



Policy & Resources Committee – 10 November 2014

Anti-Social Behaviour, Crime and Policing Act 2014

Purpose of report: To outline to Members the new powers and requirements under the Anti-Social Behaviour, Crime and Policing Act 2014 and seek approval for the next stages in implementing the powers and requirements.

Attachment(s)

Appendix 1 – Outline of the new powers

Appendix 2 – Scheme of Delegation: proposed amendments

1.0 Background

- 1.1 The Anti-Social behaviour, Crime and Policing Act 2014 (the act) received Royal Assent on 13th March 2014. The act introduces significant changes to the way local authorities, police and other agencies respond to anti-social behaviour (ASB).
- 1.2 The act is wide ranging making provisions for amending various powers under current legislation affecting partner agencies. For local councils the key areas are:-
 - Anti-social behaviour, crime and disorder and recovery of possession of dwelling-houses;
 - Amending the Dangerous Dogs Act 1991,
 - Sexual harm and violence and forced marriage.
- 1.3 The powers provided by the act became operational on 20 October 2014 with the exception of the Civil Injunction power, which has been delayed until January 2015. This is because changes need to be made to the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Until implementation, arrangements under the existing legislation will continue i.e. ASB Orders and ASB Injunctions used by housing providers.
- 1.4 The act streamlines the 19 powers provided under previous relevant legislation to 6 with one additional power. These are outlined in Appendix 1. The comprehensive detail of how these powers will be implemented and applied will be contained in a new county-wide strategy (the strategy) as outlined below.

2.0 County-wide approach to the new act and implementing the powers

- 2.1 A county-wide approach has been formed to respond to the act and introduce the new powers. This will ensure consistency and uniformity of approach and utilise resources effectively.
- 2.2 The Office of the Northamptonshire Police and Crime Commissioner (P&CC) is active in the implementation of these new arrangements and powers. On taking up office, the P&CC made a commitment to set up a Victims' Commission, aiming to give victims of crime and witnesses of crime a say in how perpetrators should be punished. This will help shape the new **community remedy** document. This is required by the act and will be a much simpler and effective list of out-of-court solutions for how perpetrators of ASB and low level crime should be punished.
- 2.3 The co-ordinating group for the new arrangements is the County ASB and Hate Crime Group (the county group), whose membership includes officer representatives from

each of the district and borough councils, County Council, Northants Police and Office of the P&CC. It is chaired by the Deputy Chief Executive of Kettering Borough Council and is accountable to the County Chief Executives' Group.

2.4 The group is engaged in the development of the strategy referred to in 1.4 above. It is envisaged that this will be finalised towards the end of this calendar year. It will be presented to a meeting of this committee for formal approval and will replace our existing ASB strategy, approved by this committee (minute 239, 7 November 2011 refers).

2.5 The act makes provision for an individual to ask for a case review of the response to a complaint of anti-social behaviour. This will be known as a **community trigger**. A threshold has to be met by the victim, which covers:-

- Three complaints in the previous six month period,
- The persistence of anti-social behaviour,
- The harm or potential harm caused by the ASB, and
- The adequacy of response to the ASB.

The partner agencies must decide if the threshold has been met before undertaking a review. The group is compiling procedures for how the community triggers will be dealt with across the county and these will be incorporated into the emerging strategy.

2.6 To support a multi-agency approach to managing ASB cases, this council uses a web-based system called E-Cins, managed by Empowering Communities. This allows us, the police and eventually other partners such as housing providers to maintain up-to-date case history and set and manage tasks in relation to individual cases, victims and perpetrators. The system is presently used by Community Safety Officers and is now being rolled out to other teams across the council who have involvement in ASB-related cases.

2.7 Officers from a number of our teams have joined colleagues from other agencies at training sessions covering the act and the new powers and responsibilities.

3.0 Proposed amendments to scheme of delegation

3.1 The new powers under the act require us to amend our scheme of delegation. Set out in Appendix 2 are the current provisions in the scheme of delegation with the proposed amendments required.

4.0 Summary of next stages

4.1 As outlined above, the next stages will involve the group completing the development of the strategy, which will incorporate procedures for implementing and applying the new powers set by the act.

5.0 Equality and diversity implications

5.1 Incidents of ASB will continue to be dealt with in line with the emerging strategy and in line with our equalities framework.

6.0 Legal implications

6.1 The act places statutory requirements on us and our partners to use and apply the powers as required by the legislation.

6.2 Our powers and duties required under the Crime and Disorder Act 1998 remain in place.

7.0 Risk management

- 7.1 It has been identified by the county group that the powers and interventions of the act will need to be tried and tested.
- 7.2 The key risk identified is an activation of a community trigger. This has been added to our corporate risk register.

8.0 Financial and resource implications

- 8.1 There are no financial implications arising directly from this report or at this stage of developing the strategy. If resource implications are identified, they will be reported to committee for consideration as they arise.

9.0 Constitutional implications

- 9.1 Certain powers and interventions provided by the act require amendments to the scheme of delegation. These are set out in section 3 above.

10.0 Corporate outcomes

- 10.1 The act and the emerging strategy will contribute to the achievement of our corporate outcomes as follows:-

Good quality of life where the district will be safe: Perpetrators of ASB will be dealt with effectively and the victims of ASB are supported. This will support the achievement of lower levels of ASB and crime and in turn contribute to a safer district.

Effective partnership working: The working relationships between the council and its partners on community safety are strong and the act and the strategy will help to formalise and strengthen the joint work required to deal with ASB effectively.

Strong community leadership: The strategy will ensure that we have a standard and formalised approach to responding to the problems associated with ASB.

11.0 Recommendations

- 11.1 Members are recommended to:-

1. Note the new powers and interventions provided for by the Anti-Social Behaviour, Crime and Policing Act 2014.
2. Endorse the work of the County ASB and Hate Crime group in developing a county-wide strategy and framework for dealing with ASB.
3. Resolve to recommend to Council the amendments to the scheme of delegation (Part 3.2 of the Constitution) as set out in Appendix 2.

(Reason: To ensure we have an effective framework to meet our statutory requirements and duties provided for by the Anti-Social Behaviour, Crime and Policing Act 2014)

Legal	Power: Anti-Social Behaviour, Policing and Crime Act 2014 Crime and Disorder Act 1998				
	Other considerations: Refer to Appendix 3: Scheme of Delegation – proposed amendments				
Background Papers: Anti-Social Behaviour Powers – Aide Memoire <i>ver.4</i> : issued by the Police Crime Commissioners of Derbyshire, Leicestershire, Northamptonshire, Nottinghamshire (held with the Community Partnerships Team)					
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Date: 23 October 2014					
CFO		MO		CX	

Anti-Social Behaviour, Crime and Policing Act 2014

Appendix 1 - Outline of the new powers

New Power	Old Powers	Test	Details
Civil Injunction	<ul style="list-style-type: none"> ▪ Anti-social Behaviour Order (ASBO) on application ▪ Anti-Social Behaviour Injunction (ASBI) ▪ Drinking Banning Order (DBO) on application ▪ Individual Support Order (ISO) ▪ Intervention Order 	<ul style="list-style-type: none"> • On the balance of probabilities; • Behaviour likely to cause harassment, alarm or distress (non-housing related anti-social behaviour); or • Conduct capable of causing nuisance or annoyance (housing-related anti-social behaviour); and • Just and convenient to grant the injunction to prevent anti-social behaviour. 	<ul style="list-style-type: none"> • Civil order in County Court or High Court for over 18s and Youth Court for 10-17yr olds. • Positive requirements can be included aimed at getting the perpetrator to address the underlying causes of their anti-social behaviour. • Local councils, social landlords, police (including BTP), Transport for London, Environment Agency & NHS Protect can apply. • Breach is not a criminal offence.
Criminal Behaviour Order (CBO)	<ul style="list-style-type: none"> ▪ Anti-Social Behaviour Order on conviction (CRASBO) ▪ DBO 	<ul style="list-style-type: none"> • If the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or likely to cause harassment, alarm or distress to any person; and • The court considers that making the order will help prevent the offender from engaging in such behaviour. 	<ul style="list-style-type: none"> • Issued by any criminal court for any criminal offence. • Crown Prosecution Service (CPS) is most likely to be the applicant whether through their own initiative or following a request from the police or council. • Breach is criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt.. • The ASB does not have to relate to the criminal offence being dealt with but maybe linked as a cause/effect. • Consultation requirement with Youth Offending Teams for under 18s

Dispersal Power (Police power)	<ul style="list-style-type: none"> ▪ Dispersal Order ▪ Direction to leave 	<ul style="list-style-type: none"> • Contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed (or the occurrence of crime and disorder); and • Direction necessary to remove or reduce the likelihood of the anti-social behaviour, crime and disorder. 	<ul style="list-style-type: none"> • Powers for Police Officers in uniform and PCSOs if designated by the Chief Constable • Dispersal for up to 48 hours within a specified area • Under 16s can be returned home or taken to a place of safety • Powers to confiscate any item that could be used to commit ASB, crime or disorder • Breach is a criminal offence
Community Protection Notice (CPN)	<ul style="list-style-type: none"> ▪ Litter clearing notice ▪ Street litter control notice ▪ Defacement removal notice 	<p>Behaviour has to:-</p> <ul style="list-style-type: none"> • Have a detrimental effect on the quality of life of those in the locality; • Be of a persistent or continuing nature; and • Be unreasonable 	<ul style="list-style-type: none"> • Applies to individuals aged 16 and over, organisations & businesses • Council officers, police officers, PCSOs (if designated) & social landlords (if designated by the council) can issue them • CPN follows a written warning when behaviour persists • Breach is a criminal offence
Public Spaces Protection Orders (PSPO)	<ul style="list-style-type: none"> ▪ Designated Public Place Order (DPPO) ▪ Gating order ▪ Dog control order 	<p>Behaviour being restricted by the order has to:-</p> <ul style="list-style-type: none"> • Be having, or be likely to have, a detrimental effect on the quality of life of those in the locality; • Be persistent or continuing in nature; and • Be unreasonable. 	<ul style="list-style-type: none"> • Council makes a PSPO after consultation with the police, P&CC and other relevant bodies (In East Northamptonshire these have usually been requested by Town and Parish Councils but made by ENC.) • Can be enforced by police officers, PCSOs & council officers • Breach is a criminal offence • Will replace any existing DPPOs & need to be renewed after 3 years • Order must be published in accordance with regulations (usually by notice in local paper).

<p>Closure Power</p>	<ul style="list-style-type: none"> ▪ Premises Closure order ▪ Crack house closure order ▪ Noisy Premises Closure order ▪ S161 Closure Order 	<p>The following has occurred, or will occur, if the closure power is not used:-</p> <p>Closure notice (up to 48 hours)</p> <ul style="list-style-type: none"> • Nuisance to the public; or • Disorder near those premises. <p>Closure order (up to 6 months)</p> <ul style="list-style-type: none"> • Disorderly, offensive or criminal behaviour; • Serious nuisance to the public; or • Disorder near the premises. 	<ul style="list-style-type: none"> • Police and Council can move quickly to close premises which are being used, or likely to be used, to commit nuisance or disorder. • Closure notice - up to 48hrs (can be issued by ENC) • Closure Order - up to 3 months in first instance, can be extended to six months (Both require Magistrates approval). • Breach is a criminal offence
<p>Absolute Ground for Possession (social and private landlord power)</p>	<p>NEW POWER</p>	<p>The tenant, a member of the tenant's household, or a person visiting the property has met one of the following conditions:-</p> <ul style="list-style-type: none"> • Convicted of a serious offence (specified in Schedule 2A to the Housing Act 1985); • Found by a court to have breached a civil injunction; • Convicted for breaching a Criminal Behaviour Order (CBO); • Convicted for breaching a noise abatement notice; or • The tenant's property has been closed for more than 48 hours under a closure order for ASB 	<ul style="list-style-type: none"> • Social landlords and private sector landlords can apply • Can apply to the tenant, a member of the tenant's household or a person visiting the property • Grounds include: <ul style="list-style-type: none"> i. Convicted of a serious offence ii. Found by a court to have breached a civil injunction iii. Convicted for breaching a CBO iv. Convicted for breaching a noise abatement notice v. Tenant's property has been closed for more than 48hrs under a closure order for ASB

Appendix 2 – Scheme of Delegation: proposed amendments

TO BE DELETED		TO BE ADDED	
Function and legislation currently in the scheme	Current delegation to:	New power under the act and detail	Proposed delegation to:
51. Anti-Social Behaviour Act 2003 – Part 6: The Environment	Head of Environmental Services, Environmental Protection Manager, Health Protection Manager, Waste Services Manager, Executive Director, Chief Executive, Health Protection Officer, Licensing Enforcement Officer, Senior Environmental Protection Officer, Environmental Protection Officer, Senior Environmental Health Officer, Environmental Health Officer,	Anti-Social Behaviour, Crime and Policing Act 2014 – Part 1: Civil Injunctions. <ul style="list-style-type: none"> Local Authority can apply for an injunction to prevent or stop harassment, alarm or distress or the nuisance; and/or annoyance in a housing context. This would cover graffiti, bullying, dogs, drugs, alcohol or noise. 	Chief Executive, Executive Director, Head of Environmental Services; Health Protection Manager; Environmental Protection Manager ; Waste Protection Manager; Head of Community and Customer Services; and Community Partnerships Manager
52. Anti-Social Behaviour Act 2003 – Part 9: Miscellaneous powers	Trainee Environmental Health Officer, Environmental Services Officer and Waste Management Officer.	Anti-Social Behaviour, Crime and Policing Act 2014 – Part 2: Criminal Behaviour Order. <ul style="list-style-type: none"> Issued by any criminal court against a person who has been convicted of an offence to tackle the most persistently anti-social individuals who are also engaged in criminal activity. 	Chief Executive, Executive Director, Head of Environmental Services ; and Head of Community and Customer Services
67. Clean Neighbourhoods and Environment Act 2005 (CNEA) Pt 2: vehicles Pt 3: litter and refuse Pt 4: graffiti and other defacement Pt 5: waste	Head of Environmental Services, Environmental Protection Manager, Health Protection Manager, Waste Services Manager, Executive Director, Chief Executive, Health	Anti-Social Behaviour, Crime and Policing Act 2014 – Part 4 Chapter 1: Community Protection Notices. <ul style="list-style-type: none"> Local Council officers, Police Officers and PCSOs (if designated) can issue Community 	Chief Executive; Executive Director; Head of Environmental Services, Head of Planning Services Head of Community and

<p>Pt 6: dogs Pt 7: noise Pt 9: miscellaneous</p>	<p>Protection Officer, Licensing Enforcement Officer, Senior Environmental Protection Officer, Environmental Protection Officer, Senior Environmental Health Officer, Environmental Health Officer, Trainee Environmental Health Officer, Environmental Services Officer and Waste Management Officer.</p> <p>Planning Enforcement Officers are authorised under Parts 2, 3, 4 and 6 only</p>	<p>Protection Notices (after warning) for unreasonable behaviour (graffiti, rubbish, noise) affecting a community's quality of life.</p> <ul style="list-style-type: none"> • Closure of premises associated with nuisance and disorder – Chapter 3 closure notices issue and cancellation 	<p>Customer Services</p> <p>With the ability of the above to delegate to other officers to act under the scheme of delegation subject to keeping a record of the officers so authorised and the date of authorisation.</p> <p>Closure Notices – Chief Executive; Executive Director; Head of Environmental Services,</p>
<p>77. Dangerous Dogs Act 1991: Sections 1-11</p> <p>78. Dangerous Dogs (Amendment) Act 1997: Sections 1-3 Destruction Orders</p> <p>79. Dangerous Dogs Act 1989: Additional powers of court for complaints of dangerous dogs</p> <p>81. Dogs Act 1871: sections 2 & 4 – Destruction of dangerous dogs recovery of penalty</p>	<p>Head of Environmental Services; Environmental Protection Manager; Health Protection Manager; Executive Director; Chief Executive; Waste Services Manager</p>	<p>Anti-Social Behaviour, Crime and Policing Act 2014 – Part 7: Dangerous Dogs.</p>	<p>Chief Executive; Executive Director; Head of Environmental Services; Environmental Protection Manager; Health Protection Manager; Waste Services Manager</p>
<p>67. Clean Neighbourhoods and Environment Act 2005 Part 6 Dog Control Orders</p>	<p>Head of Environmental Services, Environmental Protection Manager, Health Protection Manager, Waste Services Manager, Executive Director, Chief Executive</p>	<p>Anti-Social Behaviour, Crime and Policing Act 2014 – Part 4 Chapter 2: Public Spaces Protection Orders (PSPO)</p> <ul style="list-style-type: none"> • Local Council can issue a PSPO after consultation with the police, 	<p>Chief Executive, Executive Director, Head of Customer & Community Services, Community Partnerships Manager Head of Environmental</p>

		<p>P&CC and other relevant bodies to stop individuals or groups committing ASB in a public place.</p>	<p>Services, Environmental Protection Manager, Waste Manager, Health Protection Manager</p>
		<p>Anti Social Behaviour, Crime and Policing Act 2014 Chapter 3: Closure Powers</p> <p>To allow the Council or the Police to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder</p>	<p>Closure Notice (up to 48 hours) and Closure Order (up to 6 months): Chief Executive, Executive Director, and Head of Environmental Services</p>