

## SHG Fixed Penalty Notice Policy

### *Introduction:*

Currently on St Helena, most offences are dealt with by way of criminal prosecution or police caution, this means that for minor offences a conviction or police caution will be recorded as part of an offender's criminal record. The purpose of this policy is to complement and modernise existing law enforcement systems by introducing Fixed Penalty Notices (FPN) legislation for minor offences. FPNs are treated as civil penalties and can be used a method of avoiding a criminal record for an offender.

Presently no matter how minor an offence, a conviction or police caution will be recorded in the Criminal Record of an offender. In certain circumstances that record remains for the duration of a person's entire life. Fixed penalty notices can empower the Police Directorate and other Directorates/Agencies, such as Environmental, Fisheries, HM Customs, and Education, to deal with matters by way of a fixed penalty notice.

*Aim:* The aim is to use fixed penalty notices as an alternative to or prosecution.

### *Objectives:*

1. To provide efficient and cost effective justice.
2. To stop relevant minor offending being treated as criminal offending.
3. To divert minor offending from the court system.
4. To allow for minor offending to be addressed in a proportional way.
5. To continue the process of modernising the Criminal Justice System
6. To recommence the effective enforcement of specific offences, e.g. illegal parking

### *Policy:*

1. Fixed Penalty Notices (FPNs) are to be introduced to St Helena.
2. FPNs will operate on the following fundamental principles:
  - (i) They are a civil penalty imposed instead of a criminal penalty.
  - (ii) They can only be imposed where the evidential test for prosecution is met and the imposition of the FPN is in the public interest.
  - (iii) An individual issued with a FPN may be prosecuted for the offence if they:
    - a. ask to be tried for the offence; or
    - b. fail to pay the penalty within the period stipulated in the notice and the Crown Prosecutor decides to proceed with charges.
3. FPNs should be available for the same offences or their equivalent as applied in the jurisdiction of England and Wales unless there are local reasons for them not to be.
4. FPNs should also be available for other relevant minor offences in St Helena, e.g. littering, fishing, environmental, school attendance and administrative infringements. The offences suitable for a FPN and the penalties would be specified in Regulations.

5. As FPNs are a civil penalty they are not recordable as a criminal conviction and for vetting purposes are not required to be disclosed.
6. FPNs can be used by authorised enforcement officers other than the police for relevant offences.
7. The system created through this policy for FPNs, as an alternative to punishment, should be the only FPN system on St Helena.
8. FPNs should have the same time limit as Prosecution for the underlying offence. They should also be available for prosecution of ongoing matters at the time of the introduction of the Regulations.
9. The conditions for the imposition of a Fixed Penalty Notice should follow those in the England and Wales for the relevant offence unless there are local reasons not to do so.
10. The Ordinance creating FPNs should contain enabling provisions for relevant Secondary Legislation. This should include where appropriate the following:
  - (i) Offences for which FPNs can be used.
  - (ii) Amount of FPNs and the option for reduced amount if paid promptly.
  - (iii) Conditions for the imposition of FPNs for the relevant offence.
  - (iv) Who can issue an FPN and for which offence can they do so.
  - (v) How and where an FPN can be paid.
  - (vi) The time for an FPN to be paid.

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