

Appendix 2

Monmouthshire County Council Enforcement Policy for Dog Fouling and Littering

Introduction

- 1.1 This enforcement policy sets out Monmouthshire County Council's approach to discharging its powers in relation to offences of dog fouling and littering. It should be read in conjunction with the Council's Corporate Enforcement Policy which sets out the broader context and the Authority's approach to discharging enforcement responsibilities.
- 1.2 This enforcement policy is intended to guide the enforcement approach of authorised officers of the Council and any other agencies, such as the Police, with whom the Council has entered into an agreement for enforcement purposes.

Legislative Framework

- 2.1 The offence of failing to remove dog faeces is created under section 3 of the Dogs (Fouling of Land) Act 1996. Dropping litter is an offence contrary to section 87 of the Environmental Protection Act 1990.
- 2.2 The use of Fixed Penalty Notices (FPNs) is encouraged by the Welsh Assembly Government (WAG) as part of an enforcement approach to dealing with environmental offences. WAG has issued guidance on their use, entitled **Guidance on the Fixed Penalty Notice provisions of the Environmental Protection Act 1990, the Clean Neighbourhood Act 2005 and other legislation.**
- 2.3 Part 1 of Schedule 4 to the Police Reform Act 2002, as amended by section 122 of the Serious Organised Crime and Police Act 2005, creates the power for suitably designated Police Community Support Officers to issue fixed penalty notices (FPNs) for certain relevant offences.

General approach to enforcement

- 3.1 This enforcement Policy should be read in conjunction with the Council's Corporate Enforcement Policy, which sets out in greater detail the authority's general approach.

Authorised Officers.

- 4.1 Enforcement activities are undertaken by officers authorised in writing for those purposes. The Council has delegated power (26th February 2009) to the Corporate Director (RER) to authorise officers for the purpose of enforcement under the Environmental Protection Act 1990 and the Dogs (Fouling of Land) Act 1996, including the issue of FPNs.

Authorised Officers are expected to have regard to the Council's Corporate Enforcement Policy in discharging their powers.

Dealing with offences

- 5.1 The Authority's usual approach to dealing with offences will depend upon the age of the offender as set out below:

For offenders aged eighteen or over

- 5.2 A Fixed Penalty Notice to be issued to give the offender the opportunity to discharge the liability to conviction for the offence.
- 5.3 The FPN amount of £75 payable within 14 days, to be reduced to £50 if paid within 10 days.
- 5.4 Payment in instalments to be considered and agreed in exceptional circumstances. Payment period by instalments not to exceed 5 months.
- 5.5 Prosecution proceedings to be taken in cases of non payment.
- 5.6 Repeat offenders are to be prosecuted with no opportunity given to pay a Fixed Penalty Fine.

For offenders aged twelve to seventeen

- 5.7 For first time offences the FPN to be commuted to a 'final warning' to be made in writing and addressed to the young person's parents/guardian.
- 5.8 For a second offence, following a 'final warning', offenders to be issued with a FPN with the option of reduced early repayment and possible payment by instalments as for those aged eighteen or over.
- 5.9 In cases of non payment, the intervention of the police and youth offending service to be invited, to consider the option of Restorative Justice work as an alternative to payment. Restorative Justice means repairing the harm caused whilst accepting responsibility for actions. This may include for example unpaid work in the community, or a piece of educational based work.
- 5.10 Cases of non payment and failure to cooperate in an alternative intervention programme, if offered, to be prosecuted.
- 5.11 Enforcement will be closely linked to an education based approach for this age range, with Enforcement Officers giving presentations and appropriate literature in school assemblies and similar fora.

General

- 6.1 Alleged offenders contesting a FPN to be advised that there is no obligation to pay the penalty issued and that they have the option to plead 'not guilty' at a Magistrates Court on prosecution.

Complaints

- 7.1 Any complaints or comments should be directed to the designated Officer in the Environmental Health Team, via one of the Council's One Stop Shops or by contacting one of the Council's main offices.
- 7.2 Any recipient of a FPN, pleading mitigation or otherwise contesting the FPN, should do so in writing.