

## The Clean Neighbourhoods and Environment Act 2005

### 1. Purpose of the Report

- 1.1 To summarise the new powers given to Councils under the Clean Neighbourhoods and Environment Act 2005 to deal more effectively with litter, nuisance vehicles, fly-tipping, waste, noise and dogs and to seek delegated authority for officers to exercise these new powers and, where appropriate, existing powers.

### 2. Recommendation

- 2.1 **That the Scheme of Delegation to Officers be amended to include the delegations set out at Appendix 1 to this report.**

### 3. Links to the Corporate Business Plan

- 3.1 The Act links most closely to the Corporate Priority for Cleaner Safer & Better Streets.

### 4. Summary of the 2005 Act

The following summary is taken from the Local Government Association's publication "Get in on the Act".

#### 4.1 Crime and Disorder

The Crime and Disorder Act 1998 is amended, to ensure that Crime and Disorder Reduction Partnerships include the quality of the local environment when developing their strategies. It also gives local authorities new powers to gate nuisance alleyways.

#### 4.2 Vehicles

Local authorities are given significant new powers to deal quickly with abandoned and nuisance vehicles. Local authorities will be able to immediately remove any abandoned vehicle from a road. They will no longer have to wait until a valid licence expires before disposing of a vehicle and will also be able to immediately dispose of any vehicles not displaying a licence and registration mark. There are two new offences to address the problem of businesses or individuals using the road as a showroom or workshop for the sale or repair of vehicles.

#### 4.3 Litter and Refuse

The offence of dropping litter will be extended to any land open to the air, regardless of ownership, whilst clarifying that chewing gum and smoking related materials are litter. There is a new power to issue Litter Clearing Notices. This replaces the previous Litter Control Area powers. These can be issued in relation to most land for which there is no duty to clear litter and refuse, including most private land. Existing provisions on street litter control notices will now specifically include mobile vendors and all principal litter authorities will have the power to restrict distribution of leaflets (flyering) in designated areas.

#### 4.4 Graffiti and Other Defacement

The Act includes stronger powers to address graffiti and fly-posting by extending graffiti removal notices to include fly-posting. The fly-posting offence is strengthened to make it more difficult for the beneficiaries of fly-posting (venue, record company, artistes etc) to evade prosecution. Local authorities will also have new powers to recover the cost of removing fly-posters and enforce the ban on the sale of spray paints to under 18s.

#### 4.5 Waste

The Act provides stronger powers, penalties and deterrents to enforce against individuals, businesses and criminal gangs caught fly-tipping or disposing of their waste illegally or irresponsibly. Local Authority and Environment Agency officers will be able to issue Fixed Penalty Notices (FPNs) for a range of waste offences and will have new powers to immediately search, seize and impound a vehicle involved in fly-tipping. New guidance to magistrates will increase the penalties and costs award for fly-tipping offences. Authorities will be able to issue FPNs to householders and businesses not complying with waste collection regulations. Landowners as well as occupiers will have responsibility for clearing fly-tipped waste from their land.

#### 4.6 Dogs

The Act will transfer registration of stray dogs from the police to local authorities, subject to an agreed transfer of resources. The Act will also scrap the existing dog byelaw system and replace it with a new Dog Control Order, giving local authorities and parish Councils the power to designate areas where dog fouling, letting a dog off the lead, excluding dogs from designated land and walking more than a set number of dogs will all be offences.

#### 4.7 Noise

The Act gives local authorities a new power to designate an area as an alarm notification area, with a requirement to register key-holders with the local authority. Local authority office's will also have new powers to enter a premises and to silence an alarm. The Act also gives local authorities the power to issue FPNs for noise nuisance at night to operators of licensed premises. A warning notice would be issued in the first instance, with a FPN (set at £500 for nuisance from a licensed premises) available for further offences.

#### 4.8 Miscellaneous

The Act clarifies regulations around fixed penalty notices and the use of penalty receipts. This part also gives authorities the power to charge owners for the cost of recovering, storing and disposing of abandoned shopping and luggage trolleys, regardless of whether or not the owner accepts their return. Statutory nuisances will be extended to include insects and artificial light from premises, whilst all Contaminated Land Appeals will go to the Secretary of State, rather than local magistrates as at present.

## 4.9 General

### 4.9.1 Fixed Penalty Notices (FPNs)

These can be used instead of prosecution for a large number of the new offences introduced by the Act. Local authorities can issue fixed penalty notices for offences on litter, dog fouling, night time noise, graffiti, fly-posting, free literature distribution, vehicles, waste offences and site waste management plans. FPNs for failure to produce waste transfer notes or waste registration details, or for nuisance vehicles, or noise from licensed premises all have set levels. If the person served with the FPN fails to pay it within 14 days, the only sanction is for the authority to prosecute for the original offence. No prosecution may be instigated if the FPN is paid within the 14 days.

### 4.9.2 Retention of FPN Receipts

All fixed penalty notice receipts can be retained by the local authority, although they are not intended to be revenue-raising but to provide an adequate deterrent and to cover the cost of enforcement.

### 4.9.3 FPN Levels

The amounts of the fixed penalty have been set at particular levels, but these can be varied by the local authority, within minimum and maximum amounts, except for offences on the transfer of waste, which are set at £300, noise nuisance from licensed premises, which are set at £500, nuisance vehicles, which are set at £100 and abandoned vehicles, which are set at £200.

### 4.9.4 Who can issue FPNs?

A fixed penalty notice may be issued by an employee of the authority who is authorised in writing to do so by the authority. With regard to Vehicles the authorised officer must be an employee of the authority. With regard to Litter Graffiti Waste, Dogs and Noise the power to issue FPNs is extended to other persons authorised by the authority, including Parish Councils. The Parish Council would be responsible for enforcement and any variable fine levels would be set by the District Council, except for those relating to dogs, which the Parish Council can vary.

### 4.9.5 What if the offender refuses to give their name and address?

The additional power now available to local authority officers to demand names and addresses when issuing a fixed penalty notice, means that a further offence, attracting a fine of up to £1,000 has been committed if a person refuses to give this information or gives false information.

### 4.9.6 Use of fixed penalty receipts

A local authority may use its fixed penalty receipts only for the purposes of its qualifying functions.

#### 4.9.7 Parish Councils

Parish Councils will be able to authorise employees and contractors to issue FPNs for all litter, graffiti, fly-posting and dog offences. A Parish Council will also be able to make a dog control order (as at present they can issue bye-laws in relation to dog offences). It is intended that Parish Councils will also be able to retain the receipts from FPNs, subject to meeting requirements that will be in regulations and will be directed by regulation as to qualifying use of receipts.

### **5. Commencement**

5.1 The following provisions of the Act come into force on 6<sup>th</sup> April 2006:-

The provisions concern:

- Gating orders
- Nuisance parking
- Abandoned vehicles
- Litter and refuse
- Graffiti and fly-posting
- Placards and posters
- Shopping and luggage trolleys
- Waste
- Controls on dogs
- Audible intruder alarms
- Noise from premises
- Statutory nuisances

### **6. Delegations**

6.1 The delegated powers required to enable officers to utilise the new powers on a day to day basis are set out at Appendix 1 to this report.

### **7. Financial Implications**

7.1 As part of the Cleansing and Amenities Best Value Plan Project a sub-group has been set up to recommend an Enforcement Strategy. The sub-group is to present a draft Strategy to the C & A Improvement Plan Board in May and to the Executive in June. The Strategy will include financial implications which will depend upon the level of enforcement to be carried out.

### **8. Community and Environmental Implications**

8.1 There are none arising from this report. However, the more stringent powers available to local authorities encompassed in the Act will if effectively enforced lead to a cleaner environment and a greater awareness within the community of environmental issues.

### **9. Human Resource Implications**

9.1 These will also be covered in the Strategy referred to under Financial Implications

**10. Equal opportunity Implications**

10.1 These will also be covered in the Strategy referred to under Financial Implications

**Documents used in preparing this report**

- LGA publication "Get in on the Act"

**REPORT OF THE CORPORATE SERVICE STRATEGIC MANAGER  
TO THE EXECUTIVE - 20<sup>TH</sup> APRIL 2006**

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