notices applicable to CNEA legislation.

3. Enforcement Teams

A further LGA survey indicated that 50% of local authorities had expanded their enforcement teams in preparation for CNEA with a further 21% planning to. The majority of funding for this has in most cases come from the authority's own resources with some further allowance made for extra income from enforcement. Additionally, to assist with budget constraints some authorities are asking police community support officers (PCSOs) to issue FPNs for environmental crimes.

4. Reasons for and application of Fixed Penalty Notices

Analysis of the reason for issue show that 95% of FPNs have been issued for dropping litter and failing to clean up dog mess, graffiti, fly posting, fly tipping or abandoned vehicles. Of these 80% were for litter and 10% for dog mess. (Source LGA Sept 2006)

Only 3% of authorities had designated areas using dog control orders and none had used orders to require dogs to be kept on a lead or restrict the number of dogs walked by one person. In terms of people leaving domestic waste out at the wrong time only 10% of councils were issuing fines for this, but a further 65% intended to do so. Currently 10% were issuing fines to people who are not registered to carry waste.

A third of authorities questioned had a partnership with supermarkets to prevent the incorrect disposal of trolleys and 18% recovered the costs of disposal from the supermarkets. The average charge was £40 per trolley for this work. Examples of how councils are using the new powers for shopping trolleys include Corby Borough Council who have already retrieved 143 trolleys since the Act came into force on 6 April forcing local stores to pay £5,005 in fines and Middlesbrough Council who retrieve more than 1,300 per annum and is now alerting retailers of plans to begin charging from December 2006.

5. Payment Levels

Payment of FPN's will vary by the offence. The vast majority are for littering (the fine can be set locally between £50 and £80) which based on 41,000 will potentially raise between £2.05 and £3.28 million in 2006/2007 assuming all are paid. To cover the employment of one Enforcement officer (total package including on-costs estimated at £28k) and assuming a 75% payment rate would mean that an authority would need to issue 467 litter FPN's. Based on the figures from DEFRA for 2005/06 each issuing authority gave out on average 193 FPN's.

The latest local authority payment rate of FPN's went up from 53% in 2004/05 to 57% in 2005/06 although DEFRA indicate that authorities should be aiming for payment rates of at least 75% which is currently being achieved by only 44% of authorities. 22% of local

authorities are achieving payment rates of less than 50%. To overcome this more authorities are pursuing FPN's through the magistrates' court for non-payment. (Source DEFRA Nov 2006).

A major reason given for non payment is through offenders giving incorrect personal details despite this being an offence under the CNEA. Many authorities have indicated this is a major problem for enforcement officers. Some are now taking further measures to reduce this problem. Examples of initiatives range from Peterborough using CCTV images to provide evidence, Gloucester using head-cams to record images when issuing FPNs and Newcastle checking personal details directly through the police database.

6. APSE Comments

APSE has welcomed the increased powers and has championed their use through its masterclass on the CNEA. These reports and surveys clearly show that councils are using the new powers to crack down on the low level environmental crime that blights many people's daily lives in a sensible manner. The steady rather than dramatic rise in numbers of FPNs being issued show that, despite the regular scare headlines in the tabloid media indicating overuse, councils are beginning to use the new powers in a measured way. This recognises that there is always a risk that the very people the council needs on board to support them in cleaning up the local environment are the very same people who could be alienated if the powers are over used.

Councils should ensure that they have a carefully planned approach to educating the public about the new offences and persuading them to change behaviour. The benefit of the use of FPNs could be lost if it is perceived that they are being used only as a cash cow. Avoiding making criminals out of ordinary citizens by getting the public to recognise that dropping litter and allowing their dogs to foul streets and parks is unacceptable behaviour is far preferable than issuing thousands of FPNs.

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