

**CHILTERN DISTRICT COUNCIL
CABINET 16TH DECEMBER 2014**

Background Papers, if any, are specified at the end of the Report

**ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 –
DELEGATION OF POWERS**

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RECOMMENDATIONS

1. To delegate to the Head of Healthy Communities the Council's functions and enforcement powers under the Anti-social Behaviour, Crime and Policing Act 2014 (whether as part of joint arrangements or otherwise) including but not restricted to:
 - a) appointment of authorised officers;
 - b) in consultation with the Head of Legal and Democratic Services, securing criminal behaviour orders and civil injunctions (IPNA) to prevent nuisance and annoyance;
 - c) the issue of Closure Notices and securing Closure Orders;
 - d) the issue of Community Protection Notices
 - e) the implementation of Public Spaces Protection Orders where no relevant objections received.
 - f) The enforcement of the amendments to the Dangerous Dog Act 1991 in relation to prosecution, seizure and destruction.
2. To delegate to the Head of Environment, in consultation with the Head of Healthy Communities, the issue of Community Protection Notices.
3. To note that the Chiltern and South Bucks Community Safety Partnership will act as the Anti-social Behaviour Review Panel in response to a Community Trigger.

Relationship to Council Objectives

- (i) *Objective 2: Safe, Healthy and Cohesive Communities*

Implications

- i) *Not a key decision in Forward Plan.*

- (ii) *Within policy and budgetary framework*

Financial Implications

The services will be delivered within existing budgets.

Risk Implications

The risk arising from this Bill will be minimal. The proposals are likely to improve outcomes for local residents and to provide additional powers to both agencies and communities in addressing issues of anti-social behaviour.

Equalities Implications

None

Sustainability Implications

None

Report

- 1 Members will recall a report to Cabinet on 9th July 2013 outlining the proposals within the Anti-social Behaviour Bill and the implications for local authorities. The Anti-social Behaviour, Crime and Policing Act 2014 (Act) consolidates 18 existing powers for local authorities, police and residential social landlords to control anti-social behaviour into 6 more flexible powers. It also introduces two new powers to help focus the response to such behaviour on the needs of victims. These are the Community Trigger and Community Remedy.

The new powers came into force on 20th October 2014 and will require the authority to work holistically in partnership with Housing providers, Towns and Parishes and across the Council service areas to address victims' problems and seek to resolve concerns. The legal threshold for action with many of these powers is '*on the balance of probabilities*' and may require earlier input in to resolving service requests.

In bringing forward these powers, the Act repeals most of the previous legislation regarding litter (Environmental Protection Act 1990, sections 92 to 94A (litter abatement notices, litter clearing notices and street litter control notices)) and ASB (closure of premises).

Overview of new powers

- 2 **Community Trigger (ASB case review)**

This gives victims and communities the right to require agencies to deal with persistent anti-social behaviour that they feel has previously been ignored. The threshold for the Community Trigger has been agreed by the Police Crime Commissioner (PCC) for application across the whole of the Thames Valley Local Policing Area

The PCC has determined that the threshold for the Community Trigger is:

- 3 reports from one person within a six month period made to either, the local council, police or a registered social housing provider where the individual considers that no effective action has been taken, or
- 5 reports from different people within a six month period, where an individual or collective (community) feels that no effective action has been taken.

A victim or third party acting on behalf of the victim (i.e. MP or Councillor) can activate the Community Trigger (Trigger).

The procedure for a Trigger involves:

- A victim, or third party, making an application to use the Trigger,
- The relevant bodies deciding whether the threshold has been met,
- and if so, to share information, consider if further information is needed and review what previous actions have been taken. Where further action can be taken, a plan is agreed, and activity monitored.

Having a Community Trigger procedure is a statutory duty for District Councils, Police, Clinical Commissioning Groups (CCGs) and Registered Social Landlords (RSLs). The lead role for all Community Triggers will be Chiltern District Council whose responsibility will be to identify if the threshold is met, to co-ordinate any reviews and to receive information from partner agencies on the case. Reviews will be undertaken by a panel comprising of members of the Community Safety Partnership (CSP) and appeals will be considered by the Chairman of the CSP.

3 Community Remedy

The Community Remedy gives victims of low-level crime and anti-social behaviour a say in the punishment of offenders that would replace the need for court action. This means that victims will get justice quickly, and the offender has to face immediate and meaningful consequences for their actions.

This provision is a duty for the Police and Crime Commissioner (PCC) to decide upon and will be enacted by the local investigating police officer.

The Thames Valley PCC has consulted on a range of remedies and we are awaiting the final proposals.

4 Criminal Behaviour Orders (CBOs)

These orders are issued by any criminal court against a person who has been convicted of any criminal offence, and will enable the partnership to tackle those who are engaged in criminal activity linked to antisocial behaviour. An example of where this may be applied is in relation to the illegal disposal of waste.

The role of TVP and Chiltern DC is to request that the Court considers adding the Criminal Behaviour Order where an individual is being charged for a criminal offence.

Orders will include prohibitions to stop the anti-social behaviour and also include positive requirements to require offenders to address root causes of their offending.

5 Injunctions to Prevent Nuisance and Annoyance (IPNA)

A civil power (*on the balance of probabilities*) with the aim of providing a quicker and more effective protection to victims and communities.

The power is wide in that the court would be required to be satisfied that the activity engaged in has or is likely to cause harassment, alarm, or distress to any person and that the power would prevent the person from engaging in ASB.

The power also enables a housing provider or the district council to tackle housing related nuisance or annoyance likely to cause harassment, alarm or distress.

Examples of the types of behaviour that may be addressed through these powers include; vandalism, public drunkenness, aggressive begging, irresponsible dog ownership, noisy or abusive behaviour.

The aims of the powers are to stop the perpetrator's behaviour from escalating.

The District Council, as well as the Police and Residential Social Landlords, can apply to a County Court where, if the behaviour meets a public or private nuisance test or causes annoyance to the community an injunction can be issued to prohibit an individual from certain behaviours for up to 2 years and also require them to do something to address their behaviour (e.g. address a substance misuse problem with support services). A breach of the order can result in a maximum two year imprisonment.

Chiltern DC currently uses a staged approach to successfully manage behaviour such as warning letters and Anti-social Behaviour Contracts. It is recommended that the use of lower level sanctions be continued where appropriate.

A partnership working group comprising of Thames Valley Police, Paradigm Housing, Bucks County Council and Chiltern DC, regularly reviews cases of anti-social behaviour and agrees actions between the member organisations. It is proposed that this group is informed of all IPNAs to ensure co-ordination of activity and as a method of consultation between agencies. The agency which raises the IPNA will continue to be the lead agency for the injunction.

6 Closure Notice and Orders

This power allows for the closure of any premises that are causing nuisance or disorder to communities including shops, licensed premises, houses and land. This power has been successfully used in Exeter to close a retail outlet considered to be causing a nuisance in the area.

The Closure Notice can be issued for a 24hour period by a senior officer of the Council (this is suggested to be the Head of Healthy Communities) or a Police Inspector (the Chief Executive of the District Council or a superintendent of the LPA can extend this Notice to 48hrs where necessary). An extended period of closure beyond the 48hrs can be made upon application to the Magistrates' Court for a Closure Order providing this is made within 48 hours of the original Notice being served.

Where a licensed premise is subject to a Closure Notice a licence review hearing will automatically be triggered under the Licensing Act 2003 and heard before a Licensing sub-committee.

This power may be used to control squats or other nuisance premises that may arise from time to time.

7 Community Protection Notices (CPN)

The CPN is intended to deal with particular, on-going problems or nuisances which negatively affect the community's quality of life by targeting those responsible. Local District Councils are seen as the lead authority in issuing these notices, which are similar to, but do not replace, the powers and procedures operating within environmental health under the statutory nuisance provisions of the Environmental Protection Act 1990, nor the duty to serve an abatement notice where a statutory nuisance exists.

A CPN can be issued where responsible authorities are satisfied on reasonable grounds that the conduct is:

- having a detrimental effect on the quality of life of those in the locality,
- is persistent or continuing in nature, and
- is unreasonable

This is a three staged process involving an initial warning, a formal notice (CPN), and finally a sanction for non-compliance.

The CPN can impose a requirement to do, or stop doing something to prevent or reduce the detrimental effect.

If a Notice is breached there are five possible sanctions:

- Fixed Penalty Notice (FPN) can be issued by the local authority, Police, or PCSO of no more than £100 and can specify two amounts, for instance a lower amount for early settlement.
- Remedial action, whereby works can be carried out by the local authority or RSL and recharged to the offender, such as clearing gardens.

If necessary the lead agency can apply to the court to stop the behaviour by issuing one or more of the following:

- Remedial orders, whereby a court order is made for remedial work to be undertaken e.g. where entry to property needs an owner's consent.
- Forfeiture orders, requiring the offender to forfeit any equipment that contributed to the ASB, i.e. sound equipment or spray paints.
- Seizure of items that have been used to commit offences.

Where appropriate, councils can designate residential social landlords in their area with these powers, although the responsibility for enforcement of the Notices and for non-payment of Fixed Penalty Notices remains with the local authority. In practice the Antisocial behaviour group will be used to coordinate action and ensure the relevant agencies (Police RSL's etc) consult with the Council and in particular environmental health, to ensure the behaviour is not a statutory nuisance, before using these powers.

As this power could be used in a range of enforcement settings, including dealing with litter, graffiti, accumulations of waste deposited in gardens or on private land it is recommended to delegate the powers to the Head of Healthy Communities and Head of Environment. The use of these powers within differing service areas will be determined via a procedural flow chart.

As the Council may be required to initiate enforcement action and bear the costs of remedial works it is initially proposed that residential social landlords are designated for specific campaigns and tasks to deal with specific area issues e.g. issues arising from environmental walkabouts rather than providing a blanket designation without the necessary management controls.

8 Public Space Protection Orders (PSPO)

These Orders, implemented by the local authority, are intended to deal with area specific issues that are detrimental to the local community's quality of life, by imposing conditions on the use of the area.

Local authorities can make a PSPO on any public space within its own area and that one order can cover a multitude of prohibitions, replacing those already in force covering alcohol restrictions and dog fouling. As part of the process, there must be consultation with local community groups, internal departments, Police and Parish, Town and County Councils to ensure one order is applied for each public space.

Of particular note for Chiltern DC is that this order replaces existing Designated Public Place Orders (DPPO) which enables a police officer to remove alcohol from a person consuming alcohol in designated area when they are causing ASB. Whilst the new powers came into force from October 2014, there is a three year timescale for conversion.

These powers also replace Dog Control Orders which restrict dog fouling, dogs on leads, and the number of dogs walked at any one time. However Chiltern District has not initiated any Dog Control Orders and any action would be required under the new PSPO powers.

Any breaches of a PSPO makes the offender liable to a summary conviction or a fine not exceeding £1,000, but it is more likely that an FPN would be issued.

Council Officers, PCSO's or Police can issue FPNs but would need to witness the breach and have given the offender a previous warning to correct behaviour, i.e. asked a dog walker to put the dog on a lead or asked someone to stop drinking.

The practicalities of implementing these Orders will be discussed with the various agencies concerned.

9 Police dispersal powers

This is a Police power to direct any individual causing or likely to cause crime and disorder away from a place for up to 48hours, and replaces existing dispersal powers.

Where dispersals are frequent in a particular area, especially if involving young people, suitable diversionary activities would need to be put in place.

Currently given the low incidence of crime and disorder it is not envisaged these powers would be requested on a regular basis.

10 Other Provisions

The changes to legislation also enable private and public landlords to repossess a dwelling house if a tenant is guilty of a serious offence including breach of IPNA, Criminal Behaviour Order, the property has been closed for more than 48 hours under a closure order for ASB or following conviction for breach of noise abatement notice.

Provisions also extend the offence of having a dog dangerously out of control to all locations, not simply public places addressing some deficiencies in the Dangerous Dogs Act 1991. Amendments also enable the Dog warden to seize dogs from public and private places if the dog is dangerously out of control. Additionally the character of the dog, the dog owner or keeper can be taken in to account when seeking to destroy a dangerous dog.

11 Communication and publicity

The new powers impact on a number of areas of work within the Council. Some orders replace existing ones such as DPPO, and some orders work alongside statutory orders such as Abatement Notices. Where this is the case, close communication will be required to ensure that duplication is avoided and that the right power is utilised to deal with the problem.

Some of the new powers also belong to other agencies, such as the IPNA's and so communication across organisations, in particular the Police and RSL's, will be essential. It is proposed that the ASB Action Group is used to facilitate this.

Joint training with officers of Thames Valley Police, internal departments and residential social landlords has been undertaken in preparation of the new tools and powers. Members, Police, RSLs, Citizen's Advice Bureau and GPs (through the CCG) have been informed of the Community Trigger process.

The shared service review of Environmental Health will consider the processes and procedures that will enable these powers to be effectively used within the District
