



COMMUNITY COUNCIL LIAISON SUB-COMMITTEE - 24TH SEPTEMBER 2009

SUBJECT: LITTER ON PRIVATE LAND

REPORT BY: DIRECTOR OF THE ENVIRONMENT

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to provide information on the formal powers available to the Public Protection Division to deal with litter and rubbish on privately owned land.

2. LINKS TO STRATEGY

- 2.1 The Public Protection Division consists of a wide range of protective and regulatory functions that seek to protect, promote and improve the health, safety and economic wellbeing of our communities.
- 2.2 Enforcing Public Protection Legislation is a statutory duty and links to the Living Environment Strategy by seeking to improve peoples' lives through targeted actions and regulation.

3. BACKGROUND

- 3.1 There are a range of legal powers and duties that may be relevant to litter and rubbish on private land. The practical application of individual legal power is often informed by additional interpretation within the legislation itself, guidance and case law. The choice of the most suitable course of action in relation to any particular piece of land will, of course, depend upon the circumstances of each individual case. An overview of the relevant legislation is provided below.

4. LEGISLATION

4.1 Littering Clearing Notices (Environmental Protection Act 1990, Sections 92A-92C)

The Authority has the power to issue Litter Clearing Notices where litter defaces land in their area or refuse and this is detrimental to the amenity of the area. The power was introduced into the 1990 Act by the Clean Neighbourhoods and Environment Act 2005, and replaces the previous system of Litter Control Areas.

Litter Clearing Notices can be used to tackle litter on most types of land, other than those areas for which there is already a responsibility to clear litter and refuse under section 89. It therefore offers a tool for dealing with litter on private land that can often be blown or otherwise carried into neighbouring areas. The main features of the system are:

- A notice can be served without prior designation of a litter control area, and it is an offence not to comply with a Litter Clearing Notice.

- Local Authorities are able to specify the standard to which land must be cleared;
- If land is not cleared, or is not cleared satisfactorily, the local authority can enter the land, clear it itself, and recover the costs of doing so.

Wherever possible, Principal Litter Authorities should work in partnership with landowners and occupiers to resolve problems caused by heavily littered land. In issuing a notice, authorities should consider the role that they can play to address the causes of the litter problem, particularly in specifying steps to be taken to prevent future defacement.

4.2 Section 59 Environmental Protection Act 1990

Provides powers for waste regulation authorities and waste collection authorities to serve a notice on the occupier or landowner to require the removal of controlled waste unlawfully and knowingly deposited. Where a person fails to meet these requirements the local authority or the Environment Agency may clear the waste and seek to recover the costs.

4.3 Part III (Statutory Nuisance) Environmental Protection Act 1990

District councils shall serve an abatement notice if an accumulation or deposit is considered to be prejudicial to health or a nuisance. The authority in abating or preventing the recurrence of a statutory nuisance for which a notice has been served can recover reasonable costs. Inert material however would not be categorised as a statutory nuisance.

4.4 Section 215 Town and Country Planning Act 1990

Allows a local planning authority to serve a notice on the owners and occupiers of land, requiring the site to be tidied up if the condition of any land is in such a state as to adversely affect the amenity of the neighbourhood. Non-compliance is punishable (s.216) by a fine not exceeding level 3 (currently £1,000) on the standard scale.

4.5 Section 6 Refuse Disposal (Amenity) Act 1978

Gives councils, the powers to remove from land open to the air or on a highway any thing (other than a motor vehicle) that has been abandoned without lawful authority. If the land is occupied, the council must give notice of their intention to remove. Costs can be recovered from the person leaving the refuse or a person knowingly permitting it.

4.6 Section 4 Prevention of Damage by Pests Act 1949

A local authority can serve a notice requiring an owner to remove, at his own expense, accumulated waste for the purpose of keeping land free from rats and mice. Costs can be recovered should the council have to remove it.

5. FINANCIAL IMPLICATIONS

5.1 There are no specific financial implications arising as a result of this report.

6. PERSONNEL IMPLICATIONS

6.1 There are no specific personnel implications arising as a result of this report

7. RECOMMENDATIONS

Members are asked to note the content of the report.

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