

# Isle of Wight Council's Operational Strategy for the Use of Fixed Penalty Notices for Environmental Offences

## Introduction

The Isle of Wight Council is committed to providing a safe, clean and pleasant environment for its residents and visitors to enjoy.

It has been identified through resident surveys that many of the issues high on the list of concerns can be enforced by the use of fixed penalty notices and ultimately prosecution through the courts.

As a result The Council has adopted an Enforcement Policy where fixed penalty notices will be the first stage of enforcement for a number of environmental offences. The Document entitled 'The Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences' provides the framework for dealing with these offences.

Fixed penalty notices provide a quick and effective way of dealing with environmental offences, and are an alternative to prosecution.

A fixed penalty is not a fine. Payment of the penalty by the recipient discharges the recipient's liability to conviction for the offence for which the fixed penalty notice was issued. It does not constitute an admission of guilt, but removes the possibility of the offender obtaining a criminal conviction if paid.

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# 1. General

1. A fixed penalty notice should be issued only where;
  - there is sufficient evidence to support a successful prosecution in a court of law.
  - the alleged offender is compliant and able to understand what is going on, and
  - there is sufficient evidence as to the person's identity and place of residence.
2. Fixed penalty notices are designed to deal with low level offences.
3. Fixed penalty notices will normally be issued by the officer witnessing the offence. However, a fixed penalty notice can be issued if sufficient evidence has been received from a reliable witness.
4. Interviewing and questioning must be consistent with the practice and procedures established by the Police and Criminal Evidence Act 1984, Code C.
5. Where an offender is not co-operative, consideration should be given to alternative enforcement.
6. Only officers who have been trained and authorised will be able to issue fixed penalty notices. Some officers may only be authorised to serve certain fixed penalty notices.

## 2. Scope

### 2a. Littering

1. The Environmental Protection Act 1990 (Section 87) states If a person “throws down, drops or otherwise deposits in any place to which this section applies, and leaves it, he shall be guilty of an offence”.
2. Litter is not defined, but includes cans, bottles, confectionery wrappers, food and drink containers, chewing gum, plastic bags, till receipts, left over food, cigarette and cigar ends and flyers.
3. The offence applies only when litter is dropped and left in places which are open to the air, including private open land, and land covered by water.
4. A person does not commit a littering offence if they leave litter on their own land or if they have the permission of the landowner to leave litter.
5. Powers to issue fixed penalty notices are provided by section 88(1) of the Environmental Protection Act 1990.
6. All fixed penalty notices for littering offences shall be issued in line with the ‘Fixed Penalty Notice Procedure – Littering’ which has been attached as appendix A.
7. The amount of the fixed penalty notice has been set in accordance with legislation and is detailed in section 7 of the Council’s document titled ‘Isle of Wight Council’s Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences’.

## 2. Scope

### 2b. Dog Fouling

1. Article 3 (1) of the Fouling of Land (Isle of Wight) Order 2008 states 'if a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless -
  - a. He has a reasonable excuse for failing to do so;  
or
  - b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.'
  
2. Article 3 (2) of the order states 'nothing in this Article applies to a person who -
  - a. Is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948;  
or
  - b. Has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects in respect of a dog trained by a prescribed charity and upon which he relies for assistance.'
  
3. This order applies to all land within the administrative area of the Isle of Wight Council which is open to the air (including covered land which is open to the air on at least one side) and to which the public are entitled or permitted to have access (with or without payment) but does not include Forestry Commission Land and land designated by the Secretary of State as land to which is not subject to the Order.
  
4. Authorised officers must take into account Article 3 (3) of the Order which states 'for the purpose of this section -
  - a. a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time

unless at the time some other person is in charge of the dog;

- b. placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land; and
- c. being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces, shall not be a reasonable excuse for failing to remove the faeces.'

5. A person who is guilty of an offence under Article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

5. The Dog Control Orders (Prescribed Offences and Penalties, Etc) Regulations 2006 provides the powers to local authorities to issue fixed penalty notices for this offence.

7. All dog fouling fixed penalty notices shall be issued in line with the 'Fixed Penalty Notice Procedure – Dog Fouling' which has been attached as appendix B.

8. The Fouling of Land by Dogs (Isle of Wight) Order 2008 replaces the Dogs (Fouling of Land) Act 1996.

## 2. Scope

### 2c. Dogs Exclusion

1. Article 3 (1) of the Dogs Exclusion (Isle of Wight) Order 2008 states 'a person in charge of a dog shall be guilty of an offence if during the period specified in schedule 2 he takes the dog onto, or permits the dog to enter or to remain on, any land to which this order applies unless –
  - a. He has a reasonable excuse for failing to do so;or
  - b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.'
  
2. Article 3 (2) of the order states 'nothing in this Article applies to a person who -
  - a. Is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948;
  - b. Is deaf (in respect of a dog trained by hearing dogs for deaf people (registered charity number 293358) and upon which he relies for assistance;or
  - c. Has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects in respect of a dog trained by a prescribed charity and upon which he relies for assistance.'
  
3. This order applies to a number of beaches. A list of exclusion areas have been attached as appendix D.
  
4. Authorised officers must take into account Article 3 (3) of the Order which states 'for the purpose of this section
  - a. a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at the time some other person is in charge of the dog.'

5. A person who is guilty of an offence under Article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
6. The Dog Control Orders (Prescribed Offences and Penalties, Etc) Regulations 2006 provides the powers to local authorities to issue fixed penalty notices for this offence.
7. All dog exclusion fixed penalty notices shall be issued in line with the 'Fixed Penalty Notice Procedure – Dog Exclusion' which has been attached as appendix C.
8. The Dog Exclusion (Isle of Wight) Order 2008 replaces the Isle of Wight Dogs on the Seashore Byelaws 2005.

## 2. Scope

### 2d. Failing to Have a Dog on a Lead

1. Article 3 (1) of the Dogs on Leads (Isle of Wight) Order 2008 states 'a person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies he does not keep the dog on a lead, unless -
  - a. He has a reasonable excuse for failing to do so; or
  - b. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.'
2. This order applies to each and every length of road including adjacent pavements and verges, within the administrative area of the Isle of Wight Council.
3. Authorised officers must take into account Article 3 (3) of the Order which states 'for the purpose of this section
  - a. a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at the time some other person is in charge of the dog.'
4. A person who is guilty of an offence under Article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
5. The Dog Control Orders (Prescribed Offences and Penalties, Etc) Regulations 2006 provides the powers to local authorities to issue fixed penalty notices for this offence.
6. All failing to have a dog on lead fixed penalty notices shall be issued in line with the 'Fixed Penalty Notice Procedure – Dog not on a Lead' which has been attached as Appendix E.
7. The Dogs on Leads (Isle of Wight) Order 2008 replaces The Isle of Wight Council (Various Streets, Isle of Wight) (Control of Dogs on Road) Consolidation Order 1995.

## 2. Scope

### 2e. Smoke Free

1. The Health Act 2006 makes provisions for the prohibition of smoking in certain premises, places and vehicles.
2. Section 7 (1) of the Health Act 2006 states 'It is the duty of any person who occupies or is concerned in the management of smoke-free premises to make sure that no-smoking signs complying with the requirements of this section are displayed in those premises in accordance with the requirements of this section.'
3. Section 7 (2) of the Health Act 2006 states 'A person who smokes in a smoke-free place commits an offence.'
4. Section 9 (1) provides the powers for authorised officers to issue fixed penalty notices for these offences. Schedule 1 of the same Act makes further provision about fixed penalties.
5. A fixed penalty notice should only be issued to a person smoking in a smoke free place if reasonable steps have been taken to prevent the person smoking.
6. All fixed penalty notices for smoke free offences shall be issued in line with the 'Fixed Penalty Notice Procedure – Smoke Free' which has been attached as Appendix F.
7. The amount of the fixed penalty notices for each offence have been set in accordance with Legislation and are detailed in section 7 of the Council's document titled 'Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences'.

## 2. Scope

### 2f. Graffiti

1. Graffiti is controlled by Section 1(1) of the Criminal Damage Act 1971 (c. 48) (damaging property etc) which includes the painting or writing on, or the soiling, marking or other defacing of, any property by whatever means.
2. A fixed penalty notice should only be considered for minor graffiti offences (e.g. a singular act of name writing, or scratching). Any large scale graffiti, including racial and/or religious offensive graffiti, shall be referred to the Police.
3. The issuing of all fixed penalty notices for graffiti shall only take place after full consultation with Hampshire and Isle of Wight Constabulary.
4. Section 43(1) of Anti Social Behaviour Act 2003 provides powers to Local Authorities to issue fixed penalty notices for low level graffiti offences.
5. Fixed penalty notices for graffiti offences shall be issued in line with the 'Fixed Penalty Notice Procedure – Graffiti' which has been attached as Appendix G.
6. The amount of the fixed penalty notice for this offence has been set in accordance with legislation and is detailed in section 7 of the Council's document titled 'Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences'.

## 2. Scope

### 2g. Fly Posting

1. Fly posting is the displaying of unauthorised advertisements on buildings, on land or on street furniture. This offence is controlled by the Town and Country Planning Act 1990 section 224(3) and The Town and Country Planning (Control of Advertisements) Regulations 1992.
2. A fly posting offence is committed when advertisements are displayed without the required planning consent or does not comply with The Town and Country Planning (Control of Advertisements) Regulations 1992. These regulations detail the exceptions and when consent is required.
3. Section 43(1) of Anti Social Behaviour Act 2003 provides powers to Local Authorities to issue fixed penalty notices for fly posting.
4. Fixed penalty notices for fly posting can only be served on the person who was undertaking the fly posting.
5. Offenders undertaking large scale fly posting, repeat offenders and the beneficiary of the adverts shall be reported straight to the Council's Planning Enforcement Team.
6. Fixed penalty notices for fly posting offences shall be issued in line with the 'Fixed Penalty Notice Procedure – Fly Posting' which has been attached as Appendix H.
7. The amount of the fixed penalty notice for each offence has been set in accordance with legislation and is detailed in section 7 of the Council's document 'Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences'.

## 2. Scope

### 2h. Parking

1. The Isle Of Wight Council (Parking Places) Order No 2 2007 has been made under Sections 32(1), 35(1) & (3), and 45(1) & (2) and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984, as amended (hereinafter referred to as "the Act of 1984") the Road Traffic Act 1991 (the Act of 1991") and under Section 13 of the Isle of Wight Act. This order details all parking offences both on and off road on the Isle of Wight.
2. It should be noted that these offences are not criminal, fixed penalty notices issued in respect of parking offences shall be known as 'Penalty Charge Notices'. If the notice is not paid there is no criminal offence which can be pursued. The charge can be recovered through the County Court as a debt.
3. The amount of the fixed penalty notice for a parking offence is detailed in section 7 of the Council's document titled 'Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences'.

## 2. Scope

### 2i. Refuse (Domestic)

1. The Environmental Protection Act 1990 section 46 provides powers to local authorities to control domestic refuse.
2. Section 46(1) states 'Where a waste collection authority has a duty by virtue of section 45(1)(a) above to arrange for the collection of household waste from any premises, the authority may, by notice served on him, require the occupier to place the waste for collection in receptacles of a kind and number specified.'
3. Section 46(4) states 'In making requirements as respects receptacles under subsection (1) above, the authority may, by the notice under that subsection, make provision with respect to-
  - a) the size, construction and maintenance of the receptacles;
  - (b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
  - (c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;
  - (d) the substances or articles which may or may not be put into the receptacles or compartments of receptacles of any description and the precautions to be taken where particular substances or articles are put into them; and
  - e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.'
4. Section 46(6) states 'A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (1), (3)(c) or (d) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.'

5. Section 48 of the Clean Neighbourhoods and Environment Act 2005 inserts Section 47ZA (2) into the Environmental Protection Act 1990. This new section provides Local Authorities with the power to issue fixed penalty notices to people who commit an offence under section 46 of Environmental Protection Act 1990.
6. Fixed penalty notices for domestic refuse offences shall be issued in line with the 'Fixed Penalty Notice Procedure – Domestic and Commercial Refuse' which has been attached as Appendix I.
7. The amount of the fixed penalty notice for a domestic refuse offence is detailed in section 7 of the Council's document titled "Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences'.

## 2. Scope

### 2j. Refuse (Commercial)

1. The Environmental Protection Act 1990 section 47 provides powers to local authorities to control commercial refuse.
2. Section 47(2) states 'If it appears to a waste collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality, the authority may, by notice served on him, require the occupier of the premises to provide at the premises receptacles for the storage of such waste of a kind and number specified.'
3. Section 47(4) states 'In making requirements as respects receptacles under subsection (2) above, the authority may, by the notice under that subsection, make provision with respect to—
  - (a) the size, construction and maintenance of the receptacles;
  - (b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
  - (c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;
  - (d) the substances or articles which may or may not be put into the receptacles and the precautions to be taken where particular substances or articles are put into them; and
  - (e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.'
4. Section 47(6) states 'A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (2) or (4) above shall be

liable on summary conviction to a fine not exceeding level 3 on the standard scale.'

5. Section 48 of the Clean Neighbourhoods and Environment Act 2005 inserts Section 47ZA (2) into the Environmental Protection Act 1990. This section provides local authorities with powers to issue fixed penalty notices to people who commit an offence under section 47 of Environmental Protection Act 1990.
6. Fixed penalty notices for commercial refuse offences shall be issued in line with the 'Fixed Penalty Notice Procedure – Domestic and Commercial Refuse' which has been attached as Appendix I.
7. The amount of the fixed penalty notice for commercial refuse offences are detailed in section 7 of the Council's document titled 'Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences'.

## 2. Scope

### 2k. Waste (Documentation)

1. The Environmental Protection Act 1990 section 34(1) provides powers to local authorities to require businesses to have a duty of care on the waste they produce.
2. Section 34 (1) states 'Subject to subsection (2) below, it shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste, to take all such measures applicable to him in that capacity as are reasonable in the circumstances—
  - (a) to prevent any contravention by any other person of section 33 above;
  - (aa) to prevent any contravention of regulation 9 of the Pollution Prevention and Control (England and Wales) Regulations 2000 or of a condition of a permit granted under Regulation 10 of those Regulations;
  - (b) to prevent the escape of the waste from his control or that of any other person; and
  - (c) on the transfer of the waste, to secure—
    - (i) that the transfer is only to an authorised person or to a person for authorised transport purposes; and
    - (ii) that there is transferred such a written description of the waste as will enable other persons to avoid a contravention of that section and to comply with the duty under this subsection as respects the escape of waste.'
2. Section 34(2) states 'The duty imposed by subsection (1) above does not apply to an occupier of domestic property as respects the household waste produced on the property. However, subsection 2a states "It shall be the duty of the occupier of any domestic property in England [or Wales] to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to

an authorised person or to a person for authorised transport purposes.'

4. Section 45 of the Clean Neighbourhoods and Environment Act 2005 inserts Section 34A into the Environmental Protection Act 1990. This section provides local authorities with powers to issue fixed penalty notices to people who commit an offence under section 34(6) of Environmental Protection Act 1990.
5. Fixed penalty notices cannot be issued to those who commit an offence under subsection 34(2a) in respect to domestic waste. The maximum penalty for this offence is on summary conviction, to a fine not exceeding the statutory maximum and on conviction on indictment, an unlimited fine.
5. Fixed penalty notices for waste offences shall be issued in line with the 'Fixed Penalty Notice Procedure – Waste (Documentation)' which has been attached as Appendix J.
6. The amount of the fixed penalty notice for waste offences are detailed in section 7 of the Council's document titled 'Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences'.

## 2. Scope

### 2.1. Abandoned Vehicles

1. The Refuse Disposal (Amenity) Act 1978 section 2 provides powers to local authorities to deal with a person who abandons motor vehicles or any part of one on the highway.
2. Section 2(1) states 'any person who, without lawful authority,—
  - (a) abandons on any land in the open air, or on any other land forming part of a highway, a motor vehicle or anything which formed part of a motor vehicle and was removed from it in the course of dismantling the vehicle on the land; or
  - (b) abandons on any such land any thing other than a motor vehicle, being a thing which he has brought to the land for the purpose of abandoning it there,shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [level 4 on the standard scale or imprisonment for a term not exceeding three months [51 weeks] or both].'
3. Section 2(2) states 'For the purposes of subsection (1) above, a person who leaves any thing on any land in such circumstances or for such a period that he may reasonably be assumed to have abandoned it or to have brought it to the land for the purpose of abandoning it there shall be deemed to have abandoned it there or, as the case may be, to have brought it to the land for that purpose unless the contrary is shown.'
4. Section 10 of the Clean Neighbourhoods and Environment Act 2005 inserts Section 2A into the Refuse Disposal (Amenity) Act 1978. This section provides local authorities with powers to issue fixed penalty notices to people who commit an offence under section 2 of The Refuse Disposal (Amenity) Act 1978.

5. The maximum penalty for this offence is on summary conviction a fine of an amount not exceeding level 4 on the standard scale or imprisonment for a term not exceeding three months or both.
6. Fixed penalty notices for abandoned vehicle offences shall be issued in line with the 'Fixed Penalty Notice Procedure – Abandoned Vehicles which has been attached as Appendix K.
7. The amount of the fixed penalty notice for abandoned vehicle offences are detailed in section 7 of the Council's document titled 'Isle of Wight Council's Enforcement Policy on the Use of Fixed Penalty Notices for Environmental Offences'.

### 3. Under 18s

1. Fixed penalty notices can be issued to anyone over the age of 10.
2. Children's service authorities, including local authorities and police, have a duty under the Children Act 2004 to discharge their functions by having regard to the need to safeguard and uphold the welfare of children.
3. Fixed penalty notices for youths aged between 16 and 18 can be issued on the spot in accordance with each procedure.
4. If an officer has reason to believe that the offender may be younger than 16 years of age, then they should follow the guidance in section 5 below.
5. If an officer has reason to believe that the offender is younger than 16 years of age they should obtain the person's name and address and explain that an appointment will be made with their parent or guardian to discuss the offence.
6. Two officers will attend the meeting and in consultation with the youth's parent/guardian decide on an appropriate course of action. These are:
  - no further action. Should the youth offend again, a verbal warning shall be issued unless the offence is of a nature where more serious action is required.
  - a verbal warning. Should the youth offend again, a written warning shall be issued unless the offence is of a nature where more serious action is required.
  - a written warning. Should the youth offend again, a fixed penalty notice shall be issued unless the offence is of a nature where more serious action is required.
  - the issue of a fixed penalty notice. Should the youth offend again, enforcement action through the courts and

referred to Anti social Behaviour Team and the Youth Offending Team.

7. Under 16's who are repeat offenders shall be dealt with in accordance with sections 5 and 6 above.
  
8. A person under 17 is to be treated as a juvenile for the purposes of the Police & Criminal Evidence Act Codes of Practice and should not be interviewed without the presence of an 'appropriate adult'. An appropriate adult is the young person's parent or legal guardian, or if the young person is in care, an adult from the care authority.

## 4. Difficulties Obtaining Details

1. It is an offence if the offender does not give correct details to an authorised officer unless it relates to Parking or Smoke Free offences.
2. Authorised officers do not have the powers to arrest or detain offenders. Police Community Support Officers have the power to detain offenders for up to 30 minutes.
3. If an offender fails to give their name and address or the officer has reason to believe that the details are false, the person shall be informed that if he continues to fail to give details or give false details, a request for Police assistance shall be made. If the person still fails to co-operate a call for police assistance shall be made to a designated person. This person will make contact with the Police and obtain an estimated time of arrival. The designated person shall then ring the officer back informing them of the estimated time of arrival.
4. If the offender refuses to stay and makes off, officers shall, if deemed safe to do so, follow the person at a safe distance in an attempt to obtain an address or car registration number. The officer should then make contact with the Police and give them any information obtained. If identity can be obtained, officers accompanied by the Police shall visit the offender and collect all relevant details. In this circumstance enforcement action will be taken through the courts.
5. If an incident happens outside office hours the officer shall ring the outside office hour designated number. This person will make contact with the Police and obtain an estimated time of arrival. The designated person shall then ring the officer back informing them the estimated time of arrival.

6. If the offender then provides the required details a call shall be made by the officer to cancel Police assistance.
7. At any time during a request for information an officer becomes concerned about their safety, he shall walk away from the situation and make appropriate notes in his note book. Every effort shall then be made to identify the person from the information obtained and a visit will be made with a Police officer to obtain all relevant information. In this circumstance a fixed penalty notice can still be issued, however consideration should be given to taking enforcement action through the courts.
8. Where an offender who originally refused to give details or gave false details, but provides correct details after being warned, or before the Police arrive shall be issued a fixed penalty notice.
9. Enforcement action through the courts shall be taken against offenders who only give correct details after being required to do so by a police officer. This will be for the original offence and failure to provide details as requested by an authorised officer.
10. If a fixed penalty notice is not paid and subsequent investigations prove that the offender gave incorrect details, enforcement action shall be taken through the courts for the original offence and failure to provide name and address to an authorised officer.

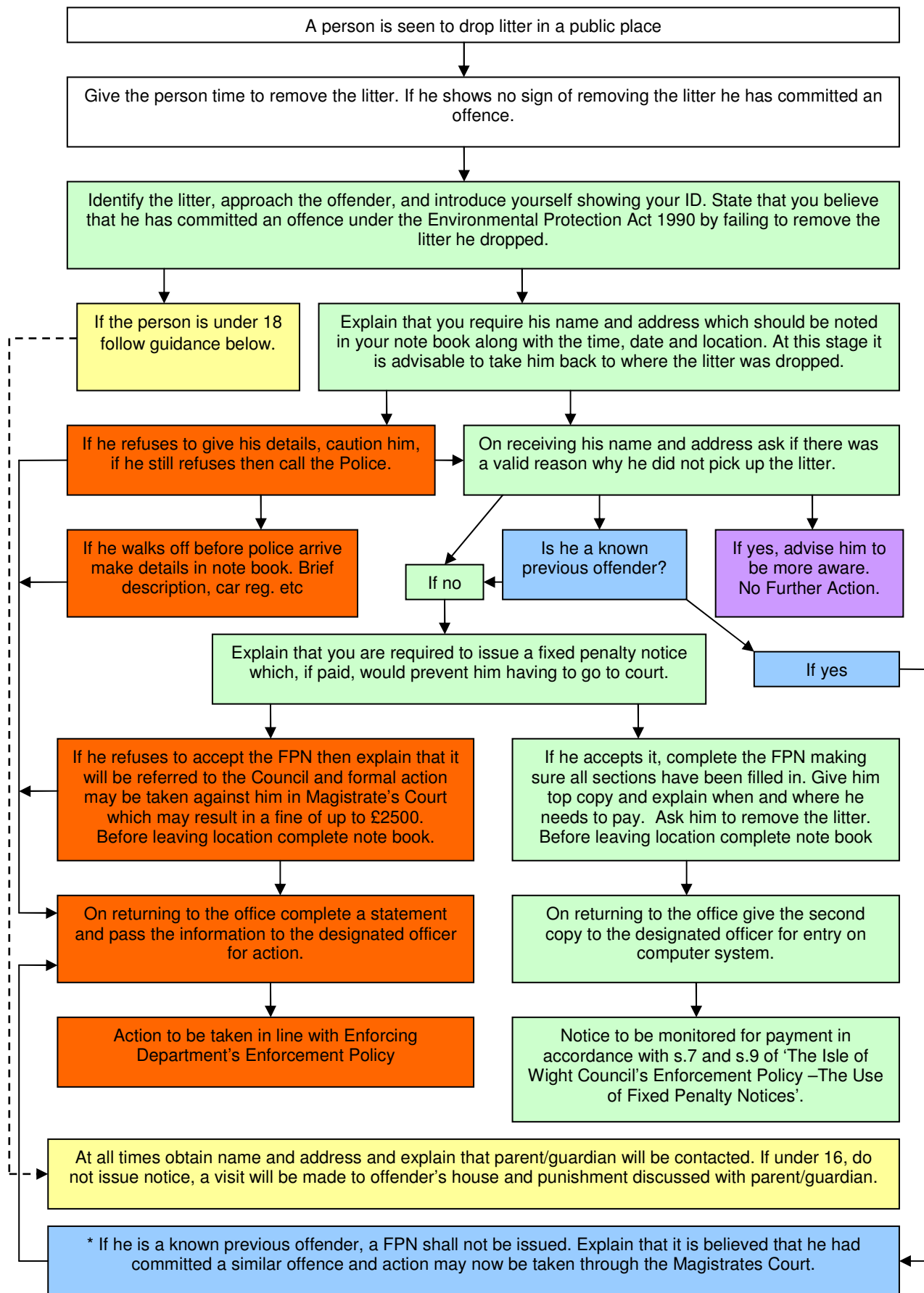
## 5. Repeat Offenders

1. Should the same person commit the same offence more than once in any twelve month period, consideration shall be given to prosecuting the individual rather than issuing a further fixed penalty notice.
2. All legal action shall be carried out in accordance with the enforcing department/partners enforcement policy.
3. This Section does not apply to Parking Offences.
4. After obtaining the offender's details the authorised officer suspects that the offender has previously committed the same offence within a twelve month period, contact shall be made with a designated officer to check accordingly.
5. If it is confirmed that the offender has committed the same offence within a twelve month period, a fixed penalty notice shall not be issued. The offender shall be informed that he has committed a subsequent offence within a twelve month period and the Council will consider taking legal action through the court system.
6. If upon further scrutiny it is established that the offender has not committed a subsequent offence within a twelve month period, a fixed penalty notice shall be issued in accordance with this document.

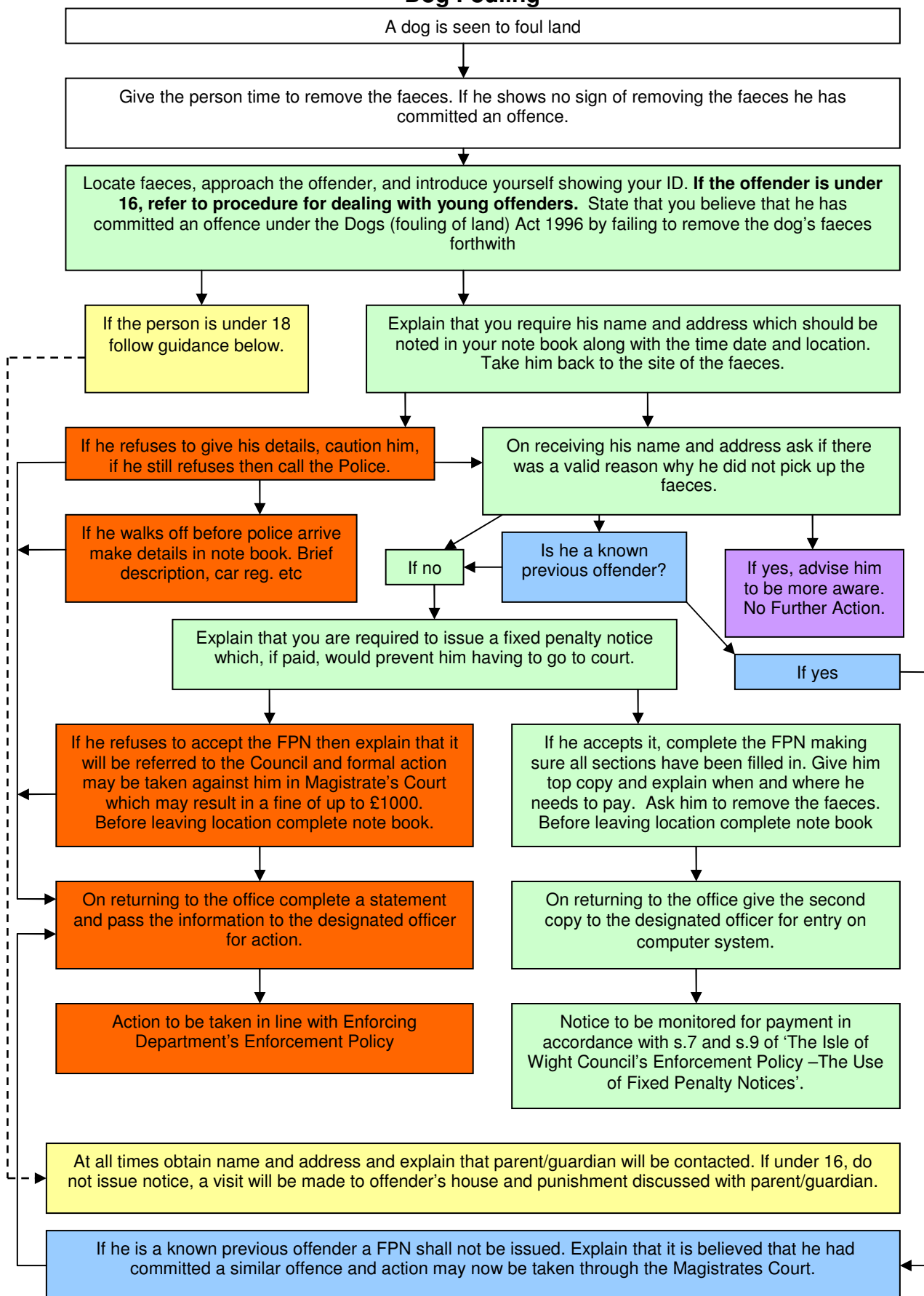
## 6. Challenges

1. Within 5 working days of receipt of a challenge for a fixed penalty notice, a panel consisting of the issuing officer, a designated officer from the enforcing department and, if deemed necessary, a legal representative shall meet to review the challenge.
2. The panel will review the evidence and decide if the notice was served correctly. The panel should consider the following:
  - did an offence occur?
  - was the notice served on the right person?
  - do the details on the notice correspond with the date and time of the offence?
  - was the notice correctly completed?
  - any other mitigating factors or reasonable excuses.
3. Following the outcome of the review, the panel has two options:
  - a) enforce the notice
  - or
  - b) revoke the notice.
4. The decision of the panel shall be documented. The person making the challenge shall be informed in writing within 5 days of the decision and the reasons why the panel arrived at that decision.

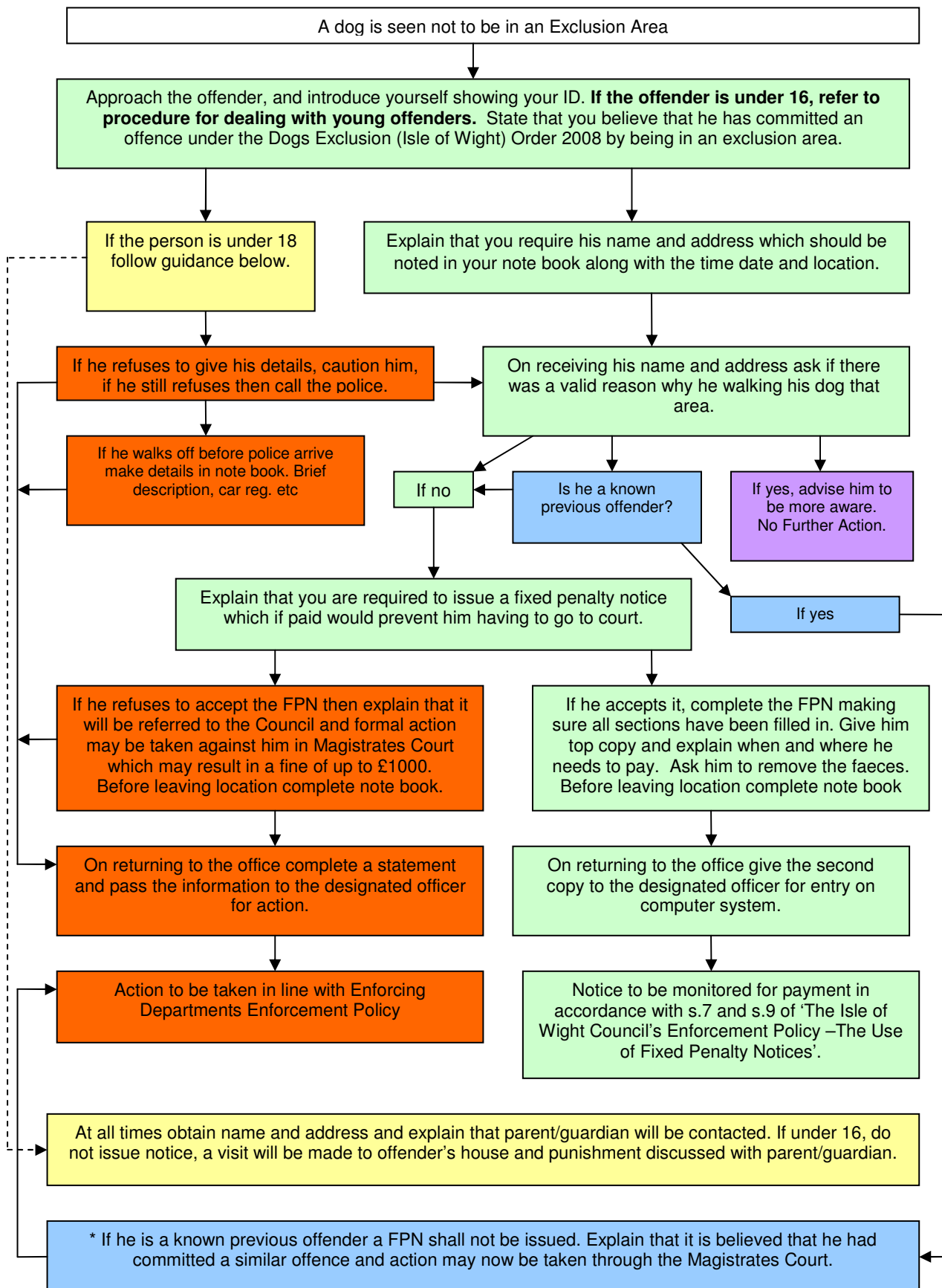
### FIXED PENALTY NOTICE PROCEDURE Littering



### FIXED PENALTY NOTICE PROCEDURE Dog Fouling



### FIXED PENALTY NOTICE PROCEDURE Dog Exclusion



## **Dog Exclusion Areas**

### **Cowes**

The beach from the eastern edge of the public slipway adjacent to the junction of Egypt Hill and Queens Road, eastwards to a point immediately north of the eastern edge of Princes Green for the area from the promenade walk out to mean low watermark.

### **East Cowes**

The beach from the eastern edge of the first set of steps eastwards from the slipway opposite the public toilets at East Cowes Esplanade for approximately 100 metres to the western edge of the next set of steps

### **Freshwater Bay**

The Beach from the slip way at the eastern edge of the promenade at Freshwater Bay to a point approximately 150 metres to the western edge of the steps in front of the Albion Hotel.

### **Gurnard**

The beach from the eastern edge of the public slipway at the junction of Shore Road, and the promenade walk eastwards for approximately 218 metres to the western edge of the groyne adjoining the electricity substation on Princes Esplanade for the area from the promenade walk out to mean low watermark.

The beach from an imaginary line running north/south from the western edge of the footpath adjoining the electricity substation in Marsh Road westwards for approximately 155 metres to the eastern edge of the slipway in Marsh Road for the area from the seawall out to mean low watermark.

### **Ryde**

The beach from the eastern edge of St.Thomas' Slip Way to Ryde Pier for a distance of 100 metres out from the seawall.

The beach from a point immediately east of the Ryde Harbour boundary wall eastwards to Appley Tower for a distance of 100 metres out from the seawall.

The beach from the Dell Cafe at Puckpool, to a point 200 metres westwards, for a distance of 100 metres out from the seawall.

### **Sandown**

The beach adjacent to the Public Conveniences at Lake Slipway, north to a point approximately 1634 metres to the groyne opposite Fort Street and Sandham Grounds.

### **Seaview**

The beach from a point immediately east of the first set of steps westwards from Puckpool Hill, Puckpool at its junction with Springvale Road eastwards to the floodgate culvert at the Duver Road Tollgate for a distance of 100 metres out from the seawall.

The beach from the western edge of the groyne opposite the A Old Boat House A Pier Road Seaview westwards for approximately 230 metres to the steps adjoining the seaward side of Woodside Pier Road Seaview for a distance of 100 metres out from the seawall.

### **Shanklin**

The beach from the Chine Shanklin, to the southern edge of the first groyne, along the Shanklin to Sandown Revetment.

### **Totland**

The beach between Colwell Chine and Warden Point Totland

The beach at the western side of the pier, to a point approximately 270 metres to the western edge of the esplanade in line with the Waterfront Restaurant.

### **Ventnor**

The beach between Linnington Groyne and Water Edge Ventnor.

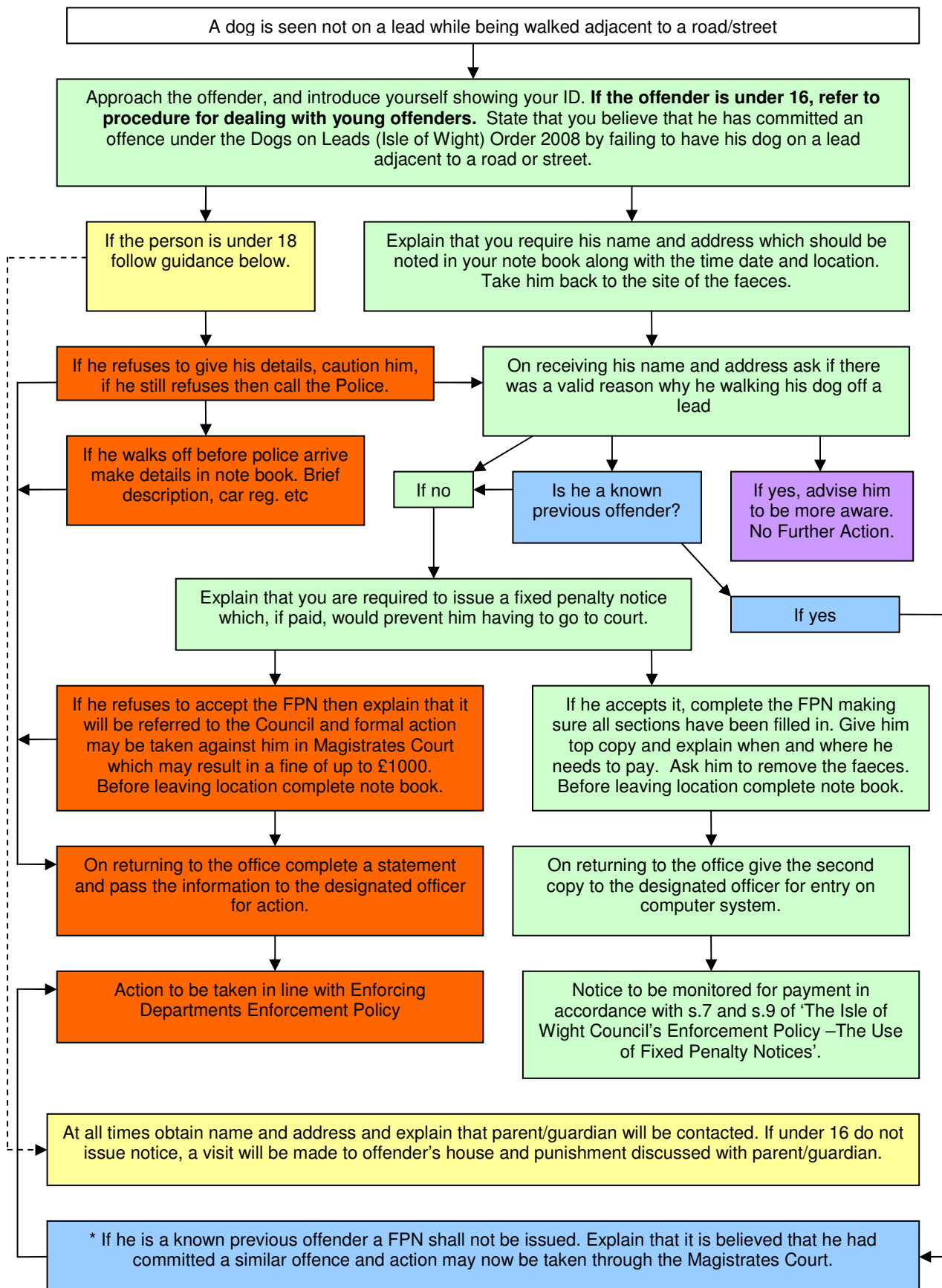
### **Yarmouth**

The beach known as Love Shore Beach Yarmouth, extending 33 metres west from the steps leading to Loves Lane to the first landing stage.

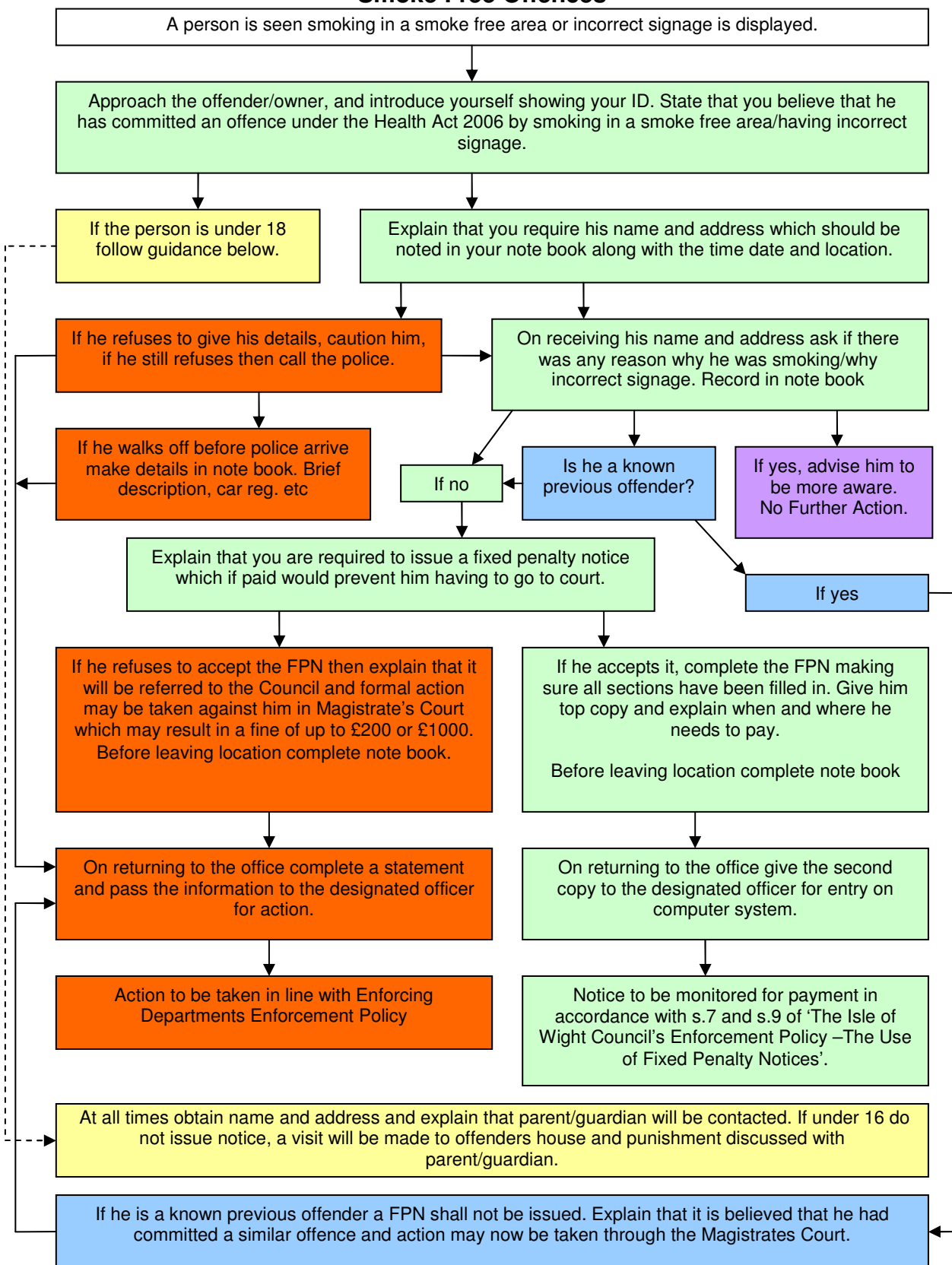
### **Yaverland**

The beach from the slipway, eastern edge of Yaverland Car Park, to a point approximately 225 metres to the Western edge of the car park, adjacent to the steps/groyne.

### FIXED PENALTY NOTICE PROCEDURE Dogs off Leads

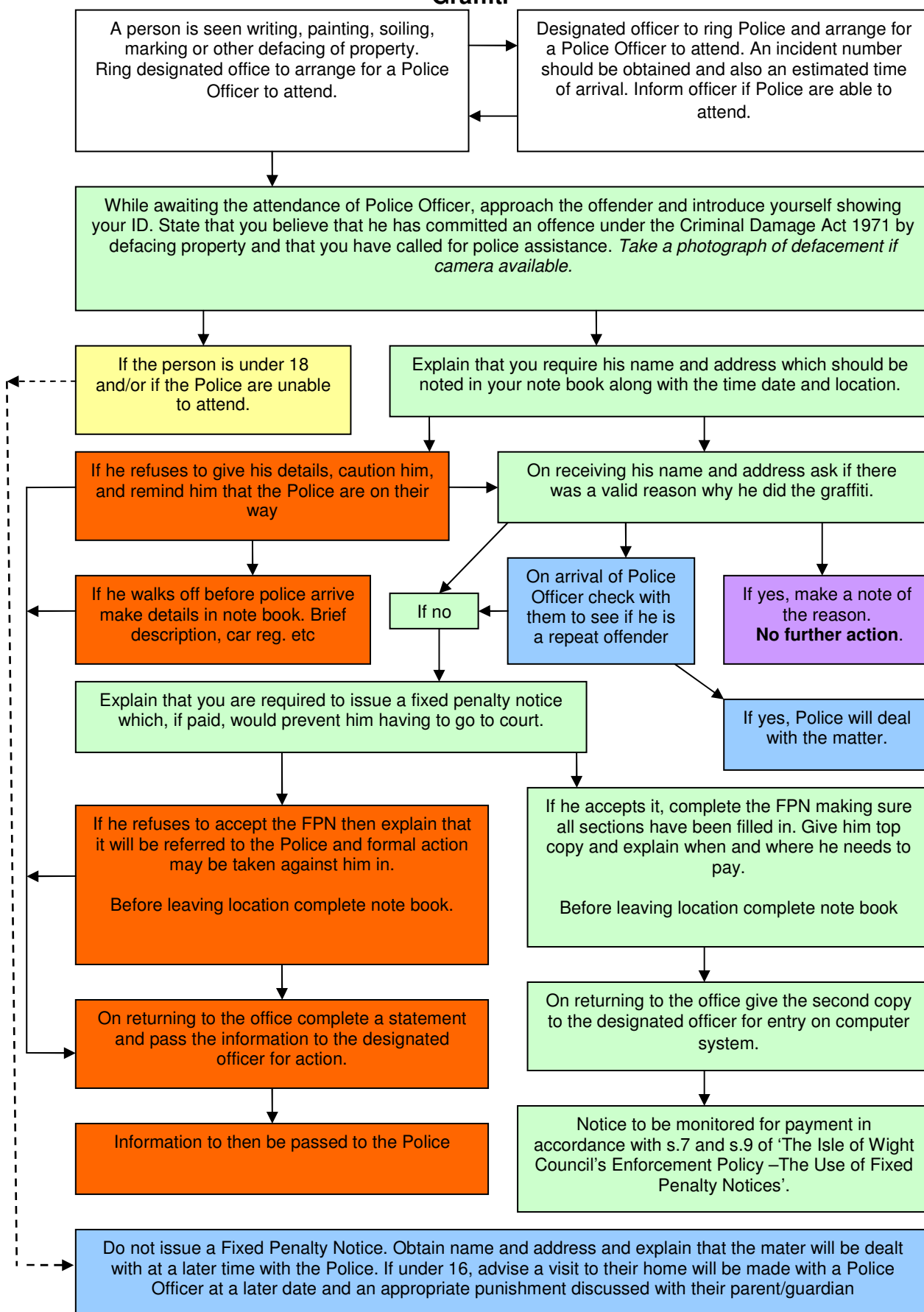


**FIXED PENALTY NOTICE PROCEDURE  
Smoke Free Offences**



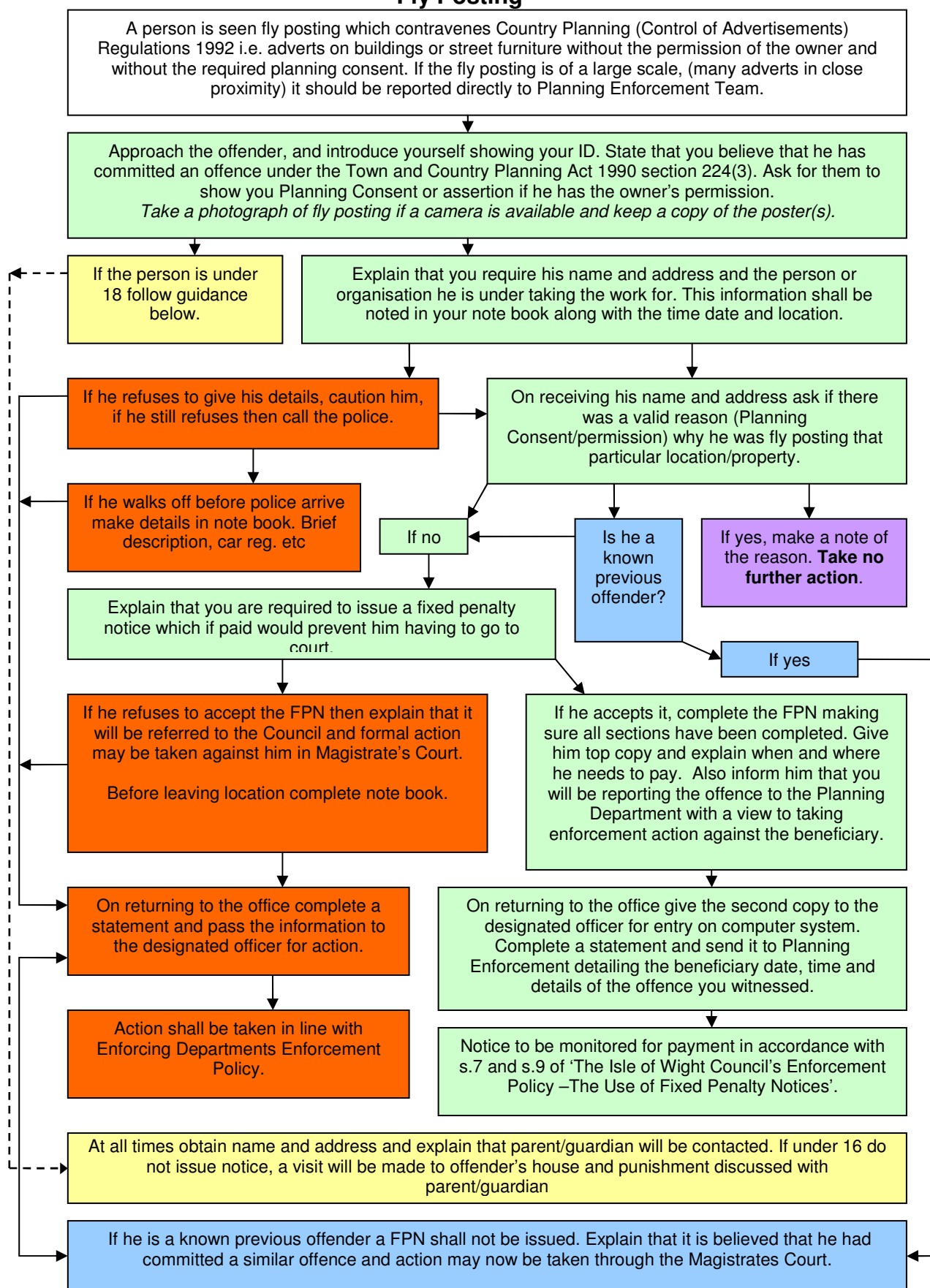
### FIXED PENALTY NOTICE PROCEDURE

#### Graffiti

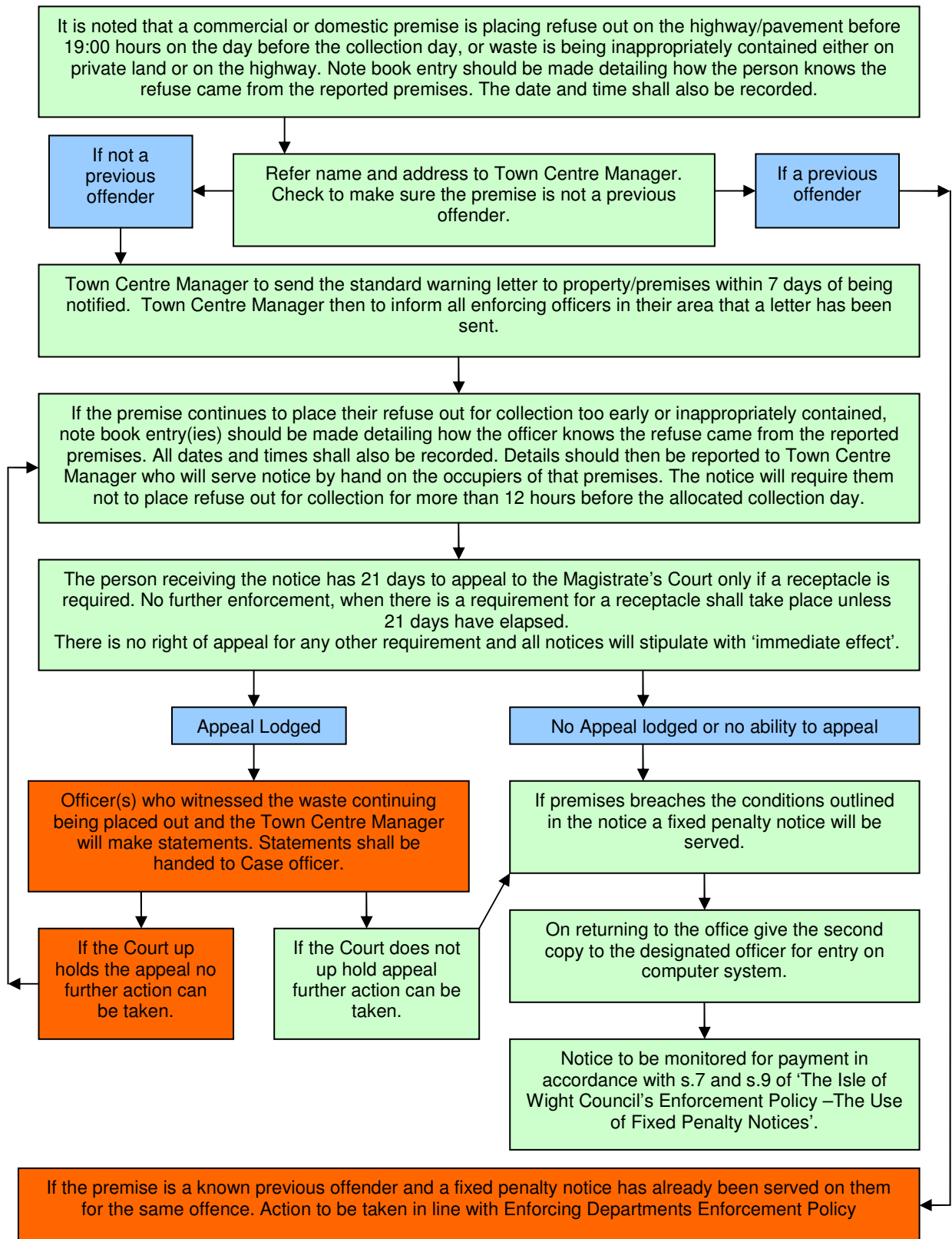


### FIXED PENALTY NOTICE PROCEDURE

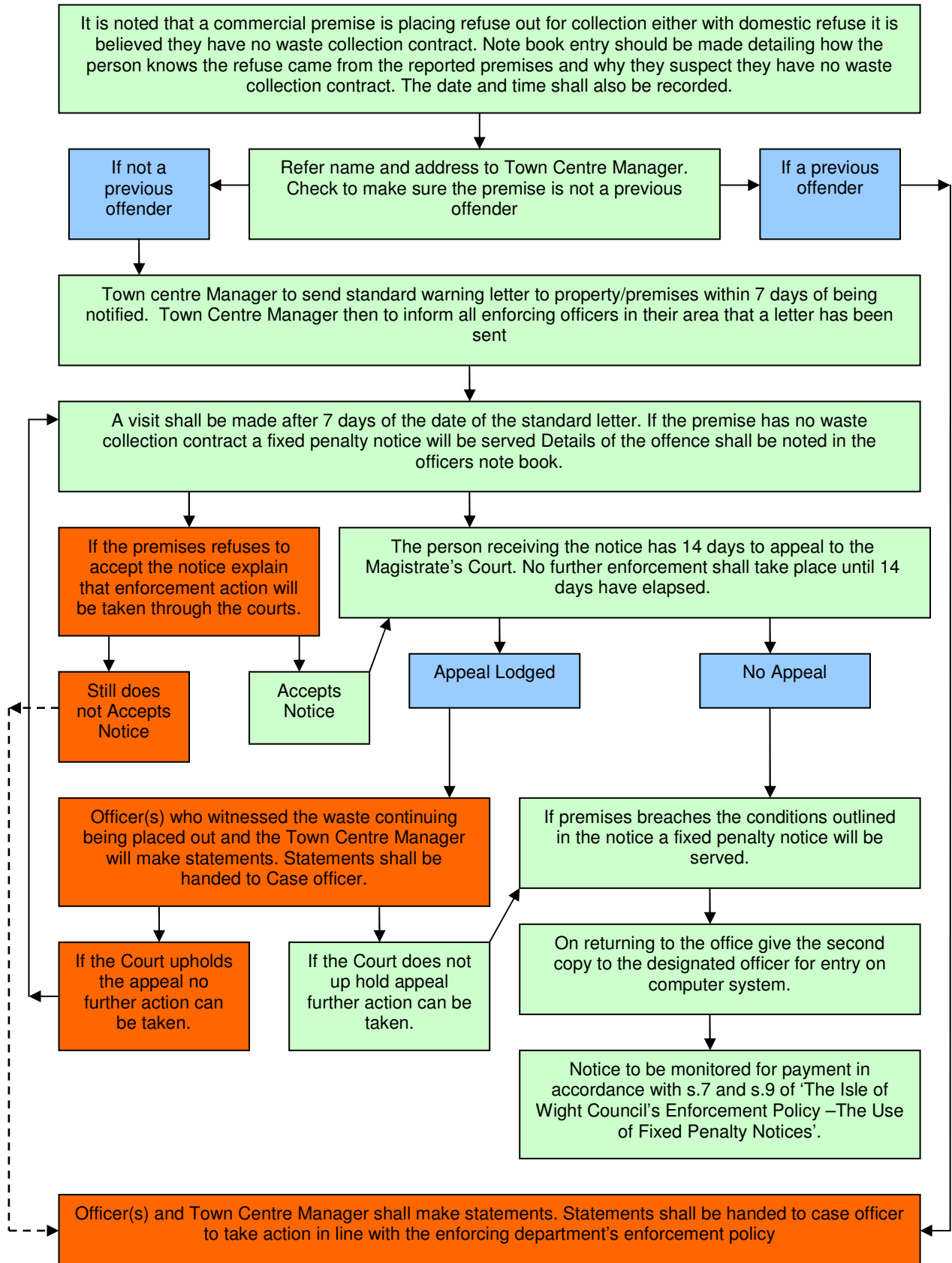
#### Fly Posting



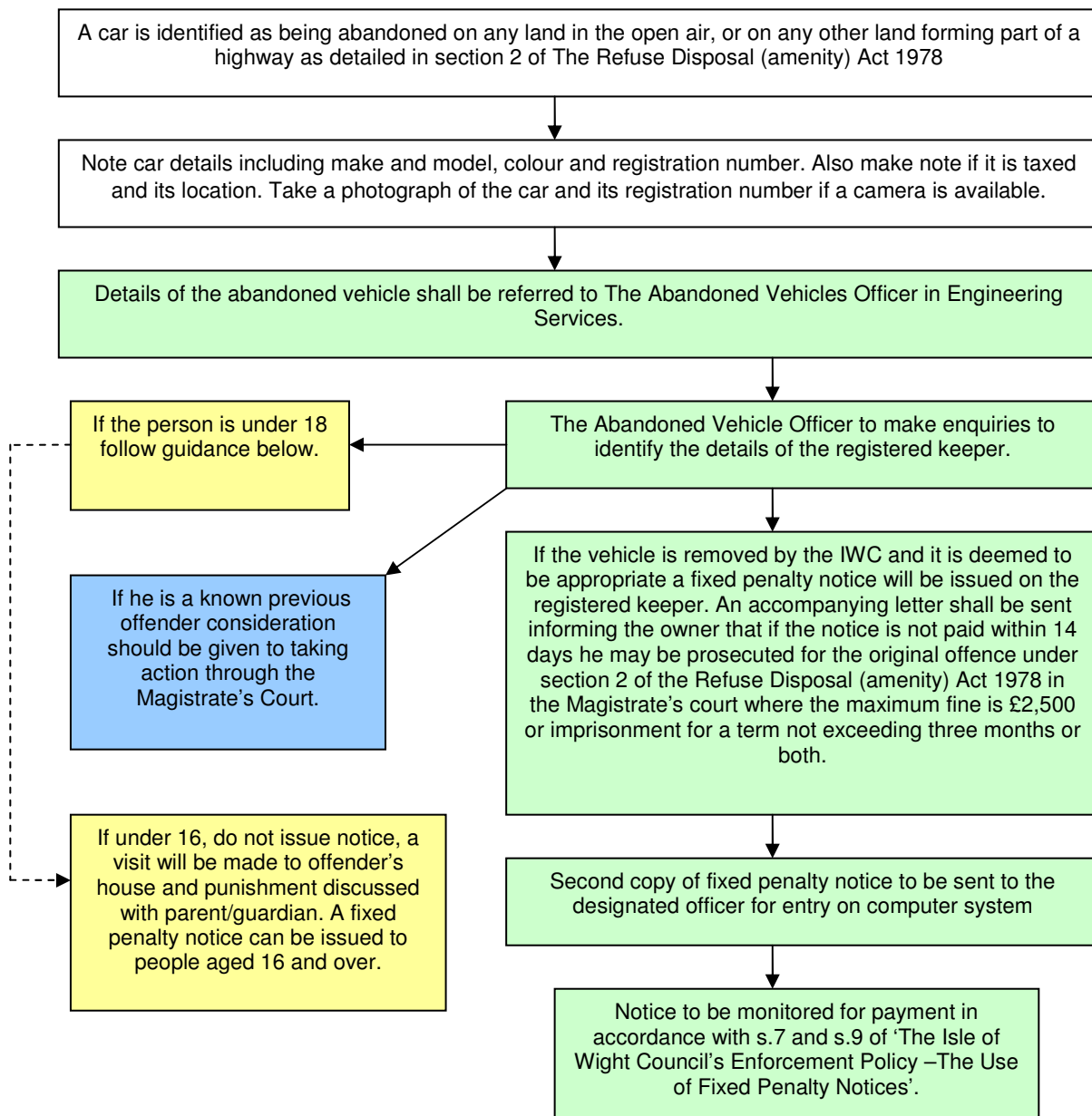
### FIXED PENALTY NOTICE PROCEDURE Domestic & Commercial Refuse



**FIXED PENALTY NOTICE PROCEDURE  
Waste - Documentation**

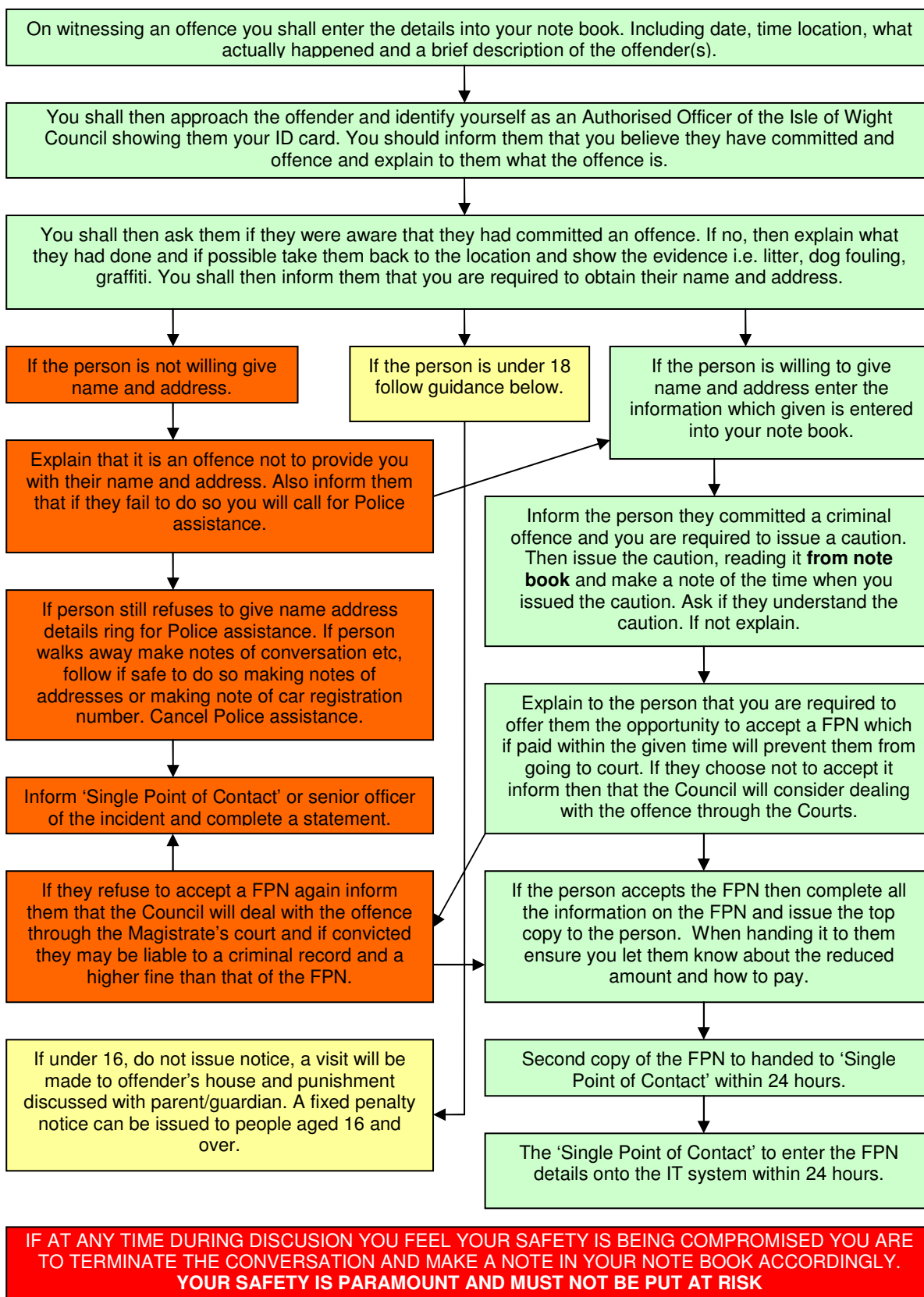


### FIXED PENALTY NOTICE PROCEDURE Abandoned Vehicles



## FIXED PENALTY NOTICE PROCEDURE

### Approaching an Offender and Issuing a Fixed Penalty Notice



**FIXED PENALTY NOTICE**



**Part A: Notice of Opportunity to Pay Fixed Penalty**

Alleged Offender:

Address

I am an authorised Officer of the Isle of Wight Council. I have reason to believe that you committed an offence. The alleged offence is

Code: FP/   Date:  /  /  Time: .  Hours

Location:

Details:

This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. You will not be liable to conviction for the offence if you pay this fixed penalty within \_\_\_\_ days of this notice.

Signature of authorised officer

Date of issue:  /  /

The amount of this fixed penalty is £ \_\_\_\_ .00. You may pay the lesser amount of £ \_\_\_\_ .00 if you do so within \_\_\_\_ days of this notice.

**Part B: Payment Methods**

\*Ref. No. FP/

Payment can be made using **one** of the following methods:

- (a) By sending Part B along with a cheque or postal order to Cash Office, Isle of Wight Council Offices, Broadway, Sandown, Isle of Wight PO36 9EA. Cheques and postal orders should be made payable to Isle of Wight Council
- (b) By using the Council's on line payment facility at [www.iwight.com](http://www.iwight.com)
- (c) By making a telephone payment by telephoning 01983 821000

If using options (b) or (c) you will be asked for the reference number\*

## CHART OF OFFENCES AND PENALTIES

<b>Part C – Table of Offences</b>		<i>Discounted Amount</i>	<i>Full amount of penalty</i>	<i>Max penalty on conviction</i>
<i>Code</i>	<i>Description of Offence</i>			
<b>FP/01</b>	<b>Depositing Littering</b> Sections 87 and 88 of the Environmental Protection Act 1990	<b>£50 (10 days)</b>	<b>£75 (11-14 days)</b>	<b>£2,500</b>
<b>FP/02</b>	<b>Failing to Remove Dog Faeces Forthwith</b> Section 3 and 4 of the Dogs (fouling of Land) Act 1996	<b>N/A</b>	<b>£50 (14 days)</b>	<b>£1,000</b>
<b>FP/03</b>	<b>Graffiti</b> Section 43(1) of the Anti Social Behaviour Act 2003 & Section 1(1) of the Criminal Damage Act 1971	<b>£50 (10 days)</b>	<b>£75 (11-14 days)</b>	<b>£5,000</b>
<b>FP/04</b>	<b>Fly Posting</b> Section 43(1) of the Anti Social Behaviour Act 2003 & Section 224(3) of the Town and Country Planning Act 1990	<b>£50 (10 days)</b>	<b>£75 (11-14 days)</b>	<b>£1,000</b>
<b>FP/05</b>	<b>Failing to Display Appropriate Signage in a Smoke Free Place</b> Section 7 (1) and 9(1) of the Health Act 2006	<b>£150 (15 days)</b>	<b>£200 (16-29 days)</b>	<b>£1,000</b>
<b>FP/06</b>	<b>Smoking in a Smoke Free Place</b> Section 7 (2) and 9(1) of the Health Act 2006	<b>£30 (15 days)</b>	<b>£50 (16-29 days)</b>	<b>£200</b>
<b>FP/07</b>	<b>Failure to Comply with a Waste Receptacle Notice (Dom)</b> Sections 46(6) 47ZA of the Environmental Protection Act 1990	<b>£75 (10 days)</b>	<b>£100 (11-14 days)</b>	<b>£1,000</b>
<b>FP/08</b>	<b>Failure to Comply with a Waste Receptacle Notice (Com)</b> Sections 47(6) 47ZA of the Environmental Protection Act 1990	<b>£75 (10 days)</b>	<b>£100 ((11-14 days)</b>	<b>£1,000</b>
<b>FP/09</b>	<b>Failure to Produce Documentation – Waste Transfer Notes</b> Section 34(5) and Regulations made under Section 34(6)/34A the Environmental Protection Act 1996	<b>£180 (10 days)</b>	<b>£300 (11-14 days)</b>	<b>£ Unlimited</b>
<b>FP/10</b>	<b>Abandoned Vehicles – Unlawful Dumping</b> Sections 2(1) & 2A the Refuse Disposal (Amenity) Act 1978	<b>£120 (10 days)</b>	<b>£200</b>	<b>£5,000 &amp;/or 3 months imprisonment</b>
<b>FP/11</b>	<b>Failing to have a Dog on a Lead</b> The Dogs on Leads (Isle of Wight) Order 2008	<b>£50 (10 days)</b>	<b>£75 (11-14 days)</b>	<b>£1,000</b>
<b>FP/12</b>	<b>Failing to Remove Dog Faeces Forthwith</b> The Fouling of Land by Dogs (Isle of Wight) Order 2008	<b>£50 (10 days)</b>	<b>£75 (11-14 days)</b>	<b>£1,000</b>
<b>FP/13</b>	<b>Allowing a dog to enter or Remain in a Dog Exclusion Area</b> The Dogs Exclusion (Isle of Wight) Order 2008	<b>£50 (10 days)</b>	<b>£75 (11-14 days)</b>	<b>£1,000</b>

**RISK ASSESSMENT RECORD**Work Area/Work Activity Covered By Assessment: **THE ISSUING OF FIXED PENALTY NOTICES**Personnel Involved: **TOWN CENTRE MANAGERS, COMMUNITY SUPPORT OFFICERS, DOG WARDENS AND ENVIRONMENTAL HEALTH STAFF**Non-Employees Affected: **MEMBERS OF THE PUBLIC WHO WITNESS THE ENFORCEMENT ACTION**Assessor's Name: **KEVIN WINCHCOMBE**Date Of Assessment: **08 February 2008**

Item No.	Hazards Identified	Risk Identified	Existing Precautions	Remedial Action	Priority for Remedial Action
1	Violence and Aggression	Verbal abuse and physical attacks.	All staff trained in dealing with violence and aggression.  Observance of guidance and policy regarding violence and aggression.  Appropriate training based around the Operational Strategy.	Approved IWC Violence and Aggression training to include understanding of IWC policy/guidance.  All new members of staff to receive/attend appropriate training as deemed necessary.	All staffed to be booked on approved training by April 08.  All staff to be informed of appropriate reporting process ASAP.  Review all individual training needs by April 2008.
2	Lone Working	Assistance not available to staff injured or taken ill at work.	All staff to follow the set procedures for lone working.  Observe the Isle of Wight Council's policy for lone working.	Bi-monthly monitoring to ensure officers using Lone Working System.  Pre-arranged monitoring to deal with a predetermined offence to be carried out in twos.  If personal safety becomes compromised, conversation to be terminated.	All staff to be informed IWC Lone Working System ASAP.  Implement a 'buddy' system for enforcement officers.

2	Lone Working Cont.	Assistance not available to staff injured or taken ill at work.	Mobile Telephones for use of Lone Working and call for assistance.	If required call for Police assistance.  All new staff to be registered with Council Lone Working System.	Quick dial number added to officer's mobile telephone.  Check to make sure all staff are registered and to register those who are not.
3	Animal Bites	Bites, scratches, mauling and attacks by dogs.	Training to read the signs when an attack is likely to occur.	Organise training for all enforcement staff.	Source an appropriate training course or tutor to run a session on this.
4	Review of risk assessments	Non-compliance with this assessment.	All staff to be made aware of the risk assessments and will receive a copy with the Operational Strategy.  Operational Strategy to be annually reviewed. Risk assessment forms part of the strategy, therefore annual review should be undertaken.	Officers reminded of risk assessments during PDP process.  Appropriate staff to be made aware of current risk assessments.	Review system to be implemented and cascaded to relevant officers.  All line managers to be made aware of risk assessment so that it can be reviewed as a part of PDP process.

**THE REMEDIAL ACTION REQUIRED MUST REFLECT THE RATING GIVEN FOR THE RISK. REMEMBER! RISK ASSESSMENT IS A CONTINUOUS PROCESS, ANY SIGNIFICANT CHANGE WILL REQUIRE RE-ASSESSMENT**