



Juvenile Enforcement Procedure

Environmental Crime Offences
Juveniles 10 – 17 years of age

13 November 2013

Version 0.4

Public Health and Protection

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 Cornwall 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 Cornwall'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 which ensures that we make every effort to deal with matters consistently.

1.4 This procedure should be read in conjunction with the Council's "Public Health and Protection Service Enforcement Policy". This Policy ensures that any enforcement action is consistent, accountable, transparent and proportionate.

1.5 This additional 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 Cornwall Council's Public Health and Protection Service teams, and Youth Offending Service.

1.8 Should it become necessary for PH&P officers to contact the parents or carers of a person under 18 years pursuant to this procedure, contact will be made first with the Children, Schools and Families Directorate. The purpose of this liaison is to establish, prior to the decision being made, whether there are any known factors which might influence PH&P's decision to take further action.

2. Education & Enforcement Campaigns

2.1 Public Health and Protection Service teams will carry out school / 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 We will undertake presentations in local schools, via prepared lesson plans and school assemblies to achieve the following objectives:

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

2.3 During specific organised school campaigns a notice period may be given to young people before enforcement action will be taken.

2.4 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 Cornwall Council and Youth Offending Service. However, failure to attend the Litter Pick option 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 a 'Yellow Warning Card' (see appendix 'A'), 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 'B').

4.4 Step 2 - If it is found that non-compliance has occurred following the 'Yellow Warning Card' being issued the young offender along with their parent /legal guardian will be formally invited by letter (see appendix 'C') to a meeting with a representative of Cornwall 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 1st Class 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 'D'), that the parents / legal guardian along with the young person can sign to agree to attend the restorative justice Litter Pick.

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

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 Litter Pick session will still result in the person's case being put forward for consideration for prosecution.

5. 16 and 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 is shortened to a 2 Step process with the removal of the pre-warning steps.

5.2 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 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.

5.3 Step 1 - Once the age of the young offender has been established and falls within this age group, a letter offering a fixed penalty notice or an alternative option of restorative justice scheme, i.e. litter picking (see Appendix C) will be served by 1st Class post along with a covering letter addressed to the parents / legal guardian. The letter will include a 10 day response period, after which time if no response is forthcoming the fixed penalty notice shall be issued.

If there are any doubts as to whether the offender is 16 or over, the procedures for 10 -15 year olds should be followed.

5.4 At this stage notification will be made to the Youth Offending Services.

5.5 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.

5.6 Step 2 - Non- payment of the fixed penalty notice and failure to complete the two hour Litter Pick session in full, will result in the younger person's case being put forward for consideration for prosecution.

6.0 Litter Pick – (Restorative Justice Scheme)

6.1 Cornwall Council's Youth Offending Service (YOS) will organise a 2 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 Public Health & Protection Service will then 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 littering 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 Service.

8.0 References

8.1 References used as part of this policy:

Legislation:

- Children Act 2004
- Environmental Protection Act 1990
- Clean Neighbourhoods and Environment Act 2005
- Police and Criminals Evidence Act 1986
- Anti-Social Behaviour Act 2003

Appendix 'A'

Date issued: Number:

First stage

Warning

for juveniles committing environmental crime



Cornwall Council wish to advise you, that you have been witnessed committing the criminal offence of:

This is an Environmental Crime affecting the environment and those that live within it. Cornwall Council takes this matter seriously and this is to warn you not to commit this or similar offences again. A follow up letter will be sent to your parent/guardian in relation to this matter.

Offender's name: Date of offence:

Location:

Officer's signature: Print name:

www.cornwall.gov.uk 32386 12/12

Appendix – 'B'

Letter following issue of Yellow Card

**Name & Address of
Parent or Guardian**

**Your ref:
My ref:
Date:**

Dear Sir/Madam

Juvenile Enforcement Procedure – Yellow Card

Issued to:

The above named juvenile has been identified as committing the offence of *insert offence* in the location of *insert location*, on *insert time and date*, by *insert officers details* an authorised officer of Cornwall Council.

Cornwall Council understands that at the time of the offence, *insert name*, was under the age of 18 years and on this occasion was given a 'Yellow Card' warning notice regarding this matter.

However, *insert offence*, is a criminal offence and as such is taken seriously by Cornwall Council.

Cornwall Council would wish to draw your attention to subsequent steps that may be taken, should a further offence of this nature be committed by *insert name* whilst he/she remains a juvenile. These steps are clearly set out on the rear of the 'Yellow Card' warning issued to *insert name*.

If you would like to discuss this further or have any information with regard to this investigation then please contact the Community Protection Department at the number shown below.

Yours sincerely

Appendix – 'C'

Letter following 2nd Offence - Juvenile

Name & Address of Parent or Guardian

Your ref:
My ref:
Date:

Dear Sir/Madam

Parents of: *Insert Name*

Juvenile Enforcement Procedure – 2nd Offence

The above named juvenile has been identified as committing a second environmental crime offence, namely *insert offence* in the location of *insert location*, on *insert time and date*, by *insert officers details* an authorised officer of Cornwall Council.

On a review of our database records we can confirm that, *insert name*, was spoken to previously on *insert date*, regarding a similar offence. A follow up letter to the first offence was sent to you as the parent/guardian of *insert name* and this was dated *insert date*.

Insert name, continued offending has now resulted in the implementation of the second step of the juvenile enforcement procedure. Consequently an appointment has been made on , *insert date*, for both, *insert juveniles name*, and a parent or guardian, to attend, *insert venue*, where , *insert juveniles name*, will be spoken to and advised of the consequences of his/her actions and what the next steps would be.

Failure to attend this appointment will result in *insert juveniles name*, being issued with a Fixed Penalty Notice or offer of Restorative Justice, for the offence of, *insert offence*.

If you would like to discuss this further or have any information with regard to this investigation then please contact the Community Protection Department at the number shown below.

Yours sincerely

Appendix: 'D'

Letter from Youth Offending Team to facilitate Litter Pick.

The Bassett Centre
Bassett Road
Camborne
TR14 8SL

01872 326782



Cornwall and the Isles of Scilly Youth Offending Service (YOS)

Litter Picking

We have been informed that has agreed to pick up litter for 2 hours rather than pay a fixed penalty notice or be prosecuted. As agreed a session has been arranged for (date) and will take place at Gloves and a long arm litter picker will be provided. The session will be on a 1-2-1 basis and there will be no other persons taking part.

Our worker will pick up at and return him/her home afterwards. Please ensure he/she is dressed appropriately and if they are under 16, there is someone at home when they return. All YOS staff and volunteers have police checks, car insurance, are trained in child safeguarding procedures and carry mobile phones and ID cards. There is a duty manager on call.

Consent

Does the young person have any medical conditions, allergies or special needs that we should be aware of, if yes, please give details.

Emergency contact name and number:

I give permission for to work with, and to be transported by the YOS and its representatives. I **do/do not*** give permission for YOS staff to administer basic medical treatment, (for example plasters, dressings, antiseptic cream). Should it become necessary for the young person to receive medical treatment and I cannot be contacted to authorise this, I **do/do not*** give my general consent to any necessary medical treatment and **authorise/do not authorise*** a representative of the YOS to sign any document required by hospital authorities.

(* Please delete as appropriate)

Name Signature
.....

Relationship to young person
Date.....

Please note: There is in force a policy of insurance in respect of young people working with the Youth Offending Service (YOS), which through its employees and agents, will at all times take reasonable care of your child and his/her personal effects. If your child has an accident or suffers loss or damage to his/her personal effects, which is not as a result of lack of care on the part of the YOS, its employees or agents, the YOS will not be liable for damages or meet any expenses arising out of such loss or damage. Similarly, if your child incurs any liability towards a third party in respect, for example, of any injury caused by your child to that third party or damage caused to the third party's property, the YOS will not be responsible for this unless it can be shown to be at fault in some way.