



CABINET

6TH NOVEMBER 2014

AGENDA ITEM (11)

ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014

Accountable Member	Councillor Mrs. CH Topple Cabinet Member for Health and Leisure
Accountable Officer	Kate Bishop Head of Public Protection and Regulation Service 01285 623442 kate.bishop@cotswold.gov.uk

Purpose of Report	To describe the provisions of the Anti-Social Behaviour Crime and Policing Act 2014, its implications on the Council's community safety and environmental crime duties, and to recommend the delegation of powers required for Officers to carry out these duties.
Recommendation(s)	(a) That the report be noted; (b) That the Head of Public Protection be authorised to deal with the matters detailed at paragraph 19 below; ((c) That the Council be requested to incorporate the approved delegations into the Officer delegation Rules contained in Part C of the Constitution; (d) That the level of Fixed Penalty Notice be set at £100 with an option to pay a reduced fee of £60 within fourteen days.

Ward(s) Affected	All
Key Decision	No
Recommendation to Council	No

Financial Implications	It is likely that additional litigation work will arise as a result, and this will have as yet unknown financial implications.
Legal and Human Rights Implications	None
Environmental and Sustainability Implications	None
Human Resource Implications	None

Key Risks	There will be a reputational risk from a failure to adopt and delegate these powers and engage with partner agencies to ensure its effective implementation.
Equalities Analysis	None identified
Related Decisions	None
Background Documents	None
Appendices	Appendix 'A' - Anti-Social Behaviour Formal Interventions Summary
Performance Management Follow Up	Implement the Cabinet's decisions
Options for Joint Working	The Policy and implementation is being developed with West Oxfordshire District Council although, because there are two separate Police authorities involved, there are policy and procedural differences

Background Information

1. The Anti-Social Behaviour Crime and Policing Act 2014 (the Act) will affect four main partner agencies - Councils, Police, Registered Social Landlords and Clinical Commissioning Groups - to deal quickly with anti-social behaviour issues that may occur. The Act received Royal Assent in March 2014 and commenced on 20th October 2014.

2. Section 17 of the Crime & Disorder Act 1998 requires local authorities to place community safety in the mainstream of their activities by considering the implications for crime and disorder, and do all that they reasonably can to prevent it. The Police and Justice Act 2006 widened these statutory responsibilities in respect of Section 17 to also include anti-social and other behaviour adversely affecting the local environment and the misuse of drugs, alcohol and other substances. The reforms introduced by the Act include two new measures which are designed to give victim and communities a say in the way anti-social behaviour is dealt with:-

- (i) the Community Trigger gives victims the ability to request a review of their case, where the locally defined threshold is met;
- (ii) the Community Remedy gives victims a say in the out-of-court punishment of perpetrators for low level crime and anti-social behaviour.

3. Anti-social behaviour (ASB) is defined in the Act as behaviour causing harassment, alarm or distress to members or any member of the public. It is:-

*'Behaviour by an individual or group that results or is likely to result in another party feeling personally threatened, where that behaviour:-
creates a public nuisance, or
has a detrimental impact upon the environment, or
has a detrimental effect upon the quality of life of an individual or the community as a whole'.*

4. ASB is a broad term with examples from littering to vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours. Responsibility for dealing with ASB is therefore shared with the partner agencies and the reforms introduces new powers and consolidates existing powers into six parts - Injunctions; Criminal Behaviour Orders; Dispersal Powers; Community

Protection; Recovery of Possession of Dwelling Houses; and Local Involvement and Accountability. The reforms are summarised at **Appendix 'A'** to this report.

5. Part 1: Injunctions

5.1 Part 1 makes provision for a civil injunction to prevent nuisance and annoyance. The threshold has now changed to become:-

- (i) conduct that has caused or is likely to cause harassment, alarm or distress to any person;
- (ii) conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises; or
- (iii) conduct capable of causing housing related nuisance or annoyance to any person.

5.2 This is a civil injunction, available in the County Court for adults and the Youth Court for 10 to 17 year olds. It will allow a wide range of agencies, including the Police, local councils and social landlords to deal quickly with anti-social individuals before the impact of anti-social behaviour escalates.

6. Part 2: Criminal Behaviour Orders

6.1 Part 2 makes provision for an Order on Conviction to prevent behaviour which causes harassment, alarm or distress.

6.2 Orders will include prohibitions to stop the anti-social behaviour and may also include positive requirements to get the offender to address the underlying cause of their behaviour.

7. Part 3: Dispersal Powers

7.1 Part 3 contains a power for the Police to disperse people causing harassment, alarm or distress. This will enable Officers to require a person who has committed, or is likely to commit, ASB to leave a specified area and not return for up to 48 hours.

7.2 This is a simplification of the Dispersal Orders in Section 30 of the Anti-Social Behaviour Act 2003 and Section 27 of the Violent Crime Reduction Act 2006.

8. Part 4: Community Protection

This introduces three areas to control ASB - Community Protection Notices; Public Spaces Protection Orders; and powers for the closure of premises.

9. Community Protection Notices

9.1 These are intended to stop a person, business or organisation committing ASB which spoils the community's quality of life.

9.2 This Notice will replace current measures such as litter clearing notices, defacement removal notices and street litter control notices. It is not meant to replace the statutory nuisance regime.

10. Public Spaces Protection Orders

These Orders are designed to stop individuals or groups committing ASB in a public place, and will replace Designated Public Place Orders, Gating Orders and Dog Control Orders. Councils will issue PSPOs after consultation with the Police, Police and Crime Commissioners (PCCs) and other relevant bodies. Examples of where a new Order could be used include prohibiting the consumption of alcohol in public parks or ensuring dogs are kept on a leash in children's play areas.

11. Closure of Premises Associated with Disorder

11.1 The closure of premises associated with nuisance or disorder has two stages - the 'Closure Notice' and the 'Closure Order'. It would consolidate various existing closure powers relating to licensed and non-licensed premises which are causing, or are likely to cause, antisocial behaviour.

11.2 The two-part test for issuing a Notice will be that the Police or local authority reasonably believe that:-

- (i) there is, or is likely soon to be, a public nuisance or there is, or is likely soon to be, disorder in the vicinity of, and related to the premises;
- (ii) the Notice is necessary in the interest of preventing the continuation or occurrence or reoccurrence of such disorder or behaviour. For example, closing a nightclub where the Police have intelligence to suggest that disorder is likely in the immediate vicinity on a specific night or over a specific period.

12. Part 5: Recovery of Possession of Dwelling Houses: Anti-Social Behaviour Grounds

Part 5 makes provision for the possession by registered social landlords of their houses on anti-social behaviour grounds. Provisions in the Act introduce a new ground for possession to speed up the process in the most serious cases of anti-social behaviour, bringing faster relief to victims and communities.

13. Part 6: Local Involvement and Accountability

13.1 Community Remedy

Part 6 contains provisions on establishing a Community Remedy document and dealing with responses to complaints of anti-social behaviour. The new Community Remedy will give victims of low-level crime and ASB a say in the punishment of the offender out of court. The Act places a duty on the PCC to consult with members of the public and community representatives on what punitive, restorative or rehabilitative actions they would consider appropriate to be on the Community Remedy document. The community remedy can only be used where a Police Officer (or other person listed) thinks that the evidence is enough for Court proceedings, including an Injunction to prevent nuisance and annoyance, or impose a caution, but considers that a community resolution would be more appropriate.

13.2 Community Trigger

13.2.1 The Community Trigger gives victims and communities the right to request a review of their case and bring agencies together to take a problem solving approach to find a solution. When a request to use the Community Trigger is received, agencies must decide whether the threshold has been met and communicate this to the victim. If the threshold has been met, a case review will be undertaken by the partner agencies. The victim is informed of the outcome of the review and, where further actions are necessary, an action plan will be discussed with the victim.

13.2.2 Local agencies can define their threshold, but it must not be more than three complaints in the previous six month period. It must also take account of the potential harm caused by the ASB and the adequacy of the response to the ASB.

14. The threshold for Gloucestershire is recommended to be as follows:-

EITHER

- (i) three reports from one person within a six month period made to either, the local council, the Police or a Registered Social Housing provider, where the individual considers that no effective action has been taken;

OR

(ii) five reports from different people within a six month period, where an individual or collective feels that no effective action has been taken.

15. 'No effective Action' means:

- reported problems have not been acknowledged - i.e. no one contacted the complainant to advise what action would be taken;
- reported problems have not been appropriately investigated;
- the victim's vulnerability and/or potential for harm have not been considered and this has affected potential service delivery;
- no action has been taken because information has not been shared between partners and this has affected potential service delivery.

16. Though not a wholly exhaustive or prescriptive list, the above offers a framework to assist the gatekeeper or Designated Officer in the assessment of what constitutes 'no effective action'. Each case should be assessed on its own merits and use of discretion and professional judgement should be applied to include other factors as required. Agencies should reject those triggers deemed malicious or vexatious, and ensure that the rationale for rejecting Community Trigger applications is quality assured in order to withstand scrutiny via any appeals.

17. Fixed Penalty Notices

Offences committed under Section 48 (Community Protection Notices) and Section 67 (Public Spaces Protection Order) can be dealt with by way of a Fixed Penalty Notice (FPN). The Act sets the maximum fine at £100 and allows for a discount if the fine is paid within a specified period of no more than fourteen days. The lower age limit for a FPN is 16 years. The current amount of penalty for FPNs issued by the Council ranges from £50 to £300, each with a discount for early payment. The level of fine is a matter for the Council. It is therefore proposed that the maximum amount be set at £100, but that a discounted amount of £60 is offered if payment is received within fourteen days.

18. Hate Crime

In the Gloucestershire Police Authority area, reports of and investigations into Hate Crime will not be dealt with under this Act but will be managed under existing powers and policies.

19. Delegations

19.1 Partnership working through existing partnership arrangements will be key to the successful adoption of these powers. At this stage however, for the Council to meet its statutory duty, powers are required to be adopted and delegated to Officers in the following areas relating to Part 4:-

19.2 Chapter 1 - Section 43(1), Section 53(1), (2) - power to authorise Officers to issue Community Protection Notices; Section 52, 53(1),(2) - Power to authorise Officers to issue fixed penalty notices for offences committed under Section 48.

19.3 Chapter 2 - Section 59, Power for Council to make Public Space Protection Orders; Section 68 - power to authorise persons to issue FPNs.

19.3 Chapter 3 - Section 76 - power for officers to issue Closure [of premises] Notices; Section 79 - power for a local authority representative to enter premises to fix a copy of a Closure Notice.

19.4 FPNs shall be available to serve on any person over the age of 16.

20. To support the adoption of these powers, work is being completed in the following areas:-

- the development of policy and procedures to support the reforms introduced;
- a review and update of the Enforcement Policy;
- the development of a policy over the next three to six months on the devolution of powers to RSLs for the application of Community Protection Notices.

(END)