

## **THE MAGISTRATES ASSOCIATION**

### **JUDICIAL POLICY & PRACTICE COMMITTEE**

#### **Use of Penalty Notices for Disorder and Fixed Penalty Notices**

Penalty Notices for Disorder (PNDs) and Fixed Penalty Notices (FPNs) should not be used for offences:

- Where the victim may be offered compensation
- Where the victim is opposed to the use of a PND or FPN
- Where any violence has been used resulting in injury or not
- Where the offender has a drug or alcohol problem
- Where the offender has previous convictions or cautions for disorder offences
- Where the offender has not paid a previous PND or FPN
- Where the offender has committed previous similar offences
- Where the offender does not know what is going on either because of their inability to understand English or because of their mental health or intellectual capacity
- Where the offence is part of a pattern of offending
- Where the offender is a youth and has no means to pay
- Where there is clear evidence of planning/preparation

For example, an offence of theft from a shop of goods of low value. If this were the first offence then a FPN would be appropriate whereas if this offence was motivated by an addiction then it should come to court. However, even if this was a first offence, if a foil-lined bag or a child was used a FPN would not be appropriate. Another example could be criminal damage of a partner's property - where this was a one-off then a PND could be offered whereas if this was an example of domestic violence then it should come to court.

Records must be kept of all PNDs and FPNs issued and made available should the individual come to court on another matter.