

ANTI-SOCIAL BEHAVIOUR CRIME & POLICING ACT 2014

Legal And Democratic Services – 8 October 2015

Report of	Lesley Bowles, Chief Officer Communities and Business
Status:	For information
Also considered by:	Economic & Community Development Advisory Group - 24 September 2015
Key Decision:	No

Executive Summary: The Anti-social Behaviour, Crime and Policing Act 2014 (the Act) received Royal Assent on 13th March 2014 and took effect on 20th October 2014.

The Act replaces nineteen pre-existing measures with six new measures for tackling anti-social behaviour and introduces a new absolute ground for possession of secure and assured tenancies associated with anti-social behaviour or criminality.

This is an update on the powers for new members and the new advisory group.

This report supports the Key Aim of Community Plan – Safe and Caring Environments

Portfolio Holder Cllr. Roddy Hogarth

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Recommendation to Economic & Community Development Advisory Committee: That Members note the report.

Recommendation to Legal & Democratic Services: That Members note the report.

Introduction and Background

- 1 The Anti-Social Behaviour Crime & Policing Act 2014 introduced simpler, more effective powers to tackle anti-social behaviour that provide better protection for victims and communities.
- 2 The community trigger and community remedy will empower victims and communities, giving them a greater say in how agencies respond to complaints of anti-social behaviour and out-of-court sanctions for offenders.

- 3 Guidance was updated and published in July 2014 and the Anti-Social Behaviour elements of the Act have been in place since 20 October 2014. There are six elements relating to Anti-Social Behaviour and these are summarised below.
- 4 The Home Office aim is that reforms within the Act will '*put victims at the heart of the response to anti-social behaviour and give professionals effective powers that are quick, practical and easy to use, providing better protection for victims and communities and a real deterrent to perpetrators*'.
- 5 The kind of anti-social behaviour the Act is aimed at is that which causes harassment, alarm, or distress. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and social landlords.
- 6 The Act also introduces two new measures that aim to give victims a greater say in the way their reports are dealt with via a new Community Remedy and the anti-social case reviews (the Community Trigger) process.
- 7 The Act broadens existing powers to enable Police and Crime Commissioners to provide or commission support services for victims and witnesses of, and those affected by, crime and anti-social behaviour. The Act also covers a range of other matters relating to firearms; protection from sexual harm and violence; forced marriage; amends the Extradition Act 2003; introduces changes to criminal justice and court fees; and amends various policing provisions.

New measures for tackling anti-social behaviour

- 8 The Act replaces nineteen pre-existing measures with six new measures for tackling anti-social behaviour and introduces a new absolute ground for possession of secure and assured tenancies associated with anti-social behaviour or criminality. Each of the new measures is listed below.

Civil Injunctions

- To stop or prevent individuals engaging in anti-social behaviour quickly. It is a civil order for anyone over the age of 10yrs old. Need a civil standard of proof not criminal – it is awarded on balance of probabilities that the person has engaged or is threatening to engage in behaviour capable of causing nuisance and annoyance
- Can prohibit individuals from engaging in certain behaviour and can require them to engage in positive interventions
- Applicants – Local Authority, Social landlords, Police, Transport for London, Environment Agency, NHS Protect
- Power of arrest can be applied
- Can be fixed or indefinite period for adults but can be a maximum of 12 months for under 18s

Criminal Behaviour Order (CBO)

- 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
- The court must be satisfied beyond reasonable doubt that they have engaged in behaviour that has caused or likely to cause harassment, alarm or distress and that the order will help prevent them from engaging in such behaviour.
- The Prosecution (usually CPS) are the only applicants but can do so on request from the Police or Council
- The anti-social behaviour does not need to be part of the criminal offence they are in court for.
- Will prohibit individuals from engaging in certain behaviour and can also require them to engage in positive interventions
- Can be fixed for a period of not less than 2 years or for an indefinite period

Dispersal Power

- The dispersal power is a flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. The Council is not able to use this power
- Must specify the area to which it relates and can determine the time and the route to leave by
- Can confiscate any item that could be used to commit anti-social behaviour, crime or disorder
- Use in a specified locality must be authorised by a police inspector and can last for up to 48 hours
- A direction can be given to anyone who is, or appears to be, over the age of 10
- A person who is under 16 and given a direction can be taken home or to a place of safety. community should be considered before using the dispersal power
- Breach is a criminal offence
- Failure to comply with a direction to leave: up to a level 4 fine and/or up to three months in prison although under 18s cannot be imprisoned
- Failure to hand over items: up to a level 2 fine (£1000)

Community Protection Notice (CPN)

- To stop a person, business or organisation committing anti-social behaviour which spoils the community's quality of life
- Behaviour has to have a detrimental effect on the quality of life in the locality, be of a persistent or continuing nature and be unreasonable
- Imposes requirements to stop doing specified things, requirements to do specified things and a requirement to take reasonable steps to achieve specified results

- Written warning has to be issued informing the perpetrator of the behaviour, requesting them to stop and the consequences of continuing
- Council Officers, Police Officers, PCSOS (Possibly) and social landlords

Public Spaces Protection Order (PSPO)

- Designed to stop individuals or groups committing anti-social behaviour in a public space
- Behaviour has to have a detrimental effect on the quality of life in the locality, be of a persistent or continuing nature and be unreasonable
- Restrictions and requirements set by the council after consultation with Police, PCC and other relevant bodies
- Can be blanket restrictions/requirements or targeted against certain behaviours/times
- Can be enforced by Police Officer, PCSO (possibly) and council officers
- Breach is a criminal offence
- Last for 3 years

Closure Power Notice & Order

Closure Notice

- To allow the Police or Council to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder
- To be used if the following has occurred or will occur if power not used – nuisance to the public or disorder near premises
- Last for up to 48 hours
- Can be served out of court but cannot prevent owner or occupants accessing premises

Closure Order

- To allow the Police or Council to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder
- To be used if the following has occurred or will occur if power not used – disorderly, offensive or criminal behaviour, serious nuisance to the public or disorder near the premises
- Needs to be applied for through the courts after Notice served
- Can close a premise for up to 6 months and can restrict all access

New Absolute Grounds for Possession

- The purpose of the new absolute ground for possession is to speed up the possession process in cases where anti-social behaviour or criminality has already been proven in another court
- Landlords will no longer have to prove that it is reasonable to grant possession but, instead, courts must grant possession if the landlord

followed the correct procedure and at least one of the specified conditions is met

- 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
- The tenant's property has been closed for more than 48 hours under a closure order for anti-social behaviour

Other Measures

- The Act also introduces the power for the Secretary of State to make regulations under which the keeper of a vehicle may be required to pay a fixed penalty where litter has been thrown, dropped or otherwise deposited from the vehicle
- Currently, a fixed penalty notice can only be issued when litter is thrown from a car if the person responsible for throwing the litter can be identified. This new provision would bring the legislation for littering offences in line with that for fly-tipping with the keeper of a vehicle being deemed responsible for any offences committed by those within the vehicle

Community Remedy

- The Police and Crime Commissioner (PCC) has recently consulted with members of the public, community groups and local authorities on the options to be included in a community remedy menu.
- The PCC needs to have the community remedy document in place by October 2014 and the findings from the consultation will support the development of the final proposals to be agreed between the PCC and Chief Constable.
- The Act requires each local policing body (and therefore not the Council) to prepare a community remedy document for its area with a list of actions to be carried out by a person who has:
 - engaged in anti-social behaviour or has committed an offence; and
 - is to be dealt with for that behaviour or offence without court proceedings
- The community remedy document will be used by the police as part of the existing process for delivering community resolutions
- It is proposed that this will give victims of low-level crime and anti-social behaviour a say in the punishment of perpetrators out of court
- The community remedy may also be used by the police when a conditional caution or youth conditional caution is given, as a means of consulting the victim about the possible conditions to be attached to the caution.

Anti-social Behaviour Case Reviews (Community Trigger)

- The Act also enables the public to request a review of the actions taken around ASB complaints, referred to as the Community Trigger. Government have conducted various pilots around the Country to test how differing criteria would be activated and how the review process would work in practice. The decision is left to all local authorities to decide what the criteria for their area will be and how the review process will take place.
- The arrangements are to be determined at District level. In Kent this means that there is the possibility of having 13 different criteria for Kent & Medway. Whilst the legislation allows for this, general agreement is that this could be confusing for the public. A Kent approach or similar approaches between neighbouring districts is being encouraged.
- The proposed trigger in Appendix A is in line with the trigger for other boroughs in Kent and the PCC has been consulted.
- The ASB case review will not replace Sevenoaks District Council's complaints procedures and individuals can still complain to the relevant bodies if they are unhappy with the service received from an individual or service.
- The Council will be involved in case reviews not only as an organisation against whom a review has been requested, but also in reviewing the response of other partners when reviews are requested in respect of them. One of the benefits of the review process is that different partner organisations will be brought together so that it is a type of peer review. After the members of the review group have reviewed the handling of a matter, they can make recommendations, for example that certain steps be taken in that particular matter.
- It is proposed that the Council's community safety unit (incorporating all partner agencies) will be the first point of contact for members of the public requesting a review of their case.
- The legislation states that relevant bodies must publish prescribed information on the number of reviews, the number of applications, etc and as well as being publically available information, it is proposed these are reported to the Community Safety Partnership on a quarterly basis for review and scrutiny.

Key Implications

Financial

Certain offences within the Act can be discharged by payment of a fixed penalty notice to the local authority, a proposal is that these fines contribute towards legal costs if any.

The Council is likely to incur legal costs when applying for the new Injunction to Prevent Nuisance and Annoyance or for example if it prosecutes an individual, or body, for failure to comply with a notice, etc.

It is anticipated that the powers will be used by existing staff within current budgets.

Legal Implications and Risk Assessment Statement.

The Crime and Disorder Act 1998, places a duty upon local authorities to seek to prevent crime and disorder in its area in carrying out its duties. The Anti-social Behaviour and Policing Act 2014, provides a new set of powers for tackling anti-social behaviour.

The vast majority of these powers are unlikely to be used frequently by the Council, as they are in many cases a last resort, where other options have been tried and failed. However in some circumstances their use may be both proportionate and appropriate.

As the Council is a regulatory authority for the legislation given in the report there are no alternative options. Failure to update the Scheme of Delegations to reflect changes in legislation could mean that the Council may be subject to legal challenge if regulatory action is taken by unauthorised officers, or that any legal action taken under these regulations would be invalid.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

To provide an update to Members.

Appendices None

Background Papers: None

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