

**MEMORANDUM OF  
UNDERSTANDING FOR THE ISSUE  
OF FIXED PENALTY NOTICES BY  
COMMUNITY SUPPORT OFFICERS  
(CSOs) FOR DOG FOULING AND  
LITTERING**

**AGREEMENT BETWEEN  
HEDDLU GWENT POLICE  
AND  
CAERPHILLY COUNTY BOROUGH COUNCIL**



**Heddlu  
Gwent  
Police**



# **MEMORANDUM OF UNDERSTANDING BETWEEN GWENT POLICE AND CAERPHILLY COUNTY BOROUGH COUNCIL FOR THE ISSUE OF FIXED PENALTY NOTICES BY CSOs**

The parties to this agreement are

**Heddlu Gwent Police (“the Police”)**  
**Gwent Police Headquarters, Croesyceiliog, Cwmbran, NP44 2XJ.**  
and  
**Caerphilly County Borough Council (“the Council”)**  
**Ty Penallta, Tredomen Parc, Ystrad Mynach, Hengoed, CF82 7PG.**

This memorandum of understanding covers the arrangements in place to allow Community Support Officers (CSOs) to issue Local Authority Fixed Penalty Notices (“FPNs”) for certain relevant offences.

The Council remains the Authority with primary responsibility for the enforcement of failing to remove dog faeces offences and of litter offences through the issue of FPNs.

## **1. Legislation**

1.1 Part 1 of Schedule 4 to the Police Reform Act 2002 as amended by Section 122 of the Serious Organised Crime and Police Act 2005 creates the power for suitably ‘designated’ Community Support Officers to issue FPNs for certain ‘Relevant Fixed Penalty Offences’. The legislation provides CSOs with the power to issue FPNs for the offence of “Failing to Remove Dog faeces”, contrary to Section 4 of the Dogs (Fouling of Land) Act 1996, and that of “Depositing Litter” contrary to Section 87 of the Environmental Protection Act 1990.

1.2 Section 4 of the Dogs (Fouling of Land) Act 1996 states a person is guilty of an offence where the person in charge of a dog which had defecated on designated land, failed to remove faeces from that land forthwith.

1.3 Section 87(1) of the Environmental Protection Act 1990 states a person is guilty of an offence if he/she throws down, drops or otherwise deposits any litter in any place to which that section of the act applies.

1.4 Section 38 of the Police Reform Act 2002 enables the Chief Officer of Police to ‘designate’ suitably skilled and trained CSOs under their direction and control to exercise certain powers. However the Chief Officer shall not designate them unless they are satisfied that that person:

- Is a suitable person to carry out the relevant functions;
- Is capable of effectively carrying out those functions; and
- Has received adequate training in the carrying out of those functions.

1.5 Within the Police, all Community Support Officers (CSOs) have been assessed as suitable, capable and have received adequate training to exercise certain powers and are ‘designated’ by the Chief Officer with the power to issue FPNs for the offence of Dog Fouling and Offences under Dog Control Orders (when in force).

1.6 The Environmental Protection Act 1990 allows officers of a Principal Litter Authority i.e. Caerphilly County Borough Council, to serve Fixed Penalty Notices for dog fouling and for depositing litter.

1.7 The Clean Neighbourhoods and Environment Act 2005 allows Local Authorities to enter into arrangements with other agencies so as to enable other persons to issue such notices.

1.8 Caerphilly County Borough Council and Gwent Police have decided to enter into such an arrangement to allow the issuing of Fixed Penalty Notices by CSOs for the offence of dog fouling and for the offence of depositing litter.

1.9 The Agreement shall be deemed to have commenced on the date of signing of this memorandum by both parties and shall continue until either party gives one month's written notice to the other terminating this Agreement.

## **2. Enforcement procedures**

2.1 CSOs by the nature of their duties will often be in a position to witness offences of failing to remove dog faeces and of littering being committed in areas to which the public have access and which if left unchecked can contribute to the community's fear of crime and anti social behaviour in any particular neighbourhood.

2.2 The Council will provide an adequate supply of FPNs to the Police for issue by CSOs in appropriate circumstances.

2.3 CSOs will receive appropriate training in identifying offences of failing to remove faeces and of littering, the evidential points to prove the offence, issuing FPNs, the preparation of reports and notes and the completion of statements of evidence necessary for the successful enforcement of the legislation.

2.4 CSOs will exercise discretion when considering whether to issue a FPN to any person or whether a simple warning or words of advice are sufficient to resolve the matter. Consideration may include the response of the offender and/or the likely impact of the offence on the environment and the community.

### **2.5 Dog Fouling**

For an offence of failing to remove dog faeces the issue of a FPN will be the normal response (unless the person in charge of the dog is in one of the exempted groups) where

- A person has walked away from the faeces deposited

The important points to prove the offence are: -

- Time/Date Location
- Determine the person in charge of a Dog
- Description of the dog which had defecated
- That it occurred on land covered by the Act
- Failed to remove the faeces from the land forthwith

## 2.6 Litter

The issue of a FPN will be the normal response where:-

- Litter has been thrown

The important points to prove the offence are: -

- Time/Date Location
- The name address and age of the person depositing the litter
- The nature of the litter and whether it was thrown, dropped or deposited
- That it occurred on land covered by the Act
- That items were left in such circumstances as to cause, contribute to or tend to lead to defacement of that place by litter

2.7 In exercising any of the functions contained within this protocol, CSOs will comply with the requirements of the Police and Criminal Evidence Act 1984 (PACE) and the Codes of Practice to ensure that all persons suspected of committing an offence are dealt with fairly and properly and in accordance with the law.

2.8 The Police will ensure that all relevant statutory provisions are adhered to at all times and will exercise care that any action does not impact in a discriminatory manner on any individual or group of individuals covered by current Equalities and Welsh Language legislation.

## 3. Administration

3.1 The Council will provide the Police with a sufficient supply of FPNs for issue by properly trained and authorised CSOs. FPNs will then be issued to individual CSOs against their individual signature, including the date and time of issue, by the Supervisory Officer or Neighbourhood Beat Sergeant.

3.2 If an offence is subsequently witnessed by a CSO and the offence is suitable to be dealt with by means of a FPN, the CSO will issue the offender with a Council FPN and will advise the offender that he/she has 14 days to pay the Fixed Penalty, default of which will result in the offender being liable for prosecution.

3.3 Following the issue of a FPN, the CSO will ensure, that the copy of the Notice is handed to the appropriate Supervisory Officer or Neighbourhood Beat Sergeant.

3.4 Completed FPNs, will be collated on a returns sheet and forwarded on a weekly basis to the Environmental Health Section of Caerphilly County Borough Council by the Supervisory Officer or Neighbourhood Beat Sergeant.

3.5 Any person disputing the service of a FPN will be referred to the Environmental Health Manager, Caerphilly County Borough Council. CSOs will provide information regarding the service of the FPN if requested by the Council to enable such requests to be properly determined.

3.6 The Environmental Health Section of Caerphilly County Borough Council will be responsible for the ongoing administration and processing of any FPN that has been issued, including any decision to prosecute and the preparation of any file of evidence required for court purposes. Regard will be had throughout the decision making process to the Public Protection Enforcement Policy.

3.7 If a FPN is not paid CSOs will provide witness statements and all evidence necessary to support a prosecution when requested by the Council and will attend court to give evidence as required.

3.8 Any monies received in respect of Fixed Penalty Notices remain the property of the Council.

3.9 The Council will indemnify the Police and keep the Police fully and effectively indemnified against each and every claim brought against the Police by any third party in respect of any of the services provided by the Police from time to time under the scope of this Memorandum of Understanding.

**MEMORANDUM OF UNDERSTANDING BETWEEN  
HEDDLU GWENT POLICE**

**And**

**CAERPHILLY COUNTY BOROUGH COUNCIL FOR THE ISSUE  
OF FIXED PENALTY NOTICES BY COMMUNITY SUPPORT  
OFFICERS**

**Signatories to memorandum**

**I HEREBY AGREE THE TERMS OF THIS MEMORANDUM OF UNDERSTANDING  
ON BEHALF OF CAERPHILLY COUNTY BOROUGH COUNCIL.**

**Signature .....**

**Date .....**

**Name: Anthony O'Sullivan**

**Position: Chief Executive**

**I HEREBY AGREE THE TERMS OF THIS MEMORANDUM OF UNDERSTANDING  
ON BEHALF OF THE GWENT POLICE.**

**Signature .....**

**Date.....**

**Name:**