

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 FIXED PENALTY NOTICE PROVISIONS

1. In respect of a number of the offences under the Act, there is some discretion for local authorities to determine the level of the penalty. However, in these cases, if the Council does not exercise that discretion, a default level of fine is defined in the Act. In respect of some of the offences, there is one fixed level of penalty, with no provision for discretion. Details are set out in Annexe 2.
2. The Act introduces powers for the local authority to offer a discount for early payment of a fixed penalty, with the exception of the 'noise from licensed premises' offence which is fixed at £500. The standard period for payment of fixed penalties is 14 days. The guidance recommends an early payment period, qualifying for discount, of 10 days.

The recommended discounts are as follows;

- for offences with a penalty of; £75 discounted to £50
 £100 “ “ £60
 £200 “ “ £120
 £300 “ “ £180
3. There is no prescribed form of Fixed Penalty Notice. However the Notice must;
 - give details of the offence;
 - state that no proceedings will be instituted if the penalty is paid within the days;
 - state the amount to be paid;
 - state the discount for early payment, if applicable, and;
 - state how and where it can be paid.
 4. Most fixed penalty provisions have been amended so that authorised officers have the power to require names and addresses of persons they propose to issue a Fixed Penalty Notice (FPN) to. Failure to give a name and address to an authorised officer becomes an offence. The guidance states that persistent offending should be dealt with by way of prosecution rather than repeated fixed penalties.
 5. An authorised officer does not have the power to enter private land to issue a FPN without the permission of the landowner except under certain circumstances in the investigation of fly-tipping.
 6. There is no prescribed procedure laid down for the serving of Fixed Penalty Notices. Different terminology is used in the CNEA with regard to the issuing of FPNs dependent on which pieces of legislation are being enforced.