

ENFORCEMENT PROCEDURE FOR THOSE PERSONS UNDER THE AGE OF 18 COMMITTING ENVIRONMENTAL CRIME OFFENCES

The purpose of this document is to set out what is expected in the way of service delivery of enforcement actions by authorised officers of North Somerset Council when dealing with persons under the age of 18 found committing environmental crime offences.

1. Introduction

1.1 Tackling environmental crime is important if we are to improve the quality of life for local communities. Environmental issues that are left unaddressed can cause a detrimental effect on local areas and this will lead to a potential environment where other crime, disorder and anti-social behaviour can take hold.

1.2 Legally anyone over the age of 10 years is responsible for their actions in regards to criminal activity; however guidelines and recommendations by governing bodies recommend a special procedure for dealing with any person under the age of 18. Young people regrettably commit environmental crime offences and therefore need to be considered in terms of what enforcement approach is appropriate to protect North Somerset's local environment without unduly and inappropriately jeopardising the interests and needs of local people.

1.3 There is no existing enforcement policy designed specifically to address the issues associated with enforcement actions, such as issuing fixed penalty notices, to any person under the age of 18, therefore this procedure ensures that we make every effort to deal with matters consistently.

1.4 This procedure should be read in conjunction with the Council's "Regulatory Services Enforcement Policy" and the Council's "FPN Procedure". This Policy ensures that any enforcement action is consistent, accountable, transparent and proportionate.

1.5 This procedure sets out the general principles to be followed in relation to the issuing of fixed penalty notices to people under the age of 18 including the option of a restorative justice scheme.

1.6 A fixed penalty notice can be issued to anyone over the age of 10. As recommended by Department for Environment, Food and Rural Affairs (DEFRA), authorities are to adopt special procedures for issuing these notices to any person under the age of 18. This ensures that they are acting in accordance with their duty under the Children Act 2004; which requires that authorities have regard to the need to safeguard and uphold the welfare of children.

1.7 A combined approach will be taken between North Somerset Council's regulatory teams, and Youth Offending Team.

1.8 Should it become necessary for officers to contact the parents or carers of a person under 18 years pursuant to this procedure, contact will be made first with the People and Communities Directorate. The purpose of this liaison is to

establish, prior to the decision being made, whether there are any known factors which might influence a decision to take further action.

2. Education & Enforcement Campaigns

2.1 Regulatory teams will undertake town centre & hotspot targeted campaigns. These will educate young people about the impact of environmental offences as well as the actions we will take when offences occur.

2.2 Our education campaigns will aim to inform young people about;

- How Anti-social behaviour effects the local community
- Why offences such as littering and failing to pick up dog faeces is harmful to the environment.
- The negative impact environmental crime has on public health
- What positive action juveniles can take to keep their community clean
- The enforcement action North Somerset Council can take.

2.3 If required schools will be asked to assist in the identification of their pupils responsible for an environmental offence.

3. Issuing Fixed Penalty Notices to People under the Age of 18

3.1 The purpose of a fixed penalty notice is to simplify the enforcement process and allow for discharge of liability for the offence to be made by the individual responsible without the need for costly and lengthy court proceedings.

3.2 We see this procedure as a positive way to reduce environmental crime without criminalising people under the age of 18, whilst still ensuring the local communities can see that action and justice is being done.

3.3 A person below the age of 10 cannot under law be criminally responsible for their actions and a fixed penalty notice is therefore not an option. Educational options will be used as a way in which to change negative behaviour in this age group.

3.4 For the purpose of this policy and following DEFRA's guidelines young people will be split into two distinct groups: **10 -15** years old and **16 -17** years old. Specific procedures will be in place for each age category.

3.5 In cases where a person under the age of 18 is required to be spoken to in relation to their involvement in an environmental offence or is to receive a caution as an enforcement action, then as set out in the Police and Criminal Evidence Act 1986 (PACE), no caution or interview will be undertaken without a 'responsible' adult being present.

3.6 To tackle the issue of environmental crime by a person under the age of 18 we are introducing a restorative justice intervention option to our processes where there is offered an alternative option as part of a restorative justice scheme, to the fixed penalty notice. The person under the age of 18 can choose to take part in an organised "Litter Pick" facilitated by North Somerset Council and the Youth Offending Team. However, failure to attend the Litter Pick option Juvenile Enforcement Procedure Environmental Crime Offences Juveniles 10 -17 years of age Version 0.1

or pay the fixed penalty notice will result in other enforcement actions being considered which may lead to prosecution.

4. 10 – 15 years’ old process

4.1 For minor offence under the Youth Justice System, prosecution is usually regarded as a measure of the last resort after other interventions have failed. Therefore, it is appropriate for the Council to offer alternative steps before the issuance of fixed penalty notices, such as a warning being given or / and offer the opportunity to attend a restorative justice Litter Pick. We have implemented a 4 step process for age range **10 -15** years old.

4.2 On witnessing an offence and challenging an offender who is likely to be a youth, the officer must first obtain the name, address, date of birth of the young offender, together with the name and address of his or her parent / legal guardian. If the offence occurs in school time or near to a school, or /and the young offender is in school uniform the officer will obtain the name of the school they attend.

4.3 Step 1 - On obtaining the details the offender will be given an Anti-social Behaviour (ASB) 'report form' (see appendix 'B'), that they can pass onto their parents / guardian identifying who has stopped them and the reason that they have been stopped. The young offender will also be informed that a letter will be sent to their parent / legal guardian confirming the same information (see appendix 'D').

4.4 Step 2 - If it is found that non-compliance has occurred following the letter being issued, the young offender along with their parent /legal guardian will be formally invited by letter (see appendix 'E') to a meeting with a representative of North Somerset Council to discuss the actions of the young offender and potential consequences on further non compliance.

4.5 Step 3 – Further non-compliance by a person aged 10 -15 years will lead to the offer of discharging liability by the issuance of a fixed penalty notice and subsequent payment requirements. At this stage the young offender will be offered an alternative to the fixed penalty notice of a restorative justice Litter Pick session. This session being for a period of up to 3 hours and attendance of the whole session is required. Failure to attend the session or only part attendance will mean that the fixed penalty notice will still be valid and payment will be expected. Failure to pay the fixed penalty notice amount may result in prosecution.

4.6 A fixed penalty notice will be served either directly to the offender in person or will be served by post along with a covering letter addressed to the parents / legal guardian. This letter will also include the alternative option of a restorative justice scheme (see appendix 'F'), that the parents / legal guardian along with the young person can sign to agree to attend.

4.7 At this stage notification will be made to the Youth Offending Team.

4.8 When a fixed penalty notice is issued the offender will be given 14 days to pay the full amount, with the option of paying a discounted amount if paid within 10 days of issue or return the signed completed alternative option form.

4.9 Step 4

Non-payment of the fixed penalty notice and failure to complete the restorative justice session will still result in the person's case being put forward for consideration for prosecution.

5. 16 - 17 year olds

5.1 In this age group it is considered that persons have the capability to be fully aware of their own actions and as such the process in which to take enforcement action follows that of the procedure for adults with an offer of restorative justice as an alternative to paying a Fixed Penalty Notice.

5.2 On witnessing an offence and challenging an offender who is likely to be aged 16 - 17, the officer must first obtain the name, address, date of birth of the offender. The offender will be given an ASB 'report form' (see appendix 'B'). The young offender will be informed that they do not need to do anything until they have received further communication from the council.

5.3 If it is decided that a warning is sufficient, then a letter can be sent to the person, a template can be found in Appendix G.

5.3 At this stage notification will be made to the Youth Offending Team

5.4 If it is decided that a fixed penalty notice should be issued then the young offender will also be offered an alternative to the fixed penalty notice of a restorative justice litter Pick session (see Appendix F). This session being for a period of up to 3 hours and attendance of the whole session is required. Failure to attend the session or only part attendance will mean that the fixed penalty notice will still be valid and payment will be expected. Failure to pay the fixed penalty notice amount may result in prosecution. .

6.0 Litter Pick – (Restorative Justice Scheme)

6.1 North Somerset Council's Youth Offending Team (YOT) will organise a 3 hour litter picking session and take responsibility for parental consent and health and safety.

6.2 Arrangements will be made paying regard to the young person's religious and educational needs; local accountability and right to privacy. Only one session will be offered.

6.3 The litter pick will be on a 1-2-1 basis. The young person will be transported to and from the site and supervised at all times. Suitable gloves and a long arm 'litter picker' will be provided.

6.4 The Civil Enforcement Team will be notified of; failure to attend, failure to carry out the task in an acceptable manner, or the successful completion of the task.

7.0 Repeat Offenders

7.1 If a person under the age of 18 is caught a second time then they will automatically be moved to the next step in the process applicable to their age group.

7.2 If a person under the age of 18 is persistent in re-offending (more than two occasions in a two year period) advice will be sought in consultation with the Anti- Social Behaviour team and the Youth Offending Team

FOR APPROVAL