



Northern Ireland  
Assembly

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**COMMITTEE FOR THE  
ENVIRONMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Clean Neighbourhoods and  
Environment Bill**

26 January 2011

**NORTHERN IRELAND ASSEMBLY**

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**Members present for all or part of the proceedings:**

Mr Cathal Boylan (Chairperson)

Mr Willie Clarke

Mr Danny Kinahan

Mr George Savage

Mr Brian Wilson

***Clause 16 (Litter offence: fixed penalty notice)***

**The Chairperson (Mr Boylan):**

We will now move on to clause 16 of the Clean Neighbourhoods and Environment Bill so that we can go over the issue that arose about the age of an offender. When we voted on that clause previously, the result was 4:4. We sought clarity at that time as to which way the vote would go, and we agreed that it would go in favour of the clause as drafted. However, that was not the case. As it was a tied vote, the decision was not that the clause would go through as drafted. That means that we have to look at it again.

**The Committee Clerk:**

We need to clarify whether members are content that that is how they intended the vote to be.

The Chairperson asked whether members were content with the clause as drafted, and the vote was tied at 4:4. That means that it did not go forward as drafted, so that proposal was not carried. The indication that I gave after that was that the clause would go ahead as drafted, but that is not correct. Therefore, we need to confirm that members are content that the decision that was made on that day is the one that they want. If it is not, the Committee can reconsider that this morning.

**Mr Kinahan:**

I was not here.

**The Chairperson:**

At our meeting on 13 January 2011, the Committee divided on clause 16, which is entitled “Litter offence: fixed penalty notice”. The minutes of the meeting recorded that the Committee was content with the clause as drafted. However, that was an incorrect decision.

I remind members that the Department confirmed that the age of criminal responsibility is 10, meaning that fixed penalty notices could be issued to anyone of that age. The Department also indicated that it would produce guidance for councils on issuing fines to minors. At the meeting on 16 December 2010, members felt unable to come to a decision on clause 16 until they had seen examples of that guidance. The Department provided details of guidance that is used in England and Wales concerning issuing fixed penalty notices to juveniles, and it indicated that similar guidance would be issued to councils here.

A concern about that age was the issue that some Committee members, particularly Mr Willie Clarke, identified. Ultimately, when we went to the vote, it was split at four each, and we are saying that we agreed the actual clause as drafted. However, that is not the case. We did not agree that it should refer to that age group, so we need clarification.

**The Committee Clerk:**

If I could just clarify this point, the clause is about introducing the opportunity for councils to issue fixed penalty notices for litter offences. That applies down to the age of 10, because that is the age of criminal consent. However, that is a separate issue; it is not identified in the Bill. As the law stands, councils have the power to prosecute people from age 10 upwards for litter

offences. Clause 16 would introduce an alternative, that is, a fixed penalty notice, for that offence. Therefore, the concern was about the age of consent applying to the clause.

To ensure that members are absolutely sure about what they are agreeing to, by not agreeing the clause, they are not changing the age of consent or the fact that councils can still prosecute. They are saying that a fixed penalty notice could not be applied for a litter offence.

**Mr Kinahan:**

It could not be applied to a minor.

**The Committee Clerk:**

It could not be applied to any person of any age; it is simply that the age of criminal responsibility is 10. The clause will apply down to age 10.

**Mr W Clarke:**

Thank you for that explanation. We are not saying that we do not want to see fixed penalties for litter offences. We are saying that we think that children between the ages of 10 and 16 are too young to be criminalised for a litter offence. I believe they should get some sort of guidance or caution followed by some type of education on the matter. If a child is seen littering, they should go through some sort of course at school or to a waste-management educational course.

I think that we need an amendment to the clause. I think that that is what we told the departmental officials, but they seemed to dig their heels in and were reluctant to negotiate or even to bring forward any sort of compromise position. They just kept going on about the guidance. I also talked to my party, and it is totally opposed to the criminalisation of children. I have already talked to the Bill Office about tabling an amendment, but it is up to the Committee to decide what it wants to do.

**The Chairperson:**

What is the time frame for this?

**The Committee Clerk:**

We have to complete our report on the Bill by Friday, and members have already received a draft report for tomorrow's meeting. However, members will see that clause 16 has been left undecided at this stage. We will draft something on the basis of this meeting.

If members feel that the clause needs to be amended, we can do that. Therefore, members would be agreeing the clause, subject to an amendment. If it is a Committee decision, we can bring an amendment later. It does not have to be included word for word in the report; the report merely has to say that the Committee has made the decision.

We saw the guidance from the Department, which maintained that the guidance will steer how councils will be encouraged or guided in the issuing of fixed penalty notices to minors. The Committee could look at an amendment, at a recommendation, or it could simply go with the clause as drafted, and a member could bring forward an amendment of their own accord or of that of their party.

**Mr W Clarke:**

I thought that the original 4:4 vote was that we were taking an amendment on the clause.

**The Committee Clerk:**

Perhaps I steered you in the wrong direction on that; my apologies for that. What we succeeded in doing the previous time was to not agree the clause as drafted, so perhaps we need to go a step further now.

**The Chairperson:**

That is why I sought clarification on the day.

**Mr Savage:**

With regard to the age issue, I was walking through a big shopping centre last week and saw some young people looking for bins to put their litter in. Younger people are now very conscious of litter, and older people could take a lesson from them. I find that very interesting, and I have to give teachers credit for what they are doing in schools.

**Mr Kinahan:**

I was not at the relevant Committee meeting, but I am happy for us to table an amendment to the clause. However, people should be given only one chance and be provided with some form of education on the issue. If they commit the offence again, they should be punished and fined. As long as the decision is firm on the second shot, we should look at an amendment. Can we do it in a way that means that we can get it back by Thursday?

**The Committee Clerk:**

I will talk to the Bill Clerk about that. We can agree to do something, subject to an amendment, and bring the wording of that amendment to the Committee between Committee Stage and Consideration Stage. Therefore, members will have time to consider the exact wording. However, today we need to agree on whether the Committee wants an amendment, and we can then provide the detail of that amendment. It is really a matter of the Committee's agreeing exactly what it would like the amendment to do.

**Mr W Clarke:**

I propose that we make an amendment.

**The Chairperson:**

We need to agree the clause as drafted, subject to amendment. Are you happy enough to go down that route?

*Question, That the Committee is content with the clause, subject to amendment, put and agreed to.*