



Clean Neighbourhoods and Environment Act 2005 –Wales Update

Key issues

Final guidance has not yet been released for Wales.

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1. Introduction

The Clean Neighbourhoods and Environment Act 2005 (CNEA) received royal assent on 7 April 2005. The Welsh Assembly Government in its draft guidance advocated a staged approach to bringing into force the majority of the measures contained in the Act from October 2006 to March 2007.

In 2006, the Welsh Assembly Government (WAG) consulted on the draft guidance on the CNEA. A full copy of the consultation paper is available by clicking on the following link:

<http://new.wales.gov.uk/consultations/closed/envandcouncloscons/1193364/?lang=en>.

The APSE Wales Environmental Services and Highways Advisory Group have requested an update briefing on the CNEA since its introduction and below gives a summary.

2. Background

The CNEA contains a number of powers which can be utilised by local authorities and make it easier, more effective and more cost efficient to tackle issues that lead to poor local environmental quality.

Final guidance has not yet been released for Wales. However, for England, Defra have released a comprehensive series of guidance documents that give practical advice. These will be useful as reference documents and can be downloaded from

<http://www.defra.gov.uk/environment/localenv/legislation/cnea/index.htm#guide>. These cover

- ✓ Abandoned and Nuisance Vehicles
- ✓ Litter and Refuse
- ✓ Graffiti and fly-posting)
- ✓ Waste
- ✓ Dog Control Orders
- ✓ Noise
- ✓ Statutory Nuisance (light and insects)
- ✓ Abandoned trolleys
- ✓ Fixed Penalty Notices (including issuing to juveniles/minors)
- ✓ Making of gating orders
- ✓ Code of Practice on Litter and Refuse
- ✓ Parish Councils

This website also includes a range of model forms.

The WAG have also consulted on the revised Code of Practice on Litter and Refuse (COPL&R), which replaces the previous code that was issued in 1999. This closed on 2nd March 2007. This revised code encompasses changes to legislation on litter introduced by the CNEA as well as providing statutory guidance for those with a duty to clear litter and refuse from their land. This code of practice was issued under section 89(7) of the Environmental Protection Act 1990. It sets out practical guidance on the discharge of the duties imposed under section 89(1) of that Act on certain bodies and occupiers to keep specified land clear of litter and refuse.

Additionally, for the next two years, funding will be provided by the Assembly to Keep Wales Tidy to undertake a programme of work that will develop a new Local Environmental Audit Management System (LEAMS) process and bring it in line with the new COPL&R, undertake a training program for all 22 Local Authorities in Wales to use LEAMS and manage a full LEAMS service. This system has been adopted as a measurement within the Streetscene Performance Indicator Framework 2007/08.

3. Timetable

The sections below came into force on 27 October 2006

Sections 11 – 13 (abandoned vehicles)
Sections 15 – 17 (illegally parked vehicles)
Section 34 (removal of placards/posters)
Section 37 (transfer of waste enforcement powers), (but not in relation to the seizure of a vehicle or its content).
Section 50 (requirement for owner of land to remove waste)
Sections 56, 66, and 67, (Dog control)
Sections 80, 81, 82 and 83 (audible intruder alarms)
Section 84 (extension of Noise Act 1996 to licensed premises) (for certain purposes)
Sections 99 -100 (abandoned shopping and luggage trolleys)

Section 2 (gating orders) will come into force through the Highways Act 1980 (Gating Orders) (Wales) Regulations 2007 on 19 February 2007.

The sections below will be introduced in Wales on the coming into force date of the Fixed Penalty Notice Regulations on 15 March 2007.

Sections 6 -9 (nuisance parking)
Section 10 (abandoned vehicles)
Sections 19, 20 - 24 (Litter and refuse)
Section 25 – (exclusion of liability)
Sections 28 to 31 (graffiti and fly-posting)
Section 38 and 45 (transfer of waste offences)
Section 48 (offences relating to waste receptacles)
Section 52 (use of receipts)
Sections 59 -62 (dog control penalties)
Sections 69 – 79 and 82 (audible intruder alarms)
Section 84 - (extension of Noise Act 1996 to licensed premises) (for remaining purposes)
Section 86 (deferral of duty to serve abatement notice)
Sections 96 – 98 (use of receipts)

Sections 55, 57, 58, 63, 64, 65 (Dog Control) will be introduced on the coming into force date of the Dog Control Order Regulations on the 15/03/07.

Sections 101, 103(2)(a) and 103(4)(a) were introduced on 31/01/07 on the coming into force date of the Statutory Nuisance (Miscellaneous Provisions) (Wales) Regulations 2006.

Sections 102 and 103 (for remaining purposes) were introduced on 31/01/07 on the coming into force date of the Statutory Nuisance (Artificial Lighting) (Designation of Relevant Sports) (Wales) Order 2006.

4. Comments

APSE has welcomed the increased powers contained within the CNEA and championed their use through its masterclass on the CNEA. APSE produced a range of briefings during the consultation with the latest briefing 07/01 showing that councils in England are using the new powers to crack down on the low level environmental crime that blights many people's daily lives in a sensible manner.

There has been a steady rather than dramatic rise in numbers of fixed penalty notices (FPNs) being issued (in England), showing that despite the regular scare headlines in the tabloid media indicating overuse, councils are beginning to use the new powers in a measured way. This recognises that there is always a risk that the very people the council needs on board to support them in cleaning up the local environment are the very same people who could be alienated if the powers are over used.

The reasons for issue indicate that 95% of FPNs have been issued for dropping litter, failing to clean up dog mess, graffiti, fly posting, fly tipping or abandoned vehicles. A further breakdown shows that 80% were for litter and 10% for dog mess.

Smoking-related litter is the most prevalent types of litter. It is estimated that smoker's materials were present on 79% of survey sites. These items are often time-consuming and expensive to clean-up because of their small size, as well as being unsightly where they are allowed to accumulate. The smoking ban in public places and workplaces is due to begin in Wales on Monday 2 April 2007 and is expected to lead to an even bigger increase in cigarette litter. A new Keep Britain Tidy campaign aims to stamp out cigarette litter and encourage smokers to dispose of their cigarette ends more responsibly. The campaign which local authorities should be aware of, aims to:

- ✓ communicate that cigarette butts are litter
- ✓ encourage smokers to become more responsible about the way they dispose of cigarette ends
- ✓ encourage the use of pocket ashtrays where an appropriate bin isn't available
- ✓ increase the provision of dedicated cigarette bins in and around town and city centres by working in partnership with councils
- ✓ encourage businesses to increase their cigarette disposal facilities for employees and customers in and around their premises

Councils should ensure that they have a carefully planned approach to educating the public about the new offences in the CNEA and persuading them to change behaviour. The benefit of the use of FPNs could be lost if it is perceived that they are being used only as a cash cow. Avoiding making criminals out of ordinary citizens by getting the public to recognise that dropping litter and allowing their dogs to foul streets and parks is unacceptable behaviour is far preferable than issuing thousands of FPNs.

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