

CLEAN NEIGHBOURHOODS and ENVIRONMENT ACT 2005

defra

Department for Environment
Food and Rural Affairs

The Clean Neighbourhoods and Environment Act 2005 directly impacts on parish councils in two ways:

- It allows parish councils to issue fixed penalty notices (FPNs) for litter, graffiti, flyposting and dog offences.
- It allows parish councils to introduce dog control orders for a range of offences (effectively replacing the current byelaw system).

Many of the other measures in the Act also impact on parishes indirectly, as local authorities (districts and unitaries) are given a wide range of new powers to improve the local environment. The extent to which parishes wish to exercise the new powers will be up to them.

Fixed-Penalty Notices

Under current legislation, local authorities (parishes, districts and unitaries) can issue fixed penalty notices for litter, graffiti, fly-posting and dog fouling.

Amounts - whilst upper tier authorities will be able to specify (within a fixed range) the amount of the penalty for these offences, parishes will not - they will use the amount set by the district (or the default amount of £75 where the district chooses not to set the level).

Use of receipts -The Act allows for regulations that will specify what will happen to the receipts from FPNs issued by parishes - it is intended that parish councils will be able to retain the receipts from fixed penalty notices.

Reporting - the Act requires any authority (including parishes) issuing FPNs to provide the Secretary of State with information relating to FPNs. This provides central government with a means to check that the system is not being abused.

Non-payment - all authorities issuing FPNs will be expected to take prosecutions in those cases where the penalty is not paid, and this will be made clear through guidance. Parishes issuing FPNs should therefore be prepared to take cases of non-payment to court.

Dogs

Part 6 of the Act gives the power to make dog control orders to all local authorities. The orders will be set out in regulations (see below) and will relate to four issues:

- Dog fouling (the current Dog Fouling of Land Act will be repealed)
- keeping dogs on a lead
- Exclusion of dogs from land
- Number of dogs that a person can take onto land

By providing 'ready to use' orders, local authorities can designate areas where offences relating to the above issues will apply. Fixed penalty notices can then be issued to anyone committing those offences.

The Act makes provision for situations where parishes and districts may both wish to make control orders covering the same land - in these cases the district would take precedence.