

# Penalty notices - the need for a national framework

Submitted by: Fellows Associates

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Fellows' Associates today called for the introduction of a national Penalty Notice Act in its response to a Defra consultation on draft guidance for the Clean Neighbourhoods and Environment Act 2005.

Welcoming the fair use of penalty notices to tackle environmental crime and regulatory wrong-doing, the response commends Defra's systematic approach to environmental crime enforcement and called for a similar approach to be adopted by government as a whole.

The response also highlights Fellows' key concerns relating both to the guidance and the way the penalty notice system is developing in the UK:

- the extended use of penalty notices is adding complexity to an already ad hoc and fragmented system – this can lead to public confusion and public distrust in the system
- the current guidance does not deal with the issue of those who are unable to pay fixed penalties – without effective strategies in place family households least able to pay could end up being those most likely not to pay
- there is a growing army of new enforcers who are able to issue penalty notices including the private sector – without national guidelines for training citizens may suffer from poor and unfairly delivered enforcement systems

Kathy Sutton, Director of Fellows' Associates', said today: "Penalty notices can play a role in an effective enforcement system which embraces education and communication with the public as a central part of its strategy.

"We are delighted that Defra has taken on board many of the points made by Fellows' as part of the stakeholder consultation group. In particular, we welcome the emphasis that Defra has placed on engaging with the public to prevent environmental wrong-doing and the need for local authorities to develop clear environmental crime enforcement strategies. This strategic approach needs to be replicated across government as penalty notices are playing a leading role in the administration of justice in the UK.

"The current system is confused, complex and incoherent. Government departments are creating penalty notice offences in more and more legislation in an inconsistent fashion. If public trust in the penalty notice system is not to be undermined then it is crucial that the system is transparent and seen to be fair. There is a real need for a national Penalty Notice Act to provide people with the clarity, transparency and accountability that is required in a modern system of justice. Without this in place there is a real danger that citizens will be persuaded that well-meaning pieces of legislation such as the Clean Neighbourhoods and Environment Act are really concerned with revenue-raising through the back door."

-Ends-

For further information:

Kathy Sutton, Fellows' Associates +44(0)207 849 3403 / 07966 890401

Vincenzo Rampulla, Fellows' Associates +44(0)207 849 3489 / 07930 566291

#### Notes to editors

1. Penalty notices are an administrative form of financial penalty covering criminal offences, civil wrongdoing and regulatory non-compliance. They are part of an administrative process aimed at keeping the enforcement of lower-level criminal offences and non-criminal contraventions out of the court system.

2. 'Penalty notices: a guide to public policy and the law', is printed and published by Fellows' Associates. The guide received financial support from Northgate Information Solutions, a leading provider of community justice technology services. The full guide including relevant legislation is available for £375.00

3. The guide follows the 2004 published report 'The New Enforcers – Local Authorities and the penalty notice system'. Jointly published by Fellows' Associates and the Improvement and Development Agency (I&DeA), 'The New Enforcers – Local Authorities and the penalty notice system' looks at Local Authority's experiences of the penalty notice system.