

<b>ARMAGH BANBRIDGE CRAIGAVON DISTRICT COUNCIL</b>	
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<b>Sent out by:</b>	<b>Environmental Health LRG Project Group</b>
<b>Approved by:</b>	<b>Roger Wilson</b>
<b>Review Date:</b>	<b>10 October 2018</b>

#### **AMENDMENT RECORD SHEET**

Remove and destroy old pages. Insert new pages as indicated.

<b>Revision Number</b>	<b>Page Number</b>	<b>Date Revised</b>	<b>Description of Revision</b>

## **1.0 Introduction**

The Council is committed to an approach in all enforcement decisions that is fair, gives a clear balance between enforcement and education, is consistent and where possible, relates to common standards that protect the public.

This policy deals specifically with enforcement of the Clean Neighbourhoods and Environment Act (NI) 2011 and associated legislation amended by the Act and underpins the Council's General Enforcement Policy.

## **2.0 Scope**

The scope of this policy includes enforcement of the following local environmental quality issues:

- Nuisance and Abandoned Vehicles (Part 2)
  - Exposing Vehicles for Sale on a Road
  - Repairing Vehicles on a Road
  - Abandoned Vehicles
- Litter (Part 3)
  - Duty Bodies to Keep Land Clear of Litter
  - Power to Require the Clearance of Litter From Other Land areas
  - Dealing With Street Litter Outside Premises
  - Controlling the Distribution of Free Literature
- Graffiti and Other Defacement including flyposting (Part 4)
  - Poster or placards affixed to road or on private property
  - Advertising on street furniture
  - Defacement Removal Notices
- Sale of Aerosol Paint to Children
- Dog Control Orders (Part 5) (Also included in Dog Control Enforcement Policy)
- Noise Act 1996 Offences (Part 6)
- Statutory Nuisances (Part 7)

These issues have an impact on environmental, social and economic wellbeing and impact the quality of life of those who live, work and visit the Council area.

The Council is responsible for providing help and assistance to individuals and businesses for this purpose and for taking action against those who do not meet their responsibilities.

The purpose of this policy is to explain how the Council will fulfil this role.

### **3.0 Provisions of the Clean Neighbourhoods and Environment Act (NI) 2011**

#### **3.1 Nuisance and Abandoned Vehicles (Part 2)**

District Councils and PSNI have the power to remove abandoned cars from the streets and to deal with offences using a variety of enforcement actions.

##### **3.1.1 Exposing vehicles for sale on a road**

An offence is committed under Section 2(1) if:

- (a) A person leaves two or more motor vehicles parked within 500m of each other on a road or roads where they are exposed or advertised for sale, or
- (b) A person causes two or more motor vehicles to be so left.

*Note: This offence is not intended to target individual private sellers of single vehicles*

##### **3.1.2 Repairing vehicles on a road**

A person who carries out restricted works on a motor vehicle on a road is guilty of an offence. Section 3(2) defines the term 'restricted works' as "works for the repair, maintenance, servicing, improvement or dismantling of a motor vehicle or of any part of or accessory to a motor vehicle" and "works for the installation, replacement or renewal of any such part or accessory".

*Note: This is not intended to target the private individuals carrying out minor works on their vehicles.*

##### **3.1.3 Abandoned Vehicles**

It is a criminal offence to abandon a motor vehicle or anything that has formed part of a motor vehicle on any land in the open air or on any other land forming part of a road.

**Table 1 – Summary of Enforcement Action for Nuisance Vehicles**

Action to be Taken	1. Informal written warning (advise of Fixed Penalty)	2.Fixed Penalty Issued if not removed within 7 days of warning	3. If Fixed Penalty not paid within specified timeframe refer to Enforcement options in General Enforcement Policy	4. Refer to General Enforcement Policy
<b>Offence</b>				
Exposing vehicles for sale on a road (Section 2(1)) – 1 <sup>st</sup> Offence	✓	✓	✓	
Exposing vehicles for sale on a road (Section 2(1)) – 2 <sup>nd</sup> Offence		✓	✓	
Repairing vehicles on a road (Section 3(1)) – 1 <sup>st</sup> Offence	✓	✓	✓	
Repairing vehicles on a road (Section 3(1)) – 2 <sup>nd</sup> Offence		✓	✓	
Abandoned Vehicles (Art 29 of PCandLG(1)) – 1 <sup>st</sup> Offence	✓	✓	✓	
Abandoned Vehicles (Art 29 of PCandLG(1)) – 2 <sup>nd</sup> Offence		✓	✓	
Repeat offences under any of the above provisions				✓

Note: PCLG = Pollution Control & Local Government (NI) Order 1978

### **3.2 Litter (Part 3)**

Litter includes any refuse, filth, garbage or any other nauseous, offensive or unsightly waste but not animal droppings. Litter includes smoking-related litter such as cigarette ends, cigars and like products, and discarded remains of other products such as chewing gum.

Litter is most commonly assumed to include materials that are discarded and left by members of the public otherwise than in proper receptacles.

**Table 2 – Summary of Actions for Offence of Littering and Failure to Provide or Providing False Name and Address**

Action to be Taken	1. Issue Article 20 (if necessary) to obtain personal details of offender	2. Issue Fixed Penalty	3. If Fixed Penalty not paid within specified timeframe refer to General Enforcement Policy	4. Refer to General Enforcement Policy
<b>Offence</b>				
Littering (Article 3 of the Litter (NI) Order) – 1 <sup>st</sup> Offence	✓	✓	✓	
Littering (Article 3 of the Litter (NI) Order) – 2 <sup>nd</sup> Offence	✓	✓	✓	
Repeat offences under any of the above provisions				✓
Failure to provide/providing false name and address (Article 5 of Litter Order)				✓

**3.2.1 Enforcing the requirement of Article 7 for duty bodies to keep land clear of litter – Litter Abatement Notices (Article 12)**

Article 12 of the Litter (NI) Order 1994 enables district councils to take action where a duty body is failing to keep its relevant land clear of litter (as required under Article 7). The power to issue a Litter Abatement Notice is available to district councils, and may be used where any relevant Crown land, or land of a designated statutory undertaker, or designated educational institution is defaced by litter, or the defacement is likely to recur. Definitions of these types of ‘relevant land’ are given in Article 12(2) of the 1994 Order.

**3.2.2 Power to require the clearance of litter from other land areas – Litter Clearing Notices (Article 12A - 12C)**

Litter Clearing Notices replaced the system of Litter Control Areas, enforced through Litter Abatement Notices (Article 12A of the Litter Order).

It is an offence to fail to comply with any requirement imposed by a Litter Clearing Notice (Article 12C (1) and (2)).

### **3.2.3 Dealing with street litter outside premises (Articles 13 and 14)**

The legislation enables district councils to serve Street Litter Control Notices (SLCN) requiring businesses to clear up the litter and implement measures to prevent the land from becoming defaced again.

It is an offence to fail to comply with the requirements specified in a SLCN (Article 14(8)).

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**Table 3 – Summary of Action for Offences Relating to Litter Abatement Notices (Article 12(1)), Litter Clearing Notices (Article 12A) and Street Litter Control Notices (Article 13(2))**

Action to be Taken	1. Issue written warning and specify timeframe for clean up	2. Informal approach does not achieve compliance issue Notice	3.Fixed Penalty Issued	4. If Fixed Penalty not paid within specified timeframe refer to General Enforcement Policy	5. Refer to General Enforcement Policy
Duty to keep land and roads clear and clean (Article 7 incorporating Article 2 definitions Duty Body responsibilities)	✓	✓ Litter Abatement Notice (Article 12(1))			
<b>Offence</b>					
Failure to comply with Litter Abatement Notice (Article 12(6) of Litter Order)					✓
Enforcement of Article 12A (Prior to an offence being committed)	✓	✓ Litter Clearing Notice (Article 12A)			
<b>Offence</b>					
Failure to comply with Litter Clearing Notice (Article 12C (2)) – 1 <sup>st</sup> and 2 <sup>nd</sup> Offence			✓	✓	
Enforcement of Article 13 and 14	✓	✓ Street Litter Control Notice (Article 13(2))			
<b>Offence</b>					
Failure to comply with Street Litter Control Notice (Article 14 (8)) – 1 <sup>st</sup> and 2 <sup>nd</sup> Offence			✓	✓	
Repeat offences under any of the above provisions					✓

Guidance on the Litter (Northern Ireland) Order 1994, as amended by the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 has been issued by the Department of Environment (DoE) and can be viewed on the Departments website: [http://www.doeni.gov.uk/guidance\\_on\\_litter-3.pdf](http://www.doeni.gov.uk/guidance_on_litter-3.pdf)

### **3.3 Graffiti and Other Defacement including Fly Posting (Part 4)**

Councils have the ability to issue Fixed Penalty Notices to perpetrators of certain graffiti and fly posting offences. The offences in respect of which councils can take prosecutions in relation to fly posting and graffiti are those defined as “*relevant offences*” in section 26(10) of the Clean Neighbourhoods and Environment Act (NI) 2011. The relevant offences are under:

- Article 33 of the Road Traffic Regulations (NI) Order 1997 (interference with or damage to traffic signs)
- Article 87(1) of the Roads (NI) Order 1993 (painting, making marks or displaying advertisements on roads)
- *A road is the public area between boundaries, i.e. on a main street from one shop front across to opposite shop front*
- Article 84(2) of the Planning (NI) Order 1991 (displaying advertisement in contravention of regulations made under Article 67 of that Order)

Under Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, where any placard or poster is displayed in contravention of the advertisement regulations the council may serve a notice on the beneficiary of the advertising. This notice requires the advertising to be removed or obliterated within the period of 2 days beginning with the date of service of the notice. If within the period of 2 days the placard or poster has not been removed or obliterated the council may remove or obliterate the advertising and recover expenses as a civil debt from the beneficiary.

#### **3.3.1 Posters or placards affixed to road (eg street railing and road signs) or on private property**

- *Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.*
- *Article 33 of the Road Traffic Regulations (NI) Order 1997*
- *Article 87(1) of the Roads (NI) Order 1993*
- *Article 84(2) of the Planning (NI) Order 1991*

In all cases where relevant, the DRD Roads Service will be notified and the Council may take enforcement action where there is no objection.



**Table 4 – Summary of Action for Offence of advertising on road or private property**

Action to be Taken	1. Notice served under Article 18 of Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985	2.If not removed after 2 days can may remove or obliterate and recover costs	3. Refer to General Enforcement Procedure with a view to prosecution
<b>Offence</b>			
1 <sup>st</sup> Offence	✓	✓	
2 <sup>nd</sup> Offence	✓	✓	
Repeat offences			✓

### 3.3.2 Advertising on Street Furniture

*Article 84(2) of the Planning (NI) Order 1991 or Article 87(1) of the Roads (NI) Order 1993)*

**Table 5 – Summary of Action for Offence of advertising on street furniture**

Action to be Taken	1. Informal written warning (advise of Fixed Penalty, if applicable)	2.Fixed Penalty Issued if not removed after 5 days of warning	3. If Fixed Penalty not paid within specified timeframe refer to General Enforcement Policy	4. Refer to General Enforcement Policy
<b>Offence</b>				
Street furniture situated on road - 1 <sup>st</sup> Offence	✓			
Street furniture situated on road - 2 <sup>nd</sup> Offence		✓	✓	
Street furniture not on road – 1 <sup>st</sup> offence	✓			
Street furniture not on road – 2 <sup>nd</sup> offence (person who affixed advertisement)		✓	✓	
Street furniture not on road – 2 <sup>nd</sup> offence (beneficiary)				✓
All street furniture - Repeat offences				✓

### **3.3.3 Defacement Removal Notices (DRN) (section 31 of CNEA)**

The Council will comply with statutory guidance on Defacement Removal Notices. Where a 'relevant surface' has been defaced which contravenes the Planning (NI) Order 1991 (Article 67) AND the defacement is detrimental to the amenity or offensive the Council can serve a DRN on the person responsible for the surface/on the relevant surface if the person responsible cannot be ascertained.

A relevant surface is defined in The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 under Section 31(8) and (9) and a person responsible for a relevant surface is defined under Section 31 (10)

If a DRN is not complied with within the specified timeframe the Council has the power under Section 31(4) and (5) to remove/remedy the defacement and enter land for that purpose.

Section 32 gives the Council powers to recover expenditure incurred in exercise of the above power (note Section 35 gives Council exemption from liability in relation to DRN and damage caused to relevant surfaces for removing defacement).

DRNs will be used for old cases of flyposting and graffiti which have built up over time.

### **3.3.4 Prioritisation**

Planning Policy Statement 9 (The Enforcement of Planning Control) advises that in assessing whether to take enforcement action the impact of the unauthorised advertisement on amenity and public safety should be considered.

Proactive action in relation to illegal advertising will target advertising displayed in and close to town centres and on main approach routes. However, should complaints be received concerning advertising outside town centres enforcement action may still be considered.

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**Table 6 – Summary of Action for Offences Relating to Graffiti and Flyposting  
(Article 67 of the Planning (NI) Order 1992)**

Action to be Taken	1. Two day written Notice (advise of Fixed Penalty if applicable )	2. Final Written Warning if not removed after 2 days	2.Fixed Penalty Issued if not removed after 2 days of warning	3.Fixed Penalty Issued	4. If Fixed Penalty not paid within specified timeframe refer to General Enforcement Procedure with a view to prosecution	5. Refer to General Enforcement Policy	6. Council remove or obliterate if not removed within 2 days of column 1 (Article 18(1) (Column 2 for Article 84 of 1991 Order, Column 2).	7. Issue a DRN; non-compliance, Council do clean up and recover costs
<b>Offence</b>								
Person who personally affixed advertisement - 1 <sup>st</sup> Offence	✓		✓		✓			
Person who personally affixed advertisement - 2 <sup>nd</sup> Offence	✓			✓	✓			
Repeat offences							✓	✓
Person who displayed or caused advertisement to be displayed (action in addition to above offence)	✓ <i>Fixed penalty option only available if person who affixed advert can be identified; if so follow rows 1-2.</i>					✓	✓	
Person responsible not identified for displaying/causing it to be								✓

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displayed on a relevant surface which is detrimental to amenity or offensive (see pages 8-10 of DOE Guidance on DRNS)								
Were Beneficiary is identified (Article 84 of 1991 Order) 1 <sup>st</sup> Offence	✓	✓				✓	✓	
Were beneficiary is identified (Article 84 of 1991 Order) 2 <sup>nd</sup> Offence	✓					✓	✓	
Repeat offences						✓	✓	

### 3.4 Sale of Aerosol Paint to Children (section 37)

It is an offence to sell an aerosol paint container to a person under the age of 18. The Council has a duty to carry out a programme of enforcement. This will be carried out in accordance with the Councils Policy on the use of Test Purchasing any enforcement action will be in line with the Councils General Enforcement Policy.

### 3.5 Dogs (Part 5)

#### 3.5.1 Dog Control Orders

The 2011 Act enabled Councils to make Dog Control Orders for specific geographical areas and set out how dogs should be controlled in that area eg not permitted to foul or must be kept on a lead.

#### 3.5.2 Enforcement

Enforcement of Dog Control Offences will be dealt with under the Dog Control Enforcement Policy

**Table 7 – Summary of Action for Offences under the Dog Control Orders**

Action to be Taken	2. Issue Fixed Penalty	3. If Fixed Penalty not paid within specified timeframe refer to General Enforcement Procedure with a view to prosecution	4. Refer to General Enforcement Procedure with a view to prosecution
<b>Offence</b>			
Fouling of Land by Dogs Order – 1 <sup>st</sup> and 2 <sup>nd</sup> Offence	✓	✓	
Repeat offences under any of the above provisions			✓

### 3.6 Amendments to the Noise Act 1996 (Part 6)

#### 3.6.1 Noise Act Offences

The provisions of the Noise Act 1996 provide another means of addressing disturbances caused by excessive noise during night hours (11pm – 7am) emanating from dwellings and “offending premises” which includes cinema, place which holds an entertainment licence and any licensed premises or club.

Under the Noise Act 1996 an offence is committed if a person fails to ensure that any noise emitted from their premises does not exceed the permitted level after the service of a Warning Notice.

**Table 8 – Summary of Action for Offences Relating to Noise**

Action to be Taken	1. Issue Warning Notice (noise would or might exceed permitted level)	2. Issue Fixed Penalty Notice if Warning Notice not complied	3. Refer to General Enforcement Policy
<b>Offence</b>			
1 <sup>st</sup> and 2 <sup>nd</sup> Offence	✓	✓	✓
Repeat offences			✓

**3.7 Statutory Nuisances (Part 7)**

**3.7.1 Statutory Nuisance Offences**

The 2001 Act extended Statutory Nuisances to include artificial light and nuisance from insects. Enforcement of Statutory Nuisance will be dealt with under the General Enforcement Policy.

**3.7.2 Enforcement**

Enforcement of Statutory Nuisances will be dealt with under the Councils General Enforcement Policy.

**4.0 Review**

This policy will be reviewed annually and following any change to or introduction of relevant legislation referred to in this document.

**Policy Title: Clean Neighbourhoods Enforcement Policy**

**Brief Description of Policy (please attach copy if available). Please state if it is a new, existing or amended policy.**

This is a new enforcement policy for Clean Neighbourhoods.

**Intended aims/outcomes. What is the policy trying to achieve?**

The policy contains a range of measures in the form of offences and powers to improve the quality of the local environments using the measures outlined in the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011. The policy covers areas such as litter, fly-posting and graffiti, dogs, noise, statutory nuisance, nuisance alleyways, abandoned and nuisance vehicles as well as abandoned shopping trolleys etc.

**Policy Framework**

Has the policy been developed in response to statutory requirements, legal advice or on the basis of any other professional advice? Does this affect the discretion available to Council to amend the policy?

This policy deals with specifically with enforcement of the Clean Neighbourhoods and Environment Act (NI) 2011 and underpins the general Enforcement Policy. The policy is reflective of a number of relevant guidance documents issued by the Department of Environment Northern Ireland and also reflects the Regulators Code, Code for Crown prosecutors, etc.

**Are any Section 75 categories which might be expected to benefit from the policy? If so, please outline.**

No. This policy will have no impact on equality.

**Who initiated or wrote the policy? (If Council decision, please state). Who is responsible for implementing the policy?**

<b>Who initiated or wrote policy?</b> Environmental Health LRG Project Group.	<b>Who is responsible for implementation?</b> All relevant service area Directors, Managers and Officers.
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**Are there any factors which might contribute to or detract from the implementation of the policy (e.g. financial, legislative, other)?**

In certain circumstances, the Council may derogate from such statutory responsibilities to the extent that is permitted by law and is proportionate.

**Main stakeholders in relation to the policy**

Please list main stakeholders affected by the policy (e.g. staff, service users, other statutory bodies, community or voluntary sector, private sector).

The general public and business community e.g . licensed premises

**Are there any other policies with a bearing on this policy? If so, please identify them and how they impact on this policy.**

The General Enforcement Policy.

**Available Evidence**

Council should ensure that its screening decisions are informed by relevant data. What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

Section 75 category	Evidence
Religious belief	N/A
Political opinion	N/A
Racial group	N/A
Age	N/A
Marital status	N/A
Sexual orientation	N/A
Men and women generally	N/A
Disability	N/A
Dependants	N/A

**Needs, experiences and priorities**

Taking into account the information gathered above, what are the different needs, experiences and priorities of each of the following categories in relation to this particular policy/decision?

Section 75 category	Needs, experiences and priorities
Religious belief	N/A
Political opinion	N/A
Racial group	N/A



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Age	N/A
Marital status	N/A
Sexual orientation	N/A
Men and women generally	N/A
Disability	N/A
Dependants	N/A



**1. What is the likely impact on equality of opportunity for those affected by this policy for each of the Section 75 categories?**

Category	Policy Impact
Religious belief	None
Political opinion	None
Racial group	None
Age	None
Marital status	None
Sexual orientation	None
Men and women generally	None
Disability	None
Dependents	None

**2. Are there opportunities to better promote equality of opportunity for people within the Section 75 categories?**

Category	If yes, provide details
Religious belief	None
Political opinion	None
Racial group	None
Age	None
Marital status	None
Sexual orientation	None
Men and women generally	None
Disability	None
Dependents	None

**3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion, or racial group?**

Category	Details of Policy Impact
Religious belief	None

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Political opinion	None
Racial group	None

**4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?**

Category	If yes, provide details
Religious belief	None
Political opinion	None
Racial group	None

**Multiple Identity**

Generally speaking, people fall into more than one Section 75 category (for example: disabled minority ethnic people; disabled women; young Protestant men; young lesbian, gay and bisexual people). Provide details of data on the impact of the policy on people with multiple identities. Specify relevant s75 categories concerned.

N/A

**Disability Discrimination (NI) Order 2006**

Is there an opportunity for the policy to promote positive attitudes towards disabled people?

N/A

Is there an opportunity for the policy to encourage participation by disabled people in public life?

N/A

**Screening Decision**

**A: NO IMPACT IDENTIFIED ON ANY CATEGORY – EQIA UNNECESSARY**

Please identify reasons for this below

This is a technical policy which sets out the principles of enforcement which will be followed. It has no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.

**B: MINOR IMPACT IDENTIFIED – EQIA NOT CONSIDERED NECESSARY AS IMPACT CAN BE ELIMINATED OR MITIGATED**

Where the impact is likely to be minor, you should consider if the policy can be mitigated or an alternative policy introduced. If so, EQIA may not be considered necessary. You must indicate the reasons for this decision below, together with details of measures to mitigate the adverse impact or the alternative policy proposed.

**C: MAJOR IMPACT IDENTIFIED – EQIA REQUIRED**

If the decision is to conduct an equality impact assessment, please provide details of the reasons.

**Timetabling and Prioritising**

**If the policy has been screened in for equality impact assessment**, please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3 with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

<b>Priority criterion</b>	<b>Rating (1-3)</b>
Effect on equality of opportunity and good relations	
Social need	
Effect on people's daily lives	

The total rating score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the council in timetabling its EQIAs.

Is the policy affected by timetables established by other relevant public authorities? If yes, please give details.

Effective monitoring will help the authority identify any future adverse impact arising from the policy. It is recommended that where a policy has been amended or an alternative policy introduced to mitigate adverse impact, monitoring be undertaken on a broader basis to identify any impact (positive or adverse).

Further information on monitoring is available in the Equality Commission's guidance on monitoring

Identify how the impact of the policy is to be monitored

A copy of the screening form for each policy screened should be signed off by the senior manager responsible for that policy. The screening recommendation should be reported to the relevant Committee/Council when the policy is submitted for approval.

<b>Screened by</b>	<b>Position/Job title</b>	<b>Date</b>
Seamus Donaghy	Head Of Environmental Health and Neighbourhood Services (Armagh)	21 January 2015
<b>Approved by</b>	<b>Position/Job Title</b>	<b>Date</b>
Roger Wilson	Chief Executive	March 2015

**Please forward a copy of the completed form with policy attached to XXX Officer who will ensure that screening forms and policies are available on the Council website.**

**This officer is also responsible for issuing reports on a quarterly basis on those policies "screened out for EQIA". This allows stakeholders who disagree with this recommendation to submit their views. In the event of any stakeholder disagreeing with the decision to screen out any policy, the screening exercise will be reviewed.**