

BABERGH DISTRICT COUNCIL

FROM: Head of Environmental Services

REPORT NUMBER **E268**

TO: Overview & Scrutiny (Community Services)
Committee

DATE OF MEETING 7 February 2006

REVIEW OF CLEAN NEIGHBOURHOODS & ENVIRONMENT ACT 2005.

IMPLICATIONS FOR ENFORCEMENT & FIXED PENALTY FINES.

1. SUMMARY

This Act comes as a result of the Government initiative on *Living Places – Cleaner, Safer, Greener* launched in 2002. It further amends Sect 6 of the Crime & Disorder Act 1998 to require ‘responsible authorities’ to include low level anti-social behaviour and environmental crime such as Nuisance Vehicles, Littering, Graffiti, Fly Tipping, Dog and Noise nuisance in their Crime Reduction Strategies. It confers powers on Local Authorities and others to impose Fixed Penalty Fines in a number of areas.

2. RECOMMENDATIONS

- 2.1 That this review of the legislation be noted.
- 2.2 That the adoption of the proposed powers and levels of fines by the Head of Environmental Services at the appropriate time be supported.

The Committee is asked to make a recommendation to Strategy Committee on paragraph 2.2 above.

3. FINANCIAL IMPLICATIONS

- 3.1 The various Acts under which Fixed Penalties are levied enable Local Authorities to use their fixed penalty receipts only to help meet the cost of certain specified functions. However where a Local Authority is categorised ‘excellent’ or ‘good’ under CPA, the Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2006 allow that authority to spend penalty receipts on any of its functions

4. KEY INFORMATION

- 4.1 **Part 1 – Crime & Disorder** Apart from the requirement to include activities in crime reduction strategies, this part makes provision for gating of minor highways that attract anti-social behaviour.
- 4.2 **Part 2 – Vehicles** This part introduces two offences relating to nuisance parking and amends the law relating to abandoned and illegally parked vehicles.
- 4.3 **Part 3 – Litter** Extends the offence of dropping litter to all open spaces. Allows litter authorities to issue Litter Clearing Notices, Street litter control notices and place controls on free distribution of printed matter. Allows litter authorities (including Parish & Community Councils) to issue Fixed Penalty Notices.

- 4.4 Part 4 – Graffiti & Fly posting** Allows litter authorities as above, to issue Fixed Penalties and makes it an offence not to supply name & address when requested. Also places controls on placards & posters.
- 4.5 Part 5 – Waste** Duty to carry waste carriers registration. Defence of acting on employer’s orders removed (transportation & fly tipping). Powers to stop, search & seize vehicles involved in illegal waste shipment. Gives powers to authorities to levy Fixed Penalty Fines with respect to offences regarding waste receptacles as an alternative to prosecution. Onus on occupier of land to remove illegally dumped waste on land. Allows for changes to recycling credits payments scheme.
- 4.6 Part 6 – Dogs** Allows Parish & District Councils to designate ‘dog control orders’ – includes dog fouling, keeping dogs on leads, exclusion from designated areas, restricting the number of dogs that one person can exercise in such an area. The Act terminates Police responsibility for stray dogs. This will pass wholly to Local Authorities. The Dogs (Fouling of Land) Act is repealed.
- 4.7 Part 7 – Noise** Gives Local Authorities powers to deal with noise from intruder alarms. Powers for dealing with night time noise from domestic premises are extended to licensed premises.

The Suffolk Waste Partnership have adopted a partnership approach in the formulation of the level of fines as detailed in Appendix (a). This has been done to ensure consistency across the County and simplify matters for Authorised Officers who may work across District and Borough boundaries. These may include Police Officers and potentially Enforcement Officers that are jointly

5. **APPENDICES**

- (a) Suggested levels for Fixed Penalty Fines.
- (b) Proposed implementation timetable.

6. **BACKGROUND PAPERS REFERRED TO:**

- 6.1 Clean Neighbourhoods & Environment Act 2005

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Suggested Common FPN Policy for Suffolk (ex. Suffolk Waste Partnership)

Sec	Offence	Who can issue	Fixed amount	Set at local level with default	min	Max	Min early payment	Suggested penalty	Suggested early payment
S6(1) CNEA 2005	Nuisance parking	Authorised Officer of Local Authority	100	-	-	-	60	-	60
S2A(1) RDAA 1978	Vehicle abandonment	Authorised Officer of Local Authority	200	-	-	-	120	-	120
S88(1) EPA 1990	Litter	Litter authority inc Parish. Non employees	-	75	50	80	40	80	60
S94a(2) EPA 1990	Street litter & litter control notices	AO of principal Litter authority	-	100	75	110	60	80	60
Sch3A para 7(2) EPA 1990	Leaflet distribution	AO + Non employed of principal litter authority	-	75	50	80	40	80	60
S43 ASBA 2003	Graffiti & Fly posting	AO & non employed of LA & Parish, police community support, other accredited persons	-	75	50	80	40	80	60
S5B(2) CoP(A)1989	Failure to produce waste transfer note	AOs of WCA & EA	300	-	-	-	180	-	180
S34A(2) EPA 1990	Failure to provide waste carrier licence	AOs of WCA & EA	300	-	-	-	180	-	180
S47ZA(2) EPA1990	Offences re waste receptacles	Authorised Officer of Local Authority	-	100	75	110	60	80	60
S59(2) CNEA 2005	Offences re dog control orders	AO & non employed of primary & 2ndry authorities; police community support officers other community accredited	-	75	50	80	40	80	60
S73(2) CNEA 2005	Failure to nominate alarm keyholder	AO & non employed of Local Authority	-	75	50	80	40	80	60
S8 Noise Act 1996	Noise from dwellings	Authorised Officer of Local Authority	-	100	75	110	60	80	60
S8 Noise Act 1996	Noise from licensed premises	Authorised Officer of Local Authority	500	-	-	-	-	-	-

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Current Timetable for Commencement

Section	Date to be commenced	
1	Crime and disorder reduction strategies	To be confirmed
2	Gating orders	By spring 2006
3–5	Nuisance parking offences	7 June 2005
6–9	Nuisance Parking Offences: fixed penalty notices	Planned for 6 April 2006
10–14	Abandoned vehicles	18 October 2005
15–17	Illegally parked vehicles	18 October 2005
18	Offence of dropping litter	7 June 2005
19	Litter offence: fixed penalty notice	Planned for 6 April 2006
20–22	Litter and refuse—local authority notices	Planned for 6 April 2006
23	Free distribution of printed matter	Planned for 6 April 2006
24–26	Litter and refuse—general	Planned for 6 April 2006
27	"Litter"	7 June 2005
28–31	Graffiti and flyposting	Planned for 6 April 2006
32	Sale of aerosol paint to children	—
33	Unlawful display of advertisements: defences	7 June 2005
34	Removal of placards and posters	Planned for 6 April 2006
35	Unregistered transport: defence of acting under employer's instructions	7 June 2005
36	Registration requirements and conditions	7 June 2005
37	Transport of waste: enforcement powers	Planned for spring 2007
38–39	Failure to produce authority: fixed penalty notices	Planned for 6 April 2006
40	Defence of acting under employer's instructions	7 June 2005
41	Penalties on conviction	7 June 2005
42	Investigation and enforcement costs	18 October 2005
43	Clean up costs	18 October 2005
44	Forfeiture of vehicles	18 October 2005
45	Failure to furnish documentation: fixed penalty notices	Planned for 6 April 2006

46	Power to search and seize vehicles	Planned for spring 2007
47	Abolition of requirement to contract out waste disposal functions	18 October 2005
48–50	Local authority waste collection and disposal	Planned for 6 April 2006
51–52	Appropriate person and use of fixed penalty receipts	Planned for 6 April 2006
53	Supplementary enforcement powers	18 October 2005
54	Site waste management plans	7 June 2005
55–58	Dog control orders	Planned for 6 April 2006
59–62	Fixed penalty notices	Planned for 6 April 2006
63–65	Supplementary	Planned for 6 April 2006
66–67	General	Planned for 6 April 2006
68	Termination of police responsibility for stray dogs	Date still to be decided
69–76	Alarm notification areas	Planned for 6 April 2006
77–79	Powers in relation to alarms	Planned for 6 April 2006
80–81	Supplementary	Planned for 6 April 2006
82, 84, 85	Noise from premises	Planned for 6 April 2006
83	Noise offences: use of fixed penalty notices	7 June 2005
86	Deferral of duty to serve abatement notice	Planned for 6 April 2006
87–95	Commission for Architecture and the Built Environment	1 January 2006
96–98	Miscellaneous—use of fixed penalty receipts	Planned for 6 April 2006
99–100	Shopping and luggage trolleys	Planned for 6 April 2006
101–103	Statutory nuisances	Planned for 6 April 2006
104	Contaminated land: appeals against remediation notices	Planned for spring 2006
105	Offences relating to pollution etc: penalties on conviction	7 June 2005