

Fixed Penalty Notice Policy



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Owner: Visitor Operations

Fixed Penalty Notice Policy

1. Purpose and Background

In 2014 the Scottish Parliament approved the Regulatory Reform (Scotland) Act 2014 which amongst many things amended the Environmental Protection Act 1990 to give Loch Lomond & The Trossachs National Park Authority (the **Park Authority**) the power to issue fixed penalty notices (**FPNs**) for the flytipping offence under section 33(1) and the littering offence under section 87 of the Environmental Protection Act 1990.

This policy sets out the approach the Park Authority will take in using powers granted under sections 33A and 88 of The Environmental Protection Act 1990 for the issuing of FPNs.

A FPN allows a person alleged to have committed an offence under the Environmental Protection Act 1990 to pay a fine and not face being convicted for the offence. FPNs need to be justified, in the public interest and based on strong evidence. Giving the notice means that the person has 14 days following the date of the notice to pay the fixed penalty, and if they do so they will not be convicted of the offence.

2. Definitions

Authorised Persons: An officer of the Park Authority authorised in writing by the Park Authority to issue fixed penalty notices under sections 33A and 88 of the EPA in relation to the offences committed under sections 33(1) and 87 of the EPA committed in the area designated as the National Park for which the Park Authority is established.

Controlled Waste Order: The Controlled Waste (Fixed Penalty Notices) (Scotland) Order 2014.

EPA: The Environmental Protection Act 1990.

Litter Order: The Litter (Fixed Penalty Notices) (Scotland) Order 2014.

Park Authority: Loch Lomond & The Trossachs National Park Authority.

For the purposes of this policy and associated procedures relating to powers granted under The Act the Park Authority applies the following definitions:

Fly Tipping: The illegal dumping of waste - from a bin bag of household waste to large quantities of domestic, commercial or construction waste.

Litter: Waste in the wrong place in the wider environment. It can be all kinds of man-made materials.

3. Issuing fixed penalty notices

The powers granted to the Park Authority under the Regulatory Reform (Scotland) Act 2014 are delegated to officers in accordance with sections 33A and 88 of the EPA.

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Officers of the Park Authority who are Authorised Persons in terms of the EPA will be trained in the relevant systems and processes in order to undertake their duties in line with the Park Authority Visitor Management Enforcement Policy and the FPN Procedure.

The Park Authority will use which ever option is deemed most appropriate by the Authorised Person at the time of the offence to issue an FPN;

1. On the spot – at the time of the offence by handing the FPN to the person committing the offence.
2. By post or hand – after the Authorised Person has returned to the office or further enquiries have taken place.

4. Deciding when to issue a notice

Authorised Persons on witnessing an offence will be required to make a decision in the field as to whether to issue a notice.

This decision must be based on whether there is suitably strong evidence that the responsible person has committed the offence and if it is in the public interest to issue.

No member of staff will be expected to put themselves at any undue risk when issuing FPNs as part of their duties. These risks will be managed through the Park Authority's risk assessment and standard operating procedures and also the Unacceptable Behaviour Procedure.

All personal data recorded when issuing FPNs will be managed in accordance with the Data Protection Act 1998.

5. Reporting to the Procurator Fiscal

The Authority is a specialist reporting agency and will be able to submit reports on the failure to pay FPNs directly to the Crown Office and Procurator Fiscal Service through an online portal.

6. Related policies and procedures

The following should be read in conjunction with this policy;

FPN procedure

Visitor Management Enforcement Policy

Visitor Management Enforcement Standard Operating Procedure

Lone and Remote Working - Operating Procedure

Risk Assessment Policy

Dress Code and Personal Appearance Policy

Vehicle Use

Your Safe Driving Policy

Unacceptable Behaviour Policy

Procedure for Managing Unacceptable Behaviour

Complaints Handling Procedure

Data Protection Policy

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7. Policy review

This policy will be reviewed as necessary to reflect any changes in organisational requirements and powers granted under sections 33A and 88 of the EPA for the issuing of Fixed Penalty Notices FPNs for contravening section 33(1) relating to flytipping or section 87, relating to the offences of leaving litter.

8. EQIA

An initial screening process was carried out and no discriminatory effects were identified for any particular group. This will be monitored on an on-going basis.