



The London Local Authorities Act 2007

A guide to some of the most important provisions in the Act.

Key issues

Increased powers and fines for:

- Advertising and Fly Posting
- Waste and Litter
- Abandoned Vehicles
- Licensing
- Street Trading

Added forms of offences for which penalty charges can be imposed and general procedures relating to penalty charges.

1. Introduction

The 9th London Local Authorities Act received Royal Assent in July. From 19th September 2007 London Councils can take direct action to protect public health and the local environment. The Act enables London Councils to tackle a range of nuisances that affect the local environment or lower the quality of life for residents. Many of the provisions within the Act were suggested by Londoners themselves and will help to provide a cleaner, greener, safer capital.

2. Specific Issues

2.1 Advertising and Fly Posting

The Act provides Councils with improved powers relating to portable advertising within designated areas. On the grounds of public safety or amenity a council can ban the display of a range of portable advertisements and those contravening a ban can be fined up to £2,500.

Those who contravene this legislation repeatedly are now liable to incur a much higher fine. The maximum fine prior to this Act was up to £2,500. From 19th September if a person receives a third conviction for fly posting or 'shroud advertisement' they can be fined up to £20,000 and council officers are now allowed to seize relevant items or objects if they have reasonable grounds to suspect a fly posting offence has been committed.

The Act will also enable Councils to force owners or occupiers to take action to stop people posting up unauthorised adverts on their buildings. The Council will have the power to carry out any necessary work and reclaim their costs from the owner or occupier. However, a Code of Practice has to be developed and agreed by London Councils before these provisions come into force. The current timescale is June 2008.

2.2 Waste and Litter

Councils can now set standard rubbish collection regulations for householders and businesses. These standards can include size and location of bins and the division of waste for recycling. Those who fail to comply will face a penalty charge. However, enforcement of the penalty charges cannot commence until levels of charges are agreed and the likely date for enforcement of charges is June 2008.

Penalty charges for vehicle littering will be available to councils. The penalty charge will apply to the owner of a vehicle if they are in the vehicle when a littering offence takes place e.g. rubbish is thrown out of a car window. Buses, coaches, taxis and private hire vehicles are exempt. Again, penalty charges must be agreed before enforcement commences and again, this is likely to be June 2008.

Councils can now request proof of residence to allow use of civic amenity sites. Charges can be made to residents of other authority areas and suspected business waste can be refused.

2.3 Abandoned Vehicles

Councils will no longer have to provide notice to occupiers when they intend to remove abandoned vehicles from their land, unless the land is in the curtilage of a dwelling. This amends previous legislation and will save time and money for councils. Anyone who wishes to reclaim a vehicle removed by the Council will have to prove that the fixed penalty for the offence has been paid and that vehicles have the required insurance, tax and MOT certificate. If the owner cannot produce the required documents they will have to pay a bond to take the vehicle away. The bond will be repaid if and when the documents are produced. Enforcement will begin when the level of bond is agreed (likely to be June 2008).

2.4 Environmental Provisions

A council, or a group of councils acting jointly, can apply to the Secretary of State to designate an area as an enforcement action zone. This would allow higher fines to be imposed for a number of environmental offences such as littering, graffiti, noise nuisance and fly posting. It is intended that this will enable councils to clean up tourist attractions or other sensitive areas but set procedures must be followed by the local authorities making the application.

The Act also allows councils to serve notice on occupiers and owners where vegetation growth is detrimental to the area's amenities.

2.5 Licensing

The Act introduces a new class of establishment in London – hostess bars. A hostess bar is defined as:-

- Business premises that offer, either expressly or implied, whether they charge or not, the provision of companions for customers on the premises
- Premises giving an impression, by whatever means, to customers or potential customers, that a performance, entertainment, service, exhibition or other experience of a sexual nature is available on the premises
- Premises giving the impression, by whatever means, to customers or potential customers, that alcoholic refreshments are available on the said premises despite the premises not being licensed to provide alcohol

This definition replaces the old ‘near beer’ premises, and hostess bars will be subject to licensing as sex establishments. This part of the Act came into force on 19 September 2007 for Westminster only. The timetable for introduction for other boroughs depends on the resolution of each council.

2.6 Street Trading

New definitions of street trading tighten the existing legislation, closing a loophole which enabled some trading on bridges over the Thames, linking Westminster and Lambeth, and councils have more power to grant, suspend or revoke temporary licences.

Perishable items have been added to the list of what can be seized from unlawful street traders and the length of time for the institution of proceedings for the unlawful trading of motor vehicles has been extended.

2.7 Penalty Charges and Fixed Penalty Notices

There is an increase in the number of offences for which penalty charges can be imposed (relating to waste receptacles and vehicle littering), and the facility to extend the number further by detailing general procedures relating to penalty charges e.g. implementation, setting of fees, payment and appeals.

The payment period for a fixed penalty notice is extended from 14 to 28 days but the deadline for early payment period stays at 14 days.

2.8 Miscellaneous Measures

- Legislation controlling the sale of sex videos is tightened to cover their display. It is now an offence to sell, offer to sell, or display other than at licensed sex shops
- Council officers are given powers of entry to premises being used for temporary sleeping accommodation where enforcement notices have already been breached. Officers can use force if necessary and can also search the premises and seize goods. These powers do not extend to premises used only as a dwelling
- The Act prohibits the soliciting of people to establishments for sex or alcohol unless available under the Licensing Act 2003.
- Councils can charge telecommunication companies to use underground pipes provided by the Council
- Burial authorities can disturb human remains that have been buried for at least 75 years in order to deepen graves to allow more burials. Any remains must be buried again in the same grave

- Mail forwarding businesses must register with their local council and must keep records of their clients. Councils can use existing powers of entry, inspection and seizure for the purposes of enforcement and businesses can be fined up to £5,000 if they contravene
- Fences, gates and locking devices can be fitted to housing land to limit access to residents only providing that the access is not via a highway.

3. Summary

The Association welcomes the London Local Authorities Act and the new range of powers which allow London Councils to clean up communities and charge those responsible for environmental crimes. The Act has taken issues from the Clean Neighbourhoods and Environment Act 2005 and developed them further to cover issues which specifically affect the London Councils.

A particular emphasis throughout the Act is the greater use of Fixed Penalty Notices (FPNs) as an alternative to prosecution. In most cases it also gives authorities the flexibility to set their own FPN rates. However, they should ensure that they have a carefully planned approach to educating the public about the new offences and persuading them to change their behaviour rather than issue FPNs liberally. It is recognised that overuse of FPN's could alienate the very people whose support is needed to clean up the local environment.

The challenge is now for London Authorities to use the powers. This framework of coordinated powers should give them the power to enhance the quality of life for communities. How the public perceive the environment is critical to local authorities success with the bottom line being to ensure residents are satisfied with their services. The challenge is to deliver services in a logical and sensible way that suits the locality and if these measures prove to facilitate this in London the Association would support extending the legislation to all councils.

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