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Assembly

Research and Library Service Bill Paper

27th September 2010

Clean Neighbourhoods and Environment Bill

NIAR 406-10

This paper looks at the draft Clean Neighbourhoods and Environment Bill by comparing it with legislation and similar provisions in other jurisdictions such as England and Wales, and the Republic of Ireland. It also looks at possible areas of contention in relation to the responses to the consultation exercise. Finally it considers possible lessons from the implementation of the Clean Neighbourhoods and Environment Act (2005) in England and Wales.

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Key Points

- The Bill tries to strengthen the laws to enable district councils to deal more effectively with a wide range of low-level environmental crime issues. It received its introduction in the Assembly in June and its Second Stage at the end of June.
- The draft Bill is based on corresponding provisions in the Clean Neighbourhoods and Environment Act 2005 for England and Wales (CNEA) in relation to vehicles; litter; fly-posting; graffiti; controls on dogs; noise; and various miscellaneous issues including fixed penalty receipts and statutory nuisances.
- There is not one sole piece of legislation in the Republic of Ireland 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 Department states that the Northern Ireland Bill is amidst a very tight legislative timetable, and that it may not be possible to bring forward additional new provisions. The concern is that it would delay the progress on the Bill through the Assembly and becoming law before dissolution of the Assembly
- One of the major areas of the Bill is the provision surrounding alley gating. Similar legislation exists in England and Wales, but not in the Republic of Ireland.
- Provisions will give district councils new powers to make “gating orders” to deal with problem alleyways, subject to approval from the Department for Regional Development. An issue is the exclusion of ‘unadopted’ back alleyways from the legislation, which are not classed as ‘roads’ by DRD.
- Concerns have also been expressed on the restriction of the Bill in relation to nuisance parking, and the fact that the Bill does not have provisions to deal with parking on footpaths.

In relation to the 2005 Act in England and Wales:

- almost four years on from its implementation, there are still questions as to whether local authorities are fully utilising these new powers. There are still problems with smoking litter, especially since the indoor smoking ban; the remains and stains of discarded chewing gum; and unintentional littering.

Executive Summary

The Bill is largely based on legislation that is already in force in England and Wales, namely the Clean Neighbourhoods and Environment Act 2005. A consultation exercise on the Bill was completed at the end of April this year. Basically, the Bill tries to strengthen the laws to enable district councils to deal more effectively with a wide range of low-level environmental crime issues. As a complete package, the Bill is substantial and important legislation and means something to people on the street who recognise that those issues degrade their local neighbourhoods.

The Bill is designed to help district councils to deal with those issues more effectively. It deals with litter, fly-posting and graffiti, dog control issues, noise nuisance issues, statutory nuisance issues, gating orders, nuisance parking and abandoned vehicles, and even abandoned shopping trolleys. It also gives councils a greater remit to issue fixed penalty notices as an alternative to prosecution.

While provisions in the Bill closely mirror those in the 2005 Clean Neighbourhoods and Environment Bill in England and Wales, the case in the Republic of Ireland is different. There is not one sole piece of legislation, similar issues are covered under: Protection of Environment Act 2003, The Waste Management Act 1996, The Waste Management (Amendment) Act 2001, Waste Management (Landfill Levy) Order 2008, Litter Pollution Act 1997, as amended by the Waste Management (Amendment) Act 2001, and the Protection of the Environment Act 2003.

A number of concerns were raised during the consultation process and these have been in relation to the amount of guidance that is required to give further detail on provisions at a later date; where or who funding will come from for local councils in relation to gating alleyways, nuisance parking of footpaths. In relation to the 2005 Act in England and Wales, almost four years on from its implementation, there are still questions as to whether local authorities are fully utilising these new powers. There are still problems with smoking litter, especially since the indoor smoking ban; the remains and stains of discarded chewing gum; and unintentional littering.

The Bill received its introduction in the Assembly in June; it's Second Stage at the end of June, and is now with the Environment Committee.

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1 Introduction

On the 1st of March 2010, the Department of the Environment released the draft Clean Neighbourhoods and Environment Bill for consultation. It received its introduction in the Assembly in June and its Second Stage at the end of June, and is currently at Committee Stage.

The aim of the NI Clean Neighbourhoods and Environment Bill (CNEB) is to give district councils a range of powers to assist them in managing their local environments in an efficient and effective manner which reaches the expectations of the public. If legislated and implemented in an effective way, the new powers should lead to significant improvements in environmental conditions in local neighbourhoods and, consequently, in the quality of people's lives. In addition, clean, safe and green neighbourhoods should encourage the generation of economic investment and tourism, and attract people to live, work and socialise in the community. Businesses also have a role to play in supporting the environment in practicing corporate social responsibility, and helping to maintain the quality of the local environment.

The CNEB aims to introduce tougher, clearer, and more flexible powers to facilitate district councils, in comparison to the ones that currently exist, to deal with irresponsible individuals and specific nuisances.

The draft Bill is based on corresponding provisions in the Clean Neighbourhoods Act 2005 for England and Wales (CNEA) in relation to vehicles; litter; fly-posting; graffiti; controls on dogs; noise; and various miscellaneous issues including fixed penalty receipts and statutory nuisances. In England and Wales, provisions concerning graffiti and other defacement and some provisions concerning noise are also based on corresponding provisions in the Anti-social Behaviour Act 2003, as amended by the Clean Neighbourhoods and Environment Act 2005.

The Northern Ireland Office has conducted similar work in relation to community safety in October 2008 entitled "Together. Stronger. Safer"¹. The consultation document focused on three cross-cutting themes: creating safer neighbourhoods; building strong, confident communities; and the importance of families and young people. Responses to the consultation document were reported on in July 2009, which provided a strong backbone of information to help formulate provisions in the proposed Clean Neighbourhoods and Environment Bill.²

For detail on the individual clauses of the Clean Neighbourhoods and Environment Bill for Northern Ireland, see the EFM produced by the Department of the Environment: http://www.niassembly.gov.uk/legislation/primary/2009/niabill31_09_efm.htm

¹ http://www.nio.gov.uk/together_stronger_safer.pdf

² DOE, Clean Neighbourhoods and Environment Consultation Document.

For a brief summary of the issues covered in the Bill see:

[http://minutes.belfastcity.gov.uk/Published/C00000317/M00009689/AI00008943/\\$Appendix1DraftCleanNeighbourhoodsandEnvironmentBill.docA.ps.pdf](http://minutes.belfastcity.gov.uk/Published/C00000317/M00009689/AI00008943/$Appendix1DraftCleanNeighbourhoodsandEnvironmentBill.docA.ps.pdf)

2 Comparison with other Jurisdictions

CNEB (NI):

The Bill has a total of seventy six clauses and four Schedules. The Bill is split into eight different parts:

Part 1: Gating Orders

Part 2: Vehicles

Part 3: Litter

Part 4: Graffiti and Other Defacement

Part 5: Dogs

Part 6: Noise

Part 7: Statutory Nuisances

Part 8: Miscellaneous and Supplementary.

CNEA (England and Wales) (2005):

Areas covered by the Act include: -

- 1. Abandoned and Nuisance Vehicles
- 2. Litter and Refuse
- 3. Defacement (graffiti and fly-posting)
- 4. Waste
- 5. Dog Control Orders
- 6. Noise
- 7. Statutory Nuisance (light and insects)
- 8. Abandoned trolley

ROI

Legislation in regards to Environment and Clean Neighbourhoods provisions 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 which are covered under:

- The Protection of Environment Act 2003³
- The Waste Management Act 1996⁴
- The Waste Management (Amendment) Act 2001⁵
- Waste Management (Landfill Levy) Order 2008⁶
- Litter Pollution Act 1997⁷, as amended by the Waste Management (Amendment) Act 2001 and the Protection of the Environment Act 2003

Comparison across Jurisdictions

Areas	CNEA 2005 (England and Wales)	CNEB (Northern Ireland)	Environment and Clean Neighbourhoods Provisions in the ROI
Alley Gating	<p>Section 1: Crime and Disorder</p> <p>The Act requires that local Crime and Disorder Reduction partnerships take anti-social behaviour affecting local government into account within crime and disorder reduction strategies.</p> <p>Local authorities have powers to gate nuisance alleyways.</p>	<p>Part 1: Gating Orders</p> <p>Proposals within this part of the Bill aim to amend the Roads (Northern Ireland) Order 1993 by introducing new gating order provisions, to make the existing procedure for closing off nuisance back alleys more effective. Such provisions will give district councils new powers to make “gating orders” to deal with problem alleyways, subject to approval from the Department for Regional Development⁸.</p>	<p>Having been in touch with the Oireachtas, there does not appear to be any similar provisions for alley gating in existing legislation.</p>
Vehicles	<p>The Act amends the 1978 Disposal Amenities Act. Local authorities have power to remove abandoned cars immediately. Two further offences were established helping local authorities to deal with nuisance parking:</p> <p>I) Offering for sale two or more vehicles is an offence</p> <p>II) Repairing a vehicle on the</p>	<p>Part 2 of the Bill will make it an offence to offer for sale two or more vehicles; or repair a vehicle on the road as part of a business, and gives district council the power to issue a fixed penalty notice to offenders (the amount specified is £100, which may be altered at the discretion of the district council)⁹.</p>	<p>Waste Management Act 1996 s71</p> <p>Section 71: Abandoned vehicles.</p> <p>This makes it illegal to abandon a vehicle on any land. The registered owner and/ or the person who placed the vehicle there can each be guilty of an offence.¹⁰</p> <p>Road Traffic (Removal,</p>

³ For full text of Protection of Environment Act 2003: <http://www.irishstatutebook.ie/2003/en/act/pub/0027/index.html>

⁴ For full text of the Waste Management Act 1996: <http://www.irishstatutebook.ie/1996/en/act/pub/0010/index.html>

⁵ For full text of the Waste Management (Amendment) Act 2001: <http://www.irishstatutebook.ie/2001/en/act/pub/0036/index.html>

⁶ For the full text of the Waste Management (Landfill Levy) Order 2008: <http://www.irishstatutebook.ie/2008/en/si/0168.html>

⁷ Full text: <http://www.irishstatutebook.ie/1997/en/act/pub/0012/index.html>

⁸ DOE, Clean Neighbourhoods and Environment Consultation Document.

⁹ See Part 2 Clause 4 (8)

¹⁰ Waste Management Act (1996) section 71 http://www.bailii.org/ie/legis/num_act/1996/0010.html#zza10y1996s71

Areas	CNEA 2005 (England and Wales)	CNEB (Northern Ireland)	Environment and Clean Neighbourhoods Provisions in the ROI
	road as part of business.		<p>Storage and Disposal of Vehicles) Regulations 1983 Part II: Removal and Storage of Abandoned Vehicles: Any vehicles abandoned on a public road or car park may be removed by the road authority.</p> <p>Unlawfully parked cars: An illegally parked car may be removed by or on request of a member of the Garda Síochána or the road authority.¹¹</p>
Litter	<p>Act extends offence of dropping litter to all land, including private land and rivers, ponds and lakes.</p> <p>Local authorities:</p> <ul style="list-style-type: none"> • have new powers in the form of Litter Clearing Notices, which require businesses and individuals to remove litter from their land. • have stronger powers to require local businesses clear up litter generated through Street Litter Control Notices. • can restrict distribution of flyers, handouts and pamphlets. <p>Definition of litter extends to cigarette butts, cigars and chewing gum.¹²</p> <p>Abandoned trolleys:</p> <p>This is dealt with under the Miscellaneous Section 10 of the 2005 Act: Local authorities have the power to recover the costs of dealing with abandoned shopping trolleys from their owners.</p>	<p>Part 3:</p> <ul style="list-style-type: none"> • Makes it an offence to drop litter in a lake, pond or watercourse; • Strengthens provisions in respect of failing to provide name and address; • Gives Councils new powers (litter clearing notices) to require businesses and individuals to clear litter from their land; • Strengthens existing powers for Councils to require local businesses to help clear up litter they generate (street litter control notices); and • Enables Councils to restrict the distribution of flyers, hand-outs and pamphlets that can end up as litter. <p>Abandoned shopping and luggage trolleys:</p> <p>In order to encourage the recovery of abandoned trolleys, the NI Bill will give district councils the power to regain the costs of recovery from the</p>	<p>Litter Pollution Act 1997¹³, as amended by the Waste Management (Amendment) Act 2001 and the Protection of the Environment Act 2003 This provides new powers and duties to local authorities in regards to litter and fly tipping:</p> <p>Section 24 provides that leaving or throwing litter in a public place is an offence subject to an "on the spot fine" of €150 and maximum fine of €3,000 on conviction in the District Court. Council cost/expenses paid by the convicted.</p> <p>The definition of litter is widened to anything large or small that is likely to become unsightly. In regards to fly-tipping, the onus is upon the person whose name and address are located within fly tipped rubbish to prove they are not responsible for the litter.</p> <p>Section 6:</p> <ul style="list-style-type: none"> • Business owners have an obligation to clean up litter that is in front of or surrounding their premises (car parks) despite how the litter got there

¹¹ Road Traffic (Removal, Storage and Disposal of Vehicles) Regulations 1983
<http://www.irishstatutebook.ie/1983/en/si/0091.html>

¹² For full text of Clean Neighbourhoods and Environment Act 2005:
http://www.opsi.gov.uk/acts/acts2005/ukpga_20050016_en_1

¹³ Full text: <http://www.irishstatutebook.ie/1997/en/act/pub/0012/index.html>

Areas	CNEA 2005 (England and Wales)	CNEB (Northern Ireland)	Environment and Clean Neighbourhoods Provisions in the ROI
		trolley owners.	<ul style="list-style-type: none"> • Provides that commercial and residential occupiers of premises along a public road where there is a speed limit must keep the footpath outside their premises free from litter. • Prohibits persons from depositing any substance or object onto a roadway which would constitute as litter. This is to prevent people from transferring litter from the front of their premises onto the public road. <p>The Act also empowers local authorities to make general bye laws:</p> <ul style="list-style-type: none"> • requiring occupiers of specified premises to take measures limiting the creation of litter and provide for its removal, or • requiring that promoters of events attended by large numbers do the same (Sections 17 and 18)
Graffiti and Defacement	<p>Graffiti and Fly-Posting</p> <ul style="list-style-type: none"> • The Act extends graffiti removal notices to include fly-posting. • Local authorities have greater powers to tackle sale of spray paint to minors • The Act clarifies that all beneficiaries of fly-posting can face prosecution. • Local Authorities can recover the costs for removing illegal posters. <p>The Act (section 33) removes the obligation for a local authority to prove that the person consented to the display of an advertisement in contravention of the regulations; This makes it more difficult for the beneficiaries of fly posting to avoid prosecution by simply claiming they never consented to the advertisement.</p>	<p>Part 4:</p> <ul style="list-style-type: none"> • Gives councils the ability to issue fixed penalty notices to graffiti and fly-posting offenders; • Enables councils to serve “defacement removal notices” in respect of graffiti and fly-posting; • Makes it an offence to sell spray paints to children; • Makes it an offence to unlawfully display advertisements • Strengthens the legislation to make it harder for beneficiaries of fly-posting to evade prosecution. 	<p>Posters and Advertisements:</p> <p>Section 19 of the Litter Pollution Act prohibits signs being placed on structures (land, doors, gates, windows, trees, poles or posts) visible from a public place, unless written permission is given in advance from the owner or occupier.</p> <p>Graffiti</p> <p>Litter Pollution Act 1997:</p> <p>Section 19 makes it an offence to deface property without written consent from the owner/ occupier/person in charge. A local authority may enter and take the necessary remedial action.</p> <p>Section 20 enables a local authority to take action on graffiti, by serving a notice on the occupier requiring steps to</p>

Areas	CNEA 2005 (England and Wales)	CNEB (Northern Ireland)	Environment and Clean Neighbourhoods Provisions in the ROI
			<p>remove/ remedy the defacement within a specified period of not less than seven days. The local authority may give effect to the notice and recover costs. The local authority may also by arrangement with the occupier take steps to remedy the defacement. Penalties under the litter Acts range from an on-the-spot fine of €125 to a fine, on summary conviction, not exceeding €3,000 or, on indictment, a fine not exceeding €130,000.</p> <p>The Criminal Damage Act 1991: provides for the offences of damaging or defacing property. When gardai detect such offences, culprits are processed through the courts or via the juvenile liaison system, as appropriate.</p>
Waste	<p>Part 5 of the Act provides measures to improve the ability of local authorities to deal with fly-tipping, including:</p> <ul style="list-style-type: none"> • removing the defence of acting under instructions of employer; • increasing maximum penalties; • Local Authorities and Environment Agency have power to recover the costs of investigation and clear-up; and • Provisions extended to the landowner to clear up where there is no occupier. <p>Local Authorities and the Environment Agency have power to issue fixed penalty notices to the following:</p> <ul style="list-style-type: none"> • Businesses who fail to produce waste transfer notes • Waste carriers that fail to produce registration details or evidence that they do not 	<p>In NI, all powers concerning waste are dealt with under the Waste (Amendment) (Northern Ireland) Order 2007 which is already in action.</p>	<p>Local Government Act 2001¹⁴ and regulations made under the Waste Management Acts, 1996 to 2008, local authorities are provided with the power to make Bye laws governing the storage, presentation, segregation and collection of household waste within their area. These bye-laws include issues regulating that:</p> <ul style="list-style-type: none"> • Waste is stored in appropriate container or bin • Waste segregated at source according to collection service provided. • Waste will be presented to the collector in a proper manner. • There are enforcement provisions in the case of non-compliance. <p>Section 67 provides that Local Government is to “do such</p>

¹⁴ For full text: Local Government Act 2001: <http://www.irishstatutebook.ie/2001/en/act/pub/0037/index.html>

Areas	CNEA 2005 (England and Wales)	CNEB (Northern Ireland)	Environment and Clean Neighbourhoods Provisions in the ROI
	<p>need to be registered.</p> <ul style="list-style-type: none"> • Waste left out on streets outside specified collection times • Local Authorities have power to retain receipts from such penalties <p>More effective systems for stop, search and seizure of vehicles used in illegal waste disposal; enabling courts to require forfeiture of vehicles.</p> <p>Act establishes a new provision covering the waste duty of care and registration of waste carriers.</p> <p>There is a requirement for developers to include site waste management plans for construction and demolition projects.</p> <p>Repeals the divestment provisions for waste disposal functions – giving local authorities greater flexibility to deliver waste management services in the most sustainable way.</p> <p>Reform of recycling credits scheme to provide increased local flexibility and provide incentives for more sustainable waste management.</p>		<p>things as is necessary or desirable to promote the interests of the local community.” This is defined in the Act as including civic improvements, general environmental and heritage protection and improvement and the promotion of public safety. Section 71 of the Act further provides that there be “a unified local government service provided” alongside improving “customer service to the public generally.”¹⁵</p>
Dogs	<p>Dogs:</p> <p>A simplified system of Dog Control Orders replaced dog bye laws, and enables local Governments and District Councils to deal with fouling by dogs, banning dogs from designated areas, requiring dogs to be kept on a lead and restricting the number of dogs walked by one person.</p> <p>Local Authorities have sole responsibility for stray dogs (this responsibility had</p>	<p>Part 5:</p> <p>New arrangements in the Bill will introduce greater control by replacing the local byelaws system with one that is easier to operate by district councils. This includes the introduction of a new system of dog control orders which will enable councils to deal with:</p> <ul style="list-style-type: none"> • dog fouling; • the banning of 	<p>Dog Control legislation in the Republic of Ireland is established through The Control of Dogs Acts 1986 and 1992¹⁶ and provides that Local Government may make bye laws in regards to the control of dogs within their areas, specifying certain areas where owners must keep their dogs on a leash or where dogs are forbidden.</p> <p>The Act provides that dog owners must remove their pets'</p>

¹⁵ <http://www.irishstatutebook.ie/2001/en/act/pub/0037/sec0083.html#partix-chapv-sec83>

¹⁶ For full text of The Control of Dogs Act 1986 and 1992 see: <http://www.irishstatutebook.ie/1986/en/act/pub/0032/index.html> and respectively <http://www.irishstatutebook.ie/1992/en/act/pub/0013/index.html>

Areas	CNEA 2005 (England and Wales)	CNEB (Northern Ireland)	Environment and Clean Neighbourhoods Provisions in the ROI
	<p>previously been shared between the local authorities and the police)</p> <p>The 2005 Act replaces byelaws with new Dog Control Orders. Offences will include: dog fouling, not keeping dogs on a lead, and taking more than the specified number of dogs on a lead for one person.</p>	<p>dogs from designated areas;</p> <ul style="list-style-type: none"> • the requirement of dogs to be kept on a lead; and • the restriction of the number of dogs that can be walked by one person. 	<p>waste from public places and dispose of it in the appropriate manner. This obligation applies to:</p> <ul style="list-style-type: none"> • Public roads and footpaths • Areas around shopping centres • School and sport grounds • Beaches • The immediate area surrounding • another person's house • Excessive barking causing a nuisance to any person is an offence. <p>Protection of the Environment Act 2003 - Litter Wardens and Gardai are empowered through the Act to issue on the spot fines for dog related offences.</p>
Noise	<p>Noise</p> <p>Local authorities have stronger powers to:</p> <p>Deal with burglar alarms</p> <p>Impose fixed penalty fines on licensed premises that ignore warnings to reduce excessive noise levels.</p> <p>Local Authorities have greater flexibility in dealing with noise nuisance</p>	<p>The Bill will give district councils the power to deal with nuisance audible intruder alarms, and will extend provisions under the Noise Act 1996 dealing with noise from private premises to include noise from licensed premises. The aim is to provide a solution to noise problems caused by false alarms when the key holder is absent at the time, and when licensed premises ignore warnings to lower noise levels.</p>	<p>Environmental Protection Agency (EPA) Act, 1992:</p> <p>Any individual person/ local authority may complain to a District Court seeking an Order to deal with the noise nuisance (loud, continuous, repeated, of such pitch or duration or occurring at such times that it gives a person reasonable cause for annoyance).</p> <p>A complainant must notify the offender of their intention to make a formal complaint to the District Court. The District Court can order the person/ body making the noise to reduce it to a specific level, to limit it e.g. to specified times, or to stop it altogether.</p>
Statutory nuisances	<p>Dealt with under Section 10 Miscellaneous: The UK Act deals with nuisance of artificial lighting e.g. from</p>	<p>Part 7: Existing law under the Public Health (Ireland) Act 1878 is outdated being 131</p>	

Areas	CNEA 2005 (England and Wales)	CNEB (Northern Ireland)	Environment and Clean Neighbourhoods Provisions in the ROI
	<p>domestic and commercial security lighting, sports facilities, domestic decorative lighting, lazer shows etc. It also deals with nuisance insects coming from all premises other than domestic, to include poultry houses/farms, sewage treatment works etc.</p> <p>Difference: The NI Bill does not have similar provisions for this.</p>	<p>years old. Although the legislation has been amended over the years, it has not kept up with development is legislation in other jurisdictions. The Bill will bring provisions relating to the definition of statutory nuisance and the powers given to district councils into line with amendments made in England and Wales under the Clean Neighbourhoods and Environment Act 2005.</p>	
<p>Fixed Penalty Notices</p>	<p>Section2: Fixed Penalty Notices</p> <p>The Act makes greater use of fixed penalties as alternative to prosecution</p> <p>Mostly, the Act provides local authorities with power to set their own rates.</p> <p>Parish Councils have power to issue fixed penalties for litter, graffiti, fly posting and dog offences</p>	<p>Part 8: Miscellaneous and Supplementary</p> <p>The Bill will make greater use of fixed penalty notices as a deterrent and an alternative to court action. District councils will have the power to set their own fixed rates within upper and lower limits determined by the Department. At present, councils can use fixed penalty notices for littering, dog-fouling and some noise offences. In relation to this, the Bill aims to extend the use of fixed penalty notices to offences related to nuisance and abandoned vehicles, litter controls, other dog controls and additional noise controls. The Bill also makes provisions allowing the receipts from fixed penalty notices to be retained by Councils and used, for example, for the new functions in relation to audible alarms and noise statutory nuisance.</p> <p>Pollution offences: Amendments are made to the maximum fine in the Magistrates Court which adjusts the value from</p>	

Areas	CNEA 2005 (England and Wales)	CNEB (Northern Ireland)	Environment and Clean Neighbourhoods Provisions in the ROI
		<p>£30,000 to £50,000 for offences under the Pollution Prevention and Control Regulations (Northern Ireland) 2003, in relation to emissions from specified industrial premises and mobile plants. The increase in the maximum fine falls in line with the maximum stated under the Waste and Contaminated Land (Northern Ireland) Order 1997, in dealing with illegal waste activity, and the 2005 Act in England and Wales.</p>	

3 Contentious Areas

A consultation exercise was carried out by the Department of the Environment (the Department) on the proposed CNEB for Northern Ireland. The purpose of the exercise was to invite comments from interested stakeholders. There were 48 responses to the consultation and according to data from the Department:

- 42% were District Councils;
- 29% were associations/societies or other organisations;
- 12% were members of the public;
- 9% were local representatives;
- 4% were businesses; and
- 4% were from others.

According to the Department, many of the provisions in the draft Bill were welcomed by respondents, while at the same, there were a number of comments and observations concerning the detail and extent of the provisions. This section will look at both recurring issues throughout the Bill, and issues that are related to specific sections.

Tight Legislative Timetable

The Department states that the Northern Ireland Bill is amidst a very tight legislative timetable, and that it may not be possible to bring forward additional new provisions. The concern is that it would delay the progress on the Bill through the Assembly and prevent it becoming law before dissolution of the Assembly. Many of the responses from stakeholders have requested further guidance on issues that they consider are not clearly defined in the Bill. In some cases the Department's response to suggestions made, has been that greater detail will be provided in forthcoming subordinate legislation and guidance. This could also result in delays down the line due to the need for consultation on many pieces of subordinate legislation.

The following table shows suggestions and comments from stakeholders and the response from the Department which highlights:

- the Department's reliance on forthcoming subordinate legislation and guidance, and
- how the tight legislative time timetable is effecting the final content of the Bill, by not being able to add new provisions suggested by stakeholders.

For the purpose of this table, the responses from the Department are categorised into the following:

1. To be dealt with at a later stage through guidance/ subordinate legislation/regulations, subject to a consultation exercise in due course.
2. This is a significant proposal which would require detailed consideration and amendment to the Bill. Given the very tight legislative timetable it is not possible to bring forward significant new provision at this point. The matter will be clarified through guidance/regulations subject to consultation at a later date.

Area of Bill	Consultation Response	Department's Response
Vehicles	<p>Further guidance needed on the provisions under the Street Trading (NI) Act 2001 in relation to the sale of vehicles on a road</p> <p>Clarification and guidance required on when a vehicle has been abandoned and when it is fit for destruction</p> <p>Clear guidance is needed on the respective roles and duties of district councils, the PSNI and the Department for Regional Development in relation to abandoned vehicles</p> <p>Nuisance caused by vehicles parked on the street awaiting repair</p> <p>Nuisance caused by the parking of taxis where such an operation is run from domestic premises</p>	<p>Response 1</p> <p>Response 1</p> <p>Response 1</p> <p>Response 2</p> <p>Response 2</p>
Litter	<p>The amendment to the Litter (NI) Order 1994 Article 3 should include dropping litter into water, which would bring NI into line with the CNEA 2005 in England and Wales</p> <p>There was a request for a definitive description of the difference between litter, fly-tipping and illegal dumping</p> <p>Fixed Penalty Notices should be available for failing to provide name and address or providing false details</p> <p>The Department should set minimum and maximum levels of fines for littering prior to the commencement and implementation of the Bill and should consult on them.</p> <p>Street Litter Clearing Notices-the definition of 'occupier' needs to be clarified to confirm that it will include</p>	<p>Response 1+ Clause 14 of the new CNEB covers the dropping of litter in "any place".</p> <p>Response 1 + The department is also working with Councils to develop a Fly-tipping Protocol</p> <p>Response 2 + The Department also noted that Clause 15 of the CNEB increases the fine for such an offence from £200 to £1000</p> <p>Response 1</p> <p>Response 2</p>

Area of Bill	Consultation Response	Department's Response
	<p>persons actively exercising rights over the land.</p> <p>Request for the Bill to be expanded to include offices, commercial premises, cafes, bars etc to include cigarette litter, needs to be sufficiently broad enough to allow the owner and/or occupier to be served with the notice</p> <p>Requests for the abandoned trolley legislation to be extended to include baskets and cages</p> <p>Councils should be able to designate car parks as 'shopping trolley free zones' during supermarkets' closed hours</p> <p>Council powers should be extended in respect of all land within its boundaries</p>	<p>Response 1 + The Department intend to amend the Street Litter Control Notices Order (NI) 1995 No 42 (specifies the description of commercial or retail premises) to bring NI into line with England.</p> <p>Response 2</p> <p>Response 2</p> <p>Response 2</p>
Graffiti and Fly-posting	<p>Guidance required on what is meant by "the person who is responsible for the defaced surface" and "taking account of local circumstances".</p> <p>Powers for district councils to deal with any element of land/premises considered to be detrimental of the amenity of an area i.e. to mirror provisions of the Town and Country Planning Act 1990 s215.</p> <p>District councils to be given powers similar to section 149 of the Highways Act 1980/Article 59 of the Roads (NI) Order 1993 – removal of nuisance from a road.</p> <p>Introduction of fixed penalty for offence of selling aerosol paint to children</p> <p>Investigative/enforcement powers for offences of selling aerosol paint to children.</p>	<p>Response 1</p> <p>Response 2</p> <p>Response 2</p> <p>Response 2</p> <p>Response 2</p>
Dogs	<p>Exemptions should be made from Dog Fouling Orders for Registered Assistance dogs.</p> <p>The Bill should include some detail about the Dog Control Order consultation process.</p> <p>The Department will need to consult with district councils on the proposed Regulations associated with dog control orders.</p>	<p>Response 1</p> <p>Response 1</p> <p>Response 1</p>
Statutory Nuisance	<p>Clarification needed on whether poultry houses/farm buildings on agricultural land</p>	<p>Response 1</p>

Area of Bill	Consultation Response	Department's Response
	<p>are included within the term "relevant industrial trade or business premises"</p> <p>Guidance should be issued in respect of the new noise and statutory nuisance regime as in England and Wales</p>	Response 1
<p>Gating Orders: Approval Process</p> <p>Operational Issues</p> <p>Clarification on what can be gated</p>	<p>Guidance needed on requirements relating to local inquiries and the circumstances under which they must be held, and the element of discretion councils have to determine 'reasonableness' of objections.</p> <p>Unanswered questions around who will open and close gates, the DRD role, the need for neighbourhood approval, access for emergency services or impacts on rights of way. Clear guidance will be required.</p> <p>Strict criteria for this must be laid down as residents could make unrealistic demands</p> <p>Clarification on the difference between a back street (alley) and a walkway is required to deal with public expectations.</p>	<p>DRD states they do not have any guidance on the circumstances an inquiry must be held. It is hoped that objections can be dealt with by correspondence and meetings to avoid an inquiry.</p> <p>Response 1. DRD will contribute.</p> <p>DRD's response has no mention of guidance, but further guidance may be required.</p> <p>While DRD states that the Bill only provides for gating 'relevant roads' which are defined, guidance may be required.</p>

Partial Regulatory Impact

The Consultation document contained a partial Regulatory Impact Assessment, in which the Department was of the opinion that:

“taken as a whole, the proposals in the Bill would be cost-neutral to district councils. Indeed they could well lead to overall savings in district council costs through increased efficiency and effective, well-publicised, enforcement.”¹⁷

Respondents to the Consultation exercise have expressed general concerns regarding the perceived cost implications. However, the Department remains of the view that, with having regard to the Full Regulatory Impact Assessment on the corresponding Clean Neighbourhoods and Environment Act 2005, taken as a whole the Bill would be cost-neutral to district Councils. The Department’s reasoning behind this is that the Bill provides district councils with additional powers rather than duties. Therefore, district councils will only use these powers when it is considered as a net benefit to doing so in the local context. Where there are new duties e.g. relating to aspects of statutory nuisance and noise nuisance, the Department stresses that it is not possible to predict the level of complaints in this area, as it is unknown at this stage how often these powers will be utilised. At this stage the Department feels that it should be possible for Councils to deal with these issues through existing and well established structures, not causing any extra expense to councils. The Department intends to draw up a Full Regulatory Impact Assessment in due course.

Equality of Opportunity

Several responses to the consultation exercise from Children’s’ organisations disagreed with the Department’s view, as indicated in the Consultation Document¹⁸, that the provisions in the Bill do not impact on equality of opportunity. Concerns were expressed about:

- restrictions on children’s’ movement in relation to Gating Orders and the possibility of issuing fixed penalty notices to children, and the impact of banning the sale of spray paint to children under 16.
- Consideration of Gating Orders on the needs of those who are disabled.
- the consultation process itself and the absence of a formal policy development phase prior to the drawing up of the draft Bill.

¹⁷ Consultation document- Partial Regulatory Impact Assessment (Annex c) p.137

http://www.doeni.gov.uk/pdf_version_of_clean_neighbourhoods_consultation_document.pdf

¹⁸ Consultation Document -Equality Screening (Annex B) p.132

http://www.doeni.gov.uk/pdf_version_of_clean_neighbourhoods_consultation_document.pdf

A suggestion was also made that many of the issues in the draft Bill should be dealt with through the development of a regional strategy on community safety. All of the 3 children's organisations indicated that the progress of the legislation should be halted.

In response to the children's organisations, the Department emphasised that the main focus of the Bill is to improve the quality of our local environments and neighbourhoods, which in turn will improve the quality of life for all people in NI, including children.

The Department is willing to take a different approach to fixed penalty notices in relation to children and the development of detailed guidance on the issue, which will be subject to further consultation.¹⁹

The Department finalises its response by stating that it does not accept that the Bill has a significant negative impact on equality of opportunity on any of the groups specified in section 75 of the Northern Ireland Act 1998²⁰. Unfortunately, until further guidance is consulted on, this issue may remain inconclusive.

Gating Orders

Concerns were expressed amongst respondents in relation to the funding of the process. Under its Alley-Gating Scheme, Belfast City Council states that a gate for an average sized alleyway costs around £3000. The Council explains that the cost is high due to the specifications needed for the gates to be certified as being safe and fit for their purpose. The cost includes:²¹

DRD Road Service – Consent Costs: This covers the cost of repairing the surfaces of the entry if work is not carried out to a satisfactory standard. The minimum fee, set by the Roads Service, is £300 per gate. This is refunded if an inspection six months after installation of the gates finds the entry surfaces in satisfactory condition.

DRD Engineering / Technical Costs: DRD Guidance requires the gates to be checked by a Chartered Civil/Structural Engineer and certified as safe and fit for purpose.

Keys: Each resident, the emergency services and other service providers need keys to access the alleyway. The keys needed are specialised security keys which can only be cut under license.

Additional Security: Costs may also be necessary for additional work to secure, improve or build up the surrounding fencing or walls to secure the entry.

¹⁹Synopsis of Responses p.8 http://www.doeni.gov.uk/clean_neighbo...ynopsis_of_consultation_responses.doc

²⁰ Full text of Northern Ireland Act 1998 <http://www.legislation.gov.uk/ukpga/1998/47/contents>

²¹ See Belfast City Council – Alley gating Manual [online] available from:
<http://www.belfastcity.gov.uk/communitysafety/Docs/Alleygatingmanual.pdf>

Insurance: It is necessary to obtain insurance for the gates in the event of compensation claims arising from accidents that occur through usage of the gate.

Maintenance: Belfast City Council has estimated that the cost of maintaining the gates will be approximately £130 per gate per year. This may include: hinge condition, replacement of locks, spraying and painting. The council notes that if communities follow the manual guidelines,²² and they provide and install gates to the Council's specifications, they can apply to the Council who may assume long-term responsibility for maintenance and insurance.

DRD states in its response that it does not have any budgetary allocation for alley gating schemes. According to DRD, in 2002, the Minister at the time announced that funding for such schemes would lie with the local community to obtain before the scheme would advance. DRD also states that since funding is a matter for district councils, resourcing of the scheme would have to be taken forward by DOE and DFP.

During discussion of the CNEB by the Committee for Regional Development in September 2010, DRD explained that the legislation will restrict access to alleys and will not permanently extinguish a right of way. This is because the legislation deals with roads only. In some cases these may be the sole means of access to premises/dwellings/businesses, in which case gating would only take place during times when businesses etc will not be affected. During the discussion it was established that unadopted alleys are not covered by the legislation as DRD is not responsible for back alleys that are not roads. In these circumstances it is up to the owner of the premises running along the back of an alley and the owner of the alley to reach an agreement.²³

Graffiti and Fly-posting

It is worth noting that a number of responders suggested that District Councils should be given responsibility for taking prosecutions in respect of fly-posting offences. In agreement with this, the Department has said that it will include an amendment to the Bill during its progress through the Assembly to ensure that Planning Service powers to prosecute, both against the perpetrators and the beneficiaries, are made available to District Councils.

In England, ASBOs have been used to threaten imprisonment to those running commercial fly-posting operations. For example, Camden became fly posting free due to an ASBO conviction against the area's main perpetrator, Tim Horrox, MD of

²² Belfast City Council – Alley gating Manual [online] available from:

<http://www.belfastcity.gov.uk/communitysafety/Docs/Alleygatingmanual.pdf>

²³ Hansard, Committee for Regional Development's discussion of the CNEB 15/09/10)

http://www.niassembly.gov.uk/record/hansard_committees.htm

Diabolical Liberties.²⁴ However, according to the Northern Ireland Environment Link (NIEL),²⁵ this has been aided by section 1 of the CNEA, 'Crime and disorder reduction strategies'. This allows for strategies (such as ASBOs) to be applied to 'anti-social and other behaviour adversely affecting the local environment', for which fly posting would fall under.²⁶ In their response, NIEL highlights that this is not reproduced in the NI CNEB.

Under this section the Department stated that Clause 38, which requires a period of 2 days notice of a council's intention to remove or obliterate fly-posting or graffiti under Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, will be completely removed from the Bill²⁷

Some of the responses suggested that district councils should be given the necessary investigative powers to determine the person responsible for displaying a poster or causing it to be displayed. The Department is unclear as to what additional powers would be needed to identify the guilty person in cases where the poster does not display their name.²⁸

A number of concerns were raised in relation to the ban on the sale of aerosol paints, which some felt should be raised from 16 to 18 year olds. According to the Department this would be different from the UK which could lead to confusion amongst businesses and producers of aerosol paints. Also, the Department feels that 16-18 year olds may have legitimate cause for using aerosol paints, such as vehicle and house repair.²⁹

Dogs

The Kennel Club is concerned that provisions unfairly penalise responsible dog owners, and could lead to a major reduction in public access for dog owners. Their chief concern is the lack of a dog control order to require an owner to put their dog on a lead. In their opinion this approach would allow those with control of their dogs the freedom to enjoy off-lead access, whilst ensuring local authorities have the powers to deal with irresponsible owners. According to The Kennel Club, the CNEA (2005) in England and Wales already has provision for this in operation, as they state that it is

²⁴ At the time, Horrox's company Diabolical Liberties was thought to be the UK's largest flyposting firm, and reportedly had a turnover of £10m and 100 employees. Horrox was ordered to pay Camden Council £46,000 in court costs.

See: <http://www.camden.gov.uk/ccm/content/press/2005/press-releases-september-2005/flyposting-boss-ordered-to-pay-for-his-asbo.en> (Page last updated 21 April 2010, and accessed 08/09/10)

²⁵ NIEL (2010) Comments on the Consultation of the Draft CNEB NI.

[http://www.nienvironmentlink.org/cmsfiles/files/Publications/Draft-Clean-Neighbourhoods-+Environment-Bill-\(NI\).pdf](http://www.nienvironmentlink.org/cmsfiles/files/Publications/Draft-Clean-Neighbourhoods-+Environment-Bill-(NI).pdf)

²⁶ CNEA (2005) <http://www.legislation.gov.uk/ukpga/2005/16/contents>

²⁷ Synopsis of Responses p.19 http://www.doeni.gov.uk/clean_neighbo...ynopsis_of_consultation_responses.doc

²⁸ Ibid p21

²⁹ Ibid p.23

“one of the most sensible aspects of the Clean Neighbourhoods and Environment Act 2005 in England & Wales.”³⁰

Some respondents wish to retain the power to make byelaws in relation to dogs. The Department advises that the current system for making byelaws is very time consuming and unwieldy, and that the Dog Control Order system will be more streamlined and easier for councils to operate. This is an area that will need to be reviewed in due course, as it is not possible to assume how the new system will operate at this stage.

Vehicles

The PSNI suggested a reduction to the period of time before a vehicle can be disposed of under Articles 51 and 52 of the Road Traffic Regulations (NI) Order 1997, from 21 days to 7 days. In agreement with this, the Department has stated that new provisions will be included in the draft Bill to allow for the reduction of the period of time by regulations. This suggests that while the period will be reduced, the amount of reduction is not certain until a consultation exercise has been completed on the proposed regulations.

During a briefing from DRD to the Committee for Regional Development, issues were discussed in relation to nuisance parking. As it stands the Bill focuses on businesses that use the street or road to park vehicles for sale or businesses that repair vehicles causing oil leaks on the road. Members commented on the restriction of the Bill to those areas, and suggested the need to include provisions to deal with parking on footpaths, which can obstruct the use of them, causing particular nuisance to those with disabilities.

According to DRD, there is currently no specific law to prevent vehicles from parking on footways, but under certain circumstances it does constitute an offence. For example, article 30 of the Road Traffic (Northern Ireland) Order 1995 makes it an offence to park a heavy commercial vehicle on the footway. The PSNI can enforce legislation when a vehicle is parked on a footway and causes an obstruction or a danger to other road users, provided that the owner is present at the time.³¹

Statutory Nuisance

The NI Bill says that it will bring NI up to date with provisions in England and Wales, yet there are provisions in the CNEA which are not included in the NI Bill. These include provisions which deal with:

³⁰ The Kennel Club (13/07/10), ‘Northern Ireland Introduces the Clean Neighbourhoods and Environment Bill’ [online] <http://www.thekennelclub.org.uk/cgi-bin/item.cgi?id=3171&d=23&h=5&f=3> [accessed: 23/09/10]

³¹ Hansard, Committee for Regional Development’s discussion of the CNEB 15/09/10) http://www.niassembly.gov.uk/record/hansard_committees.htm

- nuisance of artificial lighting e.g. from domestic and commercial security lighting, sports facilities, domestic decorative lighting, lazer shows etc;
- Nuisance insects coming from all premises other than domestic, to include poultry houses/farms, sewage treatment works etc; and
- standards for overcrowding in a dwelling. According to the Department this is an issue for the Department for Social Development, which it intends raising the concern to.

Respondents requested that guidance should be issued in respect of the new noise and statutory nuisance regime in England and Wales. Production of guidance in relation to this will have to take account of the above differences in provisions between the NI Bill and the CNEA for England and Wales.

4 Possible lessons from the operation of the CNEA (2005) in England and Wales

The following section will look at suggestions to improve the new CNEA in England since its implementation in 2005.

Having had the CNEA established and running for 5 years, the experiences of England might highlight important lessons that can be considered in the implementation of the NI CNEB.

Utilisation of powers

Discussions at Keep Britain Tidy consultation events, and at a special plenary of the 2008 Cleaner, Safer, Greener Conference in Brighton, have commended the CNEA 2005 at improving the range of powers available to local authorities. However, the opinion of Keep Britain Tidy is that the overall impression is one of missed opportunity. Almost four years on from the implementation of the CNEA 2005, there are still questions as to whether local authorities are fully utilising these new powers and it is unclear whether public space management is a strategic consideration by the majority of local authorities.

Despite these concerns, according to Keep Britain Tidy, the use of the CNEA has been far more effective than the implementation of the Environmental Protection Act (EPA) 1990. Based on the annual ENCAMS survey of the implementation of the EPA.³²

³² Keep Britain Tidy (March 2010) Where Are We Now: A Reflection on Sixty Years of Keeping England Tidy: Evidence Paper 1 www.keeppbritaintidy.org/ImgLibrary/Evidence%20Paper%20One_1722.pdf

- Nine years after the introduction of the EPA, 74% of local authorities had not issued a fixed penalty notice for littering and only 22% had adopted a fixed penalty notice system (ENCAMS, 1999).
- Furthermore, by 1999 between 3-4% of local authorities had issued or set a Litter Control Area, Litter Control Order or Street Litter Control Notice whilst only 24% of local authorities had adopted a schedule regarding abandoned trolleys.

A review of the uptake of CNEA powers in 2007 (only 2 years since its implementation, in comparison to the nine year review of the EPA) states that:

- 77% of local authorities were using litter powers and 79% had issued a fixed penalty notice (ENCAMS, 2007).
- Litter Control Notices and Street Litter Control Notices have been adopted by 30% and 27% of local authorities respectively, whilst 25% have adopted a schedule regarding abandoned trolleys, 56% of local authorities had partnership agreements in place (ENCAMS, 2007).

Litter

Keep Britain Tidy has suggested in its paper 'Where Are We Now: A Reflection on Sixty Years of Keeping England Tidy' (2010)³³ that government should review the legislative framework surrounding littering from vehicles and the potential for introducing a penalty point on driving licences for littering offences. The current legislation does not allow the owner of the vehicle to be issued with a fixed penalty notice when the identity of the person littering from a vehicle is unclear.

Results from the Local Environmental Quality Survey of England (LEQSE)³⁴, conducted by Keep Britain Tidy on behalf of DEFRA, have shown a plateau in recent years in local environmental quality, for example, smoking litter has remained the most prevalent type of litter for the last four years, being present at 78% of sites surveyed in the latest LEQSE survey.

According to Keep Britain Tidy, the long-term impact of the indoor smoking ban is still to be determined but circumstantial evidence from local authorities suggests smoking related litter problems have increased around pubs, clubs and restaurants. In places such as Australia, Scotland, Ireland and America where indoor no-smoking policies

³³ Ibid

³⁴ Keep Britain Tidy, for DEFRA (2007/2008) *Local Environmental Quality Survey of England: Year 7 Report* http://www.KeepBritainTidy.org/ImgLibrary/Local%20Environmental%20Quality%20Survey%20of%20England%202007-2008_223.pdf

have been in existence longer, there are reports of increased cigarette litter (R.W. Beck, 2007).³⁵

Chewing Gum

It is a criminal offence for a person to drop, throw down, or otherwise deposit and then leave litter. The offence of littering is covered in Sections 87 and 88 of the Environmental Protection Act (EPA) 1990. This act has been updated and amended by the CNEA 2005 to make it clearer that the term 'litter' now includes smoking related litter and other discarded items such as chewing gum. However, according to the *Chewing Gum Position Paper* by the Welsh campaign: *Keep Wales Tidy*, the CNEA does not put any requirements on local authorities to clean impacted gum or stains. The paper also sites that a *Keep Wales Tidy* public opinion survey in summer 2003 showed that chewing gum staining on pavements was the fourth-worst local environmental quality factor in Wales out of 14 options: only litter, dog fouling and fly-tipping were more reviled by the Welsh public.³⁶

Before the CNEA had passed through Parliament, further additions were suggested in relation to addressing the problems of chewing gum, these included:

- How producers and consumers may be made jointly responsible for the disposal and remains of discarded chewing gum
- The introduction of a gum levy of one penny on each pack of chewing gum which would be fed back to local authorities. This was based on evidence from a survey of the 33 London Boroughs by the London Assembly Liberal Democrat Group which stated that 81% of people believe that chewing gum companies should concentrate on developing biodegradable gum and 53% didn't believe fines would reduce the amount of chewing gum discarded. It also stated that London Underground spent £2m a year and councils £2.3m per year on cleaning up gum (Sue Doughty MP, House of Commons, 2005, Col. 56-57c).³⁷

³⁵ RW Beck, for Keep America Beautiful. "Literature Review – Litter. A Review of Litter Studies, Attitude Surveys, and Other Litter-related Literature." July 2007. http://www.kab.org/site/DocServer/Litter_Literature_Review.pdf?docID=481

³⁶ www.keepwalestidy.org/1535.uploadfile.dld

³⁷ Keep Britain Tidy (March 2010) Where Are We Now: A Reflection on Sixty Years of Keeping England Tidy: Evidence Paper 1 www.keeppbritaintidy.org/ImgLibrary/Evidence%20Paper%20One_1722.pdf

Dogs

Dog fouling remains a problem in relation to the way it is disposed of. According to the latest LEQSE survey³⁸ there is an increase in the amount of bagged dog fouling, suggesting that facilities and education for the appropriate disposal of bagged dog fouling needs to be provided.

Unintentional Littering

According to the report by R.W Beck, there are generally two types of litter: accidental and deliberate litter. Accidental litter is material deposited unintentionally through poor management practices, such as items that fly out of open bed trucks. Plastic bag and foam litter can be blown off of trucks, out of overfull trash cans and dumpsters, and out of landfills.³⁹

Beck points out that a review of 31 American litter surveys from 1986 found that 65% of litter was deliberate while 36% was unintentional. Therefore, it is argued that a drop in overall littering in the USA is masking a suspected increase in unintentional litter over the past 15 years.

The increase in segmented waste collection through separate waste and recycling collection may also have had an impact on litter levels over the last 20 years. R.W. Beck argues that recycling programs which proliferated between 1988 and 1994 in the USA have created twice the number of vehicles collecting materials from residential areas. Without strict controls on the source separation of recyclables at the kerb-side, this could also prove to be a potential problem for NI.

Keep Britain Tidy has suggested that whilst there may be difficulties in identifying accidental and deliberate litter, "*it would seem prudent to utilise this approach in future surveys of England to investigate the impact of the increase in household recycling schemes on litter levels in England.*"⁴⁰

³⁸ Keep Britain Tidy, for DEFRA (2007/2008) *Local Environmental Quality Survey of England: Year 7 Report* http://www.KeepBritainTidy.org/ImgLibrary/Local%20Environmental%20Quality%20Survey%20of%20England%202007-2008_223.pdf

³⁹ RW Beck, for Keep America Beautiful. "*Literature Review – Litter: A Review of Litter Studies, Attitude Surveys, and Other Litter-related Literature.*" July 2007. http://www.kab.org/site/DocServer/Litter_Literature_Review.pdf?docID=481

⁴⁰ Keep Britain Tidy (March 2010) *Where Are We Now: A Reflection on Sixty Years of Keeping England Tidy: Evidence Paper 1* www.KeepBritainTidy.org/ImgLibrary/Evidence%20Paper%20One_1722.pdf

