

6th December 2004

AABC Briefing Note 1 - Fixed Penalty Notices

Summary

From 1st November, police in England and Wales have powers to issue fixed penalty notices (FPNs) for theft and criminal damage. For both offences, the penalty is £80 and does not constitute a criminal conviction if the fine is paid within 21 days. FPNs are restricted to retail and commercial crime and are aimed at first-time offenders where there are no aggravating circumstances (e.g. threats or violence).

Other than in exceptional circumstances, FPNs may only be used where the value of theft is no more than £100 and the value of criminal damage is no more than £300. Police are instructed that FPNs can only be issued where a discussion with the victim has taken place and that he/she is compliant. Offenders' identities must be established and fingerprints recorded. This will require arrest and custody in most cases.

Main points

- FPNs apply to retail and commercial theft only.
- FPNs can only be issued by police officers and special constables.
- FPNs may be used for *low-level, anti-social and nuisance offending* and should not be used in cases that are more serious or have aggravating circumstances.
- FPNs can only be used for thefts up to a value of £100 or criminal damage up to £300 (police judgment as to value). They can be issued for the higher sums of £200 and £500 for the respective offences only in exceptional circumstances.
- FPNs for theft would usually only be used where goods have been recovered.
- FPNs carry a fine of £80 and if paid within 21 days does not result in a criminal record.
- FPNs are intended for low level, usually first time offending and will not be appropriate for those who repeatedly offend.
- Views of the victim must be taken into account and notices will not be appropriate where the victim is not compliant.

Specific Limitations

- A notice will not be appropriate where:
 - There has been any injury or threat;
 - There has been any *substantial* loss or damage to private property;
 - A FPN would overlap with another, or multiple offences have occurred;

- The offender is under 16 years of age.
- The offender is non-compliant
- The victim is non-compliant

- FPNs *may not be appropriate for those who are known to be substance abusers* or where suspicion of drug abuse exists.

- FPNs remove the victims' ability to pursue claims for compensation through the criminal courts and police should make this clear at the time.

Recording of Crime

Details of both the offender and the offence will be recorded as follows:

- Offenders' identity will be established in all cases. Fingerprints and photographs will be taken and offender details recorded on the Police National Computer (PNC). This will require arrest and custody in most cases.

- Police will check the PNC for previous FPNs before issuing another FPN.

- Where a FPN has been issued, police will record the offence as a crime.

Actions for business crime partnerships and members

Police are obliged to consult the victim when seeking to issue a FPN to an offender. Police may not issue a FPN where the victim is not *compliant*, giving businesses a powerful say. As such, partnerships may wish to consider some guidance for their members. This may include such information as:

- Making sure members are aware of the general limits (£100 and £300).

- Ensuring the maximum limits (£100 & £300) are not exceeded except in exceptional circumstances.

- Making sure they know they have to agree to the process.

- Making sure there is somebody in the business who can liaise with police to ensure a consistent approach.

- Encouraging members to keep a 'FPN record book' and enter all details of the encounter.

- Ensuring FPNs are not issued to known repeat offenders or other inappropriate cases (known drug addicts etc.).

- Reporting police non-observance of guidelines through their employer, trade association of business crime partnership.