

Council Response - nsultation on Draft Clean Neighbourhoods and Environment Bill

The purpose of this consultation exercise is to invite comments on the draft Clean Neighbourhoods and Environment Bill (Northern Ireland) as set out in Section 2 of the consultation document. The main purpose of the Bill is to improve and strengthen existing legislation to help District Councils deal more effectively with a wide range of problems associated with local environmental quality.

Issues covered by the Bill include litter, fly-posting and graffiti, dog control, noise, statutory nuisance, fixed penalty notices, gating orders, nuisance parking, abandoned vehicles, abandoned shopping trolleys and fines for offences relating to pollution.

Section 1 of the consultation document (Consultation Issues) provides an outline of the measures in the Bill and invites comments on same. The Bill is divided into 8 distinct parts. The following tables look at each part separately and contain comments on the provisions contained within the Bill.

	Part 1 - Gating Orders	Response
Issue 1 (Page 12)	<p>Consultees are invited to comment on the provisions concerning Gating orders in Clause 1:-</p> <ul style="list-style-type: none"> • Gating orders; • Effect of gating orders; • Variation and revocation of gating orders; • Procedure for orders under this Part; • Validity of gating orders; • Publication and availability of gating orders. 	<p>BCC welcomes the proposal to make a specific power in respect of gating orders and any process which will streamline and speed up the current system. The Council therefore supports, in principle, the transfer of responsibility for making such orders to district councils. Belfast City Council has been involved in a pilot 'alleygating' scheme, erecting over 200 gates, and its experience is that the existing system, whereby the responsibility for the statutory process lies with DRD, leads to delays and frustration on the part of residents, etc.</p> <p>However the Council is concerned about the resource implications that such a new power would have in terms of increased administration, publication of notices, legal advice and local inquiries. The resources for the erection, operation and maintenance of gates themselves are also very limited as there is currently no central government funding for such schemes; this is something that central government needs to address, if gating schemes are to be used widely to reduce antisocial behaviour.</p> <p>In addition, the proposed legislation still requires the approval of the Department to make such orders, which could without effective controls, still add delay into the process. Therefore, there would need to be further guidance or clarification on what this entails and some parameters put around response times. It should also clarify the circumstances under which the Department might refuse the making of the order, to avoid any unnecessary expenditure.</p> <p>The Council would also wish to see a clear a definition of a 'back street' as there is often confusion on the part of residents between a back street (alley) and a walkway. Section 69B (4) goes some way to addressing the issue of public rights of way to a residential</p>

		<p>dwelling, however a fuller definition would prove invaluable for councils when dealing with public expectations.</p> <p>The Council would also wish to see further guidance on the requirements relating to local inquiries, in particular the circumstances under which such an inquiry must be held and what element of discretion council's might have to determine the 'reasonableness' of objections considering the costs to the ratepayer of holding such inquiries.</p> <p>In respect of variation and revocation of gating orders, it would be helpful if the Section 69C (2) could include a clause of antisocial behaviour directed to the gates or within the restricted space, as a reason for revocation.</p>
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	Part 2 - Vehicles	Response
<p>Issue 2 (Page 13)</p>	<p>Consultees are invited to comment on the provisions in Clauses 2 to 13 concerning:-</p> <p><u>Nuisance parking offences</u></p> <ul style="list-style-type: none"> • Exposing vehicles for sale on a road; • Repairing vehicles on a road <p><u>Nuisance parking offences: fixed penalty notices</u></p> <ul style="list-style-type: none"> • Power to give fixed penalty notices; • Power to require name and address; • Use of fixed penalty receipts <p><u>Abandoned vehicles</u></p> <ul style="list-style-type: none"> • Offence of abandoning a vehicle: fixed penalty notices; • Notice of removal of vehicle by district council; • Disposal of removed vehicle by district council; • Guidance 	<p><u>Nuisance parking</u></p> <p>One issue which is not adequately addressed is the parking of vehicles on the street which are "in for repair". Many of the repair garages are small with little parking space. Vehicles in for repair are parked on the street, taking up residents spaces. Although no work is carried out on them in the street they are still regarded as a nuisance by residents.</p> <p><u>Abandoned Vehicles - Caravans</u></p> <p>One obvious omission in the draft Clean Neighbourhoods and Environment Bill Consultation Paper would be that of caravans (to include abandoned, located without necessary permissions or unoccupied).</p> <p>Belfast City Council receives enquiries regarding abandoned or illegally located caravans and as such more clarification would be welcomed on the inclusion of a definition of a caravan within the bill or even within the definition of a trailer as currently listed within the Pollution Control and Local Government Order 1978. Part II – Article 36 (1).</p>

	<p><u>Illegally parked vehicles</u></p> <ul style="list-style-type: none"> • Notice of removal of vehicle; • Disposal of vehicle by police officer; • Disposal of vehicle by Department. 	<p>The provision is not sufficiently robust to deal with vehicles abandoned on private land. The provisions should be capable of permitting the Council to remove vehicles from private land to which the public have access.</p>
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	Part 3 - Litter	Response
<p>Issue 3 (Page 14)</p>	<p>Consultees are invited to comment on the provisions in Clauses 14 to 23 concerning:-</p> <p><u>Offence of dropping litter</u></p> <ul style="list-style-type: none"> • Offence of dropping litter in lake, pond or watercourse; <ul style="list-style-type: none"> • Penalty for failing to provide name; <ul style="list-style-type: none"> • Litter offence: fixed penalty notice <p><u>District council notices</u></p> <ul style="list-style-type: none"> • Litter clearing notices; 	<p>The proposed changes will have little impact, as the Article 3 offence remains unchanged. The Clean Neighbourhood and Environment Act (CNEA) 2005 clarified that the offence of littering applied to litter whether it was deposited on land or water. The Litter (NI) Order 1994 does not define littering in water as an offence. The CNEA 2005 also clarifies that smoking related litter and chewing gum constitute litter.</p> <p>In relation to the proposals for the CNE Bill for Northern Ireland, the Council wishes to clarify if the Department has interpreted The Litter (NI) Order 1994 in its current format and its definitions to be as comprehensive as the CNEA in England and Wales without needing to make amendments to cover litter deposited into water and smoking related/chewing gum?</p> <p>The Penalty for failure to provide a name and address to an authorised person is amended to make it an offence to give a false name and address and this is welcomed. However, it would be beneficial to allow fixed penalty notices to be issued in respect of this offence, as experience of these matters before a magistrate is that they do not attract any greater fines than would be the case for littering offences. The use of a-FPN provisions in these circumstances could reduce the time and expense involve in bringing these cases before the court.</p> <p>The offence of failing to give a name and address should not be confined to the enforcement of Articles 3 and 4 but should apply generally in connection with all enforcement functions under the Order.</p> <p>The Council welcomes the flexibility to set the levels of fines under the proposed changes but would like to have sight of the Regulations proposed by the Department setting out the minimum and maximum ranges within which a fixed penalty amount can be set prior to the commencement and implementation of the CNE Bill in Northern Ireland</p> <p>The Council welcomes this new provision as it will enable effective control of pockets of land throughout the city which are detrimental to the amenity of the area. To date, we have relied</p>

	<ul style="list-style-type: none"> • Street litter: control notices; 	<p>on our persuasive abilities to get areas tidied up but where there is no co-operation, we have no legal basis to achieve compliance. These new powers will address this problem and will improve the cleanliness of local neighbourhoods.</p> <p>Article 12B (3) (d) should be removed or amended as it has the potential to be too subjective. The Council suggests that the Department consider it may be that an alternative wording would be preferable referring to enabling the imposition of requirements under a notice in excess of that required to remedy the situation.</p> <p>The Council agrees with the rationale for making SLCNs more effective and easier to enforce. However the following comments should be noted;</p> <p>In England, the Street Litter Control Notices Order 1991 defines the premises where a street litter control notice can apply. After the CNEA 2005 was implemented in England, a gap in the provisions for dealing with smoking related litter from certain types of premises was highlighted in the wake of the implementation of the Smoke free legislation.</p> <p>In July 2007, the Street Litter Control Notices (England) (Amendment) Order was introduced to address litter (including smoking related litter) generated from those premises which were not covered by the existing provisions e.g. Pubs, bars, cafes and restaurants.</p> <p>In Northern Ireland, the Street Litter Control Notices Order (NI) 1995 specifies the premises which can be targeted using Street Litter Control Notices and the definition of premises to which the legislation applies, replicates the legislation in England prior to amendment ie The Street Litter Control Notices Order 1991</p> <p>Therefore, in order to ensure parity with England, the same amendment is required to our legislation to enable Councils to effectively tackle litter (including cigarette litter) from pubs, clubs, restaurants and cafes.</p> <p><u>There is no doubt that the introduction of Smoke Free legislation in April 2007 has increased levels of smoking related litter outside office blocks. Employees and visitors who cause smoke related litter on the street outside these office blocks fall outside the scope of the CNEA street litter control provisions as office blocks are not defined as relevant premises for this provision.</u></p> <p>SLCNs would be an effective tool for dealing with businesses who fail to make provision for their customers/employees who smoke outside of their premises. To date, Litter Wardens</p>
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Comment [w1]:

	<ul style="list-style-type: none"> • Street litter: supplementary provisions; • Failure to comply with notice: fixed penalty notices <p><u>Free distribution of printed matter</u></p> <ul style="list-style-type: none"> • Controls on free distribution of printed matter 	<p>have fined employees caught discarding cigarette butts outside their place of work but it does not reduce the overall level of littering from others in that same building</p> <p>In the event that these provisions were extended to include office blocks, it is important that there is provision for councils to serve SLCNs on either the <u>owner</u> or the <u>occupier of the premises</u>. It is anticipated that Notices would have to be served on the owners of multiple occupancy office blocks rather than the occupiers. It would be impossible to enforce SLCNs if they had to be served on several occupiers in one building.</p> <p>Extension of the use of Street Litter Control Notices to include mobile vendors is welcome.</p> <p>The Council agrees that the change to the legislation to enable Councils to prosecute for non-compliance with a Street Litter Control Notice instead of seeking redress through a court order is more streamlined and should prove to be more effective.</p> <p>The use of the fixed penalty notice provisions in respect of these offences may be a more effective means of seeking compliance and will reduce the time and cost involved in referring such cases to court.</p> <p>It is anticipated that the proposed controls will help to reduce the impact of leaflet distribution, which is a persistent problem in areas of high foot fall within the city centre of Belfast as well as in the student areas of the city.</p> <p>The Council notes that the proposed CNE Bill for Northern Ireland makes a distinction in the offence of distributing leaflets without consent between those who distribute the leaflets and those who cause another person to distribute the leaflets. In determining if an offence has been committed in the first instance by the person who is distributing the leaflets, the Council must prove that the person distributing the leaflets knew that the area was designated. In practice, it will be difficult to prove that the person distributing the leaflets was aware of the designation and it is envisaged that few fixed penalties will be issued for this offence.</p> <p>In the case of the person commissioning the distribution of the leaflets, the burden of proof is less onerous; however, in order for Council enforcement officers to determine the identity of the person responsible for commissioning the distribution of the leaflets, the Council will require powers of investigation to request this information. Therefore the Council wishes to seek clarification from the Department in respect of the powers available to councils to enforce this legislation.</p> <p>Also, it is noted that the Council may grant consent with conditions to prevent</p>
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	<p><u>Fixed penalty notices: supplementary</u></p> <p><u>Exclusion of liability for district councils</u></p>	<p>defacement; however, further clarification is required on the possible redress that is available to the Council in the event of non-compliance with the conditions. The Council would urge the Department to consider making it an offence for failure to adhere to conditions set in respect of leaflet distribution which could be addressed through the use of a fixed penalty provision.</p> <p>The Council believes it is important that the Department issues guidance issued in relation to arrangements for leaflet designation to include matters such as, administration of consents and size of areas to be designated etc. The Council wishes to be consulted during the preparation of this guidance.</p> <p>Also, it is noted that the Council may grant consent with conditions to prevent defacement; however, further clarification is required on the possible redress that is available to the Council in the event of non-compliance with the conditions. Would the Department consider making it an offence for failure to adhere to conditions set in respect of leaflet distribution which could be addressed through the use of a fixed penalty provision?</p> <p>The Council wishes to clarify if there will be any guidance issued by the Department in relation to arrangements for leaflet designation to include matters such as, administration of consents and size of areas to be designated etc?</p> <p>Noted</p> <p>Noted</p> <p>BCC welcomes any effective revisions of existing legislation with respect to litter which would enable us to improve the quality of the public and open spaces for which we are responsible and the our ability to effectively deliver services in relation to these. We are committed to providing quality parks, open spaces and leisure facilities which are valued and used by all.</p>
<p>Issue 4 (Page 15)</p>	<p>Consultees are invited to comment on the provisions in Clauses 24 and 25 concerning:-</p> <p><u>Shopping and luggage trolleys</u></p> <ul style="list-style-type: none"> • Abandoned shopping and luggage trolleys; • Section 24: transitional provision. 	<p>The new provisions are noted, however, in addition to nuisance caused by shopping trolleys, it would be useful if this provision could be extended to cover cages and baskets which are also left in public places and for which the Council incurs the cost of their removal and disposal.</p> <p>A broader definition might be to include other devices used for the transport and storage of goods other than a motor vehicle.</p>

	Part 4 – Graffiti and Other Defacement	Response
<p>Issue 5 (Page 15)</p>	<p>Consultees are invited to comment on the provisions in Clauses 26 to 38 concerning:-</p> <p><u>Penalty notices for graffiti and fly-posting</u></p> <ul style="list-style-type: none"> • Penalty notices for graffiti and fly-posting; • Amount of penalty; • Penalty notices: power to require name and address; • Penalty receipts; • Guidance 	<p>The Council is extremely disappointed with the proposed provision of the CNE Bill to tackle the blight of fly posting.</p> <p>Currently Belfast City Council spends approximately £90,000 annually to remove fly-posters and the proposals outlined in the consultation document to enable Councils to tackle fly-posting are very limiting in their its-scope and will not be effective in curtailing this activity.</p> <p>The proposals appear to mirror the powers available to Councils in England and Wales but the Department has not fully taken cognisance of the fragmentation that exists within Northern Ireland in that the legislative powers are split between three separate authorities namely the Northern Ireland Planning Service, The Department of Regional Development Road Service and the Councils.</p> <p>In Northern Ireland, the power to prosecute the beneficiaries of fly-posting rests with the Northern Ireland Planning Service under Article 84 of the Planning (NI) Order 1991 which makes it an offence to display an advertisement in contravention of Regulations made under Article 67 of the Order. The Planning Service has made a policy decision not to enforce this legislation and has indicated to the Council that they do not have the resource to enforce the legislation and have further indicated that they do not regard the matter of fly-posting as a priority for their Department.</p> <p>Research into the use of these powers since the implementation of the CNE Act has shown that Local Authorities in England are not solely relying on the provisions of the CNE Act but are also using other powers included in the Highways Act and the Town and Country Planning Act to tackle the fly-posting issues. Due to the fact that the Planning and Road service functions rest within Councils structures in England, they are able to take a holistic approach. Unfortunately this approach is not an option for Councils in Northern Ireland for the reasons outlined above.</p> <p>The proposal to limit Councils’ legal scope to tackling only those who personally affix the posters and not to those whose goods and services are advertised on the poster i.e. the</p>

beneficiaries of the advertisement, will severely curtail the Council's efforts to control and eradicate fly-posting activities and will not have any significant impact on reducing the levels of fly-posting activity.

In order to address this vacuum in enforcement activity in relation to fly-posting, Councils in Northern Ireland need a comprehensive range of legislative powers to robustly tackle the significant fly-posting activities which currently exist within the province.

In addition to being able to fine individuals who are caught in the act of fly-posting by way of FPNs, provision must be made for Councils to enable venue owners/promoters/beneficiaries to be fined using FPNs and/ or prosecuted for allowing fly-posting to occur in connection with their business.

In the absence of robust and comprehensive enforcement by Councils in Northern Ireland, the beneficiaries of fly-posting will continue to use this as a cheap form of advertising safe in the knowledge that the Council will only be able to pursue the person who affixes the posters. The individuals who are employed to post the fly-posters are generally low income workers who will be penalised for an activity that generates large incomes for promoters and venues and for whom there will be no [effective](#) sanctions to deter the activity.

In view of the above comments, the Council [is urging](#) to the Department [most strongly](#) 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.

Under the Local Government (Miscellaneous Provisions) (NI) Order 1985, the Council exercises its right to remove or obliterate graffiti that the Council regards as being detrimental to the amenity.

[The Council wishes to retain this provision without the need to serve a Defacement Removal Notice on each occasion that graffiti is required to be removed as is required under the proposed provisions of the CNE Bill. Therefore the Council is seeking a review of this provision, so that the Council can retain its discretionary use of Notices when dealing with graffiti removal.](#)

~~[The Council wishes to retain this provision without the need to serve a Defacement Removal Notice on each occasion that graffiti is required to be removed. Therefore the Council is seeking further clarification from the Department to determine the Council's duties in this](#)~~

Removal of graffiti and fly-posting

- Defacement removal notices;
- Recovery of expenditure;
- Guidance;
- Appeals;
- Exemption from liability in relation to defacement removal notices

Aerosol paints

- Sale of aerosol paint to children

Advertisements

- Unlawful display of advertisements;

regard.

It is disappointing to note that in the event of non-compliance with a Defacement Removal Notice that Councils have not been afforded powers to prosecute. The Council views the recovery of costs for the removal of graffiti as a poor substitute for powers of prosecution.

Sale of Aerosol Paints to Children under the age of 16.

The Council ~~welcomes actions that will help to reduce graffiti and fly posting in the city and~~ would make the following observations regarding the sale of aerosol paints to children under the age of 16:

The Council already successfully regulates the sale of tobacco products and butane gas lighter refills to young people. It has a robust procedure for test purchasing based on national guidelines (LACORS) and an annual test purchasing programme. The minimum age for the sale of tobacco products and butane gas lighter refills is 18 and the Council is unclear of the evidence base used for selecting 16 as the minimum age for the sale of aerosol paints. It is difficult to get children to volunteer to take part in test purchasing and the children of staff are often used in existing programmes.

~~The Council therefore believes there is an opportunity to combine the regulation of the sale of aerosol paints to minors with existing test purchasing undertaken by the Council, particularly if the minimum age was to be 18 rather than 16. The council therefore urges the Department to make the minimum age 18 rather than 16.~~

~~There is an opportunity to combine the regulation of the sale of aerosol paints to minors with existing test purchasing undertaken by the Council, particularly if the minimum age was to be 18 rather than 16.~~

There will be considerable additional work for the Council in identifying the premises selling aerosol paints and in raising awareness of the new legislation before test purchasing can take place. There will also be additional costs for businesses selling aerosol paints in establishing new procedures and training staff (this could involve a number of large national companies and parity of regulation with GB could potentially be an issue under the better regulation agenda). There are also potential health benefits in controlling the sale of aerosol paints to children and young people in terms of reducing substance abuse

~~Whilst any amendment to the legislation makes it more difficult for beneficiaries to avoid prosecution, the change, as proposed will not have the desired effect. The Planning Service~~

- Removal of placards and posters.

~~do not undertake any enforcement activity in relation to fly-posting and have declined to work in partnership with the Council to pursue those beneficiaries involved in fly-posting. The Council is concerned that if the Planning Service continues to resist putting the resources required to actively pursue the benefactors of fly-posting when these enhanced powers come in to force, the new legislation will be ineffective. Whilst the amendment to the legislation is to be welcomed as it is more difficult for the beneficiaries of illegal advertisements to evade prosecution and brings us into parity with the Councils in England and Wales, it should be noted that the Northern Ireland Planning Service have made it clear to the Belfast City Council that they have no intention of enforcing this legislation in respect of fly-posting activities. Furthermore they have also declined to enter into a partnership arrangement with Belfast City Council to pursue the beneficiaries of fly-posting activity.~~

The Council wishes to re-iterate [therefore](#) that the powers to address fly-posting activities should be given to Local Authorities who are willing to use the powers to control and reduce the impact of fly-posting within their areas.

Section 37(3) may need screened to ensure it does not create a reverse burden.

Under the Local Government (Miscellaneous Provisions) (NI) Order 1985, the Council exercises its right to remove or obliterate fly-posters that are displayed in contravention of the Advertisement Regulations.

The Council is extremely concerned that the proposed changes remove the power to remove or obliterate without giving prior notice of not less than two days. The Council views this proposal as a retrograde step which will severely hamper our efforts to reduce the visual impact of fly-posters within the city.

The Council currently undertakes a very pro-active role in the removal or obliteration of posters which reduces the advertisement opportunity of the posters. The Council removes/obliterates approximately 2500 fly-posters per month and the requirement to serve Removal notices in respect of this quantity of fly-posters will be onerous, costly, time consuming and in [realistic-practical](#) terms, impossible to administer . This will mean that the fly-posters will not be removed and will adversely affect the visual appearance of the city.

The Council wishes to lobby for this power to be non mandatory so that the Council retains the right to obliterate/remove posters without the need to serve Removal Notice on every occasion.

		<p>The Council acknowledges that in cases where it is appropriate to issue a Removal Notice that the two day timeframe for compliance is appropriate.</p> <p>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 notices is not an appropriate substitute for powers of prosecution, which would act as a better deterrent and allows a more robust control measure to deal with the problem of fly-posting.</p> <p>The Council notes that the determination of the person responsible for displaying or causing a poster to be displayed may require some degree of investigation and it would be helpful if the Department could confirm if the powers to carry out investigations for this purpose will be reviewed to ensure that they are commensurate with legislative provisions imposed to enable effective enforcement.</p>
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	Part 5 – Dogs	Response
<p>Issue 6 (Page 16)</p>	<p>Consultees are invited to comment on the provisions in Clauses 39 to 45 concerning:-</p> <p><u>Dog control orders</u></p> <ul style="list-style-type: none"> • Power to make dog control orders; • Dog control orders: supplementary; • Land to which this Part applies 	<p>The problem of dog fouling continues to be a major nuisance and irritant for the people of Belfast, both in respect of residential streets and public spaces. Despite provisions in the Litter (NI) Order 1994 making it an offence not to clean up after a dog has fouled, detection and enforcement remains difficult. Many public places, including parks and other open spaces, are often contaminated by dog fouling. The Council therefore welcomes the focus in the draft Bill on dogs and, in particular, dog control orders. Belfast City Council encourages responsible dog ownership as the foundation for dealing with dog related problems generally such as fouling and attacks on people. The Council therefore views additional enforcement options, including the zoning of land and specifying the maximum number of dogs that a person can take on to land, as essential tools in its continuing efforts to encourage responsible dog ownership and to change the behaviour of those who fail to control their dogs. The Council also welcomes powers to give District Councils the authority to make it an offence not to keep a dog on a lead in a designated area as people are often intimidated when dogs are allowed to run free in public places.</p> <p>The Council is very concerned however that the Department proposes 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. These provisions have already proved very effective and the Council would have grave</p>

concerns about the potential impact of this proposal on the cleanliness of the city. Although there are proposals in the draft Bill to include provisions relating to dog fouling in dog control orders, this will only apply to those areas that have been so designated. Article 4 of the Litter (NI) Order 1994 should be retained and the offence of fouling should not be predicated on the designation of an area.

It is important to ensure that the making of a dog control order is a streamlined and practical procedure which allows the Council to readily incorporate its designation into its planning processes. The current proposals, under the review of public administration, to make district councils responsible for Community Planning and providing them with powers of wellbeing will mean that dog control orders could have a significant strategic impact on the overall corporate plan. The Department will therefore need to consult with District Councils on the proposed Regulations associated with dog control orders, particularly in relation to the public consultation that needs to be undertaken before a dog control order is made and the subsequent publicising of the order.

Problems associated with dogs can arise anywhere within the district council area and the Council therefore welcomes the comprehensive description of land to which dog control orders can be applied. It is important however that the Department does not unduly restrict the options available to a district council by prescribing land to be exempt from designation without full consultation with the district Council in whose area the land is located.

The Council welcomes the discretionary option of an authorised officer issuing a fixed penalty offering the offender the opportunity of discharging any liability to conviction by payment of the penalty.

~~Payment of the fixed penalty to the Council will also off set some of the costs and will facilitate delivery of the service.~~

The current penalty for dog fouling under the Litter Order is £50. However, the Council welcomes the discretion specified in Clause 43 to allow Councils to set a fixed penalty of up to £75 for offences under a dog control order.

~~Clause 45 suggests that Councils can not make byelaws in respect of any land to which it has power to make a dog control order. Whilst the council welcomes the proposals in general there is concern that the option of designating dog control orders in England, where this legislation has been in force for several years, appears to be rarely used. The council would be concerned that, depending on the requirements for prescribing dog control orders in the proposed Regulations to be made under the draft Bill, there may be required elements that would make designation difficult or prohibitive. In these circumstances the Council would~~

Fixed penalty notices

- Fixed penalty notices for contravention of dog control order;
- Amount of fixed penalties;
- Power to require name and address

Supplementary

- Byelaws.

want to retain the option of making appropriate byelaws. The proposals in Clause 45 would prohibit this. It is therefore imperative that district councils are fully consulted, prior to the making of relevant Regulations, on the proposed required elements for designating dog control orders. Clause 45 suggests that Councils can not make byelaws in respect of any land to which it has power to make a dog control order. Whilst the council welcomes the proposals in general there is concern that the option of designating dog control orders in England, where this legislation has been in force for several years, appears to be somewhat intermittent across local authorities. The council would be concerned that, depending on the requirements for prescribing dog control orders in the proposed Regulations to be made under the draft Bill, there may be required elements that would make designation difficult or prohibitive. In these circumstances the Council may wish to retain the option of making appropriate byelaws. The proposals in Clause 45 would prohibit this.

	Part 6 - Noise	Response
<p>Issue 7 (Page 17)</p>	<p>Consultees are invited to comment on the provisions in Chapter 1 - Clauses 46 to 57 and in Chapter 2 – Clauses 58 to 60, concerning:-</p> <p><u>Chapter 1</u></p> <p><u>Alarm notification areas</u></p> <ul style="list-style-type: none"> • Designation of alarm notification areas; • Withdrawal of designation; • Notification of nominated key-holders; • Nomination of key-holders; • Offences under section 48: fixed penalty notices; • Amount of fixed penalty; • Use of fixed penalty receipts; • Fixed penalty notices: power to require name and address 	<p>Alarm Notification Areas</p> <p>BCC welcomes these additional powers and the clarity in terms of the responsibilities of premises where alarms are installed. However, it has the following concerns about how implementation / enforcement will work in practice.</p> <ul style="list-style-type: none"> • In the Council’s view, a key requirement to make this new power more effective is to also make reference to audible alarms in general rather than solely focusing on intruder alarms. Belfast City Council has been using its powers under the Pollution Control and Local Government (NI) Order 1978 to deal with audible alarms and carry out work in default where the nuisance needs to be abated within a reasonable time and no responsible person can be found. <u>This action is taken for both audible intruder alarms and other alarms.</u> <p>It is worth pointing out that where a complaint arises and a noise nuisance is established, it is our experience that the alarm is sounding from an installed intruder alarm but on entry into the property it is discovered that the alarm can be associated with a fire alarm system - very similar in installation and sounding. These alarms are more commonly found in shared housing, flats and HMOs. It is our experience that</p>

even getting a named key-holder and responsible person for this type of accommodation is more unreliable. Therefore to differentiate between an alarm and an intruder alarm makes this power weaker and the Council would like the definition to refer to 'audible alarms' generally.

- BCC also has concerns regarding the proposed route for obtaining **nominated** key-holders. The process identified is lengthy and we believe would result in a costly administrative exercise by having to designate an alarm notification area (with public consultation and consultation to every premises in that area) and carry out a series of individual consultations. The Council would ask the Department to consider whether Clause 46 (6) a and b - could be amended in a way which allows for the publication of an alarm notification area to be by way only of an advertised public notice in the relevant media. Other public consultations for most licensing and many other statutory functions are sufficiently covered by a newspaper advertisement. Also the Council has a magazine which is delivered to every home in the Council area at least 4 times a year which could be used as an additional medium. As such BCC would seek to have 46 (6)b deleted.

Feedback from other local authorities in England is that very few have ever found it worthwhile or effective in terms of costs to the Council of declaring an area.

A DOE code of practice currently exists and this, whilst voluntary, asks for 2 nominated key holders. BCC would seek to amend Clause 49 to refer to at least 2 key holders.

- In relation to Clause 51 - amount of fixed penalty. The Council welcomes the power to set the rate of the fixed penalty. The administration burden on a high density urban area of introducing this new power will be considerable and the suggested default amount of a fixed penalty of £75 is not likely to be a sufficient deterrent to encourage compliance. Our experience is that in areas of high density housing, such as concentrated HMO and flats which are often privately rented, it is difficult to trace responsible persons and apply regulatory powers and we have difficulty obtaining landlord details.

In relation to Clause 51 – amount of fixed penalty – BCC welcomes the opportunity that the district council can set a rate. The administration burden on a high density urban area of introducing this new power will be considerable and the suggested default amount

Powers in relation to alarms

- Power of entry;
- Warrant to enter premises by force;
- Powers of entry: supplementary

of a fixed penalty of £75 is not likely to be a sufficient deterrent to encourage compliance. Our experience is that in areas of high density housing, such as concentrated HMO and flats which are often privately rented, it is difficult to trace responsible persons and apply regulatory powers and we have difficulty obtaining landlord details. We therefore seek clarity on the process that a fixed penalty rate set by the Council is achievable and that this could be set at different rates for different parts of the city and for different tenure occupancy e.g. o/o, HA, private rented etc., if the Council made a decision that this was appropriate.

In respect of Clause 52 – BCC would make reference to the comments above, in that a specific fixed penalty rate should be determined by the Council and that retention of the income should be used to administer the powers in general under the qualifying functions e.g. Noise act.

Powers Of Entry

BCC welcomes the powers under Clause 54 in relation to the conditions for the test of whether action can be taken and the shift away from proving a noise nuisance to one of 'reasonable cause for annoyance'. BCC again would refer to the point made above - in that this power should be amended to refer to 'Audible Alarms', rather than 'Intruder alarms'.

BCC would also refer the Department to an approved Code of Practice on alarms and the reference to seeking that alarms are maintained, serviced and have a 20 min cut out device. It would be helpful to have reference made to this code in relation to the requirements for the occupier/ responsible person, in particular around the installation and maintenance of alarms. The advice we give is quoted below:

"An approved code of practice, issued by the Department of the Environment, provides guidance on minimising noise from alarm systems. The Council will have regard to compliance with this code in the exercise of its powers under the legislation. The code is entitled the Code of Practice on Noise from Audible Intruder Alarms 1982 and should be available for reference at local libraries.

Recommendations in the code include:-

- *alarm systems should be properly designed and installed;*
- *alarm systems should be regularly maintained under a contract with an alarm company;*
- *audible alarms should be fitted with an automatic cut-out device which should automatically stop the ringing after a period of 20 minutes from activation;*
- *If an automatic cut-out is not fitted a key holder must be able to respond and silence the*

Comment [I2]: Need to clarify this sentence – v long and not sure of meaning

alarm within 20 minutes of notification.

In order to avoid the instigation of formal action by the City Council you are requested to ensure that all reasonable steps are taken forthwith to prevent false alarms and that the alarm if activated does not ring for any period in excess of 20 minutes. If you fit a 20 minute cut-out device to your alarm, you are advised to notify your insurance company of this action”.

Warrant to Enter Premises.

BCC last year dealt with 264 alarms, 109 from commercial and 155 from domestic premises. Of that the majority were resolved informally. Only 8 required formal proceedings using Article 49 of the Pollution Control and Local Government Order (NI) Order 1978. Only 5 of these complaints required the use of powers of entry to abate the nuisance.

The Council has a number of concerns with this clause, i.e:

- BCC is concerned that the application of Clause 55 adds another administrative layer to the abatement of noise. Where an alarm is sounding, particularly at night, we currently engage a procedure that if the noise is causing a nuisance, similar to those stated here, we use powers to carry out work in default (Article 98 of the LGA 1972 to enter and abate the nuisance), to enter the premises to silence the alarm. This process works effectively. The requirement to seek a warrant from a lay magistrate during the night for this offence may be difficult and we would seek clarity on the process. It is our experience that entering premises to silence an alarm has only ever been required in the early hours of the morning as day time alarms are often resolved.
- Should the Department decide to pursue this clause, then BCC would at least seek assurances that **a warrant would not be required** if an alarm can be silenced from an alarm box mounted externally on the wall of the property. To silence an alarm box on the outside still requires entrance to the property boundary and execution of works but does not require forced entrance internally to the property.
- [Clause 57 2\(a\) and \(b\) - The Council believes that houses will be excluded where they are being cleaned, maintained or repaired and the burden of interpretation will be prohibitive. Also the Council would like the Department to make reference to the specific licence activity referred to in part \(c\).](#)

Interpretation of this Chapter.

Chapter 2

Amendments to the Noise Act 1996

- Dealing with noise at night;
- Noise offences: fixed penalty notices;
- Extension of Noise Act 1996 to licensed premises, etc.

~~On a more minor point, Clause 57 2(a) and (b) – clarity is sought regarding the interpretation – does this mean that for properties which are being maintained, cleaned or repaired, no action can be taken? Is this a potential defence? Also clarity is sought in part (c) – what type of licence does this refer to?~~

Chapter 2 Amendments to the Noise Act and Extension to licensed premises

BCC welcomes the ~~eis~~ introduction of ~~thise~~ power. This Council is the only one in NI to have adopted the provisions of the Noise Act 1996 and it has been an effective tool in addressing night time noise. As a result we provide a dedicated out of hours Night Time Noise Service (NTNS), responding to almost ~~over~~ 6000 noise complaints a year, the majority of which are dealt with by the NTNS. The service is welcomed and regarded as essential by the public and by elected representatives. The additional tools available under the Noise Act and subsequently under the Clean Neighbourhood and Environment Act are therefore welcomed.

BCC supports Clauses 2-9; again it will be helpful that the District Council can determine a fixed penalty rate over the specified £100 and the Council may wish to exercise this facility. We have used the £100 penalty since 2000 and whilst a deterrent for some, it is not in all cases.

BCC welcomes again the power to retain sums from fixed penalties to exercise the duties under the Act. However, it is unlikely that this will in any way address the costs of providing a service and the additional costs of extending the powers and duties under this part of the Act or in relation to any of the additional noise duties.

BCC dealt with almost 6000 complaints last year, the vast majority are associated with residential complaints. In the main, noise issues between neighbours are often resolved through informal warnings, both verbal and written, negating the need to pursue a more formal route. Our view is that this is the most sustainable solution to resolving complaints and our evaluation of the NTNS shows that warnings are an effective deterrent. In terms of formal action, Belfast on average ~~serviees~~ between 3-10 fixed penalty notices a year, under the Noise Act. Therefore even with additional powers to extend to licensed premises etc., it is highly unlikely there will be significant income from this route to assist in providing the level of service and responding to complaints.

We acknowledge under Clause 60 and Schedule 1 the provision of the noise act powers are extended to cover premises with an exhibition, entertainment, liquor or any form of licensed premises including clubs. The provisions also cover premises where meals and refreshments

are served and therefore include restaurants etc. This is a welcome extension and provides an additional tool to responding to complaints. The Noise Act allows for a warning period to be given to the offending premises before formal routes are taken and we note this is extended to the premises listed above. This would fit with our experience that in most cases a warning period resolves a situation and the service of a fixed penalty would only be necessary were corrective action is not taken within the specified time. We also note that the fixed penalty is fixed at £500. The Department may wish to consider that this level is reviewed after a period of time as there is not provision for the Council to consider setting a level for this particular penalty.

It should be noted that councils also have powers for the administration of entertainment licensing as provided for in the Local Government (Miscellaneous Provisions) Northern Ireland Order 1985. This legislation enables ~~to Councils~~ to deal with issues of unreasonable noise emanating from premises with an entertainment license. The Council welcomes this additional power which it observes as complementing those that already exist

~~In Belfast those with responsibilities for entertainments licensing and matters of noise work closely in relation to such matters to ensure a joined up approach where necessary in trying to reduce the impacts of noise and noise breakout to neighbouring premises. Issues of noise and associated breaches by entertainment venues are a material consideration for the Council and its elected members when making determinations on future licensing applications.~~

	Part 7 – Statutory Nuisances	Response
Issue 8 (Page 18)	<p>Consultees are invited to comment on the provisions in Clauses 61 to 68 concerning:-</p> <ul style="list-style-type: none"> • Statutory nuisances; • Duty of district council to inspect for statutory nuisance; • Summary proceedings for statutory nuisances; • Abatement notice in respect of noise in the street; • Supplementary provisions; 	<p>Statutory Nuisance and Noise in the street</p> <p>We note that under Part 7 Clauses 37(a), 38 & 39 and Article 70 of the Pollution Control and Local Government (NI) Order 1978 are all repealed. These articles are relevant to the application of powers to deal with noise and the changes will result in a need to revise our applications and procedures; however it is appreciated that the same powers are contained within the new Act.</p> <p>We also note the additional duties and powers to deal with noise caused by a Vehicle, Machinery or Equipment in the street under section 64 and schedule 2, 3 (B). Experience of other Councils in England is that new procedures need to be put in place in relation to the application of this power as often they result in the Council carrying out work in default, e.g.</p>

- Expenses recoverable from owner to be a charge on premises;
- Payment of expenses by instalments;
- Summary proceedings by persons aggrieved by statutory nuisances.

silencing a car alarm. In the latter case the effective remedy is to force entry then secure the vehicle or have it removed to a secure other location.

The Council is concerned that:

- To exercise the powers in relation to noise in the street will incur considerable additional cost to the Council. Consequently the Council would stress the importance of Government making available an adequate ~~Therefore clarity is sought to the level of new burdens funding which is to be made available to ensure implementation of this new duty and increased level of service.~~
- More clarity is needed regarding the interpretation of the definitions of equipment and includes action for loudspeakers not used for advertising, radios and buskers playing musical instruments.

Clause 66 - Expenses recoverable from owner to be a charge on the premises. BCC welcomes this provision to deal with works in default for functions such as abatement of noise nuisance that currently requires the Council to pursue an individual via civil courts for non payment of expenses incurred. Clause 66 allows a DC to service a notice for the payment of expenses and add reasonable interest rate. We note the right to appeal through the court. We also agree with and welcome the provision to allow recoverable expenses to be paid in instalments.

The Council welcomes the extension of the list of statutory nuisances to include artificial light and nuisance caused by insects. Many complaints however are also received by the council with regard to nuisances arising from pigeons, particularly in relation to vacant premises. The Council would suggest that a specific category of nuisance is included under Clause 61 relating to “...any premises providing harbourage for pigeons so as to be prejudicial to health or a nuisance”.

In addition, although the proposed statutory nuisance definition has been in existence in England and Wales, by virtue of the Environmental Protection Act 1990, Councils in England and Wales would not normally have used this power to deal with nuisances of a structural nature in dwelling houses. Structural defects, particularly in privately rented property, would normally be dealt with under the Housing Act 2004 (formally the Housing Act 1995). Therefore this limb of the statutory nuisance procedure has not yet been widely tested. The Council would seek the extension of the definition of a nuisance to cover premises in such a state as to give rise to a risk of physical injury.

The Council welcomes the continuation of the obligation under the Public Health Act for

Councils to inspect their districts for statutory nuisances.

The Council welcomes the streamlining and updating of the nuisance abatement procedure and the re-enactment that, where a nuisance arises due to a defect of a structural character, an abatement notice must be served on the owner of the premises. Under s2 of the Public Health (Ireland) Act 1878 the word "Owner" includes the person receiving the rack rent of the property. This allows the majority of abatement notices to be served on rent agents. This definition of owner has been included in the draft Bill under Clause 66(9) in relation to expenses recoverable from owners of premises but does not appear to be included in Clause 63. The Council would therefore recommend that the definition of "owner", as set out in Clause 66(9), be applied to the rest of the Bill to ensure that this important element of the statutory nuisance procedure is retained.

The Council welcomes Clause 65(5) which allows the district council to ensure that, in any circumstances, it can take action to abate a nuisance if necessary. Expenses incurred by a district council in abating a nuisance should be recoverable from the person responsible for the nuisance or from the owner of the property. The Council therefore also welcomes the provisions in Clause 66 that expenses thus incurred will become a charge on the property and will attract an appropriate rate of interest.

[The Council welcomes the extended powers of entry, in respect of statutory nuisances detailed in Schedule 2, as they are consistent with the Council's enforcement obligations for abating statutory nuisances under Clause 63.](#)

~~[The extended powers of entry detailed in Schedule 2 which are consistent with the Council's powers to abate nuisances.](#)~~

The Council believes that the draft bill should have addressed issues with regard to open and vacant sites. It has been the experience of the council that property has been acquired with the expectation of development but for market or economic reasons such development does not take place. Specific powers requiring such property to be enclosed and maintained should be addressed.

Similarly the process for dangerous structures and the lack of an emergency power enabling councils to take direct and effective action in the most urgent cases should be addressed.

The Council would welcome the inclusion in the Bill of prescribed forms to provide clarity and to deliver uniformity across Councils whilst ensuring compliance with the European Services Directive.

		<p>We note that the Bill suggests that Article 70 of the Pollution Control and Local Government (NI) Order 1978 is to be repealed. This section relates to Notices prohibiting recurrence of nuisance. However there appears to be no provision to include this in the new bill. The Council is of the opinion that this would be a retrograde step and the Council would strongly urge that article 70 is not repealed and remains a regulatory tool for District Councils.</p> <p>Whilst most of the provisions are interwoven with existing legislation there are stand alone proposals in the draft bill and for that reason the Interpretation Act (NI) 1954 should be expressly stated as applying.</p>
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	Part 8 – Miscellaneous and Supplementary	Response
<p>Issue 9 (Page 19)</p>	<p>Consultees are invited to comment on the provisions in Clauses 69 to 71 concerning:-</p> <p><u>Use of fixed penalty receipts</u></p> <ul style="list-style-type: none"> • Use of fixed penalty receipts <p><u>Increase of penalty for pollution offence</u></p> <ul style="list-style-type: none"> • Offences relating to pollution etc: penalties on conviction <p><u>Offences by bodies corporate</u></p> <ul style="list-style-type: none"> • Offences by bodies corporate 	<p>Whilst this is welcomed by the Council, it must be stressed that this will in no way significantly off-set the costs of these new burdens, Therefore the Department needs to enter into dialogue with councils as soon as possible regarding resourcing if this new legislation is to be effective.</p> <p>Section 70 - BCC supports the increase in level of fine for offences under schedule 1 of the Environment (NI) Order 2002.</p>

Additional comments	Response
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Please provide additional comments, such as level of resources associated with implementation of the Bill, any additions recommended and any other relevant comments.

Resources

It is clear that additional resources will be required to respond to and administer complaints/ requests for service for many of the additional powers contained within this Act and to undertake some of the specified statutory processes. This will place an additional burden on the front line services set up to respond reactively to complaints, as well as support services, including legal support. There are additional duties under noise, light, alarms, gating orders, etc. and whilst these are welcomed, they also need to be resourced. There needs to be additional central government 'new burdens' funding to support the level of additional work.

Whilst DCs will be able to retain receipts for fixed penalty notices, experience from administering the Noise Act and from GB would suggest that this source of income is not likely to be significant. It is important that the use of fixed penalties as a source of income does not drive enforcement decision making. For example, in BCC when dealing with noise complaints, resolution is often achieved via the informal part of the process and this is currently measured as an indicator of effectiveness in the implementation of the Noise Act 1996, i.e. the success is the cessation of noise, not the ~~number of level of~~ fixed penalties.

BCC therefore ~~stresses the importance of Government making adequate urgently seeks clarity on the additional funding available to enable councils to deliver the extra duties and the associated increased level of services.~~

The Council notes that in GB, DEFRA has provided detailed guidance in relation to many aspects of the CNEA 2005. ~~It will be imperative that would be helpful if the~~ Department provides ~~sd~~ similar guidance for the CNE bill ~~along side in support of~~ the implementation of the legislation.

The Council believes that the powers of enforcement officers should be reviewed and where necessary upgraded by the Department to ensure they are comprehensive enough to enable effective enforcement of the proposed legislation.

Powers to deal with Dilapidated and Derelict Properties.

BCC is of the view that a new Clean ~~and~~ Neighbourhoods ~~and Environment~~ Bill could also provide an opportunity to address issues regarding dilapidated and derelict properties which blight local communities and in respect of environmental quality. The legislation which currently provides for dealing with dilapidated properties is piecemeal and goes across the parameters of several public bodies, i.e. District Councils, Planning Service, and Northern Ireland Housing Executive. These crossovers can sometimes lead to confusion and frustrate effective and efficient responses to problems of dilapidated properties.

		<p>Whilst Art.66 of the Pollution Control Northern Ireland Order 1978 has been used by the Council on occasion <u>to</u> address issues with properties which are considered “seriously detrimental to the amenities of the area”, the lack of a clear definition as to what constitutes “seriously detrimental to the amenity” can prevent the Council from dealing effectively with problems of dilapidation.</p> <p>The issue of derelict buildings has recently been the subject of an <u>MLA’s</u> question from Barry McElduff MLA to the Environment Minister which highlights the negative impact these properties can have on local communities and the political relevance of the issue. This issue was also considered during the passage of the Building Regulations Amendment Bill 2009 and the Assembly voiced its concerns at the archaic legislation which governs dangerous, derelict and dilapidated buildings in Northern Ireland.</p> <p>BCC is continually receiving requests to tackle problems associated <u>with</u> and caused by dilapidated properties but is often frustrated by the lack of powers to do so. In our experience a derelict property becomes a source of anti-social behaviour and vandalism which in turn can have wider negative impacts on a community and its environmental quality. We would therefore ask that in the framing of the new bill or allied legislation that the Department considers whether increased powers in terms of regulation and enforcement in this area can be given to local councils.</p>
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Partial Regulatory Impact Assessment

Annex C contains the partial Regulatory Impact Assessment. In the main the Bill amends existing district council powers or provides new powers for district councils to use as and when they consider appropriate. The Department’s initial view is that, taken as a whole, the proposals would be cost-neutral to district councils and could lead to overall savings in district council costs through increased efficiency and effective, well-publicised enforcement. We would welcome your views on whether you agree with this initial assessment.

Questions are posed throughout this initial assessment exercise to aid the completion of a full Regulatory Impact Assessment.

	Gating Orders	Response
RIA Question 1 (Page 139)	Do you have any views on the cost implications of enabling district councils to deal with nuisance alleyways by providing them with the power to make gating orders?	The cost implications on Councils where the demand for gates is high and where finance is available to erect gates will be considerable. There will be additional costs associated with administration, placing of public notices, and legal advice (currently incurred out by DRD). There will also be costs associated with local

		<p>inquiries.</p> <p>Moreover, a government led funding programme covering the capital costs of erecting gates would be needed to meet public demands for gating.</p>
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	Vehicles	Response
<p>RIA Questions 2 to 4 (Page 140)</p>	<p>2. How much does the district council currently spend on dealing with nuisance/abandoned vehicles?</p> <p>3. Do you agree that the stronger suite of powers outlined in Option 1 would lead to an overall reduction in the costs of dealing with the problem? If so, can you quantify this?</p> <p>4. Do you foresee any costs to businesses from these proposals?</p>	<p>2. Currently with the price of scrap metal, fewer vehicles are being abandoned with last owners receiving value from the scrap industry. In the past, however, enforcement of abandoned vehicle legislation would have been in the region of £10,000 <u>per annum</u>.</p> <p>3. The additional powers of enforcement regarding nuisance vehicles will lead to an increase in enforcement costs. It is not possible to estimate this as there is no historical data on which to base an estimate. However it is likely to be in the region of £10,000 to £15,000 <u>per annum</u>.</p> <p>4. Costs to businesses operating in the street will presumably be to obtain premises along with the associated permissions etc. to contain their business activities.</p> <p><i>Note: The finances of local government in Northern Ireland are, like those of others in the public sector, increasingly constrained. While the proposals are welcomed consideration should be given to financially compensating Councils for any potential costs in terms of application, investigative and enforcement activity associated with new powers.</i></p> <p><i>The ability of Councils to use fixed penalty receipts is welcomed but will not by any means fully fund the new powers.</i></p>

	Litter	Response
	(A) Litter Control Areas – Litter Clearing Notices	

RIA Questions 5 to 7 (Page 142)	5. How many areas has the council currently designated as Litter Control Areas?	None
	6. How many litter abatement notices did the council serve last year?	None
	7. Do you agree that the introduction of Option 1 would lead to a reduction in costs to councils?	Yes Currently the Council will clean areas of land that could be cleaned by the owners if the Council had the legislative provisions to insist on cleansing. In the current circumstances it is more expedient to undertake the cleansing by the Council.

	Litter	Response
RIA Questions 8 to 10 (Page 143)	<u>(B) Street Litter Control Notices</u> 8. How many Street Litter Control Notices did the district council issue last year?	None
	9. Can you estimate how much it currently costs to issue and enforce a Street Litter Control Notice?	No
	10. Do you agree that revising the Street Litter Control Notice system as outlined above would lead to a reduction in costs for district councils?	Yes providing that the definitions of premises can be expanded to include pubs, bars, restaurants, cafes etc

	Litter	Response
RIA Questions 11 to 15 (Page 145)	<u>(C) Distribution of Free Literature</u> 11. Would you anticipate any costs to your interests caused by introduction of option 1?	There will be an additional administrative set up cost and once the system is established there will be ongoing administrative costs and costs for enforcement of the legislation.
	12. How much does the district council spend a year on clearing up litter caused by free literature distribution?	We do not have the exact figure for this but would state that the total <u>annual</u> budget for street cleansing is <u>close to</u> £11 million.

	<p>13. Can you give an indication of the number of sites that might be designated?</p> <p>14. Do you think that the requirement to get a consent will reduce the numbers of legal distributors?</p> <p>15. Do you think that the awareness of fines will successfully deter distributors?</p>	<p>There are two main areas which are affected by high levels of leaflet distribution, namely the city centre and the student area. There will be a number of sites within these areas but the exact number has not been determined.</p> <p>Difficult to estimate.</p> <p>I believe that there will be some who take a responsible approach and will endeavour to comply with the requirements of the legislation; however there will also be those individuals who will have a disregard for the law and will find ways to evade detection and enforcement.</p>
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	Litter	Response
<p>RIA Questions 16 to 17 (Page 147)</p>	<p><u>(D) Abandoned Shopping and Luggage Trolleys</u></p> <p>16. Can you estimate the cost to district councils of dealing with abandoned trolleys?</p> <p>17. Can you estimate the cost to businesses of this measure if it was adopted by a district council?</p>	<p>Approximately £400 per week</p> <p>The Council will have to charge somewhere in the region of £30 per trolley</p>

	Fly-posting and Graffiti	Response
<p>RIA Questions 18 to 23 (Page 149)</p>	<p>18. How much does the district council spend on removing graffiti and fly-posting each year?</p> <p>19. Do you agree that the proposed measures would generally not impose any additional costs on district councils?</p>	<p>Belfast City Council spends approximately £90,000 per year to remove graffiti and fly-posting.</p> <p>The imposed changes will create a huge administrative burden on councils, particularly in urban areas where fly-posting is occurring on a huge scale. In council areas such as in Belfast, where there are approximately 2500 posters being removed/obliterated per month, it</p>

	<p>20. Can you estimate the current cost to businesses of keeping property clear of graffiti and fly-posting?</p> <p>21. Do you consider that businesses would face additional costs as a result of these measures? If so, can you estimate what these might be?</p> <p>22. If these measures are introduced, how often do you think they would be used?</p> <p>23. Can you outline the benefits to businesses of a cleaner local environment and where possible quantify these benefits?</p>	<p>would not be possible to issue 2500 Removal Notices and to administer the recovery of costs as proposed. The proposal on page 148 of the Equality Screening section states that if Councils “choose to use these powers; the cost of doing so could be offset by the receipts from fixed penalties issued”. It is highly unlikely that there will be a significant amount of fixed penalties issued in respect of the powers proposed in the CNE Bill to deal with those persons who personally affix the posters and therefore it is difficult to see how the receipts received will have a significant impact on the cost of administering approximately 2500 Removal Notices per month.</p> <p>The Council does not have any information on the cost incurred by businesses, but can advise that some businesses have expressed frustration at the lack of enforcement powers available to Councils to enable effective control of these activities.</p> <p>Responsible businesses are already taking pro-active action to remove fly-posters and graffiti from their premises. It may be that bBusinesses would endure these costs if they felt that effective enforcement action could be taken to deter this activity.</p> <p>The Council will have to review what level of resources will be required to administer the proposed measures. In view of the fact that we remove approximately 2500 posters each month, it is envisaged that the measures will only be applied in a prioritised manner. The administration required to recover costs will involve several departments within the Council eg Finance and Legal Services and this will have resource implications for those Services also involved.</p> <p>Businesses have expressed their on-going concern about the blight of fly-posters and graffiti at many meetings involving Council officers and they are aware of the efforts deployed by the Council to improve the appearance of the city by a concerted programme of rapid removal of fly-posters. Businesses will welcome any legislative controls which will improve the appearance and cleanliness of their locality as this will ultimately reflect on their businesses and hopefully enhance the local economy.</p> <p>The Department may wish to liaise with Belfast city Centre Management for further comment in relation to these issues.</p>
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	Dogs	Response
RIA	24. How much do councils currently	24. It is not possible for the Council to separate out the costs of enforcing by-laws from those

<p>Questions 24 to 25 (Page 151)</p>	<p>spend enforcing dog bye-laws?</p> <p>25. Do you agree with our initial assessment that there will be cost savings to district councils as a result of the new dog control provisions in the Bill?</p>	<p>associated with other aspects of dog control and dog fouling.</p> <p>25. The procedure for designation of dog control orders has not been specified within the draft Bill. There is authority for the Department to prescribe the procedure by regulations, including an obligation to make provision for consultation prior to the order being made and publicising it afterwards. Without greater clarity however around the detail of these processes the Council could not be definitive as to whether or not it will involve costs or savings to the rate payer. However, the payment of fixed penalties to the district council (Clause 42) and the option in Clause 43 to set fixed penalties at up to £75 should help to offset at least some of the costs of delivery.</p>
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	Nuisance	Response
<p>RIA Question 26 (Page 153)</p>	<p>(A) Statutory Nuisance</p> <p>26. The Department would welcome views on the cost implications of updating the legislation on statutory nuisance as reflected in the Bill.</p>	<p>26. The extension to the list of matters that can be treated as statutory nuisances is likely to bring with it increased workloads and resource requirements.</p>
<p>RIA Question 27 (Page 156)</p>	<p>(B) Noise Nuisance</p> <p>27. Do you envisage any cost implications arising from the proposals?</p>	<p>27. BCC would express its extreme concern to seek clarity from the Department regarding the inadequacy of the current payment of 0.04 pence per head of population for those authorities who adopt the Noise Act. The Council would strongly seek to have the level of support funding increased to a more appropriate levelretained. However, Wwe have for many years requested the Department to consider an increase in this figure as it nowhere near offsets the cost of providing the service. The income currently received from DOE is a little over £10,000, whilst the service currently costs approximately £300,000.</p> <p>The additional powers in respect of other types of noise nuisance will add to the cost. Therefore assurance of continued and increased funding for this function is sought by the Council as soon as possible.</p>