

Appendix 1:

Fixed Penalty Notice Representations Policy

Although no statutory requirement exists to provide a formal appeals process, it is necessary to implement a system which allows recipients of a fixed penalty to register a complaint by making a representation in writing to the issuing Department on matters relating to the issued fixed penalty in regard to:

Legality

Was the fixed penalty issued to the correct person?

Does the fixed penalty contain the correct information gathered by the authorised officer?

Was the correct fixed penalty used in this circumstance?

Evidence

Can the Council proceed to the Court based on the evidence gathered?

Is there evidence that supports the possibility we have incorrectly identified the defendant?

Are we sure we have exhausted all avenues of investigation which may have influenced our decision NOT to have issued the fixed penalty?

Mitigating Circumstances

Is the defendant infirm, incapacitated or vulnerable to an extent to which the fixed penalty would be seen to be “not in the public interest” to proceed to court?

Was an offence committed due to the act or default of another person or company?

This informal appeals process allows recipient to make representations to Environmental Enforcement Services within 14 days of receiving the fixed penalty. The appeal will only be considered on the grounds given above or similar scenarios. The following examples would not be considered grounds for appeal:

“I didn’t know it was against the law”

“You didn’t warn me before you issued the fixed penalty”

“I can’t afford to pay the fine”

“The officer who issued the ticket was very rude and insulting”

This final example would not be considered grounds for appeal but would be recorded a stage one complaint under the Council’s corporate complaints procedure and therefore be considered under those guidelines.

On receipt of the appeal in writing, the reviewing officer (Designated Service Manager within Environment) will make a decision to uphold or reject the appeal

based on the above criteria alone. The decision will be given to the defendant in writing via post or email at the earliest opportunity and no later than 10 working days from receipt.

If the appeal is received by the department on the 14th day from issue, the defendant will be allowed a further period of time to pay the fine if the appeal is rejected. The written confirmation of rejection will state when the defendant is required to pay.