



Use of Fixed Penalties in enforcement – Animals (Penalty Notices) Bill

Ensuring animals have a good life by advocating on their behalf

Key facts...

- ★ **Fixed Penalty Notices (FPNs) are intended to bridge the gap between advice and prosecution for an offence under various pieces of legislation.**
- ★ **They can be effective and mean a response to an issue can be quick and lead to less pressure on the Courts Service.**
- ★ **Enforcement bodies can deduct the costs for enforcing FPNs so using them could be cost neutral and save the agency money they would spend on investigating and prosecuting complaints.**
- ★ **The Bill offers a range of situations for FPNs to be used from puppy and kitten breeders, through to farmers, zoo keepers and horse owners.**
- ★ **The RSPCA welcomes the introduction of this Bill, as a potentially quicker way to enforce animal welfare laws; however this is essentially an enabling Bill and more discussion is needed on how the proposals will be applied.**

What does the Animals (Penalty Notices) Bill do?

The Animals (Penalty Notices) Bill¹ is an enabling Bill giving the Secretary of State the opportunity to introduce legislation in the future that allows the use of Fixed Penalty Notices (FPNs) for certain breaches of animal health and welfare legislation. FPNs will allow statutory enforcement officers, such as local authorities, to issue fines of up to £5,000 to people for various offences, rather than taking them to court. It provides an additional mechanism for dealing with individuals and can be used alongside warning notices for minor infringements and prosecution for the worst offences.

The Bill sets out the legislation under which the new proposals could be used:

- Animal Welfare Act Regulations, such as pet breeders who neglect to include their licence number when advertising puppies or kittens for sale, fail to maintain appropriate records, or fail to ensure that puppies are microchipped before being rehomed.
- Legislation under the European Communities Act 1972, such as farmers who transport animals that are not fit for the journey or transporting animals in such a way that is likely to cause unnecessary suffering.
- Legislation under the Animal Health Act 1981, such as farmers who fail to complete post-movement TB testing in a low-risk area.
- The Zoo Licensing Act 1981, such as zoos who fail to comply with a condition imposed by a local authority.
- The Animal Welfare Act 2006, such as horse owners who tether their horse in such a way that their basic needs cannot be met.
- The Dangerous Dogs Act 1991, such as a person not keeping their dog under control in a public place.
- The Dangerous Wild Animals Act 1976, such as a person keeping a proscribed dangerous animal without a licence.

The Bill has a reporting mechanism so that there is a record kept of the FPNs issued and passed on annually to the Secretary of State, who then has to issue a report of FPNs used. The RSPCA welcomes this as it should convey the effectiveness, uptake and impact of FPNs in solving different animal welfare problems on the various pieces of legislation laid out above.

¹ <https://bills.parliament.uk/bills/2914>

What is a Fixed Penalty Notice?

Fixed Penalty Notices (FPNs) provide a proportionate, consistent and targeted measure for dealing with breaches of certain animal health and welfare laws. Like cross compliance, which was a method of ensuring farmers abided by certain baseline farm animal standards by threatening to withdraw the subsidies paid to them if breaches occurred, FPNs are intended to reform the legislative enforcement framework by offering a new enforcement method other than prosecutions, bridging the gap between advice and prosecution. One benefit of FPNs is they can enable an enforcement body to respond to an issue quickly and they can also lead to less pressure on the courts service. FPNs can only be issued by statutory inspectors such as the police or Inspectors under the Animal Welfare Act 2006. The RSPCA does not issue FPNs, and will not be able to issue them under the proposals in this Bill.

If a FPN is issued there will be a maximum fine of £5000 and a time limit of 28 days before any further enforcement action could be taken if the FPN is not paid. The fine can be halved if paid within 14 days. The level of the fine will be dependent on various factors such as the duration and seriousness of the offence and any mitigating behaviour adopted. Should the FPN not be acted upon further enforcement measures including prosecution could occur.

How are they currently used?

Presently, FPNs are used for a wide range of offences, but most commonly for motoring offences such as speeding, traffic light violations, driving without insurance and failing to wear a seat belt. They are currently used for animal welfare offences for breaches of the Microchipping of Dogs (England) Regulations 2015. Penalty Notices for Disorder (PNDs) are similar and used for a range of anti-social behaviour offences such as littering, allowing dog fouling, urinating in a public place, letting your dog off its lead in a restricted area and fly-tipping.

Some enforcement bodies find them quite resource intensive especially if the money raised is not ring-fenced, reducing the incentive to use them and reinvesting the fines in that particular service.

Can FPNs benefit animal welfare enforcement?

FPNs can be a useful, additional, tool for enforcement agencies to use to tackle cruelty towards animals as it means action can be taken to address an issue without having the costs, time and welfare impacts of waiting for a court case. They are already used quite regularly for dealing with breaches of dog identification controls. However the RSPCA would not want to see these replace other actions and welcomes the fact that if FPNs are not paid in time other options, such as being taken to court, can occur.

It is important that the enforcement bodies have the resources and training to use FPNs appropriately and effectively. Monies collected under FPNs are not ring-fenced but the enforcement agency such as the local authority can deduct the costs of administering the FPN. So the local authority could find the use of FPNs helpful to solve local issues such as inappropriate horse tethering that is costing it money (such as through public complaints, traffic problems) and do so at a cost neutral manner as the time of the enforcement agent can be recovered from the fine. This may ensure a better uptake on the use of FPNs and likely to see benefit to the local community and greater public confidence in reporting animal welfare problems.

Conclusion

The RSPCA welcomes the introduction of this Bill. We welcome the keeping of records, the ability for the enforcement body to deduct costs before handing on the fine to the Treasury and the legislation that it is proposed to cover, However we believe that as this is an enabling Bill, more discussion is needed when secondary legislation is laid on which areas will be prioritised and what offences will be covered.