

ENFORCEMENT PROTOCOL

ANTI SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014

BETWEEN

Cambridgeshire Constabulary AND East Cambridgeshire District Council

FOR JOINT WORKING ON

PUBLIC SPACE PROTECTION ORDERS (PSPO)

**Angel Drove Car Park Ely, Cambridgeshire Business Park Car Park, The Dock Car Park,
ELY
&
St George's Church (Church Lane), Harley Davidson memorial green open space
(Parsons Lane), Parsons Lane Recreation Ground (Parsons Lane), Littleport
&
Soham Footpath 102**

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VERSION CONTROL

Version	Author	Reason for change	Date
1.0	Nick Ball / Jon Hiron		09/08/17
2.0	Nick Ball/Jon Hiron	Incorporates provision for local authority officers to issue live FPN	21/08/2017

1. BACKGROUND

East Cambridgeshire District Council and Cambridgeshire Constabulary have agreed to work jointly to tackle anti-social behaviour related to dangerous driving in Ely and general youth related ASB in Littleport.

This is in addition to the first PSPO at footpath at 102 in Soham, which was implemented to tackle anti-social behaviour related to foul and abusive language/altercation and drugs. The Council introduced this PSPO from 7st March 2016 for three years at footpath 102 and adjacent areas at Ross Peers Sports Centre in Soham.

This enforcement protocol builds on and firms up the initial agreement between Council and Police from the first PSPO in Soham.

The Council have introduced Public Spaces Protection Orders from 1st October 2017 for three years at Angel Drove Car Park/Cambridgeshire Business Park Car Park/The Dock Car Park in Ely and at Littleport St George's Church, Harley Davidson/War Memorial open space, Parsons Lane Recreation Ground, Littleport.

The conditions for the three respective PSPO's are as follows;

Soham PSPO at Footpath 102

- (a) At Footpath 102
- Use the footpath as a thoroughfare only. Do not loiter so as to cause nuisance, harassment, alarm or distress, towards;
 - Other persons using the footpath,
 - Pupils, staff or visitors of Soham Village College,
 - Staff and visitors at Ross Peers Sports Centre.
 - Do not display threatening or intimidating behaviour , or use foul or abusive language, so as to cause nuisance, harassment, alarm or distress, towards;
 - Other persons using the footpath,
 - Pupils, staff or visitors of Soham Village College,
 - Staff and visitors at Ross Peers Sports Centre.
- (b) At Ross Peers Sports Centre
- Do not loiter or gather in areas outside or in the entrance to Ross Peers Sports Centre so as to cause nuisance, harassment, alarm or distress towards;
 - Staff and visitors to Ross Peers Sports Centre
 - Pupils, staff and visitors at Soham Village College.
- unless there to use the centre at that time;
- Do not loiter outside "The Isle" so as to cause nuisance, harassment, alarm or distress towards;
 - Staff and visitors to Ross Peers Sports Centre

- Pupils, staff and visitors at Soham Village College.

unless a pupil at Soham Village College instructed to attend or by appointment;

- Do not use foul or abusive language or threatening or intimidating behaviour; so as to cause nuisance, harassment, alarm or distress towards;
 - Staff and visitors to Ross Peers Sports Centre
 - Pupils, staff and visitors at Soham Village College.

The PSPO for Angel Drove/Cambridgeshire Business Park Car Park/The Dock Car Park has the following conditions:-

- Driving a motor vehicle at excessive speed causing or being likely to cause a nuisance to persons in the locality of the restricted area.
- When driving a motor vehicle causing repeated sudden and rapid acceleration of the motor vehicle causing or being likely to cause a nuisance to persons in the locality of the restricted area.
- Racing other motor vehicles causing or being likely to cause a nuisance to persons in the locality of the restricted area.
- Performing stunts using a motor vehicle causing or being likely to cause a nuisance and/or danger to persons in the locality of the restricted area. Performing stunts includes but is not limited to doughnutting, drifting, handbrake turns, wheel spins or any other motor vehicle related activities which cause or are likely to cause a nuisance and/or danger to persons in the locality of the restricted area. Descriptions of the activities of doughnutting, hand brake turns, drifting and wheel spins are set out in the schedule.
- Sounding motor vehicle horns other than in accordance with the Highway Code in a manner causing or being likely to cause a nuisance to persons in the locality of the restricted area.
- Playing amplified music in a motor vehicle causing or being likely to cause a nuisance to persons in the locality of the restricted area.
- Using loud and/or threatening and/or abusive language or otherwise intimidating another person in the locality of the restricted area.
- Dropping litter from a motor vehicle.
- Gathering in vehicles or parking vehicles in groups of two or more for the purposes of congregating and that may result in causing alarm, harassment or distress.

The Littleport PSPO has the following conditions;

- Do not play amplified music causing or being likely to cause a nuisance to persons in the locality of the restricted area.

- (b) Do not use loud and/or threatening and/or abusive language or intimidate another person in the locality of the restricted area causing or being likely to cause nuisance, harassment and distress.
- (c) Do not drop litter in the restricted area.
- (d) Do not spray graffiti on any surface in the restricted area.
- (e) Do not loiter or gather within the restricted area so as to cause nuisance, harassment and distress to persons in the locality of the restricted area.
- (f) It is an offence to continue to drink alcohol in this area when asked not to do so by a police officer, PCSO or any other authorised person.
- (g) It is also an offence to fail to surrender any alcohol, in an open or closed container, to a police officer, PCSO or any other authorised person when asked to do so.
- (h) Do not damage, efface or remove any signs or display boards in the designated area.
- (i) Do not urinate or defecate anywhere within the designated area.

Enhanced CCTV coverage is being introduced to the areas in both Ely and Littleport as a deterrent and enforcement tool. Procedures for handling CCTV evidence are dealt with later on in this Protocol.

2. ENFORCEMENT POLICY AND PROCEDURES

General Policy on the issuing of Fixed Penalty Notices (FPN) for PSPO breaches

- a. *This policy shall be read in conjunction with East Cambridgeshire District Council's Corporate Enforcement Protocol (Legal November 2014).
The use of FPNs for breaches of conditions in the PSPO's will be in accordance with the guidance issued by the Anti-social Behaviour, Crime and Policing Act 2014.*

A FPN will only be issued where an Authorised Officer has reason to believe a person has committed a relevant offence and that sufficient evidence exists to warrant and support a successful prosecution such that if a fixed penalty was not available the matter would be preceded within the Courts.
- b. *A FPN will not be issued where the alleged offender appears unable to understand the process. ECDC legal / management will then consider whether it is appropriate to proceed with the matter in the Courts.*
- c. *A FPN must be issued to and received by the offender. If an offender refuses to give their name and address their identity can be established through other means, i.e. by the police. The offender may still be provided with the opportunity to avoid prosecution by payment of the fixed penalty through the issuing of a FPN.*
- d. *A FPN will not be appropriate where:*

- *Despite the best efforts of the Authorised Officer to inform the offender, the offender appears unable to understand the action being proposed.*
- *The suspect is a non-resident foreign national, as the penalty will not be enforceable*
- *No satisfactory address exists for enforcement purposes, for example where the officer has reason to believe that the suspect is homeless or sleeping rough.*
- *Where it is known that the offender has previous convictions or a caution for the offence, or has been previously issued with a number of FPNs, particularly if they have not been paid, where taking action through the Courts will be the appropriate action.*

2. FPN issue process

The agreed format for dealing with a breach of the Public Spaces Protection Order is:

It is an offence for a person, without reasonable excuse, to;

- Do anything that the person is prohibited from doing by a PSPO (Other than consume alcohol-see below); or
- Fail to comply with a requirement to which the person is subject under a PSPO

It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking. Any person who consumes alcohol in an area where this has been prohibited could be required to hand over any containers believed to contain alcohol. If alcohol is confiscated, it can also be disposed of by the person who confiscates it.

If a person is in breach of a PSPO, they commit an offence (s63, s67) and the disposal is a summary fine and refers to a reporting for summons. However, section 68 allows the Police or local Authority to issue a FPN where appropriate.

The following procedure will apply when an authorised officer is looking to issue FPN.

- The Authorised Officer will approach the offender and identify him/herself. The offender will be informed of the offence committed and the intention of the Council to pursue formal action to prosecute the offender for the offence. The offender will then be requested to provide their name, address and date of birth. The offender will be notified that they may be issued with a FPN for that offence with the opportunity for the offender to avoid prosecution by payment of a fixed penalty. A notice of intention to prosecute will be completed and issued to the offender (if possible). On return to the office the offender's details will be verified as far as practicable. A FPN will then be issued if the FPN criteria are fulfilled and there is sufficient evidence to pursue prosecution proceedings.*

- b. Failure to identify a suspect prior to issue could invalidate enforcement. Police assistance will be requested where necessary since failure by a person to provide an officer proposing to issue a FPN with their name and address, or the giving of false details is a specific offence.*
- c. Any interview and questioning must be consistent with the practice and procedures established by the Police and Criminal Evidence Act 1984, Code C.*
- d. Where there is reliable witness testimony and an Authorised Officer has not directly witnessed the offence, an Authorised Officer may still issue a notice of intention to prosecute and consideration given to issuing a FPN for the offence committed.*
- e. If the offender either refuses to accept a FPN for the offence committed, or, having accepted such a notice, does not pay before the end of suspended enforcement period, the offence will in all cases be dealt with through the Courts. If payment of a FPN notice is received after prosecution proceedings have been implemented, in the interim period before the case is due to be heard, a senior officer will consider the merits of accepting the full FPN payment or continuing with proceedings in the Court.*
- f. The above process shall also apply to offences committed from moving vehicles (e.g. littering) provided that it can be evidenced who in the vehicle committed the offence and vehicle registration details can be established*
- g. Payment of a fixed penalty by instalments will not be accepted. In cases of exceptional and demonstrable hardship, and although there being no legal basis for this consideration, a senior officer may extend the suspended enforcement period and delay the issue of summons.*

With regard the potential to issue FPN to juveniles separate guidance is contained in Appendix

Within East Cambridgeshire the Police will issue most FPNs in real time and direct to the offender. In certain scenarios designated council officers will also issue FPN live when they witness a breach. This would mainly be around the car parks at times when the wardens are on duty if breaches occur.

Where Police issue the FPN then a PC/PCSO/PS will send a copy of the FPN to the Council to track payment of the fine. This could be by hard copy or via email to: pspo@eastcambs.gov.uk. Where the FPN is issued by a council officer then this will be processed internally by the authority.

The Council will look to issue FPN retrospectively using CCTV evidence and witness statements for certain designated offences (particularly car park offences).

Where a breach of a PSPO is witnessed a Council Officer/PC/PCSO/PS can issue a

FPN (Appendix B) to the offender. The Council will track payment of the FPN via a database and will follow up on non payment.

Breach of the order without reasonable excuse is a criminal offence, subject to a FPN or prosecution. On summary conviction, an individual would be liable to a fine not exceeding level three on the standard scale.

A process flow map detailing the process of enforcing a PSPO is shown in [Appendix C](#).

Prosecution and PSPO

CPS **will not** prosecute any PSPO breaches in any circumstances and the Council will always be the prosecuting agency as per the legislation.

The monthly ASB problem solving group and the District Council are notified via the following dedicated email address at the District Council:

pspo@eastcambs.gov.uk

The notification (FPN) will have the **name, address and date of birth of the offender and will include an evidential statement detailing the breach including any CCTV evidence (see Section 3)**, together with any relevant information e.g. care/of address that may help in issuing a fixed penalty notice. The District Council will record any action taken with regard to FPNs on a secure database and link to the RIK Group where appropriate.

A stream-lined administrative system will be established for the management of issued penalty notices with police assurance that reports of breaches will be sent to the District Council within 3 days of the breach occurring. Administration costs involved in processing penalty notices will be met by the District Council and any revenue generated from the issue of additional notices will be directed to the District Council.

3. CCTV EVIDENCE

If the order is breached but no direct issue of FPN is possible, evidence will be assembled by both Constabulary and Council with view to retrospective issue of FPN. This process is where CCTV evidence can be crucial.

Where the offence is reported to ECDC or Constabulary and there is no real time attendance of officers and issue of FPN then positive identification via CCTV that places the offender at the scene according to witness statements can be sought.

This applies largely where Constabulary/Council officers have not directly witnessed the incident and therefore complaints/reports will need to be corroborated with CCTV evidence.

Constabulary and Council officers will be able to directly access CCTV images from the Angel Drove/The Dock network.

Otherwise the CCTV evidence can be used by the authorities as evidence to be published and circulated in local media and other channels in an attempt to identify the offender(s).

For CCTV evidence of breaches of conditions at Angel Drove Ely a pool of officers from the Council and Constabulary will work in partnership to retrieve and review CCTV footage with a view to assembling an evidence bundle.

Resulting CCTV evidence will then be assembled and included with the other details specified at Section 2 before processing a FPN retrospectively.

4. INFORMATION SHARING

All parties to this MOU can share certain sets of personalised and depersonalised data according to the Data Protection Act. The authorities and the other partners are signed up to the Community Safety Partnership Information Sharing Agreement (ISA).

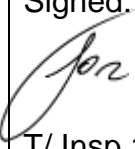

Data for the purposes of securing evidence and conviction of offences may be freely shared under the terms of the ISA.

5. REVIEW OF THE MOU AND MONITORING OF THE PSPO'S

Ongoing monitoring of the effectiveness of the Order will take place over the first six months initially and thereafter at further six month periods.

A joint performance monitoring arrangement will be established which will include the data on arrests, issuance of notices and warnings. This data and information will be used by Commercial Services Committee AND Community Safety Partnership to monitor the effectiveness of the Orders.

6. PARTNERS SIGNATURE

<p>Signed:</p>  <p>T/ Insp 1247 Jon Hiron Ely Operations Manager Ely Police Station Ely</p> <p>Date: //2017</p>	<p>Signed:</p>  <p>Nick Ball, Neighbourhood Support Officer, East Cambridgeshire District Council</p>
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APPENDIX A*Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)**Part 4 — Community protection**Chapter 2 — Public spaces protection orders***63 Consumption of alcohol in breach of prohibition in order**

- (1) This section applies where a constable or an authorised person reasonably believes that a person (P)—
- (a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or
 - (b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

In this section “authorised person” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

- (2) The constable or authorised person may require P—
- (a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;
 - (b) to surrender anything in P’s possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.
- (3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.
- (4) A requirement imposed by an authorised person under subsection (2) is not valid if the person—
- (a) is asked by P to show evidence of his or her authorisation, and
 - (b) fails to do so.

- (5) A constable or an authorised person may dispose of anything surrendered under subsection (2) (b) in whatever way he or she thinks appropriate.
- (6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

67 Offence of failing to comply with order

- (1) It is an offence for a person without reasonable excuse—
 - (a) to do anything that the person is prohibited from doing by a public spaces protection order, or
 - (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.
- (4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63).

68 Fixed penalty notices

- (1) A constable or an authorised person may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 63 or 67 in relation to a public spaces protection order.
- (2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the notice.
- (3) The local authority specified under subsection (2) must be the one that made the public spaces protection order.
- (4) Where a person is issued with a notice under this section in respect of an offence—
 - (a) no proceedings may be taken for the offence before the end of the period of 14 days following the date of the notice;
 - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

- (5) A fixed penalty notice must—
- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
 - (b) state the period during which (because of subsection (4)(a)) proceedings will not be taken for the offence;
 - (c) specify the amount of the fixed penalty;
 - (d) state the name and address of the person to whom the fixed penalty may be paid;
 - (e) specify permissible methods of payment.
- (6) An amount specified under subsection (5) (c) must not be more than £100.
- (7) A fixed penalty notice may specify two amounts under subsection (5)(c) and specify that, if the lower of those amounts is paid within a specified period (of less than 14 days), that is the amount of the fixed penalty.
- (8) Whatever other method may be specified under subsection (5)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under subsection (5)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).
- (9) Where a letter is sent as mentioned in subsection (8), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (10) In any proceedings, a certificate that—
- (a) purports to be signed by or on behalf of the chief finance officer of the local authority concerned, and
 - (b) states that payment of a fixed penalty was, or was not, received by the date specified in the certificate, is evidence of the facts stated.
- (11) In this section—
- “authorised person” means a person authorised for the purposes of this section by the local authority that made the order (or authorised by virtue of section 69(2));
- “chief finance officer”, in relation to a local authority, means the person with responsibility for the authority’s financial affairs.

APPENDIX B – FPN TEMPLATE

FIXED PENALTY NOTICE

Barcode and Number

Notice Number:

Customer Reference Number:



Anti-Social Behaviour, Crime and Policing Act 2014

Name:.....

Address:

Postcode: Date of Birth

I,An officer authorised by East Cambridgeshire

District Council have reason to believe that on(Date & time)

You or Your child committed the offence shown below:

.....

This notice offers you the opportunity to discharge any liability for the above offence by payment of a FIXED PENALTY.

If you pay the penalty of £100 within 14 days, no further proceedings will be taken.

If you do not pay the fixed penalty within that time, you may be prosecuted for the offence described above and if convicted, could receive a much larger fine or a court order.

Signed:

Print name..... (Authorised Officer)

Date:

Payment options on reverse side of this notice

Payment must be made to East Cambridgeshire District Council by one of the following methods quoting the above Customer and Notice Reference Number:

Debit/ Credit Card on line (24 hours) at: www.eastcambs.gov.uk/onlinepayments - choose the 'Sundry Debtor' option and use this 'Notice Number as the 'Invoice Number'.

Debit/ Credit Card over the telephone – call 01353 665555 9:00am to 5:00pm weekdays.

By Credit/ Debit Card at the Council's Customer Service Centres:

The Grange, Nutholt Lane, Ely, CB7 4EE– 9:00am to 5:00pm Monday to Thursday and 9:00am to 4:30pm on Friday

Through the post (cheque only) – cheques made payable to East Cambridgeshire District Council should be sent to:

The Grange, Nutholt Lane, Ely, CB7 4EE

APPENDIX C

The issue of FPNs to Juveniles

1. The issue of FPNs to Juveniles will take into account Government guidance “Enforcement officers: issuing fixed penalty notices” published 23 March 2015
2. The issue of FPNs for differing age groups will be as set out below:

Juveniles under the age of 10 years

- a. A FPN cannot and will not be issued to a juvenile under the age of 10 years
- b. Where an offence has been committed, the young offender's name, address and age shall be ascertained, together with that of their parents or legal guardian. The young offender will be informed that the offence will be shared with the local Youth Offending Team in accordance with the Data Protection Act 1998

Juveniles aged between 10 and 15 years

3. Other than in the circumstances set out below in (6), a young offender will not be issued with a FPN. The young offender's name, address and age shall be ascertained, together with that of their parents or guardian. If an Authorised Officer's view is that a FPN is appropriate for the offence committed, then a FPN shall only be issued in the presence of a parent or legal guardian.
4. Before the issue of a FPN the following factors shall be considered:
 - a. has a FPN been issued previously;
 - b. is a reprimand, warning or other sanction more appropriate; and
 - c. are there family circumstances or other vulnerabilities
5. In all cases, the Youth Offending Team and children's services should be consulted/informed
6. A FPN can be issued for the offence of littering by school pupils where it has been agreed with the school to issue them for littering during the lunch period. In all such cases the parents, legal guardian or school must be notified of the FPN issue as soon as possible.

Juveniles aged between 15 and 17 years

1. A FPN can be issued to a young offender in accordance with the procedures for adults, subject to the same considerations plus:
 - a. mental handicap; and
 - b. any signs of substance abuse
2. If the Authorised Officer is in any doubt regarding the age of a young offender, then the procedures set out for young persons between the ages of 10 and 15 shall be applied.

APPENDIX D - PSPO FPN PROCESS FLOW CHART

Council
lead

Police lead

END

YES

FPN database record
Is FPN paid within 14
days?

NO

Prosecute

24 hrs
max

Copy of FPN Paperwork is
forwarded to Local
Authority for tracking of
payment
(END)

START

PSPO

Officers identify breach

PSPO only offence

Other offences

FPN to be issued by
PC/PCSO for Local
Authority

Other Police
procedure

