



Belfast City Council

Report to:	Health and Environmental Services Committee
Subject:	Consultation Document - Draft Clean Neighbourhoods and Environment Bill
Date:	12 th April, 2010
Reporting Officer:	Suzanne Wylie, Head of Environmental Health, Ext 3281
Contact Officers:	Siobhan Toland, Environmental Health Manager, Ext 3312

RELEVANT BACKGROUND INFORMATION

The Department of the Environment's Clean Neighbourhoods Team, wrote to consultees, including District Councils, on 1st March 2010 to invite views on the proposals for a Clean Neighbourhoods and Environment Bill as set out in the published consultation paper. The closing date for the consultation is 23rd April 2010.

The Council has long awaited the publication of this Bill and had originally hoped it would be brought into statute in 2006. The Council previously submitted a response to an informal consultation and also supported NILGA during April 2008 to lobby for the legislation to be brought forward. At that time NILGA looked to advance the key areas and asked for agreement among councils of the top 3 areas they wished to see enacted. BCC responded to that and whilst we highlighted 3 issues, Graffiti and Fly-posting, Noise Nuisance and Alleygating, the Council's position was to seek for the Bill to be brought forward in its entirety.

The aim of the Clean Neighbourhoods and Environment Bill (Northern Ireland) is to give district councils a range of powers to help them to manage their local environments in an efficient and effective manner in line with the public's expectations. If legislated and implemented effectively, the new powers should lead to significant improvements in environmental conditions in local neighbourhoods and, consequently, in the quality of people's lives. In addition, clean, safe and green neighbourhoods should help to stimulate economic investment and tourism and attract people into the community to live, work and socialise. Businesses also have a role to play in supporting district councils to manage the local environment and the Department of the Environment is looking to business to show corporate social responsibility in helping to maintain the quality of the local environment.

The current set of powers, duties and guidance for providing and maintaining clean and safe public spaces / areas is not sufficiently comprehensive and is not working as effectively as it should. Tougher, clearer and more flexible powers should help district councils to deal with irresponsible individuals and specific nuisances.

The proposals contained in the Bill were developed following limited informal consultation with stakeholders but in the main they are based on experience and developments in England and Wales.

The consultation document highlights that the proposals will:

- Create revised powers to deal with nuisance alleyways;
- Deal more effectively with the problem of nuisance vehicles by allowing district councils to remove them immediately;
- Provide a range of new and extended powers to enable more effective control over the problems of litter, free distribution of printed materials and abandoned shopping trolleys;
- Provide a range of new and extended powers to enable more effective control over the problems of graffiti and fly-posting;
- Deregulate the dog byelaw system and create some new powers in respect of dog control;
- Provide more flexible powers for dealing with noisy neighbours, night-time noise from licensed premises and nuisance intruder alarms;
- Update the legislation on statutory nuisance; and
- Ensure greater flexibility at the local level for the use of fixed penalty notices.

The draft Bill is based on corresponding provisions in the Clean Neighbourhoods and Environment Act 2005 (England and Wales) in relation to vehicles; litter; fly-posting; graffiti; controls on dogs; noise; and various miscellaneous issues including fixed penalty receipts and statutory nuisances. The provisions concerning graffiti and other defacement and some aspects of the provisions concerning noise are also based on corresponding provisions in the Anti-social Behaviour Act 2003, as amended by the Clean Neighbourhoods and Environment Act.

A more detailed summary of the issues and proposals covered within the Draft Clean Neighbourhoods and Environment Bill is included in Appendix 1.

KEY ISSUES

Belfast City Council Position

The Council is recommended to welcome the opportunity to respond to the draft Clean Neighbourhoods and Environment Bill. An internal corporate working group, including the following Departments and Services that will be impacted by the new Bill, have been consulted and provided input into the draft consultation response: Health & Environmental Services, (Environmental Health, Waste Management, Cleansing Services, Building Control), Parks & Leisure Department and Legal Services. Arc 21 has also given support to the draft consultation response.

Some key points raised in the response are outlined below; however, the detailed response is attached in Appendix 2.

Fly-posting and Graffiti

Improved tools to tackle litter and in particular fly posting and graffiti are something for which this Council has called for a number of years. BCC has attempted to take a very proactive, low tolerance approach to these issues, however its efforts have been hampered by legislative gaps. The Council currently spends approximately £90,000 annually to remove fly-posters. Consequently, although it is proposed that the Council be supportive of the majority of the proposals around these issues, it is also recommended that the following very significant concerns be expressed around the new provisions for fly-posting: i.e.

- The proposals limit the legal scope of councils in tackling fly-posting to dealing only with those who personally affix the posters and not those whose goods and services are advertised on the poster i.e. the beneficiaries of the advertisement. This will severely curtail the Council's efforts to control and eradicate fly-posting activities and will not have the desired significant impact on reducing the levels of fly-posting activity.

In view of the above comments, it is proposed that the Council urges the Department to review this section of the proposed CNE Bill to give Councils a comprehensive range of powers to deter fly-posting activities. If the current proposals remain unchanged, the opportunity to effectively curtail fly-posting will be lost and fly-posting will continue to have an adverse impact on the local character and appearance of neighbourhoods, particularly in urban environments.

- The proposed changes will mean that councils will only be able to remove or obliterate posters which are displayed after giving prior notice of not less than two days. The Council currently undertakes a very proactive role in the removal or obliteration of posters (approximately 25,000 per month) without notice. This has the effect of reducing the advertising value of fly posting, deterring some from investing further in this form of advertising. In addition, the requirement to serve Removal Notices in respect of this quantity of fly-posters will be onerous, costly, time consuming and in practical terms, impossible to administer. If this issue is not addressed in the Bill it could adversely affect the visual appearance of a city like Belfast which has already taken a proactive approach.
- It is disappointing to note that in the event of non-compliance with a Removal Notice that councils have not been afforded powers to prosecute. The recovery of costs for the removal of the posters is not an appropriate substitute for powers of prosecution, which would act as a better deterrent and allow more robust control.

Dog Fouling

The Council is recommended to support the additional controls on dogs and dog fouling, in particular the proposal to introduce the power to make dog control orders. However, the following concern needs to be given consideration by the Department:

- The proposal to repeal Article 4 of the Litter (NI) Order 1994, which makes it an offence to permit a dog to foul in a public place and which has so far proved very effective. Consequently, the Council should express grave concerns about the potential impact of this proposal on the cleanliness of the city. It is appreciated that the proposed dog control orders can include provisions relating to dog fouling, however this will only apply to those areas that have been so designated. The Council would therefore very strongly recommend that Article 4 of the Litter Order be retained.

Litter

- Again the Council should welcome the additional powers. However it should also press to have the street litter powers extended to enable councils to deal effectively with litter, including cigarette butts, from pubs, clubs, restaurants and cafes.

Noise Nuisance

The Council is recommended to welcome the additional powers to deal with noise nuisance. However it should also raise the following issues:

- **Audible Alarms**
The legislation should make reference to audible alarms in general and not restrict the ability to take action to intruder alarms. The Council should also ask the Department to reconsider the stipulations regarding notification of alarm notification areas, so that the process is manageable and not cost prohibitive.

In addition, the Council should highlight that the requirement to obtain a warrant before forcing an entry to premises to silence alarms, especially at night, could restrict the effectiveness of the service in dealing with the problem as quickly as possible.

- **Noise Act Powers**

Belfast City Council is the only district council to date in Northern Ireland to adopt and enforce the Noise Act. The Council is of the strong view that the current level of funding from the Department (0.04 pence per head of population for those authorities who adopt the Noise Act) is grossly inadequate and the additional powers to be enacted under this legislation strengthen the case for a fundamental review of such funding. The current level of funding only supports 3% of the cost of the Council's Night Time Noise Service.

Fixed Penalty and Resourcing

- The Council should emphasise that although Councils will be able to retain receipts from fixed penalties, this income will be minimal and will not compensate for the considerable extra resources which will be needed to deliver the increased level of services. Evidence from GB indicates that fixed penalties can be a useful deterrent but the numbers that tend to be served and costs recovered are extremely small compared to the cost of delivering the services.
- The finances of local government in NI are, like those of others in the public sector, increasingly constrained. Whilst the proposals are welcome, consideration should be given to financially compensating councils for the additional costs which will be associated with the administration, investigations and enforcement activity. The Council should therefore seek clarity and immediate further consultation by the Department on the additional 'new burdens' funding required to properly effect the new regulatory powers and improve neighbourhoods in the way that is envisaged.

A detailed draft response to the proposed Bill is attached at Appendix 2.

RESOURCE IMPLICATIONS

There are potentially significant resource implications for the Council as a result of the introduction of the Clean Neighbourhoods and Environment Bill. This issue has been raised in the attached draft response.

The Department of the Environment needs to engage with councils immediately on the potential for funding to support the application of the new powers.

RECOMMENDATION

It is recommended that the Committee approves the draft response.

DECISION TRACKING

Following Committee approval, the Head of Environmental Health will submit the response to DOE, subject to full council approval.

DOCUMENTS ATTACHED

Appendix 1 – Extract from DoE summary of issues covered within the Draft Clean Neighbourhoods and Environment Bill

Appendix 2 – Detailed Council response to the Consultation on Draft Clean Neighbourhoods and Environment Bill