

Fixed Penalty Notices from littering

Why have I been given a fixed penalty notice?

Birmingham residents regularly say they want their streets to be free of litter. Every year the council spends millions of pounds picking up litter that is just thrown on the floor. From cigarette ends to chip wrappers, it all costs money to clear up. Issuing fixed penalty notices is just one of the ways the council is trying to reduce litter on our streets.

Can I appeal a fixed penalty notice?

There are no formal grounds of appeal against a fixed penalty notice; this is because a fixed penalty notice is an invitation for you to effectively discharge your liability to the criminal offence of littering. In essence, this means that if you agree that an offence has been committed by you then by paying the fixed penalty you "buy off" your liability to prosecution by the council.

This method of dealing with offences not only saves the time involved for everyone (including the offender) in prosecuting cases at court, but the cost associated with a fixed penalty notice is likely to be substantially lower than any fine that can be imposed by the courts. The courts can impose a fine for littering up to a maximum penalty of £2,500.

What if I don't agree that I committed the offence?

If you don't agree that you committed the offence, it will be dealt with through formal prosecution via the courts. It will then be up to the court, on receiving evidence, to determine whether or not an offence was committed and therefore whether or not any penalty should be imposed.

Effectively this means that the formal court route becomes the mechanism for those wishing to appeal a fixed penalty. It should be noted, however, that the financial penalty imposed by the courts can be significantly greater than the amount of the original fixed penalty and you are likely to receive a criminal record.

I don't see why I should pay if there are no signs about littering in the area

The council is not required to place signs in every street, road, highway or open park space to inform people not to litter, or to inform them that litter patrols are operating in the area. Litter legislation has been in force many years and littering in many parts of the UK is at such levels that councils across the country are now actively issuing FPNs to people who inappropriately discard their rubbish.

Why should I pay a Fixed Penalty Notice when there were no litter bins nearby at the time?

As with signage, it is not feasible for the council to put litter bins in every street, road and highway, although every effort is made to place bins where they are most needed such as in town centres and parks and open spaces. Where bins are not provided it is up to everyone to act responsibly and either take their litter home or carry it until a litter bin is available.

I received a fixed penalty notice for dropping a cigarette butt, surely that can't be considered littering?

Litter includes not only cigarette butts and associated materials but chewing gum also. In many ways these items are more problematic and more expensive to clean up than other items of rubbish. Cigarette butts cannot be placed in litter bins because they will catch fire to them.

What else should I do?

Smokers are responsible for ensuring that they completely extinguish their cigarettes before placing them in the bin. Cigarette waste is considered the same as any other waste in terms of litter laws and you can be issued with a fixed penalty notice for not disposing of cigarette butts properly. Care should be taken to avoid any risk of fire and cigarette butts should be completely extinguished before being thrown into the bin.

There are a number of portable ashtrays available on the market that can be purchased and used to store cigarette butts until they can be disposed of safely and legally.

I wasn't given a warning, surely that is not fair?

We operate a no tolerance policy, and once the offence has been committed our officers have to issue fixed penalty notice as this discharges the liability to be taken to court for the littering offence.

Why was I given a fixed penalty when I offered to pick up the litter?

It is important to realise that the littering offence relates to the dropping of litter and walking away once you have dropped it. So, whether or not you volunteer to pick up your litter afterwards you have committed an offence and will be issued with a fixed penalty.

Where do the enforcement officers patrol?

The officers are tasked to areas of highest demand and will patrol wherever there is evidence of littering. It has been shown that town centres are hotspot areas and cigarette butts are the most common litter issue.

If I put it down a drain is that an offence?

Placing a cigarette end down a drain or in a stream is still an offence and will result in the issuing of an fixed penalty notice.

What happens if I refuse to pay the fixed penalty notice?

You will be prosecuted for the offence. A conviction in the magistrate's court can carry a fine of up to £2,500 for a littering offence, and you are likely to receive a criminal conviction.

Can I complain about the enforcement officer's behaviour?

If you feel that any of our officers' behaviour was unacceptable, please write to the address on your fixed penalty notice, or email fixedpenalty@birmingham.gov.uk and your complaint will be investigated.

You should be aware that making a complaint about officer conduct is treated separately to the incident of littering and, as such, you remain liable to prosecution unless you choose to pay the fixed penalty within the time specified.

Can I pay by instalments?

We do not accept payments by instalments for fixed penalty notices. In the case of financial hardship we may be able to offer an extended period of time in which to pay the fixed penalty. Should you wish to apply for an extension, you can do so by writing to the address on your fixed penalty or by emailing fixedpenalty@birmingham.gov.uk. It should be noted that the maximum extension we can offer is 7 weeks.

Why was my encounter with the enforcement officer being recorded and can I obtain a copy of the footage?

Encounters between members of the public and our officers are recorded on our officers' body worn video cameras. These cameras are not used to record the offences themselves but are used to record the subsequent encounters with members of the public as a health and safety aid.

If you want a copy of the footage of your encounter, you can [make a subject access request](#) to the council. More information about making a subject access request can be found on our website.

Is there a discount if I pay my fixed penalty early?

Fixed penalties are set by our Licensing and Public Protection Committee in accordance with government guidance. We do not offer any discounts for early payment and officers are unable to offer any reduction in the price of the fixed penalty.

I dropped my litter on privately owned land, surely the council cannot issue a fixed penalty for this?

Under the littering legislation, The Environmental Protection Act 1990, it is an offence to drop litter on any land which is open to the air to which the public have access. This is irrespective of whether or not the land is in public (council) or private ownership.

There is, however, a statutory defence where a person can show that their litter was dropped with the consent of the owner, occupier or other person having control of the land on which the litter was deposited. Where a person wishes to explore this defence then they must provide the council with written evidence from the land owner of their consent to deposit litter on their land.

In practice, we have found very few landowners who have been willing to allow litter to be dropped on their land.

I did not know it was an offence to drop litter. It was an accident, if I had known it was an offence I would not have done it.

Government guidance refers to the term “accidental littering” and recommends that officers do not issue fixed penalty notices in cases of accidental littering. The term “accidental littering” applies to circumstances where litter is dropped without intent eg something falls from a person’s pocket whilst they are walking along a street without their knowledge.

This term does not apply to circumstances where a person did not know that littering was an offence eg “I did not know that a cigarette butt was litter. I would not have dropped it if I had known this.”

Officers are trained to assess whether or not litter was dropped accidentally or intentionally. In cases of accidental littering, officers will make members of the public aware of incident littering and will give them an opportunity to rectify the matter. Where members of the public disregard an officer's request and fail to pick up their litter then a fixed penalty notice may be issued.