

2006



# Enforcement Services Review

Overview and Scrutiny Committee

Open Spaces  
September 2006

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## Enforcement Services Review

### Overview

- 1) Expectations
- 2) Current Capacity & Performance
- 3) Impact of Legislation
  - a. Clean Neighbourhoods & Environment Act
  - b. Licensing Act 2003
- 4) Direction of the service

### Enforcement Services Mission Statement

“Through advertisement and education we aim to encourage residents, visitors and businesses to assist us in providing a safer, cleaner and greener environment”



## Expectations

### Service Plan

The service delivery of enforcement activities are directed by the Councils Corporate Plan and the Leisure and Environmental Services Plan, the services operates within Open Spaces and is based at the Moresby Depot.

In addition to supporting the above plans, enforcement services as it own service plan for 2006-7

### **Enforcement Services Plan -see appendix 1**

### Structure

Enforcement Services is one of three sections within Open Spaces, the other two being Street Scene Services and Park Services, Open Spaces is managed by the Opens Spaces Manager.

Enforcement Service is directly managed on a day to day basis by the Enforcement Manager, with support of the Enforcement Technical Officer. Enforcement Services employ a total of 9.5 FTE Enforcement Officers, these officers are trained to be multi-skilled so to address and provide the wide range of activities required by the services

### Enforcement Service Activities

- On Street Car Parking
  - (DPE) Decriminalised Parking Enforcement
- Off Street Car Parking
  - Council Car Parks
- Management and Issue of Resident Car Parking Permits
- Abandoned Vehicles
- Management of the Copeland Markets
  - Whitehaven
  - Egremont
  - Cleator Moor
  - Market Traders Liaison Group
- Fly Tipping Investigations
- Trade Waste Investigations/Inspections
  - Trade waste Licence

- Control of Dogs
  - Dog Fouling
  - Strays
  - Barking (initial Investigation)
  - Free Chipping Service (in partnership with the Dog Trust)
- Taxi Monitoring/Inspecting
  - Legal to Operate
  - Health and Safety
- Door Staff
  - Legal to Operate
- Door to Door Sales Staff
  - Legal to Operate
- Licensing Monitoring/Inspections
  - Legal to Operate
  - Legal Hours of Operating
- Support Crime & Disorder Reduction



## Current Capacity & Performance

### Staff Activity Allocation

The following table (table 1) summarises the current enforcement activities, staff allocation to those activities. Also included is the average or approximate time it takes to undertake the required enforcement activity.

**Table 1 – Enforcement Activity**

**Enforcement Officer – 9.5 FTE**

Activity	Staff Allocation	Average/Approximate Time per Activity
On Street Car Parking	4 FTE (Contract with CCC)	50 FPN Issued per Month per officer
Off Street Car Parking	3 FTE	Included above  20hrs Per Week Emptying Pay Machines
Resident Car Parking Permits	Technical Officer	
Abandoned Vehicles	0.16 FTE	1.5hrs per Vehicle
Markets	0.5 FTE	22hrs per Week
Fly Tipping	0.16 FTE	6 hrs per investigation
Trade Waste	0.16 FTE	15 Minutes per individual check
Dogs	1 FTE	6 hrs per FPN  2hrs per Stray  3hrs per Collection  6hrs per Barking/Noise
Taxi	0.16 FTE	15 Minutes per Inspection
Door Staff	0.16 FTE	30 Minutes per Person
Licensing	0.16 FTE	2hr per Inspection

**Summary**

It can be seen that 7 FTE enforcement officers are dedicated to the management of car parking activities, 1 FTE enforcement officer dedicated to control of dogs,

0.5 FTE enforcement officer dedicated to managing the market traders, 1 FTE for the rest of the enforcement activities (total 9.5 FTE)

**Table 2 – Targets & Performance**

Activity	Performance Measure	Quarter 1 (Apr – Jun)
On Street Car Parking	£112,791	£6,778 below Q1 Expectations
Off Street Car Parking	£348,000	£9,014 below Q1 Expectations
Resident Car Parking Permits		
Abandoned Vehicles	160 Investigations 150 Removed	82 Investigations 21 Removed
Markets	£90,000	£4232 below Q1 Expectations
Fly Tipping	490 Investigations 15 Prosecutions	106 Investigations 15 FPN issued
Trade Waste	200 Inspections	15 Inspections
Dogs	50 FPN 300 Strays	11 FPN 72 Strays 34 Barking/Noise
Taxi	200 Inspections	0 Inspected
Door Staff	20 Inspections	0 Inspected
Licensing	50 Inspections	0 Inspected

### Summary

It can be seen that financial expectations are below predicted income in three key areas, Off Street Car Parking, On Street Car Parking and the Markets.

The key factors are:-

- An high absence (sickness) in the first quarter (2 FTE)
- Motorist becoming educated – Improved Parking/Less Motorists Offending

### **Enforcement Services Budgets – 2006/7**

Enforcement Services operate on a total budget of £682,546, with a direct cost to the council of £125,622 the balance being raised through the services activities £556, 924

**2006/7 budget – see appendix 2**

### **Performance Indicators**

Enforcement services, through the service plans are performance managed, a number of Performance Indicators (PI's) are used to benchmark the service performance. For Enforcement Services there are two national PI's and 20 local PI's

**Enforcement Service Plan & PI's - see appendix 3**

## **New Legislation**

### **Clean Neighbourhoods and Environment Act 2005**

On 7 April 2005 the Clean Neighbourhoods and Environment Bill received Royal Assent following a successful passage through Parliament to become the Clean Neighbourhoods and Environment Act 2005.

The Clean Neighbourhoods and Environment Act deals with many of the problems affecting the quality of our local environment - which forms part of a continuum with anti-social behaviour, vandalism, disorder and levels of crime.

The Act provides local authorities, parish and community councils and the Environment Agency with more effective powers and tools to tackle poor environmental quality and anti-social behaviour. In particular the Act includes sections on nuisance and abandoned vehicles, litter, graffiti, waste, noise and dogs.

The Clean Neighbourhoods and Environment Act also includes a number of new powers for Parish, Town and other Community councils, including the ability to issue fixed penalty notices for the first time.

### **Background**

In 2002 a review of the legislative framework for providing and maintaining a clean and safe local environment was carried out by Defra to accompany the cross-Government report Living Places - Cleaner, Safer, Greener. The review found that the powers, duties and guidance for dealing with problems associated with local environmental quality were not working as effectively as they should be, and produced options for delivering changes. These options were contained in the consultation paper Living Places - Powers, Rights, Responsibilities launched at the Urban Summit on 31 October 2002. Some were introduced into legislation in Part 6 of the Anti-social Behaviour Act 2003. The majority of the options were developed further and included as proposals for legislative action within the Clean Neighbourhoods consultation launched on 25 July 2004.

Most of the measures in the Act are based on these proposals, amended as appropriate to take account of comments received during the consultation process.

## **Part 1: Crime and Disorder**

This Part amends the law relating to crime and disorder reduction partnerships to require them to take into account anti-social and other behaviour adversely affecting the local environment; and makes provision for the gating of minor highways that attract anti-social behaviour.

## **Part 2: Vehicles**

This Part introduces two new offences relating to nuisance parking and amends the law relating to abandoned and illegally parked vehicles.

## **Part 3: Litter and Refuse**

This Part extends the statutory offence of dropping litter and amends the powers and duties of local authorities in relation to litter.

## **Part 4: Graffiti and Other Defacement**

This Part amends the law relating to graffiti, fly-posting and the illegal display of advertisements.

## **Part 5: Waste**

This Part makes miscellaneous provision about waste. Chapter 1 makes provision about the registration of carriers of particular kinds of waste. Chapter 2 makes provision about the illegal deposit of waste ("fly-tipping") and about the powers and duties of local authorities to collect and dispose of waste. Chapter 3 makes provision to deal with waste generated at construction sites.

## **Part 6: Dogs**

Chapter 1 allows local authorities and parish and community councils to create offences relating to the control of dogs. This power is intended as a more convenient alternative to existing powers to create byelaws. In particular, the new offences do not need to be approved by the Secretary of State. The new system replaces the Dogs (Fouling of Land) Act 1996.

Chapter 2 relieves the police of most of their statutory responsibilities for stray dogs.

## **Part 7: Noise**

This Part addresses various issues relating to noise nuisance. Local authorities are given new powers to deal with noise from intruder alarms. The powers for dealing with night time noise nuisance are extended from domestic premises to cover also licensed premises. This Part also allows local authorities to employ alternative means to resolve complaints about noise qualifying as a statutory nuisance prior to issuing an abatement notice.

## **Part 8: Architecture and the Built Environment**

This Part establishes a statutory body to take the place of a non-departmental public body, the Commission for Architecture and the Built Environment. The provisions create a statutory Commission (with the same name), set out its general functions, transfer the staff and resources of the old Commission to the statutory Commission and dissolve the old Commission.

## **Parts 9 and 10**

These Parts contain miscellaneous and supplementary provisions, including Use of fixed penalty receipts, Abandoned shopping and luggage trolleys, Statutory nuisance: insects and lights, and offences relating to pollution.

**Summary of Measures - see appendix 4**

## **Licensing Act 2003**

Under the Licensing Act, licensing authorities have a duty to promote the licensing objectives of preventing crime and disorder, protecting public safety, preventing public nuisance and protecting children from harm in relation to licensable activities under the act.

The Licensing Act places enforcement responsibilities upon the authority in relation to licensed premises and the authority recognise the importance of effective co-operation with other responsible authorities to ensure premises licence holders, designated premises supervisors, personal licence holders and club premises certificate holders understand and comply with the law.

**Licensing joint enforcement protocol – see appendix 5**

## Impact of Legislation

The Clean Neighbourhood and Environmental Act updates the enforcement of a number of the existing activities, principally through the use of Fixed Penalty Notices, rather than pursuance through the courts.

However the Act imposes a number of new powers upon the authority, these new powers place deliverability and administration issues upon enforcement services.

The Licensing Act resulted in a Joint Licensing Enforcement Protocol signed between the Licensing and Responsible Authorities across Cumbria. Delivery of this joint protocol places further demands on Enforcement Services.

### Other Factors

Legislation is a clear driver in the way that the local authority are to deliver its enforcing activities in the community, in this context the service delivery is through the authorities enforcement team, it is therefore prudent that enforcement services are inherently flexible to review, respond and to structure its service priorities.

In addition to the legislation changes, normal operational and service changes also need to be considered : –

### Car Parking Management

- Leasing of Car Parks to Town & Parish Councils
  - St Bees & Seascale Parish Councils
  - Request to lease car parks Millom & Cleator Moor Town Councils
    - Fixed income
    - Reduced Staff Patrols
- Extended Resident Permit Parking Scheme
  - Whitehaven
    - Reduced income
- Government & public perceptions on car parking management

### Waste Management

- Supporting Waste Management with Enforcement activities
  - Wheel/Containerised bins
  - Enforcement to ensure resident use bins as provided
  - Enforcement of one black bin rule
  - Fly Tipping



## Conclusions

### Review

It can be seen that the main function and purpose of enforcement services revolves around car parking management, indeed 7 FTE enforcement officers are allocated to this activity.

Although, enforcement officers undertake the duties of car park management, performance trends indicate that the financial expectations are proving difficult to be achieved, this is due to improvement in motorist behaviour and education to park accordingly.

Whilst, less motorists are offending, enforcement staff are still providing the same level of patrols.

However, enforcement officers have been provided with comprehensive training to provide a multi-skilled enforcement approach, this means that whilst on car parking activities and patrolling the area, enforcement officers can now deal with other enforcement offences, such as dog fouling, dropping of litter etc. This provides for a more efficient and effective service. Previously enforcement officers were employed and trained in delivering specific enforcement activities.

Whilst the enforcement team as remained at a static staffing level, over the past 18 months, new expectations have been placed on the unit, which currently is expected to be contained within the existing provision.

Three areas are clearly identified:

- Waste Management Services – Enforcing Wheel bins & Limited black bags
- Implementing the new powers provided through the Clean Neighbourhood and Environment Act
- Enforcing the Joint Enforcement Protocol – Licensing Act

### Summary of CNEA Enforcement Activities

The Clean Neighbourhoods and Environment Bill aims to provide local authorities and agencies with a more effective tool-kit to improve local

environmental quality and enhance public spaces, thus contributing to sustainable communities and the reduction of crime.

The ability of this package of measures to enhance public spaces will depend on the effectiveness of the individual measures to improve local environments (and how they improve on the status quo) and on how, and how much, the relevant bodies use the various measures.

While the individual measures can be examined to assess how they change the status quo it is difficult to assess the extent to which bodies will choose to use the new measures at their disposal. This is because in the vast majority of cases, the measures provide authorities with additional powers that they can choose whether or not to use.

There are two important points to note in assessing the measures:

1. Rather than being entirely new proposals, they are generally improvements to existing systems, responding to comprehensive evaluation of those systems. Most of the measures either remedy an inadequacy or inconsistency in existing provisions (including complex legislation) or they correct incentive structures. The aim of the latter is to increase responsibilities and incentives for agents that are able take measures to prevent nuisance, rather than that responsibility lying solely with authorities whose only means of addressing the issues is to remedy them once they have taken place.
2. It is expected that the use of a measure in an individual case will be determined by whether there is a net benefit to using it, taking economic, social and environmental factors at a local level into account. In many cases using a power will additionally provide a financial cost saving for the local authority. In cases where there is a net financial cost to the authority, the authority will only decide to use the power where the authority decides that the issue is a priority and merits the deployment of resources against the backdrop of competing demands for resources.

Given these two points, it follows that both the individual measures and the net effect of the total package of measures must be positive. However, there are some individual cases where the second point may not hold. First; three of the measures place duties on authorities to act. Second, some require measures from businesses that were not required previously. It is therefore necessary to examine the mechanisms of the measures more closely to understand how they work.

## What the individual measures do

In order to explain the impact of the individual measures they are organised into a table that demonstrates how each mechanism works and how it relates to existing provisions.

Table 3 below demonstrates which of the following characteristics the mechanisms possess:

1. **Power:** This measure provides a power for authorities that they can decide whether or not to use
2. **Duty:** This measure provides a new duty for authorities so will lead to extra cost where applicable
3. **New business activity:** New activity or extension of activity required for lawful business or private individuals
4. **Re-structuring of incentives through transfer of responsibilities:** This measure involves transferring responsibility for nuisance to either 'polluters' or to property occupiers/owners. In doing this there is a cost transfer so that the polluter or occupier/owner pays for the nuisance rather than the taxpayer. This transfer is cost neutral but will often be in line with government policy on polluter pays. However, there is an efficiency saving in transferring responsibility to polluters/occupiers/owners as they are often in a better position to prevent the nuisance in the first place: they face the decision either to take steps to prevent the nuisance in the first place or to tidy it up after it has happened - whichever is cheaper. There should therefore be an implicit net benefit to this measure.
5. **Re-structuring of incentive through penalties:** This measure provides a deterrent for those who might cause nuisance and should therefore prevent nuisance in the first place. Assuming the fine is set at the 'efficient' level and properly enforced then the 'polluter' will only cause nuisance if the relevant activity is worth more to him than the cost to everyone else of the nuisance it causes. There will be a reduction in nuisance that is efficient in terms of cost to society. (Fines might also be set higher if enforcement is less rigorous). There should therefore be an implicit net benefit to the use of this measure.
6. **Re-structuring of incentives to focus on outcome:** This measure involves adjusting incentives so that it is linked to the outcome required
7. **Improvement or simplification to existing regime:** This measure corrects an inadequacy or inconsistency in existing provisions at minimal cost. Corrections to enforcement inadequacies are not included here if covered by 5 above.
8. **Transfer of authority responsibility:** This measure transfers responsibility from one authority to another that is better able to deal with the issue.

9. **Tool for trouble spots:** Provides local authority with a mechanism to deal with particular trouble spots.

Table 3: Summary of the characteristics of the new measures

Measure	1	2	3	4	5	6	7	8	9
Abandoned trolleys	•			•	•				
Abandoned vehicles					•		•		
Cigarettes and chewing gum					•		•		
Contaminated land appeals								•	
Crime and disorder reduction							•		
Dog bye-laws	•				•		•		
Duty of care for waste carriers				•					
Extension of statutory nuisance		•	•		•				
Fixed Penalty Notices	•				•				
Fly-posting removal notices	•		•	•	•				
Fly-tipping responsibility for owner	•		•	•	•				
Free literature distribution	•			•	•				
Intruder alarms	•		•	•	•				
Litter offence applies everywhere				•	•				•
Litter clearing notices	•			•	•				
Noise from licensed premises					•				
Nuisance alleyways	•								•
Nuisance vehicles	•				•				
Repeal of divestment provisions					•	•			
Sale of aerosols		•					•		
Site Waste Management Plans			•	•					
Stop and search of vehicles	•				•				
Stray dogs at night		•						•	
Street Litter Control Notices	•			•	•				
Tonnage-based waste levy						•			
Unlawful display of	•			•	•		•		
Waste carrier registration penalty	•				•				
Waste transfer note penalty	•				•				
Waste left on streets penalty	•				•				

Table 4 below shows the new and additional CNEA integrated into the existing enforcement activities

Table 4 – Enforcement Services Activities (CNEA)

Activity	Staff Allocation	Comments
On Street Car Parking	4 FTE (Contract with CCC)	Current Activity
Off Street Car Parking	3 FTE	Current Activity
Resident Car Parking Permits	Technical Officer	Current Activity
Abandoned Vehicles	0.16 FTE	Current Activity New CNEA Response Targets
Abandoned Shopping Trolleys		New CNEA Power
Vehicle Sales & Repairs		New CNEA Power
Crime & Disorder Reduction Support		New CNEA Powers
Graffiti & Fly Posting		New CNEA Powers
Intruder Alarms		New CNEA Powers
Gating Orders		New CNEA Powers
Markets	0.5 FTE	22hrs per Week
Fly Tipping & Littering	0.16 FTE	Current Activity Additional New Powers
Trade Waste	0.16 FTE	Current Activity Additional New Powers
Waste Management		New CNEA Powers
Dogs	1 FTE	Current Activity Additional New Powers

Taxi	0.16 FTE	Current Activity
Door Staff	0.16 FTE	Current Activity
Licensing	0.16 FTE	Current Activity
		Additional New Powers

## OPTIONS for Implementing CNEA Powers

### Option 1: Do Nothing

This option would be to leave unchanged the existing set of provisions to deal with poor local environmental quality.

This option is the base case against which the new proposals are compared and as such does not introduce any new costs or benefits.

### Option 2: Introduce all measures

This option is to introduce the full package of measures which are detailed in Section E.

The overall costs and benefits of introducing this package of measures (both direct and indirect) are considered below and the costs and benefits of the individual measures are detailed in the next section and summarised in Table 2 below.

### Costs and benefits of total package

The costs and benefits of introducing the whole package of measures are outlined here.

As discussed in the previous section there is a clear and intrinsic net benefit to introducing all of the measures, with the exception of two measures. These two measures will result in net benefits if used effectively. It is therefore fair to assume that the net effect of having the full range of powers and measures in place will necessarily be positive.

However, it is important to note that the total value of being able to use all the measures should be greater than the sum of the benefits of the individual measures. This is because authorities will be able to use them strategically to address particular issues and improvements secured are expected to lead to wider benefits in line with broken windows theory.

## Qualification of Benefits

### Environmental

*Cleaner public space:* Many of the measures are aimed at cleaning public spaces. These include:

- Extension of litter offence to cover all types of land
- Clarification that smoking-related materials and chewing gum are included in litter definition
- Litter clearing notices
- Street Litter Control Notices
- controls for limiting the distribution of free literature
- measures for dealing with fly-posting
- better enforcement of rules for leaving waste out.

*Less dumping/fly-tipping, through:*

- Greater deterrence for abandoning vehicles
- More effective measures for dealing with nuisance alleyways
- Fewer abandoned trolleys
- Responsibility on landowners who knowingly cause or permit fly-tipping
- Responsibility on construction industry for waste management on site
- Better enforcement of mechanisms in place to prevent fly-tipping.

*More recycling* through better incentive structures for organisations dealing with waste

*Less nuisance from noise, insects and artificial lighting*

The resulting effect of these measures used appropriately to deal with local issues should be significantly increased overall increased local amenity and a better foundation for development of a sense of community.

### Economic

There are considerable economic benefits to businesses and private individuals associated with cleaner neighbourhoods. During consultation, local authorities identified economic benefits both to the public sector and to the private sector, as follows:

*Private sector*

These included:

- Attracting more customers and increased consumer spending
- Increased tourism
- Improved businesses image



- Increased investment in local business
- Better retention of staff
- Increased house prices in lagging areas.

### *Public sector*

There are benefits in terms of reduced demand on public services and a resulting redeployment of resources to other priorities. Particular examples of reduced demand include:

- On the fire service: responding to abandoned vehicles
- On the National Health Service: through reduced fear contingent on nuisance and anti-social behaviour brought about by for example by measures on abandoned trolleys, abandoned vehicles and nuisance alleyways
- On the police: as a result of reduced burglaries through measures on nuisance alleyways, and reduced crime associated with abandoned cars.

There are also reduced costs to public authorities in dealing with nuisance and enforcing and administering regimes. Examples of reduced administration are:

- Contaminated Land appeals
- Street Litter Control Notices
- Dog control measures.

## **Social**

There are a number of ways in which these measures lead directly to social benefits. These include:

### *Reduced anti-social behaviour*

- More effective mechanism for dealing with nuisance alleys
- Better control on the sale of aerosol spray paint

### *Reduced crime. Particular examples include:*

- Fewer abandoned vehicles which provide opportunity for casual crime
- Fewer burglaries as a result of closing of nuisance alleyways that provide access to burglars.

### *Increased availability of good quality of public spaces:*

- Opportunities for turning alleyways into good quality public spaces.

### *Improved neighbourhood relations through better mechanisms for dealing with:*

- Anti-social intruder alarms
- Nuisance lighting.

*The net effect of all of the measures is expected to lead to wider and greater benefits. These include:*

- Reduced fear of crime
- Increased confidence in public services
- Increased sense of civic pride
- Increased community interaction
- Better quality of life.

## **Health**

A few measures address health concerns specifically. These include:

- *Abandoned vehicles* which will reduce associated hazards, particularly fires and reduce the risk of noxious substances entering the environment
- *Abandoned trolleys* which will reduce hazards particularly when trolleys are left in roads
- *Insects*: reduced nuisance insects should reduce associated health risks
- *Artificial light*: anti-social lighting is likely to have a deleterious effect on health
- *Noise from misfiring intruder alarms and licensed premises*: reduction in noise especially during the night is likely to lead to health benefits
- *Reduced fly-tipped waste*: which will reduce the risk of injury, bad odour and infestation (e.g. rats).

More generally, cleaner neighbourhoods and a reduction in fear from anti-social behaviour are also likely to lead to health benefits.

## **Sustainability**

The long-term effect of these measures is likely to be a significant contribution to more sustainable communities.

There will be some initial costs to authorities which should be recouped through cost savings but as the vast majority of the measures are powers they will not involuntarily lead to extra costs to authorities. There will be costs to businesses in a few cases and the measures which have been highlighted as having potential risks to businesses need to be monitored to ensure that they do not have any long-term adverse impact on the relevant businesses.

As all the measures are designed to improve on existing arrangements and correct inadequacies there should not be any adverse sustainability effects associated with them.

Effective use of the measures and the establishment of good partnerships with local businesses will foster responsible businesses - a key factor for sustainable communities.

During September 2004, Defra held five one-day Clean Neighbourhoods Consultation seminars. Local authorities and stakeholders were invited to discuss the consultation proposals with government officials. It was generally considered that the measures proposed would not produce long term costs, because improvements generated by the new powers would enable local authorities to become more efficient.

## Qualification of Costs

### **Economic Private sector**

Some businesses or individuals will incur additional costs as a result of these measures, through being made responsible for responding to nuisance on their land or to their property where this is contributing to the deterioration of local environments. These include:

- Companies that own street furniture (generally the telecommunications industry and statutory undertakers)
- Statutory undertakers who already have an existing duty for litter and refuse
- Businesses and individuals that own or occupy land or property that has become a source of public nuisance
- Mobile traders who are brought under the Street Litter Control Notice regime.

Other businesses will also be affected because they are directly or indirectly responsible for nuisance caused. These include:

- Licensed Premises (premises licensed to sell alcohol for consumption on site, as defined under the Licensing Act 2003)
- Vehicle dealerships and repair establishments that currently use streets and highways for business purposes
- Construction companies managing projects over £200,000 who will have to develop and implement site waste management plans
- Owners of trolleys such as supermarkets
- Businesses or other activities that rely on free literature distribution. This might include events at a local level, but will not include charities where the printed matter relates to or is intended for the benefit of the charity, or those activities distributing free literature for political or religious purposes.

### *Public sector*

With the exception of three measures (extensions to statutory nuisance, sale of spray aerosols and stray dogs) the measures all amend existing powers or provide new powers for local authorities to use as they decide is appropriate. The work associated with the statutory nuisance measure is expected to be undertaken within existing structures, but it is difficult to predict how much extra work this will generate especially in the short term. The costs associated with the spray aerosols measure will be low: estimates suggest it to be between about

£3,000 to £10,000 per local authority per year for those that set up programmes. Costs associated with stray dogs are difficult to predict, and currently under discussion between the Home Office, ODPM and stakeholders.

Any new spending by local authorities will not be funded through an increase in government funding or council tax . Therefore where authorities decide to use the additional powers, as discussed above, it is expected to be where there is at least a net social cost saving overall if not a net financial cost saving to them. There will in some cases be an initial cost in setting up the appropriate systems: for example, for the free literature and intruder alarm measures. Many authorities are also likely to invest resources at a strategic level. These up-front costs will often be retrieved by savings over a period of time.

### **Environmental**

There are no environmental costs perceived.

### **Social**

There are no direct social costs perceived

## Quantification of benefits

As discussed before the total benefits will depend on the extent that the measures are used.

There are potentially considerable cost savings to be made through more effective mechanisms to deal with litter, fly-tipping and other forms of nuisance. In 2003/4 the costs of street cleansing in England is predicted to be £500m<sup>6</sup>, the annual costs of fly-tipping in England and Wales is estimated at between £100m and £150m<sup>7</sup>, the costs of addressing graffiti in London alone was approximately £23m<sup>8</sup> and the cost of abandoned vehicles £26m<sup>9</sup> per annum. This is a very partial picture of the current costs of cleaning up neighbourhoods in England and Wales. If the measures were to reduce these costs by 10% this would represent a saving of about £70m in respect of the costs outlined above alone, and the measures address a wider range of issues than these.

It is not possible to estimate the positive impacts of these measures on crime, health, anti-social behaviour and so on although it is thought that the improvements they will bring about are needed to underpin wider improvements.

## Quantification of total costs

Again these are difficult to predict as they depend on the approach local authorities take to using the measures. The scenarios given on page 11 illustrate potential different approaches by local authorities.

## Individual costs and benefits

The individual costs and benefits of each of the individual measures are summarised in the table below. Each of the measures, the risks they address and their costs and benefits are examined in more detail in section E.

**It is important to note that any figures are highly speculative given that it is not possible to predict the level of use of these measures and the lack of monetarised data on local environmental quality. Use is made of data where it is provided to come up with a best estimate of impacts.**

**Table 5: DEFRA's Summary of the costs and benefits of the individual measures**

Measure	Costs	Benefits
<b>Individual Bill Measures</b>		
<b>Part 1: Crime and Disorder</b>		
1.1 Extend the objectives of the Crime and Disorder Reduction Partnerships	None	Improved decision-making and longer term benefits of improved local environments and reduced crime.
1.2 New powers to deal with nuisance alleyways	Cost to local authority in making orders although there is a potential net financial benefit of £30,000 pa as reduced need for Orders under the Countryside and Rights of Way Act 2000 (CROW).	Reduced burglary and anti-social behaviour. Enhanced local environmental quality Reduced costs to local authorities and police in dealing with nuisance Reduced insurance premiums Reduced levels of anxiety
<b>Part 2: Vehicles</b>		
2.1 Create new offences and powers in relation to nuisance vehicles	Costs of enforcing the new offences on nuisance vehicles	Increased amenity through fewer nuisance vehicles on streets
2.2 Amend provisions on abandoned vehicles		Reduced costs to local authorities (estimate £2.6m per annum) Increased amenity Reduction in anti-social behaviour Reduction in emergency service time Fewer incidents of arson estimated cost saving £11.5m
<b>Part 3: Litter and Refuse</b>		
3.1 Extend the litter offence to dropping litter on all types of land, including "aquatic environments"	Enforcement and administrative costs should be less than benefits. <b>Transfer</b> of funds from litterers to public purse.	Reduced littering Reduced cleaning costs.
3.2 Replace Litter Control Areas and the use of Litter Abatement	Cost to occupiers of land	Increased removal of litter Reduced litter in the first

Measure	Costs	Benefits
Notices in these areas with power to serve Litter clearing Notices		place Easier for authorities to use
3.3 Make failure to comply with street litter control notices a direct offence, enforceable through fixed penalty notices. Include vehicles, stalls and other moveable structures for these purposes	<b>Transfer</b> from authorities to businesses	Less littering particularly from moving structures. Reduced costs of enforcement
3.4 Extend controls on distribution of free literature to local authorities outside London & Newcastle	Cost to Local Authorities: total set up costs of £450,000 to £750,000 and ongoing admin and enforcement costs of £225,000 pa	Less litter in priority areas Total reduced costs of clearing up litter of £187,500 - £750,000 pa
3.5 Specifically define smoking related materials and discarded chewing gum as litter	Enforcement costs for those authorities who do not already define as litter	Less littering of smoking related materials and chewing gum
<b>Part 4 Graffiti and Other Defacement</b>		
4.1 Extend Graffiti Removal Notices to cover fly-posting	<b>Transfer</b> of costs from local authorities to property owners such as owners of street furniture and statutory undertakers.	Less fly-posting Reduced net cost through efficiency saving.
4.2 Enforcement of the sale of aerosol paints to children	Costs to local authorities of reviewing enforcement and carrying out enforcement programmes if appropriate. (est. £3,000- £10,000 per local authority per year for those that set up programmes). Most likely in urban areas and particularly London	Fewer incidents of spray painting Reduced costs to business and authorities for removing graffiti
4.3 Revise the statutory defence relating to the display of	Increased cost to those responsible for unlawful advertising	Reduced fly-posting Easier for planning authorities to respond to

Measure	Costs	Benefits
advertisements in contravention of Regulations		fly-posting where it does occur.
4.4 Extend powers to remove and recover costs for unlawful advertisements to outside London and provide for compensation for damage	Increased cost to those responsible for unlawful advertising	Reduced fly-posting. Easier for planning authorities to respond to fly-posting where it does occur. For 4.3 and 4.4 combined, an estimated cost reduction of £760,000 pa
<b>Part 5: Waste on Land</b>		
5.1 Amend provisions for dealing with the illegal disposal of waste by removing the defence of operating under an employer's instructions, increasing penalties, allowing forfeiture of vehicles, requiring offenders to pay costs of investigation and clearance, and extending the clean up provisions for fly-tipping to include the landowner	Cost of clearance to landowners who knowingly caused or permitted fly-tipping	Reduced fly-tipping. Clearance of long-standing trouble spots. Improved liveability of areas. Better cost recovery for Environment Agency, local authorities and land owners
5.2 Powers to issue and keep fixed penalties for failing to produce waste transfer notes	Cost to businesses not complying with waste regulations	Potential reduction in fly-tipping Easier to enforce regulations Revenue for local authorities to offset enforcement costs
5.3 Introduce a more effective system for stop, search and seizure of vehicles thought to be involved in fly-tipping	Enforcement cost	Reduced fly-tipping Reduced demand for police time
5.4 Repeal of the divestment provisions for waste disposal functions		Encourage partnership working. More strategic approach, and more options open to,



Measure	Costs	Benefits
		authorities. Increased recycling.
5.5 Reform the recycling credits scheme to improve its operation in light of the policy framework which has developed since its introduction.	Financial <b>transfer</b>	Increased local government flexibility Level playing field for third party applications
5.6 Introduce fixed penalties for waste left out on streets	Costs to those not complying with a local authority's requirements	Reduced waste in local environments. Increase amenity
5.7 Amendments to provisions covering the waste duty of care and registration of waste carriers	None	More effective operation and enforcement
5.8 Powers to issue and keep fixed penalties to waste carriers for failing to produce registration details	Cost to businesses that fail to comply with regulations	Potential reduction in fly-tipping Easier to enforce regulations Revenue for local authorities
5.9 Requirement for site waste management plans	Construction industry time spent preparing and implementing plans (approx. 1 day of management time) Cost to local authorities and the Environment Agency of enforcing	Cost savings to business through increased re-use and recycling, resource efficiency and waste minimisation Increased regulatory compliance Reduced fly-tipping
5.10 Amendment to ASB Act 2003 on powers of investigation	None	More effective investigation and prevention of fly-tipping incidents
<b>Part 6: Dogs</b>		
6.1 Deregulating the dog bye-law system	Some authorities may decide to increase resources as it would be more effective	Reduced costs to local government
6.2 Give authorities full responsibility for receiving stray dogs	Cost transfer from police to authorities, compensated for by a departmental budget re-	Police time refocused on priorities, freeing up an estimated 40,000 hours per year

Measure	Costs	Benefits
	allocation	Better service than provided by police
<b>Part 7: Noise</b>		
7.1 New measures to reduce noise nuisance from a) intruder alarms b) licensed premises c) Greater flexibility in issuing abatement notices	a) Cost to authority of maintaining database of registered alarms b) Costs funded by revenue from penalties c) Unlikely to entail increased costs	a) and b) Improved quality of life for those suffering from noise especially at night c) Less punitive approach permitting better joint working
<b>Part 8: Architecture and the Built Environment</b>		
8.1 (a) Establish CABE on a statutory basis (b) provide a statutory power to Secretary of State to fund those activities conducted by CABE.	Financial transfer through change of auditors	Removes need for Department for Culture, Media and Sport to rely on Appropriation Acts when making grants to CABE. Enables DCMS to fulfil an undertaking that Comptroller & Auditor General should audit CABE.
<b>Part 9: Miscellaneous</b>		
9.1 Extend powers for dealing with abandoned trolleys (cost recovery provision).	<b>Transfer</b> of cost from LAs to trolley owners est. £800,000 pa	Benefits to local environment of fewer abandoned trolleys. Net cost saving through efficient investment reducing disposal and replacement costs.
9.2 Extend statutory nuisance to include a) artificial light and b) nuisance from insects	Cost to local authorities of carrying out new duty Cost to responsible parties of taking appropriate measures (for b: farmers and water companies)	a) Reduced light nuisance and promotion of better practice b) Where practicable reduction of nuisance from insects
9.3 Improve the process for Contaminated Land Appeals	Cost transfer from Magistrates court to Planning Inspectorate.	Reduced costs to appellants and appellate body. Increased access to expertise
<b>Fixed Penalty Notices</b>		
E2: Empower local authorities, Parish and Town Councils and	Additional burden on courts where failure to pay FPNs leads to	Increased compliance with relevant measures Reduction in burden on

Measure	Costs	Benefits
Environment Agency to issue fixed penalties for new and existing offences	prosecution. Un-recovered costs to authorities of bringing prosecutions.	courts where a fixed penalty is issued and paid where cases would otherwise go to court Receipts from FPNs for local authorities

### Option 3: Introduce some measures

This option would be to introduce some but not all of the measures

Costs and Benefits:

The costs and benefits of this would depend first on the individual direct costs and benefits of each of the measures introduced but also the indirect and cumulative effect of the measures introduced.

**Enforcement Services recommendation for Copeland Borough Council would be Option 3 to introduce some measures**

1.1	Extend the objectives of the Crime and Disorder Reduction Partnerships
1.2	New powers to deal with nuisance alleyways
2.1	Create new offences and powers in relation to nuisance vehicles
2.2	Amend provisions on abandoned vehicles
3.1	Extend the litter offence to dropping litter on all types of land, including "aquatic environments
3.2	Replace Litter Control Areas and the use of Litter Abatement Notices in these areas with powers to serve Litter Clearance Notice
3.3	Make failure to comply with street litter control notices a direct offence, enforceable through fixed penalty notices. Include vehicles, stalls and other moveable structures for these purposes
3.4	Extend controls on distribution of free literature to local authorities outside London & Newcastle
3.5	Specifically define smoking related materials and discarded chewing gum as litter
4.1	Extend Graffiti Removal Notices to cover fly-posting
4.3	4.3 Revise the statutory defence relating to the display of advertisements

	in contravention of Regulations
4.4	Extend powers to remove and recover costs for unlawful advertisements to outside London and provide for compensation for damage
5.1	Amend provisions for dealing with the illegal disposal of waste by removing the defence of operating under an employer's instructions, increasing penalties, allowing forfeiture of vehicles, requiring offenders to pay costs of investigation and clearance, and extending the clean up provisions for fly-tipping to include the landowner
5.6	Introduce fixed penalties for waste left out on streets
5.7	Amendments to provisions covering the waste duty of care and registration of waste carriers
5.8	5.8 Powers to issue and keep fixed penalties to waste carriers for failing to produce registration details
5.10	Amendment to ASB Act 2003 on powers of investigation
6.1	Deregulating the dog bye-law system
6.2	Give the authority full responsibility for receiving stray dogs
7.1	7.1 New measures to reduce noise nuisance from a) intruder alarms b) licensed premises c) Greater flexibility in issuing abatement notices
9.1	Extend powers for dealing with abandoned trolleys (cost recovery provision).
9.2	Extend statutory nuisance to include a) artificial light and b) nuisance from insects
E2	To Empower Parish and Town Councils and Other Agencies to issue fixed penalties for new and existing offences

The CNEA provision provides a range of updated and new powers to deal with environmental crime, to ensure the environment is safer, cleaner and greener. To support and effectively implement this new provision means a review of the way enforcement services currently delivers its services for the Council. It is clear that a new and effective way of delivering the service needs to be considered to meet future expectations/demands

## Future Enforcement Service Provision

### Recommendations

- 1) To implement the CNEA provision (Table 5) and report to executive for agreement.
- 2) To seek to agree Cumbria Wide level for issue of Fix Penalty Notices.
- 3) To review the Enforcement Services Car Parking Management approach, with an objective to redeploy existing (2) enforcement officer to address and implement the new environmental enforcement demands
- 4) To review the potential financial impact of 3 above (expenditure & income)
- 5) To review enforcement training needs to implement and undertake environmental enforcement diversity
- 6) To review and realign budget enforcement services budget provision based on above recommendations.
- 7) To seek OSC & Executive support and approval so to deliver Enforcement Services to meet the needs of the external impacts of new legislation and the new environmental enforcement demands

## Appendices

Appendix 1 - Enforcement Services Plan

Appendix 2 – Enforcement Services Budget 2006/7

Appendix 3 – Enforcement Services Performance Indicators

Appendix 4 – CNEA, Summary of Measures

Appendix 5 – Licensing Joint Enforcement Protocol

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## Appendix 1 – Enforcement Services Plan 2006/7

### Enforcement Services

1. **Service Description:** Enforcement services are one of three services within Open Spaces, led by the Enforcement Manager, Steven Bishop.

- 1.1. The unit is responsible for the management and delivery of a wide range of related environmental services which includes:

Enforcement Service	Description
<b>Car Parking</b>	<i>Responsible for the management of the council car parking areas, control of parking across the borough, including the issue of fixed penalty charges, also the management, issue and control of residential permit parking.</i>
<b>Dog Control</b>	<i>Responsible for the collection of strays, investigations of noisy dogs, and the issue of fixed penalty charge for dog fouling.</i>
<b>Litter Enforcement</b>	<i>Responsible for the enforcement control of littering by both public and commercial operations, including the issue of fixed penalty charges.</i>
<b>Trade Waste</b>	<i>Responsible for the investigating and checking if traders hold a statutory waste disposal licence, and the methods of waste disposals</i>
<b>Fly Tipping</b>	<i>Responsible for investigating fly tipping, identifying the culprits including pursuance through the courts, also the enforced removal of fly tipped material.</i>

**Sunday Trading**

*Responsible for the checking of trader's compliance against trading regulations.*

**Abandoned Vehicles**

*Responsible for the control and enforced removal of abandoned vehicles throughout the borough.*

**Taxi & Public  
Entertainment Licenses**

*Responsible for the inspection and compliance of taxis and public entertainment against the licence agreement/regulation's*

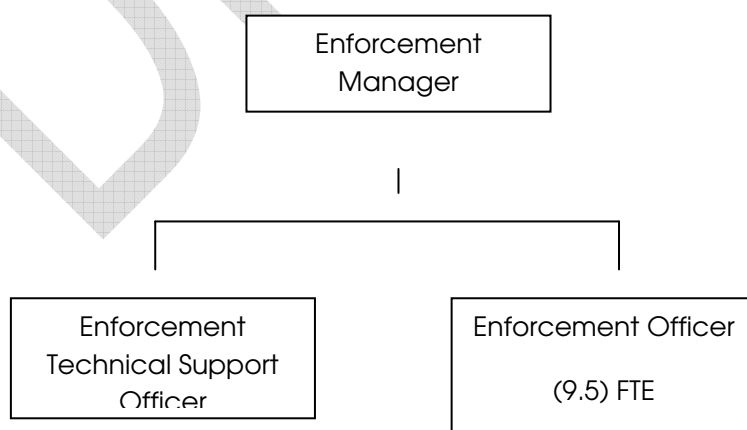
**Markets**

*Responsible for the promotion and management of the three markets, Whitehaven, Egremont & Cleator Moor*

**Enforcement Service Structure**

1.2. The structure below shows the Enforcement Services management and support posts, the staffing structure has developed in line with service provision such as in 2003 Decriminalised Parking Enforcement (DPE) was implemented

**Structure Chart**





**Budgets** – The Enforcement Unit 2005/6 will operate within a total budget of £125,622 net

Revenue	Total	Net
Enforcement	£682,546	£125,622

## Current Performance

- 1.3. Enforcement services have successfully completed its sixth year of operation. During 2005/6 two new national performance indicators have been introduced:

Abandoned Vehicle - BV218a investigated within 24 hours

BV218b removed within 24 hours

- 1.1. The unit produces and monitors a number of local performance indicators; these were introduced as a support measure to improve performance management and are monitored annually.
- 1.2. Internal and external benchmarking in the key service areas is undertaken annually, this also includes base assessments being carried out.

## Enforcement Unit's Key Objectives for 2004/2005

- 1.4. Integration of the unit within Open Spaces Section of Leisure and Environmental Services
- 1.5. Improved integration between Enforcement teams and Waste Management teams
- 1.6. Implementing the Clean Neighbourhood and Environment Act 2005
- 1.7. Implement Action Plan to address the key issues from Customer Satisfaction Survey
- 1.8. Community Engagement – Working with Town & Parish Councils
- 1.9. Mainstream crime and disorder reduction in exercising of all our duties, activities and decision-making. Consider community safety, which encompasses anti social behaviour and disorder (and not just crime), as well as the fear of crime and disorder.

#### (4.1) Integration of Enforcement services

<b>What are we trying to achieve?</b>	Integration of Enforcement services, to provide a stronger focus on enforcement activities	
<b>Corporate objective supported</b>	Quality of Life	
<b>Financial implications</b>	Financial implications to be contained within existing departmental budgets	
<b>What key actions will be undertaken</b>	<b>Who is responsible for delivering the action</b>	<b>When should the action be completed</b>
To hold joint service team meetings, to discuss service issues and develop a synergy across the three services.	Steven Bishop	Monthly team meetings

#### (4.2) Integration between Enforcement & Waste Management Services

<b>What are we trying to achieve?</b>	Improved integration between Enforcement teams and other sections in Leisure and Environmental services, in particularly Waste Management and Environmental Health	
<b>Corporate objective supported</b>	Quality of Life	
<b>Financial implications</b>	Financial implications to be contained within existing departmental budgets	
<b>What key actions will be undertaken</b>	<b>Who is responsible for delivering the action</b>	<b>When should the action be completed</b>
Support of project work dealing with new powers of the CNEA and additional twin-bin roll-out	Steven Bishop	Implementation of new FPN from April 06
Support of the Egremont & Area Regeneration Group	Janice Carrol	
Support of Safer, Cleaner, Greener Project for South	Vic Emerson	
		Attending the steering group meetings from April 2006

Whitehaven		Undertaking a focused enforcement approach in South Whitehaven from April 2006
Design of joint protocols with Waste Team for doing with fly-tipping		Establish joint protocols by September 06

#### (4.3) Implementing the Clean Neighbourhood and Environment Act 2005

<b>What are we trying to achieve?</b>	The efficient implementation and integration of the Clean Neighborhood and Environment Act 2005	
<b>Corporate objective supported</b>	Quality of Life	
<b>Financial implications</b>	The volume of work arising is at this stage is difficult to quantify and thus any financial implications, have yet to be determined.	
<b>What key actions will be undertaken</b>	<b>Who is responsible for delivering the action</b>	<b>When should the action be completed</b>
To develop protocols and systems of implementation for the new powers	Toni Magean Janice Carrol Steven Bishop	New powers are being phased over the year - starting in April 06 – to develop protocols as powers being introduced.
To performance manage the effectiveness of the act, new PI's to be introduced	Martin Jepson Louise Kelly CDRP	Half year reviews in September

#### (4.4) Action Plan – Customer Satisfaction Survey

<b>What are we trying to achieve?</b>	To improve public understanding of the service to improve customer satisfaction for Enforcement services and through supporting Waste Management services
<b>Corporate objective supported</b>	Quality of Life

<b>Financial implications</b>	Financial implications to be contained within existing departmental budgets	
<b>What key actions will be undertaken</b>	<b>Who is responsible for delivering the action</b>	<b>When should the action be completed</b>
As detailed in the customer first and reputations improvement action plan	Steven Bishop Ian Curwen	Ongoing from April 2006

#### (4.5) Community Engagement

<b>What are we trying to achieve?</b>	To liaise with Town & Parish Councils to develop joint enforcement services improvement plans/processes	
<b>Corporate objective supported</b>	Quality of Life	
<b>Financial implications</b>	Financial implications to be contained within existing departmental budgets	
<b>What key actions will be undertaken</b>	<b>Who is responsible for delivering the action</b>	<b>When should the action be completed</b>
Promotion the Enforcement service through website, Copeland's Matter, meetings with T&P Councils.  Record and report incidences of anti social behaviour, crime and disorder and fear of crime.	Steven Bishop Malcolm Stevenson Ian Curwen	Quarterly

#### (4.6) Mainstream crime and disorder reduction.

<b>What are we trying to achieve?</b>	Mainstream crime and disorder reduction in exercising of all our duties, activities and decision-making. Consider community safety, which encompasses anti social behaviour and disorder (and not just crime), as well as the fear of crime and disorder.	
<b>Corporate objective supported</b>	Quality of Life	
<b>Financial implications</b>	Financial implications to be contained within existing departmental budgets	
<b>What key actions will be undertaken</b>	<b>Who is responsible for delivering the action</b>	<b>When should the action be completed</b>
To include crime reduction activities as an integral part of the service delivery	Steven Bishop  Louise Kelly CDRP	To review 8 delivery processes to ensure crime reduction is consider - December 2006
To implement and phase in new powers under CNEA (see 4.3) to support crime reduction		Half yearly review – September 2006

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## **Appendix 2 – Enforcement Services Budgets**

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## Appendix 3 - Enforcement Services Performance Indicators (PI's)

### Performance Indicators

#### National

##### Abandoned Vehicles

- **BV218a** – Percentage Investigated within 24 Hours (2005/06) 4th Quarter performance: - 100% (179)
  - NB – DVLA link was down during Moresby Offices restructuring for 3 weeks – unable to quickly identify ownership of abandoned vehicles
  - System now fully operating, performance will improve for final quarter
- **BV218b** – Percentage Removed within 24 Hours (2005/06) 4th Quarter performance: - 94% (168)

#### Local PI's

The unit produces a range of local Performance Indicators in lieu of national indicators in order to continuously improve the effectiveness of key service delivery

The performance indicators have been designed to compare the park services based on such outcomes as:

- Environmental Quality/Impact
- Protection of the Environment
- Customer Focus
- Linking to Corporate and L&ES Performance Indicators

Local Indicators	03-04 Target	03-04 Actual	04-04 Target	04-05 Actual	05-06 Target	05-06 Actual	06-07 Target	06-07 Actual
Fly tipping reports investigated	1000	1006	800	916	495	492	490	
Fly tipping prosecutions	5	4	5	6	14	14	15	

Littering Fixed penalties issued	10	8	10	14	15	104	100	
Third Party Areas Cleaned up as a result of Enforcement action	New PI				20	19	20	
Dog Fines issued	50	55	30	34	33	44	50	
Investigation/Collection of Stray Dogs	150	172	250	296	300	257	300	
Abandoned vehicles investigated within 24hrs	250	289	250	275	160	179	160	
Abandoned vehicles removed within 24hrs	New PI				60	168	150	
Penalty Charge Notice – On Street	2000	2255	3840	2690	3840	2753	3000	
Penalty Notice Charge – Off Street	800	543	1680	1186	1680	861	900	

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## Appendix 4 – Summary of CNEA Measures

### **Clean Neighbourhoods and Environment Act - Outline of Measures**

The **Act**:

#### **Crime and Disorder**

- ensures that local Crime and Disorder Reduction Partnerships will take anti-social behaviour affecting the local environment into account in developing crime and disorder reduction strategies.
- gives local authorities new, more effective powers to deal with alleyways affected by anti-social behaviour.

#### **Fixed Penalty Notices (Fines)**

- makes greater use of fixed penalties as an alternative to prosecution, in most cases giving local authorities the flexibility to set their own rates;
- gives parish councils the power to issue fixed penalties for litter, graffiti, fly posting and dog offences;

#### **Nuisance and Abandoned Vehicles**

- gives local authorities the power to remove abandoned cars from the streets immediately;
- creates two new offences to help local authorities deal with nuisance parking: offering for sale two or more vehicles, or repairing a vehicle, on the road as part of a business.

#### **Litter**

- makes it an offence to drop litter anywhere, including private land and rivers, ponds and lakes;
- gives local authorities new powers (litter clearing notices) to require businesses and individuals to clear litter from their land;
- strengthens existing powers for local authorities to require local businesses to help clear up litter they generate (street litter control notices);
- enables local authorities to restrict the distribution of flyers, hand-outs and

- pamphlets  
that can end up as litter;
- confirms that cigarette butts and discarded chewing gum are litter.

### **Graffiti and fly-posting**

- extends graffiti removal notices (as introduced by the Anti-social Behaviour Act 2003)  
to include fly-posting;
- improves local authorities powers to tackle the sale of spray paints to children;
- strengthens the legislation to make it harder for beneficiaries of fly posting to evade prosecution;
- enables local authorities to recover the costs of removing illegal posters.

### **Waste**

- amends provisions for dealing with fly-tipping by:
  - removing the defence of acting under employer's instructions
  - increasing the penalties
  - enabling local authorities and the Environment Agency to recover their investigation and clear-up costs
  - extending provisions on clear up to the landowner in the absence of the occupier.
- gives local authorities and the Environment Agency the power to issue fixed penalty notices (and, in the case of local authorities, to keep the receipts from such penalties):
  - to businesses that fail to produce waste transfer notes
  - to waste carriers that fail to produce their registration details or evidence they do not need to be registered
  - for waste left out on the streets (local authority only)
- introduces a more effective system for stop, search and seizure of vehicles used in illegal waste disposal; and enabling courts to require forfeiture of such vehicles
- introduces a new provision covering the waste duty of care and the registration of waste carriers
- introduces a new requirement for site waste management plans for construction and demolition projects
- repeals the divestment provisions for waste disposal functions to provide greater flexibility for local authorities to deliver waste management services in

the most  
sustainable way

- reforms the recycling credits scheme to provide increased local flexibility to incentivise more sustainable waste management.

## **Dogs**

- replaces dog byelaws with a new, simplified system which will enable local authorities and parish councils to deal with fouling by dogs, ban dogs from designated areas, require dogs to be kept on a lead and restrict the number of dogs that can be walked by one person.
- gives local authorities, rather than police, sole responsibility for stray dogs.

## **Noise**

- reduces nuisance caused by noise by giving local authorities to:
  - deal with burglar alarms
  - impose fixed penalty fines on licensed premises that ignore warnings to reduce excessive noise levels
- gives local authorities greater flexibility in dealing with noise nuisance.

## **Architecture and the Built Environment**

- establishes the Commission for Architecture and the Built Environment (CABE) on a statutory basis.

## **Miscellaneous**

- enables local authorities to recover the costs of dealing with abandoned shopping trolleys from their owners
- extends the list of statutory nuisances to include light pollution and nuisance for insects
- improves the contaminated land appeals process.

## Appendix 5 – Licensing Joint Enforcement Protocol

### LICENSING ACT 2003

### JOINT ENFORCEMENT PROTOCOL SIGNED BETWEEN

#### Licensing Authorities

- Allerdale Borough Council
- Barrow Borough Council
- Carlisle Borough Council
- Copeland Borough Council
- Eden District Council
- South Lakes Borough Council

#### Responsible Authorities

- Cumbria Environmental Health Departments
- Cumbria Constabulary
- Cumbria Fire & Rescue Service
- Cumbria County Council Trading Standards

1. The above statutory organisations are the Parties to this Protocol.
2. Under the Licensing Act, responsible authorities defined in the Act have the objectives of preventing crime; protecting public safety; preventing nuisance; and preventing harm to children in relation to premises licensed under the Act.
3. Each Party has enforcement responsibilities in relation to licensed premises and recognise the importance of effective co-operation and liaison to ensure premises licence holders; designated premises supervisors; personal licence holders; and club premises certificate holders understand and comply with the law.
4. This Protocol sets out the steps that have been agreed to achieve that aim.
5. Enforcement

From time to time, joint inspections will be carried out by the licensing authority's licensing enforcement officers and officers from the relevant responsible authority.

6. Joint inspections will be conducted on the basis of a risk assessment applied to all licensed premises, or in response to a specific complaint. Responsibility for

deciding on a joint inspection will rest with the responsible authority with the expertise for dealing with the complaint in question, for example the environmental health authority will make decisions based on preventing nuisance or the Fire and Rescue Service will decide on issues affecting fire risk.

## 7. Offences

The Parties agree that prime responsibility for enforcing the offences under the Act should lie with:

Section	Offence	Authority	Lead Prosecutor
33	Notification of change of name or address by premises licence holder or designated premises supervisor	Licensing authority	Licensing authority
40	Premises licence holder failing to notify designated premises supervisor of variation to premises licence	Licensing authority	Licensing authority
41	Failure to send premises licence to licensing authority upon removal of designated premises supervisor	Licensing authority	Licensing authority
49	Failing to notify designated premises supervisor of grant of interim authority notice	Licensing authority	Licensing authority
56	Failure to provide premises licence to be updated	Licensing authority	Licensing authority
57	Failure to secure safe custody or display on premises of premises licence	Licensing authority	Licensing authority
59	Obstructing inspection of premises before grant of a premises licence	Licensing authority	Licensing authority
82	Notification of change of name or alteration of rules of a club	Licensing authority	Licensing authority

83	Change of relevant registered address of club	Licensing authority	Licensing authority
93	Failure to provide club premises certificate to be updated	Licensing authority	Licensing authority
94	Duty to keep and produce club premises certificate	Licensing authority	Licensing authority
96	Inspection of premises before grant etc of club premises certificate	Licensing authority	Licensing authority
108	Right of entry when temporary event notice may be given	Licensing authority or police	Licensing authority or police
109	Failure to display temporary event notice on premises	Licensing authority	Licensing authority
123	Duty to notify licensing authority of convictions during application period	Licensing authority	Licensing authority
127	Duty to notify change of name or address	Licensing authority	Licensing authority
128	Fail to notify court of personal licence	Licensing authority or police	Licensing authority or police
136	Unauthorised licensable authorities	Licensing authority or police	Licensing authority or police
137	Exposing alcohol for unauthorised sale	Licensing authority or police	Licensing authority or police
138	Keeping alcohol on premises for unauthorised sale	Licensing authority or police	Licensing authority or police
140	Allowing disorderly conduct on licensed premise	Licensing authority or police	Licensing authority or police
141	Sale of alcohol to person who is drunk	Licensing authority or police	Licensing authority or police
142	Obtaining alcohol for a person who is drunk	Licensing authority or police	Licensing authority or police

143	Failure to leave licensed premises	Licensing authority or police	Licensing authority or police
144	Keeping smuggled goods	Police or Customs and Excise	Police or Customs and Excise
145	Unaccompanied children prohibited from certain premises	Licensing authority or police	Licensing authority or police
146	Sale of alcohol to children	Licensing authority, police or trading standards	Police or trading standards
147	Allowing the sale of alcohol to children	Licensing authority, police or trading standards	Police or trading standards
148	Sale of liqueur confectionary to children under 16	Licensing authority, police or trading standards	Police or trading standards
149	Purchase of alcohol by or on behalf of children	Licensing authority, police or trading standards	Police or trading standards
150	Consumption of alcohol by children	Licensing authority, police or trading standards	
151	Delivering alcohol to children	Licensing authority, police or trading standards	Police
152	Sending a child to obtain alcohol	Licensing authority, police or trading standards	Police
153	Prohibition of unsupervised sales by children	Licensing authority, police or trading standards	Licensing authority or police
156	Prohibition on sale of alcohol on moving vehicles	Police	Police
158	False statements made for the	Licensing authority	Licensing authority

	purposes of the Act		
179	Intentionally obstruct entry to an authorised person	Relevant responsible authority	Relevant responsible authority

## 8. Investigation of offences

When a responsible authority has become aware of an offence and would like another more appropriate responsible authority to take formal action, they will take the following steps:

- (1) early discussions with the appropriate responsible authority, including (unless in cases of extreme urgency) the licensing authority's enforcement officer
- (2) supply the relevant responsible authority in a timely manner all of the relevant evidence (whether subsequently used or unused)
- (3) set out in writing details of the offence and request that the relevant responsible authority take action.

## 9. Once in receipt of a written request to take action the appropriate responsible authority will:

- (1) assess the facts and take appropriate action in accordance with the relevant enforcement Protocol for that authority. The appropriate responsible authority will, unless immediate action is required, act within a maximum of 14 working days of receipt of the complaint. In most cases, apart from serious cases, this will generally be a formal warning letter followed by a formal caution and prosecution if supported by sufficient evidence acceptable to lay an information as set out in the Attorney-General's Guide to Crown Prosecutors
- (2) inform the responsible authority that initiated the complaint of the action taken, and explain why it was decided to take the enforcement action that was taken.

10. Regular monthly liaison meetings will take place between the licensing officer and the local police licensing officer.

11. Each licensing authority will be responsible for determining what other consultative arrangements it wishes to make for consulting with other responsible authorities on the understanding that consultation will take place at least once a year.

## 12. Mutual assistance

Each licensing authority in XYZ employs officers specifically engaged to conduct enforcement and inspection duties under the Licensing Act. Each



licensing authority agrees to nominate officers from each licensing authorities to act as authorised officers in their own areas should the need arise.

13. Responsibility for prosecutions

Section 186 of the Act provides that proceedings for offences under the Act may be instituted by

- (1) a licensing authority,
- (2) by the Director of Public Prosecutions, or
- (3) by a local weights and measures authority for offences under section 146 or 147.

14. It is expected under this Protocol that the police, and the weights and measure authority, will separately bring proceedings (including the issue of formal cautions) as a result of offences that they have investigated. Local arrangements may provide that in some minor cases the relevant licensing authority will be the prosecuting authority.

15. In all other cases, the relevant licensing authority will be the prosecuting authority.

16. Register of cautions

Each licensing authority will maintain a register of formal cautions issued to holders of licences, certificates or permissions.

17. Notification of prosecutions and cautions

Notwithstanding the duty of the court in section 131 (duty to notify licensing authority of convictions) the appropriate prosecuting authority will inform the relevant licensing authority within five working days of any conviction or caution under the Act.

18. The relevant licensing authority for these purposes is the licensing authority that issued the licence, certificate or permission even if not a party to this Protocol.

19. The notification shall be in writing and shall state:

- (1) the name and address of the person convicted or cautioned
- (2) the nature and date of the conviction or caution and
- (3) the details of any conviction including any order under section 129 of the Act.

20. Applications for licence reviews

This Protocol recognises the right of any responsible authority to apply to the licensing authority for a licence or club premises certificate to be reviewed at any time.

21. Except in extreme cases (where there has been a serious risk to public safety, children, crime, or nuisance) the responsible authority seeking a review will be expected to:

- (1) give an early indication to the licensing authority of the events requiring an application
- (2) seek an informal resolution to the matter if possible or appropriate
- (3) be able to demonstrate to the licensing committee hearing the application for a licence review that alternative approaches to dealing with the situation leading to the application have first been attempted.

22. Data protection and exchange of information

Section 29 of the Data Protection Act 1998 allows for the exchange of information for the purposes of the prevention of crime or the apprehension of offenders.

23. Section 115 of the Crime and Disorder Act 1998 allows for information to be specifically exchanged between the police and the licensing authorities.

24. Parties to this Protocol may disclose information to other Parties for these purposes providing that the local Protocols applicable to each organisation for data protection are observed. Every request for information under the Act must be made in writing giving reasons why disclosure is necessary.

25. Information supplied must only be used for the purpose for which it is obtained, must be securely retained whilst in the possession of the responsible authority that has requested it, and must be securely disposed of when no longer required. It must not be further transmitted to a third party without the consent of the original authority that supplied the information.

26. This part of the Protocol may be supplemented by any Memorandum of Understanding on data exchange agreed either at a local or national level.

27. Annual Report

A joint annual report based on a financial year will be submitted to the relevant licensing committee for each local authority area detailing enforcement action taken and problems encountered in relation to licensed premises. The licensing authority will compile the report and information from each appropriate responsible authority will be supplied by 28 February each year.

Signed:

Authority:

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