

BALLYMONEY BOROUGH COUNCIL
HEALTH AND ENVIRONMENTAL SERVICES COMMITTEE MEETING No. 322
24th OCTOBER 2006

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BALLYMONEY BOROUGH COUNCIL

Minutes of Health & Environmental Services Committee Meeting No 322 held in the McKinley Room, Riada House, Ballymoney, on Tuesday, 24th October 2006 at 5.00 pm

IN THE CHAIR

Councillor E Robinson

PRESENT**Aldermen**

F Campbell

C Cousley

Councillors

A Cavlan

J Finlay

B Kennedy

M McCamphill

D McKay

T McKeown

A Patterson

I Stevenson

R Wilson

APOLOGIES**Councillors**

P McGuigan

M Storey

IN ATTENDANCE

Deputy Director of Borough Services

Clerical Assistant

Head of Building Control (322.2 No: 18)

Alderman James Simpson

322.1 MINUTES OF MEETING NO. 321 – 26th September 2006

It was proposed by Councillor Finlay, seconded by Alderman Campbell and **AGREED:**

that the minutes of Committee Meeting No. 321 held on 26th September 2006, as circulated, be confirmed as a correct record.

ENVIRONMENTAL PROTECTION**322.2 WATER (NI) ORDER 1999 – APPLICATION FOR CONSENT TO DISCHARGE EFFLUENT**

Notification has been received from EHS Water Management Unit advising that the undernoted application for consent to discharge effluent to the underground stratum has been made.

Armoys Homes Ltd. re. 2 sites at Calhame Bridge, Gracehill, Ballinlea Road, Stranocum, Ballymoney, BT53 8PZ.

As EHS will set levels as to the quality of effluent to be discharged *IT IS RECOMMENDED* that Council note the application.

It was proposed by Councillor Stevenson, seconded by Councillor Finlay and **AGREED:**

to recommend that Council note the application

322.3 DRAFT SMOKE-FREE (GENERAL PROVISIONS) REGULATIONS (NORTHERN IRELAND) 2007
DRAFT SMOKE-FREE (EXEMPTIONS, VEHICLES, PENALTIES AND DISCOUNTED AMOUNTS) REGULATIONS (NORTHERN IRELAND) 2007

The above Regulations have been issued for consultation by questionnaire, with responses to be received no later than 3rd November 2006. A response to this has been prepared by the Northern Group Chief Environmental Health Officers Forum (NCEHOF) Tobacco Task Group, which may be found in Appendix 1, page 15 to this report along with a summary of the Regulations.

It is **RECOMMENDED** that Council follow the approach taken by the NCEHOF Tobacco Task Group and respond to the consultation.

It was proposed by Councillor Stevenson, seconded by Councillor Finlay and **AGREED:**

to recommend that Council follow the approach taken by NCEHOF Tobacco Task Group and respond to the consultation.

322.4 AIR QUALITY MONITORING STATION
ALEXANDRA AVENUE, BALLYMONEY.

Further to Committee Minute 311.4.8 Members may recall agreeing to accept a lease to allow use of the land for a 5 year period, at a yearly rent of £60.00 (if demanded). Correspondence has recently been received from the Northern Ireland Housing Executive advising of an error in the land valuation. This has been revalued at £20.00 per annum (if demanded).

IT IS RECOMMENDED that Ballymoney Borough Council accept the revised valuation of lands to ensure the continuance of the operation of the Air Quality Monitoring Station.

It was proposed by Councillor Finlay, seconded by Councillor Wilson and **AGREED:**

to recommend that Ballymoney Borough Council accept the revised valuation of lands to ensure the continuance of the operation of the Air Quality Monitoring Station.

Councillor Cousley arrived at the meeting at 5 05 pm

ENVIRONMENTAL SERVICES

322.5 BLUE BIN – RECYCLING AT HOME

A number of enquiries have been received by the Department from large households [6 or more persons continually in residence] seeking permission to present 2 blue 240 litre recycling bins on the appropriate collection day. Members are asked to consider extending the exemption available to large households allowing the collection of 2 grey bins on alternate weeks to include blue recycling bins. The Household Refuse Collection Service Rules adopted at Council Meeting [CM 761] would apply. Large households who wish to avail of this service would be required to purchase a second blue recycling bin to supplement the first one supplied free of charge by the Council.

IT IS RECOMMENDED that Council agree to the collection of 2 blue recycling bins from large households on alternate weeks if requested.

It was proposed by Councillor Stevenson, seconded by Councillor Finlay and **AGREED:**

to recommend that Council agree to the collection of two blue recycling bins from large households on alternate weeks if requested.

322.6 BLUE BIN – RECYCLING IN THE COMMUNITY

At its meeting on 6th December 2004 [CM 793], Council accepted the following recommendation from its Health & Environmental Services Committee [HES 298, 30th November 2004] that the 'blue bin' recycling scheme in schools be extended to church and community group premises. Owing to the ongoing success of the scheme Members are invited to consider further extending the Council's 'blue bin' recycling scheme to Sports and Social Clubs operating from their own premises. Members are asked to note that Sports and Social Clubs who chose to participate in the scheme will be required to adhere to the same rules which apply to the Council's 'blue bin' recycling services.

IT IS RECOMMENDED that Council extend its 'blue bin' recycling scheme to Sports and Social Clubs with their own premises.

It was proposed by Councillor Finlay, seconded by Councillor Stevenson and **AGREED:**

to recommend that Council extend its 'blue bin' recycling scheme to Sports and Social Clubs with their own premises.

FOOD CONTROL

322.7 FOOD COMPLAINT NO. FC/805/C/06/06 – STONE IN STEW

During the report period 1 no. formal food complaint investigation was completed. The complainant will be advised in writing as to the outcome of the department's investigation.

Ref. No.	Nature of Complaint	Date Received
FC/805/C/06/06	Stone in Stew	09.10.06

IT IS RECOMMENDED that legal proceedings are not instituted in relation to the complaint and that an informal warning letter is sent to the manufacturer along with informing the complainant in writing of the outcome of the investigation.

It was proposed by Councillor Finlay, seconded by Councillor Stevenson and **AGREED:**

to recommend to Council that legal proceedings are not instituted in relation to the complaint and that an informal warning letter is sent to the manufacturer along with informing the complainant in writing of the outcome of the investigation.

Councillor McKay left the meeting at 5:08 pm

HEALTH & SAFETY AT WORK

322.8 Petroleum (Regulation) Acts (Northern Ireland) 1929 and 1937 PETROLEUM SPIRIT LICENCE (RENEWAL)

Application has been received for the renewal of petroleum spirit licences as follows:-

<u>Premises</u>	<u>Applicant</u>
136 Corkey Road Loughguile BALLYMENA BT44 9JQ	Ms. M McCamphill
CB Fuels 33A Bridge Road Dunloy BALLYMENA BT44 8AN	Mr. C Bradley

The renewal of licences as detailed above is **RECOMMENDED** and in the case of 136 Corkey Road subject to the receipt of a satisfactory electrical test certificate.

It was proposed by Councillor Stevenson, seconded by Councillor Finlay and **AGREED:**

to recommend that Council renew the above licence

LICENSING**322.9 Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 - LICENCE APPLICATION (FULL) (RENEWAL)**

Premises	Applicant
Town Hall, 1 Townhead Street, BALLYMONEY BT53 6BE.	Mr. Jim Graham
Minor and Main Sports Halls, Joey Dunlop Leisure Centre, 33 Garryduff Road, BALLYMONEY, BT53 7DB.	Mr. Paul Lyness
Social Centre, 12 Edward Street, BALLYMONEY, BT53 6JE.	Mr. Jim Graham
Rasharkin Community Centre, Drumbolcan Park, Duneaney Road, Rasharkin, BALLYMENA.	Mr. Jim Graham

<u>Premises</u>	<u>Applicant</u>
The Imperial Bar, (Public Bar and Lounge), 58 Main Street, BALLYMONEY, BT53 6AL.	Ms. Jacqueline Blair
Blackwater Bar/Restaurant, 250/252 Castlecatt Road, Dervock, BALLYMONEY, BT53 8BP.	Mr. Stephen McKillop

IT IS RECOMMENDED that the Borough Council renew the Indoor Entertainment's Licence as detailed above. In addition to the Borough Council's "Conditions of Licence" adopted on 7th October 1985 the additional conditions detailed on the premise file also apply.

It was proposed by Councillor Stevenson, seconded by Councillor Cavlan and
AGREED:

to recommend that Council renew the Indoor Entertainments Licences as above.

Councillor McKeown arrived at 5 10 pm

OFFICER AUTHORISATIONS

322.10 THE FOOD SAFETY (NI) ORDER 1991 THE FOOD HYGIENE REGULATIONS (NI) 2006

Further to report item 312.22 (24th January 2006) it is necessary to update and extend those officers authorized to discharge the functions of the above legislation on behalf of the authority. This supplements Committee Minute 272.3.11.2 (29th October 2002) authorising Northern Group Systems staff in this regard.

IT IS RECOMMENDED that the undernoted officers be appointed to exercise all the powers of an authorised officer in respect of:-

- (a) The Food Safety (Northern Ireland) Order 1991 as amended (specifically articles 8, 9, 29, 30 and 33).
- (b) Any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972.
- (c) Any modification or re-enactment to the foregoing.
- (d) The Food Hygiene Regulations (Northern Ireland) 2006 (Specifically Regulations 6, 8, 12, 13, 14 & 25).

John Campbell Michael
Bryan Edgar
Judith Carolyn Freeburn
Lynne O'Brien
Olive Valerie Ann McWilliams (Northern Group Systems)
Trevor Purce (Northern Group Systems)
Helena Quinn (Northern Group Systems)

And furthermore hereby indemnifies the above Officers as provided for by Section 48 of the Local Government Act (Northern Ireland) 1972.

It was proposed by Councillor Stevenson, seconded by Councillor Cavlan and
AGREED:

to recommend that the above officers be appointed to exercise all the power of an authorised officer in respect of the above.

322.11 APPOINTMENT OF DISTRICT ENVIRONMENTAL HEALTH OFFICER

Mr. Damien John Gavin has been appointed as a District Environmental Health Officer and will commence his employment on the 1st December 2006. In that regard the following recommendations are made concerning officer authorisation.

IT IS RECOMMENDED that the Borough Council gives effect to the following resolutions:

that Damien John Gavin, District Environmental Health Officer

be authorised generally to exercise within the Ballymoney Borough the functions powers and duties exercisable by persons so authorised contained in the undernoted legislation or any amendment thereof made from time to time, or in any statutory instrument, regulation or byelaw made thereunder:-

The Public Health (Ireland) Acts 1878-1967
 The Rag Flock Act 1911
 The Rats and Mice (Destruction) Act 1919
 The Petroleum (Regulation) Acts (Northern Ireland) 1929 and 1937
 The Hairdressers Act (Northern Ireland) 1939
 The Caravans Act (Northern Ireland) 1963
 European Communities Act 1972, and any orders or regulations made thereunder
 The Local Government Act (Northern Ireland) 1972
 The Poisons (Northern Ireland) Order 1976
 The European Communities Poultry Meat (Hygiene) Regulations (Northern Ireland) 1977
 The Pollution Control and Local Government (Northern Ireland) Order 1978
 The Rent (Northern Ireland) Order 1978
 The Clean Air (Northern Ireland) Order 1981
 The Dogs (Northern Ireland) Order 1983
 The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985
 The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985
 The Materials in Contact with Food Regulations (Northern Ireland) 1987
 The Cinemas (Northern Ireland) Order 1991
 The Food Safety (Northern Ireland) Order 1991 (Article 8, 29, 30 and 33)
 The Litter (Northern Ireland) Order 1994
 Imported Food Regulations (NI) 1997
 Shops (Sunday Trading &c.) (Northern Ireland) Order 1997
 The Waste and Contaminated Land (Northern Ireland) Order 1997
 The Products of Animal Origin (Import and Export) Regulations 1998
 The Street Trading (Northern Ireland) Act 2001
 The Products of Animal Origin (Third Country Imports) (NI) Regulations 2002
 All Council Byelaws
 The Food Hygiene Regulations (Northern Ireland) 2006 (specifically Regulations 12, 13, 14 & 25)
 Safety of Sports Grounds (Northern Ireland) Order 2006 (specifically articles 22 and 23) together with any Order or Regulations made thereunder.

and furthermore hereby indemnifies the above officer as provided for by Section 48 of the Local Government Act (Northern Ireland) 1972.

HEALTH & SAFETY

The Ballymoney Borough Council in exercise of the powers conferred on it by Article 21(1) of **The Health & Safety at Work (N.I.) Order 1978** hereby appoints

Damien John Gavin, District Environmental Health Officer

as Inspectors of Health & Safety for carrying into effect the relevant statutory provisions (as defined in that order) within the Councils field of responsibility and specifies that she may in that connection exercise the powers conferred on an inspector by Article 22(2)(a) to (m) inclusive and furthermore hereby also indemnify the aforesaid officer as provided for by Article 28 of the said order.

FOOD and ENVIRONMENT PROTECTION ACT

Having been authorised by the Department of Agriculture for Northern Ireland under Section 19(1) of **The Food and Environment Protection Act 1985** to enforce part III of the Act the Ballymoney Borough Council in exercise of its powers under Section 47(A) of the Local Government Act (Northern Ireland) 1972 hereby delegates to the undernoted officer.

Damien John Gavin, District Environmental Health Officer

and furthermore hereby indemnifies the above officer as provided for by Section 48 of the Local Government Act (Northern Ireland) 1972.

INDUSTRIAL POLLUTION CONTROL

IT IS RECOMMENDED that Ballymoney Borough Council in exercise of the powers conferred on it by Article 16(5) of the Industrial Pollution Control (NI) Order 1997, that the undernoted officer is appointed as an inspector having suitable qualifications as necessary for carrying the Pollution Control Statutory provisions (as defined by Article 17(12)) and which include the above Order and any statutory instrument or Regulation made under such provisions) into effect in relation to prescribed processes for local control and that they may exercise all the powers conferred on an inspector by Articles 17 and 18 of the said Order.

Damien John Gavin, District Environmental Health Officer

IT IS FURTHER RECOMMENDED that Ballymoney Borough Council in exercise of its powers under Section 47(A) of the Local Government Act (Northern Ireland) 1972 as amended by Article 26 of the Local Government (Miscellaneous Provisions) (N.I.) Order 1985 hereby delegates to the undernoted officer being a proper and competent person to exercise the delegated powers or duties, the following powers and duties of the Council under the Industrial Pollution Control (N.I.) Order 1997.

Damien John Gavin, District Environmental Health Officer

- (a) Articles 6 to 12 inclusive, where no objections or representations have been received from any person (duty to determine applications for authorisations, applications for variation of conditions, and power to issue, revoke or vary authorisations).
- (b) Article 13 (service of enforcement notices)
- (c) Article 14 (service of prohibition notices)

- (d) Article 19 (service of information notices)
- (e) Article 20 (public register maintenance)
- (f) Article 22 (commercial confidentiality determination within fourteen days)

and furthermore hereby indemnifies the above officer as provided for by Section 48 of the Local Government Act (Northern Ireland) 1972.

CONSUMER PROTECTION

The Ballymoney Borough Council in exercise of the powers conferred on it by virtue of the Consumer Protection Act 1987, the Construction Products Regulations 1991 and the General Product Safety Regulations 1994 (the latter two measures having been made under the provisions of the European Communities Act 1972) hereby appoints:

Damien John Gavin, District Environmental Health Officer

and generally authorises the said officer to exercise the powers of an authorised officer and specifically authorises the aforesaid officer in accordance with Section 28 of the Consumer Protection Act 1987 to:

- (a) make any purchases of any goods; and
- (b) secure the provision of any services, accommodation or facilities;

and in accordance with Regulation 16 of the Construction Product Regulations 1991 to make any purchase of any construction products;

and furthermore that Ballymoney Borough Council in exercise of its powers under Section 47A of the Local Government Act (Northern Ireland) 1972 delegates to the undernoted officers:

Damien John Gavin, District Environmental Health Officer

the power to serve suspension notices in accordance with the provisions of Section 14 of the Consumer Protection Act 1987 and Regulation 10 of the Construction Products Regulations 1991.

and furthermore hereby indemnifies the above officer as provided for by Section 48 of the Local Government Act (Northern Ireland) 1972.

Pollution Prevention Control Regulations (NI) 2003

IT IS RECOMMENDED that the Borough Council gives effect to the following resolution:

The Ballymoney Borough Council in exercise of the power conferred by Regulation 8(5) of the Pollution Prevention and Control Regulations (NI) 2003, hereby recommend that the undernoted officer is appointed as Inspector having suitable qualifications as necessary for carrying out the pollution control statutory provisions [as defined by Regulation 27 (12) and which include the above Regulations] into effect in the Ballymoney Borough in

relation to prescribed activities designated as Part C installations, and that they may exercise all the powers conferred on an Inspector by Regulation 27 of the Pollution Prevention and Control Regulations(NI) 2003, and shall be indemnified as provided for by Reg 8 (6) of the said Regulations.

Damien John Gavin, District Environmental Health Officer

In exercise of its powers under Section 47 (A) of the Local Government Act 1972 as amended by Article 26 of the Local Government (Miscellaneous Provisions) (NI) Order 1985, it is recommended that the Council hereby delegates to the undernoted officer being proper and competent person to exercise the delegated powers or duties, the following powers and duties of the Council under the Pollution Prevention and Control Regulations (NI) 2003.

Damien John Gavin, District Environmental Health Officer

- (a) *Regulations 10-17 inclusive, (where no objections or representations have been received from any person) (duty to determine applications for permits, applications for variation of conditions, and powers to issue or vary permits)*
- (b) *Regulation 18 (transfer of permits)*
- (c) *Regulation 20 (surrender of permits)*
- (d) *Regulation 21/22 (revocation of permits)*
- (e) *Regulation 23 (duty to ensure compliance)*
- (f) *Regulation 24 (service of enforcement notices)*
- (g) *Regulation 25 (service of suspension notices)*
- (h) *Regulation 26 (power to prevent or remedy pollution)*
- (i) *Regulation 29 (service of information notices)*
- (j) *Regulation 30 and 31 (public register maintenance)*
- (k) *Regulation 32 (commercial confidentiality determination)*

The officer named in this paragraph shall be duly authorised under Section 124 of the Local Government Act (N.I.) 1972 to authenticate notices, orders or other documents arising from the above powers and duties, and indemnified as provided for by Section 48 of the said Act.

The Environment (Northern Ireland) Order 2002

In exercise of the power conferred by Article 19 of the Environment (Northern Ireland) Order 2002, **IT IS RECOMMENDED** that the undernoted officer is authorised as person having suitable qualifications as necessary for carrying out the pollution control statutory provisions [as defined by Article 27 and which include Part III of this Order and Regulations made under it] into effect in the Ballymoney Borough, and that they may exercise all the powers conferred on an authorised person by Article 19 of the Environment (Northern

Ireland) Order 2002, and shall be indemnified as provided for by Section 48 of the Local Government Act (NI) 1972.

Damien John Gavin, District Environmental Health Officer

Authentication of Documents

In order to implement the above policy in relation to late applications for Street Trading Licences only and in accordance with the provisions of Section 124, of the Local Government Act (Northern Ireland) 1972, **IT IS RECOMMENDED** that the undernoted officer be duly authorised to authenticate notices, orders or other documents arising from the duties and responsibilities within the remit of the Councils Health and Environmental Services Department and that they be indemnified as provided for by Section 48 of the said Act.

Damien John Gavin, District Environmental Health Officer

IT IS FURTHER RECOMMENDED that the said officer be provided with a duly authenticated warrant card as proof of identification and authorisation when carrying out official duties.

Authorisation of Environmental Health Officers Acting as Agents of the Northern Health and Social Services Board (NHSSB)

IT IS RECOMMENDED that the following officer be nominated for consideration and authorisation by Northern Health and Social Services Board to act as agents under the direction of the Director of Public Health:

Damien John Gavin, District Environmental Health Officer.

It was proposed by Councillor Stevenson, seconded by Councillor McCamphill and **AGREED**:

to recommend to Council that Mr Damien John Gavin, District Environmental Health Officer be authorised as above.

Councillor Wilson left the meeting at 5 11 pm

Councillor Patterson arrived at 5 12 pm

322.12 SAFETY OF SPORTS GROUNDS (NI) ORDER 2006

Further to Committee Minute 272.3.11.2 (29th October 2002) it is necessary to amend existing officers authorisations to ensure the proper enforcement of the above Order.

IT IS RECOMMENDED that the undernoted officers based at Northern Group Systems, be appointed to exercise all the powers of an authorised officer in respect of Articles 22 and 23 of the aforesaid Ordinance together with any orders or regulations made under it:

**Patricia Allen
Perry Donaldson
Maurcie Young**

**Sean Martin
Roisin McDaid
Helena Quinn
Olive Valerie Ann McWilliams**

And furthermore hereby indemnifies the above officers as provided for by Section 48 of the Local Government Act (Northern Ireland) 1972.

It was proposed by Councillor Finlay, seconded by Councillor Cavlan and **AGREED:**

to recommend to Council that the above officers based at Northern Group Systems be authorised as above.

BUILDING CONTROL

322.13 BUILDING CONTROL APPLICATIONS

IT IS RECOMMENDED that Council note the **Applications, Building Notices and Regularisation Certificates** as detailed in Appendix 2 (page 16) to this report, which are in accordance with the requirements of the Building Regulations (NI) 2000.

It was proposed by Alderman Campbell, seconded by Councillor Stevenson and **AGREED:**

to recommend that Council note the Applications, Building Notices and Regularisation Certificates as above.

MATTERS FOR INFORMATION

ENVIRONMENTAL PROTECTION

322.14 GARRY BOG AREA OF SPECIAL SCIENTIFIC INTEREST (ASSI)

Environment & Heritage Service has advised that the DoE, having considered representations received, has confirmed its management statement (which accompanied the EHS letter of 27th March 2006 to Council).

ENVIRONMENTAL SERVICES

322.15 WASTE MANAGEMENT LICENSING REGULATIONS (NI) 2003 MR. J. SAYERS, 218 FROSSES ROAD, CLOUGHMILLS, BALLYMENA.

The Department of Environment, Environment and Heritage Service have advised by letter dated 21st September 2006 that they have issued a Certificate of Registration for Agricultural Exemption from waste management licensing under the above Regulations.

The Exemption Certificate includes the following:-

Burning waste plant in the open, spreading of dredgings and plant material cleaned from inland waterways, chipping, shredding, cutting or pulverising waste plant matter, baling, compacting, shredding, pulverising waste at the place of production, beneficial use of waste and spreading dilute milk on land for benefit.

322.16 MUNICIPAL WASTE RETURNS

<u>Waste Type</u>	<u>Sept 2006</u>	<u>Year to Date</u>
Mixed Residual Waste (waste to landfill)	936.88t -6.43%	5,930.24t +0.07%
Mixed Dry Recyclables (blue bin recycling)	121.44t +1.66%	752.90t +5.48%

FOOD CONTROL

322.17 FOOD STANDARDS AGENCY, AUDIT OF FOOD LAW ENFORCEMENT SERVICE

The Food Standards Agency NI have advised by correspondence dated 25th September, that the Councils food law enforcement service has been selected for inclusion in a focused audit programme. The audit will specifically consider re-approval of standalone coldstores where enforcement responsibility transferred to District Councils following the introduction of the new EC Hygiene Regulations on 1st January 2006. A pre-visit questionnaire is to be completed by 6th November whilst the on-site visit is scheduled to take place during the week commencing 27th November 2006.

ENVIRONMENTAL HEALTH GENERAL

322.18 FOOD AND HEALTH & SAFETY SERVICE QUALITY AND PERFORMANCE MATRIX SCORES

Northern Group Systems have recently advised of the gradings which the Department has achieved in respect of the above services compared to the other 25 Councils within the province. The service was considered in terms of three elements, Management, Performance and Review and the grades were determined as follows:-

- A Above mean by >1 standard deviation
- B Above mean within 1 standard deviation
- C Below mean within 1 standard deviation
- D Below mean by 1 standard deviation

The following grades were amended and are to be submitted as performance indicators for the period 2005/2006. As a comparison the grades for 2004/2005 have also been included.

	Management	Performance	Review
Food 2004/2005	C	B	C
Food 2005/2006	A	A	A
Health & Safety 2004/2005	C	D	C
Health & Safety 2005/2006	B	B	C

With the exception of the review of health and safety service, improvements were made in all elements of the services. Continued efforts will be made to improve all aspects of the service through the delivery of the departments annual business plans.

DOG CONTROL

322.19 PROVISION OF KENNELING SERVICE TO MOYLE DISTRICT COUNCIL

Moyle District Council has indicated that it does not intend to renew its annual kennelling service agreement with this Council when it expires on 31st March 2007. A review of the kennelling service provided by this Council is presently underway in light of the information received from Moyle District Council. A further report will be made to Council detailing possible options for Member consideration.

Councillor Kennedy arrived at 5 20 pm

FUEL POVERTY

322.20 WARMER WAYS TO BETTER HEALTH

Further to CM.841 & CM.847 *this is the final opportunity* to remind Members that the above project is being funded in the present year (2006-2007) via the NIE Levy and by participating Councils. Council has allocated £7,000 to the project this year. In the previous financial year Council allocated £6,000 and this enabled 6 fuel poor Borough households to be assisted with the full heating and insulation measures package available under the scheme.

Last year the main access to the scheme was via health trust personnel. This year it is hoped to generate more applicants for the scheme by promoting it via Council Members and Officers.

A leaflet detailing this scheme was provided to all Members laying out the criteria. This scheme has also received some publicity via the local press in the form of a local success story from last year.

Members are encouraged, that were they to know of any potential applicants, households which might benefit from this project that, the names and addresses be given to Mrs. Lynne O'Brien by 31st October 2006 at the latest.

It is also hoped that Members would promote the scheme as widely as possible in their constituencies. To date 4 referrals have been generated from the Ballymoney Borough Council area.

322.21 BALLYMONEY AFFORDABLE FUEL PROJECT

The above scheme was launched on 27th September 2006 to help residents to budget for their fuel payments to ensure a warmer winter lies ahead. This enables householders who use central heating oil to budget and save effectively. £5 oil saving stamps can be purchased from a number of local outlets and put on a card. These stamps will then be accepted in payment by a selection of local oil companies. Community-spirited retailers are handling the sale of stamps, even though they do not receive a payment for doing so. This will mean that householders can purchase, for example, £25 worth of stamps every week, and spread the cost of oil over several weeks rather than having to spend hundreds of pounds in one payment. With fuel poverty a top concern in Ballymoney, this scheme is very welcome, especially in light of the current high prices for oil.

Participating Retail Outlets

Ballymoney Community Resource Centre, Church Street, Ballymoney.
 Centra, 100 Ballybogey Road, Ballymoney.
 Corkey Post Office, 136 Corkey Road.
 Fullans NISA, Main Street, Rasharkin.
 Milltown Service Station, Milltown Road, Ballymoney.
 Moore's Costcutters, 11 Main Street, Cloughmills.
 Riada House, Ballymoney Borough Council, 14 Charles Street, Ballymoney.
 Route Service Station, 8 Ballybogey Rd, Ballymoney.
 Trolans Supervalu, 2 Ballymena Road, Ballymoney.
 VG, 53 Queen Street, Ballymoney.
 VG, Main Street, Stranocum.

Participating oil suppliers

Convery Oils	Tel: 028 2954 0518
Harrigan Fuels	Tel: 028 2075 1275
Nicholl Fuels	Tel: 028 2766 5095
Taylor Fuels	Tel: 028 2766 6163
Toner Oils	Tel: 028 2954 0321
Star Fuels	Tel: 028 7086 8611
Wilmont Fuels	Tel: 028 2074 1414

Councillor Stevenson wished to record his thanks to the officers concerned for their efforts made to organise and implement area scheme.

LICENSING (NORTHERN IRELAND) ORDER 1996

322.22 <u>Applicant</u>	<u>Purpose</u>	<u>Date</u>
Hannah Ita McGarry	Occasional Licence for Millennium Centre, Loughgiel, on 21/10/06 – organisers are Loughgile Credit Union	7/10/06

COMMUNITY SAFETY

322.23 STOP IT NOW (NI) CAMPAIGN

Ballymoney Community Safety Partnership have funded the above campaign within the Borough to protect children and young people from sexual abuse. The campaign aims to encourage local community groups to attend workshops informing them about 'Stop it Now' and giving them information they need to protect children effectively. As part of the campaign a free one day workshop, facilitated by NSPCC Northern Ireland is to be held in the Town Hall, Wednesday 15th November between 9.30-4.30pm. The aim of the workshop is to develop understanding about child sexual abuse by exploring feelings, attitudes and myths, form an understanding of how adults who sexually abuse children operate and develop a model of prevention based on the 'Stop it Now' key messages. The workshop is open to all, but those wishing to attend should register their intentions with Bryan Edgar or directly with the 'Stop it Now' co-ordinator, Brenda Horgan, 028 9035 5785. A free information session open to the public is to be held on the same date at the Town Hall between 7.00-9.00pm.

BUILDING CONTROL

322.24 PROPOSED AMENDMENTS TO BUILDING REGULATIONS

The Department of Finance and Personnel has advised that important amendments to the Building Regulations (NI) 2000, which were to have been introduced in June 2006, will now come into operation on 30 November 2006 (*S.R. 2006 No. 355*).

The major proposed amendments are to Part F (Conservation of fuel and power), Part L (Heat-producing appliances and LPG installations) and Part R (Access and facilities for disabled persons). There are also minor consequential amendments to Part H (Stairs, ramps, guarding and protection from impact) and Part V (Glazing). The deferral of the introduction of Part F is the most significant.

Briefly, the proposed amendments relate to the following:-

Part F (Conservation of fuel and power) has been replaced. The new Part is a radical new approach to the issue of the conservation of fuel and power and is intended to result in a reduction of carbon dioxide emissions from all new buildings. There will be much higher requirements for thermal insulation of walls, roofs, windows and floors and greater controls on boilers, lighting systems and heating systems. The new requirements will greatly challenge the building industry as new techniques may be required to produce buildings that meet the new standards. Air tightness testing will introduced for the first time to check the efficiency of the construction.

For the first time, existing non-domestic buildings over 1000m² in floor area undergoing major refurbishment will have to be upgraded to comply with the energy performance requirements.

Part L has been replaced and renamed "Combustion appliances and fuel storage systems". The main changes here are that the construction and siting of oil tanks will be controlled for the first time, protection against

pollution has been introduced and there is now a legal requirement for a developer to provide a householder's information pack (regarding the hearth, fireplace, flue or chimney).

Part R has been replaced and renamed "Access to and use of buildings". This new Part will update the requirements for the design and construction of non-domestic buildings to provide for the needs of people with disabilities. The proposed changes will mainly impact on alterations and extensions to existing buildings as this type of work has been largely exempt from such requirements up to now. It is believed that there will be major difficulties in applying the proposed Regulations to work carried out to existing buildings.

There are no changes in the application of Part R to dwellings.

Discussions ensued as to whether Part F & L were in conflict with one another. Mr William Campbell assured members that although in some ways this was true the legislation was made to tighten up building control and could only be good for house buyers.

During presentation of the report the Deputy Director and Head of Building Control responded to members' questions.

The meeting closed at 5 40 pm

Draft Smoking (NI) Order 2006.

The Draft Smoking (NI) Order 2006 (The Order) has now finished its parliamentary process having been passed in the House of Commons on the 20th of July and by the House of Lords on the 9th of October. The Order should receive Royal Assent towards the end of November. The enabling powers contained within the Order become operational 2 months after the Order receives Royal Assent. The DHSSPS are currently consulting on two sets of draft smoke-free regulations that contain the detailed requirements needed to enable Northern Ireland to go smoke-free in April of 2007.

Draft Smoke-free Regulations.

In Northern Ireland the detailed requirements in relation to going smoke-free are contained in.

- (1) Draft Smoke-free (General Provisions) Regulations (NI) 2007
- (2) Draft Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (NI) 2007.

The above regulations set out the detail in relation to definitions such as enclosed and substantially enclosed, signage requirements, application to vehicles, penalties, fixed penalty procedures and exemptions from smoke-free requirements.

Draft Smoke-free (General Provisions) Regulations (NI) 2007

This set of regulations makes provisions concerning the prohibition of smoking in certain places and vehicles pursuant to the powers contained in The Order

Definitions

Importantly the regulations define the terms “enclosed” and “substantially enclosed”. These are important in helping to understand where smoking can take place. In broad terms for a premises or structure to be considered as enclosed or substantially enclosed then it has a ceiling or roof (includes awnings and other retractable structures) and more than 50% of the perimeter of the premises or structure is enclosed by walls (doors and windows that can be closed are counted in the 50%). Therefore unless there is an exemption as set out in the Draft Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations 2007 you cannot smoke in any premises or structure that is either enclosed or substantially enclosed.

Signage

The regulations also set out signage requirements for both premises and vehicles.

Premises will be required to display at least one no smoking sign at each public entrance in a position that is visible to those entering. The signs will be required be a minimum of A5 and along with the international no smoking symbol contain the words “No smoking. It is against the law to smoke in these premises” alternative wording is prescribed for premises that can designate an exempt area “no smoking. It is against the law to smoke in these premises except in a designated area”

Smoke-free vehicles (smoke-free vehicles requirements are set out in regulation 9 of the Draft Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations 2007 see later) are also required to display no smoking signs. The sign should be displayed in each compartment of the vehicle (which is wholly covered by a roof) in a position that is visible to persons entering the vehicle. The sign consists of the international no smoking symbol and should be a minimum of 75mm in diameter.

Preventing smoking in smoke-free vehicles

The operator, driver, or any person who is responsible for public order or safety (e.g. conductor, guard, or ticket inspector) is given a duty to prevent smoking in smoke-free vehicles which is similar to the duty placed on persons in management control of smoke-free premises (Article 9(1) The Order)

Form of fixed penalty notices

The Order allows for fixed penalties to be issued for two offences.

- (1) Failure to display no smoking signs. (Article 7 The Order)
- (2) Smoking in a smoke-free premises or vehicle. (Article 8 The Order)

The form of the fixed penalty notices is set out in the schedules to the regulations. District councils are permitted to adapt the forms to suit their own requirements.

Draft Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (NI) 2007.

This set of regulations deal with three main issues

- (1) Exemptions
- (2) Smoke-free vehicles
- (3) Fixed penalty amounts and discounted amounts

Exemptions

(1) *Private accommodation.*

In general smoking is permitted in most private residential accommodation except where the private residential space is also used as a place of work or is open to the public, in which case it would be required to be smoke-free.

Those parts of private dwelling that are shared with other premises (e.g. internal stairwells, lifts, communal corridors, shared kitchens or laundry rooms, common entrance foyers) are required to be smoke-free.

Smoke-free requirements do not apply to private accommodation where work is carried out solely-

- (1) to provide personal care for a person living in the dwelling
- (2) to assist with the domestic work of the household
- (3) to maintain the structure or fabric of the dwelling; or
- (4) to install, maintain or remove any service provided to the dwelling for the benefit of persons living in it.

In the cases listed above it is expected that the service provider and the home owner will reach agreement about smoking.

(2) *Accommodation for guests and club members*

Hotels, guesthouses, inns, hostels or members clubs will be able to designate bedrooms as smoking.

The regulations lay down criteria that need to be achieved to enable a bedroom to be designated as smoking.

Dormitories etc cannot be designated as smoking.

(3) *Other residential accommodation*

The following categories of premises are permitted to designate bedrooms as smoking and in addition can designate a room to be used only for smoking.

Residential care homes and nursing homes.

Hospices that provide palliative care as their main purpose.

Mental health units that provide long-term accommodation.

The regulations lay down criteria that need to be achieved to enable a room to be designated as smoking.

(4) *Prisons*

Prisons are not required to be smoke-free under this legislation.

(5) *Specialist tobacconists*

Such premises are defined in section 6(2) of the Tobacco Advertising and Promotion Act 2002. A limited exemption from smoke-free requirements is granted for these premises for the purposes of sampling product other than cigarettes or rolling tobacco.

(6) *Offshore installations*

Offshore installations are permitted to designate a smoking room. As with other exemptions the regulations set out requirements to be achieved to enable a room to be designated.

(7) *Research and testing facilities*

Such premises are permitted to designate a room as not smoke free whilst it is being used for the research purposes set out in the regulations.

The Department have indicated that they intend to bring forward proposals to enable performers to be exempt from smoke-free requirements where the artistic integrity of the performance makes it appropriate. This exemption has not been included in the current draft regulations.

Smoke-free vehicles

Enclosed vehicles used for the following purposes are required to be smoke-free.

For the transport of members of the public or a section of the public (whether or not for reward or hire) (i.e. Public transport vehicles) or
For work by more than one person (even if the persons who work there do so at different times, or only intermittently). (i.e. Work vehicles)

There is no intention to extend smoke-free requirements to private vehicles.

These regulations do not require water-borne craft to be smoke-free, as powers exist under section 85 of the Merchant Shipping Act 1995. Smoke-free regulations for these vessels will be made by the Secretary of State for Transport under that Act.

Water-borne craft not covered by the above are required to be smoke-free under this legislation if they are used for public transport or are a place of work.

Aircraft are already smoke-free

Penalties and discounted amounts

Failure to display no smoking signs: penalty £200 discounted amount £150 (payment within 15 days).

Smoking in a smoke-free place: penalty £50 discounted amount £30 (payment within 15 days).

**THE DRAFT SMOKE-FREE (GENERAL PROVISIONS) REGULATIONS
(NORTHERN IRELAND) 2007
AND
THE DRAFT SMOKE-FREE (EXEMPTIONS, VEHICLES, PENALTIES AND
DISCOUNTED AMOUNTS) REGULATIONS (NORTHERN IRELAND) 2007**

CONSULTATION QUESTIONNAIRE

SEPTEMBER 2006

INTRODUCTION

Purpose

This Questionnaire seeks views on:

1. the draft Smoke-free (General Provisions) Regulations (Northern Ireland) 2007; and
2. the draft Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007.

It should be read in conjunction with the consultation document which includes the draft regulations.

Background

The draft Smoking (Northern Ireland) Order 2006 (the draft Order) is currently before Parliament. It is anticipated that it will complete its legislative process in November 2006. If approved, the Order will come into operation in April 2007, provide for enclosed public places and workplaces to be smoke-free and give the Department of Health, Social Services and Public Safety (the Department) the power to make regulations in a number of areas. The draft regulations that the Department proposes to make, have been drawn up on the assumption that the draft Order will be approved by Parliament.

Consultation

Responses to the consultation must be received by not later than 5.00pm on 3 November 2006.

In order to facilitate analysis it is important that respondents use this Questionnaire.

Responses to this consultation may be made online at:

http://www.dhsspsni.gov.uk/index/consultations/current_consultations.htm

QUESTIONNAIRE**DRAFT SMOKE-FREE (GENERAL PROVISIONS) REGULATIONS (NORTHERN IRELAND) 2007**

Q1. Draft regulation 3 sets out proposed requirements for the content and display of no-smoking signs in premises. Each entrance to smoke-free premises will be required to display a no-smoking sign that meets the standard minimum requirements i.e. a flat rectangular sign with minimum dimensions of 148mm by 210 mm, display the international “no smoking” symbol and carry the words “No smoking. It is against the law to smoke in these premises” (Paragraphs 2.6 – 2.11 of the consultation document refer).

Do you agree with the proposals for the content and display of no-smoking signs in premises set out in regulation 3?

Yes

No

If you wish to comment, please do so here.

CEHOG believe that the requirement for signage at entrances is crucial in securing compliance with smoke-free requirements. We therefore believe that it is essential that signs are correctly positioned and contain the right information. We are concerned that the wording in the explanatory guidance appears to be more stringent than in the draft regulation in a particularly important respect. We have observed that even where no smoking signs comply with the requirement to be displayed in entrances they may still not be visible to persons entering and therefore accidental smoking could occur.

Our recommend that the following wording be used

“ In each entrance to a smoke-free premises there shall be displayed in a prominently visible position at all times to persons entering the premises at least one A5 sign made of durable materials that -”

This requirement should extend to any entrance that is not exclusively providing access to private residential accommodation or in use only as a fire exit.

In order to avoid signs at entrances becoming damaged and defaced they should be required to be of durable material or be suitably protected.

It is our view that signs should also contain details of to whom a complaint should be made should someone observe smoking in smoke free premises. This requirement exists in both Scotland and the Republic of Ireland. We feel that the following could be added to the regulation 3

“(c) displays the name of the person or holder of a particular post to whom a complaint may be made by any person who observes another person smoke in the smoke-free premises in question and state that a complaint may be so made.”

Q2. Draft regulation 4 sets out proposed requirements for the content and display of no-smoking signs in smoke-free vehicles. The operator of the smoke-free vehicle will be required to ensure that at least one no-smoking symbol is displayed in each compartment of his vehicle. The no smoking symbol consists of a graphic

representation of a burning cigarette enclosed in a red circle with a red bar across it, at least 75mm in diameter (Paragraphs 2.12 – 2.15 of the consultation document refer).

Do you agree with the proposals for the content and display of no-smoking signs in smoke-free vehicles?

Yes

No

If you wish to comment please do so here.

We agree with the proposal in relation to the need for a sign in each compartment of the vehicle including the drivers' compartment. However we believe that there is a need for signage requirements to be consistent across the UK particularly as vehicles will cross between jurisdictions. CEHOG therefore believe that the only sensible way to proceed is to harmonise the signage requirements for vehicles. As Scotland has already enacted requirements for smoke-free signs in vehicles we believe that England Wales and Northern Ireland should replicate those requirements. In order that the new legislation does not become a burden on transport operators then there is a need for pragmatic enforcement in relation to vehicles fitted with signage that would not meet new requirements. Such an approach would enable signage to be updated over a period of time. The inclusion of text on vehicle signs stating "No smoking. It is against the law to smoke in this vehicle" would be of assistance to those with responsibilities for ensuring that vehicles are smoke-free.

It is as important for vehicle signs to be prominent, visible and durable as it is for premises signs, we therefore believe that the same wording as proposed for signs above should be used.

DRAFT SMOKE-FREE (EXEMPTIONS, VEHICLES, PENALTIES AND DISCOUNTED AMOUNTS) REGULATIONS (NORTHERN IRELAND) 2007

Q3. Draft regulation 2 sets out a proposed exemption for a private dwelling. Those parts of the dwelling that are shared with other premises (including other private dwellings) such as communal lifts, indoor stairwells, communal corridors in a block of flats etc., which are open to the public or used as places of work will be smoke-free. It is proposed that any part of a private dwelling that is used solely as a place of work by more than one person will be smoke-free. The smoke-free requirement will not apply to work that is undertaken in any part of private dwellings for the provision of personal care for the person living there or to maintain the structure or fabric of the building etc (Paragraphs 3.3 – 3.6 of the consultation document refer).

Do you agree with the proposals in the draft regulations for private accommodation?

Yes

No

If you wish to comment please do so here.

We note that it is not intended to require private residential space per se to be smoke-free unless they are open to the public or used as places of work and CEHOG accepts the principle that in all other circumstances it is for the person who lives in the premises to decide whether or not to permit smoking.

The requirement for communal areas and common parts of private accommodation to be smoke-free is welcomed.

The proposal to exclude certain types of work (i.e. work that is undertaken to provide personal care for a person living there, to assist with domestic work, to maintain the structure or fabric of the dwelling, or to provide service there), from smoke free requirements for private accommodation causes us concern as we believe that all workers deserve protection from secondhand smoke. However we do acknowledge that there is a need to achieve the correct balance between protection of workers from secondhand smoke and the rights of a person in their own home. If this exemption is to remain there is a need for employers and self employed persons who provide such services to make arrangements about smoking and to adopt model policies that ensure the protection of workers who have to carryout work in private accommodation.

Q4. Draft regulation 3 sets out proposed exemptions for designated bedrooms in a hotel, guest house, inn, hostel or members' club. It also specifies certain conditions which must be satisfied (Paragraphs 3.7 – 3.8 of the consultation document refer).

Do you agree with the proposed exemptions and conditions in draft regulation 3 for hotels, guest houses, hostels etc?

Yes

No

If you wish to comment please do so here.

We believe that there is no convincing argument for the inclusion of this exemption in the draft regulations and we feel that in certain instances it is possible that this exemption could be abused so that in effect a smoking room is being created in smoke-free premises.

Should the department proceed with proposals to enable designated bedrooms to be exempt from smoke-free requirements then we feel that the conditions set out in the draft regulation are appropriate. However we feel that the exemption should only be for the residents of the bedroom and not for guests or employees of the hotel, this would ensure that abuse of the purpose of the designation does not take place.

There is need for clarity in relation to the process of designation and feel that it may be helpful if "designated" was more clearly defined in the regulations. There is also a need for clarity in relation to changing bedroom designations, particularly when a bedroom has been designated as a smoking bedroom. Complaints can be anticipated from non-smoking residents of hotels etc if they are allocated a non designated room and yet there is evidence of smoking in the room in the past. While there is no need for bedroom designation to be permanent we feel there is a need for some mechanism to regulate the designation process, this may be best achieved through guidance.

Q5. Draft regulation 4 sets out proposed exemptions for designated rooms in residential care homes and nursing homes, hospices and those mental health units that provide long-term residential accommodation (long-term is defined as accommodation which, in the normal course of events, is provided for patients to occupy for not less than 6 months). It also specifies certain conditions which must be satisfied (Paragraphs 3.9 – 3.11 refer).

Do you agree with the proposed exemptions and conditions in draft regulation 4 for care homes & nursing homes, hospices and mental health units?

Yes

No

If you wish to comment please do so here.

In our response to the consultation on the Smoking (NI) Order 2006 CEHOG stated that it believed that all workers deserved the same level of protection from secondhand smoke but acknowledged the difficulties that may be caused in certain premises. We feel that the department must put measures in place that ensure the protection of workers from secondhand smoke even where exemptions from smoke-free requirements are permitted. We feel that the exemption from smoke-free requirements can only be justified for residents of such premises and should not extend to visitors or staff similar to what we have stated above in relation to hotel bedrooms.

It is our view that where an exemption is available then for the owner of the premises to take advantage of the exemption from smoke-free requirements a set of detailed requirements should be established. These should ensure that persons who have to work in premises where a room is exempt from smoke-free requirements are given the maximum protection available from secondhand smoke while not placing an unrealistic burden on the owner of the premises. The requirements could be set out in a code of good practice or guidance to accompany the regulations. CEHOG would be keen to participate in the development of any such guidance.

Q6. Draft regulation 8 sets out a proposed exemption for a designated room in a research or testing facility. This includes research or tests in relation to smoking and smoking cessation (Paragraphs 3.15 – 3.16 refer).

Do you agree with the proposed exemption in draft regulation 8 in relation to research and testing facilities?

Yes

No

If you wish to comment please do so here

The proposed exemption for research and testing facilities appears appropriate. There is however a need to ensure the protection of any person who has to work in the facility from the effects of secondhand smoke.
We believe that the department should issue guidance that sets out the standards that should be applied in protecting employees who have to work in such facilities.

Q7. Draft regulation 9 sets out proposals for certain vehicles to be smoke-free (Paragraphs 3.27 – 3.32 refer).

Do you agree with the proposals for smoke-free vehicles?

Yes

No

If you wish to comment please do so here.

The proposals for smoke-free vehicles appear appropriate however it is not clear to what extent the regulation applies to a persons private car that they use for business purposes and receive expenses for the running of the vehicle from their employer. If such vehicles are covered by smoke-free requirements by virtue of the fact that they are used for work by more than one person do they then have to display no smoking signs and do they have to be smoke-free at all times? This issue needs to be clarified to ensure there is no confusion.

