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Regulatory Services  
Penalty Notice Policy

2025-2028

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## 1. Introduction

- 1.1 The purpose of this policy is to set out how North Yorkshire Council will enforce the use of Penalty Notices for relevant offences, within the North Yorkshire County. It also sets out the penalty amounts for each notice issued by duly Authorised Officers of the Council. In this policy, the term 'Penalty Notice' includes:
- Fixed Penalty Notice
  - Penalty Charge Notices
  - Penalty Notices
  - Civil Penalties
  - Final notice of decisions to impose a financial penalty or any other Notice (however it may be described under the relevant legislation for the time being in force or that may come into force in the future), for the purposes of allowing the Council to impose financial penalties.
- 1.2 This policy covers enforcement action for those offences that could be broadly described as relating to environmental crime, certain anti-social behaviour and animal health and welfare offences.
- 1.3 This policy does not include penalty notices issued by the Council's Trading Standards Service or those outside the remit of the Council's Regulatory Services, including Penalty Charge Notices (PCNs) issued by Parking Services.
- 1.4 In developing this policy, and through the appropriate use of Penalty Notices, the Council will have regard to the [Regulators Code](#) and seek to follow the enforcement principles described in the Council's General Enforcement Policy.
- 1.5 A Penalty Notice is a means to give a person, who has committed a relevant offence, the opportunity to pay a fixed amount as a direct alternative to prosecution, and thereby discharge their liability to conviction.
- 1.6 Should an alleged offender receive a Penalty Notice, they may choose not to accept or pay it, but they may then face prosecution for the original offence. This means that they would have to defend the case in court where there is a risk of being liable for potentially higher financial penalty, plus costs if applicable, on conviction.
- 1.7 There is no obligation on the Council to offer someone the option of paying a Penalty Notice. Authorised Officers will look to apply the most appropriate and proportionate penalty, having regard to policy and considering the circumstances of the case.

## 2. General Principles

- 2.1 Where legislation permits the use of Penalty Notices, the Council will consider the use of them as a direct alternative to prosecution. Examples of where they may be appropriate are:
- To deal quickly and simply with less serious offences
  - To divert less serious cases away from the court process
  - To deter repeat offences
- 2.2 Before a Penalty Notice is administered, the Authorised Officer will ensure there is sufficient evidence of the offender's guilt to provide a realistic prospect of conviction. Any subsequent decision to prosecute will be in accordance with the published [Code for Crown Prosecutors](#).
- 2.3 The current charges are as set out in the schedule to this policy and in setting charges (where these are not fixed in legislation) the Council will have regard to national or other relevant guidance or codes.
- 2.4 The Penalty Notice charge schedule may be substituted from time to time to reflect amended and updated relevant legislation, particularly in relation to the charge levels. Should there be a need to include new offences, then the default levels as set by relevant legislation will apply, until the charges are considered as above and amendments made to the schedule where appropriate.
- 2.5 Should a Penalty Notice remain unpaid, the case will be considered for prosecution and proceedings may be issued in the Magistrates' court. Where an offence carries a civil penalty, then the appropriate legislative procedure will be followed.
- 2.6 Normally the Council will issue a Penalty Notice to first time offenders, for those offences as set out in the schedule. In cases where the offender has a history of committing the same or a similar offence, and the payment of a previous Penalty Notice or the imposition of a financial penalty by a Court has not deterred them from re-offending, then a prosecution will be considered.
- 2.7 In cases where the offence is deemed to be so serious that the issue of a Penalty Notice would not be considered proportionate, then a prosecution will be considered for a first-time offence. Issues that will be considered relevant when making this decision include, but are not limited to:
- Where there is evidence of widespread and systemic offending.
  - Non-cooperation or obstruction of an investigation (any such allegation may also lead to an additional offence of obstruction where the legislation allows).
  - Intimidation of witnesses.

### 3. Issue of Fixed Penalty Notices

3.1 Penalty Notices can be issued in person and by post and should include the following:

- The type of offence and details of the offence.
- When and where the offence took place.
- The amount of the Penalty Notice and details of any early payment discount.
- How and where the Penalty Notice can be paid.
- When the Penalty Notice can be paid in order to discharge any liability for prosecution / or any other appropriate enforcement action.

3.2 Records, in relation to any Penalty Notices issued, will be kept in accordance with the General Data Protection Regulations (with regard to the retention, storage, sharing or disclosure of any personal data). This will include:

- Decisions taken at each stage from the issue of a Penalty Notice to payment and/or prosecution.
- The evidence on which the Penalty Notice is based, should the Council decide to prosecute.

### 4. Specific Offences

#### 4.1 Unauthorised Disposal of Waste - Fly-Tipping

4.2 A tiered approach has been adopted for fly-tipping Penalty Notice charges. This enables a proportionate response to the offence, taking into consideration the circumstances of each case. The levels are as follows:

Level 1	£400	Waste in excess of 1 refuse bag, up to a maximum of 3 refuse bags.
Level 2	£600	Waste in excess of 3 refuse bags, up to a maximum of 8 refuse bags. One or two bulky items (e.g. white goods)
Level 3	£1,000	Waste in excess of 8 refuse bags. Three or more bulky items

#### 4.3 Animal Health & Welfare

4.4 In determining whether it is appropriate to issue a Penalty Notice for animal health and welfare offences and the amount to be specified in the Notice, the Authorised Officer will consider the factors set out in s4(2) of the Animals (Penalty Notices) Act 2022, namely:

- a. the seriousness of the conduct to which the proposed notice relates (the “relevant conduct”);
  - b. the duration of the relevant conduct;
  - c. any evidence of intention behind the relevant conduct;
  - d. any evidence of previous acts or omissions by the person similar to the relevant conduct;
  - e. any action taken by the person to eliminate or reduce any risk of harm resulting from the relevant conduct;
  - f. any action taken by the person to remedy or mitigate any harm resulting from the relevant conduct;
  - g. whether the person reported the relevant conduct to the enforcement authority or constable;
  - h. the conduct of the person after the relevant conduct is drawn to their attention by the enforcement authority or constable.
- 4.5 The Authorised Officer will also consider the [statutory guidance](#) on the use of penalty notices for animal health and welfare offences, issued by the Department for Environment Food & Rural Affairs, which sets out how to consider the above factors. The guidance also details what information will be included within a Penalty Notice.

#### **4.6 Smoke Control Areas**

- 4.7 Where a local authority is satisfied, on the balance of probabilities, that on a particular occasion smoke has been emitted from a relevant chimney within a smoke control area declared by an authority, a civil penalty can be issued by the local authority. A civil penalty will be issued to the person liable, who can be the occupier of the building in which the chimney is located.
- 4.8 For a first offence the statutory minimum financial penalty will be issued, unless it is clear to the Council that no demonstrable attempt has been made to manage smoke emissions, being mindful of council communications before the issue of a penalty notice. In the latter case a maximum penalty will be issued. A maximum penalty will be issued for any repeat offences.
- 4.9 Where it has been determined that a financial penalty may be appropriate to impose, the Council will follow the [statutory guidance](#) on smoke control area enforcement by local authorities, issued by the Department for Environment, Food & Rural Affairs.

## **5. Vulnerable Adults**

- 5.1 If a duly Authorised Officer is of the view that an alleged offender is vulnerable and/or the issue of a Penalty Notice is not in the public interest to proceed, then on-the-spot education may be considered. This may include asking the person to rectify their actions or explaining the consequences of any offence.

Should a duly Authorised Officer have any concerns regarding vulnerability and or public interest, then this should be raised with their line manager before taking any further action.

## 6. Children and Young People

### 6.1 Under 10-year-olds

In the case of children below the age of criminal responsibility of 10 years old, the Council will not take any formal enforcement action. A duly Authorised Officer may, where it is considered appropriate, contact the child's parents or guardians, either directly, or through any supporting service the family may have.

### 6.2 Between 10 and 15 years old

In most cases a Penalty Notice will not be issued. An informal verbal warning would normally be issued for a first offence. This may also include on-the-spot education including an explanation that what they have done is wrong and that it should not be repeated.

Where it is considered appropriate the duly Authorised Officer may report the event to the child's parents or legal guardian, having obtained their details either directly or through any supporting service the family may have.

If it is subsequently decided that a Penalty Notice is suitable, it may be issued to the alleged offender in person, with a parent or legal guardian present. If the Penalty Notice must be issued by post, the alleged offender's parent or legal guardian will be notified at the same time.

### 6.3 Between 16 and 17 years old

Where it is identified that the offender is 16 or 17 years old, if it is considered appropriate, FPN's may be issued to this age group using the same procedure as for adults.

## 7. Non-Payment of Fixed Penalties

7.1 When a Penalty Notice is not paid in full within the required time period specified on the notice, then a prosecution for the offence will normally proceed.

7.2 Where an early payment discount is available, this will be specified on the Penalty Notice together with a shorter payment period. The discounted amount will not be accepted for any payments not received within the shorter payment period and in such cases the full amount will be expected to be paid.

7.3 Where the offence carries a civil penalty, then the appropriate legislative procedure will be followed in the event of non-payment.

## 8. Disputes and Appeals

- 8.1 Subject to policy, an offender contesting a Penalty Notice will be advised that there is no obligation to pay a fixed penalty issued by the Council, but if they fail to pay the penalty, the matter will be pursued through the Courts, where they will be able to argue their case against the action of the Authorised Officer.
- 8.2 In exceptional cases it may be appropriate to withdraw a Penalty Notice or not proceed to summons on non-payment. Such circumstances may arise where:
  - a. Information that was not available at the time the Penalty Notice was issued, becomes available, and it is determined that the offence to which the notice relates was not committed; or
  - b. Where evidence is provided to demonstrate that the notice ought not to have been issued to the person named.



## Appendix 1 - Penalty Notice Schedule

\*Early Payment (EP) – Subject to relevant regulations, but typically within 14 days of issue.

Offence	Penalty Amount	
<b>Graffiti</b> Anti-social behaviour Act 2003, s.43	£150 *EP - £105	
<b>Breach of a community protection notice (CPN) *</b> Anti-social Behaviour, Crime and Policing Act 2014, s.52  * Relating to offences within the remit of Regulatory Services	£100 *EP - £70	
<b>Breach of a public space protection order (PSPO) *</b> Anti-social Behaviour, Crime and Policing Act 2014, s.68  * Relating to offences within the remit of Regulatory Services	£100 *EP - £70	
<b>Smoke control area offence</b> Clean Air Act 1993, Schedule 1A	First Offence Repeat Offence	£175 £300
<b>Exposing vehicle(s) for sale on a road</b> Clean Neighbourhoods & Environment Act 2005, s.3 s.6	£100 *EP - £70	
<b>Repairing vehicle(s) on a road</b> Clean Neighbourhoods & Environment Act 2005, s.4 s.6	£100 *EP - £70	
<b>Abandoning a vehicle</b> Clean Neighbourhoods and Environment Act 2005, s.10	£200 *EP - £140	
<b>Failure to produce authority to transport controlled waste</b> Control of Pollution Act 1989 s.5B	£300 *EP - £210	
<b>Dog fouling *</b> Dog (Fouling of Land) Act 1996, Schedule 3  * Unless offences occur within an area covered by a PSPO, which supersedes this provision.	£50	
<b>Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste (e.g. fly tipping)</b> Environmental Protection Act 1990, s.33 ZA	Level 1 Level 2 Level 3	£400 £600 £1,000

<b>Failure to show waste documents</b> Environmental Protection Act 1990, s.34 A	£500 *EP - £350
<b>Householder duty of care</b> Environmental Protection Act 1990, s.34 ZA	£400 *EP - £280
<b>Offences in relation to domestic waste receptacles</b> Environmental Protection Act, s. 46	£100 *EP - £70
<b>Offences in relation to commercial waste receptacles</b> Environmental Protection Act 1990, s.47 ZA	£110 *EP - £77
<b>Littering</b> Environmental Protection Act 1990, s.88 & s88A	£150 *EP - £105
<b>No signage displayed in smoke free workplace / vehicle</b>  <b>Failure to display required no smoking signs</b> Health Act 2006, s6(6)	£200 *EP - £140
<b>Smoking in a smoke free place</b> Health Act 2006, s.7(2)	£50 *EP - £35
<b>Relevant offence relating to animal health / welfare</b> Animals (Penalty Notices) Act 2022. Applicable to: - s.2(2) European Communities Act 1972 - Dangerous Wild Animals Act 1976 - s.19 Zoo Licensing Act 1981 - Animal Health Act 1981 - Animal Welfare Act 2006 inc. Regulations 12 & 13 - Wild Animals in Circuses Act 2019.	Determined by inspector, in line with the Act and statutory guidance.