

# **Clean Neighbourhoods**

## **Consultation Summary**

**June 2010**

## **Introduction**

### **Background**

1. None of us want to live in neighbourhoods affected by poor local environmental quality, nor do we wish to see the appearance of our public spaces spoiled by, for example, litter, graffiti and illegal fly-posting. Good quality local environments reduce anti-social behaviour and the fear of crime. They attract more investment; they have a positive impact on our health, well-being, confidence and civic pride and help to promote tourism.
2. It was with this in mind that the UK Government introduced legislation for England and Wales which led to the Clean Neighbourhoods and Environment Act 2005 (the 2005 Act). The 2005 Act contains provisions designed to improve the quality of the local environment by giving local authorities in England & Wales additional powers to deal with litter, nuisance alleys, fly-posting and graffiti, abandoned and nuisance vehicles; dogs, noise and statutory nuisance.
3. The 2005 Act was the culmination of a significant amount of consultation work with key stakeholders. In 2002 a review of the legislative framework for providing and maintaining a clean and safe local environment was carried out by the Department for Environment, Food and Rural Affairs (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.
4. Following consultation some of the proposals were introduced into legislation in Part 6 of the Anti-Social Behaviour Act 2003. However, the majority of the options were developed further, consulted on and included in the Clean Neighbourhoods and Environment Act 2005, which applies to England and Wales only.

5. The legislative measures in the 2005 Act designed to tackle low level environmental quality problems are well supported in Northern Ireland and there is a keen desire in many quarters for corresponding legislation, where appropriate, to be introduced in Northern Ireland as soon as possible.
6. Since the 2005 Act was made the Department has received ongoing enquires from MLAs, MPs, District Councils, Tidy Northern Ireland, the NI Local Government Association, the Chief Environmental Health Officers' Group and other interests calling for the introduction of similar legislation in Northern Ireland. Up until now, however, the Department has been unable to respond positively to these representations because our limited policy and legislation development resources have had to be allocated to other higher priorities.
7. Following a review it was possible to allocate the necessary resources to the consideration of how we might help district councils in Northern Ireland deal more effectively with a range of problems associated with local environmental quality. As a result of this work, the Minister of the Environment's view, informed by the representations from the local government sector in particular, is that we should aim to provide councils in Northern Ireland with broadly the same powers which their counterparts in England and Wales have under the 2005 Act, as soon as possible.
8. A Clean Neighbourhoods Bill team was established within the Department's Climate and Waste Division to take forward the Northern Ireland legislation corresponding to the 2005 Act, except Part 5 thereof. (Part 5 of the 2005 Act makes miscellaneous provision about waste. Northern Ireland legislation based on Part 5, namely the Waste (Amendment) (Northern Ireland) Order 2007, has already been enacted).

## **General Overview**

9. The purpose of the consultation exercise was to invite comments on the draft Clean Neighbourhoods and Environment Bill (Northern Ireland) as set out in Section 2 of the consultation document.

10. The main purpose of the Bill is to improve and strengthen existing legislation to help District Councils deal more effectively with a wide range of problems associated with local environmental quality.
11. Issues covered by the Bill include litter, fly-posting and graffiti, dog control, noise, statutory nuisance, fixed penalty notices, gating orders, nuisance parking, abandoned vehicles, abandoned shopping trolleys and fines for offences relating to pollution.

## Responses

12. There were 48 responses to the consultation and of those who submitted comments:
  - 42% were District Councils;
  - 29% were associations/societies or other organisations;
  - 12% were members of the public;
  - 9% were local representatives;
  - 4% were businesses; and
  - 4% were from others.
13. Many of the provisions in the draft Bill were welcomed by respondents to the Consultation exercise, however, as expected, there were a significant number of comments and observations concerning the detail and extent of the provisions. Details of specific comments raised on the draft Bill and the Department's response to those comments are set out in **Table 2**.
14. Concerns were expressed in respect of Part 4 of the Bill concerning graffiti and fly-posting. This was the one area where the proposals contained in the draft Bill have been strongly criticised by key stakeholders, in particular, district councils, mainly on the grounds that they regard them as not sufficiently robust to enable a more effective approach to the graffiti/fly-posting problems.
15. Councils take the view that their ability to deal with the graffiti/fly-posting problems is compromised by the fact that, unlike the position in England and Wales, where local

authorities are able to take a holistic approach to deal with the problems, in Northern Ireland Planning Service retains key powers to prosecute the beneficiaries of fly-posting.

16. Councils have urged the Department most strongly to review this section of the draft Bill in order to give councils a comprehensive range of powers to deter fly-posting. The various issues raised during the consultation exercise in relation to Part 4 of the Bill are complex and are set out in **Table 2**.
17. The Department accepts that Councils have concerns regarding the provisions in Part 4 of the draft Bill. The Department will therefore seek to amend the Bill during its progress through the Assembly to ensure that the key Planning Service powers to prosecute the beneficiaries of fly-posting are made available to District Councils. The Department will also remove Clause 38 from the Bill before it is introduced in the Assembly to ensure that Councils can continue to take action to remove/obliterate illegal fly-posters without first issuing a notice of their intention to do so. It may be also be the case that during the Committee Stage of the Bill the Environment Committee may wish to bring forward new proposals or tailor the existing provisions to improve the effectiveness of Part 4 of the Bill further. In such circumstances the Department would be keen to work with the Environment Committee to consider any alternative proposals for a better way forward.
18. All comments raised during the consultation process were carefully considered and in one instance a minor change was made to the Bill concerning a minor amendment to the Road Traffic Regulation (Northern Ireland) Order 1997. For details see the item **highlighted with yellow shading** on page 13.
19. *(Responses from the Department for Regional Development in respect of the comments raised concerning the Gating Orders provisions are included in **Table 3**).*
20. As pointed out in the Consultation Document the Department, through the Bill, is aiming to provide councils in Northern Ireland with broadly the same powers which their

counterparts in England and Wales have under the Clean Neighbourhoods and Environment Act 2005, as soon as possible. It is clear that the Northern Ireland Bill is now subject to a very tight legislative timetable within an overall heavy and comprehensive Assembly legislative programme. Given the very tight legislative timetable it is not possible to bring forward additional significant new provision in the Bill at this stage. To attempt to include significant additional material in the Bill at this stage would inevitably delay progress on the Bill and put at risk the prospect of the Bill completing all of its stages and becoming law before dissolution of the Assembly. The Department will wish to review the effectiveness of the legislation at a later stage, after the detailed consideration and development of the subordinate legislation and guidance and a settling in period following its introduction. The Department would, therefore, not rule out the possibility that such a review may lead to additional strengthening of the legislation and further amendment in the future.

21. The Bill is an important first step in the Department's Clean Neighbourhoods Agenda programme. Most respondents to the Consultation exercise will welcome the fact that the Department intends to follow up the Bill with a series of supporting guidance documents and a subordinate legislation programme covering the various issues dealt with in the Bill. The additional information will inform district councils in much greater detail about the new legislation. The Department will be consulting on this material in due course and also on a series of proposed implementation dates for the provisions in the Bill. Respondents to the Consultation exercise expressed concerns about the absence of detailed supporting guidance on the provisions in the Bill, however, the Department is already working on the preparation of the guidance and subordinate legislation with a view to releasing this material for consultation.

### **Partial Regulatory Impact Assessment**

22. The Consultation document contained a partial Regulatory Impact Assessment. In this initial assessment the Department took the view that, taken as a whole, the proposals in the draft Bill would be cost-neutral to district

councils and that through time they could well lead to overall savings in district council costs through increased efficiency and effective, well-publicised, enforcement. Respondents to the Consultation exercise have, in the main, expressed general concerns regarding perceived cost implications. However, the Department remains of the view that, having regard to the Full Regulatory Impact Assessment on the corresponding Clean Neighbourhoods and Environment Act 2005, taken as a whole the Bill would be cost-neutral to district Councils. With limited exceptions the Bill provides district councils with additional powers rather than duties. District Councils will therefore only decide to use them where there is a net benefit to doing so in the local context. Where there are new duties e.g. In respect of some aspects relating to statutory nuisance and noise nuisance it is not possible to predict the level of complaints in this area. We do not know at this stage how often it will be necessary for district councils to use these measures. At this stage the Department feels that it should be possible for Councils to deal with these issues through existing and well established structures. The Department intends to draw up a Full Regulatory Impact Assessment in due course.

### **Promotion of equality of opportunity**

23. Several late responses to the consultation exercise from Children's' organisations disagreed with the Department's view, as indicated in the Consultation Document, that the provisions in the Bill do not impact on equality of opportunity. Concerns were expressed about restrictions on children's' movement in relation to Gating Orders and the possibility of issuing fixed penalty notices to children, and the impact of banning the sale of spray paint to children under 16. Concerns were also expressed about the consultation process itself and the absence of a formal policy development phase prior to the drawing up of the draft Bill. A suggestion was also made that many of the issues in the draft Bill should be dealt with through the development of a regional strategy on community safety. All of the 3 children's organisations indicated that the progress of the legislation should be halted.

24. Our general response to the comments from the children's organisations is that the sole purpose of the Bill is to improve the quality of our local environments and neighbourhoods and thereby improve the quality of life for all of the people in Northern Ireland, including our children and our future generations. The people who should be most affected by the measures are those who offend and damage the local environment. The Department accepts that a different approach in terms of fixed penalty notices is required in respect of children and detailed guidance on this issue, which will be subject to consultation before publication, will form part of the overall clean neighbourhoods agenda. The Department of the Environment and the Community Safety Unit of the Department of Justice fully appreciate the fact that the proposals in the draft Bill complement the Community Safety Agenda, however, the problems targeted by the draft Bill are local environmental quality issues and policy responsibility for the legislation relevant to these issues rests with the Department of the Environment. The Department will continue to liaise with the Community Safety Unit concerning the ongoing development of the Clean Neighbourhoods Agenda.
25. Given the overall aim of the Bill to improve the quality of life for all of the people of Northern Ireland the Department does not accept that it has a significant negative impact on equality of opportunity on any of the groups specified in section 75 of the Northern Ireland Act 1998.

## Summary of proposed measures

Below is a summary of measures set out in the draft Clean Neighbourhoods and Environment Bill.

Table 1

1.

Measures	Amendment of existing power/ working practice	New Power	New Duty	Measure Contained in Bill
<b>Part 1: Gating Orders</b>				
1.1 Create new powers to make, with the approval of the Department for Regional Development, "gating orders" to deal with problem alleyways.		•		•
<b>Part 2: Vehicles</b>				
2.1 Create new offences and powers in relation to nuisance vehicles		•		•
2.2 Give district councils and police the power to remove abandoned cars from the streets immediately	•			•
2.3 Comply with statutory guidance on abandoned vehicles			•	•
<b>Part 3: Litter</b>				
3.1 Amends the offence of dropping litter in lake, pond or watercourse	•			•
3.2 Extend the scope of the Code of Practice on Litter to include wider local environmental quality	•			
3.3 Replace Litter Control Areas with Litter Clearing Notices	•	•		•
3.4 Amend offence/penalty provisions in respect of failure to give name and address	•			•
3.5 Extend provisions of street litter control notices (re: mobile vendors)	•			•

3.6 Makes an immediate offence not to comply with street litter control notice – no court order needed	•			•
3.7 New controls on distribution of free printed material		•		•
3.8 Gives district councils the power to recover the costs of dealing with abandoned shopping trolleys from their owners.	•			•
<b>Part 4: Graffiti and Other Defacement</b>				
4.1 Gives councils the ability to issue fixed penalty notices to perpetrators of certain graffiti and fly-posting offences;		•		•
4.2 Enables councils to serve “defacement removal notices” in respect of graffiti and fly-posting		•		•
4.3 Strengthens the legislation to make it harder for beneficiaries of fly posting to evade prosecution.	•			•
4.4 Makes it an offence to sell spray paints to children		•		•
4.5 Councils to consider programme of enforcement at least annually			•	•
4.6 Councils will comply with statutory guidance on Defacement Removal Notices			•	•
<b>Part 5: Dogs</b>				
5.1 Streamline the dog byelaw system by replacing it with dog control orders	•	•		•
5.2 Comply with guidance on Dog Control Orders			•	•
<b>Part 6: Noise</b>				
6.1 Introduce new measures to deal with audible intruder alarms		•		•
6.2 Extend the provisions of the Noise Act 1996 in relation to noise from private premises to noise from licensed	•		•	•

premises.				
<b>Part 7: Statutory Nuisance</b>				
7.1 Extend statutory nuisances to include artificial light and nuisance from insects and bring into line with England and Wales	•		•	•
<b>Part 8: Miscellaneous and Supplementary</b>				
8.1 Sets out how a district council may use its fixed penalty receipts.		•		•
8.2 Increases the maximum fine, from £30,000 to £50,000, on summary conviction that may be provided for in Regulations made under pollution prevention and control provisions in the Environment (Northern Ireland) Order 2002.	•			•
<b>Fixed Penalty Notices – General</b>				
Empower district councils to set the level of fixed penalties		•		•
Give authorised officers the power to request names and addresses		•		•

**Table 2**

**Consultation Summary Responses**

Issue	Raised By	Response
<b>Vehicles</b>		
Definition of “motor vehicle” to include a caravan.	Craigavon BC Banbridge DC Belfast CC Limavady BC Coleraine BC CEHOG Ballymena BC arc21 Antrim BC Fermanagh DC Lisburn CC Cookstown DC NILGA Ballymoney BC Larne BC Armagh CDC	The current definition of “motor vehicle” in the Pollution Control and Local Government (NI) Order 1978 already covers caravans.
Potential loopholes in requirement for there to be 2 or more vehicles parked within 500 metres.	Tidy NI NI Env Qual Forum Larne BC	This power is not intended to cover all situations and existing legislation such as the Street Trading Act (NI) 2001 can still be used where appropriate. This is an additional power being given to district councils to deal with a particular type of nuisance parking i.e. it is intended to specifically target businesses using the road as a “mock showroom”. In these circumstances, it gives councils the flexibility to deal with the offence by way of a fixed penalty and allows the councils to retain the receipts. There is also a stiffer penalty on summary conviction for this offence i.e. Level 4 as opposed to Level 3 for an offence under the Street Trading Act (NI) 2001.
As adequate provisions currently exist within the Street Trading (NI) Act 2001 to deal with the sale	Limavady BC Newtownabbey BC	Guidance on nuisance parking will be the subject of a consultation exercise in due

of vehicles on a road, clarification and guidance will be required in order to avoid confusion in the implementation of the proposed powers.	Coleraine BC CEHOG Ballymena BC Castlereagh BC Antrim BC Lisburn CC Cookstown DC Armagh CDC	course.
District councils to be given the power to remove abandoned vehicles from private land and land owned by statutory bodies where there is public access.	Tidy NI Belfast CC NI Env Qual Forum Newtownabbey BC Larne BC	Councils already have this power under Article 30 of the 1978 Order. If the vehicle is not on a road, however, notice has to be given to the occupier of the land.
Clarification and guidance required on when a vehicle has been abandoned and when it is fit for destruction.	SWaMP	Guidance on abandoned vehicles will be the subject of a consultation exercise in due course.
Amendment of period of time before vehicle can be disposed of under Articles 51 and 52 of the Road Traffic Regulation (NI) Order 1997 from 21 days to 7 days.	PSNI	New provisions will be included in the draft Bill to amend Articles 51 and 52 of the Road Traffic Regulation (NI) Order 1997 to allow the period of time before a vehicle can be disposed to be reduced by regulations.
Nuisance caused by vehicles parked on the street awaiting repair.	Banbridge DC Belfast CC arc21 NILGA Ballymoney BC Larne BC	This is a significant proposal which would require detailed consideration and amendment to the Bill. Given the very tight legislative timetable it is not possible to bring forward significant new provision at this stage.
Nuisance caused by the parking of taxis where such an operation is run from domestic premises.	Larne BC	As above.
Prescribed periods for landowner objections under Article 30(2) (removal) and vehicle owner objections under Article 31(1)(ii) (disposal) of the 1978 Order remain unprescribed.	Coleraine BC CEHOG Ballymena BC Moyle DC Antrim BC Lisburn CC Armagh CDC	The Department undertakes to prescribe the highlighted periods in Regulations to be brought into operation at the same time as the vehicles provisions of the Clean Neighbourhoods and Environment Bill.
Where the person responsible is	Ballymena BC	District councils will continue to

known, similar powers to recover costs as per Article 32 of the Pollution Control and Local Government (NI) Order 1978 is requested.		be able to recover the costs of removing, storing and disposing of the vehicle under Article 32 of the 1978 Order and the costs of storing and disposing of the vehicle under Article 54 of the Road Traffic Regulation (NI) Order 1997.
Clear guidance is needed on the respective roles and duties of district councils, the PSNI and the Department for Regional Development in relation to abandoned vehicles.	Moyle DC	Guidance on abandoned vehicles will be the subject of a consultation exercise in due course.
<b>Litter</b>		
<p>Request from a number of respondees for clarification that the existing Article 3 of the Litter (NI) Order 1994 as amended by the proposed Bill will cover dropping litter into water and would bring NI into line with the Clean Neighbourhoods and Environment Act (CNEA) 2005 in England and Wales.</p> <p>In addition to the above there was also requests for rewording the litter definition or confirmation that the current definition of litter in the Litter (NI) Order 1994 is as comprehensive as that in the CNEA 2005</p>	<p>TidyNI Northern Ireland Environmental Quality Forum Limavady BC Arc21 Larne BC NILGA Newtownabbey BC Northern Ireland Environmental Link Newry and Mourne DC Moyle DC Ballymena BC Ards BC Belfast CC</p>	<p>The Department is satisfied that Article 3 of the Litter (NI) Order 1994 together with the amendment inserted by Clause 14 of the Clean Neighbourhoods and Environment Bill is very comprehensive and covers the dropping of litter in “any place” and this includes water. The Department is also satisfied that the definition of “litter” is very comprehensive and does not require any further amendment.</p> <p>In addition the proposed Code of Practice and Guidance on Litter will further clarify this matter. The Department will be consulting on these proposed documents.</p>
There was a request for a definitive description of the difference between litter, fly-tipping and illegal dumping	SWaMP Translink Ballymena BC	The proposed Code of Practice on Litter together with the proposed Guidance on Litter will provide further information and definitions. The Department is also working with Councils to develop a Fly-tipping Protocol.
Request to extend the definition of litter to include animal droppings.	TidyNI NI Environmental Quality Forum	The Litter (Dog Faeces) Order (Northern Ireland) 1995 already provides that provisions in the Litter Order apply to dog faeces.

<p>A request was for confirmation that Art.11 of the Litter (NI) Order 1994 will remain in force</p> <p>[Art.11 – Summary proceedings by persons aggrieved by litter]</p>	<p>TidyNI Northern Ireland Environment Link Northern Ireland Environmental Quality Forum</p>	<p>The Clean Neighbourhoods and Environment Bill does not amend Article 11 of the Litter (NI) Order 1994. It will remain in force.</p>
<p>Fixed Penalty Notices should be available for failing to provide name and address or providing false details</p>	<p>Craigavon BC Banbridge BC Belfast CC CEHOG Coleraine BC Northern Ireland Environmental Quality Forum Arc21 Ballymena BC Castlereagh BC Lisburn CC Cookstown DC Larne BC NILGA Newtownabbey BC Newry and Mourne DC Armagh DC Antrim BC</p>	<p>This is a significant proposal which would require detailed consideration and amendment to the Bill. Given the very tight legislative timetable it is not possible to bring forward significant new provision at this stage.</p> <p>It should be noted that Clause 15 amends Article 5 of the Litter (NI) Order 1994 by inserting Art 5(3A )which for the offence of failing to give name and address or giving a false name and address increases the maximum fine on summary conviction from £200 to £1000.</p>
<p>Does the Department propose to introduce a guidance document similar to that issued by Defra and if it would cover such areas as arrangements for leaflet designation areas and smoking related litter?</p>	<p>Craigavon BC Newtownabbey BC Banbridge DC Belfast CC Ards BC Limavady DC Ballymena DC Newry and Mourne DC NILGA Larne BC Arc 21</p>	<p>The Department proposes to issue a number of Guidance documents on Litter similar to those issued by Defra. They will include standards for district councils to work towards, including information on procedures for designation areas and smoking related litter. The Department will be issuing these documents for consultation before being published.</p>
<p>Litter – Fixed Penalty Notice fines should be higher than the set £75</p>	<p>TidyNI Craigavon BC Northern Ireland Environment Link Northern Ireland Environmental Quality Forum Moyle DC</p>	<p>The proposed amendment states that this is the default amount payable if a district council does not specify an amount. As there will be a minimum and maximum range for fixed penalty fines councils may set a fine within the minimum/maximum range.</p> <p>In the case of fixed penalty</p>

		<p>notices for an offence relating to litter clearing notices or Street litter clearing notices the fine can be set locally again within a minimum and maximum range with the default fine set at £100.</p>
<p>The Department should set minimum and maximum levels of fines for littering prior to the commencement and implementation of the Bill and should consult on them.</p>	<p>Limavady BC NILGA Larne BC</p>	<p>The Department proposes to issue a consultation document in relation to the proposed regulations setting the level of fines.</p>
<p>The proposal to issue Litter Clearing Notices was generally welcomed. They may be served on an occupier or owner of land requiring the land to be cleared of litter within a specified time with a 28 day compliance period effective from when the notice is issued. A number of respondents considered this period too long and requested a shorter period, preferably 7 or 14 days</p>	<p>Ards BC CEHOG Coleraine BC Limavady BC Arc21 Ballymena BC Fermanagh DC Lisburn CC Cookstown DC Banbridge DC NILGA Lower Shankill Residents Voice Antrim BC</p>	<p>This is a new provision proposed in the Clean Neighbourhoods and Environment Bill. It replaces 'litter control areas' and simplifies the procedure. Within the 28 day compliance period a person who has a litter clearing notice served on him may appeal to a court. He is given a 21 day period also starting from the day on which the notice is served. The court must quash the notice, modify it or dismiss the appeal. The 28 day compliance period is not therefore considered an unreasonable period given it includes the 21 day appeals procedure.</p>
<p>Street Litter Clearing Notices – the definition of 'occupier' needs to be clarified and remain sufficiently wide to confirm that it will include persons actively exercising rights over the land.</p> <p>Request for the Bill to be expanded to include offices, commercial premises, cafes, bars etc to include cigarette litter, needs to be sufficiently broad enough to allow the owner and/or</p>	<p>TidyNI Belfast CC Environment Link Limavady BC Arc21 Fermanagh DC Northern Ireland Environmental Quality Forum Larne BC NILGA Newtownabbey BC</p>	<p>This is a significant proposal which would require detailed consideration and amendment to the Bill. Given the very tight legislative timetable it is not possible to bring forward significant new provision at this stage. However, the Department will consider this issue further in the context of the proposed guidance document on litter which will be subject to full consultation.</p> <p>In relation to the request for expanding the legislation to cover offices, commercial premises etc this relates to the</p>

<p>the occupier to be served with the Notices.</p>		<p>control of litter from smokers outside pubs, clubs and restaurants. The Department proposes to handle this through subordinate legislation. The Street litter Control Notices Order (NI) 1995 No 42 specifies the description of commercial or retail premises. The Department proposes to amend this legislation to bring NI into line with England.</p>
<p>A request was made for clarification as to who is responsible for clearing litter from land which is unregistered and no legal owner can be identified</p>	<p>SWaMP Lower Shankill Residents Voice</p>	<p>Article 12A(9) inserted by the proposed Bill makes it clear that ‘ where a district council proposes to serve a litter clearing notice in respect of land but is unable after reasonable enquiry to ascertain the name or proper address of the occupier of the land (or if the land is unoccupied, the owner)- (a) may post the notice on the land and may enter any land to the extent reasonably necessary for that purpose and (b) the notice shall be treated as having been served upon the occupier (or if the land is unoccupied the owner) at the time the notice is posted.</p> <p>The Department intends to issue a guidance document which will cover this point.</p>
<p>The suggestion has been made that Article 12B- (3) (d) should be removed – or reworded. This relates to appeals against litter clearing notices and is one of the grounds for an appeal i.e. “the action required is unfair or unduly onerous”</p>	<p>Belfast CC Larne BC</p>	<p>This is in line with legislation introduced in England and Wales and is regarded as reasonable grounds for an appeal.</p>
<p>Free distribution of printed literature – Councils should be given enforcement powers to target owners of literature and investigate the companies who</p>	<p>Craigavon BC Belfast CC Ards BC CEHOG Coleraine BC</p>	<p>The Clean Neighbourhoods and Environment Bill is designed to bring Northern Ireland legislation into line with the legislation in England and</p>

have commissioned the leaflet etc	Antrim BC Limavady BC Arc21 Ballymena BC Moyle DC Castlereagh BC Fermanagh DC Lisburn CC Cookstown DC Larne BC NILGA Newtownabbey BC	Wales. It should be noted that Article 20 of the Litter (Northern Ireland) Order 1994 already provides district councils with a power to obtain information.
Free Distribution of literature - The Council must prove that the person distributing leaflets knows that an area is designated – in practice this will be difficult to prove that the person was aware of the designation. Therefore the councils seek clarification of powers available.	Craigavon BC Banbridge DC NILGA Arc 21	Each Council will need to ensure that they adequately publish details of land in their area which has been designated. Details and information related to this matter will be covered in the proposed guidance document on litter.
A number of respondees asked if the abandoned trolley legislation could be extended to include baskets and cages	Belfast City Council Ballymena BC Arc21 Larne BC NILGA Newtownabbey BC	This is a significant proposal which would require detailed consideration and amendment to the Bill. Given the very tight legislative timetable it is not possible to bring forward significant new provision at this stage.
Shopping Trolleys – the Department should provide the power to district councils to designate certain areas, such as car parks, as ‘shopping trolley free zones’ during the hours when local supermarkets are closed. The suggestion is to also consider establishing authorised shopping trolley bays in car parks where trolleys are being abandoned this would mean an amendment to Road Traffic legislation.	Newry & Mourne DC NILGA	As above.
Request for a Northern Ireland National Indicator for performance measurement/local environmental quality.	TidyNI NI Environmental Equality Forum	As above.
Request for council powers to be	TidyNI	As above.

extended in respect of all land within its boundaries	NI Environmental Equality Forum	
<b>Graffiti and Fly-posting</b>		
District councils should be given responsibility for taking prosecutions in respect of fly-posting offences (holistic street scene approach).	Craigavon BC Tidy NI Banbridge DC Chris Murphy Belfast CC Ards BC Coleraine BC CEHOG Limavady BC Ken Robinson MLA Ballymena BC arc21 Newtownabbey BC NI Env Quality Forum Moyle DC Castlereagh BC Antrim BC Fermanagh DC Lisburn CC Cookstown DC Larne BC NILGA Newry & Mourne DC Ballymoney BC Armagh CDC	It is acknowledged that district councils need to have powers to take prosecutions in respect of fly-posting, both against the perpetrators and the beneficiaries. The Department will therefore seek to include an amendment to the Bill during its progress through the Assembly to ensure that Planning Service powers to prosecute are made available to District Councils.
Removal of requirement to give 2 days' notice of a council's intention to remove or obliterate fly-posting or graffiti under Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.	Craigavon BC Tidy NI Banbridge DC Belfast CC Ballymena BC arc21 Newtownabbey BC NI Env Quality Forum Larne BC NILGA Newry & Mourne DC Ballymoney BC	Clause 38 will be removed from the Bill prior to its introduction in the Assembly.
Retention of graffiti provisions in Article 18 of the Local Government (Miscellaneous	Craigavon BC Banbridge DC Belfast CC	As above.

Provisions) (Northern Ireland) Order 1985	Ballymena BC arc21 Newtownabbey BC Larne BC NILGA Newry & Mourne DC Ballymoney BC	
Powers for district councils to prosecute for failure to comply with a Defacement Removal Notice.	Craigavon BC Banbridge DC Belfast CC Ballymena BC arc21 Newtownabbey BC Larne BC NILGA Newry & Mourne DC Ballymoney BC	The aim of the introduction of Defacement Removal Notices is to encourage owners of street furniture to work in partnership with district councils to keep streets free of defacement. In view of this the Department considers it to be inappropriate to provide powers to prosecute for failure to comply with a Defacement Removal Notice – powers for district councils to recover costs where necessary is a more appropriate course of action.
Period of notice given in a Defacement Removal Notice to be reduced from 28 days to 14 or 7 days.	Ards BC	Defacement removal notices are meant to enable district councils to address situations in which relevant surfaces are defaced by graffiti and/or fly-posting, in particular to remove the remains of old flyers or a build-up of flyers and stickers over time. It is the Department's view that the owners of street furniture, such as telecommunications companies, should share responsibility with district councils for the state of the structures they erect in the street. However, it is appropriate that they be given a reasonable period of time to comply with a Defacement Removal Notice before the council takes action to remove the defacement. A minimum of 28 days is viewed as being the appropriate period of time.
Concern that Defacement Removal Notices will target local businesses rather than the perpetrator.	Lower Shankill Residents' Voice	It is the Department's view that the owners of street furniture, such as telecommunications companies, should share

		responsibility with district councils for the state of the structures they erect in the street. Defacement removal notices are not to be used as an alternative to the powers to deal with those who commit acts of graffiti or fly-posting or those who benefit from such acts.
Guidance required on what is meant by “the person who is responsible for the defaced surface” and “taking account of local circumstances”.	Lower Shankill Residents’ Voice	Guidance on Defacement Removal Notices will be the subject of a consultation exercise in due course.
Investigative powers for district councils to determine the person responsible for displaying a poster or causing it to be displayed.	Craigavon BC Belfast CC arc21 Newtownabbey BC Larne BC NILGA Newry & Mourne DC Ballymoney BC	It is not clear from the comments raised what additional powers would be required to help with the determination of the identity of the person responsible for displaying a poster or causing a poster to be displayed. In cases where the poster identifies the person who displayed it or caused it to be displayed there should not be any need for additional investigative powers. If it is impossible to determine from the poster who displayed it or caused it to be displayed it is difficult to see how any specific additional powers could help.
Introduction of powers for district councils to deal with any element of land/premises considered to be detrimental of the amenity of an area i.e. mirroring the provisions of section 215 of the Town and Country Planning Act 1990.	Tidy NI NI Env Quality Forum	This is a significant proposal which would require detailed consideration and amendment to the Bill. Given the very tight legislative timetable it is not possible to bring forward significant new provision at this stage.
District councils to be given powers similar to section 149 of the Highways Act 1980/Article 59 of the Roads (NI) Order 1993 – removal of nuisance from a road.	Tidy NI NI Env Quality Forum	As above.
Penalty for graffiti and fly-posting offences should be level 4 and not level 3.	Tidy NI NIEL NI Env Quality Forum	Article 14 of the Planning Reform (NI) Order 2006 amended Article 84 of the Planning (NI) Order 1991 to

		increase the maximum level of fine for the offence of displaying an advertisement in contravention of the Planning (Control of Advertisements) Regulations (NI) 1992 from level 3 to level 4 on the standard scale.
Provisions relating to crime and disorder reduction strategies not replicated in NI	Tidy NI NIEL Translink NI Env Quality Forum Children in Northern Ireland	The Department is liaising with the Community Safety Unit in the Department of Justice regarding any possible developments concerning arrangements for community safety partnerships in terms of local environmental quality issues.
Rules governing Estate Agent Signs	PRS Consultation Network NI	Schedule 3 Part 1 to the Planning (Control of Advertisements) Regulations (Northern Ireland) 1992 covers the display of temporary advertisements relating to the sale or letting, for residential, industrial or commercial use or for development for such use, of the land or premises on which it is displayed. Details of certain classes of advertisements are contained therein which are deemed to have planning consent subject to certain conditions being met, i.e. size of boards, removal dates, etc.  The enforcement of this legislation rests with the Department's Planning Service.
Flags and Emblems	A.N. Other	In April 2005 the cross-departmental joint Flags Protocol was launched. It set out an agreed partnership approach to deal with flags issues. The parties included the Police Service of Northern Ireland, the Department of Environment, Department for Regional Development, and Department for Social Development, Office of the First Minister and deputy First

		<p>Minister and the Northern Ireland Housing Executive.</p> <p>The main aim of the protocol has been to work proactively, with communities, to address the removal of flags and emblems from arterial routes and town centres and to remove all paramilitary flags and displays. The protocol set out an agreed mechanism to deal with the flags issues, focussing on local dialogue, and presented an important opportunity for all those key stakeholders to play a constructive role with local communities in the promotion of better relations.</p>
<p>Ban on the sale of aerosol paints to be raised to 18 rather than 16.</p>	<p>Craigavon BC Banbridge DC Belfast CC Ballymena BC arc21 Newtownabbey BC Larne BC NILGA Newry &amp; Mourne DC Ballymoney BC</p>	<p>The Department views under-16s as being the appropriate age for the ban as many 16 – 18 year olds are likely to have a legitimate reason for needing to buy aerosol paints, e.g. they may be a householder in their own right or they may own a vehicle which needs repair. These people would be unfairly hindered by a ban on the sale to under-18s. Setting a different age to GB is also likely to cause difficulties and confusion for businesses who sell aerosol paints, particularly those which operate right across the UK.</p>
<p>Introduction of fixed penalty for offence of selling aerosol paint to children.</p>	<p>Banbridge DC</p>	<p>This is a significant proposal which would require detailed consideration and amendment to the Bill. Given the very tight legislative timetable it is not possible to bring forward significant new provision at this stage.</p>
<p>Investigative/enforcement powers for offences of selling aerosol paint to children.</p>	<p>Coleraine BC CEHOG Ballymena BC Antrim BC Lisburn CC Cookstown DC Armagh CDC</p>	<p>As above.</p>

<b>Dogs</b>		
A Dog Control Order to limit the number of dogs that can be walked by one person could potentially restrict responsible owners unnecessarily and allow less responsible owners with little control over fewer dogs to remain a nuisance. Such Orders are superfluous if other Orders are enforced properly.	Dogs Trust	This will be a matter for district councils to deal with during consultation on Dog Control Orders.
Authorised officers should have the power to instruct an owner to put their dog on a lead, keep it on a lead and to muzzle it as is the case in England and Wales under the Clean Neighbourhoods and Environment Act 2005.	Dogs Trust	District councils will be able to make it an offence not to put and keep a dog on a lead when directed to do so by an authorised officer by making a "Dogs on Leads by Direction Order". There are no powers for authorised officers to direct an owner to muzzle their dog under the CNEA 2005 in England and Wales and the Department doesn't see the need for these powers to exist in NI. In NI a dog may be muzzled under the Dogs (NI) Order 1983 but this applies to dangerous dogs, fighting dogs and dogs that have attacked someone. Following its recent consultation on changes to dog control legislation, DARD is considering proposals to allow district councils to make muzzling one of the conditions of a licence for individual dogs where a breach of the Dogs (NI) Order has occurred.
Exemptions should be made from Dog Fouling Orders for Registered Assistance dogs.	Dogs Trust	Exemptions will be covered in the Regulations which will be consulted on in due course.
Councils must be required to provide adequate facilities for owners to walk their dogs both on and off the lead.	Dogs Trust Craigavon BC	This will be a matter for district councils to deal with during consultation on Dog Control Orders
Dog Control Orders which exclude dogs from certain areas should be minimised to allow dogs as much freedom as possible to exhibit normal	Dogs Trust	This will be a matter for district councils to deal with during consultation on Dog Control Orders.

behaviours.		
Concern that some Dog Control Order consultations in GB have been very unclear to local dog owners. The Bill should include some detail about the Dog Control Order consultation process.	Dogs Trust	Matters of detail will be covered in regulations and guidance on Dog Control Orders which will be consulted on in due course.
The Department should work closely with the Department of Agriculture and Rural Development on measures to reduce problems with stray dogs	Environment Committee	The Department will continue to work closely with DARD on areas of mutual interest.
The making of a Dog Control Order needs to be a streamlined and practical procedure which allows the council to readily incorporate its designation into the planning processes. The Department will therefore need to consult with district councils on the proposed Regulations associated with dog control orders.	Craigavon BC Banbridge DC arc21 Belfast CC NILGA Ballymoney BC Newry & Mourne DC	A consultation exercise on regulations and the associated guidance will be undertaken in due course.
Significant drawback is the loss of any enforcement powers outside of areas designated using dog control orders, even for dog faeces, unless a single dog control order for an entire council area can be drawn up for this single issue.	Tidy NI NI Env Qual Forum NI Environment Link	Under the proposals, district councils will be able to draw up a "Fouling of Land by Dogs Order" for its entire district if it chooses to do so.
It would appear that the fouling offence would only be available for officers to enforce on land designated by the Council. It is also noted that dog control order would only apply to land which is open to the air and to which the public are entitled or permitted to have access and that land in private ownership, such as private sports grounds, would be excluded. The overall impact would appear to reduce the areas in which dog fouling would be an offence and therefore would diminish the Council's ability to tackle problems arising.	Ards BC	Sports grounds, playing fields and recreation grounds in private ownership would be covered by the existing wording as they would be areas to which the public are entitled to have access.  The Department will have the power to make orders designating land to which Part 5 does not apply. Any such orders will be subject to a consultation exercise in due course.

<p>Article 4 of the Litter (NI) Order 1994 should be retained and the offence of fouling should not be predicated on the designation of an area. Article 4 currently provides for more comprehensive enforcement across a whole council area and any new provisions must be the same or better. Repeal of Article 4 would diminish the ability to obtain information under Article 20 of the Order.</p>	<p>Ards BC Limavady BC Coleraine BC CEHOG Ballymena BC Newtownabbey BC Moyle DC Castlereagh BC Antrim BC arc21 Lisburn CC Cookstown DC Belfast CC Larne BC NILGA Ballymoney BC Newry &amp; Mourne DC Armagh CDC</p>	<p>The powers to deal with dog fouling currently available under the Litter (NI) Order 1994 will be brought into the new Dog Control Order regime alongside other environmental dog controls. To retain Article 4 of the Litter Order would be confusing for district councils and members of the public. Clause 44 of the Bill provides district councils with the power to require a name and address. The Department is not aware of any circumstances in which other information would be required.</p>
<p>Would still wish to retain the power to make byelaws in relation to dogs.</p>	<p>arc21 Belfast CC Larne BC NILGA Ballymoney BC Craigavon BC Banbridge DC Newry &amp; Mourne DC</p>	<p>The present system for making byelaws in respect of dog control matters system is unwieldy and very time consuming. The Dog Control Order system will be a more streamlined and straightforward system which will be easier for councils to operate.</p>
<p>Problems associated with dogs can arise anywhere within a district council area and the comprehensive description of land to which dog control orders can be applied is noted, but the Department must ensure that it does not unduly restrict the options available to a district council by prescribing land to be exempt from designation without full consultation with the district council in whose area the land is located.</p>	<p>arc21 Newtownabbey BC Larne BC Belfast CC Craigavon BC NILGA Ballymoney BC Newry &amp; Mourne DC</p>	<p>Land designated as being land to which Dog Control Orders do not apply will be kept to a minimum. A draft Order detailing this land will be the subject of a consultation exercise in due course.</p>
<p>All dogs-related legislation should be in one place. It is recommended that the Department discusses this issue with the Department of Agriculture and Rural</p>	<p>arc21 NILGA Fermanagh DC Ballymoney BC Newry &amp; Mourne DC</p>	<p>Our proposals are aimed at improving local environmental quality, whereas the DARD proposals relate to the control of dangerous dogs and the promotion and support of</p>

Development.		responsible dog ownership through changes to the dog licensing system. We are liaising with DARD to ensure that there is no overlap between the two regimes and to avoid any confusion for district councils when they come to implement the relevant legislation.
<b>Noise</b>		
The Department should consider including noise associated with other alarm types within the provisions	Cookstown DC Lisburn CC Fermanagh DC Antrim BC Castlereagh BC Ballymena BC arc21 Newtownabbey BC CEHOG Craigavon BC Coleraine BC Limavady BC Belfast CC	<p>The new provisions dealing with audible intruder alarms supplement, <b>not replace</b>, the existing council powers to deal with audible alarms under the Pollution Control and Local Government (NI) Order 1978. Councils will therefore still be able to use those powers to deal with nuisance caused by other types of audible alarms.</p> <p>The new powers will make it mandatory to notify the council of a key-holder. Failure to do so will be an offence liable on summary conviction to a fine not exceeding level 3 (£1,000) on the standard scale. The requirement for those in an alarm notification area to notify the council of a key-holder is targeted specifically at those premises which have audible intruder alarms.</p>
The Department should consider allowing councils the option of using a news-letter as a cost-effective means of notifying businesses/householders of proposed alarm notification areas and that 2 rather than one key-holders should be nominated	C'town DC L'burn BC F'agh DC Antrim BC Castlereagh BC arc21 Newtownabbey BC Craigavon BC Coleraine BC Limavady BC Belfast CC	<p>The Departmental guidance on Audible Intruder Alarms will make it clear that utilising existing news-letters /magazines etc., is an acceptable mechanism for notifying premises in a proposed alarm notification area.</p> <p>The Department will give further consideration to making it clear within the guidance that, whilst not a statutory requirement, a responsible person may nominate more than one key-holder in order to</p>

		assist councils with the efficient implementation of their new powers.
<b>Statutory Nuisance</b>		
The power in Art 69 of the Pollution Control and Local Government Order 1978 should be extended to apply to any person (rather than just the owner or any person with an interest in the land) and should include provision to include “any information which the council reasonably considers that it needs” This will allow greater scope to acquire whatever information may be necessary for the statutory nuisance investigations from a wider range of people	Lisburn CC Antrim BC Ballymena BC CEHOG Coleraine BC	Article 69 of the Pollution Control and Local Government (NI) Order 1978, as amended by the proposed CNEB, brings NI into line with England and Wales. The Department is not convinced that widening the scope of the power to allow the service of a notice on “any person” would serve any worthwhile purpose.
It is not clear why a best practicable means (bpm) defence is applicable to smoke nuisance (Clause 61(1)(b) from dwellings but such a defence is not available for fumes and gases nuisance (Clause 61(1)(c) arising potentially from the same source	Cookstown DC Lisburn CC Fermanagh DC Antrim BC Newtownabbey BC CEHOG Craigavon BC Coleraine BC	Clause 61(3) exempts smoke from a private dwelling in a smoke control area from being dealt with under the statutory nuisance regime. Therefore a council can only serve an abatement notice in respect of smoke from a private dwelling if it is outside a smoke control area.  So as not to disadvantage those residing in private dwellings outside a smoke control area, the bpm defence applies. No such bpm defence is available in respect of fumes or gases emitted from private dwellings under the statutory nuisance regime.  The new statutory nuisances provisions in respect of smoke, fumes and gases, when enacted will maintain parity of treatment between Northern Ireland and England and Wales.
The Department should consider the need for the introduction of a “daily offence” where businesses fail to comply with an abatement	Cookstown DC Lisburn CC Antrim BC Castlereagh BC	The levels of fines and penalties that can be imposed by the courts for non-compliance with an abatement

notice	Ballymena BC Newtownabbey BC CEHOG Craigavon BC Ards BC Coleraine BC	notice are being considerably enhanced in Clauses 63(10) and (11) the proposed CNEB (from £200 to £5,000 in respect of dwellings (£20,000 in respect of industrial, trade or business premises).  In addition, by virtue of Clause 66(7) of the proposed CNEB if a council is of the opinion that proceedings for an offence in a court of summary jurisdiction would afford an inadequate remedy in the case of a statutory nuisance it may take proceedings in the High Court where there is no upper limit on the amount of fine that can be imposed by the court.
There is no Northern Ireland standard for overcrowding in a dwelling whereas there is one in E&W. The Department should consider introducing one	Cookstown DC Lisburn CC Antrim BC Castlereagh BC Ballymena BC Newtownabbey BC CEHOG Craigavon BC Ards BC Coleraine BC	The Department accepts that there is no standard in Northern Ireland for overcrowding as there is in England and Wales. However, as primary responsibility for housing policy, including setting the standard for overcrowding, in Northern Ireland rests with the Department for Social Development we intend raising with DSD the concerns expressed by councils with regard to overcrowding standards.
The definition of owner is not listed in Clause 61(10) but instead can be found in Clause 66(9). Does the definition of owner not relate to the whole statutory nuisance section or just to expenses recovery?	Cookstown DC Lisburn CC Antrim BC Ballymena BC arc21 Newtownabbey BC CEHOG Coleraine BC Belfast CC	No. The definition of owner applies only to expenses recovery in Section 66(9) and this is consistent with the approach taken in E&W. Elsewhere in the Bill the normal dictionary definition of owner applies as it is not defined in statute.
The Department should provide clarity on whether poultry houses/farm buildings on agricultural land are included within the term "relevant	Cookstown DC Lisburn BC Antrim BC Castlereagh BC Ballymena BC	The Department will clarify this in its proposed guidance for district councils and other interested parties on statutory nuisances

<p>industrial, trade or business premises”</p>	<p>Newtownabbey BC CEHOG Craigavon BC Coleraine BC</p>	
<p>The Department should give serious consideration to the introduction of stronger powers to allow councils to effectively regulate derelict structures that are detrimental to the amenity of an area</p>	<p>Cookstown DC Fermanagh DC Newtownabbey BC CEHOG Declan O’Loan MLA Craigavon BC Coleraine BC Belfast CC</p>	<p>With regard to any possible legislative solution for tackling dereliction, legislation could only be contemplated following a rigorous assessment of any alternative possible options to address the issue.</p> <p>If there was to be a case for undertaking such an assessment it would be appropriate to consider relevant legislation within the UK such as section 215 of the Town and Country Planning Act 1990. Section 215 enables a local planning authority, in certain circumstances, to take steps requiring land to be cleaned up, when its condition adversely affects the amenity of the area. No direct equivalent exists in Northern Ireland planning legislation and the recent Planning Reform Consultation did not include any proposals for similar legislation in Northern Ireland.</p> <p>It should be noted that the use of the discretionary section 215 power is in practice limited by the scope of the right of appeal conferred by section 217 of the Town and Country Planning Act 1990. Under section 217 the recipient of a notice may claim not only that the condition of the land does not adversely affect amenity, but that even if it does, it is attributable to, and results in the ordinary course of events from, the carrying out of operations on or a use of land which is not in contravention of planning control.</p>

		<p>Presently, there are considerable powers across government departments / local councils for dealing with such issues. For example, powers district councils have powers under Articles 65 and 66 of the Pollution Control and Local Government (Northern Ireland) Order 1978 to deal with defective premises that are in such a state as to be prejudicial to health or a nuisance, and to deal with ruinous and dilapidated buildings and neglected sites that are seriously detrimental to the amenities of a neighbourhood. In addition, the Northern Ireland Housing Executive has powers under Article 63 of the Housing (Northern Ireland) Order 1981 which give it authority to secure or demolish premises in order to either prevent damage or to protect housing accommodation and to recover costs from the owner where appropriate. The Department for Regional Development also has powers under Article 51 of the Roads Northern Ireland Order 1993 to serve notice on the owner/occupier of a building to carry out such works so as to remove a hazard if in their opinion they consider the building, wall or other structure is in such a condition that it could present a danger to road users. Where an owner/occupier does not comply with the requirements of the notice or cannot be identified Roads Service may carry out the necessary remedial works to ensure the safety of road users and will seek to recover the costs where possible.</p> <p>Although there are a wide range of existing powers it is</p>
--	--	---

		<p>appreciated that neglected or derelict buildings can attract large amounts of litter and this can be detrimental to the amenity of the local neighbourhood. This is one of the issues that will be addressed in the Bill which will enable district councils to deal more effectively with a wide range of local environmental problems, including litter and will update the current Northern Ireland legislation on statutory nuisances and improve the procedures for dealing with them. The Bill also provides district councils with new and strengthening powers to help them manage their local environments in an efficient and effective manner in line with the public's expectations. When taken with other and existing legislation the new provisions will give district councils a comprehensive "toolkit" of powers which are robust and enforceable and should lead to significant improvements in the state of the environment.</p> <p>The issue of dereliction may also be addressed through effective town centre regeneration measures where a range of stakeholders – including government departments, district councils, utility providers, the business sector and others come together in partnership with a holistic approach to tackle physical and economic regeneration issues.</p> <p>Given the wide range of legislation currently available and the proposals contained in Bill the Department has no plans to bring forward a legislative provision equivalent to section 215 at this time.</p>
--	--	---

<p>An additional category of nuisance be included to address “any premises providing harbourage for pigeons so as to be prejudicial to health or a nuisance!</p>	<p>Lisburn CC, Castlereagh BC Ballymena BC arc21 Newtownabbey BC Limavady BC Belfast CC</p>	<p>The Department considers that the existing powers available to councils in Clauses 61(1)(a) “any premises in such a state as to be prejudicial to health or a nuisance” and 61(1)(e) “ any accumulation or deposit which is prejudicial to health or a nuisance” are sufficient to allow councils to serve an abatement notice where there are problems associated with pigeons.</p> <p>In addition, councils have powers under Section 90 of the Local Government Act 1972 to make bye-laws for the good rule and government and prevention and suppression of nuisance for the whole or any part of or area within their district and could use these to control pigeons. Councils also have powers under Article 71 of the Pollution Control and Local Government (NI) Order 1978 “to take any steps for the purpose of abating or mitigating any nuisance, annoyance or damage caused by the congregation in any built-up area of feral pigeons...”.</p>
<p>The remainder of the Public Health Acts 1878 – 1907 should be revised and consolidated</p>	<p>Lisburn CC Antrim BC Castlereagh BC CEHOG</p>	<p>Responsibility for most of the remainder of the content of the Public Health Acts 1878 – 1907 are out-with the Department’s policy responsibility and we intend raising with other relevant Departments councils’ concerns in respect of the remainder of the Public Health Acts 1878 – 1907.</p>
<p>It is unclear why the words “within the meaning of Article 4” as in Clean Air (NI) Order 1981 Art 23(1)(c) have been removed from Part 7, Section 61(3)(d). It is recommended that these words be retained to maintain clarity for this exemption</p>	<p>Antrim BC, B’mena BC, C’avon BC,</p>	<p>The words “within the meaning of Article 4” as in Article 23(1)(c ) of the Clean Air Order 1981 are rendered superfluous as a consequence of the consolidation of the statutory nuisance regime in the CNEB.</p>

<p>Appropriate guidance should be issued in respect of the new noise and statutory nuisance regime as in E&amp;W.</p>	<p>Cookstown DC  Lisburn BC  Fermanagh DC  Antrim BC  Castlereagh BC  Ballymena BC  Newtownabbey BC  CEHOG  Craigavon BC  Ards BC  Coleraine BC  Limavady BC  Belfast CC</p>	<p>The Department proposes consulting district councils on draft guidance covering noise and statutory nuisances before the Act comes into operation.</p>
---	--	---

**Table 3**

**Gating Orders provisions - Department for Regional Development response**

Issue	Raised by	DRD Response
<b>1. General Comments</b>		
Welcome the new provisions and the benefits they will bring to the public, local communities and business.	Tidy NI NIEQF	Support noted.
Welcomes the Bill as it will allow allow for a faster and more effective procedure. Acknowledge the potential benefits to local communities in terms of crime prevention, disorder, noise nuisance, dumping etc.	CEHOG Coleraine BC Ballymena BC Castlereagh BC Antrim BC	Support noted.
Welcomes that Local Authorities can make gating orders/Supports in principle.	Craigavon BC Banbridge DC Belfast CC Ards BC Newtownabbey BC Larne BC	Support noted.
Councils having primary responsibility for issuing and revoking Orders should help to speed up process and take account of the wishes of the local community who may be experiencing difficulties.	Ken Robinson MLA	Noted.
<b>2. Approval Process</b>		
Article 69A. A district council may, with the approval of the Department make an order...Level of approval from department would need more clarification.	Craigavon BC Banbridge DC	The need for DRD approval is intended to enable DRD, as road authority, to take account of any road safety or traffic management issues that may arise as a result of an intention to make a gating order.

Issue	Raised by	DRD Response
Important that need to obtain approval from Department does not add undue delay and as such clear timeframes need to be established.	Larne BC	It is not anticipated that Departmental approval would add greatly to the timeframe necessary to make a gating order.
Council would not wish this to be a lengthy process and perhaps should be time bound in statute.	Craigavon BC	
Parameters/effective controls should be put around response times to avoid delay in the process.	Belfast CC Newtownabbey BC	
Agreement would be needed from the Department, of the possibility of refusal to the order, during the process, therefore negating any unnecessary expenditure.	Craigavon BC Belfast CC Newtownabbey BC Larne BC	The Department is likely to withhold approval for a gating order only where there is a public interest in retaining rights of passage; where there are road safety concerns or where the proposes gating order would create traffic management concerns.
Further guidance needed on the requirements relating to local inquiries, in particular the circumstances under which such an inquiry must be held and what element of discretion councils might have to determine 'reasonableness' of objections.	Belfast CC Newtownabbey BC Larne BC	DRD does not have guidance on the circumstances under which an inquiry must be held. However, it understands that objectors have a right to have their objection considered, particularly where contentious issues arise. It is possible that, in most cases, objections relating to gating orders could be dealt with by means of correspondence and meetings and the need to convene a local inquiry may be avoided. Any decision to hold or not to hold an inquiry should take account of relevant principles of law such as the

Issue	Raised by	DRD Response
		<p>need for a decision making process in accordance with the requirements of administrative and Human Rights law.</p> <p>An inquiry must be held if, before the expiration of the period referred to in Article 69D(1)(b), the district council receives an objection from –</p> <p>(a) the occupiers of premises adjacent to or adjoining the road; or</p> <p>(b) the owners of any cables, wires, mains, pipes or other apparatus placed along, across, or under any road to which the order applies, and the objections is not withdrawn.</p>
<p>Clear guidance will be required along with DSD approval.</p>	<p>CEHOG Coleraine BC Ballymena BC Castlereagh BC Antrim BC</p>	<p>No approval from DSD is required. (Although it is recognised that there may be occasions when DSD has an interest due its responsibilities for regeneration schemes).</p>
<p>Imperative that proper s75 screening and equality impact assessment is carried out on proposed gating orders due to potential adverse impact on children and young people and to ensure that consideration is given to the needs of those who are disabled.</p>	<p>CiNI CLC</p>	<p>DRD agrees that Section 75 screening should be carried out. Under existing arrangements, where an alleygating scheme is proposed, the Department requests promoters to carry out screening on each proposal. The alleygating information manual produced by Belfast City Council and Bryson Charitable Group also refers to the need for the promoter to question people on the possibility of gates affecting their human rights under</p>

Issue	Raised by	DRD Response
		section 75 of the NI Act 1998.
<b>3. Operational Issues</b>		
Unanswered questions around issues such as who will open and close gates, the DRD role, the need for neighbourhood approval, access for emergency services or impacts on rights of way. Clear guidance will be required.	Limavady BC arc21 NILGA	DRD accepts that guidance on these issues would be helpful and would be content to contribute to it. DRD has not generated any alley gating schemes. It has simply made the necessary Traffic Regulation Order, by Statutory Rule, to give legal force to the restriction on traffic. Operational issues such as access for emergency vehicles and the arrangements for opening and closing the gates have been matters for the promoters to determine. Belfast City Council and Bryson Charitable Group produced an alley gating information manual as part of the Belfast Alley gating Pilot Project. It contains clear guidance on these practical issues.
<b>4. Resource Implications</b>		
This process will involve additional costs - e.g. administration, advertising, legal advice, inquiries, erection, operation and maintenance of gates. Provision of funding needs to be addressed by central government.	Belfast CC Limavady BC Newtownabbey BC Larne BC	Funding for the Belfast Alleygating Pilot Project was provided by the Northern Ireland Office and Belfast Regeneration Office. DRD does not have any budgetary allocation for alleygating schemes. Its function, under the existing arrangement is to put in place the necessary subordinate legislation to achieve the gating while the actual alley gates are
Question of funding to be addressed/clarified.	CEHOG Coleraine BC Ballymena BC Castlereagh BC	

Issue	Raised by	DRD Response
	Antrim BC Fermanagh DC	erected by the promoter.
Recommends that new legislation is accompanied by sufficient resources to ensure it is effectively utilised.	NIEQF	When the alleygating initiative was announced in October 2002 the (then) Minister stressed that the initiative for promoting individual schemes would lie with the local community, probably working in partnership with other agencies and that such groupings would have to obtain the necessary funding to advance a scheme.
Department should explore resourcing for provision of gates, particularly with Community Safety Unit.	arc21 NILGA	Since the provision of gates will be a matter for district councils the resourcing of them would probably be for the Department of the Environment, in consultation with the Department of Finance & Personnel to take forward.
<b>5. Clarification on what can be gated</b>		
Will Council be given authority to undertake such work on land which it does not directly own e.g. properties located on land owned by NIHE/DRD or in private ownership?	Newtownabbey BC	The proposed powers relate to “relevant roads” which are roads other than special roads, trunk roads, classified roads or roads of such other description as may be prescribed in regulations made by the Department for Regional Development. Consequently councils may undertake work on land comprised in a road. The powers do not extend to roads which are not maintainable by the Department.
Strict criteria for such action	Fermanagh DC	Gating orders may only be

Issue	Raised by	DRD Response
must be laid down as otherwise residents could make unrealistic demands.		made in respect of "relevant roads". All relevant roads are public roads maintainable by the Department.
Provisions may create an expectation by residents that all alleys and secondary access ways could be gated when there is no necessity to do so.	CEHOG Coleraine BC Ballymena BC Castlereagh BC Antrim BC	The public has a right to pass or re-pass along a public road. A gating order restricts this public right of way over to road to the extent specified in the gating order. A 'relevant road' can be gated provided that the Department approves the proposal and the conditions specified in section 69A(3) and 69B(3) to (5) are satisfied.
Concern that many back alleys do not fall within the definition of "road" and therefore could not be made the subject of a gating order. This may lead to unreasonable public expectation about what can be achieved.	Larne BC	The public has a right to pass or re-pass along a public road. A gating order restricts this public right of way over to road to the extent specified in the gating order. A 'relevant road' can be gated provided that the Department approves the proposal and the conditions specified in section 69A(3) and 69B(3) to (5) are satisfied.
Clarification is required on a definition of what is termed as a back street as there could be confusion between a back street (alley) and a walkway. 69B(4) goes someway to addressing the issue of public rights of way to a residential dwelling however a fuller definition would prove invaluable for Councils when dealing with public expectations.	Banbridge DC Belfast CC Newtownabbey BC	None of the terms "back street, alley or walkway" are used in the Bill.  The legislation provides for the gating of 'relevant roads' and the term 'relevant road' is defined.
<b>6. Variation and revocation</b>		
69C(2) - helpful if could include a clause of antisocial behaviour directed to the gates or within the restricted space, as a reason for revocation.	Belfast CC Newtownabbey BC Larne BC	The Department considers that proposed new Article 69C(3) should cover this scenario.

