

AMENDMENTS TO THE SCHEME OF DELEGATION TO OFFICERS

Clean Neighbourhoods and Environmental Protection Act 2005

1. Vehicles

The Head of Street Scene and Liveability to have delegated power to authorise officers and other suitably qualified support staff to:

- (a) Under Section 6 to issue fixed penalty notices for the offences of exposing vehicles for sale or repairing a vehicle on the road.
- (b) Sub-Section 8 fixes the amount of the penalty at £100 which can be amended under Sub-Section 9.
- (c) To authorise an officer under Section 2A to issue a fixed penalty notice set at £200 in respect of an offence of abandoning a vehicle.
- (d) Under Section 11 authorise officers under Section 11 to issue notice of removal of vehicles immediately.
- (e) Under Section 12 authority to dispose of abandoned vehicles immediately where neither a registration mark or current licence is displayed.
- (f) Under Section 15 authority to issue notices of removal.

2. Litter and Refuse

The Head of Street Scene and Liveability to have delegated power to authorise officers and other suitably qualified support staff to:

- (a) Under Section 19 authority to issue fixed penalty notices for the offence of dropping litter. Where the authority sets no amount the fixed penalty shall be £75.
- (b) Under Section 20 the authority to issue and serve litter clearing notices.
- (c) Under Section 92c authority to enter the land to remove litter and refuse where an offence has been committed and the litter clearing notice has not been complied with.
- (d) Under Section 21 authority to issue street litter control notices requiring occupiers of premises to deal with litter and refuse.
- (e) Under Section 22 authority to issue fixed penalty notices for failing to comply with street litter control notices.
- (f) Under Section 23 authority to make orders to designate areas to control the distribution of printed matter.

- (g) Under Section 23 authority to issue consents for the distribution of free literature in a designated area.
- (h) Authority to seize the material when an offence is committed.
- (i) Authority to issue a fixed penalty notice for this offence. The fixed penalty is set at £75 when no amount is set by an authority.
- (j) Fixed penalty notices associated with the offence of dropping litter, litter clearing notices, street litter control notices and the distribution of printed matter.

3. Graffiti and Other Defacement

The Head of Street Scene and Liveability to have delegated power to authorise officers and other suitably qualified support staff to:

- (a) Authority to issue fixed penalty notices for the offences of graffiti and fly posting. Where no amount is specified by a local authority the base amount is £75.
- (b) Authority to issue removal notices requiring the removal of graffiti and fly posters under Section 31.
- (c) Under Section 32 authorise appropriate officers to have a programme of enforcement action under its local weights and measures powers to deal with the offence of selling aerosol paints to persons aged under 16 under Section 54 of the Anti-Social Behaviour Act 2003.
- (d) Under Section 34 authority to serve notices for removal of illegally displayed placards and posters and to recover the costs of removal.
- (e) Authority to enter premises for removal purposes.

4. Waste

The Head of Street Scene and Liveability to have delegated power to authorise officers and other suitably qualified support staff to:

- (a) Under Section 42 the power to incur investigation and enforcement costs associated with the seizure of vehicles involved in the offence under Section 33 of the Environmental Protection Act 1990 relating to the unauthorised or harmful deposit of waste and to claim those costs in Court proceedings.
- (b) To incur costs in dealing with the removing of waste that has been illegally deposited and to claim those costs in any Court proceedings under the Environmental Protection Act 1990.
- (c) Under Section 44 the power to accept by order of a Court exercising its powers within the Environmental Protection Act 1990 possession of forfeited vehicles and their contents.

- (d) Under Section 45 the power to issue fixed penalty notices set at £300 for the failure to comply with a requirement to furnish documents under regulations made under Section 34 of the Environmental Protection Act 1990.
- (e) Under Section 46 the power to seize a vehicle and its contents where it is reasonably believed that the vehicle has been, is being or is about to be used in the commission of an offence under Sections 33 or 34 of the Environmental Protection Act 1990.
- (f) Under Section 46 the power to use notices under Section 71(2) of the Environmental Protection Act 1990 to include functions conferred by new Sections 34C and 34D of the 1990 Act.
- (g) Under Section 48 the power to issue a fixed penalty notice where the authority has reason to believe that a person has committed an offence under Sections 46 or 47 of the 2005 Act. Fixed penalty is set at £100 where no amount is set by an authority.
- (h) Under Section 50 the power to issue notices to require the owner of land to remove waste and where an owner fails to comply with requirements of the notice the authority to enter the land, remove the waste or take such specified steps and recover the costs of doing so from the owner or occupier of land.

5. Dogs

The Head of Street Scene and Liveability to have delegated power to authorise officers and other suitably qualified support staff to:

- (a) Under Section 55 power to make dog control orders.
- (b) Power to issue fixed penalty notices in respect of offences provided for. Where no amount is specified at the local level the fixed penalty is set at £75.00.

6. Noise

The Head of Street Scene and Liveability to have delegated power to authorise officers and other suitably qualified support staff to:

- (a) Under Section 69 the power to designate alarm notification areas requiring the occupier/owner of any premises to notify the local authority of the details of the keyholder for the premises.
- (b) Under Section 70 the power to withdraw a designation made under Section 69.
- (c) Under Section 73 the power to issue a fixed penalty notice for the offence of failing to nominate or to notify a keyholder to the local authority with the specified time period.

- (d) Under Section 74 the power to adopt regulations governing the power of the local authority to set local fixed penalty rates and circumstances in respect of which a local authority may provide reduced early payments.
- (e) Under Section 75 to adopt regulations allowing the local authority to retain the receipts arising from fixed penalty notices under regulations about how local authorities can use their penalty receipts.
- (f) Under Section 77 the power for an authorised officer to enter a property in order to silence an intruder alarm.
- (g) Under Section 78 the power for an authorised officer to enter premises using reasonable force following the issue of a warrant by a Justice of the Peace.
- (h) Under Section 79 the power for the local authority to recover expenses reasonably incurred by it in connection with entering the premises and silencing the alarm.
- (i) Under Section 82 the authority to issue fixed penalty notice for an offence committed under the Noise Act 1996 which permitted a local authority to deal with noise exceeding permitted levels up from only dwellings at night time.

Section 82 enables the local authority to set the level of fixed penalty in its area. The fixed penalty is set at £100 where no amount is specified by a local authority.

- (j) Section 84 amends the Noise Act 1996 extending its effect to certain licensed premises as well as dwellings. Under Section 84 the power to issue fixed penalty notice where the alleged offence relates to licensed premises, the amount of the fixed penalty will be fixed at £500 and no power for a local authority to set an alternative.
- (k) Section 83, power to adopt the provisions dealing with the use by local authorities of receipts from fixed penalty notices given under Section 8 of the Noise Act 1996 above.
- (l) Under Section 84 power to take action to deal with noise at night in respect of licensed premises to issue a fixed penalty notice in respect of licensed premises set at £500 with no power for a local authority to set an alternative rate in its area for an offence committed under the Noise Act 1996 Section 4a.
- (m) Under Section 86 amending Section 80 of the Environmental Protection Act 1990, power to a local authority to defer the issuing of an abatement notice in respect of noise.

7. Miscellaneous

Use of fixed penalty receipts

Delegated to all Heads of Service :

Under Section 86 the power for a local authority to use for certain functions the monies received from fixed penalty notices they issue in respect of certain offences relating to litter, graffiti, fly posting and dog control offences. The power to use its fixed penalty receipts only for the purpose of “qualifying functions” of an authority are:

- (1) Its functions under Part 4 of the Environmental Protection Act 1990.
- (2) Its functions under Section 43 of the Anti-Social Behaviour Act 2003.
- (3) Its functions under Part 6 of the 2005 Act.
- (4) Such of its functions as may be specified in regulations made by the appropriate person.

8. Shopping and Luggage Trolleys

To Head of Street Scene and Liveability :

Under Section 99 which amends Schedule 4 to the Environmental Protection Act 1990, power to enable a local authority to charge the person believed to be the owner of an abandoned shopping or luggage trolley for its removal, storage and disposal.

9. Statutory Nuisances

To the Head of Street Scene and Liveability to have the power to deal with the following nuisances:

- (a) Under Section 101 amending Section 79 of the Environmental Protection Act 1990 so as to include in the statutory nuisances listed in that section “insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance.
- (b) Under Section 102 amending Section 79 of the Environmental Protection Act 1990 so as to provide that the statutory nuisances listed in that section including “artificial light emitted from premises so as to be prejudicial to health or a nuisance”.

Gambling Act 2005

To amend the Constitution to delegate all the Council’s functions under the Gambling Act 2005 to the Licensing Committee of the Council in accordance with Section 154 of the Gambling Act 2005 except; (which shall remain the function of the Full Council).

The duty to publish a statement of Licensing policy under s349 of the Act. A resolution whether to issue any Casino licences in the Borough of Rossendale under s166 of the Act.

The setting of fees for licences under 212 of the Act.

The draft policy/draft report on Licensing Policy / Casino Licences to be taken through Cabinet for comment before being recommended for approval by Full Council.

Appendix 1 of the Constitution will refer to these pieces of legislation and the Anti Social Behaviour Act 2003