



## **VIEWPOINT - information on issues of concern**

### **CLEAN NEIGHBOURHOODS & ENVIRONMENT ACT 2005 [CN&EA 05]**

#### **IMPLEMENTATION OF THE ACT**

The Act received Royal Assent on the 7th April 2005 and some parts came into effect on 7th June 2005. The majority of the Act will come into force in the spring of 2006 but some will be not be enforceable until 2007.

The act is designed to give more power to District and Parish Councils to deal with issues such as litter, fly tipping, dog fouling, and control, alarms, street trading and repairing of vehicles and removal of abandoned vehicles.

#### **Councils will have discretionary powers and will not be under a duty to enforce the regulations**

The Act makes many of the offences punishable by Fixed Penalty Notice [FPN]

#### **CURRENT RESPONSIBILITIES**

Currently Milton Keynes Council [MKC] can or does undertake the following in relation to anti social or environmental control issues: -

- Issue FPN for littering, graffiti and fly posting.
- Investigates and prosecutes fly tippers where evidence can be found.
- Removes abandoned vehicles and will remove for a fee unwanted vehicles.
- Enforce dog fouling under the Dogs (Fouling of Land) Act 1996. This Act will be subsumed by CN&EA05.
- Remove unauthorised signs from the highway.

#### **NEW AND REVISED CN&EA 05 PROVISIONS CN&EA 05 provisions will allow: -**

1. District (not Parish) Councils to make gating orders to restrict public rights of way.
2. District (not Parish) Councils to issue FPN's for abandoned vehicles in addition to the current statutory charges for removal and disposal.
3. Authorised Officers of District **and** Parish Councils to issue FPN's for littering. Extends litter FPN's to watercourses and lakes and defines chewing gum and smoking residue as litter.
4. District (not Parish) Councils to serve notices on mobile food vendors to remove litter from an area adjacent to their operating site.
5. District **and** Parish Councils to impose restrictions on where owners can take dogs and issue FPN's for fouling and flouting restricted areas.
6. District (not Parish) Councils nor the police, will be responsible for stray dogs.
7. District **and** Parish Councils to serve removal notices on property owners for graffiti and deal with fly posting.
8. District (not Parish) Councils the power to make venues liable for fly posting and removes the defence from venues to say that they were unaware of fly posting, presently it is the event organiser that is prosecuted.

9. District (not Parish) Councils to ban distribution of free advertising and other leaflets and seize leaflets. Charities and Religious groups are exempted.
10. District (not Parish) Councils to stop, search, seize and impound vehicles in relation to fly tipping.
11. District (not Parish) Councils powers to demand production of waste carrier documents.
12. Increase penalties for fly tipping to be a maximum of £50,000 or up to 5 years in prison and makes it an arrestable offence. [In force since 7th June 2005] And demand name and address of offender. [to be clarified by DEFRA]
13. Collection Authority [District Council] to issue FPN of £100 for placing domestic and commercial refuse in wrong place or in advance of collection date.
14. District (not Parish) Councils to serve notices to deal with waste on private land and recover costs of removal.
15. District (not Parish) Councils to designate an Alarm Control Area with a duty for owner to identify key holder and Council to issue FPN if notification not made.
16. District (not Parish) Councils to deal with nuisance parking and selling more than two vehicles on the road or carrying out a business of repairing vehicles on a road. [In force since 7th June 2005]

**FIXED PENALTY NOTICES CN&EA 05 provisions will allow: -**

In certain cases District **and** Parish Councils to set FPN rates within a scale set by the government. Maximum likely to be £75.

Increase the minimum penalty for littering, graffiti and fly posting from £50 to £75.

The Secretary of State will set rate for abandoned vehicles e.g. £200 and £300 for breach of Duty of Care.

In the future FPN's to be used against the selling or repairing of vehicles on the road.

Currently offences have to be prosecuted through the law courts.

**SUMMARY**

District Councils have been given many more powers, if they wish to exercise them, to deal with issues such as litter, fly tipping, dog fouling, and control, alarms, street trading and repairing of vehicles and removal of abandoned vehicles.

Parish Councils have limited powers to; -

1. Issue FPN's for littering.
2. Impose restrictions on where owners can take dogs and issue FPN's for fouling and flouting restricted areas
3. Serve removal notices on property owners for graffiti and deal with fly posting.
4. Set FPN rates within a scale set by the government. Maximum likely to be £75.

A Parish Council must consider very carefully, implications on staff commitments budgets and time requirements should it wish to make use of the powers provided in CN&EA 05.

***Statements made in VIEWPOINT do not in any way represent the opinion of any Councillor or an approved policy of the Parish Council.***