One Corby Policy Committee

10th February 2015

Anti-Social Behaviour, Crime and Policing Act 2014

SYNOPSIS

This report outlines the new powers and requirements under the Anti-Social Behaviour, Crime and Policing Act 2014 and seeks approval for the next stages in implementing the powers and requirements.

1. Relevant Background Details

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. Report

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 and it’s envisaged that this will be finalised early this year. This should be presented to a meeting of this committee for formal approval and will replace our existing ASB strategy.
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.

2.8  The new powers under the act require us to amend our Scheme of Delegation.

3. Options to be considered (if any)

Option 1 – Be aware of the change in the law, adopt the new provisions and permit amendments to the Scheme of Delegation.

Option 2 – Be aware but defer the decision to adopt the new provisions and to make changes to the Scheme of Delegation to a later date, however, this would not permit the Council to comply with its statutory obligations.

4. Issues to be taken into account:-

Financial

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.

Risk

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

Legal

The act places statutory requirements on us and our partners to use and apply the powers as required by the legislation. Our powers and duties required under the Crime and Disorder Act 1998 remain in place.

The Anti-Social Behaviour, Crime and Policing Act 2014 must first be adopted by Council and the Scheme of Delegation be amended in order for the new powers and interventions provided for to be available to officers.

The effect of approving the report’s recommendation will be to make an amendment to the Council’s Scheme of Delegation. As such, the decision is reserved to Full Council pursuant to part 3A of the Constitution and Part B of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
**Human Rights**

This new legislation provides powers for Local Authorities and the Police to deal with a variety of anti-social behaviour issues. Although various parts of the Human Rights Act are engaged, there is derogation if the provisions are in the public interest and subsequently a fair balance has to be found.

**Equalities**

An initial Equality Impact Assessment has been completed relating to this area of regulation. The general conclusion was that the consistent application of policy/strategy was important regardless of race, religion, gender etc.

**Sustainability**

There are no known sustainability issues.

**Community Safety**

The new powers which are granted to local authorities, police and other agencies will significantly change how anti-social behaviour (ASB) is managed in our community.

5. **Conclusion**

The Anti-Social Behaviour, Crime and Policing Act 2014 is now in force and changes are required to our existing Scheme of Delegation to facilitate use of the Act in order that we can manage a number of issues within our community. The powers conferred will include the service of fixed penalty notices on persons and the closure of certain types of premises where there is public nuisance with reference to the threshold detailed in the bullet points in 2.5 above.

6. **Recommendation**

6.1 That Members:-

1. Recommend to Full Council to adopt the new powers and interventions provided for by the Anti-Social Behaviour, Crime and Policing Act 2014.

2. Recommend to Full Council to agree the amendments to the scheme of delegation (as set out in Appendix 2) to confer the new powers and interventions provided for too officers.

3. Be aware of the work of the County ASB and Hate Crime group in developing a county-wide strategy and framework for dealing with ASB.

**Background Papers**

Anti-Social Behaviour Powers – Aide Memoire ver.4: issued by the Police and Crime Commissioners of Derbyshire, Leicestershire, Northamptonshire, Nottinghamshire

**External Consultations**

None

**List of Appendices**

Appendix 1 – Details of updated powers under the act.

Appendix 2 – Scheme of Delegation: proposed amendments

**Officer to Contact**

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### Anti-Social Behaviour, Crime and Policing Act 2014

#### Appendix 1 - Outline of the new powers

<table>
<thead>
<tr>
<th>New Power</th>
<th>Old Powers</th>
<th>Test</th>
<th>Details</th>
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<tbody>
<tr>
<td><strong>Civil Injunction</strong></td>
<td>- Anti-social Behaviour Order (ASBO) on application</td>
<td>- On the balance of probabilities;</td>
<td>- Civil order in County Court or High Court for over 18s and Youth Court for 10-17yr olds.</td>
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<td>- Anti-Social Behaviour Injunction (ASBI)</td>
<td>- Behaviour likely to cause harassment, alarm or distress (non-housing related anti-social behaviour); or</td>
<td>- Positive requirements can be included aimed at getting the perpetrator to address the underlying causes of their anti-social behaviour.</td>
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<td>- Drinking Banning Order (DBO) on application</td>
<td>- Conduct capable of causing nuisance or annoyance (housing-related anti-social behaviour); and</td>
<td>- Local councils, social landlords, police (including BTP), Transport for London, Environment Agency &amp; NHS Protect can apply.</td>
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<td>- Individual Support Order (ISO)</td>
<td>- Just and convenient to grant the injunction to prevent anti-social behaviour.</td>
<td>- Breach is not a criminal offence.</td>
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<td>- Intervention Order</td>
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<td><strong>Criminal Behaviour Order (CBO)</strong></td>
<td>- Anti-Social Behaviour Order on conviction (CRASBO)</td>
<td>- 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</td>
<td>- Issued by any criminal court for any criminal offence.</td>
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<td>- DBO</td>
<td>- The court considers that making the order will help prevent the offender from engaging in such behaviour.</td>
<td>- 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.</td>
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<td>- Breach is criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt.</td>
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<td>- The ASB does not have to relate to the criminal offence being dealt with but maybe linked as a cause/effect.</td>
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<td>- Consultation requirement with Youth Offending Teams for under 18s</td>
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</tbody>
</table>
| **Dispersal Power**  
(Police power) | • Dispersal Order  
• Direction to leave | • 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. | • 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) | • Litter clearing notice  
• Street litter control notice  
• Defacement removal notice | Behaviour has to:-  
• Have a detrimental effect on the quality of life of those in the locality;  
• Be of a persistent or continuing nature; and  
• Be unreasonable | • 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) | • Designated Public Place Order (DPPO)  
• Gating order  
• Dog control order | Behaviour being restricted by the order has to:-  
• 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. | • Council makes a PSPO after consultation with the police, P&CC and other relevant bodies (These may be requested by Parish Councils but would be made by CBC.)  
• 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). |
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<th><strong>Closure Power</strong></th>
<th><strong>Absolute Ground for Possession (social and private landlord power)</strong></th>
</tr>
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</table>
| Premises Closure order | The following has occurred, or will occur, if the closure power is not used:-  
| Crack house closure order |  
| Noisy Premises Closure order |  
| S161 Closure Order | Closure notice (up to 48 hours)  
| | • Nuisance to the public; or  
| | • Disorder near those premises.  
| | Closure order (up to 6 months)  
| | • Disorderly, offensive or criminal behaviour;  
| | • Serious nuisance to the public; or  
| | • Disorder near the premises.  
| | The following has occurred, or will occur, if the closure power is not used:-  
| | 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 CBC)  
| | Closure Order - up to 3 months in first instance, can be extended to six months (Both require Magistrates approval).  
| | Breach is a criminal offence  
| | 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:  
| | 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  
<p>| | v. Tenant’s property has been closed for more than 48hrs under a closure order for ASB |</p>
<table>
<thead>
<tr>
<th>Function and legislation currently in the scheme</th>
<th>Current delegation to:</th>
<th>New power under the act and detail</th>
<th>Proposed delegation to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>51. Anti-Social Behaviour Act 2003 – Part 6: The Environment</td>
<td>Head of Planning and Environmental Services, Environmental Protection Manager, Health Protection Manager, Street Scene Manager, Chief Executive, Licensing Enforcement Officer, Senior Environmental Protection Officer, Environmental Protection Officer, Street Scene Officer</td>
<td>Anti-Social Behaviour, Crime and Policing Act 2014 – Part 1: Civil Injunctions. • 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.</td>
<td>Chief Executive, Head of Planning and Environmental Services; Health Protection Manager; Environmental Protection and Private Sector Housing Manager; Street Scene Manager and Head of Neighbourhood Pride; Senior Neighbourhood Pride Manager; Neighbourhood Pride Manager; Community Safety Manager; Housing Manager</td>
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<tr>
<td>52. Anti-Social Behaviour Act 2003 – Part 9: Miscellaneous powers</td>
<td></td>
<td>Anti-Social Behaviour, Crime and Policing Act 2014 – Part 2: Criminal Behaviour Order. • 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.</td>
<td>Chief Executive, Head of Planning and Environmental Services; Health Protection Manager; Environmental Protection and Private Sector Housing Manager; Street Scene Manager and Head of Neighbourhood Pride; Senior Neighbourhood Pride Manager; Neighbourhood Pride Manager; Community Safety Manager; Community Partnerships Manager</td>
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<tr>
<td>Section</td>
<td>Responsibilities</td>
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<td>Pt 2: vehicles</td>
<td>Head of Planning and Environmental Services, Environmental Protection Manager, Health Protection Manager, Street Scene Manager, Chief Executive, Licensing Enforcement Officer, Senior Environmental Protection Officer, Environmental Protection Officer, Street Scene Officer</td>
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<td>Pt 3: litter and refuse</td>
<td>Anti-Social Behaviour, Crime and Policing Act 2014 – Part 4 Chapter 1: Community Protection Notices. • Local Council officers, Police Officers and PCSOs (if designated) can issue Community</td>
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<td>Pt 4: graffiti and other defacement</td>
<td>Chief Executive, Head of Planning and Environmental Services; Health Protection Manager; Environmental Protection and Private Sector Housing Manager; Street Scene Manager and Head of Neighbourhood Pride; Senior Neighbourhood Pride Manager; Neighbourhood Pride Manager; Community Safety Manager</td>
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<td>Pt 5: waste</td>
<td>Pt 6: dogs</td>
<td>Head of Planning and Environmental Services, Environmental Protection Manager, Health Protection Manager, Street Scene Manager, Chief Executive, Licensing Enforcement Officer, Senior Environmental Protection Officer, Environmental Protection Officer, Street Scene Officer</td>
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<tr>
<td>Pt 7: noise</td>
<td>Protection Notices (after warning) for unreasonable behaviour (graffiti, rubbish, noise) affecting a community’s quality of life. • Closure of premises associated with nuisance and disorder – Chapter 3 closure notices issue and cancellation</td>
<td>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. Closure Notices – Chief Executive; Head of Planning and Environmental Services</td>
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<tr>
<td>Pt 9: miscellaneous</td>
<td>Planning Enforcement Officers are authorised under Parts 2, 3, 4 and 6 only</td>
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<td>Section</td>
<td>Description</td>
<td>Responsible Officers</td>
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<td>77.</td>
<td>Dangerous Dogs Act 1991: Sections 1-11</td>
<td>Head of Planning and Environmental Services, Environmental Protection Manager, Health Protection Manager, Street Scene Manager, Chief Executive, Licensing Enforcement Officer, Senior Environmental Protection Officer, Environmental Protection Officer, Street Scene Officer</td>
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<td>79.</td>
<td>Dangerous Dogs Act 1989: Additional powers of court for complaints of dangerous dogs</td>
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<td>81.</td>
<td>Dogs Act 1871: sections 2 &amp; 4 – Destruction of dangerous dogs recovery of penalty</td>
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<td>67.</td>
<td>Clean Neighbourhoods and Environment Act 2005 Part 6 Dog Control Orders</td>
<td>Head of Planning and Environmental Services, Environmental Protection Manager, Health Protection Manager, Street Scene Manager, Executive Director, Chief Executive</td>
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<tr>
<td>69.</td>
<td></td>
<td>Chief Executive, Head of Planning and Environmental Services; Health Protection Manager; Environmental Protection and Private Sector Housing Manager; Street Scene Manager and</td>
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<td>70.</td>
<td></td>
<td>Head of Neighbourhood Pride; Senior Neighbourhood Pride Manager; Neighbourhood Pride Manager; Community Safety Manager</td>
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