

**Report of The Head of Resources**

**THE ANTI-SOCIAL CRIME AND POLICING ACT 2014**

**1. Purpose of report**

- (i) To provide an overview of the Anti-Social Behaviour, Crime and Policing Act 2014.
- (ii) To consider authorisations required to implement the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014.

**2 Executive summary**

The Anti-Social Crime and Policing Act 2014 changed the way that local authorities, the police and other agencies are able to deal with anti-social behaviour. It simplified the powers available whilst offering flexibility to give better protection for victims and communities. It repealed some sections of earlier acts and therefore local delegation of new powers needs to be considered by members.

**3 Appendices**

- Appendix 1: Comparison of old and new powers to deal with ASB
- Appendix 2: Suggested scheme of delegated authority

**4 Proposed action:**

**The committee is invited to RECOMMEND to council to:**

- a. Note the new powers available to the council to tackle anti-social behaviour;**
- b. Delegate authority as required to the Chief Executive or any one of the Heads of Service to implement the provisions of the Anti-Social Behaviour and Policing Act 2014 as set out in Appendix 2;**
- c. Note and adopt the fixed penalty levels in use across the county as recommended through the countywide ASB and hate crime group;**

**The committee is invited to RESOLVE to:**

- d. Request a further report on the potential for an agreement for Wellingborough Homes to become a designated housing provider, able to serve community protection warnings and notices under the Anti-social Behaviour (Authorised Persons) Order 2015/749, complementing the council's own powers**

## **5 Background**

- 5.1 The Anti-Social Crime and Policing Act 2014 (The Act) received Royal Assent in March 2014 and introduced significant changes to the way that local authorities, the police and other agencies respond to anti-social behaviour (ASB). Most provisions relating to anti-social behaviour were brought into force in October 2014.
- 5.2 The Act was intended to simplify and provide more effective powers to tackle ASB, give better protection for victims and communities, and give them a greater say in how agencies respond to complaints of ASB. The Act also contains provisions to tackle irresponsible dog ownership, and a number of other criminal activities.
- 5.3 The Act reduces the number of powers available to tackle ASB behaviour from nineteen to six; the new provisions were intended to provide a more flexible and broader range of powers for dealing with ASB. The changes and detail of the powers are shown at Appendix 1.
- 5.4 The Home Office produced Statutory Guidance for frontline professionals on dealing with ASB under the Act. The Guidance is clear that councils, police, social landlords and other agencies will work together to help in resolving issues more quickly. Work to co-ordinate the use of these powers between agencies has been undertaken county wide through the Northamptonshire County ASB and Hate Crime Group, so that there are common and consistent standards in how, for example, fixed penalty notices are issued, and how applications to use the community trigger are considered.
- 5.5 The countywide group has been engaged in the development of an updated countywide ASB strategy and is now working on an updated complementary hate crime strategy, a draft version of which has been consulted upon over summer 2016.
- 5.6 To support a multi-agency approach to managing ASB cases, this council, along with other districts and boroughs and the police, uses a web- based case management system called E-cins. This allows partners to maintain up to date case history, and set and manage tasks in relation to individual cases, victims and perpetrators. The system is currently accessed by community safety and environmental protection staff and is being rolled out to other teams across the council who have involvement in ASB related cases.
- 5.7 In addition, the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 came into force in May 2016 giving local authorities new powers to issue fixed penalties for small scale fly tipping.

## **6 Discussion**

- 6.1 Under the Act the council and partners are able to use the following powers where appropriate to reduce antisocial behaviour and re-offending:
  - Civil injunctions
  - Community protection notice
  - Public spaces protection order
  - Closure powers
  - Dispersal powers

Victims also have recourse to the powers to:

- Invoke a community trigger process
- Input into a community remedy arrangement

Detail on all these powers can be found at Appendix 1.

- 6.2 The council will work with other agencies to consider informal resolutions in the first instance, but for the council to make effective use of the powers under the Act, it is important that the correct delegations are in place. A suggested scheme of delegation is set out in Appendix 2, explaining the available powers, what they could be used for, the anticipated benefits and risks, and recommended officer delegation. As antisocial behaviour is so broad, the response cuts across council service areas and some services carried out through Wellingborough Norse.
- 6.3 With the correct delegations in place and where other solutions have failed, council officers will be able to react in a timely manner to persistent ASB issues. This will help with community based issues such as noise, graffiti, littering and unreasonable behaviour, where often a warning letter is enough to change the behaviours. Warnings and any subsequent notices can be issued to businesses as well as individuals.
- 6.4 If a warning letter does not solve the problem, a community protection notice can be issued by delegated officers. Breach of this is a criminal offence. Breaches can be dealt with by way of a fixed penalty notice, or other community remedial action. A delegated council officer can issue an FPN of up to £100. The offender may be prosecuted or, on conviction, a fine of up to £2,500 or £20,000 for businesses or other organisations may be imposed. There are other options available including taking remedial action by undertaking works, e.g. clearing a garden, or seeking remedial orders from the court.
- 6.5 Local councils can, if they wish, designate the power to issue a community protection notice or fixed penalty notice to specified social landlords in their area. Wellingborough Homes have requested such a designation. This would be an agreement to allow Wellingborough Homes to issue warning letters and notices, with the authority to issue fixed penalty notices in cases of breach. This could cover an individual, or a specified area, such as a particular open space, if there was evidence of protracted ASB. If an appeal is taken to court, Wellingborough Homes would be the respondent. Councillors may wish officers to investigate the designation process, with a view to reaching an agreement with Wellingborough Homes becoming a designated housing provider.
- 6.6 The community protection notice does not replace the council's statutory nuisance powers in respect of the Environmental Protection Act 1990; evidence of statutory noise nuisance will continue to result in the service of an abatement notice.
- 6.7 There is also now a need for the council to consider the future of the town centre DPPO (Designated Public Protection Order). This is the authority that allows for the confiscation of alcohol by a police officer if ASB is being caused by the effects of alcohol consumption. This will automatically lapse in September 2017 as a result of the Act.
- 6.8 The dog control orders currently in place in various areas of the borough will also lapse in 2017.

- 6.9 The 2014 Act gives the power to replace both the DPPO and dog control orders with a Public Space protection order (PSPO). This allows for further aspects of ASB to be included where it is an evidenced problem. Restrictions can be placed on an area where activities have or are likely to have a detrimental effect on the quality of life of locals, is persistent or continuing in nature and is unreasonable. These orders require prior public and partner consultation before introduction, so it is important that officers have the correct authority to start this work in good time before the current measures expire.
- 6.10 There are a number of Wellingborough Norse employees who are authorised by contract with the council to carry out enforcement activities on the council's behalf. Delegated authority to use the relevant powers of the Anti-Social Crime and Policing Act 2014 would help the council tackle ASB.
- 6.11 The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 give local authorities new powers to issue fixed penalties for small scale fly tipping. The suggested delegations would give the power to heads of service to again delegate to those appointed Wellingborough Norse employees to issue fixed penalties for small scale flytipping.
- 6.12 Given the extent of fly-tipping across the borough, coupled with the cost of enforcement and clearance, and in order for the fixed penalty to offer a meaningful deterrent, it is recommended that the level be set at £400, reduced to £300 in cases of early payment (within 10 days). At least one other local authority in Northamptonshire has already set the fixed penalty at this amount and efforts are being made by other councils to agree a consistent level throughout the county.
- 6.13 As antisocial behaviour cuts across local authorities, the countywide ASB group under the direction of the Chief Executives' group, has been working on a consistent approach to ensure that ASB is not acceptable anywhere in the county. Part of this approach is to set a similar level of fine for breaches of orders to ensure that all parts of the county are equally 'hostile' to perpetrators of ASB.
- 6.14 Any income from fines collected due to a breach of a notice is payable to the council, regardless of the agency issuing the notice. Due to the partnership approach and the importance of consistency, it is proposed that the charges suggested across the county will be adopted by the council.

## **7 Legal powers**

- 7.1 The Anti-Social Behaviour, Crime and Policing Act 2014 gives statutory powers to the council and our partners to tackle anti social behaviour.
- 7.2 The duty in section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications of all decisions remains in place.
- 7.3 The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 give local authorities new powers to issue fixed penalties for small scale fly tipping.
- 7.4 The effect of the Anti-social Behaviour (Authorised Persons) Order 2015/749 is that the local authority can designate (note not delegate) a housing provider to

serve community protection notices.

## 8 Financial and Value For Money Implications

There will be a need to balance the power to issue fixed penalty notices with the costs of collecting fines and enforcing any breach of payment.

## 9 Risk Analysis

<b>Nature of risk</b>	<b>Consequences if realised</b>	<b>Likelihood of occurrence</b>	<b>Control measures</b>
Transition period where new powers and interventions will have to be tried and tested	Inconsistent approach by agencies, unreliable response to ASB for victims	Low	Development of consistent policies and procedures. Appropriate use of new powers
Activation of community trigger	Unsatisfactory service to the public	Low	Development of robust and appropriate systems to ensure ASB reports are dealt with effectively
Financial cost to the council to enforce breaches of Notices	Financial loss, breakdown of partnership working, officer time	Medium	Robust policies on delegated powers, enforcement action etc

## 10 Implications for Resources

The embedding of the Act will require officer time and will be shared by the community support and environmental health services. However, where parts of the Act require consultation, or where enforcement action is needed, this will be an extra strain on the existing employee resource.

## 11 Implications for Stronger and Safer Communities

Use of the powers will support the council to tackle anti-social behaviour and crime, improve the environment and support the creation of safer and stronger town centres and neighbourhoods.

## 12 Implications for Equalities

Use of the powers will help to give better protection to victims of crime and communities, including vulnerable groups, and give them a greater say in how agencies respond the anti-social behaviour.

## 13 Author and contact officer

Gill Chapman, Principal Community Support Manager

**14 Consultees**

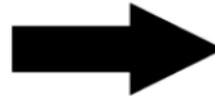
Senior Management Team  
Principal Environmental Protection Manager  
Principal Solicitor, District Law  
Community Safety Officer

**15 Background papers**

None

**ASB Crime and Policing Act 2014  
old powers and new powers**

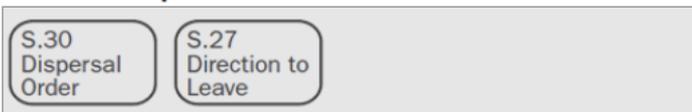
**People**



**Places**



**Police powers**



The following paragraphs set out the powers in more detail:

### **Civil Injunction**

This in essence replaces ASBOs and ASB injunctions. It is a civil order to prevent anti-social and nuisance behaviour. The Injunction can be obtained against anyone who is aged 10 years and over and can be used to tackle a wide range of behaviours including vandalism, public drunkenness, aggressive begging, and irresponsible dog ownership, noisy or abusive behaviour towards neighbours.

It can include positive requirements to address the underlying causes of ASB in addition to clauses that prohibit anti-social and nuisance behaviour. Breach of an injunction is considered contempt of court. The injunction should be used as a last resort and the Council should work with other agencies to consider informal resolutions in the first instance.

### **Community Protection Notice**

The Community Protection Notice (CPN) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible. The notice can be issued by the council, police officer or social landlord if designated by the Council.

The CPN can be issued against any person aged 16 or over or a body including a business. Before a CPN can be issued a written warning must be given making it clear to the individual that if they do not stop the anti-social behaviour they could be issued with a CPN. Breach of a CPN is a criminal offence.

There are a number of options available to deal with a breach. Offences can be dealt with by way of a fixed penalty notice (FPN). A delegated council officer can issue an FPN of up to £100. The offender may be prosecuted or on conviction a fine of up to £2,500 or £20,000 for businesses or other organisations. There are other options available including taking remedial action by undertaking works, e.g. clearing a garden, or seeking remedial orders from the court.

The CPN does not replace the council's statutory nuisance powers in respect of the Environmental Protection Act 1990; evidence of statutory noise nuisance will continue to result in the service of an abatement notice.

### **Public Space Protection Order**

Public Space Protection Orders (PSPO) are intended to deal with a particular nuisance or problem in a defined area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. The aim is to stop individuals or groups committing ASB in public spaces. Restrictions can be placed on an area where activities have or are likely to have a detrimental effect on the quality of life of locals, is persistent or continuing in nature and is unreasonable. They replace dog control orders and designated public place orders used to control drinking of alcohol.

A PSPO can cover multiple restrictions so one order could prohibit such activities as antisocial behaviour relating to the drinking of alcohol, or letting dogs run free. The PSPO can cover any public space within the Council's area.

Before making an Order the Council must consult with the local police and the Police and Crime Commissioner. The owner or occupier of the land should also be consulted, including, for example, the county council.

Breaching the order is a criminal offence which can result in the issuing of a Fixed Penalty Notice (FPN) or a prosecution resulting in a fine of up to £1,000 on conviction. Enforcement can be undertaken by council officers, other groups the Council may designate, police officers and PCSOs.

### **Closure powers**

This is a power available to allow Councils and Police to close premises temporarily for up to 48 hours if there is likely to be nuisance or disorder. The power can be applied to open land, residential properties, commercial businesses and licensed premises. A Closure Notice is then followed by an application to the Magistrates' Court for a Closure Order. A Notice does not prevent the person who habitually lives at the address, or the owner of the property, to enter. However a closure order made by the court can exclude the resident. A Closure Order can close premises for up to three months and can restrict access to all persons. Breach is a criminal offence and there is a right of appeal.

A closure notice for 24 hours can be issued by a council officer or a police officer at inspector level. If a longer period of up to 48 hours is needed, the notice must be served by the Chief Executive or his designate or a police superintendent. Consultation is an important part of the process. Before issuing the notice it is necessary to consult with anybody considered appropriate including the victim, other members of the public that may be affected by closure of the premises and community organisations.

### **Other powers**

#### **Police Dispersal Powers**

The Act also introduced police dispersal powers giving the police the power to disperse individuals or groups causing or likely to cause ASB in public places. The police officer has to have reasonable grounds to suspect that the behaviour of the person has contributed or is likely to contribute to, members of the public in the locality being harassed, alarmed or distressed, or the occurrence of crime or disorder. Secondly, the officer has to consider that giving a dispersal order to the person is necessary for the purpose of removing or reducing the likelihood of ASB, crime or disorder. To ensure the power is used proportionately there must be approval from an officer of at least the rank of inspector to use the power.

#### **Community Trigger**

The Community Trigger is a new concept that allows victims and communities a right to demand a review of actions taken in a particular case involving reports of anti-social behaviour, where the complainant feel insufficient has been done to address their concern.

It is not a complaints procedure. 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 whether the threshold has been met before undertaking a review. All agencies involved in that case will be required to collectively address the complaint in a formal manner. Arrangements have been agreed county wide and between agencies for how such applications will be handled, and how appeals against decisions will be treated. Essentially, the Community Safety Partnerships in each area will handle and commission the investigations into each case.

### **Community Remedy**

Alongside these arrangements, the Office of the Police and Crime Commissioner has produced a community remedy document, also required by the act. This document includes a list of out of court solutions and gives victims the chance to have a say in how perpetrators of ASB and low level crime should be punished.

## Appendix 2 – Suggested scheme of Delegation

<b>Powers under the Anti-Social Behaviour, Crime and Policing Act 2014</b>	<b>Function</b>	<b>Benefits</b>	<b>Risks</b>	<b>Recommended delegation</b>
<p>1. Anti-Social Behaviour, Crime and Policing Act 2014 - Part 1: Civil Injunctions  (replaces 'ASBO's)</p>	<p>Local Authority, police and others can apply for an injunction to prevent or stop harassment, alarm or distress, or in a specific housing context, nuisance and/or annoyance. Usually applied for by the police in consultation with BCW.</p>	<p>Deals with individuals and allows immediate action to be taken. This would cover graffiti, bullying, dogs, drugs, alcohol or noise.</p>	<p>The council has in the past had to meet legal costs for such cases.</p>	<p>Any one of: Chief Executive, Any individual Head of Service</p>
<p>2. Anti-Social Behaviour, Crime and Policing Act 2014 – Part 2: Criminal Behaviour Order</p>	<p>Applied for by a criminal court at the request of the council or the police against a person who has been convicted of an offence</p>	<p>Tackles the most persistently anti-social individuals. This allows prohibitions to be served to stop ASB, and requirements to address the underlying causes of the offender's behaviour</p>	<p>To date, the Crown Prosecution Service has not taken on many cases.</p>	<p>Any one of: Chief Executive, Any individual Head of Service</p>
<p>3. Anti-Social Behaviour, Crime and Policing Act 2014 – Part 4 Chapter 1: Community Protection Notices</p>	<p>Local Council Officers, Police Officers and PCSOs (if designated) can issue Community Protection Notices (after warning) for unreasonable behaviour (graffiti, rubbish, noise) affecting a community's quality of life.</p>	<p>This is a quick and easy way for the council to deal with a raft of antisocial behaviour issues committed by individuals, groups and organisations. Often a warning letter is proving enough to change behaviours.</p>	<p>A breach results in the issue of a Fixed Penalty Notice. Failure to pay means the council would have to meet the costs of prosecution but it would keep any income from fines..</p>	<p>Any one of: Chief Executive, Any individual Head of Service  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>4. Anti-Social Behaviour, Crime and Policing Act 2014 – Part 4 Chapter 2: Public Spaces Protection Orders (PSPO)</p>	<p>Existing Designated Public Places Orders and Dog Control Orders will lapse by October 2017 and the PSPO will replace them. The council can issue a PSPO after consultation with the police and other relevant bodies to stop individuals or groups committing ASB in a public place</p>	<p>The process is more streamlined and therefore more effective, especially as it can now be used more widely than previous legislation permitted. It gives the opportunity to add new aspects of behaviour, if there is evidence to suggest such behaviours have a detrimental effect on the quality of life of those in the locality eg alcohol related ASB, dog fouling etc.</p>	<p>Consideration would have to be given to the ability for such areas to be policed effectively. The council bears the costs of consultation, notices etc</p>	<p>Consideration at committee level and potentially reserved to full council</p>
<p>5. Anti-Social Behaviour, Crime and Policing Act 2014 – Part 4 – Chapter 3: Closure Notices</p>	<p>Closure of premises associated with nuisance and disorder – closure notices issues and cancellation Closure Notice (up to 48 hrs) and Closure Order (up to 6 months)</p>	<p>This power allows 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>Any one of: Chief Executive, Any individual Head of Service</p>
<p>6. Anti-Social Behaviour, Crime and Policing Act 2014 – Part 7: Dangerous Dogs</p>	<p>Amendments to the Dangerous Dogs Act 1991.</p>	<p>This allows the council to deal with a wider number of breeds considered to be dangerous, if not kept or controlled properly.</p>		<p>Any one of: Chief Executive, Any individual Head of Service</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>

<b>Powers under the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016</b>	<b>Function</b>	<b>Benefits</b>	<b>Risks</b>	<b>Recommended delegation</b>
Environmental Protection Act 1990 (as amended by the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016) – Part 2, Section 33ZA	Amendment to allow fixed penalty notices to be issued for waste deposit offences (fly tipping).	Small scale fly tipping offences can be dealt with by way of fixed penalty as an alternative to prosecution, saving time and resources. Potential increase in income to the Council from fixed penalty receipts.	None	Any one of: Chief Executive, Any individual Head of Service  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.

