

Research Briefing

What is the relationship between Central Government and Local Government in relation to the delivery of the Clean Neighbourhoods and Environment Act 2005?¹

INTRODUCTION

This paper will look at the introduction of environmental legislation within England the Republic of Ireland respectively, and discuss the impact that this has had on the role of local Government in terms the relationship between central Government and local Government

BACKGROUND

The Clean Neighbourhoods and Environment Act 2005 (the 2005 Act) became law on 7th April 2005 in England and Wales. The main aim of the Act is to improve local environments and enable simpler enforcement action at local Government level. The Department for Environment, Food and Rural Affairs' (DEFRA's) Consultation: *Living places – Cleaner, Safer, Greener*² highlighted that the legislative framework within England was not as effective as it could have been in administering local environmental laws and actions. Following consultation with local governments and authorities, it emerged that there had been difficulties as there were legal obstacles or restricted options available to local Government in tackling the priority issues of the public in their area.

Consultation with local Governments highlighted the need for powers and responsibilities at local Government level to provide cleaner and greener public spaces. The main recommendation was for the provision of a consistent and straightforward framework of responsibilities. DEFRA's second consultation paper, entitled; *Living Places – Rights and Responsibilities*³ outlined 27 options to improve the legislative framework. One of the major points stressed was that existing legislation had failed to define the strategic role of the local government⁴.

1.0 Implementation of the Act

The 2005 Act exists alongside training schemes and programmes run by Central Government throughout England, targeted at improving local

¹ For full text of the Clean Neighbourhoods and Environment Act 2005 - http://www.opsi.gov.uk/acts/acts2005/ukpga_20050016_en_1

² http://www.opsi.gov.uk/acts/acts2005/en/ukpgaen_20050016_en_1

³ Summary of DEFRA's paper 'Living Spaces: Powers, Rights and Responsibilities' can be accessed at <http://www.ice.org.uk/downloads/BS%20-%20Living%20Places%20Defra%20revised1.pdf>

⁴ Explanatory notes to background of the Clean Neighbourhoods and Environment Act 2005 - http://www.opsi.gov.uk/acts/acts2005/en/ukpgaen_20050016_en_1

environmental standards. Central Government recognises the independent initiatives that a number of Local Governments had in operation prior to the 2005 Act (for instance Manchester's 100 day clean-up and the Key Stage 3 education scheme launched in schools throughout Hammersmith and Fulham)⁵ The provisions of the Act were not a blanket indicator of what was required throughout local Governments. Furthermore, to tackle offences with their new responsibilities, a number of diverse strategies from different local Governments have emerged. This illustrates the extent to which Central Government has provided Local Government with the freedom under the act to develop and target specific areas that they identify as needing the most attention and in ways that are specific to the local community.

2.0 Restructuring of Departments within Local Government:

The Gershon Review (2004)⁶ recommended releasing major resources and redirecting them to front line services through identifying ways of extracting more value from the management and execution of services. Under the Guidelines⁷ Central Government establishes the need for restructuring within local Government to deliver the provisions of the Act.

An advisory paper published by DEFRA, entitled: *Achieving Improvements in street cleansing and related service*⁸ stated that "Increased quality of service often requires not extra resources but more effective use of existing budgets". It also places a demand upon local Governments to better co-ordinate the planning and delivery of services. Central Government makes no resource provision (such as an increase in central government funding or council tax⁹) to facilitate the additional powers.

3.0 Monitoring of Local Government by Central Government and public

In England, there is recognition by authorities and agencies such as DEFRA¹⁰ that citizens are adopting a consumer approach to public services provided through Local Government. The 2005 Act aims to reengage citizens and meet their expectations in terms of issues such as rubbish and vandalism. Central Government is therefore placing Local Government in the position of providing front-desk/ front-line consumer services.

Support and performance mechanism schemes established were to assess how local Governments maintained their own environment. To ensure they deliver quality local environments local Governments are scored corporately through an extended version of the Best Value Performance Indicator¹¹ 199 (BVPI 199) on street cleanliness. One of the main aims of the BVPI 199 is to install basic routine monitoring systems throughout local Governments in

⁵ Hammersmith and Fulham – Improving Neighbourhoods: Smarter Borough Education: Resources for Key Stage 3. http://www.hfusc.org.uk/images/smarter_borough_KS3.pdf

⁶ Full text of Gershon Review 2004 - http://www.supply2.gov.uk/pdfs/gershon_review.pdf

⁷ Publications such as DEFRA's advisory guide entitled: *Achieving Improvements in street cleansing and related services*.

⁸ <http://www.defra.gov.uk/environment/localenv/litter/pdf/street-clean.pdf>

⁹ Defra: Full and Final Regulatory Impact Assessment: Clean Neighbourhoods and Environment Act <http://www.defra.gov.uk/corporate/regulat/impact-assessment/pdf/clean-neighbourhoods-ria.pdf>

¹⁰ Defra Report: *Achieving improvements in street cleansing and related services*. Available online at

¹¹ Example of Best Value Indicator compiled by the Audit Commission can be accessed at http://www.gmb.org.uk/Shared_ASP_Files/UploadedFiles/7A6B6C96-97E4-4BB2-9193-186913EE76E5_recycling82workings2005-06.pdf

England. Consequently, whilst the Act provides greater freedom to Local Government, Central Government simultaneously places Local Government under greater scrutiny in terms of its performance and commitment to tackling 'envirocrime'.

4.0 Local Area Agreements¹²

Local Area Agreements (LAAs) pioneered as a pilot scheme across 20 areas in England in 2004-2005 alongside the introduction of the 2005 Act. In regards to the 2005 Act, LAAs reflect the settlement between local and central Government in terms of devolution of powers and duties introduced. LAAs outline how the priorities of local Government are measured and the provisions of these within the goals and aims of the LAA.

5.0 Fixed penalties¹³

Central Government regards local Government as able to provide quicker and more effective enforcement through duties and powers provided under the 2005 Act. In delegating such powers to local Government, the Central Government will in effect reduce the amount of court actions and costs within England and Wales as Local Governments can enforce on-the-spot fixed penalties, which will cut down on the amount of cases involving these offences that would occupy the court system. Local Governments can retain receipts from fixed penalties collected, but they do have a statutory duty to reinvest monies collected into environment related schemes (Section 75).

6.0 Training

Central Government issued detailed guidance on the new powers under the Act and set up a scheme to work closely with local government to ensure guidance was easy to understand and apply. The Local Government Association (LGA) and the Government also arranged a programme of seminars to accompany the new powers, in which local authorities and their staff received training in relation to their new powers and duties under the 2005 Act.

REPUBLIC OF IRELAND

There is not one sole piece of legislation that reflects the extent of the 2005 Act in the UK - but there are a number of different statutory instruments relating to similar issues.

The relationship between local Government and National Government in regards to local environmental legislation in the Republic of Ireland.

The Central Government in the Republic of Ireland has recognised Local Government's special role in proximity to local communities and ability to provide immediate effect on the daily lives of people, in comparison to other sectors of public administration¹⁴. The Department (Department of

¹² Example of Local Area Agreement drew up by Lancashire District Council can be viewed at <http://www.lancashirepartnership.co.uk/corporate/web/viewdoc.asp?id=30908>

¹³ DEFRA guidance on Fixed Penalty Notices: <http://www.defra.gov.uk/environment/localenv/legislation/cnea/fixe-penalty-guidance.pdf>

¹⁴ Department of Environment, Heritage and Local Government Department homepage <http://www.environ.ie/en/LocalGovernment/LocalGovernmentAdministration/>

Environment, Heritage of Local Government), which is responsible for the administration of local Governments within the Republic of Ireland, is also responsible for environment and heritage issues.

7.0 Regional Assemblies

Central Government monitors the work of Local Governments through two regional assemblies; the Border Midlands and Western Assembly (BMW) and the South and Easter Assembly (S&E). Established in July 1999, these assemblies promote the co-ordination and provision of public services from Local Governments in the area they have responsibility over. Under the Litter Pollution Act 1997¹⁵, local government has responsibility for implementing the litter laws set out in the act to their own council areas. These responsibilities and powers include the prevention and control of litter and provide councils with powers to take enforcement action against those who have committed an offence under the Act.

8.0 Accountability to Central Government

Under Section 10 of the Litter Pollution Acts 1997¹⁶, local authorities are obligated with the duty of creating Litter Management Plans¹⁷ for their respective areas, which is to be reviewed by the local authorities every three years. Prior to publishing the plan, the authority must firstly hold consultations with voluntary and community agencies.

Each year, Local Government is required to carry out Litter Pollution Surveys and Litter Quantification Surveys under the National Litter Pollution Monitoring System. The Department of Environment, Heritage and Local Government in 2001 introduced a National Litter Pollution Monitoring System¹⁸ which assesses and monitors the progress of Local Governments in discharging their duties under the Litter Act.

¹⁵ Full text of Litter Pollution Act 1997: <http://www.irishstatutebook.ie/1997/en/act/pub/0012/index.html>

¹⁶ <http://www.irishstatutebook.ie/1997/en/act/pub/0012/index.html>

¹⁷ Example of Litter Management Plan for Bray Council can be accessed at <http://braytowncouncil.ie/media/documents/planning/DRAFT%20LITTER%20MANAGEMENT%20PLAN%20Bray.pdf>

¹⁸ Department of Environment, Heritage and Local Environment: National Litter Monitoring System. <http://www.environ.ie/en/Environment/Waste/LitterPollution/NationalLitterMonitoringSystem/>