

PENALTY NOTICES FOR DISORDER A GUIDE

MAY 2006

Penalty notices for disorder (PND) are a vital new tool available to help to tackle anti-social behaviour and disorder. PNDs are part of the wider fixed penalty notice (FPN) scheme, introduced to deal quickly and effectively with this nuisance behaviour. However, PNDs deal specifically with disorderly behaviour.

They are a swift, easy way to ensure that an offender understands that they cannot commit any offence. There are consequences for bad behaviour and the community should not have to tolerate people urinating in the street or being drunk and disorderly, or any of the other offences that cause distress to the public. This tool gets that message across to the individual without ending up with a criminal record or too much bureaucracy for the police, and yet still protects the community.

PNDs are about ensuring there are clear consequences when the rules of common decency are broken.

 **RESPECT** Give respect Get respect

DEAL QUICKLY AND EFFECTIVELY WITH NUISANCE BEHAVIOUR



The Criminal Justice and Police Act 2001 (s 1–11) provides for the penalty notice for disorder scheme. It gives police nationally an additional option of disposal when dealing with low level offending and anti-social behaviour by issuing ‘on the spot fines’. There are two tariffs – £80 and £50 – according to the offence. They can be used where at present an informal or a formal caution might be used or where a charge might be brought. These penalties:

- offer swift, simple and effective justice which carries a deterrent effect;
- reduce the amount of time that police officers spend completing paperwork and attending court, while also reducing the burden on the courts; and
- increase the amount of time police spend on the streets and allow both them and the courts to concentrate on more serious crime.

The effective use of PNDs can demonstrate to both offenders and members of the public that authorities are serious in tackling not tolerating this damaging behaviour.

WHO CAN BE ISSUED WITH A PND

Any person aged 16 years or over who a constable (including a special constable) has reason to believe has committed a penalty offence and where there is sufficient evidence to support a successful prosecution. The offence must not involve anyone below the age of 16 years.

The suspect must be compliant and able to understand what is going on. In the case of an offender being under the influence of drugs or alcohol, it may be appropriate to issue a PND at a later time, e.g. the next day. The officer must have sufficient evidence as to the suspect’s:

- age,
- identity,
- place of residence.

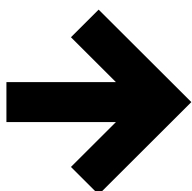
A fingerprint may be taken (on the street or in custody) with consent to support identification.

A PND would **not be appropriate for issue** where it is known that the suspect:

- has previous convictions for disorder offences;
- has been issued with a number of PNDs in the recent past;
- has been cautioned for such offences.

The PND must be issued to, and received by, the offender.

WHAT HAPPENS AFTER A PND HAS BEEN ISSUED



PND PILOT FOR 10-15 YEAR OLDS

From December 2004, 7 police force areas commenced a pilot scheme for the issuing of PNDs to 10 –15 year olds. For this age group the two tariffs were £40 and £30 and covered the full range of penalty offences. Parents and guardians were responsible for paying a PND given to a child or young person under 16 years old. The pilots have concluded and are now subject to a full evaluation and the results published.

WHO CAN ISSUE A PND

Notices can be issued on the street only by a police officer in uniform or at a police station by an authorised person.

It is entirely a matter for the Chief Officer of each police force area, as he/she is the person who decides who will be authorised to issue PNDs. However, it can include Police Community Support Officers (PCSOs), British Transport Police officers and for some offences other Accredited Persons (APs) to whom this authority has been delegated.

WHEN A PND HAS BEEN ISSUED

Within 21 days of issue, the recipient must either:

- pay the amount shown on the notice in full; or
- request a court hearing.

Payment of the penalty by the recipient

- discharges their liability to conviction for the offence;
- involves no admission of guilt; and
- removes the possibility of creating a record of criminal conviction.

Information that can be retained after payment

Although payment of a PND removes the possibility of criminal record, it does not preclude the retention of information as police intelligence. A facility is available on the Police National Computer (PNC) which allows an entry to be recorded which does not constitute a criminal record but is accessible for police information. For example, this information can be used in the civil context of seeking an anti-social behaviour order and used as evidence of bad character under s.101 of the Criminal Justice Act 2003.

If the recipient requests a hearing

If the recipient requests a court hearing the Crown Prosecutor will review the case.

If the recipient takes no action

If the recipient takes no action, the penalty will be registered as a fine of the original amount plus an additional 50% of (1 1/2 times) the value of the original penalty. This will then be enforced as a normal fine by the courts. In exceptional cases, proceedings against the offender may be brought for the penalty offence, where, for example, additional evidence has emerged as to the seriousness of the offence.

Power to photograph perpetrators issued with a PND

Police officers, PCSOs (where designated) and accredited persons now have the power to photograph perpetrators who have been issued with a penalty notice away from the police station under Para 21, Sched 8, of The Serious Organised Crime and Police Act 2005, thereby greatly reducing the ability of suspects to deny that they were the person in question.

TAKING ACTION – A SUGGESTED APPROACH

PNDs provide an excellent tool in dealing effectively with low level offending and anti-social behaviour. They should be used to complement other action and be included in local campaigns and crackdowns on criminal and nuisance behaviour. They can be used effectively alongside other enforcement activity, e.g. dispersal orders, environmental clean-ups, and action on youth nuisance and alcohol-related disorder.

Local agencies should work with their local media to ensure that all action taken is publicised. This reassures our communities that swift and effective action is being taken against perpetrators of anti-social behaviour.

£80 UPPER TIER OFFENCES - PENALTY NOTICE FOR DISORDER

Offence(s)	Legislation	Max Penalty	Recordable notifiable	Guidance notes	
1+	Wasting police time or giving a false report	s5(2) Criminal Law Act 1967	Level 4 (£2,500) 6 months	Recordable	Useful for false reporting of crimes
2+	Using a public electronic communications network in order to cause annoyance, inconvenience or needless anxiety	s127(2) Communication Act 2003	Level 5 (£5,000)	Recordable	
3	Knowingly giving a false alarm to a person acting on behalf of a fire and rescue authority (England only)	s49 Fire and Rescue Services Act 2004 (England only)	Level 3 (£1,000)	Recordable	
4	Knowingly giving a false alarm to a fire brigade (Wales only)	s31 Fire Services Act 1947 (Wales Only)	Level 3 £1,000	Recordable	
5	Behaviour likely to cause harassment alarm or distress	s5 Public Order Act (POA) 1986	Level 3 (£1,000)	Recordable and notifiable	A crime report is always required for this offence
6+	Throwing fireworks in a thoroughfare	s80 Explosives Act 1875	Level 5 (£5,000)		
7	Disorderly behaviour whilst drunk in public	s91 Criminal Justice Act 1967	Level 3 (£1,000)	Recordable	Accredited persons may not issue. In most cases arrest will be necessary
8+	Retail theft	s1(1) and (7) Theft Act 1968	Statutory max fine 6 months	Recordable and notifiable	(P)CSOs and accredited persons may not issue. Only applies for retail thefts under £200 in value. Not normally over £100. A crime report is always required for this offence.
9+	Destroying or damaging property	s1 Criminal Damage Act 1971	Level 4 (£2,500)3 months	Recordable and notifiable	Accredited persons may not issue. Only applies to damage under £500 in value. Not normally over £300 unless public property. A crime report is always required for this offence.
10	Sale of alcohol to a person under 18 (anywhere, not just in licensed premises)	s146(1) and (3) of the Licensing Act 2003 (c17)	Level 3 (£1,000)	NA	Applies to staff only. Licensees should be subject of a summons to ensure licensing considerations are addressed.

+ indicates to be charged by the CPS

£80 UPPER TIER OFFENCES - PENALTY NOTICE FOR DISORDER

Offence(s)	Legislation	Max Penalty	Recordable notifiable	Guidance notes	
11	Purchase of alcohol by a person under 18	s149(1) of the Licensing Act 2003 (c17)	Level 3 (£1,000)	Recordable	
12	Purchase or attempting to purchase alcohol on behalf of a person under 18 (includes licensed premises and off-licenses)	s149(3) and (4) of the Licensing Act 2003 (c17)	Level 3 (£1,000)	Recordable	
13	Consumption of alcohol by persons under 18 or allowing such consumption	s150(1) and (2) of the Licensing Act 2003 (c17)	Level 3 (£1,000) For allowing level 5 (£5,000)	Recordable	
14	Delivery of alcohol to a person under 18 or allowing such delivery	s151 of the Licensing Act 2003 (c17)	Level 3 (£1,000)	Recordable	
15+	Breach of fireworks curfew (11pm-7am)	Fireworks Regulations 2004 Fireworks Act 2003 s11	Level 5 (£5,000)	Recordable	
16+	Possession of adult firework in public place by under 18+	Fireworks Regulations 2004 Fireworks Act 2003 s11	Level 5 (£5,000)	Recordable	
17+	Possession of category 4 firework	Fireworks Regulations 2004 Fireworks Act 2003 s11	Level 5 (£5,000)	Recordable	
18	Selling or allowing alcohol to be sold to a drunken person on relevant premises*	s141 of the Licensing Act 2003 (c17)	Level 3 (£1,000)	Recordable	
19	Obtaining alcohol for a person who is drunk	s142 of the Licensing Act 2003 (c17)	Level 3 (£1,000)		

+ indicates to be charged by the CPS

* relevant premises are licensed premises, premises with club premise certificates and temporary activity premises. Does not include off-licenses.

£50 LOWER TIER OFFENCES - PENALTY NOTICE FOR DISORDER

	Offence(s)	Legislation	Max Penalty	Recordable notifiable	Guidance notes
20	Trespassing on a railway	s55 British Transport Commission Act 1949	Level 3 (£1,000)	NA	
21	Throwing stones etc at trains or other things on railways	s56 British Transport Commission Act 1949	Level 3 (£1,000)	N/A	
22	Being drunk in a highway, other public place or licensed premises	s12 Licensing Act 1872.	Level 1 (£200)	N/A	Accredited persons may not issue. In most cases arrest and/or medical treatment may be necessary
23	Consuming alcohol in a designated public place, contrary to requirement by constable not to do so	s12 Criminal Justice and Police Act 2001	Level 2 (£500)	Recordable	A power of confiscation now applies to both opened and unopened drinking vessels.
24	Consumption of alcohol by a person under 18 in a bar(1), or allowing this(2)	s169E(1) and s169E(2) Licensing Act 1964	Level 3 (£1,000)	N/A	
25	Leaving/depositing litter	s87(1) and (5) of the Environmental Protection Act 1990	Level 4 (£2,500) 6 months	N/A	(P)CSOs and Accredited Persons may not issue (have power to issue local authority FPN's for this offence)

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Legislation on fine levels from HSMO is available at the following link: [Statutory Instrument 2004 No. 2468 The Penalties for Disorderly Behaviour \(Amount of Penalty\) \(Amendment No.2\) Order 2004](#)



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For further information please visit
www.respect.gov.uk
ActionLine 0870 220 2000

