

## Cash cow or environmental saviour?

APSE, the Association for Public Service Excellence, today warned councils to educate not litigate in the use of new powers under the Clean Neighbourhoods and Environment Act 2005. The new powers provide councils with the ability to issue fixed penalty notices for a range of environmental offences such as litter, graffiti, fly posting and dog fouling and creates a range of powers to deal with abandoned vehicles, second hand car sales and nuisance alarms.

APSE Chief Executive, Paul O'Brien, in welcoming the release of further powers under the 2005 Act said **"Councils have long complained that they have been like a dog without teeth in dealing with neighbourhood problems such as litter, dog fouling and fly tipping. The new Act has given them the powers they asked for and the public will not accept excuses for failing to clean up the local environment. It will remain a key voter issue in May's elections"**. However, Mr O'Brien went on to caution councils who overuse the new powers recognising that there is always a risk that the very people the council need 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. **"Councils must make sure that they have a carefully planned approach to educating the public about the new offences and persuading them to change behaviour"** he added. **"The benefit of the use of Fixed Penalty Notices will be lost if it is perceived that they are being used as a cash cow by councils. We must avoid making criminals out of ordinary citizens by getting the public to recognise that dropping litter and allowing their dogs to foul in public streets and parks is unacceptable behaviour. We need to educate before we litigate."**

*Ends*

### Notes to Editors

1. APSE is the Association for Public Service Excellence.
2. APSE is a not for profit local government association campaigning for improvements in public services through local government
3. APSE has campaigned for an extension of local authority powers to develop ways of dealing with neighbourhood and environmental crime and nuisance for over a decade
4. APSE is working with over 300 local authorities throughout England, Wales, Scotland and Northern Ireland.
5. APSE provides a briefing service to Journalists upon request on local government policy and downloads of briefings are available from the APSE website on [www.apse.org.uk](http://www.apse.org.uk);
6. APSE representatives are available for interview. Contact Mark Roden on [mroden@apse.org.uk](mailto:mroden@apse.org.uk) on 0161 772 1810 or Mo Baines on 07971 843515
7. A summary of the new powers is attached to this press release.

### Powers that came in to force today, April 6, unless otherwise stated:

#### **Litter:**

\* On the spot fines for littering raised to a maximum of £80

- \* (June 05) cigarette butts and chewing gum formally defined as litter
- \* (June 05) makes it an offence to drop litter anywhere, including private land, rivers, ponds and lakes
- \* Restrictions on the distribution of flyers, pamphlets and hand-outs
- \* require fast food outlets, stalls and mobile food vans to clear litter from their land
- \* require other businesses and individuals to clear litter from their land which may be attracting more litter (e.g. unused garage areas and industrial plots).

### **Graffiti:**

- \* On the spot fines raised to a maximum of £80
- \* Defacement removal notices extended to ensure that street furniture is cleaned within 28 days by the owners.

### **Fly-posting:**

- \* On the spot fines raised to a maximum of £80 for those caught fly-posting
- \* Fines and clean-up charges can be issued to the beneficiary of the poster

### **Noise:**

- \* Local authority can enter premises to silence an alarm that has been ringing for over 20 minutes (without force)
- \* Powers to require people with burglar alarms to have alternative key-holders and tell the Council who they are, reducing the blight of false alarms

### **Dogs:**

- \* Dog byelaws replaced with dog control orders which enable local authorities and parish councils to deal with:

- 1) Fouling by dogs
  - 2) Ban dogs from designated areas
  - 3) Require dogs to be kept on a lead and
  - 4) Restrict the number of dogs that can be walked by one person.
- (On the spot fine available for these offences to a maximum of £80)

### **Waste (including fly-tipping):**

- \* On the spot fines (up to £100) for those who leave domestic waste out at the wrong times
- \* Fines for businesses (e.g. 'white van men') of £300 who are not registered to carry waste
- \* Fines for businesses of £300 if they fail to produce required waste duty of care documentation
- \* Powers to order landowners to clear fly-tipped waste from their land if they knowingly caused or permitted the fly-tipping
- \* (June 05) amendment of provisions for dealing with fly-tipping by:
  - 1) Removing the defence of acting under employers' instructions
  - 2) Increasing maximum penalty for fly-tipping to £50,000 in the Magistrates Court or five years imprisonment on indictment
- \* (October 05) gives courts new powers to deal with fly-tipping in that they can now:
  - 1) Award local authorities and the Environment Agency their investigation costs from those convicted of offences
  - 2) Award local authorities, the Environment Agency and landowners the costs of cleaning up fly-tipped waste
  - 3) order forfeiture of vehicles used for fly-tipping
- \* (October 05) gives local authorities better powers to investigate fly-tipping incidents

**Nuisance Parking:**

- \* (June 05) 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
- \* On-the-spot fines for the two offences of £100

**Abandoned Cars:**

- \* (October 05) gives local authorities the power to remove abandoned cars from the streets immediately and to dispose of removed cars more quickly.
- \* On-the-spot fines now available for abandoned vehicles of £200

**Other:**

- \* Recovery of costs for dealing with abandoned shopping trolleys from their owners
- \* Extension to the list of statutory nuisances to include light pollution and nuisance from insects (for instance at sewage works)

A number of measures, other than those above, have already been introduced. Details of the measures which came in to force in June and October 2005 are available on the APSE website at [www.apse.org.uk](http://www.apse.org.uk) or at:

[www.defra.gov.uk/news/2005/050606c.htm](http://www.defra.gov.uk/news/2005/050606c.htm)

[www.defra.gov.uk/news/2005/051018a.htm](http://www.defra.gov.uk/news/2005/051018a.htm)

- \* The Act provides local authorities greater flexibility in the fines issued for graffiti, fly-posting, fly-tipping, dog fouling and littering. However, local authorities previously had powers to fine for litter, dog fouling and noise (under the Environmental Protection Act 1990) and for graffiti and fly-posting (under the Anti-Social Behaviour Act 2003). Data on the fines issued by individual local authorities for graffiti, fly-posting, noise, litter and dog fouling under the previous legislation can be found at:<http://www.defra.gov.uk/environment/localenv/legislation/fpn/index.htm>